

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 NORTHWEST PAYPHONE ASSOCIATION,)
 a Washington nonprofit)
 4 corporation, DIGITAL ACCESS)
 COMMUNICATIONS CORP., NCS)
 5 TELEWORK COMMUNICATIONS CO.,)
 PAYTEL NORTHWEST, INC., and)
 6 PUBLIC COMMUNICATIONS OF)
 AMERICA,)
 7 Complainants,) HEARING NO. UT-920174
 vs.) VOLUME 12
 8 U S WEST COMMUNICATIONS, INC.,) PAGES 682 - 895
 Respondent.)
 9 -----)

10 A hearing in the above matter was held on
 11 October 14, 1993, at 9:05 a.m. at 1300 South Evergreen
 12 Drive Southwest, Olympia, Washington, before
 13 Comissioners RICHARD HEMSTED, RICHARD CASAD and
 14 Administrative Law Judge ALICE HAENLE.

15 The parties were present as follows:

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

18 U S WEST COMMUNICATIONS, by EDWARD T. SHAW,
 19 Attorney at Law, 1600 - 7th Avenue, Suite 3206,
 Seattle, Washington 98191.

20 NORTHWEST PAYPHONE ASSOCIATION, INC., by
 21 BROOKS E. HARLOW, Attorney at Law, 4400 Two Union
 Square, 601 Union Street, Seattle, Washington
 22 98101-2352.

23

24 Cheryl Macdonald, CSR, RPR
 25 Court Reporter

1

I N D E X

2	WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	EXAM
3	DAN LANKSBURY		684			
4	TOM WILSON	853	855	844		
5	EXHIBITS:		884			
			MARKED		ADMITTED	
6	45		686		697	
	46		702		702	
7	47		703		704	
	C-48		707		720	
8	49		717		718	
	C-50		733		743	
9	51		733		744	
	C-52		737		744	
10	53		749		749	
	54		751		753	
11	55		756		758	
	C-56		760		765	
12	C-57		765		767	
	58		770		788	
13	C-59		773		778	
	60		778		779	
14	C-61		779		781	
	C-62		780			
15	C-63		800		808	
	C-64		808			
16	T-65		854		855	
	C-66		854		855	
17	RECORD REQUISITIONS:					
	1		822			
18						
	2		822			
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1 JUDGE HAENLE: Let's be on the record. The
2 hearing will come to order. This is a 12th day of
3 hearing in docket No. UT-920174. The hearing is taking
4 place on October 14, 1993 at Olympia. We are
5 continuing with direct and cross-examination of U S
6 WEST witnesses and Commission staff witnesses. At the
7 time we broke we were still in Mr. Harlow's
8 cross-examination of Mr. Lanksbury. Is there anything
9 we need to discuss before we continue with that
10 cross-examination?

11 Hearing nothing, then, go ahead, Mr. Harlow.

12 MR. HARLOW: Thank you.

13

14 CROSS-EXAMINATION (Cont.)

15 BY MR. HARLOW:

16 Q. Good morning. Mr. Lanksbury, yesterday when
17 we concluded we were talking about Answer Supervision -
18 Line Side which is often abbreviated as AS-LS. Do you
19 recall that?

20 A. Yes, I do.

21 Q. That network function has been available,
22 technically available, in DMS 10 and DMS 100 offices
23 for several years. Is that not correct?

24 A. I don't know when it was exactly technically

25 capable, but I understand it is capable in DMS 10 and

(LANKSBURY - CROSS BY HARLOW)

685

1 DMS 100. I don't know exactly when the generic was
2 made available to include AS-LS as part of the switch.

3 Q. We'll get into some documents in the
4 confidential section that may help us pin that down.
5 The DMS 10 and DMS 100 office are switches provided to
6 U S WEST by Northern Telecom Inc.?

7 A. Yes, they are.

8 Q. U S WEST has only offered Answer Supervision
9 - Line Side to competitive payphone providers since
10 February of 1992?

11 A. I think that date is correct, yes.

12 Q. And even though it was offered in 1992, at
13 that time it was still only available in the Northern
14 Telecom services; is that correct?

15 A. Yes, which represent about 46 percent of the
16 switches.

17 Q. And that would be true today, it's still
18 only available in the Northern Telecom switches?

19 A. I think in Washington that is true, although
20 we responded in data requests, looking at first quarter
21 for the number 5 ESS switch.

22 Q. Earlier this year U S WEST started
23 introducing what you called the advance payphone?

24 A. Yes, that's correct.

25 Q. And an employee named Dave Manville was

(LANKSBURY - CROSS BY HARLOW)

686

1 working for U S WEST on development of that advance
2 payphone?

3 A. Yes, that's correct.

4 Q. And that advance payphone uses the Answer
5 Supervision - Line Side feature that was offered in
6 February of 1992; is that correct?

7 A. Yes. And I would like to just correct one
8 thing. Introduction is maybe overstating advance
9 payphone. It's in a trial state right now. We don't
10 know whether it would truly be introduced until the
11 trial results are completed.

12 Q. You assert at page 15 of your testimony that
13 U S WEST had requested and re-requested Answer
14 Supervision - Line Side software from the switch
15 suppliers. Do you recall that testimony?

16 A. Yes, I do.

17 MR. HARLOW: Like to mark the next exhibit,
18 please.

19 JUDGE HAENLE: You've handed me a multi-page
20 document. On the front page it says Responses to
21 Complainant's Seventh Data Requests, Data Request No.
22 122. This will be 45 for identification.

23 (Marked Exhibit 45.)

24 Q. This data request was sent to you in regard

25 to the testimony you just discussed about the request

(LANKSBURY - CROSS BY HARLOW)

687

1 by U S WEST for Answer Supervision - Line Side

2 software;

3 is that correct?

4 A. Yes, it is.

5 Q. And the data request requested all documents

6 backing up that testimony?

7 A. Yes, it did.

8 Q. And the attached documents constitute the

9 documents produced to us pursuant to the data request?

10 A. I assumed this is all documents. I mean, we

11 sent six boxes so I'm not sure if this includes

12 everything but this is some of the documents that were

13 provided, yes.

14 Q. Would you like to make that subject to

15 check?

16 A. Yes.

17 MR. HARLOW: Complainants offer Exhibit 45,

18 Your Honor.

19 JUDGE HAENLE: Any objection, Mr. Shaw?

20 MR. SHAW: This is rather a lengthy

21 document. I haven't had a chance to look at it at all.

22 JUDGE HAENLE: Assuming it's the responses

23 to the data request, as your witness has accepted

24 subject to check, do you have an objection to its

25 entry?

(LANKSBURY - CROSS BY HARLOW)

688

1 MR. SHAW: There may be parts of it that
2 aren't relevant and shouldn't be admitted into
3 relevance. Just because it's an answer to a data
4 request doesn't mean it should automatically come in.
5 I just haven't had a chance to look at it. It's rather
6 lengthy.

7 JUDGE HAENLE: Do you have an objection to
8 its entry?

9 MS. BROWN: No, I don't.

10 JUDGE HAENLE: I will wait to rule then
11 until Mr. Shaw has had the chance to look it over.
12 Please do that as quickly as possible.

13 Go ahead, Mr. Harlow.

14 MR. HARLOW: I'm sorry, have you ruled yet?

15 JUDGE HAENLE: He asked me to reserve ruling
16 until he had the chance to look it over. Is it
17 essential that it be entered before you continue with
18 your questions?

19 MR. HARLOW: I prefer that if it's not going
20 to take too long.

21 JUDGE HAENLE: Let's go off the record.

22 (Discussion off the record.)

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

24 During the time we were off the record Mr. Harlow

25 indicated that he could continue with an unrelated line

(LANKSBURY - CROSS BY HARLOW)

689

1 of questioning. Go ahead.

2 Q. Mr. Lanksbury, one type of fraud that both U
3 S WEST and competitive payphone providers need to
4 protect against is a caller using a payphone to access
5 an operator, which is a free call, and then having that
6 operator place a long distance call to be billed to
7 the payphone number?

8 A. Yes, it is.

9 Q. This type of fraud is supposed to be
10 prevented by originating call screening?

11 A. Yes, it is.

12 Q. Would you please explain for the record how
13 originating call screening works from a U S WEST
14 payphone?

15 A. Originating call screening from a U S WEST
16 payphone is a part of the ANI -- auto number
17 identification -- indication to the operator and it's
18 hard-coded into the ANI stream of numbers to allow the
19 operator when the call comes in to see that the call is
20 placed from a U.S. West payphone.

21 Q. For the record ANI stands for automatic
22 number identification?

23 A. Yes. I think I said that.

24 Q. And I believe that more specifically there's

25 an extra digit that's added to the number that comes up

(LANKSBURY - CROSS BY HARLOW)

690

1 on the operator screen; is that correct?

2 A. Right. There's a hard-coded digit that
3 comes up on every call incoming to the operator from a
4 U S WEST payphone that designates it as a payphone.

5 Q. Do you know what that digit is?

6 A. I believe it's hard code 7.

7 Q. So basically the operator, whoever they
8 might be, wherever in the network, whichever company
9 they work for, if they see a 7 they're not supposed to
10 allowed a call to be billed to that number; is that
11 correct?

12 A. Yes.

13 Q. Now, please explain for the record how
14 originating call screening works from a PAL line, from
15 a competitive payphone.

16 A. The code similarly comes into the operator,
17 although the code indicates to the operator that they
18 will have to do a look-up in the billing validation
19 system to see that that is in fact a payphone. It's a
20 screening function that requires them, one, to see that
21 they need to do a look-up and then to subsequently do
22 the look-up.

23 Q. So they have to take an extra step in order
24 to know that they're not supposed to bill that call to

25 that number?

(LANKSBURY - CROSS BY HARLOW)

691

1 A. Yes.

2 Q. When they do that I assume they go through
3 the database that's being maintained by U S WEST?

4 A. That is correct.

5 Q. And they pay a fee to U S WEST for the
6 look-up?

7 A. Yes, billing validation look-up -- I guess
8 I have to qualify when you're saying "they" because --

9 Q. The operators?

10 A. Well, if it's an operator they have their
11 own database is my understanding. That's not true in
12 every case. If it's an alternative operator service or
13 some other operator service company it's possible they
14 may have to use the U S WEST database.

15 Q. I appreciate the clarification. Assuming it
16 is one of those alternate operator service providers, I
17 assume U S WEST would make a profit then on all of
18 those
19 calls whether they're completed or not?

20 A. I am not sure of the markup, but I would
21 assume that there is some profitability built into the
22 price of a billing validation service.

23 Q. Assume you would agree, would you not, that
24 that would be a cost that the competitive payphone

25 providers would have to bear that U S WEST operators --

(LANKSBURY - CROSS BY HARLOW)

692

1 U S WEST does not bear for its payphones?

2 A. No, I wouldn't agree with that. I think
3 it's a cost that the operator service company has to
4 bear as part of providing the service. The payphone
5 vendor, unless they're serving as an operator service
6 company, are not incurring that cost. It's a cost of
7 operator services rather than payphone.

8 Q. Well, I thought that I had phrased the
9 question that way, but phrasing it that way, that's a
10 cost that the alternate operator service provider would
11 have to bear but that U S WEST operator services do not
12 bear for calls from U S WEST payphones; is that
13 correct?

14 A. I doubt very much that the costs for billing
15 validation and maintaining the system are excluded from
16 the cost of providing operator services, so I would
17 assume -- but, of course, again, I am not an expert in
18 this area -- I would assume those costs are in the long
19 run incremental costs that are used to set the operator
20 surcharges station to station or the various charges.
21 So I don't think that's correct what you said.

22 Q. Well, I thought you testified that there was
23 no validation and no need for a look-up with regard to
24 a call from U S WEST payphone. Was I misunderstanding?

25 A. They're still maintaining the ANI stream and

(LANKSBURY - CROSS BY HARLOW)

693

1 the digits. There's a cost associated with that.

2 Q. That would be a different cost, would it
3 not?

4 A. It is a cost for screening. Yes, you can
5 separate it. It's a different cost but it's still a
6 cost for screening. We still have to maintain that
7 information and have it built into the system.

8 MR. HARLOW: Mr. Shaw, are you ready on
9 Exhibit 45?

10 MR. SHAW: Your Honor, I have some concerns
11 with this document to the extent that I have been able
12 to review it. I suppose I should be making a motion to
13 continue the hearing or something so I can review it
14 completely, but the last page in particular catches my
15 eye, which is a memorandum from a Nick Zefferys to his
16 file relating to some conversations he had with another
17 manager with the company which in turn related to
18 conversations that that manager had with company
19 attorneys. That points out the problem of allowing
20 parties to put in wholesale documents produced on
21 liberal discovery in these kinds of cases. It raises
22 issues of attorney-client privilege and it's got
23 hearsay piled on hearsay. If these documents are being
24 offered for the truth of what's in them by the

25 complainants, I think it's inappropriate.

(LANKSBURY - CROSS BY HARLOW)

694

1 These were produced, as the documents
2 reflect, in a request and re-requests set forth in Mr.
3 Lanksbury's testimony. The entire documents were
4 produced but very little of them go directly to the
5 internal process of the company requesting of switch
6 vendors that they provision generics that would enable
7 AS-LS and all switches used by U S WEST. So I do
8 object to this wholesale offering into the record of U
9 S WEST
10 filed documents unless a foundation is laid very
11 specifically as to what's in them as to what relevance
12 they have to this case.

13 JUDGE HAENLE: So you are objecting
14 specifically to the last page as containing something
15 with attorney-client privilege and the remainder for
16 some other reason?

17 MR. SHAW: Yes.

18 JUDGE HAENLE: Do you want to be specific
19 about the others as well?

20 MR. SHAW: Well, I just simply can't in five
21 minutes when I am trying to listen to cross-examination
22 of my witness and read 20 pages of single-spaced
23 documents at the same time. I can just tell you at
24 this juncture that I do have an objection, specific

25 objection to the last page, and I am concerned that no

(LANKSBURY - CROSS BY HARLOW)

695

1 foundation has been laid for any of that other than
2 these are documents that were produced.

3 JUDGE HAENLE: Mr. Harlow.

4 MR. HARLOW: Thank you, Your Honor. The
5 foundation that's been laid is the documents were a
6 response to the following data request: "Please
7 produce all documents that reflect any requests and
8 're-requests,' (as set forth in Mr. Lanksbury's
9 testimony at page 15, line 5) by U S WEST for AS-LS
10 software." And the response is "see attached
11 documents."

12 We've given Mr. Shaw an opportunity, and I
13 will admit not a great one, to review the documents,
14 but I don't think there's a need for him to review
15 these documents to determine whether or not they are
16 relevant to this proceeding. Request No. 122
17 specifically asked for the documents backing up the
18 specific testimony that was cited by page and line
19 number in Mr. Lanksbury's prefiled testimony.
20 Therefore, the response constitutes an admission by
21 party that these documents are relevant and supposedly
22 back up Mr. Lanksbury's prefiled testimony. So, the
23 hearsay problem doesn't exist, the relevance problem
24 doesn't exist by U S WEST's own admission.

25

Furthermore, I would submit that these

(LANKSBURY - CROSS BY HARLOW)

696

1 documents constitute on their face business records of
2 U S WEST and again no problem with hearsay. As far as
3 the privilege issue, clearly, if there is any privilege
4 in this last page it's been waived by its production.
5 And I would agree with Mr. Shaw that in some cases data
6 requests which are not specifically tied into testimony
7 are not necessarily admissible merely because they are
8 produced, but in this case the question specifically
9 asked for documents that supposedly back up the
10 testimony, and that is what was produced and that is
11 what is attached. I would suppose if I only attached
12 some of the documents that were produced Mr. Shaw would
13 be objecting that I didn't provide the complete
14 response. I think clearly these documents all ought to
15 be admissible based on the way the question was phrased
16 and the response that was given.

17 JUDGE HAENLE: Anything else, Mr. Shaw?

18 MR. SHAW: No. My objection stands.

19 JUDGE HAENLE: I am going to enter all of
20 this except for the last page. I don't believe that
21 the last page is appropriately included here. It may
22 have been produced, but I don't think that it's
23 responsive to the question. I am concerned about
24 internal company attorney-client privilege, and I agree

25 that we required that some of these documents be

(LANKSBURY - CROSS BY HARLOW)

697

1 produced. I don't think this one is appropriate. The
2 very last page dated July 9, 1991 I will not enter.
3 The others I will. Go ahead, Mr. Harlow.

4 (Admitted Exhibit 45.)

5 Q. Do you have Exhibit 45 in front of you, Mr.
6 Lanksbury?

7 A. Yes, I do.

8 Q. Just so we get ourselves back in the proper
9 frame of mind, these documents are supposed to reflect
10 requests by U S WEST for provision of AS-LS; is that
11 correct?

12 A. Yes, they are.

13 Q. Please turn to the third to the last page
14 which is a memorandum from Dave Manville to Darrell
15 Newbury dated 4-8-91?

16 A. I have it.

17 Q. Do you see the third sentence that states,
18 "Also as we discussed, this feature has" -- underline
19 -- "not been selected for funding by U S WEST. It was
20 considered and rejected in early 1990 and then rejected
21 again in late 1990." Do you see that language?

22 A. Yes, I do.

23 Q. Mr. Manville has been working on answer
24 supervision for a long time; is that correct?

25 A. He's been attempting to get answer

(LANKSBURY - CROSS BY HARLOW)

698

1 supervision for a long time, that's correct.

2 Q. And currently -- and Mr. Manville
3 who apparently wrote this memo is the same Mr. Manville
4 who is developing U S WEST's own advance payphone; is
5 that correct?

6 A. Prior to -- that is correct but prior to
7 that he was the public product manager. He was not
8 working on advance payphone probably prior to 1992.

9 Q. Mr. Lanksbury, in your testimony you talk
10 about how competitive payphone providers have access to
11 revenue from interLATA calls to pay site owner
12 commissions. Do you recall that?

13 A. Yes, I do.

14 Q. Until some time in 1989 U S WEST also paid
15 commissions to site owners that were based on a
16 percentage of interLATA revenues as well as intraLATA
17 revenues; is that right?

18 A. Prior to equal access or by Judge Green for
19 public payphones -- or LEC payphones, we did pay
20 commission, yes.

21 Q. And my understanding is that prior to that
22 order U S WEST routed all of its payphones interLATA
23 toll traffic to AT&T; is that correct?

24 A. I think more correctly we would say

25 defaulted. There were no capabilities to route. It

(LANKSBURY - CROSS BY HARLOW)

699

1 was a default mechanism, but yes, that's true. They went
2 to AT&T.

3 Q. And AT&T paid a commission to U S WEST for
4 that traffic?

5 A. AT&T did not pay a commission to U S WEST.
6 The revenues were recovered through the carrier common
7 line access charges approved by the FCC through the
8 revenue requirement. There were no commissions paid.

9 Q. So there was a sharing of those revenues,
10 though?

11 A. There was a coverage of expenses. I
12 wouldn't call it a sharing of revenues. It was a
13 straight pass-through. U S WEST did not benefit as far
14 as revenue. There was no profit to U S WEST. It was a
15 direct expense recovery and that's all.

16 Q. Would U S WEST get the same amount of
17 revenues from AT&T after Judge Green's order went into
18 effect as before?

19 A. We receive no revenues for commissions in
20 the carrier common line and the revenue requirement
21 that we submit annually was reduced by the amount of
22 the commissions, so the answer to the question is no.

23 Q. So there has been a difference in the amount
24 of revenues received by U S WEST on account of Judge

25 Green's order?

(LANKSBURY - CROSS BY HARLOW)

700

1 A. Yes. That's my understanding, the revenue
2 requirement has been reduced.

3 Q. Now, as I understand it, Judge Green issued
4 an order that basically said that after 1989 the site
5 owner got to pick the interLATA carrier; is that
6 correct?

7 A. Actually, Judge Green approved the plan
8 submitted by U S WEST to allow the site owner to
9 choose.
10 He said he wanted equal access from payphones and the
11 various local -- I should say RBOCs, regional Bell
12 operating companies, submitted plans to the judge
13 and this site owner selection was the one he approved.

14 Q. And that order didn't require U S WEST to
15 stop paying commissions to site owners based on
16 interLATA traffic; isn't that correct?

17 A. I would have to review the whole order but
18 as I recall it did not.

19 Q. As I recall from your deposition you
20 understood that that was a voluntary decision by U S
21 WEST?

22 A. And I think that's what I just said, yes.

23 Q. And that resulted in site owners of U S WEST
24 payphones getting smaller commissions from U S WEST

25 all other things being equal; is that correct?

(LANKSBURY - CROSS BY HARLOW)

701

1 A. Yes. They did get smaller commissions from
2 U S WEST but they also negotiated commissions with
3 their carriers.

4 Q. That was my follow-up question. Their
5 picked carrier then would pay the commissions directly
6 to them; is that correct?

7 A. Depends on the site provider and the
8 traffic, but yes.

9 Q. It's my understanding that you don't dispute
10 that U S WEST has increased the commissions that it
11 pays
12 to site owners in response to the advent of competition
13 in the payphone marketplace?

14 A. I think you have to look at that on a
15 location-by-location basis, because we've increased
16 the threshold to in fact receive a commission but
17 overall I think commissions have gone up, yes. And I
18 have got to say -- they probably haven't gone up
19 relative to what we were paying before equal access,
20 but they have gone up since that time.

21 Q. In other words, they've gone up since 1989,
22 is that what you're saying?

23 A. Yes, I would think so.

24 JUDGE HAENLE: You've handed me a multi-page

25 document entitled Concession Agreement for Public

(LANKSBURY - CROSS BY HARLOW)

702

1 Telephone Service. I will mark this as Exhibit 46 for
2 identification.

3 (Marked Exhibit 46.)

4 Q. Will you accept subject to check that
5 Exhibit 46 is a copy of the current agreement between U
6 S WEST Communications Inc. and the Port of Seattle for
7 the provision of pay telephones at Sea-Tac airport?

8 A. Yes.

9 Q. Please take a look at page 3, section 4,
10 entitled Concession Fees. Do you see that schedule
11 there?

12 A. Yes, I do.

13 Q. Do you see where that reflects that on
14 revenues of 1.1 million and above 30 percent commission
15 is to be paid on gross intraLATA revenues?

16 A. Yes, I do.

17 MR. HARLOW: Your Honor, we offer Exhibit
18 46.

19 JUDGE HAENLE: Any objection, Mr. Shaw?

20 MR. SHAW: None.

21 JUDGE HAENLE: Ms. Brown?

22 MS. BROWN: No.

23 JUDGE HAENLE: Exhibit 46 will be entered
24 into the record.

25

(Admitted Exhibit 46.)

(LANKSBURY - CROSS BY HARLOW)

703

1 JUDGE HAENLE: You've handed me a two-page
2 document. The caption at the top has a hole through
3 it. Something Concession Agreement.

4 MR. HARLOW: Concession schedule.

5 JUDGE HAENLE: Concession schedule 9-23-93
6 in two pages. Mark this as 47 for identification.

7 (Marked Exhibit 47.)

8 Q. Mr. Lanksbury, would you accept subject to
9 check that Exhibit 47 reflects the revenues reported by
10 U S WEST to the Port of Seattle pursuant to the
11 contract
12 that's Exhibit 46 and also reflects the concession fee
13 payments by U S WEST to the Port of Seattle?

14 A. Subject to check. I have not seen this
15 document before.

16 MR. HARLOW: Your Honor, we would offer
17 Exhibit 47.

18 JUDGE HAENLE: Any objection, Mr. Shaw?

19 MR. SHAW: No objection, assuming that it
20 was supplied by the company. The witness is not able
21 to identify it so I am at somewhat of a loss as to
22 whether any foundation has been laid, but on the
23 subject to check, no objection.

24 JUDGE HAENLE: Be sure that if your witness

25 discovers it is not the document supplied by the

(LANKSBURY - CROSS BY HARLOW)

704

1 company and is not as purported that he let the
2 Commission know immediately.

3 Any objection, Ms. Brown?

4 MS. BROWN: No.

5 JUDGE HAENLE: Enter into the record.

6 (Admitted Exhibit 47.)

7 Q. While we're talking subject to check, I
8 don't know if you had an opportunity between
9 yesterday's session and today's to check any of the
10 subject to checks that you gave yesterday.

11 A. I did not have an opportunity to check most
12 of them since we left here after hours and we got here
13 really early this morning with travel time.

14 Q. The one that you did check did you find any
15 that were incorrect?

16 A. I think the exhibits that we had we feel
17 are appropriate to enter and that was kind of where we
18 left it.

19 Q. Are you familiar with the term of the
20 Sea-Tac contract?

21 A. Not necessarily. I am not involved in
22 individual contracts with customers. We have 80,000
23 space providers out there and I don't get involved in
24 individual contracts.

25 Q. Well, Exhibit 46 on the first page refers to
(LANKSBURY - CROSS BY HARLOW) 705

1 the term as five years?

2 A. Yes.

3 Q. Would you accept subject to check that the
4 term of the prior term agreement agree but the prior
5 term agreement was only three years?

6 A. Subject to check I would accept that.

7 Q. Will you accept subject to check that the
8 commission percentage in the contract that constitutes
9 Exhibit 46 was increased from the prior contract?

10 MR. SHAW: Your Honor, I will object to
11 asking these kinds of subject to check questions. It's
12 incumbent upon the complainant to subpoena in other
13 witnesses if needed to get information that is unknown
14 by Mr. Lanksbury. Just because Mr. Lanksbury is an
15 employee of U S WEST, he was not offered nor would it
16 be
17 possible for him to be knowledgeable about everything
18 and everything inside U S WEST, so I think this is
19 inappropriate. Subject to check requests are intended
20 for results of calculations and that sort of thing, not
21 assuming facts that the witness has no knowledge about
22 at all by his own testimony.

23 JUDGE HAENLE: I assume that the company has
24 a copy of the prior agreement and would be able to make

25 it available for this witness to be able to check what

(LANKSBURY - CROSS BY HARLOW)

706

1 was in the prior agreement, Mr. Shaw.

2 MR. SHAW: Well, if that's the requirement
3 that's put on litigants before this Commission that
4 they have to do that.

5 JUDGE HAENLE: I would be more concerned if
6 it were something not within the company's records and
7 if it were not something it seems to me relatively
8 easily checked. It's not an abstract notion. It's
9 going to the document and taking a look so I don't feel
10 it's an appropriate subject to check.

11 Will you accept it in that manner, sir?

12 THE WITNESS: Will I accept it?

13 JUDGE HAENLE: I feel that it's an
14 appropriate subject to check question, assuming you can
15 go back to the contract, the prior contract, and look
16 at the prior contract?

17 THE WITNESS: If the contract is available I
18 can research it with the other subject to checks, yes.

19 JUDGE HAENLE: Have you any reason to
20 believe it's not available?

21 THE WITNESS: I think we have a retention of
22 that contract, since this is a fairly recent contract
23 here.

24 JUDGE HAENLE: Thank you. Go ahead.

25 Did you have a copy of that contract here?

(LANKSBURY - CROSS BY HARLOW)

707

1 MR. HARLOW: I do. If Mr. Lanksbury would
2 like to review it at the break.

3 JUDGE HAENLE: Why don't you do it that way
4 then.

5 MR. HARLOW: Next exhibit is deemed
6 confidential by U S WEST.

7 JUDGE HAENLE: You've handed me a multi-page
8 document entitled Response to Complainant's Seventh
9 Data Requests, Data Request No. 155 Supplemental
10 Response and Confidential. Mark this as C-48 for
11 identification.

12 (Marked Exhibit C-48.)

13 Q. Would you be able to identify C-48 as being
14 a complainant's data request No. 155 to U S WEST and U
15 S WEST response?

16 A. I recognize the data request and I assume
17 the response is complete of what we provided you.

18 Q. In your prefiled testimony you described
19 that one of the purposes of compensating space
20 providers -- one of the U S WEST purposes in
21 compensating space providers for placement of payphones
22 is to make up for the lost revenue due to the payphone
23 occupying space that could be used by other
24 merchandise; is that correct?

25 A. That's one of the reasons. I also said that
 (LANKSBURY - CROSS BY HARLOW) 708

1 it was a space rental fee.

2 Q. Now, Exhibit 48 reflects documentation
3 between U S WEST and a convenience store; is that
4 correct?

5 A. That's correct.

6 Q. Is the identity of that convenience store
7 confidential?

8 A. I do not think the identity is confidential,
9 no.

10 Q. So talking about 7-Eleven here then, right?

11 A. That is correct.

12 Q. Would you agree that 7-Eleven locations
13 typically place their phones perhaps on the curb or in
14 the parking lot or in front of the store?

15 A. Traditionally they are placed in front of
16 the store or in the parking lot, that is correct.

17 Q. Would you agree that those phones, then,
18 aren't displacing any merchandise, recognizing that
19 most 7-Eleven owners don't put their merchandise out on
20 the parking lot?

21 A. No, but it is displacing parking spaces.

22 Q. If it's in the parking lot?

23 A. Yes, that's correct.

24 Q. How about if it's on the sidewalk or on the

25 area in front of the store between the parking places

(LANKSBURY - CROSS BY HARLOW)

709

1 and the store?

2 A. If it's on the sidewalk it probably belongs
3 to the city and not the store, because most cities
4 have laws in place or ordinances in place that will not
5 allow a private party to put a payphone in their area,
6 so we negotiate those with the city. More often, it's
7 in the corner of the parking lot and does consume part
8 of the space or it could be up against the building.

9 Q. If it's up against the building it doesn't
10 typically consume space?

11 A. Well, it consumes space no matter where it's
12 put.

13 Q. I mean parking space, that's what we were
14 talking about.

15 A. Yes, it does not consume a parking space,
16 that's correct.

17 Q. Turn to the example of the city. I assume
18 that you don't pay commissions to cities because
19 they're losing retail space; is that correct?

20 A. We pay commissions to the cities for the
21 right to be there as a space rental fee.

22 Q. So the answer to my question is no?

23 A. Not for retail space. They're not losing
24 revenue, no.

25 Q. Let's think of the example of a large

(LANKSBURY - CROSS BY HARLOW)

710

1 shopping mall. Shopping mall payphones typically get
2 located on the retail shelves within the stores?

3 A. Well, you have two types of payphones in
4 shopping malls. You have those in the common areas and
5 you have those inside the stores and we have both in
6 most shopping malls. The Bon Marche or the Nordstrom's
7 or whatever will have two or three payphones within
8 their building and then there will be a kiosk of phones
9 in the common area. So you have both situations.

10 Q. You typically pay commissions on the kiosks
11 in the common area; is that correct?

12 A. Typically pay commission on both of them.

13 Q. And the kiosks aren't consuming any retail
14 space; is that correct?

15 A. The kiosks are consuming common area space
16 and they are not usually in retail space, that's
17 correct.

18 Q. Turning now to Exhibit 48.

19 MR. SHAW: Your Honor, I will object to no
20 foundation.

21 MR. HARLOW: I haven't offered it yet.

22 MR. SHAW: Sorry. I thought I heard you
23 offer it.

24 MR. HARLOW: Just turning to it.

25 Q. Take a look, please, at the second to last

(LANKSBURY - CROSS BY HARLOW)

711

1 page.

2 A. I have it.

3 Q. Indented portion there with some numbered

4 paragraphs. Do you see that?

5 A. Starting with 1 through 9?

6 Q. No. I am on one that has 1 through 3.

7 A. Excuse me, I must have the wrong document.

8 Q. Looked like a merge letter or form letter.

9 A. On the back of this one I have another copy
10 of page 155 response. That's why.

11 Q. I'm counting back three including that one.

12 A. Okay. I have that one.

13 Q. So we're all on the same page, I assume it's
14 not confidential who was going to sign that letter.

15 JUDGE HAENLE: What about the date at the
16 top? Maybe that would be the best way to identify it.

17 MR. HARLOW: June 21, 1991.

18 A. I don't think it's confidential as to who
19 was going to sign that letter.

20 Q. It was going to be signed by Mary Wall?

21 A. That is correct.

22 Q. And she's an account executive for, my
23 understanding is, U S WEST coin phones; is that
24 correct?

25 A. That is correct.

(LANKSBURY - CROSS BY HARLOW)

712

1 Q. Now, do you see the numbered paragraphs?

2 A. Yes.

3 Q. And does that numbered paragraph reflect, as
4 you've testified, increasing commissions to this
5 particular customer?

6 A. I don't see where it says increase. Excuse
7 me, it does say higher. Yes, it would be an increase
8 then.

9 MR. HARLOW: Your Honor, we offer Exhibit
10 48.

11 JUDGE HAENLE: Any objection, Mr. Shaw?

12 MR. SHAW: Yes, Your Honor. We do object.
13 Again, these complainants were allowed a year to
14 discover virtually all the documents in U S WEST
15 relating in any way whatsoever to payphones before
16 they filed their testimony. This particular data
17 request asks for the files relating to one specific
18 site provider of U S WEST. The testimony of Mr.
19 Lanksbury does not raise this issue at all in terms of
20 particularly Southland Corporation or 7-Eleven stores.
21 The questions after it was marked for identification
22 related to whether or not phones take up shelf space or
23 parking lot space. I don't see anything in here about
24 that whatsoever. The witness already testified that U

25 S WEST has increased commissions in recent time. I

(LANKSBURY - CROSS BY HARLOW)

713

1 think

2 it's inappropriate for the wholesale introduction into

3 evidence of U S WEST confidential customer

4 correspondence when it hasn't been tied into testimony

5 or the issues whatsoever.

6 JUDGE HAENLE: The objection is relevance,

7 Mr. Harlow.

8 MR. HARLOW: I'm sorry, I didn't hear what

9 you said.

10 JUDGE HAENLE: I said the objection is

11 relevance.

12 MR. HARLOW: Thank you. We keep hearing

13 about all the discovery that the complainants have been

14 allowed to do, and I am not sure what relevance it has,

15 although I notice that the tone of

16 Mr. Shaw's objections about the amount of discovery

17 have changed. The last time we were in here on a

18 motion to compel Mr. Shaw was complaining that we had

19 done all this discovery and hadn't used any of the

20 documents in the testimony.

21 JUDGE HAENLE: Let's address the relevance.

22 MR. HARLOW: The relevance is, first of all,

23 it does not not just show but also quantifies the

24 amount of increased commission, at least on this

25 particular contract.

(LANKSBURY - CROSS BY HARLOW)

714

1 Secondly, these documents relate to the
2 company that is addressed in Mr. Lanksbury's prefiled
3 testimony where he talks about the allegations of
4 Mr. Colson about contacts and the relationships between
5 Southland and Mr. Colson's company and Southland and U
6 S WEST. So although this wasn't the subject of my line
7 of testimony immediately preceding the exhibit, it's
8 relevant for that reason as well.

9 JUDGE HAENLE: Any brief response, Mr. Shaw?

10 MR. SHAW: My objection stands.

11 JUDGE HAENLE: Did you have any objection to
12 the entry of the document, Ms. Brown?

13 MS. BROWN: No.

14 JUDGE HAENLE: I'm going to overrule the
15 objection and enter the document into the record. This
16 is one matter in which the complainant may demonstrate
17 some of its allegations. The parties may address on
18 brief whether it demonstrates those allegations or not,
19 but I believe that it is properly admitted and is
20 relevant to the matter alleged by the complaining
21 party.

22 Q. Mr. Lanksbury, at pages 25 and 26 of your
23 testimony you respond to Dr. Cornell by asserting that
24 "competitive payphone providers have access to

25 interLATA revenues that are not available to U S WEST."

(LANKSBURY - CROSS BY HARLOW)

715

1 Do you have that at the present time in mind?

2 JUDGE HAENLE: What page?

3 MR. HARLOW: 25 and 26.

4 A. Yes, I do.

5 Q. Although it is true that U S WEST does not
6 receive interLATA revenues any longer, nevertheless
7 it's true that the site owners are still receiving
8 revenues from interLATA carriers; is that correct?

9 A. I don't think you can say all site owners
10 are. It depends on the size of the contract, who they
11 contract with and the payment schedules of those
12 interexchange carriers or AOS's, so not all site owners
13 have recovered the interLATA commission that they were
14 receiving prior to the equal access order.

15 Q. But certainly the larger ones are or the
16 ones with more traffic I should say?

17 A. I can only assume so. I am not party to the
18 commission plans of other carriers or alternative
19 operator service providers but I assume the larger ones
20 would.

21 Q. At this point I would like to return to the
22 subject of so-called public policy payphones. I don't
23 want to repeat everything we did yesterday but just to
24 set the stage here. We talked about the workshops you

25 were involved in in Oregon to identify public policy

(LANKSBURY - CROSS BY HARLOW)

716

1 phones. Do you recall that?

2 A. Yes, I do.

3 Q. And you indicated that you were generally in
4 agreement with those criteria identified in Oregon?

5 A. I am in agreement with the criteria
6 identified in Oregon for Oregon, yes.

7 Q. Let's now turn to Washington specifically.
8 The Washington Utilities and Transportation Commission,
9 and for that matter the legislature in this state, has
10 not defined public policy payphones; is that correct?

11 A. There is no definition, specific definition,
12 of public policy payphones, that is correct.

13 Q. And you will recall both from the discovery
14 in this case as well as my questioning yesterday that
15 the complainants sent a number of data requests to U S
16 WEST regarding identification of public policy
17 payphones?

18 A. Yes, I do remember that.

19 Q. And none were identified up until the time
20 you prefiled your testimony?

21 A. I am not sure we specifically identified any
22 locations even in my prefiled testimony.

23 Q. In your prefiled testimony you did describe
24 anecdotally some experience with what you would deem

25 public policy payphones; is that correct?

(LANKSBURY - CROSS BY HARLOW)

717

1 A. Yes, my experience with all states, that's
2 correct.

3 Q. We sent you a data request asking that those
4 anecdotes be identified more specifically. Do you
5 recall that?

6 A. I do recall that, yes.

7 Q. And there was an objection to that request
8 and the administrative law judge ruled that that
9 request had to be answered. Do you recall that?

10 A. Not specifically recalling that incident,
11 no.

12 Q. Do you recall ultimately answering the
13 question?

14 A. I do recall we provided some answers, yes.

15 JUDGE HAENLE: You handed me a three-page
16 document. The caption at the top is Responses To
17 Complainant's Seventh Data Requests, Data Request No.
18 149 Supplemental Response. I will mark this as Exhibit
19 49 for identification.

20 (Marked Exhibit 49.)

21 Q. Can you identify Exhibit 49 as the data
22 request and response that we were just talking about?

23 A. Yes, I can.

24 MR. HARLOW: Your Honor, we would offer

25 Exhibit 49.

(LANKSBURY - CROSS BY HARLOW)

718

1 JUDGE HAENLE: Any objection, Mr. Shaw?

2 MR. SHAW: None.

3 JUDGE HAENLE: Any objection Ms. Brown?

4 MS. BROWN: No.

5 JUDGE HAENLE: Exhibit 49, then, will be
6 entered into the record.

7 (Admitted Exhibit 49.)

8 Q. As I understand it --

9 MR. SHAW: Excuse me, Your Honor. Just
10 looking at this it looks like it's admitted an
11 attachment which I think we --

12 JUDGE HAENLE: Looks like which?

13 MR. SHAW: The answer is not complete. I
14 see a reference to an attached newspaper article on the
15 second page under example 5 but I don't see any
16 attached newspaper article. I presume that was part of
17 the answer.

18 MR. HARLOW: That's correct. We didn't
19 think it had particular relevance and we have no
20 objection if Mr. Shaw wants to append that to the
21 record.

22 MR. SHAW: It was offered as U S WEST's
23 response to a data request and that was the only
24 foundation for the offer, but if it is not complete

25 it's not incumbent upon me to correct it.

(LANKSBURY - CROSS BY HARLOW)

719

1 MR. HARLOW: I think it should be clarified
2 for the record that it's not the complete response.
3 Does not include the attachments.

4 JUDGE HAENLE: Do you feel it's necessary to
5 have that newspaper article in the record, Mr. Shaw, or
6 were you just making your position clear about the
7 completeness of the document?

8 MR. SHAW: Well, Your Honor, the only
9 foundation for the document is its response to data
10 request but it is not a complete response.

11 JUDGE HAENLE: We now have your comment on
12 that definitely and we have the clarification by Mr.
13 Harlow. My question to you was --

14 MR. SHAW: I object to the introduction of
15 the exhibit.

16 JUDGE HAENLE: For what reason?

17 MR. SHAW: Because it's incomplete and is
18 not what it purports to be offered for.

19 JUDGE HAENLE: Mr. Harlow, I believe, has
20 amended his description to indicate that it is the
21 response to data request without that one attachment.
22 My question to you was, with that description, is it
23 important to you or do you want to have that newspaper
24 article attached?

25 MR. SHAW: Yes. I think it -- I am not

(LANKSBURY - CROSS BY HARLOW)

720

1 offering the document, Mr. Harlow is. My objection to
2 it is that it's incomplete and therefore potentially
3 misleading.

4 JUDGE HAENLE: Well, I won't ask again,
5 then, Mr. Shaw. Do you have any objection to its
6 entry, Ms. Brown?

7 MS. BROWN: No.

8 JUDGE HAENLE: I will enter the document
9 into the record understanding that it is the response
10 without that attachment. Go ahead.

11 (Admitted Exhibit 48.)

12 Q. Now, Exhibit 49 is a specific identification
13 of the anecdotes that you included in your direct
14 testimony; is that correct?

15 A. That is correct.

16 Q. And review it if you need to or accept this
17 subject to check, but my understanding is that only one
18 of those anecdotes was actually a phone located in the
19 state of Washington; is that correct?

20 A. Yes, it is.

21 Q. As we sit here today, other than that one
22 phone at the Pioneer School that's listed in data
23 request No. 149, can you identify for the Commission
24 any other phone in the state of Washington that you

25 believe is a public policy phone?

(LANKSBURY - CROSS BY HARLOW)

721

1 A. I am not directly involved in some of the
2 public policy phone decisions, but to the best of my
3 knowledge this is the only one that I have knowledge
4 of.

5 Q. Do you have any understanding as to what
6 happens to U S WEST rate base if it places a payphone
7 at a new location?

8 A. I am not sure I understand your question.
9 Could you clarify it?

10 Q. Does the rate base go up? Is that your
11 understanding?

12 A. The expense and investment go into the rate
13 base, that's my understanding. I am not a rate base
14 expert, that's for sure.

15 Q. Would it be your understanding that U S WEST
16 is entitled to earn a rate of return on that payphone
17 regardless of whether anyone ever drops a quarter into
18 it?

19 A. That would be my understanding, yes.

20 Q. Would it also be your understanding that U S
21 WEST is entitled to recover all the costs of
22 maintaining that payphone regardless of whether anyone
23 ever drops a quarter into it?

24 A. That's my understanding. Under regulation

25 that's true, yes.

(LANKSBURY - CROSS BY HARLOW)

722

1 Q. Would it be your understanding that the
2 revenues necessary to cover those costs and rate of
3 return, assuming no one ever drops a quarter into it,
4 would come from other services offered by U S WEST?

5 A. Could you explain "other services" to me? I
6 am not prepared to answer without knowing what you mean
7 by other services.

8 Q. Business lines, private lines, toll,
9 whatever.

10 A. Yes. I think that would be the general
11 revenues of the company that are regulated would
12 contribute to the rate base.

13 Q. And would it be your understanding that this
14 hypothetical would involve, then, what would be called
15 a cross subsidy?

16 A. That would be my understanding.

17 Q. Would you agree that at the present time
18 there's no governmental entity in Washington that
19 decides if any particular payphone location is one that
20 should have a cross subsidy for public policy reasons?

21 A. That is true. To the best of my knowledge
22 there are no rules and regulations or considerations
23 for cross subsidy of public phones.

24 Q. Nevertheless, in your revised Exhibit C-4,

25 Exhibit 27, you have apparently attempted to come up

(LANKSBURY - CROSS BY HARLOW)

723

1 with a gross number of public policy phones; is that
2 correct?

3 A. And in response to the association, that's
4 correct. And I think we need to also understand that
5 we have no requirement to impute, nor in that model, so
6 this is something we feel is appropriate that we
7 present it as an appropriate pricing mechanism or
8 costing and imputation mechanism to determine our price
9 floor.

10 Q. Would you agree that the criteria you
11 developed to create your revised Exhibit C-27 in terms
12 of the aspect of identifying public policy phones have
13 never been approved by the Washington Utilities and
14 Transportation Commission?

15 A. Of that process or actually study, summary,
16 that we did has not been approved by this Commission.

17 Q. You testified in your deposition that you
18 did have some experience and interaction with staff.
19 Do you recall that?

20 A. On public policy phones are you talking
21 about?

22 Q. Yes.

23 A. I think we discussed them briefly in looking
24 at the cost-to-revenue summary and imputation but I

25 don't think we spent a great amount of time talking

(LANKSBURY - CROSS BY HARLOW)

724

1 about that.

2 Q. Well, my question here today would be if
3 you can identify any examples of staff of the
4 Commission directing phones to be put in place or
5 reinstalled for public policy reasons?

6 A. As I said, I am not directly involved in
7 that in every case. I have put one example here in
8 this exhibit or in this response. I have mentioned
9 another one that I am aware of that I was not involved
10 in at a mountain pass. That was through conversations
11 with the staff. That's the only two that I am aware of
12 at this time.

13 Q. Can you explain for the record -- first of
14 all, were those two experiences with staff of the
15 Washington Utilities and Transportation Commission in
16 any way incorporated into the criteria you used to come
17 up with the 10.2 percent public policy phones in your
18 revised Exhibit C-27?

19 A. It was definitely one of the considerations.
20 The knowledge of the three people that were performing
21 the study was collectively discussed and the criteria
22 was built off our experience through all 14 states, so
23 the Washington experience was an input to that, yes.

24 Q. But what was the criteria that came out of

25 those two experiences in Washington?

(LANKSBURY - CROSS BY HARLOW)

725

1 A. That we had a requirement in schools because
2 that's been reinforced in other states and that rural
3 highways were a definite concern to commissions because
4 we've had -- or commission staffs and commissions
5 because we've had experiences not only in Washington
6 but in Oregon, Utah, New Mexico, various other states.
7 So this is a collective building of the criteria based
8 on our experiences throughout the region, not just from
9 one state.

10 Q. So you've identified two criteria, schools
11 and rural highways; is that correct?

12 A. Would you like me to -- yes, that's correct.
13 I can go through the whole criteria.

14 JUDGE HAENLE: Slowly, please, or none of it
15 is going to be recorded and it will not exist. Begin
16 again, Mr. Harlow.

17 Q. What I am getting at is we have two criteria
18 which go out of your experience with the Washington
19 Commission staff; is that correct?

20 A. That is correct.

21 Q. Can you think of any other criteria coming
22 out of experience with the Washington staff?

23 A. No, I think I have stated that before.

24 Q. I think without going through the whole

25 thing again, yesterday you identified numerous other

(LANKSBURY - CROSS BY HARLOW)

726

1 criteria that you used to come up with your 10.2

2 percent figure; is that correct?

3 A. That's correct, and it was based on our

4 experiences throughout the region.

5 Q. But not the Washington staff, correct?

6 A. I think I've stated that, yes.

7 Q. Having in mind the criteria that you talked

8 about in Oregon that you stated you agreed with, can

9 you say that -- can you identify any phones in

10 Washington that would meet the Oregon criteria?

11 A. Yes, I can.

12 Q. Would that be the one at the Pioneer School?

13 A. I'm sorry, I don't think I understand the

14 second part of that question. Can I identify any

15 phones --

16 Q. By site.

17 A. Let me finish, please.

18 -- in the state of Washington that meet that

19 criteria? There are a number of phones that meet that

20 criteria, for instance, one in every rural community.

21 If you're talking about that the Commission has

22 addressed to us, then that's a whole different

23 question.

24 Q. The one I'm talking about is rather than

25 identifying a number, can you identify a specific

(LANKSBURY - CROSS BY HARLOW)

727

1 payphone by location that meets the Oregon criteria?

2 A. We have not even gone through that task in
3 Oregon, so without taking a long time to study the
4 individual accounts, I cannot do that.

5 Q. Let me try something else. Take your 10.2
6 percent public policy number that's in your revised
7 Exhibit C-27. By reviewing your work papers and
8 perhaps even talking to you, is there any way that I
9 could go out and verify how many of those phones don't
10 have another payphone right across the street?

11 A. No, there are not, not at this time without
12 looking at individual accounts and that has not been
13 done.

14 Q. Like to direct your attention at this time
15 to your testimony that starts on page 33 going through
16 page 34, line 21.

17 A. Yes, I have that in mind.

18 Q. Is this the incident that Mr. Colson
19 described in his supplemental testimony regarding
20 alleged improper marketing by U S WEST personnel based
21 on information obtained from the PAL order?

22 A. I'm sorry, I must have had the wrong
23 reference. Could you give me the reference again.

24 Q. Page 33 and 34.

25 A. Yes.

(LANKSBURY - CROSS BY HARLOW)

728

1 Q. And can we identify by name this particular
2 customer of U S WEST?

3 A. I see no problem with that.

4 Q. We're talking about Southland Corporation
5 which is the parent of or the franchise or of 7-Eleven
6 stores, again; is that correct?

7 A. Yes, that is correct.

8 JUDGE HAENLE: Which of the two cases cited
9 at page 34 is the one that has to do with Southland,
10 please? It looks to me like there's two separate
11 incidents talking about there. I assume it's starting
12 at line 21?

13 THE WITNESS: Yes. Starting at line 21.
14 That was the confusion I had also.

15 JUDGE HAENLE: Thank you.

16 Q. Looking at the bottom of page 34 to the top
17 of page 35, it says "USWC's vendor service center
18 notified the USWC payphone account executive when
19 it received a PAL line order for one of the new
20 franchise stores." Do you see that?

21 A. Yes, I do, but I would like to continue to
22 read that if I could because it is pertinent to what
23 you've read.

24 Q. You want me to finish reading?

25 A. I think that would be appropriate so it's

(LANKSBURY - CROSS BY HARLOW)

729

1 not taken out of context.

2 Q. "Per that agreement with the corporate
3 office and the corporate executive notified the
4 corporate office of that activity." Does that do it?

5 A. Could you finish it, please.

6 Q. The next sentence, "The corporate office
7 subsequently contacted the other payphone provider to
8 discuss the contract conditions."

9 A. That is correct.

10 Q. Now, just so we're clear for the record
11 here. USWC's vendor service center, that is the
12 division of U S WEST that works with PAL customers; is
13 that correct?

14 A. That is correct.

15 Q. And USWC payphone account executive, that's
16 the person that markets U S WEST payphones to companies
17 like Southland; is that correct?

18 A. That is correct.

19 Q. And as I understand this testimony, it
20 reflects that -- put it in different words -- U S WEST
21 PAL people when they received a PAL line order notified
22 U S WEST's coin people; is that correct?

23 A. Yes, that's correct. When the LOA is not
24 signed by the appropriate person that has authorized it

25 and there is a note on the account that action should

(LANKSBURY - CROSS BY HARLOW)

730

1 be taken as part of that contract, we will check the
2 letter of agreement or letter of agency and verify that
3 the signature is appropriate. It was not in this case.
4 It was not the authorized person to make the decision
5 to change the service. The corporate office had that
6 responsibility and we followed the instructions of the
7 authorized person to assign that account.

8 Q. How does U S WEST know who owns a particular
9 site?

10 A. The way we know is we mark the records to
11 the party that has signed the contract.

12 Q. And who makes that determination? Is it the
13 vendor services people or is it the coin, U S WEST coin
14 people?

15 A. The authorized party is -- that
16 determination of who the authorized party is, if I
17 understand the question, is made by the customer who
18 signs the contract.

19 Q. But let's take an example. Suppose that I
20 do have service from U S WEST. Suppose I sell my house
21 and the buyer calls up U S WEST and says we want
22 to change the service at this particular location.
23 What would U S WEST do? Would they go out and check
24 the

25 records somehow to make sure that I in fact sold my

(LANKSBURY - CROSS BY HARLOW)

731

1 house to this person?

2 A. I have a little trouble drawing a parallel
3 between residence service and competitive payphone
4 service, I'm sorry. But no, we don't.

5 Q. Well, why do you have trouble drawing a
6 comparison there? Is that because U S WEST is in
7 competition for payphone sites but there is no
8 competition for residence locations?

9 A. No, because in a competitive payphone site
10 there may be a great number of people involved in the
11 business. The decision maker may be somebody in the
12 corporate office and the person who signs the LOA,
13 because they don't understand it, may be a clerk behind
14 the counter. So, unfortunately, the person that asks
15 for the disconnect or authorizes the letter of agency
16 may not be the appropriate party. It's a whole
17 different recordkeeping system. If it were a business
18 we would go to the communications department of a major
19 corporation to in fact do the changes in their
20 business, not to do them specifically on -- due to some
21 clerk or other person in the business trying to make a
22 decision about their service. They have authorized
23 people to do that also. So a residence to
24 me has no parallel either to a business or a payphone.

25 I just can't draw that parallel.

(LANKSBURY - CROSS BY HARLOW)

732

1 Q. So it sounds to me as though U S WEST is
2 acting as the enforcing agent to make sure that people
3 don't change payphones without proving that they've in
4 fact purchased a location?

5 A. I think U S WEST has an obligation to meet
6 the conditions of the contract and protect the
7 corporation that has signed the contract with U S WEST
8 from activity that they don't want, and so I think we
9 do have a responsibility and a right to do this. We
10 have a contract. There are specific conditions in that
11 contract that ask us to take action if something
12 happens and all we're doing is meeting the customer's
13 request in this case.

14 And the corporate office agreed to follow up
15 in this case and take care of the problem. We referred
16 it back to them. We did not refuse to do anything
17 until the dispute was settled, and we would do
18 the same between any two vendors whether they're U S
19 WEST or another vendor. If there's a dispute it's
20 really up to the parties to resolve it.

21 MR. HARLOW: The next exhibit has been
22 deemed confidential by U S WEST although their stamp
23 didn't show up on the copy.

24 JUDGE HAENLE: You handed me a two-page

25 document. The heading is Memorandum. The date is July
(LANKSBURY - CROSS BY HARLOW) 733

1 22, 1992. I will write "confidential" on the top of both
2 pages of the official copy to be sure that shows up in
3 the file.

4 I did also fail to indicate on C-48, which
5 was the last confidential exhibit, that that consisted
6 of 11 pages. I would like to have the number of pages
7 in the record to be sure we've got the complete exhibit
8 always. Go ahead.

9 (Marked Exhibits C-50 and 51.)

10 JUDGE HAENLE: Mark this as C-50 I guess I
11 didn't say.

12 MR. SHAW: Excuse me, Your Honor. I lost an
13 exhibit. I thought this was C-49.

14 JUDGE HAENLE: C-49 was three pages.

15 MR. SHAW: I'm sorry. I found it.

16 JUDGE HAENLE: This is C-50.

17 Q. Would you accept subject to check, Mr.
18 Lanksbury, that Exhibit C-50 is a portion of U S WEST's
19 response to data request No. 158?

20 A. Yes.

21 Q. And is it appropriate to give the
22 particulars of the who is who, to and from date here on
23 the record?

24 A. Would I give those particulars? I'm sorry.

25 Q. Is it appropriate for me to state those on

(LANKSBURY - CROSS BY HARLOW)

734

1 the record to identify this?

2 A. Yes, I think so.

3 Q. The first page states it is a memorandum
4 from Mary Wall to Louise Jenkins and it's dated June
5 22, 1992?

6 A. Yes, that's correct.

7 Q. And I believe this would be the same Mary
8 Wall that -- or maybe you haven't identified her.
9 Mary Wall is the account executive for 7-Elevens?

10 A. Yes, I think we identified her as the
11 account executive that handles the 7-Eleven account.

12 Q. Who is Louise Jenkins?

13 A. Louise Jenkins was working in corporate
14 services, customer-owned pay telephone services as a
15 person that was working with vendors and servicing the
16 accounts for private payphone vendors.

17 Q. So she's on the other side, if you will.
18 She works with the competitive providers?

19 A. That's probably a better way to say it.

20 Q. Second page of Exhibit C-50 is a memorandum
21 from Louise Jenkins to Mary Wall and Donna Olson dated
22 1991.

23 A. Yes, I have that.

24 Q. I believe these two documents came to us

25 attached. Was the first page a response to the second

(LANKSBURY - CROSS BY HARLOW)

735

1 page, that you know?

2 A. I am not sure if it was a response. I
3 really don't have that knowledge. It addresses --
4 apparently addresses the same situation.

5 Q. Is the first page, the later memo from Mary
6 Wall, is that contradictory to the second page, the
7 earlier memo from Louise Jenkins?

8 A. I would need to read them in their entirety
9 to tell you if it's contradictory. I've just been
10 glancing at them as you've been asking the questions.

11 MR. HARLOW: Your Honor, would it be all
12 right to do that?

13 JUDGE HAENLE: Let's go off the record for
14 that purpose.

15 (Discussion off the record.)

16 JUDGE HAENLE: Let's be back on the record.
17 During the time we were off the record the witness was
18 reading the document. Go ahead, sir.

19 Q. Do you recall the question or does it need
20 to be repeated?

21 A. Needs to be repeated, please.

22 Q. The question was, is the June 22, 1992
23 memorandum from Mary Wall contradictory to the December
24 30, 1991 memorandum from Louise Jenkins?

25 A. It does not appear to be contradictory. It
 (LANKSBURY - CROSS BY HARLOW) 736

1 takes some steps that weren't outlined in the first
2 letter, though, as I read it.

3 Q. It goes a little further, is that a fair
4 characterization?

5 A. I'm sorry, I didn't --

6 Q. It goes a little further, it includes more
7 conditions?

8 A. Yes, it does.

9 Q. Do you have Exhibit 51 in front of you
10 there?

11 A. Yes, I do.

12 Q. Will you accept subject to check that this
13 letter was also produced as a part of the response of U
14 S WEST to complainant's data request No. 158?

15 A. Yes, I will.

16 MR. HARLOW: For the record, we agreed off
17 the record this is considered not to be confidential.

18 JUDGE HAENLE: I think what we indicated,
19 Mr. Shaw indicated he was not claiming confidentiality.
20 Is that correct, Mr. Shaw?

21 MR. SHAW: Yes.

22 MR. HARLOW: For the record, the complainant
23 are not claiming confidentiality either. The next
24 exhibit has been designated confidential by U S WEST.

25

JUDGE HAENLE: I am concerned that the

(LANKSBURY - CROSS BY HARLOW)

737

1 document you're distributing you indicated had been
2 claimed confidential but you have not put some kind of
3 a stamp on them indicating they're confidential. I
4 think that's really contradictory to the Commission
5 rules.

6 MR. HARLOW: U S WEST placed the stamp.
7 Unfortunately it was very light and didn't come through
8 in the copying and I didn't discover that until this
9 morning.

10 JUDGE HAENLE: I want to be sure that
11 everyone writes confidential on these so they don't get
12 misplaced. I have a serious concern about that. It's
13 a two-page document. Caption at the top memorandum,
14 dated December 4, 1992. It's in two pages. I will
15 mark this as C-52 for identification.

16 (Marked Exhibit C-52.)

17 Q. Can you identify subject to check that
18 Exhibit C-52 is also part of the response of U S WEST
19 to
20 the complainant's data request No. 158?

21 A. Yes.

22 Q. Would you agree that this memorandum deals
23 with the letter that constitutes Exhibit 51?

24 A. I have not -- it's been quite some time

25 since I read this letter but I would --

(LANKSBURY - CROSS BY HARLOW)

738

1 Q. Would you accept that subject to check?

2 A. Yes, subject to check.

3 Q. And all three of these exhibits, C-50, 51
4 and C-52, relate to your testimony in response to
5 Mr. Colson's allegations about improper marketing in
6 regard to 7-Eleven locations; is that correct?

7 A. Yes, that's correct.

8 MR. HARLOW: Your Honor, we offer Exhibits
9 C-50, 51 and C-52.

10 JUDGE HAENLE: Any objection, Mr. Shaw?

11 MR. SHAW: I have a concern with 51, Your
12 Honor. Having produced all documents in a type sweep
13 this document is a letter from a lawyer apparently
14 retained by these complainants or entities like these
15 complainants to counsel for U S WEST here locally
16 making
17 numerous allegations. Exhibit C-52 is a memorandum
18 from Mary Wall, who had previously been identified as a
19 account executive, to Pat Anderson, who I will tell the
20 bench is a paralegal that works in my office, and it
21 apparently is the investigation that was undertaken
22 after we got this letter from Casey and Pruzan. I
23 think it's inappropriate to introduce a letter making
24 allegations sent to U S WEST. Obviously, I couldn't

25 write a letter to Mr. Harlow's clients making

(LANKSBURY - CROSS BY HARLOW)

739

1 allegations and then ask that it be produced and then
2 introduce it for the truth of what's in the letter. It
3 presents an obvious problem, so I think that these
4 documents are not appropriate to be entered into the
5 record because of their nature, legal communications
6 between the two entities and investigation for a
7 partial document documenting the investigation, that U
8 S WEST undertook after it got the letter.

9 JUDGE HAENLE: Mr. Harlow.

10 MR. HARLOW: I would agree, Mr. Shaw, that
11 as a general proposition self-serving letters written
12 by lawyers should not be admitted to further their
13 client's case. This case -- situation doesn't fit
14 under the general circumstances because of
15 Mr. Lanksbury's testimony where we're at page 34 and 35
16 he describes this very incident that's reflected by
17 these exhibits, and he puts his characterization on it.
18 He's identified the letter and responded to data
19 request No. 158. And if you will give me a moment I
20 think maybe it would be a good idea to state for the
21 record what that request asked.

22 JUDGE HAENLE: If you need to take time to
23 look that up I am going to suggest we take our morning
24 recess at this point.

25

MR. HARLOW: Your Honor, I am almost to the

(LANKSBURY - CROSS BY HARLOW)

740

1 point of confidentiality where we have to have a closed
2 session. I was hoping to get to that before we get to
3 the morning break.

4 JUDGE HAENLE: I was hoping we could do that
5 without a closed session. Have you thought about how
6 we can do that without a closed session? The
7 Commission is very much against closed sessions.

8 MR. HARLOW: It's going to involve a lot of
9 numbers.

10 JUDGE HAENLE: Is it possible to do it the
11 way we've done it in the past, which is to say look at
12 line 26, how is that number arrived at, is that a
13 combination of lines 24 times line 25? That kind of
14 thing.

15 MR. HARLOW: I think it probably would take
16 twice as long to do it that way and I am not sure it
17 would be possible.

18 JUDGE HAENLE: I think it may be worth it
19 for keeping this record open. I am very concerned
20 about the Commission being able to use information that
21 comes in through a closed session, and we found in the
22 past most of what's asked in a closed session isn't
23 confidential at all. The confidential questions may be
24 just two or three or four out of the entire group, and

25 the Commission has urged parties in the past to do

(LANKSBURY - CROSS BY HARLOW)

741

1 everything they can to avoid those closed sessions.

2 MR. HARLOW: Well, I will tell you what I
3 can do. I can review my questions during the break,
4 then, and see if I think that's possible.

5 JUDGE HAENLE: I would urge you to do that,
6 and if it turns out you need a closed session and then
7 the questions are not confidential questions, the
8 Commission is not going to be pleased.

9 MR. HARLOW: In the meantime I do have data
10 request No. 158 available at this time.

11 JUDGE HAENLE: Go ahead.

12 MR. HARLOW: It requested, "Please produce
13 all documents that reflect or show the specific
14 instances in Washington where U S WEST payphone account
15 executive contacted the space provider after a private
16 payphone company had contacted them," as explained in
17 Mr. Lanksbury's testimony at page 34." So these
18 documents are what Mr. Lanksbury used to identify these
19 instances and presumably reviewed them or had them
20 available to him in rebutting Mr. Colson's
21 supplemental testimony.

22 Additionally, Exhibit C-52, which
23 constitutes the U S WEST response, if you will, or at
24 least position with regard to the accusations contained

25 in Exhibit 51, really does not make any sense because

(LANKSBURY - CROSS BY HARLOW)

742

1 it doesn't recite the incentives and give the specifics
2 that are given in the attorney's letter. You can only
3 understand Exhibit C-52 with having Exhibit 51 in the
4 record as well. I think these documents clearly go to
5 and can be used in brief for cross -- go to the
6 credibility of Mr. Lanksbury's testimony about these
7 incidents involving 7-Eleven stores.

8 JUDGE HAENLE: Any brief response, Mr. Shaw?

9 MR. SHAW: Well, I have the same concerns
10 and I think the same objection. This is I think -- any
11 benefit to the record is outweighed by the prejudice
12 to sound principles against introducing self-serving
13 documents through an adverse witness. The Exhibit
14 C-52, it's not complete. It doesn't even really
15 reference the Casey & Pruzan letter, so I am not sure
16 on the face of it that they're even related although
17 they appear to be discussing issues raised by Pacific
18 Northwest Communications so I presume it's a nonLEC
19 payphone provider.

20 JUDGE HAENLE: Ms. Brown, do you have
21 objections to the entry of the documents?

22 MS. BROWN: Staff is going to take no
23 position.

24 JUDGE HAENLE: Why don't we break for --

25 take our morning break now. I would like to discuss

(LANKSBURY - CROSS BY HARLOW)

743

1 this with the Commissioners to be sure I understand
2 what they want to do on this. Let's take 15 minutes.
3 That would bring us back at 20 minutes to. I'm sorry,
4 did you have any questions about the motion and the
5 objection?

6 MR. HARLOW: For the record, is the
7 objection to all three exhibits or just the one?

8 JUDGE HAENLE: It was my understanding it
9 was to C-52 and 51. Did you have an objection to
10 50 as well?

11 MR. SHAW: No.

12 JUDGE HAENLE: Let's enter C-50 into the
13 record then and I will reserve ruling on the other
14 until after the break.

15 (Admitted Exhibit C-50.)

16 (Recess.)

17 JUDGE HAENLE: Let's be back on the record
18 after our morning recess. During the time we were off
19 the record I discussed the exhibits with the
20 Commissioners and they determined that the documents
21 should be entered into the record. Exhibit 51 is not
22 being entered for the truth of the matters therein.
23 Commission does consider it to be a self-serving
24 document but in order to provide context for Exhibit

25 C-52. I expressed some concern that this was an

(LANKSBURY - CROSS BY HARLOW)

744

1 internal memorandum. The Commissioners did feel that
2 its value outweighed any concerns it had in that
3 regard. So C-52 and 51 will be entered into the
4 record. Go ahead.

5 (Admitted Exhibits 51 and C-52.)

6 Q. Mr. Lanksbury, do you still have Exhibit
7 C-52 there?

8 A. Yes, I do.

9 Q. As I understand it, C-52 address as actions
10 by U S WEST with regard to five 7-Eleven locations; is
11 that correct?

12 A. Yes, that's my understanding.

13 Q. And can I give the store numbers without
14 confidential concerns or can I give those paragraph
15 numbers? How can we identify them without having them
16 be confidential here?

17 MR. SHAW: We have no problem with referring
18 to the 1.7 and 2.7.

19 Q. So the five locations are 1.7, 3.7, 4.7 and
20 5.7; is that correct?

21 A. That is correct.

22 Q. Will you accept, subject to check if you
23 need to, that those correspond to items 1 through 5 in
24 Exhibit 51 on pages 2 and 3?

25 A. They appear to, yes.

(LANKSBURY - CROSS BY HARLOW)

745

1 Q. Do you know what the purpose was for Mary
2 Wall preparing Exhibit C-52?

3 A. I assume -- I was not involved in the
4 process, but I assume it was in response to the letter
5 in Exhibit 51.

6 Q. Does U S WEST have a policy reviewing
7 alleged improper marketing by its coin personnel when
8 those
9 accusations are made by PAL customers?

10 A. Yes, we do.

11 Q. Is that what Exhibit C-52 reflects, one of
12 those investigations?

13 A. I don't know that it was an investigation of
14 the marketing person as much as a response to the
15 situations outlined in 51, and I have no personal
16 knowledge of the reason for 52, C-52.

17 Q. Is it your understanding that 51 alleges the
18 delays in installation of public access lines by U S
19 WEST at 7-Eleven stores?

20 A. I have not read that document in its
21 entirety, but, as I recall, it alleged that in the
22 letter.

23 Q. Would it be your understanding of Exhibit
24 C-52 that it acknowledges that those delays did in fact

25 occur?

(LANKSBURY - CROSS BY HARLOW)

746

1 A. I think it acknowledges that delays did
2 occur because of conflict between the corporate store
3 and the franchisee's.

4 Q. And then purport to explain the reasons for
5 those delays?

6 A. It appears to explain those. Again, I have
7 not read that entire document, but the portions I have
8 read, it does explain -- attempt to explain those.

9 Q. At page 35 of your prefiled testimony you
10 stated that "U S WEST's account executives" -- that
11 would

12 be the coin side -- "do not have access to public
13 access line revenue data." Do you recall that?

14 A. I think that misrepresents that testimony.
15 I say they do not use or get usage and revenue data. I
16 did not say they do not have access.

17 Q. So get usage you would say is different than
18 access?

19 A. Yes, I would.

20 Q. As I understand it both the public access
21 line team, if you will, and the U S WEST account
22 executives have access to the same computer system of U
23 S WEST?

24 A. That would be correct.

25 Q. And they share a database that shows records
(LANKSBURY - CROSS BY HARLOW) 747

1 for both U S WEST payphones and public access lines; is
2 that correct?

3 A. The database shares records for virtually
4 all accounts. It covers residence, business, PAL lines
5 and public telephones, yes.

6 Q. To the best of your knowledge, does that
7 computer system keep track of who accesses which
8 records?

9 A. The computer system itself does not keep
10 track of who accesses what records. I have since the
11 deposition found out that there are ways for us to go
12 back and check individual terminals to see if records
13 were accessed.

14 Q. Is that done on a routine basis by
15 management?

16 A. No, it's not done on a routine basis.

17 Q. So there is no policy of checking to make
18 sure that the U S WEST account executives were looking
19 up public access line data in violation of U S WEST
20 policies?

21 A. To the best of my knowledge there is no
22 policy of doing regular checks.

23 Q. Turn, please, to page 27 of your prefiled
24 testimony, portion discussing termination liability.

25 A. Termination liability starting on line 16?

(LANKSBURY - CROSS BY HARLOW)

748

1 Q. Yes. What were you rebutting in giving that
2 testimony?

3 A. It appears that Mr. -- if I remember right,
4 and I would have to review that testimony, but Mr.
5 Colson was making allegations that termination
6 liability agreements were inappropriate, either in his
7 deposition or his direct testimony. I don't remember
8 which.

9 Q. As I understand it, from your deposition
10 that sometime between 1986 and 1990 U S WEST started
11 including termination liability provisions in its
12 contracts with space providers?

13 A. Yes, we did, to protect the investment that
14 we make to place that phone. There is significant
15 investment in putting pads, bumper posts, enclosures,
16 and conduit and electrical to a payphone. So we felt
17 it was important to protect ourselves and protect that
18 investment so that we had time to recover it.

19 Q. But you would agree that was also in part in
20 response to competition by competitive payphone
21 providers?

22 A. Yes. Part of the problem was that we would
23 put a payphone out in the corner of a parking lot
24 and three months later a private payphone vendor would

25 come in and displace us and we had no opportunity to

(LANKSBURY - CROSS BY HARLOW)

749

1 recover revenues or recover our expense through the
2 revenues generated by the phone.

3 JUDGE HAENLE: Is there a claim of
4 confidentiality on this document, Mr. Harlow?

5 MR. HARLOW: None that I am aware of.

6 JUDGE HAENLE: I will mark the two-page
7 document as 53 for identification. It begins with a
8 memorandum dated November 20, 1990 on the letterhead of
9 COPT, C O P T, Services.

10 (Marked Exhibit 53.)

11 Q. Does Exhibit 53 reflect what you testified
12 about starting at the bottom of page 31 of your
13 prefiled testimony about U S WEST discontinuing the
14 sale
15 of enclosures to competitive payphone providers?

16 A. Yes, it does.

17 MR. HARLOW: Your Honor, offer Exhibit 53.

18 MR. SHAW: No objection.

19 JUDGE HAENLE: Ms. Brown, any objection?

20 MS. BROWN: No.

21 JUDGE HAENLE: 53 then will be entered into
22 the record. What was your page reference, Mr. Harlow?

23 MR. HARLOW: Page reference was the bottom
24 of page 31, Your Honor.

25

(Admitted Exhibit 53.)

(LANKSBURY - CROSS BY HARLOW)

750

1 Q. Have these memoranda ever been rescinded?

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

3 Q. At page 31 of your testimony, line 28, you
4 refer to a selective sale plan for enclosures?

5 A. Yes, I do.

6 Q. That's not a written plan, is it?

7 A. No, it isn't. It's a modification from the
8 original position of not selling anything. It's very
9 limited.

10 Q. Do you see that Exhibit 53 refers to a
11 thorough analysis of the market and financial impacts
12 of the sale in place policy. Do you see that?

13 A. Yes, I do.

14 Q. Was such a study ever undertaken since this
15 memorandum was written?

16 A. I have no knowledge of completion of any
17 such study. Personally I was not involved in it and I
18 am not aware if it was ever completed or not.

19 Q. On page 33, line 4 of your testimony you
20 refer to Mr. Colson's testimony about using a small
21 crane to remove concrete pad and bumper post and you
22 were asked, is this true, and you answered on line 8,
23 no. Do you see that?

24 A. Yes, I do see that.

25 Q. Do you have any personal knowledge that the
(LANKSBURY - CROSS BY HARLOW) 751

1 incident Mr. Colson was referring to did not in fact
2 happen?

3 A. No. In deposition we could not get any
4 information as to the location -- or, excuse me, in
5 data requests. We had a data request and there was no
6 recall of the location or the situation from Mr.
7 Colson.

8 JUDGE HAENLE: You've handed me a multi-page
9 document. The caption at the top is Responses to
10 Complainant's Second Data Requests, Data Request No.
11 19. I will mark this as 54 for identification.

12 (Marked Exhibit 54.)

13 Q. Can you identify Exhibit 54 as U S WEST
14 response to complainant data request No. 19?

15 A. I believe this is a partial response. I
16 think we provided you some cassette tapes and other
17 things.

18 Q. I think you provided us a box that had view
19 master and some other stuff.

20 A. Yes, but they are missing from this, so this
21 is a partial response.

22 Q. Would you turn, please, to the last two
23 pages of the exhibit.

24 A. I have those.

25 Q. Would you accept subject to check that

(LANKSBURY - CROSS BY HARLOW)

752

1 the last two pages are accurate transcripts of the
2 radio spots that were included on the tapes you
3 mentioned?

4 A. Subject to check. I haven't listened to
5 those for a long time.

6 Q. We didn't want to have to listen to them
7 today so we had them typed up. Thank you for accepting
8 that subject to check. Is the advertising that is
9 included in Exhibit 54 the advertising that you were
10 referring to in your prefiled testimony?

11 A. I think it covers a portion of it. I am not
12 sure it covers all of it. I would have to spend some
13 time analyzing it, but it does cover a portion of what
14 I responded to in my testimony.

15 Q. And would the advertising in Exhibit 54 be
16 advertising that you would have had in mind when you
17 testified yesterday that you felt U S WEST's ads were
18 fair?

19 A. I believe they're fair, yes. That is
20 correct.

21 Q. Let's start with the first ad that says
22 Upkeep Without Downtime. Are you on that page?

23 A. Yes, I am on that page.

24 Q. I take it this is advertising directed to

25 prison owners, I guess. This is promoting inmate

(LANKSBURY - CROSS BY HARLOW)

753

1 phones?

2 A. That is correct.

3 JUDGE HAENLE: If you're going to go through
4 this document in some detail, I think I prefer that we
5 discuss its admissibility before we go through it in
6 detail.

7 MR. HARLOW: I offer Exhibit 54.

8 JUDGE HAENLE: Any objection, Mr. Shaw?

9 MR. SHAW: No objection.

10 JUDGE HAENLE: Ms. Brown?

11 MS. BROWN: No.

12 JUDGE HAENLE: I will enter Exhibit 54 into
13 the record. You may proceed.

14 (Admitted Exhibit 54.)

15 Q. Do you see where it says on that page, "as
16 your local telecommunications provider on site services
17 only minutes away"?

18 A. Yes, I do.

19 Q. This implies fast service, I take it?

20 A. Yes, it does.

21 Q. Turn, please, to the next page. Do you see
22 where it says "with U S WEST reliability your customers
23 won't be cut off"?

24 A. I see that.

25 Q. Now, some of the reasons that customers

(LANKSBURY - CROSS BY HARLOW)

754

1 might be cut off on competitive payphones could
2 include timing for local calls. That would be one
3 cause, I assume?

4 A. Yes, it could.

5 Q. And another cause would be the intelligence
6 in the competitive payphone set sensing that the call
7 was terminated or had not been completed; is that
8 correct?

9 A. As I said yesterday, not being an expert on
10 the internal functions of a private payphone, I assume
11 that could be correct.

12 Q. Well, I assume that the advertising in
13 making a statement that customers would not be cut off
14 has to do with the fact that U S WEST phones and their
15 coin line ensure that the call is not discontinued
16 until the person actually hangs up on the other end of
17 the call?

18 A. I think this advertising referred to the
19 fact that at the time the advertising was developed
20 some payphone providers in the state of Washington
21 were providing timed local calls and those timed local
22 calls did cut off the customer after a certain amount
23 of time if they did not deposit more money.

24 Q. You indicated that, in your deposition or

25 this data request response, that these ads ran through

(LANKSBURY - CROSS BY HARLOW)

755

1 1992.

2 A. I think there was some limited use of them
3 in 1992, that is correct.

4 Q. And you agree in your deposition that you
5 were not aware of any competitive payphone providers
6 that had timed their calls since the year 1990?

7 A. I personally was not aware of any. I am not
8 one to go out and test a lot of private payphones. I
9 don't know if they exist or not but I am not aware of
10 any.

11 Q. Let's take a look at the next sentence of
12 that page, "and they will always get their money back
13 on calls that aren't completed." Do you see that?

14 A. Yes, I do.

15 Q. And the main reason that phones, competitive
16 payphones, do not give refunds sometimes, I assume,
17 would be a failing of the answer supervision function
18 that's built into their phones?

19 A. I have no knowledge of that. I have never
20 surveyed to see why the end user would not get its
21 money -- get their money back. Again, I will say that
22 I am not an expert on the functioning of the private
23 payphones, so I just can't respond to that.

24 Q. But do you know that the reason that the

25 customer at the U S WEST payphone always get their

(LANKSBURY - CROSS BY HARLOW)

756

1 money

2 back is because of their reliability of the trunk side
3 signals that are transmitted on the coin line?

4 A. We think the reason they always get their
5 money back is, one, the reliability of our answer
6 supervision, but, secondly, that we have a refund
7 policy or equivalent service policy that allows them to
8 in fact get money back that they have lost. I think
9 it's a combination of the two and from complaints we
10 had

11 seen we felt that that differentiated us from some of
12 the competitors.

13 Q. And one of the ways you're differentiated
14 from your competitors is the customers from your
15 payphones can call the operator and find out how to get
16 a refund easily; is that correct?

17 A. Yes. One of the ways they can get a refund
18 is through our operator services as is the opportunity
19 of the private vendor through their operator services.

20 JUDGE HAENLE: You've handed me a one-page
21 document. At the top is the caption Responses to
22 Complainant's Second Data Requests, Data Request No.
23 11. I will mark this as 55 for identification.

24 (Marked Exhibit 55.)

25 Q. Can you identify Exhibit 55 as U S WEST's
(LANKSBURY - CROSS BY HARLOW)

757

1 response to complainant's data request No. 11?

2 A. Yes.

3 Q. Does that response reflect a U S WEST
4 standard policy as to repair its payphones within 24
5 hours of learning of the problem?

6 A. Again, I will say that U S WEST's repair
7 commitment standards are. I don't see where it says
8 policy.

9 Q. With that amendment; is that correct?

10 A. That is correct.

11 Q. And the standard is that that is on week
12 days only; is that correct?

13 A. That is correct.

14 Q. So the standard would provide that if the
15 phone was reported as being out of order on Friday it
16 wouldn't be repaired until Monday; is that correct?

17 A. Depends on whether the customer circulates
18 an expedited commitment. It is also mentioned there
19 that repair tenants will negotiate expedited
20 commitments on out-of-service troubles upon customer
21 request.

22 Q. That wouldn't be the standard, though; that
23 would be a special contract?

24 A. That is correct.

25 Q. Would you agree that most out of service

(LANKSBURY - CROSS BY HARLOW)

758

1 conditions of U S WEST payphones would not be detected
2 by the central office and would have to be reported by
3 an end user or site owner before the 24 hours will
4 start running?

5 A. The majority would, yes.

6 MR. HARLOW: Your Honor, at this point in
7 time I am to the line of questioning that was
8 confidential. Do you want to discuss that on the
9 record or off the record?

10 JUDGE HAENLE: Let's discuss it off the
11 record first, but did you want to move 55 for
12 identification.

13 MR. HARLOW: Yes. And I do want to do that
14 on the record.

15 JUDGE HAENLE: Any objection?

16 MR. SHAW: No.

17 MS. BROWN: No objection.

18 JUDGE HAENLE: 55 will be entered into the
19 record.

20 (Admitted Exhibit 55.)

21 JUDGE HAENLE: Let's go off the record to
22 discuss how this line of questioning can be done
23 without breaching the confidentiality.

24 (Discussion off the record.)

25

JUDGE HAENLE: Let's be back on the record

(LANKSBURY - CROSS BY HARLOW)

759

1 after an extended discussion about closing the session
2 versus trying to do this with an open session. I
3 expressed the Commission's strong preference for not
4 having confidential sessions if we can possibly avoid
5 it. We agreed after some lengthy discussion that we
6 would try to -- that Mr. Harlow would describe his
7 documents and that we would allow him to question about
8 them referring to the place on the page or headings,
9 things like that, so that the numbers themselves and
10 the statements themselves wouldn't be disclosed. What
11 we're trying to do is balance the openness of the
12 session against making a record that the Commission can
13 actually use and refer to in its order to be sure that
14 the information isn't -- the Commission isn't hamstrung
15 in terms of being able to use the information. I
16 believe that the one gentleman who hasn't signed the
17 confidentiality agreement that was in the room has at
18 my request said it was all right with him if he left
19 the room, and I think everybody else. So if we slip up
20 you're going to need to immediately indicate, Mr. Shaw.
21 I will erase the number or the statement from the
22 record and we will continue to the extent we can. If
23 we find we can't do it this way we can go into a closed
24 session, but I prefer to avoid it if at all possible

25 anything we missed in our off-the-record discussion.

(LANKSBURY - CROSS BY HARLOW)

760

1 MR. HARLOW: I do appreciate the compromise
2 we've worked out.

3 JUDGE HAENLE: Mr. Shaw?

4 MR. SHAW: No comment.

5 JUDGE HAENLE: Ms. Brown?

6 MS. BROWN: No comment.

7 MR. HARLOW: The next document is designated
8 confidential by U S WEST.

9 JUDGE HAENLE: You've given me a two-page
10 document. I assume that the caption at the top is not
11 confidential, Mr. Shaw.

12 MR. SHAW: No.

13 JUDGE HAENLE: It's entitled Answer
14 Indication Project, and I will mark this two-page
15 document as C-56 for identification.

16 (Marked Exhibit C-56.)

17 Q. Will you accept subject to check that this
18 memorandum is a portion of the response of U S WEST to
19 complainants' data request No. 77 regarding answer
20 supervision?

21 A. Yes.

22 Q. Like to direct your attention to the second
23 paragraph under the heading overview.

24 A. I see that paragraph.

25 Q. Please take a moment to review the first

(LANKSBURY - CROSS BY HARLOW)

761

1 sentence.

2 A. I've read that paragraph.

3 Q. Does that sentence reflect that competitive
4 payphones providers are somehow disadvantaged because
5 they do not have coin lines?

6 A. Yes, it does.

7 Q. This memorandum was prepared for
8 Mr. Zefferys by Mr. Sharkey?

9 A. That is correct.

10 JUDGE HAENLE: Would you spell them both,
11 please.

12 MR. HARLOW: Z E F F E R Y S, Sharkey is S
13 H A R K E Y.

14 Q. Who is Mr. Sharkey?

15 A. Mr. Sharkey was was the manager in charge of
16 product management and development for public services.

17 MR. HARLOW: Offer Exhibit C-56.

18 JUDGE HAENLE: Any objection?

19 MR. SHAW: Yes, Your Honor. I will object
20 if it's offered for the truth of its content. What
21 this appears to be is an internal memorandum of U S
22 WEST from one individual, Keith Sharkey, to another
23 individual, Nick Zefferys, giving his individual
24 opinion. It does not purport, should not be taken as

25 any kind of position of the company. It's prejudicial

(LANKSBURY - CROSS BY HARLOW)

762

1 to the company in that it apparently has attempted to
2 be offered for the truth of the statement referred to
3 by counsel that nonLEC payphone providers are
4 disadvantaged without answer indication, and that is
5 one person's opinion expressed through another person
6 in the company.

7 There's no documentation or this witness has
8 not been subpoenaed -- put on in the case in chief of
9 the complainants as adverse witnesses, so I think this
10 is very prejudicial. Typically this Commission has not
11 allowed to be put into evidence internal memoranda
12 giving personal opinions, for instance, internal
13 memoranda of the Commission, staff to each other before
14 the adoption of an official staff position, so I think
15 this is a dangerous precedent and is prejudicial to the
16 company. We don't have any ability to rebut these
17 inferences of this memorandum, which is not an official
18 document of the company in that regard.

19 JUDGE HAENLE: Mr. Harlow?

20 MR. HARLOW: Your Honor, I don't see any
21 prejudice in this other than it contradicts U S WEST's
22 answer in this case and it contradicts Mr. Lanksbury's
23 testimony. I am not sure I understand the basis of the
24 objection as being an internal company memorandum. It

25 seems to me that establishes the authenticity and the

(LANKSBURY - CROSS BY HARLOW)

763

1 admissibility -- assuming that it is relevant to the
2 case -- because statements by managers of U S WEST
3 are admissions by a party.

4 This document not only shows and supports
5 the allegation of the complainants that they're at a
6 competitive disadvantage because of the lack of answer
7 supervision and coin line, but it also demonstrates
8 the allegations that the complainants have made about
9 how U S WEST has deferred the introduction of answer
10 supervision until they were going to use that
11 technology themselves. And we have on this record an
12 admission as to the fact that answer supervision came
13 out in 1992 and shortly thereafter U S WEST starts
14 experimenting with their own smart phones that use
15 answer supervision.

16 I think this is one of the -- finally
17 starting to get to the relevant documents in this case,
18 and it's an admission by U S WEST and I don't see how
19 there's any prejudice, and I think the only reason for
20 keeping this out would be to keep the true
21 facts from the Commission.

22 JUDGE HAENLE: Any brief response, Mr. Shaw?

23 MR. SHAW: Your Honor, it's also in evidence
24 in this record that service has been offered for over a

25 year and we don't have one nonLEC payphone subscriber

(LANKSBURY - CROSS BY HARLOW)

764

1 to it, so that's what I mean in terms of weighing the
2 evidence in this record versus the prejudice. Again,
3 offering this document, which is the personal opinion
4 of one employee of U S WEST as a position of the
5 company, it's just simply that, and we don't have any
6 ability to rebut this in any way at all, unless we have
7 another round of testimony in this case. So this
8 record is getting far afield.

9 This could have been introduced through Mr.
10 Sharkey in the direct case of the complainants. This
11 is a private complaint brought by unregulated
12 competitors of U S WEST and it's, again, the typical
13 process of putting in minimal evidence in the direct
14 case. I made a motion to dismiss this case because of
15 a lack of carrying out the burden. That was denied and
16 now the entire direct case comes in through U S WEST's
17 witness by putting in documents produced in an
18 all-document sweep of the company's records. This is
19 not how you litigate a case such as this. If this case
20 were in court, this document would have to be related
21 to Mr. Sharkey and Mr. Sharkey would have an
22 opportunity to appear and defend or explain the context
23 and the meaning of this document.

24 JUDGE HAENLE: Ms. Brown, do you have any

25 comment?

(LANKSBURY - CROSS BY HARLOW)

765

1 MS. BROWN: No comment.

2 JUDGE HAENLE: I am going to overrule the
3 objection. It seems to me that your objection goes
4 more to the weight which the Commission should give to
5 this document as being, as you characterize, the
6 opinion of one person within the company rather than
7 the company and you can certainly argue on brief the
8 weight that the Commission ought to give it. I will
9 enter C-56 into the record.

10 (Admitted Exhibit C-56.)

11 MR. HARLOW: Next exhibit has been
12 designated confidential by U S WEST.

13 JUDGE HAENLE: You have given me a two-page
14 document. The caption at the top is Responses to
15 Complainants' Second Data Requests, Data request No.
16 12. I will mark this as Exhibit C-57 for
17 identification.

18 (Marked Exhibit C-57.)

19 Q. Can you identify Exhibit C-57 as U S WEST's
20 response to complainant's data request No. 12?

21 A. Yes, I can.

22 Q. This data request consists of response
23 of two pages and, as I understand it, first page shows
24 total repair reports, number of lines in service, and

25 percent of trouble reports actually out of service for

(LANKSBURY - CROSS BY HARLOW)

766

1 1991 and part of 1992; is that correct?

2 A. That is correct.

3 Q. And it also includes PAL trouble reports
4 which are shown to be -- and they give the percentage
5 at the bottom?

6 A. Yes.

7 Q. -- are shown to be less than 3 percent of
8 the reports handled by public services; is that
9 correct?

10 A. Yes. I would just like to clarify that PAL
11 troubles are only line troubles, not anything to do
12 with the set.

13 Q. Okay. And the second page purports to show
14 U S WEST total handling time for receipt of trouble to
15 clearing of that trouble?

16 A. Yes.

17 Q. And does that cover only U S WEST payphones?

18 A. I would assume that it would be the same
19 standard. I do not recall without going back to the
20 original documents, but I would assume that it would be
21 the same based on the same 3 percent of PAL lines.

22 MR. HARLOW: Your Honor, we offer Exhibit
23 C-57.

24 JUDGE HAENLE: Any objection, Mr. Shaw?

25 MR. SHAW: No objection.

(LANKSBURY - CROSS BY HARLOW)

767

1 JUDGE HAENLE: Ms. Brown?

2 MS. BROWN: No, Your Honor.

3 JUDGE HAENLE: C-57 then will be entered
4 into the record.

5 (Admitted Exhibit C-57.)

6 Q. Can we give on the public record the
7 approximate percentage of U S WEST phones or lines that
8 have trouble every month?

9 JUDGE HAENLE: Why don't we just refer to
10 the column there. If you're trying to point it out to
11 the Commission.

12 MR. SHAW: Well, all right. If he says
13 okay, that's fine.

14 JUDGE HAENLE: It's not necessary from the
15 Commission's point of view, but if you want to check
16 with the witness which portions of the exhibit are
17 confidential, that's all right too. I should not have
18 interrupted.

19 A. That represents what the percent of trouble
20 reports -- actual out of service percentage is. That's
21 a percent of the total reports, it's not a percent of
22 the total lines.

23 Q. What I am looking at, Mr. Lanksbury -- and I
24 am not including the January through April of 1991

25 since apparently that's reported on a different basis

(LANKSBURY - CROSS BY HARLOW)

768

1 than the remainder. What I am looking at is comparing
2 the number of trouble reports in a given month to the
3 number of lines in service for that month and you can
4 calculate a percentage of lines that had trouble
5 reports in each month?

6 A. That is not calculated on this sheet but you
7 could, yes.

8 Q. Would that percentage be confidential?

9 A. I don't think so, no.

10 Q. Again, subject to check without doing the
11 calculation, but just a ballpark figure which would be
12 that it shows that roughly 10 percent of U S WEST's
13 phones have a trouble report each month; is that
14 correct?

15 A. I would say slightly less than 10 percent in
16 most months.

17 Q. Would it be confidential for you to state
18 from page 2 of this exhibit whether or not U S WEST on
19 average for the period reflected has met its time to
20 clear standard of 24 hours?

21 A. It's very, very close. I would not be able
22 to average it, and again, I remind you that this is out
23 of service trouble only from what I recall. It does
24 not include those miscellaneous troubles.

25 JUDGE HAENLE: The question was, would the
(LANKSBURY - CROSS BY HARLOW)

769

1 percentage be --

2 Or would the length of time?

3 Q. Would the meeting or not meeting of the
4 standard be confidential?

5 A. I'm sorry. I misunderstood the question.
6 Whether it's meeting or not, no.

7 Q. Does it appear that the standard is being
8 met from this exhibit?

9 A. It would take quite a calculation to base
10 the troubles and weight them appropriately, but it
11 appears that it's very, very close to that number.

12 Q. Can you tell us how many months were 24 or
13 under?

14 A. Now we're talking '92 as we did on the first
15 page or have you changed?

16 Q. No, all the months reflected there.

17 A. I was still looking at '92. It looks like
18 we would be over somewhat, if you take into
19 consideration all those from May of '91 on.

20 Q. Do you recall Mr. Colson's testimony that
21 Digital Access Communications receives 80 percent of
22 its trouble reports from the phone itself?

23 A. I recall that testimony, but I think we
24 requested data to back that up, and we were unable to

25 get any.

(LANKSBURY - CROSS BY HARLOW)

770

1 Q. Are you saying the data you were unable to
2 get it or it was designated proprietary and you didn't
3 have a chance to look at it?

4 A. My recollection, and again through numerous
5 data requests, is that we didn't have for most of the
6 providers from the association actual trouble repair
7 records and duration of clearing. They did not keep
8 that data. That is what I recall.

9 MR. HARLOW: This exhibit is not designated
10 confidential.

11 JUDGE HAENLE: You've given me a multi-page
12 document. The caption at the top of the first page is
13 Responses to Complainant's Fourth Data Requests, Data
14 Request No. 63. I will mark this as Exhibit 58 for
15 identification.

16 (Marked Exhibit 58.)

17 Q. Will you accept subject to check that this
18 is U S WEST's tariff for repair coordination service
19 which you have described in your prefiled testimony?

20 A. Yes.

21 MR. HARLOW: The complainants offer Exhibit
22 58.

23 JUDGE HAENLE: Where is it described in the
24 testimony?

25

MR. HARLOW: I do not have a page cite, Your
(LANKSBURY - CROSS BY HARLOW) 771

1 Honor. Would you like me to look for that?

2 JUDGE HAENLE: Yes, I would. Did you have
3 any objection to the entry of the document, Mr. Shaw?

4 MR. SHAW: Your Honor, I do believe the
5 witness referred to the service in his written
6 testimony. One concern I have is that this is not the
7 current tariff, and if that is important to the record,
8 this was supplied some time ago, I think there's been
9 changes in this, but if I could have permission to ask
10 the witness, perhaps he knows.

11 JUDGE HAENLE: Yes.

12 THE WITNESS: Yes. I understand there has
13 been a change. I was just made aware of it today.

14 JUDGE HAENLE: Do you know when that change
15 was effective?

16 THE WITNESS: Seems to me it was effective
17 in March.

18 JUDGE HAENLE: 1993?

19 THE WITNESS: Yes, 1993.

20 Q. Did it change the rate, Mr. Lanksbury?

21 A. I just saw it this morning. I did not
22 review it in detail. I do not think it changed the
23 rate, but I would have to check that.

24 MR. HARLOW: Your Honor, we did ask for this

25 data request to be supplemented and I don't think it's

(LANKSBURY - CROSS BY HARLOW)

772

1 going to be material to the case, but we have no
2 objection to substituting the current tariff when U S
3 WEST does supplement this data request.

4 JUDGE HAENLE: Mr. Shaw?

5 MR. SHAW: Your Honor, we have had a huge
6 amount of data requests in this and we have had a
7 boilerplate request to continuously update our
8 responses. We just simply haven't been able to, to do
9 that.

10 JUDGE HAENLE: I think the question was,
11 primarily, did you want the more current one in here
12 rather than this one and if so, are you willing to
13 provide it?

14 MR. SHAW: Well, it's not my evidence. We
15 will certainly provide it and it's obviously right
16 downstairs in a binder. So it certainly can be
17 substituted. I have no objection to that.

18 JUDGE HAENLE: Do your questions rely on
19 this particular one, Mr. Harlow, so that we would need
20 to put both of them in understanding that one was prior
21 to March of '93 or the new one was after?

22 MR. HARLOW: No.

23 JUDGE HAENLE: The new one will be
24 sufficient for your purposes?

25

MR. HARLOW: Yes.

(LANKSBURY - CROSS BY HARLOW)

773

1

JUDGE HAENLE: I will leave this one alone

2

for the time being, then, and if we can have the

3

current one we will substitute that for 58 for

4

identification. We will deal with its admissibility at

5

that time and I will take your comments at that time,

6

Ms. Brown, or

7

maybe I should ask you, did you feel the necessity for

8

both of them?

9

MS. BROWN: No, that's fine. Your Honor,

10

this repair coordination service testimony begins on

11

page 16.

12

MR. HARLOW: It's also referenced at page

13

11, Your Honor.

14

JUDGE HAENLE: Thank you. Helps me to be

15

able to make my notes across from the place where the

16

testimony is so I can find them again.

17

Mr. Harlow has distributed a three-page

18

document. The caption at the top is Responses to

19

Complainant's Fifth Data Requests, Data Request No. 76.

20

I will mark this as C-59 for identification.

21

(Marked Exhibit C-59.)

22

Q. Mr. Lanksbury, can you identify Exhibit C-59

23

for the record? Maybe I should ask this the way I did

24

before. Will you accept subject to check Exhibit C-59

25 is the cost study for RCS service that U S WEST

(LANKSBURY - CROSS BY HARLOW)

774

1 produced

2 to the complainants in response to data request No. 76?

3 A. Yes, it appears to be.

4 Q. Do you also have Exhibit 58 handy?

5 A. Yes, I do.

6 Q. Looking at the last page of Exhibit 58 it
7 appears that the rate for RCS service that's provided
8 to competitive payphone providers is \$3?

9 A. That's correct.

10 Q. Can you correlate that number to a cost
11 number in Exhibit C-59?

12 A. No, I cannot.

13 Q. Turning to the last page of that numbered
14 subparagraph 2. Is the description of that
15 confidential?

16 A. No, the description is not.

17 Q. It reads "complex service nondesign business
18 key Centrex." Do you see that?

19 A. Yes, I do.

20 Q. The other descriptions are also not
21 confidential, I assume?

22 A. That is correct.

23 Q. And the other services are listed as single
24 line residence and business and complex service design

25 giving examples private line and PBX trunk. Do you

(LANKSBURY - CROSS BY HARLOW)

775

1 see that?

2 A. Yes, I do.

3 Q. Is a public access line comparable in your
4 understanding to either simple service or complex
5 service?

6 A. I don't know what the product manager used
7 as a basis here so I would not be able to relate it to
8 any. They are similar, yes.

9 Q. Would it be -- it would not, I take it, be
10 equivalent to complex service design; is that correct?

11 A. Well, it depends on the elements you want to
12 talk about. If you're talking about the usage it could
13 be similar to a PBX trunk more so than to be a key or a
14 Centrex, so if it's based on usage, the usage
15 characteristics are higher than the average business
16 line and more like a PBX trunk. That's why I can't
17 tell you what the product manager used as a basis for
18 the decision to price repair coordination service.

19 Q. Would you accept subject to check that the
20 price of repair coordination service for PAL customers
21 would be one of those three figures?

22 A. Subject to --

23 MR. SHAW: Excuse me, price?

24 MR. HARLOW: Excuse me, the cost.

25 Q. The cost to U S WEST of providing the

(LANKSBURY - CROSS BY HARLOW)

776

1 service would be one of those three figures?

2 A. Subject to check, I could agree that it
3 would be one of those three figures.

4 Q. Using the mark-up based on the highest cost
5 figure, would it be confidential to state what
6 percentage mark-up RCS service has comparing cost to
7 the price?

8 A. I am not the product manager so I am not
9 sure what they consider confidential. As far as their
10 pricing policies, I feel somewhat caught in the middle
11 here because I have not been involved in pricing this
12 product.

13 Q. Would you please state for the record how
14 you would calculate the mark-up so that we can do it on
15 brief. What would be the equation you would use?

16 A. Well, you would take the line -- the price
17 divided by the cost and that would represent the mark-
18 up. Actually, I'm sorry. The mark-up would be the
19 difference between the two and then you take -- I mean,
20 I didn't know we were going to do calculations here,
21 I'm sorry. It would be the difference between the two,
22 subtract the costs from the price, take the difference
23 and divide that by the cost.

24 Q. Thank you. Would you agree or expect that

25 most of the costs reflected by Exhibit C-59 would be

(LANKSBURY - CROSS BY HARLOW)

777

1 for the wire maintenance portion of the RCS service?

2 A. The RCS service has some different functions
3 that would not be reflected by the costs of simple
4 complex or business nondesign or complex service design
5 and that's a fact that we handle refunds and do
6 functions like that that are different than we would do
7 for services that do not charge end users, so they're
8 not totally the same.

9 Q. So you couldn't break it down at all?

10 A. I think I've said that.

11 Q. The elements of the service cannot be
12 unbundled; is that correct? They're not offered on an
13 unbundled basis?

14 A. The elements of -- the service" being repair
15 coordination service?

16 Q. Right.

17 A. To the best of my knowledge they're not
18 unbundled. I would have to review the new tariff that
19 I just glanced at this morning, but my answer based on
20 this tariff is yes, they're not unbundled.

21 MR. HARLOW: Your Honor, I am not certain
22 whether we've offered C-59 but if not I offer it at
23 this time.

24 JUDGE HAENLE: You had not previously. Have

25 you any objection, Mr. Shaw?

(LANKSBURY - CROSS BY HARLOW)

778

1 MR. SHAW: None.

2 JUDGE HAENLE: Ms. Brown?

3 MS. BROWN: No, Your Honor.

4 JUDGE HAENLE: C-59 will be entered into the
5 record.

6 (Admitted Exhibit C-59.)

7 JUDGE HAENLE: You're doing admirably, Mr.
8 Harlow, in terms of confidentiality.

9 MR. HARLOW: Thank you, Your Honor.

10 JUDGE HAENLE: You've handed me a one-page
11 document. The caption at the top is Schedule 50 Answer
12 Supervision - Line Side. I will mark this one page as
13 60 for identification.

14 (Marked Exhibit 60.)

15 Q. Will you accept subject to check that
16 Exhibit 60 is U S WEST tariff for Answer Supervision -
17 Line Side service?

18 A. I accept that, yes.

19 MR. HARLOW: Offer Exhibit 60, Your Honor.

20 JUDGE HAENLE: Any objection, Mr. Shaw?

21 MR. SHAW: None.

22 JUDGE HAENLE: Any objection, Ms. Brown?

23 MS. BROWN: No.

24 JUDGE HAENLE: Exhibit 60 will be entered

25 into the record.

(LANKSBURY - CROSS BY HARLOW)

779

1 (Admitted Exhibit 60.)

2 JUDGE HAENLE: You've given me a five-page
3 document. The caption at the top is Washington Answer
4 Supervision - Line Side Cost Study. I will mark this
5 as C-61 for identification of the.

6 (Marked Exhibit C-61.)

7 Q. Mr. Lanksbury, will you accept subject to
8 check that this is the current U S WEST cost study for
9 the cost of providing Answer Supervision - Line Side
10 service?

11 A. Yes, I will.

12 Q. And that cost is reflected at the bottom of
13 the third page of the exhibit where it says Study
14 Results Description, Answer Supervision - Line Side Per
15 Line 1990 Monthly Costs?

16 A. That is correct.

17 Q. And that cost figure there compares to the
18 price in the preceding exhibit of \$3.95; is that
19 correct?

20 A. Yes, that is correct.

21 Q. And would we calculate that mark-up the
22 same way we would have calculated the mark-up for RCS
23 as you just testified?

24 A. Yes, that would be correct.

25 Q. Do you recall Mr. Colson's testimony that

(LANKSBURY - CROSS BY HARLOW)

780

1 Digital Access Communications refund costs are about a
2 dollar a month?

3 A. I recall that testimony.

4 Q. And do you recall that he testified that
5 Answer Supervision - Line Side would have to be offered
6 at close to a dollar a month to be cost effective for
7 his company?

8 A. I remember that either in testimony or in
9 deposition, yes.

10 Q. Can you state, without confidentiality
11 concerns anyway, that U S WEST could offer Answer
12 Supervision - Line Side close to a dollar a month and
13 still be earning a profit on that service?

14 A. Based on this study that would be correct.

15 MR. HARLOW: The next exhibit is also
16 designated confidential by U S WEST.

17 JUDGE HAENLE: You have given me a
18 nine-page document entitled Coin Trunk White Paper
19 dated April 16, 1986. I will mark this as C-62 for
20 identification.

21 (Marked Exhibit C-62.)

22 Q. Mr. Lanksbury, will you accept subject to
23 check that Exhibit --

24 MR. HARLOW: Before I move on, did I offer

25 Exhibit 61?

(LANKSBURY - CROSS BY HARLOW)

781

1 JUDGE HAENLE: No, you did not.

2 MR. HARLOW: Like to offer that at this
3 time.

4 JUDGE HAENLE: Any objection, Mr. Shaw?

5 MR. SHAW: No.

6 MS. BROWN: No objection.

7 JUDGE HAENLE: Exhibit C-61 will be entered
8 into the record.

9 (Admitted Exhibit C-61.)

10 Q. Will you accept subject to check that
11 Exhibit C-62 was produced by U S WEST to the
12 complainant
13 in response to their data requests 15, 16 and 17?

14 A. Yes, I will.

15 Q. And those data requests -- as I understand
16 it, there was no breakdown amongst all the documents
17 produced by U S WEST. In other words, a whole bunch of
18 documents were produced in response to the three data
19 requests, and the documents weren't sorted out
20 according to which data requests they responded to; is
21 that correct?

22 A. That is incorrect. We gave you three boxes
23 numbered -- well, we gave you six boxes. In those
24 boxes we numbered them 1, 2 and 3 which were the

25 revised data requests that were after our objection.

(LANKSBURY - CROSS BY HARLOW)

782

1 They were sorted and each of them tabbed as to the
2 issues they addressed and an index was placed in those
3 boxes for your convenience to help you find what you
4 needed.

5 Q. Do you recall what data requests 15 through
6 17 requested?

7 A. I would have to look at it. It was
8 marketing, strategic planning and sales data, but I
9 don't know how those were categorized and the exact
10 language of those.

11 Q. Let me refresh your recollection. Data
12 request No. 15 requests all correspondence, memoranda,
13 studies or other documents that reflected pricing or
14 marketing strategies with regard to U S WEST's
15 payphones.

16 Data request 16 requested all correspondence
17 memoranda, studies or other documents that reflect U S
18 WEST's pricing or marketing strategy with regard to
19 public access line or nonLEC payphones.

20 Data request No. 17 asked for all
21 correspondence, memoranda, studies, or other documents
22 that reflect policies, pricing strategies or marketing
23 strategies with regard to the relationship between U S
24 WEST payphones and its public access line service or

25 non-LEC payphones.

(LANKSBURY - CROSS BY HARLOW)

783

1 Do you have those in mind now?

2 A. Yes, I do.

3 Q. Without checking, are you able to state
4 which of those data requests in Exhibit C-62 responds
5 to?

6 A. No. As I said, we gave you six boxes of
7 data, and I have no idea where this one was in those
8 three data requests. Six banker boxes that we were
9 ordered to give you is what we provided and to try and
10 remember where one document was in that -- those
11 groupings of documents is impossible for me.

12 Q. Can you state the title and the date.

13 MR. HARLOW: Did we get that on the record
14 already?

15 JUDGE HAENLE: Yes.

16 Q. Who prepared this document, do you know?

17 A. I have no idea. There was no name on it
18 that I can find. And I have only glanced at it here
19 today. And I have no idea who prepared it.

20 Q. Does it appear to have been prepared within
21 Mountain Bell Telephone Company?

22 A. Again, without being able to read the
23 document, I don't know. It appears to on the second
24 page. It says MBPC which would be Mountain Bell Public

25 Communications.

(LANKSBURY - CROSS BY HARLOW)

784

1 Q. Mountain Bell Telephone Company, since this
2 document was prepared, has been merged with Pacific
3 Northwest Bell Telephone Company which is now known as
4 U S WEST Communications. Have I got that right?

5 A. That is correct.

6 Q. Does this document deal with the potential
7 offering of a coin line by then Mountain Bell now U S
8 WEST to competitive payphone providers?

9 A. Well, first I will have to qualify that. I
10 don't know the exact date that the three companies
11 merged their public services operation. I was not in
12 public services at this time. This could represent
13 something that was unique to Mountain Bell public
14 services and may not have been carried into the Pacific
15 Northwest Bell public services group. They were
16 distinct entities at the time -- could have been
17 distinct entities at the time. I don't know the date
18 that they merged together.

19 Q. Turn, please, to the fourth page of the
20 exhibit, Exhibit 62, and count down four paragraphs.
21 Is the first sentence confidential?

22 A. I don't think so, no.

23 Q. The first sentence, would you read the first
24 sentence, please?

25 A. That's the sentence that starts "following"?

(LANKSBURY - CROSS BY HARLOW)

785

1 Q. Right.

2 A. "Following the lead suggested by PNB NWB,
3 MBPC might simply and without undue fanfare offer the
4 coin feature to COCT providers."

5 Q. PNB I assume reflects the entity -- well,
6 Pacific Northwest Bell; is that correct?

7 A. Yes, it appears that they were separate
8 entities at this time.

9 Q. That's the entity of U S WEST that was
10 serving and is now serving the state of Washington?

11 A. That is correct.

12 Q. Turn, please to the --

13 JUDGE HAENLE: Before we go any further. I
14 notice we have another gentleman at the back of the
15 room.

16 MR. HARLOW: Yes. That is John Fletcher,
17 one of the complainants, Public Communications of
18 America.

19 JUDGE HAENLE: Has he signed the
20 confidentiality agreement?

21 MR. HARLOW: No, he has not.

22 JUDGE HAENLE: Well, actually, I think we're
23 doing well enough, I don't think we have to worry if
24 that's all right with you, Mr. Shaw. I think it's

25 going relatively well. So go ahead.

(LANKSBURY - CROSS BY HARLOW)

786

1 Q. Do you believe that this document reflects
2 that offering coin line was technically feasible as of
3 the date of the document?

4 A. I have not read this document since it was
5 produced probably in September of last year, so I would
6 have to read the entire document to be able to answer
7 that question.

8 Q. Would you accept that subject to check over
9 the lunch hour?

10 JUDGE HAENLE: You want him to refer him to
11 a particular portion of the document you may be
12 referring to, Mr. Harlow?

13 MR. HARLOW: No, I really can't. I get that
14 sense myself from reading the whole thing. It doesn't
15 actually say that in so many words but I think that's
16 the implication of the document.

17 JUDGE HAENLE: How many more of these do you
18 have, Mr. Harlow?

19 MR. HARLOW: I am not sure what you mean by
20 of these?

21 JUDGE HAENLE: How much more do you have
22 just in general, Mr. Harlow?

23 MR. HARLOW: I have three more exhibits and
24 we're probably looking at another half an hour so we

25 will need to probably conclude after lunch.

(LANKSBURY - CROSS BY HARLOW)

787

1 JUDGE HAENLE: If there is something that
2 needs to be reviewed perhaps this would be a good time
3 to break for lunch. Why don't we do that now. Review
4 that over the lunch hour. See if you can get an answer
5 to that. Be back at 1:30, please.

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

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(LANKSBURY - CROSS BY HARLOW)

788

1 AFTERNOON SESSION

2 (1:30 p.m.)

3 JUDGE HAENLE: Let's be back on the record
4 after our lunch recess. Let's see. There were a
5 couple of things left over from the morning. One of
6 them was Exhibit 58 for identification, you had
7 indicated that there was a more current tariff, Mr.
8 Shaw. Were you able to identify that?

9 MR. SHAW: Yes, Your Honor. We were able to
10 ascertain over the lunch break that in fact Exhibit 58
11 is the current tariff and we have no objection to its
12 entry.

13 JUDGE HAENLE: Did you have an objection to
14 the entry of the document, Ms. Brown?

15 MS. BROWN: No.

16 JUDGE HAENLE: Exhibit 58 then will be
17 entered into the record. There was a question pending
18 with regard to Exhibit C-62 for identification. I
19 would ask you if you've had a chance to review the
20 document over the lunch hour, sir?

21 THE WITNESS: Yes, I did review that
22 document.

23 JUDGE HAENLE: Do you want to repeat your
24 question, Mr. Harlow.

25

MR. HARLOW: Certainly.

(LANKSBURY - CROSS BY HARLOW)

789

1 Q. The question was, based on your review of
2 C-62 over the lunch hour, does this document as a whole
3 reflect that as of April 16, 1986 it was technically
4 feasible for US West to offer coin line service to
5 competitive payphone providers?

6 A. The document does not say it wasn't, so I
7 assume -- as you say, the whole document reads that it
8 is. It does, though, talk about the ability to bill
9 and that that was not available, according to this
10 writer, whomever that was, that the billing was not
11 available at this time. So as far as network
12 application, this
13 writer seems to assume that it could have been done.
14 Coin line could have been provided, although it could
15 not have been billed.

16 Q. And with regard to the billing issue you
17 suggest that there are some alternatives to resolve
18 that issue; is that correct?

19 A. Yes, and they talk about some yet to be
20 developed alternatives if I remember right.

21 MR. HARLOW: Your Honor, the complainants
22 offer Exhibit C-62.

23 JUDGE HAENLE: Any objection, Mr. Shaw.

24 MR. SHAW: Yes, Your Honor, we object. This

25 is an April 1986 Mountain Bell document. The bench can

(LANKSBURY - CROSS BY HARLOW)

790

1 take judicial notice with regard to -- the document
2 contains a bunch of ruminations that don't have
3 anything to do with this case, an unidentified writer.
4 It is not at issue whether or not coin line is
5 technically feasible to offer. Mr.
6 Lanksbury's testimony plainly states that the reason
7 that the company is not offering coin line is because
8 it has ascertained that there is no demand for it,
9 which is confirmed by Mr. Colson's testimony that he
10 has no knowledge of anybody in his association that
11 wants it. So if it's offered to prove that coin line
12 is technically feasible, that's not an issue in this
13 case. Because of the age of this document, the fact
14 that it relates to a different company doesn't seem to
15 relate at all to anything in the complaint other than
16 the fact that U S WEST today in 1992 does not offer
17 coin line.

18 JUDGE HAENLE: Mr. Harlow.

19 MR. HARLOW: The complainants have alleged
20 in their complaint, and it's been denied, that U S WEST
21 has acted unfairly, unreasonably and has withheld
22 essential network services including coin line. Mr.
23 Colson's testimony more specifically was that although
24 he personally -- not speaking for the other

25 complainants or the other association members --

(LANKSBURY - CROSS BY HARLOW)

791

1 although he personally had no need for coin line at
2 this time, he testified if it had been offered many
3 years earlier he might have taken a different view of
4 it, given the fact that he's invested a lot of money in
5 the smart sets at this point in time.

6 The document, I think we established, was a
7 Mountain Bell document, but the record also reflects
8 through Mr. Lanksbury's testimony that Mountain Bell,
9 Mountain Bell's successor in interest is U S WEST, so
10 the statements contained in this are an admission of
11 parties.

12 Furthermore, the document refers to
13 considerations by Pacific Northwest Bell which is the
14 predecessor Bell operating company that was operating
15 in this jurisdiction. You will recall the quote about
16 following the lead suggested by PNB, Mountain Bell
17 might simply offer coin features to COCT that
18 providers, so I think it reflects the strategy of the
19 predecessor company as well as the strategies of the
20 current entity that's the respondent in this case which
21 is U S WEST Communications.

22 The issue of the technical capability of
23 coin line therefore is an important one in this case
24 because we feel has acted unfairly in withholding these

25 essential network services when they're available.

(LANKSBURY - CROSS BY HARLOW)

792

1 Additionally, the document suggests -- and I
2 can't give any specifics because of confidentiality --
3 the document contains suggestions that the withholding
4 of coin line is due to strategic marketing
5 considerations and was done to benefit U S WEST's own
6 payphones, in other words, to make sure that U S WEST
7 is ready to compete against the competitive providers
8 before they offer coin lines to competitors. I think
9 this is all relevant to U S WEST actions as well as
10 their intentions in withholding these essential
11 services from the complainants.

12 JUDGE HAENLE: Are you intending to
13 demonstrate more than just that company could have
14 technically offered or had the technology to offer coin
15 line, the coin feature to other payphone providers as
16 of April of 1986?

17 MR. HARLOW: Yes, Your Honor, and I would
18 love to go through it line by line but we can't in open
19 session. I think it's more appropriate to address
20 these and cite these quotations in brief and Mr. Shaw
21 of course is free to argue about the weight to be given
22 to those.

23 JUDGE HAENLE: Any brief response?

24 MR. SHAW: Yes. Now we know why it's being

25 offered. It's being offered as supposedly evidence of

(LANKSBURY - CROSS BY HARLOW)

793

1 U S WEST's bad acts in 1993. Again, this is a 1986
2 document by an unknown author in a different company
3 and it just has no probative value at all to the issues
4 in this case that this Commission is dealing with. It
5 doesn't even mention the state of Washington ever. On
6 the face of it, it would only apply to the old Mountain
7 Bell Rocky Mountain states so it doesn't have any
8 probative value whatsoever. Again, it's a product of
9 allowing these unregulated complainants to sweep
10 through all of the documents in U S WEST and then put
11 them into evidence through U S WEST witnesses and argue
12 from them without any opportunity for U S WEST to
13 rebut.

14 JUDGE HAENLE: Ms. Brown, did you have an
15 objection to it?

16 MS. BROWN: Staff takes no position.

17 JUDGE HAENLE: We would like to recess for a
18 couple of minutes to go talk about this so we'll go off
19 the record.

20 (Discussion off the record.)

21 JUDGE HAENLE: Let's be back on the record.
22 During the time we were off the record the Commission
23 was discussing the admissibility of C-62 for
24 identification. The Commission has determined that it

25 should not be entered into the record. The reasons for

(LANKSBURY - CROSS BY HARLOW)

794

1 that are a couple. The Commission did not find that it
2 was too remote in time considering the complainant's
3 allegations that there's a pattern here and also that
4 had it been offered earlier it might have been taken
5 advantage of earlier. I think that's a weight matter,
6 but the Commission did not find that to be the
7 compelling element. I think the compelling element was
8 that this was put together by Mountain Bell rather than
9 someone at Pacific Northwest Bell at the time. And for
10 that reason I think that the Commission has determined
11 that it would not be admitted in this record.

12 Did I miss anything, Commissioners?

13 Go ahead.

14 MR. HARLOW: Just give me a minute.

15 Q. Please turn to your Exhibit LDL C-2, Exhibit
16 25 in this proceeding.

17 A. Yes, I have that.

18 Q. The exhibit on the first page is shown as
19 having been cc'd to Warren Halverson. What was Mr.
20 Halverson's position at the time this memo was written?

21 A. Mr. Halverson was the director of COPT
22 Services, C O P T.

23 Q. Who was Mr. Cisneros?

24 A. Mr. Cisneros is one of his employees that

25 was responsible for working with private payphone

(LANKSBURY - CROSS BY HARLOW)

795

1 vendors in various states.

2 Q. Do you see the two approaches that are
3 discussed in the middle of the page on that first page
4 of your Exhibit LDL C-2, Exhibit 25?

5 A. Yes, I do.

6 Q. Are those two approaches considered
7 confidential?

8 A. No, I do not think so.

9 Q. Can you explain in general terms, please,
10 and briefly what those two approaches were to surveying
11 the demand for coin line?

12 A. I am not --

13 Q. Can I help you with that maybe? Would it be
14 fair to say that one approach was a marketing survey
15 that asked customers or potential customers whether
16 they would take it or not and made some conclusions
17 based on a survey as to what the demand would be? That
18 would be approach No. 2?

19 A. Yes, that would be approach No. 2.

20 Q. And the first approach, approach No. 1, as I
21 understand it, tried to estimate what the benefit would
22 be to potential customers of coin line?

23 A. That appears to be what approach No. 1 is,
24 but I am not sure how he intended to accomplish that

25 approach.

(LANKSBURY - CROSS BY HARLOW)

796

1 Q. Would you please turn to the second page of
2 Exhibit C-25.

3 JUDGE HAENLE: C-24?

4 MR. HARLOW: C-25.

5 MS. BROWN: That's what I have.

6 Q. Do you see where it says "star coin line"?

7 A. Yes, I do.

8 Q. Is that first sentence next to that
9 confidential?

10 A. No, it is not confidential.

11 Q. Would you please read that sentence?

12 A. "Some vendors consider coin line useful."

13 Q. Would you please turn to the page -- this is
14 in the part of your exhibit that's sideways. The page
15 numbers are in the right-hand margin. Please turn to
16 the one that's on page 3. Are the last two sentences
17 on that page -- not counting proprietary stamp at the
18 bottom, but are the last two sentences on that page
19 considered confidential, page 3? Are you with us?

20 A. The page numbered 3, yes. I do not believe
21 they're confidential.

22 Q. Would you please read those into the public
23 record?

24 A. Exactly which sentences?

25 Q. The last two, starting "as one idea"?

(LANKSBURY - CROSS BY HARLOW)

797

1 A. "As one idea public services may wish to
2 introduce coin line or LS-AS as no charge enhancement
3 to existing PAL lines. This could generate goodwill
4 among vendors and create a better chance of acceptance
5 for future new product ideas."

6 Q. Turn, please, to the page numbered 33 in the
7 right-hand margin, same exhibit.

8 A. Excuse me. I hate to say it, I'm missing 33
9 in my copy. I jump from 30 to 35.

10 JUDGE HAENLE: Let's go off the record to
11 allow that -- Mr. Shaw is providing a copy of that page
12 for the witness.

13 A. I have that page now.

14 Q. Is this part of the description of the
15 market survey which was the second methodology referred
16 to on the first page of this exhibit?

17 A. The heading says Revenue Implications for
18 LS-AS at different prices.

19 Q. Do you know if this is part of the market
20 survey results or summary?

21 A. This is part of the summary, yes.

22 Q. Is the first sentence of this page
23 considered confidential?

24 A. I do not believe so.

25 Q. Would you read that into the public record,

(LANKSBURY - CROSS BY HARLOW)

798

1 please.

2 A. "Interest in LS-AS jumps significantly at
3 the two dollar price as large vendors for the first
4 time show a desire for these services."

5 Q. Just to be clear, is this the same service
6 that we established through an earlier exhibit was
7 ultimately offered in February of 1992 at \$3.95 a
8 month?

9 A. Yes. I think those two lines, though, don't
10 represent the whole study.

11 Q. I assume the entire exhibit you've submitted
12 represents the whole study?

13 A. I think since we have a tendency to take
14 things in total, yes. I think those two sentences
15 misrepresent the study somewhat because there's a lot
16 more information about the levels at which they're
17 willing to purchase than what those levels are.

18 Q. I am sure your counsel will point that out
19 in brief. Would you please turn to section of this
20 exhibit that follows the copy of the survey itself.
21 First page of the section is called A Qualitative
22 Analysis of the Coin Line and Line Side - Answer
23 Supervision Concepts.

24 A. Do you have a page number?

25 Q. Page No. 2 but it's starting over again.

(LANKSBURY - CROSS BY HARLOW)

799

1 It's the last 12 pages of Exhibit 25.

2 A. I have that.

3 Q. Just to make sure everybody is in the same
4 place. The first page of this portion of the exhibit
5 is headed A Qualitative Analysis. Is that where you
6 are, Mr. Lanksbury?

7 A. Yes, that's the first line on this page.

8 Q. Turn to the next page which is numbered page
9 2?

10 A. I have that.

11 Q. I assume this portion of the exhibit
12 discusses the benefit methodology that we identified
13 earlier from the first page of the exhibit?

14 A. It appears to, yes.

15 Q. Please take a look at where there's numbers
16 1 through 4 roughly in the top middle of the second
17 page and then below that two lines below 4 is that
18 material in quotes "considered confidential."

19 JUDGE HAENLE: Are you asking also --

20 MR. HARLOW: Not the number yet, just can he
21 read the line identification.

22 A. Yes. I believe other than the number it's
23 not confidential.

24 Q. So I'm looking at the line that says

25 "additional benefit of billing accuracy equals." Now,

(LANKSBURY - CROSS BY HARLOW)

800

1 what about the number? Do you consider the number to
2 be confidential?

3 A. I don't know that it has any confidential
4 value.

5 Q. Would you please give the dollar figure of
6 the additional benefit of billing accuracy for the
7 public record?

8 A. It says \$2.18 per feature.

9 Q. And again, we're talking about AS-LS service
10 that was ultimately offered at \$3.95 per month; is that
11 correct?

12 A. Yes, that was offered at \$3.95 and that's
13 what this discusses and it was offered by a group other
14 than public services.

15 MR. HARLOW: This is a confidential exhibit.

16 JUDGE HAENLE: You have handed me a 14-page
17 document. The caption at the top is -- well, the date
18 at the top is November 5, 1991. It indicates it is a
19 memorandum. I will mark that as C-63 for
20 identification.

21 (Marked Exhibit C-63.)

22 MR. HARLOW: Excuse me, Your Honor, but
23 could you give the date of that.

24 JUDGE HAENLE: November 5, 1991.

25 Q. Mr. Lanksbury, can you identify this

(LANKSBURY - CROSS BY HARLOW)

801

1 document?

2 A. I think I've seen it in discovery. I am not
3 very familiar with it.

4 Q. This was prepared by Mr. Halverson who
5 you previously identified?

6 A. Yes, that's correct.

7 Q. And this memorandum discusses the same topic
8 as your Exhibit C-25; is that correct?

9 A. Yes. I think it summarizes it and discusses
10 it, yes.

11 Q. Now, refer back to Exhibit 25 if you need
12 to, but my understanding is that that exhibit or that
13 market survey was begun in about August of 1991 and
14 would have been concluded by November of 1991?

15 A. I think it was approximately. It's dated
16 October 1 or October 1991 so I would assume that is an
17 accurate time frame.

18 Q. So it was probably done about a month before
19 Exhibit 63 was prepared?

20 A. I would assume so from the date on the
21 front. I have no other way to come to a conclusion
22 other than to read that date.

23 Q. Turn, please, to the third page of Exhibit
24 C-63. Looking at the second to last paragraph on that

25 page. It's the last sentence and additionally would

(LANKSBURY - CROSS BY HARLOW)

802

1 the last paragraph on that page be considered
2 confidential?

3 JUDGE HAENLE: I'm sorry, give that again.

4 MR. HARLOW: It would be the last paragraph
5 as well as the last sentence in the second to last
6 paragraph on the third page of Exhibit C-63.

7 A. And that is the page that says Executive
8 Summary at the top?

9 Q. Yes.

10 A. I would not consider those to be
11 confidential.

12 Q. How about the next page, the fourth page?
13 Would the first paragraph on the top of that page be
14 considered confidential?

15 A. No, I would not consider that to be
16 confidential.

17 Q. Now, directing your attention on that same
18 page to the second to last sentence on the page.
19 Starts out with the word, "none." Would that be
20 considered a confidential sentence?

21 A. I am having a little trouble reading
22 confidentiality into individual sentences out of a
23 paragraph. I'm sorry. It's taking me some time, but I
24 think that you're talking strategy here and to ask me

25 to make an individual line and not a thought

(LANKSBURY - CROSS BY HARLOW)

803

1 unconfidential, it's very, very difficult. I did not
2 write this document so without reading the document I
3 am not sure that I can address the confidentiality of
4 one line or one word or a sentence. I am having some
5 trouble with that without reading the document. I'm
6 sorry.

7 Q. Is there any chance that the whole document
8 could be designated nonconfidential?

9 A. There is always that chance, but without
10 reading it I would not know.

11 MR. HARLOW: How would you like to proceed,
12 Your Honor?

13 JUDGE HAENLE: I suggest we finish up with
14 this witness and if you have something else you need to
15 ask, once he's given you your answer, you can recall
16 him, I suppose. I don't know. Do you have thoughts,
17 Mr. Shaw? I think he should be given some time to
18 read it, but I don't want to wait.

19 MR. SHAW: I think, Your Honor, the witness'
20 concern is that counsel may have in mind a whole lot
21 more sentences that he could get a waiver on. If this
22 is the last one then I think that we might be okay?

23 THE WITNESS: It just gets to a point where
24 we start exposing parts of the document without

25 exposing the thought process behind it. But if this is

(LANKSBURY - CROSS BY HARLOW)

804

1 the last one I can read that one and then move on.

2 A. Mr. Harlow, which page was that document?

3 I've closed the document.

4 Q. It was the fourth page, the second to last
5 sentence that starts with the word "none."

6 A. Let me read that paragraph.

7 That sentence is not proprietary.

8 Q. Turning back to the top of that same page
9 where it says the initial conclusion by the group is
10 that the PAL coin line is "doable." What was the
11 group? Let me withdraw that. Was it the same group
12 that oversaw the production of your Exhibit 25?

13 A. I would have to read the document to tell
14 you that. I mean, again, you've taken a sentence out
15 and I have to read who the group was just as you have
16 because this document was prepared for you months and
17 months and months ago.

18 JUDGE HAENLE: I think that's answered on
19 the next page next to the last paragraph. It was not
20 the same team that prepared the market study. It was
21 an interdepartmental team of SMEs.

22 Q. Was the interdepartmental team responsible
23 for evaluating the study that's contained in your
24 Exhibit 25?

25 A. The way I read this without reading the

(LANKSBURY - CROSS BY HARLOW)

805

1 entire document is that the interdepartmental team was
2 to look at the technical aspects of providing this.
3 That's what the reference to doable is. I don't know
4 that we've had any debate in the organization that
5 it's doable. So I don't think this was an evaluation,
6 this sentence, of the market study. I think it was an
7 evaluation of our ability to get a coin line to the
8 market.

9 Q. Keep that exhibit there but go back to your
10 Exhibit 25, please. And looking particularly at the
11 second page, the memorandum dated December 23, 1991.
12 Do you have that in front of you?

13 A. The second page, I have that.

14 Q. And actually that's a two-page memorandum
15 that was prepared by Mr. Halverson; is that correct?

16 A. Yes.

17 Q. And the conclusion of this document is not
18 to offer coin line; is that correct? I direct your
19 attention to the star coin line on the first page in
20 the last paragraph under where it says Our Conclusion?

21 A. That is correct.

22 Q. What does "our" refer to?

23 A. I would suppose it would be the COPT
24 services team, since Mr. Halverson was the director of

25 that COPT services team, so when I hear "our" I think

(LANKSBURY - CROSS BY HARLOW)

806

1 of his organization specifically. Other than that I
2 would not know.

3 Q. And he was also the director of the team
4 that prepared Exhibit 63; is that correct?

5 A. The memorandum in that case is sent to his
6 team, but yes.

7 Q. And the Exhibit 63 refers to the mailing of
8 questionnaires in the portions you agreed were not
9 confidential. Is that the same as the questionnaires
10 that were sent that are contained in your Exhibit 25?

11 A. Yes, I believe so.

12 Q. So evidently Mr. Halverson had the results
13 of those questionnaires in mind when he wrote Exhibit
14 63?

15 A. I am not sure what he had in mind when he
16 wrote the exhibit. I have no way of knowing what was
17 in Mr. Halverson's mind at that time. In reference to
18 the doable, I think I've stated that I think that was a
19 technical aspect through an interdepartmental team.
20 The market research was not performed by an
21 interdepartmental team. It was performed by an outside
22 marketing group.

23 Q. So when Mr. Halverson stated at the bottom
24 of the page in the nonconfidential portion "none

25 of the concerns identified to this point should deter

(LANKSBURY - CROSS BY HARLOW)

807

1 us from proceeding with the PAL coin line product
2 development," it's your testimony that he was not
3 taking into account the surveys that had been concluded
4 in October?

5 A. No, I didn't say that. I said the doable
6 portion that I read had to do with the technical
7 aspects of that. If you're talking now about a new
8 sentence, that may have taken into consideration the
9 marketing research that was performed.

10 Q. But apparently a month later Mr. Halverson
11 has changed his conclusion as reflected by your Exhibit
12 25 and decided not to proceed with coin line?

13 A. I don't know what additional information was
14 available to Mr. Halverson and for me to surmise
15 why he changed his or that he did change it and did not
16 have this ultimately in mind, I don't know. These two
17 documents reflect two different positions but I don't
18 know why he did it.

19 Q. Do you know if Mr. Halverson was overruled
20 by someone?

21 A. I think I stated I do not know why he did
22 this.

23 MR. HARLOW: Your Honor, at this time,
24 complainants offer Exhibit C-63.

25 JUDGE HAENLE: Any objection, Mr. Shaw?

(LANKSBURY - CROSS BY HARLOW)

808

1 MR. SHAW: No objection.

2 JUDGE HAENLE: Ms. Brown?

3 MS. BROWN: No.

4 JUDGE HAENLE: C-63 will be entered into the
5 record.

6 (Admitted Exhibit C-63.)

7 MR. HARLOW: The next exhibit has also been
8 designated as confidential by U S WEST.

9 JUDGE HAENLE: You have handed me a two-page
10 document. At the top it says -- first page it says WA
11 and then it says Fixed Cost. I will mark this as
12 Exhibit C-64 for identification.

13 (Marked Exhibit C-64.)

14 Q. Mr. Lanksbury, is Exhibit C-64 two pages of
15 the work papers that you or your counsel sent to us on
16 Monday afternoon of this week that were used by you to
17 revise your Exhibit C-27?

18 A. No, this was not used to revise my document
19 C-27.

20 Q. Are these your work papers?

21 A. This was work papers at the time this was
22 initially performed. They have since been refined and
23 that has since been provided to you and there was a
24 LOTUS spreadsheet provided to you.

25 Q. These were the preliminary work papers?

(LANKSBURY - CROSS BY HARLOW)

809

1 A. These were the preliminary work papers.

2 Q. Approximately when were these prepared?

3 A. March/April time frame I would think.

4 JUDGE HAENLE: I'm not sure it's clear to
5 me. Are you saying these are preliminary work papers
6 in terms of the revision to the exhibit or that these
7 are work papers underlying the original exhibit?

8 THE WITNESS: These were work papers that
9 were used in the original study. They have no impact
10 on C-4, my document Exhibit 4 which is Exhibit C-27.

11 Q. The costs shown on the top left of the first
12 page of Exhibit C-64 corresponds to the costs shown
13 in your original C-27; is that correct?

14 A. Yes. They were extracted from the long run
15 -- the 1991 long run incremental cost study for public
16 services so they are the same numbers. They're a route
17 number to the calculation.

18 Q. And the bottom half of the page reflects
19 that you did a breakout by public policy -- so-called
20 public policy versus so-called competitive; is that
21 correct?

22 A. Yes, that's correct.

23 Q. And that's the same procedure you followed
24 to arrive at your revised Exhibit C-27; is that

25 correct?

(LANKSBURY - CROSS BY HARLOW)

810

1 A. I think it's been refined a little bit but
2 it is a very similar process or calculation to do that,
3 yes.

4 Q. You've changed the numbers some is what
5 you're saying? The process is the same?

6 A. Yes, because it's a change in time. We have
7 different base numbers, numbers of stations in service.
8 The numbers have changed. The number of public policy
9 stations did not change but the number of total
10 stations served by U S WEST public payphones has
11 changed.

12 Q. I confess that I'm a little bit baffled
13 because I believe you testified yesterday that you did
14 the study of public policy phones in response to FCC or
15 comments of somebody from the FCC and they didn't
16 consider including that in your imputation test. Am I
17 misrecalling that?

18 A. I think we also did it as a result of
19 looking at CP and CP economics. If you're going to
20 look at economics, and you've got to look at what
21 you're going to look like under a CP environment you
22 have to do some calculations. I think I stated that in
23 my testimony.

24 Q. So you're remembering correctly that you did

25 do Exhibit C-64 in March. That's to the best of your

(LANKSBURY - CROSS BY HARLOW)

811

1 recollection?

2 A. To the best of my recollection we did it in
3 the March/April time frame. That was one of the last
4 things we did and then we refined to a computer
5 spreadsheet.

6 Q. Would you have done this before or after you
7 prepared and finalized original C-27?

8 A. I think we did it afterwards. I don't know
9 exact timing of that. Our -- the testimony was done a
10 few weeks before it was filed, as I always do, to get
11 review of it with other stakeholders in the process.

12 Q. Well, when you prepared Exhibit C-64, did
13 you have in mind your imputation study that you had
14 prefiled shortly before that, the original C-27?

15 A. I think, as I stated yesterday, I did not
16 have it in mind when we were doing this process.

17 Q. As I understand it now, then, from your
18 testimony today this was further refined and some
19 numbers were changed, but a similar process was
20 followed in arriving at the revised Exhibit C-27 that
21 was filed this week?

22 A. Yes. I think we provided you that document
23 which is a spreadsheet version of this.

24 Q. Looks to me as though the primary difference

25 was that you had put fewer phones in the public policy

(LANKSBURY - CROSS BY HARLOW)

812

1 category than you ended up putting in for your revised

2 C-27; is that correct?

3 A. I do not think so. I think the numbers were
4 the same. I don't think there were fewer phones. I
5 would have to check the two numbers. I would have to
6 check them to tell you that.

7 Q. Well, another difference is you continue to
8 show Answer Supervision-Line Side as being an imputed
9 cost in your work papers that are in Exhibit C-64, but
10 by the time of the revised C-27 you were no longer
11 showing that as an imputed figure; isn't that correct?

12 A. At the time we did the revised C-27 we were
13 not considering it to be an essential service, that's
14 correct.

15 Q. Please take a look at the total number of
16 phones shown on first page of Exhibit C-64. Is that
17 number confidential?

18 A. You're going to have to tell me what number
19 you're talking about. I don't see where you're talking
20 about here.

21 Q. Well, just above the word imputation there's
22 two figures that are being multiplied. It looks to me
23 like it's the number of messages times the number of
24 phones. Is that what that reflects?

25 A. If that's the number you're talking about,

(LANKSBURY - CROSS BY HARLOW)

813

1 the number that is after the number of messages, that
2 is not confidential.

3 Q. So we show at that time as 15,038; is that
4 correct?

5 A. That is correct.

6 Q. And that's the same number that you used for
7 revised Exhibit C-27; is that correct?

8 A. That is not correct.

9 Q. Perhaps you're not taking the question the
10 same way as I was. When I say it's the same number, I
11 mean it's the same number you used and multiplied by I
12 guess 89.8 percent to come up with total public
13 stations?

14 A. The total public stations since the number
15 isn't confidential -- we don't consider aggregate
16 numbers to be confidential -- the 15,038, is that the
17 number you're talking about?

18 Q. Yes.

19 A. That number was not used in C-27. The
20 number used in C-27 was 15,580.

21 Q. So you used the same number. Why would you
22 use a different number in your work papers here?

23 A. Because the work papers were done at a
24 different time based on a different snapshot in time.

25 Q. Are you saying the numbers were 15,580 when
(LANKSBURY - CROSS BY HARLOW) 814

1 you filed your testimony and then two weeks later they
2 dropped down to 15,038 and then they somehow bounced up
3 back to 15,580 by the beginning of this week?

4 A. I think you're rather confused here so let
5 me try and help you.

6 Q. Yes.

7 A. The number in the C-27 is the number from
8 the 1991 cost study. That is the number extracted
9 directly from the cost study provided to you in your
10 data requests. The number here, the 15,038 is the
11 number of stations in service at the time we did the
12 study which would have been 1-93 or sometime in that
13 period, so you've got a two-year difference between
14 the time the cost study was performed and you were
15 provided the number that was in C-27 because it's based
16 on the cost study, and the time that we did the public
17 policy study, so they're very different. It's a
18 two-year lapse there, at least a year lapse.

19 Q. Does Exhibit C-64 reflect that U S WEST has
20 changed its position between the time that exhibit was
21 prepared and today on imputation of Answer Supervision
22 - Line Side?

23 A. I think we stated that yesterday that that
24 change was made sometime about mid year. So, yes, it

25 was after that that we did make that change.

(LANKSBURY - CROSS BY HARLOW)

815

1 JUDGE HAENLE: How much more do you have,
2 Mr. Harlow? Can you estimate?

3 MR. HARLOW: Five to ten minutes.

4 Q. Does Exhibit C-64 reflect whether or not
5 Yellow Pages revenues were attributed or imputed in
6 those calculations?

7 A. No. I think as I mentioned yesterday, that
8 decision was made after my original testimony was filed
9 and made also after this document was filed or not
10 filed but completed.

11 Q. Do you have Exhibit C-27 in front of you?

12 A. Yes, I do. Original or revised, please?

13 Q. Original and revised. Well, it doesn't
14 really matter.

15 A. Yes, I do.

16 MR. HARLOW: Your Honor, given the witness'
17 answers on the previous exhibit, I am no longer going
18 to offer this, but nevertheless, I think it will be
19 useful for this next line of questioning which deals
20 with Yellow Pages revenues.

21 Q. Mr. Lanksbury, please tell me how you
22 derived the Yellow Pages revenues that's included on
23 this line (indicating).

24 A. The Yellow Pages revenues were derived by

25 taking the revenue during the period of time the cost

(LANKSBURY - CROSS BY HARLOW)

816

1 study was performed, 1991, that U S WEST had in its

2 what

3 we call fame, financial management system. We took the

4 total revenues and divided by -- and that's the annual

5 total revenues -- divide them by the number of stations

6 in service at that time and divided them by 12 to come

7 up with a monthly revenue per station.

8 Q. Do you know what the big number was?

9 A. I do not know that.

10 Q. Is this an amount that the Commission

11 determined should be attributed to U S WEST Washington

12 revenues pursuant to a contested case before the

13 Commission; do you know?

14 A. No. It's just part of the revenues that go

15 to the rate base from public payphones -- from all

16 payphones, actually.

17 Q. Is it from all phones generally?

18 A. Please define -- are you talking residence

19 and business?

20 Q. Yes.

21 A. No. It's unique to public payphones because

22 -- and I shouldn't say public -- to payphones because

23 that's the only place that we maintain hardware, place

24 the books and maintain the books and that's what the

25 payments are for and these are Yellow Pages only.

(LANKSBURY - CROSS BY HARLOW)

817

1 Q. Are these actually payments that are made to
2 U S WEST or are they credits to U S WEST revenue
3 requirements?

4 A. I don't know how the accounting is done. I
5 think they are payments. We have a contract with them
6 and they're paid to us as a corporation to U S WEST C
7 to in fact do the work that is in the contract, placing
8 and maintaining the books, and it's a requirement in
9 this state that we have Yellow and White Pages at all
10 locations.

11 Q. Are you aware that the Commission in
12 settlement approving U S WEST alternative form of
13 regulation provided -- or the settlement provided that
14 Yellow Pages or U S WEST Direct revenues were to be
15 attributed to U S WEST's intrastate revenue requirement
16 generally?

17 A. I don't know that the revenues here are for
18 the Yellow Pages. They're for the placement and
19 maintenance of the books and our outdoor locations and
20 indoor locations that we have across the state. So I
21 don't know that this quote-unquote is the same revenue
22 that was in that decision. I am not aware of the
23 decision, no.

24 Q. Are you aware of any Commission direction to

25 U S WEST as to how to apply Yellow Pages or U S WEST

(LANKSBURY - CROSS BY HARLOW)

818

1 Direct revenues among services?

2 A. Again, I will say that I am not aware of how
3 U S WEST Direct revenues are attributed to other
4 products. Again, I would just like to reiterate, this
5 is a maintenance contract. That is a contract we have
6 with them to maintain the books in good working order
7 and to maintain the brackets. So it's somewhat
8 different than the revenues they get from advertising.
9 This is a contract between ourselves and U S WEST
10 Direct for the maintenance of the book and the
11 placement of the book and the bracket and the cover.

12 Q. Are you saying that U S WEST Direct has
13 asked and has agreed to pay U S WEST Communications for
14 putting in the books which is -- for putting in the
15 books?

16 A. No, I did not say that. I said for the
17 maintenance of the bracket, the book and the cover, the
18 placement of the book for U S WEST Direct is done by an
19 outside group that goes around and places the books.
20 Then we have a contract to in fact maintain those in
21 our locations.

22 Q. It's a requirement of U S WEST
23 Communications, I believe you testified, to make sure
24 those directories are placed there?

25 A. To make sure those directories are there.

(LANKSBURY - CROSS BY HARLOW)

819

1 To keep them there. If one is stolen, damaged, then we
2 replace it. The original placement of the book is an
3 outside contracted agency, nonaffiliated to U S WEST,
4 is my understanding that places those books for U S
5 WEST Direct.

6 Q. This is not the obligation of U S WEST
7 Direct to do this under the rule, is it?

8 A. The rule says that we will have and maintain
9 a book.

10 Q. Who is "we", though? Which entity?

11 A. U S WEST Communications is subject to the
12 administrative rules of this Commission that have been
13 interpreted by the staff to say that we will have a
14 book in place in every location, and they have
15 communicated with me personally that they feel that is
16 both Yellow and White.

17 Q. Why is it that U S WEST Direct is
18 undertaking the financial obligations of maintaining
19 these boxes and paying U S WEST Communications to meet
20 its
21 responsibility?

22 A. One of the reasons may be so we wouldn't use
23 another provider of the book and a second is that there
24 is a cost inherit to this that we feel needs to be

25 covered and that's why we negotiated a contract with

(LANKSBURY - CROSS BY HARLOW)

820

1 them.

2 Q. Do you know if that contract is on file and
3 has been approved by the Commission in this state?

4 A. I do not know. I understand it's a regional
5 contract.

6 Q. Do you know if U S WEST Direct is willing to
7 or does make payments to competitive payphone providers
8 for placing and maintaining their directories at
9 payphones?

10 A. I do not know the relationships between U S
11 WEST Direct and the private payphone providers. I have
12 heard that they are willing to do that, but I don't
13 know if it is done. And I would like to go back to the
14 contract for one second and say that the contract here
15 is not for rates or specialized rates. It's a business
16 decision on our part and on U S WEST Direct's part to
17 enter into that business agreement.

18 Q. Just so we're clear, as I understand it, you
19 decided to include the Yellow Pages revenues, what, a
20 week or two ago?

21 A. As I think I mentioned yesterday in my
22 testimony, that decision was made some time before
23 that. The document was changed actually earlier this
24 week, later last week.

25 Q. In other words, you've applied that as a

(LANKSBURY - CROSS BY HARLOW)

821

1 negative cost so that the cost decreased by the amount
2 of the Yellow Pages revenues (indicating)?

3 A. Well, a negative cost or a revenue to offset
4 cost is more how I would like to show it. I'm not sure
5 what a negative cost is.

6 Q. And the effect of that is to change U S WEST
7 payphones from being profitable -- in other words, the
8 cost is below a quarter -- to being unprofitable --
9 excuse me, other way. For being -- the effect of that
10 is to change the results of U S WEST payphone
11 operations as shown in your Exhibit 27 from being
12 unprofitable -- in other words, the cost were above a
13 quarter -- to being profitable costs were shown as
14 being below a
15 quarter?

16 A. Mr. Harlow, there were four changes made on
17 that exhibit. No one of those had the impact to change
18 it from being profitable or unprofitable to profitable.
19 To characterize Yellow Pages was the one that did it is
20 inappropriate. It was not. It was the four changes
21 collectively that made the change.

22 Q. Well, would you agree that if you didn't
23 make all four changes between your original and your
24 revised exhibit you would not have been able to show

25 the imputed cost for U S WEST payphones as being below

(LANKSBURY - CROSS BY HARLOW)

822

1 a

2 quarter? In other words, it took all four of them to
3 get your cost down below a quarter on an imputed basis;
4 is that correct?

5 A. If I did not make any of the changes the
6 original document would have been correct. That speaks
7 for itself.

8 MR. HARLOW: Your Honor, at this point we
9 would like to make a couple of record requisitions.
10 One would be for the work papers and the backup
11 documentation for the calculation of the Yellow Pages
12 revenue shown on exhibit, revised Exhibit C-27.

13 JUDGE HAENLE: That is for the revised?

14 MR. HARLOW: Right. That isn't shown on the
15 original.

16 JUDGE HAENLE: I will make that Record
17 Requisition 1.

18 MR. HARLOW: Record Requisition 2 would be a
19 copy of the contract between U S WEST Communications
20 and U S WEST Direct for payment of this amount, as well
21 as any order approving that contract by this
22 Commission.

23 JUDGE HAENLE: That will be 2. Is that
24 it?

25 (Record Requisitions 1 and 2.)

(LANKSBURY - CROSS BY HARLOW)

823

1 MR. HARLOW: That's it.

2 JUDGE HAENLE: Did you want to move the
3 entry of C-64?

4 MR. HARLOW: No, we won't be offering that.

5 Mr. Lanksbury, thank you for your time
6 and your patience.

7 JUDGE HAENLE: Are you withdrawing the
8 exhibit then or what do you want to have happen to it?

9 MR. HARLOW: Since it's confidential if you
10 want to give it back -- but I am not sure you can. It
11 may need to be in the record even though we didn't
12 offer it.

13 JUDGE HAENLE: Why would we want it in the
14 record if you didn't offer it?

15 MR. HARLOW: I guess if no one objects I
16 will just pick it up and we will withdraw it.

17 JUDGE HAENLE: Let's consider that
18 withdrawn. I don't see any purpose. I think all of
19 the documents have been taken care of. Shall we take a
20 break before we go on to redirect? Sorry, Ms. Brown,
21 did you have any questions now?

22 MS. BROWN: No, Your Honor.

23 JUDGE HAENLE: I guess we need to take
24 commissioners questions and then redirect.

25

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

824

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

2 BY MR. HEMSTAD:

3 Q. Mr. Lanksbury, pursuing the very last
4 questions and answers, you indicate there were four
5 changes made in your revised Exhibit 27?

6 A. Yes, that's correct, Commissioner.

7 Q. Could you succinctly and briefly describe
8 what those four changes are.

9 A. The first change was the end user access
10 charge which the FCC revised the rate on 7-1-93 and it
11 went from \$4.09 to \$5.39 and it's about a third of the
12 way down the page, two lines above the first line,
13 solid line that goes across the page. That was an FCC
14 tariff change.

15 The next one would be the imputed PAL
16 recurring rate. We removed Answer Supervision-Line
17 Side and outgoing screening. We removed Answer
18 Supervision - Line Side because there are no
19 subscribers from the PAL class of service to that
20 service, and the outgoing screening we removed because
21 just recently we found out that the billed number
22 screening which we figure is the essential service
23 element that they can't replicate -- the private vendor
24 can't replicate -- is embedded in the line at no cost

25 and we had an outgoing screening in there. So that

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

825

1 changed. Those imputed rates changed the imputed PAL
2 recurring from \$34.40 to \$28.45.

3 The third element of change was the fact
4 that we included the installation cost of installing
5 the phone during the test period which was 1991. We
6 did impute a cost based on the \$48 nonrecurring charge
7 that is charged to private payphone vendors. That came
8 as a result of the deposition when I agreed that that
9 was an appropriate imputed rate and we felt that that
10 should be changed since it was an oversight on our
11 part in the original imputation model. That is the
12 fourth line down below the second solid line. Shows
13 nonrecurring imputed rate per month at \$48 per line.
14 And that relates to the first line above the solid
15 line, which is the new installations.

16 And the last change was the Yellow Pages,
17 the inclusion of Yellow Page revenue.

18 Q. In the earlier testimony Mr. Harlow asked
19 you a series of questions on some items such as taxes
20 were not included in your imputation study, and I
21 believe that EAS additives were not included and you
22 answered no, they weren't. Why not?

23 A. Well, I will have to correct the fact that
24 EAS additives were not included. One of our staff, who

25 was attending this earlier, said that the rate that

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

826

1 we're using, the \$28.45, does include the EAS additive
2 for Seattle. The actual rate of PAL is \$28.20, so the
3 EAS rate for the major cities it's -- I think
4 Seattle-Tacoma and those side cities -- is included, so
5 that was a mistake on my part. I was not aware of
6 that. We do not include the taxes that Mr. Harlow
7 mentioned because they are not tariffed services. We
8 pay our taxes and they are embedded in our cost study
9 or in our overheads, and so because they were not
10 essential service elements from our perspective on a
11 tariffed basis we felt it was inappropriate to include
12 those.

13 Q. Without repeating all of your testimony,
14 could you briefly describe again how the percentage of
15 your total lines related to public purpose -- public
16 policy stations was arrived at?

17 A. Yes. We had a committee of three people
18 that have some experience in the public policy area and
19 in the states in regulatory and we built a criteria
20 that looked at the concerns of commissions and
21 commission staffs across a 14-state region, and built a
22 criteria based on our experiences in those 14 states
23 taking all the inputs from every state and building one
24 criteria. The study we did was a 14-state study and we

25 were trying to look at public policy on a region-wide

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

827

1 basis to see what the impacts would be to us in each of
2 the jurisdictions.

3 Q. And that figure, or that percentage, seems
4 to be quite different than the percentages in, say,
5 Oregon or California where a determination has
6 apparently been made by those state commissions as to
7 what will be classified as a public policy station.

8 A. The only state to actually classify any
9 payphone as public policy on the broad scope of the
10 state is California that I am aware of. Oregon we're
11 still working with the Commission and the staff to do
12 that.

13 Now, the numbers that keep getting quoted
14 here are the Pac Bell numbers which, in talking to the
15 director of their payphone operation, includes the
16 urban areas and does not include the rural areas. He
17 in fact told me in a message that he left for me that
18 Contel has a significantly higher number that's been
19 negotiated in the 20 to 30 percent area because they
20 handle the rural parts of California, and we believe,
21 as we've stated here to Mr. Harlow, that the
22 metropolitan areas are not where the bulk of public
23 policy stations are going to be. They're probably
24 going to be more in the rural community, and that's how

25 our public policy study focuses on those rural

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

828

1 communities rather than the metropolitan areas. So I
2 don't think we're inconsistent with California if you
3 look at what the nonurban local exchange companies have
4 as a number.

5 Q. So you would, at least as the figures that
6 were cited earlier in California, about 90,000 total
7 public payphones, and I believe the figure was 1100 to
8 1200 public policy stations, relatively modest
9 percentage between 1 and 2 percent, I suppose -- you
10 attribute the difference between the Washington
11 experience and the California -- or the Washington
12 figures of U S WEST and the California experience
13 essentially to the rural-urban dichotomy?

14 A. Yes, we do. Our focus here was more on
15 the rural and less on the urban. In fact we did not
16 specifically look at any public policy phones in the
17 city of Seattle, Tacoma, Auburn and all the suburbs.
18 We kind of excluded those.

19 Now, granted when you do it on the estimate
20 basis that we were doing it on, some could be included
21 in those markets, but normally your metropolitan
22 payphones are pretty profitable. It's the rural phones
23 that we've had experience are not the profitable
24 phones.

25 Q. Why is U S WEST in the payphone business at
(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD) 829

1 all?

2 A. Well, I think there's a couple of reasons.
3 One, on the high end of the market, on the competitive
4 end of the market it is a profitable business. You
5 have to remember that our cost studies have a lot of
6 rural locations embedded in them. That's one of the
7 reasons.

8 Two, there's a need out there and the
9 Commission staff feels that it is in the public
10 interest to provide payphones and we agree.

11 Q. But overall, by the time you merge all these
12 different categories, the several categories, it's not
13 particularly profitable business under your revised
14 cost study here.

15 A. But you have to remember the revised cost
16 study is under imputation is not under pure LRIC and if
17 you price based to LRIC, it is a profitable business.
18 That's the piece here. And if we didn't feel we were
19 responsible to provide the low end of the market it
20 would again become profitable and that's the public
21 policy issue. You know, it's up to this Commission to
22 decide whether the public policy issue should be
23 considered and whether imputation should be considered,
24 but imputation is a regulatory economic condition and

25 when we look at it based on the long run incremental

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

830

1 cost basis we do have a profitable. We are recovering
2 all of our long run incremental costs at the current
3 rates.

4 Q. Is it your position that your costs --
5 despite the focus on Exhibit 27 -- your cost structure
6 is not particularly relevant in this proceeding?

7 A. Well, we feel that in order to promote
8 fairness and the level playing field that we are
9 constantly hearing about from the competitors that
10 imputation is a test that we need to look at passing.
11 The differences we have with the Northwest Payphone are
12 what should be imputed, what should be removed, such as
13 public policy. We're not conceptually very far apart
14 on whether we ought to impute or not. We first filed
15 imputation in Utah in 1988 in a rate case there. No
16 state today that we filed imputation has said
17 imputation is the appropriate standard, so we feel that
18 it's something we need to do in a competitive
19 marketplace. It's something we need to do to make good
20 decisions going forward should we become CPE so that's
21 why we impute.

22 Q. But the independent payphone operators will
23 have a cost structure or, maybe a better way to put it,
24 a revenue stream that's measurably different from

25 yours?

(LANKSBURY - EXAM BY COMMISSIONER HEMSTAD)

831

1 A. Absolutely. It is measurably different and
2 that's been a large part of my testimony as when you
3 talk price squeeze we have two different competitors
4 doing two different things. We're willing to impute,
5 but the concerns are there, they are unregulated and
6 they don't have the same standards on them to meet the
7 public policy issues. They also have different revenue
8 streams with interLATA revenue so they're extremely
9 different revenue streams from my perspective.

10 Q. Does the company have a current position as
11 to whether the price of payphones should be increased?

12 A. Yes. We have in various jurisdictions,
13 because of our exhibits such as the original or -- and
14 the original is what's been filed in other states -- or
15 the revised -- feel that we need to recover that cost
16 and in various jurisdictions we have asked for a 35
17 cent rate and have 35 cent rate in three states.

18 Q. Which states?

19 A. Iowa, Nebraska and Wyoming.

20 COMMISSIONER HEMSTAD: That's all the
21 questions I have.

22

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

24 BY COMMISSIONER CASAD:

25 Q. Mr. Hemstad's questions raised a couple in
(LANKSBURY - EXAM BY COMMISSIONER CASAD) 832

1 my mind. Is this the first time that the term public
2 policy stations has been used is in this cost study,
3 revised cost study?

4 A. Throughout this case we have discussed
5 public policy phones and debated them, but this is the
6 first time public policy in this concept has been
7 presented to this Commission or to the Commission staff
8 with some numbers tied to them.

9 Q. It's the first time it's been quantified as
10 a cost element in a cost study; is that correct?

11 A. That is correct.

12 Q. Could you review for me how you arrived at
13 the 10.2 percent, again, just very briefly?

14 A. What we did is took a look -- first we built
15 a criteria and got some computer printouts to look at,
16 one, the cities, what cities have payphones, what
17 cities don't have competition and what do -- or which
18 ones do and then we looked at some specific markets.
19 And we picked eight markets where we've had commissions
20 or commission staffs in providing phones as public
21 interest. We also set a revenue. What we used as our
22 revenue objective is a daily average revenue and it's
23 called RAR because it's rolling over 13 months. And we
24 said any phone that does over \$2 a day with the

25 exception of two markets, and that was rural airports

(LANKSBURY - EXAM BY COMMISSIONER CASAD)

833

1 and residential housing, other than those two markets
2 we looked at only the stations between \$2 a day, and
3 those two markets we looked at the stations below \$3 a
4 day because we wanted to build kind of a safety net.
5 We had a couple of instances where we had removed
6 phones at these locations and it had caused quite a
7 problem so we built somewhat of a safety net there but
8 that was a basic criteria.

9 Q. So if I understand you correctly you did not
10 accumulate this data on a Washington state specific
11 basis. You did it on the basis of data from eight
12 states and in those states, such states as Wyoming,
13 others which are extraordinarily sparsely populated,
14 would they be included to arrive at your average?

15 A. No. The 10.2 was Washington-specific. We
16 actually pulled out of that information for Washington,
17 not on an account-by-account basis but in general
18 categories but it was all Washington specific. We did
19 it for all of the 14 states we served and did it
20 individually on the state specific mix of stations.

21 Q. So the 10.2 percent is a product of a
22 specific evaluation of the state of Washington and the
23 criteria was those coin operated phones that produced
24 less than \$2 --

25 A. The majority were \$2 except for the two
 (LANKSBURY - EXAM BY COMMISSIONER CASAD) 834

1 markets where we had the \$3 a day, that were less than
2 \$3.

3 COMMISSIONER CASAD: Thank you.

4 JUDGE HAENLE: Commissioners, anything else?
5 Why don't we take our afternoon recess at this time.
6 Let's be back at 3:15.

7 (Recess.)

8 JUDGE HAENLE: Let's be back on the record
9 after our afternoon recess. I understand during the
10 break that Mr. Harlow has a couple of additional
11 questions brought on by commissioner questions. I
12 think I would prefer to take those before we take your
13 redirect, Mr. Shaw, if that's all right. Do keep them
14 brief, Mr. Harlow.

15

16 CROSS-EXAMINATION

17 BY MR. HARLOW:

18 Q. Mr. Hemstad asked you what the four changes
19 were on your revised Exhibit C-27. Do you recall
20 that?

21 A. Yes, I do.

22 Q. And I believe you forgot to list the change
23 in this number here, total local calls; is that
24 correct?

25 A. Yes, that was due to -- I think that it was

(LANKSBURY - CROSS BY HARLOW)

835

1 due to the public policy changes. That's why that
2 number changed which was the overall revision of 10.2
3 percent of public policy, which changes the number of
4 stations because you remove the low usage stations,
5 which increases the stations for the remaining
6 competitive payphones.

7 Q. And that makes a substantial difference in
8 your bottom line costs or losses or revenue; is that
9 correct?

10 A. It's one of the inputs.

11 Q. Because what you're doing is you're taking
12 this total cost figure here, whether it be the LRIC
13 plus imputed PAL or the LRIC plus imputed PAL adjusted,
14 if you subtract the Yellow Pages revenues, you're
15 dividing that by either this number or this number; is
16 that correct?

17 A. You're dividing them by the numbers but
18 you're also removing part of the base and it changes
19 all those numbers and that's the 10.2 revision. It
20 doesn't just change the number of local calls. It
21 changes all the traffic-sensitive elements of the call
22 and that's the 10.2 revision if you remove that from
23 the base.

24 Q. Let's take a look at it and just so you know

25 what I did, I did a spreadsheet. This is our original

(LANKSBURY - CROSS BY HARLOW)

836

1 but it's a public only column, doesn't include the
2 universal and semipublic. Third one here is the
3 revised one, same thing, just public; is that right?

4 A. That is correct.

5 Q. So taking the 10.2 percent so-called public
6 policy payphones out, bunch of these costs go up by a
7 few pennies; is that correct?

8 A. Yes.

9 Q. Does go up by a few pennies because you
10 removed the low usage stations; is that correct.

11 JUDGE HAENLE: You were indicating with your
12 pointer the last column of figures. You're going to
13 need those indications for the record, Mr. Harlow.

14 MR. HARLOW: All right. To the extent it's
15 important for the record.

16 Q. The total figure down here would show how
17 much the costs go up between the total figure in the
18 first column and the total figure in the third column?

19 A. Is that a question?

20 Q. Yes.

21 A. It does go up, yes. And it goes up because
22 you removed the low use stations which increases the
23 cost because you have higher usage on the competitive
24 stations that are remaining in the base.

25 Q. Without breaching a serious confidentiality
(LANKSBURY - CROSS BY HARLOW) 837

1 issue here, can we give the ballpark increase in the
2 costs?

3 A. Sure. It's about two and a half dollars per
4 month per line.

5 Q. And so it's actually less than the effect
6 of, for example, taking out imputation of Answer
7 Supervision-Line Side?

8 A. Yes, it would be less.

9 Q. So the main reason that this cost goes down
10 would be the fact that you're doing this total figure
11 here, the higher cost figure, by a greater number of
12 calls on the so-called competitive phones; isn't that
13 correct?

14 A. The change -- yes, that would reduce the
15 cost somewhat. I would have to quantify it but it does
16 reduce it, you're right.

17 Q. So that would be a fifth change and that's
18 one of the bigger ones; isn't that correct?

19 A. I'm sorry if I omitted that. I thought we
20 spent the time on that and that was an oversight on my
21 part.

22 THE WITNESS: This is a fifth change
23 Commissioners, and I apologize for that. Trying to go
24 through this I did not have that highlighted.

25 Q. Commissioner Hemstad asked you about taxes

(LANKSBURY - CROSS BY HARLOW)

838

1 specifically 911 and telephone assistance and TDD.

2 Do you recall that?

3 A. Yes, I do.

4 Q. And you indicated that taxes are embedded in
5 U S WEST cost studies?

6 A. I stated that our taxes are embedded; I did
7 not state those specifically were embedded in the cost
8 study. And I also stated that they were not a tariffed
9 rate and that's why we did not impute them.

10 Q. I am going to hand you response to data
11 request No. 159. You can refer to it if you need to
12 answer this question, but my question is are those
13 three taxes, the 911, the TDD and the telephone
14 assistance, those in fact are not paid by U S WEST; is
15 that correct?

16 A. Other than this response which came from a
17 cost analyst, it says they apparently aren't, but
18 again, I will reiterate my answer. The reason we don't
19 impute them is because the they are not essential
20 tariffed services provided by U S WEST and that was the
21 basis for my answer.

22 Q. I just wanted to clarify for the record that
23 you don't pay them either.

24 A. According to the costs analyst's response,

25 that's true.

(LANKSBURY - CROSS BY HARLOW)

839

1 Q. Mr. Hemstad was asking you about the
2 California study of public policy phones. In
3 California Pac Bell has identified the 11 to 1200
4 phones. Those are identified as specific sites; is
5 that correct?

6 A. Let's make sure we're clear on what the
7 public policy number is in California. One, it was not
8 a study. It was a negotiated amount between the
9 payphone association of California, the Commission
10 staff and the company, and that's my understanding
11 and it was not Pac Bell that designated them. In
12 talking to the director of public services there he
13 says he believes the number is much higher, but it was
14 a negotiated number between the three parties that they
15 all stipulated to in part of a workshop and it is
16 individual sites.

17 Q. And you haven't done that in part of your --
18 as a result of your study that got incorporated into
19 your revised C-27?

20 A. No. As I think I've stated, we have not
21 looked at them on an individual location basis and that
22 is the process we are currently going through in
23 Oregon, but we have not done that in Washington at this
24 time, and I think I've stated that a couple of times.

25 Q. Commissioner Hemstad asked you why is U S

(LANKSBURY - CROSS BY HARLOW)

840

1 WEST in the payphone business at all and you said as a
2 second reason to meet the need for service. Do you
3 recall that?

4 A. Well, yes, I do.

5 Q. Wouldn't one way to improve or add a
6 payphone location and meet that need be to simply lower
7 PAL charges? Wouldn't that promote the installation of
8 additional public telephones by competitive providers?

9 A. Well, that may be your belief, but it
10 certainly isn't mine, and it isn't mine for the simple
11 reason that there are a large number of locations out
12 there that do less than a dollar a day and unless we're
13 going to give PAL service away, competitive payphone
14 providers are not going to be interested in placing
15 their payphones in those rural locations where they
16 don't have the economies of scale and the usage is
17 extremely low. And the staff has indicated that they
18 feel it's in the public interest to have payphones out
19 there and priced in a manner that's affordable. If the
20 private vendor were to go in there they would probably
21 set a rate that would make it not affordable because
22 you can't have somebody driving out to the northeast
23 corner of Washington to service one payphone. It's not
24 economically sound for them. We have technicians in

25 that area serving residences and businesses that can in

(LANKSBURY - CROSS BY HARLOW)

841

1 fact do that and we contract with those people to fix
2 those phones.

3 Q. Finally, you testified in response to
4 Commissioner Hemstad's questions that the revenue
5 stream of competitive payphone providers is measurably
6 different than U S WEST. Do you recall that?

7 A. Yes, I did.

8 Q. If you are in a price squeeze -- assume
9 hypothetically that the competitive payphone providers
10 are in a price squeeze. That would mean that the
11 dominant competitor has lower costs because they do not
12 properly impute and price above costs on an imputed
13 basis for the monopoly elements of the service; is that
14 correct?

15 A. Well, I'm sorry. I am not an economist but
16 I didn't think imputation was a test of price squeeze.
17 I think imputation from my understanding is a
18 regulatory condition put on a provider of what you may
19 call bottleneck or essential services so that they can
20 compete actually in the marketplace. So, I mean, if
21 you're talking in the pure sense, in the documents I
22 read about price squeeze, the test of price squeezes is
23 forward looking, long running incremental costs. So I
24 disagree with that.

25 Q. U S WEST costs for providing the loop

(LANKSBURY - CROSS BY HARLOW)

842

1 portion of payphone services would be things like loop,
2 drop, NTS/C maybe CO, public service equipment, stuff
3 like that. And these are shown on your Exhibit 27?

4 A. The cost for U S WEST to provide payphone
5 service, that is correct.

6 Q. Costs for my clients, the competitive
7 payphone providers, is imputed PAL rate, \$28.45; is
8 that correct?

9 A. That is correct.

10 Q. And would you agree that that's a lot higher
11 than U S WEST long run incremental costs for those
12 similar elements?

13 A. It is somewhat higher because the amount
14 from LRIC to the total -- LRIC plus imputed PAL goes
15 up. So, yes, it is higher.

16 Q. So my clients in order to compete with U
17 S WEST are going to either have to reduce some of
18 these other costs for the nonmonopoly elements like the
19 equipment or something like that or they're going to
20 have to get more revenues to stay in business; isn't
21 that correct?

22 A. Mr. Harlow, I don't think I've ever said
23 that imputation isn't the right thing to do. I've
24 repeatedly said we filed 1988 for imputation with our

25 LRIC cost at this time. I am having a little trouble

(LANKSBURY - CROSS BY HARLOW)

843

1 understanding where we have a disagreement here because
2 I agree that we should impute. It's up to this
3 Commission to decide whether imputation is the proper
4 test of our cost/price relationship, and I don't know
5 what more I can say.

6 Q. Well, perhaps we've had so many
7 disagreements you're assuming I'm disagreeing.
8 Actually what I am trying to do is put in perspective
9 your comment to Commissioner Casad about the measurably
10 different revenue stream. And so my question was,
11 again, assuming that the U S WEST bears a long run
12 incremental cost that is lower than competitive
13 payphone providers have to pay for those monopoly
14 elements, my question
15 was, wouldn't you agree that in order to stay in
16 business the competitive providers are either going to
17 have to get their nonmonopoly costs down or they're
18 going to have to get higher revenue somewhere else?

19 A. I would agree that they are going to have to
20 either adjust their costs or find new revenues or
21 increase their local call rate or something to that
22 order. The same things we would have to do under an
23 imputed basis.

24 Q. And I assume when you talked about the

25 measurably different revenue stream that part of what

(LANKSBURY - CROSS BY HARLOW)

844

1 you were talking about were payments that alternative
2 operator service companies make to competitive payphone
3 providers; is that correct?

4 A. Both alternative operator service companies
5 on the intraLATA and the interLATA revenues that are
6 availed to them, plus the much lower toll rates that
7 they're allowed to market up in their store and forward
8 technology.

9 Q. Now, given this different cost structure
10 that's between imputed PAL rates and U S WEST long
11 running incremental costs, have you given any thought
12 to what might happen to the ability of the competitive
13 payphone providers to compete with U S WEST if the
14 Commission orders AOS companies such as International
15 Pacific to reduce their charges for operator services
16 to the prevailing rates of U S WEST and AT&T?

17 A. I have not looked at the AOS docket. I
18 have not been involved in that docket. I have not
19 taken into consideration those types of things, so, no.

20 MR. HARLOW: That's all the recross I have
21 at this time. Thank you.

22 JUDGE HAENLE: Mr. Shaw.

23

24 REDIRECT EXAMINATION

25 BY MR. SHAW:

(LANKSBURY - REDIRECT BY SHAW)

845

1 Q. Do you have what's been admitted as Exhibit
2 31?

3 A. Yes, I do.

4 Q. In direct examination you had quite a series
5 of questions and answers concerning Exhibit 31. Just
6 so the record is clear, can you and the company any
7 time in the past or today provide the data asked in
8 data request No. 130?

9 A. No, we cannot. We are not able to produce
10 that because it's asking for historical data. End of
11 year 1988 through end of year 1992 and that data just
12 isn't kept on an historical basis so it is not
13 available and this response was correct.

14 Q. On examination from the bench and redirect,
15 as well substantial direct, we discussed public policy
16 phones. If U S WEST had its druthers would it consider
17 any of its phones to be so-called public policy phones?

18 A. We're not really -- we don't have an
19 appetite really to designate public policy phones.
20 We're doing it because we feel that it's an issue in
21 this case and we've had some interest from regulatory
22 bodies on doing it, but from our standpoint it's not a
23 driving force for us to look at public policy phones.

24 Q. If it were up to U S WEST, would U S WEST

25 like the option to withdraw from service any phones

(LANKSBURY - REDIRECT BY SHAW)

846

1 that it

2 felt weren't profitable?

3 A. Yes, we would. We think that's an
4 appropriate thing to do, but we also know there's other
5 consequences.

6 Q. Is it your belief as manager working in U S
7 WEST public services that as a local exchange company U
8 S WEST is required to provide public telephone service
9 in the state of Washington?

10 MR. HARLOW: Your Honor, we're getting
11 awfully leading here and at this point I will object to
12 the leading nature of these questions.

13 JUDGE HAENLE: Going to overrule the
14 objection. Go ahead.

15 A. I think at least in my discussions with the
16 Commission staff, I believe there is a belief that we
17 should be providing public telephone service. Could we
18 withdraw? I think is the same as PAL. We could
19 definitely file to withdraw and then it's up to the
20 Commission to decide whether they would approve that or
21 not.

22 Q. There's been several references to a coin
23 line in the testimony today and so the record is clear,
24 could you give a definition of a coin line and what it

25 is in U S WEST's network?

(LANKSBURY - REDIRECT BY SHAW)

847

1 A. The coin line in U S WEST's network actually
2 performs a number of function. Probably the most
3 important of those in our discussions with the
4 association is the collect return capability that we
5 have. When an end user places a call and puts in the
6 coins the answer supervision function on the trunk
7 tells the coin line to in fact send out 130 volts of
8 positive or negative battery. That battery collects or
9 returns the coin based on the indication from the
10 answer supervision that the call has been answered or
11 not.

12 There are some other functions that are
13 provided and that is the rating function that one tells
14 that a coin has been dropped, the phone itself sends a
15 signal into the office, the office says the rate has
16 been satisfied and allows the call to be placed. So it
17 allows the dial pulses to go through the network.

18 And then the last one is the rating tables
19 which are an ACTS function and somewhat remote from the
20 line, but it sets the rates. So if you place a local
21 call or if you're placing it sent paid or nonsent paid
22 -- actually the sent paid is set in the set and the
23 nonsent paid is set through the network and the ACT
24 system and those are all an integrated part of

25 the coin line.

(LANKSBURY - REDIRECT BY SHAW)

848

1 Q. And is this the way that U S WEST provides
2 substantially all of its public telephone service in
3 the state of Washington via coin lines with so-called
4 dumb sets hooked to them?

5 A. All except the millenium or advance
6 payphone, which we have 74 in the state of Washington,
7 and they're on a trial basis right now and that
8 technology uses Answer Supervision - Line Side but it
9 is purely on a trial basis.

10 Q. Finally, there's been several bleak
11 references to a proceeding in Oregon. Just so the
12 record is complete, could you briefly describe the
13 proceeding in Oregon, how it started, where it is and
14 what issues are involved.

15 A. The payphone workshops in Oregon really
16 began with a process that was started with shared
17 tenant service on resale docket to look at the pricing
18 and resale of shared tenant service. The payphone
19 association asked to be party to that resale docket and
20 have PAL lines considered in the same case. We went to
21 a number of workshops and in fact U S WEST and two of
22 the other local exchange companies doing business in
23 Oregon offered to reduce the rate on the PAL line to be
24 similar to that in Washington. And the association

25 disagreed with us and refused the offer. So at one

(LANKSBURY - REDIRECT BY SHAW)

849

1 point the administrative law judge made a
2 recommendation to the Commission that the payphone
3 issue should be taken into a separate docket and that
4 became the payphone docket or the payphone workshops.
5 We've had numerous meetings in there, in the workshops,
6 and we have narrowed the issues down to six.

7 In the meantime we've also stipulated a new
8 PAL line rate with the payphone association and the
9 staff and it's been approved by the Commission, and
10 that rate is very similar to the rate here in
11 Washington although there are other options and the
12 options are they can choose between a fully measured
13 line, a fully message line, and a line similar
14 to the Washington PAL line which is a line priced at
15 the business rate with a 300 call allowance and then
16 all calls above 300 are charged at either a message or
17 minute rate at the choice of the private payphone
18 provider.

19 Given that the six issues we're looking at
20 -- and I hope I can remember them all -- are, one, the
21 billed number screening that we've stipulated an
22 agreement and it's been sent to the staff; that billed
23 number screening will be provided as part of the line
24 at no charge to the private payphone vendor. The

25 second issue is the public policy phone issue and we're

(LANKSBURY - REDIRECT BY SHAW)

850

1 looking at the public policy criteria that I think I
2 described yesterday in testimony and trying to
3 determine what the number of public policy phones are.
4 The reason we're doing that is the Northwest Payphone
5 Association has interest in helping us pay for those.
6 So where we are right now, at least agreement in
7 principle, is that we'll go out and look at an
8 individual account basis and try to determine the
9 number. We'll build a pool of revenue requirement and
10 the private vendors will in fact contribute to the
11 coverage of costs for those payphones at the semipublic
12 rate.

13 Now, the reason that's agreement in
14 principle is they haven't seen the number yet. If the
15 number is a large number I am sure there will be more
16 discussions. And it's very much being negotiated the
17 same way the California negotiations were done.

18 The third issue was whether local exchange
19 companies should be deregulated and whether payphones
20 should be deregulated. We have taken a competitive
21 analysis to show where competition exists in the state
22 and what percentage of the state is -- has competitive
23 payphones available to it. We really feel the
24 deregulation issue is an individual company issue and

25 should not be negotiated in a workshop and that's been

(LANKSBURY - REDIRECT BY SHAW)

851

1 our position.

2 The other -- the fifth item -- I think
3 I'm at the fifth item -- was the local call rate, what
4 should the local call rate be and should imputation be
5 the standard. We came to a conclusion that we the LECs
6 and U S WEST for one should not participate in the
7 statewide setting of rates, our costs are all
8 different, and that we would not be party to a
9 negotiation of a statewide rate. That we would file
10 our rates with the Commission and the decision of
11 imputation was really up to the Commission and the
12 rates that are appropriate to recover our costs are up
13 to the Commission and each company needs to do that
14 individually.

15 What was six? I will be darned if I can
16 remember. Actually there were two. There's also the
17 self enforcement by the Northwest Payphone Association.
18 Now I know why I didn't remember, because it's their
19 issue. The Northwest Payphone Association wants to
20 enforce themselves and they've made a presentation to
21 the Commission.

22 And the last one -- so I must have been one
23 number off -- is the dial around compensation for
24 intraLATA calls. The Northwest Payphone Association is

25 filing a plan with the Commission and working with the

(LANKSBURY - REDIRECT BY SHAW)

852

1 carriers to try and establish dial around compensation
2 for all calls placed from private payphones. That's
3 it.

4 Q. And all Oregon LECs are involved in that
5 docket?

6 A. We have representatives from PTI, GTE,
7 United, and then a representative from the Oregon
8 Independent Telephone Association. So, yes virtually
9 all are represented in some way.

10 MR. SHAW: Thank you, I have nothing
11 further.

12 JUDGE HAENLE: Anything more of the witness?
13 Thank you, sir. You may step down. It's my
14 understanding we're going to take Mr. Wilson next.
15 Let's go off the record to change witnesses.

16 (Recess.)

17 JUDGE HAENLE: Let's be back on the record.
18 During the time we were off the record Mr. Wilson
19 assumed the stand. Would you raise your right hand,
20 please.

21 Whereupon,

22 THOMAS L. WILSON, JR.,

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

25

JUDGE HAENLE: Also during the time we were

(LANKSBURY - REDIRECT BY SHAW)

853

1 off the record I have marked for identification two
2 documents as follows: Marked as Exhibit T-65 for
3 identification is a multi-page document. Up in the
4 upper right-hand corner it says TLW-Testimony. It's
5 entitled Testimony of Thomas L. Wilson, Jr.

6 And as Exhibit C-65 -- sorry -- C-66 I have
7 marked a two-page document. That's two pages with the
8 cover sheet on it. In the upper right-hand corner it
9 says Exhibit No. TLW-2. Please note that what had
10 been premarked as TLW-1 you have indicated, Ms. Brown,
11 is already in the record so we're not going to put it
12 in again. Which number was it in the record?

13 MS. BROWN: C-4.

14 JUDGE HAENLE: So in that regard we have
15 made one modification to Mr. Wilson's testimony. Do
16 you want to go over that with Mr. Wilson, please.

17 MS. BROWN: That would be fine.

18 DIRECT EXAMINATION

19 BY MS. BROWN:

20 Q. Please state your full name for the record
21 and spell the last.

22 A. Thomas L. Wilson, Jr., W I L S O N.

23 Q. What is your business address?

24 A. Washington Utility and Transportation

25 Commission, 1300 South Evergreen Park Drive, Southwest

(WILSON - DIRECT BY MS. BROWN)

854

1 Olympia, Washington 98504.

2 Q. What is your position with the Washington
3 Utilities and Transportation Commission?

4 A. I am a utility rate research specialist 3.

5 Q. In preparation for your testimony here
6 today, did you predistribute what's been marked for
7 identification as Exhibit T-65 and Exhibit C-66?

8 A. Yes.

9 Q. Are there any revisions, additions or
10 corrections to either your testimony or exhibit that
11 you care to make?

12 A. Yes. I have one revision to make on page 8
13 to the footnote at the bottom of the page. Delete the
14 words confidential exhibit number TLW-1 and insert
15 the words, Exhibit No. C-4. That would be all the
16 changes.

17 Q. And are these exhibits, including this one
18 amendment, true and correct to the best of your
19 knowledge?

20 A. Yes.

21 Q. Were they prepared by you or under your
22 direction and supervision with the exception of course
23 of your reference to Exhibit C-4?

24 A. Yes.

25 Q. If I were to ask you the questions set forth
(WILSON - DIRECT BY MS. BROWN) 855

1 in Exhibit T-65 today, would your answers be the same?

2 A. Yes.

3 Q. Mr. Wilson, I think you indicated that
4 Exhibit C-66 was either prepared by you or under your
5 direction or supervision. Did you mean to say that?

6 A. No. Thank you. Exhibit C-66 is a Xerox
7 copy of a U S WEST cost study summary sheet that was
8 prepared by U S WEST.

9 MS. BROWN: Your Honor, move the admission
10 of T-65 and Exhibit C-66.

11 JUDGE HAENLE: Any objection, Mr. Harlow?

12 MR. HARLOW: No objection.

13 JUDGE HAENLE: Any objection, Mr. Shaw?

14 MR. SHAW: None.

15 JUDGE HAENLE: T-65 and C-66 will be entered
16 into the record.

17 (Admitted Exhibits T-65 and C-66.)

18 MS. BROWN: Mr. Wilson is available for
19 cross-examination.

20

21 CROSS-EXAMINATION

22 BY MR. HARLOW:

23 Q. Afternoon, Mr. Wilson.

24 A. Good afternoon.

25 Q. What do you understand to be the relief that
(WILSON - CROSS BY HARLOW) 856

1 the complainants are seeking in this proceeding?

2 A. They've made, as I understand it, about 22
3 different allegations.

4 Q. Can you name off 22 of them or some portion
5 of that?

6 JUDGE HAENLE: Was there a question of
7 allegations or a question of what relief was being
8 asked for?

9 Q. Did you understand the question to go to
10 relief? That's what I was asking.

11 A. Well, I don't understand the legal nuances
12 of that question maybe, but it's my understanding that
13 they've made 22 allegations and they're seeking relief
14 on those allegations.

15 Q. Let me rephrase the question. What do you
16 understand that the complainants would like the
17 Commission to do or to include in an order to U S WEST
18 at the conclusion of this proceeding?

19 A. There's a variety of things dealing with
20 their allegations. I am still a little confused on how
21 you want me to answer the question. I can't count off
22 the 22 complaints.

23 Q. You mentioned two possibilities in your
24 testimony. One of them was increasing the local call

25 rate to 35 cents and another one would be lowering the

(WILSON - CROSS BY HARLOW)

857

1 PAL rate?

2 A. Right.

3 Q. Those are two things that I am talking about
4 when I talk about relief or a remedy from the
5 Commission. Does that help you understand the
6 question?

7 A. Those are the two areas that I have
8 addressed in my testimony.

9 Q. I take it you understand, then, that -- or
10 it's your belief that the complainants are seeking that
11 relief of those two items you address in your
12 testimony?

13 A. I understand that those are two things that
14 the parties have raised that might help address some of
15 the association's complaints.

16 Q. Do you have any other understanding as to
17 relief -- and by that I mean the same type thing but
18 again different than the two you mentioned in your
19 testimony -- that the complainants might be seeking?

20 A. Well, yes. There are generally other
21 concerns that they've raised including cross subsidy
22 issues, and competitive behavior issues. They're
23 seeking availability of various technical
24 functionalites, and I believe that their witness Dr.

25 Cornell has asked the Commission to consider

(WILSON - CROSS BY HARLOW)

858

1 deregulating their payphones as CPE. I haven't
2 probably come near to listing all of the complaints
3 your clients have, though.

4 Q. That's what you can think of today?

5 A. Generally, those are areas that come to
6 mind.

7 Q. Out of all the options that you can think of
8 today or you have thought of in the past, the only two
9 that you're not supporting at this time, as I
10 understand it, are lowering the PAL rate or increasing
11 the rate for a local sent paid call; is that correct?

12 A. My testimony is as presented in Exhibit
13 T-65.

14 Q. I'm just trying to clarify the scope of your
15 testimony. Your testimony is not addressing any of the
16 other possible options for relief except those two that
17 I mentioned. Am I interpreting that testimony
18 correctly?

19 A. Perhaps if you review my testimony at page
20 6, line 16 through 20 -- excuse me -- page 6, line 16
21 through page 7, line 15 that would help you understand
22 what my testimony addresses. It's the price of a local
23 call and the PAL line rate.

24 JUDGE HAENLE: To shorten this up some,

25 you're taking no position on any of the other requests

(WILSON - CROSS BY HARLOW)

859

1 by the complaining party?

2 THE WITNESS: That's correct.

3 Q. Thank you. Nevertheless, at page 11 of your
4 testimony, lines 11 through 13, you state that "certain
5 inequities exist or that you do not dispute that
6 certain inequities due to U S WEST behavior exist." Do
7 you see that testimony?

8 A. Yes.

9 COMMISSIONER HEMSTAD: What page is that?

10 MR. HARLOW: Page 11, lines 11 through 13.

11 Q. Do you recall in this case a data request
12 response by U S WEST where U S WEST produced its cost
13 studies relating to billing and collection services?

14 A. Yes.

15 Q. Can you recall if you saw any evidence in
16 those of markups on the order of hundreds of percents?

17 A. I don't recall.

18 Q. I believe you indicated in your deposition
19 that "it may be there are markups like that"?
20 Referring to page 177, line 20 of your deposition.

21 A. Yes.

22 Q. Could markups like that be one of the things
23 that led you to state on page 11 of your testimony that
24 you do not dispute there are certain inequities?

25 A. Yes.

(WILSON - CROSS BY HARLOW)

860

1 Q. Could one of the factors that you might have
2 had in mind when you talk about certain inequities on
3 page 11 of your testimony be the fact of U S WEST
4 payment of compensation or commissions to space
5 providers based on their operator service revenues?

6 A. No.

7 Q. Do you have your deposition transcript
8 handy?

9 A. No, I don't.

10 Q. Do you recall counsel -- I'm referring to
11 page 184, line 24, I asked you the question, "Question:
12 Could one of the factors you have in mind in talking
13 about certain inequities be U S WEST payment of
14 compensation or commissions to site owners based on its
15 operator service revenues?" Do you recall answering:

16 "Answer: Again, here we're getting into my
17 personal opinion. Here it could be yes to the extent
18 we're talking about commission fee payments that are
19 subsidized."

20 Do you recall that?

21 A. Yes.

22 Q. Would your testimony in response to that
23 question be the same today as it was then?

24 A. Yes.

25 Q. Could one of the factors you might have had
(WILSON - CROSS BY HARLOW) 861

1 in mind when you testified in your prefiled testimony
2 about certain inequities be testimony in this case
3 about U S WEST's coin marketing personnel obtaining
4 information from PAL orders and using that information
5 to contact a site owner to try and prevent removal of U
6 S WEST payphone?

7 A. Yes. I indicated so during deposition.
8 However, on further review of the record it's my
9 opinion that those allegations may not be
10 substantiated.

11 Q. If they were substantiated, would you
12 believe that would constitute an inequity?

13 A. Sure.

14 Q. Could one of the things that you had in mind
15 when you testified about certain inequities on page 11
16 of your testimony be the fact that U S WEST has been
17 increasing its site owner commissions over the last few
18 years?

19 A. No.

20 Q. Is that because you don't believe that has
21 taken place?

22 A. No. I think there's been some evidence
23 discussed today that that's taken place. I'm sure that
24 your client's commission fees have increased over time,

25 too.

(WILSON - CROSS BY HARLOW)

862

1 Q. Mr. Shaw asked you when he was taking your
2 deposition about this testimony on page 11, line 11,
3 that you do not dispute that certain inequities due to
4 U S WEST behavior exist. Do you recall Mr. Shaw asking
5 you about that?

6 A. Vaguely. That was several months ago.

7 Q. Actually, you did a pretty good job of
8 recapping it more recently when I took your deposition.
9 I wonder if you could -- you don't have to repeat it
10 exactly but tell us to the best of your recollection
11 what you told Mr. Shaw was the reason that you gave
12 that testimony about certain inequities existing.

13 MR. SHAW: I will object to the form of the
14 question. Counsel is attempting to do a reverse
15 impeachment here. I think the proper way to proceed is
16 to ask the witness the question and then if he says
17 something that is contrary to the deposition then that
18 could be explored, but this is very unusual
19 cross-examination to ask him to repeat what he said in
20 a deposition without the deposition in front of him,
21 not giving him any page reference, line reference, not
22 setting up any foundation that what he said in the
23 deposition even has any relevance.

24 MR. HARLOW: I will rephrase.

25

JUDGE HAENLE: I agree, Mr. Harlow, that

(WILSON - CROSS BY HARLOW)

863

1 asking about a deposition that took place a couple of
2 months ago and what was said that it isn't a very
3 efficient way of doing it.

4 Q. Mr. Wilson, please explain in your own words
5 what you had in mind when you filed the testimony
6 that states "I do not dispute that certain inequities
7 due to U S WEST behavior exist."

8 A. First of all, I said inequities and in my
9 mind that doesn't necessarily mean the same thing to me
10 as anti-competitive. Second, what I had in mind was
11 that U S WEST is big and your clients are typically
12 small. U S WEST is a big local exchange company;
13 they're not. So there are inequities there.

14 Finally, as I recall discussing it with Mr.
15 Shaw, it was my observation based upon visits to
16 several of the Association's member's places of
17 business that they run a fairly lean operation
18 typically and it's surprising to me that they claim
19 that they have difficulty operating effectively in
20 competing against U S WEST when it appears as if they
21 otherwise run their operations pretty efficiently, it
22 looked like to me, not counting what I view as pretty
23 inefficient ways that they operate their finances.

24 Q. Are you completed?

25 A. Yes.

(WILSON - CROSS BY HARLOW)

864

1 Q. You just said a moment ago that you didn't
2 mean that inequities necessarily meant anti-competitive
3 behavior. Do you recall in response to Mr. Shaw's
4 questions some months ago -- this is on page 109 line
5 13 -- part of your answer was "and I think there is
6 probably some truth that there is anti-competitive
7 behaviors exhibited by U S WEST in its provision of
8 services. Problem is, I haven't been able to put my
9 finger on the kind of problems that may exist and so I
10 haven't tried to testify with recommendations on them
11 here. It's a very complex group of problems and I
12 haven't been able to come to good answers about them,
13 but I do think that there is some anti-competitive
14 behavior." Do you recall that testimony?

15 A. That was when who deposed me?

16 Q. Mr. Shaw.

17 A. Yes.

18 Q. And do you recall the follow-up Mr. Shaw
19 asked you, "Why do you think there's anti-competitive
20 behavior?" Do you recall at all the answers you gave
21 to that?

22 A. No.

23 Q. If I refresh your recollection starting on
24 line 25 at page 109, "I suppose we could talk about two

25 reasons. One, the billing and collection arena is one

(WILSON - CROSS BY HARLOW)

865

1 where I think that the company has market power and
2 does not provide its services in a competitive
3 fashion." Do you recall that testimony?

4 A. Yes. Also I was asked about that by you, I
5 think, and somewhere in those deposition transcripts
6 you will find where we talked about the issue of
7 whether U S WEST price discriminates in its provision
8 of billing and collection services -- discriminates
9 against your clients, and I pointed out that that
10 analysis would be very difficult to perform; that all
11 of this was my own personal opinion, beyond the scope
12 of my written testimony; and also that if we looked at
13 the price discrimination issue it could be that no
14 discrimination does exist if you consider that billing
15 and collection is a service that is subject to a lot of
16 economies of scale.

17 Q. So from the limitations you just mentioned I
18 take it you haven't formed an opinion one way or the
19 other on the discrimination issue, is that correct --
20 with regard to billing and correction?

21 A. Right.

22 Q. I understand another thing that led you to
23 conclude that U S WEST behavior had caused inequities
24 to

25 exist was listening to Mr. Colson and Dr. Cornell

(WILSON - CROSS BY HARLOW)

866

1 testify in this case?

2 A. Those raised suspicions in my mind, I think
3 I said.

4 Q. Given that you believe certain inequities
5 exist, could you concede that there might be some
6 relief that this Commission could offer that would not
7 go against your two recommendations in your prefiled
8 testimony but might help alleviate the inequities that
9 you cite?

10 A. I don't know. That goes beyond the scope of
11 my direct testimony.

12 Q. Well, as a general matter would you support
13 efforts that don't jeopardize the universal effort that
14 would eliminate or alleviate inequities that you
15 perceive?

16 A. Yes.

17 Q. I understand that you do not disagree with
18 Dr. Cornell's or Mr. Lanksbury's conclusions, or Mr.
19 Lanksbury's original conclusion rather, that U S WEST
20 payphones rates are below cost on an imputation basis?

21 A. I don't know what you base that
22 understanding on.

23 Q. I base that on your deposition as well as
24 your Exhibit 68.

25 question do you agree? Depositions are not evidence.

(WILSON - CROSS BY HARLOW)

868

1 They are not even relevant unless the witness
2 contradicts themselves.

3 JUDGE HAENLE: I agree, Mr. Harlow.

4 Q. Do you agree that it is appropriate to
5 impute screening and Answer Supervision - Line Side
6 rates as a cost?

7 A. If those are in fact costs that your clients
8 must pay in U S WEST tariff, yes.

9 Q. Do you agree that it is appropriate to
10 impute E 911, TDD and telephone assistance program
11 taxes as well?

12 A. Yes.

13 Q. At the bottom of page 11 of your testimony,
14 specifically line 20, you talk about public access line
15 rates being set "correctly." Can you please explain
16 for the record what you mean by correctly?

17 A. Fair, just, reasonable and sufficient.

18 Q. Is there any evidence in this record that
19 you've seen that the PAL rate is not sufficient?

20 A. Well, the evidence that I relied on was the
21 Commission's orders approving that rate.

22 Q. Let's talk about those orders. I assume
23 you're talking about the orders in docket No. -- cause
24 No. U-85-91 and docket No. UT-900957?

25 A. Right. I've cited those at the bottom of
 (WILSON - CROSS BY HARLOW)

869

1 page 11 in that footnote.

2 Q. You use those as your benchmark for
3 determining in your opinion that PAL rates are --
4 excuse me -- that there's no evidence that PAL rates
5 are not set correctly?

6 A. I used those for the basis of my opinion
7 that they are set correctly. And I am unaware of any
8 evidence presented in this case that says they're not.

9 Q. You had available to you evidence in this
10 case of the cost to U S WEST of providing public access
11 line service; is that correct?

12 A. Yes, I have.

13 Q. And do you know that the rates are above
14 costs; is that correct?

15 A. Long run incremental cost estimate provided
16 by U S WEST, that's right.

17 Q. Do you know how much above cost?

18 A. Yes. It depends on assumptions concerning
19 how many local or how many messages are processed.

20 Q. At the time I took your deposition you
21 didn't know the answer to that, but I see you have some
22 kind of document in front of you today. Are you using
23 that to assist you in answering these questions?

24 A. Yes.

25 Q. Could you please identify the document for
(WILSON - CROSS BY HARLOW) 870

1 the record.

2 A. It's a Washington public access line cost
3 study dated in September 1992, which I received as a
4 copy to staff of part of a U S WEST response to one of
5 your interrogatories.

6 Q. Do you know if that document is an exhibit
7 in this record?

8 A. I don't know, I don't believe so.

9 MR. HARLOW: Who keeps the record copies of
10 confidential exhibits?

11 JUDGE HAENLE: I do.

12 MR. HARLOW: I would like the witness to be
13 able to review C-42 and see if that's the same document
14 he's looking at.

15 JUDGE HAENLE: Here it is, Mr. Harlow. Be
16 sure I get it back, please.

17 MR. HARLOW: Thank you, Your Honor.

18 Q. Is Exhibit C-42 the same document you were
19 looking at?

20 A. Yes.

21 Q. Do you have any opinion as to what an
22 appropriate mark-up in terms of percentage over cost
23 is for public access line service?

24 MS. BROWN: I will object, Your Honor. I

25 think this is clearly beyond the scope of Mr. Wilson's

(WILSON - CROSS BY HARLOW)

871

1 testimony.

2 JUDGE HAENLE: Mr. Harlow.

3 MR. HARLOW: Well, Mr. Wilson has testified
4 that he believes that the PAL rate is set correctly and
5 I am entitled to cross on the basis for that testimony,
6 and he has available to him and took up with him to the
7 stand the cost study and has had that available to him
8 in preparing his direct testimony.

9 JUDGE HAENLE: Ms. Brown.

10 MS. BROWN: Mr. Wilson has already stated
11 the basis for his testimony that it is his opinion and
12 belief that the PAL rate is set correctly. In fact,
13 the basis in support for that testimony appears at the
14 bottom of page 11 as indicated by Mr. Wilson, the cause
15 number and docket number which appear in footnote 4.

16 JUDGE HAENLE: Well, I am caught in a bit of
17 bind here. Mr. Wilson's testimony is indeed quite
18 narrow, and I think the Commission in looking it over
19 has expressed some frustration at how narrow the
20 testimony is, that it really addresses only a couple of
21 the issues in this matter. I don't think your question
22 is necessary in order to determine the basis of
23 Mr. Wilson's opinion about whether PAL rates are
24 reasonable or not, but on the other hand, as I say, he

25 doesn't address a good many issues in this case. So I

(WILSON - CROSS BY HARLOW)

872

1 will sustain the objection, but express some
2 frustration at the narrowness of the testimony.

3 Q. Let's talk about those two docket numbers
4 that we identified on the record and/or identified in
5 footnote 4 of your testimony. The first one, docket
6 No. or rather Cause No. U-85-91, I understand you were
7 not involved and did not participate in the docket; is
8 that correct?

9 A. Yes.

10 Q. Did you review the order in that docket
11 before prefiling your testimony to determine what
12 evidence was presented to the Commission to support the
13 rates that were approved in that proceeding?

14 A. I looked at the order that I've cited.

15 Q. Did the order include the cost studies and
16 other evidence that might have been filed in support of
17 that order?

18 A. I don't recall. I don't believe so.

19 Q. Were you involved in the other docket,
20 UT-900957?

21 A. No.

22 Q. Did you review the order in that record or
23 anything other than the order in that docket?

24 A. I reviewed what we had in our files which

25 was the filing, the staff backup memorandum, and I

(WILSON - CROSS BY HARLOW)

873

1 think that's all there was.

2 Q. Do you recall if there was a cost study
3 included in that file?

4 A. No, I don't.

5 Q. Do you know if the Northwest Payphone
6 Association participated in either of those two
7 dockets?

8 A. I think they did.

9 Q. But you don't know for sure?

10 A. No.

11 Q. Do you know if the association or any of its
12 members had access to any cost data that U S WEST might
13 have submitted in either of those dockets that showed
14 the underlying costs of providing public access lines
15 service?

16 A. With regard to cause No. U-85-91, I don't
17 know. With regard to docket No. UT-900957, I don't
18 think they would have because that filing was approved
19 at a Wednesday morning meeting and my experience has
20 been that typically intervening parties do not receive
21 the opportunity to review cost studies in matters that
22 are decided at a Wednesday morning meeting.

23 Q. You did have a copy of Exhibit C-42
24 available to you when you prepared your prefiled

25 testimony in this case; is that correct?

(WILSON - CROSS BY HARLOW)

874

1 A. That was the public access line summary of
2 costs?

3 Q. Right. It's the document that's sitting in
4 front of you still.

5 A. Yes.

6 Q. And in reviewing that data I understand that
7 it did not strike you as being an unreasonably high
8 mark-up. Is that correct or not?

9 A. I didn't have that in mind when I wrote my
10 testimony at page 11.

11 Q. So you just simply didn't think about costs
12 of the service when you concluded that there was no
13 evidence that the PAL service is not appropriately
14 priced -- or correctly priced, to use your terminology?

15 A. When I wrote my testimony, which I filed
16 March 15, what I thought about was the Commission
17 orders that had approved the rate.

18 Q. So the answer would be, no, you didn't think
19 about the costs of the service?

20 A. Not at that time, no.

21 Q. Looking at page 10 of your testimony, lines
22 10 to 16, you talk about the extra cost of collecting
23 coins if the Commission should order or allow U S WEST
24 to raise its local call rate. Do you see that

25 testimony?

(WILSON - CROSS BY HARLOW)

875

1 A. Yes.

2 Q. I understand you have done no analysis of
3 how much faster the coin boxes would fill up if rates
4 were raised?

5 A. That's right.

6 Q. And you haven't done any analysis as to how
7 frequently U S WEST collects their coins now?

8 A. That's right.

9 Q. It would of course depend on the location,
10 would it not?

11 A. I imagine so.

12 Q. And you haven't done any analysis of which
13 location fills up at which rate or how frequently U S
14 WEST would have to collect coins at various locations?

15 A. That's right.

16 Q. Have you done any analysis of how much it
17 will cost to collect the coins if the rates are
18 increased?

19 A. No.

20 Q. So you can't quantify in any way the
21 additional cost of coin boxes filling up faster; is
22 that correct?

23 A. That's right.

24 Q. Do you recall testifying in your prefilled

25 testimony about the gross profits of competitive

(WILSON - CROSS BY HARLOW)

876

1 payphone providers? And I believe that's on pages 10
2 and 11.

3 A. Yes.

4 Q. Please explain to me how you calculated the
5 gross profit of 316 percent.

6 A. I divided the tariff rate per message over
7 300, which is 6 cents by 25 cents, and I subtracted 1
8 from the answer.

9 Q. So you basically looked at what the payment
10 would be at a competitive payphone provider to U S WEST
11 for the 301st call on a competitive payphone; is that
12 correct?

13 A. Just for that call.

14 Q. So because the 301st call, that's the first
15 time they pay the metered rate of 6 cents per call; is
16 that right?

17 A. That's what U S WEST's tariff says.

18 Q. You didn't look at the whole operation of
19 the payphone; is that correct?

20 A. That's right.

21 Q. And you didn't address in giving that
22 percentage figure the flat charge which is about \$28.20
23 in most instances; is that correct?

24 A. That's right.

25 Q. Would you agree that the competitive

(WILSON - CROSS BY HARLOW)

877

1 payphone provider is going to have to pay U S WEST a
2 lot more than 6 cents to U S WEST for the 301 calls in
3 a month?

4 A. I don't know what you mean by a lot more.
5 They have to pay the \$28 or so for the PAL service.

6 Q. And they also have to pay \$28 for screening?

7 A. That's an option.

8 Q. And they may also have to pay \$3.95 for
9 Answer Supervision - Line Side?

10 A. If I am correct that's also an option.

11 Q. And until a rate increase they would have to
12 pay \$4.09 for the subscriber line charge?

13 A. That's the federal charge.

14 Q. That's right. And user common line charge
15 FCC?

16 A. Yes.

17 Q. And they would also have to pay, using King
18 County as an example, a 70 cent 911 tax?

19 A. That's right, but they're getting 300 free
20 calls with that that they sell for a quarter which
21 amounts to nearly \$80.

22 Q. We're getting to that, Tom. They would also
23 have to pay a 10 cent TDD tax to U S WEST; isn't that
24 correct?

25 MR. SHAW: Objection to the form of the

(WILSON - CROSS BY HARLOW)

878

1 question. No one pays any taxes to U S WEST.

2 JUDGE HAENLE: Mr. Harlow.

3 MR. HARLOW: Well, I think this is splitting
4 hairs, Your Honor. I mean, it's a cost associated with
5 an access line and if the public access line
6 subscribers are going to have their access line they
7 have to remit 70 cents to U S WEST for 911 and 10 cents
8 for TDD or they're not going to be able to have that
9 service. If you want me to rephrase it I will, but I
10 really think it's splitting hairs.

11 MR. SHAW: Your Honor, I don't think it's
12 splitting hairs. The legislature of the state of
13 Washington has in its wisdom imposed taxes on the
14 populace of the state of Washington and has nominated U
15 S WEST as the collection agent just like every other
16 business that the state does sales taxes, for instance,
17 so it is totally inappropriate to say that U S WEST
18 levies taxes on its competitors.

19 JUDGE HAENLE: Because we're talking about
20 costs of doing business and using costs in a more
21 technical sense, would you rephrase it, please.

22 Q. The competitive payphone provider is also
23 going to have to remit 10 cents to U S WEST for the TDD
24 tax; is that correct?

25 A. That's my understanding.

(WILSON - CROSS BY HARLOW)

879

1 Q. And it will also have to remit 5 cents on
2 the public access line for the telephone assistance
3 program?

4 A. Yes. The 10 cents and the 5 cents, I don't
5 know that those are exactly correct but I will take
6 your word for it.

7 Q. Would you accept subject to check that all
8 of those things add up to a little over \$40 per month
9 per public access line?

10 A. All right.

11 Q. And the revenue for that phone producing 301
12 local calls would be 301 times 25 cents. Will you
13 accept subject to check that that's \$75.25?

14 A. All right.

15 Q. Would you accept subject to check that the
16 mark-up on that assumption -- in other words, comparing
17 \$40 to the \$75 -- is less than a third of what you
18 calculated in your prefiled testimony?

19 A. Yes. Of course we haven't figured in any of
20 the commission fee payments from AOS or resale of toll
21 calls, et cetera.

22 Q. Right. But you didn't intend to figure
23 those into your prefiled testimony either, did you?

24 A. My prefiled testimony only addressed that

25 301st call where they selected a quarter and paid 6

(WILSON - CROSS BY HARLOW)

880

1 cents.

2 Q. You also didn't figure into your prefiled
3 testimony the other costs that the competitive payphone
4 providers bear; is that correct?

5 A. That's right.

6 Q. And you haven't studied them; is that
7 correct?

8 A. Could you narrow down that question for me,
9 please.

10 Q. Well, I guess what I am getting at is,
11 you've indicated a mark-up on the basis of the 301st
12 call only and what I am trying to illustrate is there
13 are other costs that are borne; is that correct?

14 A. I am sure there are.

15 Q. And so in your prefiled testimony when you
16 come up with 316 percent you've left out a whole bunch
17 of revenues and you've left out a whole bunch of
18 costs; isn't that correct?

19 A. Yes. I'm just trying to address the issue
20 from the consumer's viewpoint and I am concerned that
21 the consumer sees a public interest in maintaining the
22 price of a local call at a quarter.

23 Q. But you haven't analyzed the industry
24 overall, is that correct, costs versus revenues?

25 A. The payphone industry?

(WILSON - CROSS BY HARLOW)

881

1 Q. That's right, the competitive payphone
2 industry.

3 A. Well, I've been working on payphone and AOS
4 issues for several years. I don't know that it's
5 fair to say that I haven't analyzed them. I have not
6 presented testimony in this case on that issue.

7 Q. And you haven't presented testimony in this
8 case as to what level of revenues is needed for the
9 competitive payphone industry to be profitable?

10 A. Could you repeat that question, please.

11 Q. You haven't presented any testimony in this
12 case on what level of revenues is necessary for the
13 competitive payphone industry to be profitable?

14 A. That's right.

15 Q. You're the staff witness in the
16 International Pacific complaint case; is that correct?

17 A. You're referring to the case concerning
18 their rates?

19 Q. That's correct.

20 A. I am one of the witnesses.

21 Q. And the staff in that case is contending
22 that the rates of International Pacific are
23 unreasonably high?

24 A. Absolutely.

25 Q. If the staff's position is adopted in that

(WILSON - CROSS BY HARLOW)

882

1 case and if the staff follows suit with other operator
2 service providers and the staff is successful in
3 getting those rates reduced, do you believe that will
4 have an impact on the revenue earning potential of the
5 competitive payphone providers?

6 MS. BROWN: I will object, Your Honor. I
7 think this is clearly beyond the scope of Mr. Wilson's
8 testimony. It's clear that staff after consideration
9 decided to express opinions with regard to some of the
10 issues raised in the Northwest Payphone Association
11 complaint and not at all on others, in fact, decided to
12 remain neutral on others. In light of the fact that
13 Mr. Wilson just testified that he has made no analysis
14 of the profitability as that term was used by Mr.
15 Harlow, I don't think that in the International Pacific
16 complaint, overearnings complaint case is relevant or
17 that Mr. Wilson has any new response to offer on that
18 question.

19 JUDGE HAENLE: Mr. Harlow.

20 MR. HARLOW: I understand what Mr. Wilson is
21 trying to do here, but when he comes out with a
22 statement in his testimony that says in effect that the
23 competitive payphone providers are realizing a profit
24 in excess of 300 percent, I think I am entitled to a

25 substantial amount of leeway on my cross to demonstrate

(WILSON - CROSS BY HARLOW)

883

1 the lack of foundation for that statement, the limited
2 scope of that statement and really I think the lack of
3 relevance to this proceeding. And all I am trying to
4 do is simply illustrate Mr. Wilson's testimony really
5 has no relevance and I think that's what this cross
6 goes to.

7 JUDGE HAENLE: I'm going to overrule the
8 objection. I think that not only goes beyond the scope
9 of his testimony, it also goes beyond the scope of the
10 case and I think it's also speculative.

11 MR. HARLOW: You said you were overruling.
12 Did you mean you're sustaining?

13 JUDGE HAENLE: Yes, that's what I mean.

14 MS. BROWN: Am I overruled or sustained?

15 JUDGE HAENLE: You win. I do not feel that
16 the question was appropriate. I think it goes beyond
17 the scope of this case as well as his testimony, so
18 whichever way that comes out. You don't have to answer
19 the question, Mr. Wilson. Let's go on. That's a bad
20 sign. It must be getting late.

21 Q. Mr. Wilson, would you agree that 300 --
22 would you agree that 301 local calls per month is not
23 sufficient to support a payphone at the current local
24 call rate without additional revenues, if you know?

25 A. Well, if I am not mistaken you just asked me

(WILSON - CROSS BY HARLOW)

884

1 to accept subject to check that the revenue for 301
2 calls would be \$75.25 and then you asked me to accept
3 subject to check that the PAL rate, the Answer
4 Supervision - Line rate, all the taxes, et cetera,
5 added up to \$40. I think that that says right there
6 that it's a money making venture.

7 Q. I'm asking you to take into account the
8 other costs that are borne by competitive payphone
9 providers as well as U S WEST. Perhaps if you took a
10 look at Exhibit 66 and examined some of the other costs
11 that are involved. In particular the costs for
12 terminal equipment, the costs for commission, the costs
13 for coin collection?

14 A. I don't know what your clients expenses
15 would be for sales force or advertising or so forth.

16 Q. Would you agree that it would not be in the
17 public interest to only have payphones located at sites
18 that generate 300 or more local calls per month?

19 A. Quite possibly, yes.

20 MR. HARLOW: Thank you, Mr. Wilson. I have
21 no further questions at this time.

22 JUDGE HAENLE: Mr. Shaw.

23

24 CROSS-EXAMINATION

25 BY MR. SHAW:

(WILSON - CROSS BY SHAW)

885

1 Q. Mr. Wilson, from one of your previous
2 answers to the effect that you have worked on a lot of
3 payphone and AOS cases for the Commission, is it safe
4 to assume that if not the expert you're one of the
5 Commission staff experts on issues associated with
6 payphones and AOS's?

7 A. Yes. By golly, I think I need a raise for
8 that, too.

9 Q. I will second that. I would like to ask you
10 a few general questions about the payphone business in
11 the state of Washington as regulated by this
12 Commission. Would you agree that local exchange
13 companies in the state of Washington are expected to
14 provide payphone service as part of their obligation
15 to serve in their exchange areas on file in the form of
16 maps with this Commission?

17 A. That goes beyond the scope of my testimony
18 here.

19 Q. I believe your testimony refers -- strike
20 that -- gives your opinion that the Commission should
21 not change PAL or coin phone rates in the interest of
22 universal service considerations; is that correct?

23 A. With regard to the --

24 Q. LEC payphones?

25 A. -- local charge of a quarter especially,

(WILSON - CROSS BY SHAW)

886

1 yes.

2 Q. So I take it from that opinion testimony

3 that you believe that payphone service supplied by

4 local exchange companies has some attributes of

5 universal service to the people in the state of

6 Washington?

7 A. Yes.

8 Q. Is it one of the predominant goals of this

9 Commission to assure universal service in its

10 regulation of telecommunications companies in the state

11 of Washington?

12 A. That's my understanding, yes.

13 Q. Is the provision of pay telephone service to

14 the public by local exchange companies in partial

15 fulfillment of that obligation to provide universal

16 service?

17 A. The staff believes so, yes.

18 Q. I take it from that answer that if U S WEST

19 filed to withdraw from the provision of payphone

20 service either in part or in whole in the territories

21 it serves in the state of Washington that the staff

22 would likely oppose that?

23 A. Well, that's a question that I haven't

24 received any approval to answer on behalf of staff. I

25 think that you could probably surmise that from our

(WILSON - CROSS BY SHAW)

887

1 position that the availability of affordable payphone
2 service is in the public interest.

3 Q. And the Commission has adopted a whole
4 series of rules contained in the Washington
5 Administrative Code directed to the provision of
6 payphone service by local exchange companies; is that
7 correct?

8 A. Yes.

9 Q. Have local exchange companies, to your
10 knowledge, in the state of Washington always provided
11 public payphone service as part of their obligation to
12 serve?

13 A. I don't know if they provided it in response
14 to an obligation to serve. I imagine they have
15 provided it since payphones were available to them.

16 Q. Do you recall Mr. Lanksbury's testimony to
17 the effect that U S WEST or its predecessor companies
18 provided payphone services as long ago as the 19th
19 century?

20 A. Right. I think he also said that U S WEST
21 does that also to make money.

22 Q. Are you familiar with the history of
23 payphone rate making in the state of Washington?

24 A. Not in detail, no.

25 Q. Do you understand that for many years the

(WILSON - CROSS BY SHAW)

888

1 cost of a payphone was a dime and this Commission after
2 a long proceeding did permit it to be raised to 15
3 cents back in the mid 70's?

4 A. I will accept that subject to check.

5 Q. It stayed at 15 cents until the mid 80's
6 when it was allowed to be raised to a quarter?

7 A. I will accept that subject to check.

8 Q. And in all cases the concern of the
9 Commission has been to assure that the service is
10 affordable in furtherance of universal service
11 considerations notwithstanding the cost study that the
12 company produced to show that the price of service was
13 inadequate to recover those costs?

14 A. I wasn't here then and I haven't reviewed
15 anything, but that sounds reasonable to me.

16 Q. And that the price of payphone service has
17 always been considered a sensitive matter by this
18 Commission and it's always been reluctant to raise the
19 price of payphone service for local exchange companies?

20 MS. BROWN: I am going to object, Your
21 Honor. I think Mr. Shaw is testifying. Mr. Wilson has
22 already indicated that he doesn't have sufficient
23 detail of the history of the payphone rate making of
24 the state and Mr. Shaw is purporting to represent the

25 Commission's concerns regarding the increase in rates

(WILSON - CROSS BY SHAW)

889

1 and the affordability of the call. I think there
2 is simply a lack of foundation and that Mr. Shaw should
3 not be permitted to testify.

4 JUDGE HAENLE: Mr. Shaw.

5 MR. SHAW: Well, Your Honor, this is
6 cross-examination. The witness did say that he was
7 familiar to some degree with the history of payphone
8 service regulation in this state and I am simply asking
9 him to agree or disagree with statements of fact. If
10 he disagrees with me he can say so; if he doesn't know
11 he can say so.

12 JUDGE HAENLE: I will sustain the objection.
13 Because the witness has also indicated he's not
14 familiar with the reasons the Commission did what they
15 did because he wasn't here, I don't feel that those are
16 appropriate questions since the witness has indicated
17 he doesn't have any basis on which to answer them.

18 Q. Has the provision of payphone service been
19 considered -- the provision of customer premises --
20 equipment by this Commission?

21 A. I don't think so.

22 Q. Are you familiar with the FCC decision
23 that's been referenced earlier in testimony today in
24 1984 to classify nonLEC payphones as CPE?

25 A. I am not familiar with that decision.

(WILSON - CROSS BY SHAW)

890

1 Q. Are you familiar with the position of this
2 Commission and its association, National Association of
3 Regulatory Utility Commissioners, NARUC, in regard to
4 whether or not LEC payphone should be classified as
5 CPE?

6 A. No.

7 Q. Are you familiar with the requirement by the
8 FCC that nonLEC payphones be allowed if they're
9 registered properly with the Commission to be connected
10 to the interstate telephone network?

11 A. Yes.

12 Q. Do you understand that that is a requirement
13 of the FCC on U S WEST and all other local exchange
14 companies?

15 A. Yes.

16 Q. Is there a like requirement by this
17 Commission to permit -- strike that -- to require the
18 connection of nonLEC payphones for the intrastate
19 network?

20 A. No.

21 Q. And in fact some local exchange companies in
22 the state of Washington do not provide such access; is
23 that correct?

24 A. Yes.

25 Q. Does this Commission require a nonLEC

(WILSON - CROSS BY SHAW)

891

1 payphone provider to register as a telecommunications
2 company to do business in the state of Washington, file
3 tariffs and/or price lists with this Commission?

4 A. My understanding the Commission implements
5 the statutory registration requirement.

6 Q. What do you understand that registration
7 requirement to be?

8 MR. HARLOW: I will object to the extent it
9 calls for a legal conclusion.

10 MS. BROWN: Concur in the objection.

11 MR. SHAW: Just his understanding.

12 JUDGE HAENLE: I will allow the witness to
13 answer with the understanding that he's not an
14 attorney. Just what do you understand it to be,
15 Mr. Wilson?

16 A. With regard to nonLEC payphone providers?

17 Q. Yes.

18 A. I have a personal understanding about that
19 but I don't have a staff position on that. My
20 understanding is that they would fit the definition of
21 a telecommunications company.

22 Q. And therefore are required by law to
23 register as telecommunications companies with this
24 Commission.

25 MR. HARLOW: Again, object except to the

(WILSON - CROSS BY SHAW)

892

1 extent he's not calling for a legal conclusion.

2 JUDGE HAENLE: Well, I will understand it
3 not to be calling for a legal conclusion. If this
4 witness has an understanding. This witness is not one
5 of the people within the Commission, as I understand,
6 who's authorized to provide legal advice to anyone. Go
7 ahead, Mr. Wilson.

8 A. Could you rephrase the question, please --

9 Q. Sure?

10 A. -- or restate it.

11 Q. From your understanding that nonLEC payphone
12 providers are telecommunications companies, do you
13 understand that they are required, then, by law to
14 register as telecommunications companies and file
15 tariffs?

16 A. Yes.

17 Q. It's true that these complainants, other
18 than the combined AOS and payphone providers, are not
19 registered with this Commission, correct?

20 A. Some of them are; some of them aren't.

21 Q. Digital Access Communications Corporation is
22 not?

23 A. Right.

24 Q. NCS Telworks Communications Company is

25 not?

(WILSON - CROSS BY SHAW)

893

1 A. Correct.

2 Q. Paytel is?

3 A. Yes.

4 Q. Public Communications of America is or is
5 not?

6 A. They are not registered.

7 Q. Have you examined the list of the membership
8 of the Northwest Payphone Association introduced in
9 this proceeding?

10 A. No.

11 Q. Do you know how many members of that
12 association are registered?

13 A. Not off the top of my head. It's about a
14 half a dozen.

15 Q. Out of how many; do you know?

16 A. I don't know.

17 Q. Do you as one of the staff experts on pay
18 telephone issues consider a nonLEC payphone
19 provider that doesn't provide AOS services to be a
20 customer of U S WEST or a connecting carrier?

21 MS. BROWN: I am going to object to this
22 question as beyond the scope of the witness' testimony.
23 His testimony is limited to the PAL rate and the coin
24 box rate and Mr. Shaw's question doesn't have anything

25 to do with either.

(WILSON - CROSS BY SHAW)

894

1 JUDGE HAENLE: Mr. Shaw?

2 MR. HARLOW: I agree with the objection and
3 additionally I would object to the extent it calls for
4 a legal conclusion.

5 MR. SHAW: Well, it does have direct
6 relevance to Mr. Wilson's testimony because he has
7 given his opinion about what should be done or not be
8 done to the PAL rate in this state, and relevant to
9 what should or should not be done to the PAL rate is
10 the categorization by the staff of this Commission of
11 the user of that rate. If they're in the nature of the
12 access charges, if they're a customer they're just
13 simply business charges like Boeing or anybody else.
14 And so that question is prepatory to exploring
15 Mr. Wilson's opinion on why the PAL rate should not be
16 changed.

17 JUDGE HAENLE: I am going to sustain the
18 objection. I feel it goes far beyond what would be
19 necessary to ask those questions. I think it goes way
20 beyond his testimony. Actually we're getting to the
21 point at which we're going to break for the afternoon
22 as well. I assume you have substantial additional
23 questions.

24 MR. SHAW: More than 15 minutes but not a

25 lot more.

(WILSON - CROSS BY SHAW)

895

1 JUDGE HAENLE: It's my understanding that
2 the witness has some prior commitment that would cause
3 him to need to leave in a few minutes. Is this a good
4 time to break?

5 MR. SHAW: Be fine.

6 JUDGE HAENLE: We'll break at this time then
7 and begin at 9:00 in the morning. Continue with Mr.
8 Shaw's cross-examination.

9 (Hearing adjourned at 4:40 p.m.)

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