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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of VERIZON COMMUNICATIONS, INC. AND MCI, INC. For Approval of Agreement and Plan of Merger.

)
)Docket UT-050814
)Volume VI
)Pages 344-627
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A hearing in the above-entitled matter was held at 9:04 a.m. on Tuesday, November 2, 2005, at 1300 South Evergreen Park Drive, S.W., Olympia, Washington, before Administrative Law Judge C. ROBERT WALLIS, Chairman MARK SIDRAN, Commissioner PATRICK OSHIE and Commissioner PHILIP JONES.

The parties present were as follows:

VERIZON NORTHWEST, INC., by Judith Endejan, Attorney at Law, Graham and Dunn, P.C., Pier 70, 2801 Alaskan Way, Suite 300, Seattle, Washington 98121; Charles H. Carrathers, Vice President and General Counsel, 600 Hidden Ridge, Irving, Texas 75038; Henry Weissmann, Munger, Tolles & Olson, LLP, 355 S. Grand Avenue, 35th Floor, Los Angeles, California 90071.

PUBLIC COUNSEL, by Simon ffitch, Assistant Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164.

Barbara L. Nelson, CCR
Court Reporter

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1 COMMISSION STAFF, by Jonathan Thompson,
2 Assistant Attorney General, 1400 S.W. Evergreen Park
3 Drive, S.W., P.O. Box 40128, Olympia, Washington
4 98504-0128.

5 XO COMMUNICATIONS SERVICES, INC., by
6 Gregory J. Kopta, Attorney at Law, Davis, Wright,
7 Tremaine, LLP, 2600 Century Square, 1501 Fourth
8 Avenue, Seattle, Washington 98101.

9 MCI, INC., by Michel Singer Nelson,
10 Attorney at Law, 707 17th Street, Suite 4200, Denver,
11 Colorado 80202, and Arthur A. Butler, Attorney at
12 Law, Ater Wynne, Two Union Square, 601 Union Street,
13 Seattle, Washington 98101.

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1 JUDGE WALLIS: Let's be on the record,
2 please. This is the November 2, 2005 session in the
3 matter of Commission Docket UT-050814.

4 Before we proceed, I would like formally to
5 admit to the record the pre-filed exhibits that were
6 presented for witness Julie A. Canny, on behalf of
7 the Petitioners. Those are 96T-C, 97, and 98. Ms.
8 Canny's testimony was presented in response to the
9 testimony of Mr. Koenders' presentation, pre-filed
10 presentation. He is Integra's witness, and presented
11 a statement in support of the proposed multi-party
12 settlement.

13 I would also like to acknowledge the
14 distribution to the record, to the parties, and to
15 the bench of three documents, which were discussed
16 yesterday. Those are Exhibits 74, 75, and 49-C. We
17 have received those.

18 When we concluded yesterday's session at
19 about 5:00 last night, Mr. ffitch was in the process
20 of conducting cross-examination of Mr. Smith, so we
21 are prepared to take up with that. Mr. Smith, I
22 would merely note for the record that you have
23 previously been sworn, and Mr. ffitch, you may
24 continue your examination at this point.

25 MR. FFITCH: Thank you, Your Honor.

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1 Whereupon,

2 STEPHEN SMITH,

3 having been previously duly sworn, was recalled as a

4 witness herein and was examined and testified as

5 follows:

6

7 C R O S S - E X A M I N A T I O N (CONTINUING)

8 BY MR. FFITCH:

9 Q. Good morning, Mr. Smith.

10 A. Good morning, Mr. ffitch.

11 Q. Could you please turn to your rebuttal
12 testimony, Exhibit 86, Exhibit 86-HC, page three,
13 please? And most of my questions this morning I
14 think are going to relate to the synergies
15 calculation, so we'll start out with some wonderful
16 analytical stuff first thing in the morning here
17 while we're at least potentially awake.

18 Could you look at line three -- did I say
19 page three? I'm sorry, page 12 of your testimony, at
20 line three.

21 JUDGE WALLIS: Mr. ffitch, could you
22 identify the exhibit number of the testimony?

23 MR. FFITCH: Exhibit 86-HC.

24 Q. And there's a question that begins there.
25 Beginning with that question, you're essentially

0352

1 stating there, Mr. Smith, that Mr. King, Public
2 Counsel witness Mr. King is wrong to attribute MCI
3 savings to Verizon, because the synergies realized
4 through the combination of Verizon and MCI will be
5 realized at the national level. Is that a reasonable
6 summary of your position?

7 A. Before I answer, sir, my line three is
8 blank. Line four is -- starts with the question, Why
9 is it incorrect. Are we on the same spot?

10 Q. Yes.

11 A. I'm sorry.

12 Q. Let's use line four as the reference.

13 You're correct.

14 A. I'm sorry. Could you -- I did hear the
15 question. Would you mind --

16 Q. Repeating?

17 A. -- repeating, if you wouldn't mind.

18 Q. Sure. You state that Mr. King is wrong to
19 attribute MCI's savings to Verizon because the
20 synergies realized through the combination of Verizon
21 and MCI will be realized at the national level. Is
22 that a reasonable summary of your position?

23 A. Can you cite the reference to the national
24 level? I just don't see that.

25 Q. Well, is that a reasonable summary of your

0353

1 position? It may not be specifically stated in those
2 particular words here in this particular Q and A, but
3 --

4 A. I think the point that I was trying to make
5 was that we believe that MCI should not be included
6 in the analysis, because MCI delivers its services
7 into a highly competitive market. We believe that
8 that -- the competition in that market is an
9 effective market force to compel the company to
10 deliver very competitive pricing, to develop and
11 deliver new services, to continue to invest in its
12 network and to maintain quality and improve quality
13 of service.

14 We believe those forces are sufficient to,
15 you know, compel MCI to return to the market with the
16 synergies and benefits that will be realized through
17 this combination.

18 In addition, MCI is not rate-regulated today
19 in the state of Washington. That was the point I was
20 trying to make in this response.

21 Q. Right. Well, if I'm interpreting what
22 you're saying correctly, I would assume that some of
23 those benefits would be passed on to customers in the
24 form of lower prices?

25 A. That may be true, yes.

0354

1 Q. Well --

2 A. Certainly very competitive prices.

3 Q. Lower prices for MCI?

4 A. Lower prices for services to enterprise
5 customers.

6 Q. By MCI?

7 A. Principally by MCI.

8 Q. But not to past market customers by MCI?

9 A. Our expectation is that this combination is
10 really about building up the enterprise business of
11 MCI, and our expectation is that that is really where
12 the opportunity for the customers to fully benefit,
13 that really is what this transaction is primarily
14 about, and we think that that really is where the
15 majority of the synergy opportunity will accrue.

16 As we pointed out in other testimony, we do
17 believe that there will be effective pull-through
18 benefits to mid-market, and as we also indicated, the
19 investment that we will make in the MCI network will
20 enable Verizon, on the mass market side, to connect
21 its fiber and other networks to the MCI network,
22 which is used by residential customers, and therefore
23 they will realize improved service.

24 Q. You used a term there -- I'm not quite sure
25 I heard you. Did you say flow-through or

0355

1 pull-through benefits?

2 A. I may have. The idea here is this is --
3 this is -- I hate to be repetitive. We believe this
4 transaction, it was -- is really intended to build
5 the MCI enterprise business. The service suite that
6 MCI offers to its enterprise customers we believe has
7 application into the mid-market. It's our
8 expectation that together the companies can bring
9 some of those high-end applications down into the
10 mid-market so there will be opportunities there for
11 mid-market customers, small business customers to
12 enjoy many of the enhanced services. The, you know,
13 hosting, the security services and others that begin
14 in the enterprise market will move into the
15 mid-market. And those were really where the -- the
16 principal revenue opportunities that we see from the
17 merger.

18 Q. All right. But it sounds like those
19 benefits will not enure to anything below the
20 mid-market, to the small business or residential
21 customer?

22 A. The analysis that we performed identified
23 revenue opportunities in -- new revenue opportunities
24 in the enterprise and mid-market space, but as I
25 indicated, I don't believe that's the only way in

0356

1 which mass market customers will benefit. They'll
2 benefit, as I just said, from the improvement in the
3 MCI network, which Verizon will use to enable it to
4 deliver services to the mass market customers.

5 Ultimately, if, you know, if technology development
6 follows the path it has traditionally followed, that
7 which starts in the enterprise space does work its
8 way down to the mass market arena. Internet services
9 are a perfect example of that.

10 So yes, I do believe that, but in the
11 analysis that we conducted, we do not identify
12 revenue opportunity associated with the mass market.

13 Q. Does your Washington synergy study allocate
14 any of Verizon's national level synergies to
15 Washington intrastate operations?

16 A. I believe it does, yes.

17 Q. So if there are savings at the national
18 level, they get down to Washington through the
19 process of allocation in the intrastate operations;
20 correct?

21 A. Correct.

22 Q. Do you have a copy of Mr. King's exhibits
23 with you?

24 A. I do.

25 Q. Please turn to Mr. King's Exhibit 5-HC,

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1 which is Exhibit 415.

2 A. I don't have a marked exhibit, but I have
3 the exhibit that was attached to his testimony that
4 is marked CWK-5-HC.

5 Q. All right. And that's Exhibit 415, for the
6 record. Is this the exhibit where Mr. King develops
7 his allocator of national synergies to Washington
8 intrastate operations?

9 A. Yes.

10 Q. And let's be careful here, because this is
11 on blue paper and contains highly confidential
12 information. And do you see the national allocator
13 in Mr. King's revised exhibit?

14 A. This is the percentage shown at the very
15 bottom right corner of the exhibit?

16 Q. Correct.

17 A. I see it, yes.

18 Q. And of that percentage amount, how much
19 relates to MCI?

20 A. Are you asking me to quote a number?

21 Q. Well, I have a number in mind, and I think
22 it may be highly confidential, so I'm treading
23 cautiously here in terms of the allocator. Let me
24 consult with my witness for a moment. May I do that,
25 Your Honor?

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1 JUDGE WALLIS: Yes, you may.

2 Q. If you look directly above the bottom
3 right-hand corner and you see that number shown
4 immediately above the number we just looked at, is
5 that the percentage amount that relates to MCI?

6 A. It's the percentage amount that Mr. King
7 believes relates to MCI, or at least, as indicated,
8 he believes relates to MCI.

9 Q. All right. So even if Mr. King were to
10 exclude all of MCI's Washington allocations from his
11 allocator, the effect on his allocations would be
12 quite small, wouldn't you agree?

13 A. Yes, I would agree.

14 Q. Could you please turn to page -- well, I
15 guess we're there already. Looking at pages 12 and
16 13 of your rebuttal, again, Exhibit 86, essentially
17 here you're taking Mr. King to task for using only
18 domestic telecom revenues as the national base for
19 his allocation of the total synergies; is that
20 correct?

21 A. That is one of a number of places where we
22 think his calculation is in error, yes.

23 Q. All right. You argue that he should have
24 used all of Verizon's revenues as the base since he
25 is allocating all of Verizon's synergies. Is that a

0359

1 fair summary of your criticism on this issue?

2 A. I think that he should have used all of the
3 Verizon revenues, frankly, as well as all of the MCI
4 revenues, because his intent is to use this allocator
5 and apply it against all the synergies identified by
6 the parties in the transaction.

7 Q. All right. Can you please turn to Exhibit
8 90? It's one of your cross exhibits.

9 A. I have it. Yes, I do. Thank you.

10 Q. Okay. And this is a page, is it not, from
11 Verizon's 10K?

12 A. It appears to be. Yes, it's indicated as
13 that.

14 Q. What are the divisions shown on the page for
15 Verizon?

16 A. Domestic telecom, domestic wireless,
17 information services, and international.

18 Q. Could you please just briefly describe what
19 those different divisions are?

20 A. Sure. Domestic telecom is the traditional
21 telecommunications business, wireline business, as
22 it's often referred to. Includes the local exchange
23 business, it includes the LD business, it includes
24 wholesale, it includes the ISP business, so it -- but
25 it includes, basically, the suite of services that

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1 Verizon has traditionally delivered through its local
2 exchange.

3 Domestic wireless is Verizon Wireless. It's
4 the business that serves the nation.

5 Our information services is the --
6 effectively, the print and electronic directory
7 business that Verizon operates.

8 And the international business is a number
9 of international investments that Verizon has made in
10 telecommunications businesses around the globe.

11 Q. Okay. Now, if we look at line six of page
12 13 of your testimony, your rebuttal testimony, you
13 cite two numbers. The first one is 35.551 million
14 for domestic telecom; correct?

15 A. Yes, sir.

16 Q. Now, if we look at Exhibit 90, under
17 domestic telecom, we see a total, on the third line
18 down, of thirty-eight-million-five-fifty-one. Can
19 you tell me which is the correct number?

20 A. I can't tell you. I mean, I would certainly
21 believe that the 10K is a correct number. So I would
22 like to investigate the number reported in my
23 testimony.

24 Q. Okay. And I'll let you check this, but
25 isn't it true that Mr. King uses the

0361

1 thirty-eight-million-five-fifty-one number in his
2 exhibits?

3 A. Right. I've reported
4 thirty-five-five-fifty-one, and the number is
5 thirty-eight-five-fifty-one, so it's very possible
6 that this is a typo.

7 Q. All right. Then, at line six, still in your
8 rebuttal testimony, page 13, you also cite the number
9 71,842,000 for total operations, and that's on the
10 third line in the far right-hand column; correct?

11 A. Correct.

12 Q. What accounts for the majority of the
13 difference between these two numbers? It's wireless,
14 isn't it?

15 A. It is wireless as a majority; correct.

16 Q. Does MCI have any wireless operations?

17 A. No, it does not.

18 Q. So if MCI has no wireless operations, would
19 we expect much in the way of wireless synergies from
20 the merger between MCI and Verizon?

21 A. We believe that there will be wireless
22 synergies between the two; correct.

23 Q. Do you believe that there will be wireless
24 synergies even though MCI has no significant wireless
25 operations?

0362

1 A. Correct. And were so indicated in the
2 exhibits to the filing.

3 Q. I'm going to ask you to turn to your Exhibit
4 SES-2-HC, which is Exhibit 87. You show wireless
5 synergies there, and let me make sure this is a
6 public number --

7 MR. WEISSMANN: No, it's not a public
8 number.

9 THE WITNESS: It is not a public number.

10 Q. All right. Thank you. You show wireless
11 synergies on that exhibit; correct? I'll let you get
12 there.

13 A. Are we looking at page one of that exhibit?
14 Where are you looking?

15 Q. Oh, let me find it myself. Since this is
16 your exhibit, I'm happy for you to help me out. I
17 had neglected to insert the page.

18 MR. WEISSMANN: It's page eight.

19 Q. Page eight, thank you. Can you just point
20 us to the number for wireless synergies that you show
21 on this page?

22 A. You're looking at page eight, the table on
23 the page?

24 Q. Yes.

25 A. The number is the third number from -- third

0363

1 number that appears in that column on the right-hand
2 side of the table.

3 Q. Would you accept that this number represents
4 less than two percent of the total publicly-announced
5 synergies of 7.3 billion?

6 A. Can I suggest that this is the Washington
7 piece of the synergy? It's a nominal number, summed
8 over four years, and you just divided it by the
9 present value number for the national synergy. Is
10 that what you intended to do?

11 Q. Well, why don't you give me a calculation
12 that you're more comfortable with, and we can see
13 what portion of that represents the --

14 A. I would go back, personally, to page one. I
15 don't suspect we'll be far off in terms of the
16 number; I just want to make sure that we're doing the
17 math on a consistent basis.

18 Q. Sure.

19 A. But I would go back to page one, and there
20 we see the third number down on that table, and then
21 I would divide it by the last number that appears on
22 the table, the completion of the table at the top of
23 page two. If I do that math, I -- is it okay if I do
24 that math? I get two percent.

25 MR. FFITCH: May I have a moment, Your

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1 Honor?

2 JUDGE WALLIS: Yes.

3 Q. Please turn to page 14 of Exhibit 86, your
4 rebuttal. Here you're making the point, are you not,
5 Mr. Smith, that Mr. King did not accept the
6 intra/interstate revenues as defined by the FCC?

7 A. Yes.

8 Q. And do we find this alleged error in Mr.
9 King's Exhibit 5-HC, Exhibit 415?

10 A. Are you intending just to isolate on this
11 only, this one error in -- or at least in our belief,
12 this one error that we believe Mr. King made? I
13 don't want to answer and suggest that we believe this
14 is the only error he made in this calculation.

15 Q. Well, I'm asking you about one issue at a
16 time.

17 A. That's fine. I just want to be sure that,
18 as we're asking that, we're not losing the thread
19 here that we see kind of a compounding of errors in
20 this calculation that is then used to size the
21 synergy opportunity that Mr. King believes should
22 accrue to Washington.

23 Q. Well, certainly Verizon will have a chance
24 to ask Mr. King about his calculations later on
25 today.

0365

1 A. I'm sorry. I wasn't trying to be
2 argumentative. I just wanted to be -- I was just
3 trying to be clear.

4 Q. All right. Well, let's go back to my
5 question. You've alleged that Mr. King's made an
6 error with regard to the intra/interstate revenues as
7 defined by the FCC. And my question is do we find
8 this alleged error on Mr. King's Exhibit 5-HC, which
9 is Exhibit 415?

10 A. Yes, I believe we do.

11 Q. And does Mr. King use this exhibit to
12 allocate the head count cost savings he summarizes on
13 the previous page, previous exhibit, which is 414?

14 A. He uses it there. He also uses it to
15 determine his systemic calculation of synergy to
16 justify his proposed \$1 reduction in the forthcoming
17 increase.

18 Q. All right. Can you please turn to page 14
19 of Mr. King's direct, which is his revised direct,
20 which is Exhibit 418, line 22? Actually, let's start
21 at line 21.

22 MR. BUTLER: What exhibit?

23 MR. FFITCH: This is Exhibit 418, I believe.

24 MR. BUTLER: No.

25 MR. FFITCH: It's the revised direct of

0366

1 Charles King.

2 COMMISSIONER OSHIE: Four-eleven.

3 MR. FFITCH: Four-eleven, okay. I
4 apologize.

5 Q. Do you have that?

6 A. Yes, I do.

7 Q. The first two sentences, could you read,
8 please, starting at line 21?

9 A. In developing an inter/intrastate allocator,
10 however, I have not accepted the revenues as reported
11 by Verizon to the Washington Utilities -- WUTC,
12 Washington Utility Commission. That is because of
13 the disconnect between the FCC's revenue allocators
14 and its frozen 25/75 percent interstate/intrastate
15 allocation of subscriber line costs.

16 Q. All right. So there Mr. King notes that the
17 FCC has frozen the allocation of subscriber line
18 costs at 25 percent interstate, 75 percent
19 intrastate, and is he correct or not?

20 A. I believe he is.

21 Q. Is it your understanding that revenues for
22 local services are similarly divided 25/75 interstate
23 versus intrastate?

24 A. I don't know. I don't think that's correct.

25 Q. Is Mr. King incorrect that the distribution

0367

1 of revenues between jurisdictions will not
2 necessarily match the distribution of costs,
3 particularly subscriber line costs?

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

5 Q. All right. Can I get you to please turn the
6 page on your rebuttal, again, Exhibit 86, go to page
7 15, and lines seven and eight, and there you state,
8 and I quote, that -- well, let's start at line six.
9 You state, Head count savings from MCI's operations
10 is not equal to the avoided cost of MCI employees and
11 will not have any measurable impact on Verizon
12 Northwest's intrastate operations allocated costs.
13 Is that an accurate reading?

14 A. Yes, I believe it is.

15 Q. First of all, we have had a lot of testimony
16 so far in this hearing that we really don't know what
17 Verizon Northwest or MCI will look like after the
18 merger because planning has just begun; isn't that
19 correct?

20 A. That is correct.

21 Q. Could you please turn to your exhibit --
22 it's SES-2-HC, which is 87, I believe. Let's just
23 check that. Page 14 of that exhibit. Correct. Page
24 87 -- excuse me, Exhibit 87, page 14.

25 A. I think I have it.

0368

1 Q. All right. And does this page list the head
2 count reductions?

3 A. Yes, it does.

4 Q. And this is a highly confidential. Is the
5 entire page highly confidential?

6 A. Yes, I believe it is.

7 Q. I'd like to refer to a column heading; is
8 that all right? I'm getting an indication, Your
9 Honor, from Counsel.

10 MR. WEISSMANN: Yes, that's fine.

11 Q. Is it correct that the head count reductions
12 listed under the column headed E-L-I, or ELI, are the
13 MCI reductions?

14 A. Yes, they are.

15 Q. And the second line on this table under that
16 column shows the number of head count reductions for
17 mass market commercial, all for MCI; correct?

18 A. Correct.

19 Q. Does this mean that the merged company will
20 be able to serve the current commercial mass market
21 of both companies with that amount, that number less
22 people than the two companies employ separately now?

23 A. Yes, it does.

24 Q. And is it your testimony that Verizon will
25 derive no benefit whatever from having the combined

0369

1 mass markets of both companies served by this number
2 fewer employees than presently work for the two
3 companies?

4 A. It's my testimony that -- I think it's
5 accurate to say that Verizon, which is now the parent
6 company of the former Verizon, former MCI, will
7 derive benefit, but the local exchange business will
8 not derive benefit.

9 Q. All right. What does CFO stand for?

10 A. Chief financial officer.

11 Q. Right. And that's shown on line ten of this
12 exhibit; correct?

13 A. Correct.

14 Q. And you show that the merged company will
15 employ a stated number less CFO employees. That's,
16 again, under the ELI column; correct? Actually, in,
17 also, the total reduction column?

18 A. Yes, that's correct.

19 Q. Is that because there will be less CFO type
20 work when the two companies merge or is it because
21 the same work done by the two companies can be
22 accomplished by that number fewer employees?

23 A. It's our expectation that the CFO work that
24 will be required by the MCI unit will be done by that
25 fewer number of employees.

0370

1 Q. So is that a -- is that less work or the
2 same work with fewer employees?

3 A. It's -- the expectation is same work, fewer
4 employees.

5 Q. Okay. And is it your testimony there will
6 be no benefit whatever to Verizon from having this
7 number of fewer employees perform the CFO activities?

8 A. Again, can I ask you to be specific as to
9 Verizon? Because if you're asking me Verizon, the
10 parent of the former Verizon, former MCI, then yes,
11 Verizon will benefit from the reduction, from
12 improved efficiency in the combined operations of the
13 business. But it is also my testimony that the local
14 exchange business will not benefit from the reduction
15 of these numbers -- I almost said the number -- these
16 number of employees from the MCI operation.

17 Q. All right.

18 A. Just as today if Verizon Wireless reduces
19 the chief financial officer activities or finds ways
20 to become more efficient, the local exchange business
21 in Philadelphia -- or in Pennsylvania or Washington
22 or other states do not benefit.

23 Q. So you're saying that in the allocation of
24 national synergies to the state level, that none of
25 these synergies or savings would be included in that

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1 allocation, in your view?

2 A. Correct.

3 Q. Is there any category of head count savings
4 on page 14 of this Exhibit 87 where the savings do
5 not result from combining the activities of the two
6 companies?

7 A. I'm sorry. Could you say that one more
8 time?

9 Q. Is there any category of head count savings
10 shown on this page that do not result from combining
11 the activities of Verizon and MCI?

12 A. Well, all of these -- these head count
13 reductions result from combining the two businesses.
14 Otherwise, they wouldn't be listed here.

15 Q. All right.

16 A. None of these reductions, except for the
17 ones that we've identified, would flow to the local
18 exchange business.

19 Q. Can you please turn to page 18 of Exhibit
20 86? Again, your rebuttal. Go to line six. And
21 there you state, For example -- are you there yet?

22 A. I'm not quite there yet. I got lost in the
23 two exhibits, but I think I've caught up. Page 18,
24 line --

25 Q. Line six.

0372

1 A. Yes.

2 Q. And you state, For example, all of the
3 financial stabilization revenue synergies in the
4 enterprise area reflect the retention of existing MCI
5 customers; correct?

6 A. That is a correct reading.

7 Q. So in essence, you're accusing Mr. King of
8 attributing to Verizon the revenue growth from
9 financial stabilization of MCI customers; is that
10 right?

11 A. I don't think that he included the financial
12 stabilization revenues, my recollection. I don't
13 believe he did include those.

14 Q. All right.

15 A. You can ask him, but I don't think he did.

16 Q. Is financial stabilization revenue included
17 in go-to-market revenue growth?

18 A. No, it is not.

19 Q. So you're agreeing that Mr. King does not
20 include that?

21 A. I don't believe he does.

22 MR. FFITCH: Your Honor, those are all the
23 questions I have for Mr. Smith.

24 JUDGE WALLIS: Very well. Are there other
25 questions of Mr. Smith? Mr. Weissmann, do you have

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1 redirect?

2 MR. WEISSMANN: Very briefly, Your Honor.

3

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

5 BY MR. WEISSMANN:

6 Q. Mr. Smith, you were asked some questions
7 regarding the wireless revenue synergy. Can you
8 please explain why the company believes there will be
9 synergies in the wireless business resulting from
10 this transaction?

11 A. Sure. Today the wireless business is
12 primarily a mass market service. We certainly have
13 sales into business accounts, we're not deeply
14 penetrated there. And we know there's a big demand
15 for service by business customers who today basically
16 use the wireless service, but as a consumer, not as
17 part of a business, an integrated business service.

18 Our expectation is that, with working with
19 MCI, we can develop integrated services and, more
20 importantly, we can more deeply penetrate the
21 enterprise accounts because of their close
22 relationship and their expertise in selling into that
23 market space.

24 Q. Let me ask you to turn to what's been marked
25 as Exhibit 415, which is Mr. King's Exhibit 5-HC.

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1 A. I have it.

2 Q. You were asked some questions on
3 cross-examination about the MCI part of this
4 document, the figure that's immediately above the
5 last figure in the lower right. Do you recall that?

6 A. I do.

7 Q. And a suggestion was made that exclusion of
8 this MCI component would not have as big impact on
9 that final number; right?

10 A. Yes.

11 Q. Now, could you explain your understanding of
12 how Mr. King uses this allocation factor to allocate
13 the overall synergies that result from this
14 transaction?

15 MR. FFITCH: Your Honor, I'm going to object
16 to that as going beyond the scope of
17 cross-examination. It appears to be inviting the
18 witness to go into his general critique of the
19 allocation here. Be happy to ask -- that's already
20 been thoroughly addressed in the witness' prefiled
21 testimony, and our witness is available if counsel
22 would like to explore that question with him.

23 MR. WEISSMANN: Well, I certainly will, but
24 I think the implication was perhaps left that the
25 exclusion of the MCI piece would not have a big

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1 impact on the way in which this factor is used, and I
2 want to elicit -- since that was the subject that
3 counsel crossed Mr. Smith on, I'd like to elicit Mr.
4 Smith's understanding of what that impact would
5 actually be.

6 JUDGE WALLIS: I believe that this is within
7 the overall scope of the cross-examination, and that
8 question should be allowed. Does the witness have
9 the question in mind?

10 THE WITNESS: Yes, I do. Thank you.

11 JUDGE WALLIS: Please proceed.

12 THE WITNESS: My understanding of what Mr.
13 King has done is he's identified or he's estimated
14 the MCI residential, small business and enterprise
15 revenues that are recorded by MCI in the state of
16 Washington, and he's divided that total by what he is
17 describing as the national U.S. -- the total U.S.
18 revenues of MCI. In doing so, we don't believe he's
19 dividing by the total U.S. revenues of MCI. The
20 components that I think he's listing here are the
21 enterprise, the mass market, and the commercial
22 segments of MCI, but he's failed to indicate the
23 wholesale business of MCI. So he's at least left
24 that out.

25 And in addition, he's left out the

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1 international revenues of MCI. And while he's
2 calling this total U.S. revenues, he's actually using
3 this factor to allocate heads, which include
4 international heads, and ultimately, all of the
5 synergies in his systemic approach, which include
6 international and wireless and other, you know, the
7 synergy opportunity of the combined global business.

8 MR. WEISSMANN: Thank you, Mr. Smith. Those
9 are the only further questions I have, Your Honor.

10 JUDGE WALLIS: Re-cross?

11 MR. FFITCH: Just one question, Your Honor.

12

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

14 BY MR. FFITCH:

15 Q. Mr. Smith, even if a number of revenue -- or
16 excuse me, merger savings or merger synergies were
17 calculated according to your methodology or Verizon's
18 methodology in this case, Verizon will not agree in
19 this case and has not agreed in this case or any
20 other case in the United States that those savings
21 can be specifically shared or returned back to
22 ratepayers in any direct or immediate fashion through
23 rate reductions, rate credits, rate savings, or any
24 other tangible immediate sharing of savings; isn't
25 that correct?

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1 MR. WEISSMANN: Objection, Your Honor.
2 That's beyond the scope of the cross and indeed
3 beyond the scope of this witness' testimony. That
4 subject was addressed by Mr. Danner.

5 MR. FFITCH: No further questions.

6 JUDGE WALLIS: Very well. Are there
7 questions from the bench? Commissioner Jones.

8

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

10 BY COMMISSIONER JONES:

11 Q. Good morning, Mr. Smith.

12 A. Good morning, Mr. Jones, or Commissioner.

13 Q. Could you please turn to page three of your
14 rebuttal testimony? On line 15, you use the word
15 enterprise segment. And I'd just like to know -- are
16 you there yet?

17 A. Not quite.

18 Q. Okay.

19 A. I'm a little lost here. This is page three,
20 line three?

21 Q. Right. No, line -- at least on my text,
22 it's line 15, 16.

23 A. Sorry. Yes.

24 Q. Where you say, This is particularly true of
25 the enterprise segment?

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1 A. Yes.

2 Q. So what you're addressing, and Dr. Taylor
3 addresses this in his testimony, is the competitive
4 nature of the -- what you call, quote, the enterprise
5 segment marketplace. Can you provide for us your
6 definition of enterprise segment, either by demand
7 for telecom services or by gross revenue breakdown,
8 and can you describe how Verizon -- Part B of that
9 question would be how Verizon internally, and you
10 can't address post merger yet, but how Verizon
11 presently addresses that in terms of your sales
12 force, your other aspects of the operations. Do you
13 have separate sales force, accounting, et cetera, for
14 the different parts of the enterprise segment or is
15 it all lumped into one? I guess that's what I'm
16 driving at.

17 A. Very good. Let me try and respond in part.
18 I can't -- well, I could quote, if you give me a
19 second, I could probably pull some numbers of the
20 size of the enterprise space. When we -- again, from
21 memory, so if you would take this subject to
22 confirmation, the -- Verizon sizes the -- or MCI
23 sizes the enterprise market in terms of the market it
24 serves in terms of dollars of revenue, I'm thinking
25 in the four or five billion dollar raise on an annual

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1 basis.

2 Verizon uses a slightly different definition
3 of the enterprise customer base, because we don't
4 have the skills and the capabilities and the assets
5 and the sales expertise that MCI has, and so we
6 typically address a lower end of the enterprise
7 market.

8 And so when we would combine our definition
9 of enterprise customers, we would sweep into MCI's
10 definition some piece of their commercial markets,
11 because, typically, what they view as commercial
12 markets we view as enterprise customers. And so we
13 would size up the five billion to seven billion and
14 change in terms of dollars and revenue.

15 In terms of the customers, again, I believe
16 this is reasonably accurate, I believe MCI counts
17 among its enterprise customers some 286, 90,
18 multinational customers. It includes the federal
19 government -- the government accounts, which are 75
20 or so federal, state, local agencies that they serve.
21 They sell through a number of system integrators, and
22 the accounts that they serve through those system
23 integrators are also included in their enterprise
24 definition. In addition, they have a dig-ex hosting
25 business, basically web hosting business, and they

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1 include that group of customers in their enterprise
2 definition. And I think finally, beyond that list,
3 then large customers, generally, there's about 10,000
4 or so customers who generate \$10,000 or more a month
5 in terms of billings, annual -- or monthly billings
6 for MCI that are included in their count.

7 As I say, our count is a little less rigid,
8 because we don't have the -- don't currently have the
9 skills and capabilities to serve well those markets.
10 So we would sub into an AT&T or an MCI trying to
11 serve a major account customer.

12 Within Verizon today, I'll tell you what I
13 can tell you about the enterprise organization.
14 First of all, it is part of domestic telecom. It is
15 viewed as a line of business within domestic telecom.
16 It has a separate sales force, it has a separate and
17 unregulated LD group, which supports its enterprise
18 customers. It has sales teams that are resident in
19 each -- generally, in each local market to serve the
20 specific customers in that market, as well as a
21 centralized group that helps describe the marketing,
22 does a fair amount of the back office. So if a
23 customer's seeking a service, the customer will
24 describe what he's looking for and then we go off and
25 we develop a bid, come back with a proposal, request

0381

1 for proposal, a proposal for the customer to try and
2 meet his requirements.

3 The team that supports and helps design,
4 spec out how we can meet the customers' needs are
5 generally centralized teams who support remotely
6 local sales teams who are actually knocking on the
7 door and presenting an account. Now, those teams
8 will join the local sales agent if expertise is
9 really required to help describe the particulars
10 about how the service will be designed and installed
11 and developed, et cetera. But that's generally how
12 it works.

13 Q. So it's fair to characterize that as a
14 fairly centralized sales operation with oversight
15 from a central office in terms of the terms and
16 conditions of whatever contracts are arranged with
17 the enterprise customer?

18 A. I think that's fair. Yes, sir.

19 Q. Let's turn to page 12 of your testimony.
20 This gets back to the MCI revenues computation issue.
21 And I guess my question here is I understand what
22 you're saying about that there is vigorous
23 competition in the business market, what we call in
24 this state competitively classified business
25 services, but you do use words like hands off

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1 approach on line 11 that are a bit subjective in
2 nature, I think.

3 Are you aware of the statute of this state
4 and how we -- first, when we classified MCI as a
5 competitive carrier? Have you read that decision?
6 Do you know when we did it?

7 A. I do not. I have not read that. I
8 apologize. I have not.

9 Q. Well, I think we did it after the passage of
10 the 1996 Telecom Act, and there was an assumption
11 that there would be vigorous competition in the local
12 exchange market for these sorts of services, what you
13 call mass market and what others call residential.

14 So I think, for the record, it's important
15 to note that this classification was made in very
16 different circumstances. And the second point is
17 that, under our statute, there is the ability to
18 reclassify and reregulate, if you will, services that
19 have previously been classified competitively. Are
20 you aware of that?

21 A. No, sir, I'm not.

22 Q. Okay. Turn to page 14 of your testimony,
23 where you get into the 25/75 interstate/intrastate
24 allocation.

25 A. Yes, sir.

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1 Q. I'm a little puzzled by your assertion there
2 and your criticism of Mr. King's calculation. Isn't
3 this an issue that's primarily under the jurisdiction
4 of the FCC, this freezing of the separations? Isn't
5 that correct that we, at the state level, have very
6 little to do with the interstate/intrastate
7 allocation formula, and it relates to a board called
8 the Separations Board of the FCC?

9 A. Yes, yes, sir, but our issue is that, in the
10 first exhibit, where he uses his developed allocation
11 factor, he's allocating heads, he's allocating costs,
12 so he's basically taking revenues, and of course we
13 record -- we developed our results for this analysis
14 using the customary and approved -- using the
15 approved methods that we customarily use to run the
16 business in the ordinary course. That is, we keep
17 our books under Part 32 of the FCC's Code of Federal
18 Regulations, you know, in connection with that, and
19 in addition we apply the appropriate Part 64 and Part
20 36 rules for reg/non-reg and for inter and intra.

21 The services are tariffed, the services
22 times the demand for the services produces the bill
23 of revenues, which roll into the books of account,
24 from which we developed our allocation methods.

25 Mr. King has basically tossed out the

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1 revenues that arise from the books that we carefully
2 keep in accordance with those and says, First I'm
3 going to try and allocate costs, but instead of
4 looking at the cost-causal drivers of what -- where
5 do those costs and cost savings arise, how will that
6 occur, I'm going to use the revenues. That's going
7 to be my ruling. But I don't like the way in which
8 the revenue numbers have been compiled, so I'm now
9 going to try and pull up from the expense portion of
10 the income statement allocation factors that I deem
11 more appropriate to the application of these
12 revenues, because I'm using these revenues to amend
13 the cost allocations that Verizon has done.

14 Q. Right.

15 A. It's very convoluted and, along the way, we
16 think he makes a number of math errors.

17 Q. Mr. Smith, my point is not the calculation
18 itself, but the authority to -- of a state commission
19 or the FCC to set an allocation formula. And my
20 understanding is that the Joint Separations Board was
21 set up to address this issue; correct?

22 A. Yes, sir.

23 Q. Do you know when the last meeting of the
24 Joint Separations Board was?

25 A. I do not.

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1 Q. I think it was several years ago. So my
2 point is that, from a governmental authority
3 regulatory body perspective, these formulas have not
4 been updated for a long period of time, and
5 therefore, I think it's entirely appropriate for
6 different parties to have different calculations and
7 to make certain assumptions. That's the point I was
8 making.

9 And finally, this is a broader question, in
10 terms of synergy and actual cost savings of a merger,
11 have you been involved in other mergers working for
12 this company or other companies, you know, or is this
13 your first merger proceeding where you've done
14 synergy calculations?

15 A. This is my first merger proceeding where
16 I've had the opportunity to address the Commission,
17 but I have worked on a number of other mergers.

18 Q. Which ones?

19 A. Worked on the Bell-Nynex merger. I, in a
20 smaller way, worked on the Bell-GTE merger, and also
21 worked very closely on the wireless combination of
22 Verizon Wireless with Vodafone's domestic -- formerly
23 AirTouch business, which ultimately got combined with
24 the wireless operations of GTE.

25 Q. Well, I'm a new commissioner, and this is my

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1 first proceeding, so could you clarify for me, going
2 into those past cases, how are synergy savings -- I
3 mean, we're dealing with projections, correct, of
4 what happens in the future. Nobody knows what will
5 happen in the future with either competition,
6 revenues, cost; correct?

7 A. Correct.

8 Q. So at some point in the future -- and also
9 the company has represented both to various
10 commissions and to Wall Street its estimation of
11 synergy and cost savings; correct?

12 A. That's correct.

13 Q. At some point in the future, there will be
14 actual savings achieved; correct?

15 A. Correct.

16 Q. Okay. In what manner are those savings
17 calculated? I'm asking you to address Verizon's
18 management structure internally. At what point --
19 are they calculated, are they reported on the 10K
20 only, do you report them to Wall Street, and when
21 will we know what the actual cost savings are in
22 terms of head count network, et cetera, this 7.1
23 billion that you assert?

24 A. First, the answer is we've indicated to our
25 board, to our share owners, that we intend to achieve

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1 these synergies, and that followed a great deal of
2 review and scrutiny by Verizon of the opportunities.

3 And then, as you point out, we have
4 communicated that to our investors, our expectation
5 regarding the synergy opportunity. Those will be in
6 this merger and have been, in past mergers, tracked.
7 The business unit, the MCI unit that is now being,
8 you know, reset with new management, we charged with
9 achieving the merger savings opportunities that are
10 applicable to them. If you looked at our slice of
11 the pie of synergies, we believe -- we expect to
12 achieve a large number of the savings within the MCI
13 unit that will soon be a wholly-owned affiliate
14 subsidiary of Verizon.

15 So that unit will be charged with delivering
16 those synergies, and it has a base case business as
17 usual business which it needs to manage, too, and on
18 top of that it will be charged with developing and
19 delivering the increment and tracking that. That
20 will be tracked, that will be reported to our board,
21 and that will probably be responded to generally in
22 the Q and A that we deal with as we announce
23 quarterly results.

24 I suspect that we will get questions on that
25 within the few quarters of the close. That is, you

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1 know, we'll get a quarter or two where people will be
2 recognizing we're going through this process of now
3 taking the planning activities and beginning to
4 install those things. But we set out a reasonably
5 defined time line. We even told them that what we
6 expect to spend, where we have capital and expense in
7 the next three years in MCI's network and its IT
8 operations, and we've also talked about the
9 combination of savings and revenue opportunities
10 which will flow through to what's commonly referred
11 to as EBITDA, earnings before interest, taxes,
12 depreciation, amortization. And we've set that out
13 over the next three years.

14 So there will be a clear expectation that we
15 lay out for them, here's the business of the
16 business, and here's the business of Verizon, here's
17 the business of MCI, and here is the lift that we are
18 tracking and we are attributing to the
19 implementation of plans to achieve these things.

20 Q. Just to follow up on the question. So it's
21 fair to assume, based on what you've said, that there
22 will be some disclosure by the management of your
23 company after you've cleared it with the board, of
24 course, to sometime early -- this is a hypothetical
25 if -- if the closing proceeds at the end of this year

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1 and if things are successfully approved by the
2 various regulatory bodies and the shareholders, that
3 early in 2006, in the quarterly earnings, primarily
4 in the quarterly earnings discussions, that --

5 A. I don't.

6 Q. -- that these actual -- when you're tracking
7 actual to the projected, that we'll have some
8 indication of what you've actually achieved?

9 A. I think you will. I don't -- I can't tell
10 you that there's an accounting obligation under
11 Sarbanes-Oxley or any other GAAP requirement that we
12 create a footnote, but as I said, we've gone on the
13 record and we've told our board and I know, from past
14 experience, that we report to the board on our
15 progress towards achieving synergies, and our pluses
16 and negatives. You know, we expected this much and
17 we've actually spent this much. We had some
18 unanticipated things. Oh, my God, there was more
19 problems in the systems than we anticipated, but we
20 made it up here, and so we can do -- take them
21 through that. They're very interested in that. And
22 there will be Qs and As.

23 I don't know how much -- whether or not, as
24 part of an earnings release, we'll separately have a
25 paragraph, but certainly the board will be --

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1 COMMISSIONER JONES: Thank you.

2 JUDGE WALLIS: Any other questions from the
3 bench? Anything further from Counsel?

4 MR. WEISSMANN: No, Your Honor.

5 MR. FFITCH: Your Honor, I do have just one
6 or two follow-ups, based on the questions from the
7 bench.

8 JUDGE WALLIS: Mr. ffitch.

9

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

11 BY MR. FFITCH:

12 Q. Mr. Smith, you've just been asked about
13 tracking the savings post-merger. You're familiar
14 with the proceedings on this merger in front of the
15 Virginia Commission?

16 A. No, sir, I'm not.

17 Q. Would you accept, subject to check, that the
18 Virginia Commission has ordered the merging parties
19 to report on merger savings after the merger is
20 consummated?

21 A. Yes.

22 Q. And can I ask you to turn to Exhibit 91,
23 which is one of your cross exhibits? I had not asked
24 you about this previously, but I think it's been
25 touched on now by Commissioner Jones' questions.

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1 This is response to Data Request Number 45. Do you
2 have that?

3 A. Yes, sir.

4 Q. Now, just in general, this is the data
5 request from Staff, which asks the merging parties to
6 discuss the Washington State-specific benefits,
7 savings and efficiencies that will result from the
8 merger, and it's a very extensive question.

9 And in response to that, the company
10 provided what's attached and referred to as Project
11 ELI Synergy; correct? Now, we don't have the full
12 attachment here. I can address that in a moment.
13 This was what was provided in response to this data
14 request; correct?

15 A. Correct.

16 Q. And this -- essentially, this Project ELI
17 Synergy essentially outlines the basis of the
18 calculation of the \$7.3 billion in merger synergies;
19 right?

20 A. Actually, no, I don't believe that's
21 correct. If you look on page three of this
22 attachment, this describes the analysis -- one of the
23 early analyses that were performed. So this synergy
24 opportunity is seven billion, not 7.3. But
25 essentially, it embodies the opportunities for

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1 synergy, if that's the point you're trying to get to.

2 Q. All right. You're testifying that, in fact,
3 this seven billion was updated and increased to
4 project 7.3 billion in savings?

5 A. That's correct.

6 Q. It's fair to say, though, that the Project
7 ELI Synergy study outlines the basic areas of the
8 business and areas of the merger that will generate
9 those savings, although the number changes; isn't
10 that right?

11 A. Number changes and I believe that there may
12 have been one or two additional areas identified in
13 the later analysis.

14 Q. All right.

15 A. So it's reasonably complete, though.

16 MR. FFITCH: Thank you. Your Honor, at this
17 time, I'd like to offer Public Counsel's cross
18 exhibits, if that's necessary. I'll note that
19 Exhibit 89 is a duplicate of Exhibit 72. Offering
20 Exhibit 90. And then, with regard to this Exhibit 91
21 that I just referred to, Your Honor, I'd like to
22 consult with Counsel for Verizon. We did not offer
23 the entire attachment of the study in the pre-filing
24 because we were uncertain as to this. Because it's
25 been a corrected exhibit, we were uncertain, from our

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1 own files, what the most current accurate attachment
2 was, so we wanted to check with the company first
3 before we did that. And I apologize I didn't do that
4 prior to this moment.

5 But what I would request is the opportunity
6 to consult with opposing counsel and then supplement
7 this exhibit with the correct attachment that's
8 consistent with the correct data response that they
9 provided.

10 JUDGE WALLIS: Very well. I will
11 acknowledge that the exhibits for this witness,
12 including the exhibits on cross, have been received
13 in evidence, and counsel may, on the break, consult
14 with other counsel regarding supplementation, and we
15 will take that up as a procedural matter later. Is
16 there anything further of the witness?

17 MR. BUTLER: Your Honor, just to clarify.
18 Is 89 in or not?

19 JUDGE WALLIS: Mr. Butler, could you grab a
20 microphone, please?

21 MR. BUTLER: Sorry. Just to clarify, is
22 Exhibit 89 admitted or not? That's the duplicate of
23 72.

24 JUDGE WALLIS: Yes, it is. I believe
25 there's no confusion in the record. The duplication

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1 has been acknowledged. It is referenced in different
2 ways, both ways, one or the other, at various places
3 in the record, and of course there is the great legal
4 principle that surplusagium non nocent.

5 Consequently, I think there is less
6 confusion by allowing both of the documents, which
7 are clearly in the record as duplicates, to remain in
8 the record.

9 MR. BUTLER: But does the court reporter
10 have the accurate spelling?

11 JUDGE WALLIS: Is there anything further of
12 the witness?

13 MR. FFITCH: No, Your Honor.

14 JUDGE WALLIS: It appears that there are
15 not. Mr. Smith, thank you very much for appearing.

16 THE WITNESS: Thank you. It's been my
17 pleasure.

18 JUDGE WALLIS: You're excused from the stand
19 at this time. Let's be off the record for a moment,
20 please. Very well. Let us take a 15-minute break,
21 our morning recess at this time, and return at
22 approximately 25 minutes after the hour.

23 Mr. Taylor is the next witness to appear.
24 Mr. Taylor, if you'd move your materials to the
25 witness stand and be prepared to proceed when we take

0395

1 up at 25 minutes after the hour.

2 (Recess taken.)

3 JUDGE WALLIS: Let's be back on the record,
4 please, following our morning recess. During the
5 recess, Witness Taylor has stepped forward. Mr.
6 Taylor, is my recollection correct that you've
7 previously been sworn in this docket?

8 MR. TAYLOR: Yes.

9 JUDGE WALLIS: Very well. Mr. Carrathers,
10 please proceed.

11 MR. CARRATHERS: Thank you, Your Honor.
12 Whereupon,

13 WILLIAM E. TAYLOR,
14 having been previously duly sworn, was called as a
15 witness herein and was examined and testified as
16 follows:

17

18 DIRECT EXAMINATION

19 BY MR. CARRATHERS:

20 Q. For the record, could you please state your
21 full name and business?

22 A. Sure. My name is William E. Taylor. I'm
23 Senior Vice President of National Economic Research
24 Associates, Inc., 200 Clarendon Street, Boston,
25 Massachusetts.

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1 Q. Thank you. And Dr. Taylor, you caused to be
2 filed in this proceeding both direct testimony and
3 rebuttal testimony; correct?

4 A. Yes.

5 Q. And again, for the record, your direct
6 testimony has been marked as Exhibit 1T-C; an
7 attachment to that testimony with your qualifications
8 has been numbered Exhibit 2; the last attachment to
9 your direct testimony, which is a list of providers
10 serving enterprise customers, has been identified as
11 Exhibit 3; your rebuttal testimony is highly
12 confidential, portions of it, marked as such, has
13 been identified as exhibit -- or marked as Exhibit
14 4T-HC; and finally, the one attachment to that
15 rebuttal testimony, the confidential attachment of
16 fiber routes, has been marked as 5-C.

17 And a question for you is do you have any
18 changes to either your direct or rebuttal testimony?

19 A. Yes, I have a couple of changes to my
20 rebuttal testimony, Exhibit 4-HC, in the nature of
21 typos, but ones that would be confusing if I didn't
22 change them.

23 On page 39, the Q and A at the bottom, line
24 two, change the word "VoIP" to "wireless," and the
25 word "as" to "is." So the question will read, "Do

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1 you agree with Dr. Roycroft's statement at 46 that
2 market evidence has not shown that wireless is a
3 competitive force." And two lines below that, on
4 line five, change "VoIP" to "wireless."

5 Then on page 67, footnote 63 does not exist.
6 That appendix was not filed. If you're interested,
7 I'd be delighted to discuss it, but it was not filed.

8 On page 81, line nine, the sentence begins,
9 "Significantly, Mr. Woods' correct observation at 19,
10 that," and scratch the word "MCI." It will read,
11 "that AT&T and MCI have managed."

12 And one last substantive correction, on page
13 118, line one, the first character on that line is
14 the number 50. It should be the number 15. And
15 those are the only corrections I have.

16 MR. CARRATHERS: Thank you, Dr. Taylor. The
17 witness is available for cross-examination, Your
18 Honor.

19 JUDGE WALLIS: Thank you. For the record,
20 pursuant to the stipulation of the parties, we are
21 admitting at this time Exhibits 1T-C, 2, 3, 4T-HC,
22 5-C, 6, 7 and 8.

23 Mr. ffitich, do you have questions of the
24 witness?

25 MR. FFITCH: I do, Your Honor. Thank you.

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1 JUDGE WALLIS: Please proceed.

2

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

4 BY MR. FFITCH:

5 Q. Good morning, Dr. Taylor.

6 A. Good morning, Mr. ffitch.

7 Q. I believe we've met once or twice before.

8 A. Yes, we have.

9 Q. It's been a while. Welcome back to
10 Washington.

11 A. Thank you.

12 Q. Let me ask you, first of all, Dr. Taylor,
13 what is your hourly rate for work performed in this
14 case?

15 A. My hourly rate is \$550 an hour.

16 Q. And do you have a maximum contract limit for
17 work in this case with Verizon/MCI?

18 A. No.

19 Q. So you're simply billing on an hourly basis
20 for all the work required in the case?

21 A. That's correct.

22 Q. And can you tell us what your total billed
23 hours to date for work in Washington are?

24 A. No, I can't. We track it and we submit
25 bills that break out the work in the merger by

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1 states, but I -- I haven't looked at that.

2 Q. All right. So you are working for Verizon
3 in multiple states?

4 A. For Verizon and MCI in multiple states, yes.

5 Q. What is the overall billings to date for
6 that work by your firm?

7 A. I have no idea.

8 Q. No idea whatever?

9 A. No. It has -- we have had a fairly large
10 number of people working very hard for a fairly large
11 amount of time. That number is ascertainable. I
12 mean, we send out our bills and we keep track of
13 that, but I don't know, as I sit here, what that is.

14 Q. Can I ask you to turn to page 16 of your
15 rebuttal, Dr. Taylor? That's Exhibit 4. Yes,
16 Exhibit 4, I believe.

17 A. Yes.

18 Q. You're a lot faster than me. At line 14,
19 you state that MCI's prices are already above the
20 prices charged by intermodal competitors; correct?

21 A. Yes.

22 Q. And then you go on on the next page, on page
23 17, you point out that Comcast has a charge of 39.95,
24 or \$39.95 a month; correct?

25 A. Yes.

0400

1 Q. Isn't it true, Dr. Taylor, that this price
2 is only available to a customer who also purchases
3 both Comcast's high-speed Internet access and Comcast
4 cable?

5 A. That's correct.

6 Q. And can I ask you to turn to Exhibit 6,
7 please? Do you have that?

8 A. This is the cross exhibit list?

9 Q. That's correct. That's been marked for you.
10 That's the Comcast printout --

11 A. Yes.

12 Q. -- of the Web site, their web page.

13 A. I have that.

14 Q. All right. And this shows, does it not,
15 that if a Comcast customer wants to purchase only
16 telephone service, Comcast will charge them \$54.95 a
17 month, and that's in the bottom line; correct?

18 A. That's correct, for digital voice service,
19 yes.

20 Q. All right. Now, can you turn to page 23 of
21 your testimony, please? Again, your rebuttal,
22 Exhibit 4?

23 A. Yes.

24 Q. And on lines one through five, you indicate
25 that communication services are most frequently

0401

1 bought and sold as bundles of all distance services
2 today; correct?

3 A. Yes.

4 Q. Are you aware of the number or proportion of
5 Verizon Washington residential customers who purchase
6 Verizon's local and long distance service as part of
7 a bundle?

8 A. Yes.

9 Q. You are aware of that?

10 A. Yes.

11 Q. All right. Let's turn to Exhibit 28, which
12 was identified for Mr. Danner.

13 A. I have it.

14 Q. Do you have that? And page two of that
15 exhibit is on yellow paper. That's confidential.

16 A. Yes.

17 Q. If we go to the far right-hand column headed
18 March 2005 -- well, I'm sorry, let's back up a
19 minute, come in with a little more background. Let's
20 go to the far left-hand column. This lists the
21 package names; correct?

22 A. Yes.

23 Q. And then the next column shows the
24 components of the different packages or bundles;
25 right?

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1 A. Correct.

2 Q. And in that column entitled components, we
3 see that the Freedom package and the Freedom Extra
4 package are the only two that contain both local and
5 long distance service; correct?

6 A. Correct.

7 Q. And then, if we look over, now we get to the
8 far right-hand column with the numbers for March
9 2005, and those are units in service; correct?

10 A. Yes.

11 Q. Now, if we look at those, if we sum those
12 two numbers and take them as a proportion of the
13 total access lines in Verizon's Washington service
14 territory, that's a pretty low percentage, is it not?

15 A. By those two, you mean the ones associated
16 with the Freedom packages?

17 Q. Correct.

18 A. Oh, yes. Oh, sure. I would agree that the
19 fraction of Verizon customers that have bought
20 packages as of March 2005 is a small number, but if
21 you do this same exercise for MCI, say, which is
22 comprised of many, many more marginal customers, you
23 find that the customers who move in response to a
24 price change, by and large, buy packages.

25 Q. But of course the number of MCI customers in

0403

1 Verizon's service territory is also quite small. In
2 fact, even by comparison to these units in service
3 shown on this exhibit, right, for the Freedom and
4 Freedom Extra?

5 A. Sure. I mean, the total number is, but the
6 number of customers who change suppliers for local
7 exchange service based on a change in price, which is
8 what we were talking about back on page 23, those
9 people are not people who buy stand-alone long --
10 stand-alone local service or stand-alone long
11 distance service; these are people who buy packages.
12 They're the ones who are driving prices in the
13 market.

14 Q. Is there any data in the record about the
15 number of MCI customers in Washington who are buying
16 packages?

17 A. I don't know that it's in the record. I
18 know that I've seen that data.

19 Q. All right. Could you please turn to your
20 table one, which appears on page 36 of Exhibit 4?

21 A. Yes.

22 Q. Now, if you could, please, also look at your
23 cross exhibit, which I'll get to in a minute, Exhibit
24 8, the FCC local competition report.

25 A. Yes. I don't know if it's 8, but --

0404

1 Q. Yes, that's been marked as Exhibit 8,
2 two-page exhibit.

3 A. Yes.

4 Q. And these are two pages excerpted from the
5 FCC local competition report; correct?

6 A. Yes.

7 Q. And this is the most recently available
8 report?

9 A. Yes.

10 Q. It's dated July 2005, and contains data
11 through December 31st, 2004; correct?

12 A. Yes.

13 Q. Now, can you confirm for me that the number
14 of ILEC lines, incumbent local exchange company
15 lines, for the time periods you identify in table
16 one, match the ILEC lines in the FCC's local
17 competition report?

18 A. No, I cannot. They are different from the
19 lines listed in the local competition report. One
20 moment. Oh, these are res. and small business lines.

21 Q. And which ones -- when you say these, which
22 lines are you referring to specifically?

23 A. The column in table one labeled ILEC lines.

24 Q. All right. And we have on page three of
25 Exhibit 9 -- pardon me, Exhibit 8, we have the FCC

0405

1 table for ILEC lines, incumbent local exchange lines,
2 and so you're saying that's different than -- it's a
3 different database than your exhibit?

4 A. Yes, it's the same report. However, the
5 report includes also a listing of residential and
6 small business lines, which is smaller, as you
7 notice, than the total end user switched access lines
8 that you see in table nine.

9 Q. So you're representing that there is another
10 table in the FCC report that would contain the number
11 that you show, for example, on the first line of the
12 column headed ILEC lines in your table one?

13 A. Yes, I think what you do, there isn't a
14 table per se which shows that, but what you find is
15 Table 11 in the FCC report gives the percentage of
16 lines from the previous report, the ones that you
17 showed here in Exhibit 8, that are residential and
18 small business as of December 31st, 2004.

19 And if I look in Washington, under the state
20 of Washington, I see, according to the FCC, and this
21 is public data, 79 percent of ILEC lines are
22 residential and small business, 51 percent of CLEC
23 lines are residential and small business, and we
24 applied those fractions to turn Table 9 and Table 8
25 into the table for residence and small business.

0406

1 Q. All right.

2 A. Mass market.

3 Q. Thank you for clearing that up. Can you
4 please turn to Exhibit 7?

5 A. Yes.

6 Q. I realize you're not a Vonage employee, Dr.
7 Taylor, but would you accept that this is an excerpt
8 from a Vonage terms of service document?

9 A. Yes, it's -- I notice that it's two pages
10 out of --

11 Q. Out of ten?

12 A. Out of ten, yes.

13 Q. And we are going to just take a look at the
14 Section 1.5, which begins at the bottom of page one,
15 and that's entitled Service Outages. And the Section
16 A or Subpart A of that section, if you can just turn
17 the page -- actually, I'm sorry, the text starts
18 right at the bottom. That states, does it not, that
19 911 dialing does not function in the event of a power
20 failure or disruption?

21 A. Yes.

22 Q. And if we go to Section B, this indicates
23 that ISP -- that's Internet service provider --
24 outages or Internet outages or suspension or
25 termination of ISP or broadband service will prevent

0407

1 Vonage's service, including 911, from operating;
2 correct?

3 A. Yes.

4 Q. Subpart D indicates, if you can just follow
5 down there, that, quote, Your ISP or broadband
6 provider or other third party may intentionally or
7 inadvertently block the ports over which the service
8 is provided or otherwise impede the usage of the
9 services; is that correct?

10 A. It says that, yes.

11 Q. And it also says, quote, During the period
12 that the ports are being blocked or your service is
13 impeded, and unless and until the blocking or
14 impediment is removed or the blocking or impediment
15 is otherwise resolved, your service, including the
16 911 dialing feature, may not function; correct?

17 A. Yes, it says that.

18 Q. And Dr. Taylor, would you agree with me that
19 when an incumbent local company like Verizon provides
20 basic local service, that battery backup is a feature
21 of that service that enables consumers to make and
22 receive local calls in the event of a power outage?

23 A. Yes, Verizon includes -- or local exchange
24 carriers all have battery backups in the central
25 office, so the service itself continues to work until

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1 those batteries wear down. What doesn't continue to
2 work is the PBXs, the wireless phones that people use
3 in their houses. When that electricity goes out,
4 you're out of luck. But an ordinary phone, black
5 Bakelite dial phone plugged into the wall will
6 continue to work in the period of a power outage.

7 Q. Or even an ordinary modern phone, which most
8 folks have in their house, will continue to work;
9 correct?

10 A. Well, most folks is probably correct, but
11 many folks are cordless, not wireless. I'm sorry,
12 cordless being where you have a -- you purchase a
13 line from the telephone company, it connects to a
14 phone on your desk, and then you carry the phone
15 around with you in the house. That doesn't work.
16 But if you are bound to the desk and you have a phone
17 of that sort, it will work.

18 Q. The fact that local dial tone service still
19 works enables the customer to still be able to make a
20 911 call; correct?

21 A. A customer that has a phone that still
22 works, yes.

23 Q. Thank you. And sort of a corollary to that
24 question is that the local service provided by
25 Verizon is not affected by ISP outages or Internet

0409

1 outages or suspension or termination of the ISP or
2 broadband service; correct?

3 A. No, it is not affected by those events; it's
4 affected by its own events.

5 Q. And I assume you'd agree, Dr. Taylor, that
6 access to E911 services is good policy?

7 A. Well, unfortunately, you're talking to an
8 economist. I think it's good policy in the following
9 sense. That people have come to expect that a device
10 which sits on their desk and looks like a telephone,
11 if you dial 911 on it, at least in the United States,
12 you'll reach some help, even if you're incoherent.
13 And as long as people have that expectation, then
14 it's important not to fool them in emergency
15 situations. So to that extent, I would agree with
16 you.

17 I will remind you, though, people of your
18 age and mine, that we did grow up and survive with a
19 phone network that did not have E911 or 911 or
20 anything like that. We have phones in the United
21 States, wireless phones have grown up, people have
22 purchased them before E911 service was available on
23 wireless phones, and for Vonage and for VoIP, that
24 business has taken off. People, aware that the
25 service does not have an identical E911 system, have

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1 been nonetheless intelligent adults willing to buy
2 the service.

3 So yes, the characteristics are different
4 for a VoIP service and will always be somewhat
5 different. They're always different, somewhat
6 different from wireless service, but that doesn't
7 mean that people wouldn't buy it. Service
8 characteristics may differ, but at the end of the
9 day, we've got to look at the market and see what
10 people buy. People seem to be willing to take a
11 chance that the phone that sits on their desk, be it
12 a VoIP phone, as mine is in my business, can't be
13 used effectively, or couldn't be used until recently,
14 effectively, to call 911.

15 You will notice, I assume, in the FCC's
16 report on the merger, that one of the paragraphs that
17 they actually put in the merger approval was an
18 announcement recognizing the applicants, that is,
19 Verizon and SBC, AT&T and MCI's progress in
20 implementing the Commission's VoIP 911 service. So
21 there's every evidence that we're moving towards a
22 VoIP phone service which will have similar, but
23 different emergency characteristics, as does ordinary
24 wireline.

25 Q. All right. So are you willing to go out on

0411

1 a limb and say that access to E911 is a good policy,
2 or are you uncomfortable with that?

3 A. I agree to the point that if you don't have
4 E911 access and you fool someone into thinking that
5 you do, I think public policy ought to ensure that
6 some kind of E911 service is available.

7 Q. All right. Can you turn to Exhibit 34, that
8 was marked for Mr. Danner, please?

9 A. Yes.

10 MR. CARRATHERS: What exhibit?

11 Q. Exhibit 34, Public Counsel Data Request
12 Number 112.

13 A. Oh, I'm sorry, I don't have it.

14 Q. May I request that your counsel provide you
15 with a copy of that? And I'm going to also look at
16 36 and 40.

17 MS. SINGER NELSON: Here, I have them.

18 MR. CARRATHERS: I'm sorry, what other?

19 MR. FFITCH: The exhibit numbers are 34, 36
20 and 40, and I can give you the DR numbers if you
21 want.

22 MR. CARRATHERS: Yeah, the DR, please.

23 MR. FFITCH: DR is 112 and 114 and 189. And
24 actually, I'm looking, also, at 113.

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

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1 moment.

2 (Discussion off the record.)

3 JUDGE WALLIS: Let's be back on the record,
4 please. Mr. ffitch, please continue.

5 MR. FFITCH: Thank you, Your Honor.

6 Q. Could you please look at Exhibit 34, Dr.
7 Taylor?

8 A. Yes.

9 Q. And in this exhibit or this data request,
10 the company is asked whether Verizon's Voice Wing
11 VoIP product provides E911 compatibility, and the
12 answer is, in the last sentence, Verizon's Voice Wing
13 product provides E911 compatibility in certain
14 locations; correct?

15 A. That's what it says.

16 Q. And Voice Wing is essentially Verizon's VoIP
17 product; correct?

18 A. Yes.

19 Q. And let's turn next to Exhibit 35. And this
20 asks generally about the technology platform. If you
21 could please look at the corrected response, the
22 second paragraph, and this describes and states,
23 Currently, Voice Wing is providing customers with
24 E911 service only in New York City. However, Voice
25 Wing plans to roll out E911 service across the

0413

1 country as soon as possible; correct?

2 A. Yes.

3 Q. And then, please turn to Exhibit 36. And
4 this data request asks if Verizon's Voice Wing VoIP
5 product provides E911 compatibility. Is the
6 technology platform available to other non-affiliated
7 VoIP providers. And the response is, Verizon states
8 that the technology is available to other VoIP
9 providers; correct?

10 A. Yes.

11 Q. And please turn to Exhibit 37. I'm sorry,
12 it's Exhibit 40, is what I meant to say. Now, this
13 is a follow-up request to Data Request 113, which was
14 Exhibit 35 that we just looked at, where we were told
15 that this E911 platform is currently available in New
16 York City. And this data request asks a number of
17 questions. Question A is whether this platform can
18 be deployed in Verizon's Washington service
19 territory; correct?

20 A. Yes.

21 Q. And the answer, in the first sentence of A
22 below is, It is possible to deploy VoIP or VOIP E911
23 services in Verizon's Washington service area in a
24 fashion similar to the way it is deployed in New York
25 City; correct?

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1 A. Yes.

2 Q. And then, four lines down, the answer also
3 states, Verizon is willing to accept orders from VoIP
4 providers and their vendors for access trunks, et
5 cetera, et cetera. And paraphrasing that, it's
6 indicating that Verizon's willing to accept orders
7 for this platform. Is that a fair statement?

8 A. Not quite. It does say that Verizon, by
9 itself, cannot provide a VoIP provider with E911
10 services. They can provide some of the necessary
11 parts of the platform, but not all, is my reading of
12 it.

13 Q. All right. The VoIP provider has to bring
14 some of their own services to the arrangement, and
15 that's described here in the answer; correct?

16 A. Yes.

17 Q. And then Part D -- excuse me, Part B asks
18 about a cost estimate, Part C asks about a time
19 estimate. Let's look at Part D. Verizon's asked if
20 it is Verizon's position that the system cannot be
21 deployed. If we look at Answer D below, the answer
22 given is NA, not applicable; correct?

23 A. Yes, because it's my understanding that they
24 say it can be deployed.

25 Q. All right.

0415

1 A. That's Part A. It is possible to deploy.

2 Q. Now, can you please turn to page 56 of your
3 rebuttal, which is Exhibit 4? I'll have the line
4 number in a moment.

5 A. Yes.

6 Q. Well, on this page, you state, quote,
7 Offering VoIP service cannot revive MCI's
8 deteriorating mass market business; correct?

9 A. Yes.

10 Q. All right. And that's line 16 and 17.
11 You're actually quoting Mr. Beach there, correct, or
12 referring to Mr. Beach's testimony?

13 A. Right, I refer to Mr. Beach. I don't think
14 I'm quoting him, but I'm --

15 Q. No, you're not. You're just referring back;
16 correct?

17 A. Yes.

18 Q. Now, we've just seen that Verizon, however,
19 is offering a VoIP product and rolling it out
20 nationwide; correct?

21 A. Yes.

22 Q. So apparently Verizon sees some value in the
23 VoIP service; wouldn't that be fair to say?

24 A. Certainly. Verizon has placed wisely, in my
25 view, bets on many different telephone technologies,

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1 telecommunications technologies. It has a very smart
2 bet in wireless, which MCI didn't do. It has bets on
3 other technologies. And they would be foolish, in my
4 mind, if they were not to have a VoIP offering.

5 Q. Okay. Are you familiar with the quite
6 recent FCC decision opposing conditions on the
7 MCI/Verizon merger?

8 A. Yes.

9 Q. And are you familiar with the requirement of
10 stand-alone DSL?

11 A. Yes, I'm familiar with what it says.

12 Q. All right. And the FCC requirement is --
13 and I'm just going to give you a statement here, and
14 see if you agree that this accurately describes the
15 condition. Within 12 months of the merger closing
16 date, Verizon will deploy and offer stand-alone ADSL
17 within the local service areas of Verizon's incumbent
18 local telephone companies. Stand-alone ADSL means
19 ADSL service on ADSL equipped lines without requiring
20 customers to also purchase circuit switched voice
21 grade telephone service. Is that accurate, to your
22 understanding?

23 A. That definition is accurate, what you read.
24 I'm not sure where you're reading it from. It's not
25 in the press release that I have.

0417

1 Q. No, it's not. I'm reading from a Verizon
2 document that describes the specific --

3 A. Oh.

4 Q. -- details. And I'm happy to show it to
5 you, but my point is actually here to simply get a
6 description of what stand-alone DSL means in this
7 context. And specifically what it means, can you
8 confirm that what it means is that the DSL service is
9 provided without requiring a customer to also
10 purchase circuit switched voice grade telephone
11 service?

12 A. Yes, that, in fact, is what the press
13 release says.

14 Q. All right. So the FCC condition does not
15 preclude by its terms Verizon from bundling or
16 requiring a customer to purchase some other type of
17 service, for example, a VoIP service, when it
18 purchases stand-alone DSL, so long as that is not a
19 circuit switched service?

20 MR. CARRATHERS: Objection, Your Honor. We
21 -- Public Counsel went through this line of
22 questioning yesterday and, as we explained, the
23 documents speak for themselves and we expect the FCC
24 order to sort of flesh out what these terms mean, and
25 it was for that very reason that we all agreed we

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1 would supplement that response. If it occurred after
2 your decision in this case, then it would necessarily
3 be a record request, a letter of some such. And so I
4 object to the same line of questioning on those
5 grounds.

6 JUDGE WALLIS: Mr. ffitch.

7 MR. FFITCH: Your Honor, as a record
8 requisition, I'd like to ask that Verizon provide a
9 copy of an ex parte letter provided to the FCC on
10 October 31st, 2005, which essentially contains a
11 description of the conditions, including the
12 stand-alone DSL. I'd be happy to show this to
13 counsel and we'd ask that that be provided formally
14 as a record requisition so that we can then offer it.

15 JUDGE WALLIS: It's marked as -- or
16 identified for the record as Record Requisition
17 Number Five.

18 MR. FFITCH: Your Honor, I'm not sure if --
19 I guess I'd like to ask one further follow-up to
20 this, and it may be hypothetical, given the fact that
21 we -- that interchange we just had with regard to the
22 previous testimony and exhibits, but let me try it
23 this way and see if there's a concern on Verizon
24 counsel's part.

25 Q. But would it be a concern, Dr. Taylor, if

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1 Verizon were to interpret this stand-alone
2 requirement as permitting it to bundle other services
3 with the DSL product when it was offering that, as a
4 requirement when it was offering that to customers?

5 MR. CARRATHERS: The same objection, Your
6 Honor. The documents speaks for itself as to
7 precisely what the obligations will -- and indeed the
8 FCC orders will dictate those, so hypothesizing on
9 whether a possible Verizon interpretation might
10 possibly be not a good thing is both irrelevant, and
11 that particular issue will be addressed by the FCC
12 order.

13 JUDGE WALLIS: Mr. ffitch.

14 MR. FFITCH: Well, Your Honor, Mr. -- Dr.
15 Martin's being -- Dr. Taylor, excuse me, not Kevin
16 Martin, who's not here --

17 THE WITNESS: Just a point.

18 MR. FFITCH: Dr. Taylor is being tendered as
19 an expert witness by the company on matters relating
20 to telecommunications services marketing, bundling of
21 services and the economics thereof, and I'm simply
22 asking him hypothetically whether it would be a
23 concern for him, a competitive concern if this
24 condition were interpreted to permit Verizon to
25 bundle mandatorily another service with its DSL

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1 service, a non-circuit switched service.

2 JUDGE WALLIS: What do you mean when you say
3 concern?

4 MR. FFITCH: Would it be anticompetitive.

5 JUDGE WALLIS: Very well. As explained, I
6 believe the testimony is within the scope of the
7 witness' presentation and his expertise, and the
8 context being clear from the discussions on the
9 record, the question is allowable and the witness may
10 respond.

11 THE WITNESS: Okay. I mean, the boilerplate
12 responses, to begin, are, first of all, I don't know
13 what the FCC had in mind and I don't know what the
14 anticompetitive concern that could be raised if
15 Verizon or any other ILEC were to provide stand-alone
16 DSL service bundled together with VoIP, which is your
17 hypothetical; is that correct?

18 Q. Correct.

19 A. So I don't know what concern it is they are
20 addressing. It is an interstate service, as you're
21 aware, so I'm not sure why it's relevant to why we're
22 here. But from an economist's point of view, the
23 first things you need to know about the markets here
24 are that, first, the broadband access market is
25 competitive, so DSL service is a way that many

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1 subscribers in Washington get broadband access to the
2 Internet, but cable modem --

3 MR. FFITCH: Your Honor, Your Honor -- I'm
4 sorry to interrupt, Dr. Taylor. I've asked the
5 witness very specifically whether it would be
6 anticompetitive if Verizon mandatorily bundled its
7 stand-alone DSL with another non-circuit switched
8 service, and I'd like the witness to initially answer
9 that question. If he has some sort of a backup
10 explanation, that's fine, but I'd like to get an
11 answer to my question first.

12 THE WITNESS: I'm sorry. The answer is no,
13 it is not anticompetitive if the concern you have is
14 an anticompetitive effect in the local access market,
15 which, if you go back over the history of stand-alone
16 DSL, I'm not sure if that's come to Washington, but
17 in other states and before the FCC, the concern or
18 the anticompetitive concern that was raised was not
19 one about the broadband market, because everyone
20 recognizes that that's a competitive market, but
21 rather that if an ILEC were to insist upon bundling
22 together its DSL service and its local exchange
23 service, then people were worried that might give it
24 an anticompetitive advantage in the local exchange
25 market.

0422

1 So that was the concern, the policy concern
2 that was connected with the issue of stand-alone DSL.
3 And the reason, then, in this context that I say no,
4 that it's not an anticompetitive effect, is because
5 the broadband market is competitive.

6 This is not an example of illegal or
7 monopolistic tying. In fact, it's the opposite of
8 tying. It is taking a competitive service, namely
9 broadband access, and saying if you want my broadband
10 access service, you're going to have to buy my, in
11 this case, regulated local exchange service, which is
12 less competitive. That's the opposite of tying.
13 It's not a profitable strategy.

14 Think of what the other way would be. If
15 Verizon came to this Commission and said, We would
16 like to insist that every local exchange customer
17 also have to buy our broadband service, our DSL
18 service, that would be tying, and of course you'd
19 laugh it out of court. This is the opposite of that,
20 and in my view, as an economist, it would not be
21 anticompetitive for -- to not require, double
22 negative, stand-alone DSL. And that's the short
23 answer.

24 I mean, the effect that your hypothetical
25 would have would effectively keep Verizon's local

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1 exchange service tied with or combined with broadband
2 access. In your hypothetical, it's because it's
3 VoIP. In the usual case that we've all looked at,
4 it's because it's ordinary copper lines, but the
5 effect would be the same, and the effect isn't
6 anticompetitive, because the broadband access market
7 is competitive. Customers have a choice.

8 Q. All right. So just to summarize, your
9 position is you do not have -- you do not believe
10 there are any competitive -- anticompetitive
11 implications if Verizon hypothetically were to
12 require a customer who wanted to purchase stand-alone
13 DSL to also purchase Verizon's VoIP? Is that an
14 accurate summary of your position?

15 A. That's correct. It would not be
16 anticompetitive. It might be stupid, but it's not
17 anticompetitive.

18 MR. FFITCH: All right. I don't have any
19 further questions, Your Honor.

20 JUDGE WALLIS: Very well.

21 MR. KOPTA: Your Honor, I have just a
22 couple.

23 JUDGE WALLIS: That's right.

24 MR. KOPTA: I have about five minutes.

25 JUDGE WALLIS: We'll start the clock.

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1 MR. KOPTA: I'll talk fast. My apologies to
2 Barb.

3

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

5 BY MR. KOPTA:

6 Q. Good morning, Dr. Taylor. I'm Greg Kopta,
7 representing XO.

8 A. Good morning, Mr. Kopta.

9 Q. I just wanted to ask you something about one
10 part of your testimony. This is Exhibit 4T-HC, your
11 rebuttal testimony, on page 106.

12 A. Yes.

13 Q. And specifically, I draw your attention to
14 lines five through six, the third bullet point on
15 that page.

16 A. Yes.

17 Q. The 247 buildings you reference, are those
18 all in Verizon's local service territory in
19 Washington?

20 A. Yes.

21 Q. And what is your source for that
22 information?

23 A. We have two sources. The first is a
24 commercially-available database called Geo-Lit, which
25 makes money by -- in several ways. They ask carriers

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1 to tell them where they -- where the carriers have
2 capacity, and therefore, if you want to buy service,
3 you go to Geo-Lit and you can see where the -- what
4 buildings are being served. They also have engineers
5 who go out and look at building permits and look in
6 the streets and see where, what buildings are lit.
7 So Geo-Lit provides a list, by CLEC and building
8 address, of carriers that, in principal, are offering
9 to supply service.

10 In addition to that, though actually not in
11 the data that you have right here, because we didn't
12 have it in time, is a list of CLECs that MCI has
13 because those, as part of the agreements that these
14 CLECs and MCI have for purchasing capacity, the CLECs
15 let MCI know where they have capacity in case MCI
16 wants to purchase service from them.

17 So the combination of those two lists, and
18 in this case it's just the one list, we know where
19 all the -- well, we know where a subset of the lit
20 buildings are. This doesn't pretend to be totally
21 inclusive. Not every carrier reports to Geo-Lit, so
22 it is an underestimate, but this is the ones that we
23 know about.

24 The Justice Department, on the other hand,
25 which went through a similar calculation to this one,

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1 went out and asked -- actually required CLECs to
2 provide the information about where they lit
3 buildings and what the capacity of those buildings
4 were, so when the Justice Department went through its
5 screens to determine where there were buildings that
6 had a competitive concern, they had more data than
7 what we had. They had all the data from XO and from
8 everybody else that they essentially subpoenaed to
9 help them make the decision.

10 Q. So is this Geo-Lit database a subscription
11 database or is it a publicly-available without charge
12 type of service?

13 A. No, you have to pay.

14 Q. Is there a printout of some nature that you
15 can get from that database or is it simply an online
16 view type of service?

17 A. I don't know that they sell, you know, a
18 paper copy of anything. You download data in various
19 formats, I think, which you can then manipulate to --
20 for example, to do maps and things like that.

21 Q. Would it be possible, as a record
22 requisition, to get a copy of the download that you
23 used to develop this figure for your testimony?

24 A. Unless there's something that we've signed
25 with Geo-Lit that would prevent that. Nothing

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1 physically prevents that.

2 MR. KOPTA: Then I would make that record
3 requisition, what I believe is Number Six.

4 JUDGE WALLIS: Number Six. And
5 specifically, what information is it that you are
6 looking for by reference to the witness' testimony?

7 MR. KOPTA: I'm looking for the --
8 essentially the source of the 247 buildings figure
9 that Dr. Taylor uses, and he references the Geo-Lit
10 database.

11 THE WITNESS: Would a printout of the CLECs
12 and the addresses of all of the buildings that
13 comprise 247 be --

14 MR. KOPTA: Yes, that would be acceptable.

15 THE WITNESS: Because I think we actually
16 have that.

17 MR. KOPTA: Okay. Then we would make it
18 that specific, then.

19 JUDGE WALLIS: And where does that appear in
20 the witness' testimony?

21 MR. KOPTA: It references Exhibit 4T-HC,
22 page 106, lines five through six.

23 JUDGE WALLIS: Thank you.

24 Q. And Dr. Taylor, Is there a comparable list
25 for the buildings to which Verizon has constructed

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1 facilities in its local exchange service territory in
2 Washington?

3 A. That I'm not sure of. I think -- well, we
4 don't have one. We assumed that Verizon can provide
5 service to every building in its territory. I mean,
6 I assume it's got a tariff obligation to provide
7 service. So for this purpose, for this calculation
8 of where MCI and Verizon were both in the same
9 building, we assumed Verizon is in every building,
10 which is a conservative assumption, if, for some
11 reason, they're not and they didn't have to be.

12 Q. Do you know the total number of commercial
13 buildings into which Verizon has constructed
14 facilities in Washington?

15 A. Has currently constructed facilities? I
16 don't know it, but it's a knowable number.

17 MR. KOPTA: Okay. I would ask, as another
18 record requisition, for that total number of
19 buildings in Verizon's local service territory in
20 Washington to which Verizon has constructed
21 facilities. And I mean by that commercial buildings,
22 not residences.

23 MR. CARRATHERS: Your Honor, I'd like to
24 object to the record request, and here's why.
25 Parties have had plenty of opportunity to seek

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1 discovery on these issues that were addressed in Dr.
2 Taylor's rebuttal testimony. I personally don't know
3 how much work is going to be needed to do that. And
4 I'm concerned we're going to go out, put this
5 information together, have a record request, and
6 let's say we can't get it together for two weeks,
7 three weeks, then have parties argue that they don't
8 have time to address it in their brief.

9 I don't think it's fair. I think parties
10 did have an ample opportunity to serve discovery. In
11 fact, I don't think XO served any discovery upon any
12 company throughout this entire proceeding. And so in
13 essence, seeking additional discovery request at this
14 time I think is inappropriate and not a good
15 practice.

16 MR. KOPTA: Your Honor, I'm merely asking
17 for the total number of buildings. I don't see that
18 as -- in this case, I'm not asking for a list of all
19 the buildings to which Verizon has constructed
20 facilities; I'm simply asking for a total number, a
21 single number I don't believe is something that is --
22 at all raises the concerns that counsel for Verizon
23 is raising and simply puts into perspective the total
24 number of buildings to which they reference in Dr.
25 Taylor's testimony the CLECs have constructed

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1 facilities.

2 JUDGE WALLIS: Very well. The request is
3 identified as a Record Request Number Seven. The
4 extent of burden is something that the company can
5 verify. If it does prove to be unduly burdensome,
6 the company can come back and state its objection.

7 To facilitate a complete record, I believe
8 that it is appropriate to allow record requisitions
9 and requisitions such as this one, although, as
10 counsel has pointed out, the timing of the request
11 can have some consequences, and a request that is
12 unduly burdensome might be denied. So subject to
13 that opportunity to raise objection, the request is
14 identified as Record Requisition Number Seven.

15 MR. CARRATHERS: Thank you, Your Honor.

16 MR. KOPTA: Thank you, Your Honor, and those
17 are all my questions. Thank you, Dr. Taylor.

18 JUDGE WALLIS: Very well. Redirect.

19 MR. CARRATHERS: Thank you, Your Honor.

20 Very briefly.

21

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

23 BY MR. CARRATHERS:

24 Q. Dr. Taylor, do you recall Mr. ffitch,
25 Counsel for Public Counsel, asking you a number of

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1 questions about VoIP and E911 in relation to what
2 folks consider traditional wireline telephone
3 service; correct?

4 A. Yes.

5 Q. Let me hand to you an exhibit that has been
6 introduced in this case, Exhibit 512, which is the
7 Justice -- Department of Justice press release on the
8 merger. And if you could please just take a moment
9 and look that over and tell me when you're ready.

10 A. I've read this very carefully. I'm ready.

11 Q. Thank you. Now, in that press release,
12 could you briefly describe the Department of
13 Justice's findings, as well as their investigation
14 considering, quote, emerging technologies, which
15 include VoIP?

16 A. Sure. VoIP, as an emerging technology, is
17 explicitly mentioned. What the Justice Department
18 did was, as it says, to look at, to investigate, not
19 just the services that were subject to the IRU lease
20 requirements, but all areas the merging firms
21 compete, including, and I'm essentially reading,
22 residential local and long distance service, Internet
23 backbone services, and a variety of
24 telecommunications services provided to business
25 customers, with the exception of the cities -- cities

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1 covered by today's action (none of which are in
2 Washington), in which the merging firms control the
3 only wireline access to numerous buildings,
4 consumers, due to existing competition, emerging
5 technologies -- see what they mean by that -- and the
6 changing regulatory environment and exceptionally
7 large merger-specific efficiencies, and the DOJ found
8 that it's not anticompetitive in all those areas.

9 Now, about VoIP, taking Mr. ffitch's
10 concerns into account, the DOJ says, As part of its
11 investigation, the Antitrust Division considered
12 numerous product and geographic market and evaluated
13 all overlaps between the merging parties. The
14 Division took into account competition from cable
15 companies, as well as emerging technologies such as
16 voice over Internet protocol, et cetera, et cetera.

17 So the conclusion must be that when the
18 Department of Justice looked at possible
19 anticompetitive effects of the merger, they took the
20 presence of VoIP offerings into account in their
21 conclusion that, for all of the services except for
22 the building-specific ones that they put a
23 restriction on, the merger was -- had no
24 anticompetitive effect.

25 So I must conclude that even if Mr. ffitch

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1 is correct that E911 is different and VoIP has
2 different characteristics when the electricity goes
3 down, that, nonetheless, at least in the DOJ's point
4 of view, from their point of view, in net, there's
5 enough competition from that and other services that
6 the merger of MCI and Verizon is not anticompetitive.

7 MR. CARRATHERS: Thank you, Dr. Taylor.

8 That's all my redirect. Thank you, Your Honor.

9 JUDGE WALLIS: Any questions from the bench?

10 COMMISSIONER JONES: Yes, Your Honor.

11 JUDGE WALLIS: Commissioner Jones.

12

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

14 BY COMMISSIONER JONES:

15 Q. Dr. Taylor, I noticed from your vitae, it's
16 about a hundred pages in length --

17 A. Very tiring.

18 Q. -- that you've testified before a number of
19 state commissions before and before the FCC?

20 A. That's correct.

21 Q. Have you ever testified on behalf of a
22 competitive local exchange carrier or an IXC? It
23 appears to be primarily on behalf of incumbent,
24 incumbent, underlined, local exchange carriers?

25 A. Primarily, you're correct. For IXCs, yes,

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1 there are a couple of resellers in that list for whom
2 I have represented in antitrust cases, for example.
3 But by and large, my U.S. clients, at least, have
4 been local exchange carriers.

5 Q. Have you ever -- so you have never testified
6 before a regulatory body on behalf of a new market
7 entrant or a competitor trying to get into an
8 established communications market?

9 A. Well, before a regulatory body, that's
10 correct. My young and new resellers were all not
11 before regulatory bodies.

12 Q. But in terms of either a facilities-based
13 company or a company that's using UNEs or leased
14 circuits to get into a market; correct?

15 A. Correct.

16 Q. Starting on page 19 --

17 JUDGE WALLIS: Did the witness answer on the
18 record?

19 THE WITNESS: I'm sorry. Correct.

20 Q. Starting on page 19 of your rebuttal
21 testimony, you go into an extensive analysis of why
22 the traditional -- what should I say -- the
23 traditional merger analysis, from an economics and a
24 regulatory economics point of view, is incorrect.
25 And I assume that you're familiar with the horizontal

0435

1 merger guidelines of DOJ?

2 A. Yes.

3 Q. So you're familiar with this document,
4 obviously?

5 A. Yes.

6 Q. And basically, as I read your testimony in
7 the rebuttal, it -- what you're saying is that either
8 on a product area definition basis or on a geographic
9 area definition basis or, frankly, anything in that
10 merger guidelines document, that there is hardly
11 anything -- there is little, if anything, of value
12 for a state commission to use in applying a rigorous
13 economic analysis to mergers; is that correct?

14 A. No, I wouldn't agree with that at all.

15 Q. Okay. Well, could you summarize why you
16 disagree with the traditional use of horizontal
17 merger guidelines and HHIs for specific products in
18 specific markets?

19 A. The -- yes, I'd be happy to. The short
20 answer, Commissioner Jones, is because if, when you
21 do a traditional HHI analysis, you only include in
22 the product market products or services that
23 essentially have the same name or the same tariff
24 reference as the service you're interested in.

25 You are doing violence to what the rest of

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1 the merger guidelines talks about. That is, for
2 telecommunications services, you have to look at how
3 products and services are bought and sold, and you
4 couldn't do, for example, an HHI for basic exchange,
5 local exchange service, and you couldn't simply look
6 at that in isolation and you couldn't do that if you
7 read the merger guidelines carefully, because they
8 would ask what would happen if you were a
9 hypothetical monopolist that served only basic local
10 exchange service, you raised your price, would
11 customers be obliged to pay, or, question mark, would
12 customers go to packaged services that maybe you or
13 someone else provide or wireless services or
14 something else.

15 So I guess what I would argue is that a
16 narrow interpretation of product market guidelines,
17 if you like, is absolutely wrong for
18 telecommunications services, though the analysis
19 which leads you to that is straight in the merger
20 guidelines. It tells you, when asking what products
21 are in the market, it says you don't need to look at
22 just the products in the market today. You ask the
23 question, if there were a small increase in price,
24 what products would be in the market within a year.
25 Well, that says, you know, that an HHI measured on

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1 market shares today doesn't make much sense.

2 Also doesn't make much sense from the
3 perspective that you always forget, that some of
4 these services are regulated services. So we ask the
5 question does Verizon have market power for basic
6 local exchange service. The correct answer from the
7 merger guidelines would have to be, well, probably
8 not, because market power is measured at a
9 competitive market price. It's not measured at the
10 regulated price. That is, because today it might be
11 the case that Verizon would find it profitable to
12 hypothetically raise basic exchange rates doesn't
13 mean they have market power through the service. To
14 an economist, it means -- to me, it means that, you
15 know, five decades of regulatory policy have kept
16 prices below what a competitive market price would
17 be.

18 So it's not a correct application of the
19 merger guidelines to be looking at substitution,
20 substitution, say, between wireless and wireline at
21 current prices. Rather, a merger guidelines person
22 would be looking at it at competitive market prices.

23 For the geographic market argument, it's a
24 little different. The geographic markets for
25 telephone services are a little fuzzy, because

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1 somebody providing service across the street doesn't
2 really help you where you are. You're not going to
3 run across the street to answer the phone. What the
4 FCC has done, they say following the merger
5 guidelines, has been to look at very narrowly-defined
6 geographic markets for long distance, they sometimes
7 say that a point to point market is the right market,
8 but then they say all of the characteristics that
9 you're interested in in this market are the same,
10 whether it's Peoria to Pittsburgh or whether it's
11 anywhere else in the United States, and therefore,
12 even if the geographic market is a point to point
13 market, we can look at the bigger one, namely the
14 U.S. market, which is what the FCC did ten years ago
15 for long distance, without running into a problem,
16 because the competitive conditions are the same
17 irrespective of the -- where you draw the line for a
18 geographic market.

19 Q. So I am -- just to cut to the chase here, I
20 understand on all these products, whether it be
21 intermodal, VoIP, local, I guess excluding --
22 including local exchange, that you're defining all of
23 these markets as national in scope; correct?

24 A. Well, yes, I think we say that with the
25 proviso that I just gave you, that yes, you're not

0439

1 going to go to Idaho to answer the phone, but rather
2 the circumstances that make the local exchange
3 service, residential local exchange service, all of
4 these competitive to the extent that I talk about in
5 my testimony, are things that pertain everywhere.
6 The Telecommunications Act, the requirement to
7 unbundle elements, the requirement to provide resale,
8 those are geographically ubiquitous.

9 Q. So that is primarily the reason, from an
10 economist's perspective, that you did not run the
11 traditional HHI market concentration analysis,
12 correct, for this proceeding?

13 A. Yes, there is not an HHI in my calculation;
14 that's correct.

15 Q. So what do we have in terms of -- and I've
16 read your testimony and your rebuttal, so what we
17 have in your pre-filed direct and your rebuttal is
18 your best economic analysis of both the national
19 issues of market concentration, the possibility of
20 increased pricing power of this merged entity, as
21 well as on the state level. That's your best shot at
22 an analysis of the specific conditions today in this
23 market?

24 A. Correct, and I would urge you to look
25 particularly at the Washington-specific numbers,

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1 because even for this merger, the territory involved
2 in Washington is very different from the territory
3 involved elsewhere. You noticed, I'm sure, that the
4 FCC put a large number of conditions on the merger,
5 conditions -- some of which were asked for here, and
6 you have to remember in that context that Verizon and
7 MCI may have a very different competitive
8 relationship in Manhattan or in New York than they do
9 in Verizon's territory in Washington.

10 So when you're looking -- looking at the
11 evidence, make sure you look at the
12 Washington-specific evidence, because things are
13 different here than --

14 Q. Yes.

15 A. -- they are elsewhere.

16 Q. So as we go forward with our analysis, your
17 best analysis is in this pre-filed and in the
18 rebuttal. For example, on cable, you talk a lot
19 about intermodal competition, including cable?

20 A. Yes.

21 Q. And you define the market as an enterprise
22 market and a mass market?

23 A. Correct.

24 Q. Nothing in between, no shades of gray.

25 There's no local exchange market, there's no product

0441

1 differentiation among the enterprise market, for
2 example, in your testimony, is there?

3 A. That's correct. Within enterprise, we have
4 governments, we have private business, we have
5 wholesale, that is, other carriers who buy.

6 Q. Right.

7 A. And the point is they all buy them in the
8 same way.

9 Q. But, for example, let's take the cable
10 analogy as an intermodal competitor.

11 A. Sure.

12 Q. So you are asserting that there is vigorous
13 today and there will be even more vigorous
14 competition in the future for cable for all of the
15 communications markets in the state of Washington?

16 A. Oh, absolutely.

17 Q. Residential, small business?

18 A. Yes.

19 Q. Medium-sized business, large business?

20 A. Did you see the news this morning? Four
21 major cable companies put together a joint venture
22 with Sprint-Nextel, large, business-oriented wireless
23 carrier, to provide the fourth part of their triple
24 play, I don't know what you'd call it, a four-part
25 triple play, but -- so they can provide wireless as

0442

1 part of the package that they will provide to
2 residential and to business services. That's just
3 hot news this morning.

4 Q. Just my final question is if you accept your
5 analysis, especially from a state commission's point
6 of view, and define and accept your analysis of
7 competition, intermodal competition, and that these
8 are, in fact, interstate services, and I guess my
9 question to you, as a final one, is what sort of
10 analysis, rigorous economics analysis should we use
11 as a state commission if many of these new products,
12 these intermodal products, of course, are not subject
13 to our jurisdiction. They're subject to FCC, are
14 they not?

15 A. Some.

16 Q. So what sort of analysis, accepted economics
17 discipline should we use going forward for this case
18 and other cases?

19 A. Let's do this case first. This is a merger,
20 and we always have to focus on the narrow question
21 that's being asked. That is, what is the change in
22 competitive circumstances, for you, for the services
23 over which you have responsibility, what change will
24 this merger bring about in competition for those
25 intrastate services. A very narrow, much narrower

0443

1 focus than a lot of other questions.

2 We don't -- Verizon isn't asking to be
3 deregulated here. We're not trying to -- they're not
4 trying to argue that competition is sufficient that
5 they should have complete pricing flexibility. They
6 may think they should, but that's not this docket.
7 It's what is the incremental effect of MCI and
8 Verizon becoming under one, under one roof. And for
9 that, a rigorous analysis, which I think we did, I
10 think the Staff did, looks at what the overlaps
11 between Verizon and MCI, both the facilities
12 overlaps, the ones that I concentrate on, and the
13 services.

14 For mass market, it's almost a no-brainer in
15 the sense that if MCI were to actually exit the mass
16 market, they don't say that they are, but if you
17 thought that they were, then the HHI effect would be
18 zero. That is, you would -- when you're comparing a
19 pre-merger and a post-merger HHI and MCI isn't in the
20 market, the change is zero. Well, that's -- I
21 wouldn't say that that's the right answer, but it's
22 the answer in the limit.

23 And in fact, for mass market, the fact that,
24 even though MCI is going to continue to milk its cash
25 cows, my phrase, not theirs, that doesn't have much

0444

1 of an effect on price. You know, if you want to see
2 that MCI has an effect on price, cast your mind back
3 ten years at dinnertime when the phone rang. There
4 was somebody telling you about why you should shift
5 to MCI, because it was a lot cheaper than Verizon or
6 whoever. But they're not doing that anymore. The
7 marketing is cut out.

8 And for -- I mean, so the analysis for mass
9 market, I think, is quite simple, and from my
10 perspective, the analysis from -- for enterprise
11 simply looks at the facilities that are being used to
12 provide these services, and there's almost no
13 overlap. So that's -- and where there is overlap,
14 there are lots of other carriers. It's like
15 fishermen. Wherever there are a lot of fish, there
16 are a lot of fishermen. So in the Seattle MSA, where
17 there are -- Verizon and MCI both have fiber and have
18 lit buildings, so does everybody else. No surprise.
19 That takes care of this case.

20 You'd asked about other cases, and you raise
21 a very interesting concern. I'd recommend to you
22 essentially an NPRM that the New York Public Service
23 Commission Staff put out the other day. They don't
24 have answers, they're looking for them, but it
25 addresses just your question. What do we do, what do

0445

1 you do when you have control over prices, service
2 conditions, quality of wireline telephone companies
3 in your jurisdiction, but they compete against
4 carriers and things over which you have no control.

5 And what is -- how should you act in those
6 circumstances in order to best serve the customers
7 that you protect.

8 Q. Well, thank you for bringing that up. Do
9 you also have an opinion on the New York PSC White
10 Paper?

11 A. Yes, I do.

12 Q. Is that a good document? Is that a rigorous
13 economic analysis of the effects of these -- of this
14 merger and another merger?

15 A. The short answer is no. It tries to be.
16 The Staff there, like the Staff here, is an honest
17 bunch of economists, many of whom I've worked with
18 for years, trying to do the best they can, but with
19 the data that they have, the numbers that they put
20 out are very misleading. In the same sense as, one
21 of my criticisms, of Staff's HHI here. Staff gets
22 all the data they can on who the competitors are,
23 squares the shares and adds them up. That gives a --
24 I mean, that's the best you can do if that's all the
25 numbers that you have, but you have to recognize that

0446

1 that doesn't include intermodal competition. Where
2 is Vonage in that? It doesn't appear. In fact, I
3 don't even know how to make it appear. You know,
4 where are wireless carriers, et cetera.

5 The New York report had a couple of other
6 sort of major problems, as well, when they were
7 looking at transport. They measured -- they went out
8 and asked -- in fact, I think the data came from a
9 previous docket. It wasn't complete, not everyone
10 replied, so it's the same problem. But, also, when
11 they were measuring point to point markets, they
12 would say, all right, who provides services from A to
13 B? You guys do. Who provides services from B to C?
14 You guys do. Who provides service from A to C?
15 Well, they don't realize that -- or they don't take
16 into account in their analysis the fact that anyone
17 who provides service from A to B and B to C also
18 provides service A to C. So that's a hard sort of
19 programming problem to solve, but they didn't solve
20 it.

21 I can't think offhand what other comments
22 are, but sure.

23 COMMISSIONER JONES: Judge, I should just
24 note for the record that this is Document 303, this
25 New York Public Service Commission study that I

0447

1 referred to. It is already in the record.

2 JUDGE WALLIS: Thank you.

3 COMMISSIONER JONES: Document 303.

4 Q. So just as a final question, then, in that
5 document, you do not agree with their -- they broke
6 down the mass market and the large enterprise and
7 medium-sized business market and they quote --
8 concluded, on the business market, We tentatively
9 conclude the Verizon/MCI merger will produce
10 significant consolidation and is, therefore, more
11 troubling. They were less concerned about the mass
12 market, but they were more concerned about the
13 industry consolidation aspects for the business
14 market.

15 So you disagree with that, you disagree with
16 those conclusion?

17 A. Yes, I disagree with the conclusion. And
18 just one quick thing. There are two New York Staff
19 reports. There was an updated report. I don't know
20 what you're looking at.

21 Q. This is the one dated July 6th, 2005.

22 A. There is a revision.

23 Q. Exhibit 303.

24 A. All right. There is a revision that they
25 filed, Staff filed.

0448

1 Q. I assume this is the most recent version,
2 given all the bright people in this room working on
3 the case. Okay. That's all I have.

4 JUDGE WALLIS: Very well. I would like to
5 follow up with two matters, Dr. Taylor.

6

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

8 BY JUDGE WALLIS:

9 Q. First of all, you referred to, in your
10 discussion with Commissioner Jones, merger
11 guidelines. Can you identify exactly what documents
12 you were referring to in that discussion?

13 A. Yes, I saw Commissioner Jones had a copy.
14 I'm not sure I do. It is the 1992 version of the --
15 I think the official citation is something like the
16 Department of Justice and Federal Trade Commission
17 Horizontal Merger Guidelines, and it is a publication
18 available on either the DOJ or the FTC's Web site,
19 and it is the document that the Staffs of those
20 agencies use to determine which mergers ought to be
21 looked at carefully.

22 Q. Could the company provide a copy of that to
23 the record as Bench Request Number One?

24 MR. CARRATHERS: Yes, Your Honor.

25 JUDGE WALLIS: Thank you.

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1 Q. In addition, you, in your discussion with
2 Commissioner Jones, suggested looking specifically at
3 circumstances within Washington. As Bench Request
4 Number Two, and referring back to Exhibit 61, which
5 is Mr. Beach's testimony, at page 20, he identifies
6 the number of buildings in Verizon territory and in
7 Qwest or non-Verizon territory that MCI serves.

8 As to those, could you identify the, to the
9 extent the information is available, the minimum
10 number of competitors serving those buildings and
11 identify those competitors. Again, that would be to
12 the extent that information is available to you.

13 A. What do you mean by the minimum number?

14 Q. If you know the exact number, then that
15 could be provided. If there is a way to identify
16 what would be the minimum number, then that would be
17 acceptable, also.

18 A. I know, for our buildings, we have the
19 number of CLECs providing service.

20 Q. Very well. That would be sufficient.

21 A. Okay.

22 JUDGE WALLIS: And that would be Bench
23 Request Number Two. Is there anything further of
24 this witness? Mr. Carrathers.

25 MR. CARRATHERS: very briefly, follow-up to

0450

1 Commissioner Jones' questions.

2

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

4 BY MR. CARRATHERS:

5 Q. Dr. Taylor, you'll recall that Commissioner
6 Jones asked about the merger guidelines in general
7 and the proper application of those guidelines. You
8 explained your position. There have been other
9 positions by other parties in this case and indeed
10 the New York Staff White Paper has a position.

11 Just a couple of questions. The New York
12 Staff White Paper and indeed the testimony of other
13 parties in this case, they all -- that analysis was
14 done prior to the Department of Justice issuing its
15 order; correct?

16 A. That's correct.

17 Q. And the Department of Justice, who developed
18 the merger guidelines, actually applied those merger
19 guidelines; correct?

20 A. Yes.

21 Q. And based on your understanding of the
22 Department of Justice outcome, and you've read their
23 press release today, can you please state your
24 opinion as to what the Department of Justice findings
25 mean relative to, for example, the New York

0451

1 Commission White Paper?

2 A. Sure. The DOJ's conclusion was that, with
3 the exception of the various cities and the various
4 buildings that they have listed, the transaction
5 doesn't harm competition in any telecommunications
6 market. So irrespective of how -- oh, and that
7 applies geographically everywhere. It isn't like the
8 FCC. It's not sort of some average that you think
9 would be good policy for the U.S.

10 My understanding of the DOJ and the Clayton
11 Act is that they're obliged to apply it everywhere,
12 and that's what they do. So we can -- I can infer
13 that, for Verizon's territory in Washington, that the
14 DOJ has done, looked at its view of how the product
15 market should be thought of, how the geographic
16 market should be thought of, how the additional
17 concentration brought about by this merger would be,
18 and has determined in its wisdom that that additional
19 concentration, if there is any, is not likely to harm
20 competition and, in net, that the transaction will
21 likely benefit consumers.

22 MR. CARRATHERS: Thank you, Dr. Taylor.
23 That's all, Your Honor. Thank you.

24 JUDGE WALLIS: Is there anything further?

25 MR. FFITCH: Your Honor, I just have one or

0452

1 two follow-ups.

2

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

4 BY MR. FFITCH:

5 Q. Dr. Taylor, you were asked a number of
6 questions by your counsel regarding the Justice
7 Department's press release. And you essentially, as
8 you've just done again, talked about how they
9 reviewed -- they being the Department of Justice,
10 reviewed the various technology and product markets
11 and concluded that there were no anticompetitive
12 effects.

13 So are you testifying that the FCC got it
14 wrong by imposing certain conditions to remedy issues
15 in certain markets, including the stand-alone DSL?

16 MR. CARRATHERS: Objection, Your Honor. The
17 FCC did not impose conditions. If Counsel referred
18 to the letter he asked to be introduced as an exhibit
19 in this case, they're termed voluntary commitments.

20 Q. The Department of Justice doesn't address
21 that issue at all, whereas the FCC is going to
22 require that stand-alone DSL be provided, right,
23 along with a number of other conditions that the
24 Department of Justice didn't address?

25 A. Well, let's not argue on the word require.

0453

1 I mean, this was a voluntary obligation, whatever
2 that oxymoron might mean.

3 Q. Well, let's -- yeah, let's stop right there,
4 Dr. Taylor. The position of Verizon in this state
5 and every other state in the country and under the
6 FCC and the DOJ was that this merger should be
7 approved without condition; correct?

8 A. That's right.

9 MR. FFITCH: All right. No further
10 questions.

11 JUDGE WALLIS: Is there anything further?
12 Commissioner Jones.

13 COMMISSIONER JONES: Judge, I cannot resist.
14 I would just note for the record, in the document
15 labeled 303, this New York PSC White Paper, that
16 there were, at least according to Footnote Number
17 Four, there were a large number of comments that were
18 received from a large number of groups, including, of
19 course, Verizon, the Office of Attorney General of
20 New York State, a lot of CLECs, consumer groups. So
21 this appears to be a fairly well, in terms of public
22 comment, at least, it was well-circulated, a lot of
23 comments were received.

24 Secondly, on the DOJ press release, I would
25 just remind the witness that this is the same press

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1 release that quotes about the benefits of the
2 competition of this merger, that includes the phrase
3 "exceptionally large merger specific efficiencies,"
4 among other things, but that's in the DOJ press
5 release itself. That's all I have.

6 JUDGE WALLIS: Any further questions? It
7 appears that there are none. Dr. Taylor, thank you
8 very much for appearing today.

9 THE WITNESS: Thank you.

10 JUDGE WALLIS: You're excused from the stand
11 at this time. Let's be off the record for a
12 scheduling discussion.

13 (Lunch recess taken.)

14 JUDGE WALLIS: Let's be back on the record
15 following our noon recess. And at this time Public
16 Counsel has called its witness, Dr. Roycroft, to the
17 stand. Dr. Roycroft, if you would stand and raise
18 your right hand, please.

19 Whereupon,

20 TREVOR R. ROYCROFT, Ph.D.,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23 JUDGE WALLIS: Please be seated. Mr.
24 Ffitch.

25 MR. FFITCH: Thank you, Your Honor.

0455

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

2 BY MR. FFITCH:

3 Q. Good afternoon, Dr. Roycroft.

4 A. Good afternoon.

5 Q. Would you please state your full name and
6 your business address for the record?

7 A. My name is Trevor R. Roycroft. My business
8 address is 51 Sea Meadow Lane, Brewster,
9 Massachusetts.

10 JUDGE WALLIS: Let's be off the record for
11 an administrative matter for just a moment.

12 (Discussion off the record.)

13 JUDGE WALLIS: Let's be back on the record,
14 please. Mr. ffitch, please continue.

15 Q. Dr. Roycroft, could you please restate your
16 name and business address for the record?

17 A. My name is Trevor R. Roycroft, my business
18 address is 51 Sea Meadow Lane, Brewster,
19 Massachusetts.

20 Q. And you were retained by the Public Counsel
21 Section of the Washington Attorney General's Office
22 to analyze the joint petition of Verizon/MCI for
23 approval of the merger in Washington State with
24 respect to competition and other issues; is that
25 correct?

0456

1 A. That is correct.

2 Q. And have you prepared exhibits in this case,
3 which you should have before you and have been marked
4 as follows: Response testimony, Exhibit 371T-HC; and
5 attached exhibits, 372 through 375?

6 A. Yes, that is correct.

7 Q. Do you have any changes or corrections to
8 those exhibits?

9 A. No.

10 Q. And are they true and correct, to the best
11 of your knowledge?

12 A. Yes, they are.

13 Q. And if I asked you these same questions
14 today, would your answers be the same, as shown in
15 the testimony and exhibits?

16 A. Yes, they would.

17 MR. FFITCH: Your Honor, at this time, I
18 would like to offer Mr. -- excuse me, Dr. Roycroft's
19 exhibits and testimony.

20 JUDGE WALLIS: Pursuant to the parties'
21 stipulation, Exhibits 371T-HC, 372, 373, 374-HC, and
22 375 are received in evidence. Mr. ffitch declined to
23 stipulate to the admission of exhibits on
24 cross-examination, except those as to which inquiry
25 was made on cross-examination. I understand that the

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1 company now has no cross-examination for Dr.
2 Roycroft, but wishes to explore the opportunity to
3 have four of the proposed exhibits on cross received
4 in evidence; is that correct?

5 MS. ENDEJAN: That is correct, Your Honor,
6 and we do not -- last night and today, in looking at
7 our proposed cross for Dr. Roycroft, in light of the
8 issues that have been covered, the schedule, and the
9 number of witnesses remaining to be dealt with, the
10 company decided to not have any cross-exam questions
11 for Dr. Roycroft.

12 However, it was my understanding, consistent
13 with a discussion with Mr. Ffitch, that the response
14 -- Public Counsel responses to four data requests
15 could be admitted into the record. That was my
16 understanding. And we would therefore move into the
17 record what has been marked as Exhibits Number 376,
18 377, 390 and 391, and withdraw the remaining exhibits
19 that had been designated as cross-examination
20 exhibits.

21 JUDGE WALLIS: Mr. Ffitch.

22 MR. FFITCH: Your Honor, I have no objection
23 to the admission of those particular cross exhibits.
24 I would like to be heard briefly with regard to the
25 waiver of cross.

0458

1 JUDGE WALLIS: Very well. Exhibits 376,
2 377, 390 and 391 are received. Mr. ffitch.

3 MR. FFITCH: Your Honor, I'll, as a
4 preamble, certainly acknowledge that Public Counsel
5 has been prepared to tender its witnesses for this
6 hearing both for the benefit of cross-examination by
7 all parties, including parties other than Verizon,
8 and also for questions from the bench.

9 However, I will note that on the
10 cross-examination estimates for this case, as of five
11 minutes before lunch time today, the cross-exam
12 estimates for Verizon were 60 minutes and for MCI
13 were 60 minutes. We were informed just moments
14 before lunch that Verizon had determined that it
15 would not have any cross-examination for this
16 witness.

17 Because of that, we have not been able to
18 consider the option of whether or not it was
19 necessary for Mr. -- or Dr. Roycroft to travel to
20 Washington State. He has, in fact, spent the better
21 -- will be ultimately spending the better part of
22 three days to travel to and from Washington at the
23 expense of my office and at the expense of his
24 professional time, and I am just raising this point
25 to express my dissatisfaction with the last-minute

0459

1 change of position with regard to cross by Verizon.

2 We have not actually heard from counsel for
3 MCI with respect to their 60-minute prediction of
4 time. Again, I acknowledge that we're very happy to
5 have Dr. Roycroft here to be available for questions
6 from others, but obviously we did not have the option
7 of exploring other travel arrangements for him, given
8 the predictions from Verizon and MCI.

9 JUDGE WALLIS: Very well. I will note for
10 the record that in -- I believe it was yesterday's
11 pre-hearing conference, we were advised that the
12 total cross-examination for Dr. Roycroft by Verizon
13 and MCI would likely not exceed 60 minutes. So at
14 that point, there was a reduction in the estimated
15 time on cross.

16 MR. FFITCH: That is correct, Your Honor.
17 I'm reminded of that. However, I guess I would just
18 note that was a reduction. I do recall that now, a
19 reduction, not a complete waiver of time, and of
20 course that was made after Dr. Roycroft was already
21 traveling to this destination.

22 JUDGE WALLIS: Very well. Is any response
23 desired to counsel's comments?

24 MR. CARRATHERS: Very briefly, Your Honor.
25 Not to belabor this point, Charles Carrathers, for

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1 Verizon. The first day of hearing, various parties
2 gave cross-exam estimates which went far beyond what
3 those estimates were, and as we explained, when you
4 look at the record and the questions that had been
5 elicited to date, we made a decision that we didn't
6 need to cross-examine him.

7 So again, we apologize for Dr. Roycroft and
8 his being here. However, I believe, as Staff stated,
9 they have questions for him, so I'm sort of at a loss
10 to understand why this is such an issue to Mr.
11 ffitch, but we will apologize to Mr. ffitch and Mr.
12 Roycroft for making a decision which, in my
13 experience, are typically made in hearings during the
14 course of them.

15 But enough said on that. Thank you so much
16 for the opportunity, Your Honor.

17 JUDGE WALLIS: Very well. Thank you to both
18 counsel for your comments. Mr. ffitch, do you have
19 anything further for Mr. Roycroft, or are you
20 tendering him for examination now?

21 MR. FFITCH: No, thank you, Your Honor. Dr.
22 Roycroft is available for cross.

23 JUDGE WALLIS: Very well. Commission Staff.

24

25

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

0461

1 BY MR. THOMPSON:

2 Q. Good afternoon, Dr. Roycroft.

3 A. Good afternoon.

4 Q. I'm Jonathan Thompson, I represent the
5 Commission Staff. I just wanted to ask you a few
6 questions -- well, a few clarifying questions about a
7 couple of the conditions that you advocate for in
8 your testimony, and I will be primarily going off of
9 your testimony, which is marked as Exhibit 371T-HC.

10 Well, first of all, just a preliminary
11 matter. You are receiving compensation for your work
12 in this case, are you not?

13 A. Yes, I am.

14 Q. And should we discount your testimony as
15 biased in recognition of that fact, do you think?

16 A. That I'm being compensated?

17 Q. Yes.

18 A. I don't think so.

19 Q. Could I have you turn, please, to page 94,
20 95 of your testimony. And here you're --

21 JUDGE WALLIS: Exhibit 371?

22 Q. Exhibit 371; correct. And here you're
23 discussing your recommendation regarding broadband
24 deployment?

25 A. Yes.

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1 Q. Correct? About line 11 on page 95, there's
2 a sentence that starts, With regard to broadband
3 deployment. You indicate that you believe a
4 three-year time period would provide reasonable --
5 well, reasonable -- for Verizon to remedy current
6 deficiencies in its DSL deployment.

7 When you say that, are you suggesting that
8 Verizon should have one hundred percent DSL
9 availability in its service territory within that
10 time frame?

11 A. The recommendation goes to the availability
12 of high-speed services in general, not only DSL. I
13 recognize that, in all cases, DSL may not be the most
14 economical means to provide high-speed services, and
15 if Verizon would satisfy the condition by providing
16 service to the unserved customers through a fiber
17 connection, that might be -- that would be
18 acceptable, as well.

19 Q. Are you talking now about customers that
20 aren't presently served by any kind of broadband
21 technology, or capable of served, I guess I should
22 say?

23 A. The recommendation goes to the Verizon
24 customers which are currently unserved by Verizon in
25 a broadband sense. We heard this morning about the

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1 competition for broadband services. Well, these
2 customers have no broadband service or limited
3 competition from the standpoint that Verizon is not
4 offering broadband to these customers. It's possible
5 that there may be cable broadband available to them,
6 but that would indicate a monopoly provision of
7 broadband service if Verizon does not have a
8 broadband offering in the area.

9 Q. So is the intention of this condition to
10 remedy a perceived lack of competition in the
11 broadband market?

12 A. The direction of this condition is to expand
13 the availability of broadband in the state.

14 Q. And what's the -- what is the connection
15 with the merger? Is there a connection with the harm
16 that would be caused by the merger absent this
17 condition?

18 A. The joint petition raises the issue of
19 broadband deployment in the state of Washington as
20 being one of the benefits of the merger to the state
21 of Washington. So this is taking Verizon and MCI to
22 task on the statement they make in the joint petition
23 regarding merger benefits that will result if this
24 Commission approves the merger.

25 Q. So holding the companies to a -- one of the

0464

1 promised benefits of the merger; is that a fair
2 assumption?

3 A. Yes, I think that's a fair summary.

4 Q. If it were made clear that what the
5 companies meant by that was not broader use of or
6 broader availability of DSL service, but instead more
7 rapid deployment of fiber to the premises, do you
8 think that weakens the nexus of this condition to any
9 harm caused by the merger?

10 A. The statement made by the companies in the
11 joint petition goes to the availability of broadband.
12 This recommendation gives the company the flexibility
13 to supply broadband either through DSL or through a
14 fiber solution. I don't -- and in that sense, it
15 provides a means of both remedying the decline in
16 competition for voice services in the state that
17 occurs as a result of the merger and holding the
18 company to the commitment that it states is going to
19 be associated with the merger with regard to
20 improving broadband deployment in the state.

21 Q. In what regard does it improve things for
22 competition in the voice services?

23 A. Well, my testimony discusses in detail the
24 rising role of voice over Internet protocol and, in
25 order to have that service available at all, you need

0465

1 a broadband connection. I discuss the fact that
2 stand-alone VoIP today has some serious limitations
3 associated with it, but absent broadband, you don't
4 have the choice at all.

5 So the incremental step in improving voice
6 competition resulting from the availability of VoIP
7 has, as a prerequisite, the availability of
8 broadband.

9 Q. Okay. Let me turn you now to, just changing
10 subjects, to page five of the same exhibit, your
11 testimony.

12 A. I'm there.

13 Q. And you've got a number of bullet points on
14 that page, and the one I'm interested in is the
15 fourth bullet under consumer protection conditions.
16 Do you see that one? Regarding -- it says Verizon
17 should be prevented from operating its MCI subsidiary
18 within Verizon's Washington service area in a manner
19 which would allow Verizon to circumvent Verizon's
20 Washington tariffs.

21 What is the harm that you are worried about
22 with regard to Verizon having a non-competitively --
23 or I should say a competitively classified local
24 service company?

25 A. I guess my -- one of my concerns would be

0466

1 the ability of Verizon to discriminate and to offer
2 perhaps a premium service through a subsidiary and
3 offer, you know, superior service quality, for
4 example, or better service offerings to customers
5 through the subsidiary. We've heard that Verizon has
6 not conducted any planning with regard to what is
7 going to be happening after the merger is finalized,
8 and the fact that we don't know what Verizon
9 envisions for a stand-alone MCI is something that,
10 you know, I think is worthy of knowing.

11 So Verizon has obligations under its tariff
12 that it should not be allowed to circumvent through
13 the operations of an alternative company.

14 Q. Sounds like what you're saying is that,
15 through its MCI subsidiary, Verizon would be able to
16 offer -- make offerings that are more attractive to
17 customers than those offered by Verizon, the Verizon
18 LEC?

19 A. What I'm saying is that it offers Verizon an
20 opportunity to discriminate in the provision of
21 services. Verizon won't tell us what they're
22 planning for MCI's subsidiary, whether it's going to
23 operate at all or whether it is going to -- whether
24 those customers will simply be left to fend for
25 themselves to choose either Verizon or some other

0467

1 CLEC, but the fact that you have a subsidiary
2 operating under the MCI name, you know, raises issues
3 of customer choice, you know, can the customers make
4 an informed choice of service provider, and it opens
5 up the possibility that Verizon could engage in
6 discrimination by differentiating services between a
7 subsidiary operating under the MCI brand name versus
8 services that are being sold under the Verizon brand
9 name.

10 Q. I'm still unclear, though, how consumers
11 would be harmed if, in fact, there is a better
12 offering made, say, by MCI, either better in terms of
13 quality or price, than is offered by Verizon
14 Northwest. Can you explain that to me?

15 A. Well, how is it that the -- how is it that
16 Verizon determines which customers get offered the
17 superior service? Does not Verizon have an
18 obligation to offer highest quality services or very
19 high quality services to consumers in the state in
20 general, or are some consumers deserving of something
21 less than the best that's available.

22 Q. But doesn't the Commission -- wouldn't the
23 Commission still retain authority over Verizon's
24 tariffed services, and presumably whether Verizon
25 would withdraw services from its tariffed offerings?

0468

1 A. I would imagine that would be the case, yes.

2 MR. THOMPSON: That's all the questions I
3 have. Thank you.

4 JUDGE WALLIS: Very well. Mr. ffitch.

5 MR. FFITCH: Your Honor, re-cross, you're
6 asking me? Redirect, rather?

7 JUDGE WALLIS: Yes.

8

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

10 BY MR. FFITCH:

11 Q. You've just been asked about this issue
12 regarding Verizon operating MCI within its own
13 service territory as a separate entity. And counsel
14 for Staff just asked you about whether MCI would be
15 offering service at, for example, a better price.

16 Could you respond to whether, in your view,
17 there's information in the record about whether MCI
18 is likely to be offering service at a better price?

19 A. There's testimony indicating that MCI is
20 experiencing increased prices for its inputs and it's
21 having to pass along those increased input prices in
22 the form of higher prices to its customers.

23 Q. Are those customers, based upon what you've
24 heard in the hearing today and seen in the record,
25 are they likely to be mass market customers or --

0469

1 A. Mass market customers.

2 Q. And is MCI focusing on mass market
3 customers?

4 A. Well, according to the evidence presented by
5 MCI, they view the mass market as being in a state of
6 irreversible decline from MCI's business perspective.
7 They're still offering services to mass market
8 customers, but, on a going forward basis, the
9 evidence indicates that they don't believe that's a
10 viable business opportunity.

11 Q. MCI is competitively classified currently in
12 Washington State; correct?

13 A. Yes.

14 Q. So in your opinion, should it retain its
15 competitive classification within Verizon's
16 Washington service territory in order to provide
17 service to Verizon customers in the -- let's say the
18 mass market? I may be asking you a legal question
19 about Washington statute.

20 A. Yeah, I'm not sure what their -- what
21 permissible classifications are under the law. My
22 recommendation is that it shouldn't be run as a
23 corporation that allows Verizon to circumvent its
24 responsibility under the law and under the tariffs in
25 this state.

0470

1 MR. FFITCH: All right. I don't have any
2 other questions, Your Honor.

3 JUDGE WALLIS: Are there questions from the
4 bench? Chairman Sidran.

5 CHAIRMAN SIDRAN: Thank you.

6

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

8 BY CHAIRMAN SIDRAN:

9 Q. Dr. Roycroft, since you submitted your
10 direct testimony, obviously a lot has happened in
11 relationship to this case, both here in Washington
12 State and nationally, so I would like to give you the
13 opportunity to respond to some of those intervening
14 events.

15 First, in your testimony, you go through a
16 process that you describe as using an analytical
17 approach consistent with the Department of Justice's
18 approach. We now know what the conclusion is of the
19 Department of Justice with respect to these issues.
20 Do you have any comment in response to their
21 decision?

22 A. Well, first, let me say that the analytical
23 approach that I utilized, which is perhaps offered in
24 a very concise version by the Department of Justice's
25 merger guidelines, represents an analytical approach

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1 that has a life of its own outside of the Department
2 of Justice. If the Department of Justice's guidance
3 was not available, I still would have relied on the
4 methodology that I utilized in my testimony.

5 The Department of Justice's ruling is
6 somewhat perplexing to me on a number of levels, and
7 I don't -- I don't have the answers to the questions
8 that I have, but I'll share with you the questions,
9 as far as what I see are some of the contradictions
10 in the Department of Justice's decision.

11 One aspect of the Department of Justice's
12 decision that is somewhat troubling to me is the
13 almost exclusive focus of the Department of Justice's
14 decision on the operations of Verizon East, and in
15 only one case did they stray from the Verizon East
16 operations by identifying some buildings in the
17 Tampa, Florida area as being candidates for their
18 divestiture requirement.

19 Q. Of course, to us, Florida's still east, but
20 --

21 A. And it is east, but -- and that may explain
22 the desire to do research on the particular market
23 area, but from a -- from Verizon's operating
24 perspective, their East operations are the original
25 Bell Atlantic territory as well as the Nynex oriented

0472

1 service areas. The West is essentially everything
2 that they picked up in the GTE merger.

3 Now, I haven't seen the analysis that was
4 conducted, but I have a very hard time believing that
5 in an area, for example, like Los Angeles,
6 California, where Verizon has service offerings, that
7 there are no buildings where the conditions that have
8 triggered this divestiture in the Verizon East area
9 exist.

10 If you look at what the Department of
11 Justice did in the SBC decree in Los Angeles, there's
12 all sorts of buildings that they're requiring have
13 the divestiture. I just -- I don't -- I have a very
14 hard time believing that there is a -- that there are
15 no buildings, other than those Verizon East areas and
16 Tampa, Florida, that would come under that portion of
17 the divestiture provisions.

18 The other aspect of the Department of
19 Justice's approach that is troubling is, to me, as
20 far as from an analytical perspective, is their
21 complete ignoring of any impact on switched services.
22 It's -- there's no question that AT&T and MCI were
23 the largest switch-based CLECs, facilities providing
24 facilities-based switching, and that is completely
25 glossed over in the Department of Justice's analysis.

0473

1 And I find this most surprising given the
2 eight-year history of Department of Justice
3 involvement in 271 proceedings, where, in those 271
4 proceedings, they took great care to analyze the
5 actual competition that was occurring in the
6 marketplace based on all three paths associated with
7 entry made available by the Telecommunications Act of
8 1996.

9 So you have, under those 271 evaluations,
10 the Department of Justice saying, you know, the
11 competition coming from firms like AT&T and MCI is
12 probative evidence of the need to grant the 271
13 relief, it's evidence of competition, but when we
14 take away that competition, especially from these,
15 you know, very large competitors, it's completely off
16 the radar screen, and that's an aspect of that
17 analysis that I find to be troubling.

18 Q. To follow up on the conditions that you
19 think should be required if we were to approve this
20 merger, which Mr. Thompson referred to on page five
21 of your testimony, since the submission of your
22 testimony, of course, there's been this proposed
23 settlement that's now before us, as well as the
24 decisions from the Department of Justice and the FCC,
25 which speak to some, though not all of these

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1 conditions.

2 I'd also like you to offer any comments you
3 have about if there's anything about the conditions
4 in the settlement that seem to address some of the
5 issues you raise or in the FCC's order or, for that
6 matter, the DOJ's, that you think don't go far enough
7 or perhaps satisfy you to the extent that they are
8 consistent with some of the conditions that you've
9 proposed.

10 MR. FFITCH: Excuse me, Your Honor. May I
11 offer the witness -- or inquire whether the witness
12 needs a copy of the settlement document to refer to
13 on the stand?

14 THE WITNESS: I'd appreciate that. I also
15 do not have a copy of the FCC's press release.

16 JUDGE WALLIS: I will hand the witness a
17 copy of the multi-party settlement agreement in this
18 docket.

19 CHAIRMAN SIDRAN: Which is Exhibit 501; is
20 that correct?

21 JUDGE WALLIS: Yes, that's Exhibit 501.

22 CHAIRMAN SIDRAN: And Exhibit 511, I think,
23 is the FCC's corrected press release.

24 MR. FFITCH: Thank you, Your Honor.

25 THE WITNESS: The Staff's affirmative case,

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1 you know, identified a number of issues and provided
2 analysis that was not dissimilar from the analysis
3 that I presented in my testimony. The settlement
4 agreement, I don't believe, goes far enough and falls
5 short in some areas, one area being the issue of
6 sharing. My testimony does not address the dollar
7 amounts of sharing, but I certainly did review the
8 dollar amounts to be identified as
9 Washington-specific benefits that were identified in
10 the Staff testimony, which I'm not sure if the number
11 is confidential or not, but was a rather substantial
12 dollar value.

13 When I look at the benefits that are
14 identified in the Staff -- in the settlement, the
15 dollar values that I can calculate are substantially
16 below the dollar values that the Staff identified as
17 being an appropriate amount to be shared with the
18 ratepayers. And I also note that the dollar value
19 target that the Staff identified was one that
20 provided for sharing between the shareholders and the
21 ratepayers. In other words, the total value of the
22 merger benefits was much greater than the amount that
23 the Staff was suggesting be shared.

24 So we have a total dollar sharing that's
25 much lower, but the distribution of that sharing is

0476

1 of even more concern to me in that the line extension
2 is being targeted at a handful of customers, a dozen
3 or so customers, and based on my analysis, the rate
4 center consolidation benefits are going to be going
5 to a relatively small portion of the overall
6 ratepayers for Verizon Washington, somewhere in the
7 neighborhood of -- I think in the neighborhood of ten
8 percent of residential and business customers will
9 benefit from those rate center consolidations.

10 So on the issue of sharing, I think that the
11 settlement agreement falls far short of what the
12 Staff identified as being an appropriate amount to be
13 shared between the ratepayers and shareholders.

14 The service quality, there was a service
15 quality condition for the wholesale customers that
16 was included, and this was -- my understanding of
17 this was that it was a result of satisfying one of
18 the CLECs' concerns, and I think that this sort of
19 approach to dealing with wholesale service quality is
20 certainly a positive aspect of the settlement
21 agreement as I am still not convinced that the CLECs
22 are completely irrelevant. They certainly have been
23 harmed as a result of recent developments, but I
24 think they still play a valuable role in the
25 marketplace and I hope they will continue to do so

0477

1 going forward.

2 The commitment with regard to service
3 quality, retail service quality, you know, I think is
4 a desirable commitment, although it does not go to
5 the level that I recommend from the standpoint of
6 expanding reporting to sort of provide a set of
7 warning indicators should service quality start to
8 diminish.

9 The Commission heard testimony this morning
10 from Mr. Smith about the process going forward with
11 regard to the quantification and realization of
12 merger benefits, and one of the things that Mr. Smith
13 pointed out was that, going forward, they will have
14 targets to meet in order to satisfy investors and
15 their shareholders, and he pointed out that, in some
16 cases, they may have a difficulty consolidating their
17 systems and they'll fall short, but he said we'll
18 have to make it up here, somewhere else, and I agree.
19 That is exactly what is going to happen going
20 forward.

21 The company will have targets to meet, and
22 if they don't meet the targets through the merger
23 savings, they may look elsewhere to meet their
24 targets, and one of the areas that I'm very concerned
25 about is the issue of retail service quality. And

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1 there are -- you know, there's ample evidence of
2 previous mergers having a negative impact on retail
3 service quality. The condition that I recommend,
4 that is that the company proactively report
5 investment levels and staffing levels, will give the
6 Commission a heads up if they're making it up here in
7 Washington, taking it out of the hide for retail
8 service quality. And that is something that the
9 settlement, you know, addresses, but does not go far
10 enough.

11 The settlement also addresses the PIC
12 change, and this recommendation is one that I believe
13 is positive and has some advantages for ratepayers,
14 but it does not go far enough, once again. The very
15 same issue exists for current MCI retail customers.
16 We've heard again and again from MCI's witnesses that
17 there is -- that their business plan is to
18 essentially exit over time from the retail market,
19 from the mass market. And that exit over time will
20 involve the same sort of decision making on the part
21 of the consumers that the PIC change provision of the
22 settlement does, but the consequences would be much
23 greater from a dollar standpoint.

24 The PIC change will have a dollar impact on
25 a customer of about four or five dollars, depending

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1 on where they reside in the state. My estimate of a
2 customer leaving MCI and coming back to Verizon,
3 that's going to cost a customer 45 bucks, so that
4 adds a significant impact on the consumer and it just
5 does not strike me as being a reasonable process for
6 addressing consumers that have few choices other than
7 to come back to Verizon to take their local service
8 if MCI makes good on its plan to continue its exit of
9 the market.

10 The provisions of the -- the provisions of
11 the settlement agreement with regard to essentially
12 making new commercial agreements available to other
13 parties are desirable conditions of the merger.

14 The provision with regard to the FCC, we
15 haven't seen the FCC's order yet, so we don't know
16 what those details may ultimately look like, but it
17 looks like the reduction in interstate special access
18 rates is not coming about.

19 I think it would have been desirable to have
20 perhaps an expanded take on special access should the
21 -- should the issue be addressed by the FCC in some
22 other proceeding, especially the inter-carrier
23 compensation proceeding.

24 So I think that covers the points with
25 regard to the settlement agreement between the Staff

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1 and Verizon.

2 Turning to the FCC agreement, here, again,
3 we have less information and what the ultimate
4 agreement looks like when the Commission order comes
5 out may be different, but, you know, the overlapping,
6 you know, the ostensibly overlapping provision of --
7 one of the overlapping provisions of the FCC's
8 agreement with Verizon goes to the stand-alone DSL,
9 and here the issue of stand-alone DSL, I believe, is
10 addressed in a very wishy-washy fashion from the
11 standpoint that it only specifies the
12 circuit-switched service, circuit-switched voice
13 services as being a candidate for the non-bundling,
14 the non-required bundling with the stand-alone DSL.

15 If I am a Vonage and I go through the effort
16 of convincing a consumer that they should take
17 service from me and that consumer then decides to
18 drop their land line voice service, but is told by
19 Verizon that, well, you know, if you drop your land
20 line circuit-switched voice, you're still going to
21 have to take -- you're still going to have to take
22 our VoIP product, well, I don't see how that could do
23 anything but interfere with competition.

24 And even if they don't go that far, you
25 know, Verizon has ample opportunity, once that

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1 customer approaches them, to say, Hey, you know, our
2 VoIP product is better and cheaper, perhaps, and you
3 know, take it rather than Vonage.

4 But the biggest concern there is whether --
5 whether Verizon will be able to require the inclusion
6 of VoIP service with the stand-alone -- the so-called
7 stand-alone DSL.

8 You know, in general, the sunset provisions
9 of the FCC's agreement is also somewhat troubling
10 from the standpoint that the stand-alone DSL such as
11 it is is only offered for a 24-month period after it
12 becomes available. And that does not bode well
13 should we have the lack of many alternative broadband
14 platforms. Right now we see, you know, perhaps
15 cable. The best a consumer is going to hope for
16 these days, it seems, is cable and DSL availability.
17 Other alternatives, you know, that are on the horizon
18 are still highly speculative, so as far as broadband
19 choice, the alternatives are few and, two years down
20 the road, whether there will be enough broadband
21 competition to mitigate the impact I can't say with
22 certainty, but it does at least appear that it's
23 unlikely that, two years from now, that we'll have so
24 many broadband alternatives that it will not matter
25 what Verizon or a cable company does with regard to

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1 bundling their voice services along with broadband
2 services.

3 So I think, you know, there are a number of
4 other provisions that go beyond the recommendations
5 that I make in my testimony, you know, especially
6 given the interstate orientation of the FCC's venue
7 that, you know, I think have a potentially positive
8 impact on marketplace, but they're really outside the
9 scope of my recommendations.

10 CHAIRMAN SIDRAN: Thank you.

11 COMMISSIONER OSHIE: No questions.

12 COMMISSIONER JONES: No questions.

13 JUDGE WALLIS: Is there any follow-up?

14 MR. CARRATHERS: Your Honor, Charles
15 Carrathers, for Verizon. I do have some limited
16 cross-examination, based on the questions from
17 Chairman Sidran, if that's permitted.

18 JUDGE WALLIS: Very well.

19

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

21 BY MR. CARRATHERS:

22 Q. Good afternoon, Dr. Roycroft.

23 A. Good afternoon.

24 Q. My name is Charles Carrathers, I represent
25 Verizon. I want to take you back to your discussion

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1 with the Chairman regarding the Department of Justice
2 findings and its approach.

3 You indicated you had a different analytical
4 approach. Did you share your different analytical
5 approach with the Department of Justice in their
6 review of this merger?

7 A. If I said I had a different analytical
8 approach, I may be misremembering what it is you're
9 referring to exactly. I think what I said to the
10 Commission was that my analytical approach would have
11 been the same regardless of whether the Department of
12 Justice's merger guidelines existed, and that is a
13 sound economic approach, the use of the
14 Herfindahl-Hirschman Index as an examination of -- as
15 a tool to examine market structure is one that has a
16 life outside of the Department of Justice's merger
17 guidelines.

18 The other factors that I analyzed, including
19 the demand side and supply side of the market, is
20 something that is -- has a life of its own, other
21 than the Department of Justice's merger guidelines.

22 Q. Let me ask my question again. Did you
23 provide any analysis to the Department of Justice
24 regarding this merger?

25 A. No.

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1 Q. Do you know whether your client, Public
2 Counsel, or anyone else in the Washington Attorney
3 General's Office provided any analysis to the
4 Department of Justice?

5 A. I don't know.

6 Q. Do you have personal knowledge of exactly
7 the evidence, the specific evidence the Department of
8 Justice considered in reaching its conclusion?

9 A. I don't believe that evidence has been
10 released.

11 Q. Do you have any specific evidence that the
12 Department of Justice did not consider evidence
13 regarding service offerings by Verizon and MCI in
14 Washington State?

15 A. There's no evidence of that in the
16 documents.

17 Q. Do you have a copy of the Justice
18 Department's press release that we've been
19 discussing, marked as Exhibit Number 512?

20 A. I don't believe I do.

21 MR. CARRATHERS: May I present the witness
22 with a copy?

23 JUDGE WALLIS: Yes, you may.

24 MR. CARRATHERS: Thank you.

25 Q. And Dr. Roycroft, on your copy, I

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1 highlighted a portion of the press release on page
2 one and a portion on page two, and I'm going to read
3 those highlights for you.

4 On page one, the Division -- referring, of
5 course, to the Department of Justice Antitrust
6 Division -- thoroughly investigated not just the
7 local private line issues covered by today's
8 settlement, but all areas in which the merging firms
9 compete, including residential, local and long
10 distance service, Internet backbone services, and a
11 variety of telecom services provided to business
12 customers.

13 And if you'd just flip the page, the next
14 sentence I want to draw your attention to,
15 highlighted there, As part of its investigation, the
16 Antitrust Division considered numerous products and
17 geographic markets and evaluated all overlaps between
18 the merging parties. Do you see that?

19 A. Yes, I do.

20 Q. Do you have any reason to disagree with the
21 DOJ's characterization of what it did?

22 A. Well, the second quote that you read to me
23 there addresses the issue of the special access,
24 private line type services. It does not address the
25 issue of why they did not consider switched services

0486

1 to be -- to warrant attention with regard to
2 potential divestitures of overlapping assets. So the
3 --

4 MR. CARRATHERS: Thank you, Dr. Roycroft.
5 Those are all the questions, Your Honor.

6 JUDGE WALLIS: Mr. ffitch.

7 MR. FFITCH: Nothing further, Your Honor.

8 JUDGE WALLIS: Any further questions? Let
9 the record show that there is no response. Dr.
10 Roycroft, I want to thank you very much for visiting
11 our part of the country today.

12 THE WITNESS: Thank you.

13 JUDGE WALLIS: We even arranged in your
14 honor that it not rain the entire time you were here.

15 THE WITNESS: Thank you very much.

16 JUDGE WALLIS: You're excused from the stand
17 at this time. Let's be off the record while Dr.
18 Roycroft steps down and the next witness, Mr. King,
19 steps forward.

20 (Discussion off the record.)

21 JUDGE WALLIS: Let's be back on the record,
22 please. A couple of housekeeping matters. Let me
23 acknowledge for the record that Exhibits 301-T
24 through 304 are received in evidence by stipulation
25 of the parties. Those are Mr. Wood's exhibits. And

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1 Exhibits 305, for identification, through 351, for
2 identification, are withdrawn; is that correct?

3 MR. KOPTA: That is correct, Your Honor.

4 MS. ENDEJAN: That is correct, Your Honor.

5 JUDGE WALLIS: Very well. That is so noted.

6 Our next witness is Charles King, and he has stepped
7 forward to the stand. Would you stand, raise your
8 right hand at this time, please?

9 Whereupon,

10 CHARLES W. KING,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13 JUDGE WALLIS: Please be seated. Mr.
14 Ffitch.

15 MR. FFITCH: Thank you, Your Honor.

16

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

18 BY MR. FFITCH:

19 Q. Good afternoon, Mr. King.

20 A. Good afternoon.

21 Q. I'm going to try and not address you as Mr.
22 Doctor this afternoon. Could you please state your
23 full name and your business address for the record?

24 A. Charles W. King. My business address is
25 1220 L Street N.W., Washington, D.C.

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1 Q. And were you retained by Public Counsel in
2 this case to review the issue of merger savings and
3 synergies?

4 A. Yes, I was.

5 Q. And have you prepared direct testimony and
6 exhibits in this case?

7 A. Yes, I have.

8 Q. And do you have them before you?

9 A. Yes, I do.

10 Q. And did you prepare what is titled revised
11 direct testimony of Charles W. King?

12 A. Yes, I did.

13 MR. FFITCH: And that's been marked as
14 Exhibit 411T-HC, and at this point I'll just inquire
15 of the bench whether there's any need to make sure
16 that the bench has that revised direct that was filed
17 recently?

18 JUDGE WALLIS: As long as that document
19 tracks exactly the prior errata direct testimony,
20 other than the color of some pages and the
21 designation of some pages as revised, there is no
22 need to provide additional copies. I believe that
23 could be confusing.

24 MR. FFITCH: Thank you, Your Honor. The
25 only differences between the revised direct, which we

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1 filed at your request, and the errata version is that
2 the title has changed. The headers have been changed
3 so that only the header on a page with a correction
4 says corrected, and the other aspects of the document
5 remain the same. The changes are shown in red line.
6 The confidential or highly confidential material is
7 indicated and is carried on blue page. So I believe
8 that we're okay there, Your Honor.

9 JUDGE WALLIS: Very well.

10 MR. FFITCH: I'll also just indicate that we
11 did distribute copies of this revised direct to
12 counsel here at yesterday's hearing.

13 JUDGE WALLIS: Very well.

14 Q. So the testimony and exhibits that you
15 prepared, Mr. King, have been numbered Exhibits 411
16 through 418; is that correct?

17 A. That's correct.

18 Q. And do you have any changes or corrections
19 to this revised testimony?

20 A. I have one minor typo, and that is on
21 Exhibit 415, which is also labeled CWK-5-HC. The
22 revised header under Column D is a formula.

23 Q. We may need to just be careful here about
24 whether we're getting into confidential.

25 A. No, no, I'm just giving -- changing the

0490

1 header, and that's all.

2 Q. All right.

3 A. The formula is D3, which is the name of the
4 cell, equals .25 times, and the next number within
5 the parentheses should be C2, not C1. That's the
6 only correction.

7 Q. Thank you. And with that correction, is
8 this testimony and are these exhibits true and
9 correct, to the best of your knowledge?

10 A. Yes, they are.

11 Q. If I asked you these questions, these same
12 questions today, would your answers be the same?

13 A. Yes, they would.

14 MR. FFITCH: Your Honor, I'd like to offer
15 Exhibits 411 through 418.

16 JUDGE WALLIS: Exhibits 411T-HC through
17 418-HC are received in evidence by stipulation.

18 MR. FFITCH: And Mr. King is available for
19 cross, Your Honor.

20 JUDGE WALLIS: Very well. Mr. Weissmann.

21 MR. WEISSMANN: Thank you, Your Honor.

22

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

24 BY MR. WEISSMANN:

25 Q. Good afternoon, Mr. King.

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1 A. Good afternoon.

2 Q. My name is Henry Weissmann. I'm one of the
3 lawyers representing Verizon in this case. If I may
4 ask you, please, to turn to your testimony, Exhibit
5 411, beginning on page 13?

6 A. I have it.

7 Q. And starting on line 24, continuing on to
8 the next page, in this section of your testimony,
9 you're discussing your proposed allocation to
10 Washington intrastate operations of head count cost
11 savings; correct?

12 A. That's correct.

13 Q. And on the bottom of page 13 and the top of
14 page 14, you talk about one area of cost that you
15 excluded; right?

16 A. That's correct.

17 Q. And this exclusion is head count costs
18 relating to long distance; right?

19 A. That's correct.

20 Q. And the reason, on the top of page 14, you
21 say that you excluded those is that they're basically
22 interstate?

23 A. That's correct, although there is some
24 intrastate long distance, as well, of course.

25 Q. Sure. But you took out the entire amount?

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1 A. I did, yes.

2 Q. And the reason that you took out those long
3 distance amounts is that these interstate operations
4 are outside this Commission's jurisdiction; correct?

5 A. That's correct. This particular calculation
6 is attempting to focus on intrastate regulated
7 services.

8 Q. So because you could specifically identify
9 these individuals as supporting activities that were
10 basically interstate in nature, you excluded them
11 from consideration; right?

12 A. That's correct.

13 Q. If you could turn, please, to Exhibit 414,
14 which is your 4-HC.

15 A. Yes.

16 Q. Inviting your attention to Row 7.

17 A. Yes.

18 Q. This is the place where you remove the long
19 distance head count consistent with the testimony
20 we've just looked at; correct?

21 A. That's correct. You'll also notice that
22 line three is also not represented in the Washington
23 intrastate savings. I took out international and
24 wholesale, as well.

25 Q. Okay. And this long distance head count

0493

1 that you excluded on Row 7 --

2 A. Yes.

3 Q. -- this relates to the network head count,
4 Row 4; correct?

5 A. I believe so, yes.

6 Q. Now, Row 1 on Exhibit 414 --

7 A. No, I'm -- let me stand corrected. It
8 couldn't, because the numbers that I'm removing are
9 larger than the network piece. So I cannot say where
10 those head count numbers are included in the
11 remainder of the listing.

12 Q. Okay. Well, let's go through that a little
13 bit, then. You see on Row 7 your source for this
14 long distance head count is the response to Staff
15 Data Request 78; do you see that?

16 A. Yes.

17 MR. WEISSMANN: Your Honor, I'd like to show
18 the witness this data response. I don't actually
19 intend to mark this as an exhibit. I merely mean to
20 lay a foundation for the ultimate source of this
21 figure.

22 JUDGE WALLIS: Very well. Subject to the
23 use of the document and comments of counsel as may be
24 received, you may do so.

25 MR. WEISSMANN: Yes, and I may say I did

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1 notify Mr. ffitch that I would be doing this.

2 JUDGE WALLIS: Very well.

3 MR. WEISSMANN: May I approach, Your Honor?

4 JUDGE WALLIS: Please.

5 Q. Mr. King, I put before you a document which
6 I'll represent to you is the response to Data Request
7 -- Staff Data Request 78. Do you have that in front
8 of you?

9 A. That's correct. Yes, I do.

10 Q. This is a source document that you
11 referenced in Exhibit 414, Row 7; correct?

12 A. Yes.

13 Q. Directing your attention to the beginning of
14 this question, do you see the reference here to Mr.
15 Smith's narrative? It's referred to as page ten,
16 footnote one?

17 A. Well, I see the footnote one. I don't see
18 it in context, unfortunately, so I'm not sure what it
19 refers to. It refers to these savings. I don't know
20 really what they are.

21 Q. Right. So do you have Exhibit 87, which is
22 the attachment to Mr. Smith's testimony?

23 A. I don't believe I do. I may, but you'll
24 have to identify what that is, his initial testimony?

25 Q. Mr. Smith's filed rebuttal testimony in this

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1 case, Exhibit 86.

2 A. No, I don't have that with me. I'm sorry.

3 Q. And then attached to it was Exhibit 87.

4 A. No, I don't have it with me.

5 Q. Perhaps your counsel could provide it to
6 you.

7 MR. FFITCH: May I approach, Your Honor?

8 JUDGE WALLIS: Please.

9 MR. FFITCH: That's SES-2-HC.

10 THE WITNESS: It's this narrative? I
11 believe I have this, yes.

12 MR. FFITCH: Do you need --

13 THE WITNESS: I think not, probably, unless
14 there's some difference. I think I have it.

15 Q. Inviting your attention to page nine of
16 Exhibit 87.

17 A. Yes, sir.

18 Q. Do you see footnote one on page nine?

19 A. Oh, dear. Maybe I should get the original,
20 because this --

21 JUDGE WALLIS: Let's be off the record,
22 please.

23 (Discussion off the record.)

24 JUDGE WALLIS: Let's be back on the record.

25 Q. Have you found that reference?

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1 A. I found it.

2 Q. Now, if you compare the wording of the
3 second sentence of that footnote to Staff Data
4 Request 78, can you confirm that this is the
5 appropriate reference in the data request?

6 A. It appears to be, yes.

7 Q. And the first sentence of this footnote
8 refers to head count reductions in network; correct?

9 A. Yes.

10 Q. Returning to Exhibit 414, please?

11 A. I'm a little mystified by that, because the
12 national head count listing on line seven is greater
13 than the -- that's the amount I'm removing is greater
14 than the corresponding amount on line four, so there
15 has to be something in this long distance head count
16 beyond just network, just mathematically.

17 Q. Well, let me maybe offer another explanation
18 to you --

19 A. Fire away.

20 Q. -- and see if this helps you out. Are you
21 aware that there were more than one national synergy
22 estimate?

23 A. Well, I think there were two. There's one
24 that arrived at -- I believe the number is public --
25 seven million -- seven billion. The other one's 7.3

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1 billion, and that may account for the differential.

2 Q. Would you accept, subject to check, my
3 representation that Row 4, the network line, and Row
4 7, the long distance line, referring to Exhibit 414,
5 are based on different iterations of that national
6 synergy model?

7 A. Well, that may be the case. It would
8 suggest that I probably, had I been more consistent,
9 I would not have -- well, I can't say what the effect
10 would have been. That's quite possible.

11 MR. FFITCH: Your Honor, with respect to the
12 request for subject to check, I'd like to inquire of
13 counsel how the witness would --

14 THE WITNESS: I don't know how I could check
15 it.

16 MR. FFITCH: -- check that fact. I think
17 subject-to-check questions are limited to things that
18 the witness can specifically examine easily and
19 confirm.

20 JUDGE WALLIS: Mr. Weissmann.

21 MR. WEISSMANN: Well, it's not a material
22 point, Your Honor. So I think the material -- the
23 information was provided in discovery, but I'm not
24 going to force the witness to trace back through
25 that.

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1 THE WITNESS: Well, I've been looking at the
2 two summaries, and I certainly can't see it there.
3 So I won't debate that with you, but I'm not sure how
4 I could discover that.

5 Q. All right.

6 A. I don't know which one the Row 7 applies to,
7 whether it's the seven or 7.3 million -- billion.

8 Q. Returning to Exhibit 414, please?

9 A. Yes.

10 JUDGE WALLIS: Just for the sake of the
11 record, shall we assume that the subject to check
12 request is withdrawn?

13 MR. WEISSMANN: I beg your pardon. Yes,
14 Your Honor.

15 JUDGE WALLIS: Thank you.

16 Q. Returning to Exhibit 414?

17 A. Yes, sir.

18 Q. Line -- excuse me, Row 1 refers to head
19 count reductions in enterprise markets; correct?

20 A. That's correct.

21 Q. And would you agree that, in enterprise
22 markets, this includes interstate long distance
23 services?

24 A. Well, enterprise is all kinds of services,
25 so it would include some interstate long distance.

0499

1 Q. Would you agree that on Row 2, referring to
2 Exhibit 414, there's a reference to mass market
3 commercial? Do you see that?

4 A. Yes.

5 Q. And services provided to mass market and
6 commercial customers include interstate services?

7 A. Yes, but I correct for that in the
8 Washington regulated, because you see that fraction
9 there in Column D.

10 Q. Yes. No, I understand.

11 A. It is designed to reflect intrastate
12 regulated.

13 MR. WEISSMANN: Your Honor, I'm going to
14 move to strike the answer, which was not responsive
15 to my question.

16 MR. FFITCH: Your Honor, the witness is
17 simply trying to give a complete answer.

18 JUDGE WALLIS: I will deny the motion to
19 strike on the basis that the witness should be
20 allowed to explain the response.

21 Q. And then, as you've said, again, sticking on
22 Exhibit 414, Row 3, you've excluded international and
23 wholesale; correct?

24 A. That's correct.

25 Q. Entirely, yes?

0500

1 A. Yes.

2 Q. Not applying your allocation factor;
3 correct?

4 A. That's correct.

5 Q. Inviting your attention back to Exhibit 411,
6 your testimony, page eight, please? Are you there?

7 A. Yes.

8 Q. Beginning on line 11 and continuing on, you
9 summarize the various categories of synergies at the
10 national level, yes?

11 A. That's correct.

12 Q. For clarity, these that are described here
13 on page eight, information technology, network,
14 carrying on to page nine, Canadian divestiture, these
15 are line of business savings that are distinct from
16 the head count reductions, which you summarize
17 beginning on line nine of page nine; correct?

18 A. Well, that's correct. They're all additive.
19 Head count reductions is one of the forms of
20 synergies, yes.

21 Q. Right. And in Exhibit 414, we were just
22 looking at the head count; correct?

23 A. That's correct.

24 Q. Turning back to page eight, line 18, you
25 include a discussion of network; correct?

0501

1 A. That's correct.

2 Q. This is the same functional area, line of
3 business which, in the head count case, you excluded?

4 A. Yes.

5 Q. On the grounds that it was interstate, yes?

6 A. Yes, it would appear I excluded most of it,
7 if not all.

8 JUDGE WALLIS: Mr. King, could you swing
9 that microphone a little bit closer to you --

10 THE WITNESS: I'm sorry.

11 JUDGE WALLIS: -- and put it down in front
12 of your mouth, please. Thank you.

13 THE WITNESS: All right.

14 Q. And flipping the page to page nine of
15 Exhibit 411, Canadian divestiture, this relates,
16 obviously, to international operations; right?

17 A. That's correct, and I excluded those.

18 Q. In the head count area; correct?

19 A. That's correct.

20 Q. Turning just for a moment to Exhibit 418?

21 A. Yes, sir.

22 Q. This is your systemic view?

23 A. That's correct.

24 Q. We'll get back to that in detail, but for
25 now, I just want to clarify you're taking the total

0502

1 nationwide synergies and applying a intrastate
2 allocation factor; correct?

3 A. That's correct.

4 Q. And in doing that, you didn't exclude the
5 international or network line of business savings;
6 correct?

7 A. Well, as I point out in my testimony, these
8 synergies, while not legally related, that is, if one
9 had a rate case, you would not find them in the
10 intrastate Washington component, ultimately
11 contribute to the benefit of Washington intrastate
12 operations, because they are systemic and the overall
13 system is enjoying significantly reduced costs, and
14 those significantly reduced costs eventually flow
15 down to the intrastate operation through the use of
16 overheading ratios. And those overhead ratios tend
17 to reduce --

18 MR. WEISSMANN: Excuse me, Your Honor, I'm
19 sorry to interrupt the witness, but I think he's
20 gotten away from my question.

21 THE WITNESS: Well, let's go back to the
22 question. I'm sorry. I was trying to explain why I
23 had these other things in here, and you were
24 referring to them.

25 MR. WEISSMANN: Actually, my --

0503

1 JUDGE WALLIS: Mr. King, I am going to ask
2 you, if counsel interrupts with a point he wants to
3 raise to the bench, if you could just let us have
4 that conversation, and then I think it will probably
5 go a little bit smoother, faster.

6 THE WITNESS: I apologize.

7 JUDGE WALLIS: Mr. Weissmann.

8 MR. WEISSMANN: Thank you, Your Honor. At
9 this point, I wasn't really asking for an explanation
10 of why he followed this methodology; I was really
11 just asking a factual clarification, which was in
12 Exhibit 418, you didn't exclude these categories
13 we've just discussed, the international and the
14 network; correct?

15 THE WITNESS: That is correct.

16 Q. Turning back to Exhibit 411, please, page
17 seven.

18 A. I'm there.

19 Q. Lines one through five. This is where you
20 contrast your two different methodologies; correct?

21 A. That's correct.

22 Q. One is -- can I refer to it as your rate
23 case --

24 A. That's correct.

25 Q. -- methodology, and the second is the

0504

1 systemic approach; correct?

2 A. That's correct.

3 Q. And under the systemic approach, you take
4 the entire -- you start with the entire national
5 synergy, the 7.3 billion; correct?

6 A. That's correct.

7 Q. And you apply an intrastate allocation
8 factor; right?

9 A. It's even more confined, the intrastate
10 regulated factor.

11 Q. And you apply that to all of the categories
12 of synergy that comprise the 7.3 billion; correct?

13 A. That's correct.

14 Q. So as we've seen, that would include the
15 savings from Canada?

16 A. Yes.

17 Q. It would include the interstate long
18 distance; correct?

19 A. That's correct.

20 Q. It would include the wireless revenues?

21 A. Small amount of wireless, yes.

22 Q. So let's return to 418 for a moment, please.

23 A. I have it.

24 Q. This exhibit summarizes your systemic
25 approach; correct?

0505

1 A. That's correct.

2 Q. And you project out these revenues all the
3 way through 2014; correct?

4 A. Well, they're not revenues; they're
5 synergies.

6 Q. Sorry, I misspoke. Thank you.

7 A. And the answer's yes.

8 Q. And then, in Column I, you derive a present
9 value of the amounts you've so allocated; correct?

10 A. That's correct.

11 Q. And then in Column J, you derive a revenue
12 stream that the company would obtain by increasing
13 its rates by a dollar starting in 2007?

14 A. It's the other way around. The company
15 would surrender by reducing its rates by a dollar
16 beginning in 2007.

17 Q. All right. And then, in Column K, you
18 compare your derivation of these allocated synergies
19 to this foregone revenue stream; correct?

20 A. Yes, that gives us the ratepayer share.

21 Q. So the foundation or the basis for your
22 policy recommendation that the one dollar per month
23 rate increase be cancelled is this systemic approach
24 set forth in 418; correct?

25 A. Yes, that's correct.

0506

1 MR. WEISSMANN: Could I have just a moment,
2 Your Honor?

3 JUDGE WALLIS: Yes.

4 Q. All right. I'd like to turn our discussion
5 now back to your rate case methodology, so let's look
6 at Exhibit 411, page 19, please.

7 A. I have it.

8 Q. Starting on line 14, you explain that your
9 rate case methodology is basically the revenues and
10 costs that would show up in a rate case; right?

11 A. Yes.

12 Q. And that's in contrast to the systemic
13 approach, which goes a bit further; right?

14 A. Yes, I characterize these as the minimum and
15 maximum sharing that should take place.

16 Q. And if you'll look at Exhibit 417, please?

17 A. I have it.

18 Q. This is your summary of your rate case
19 methodology?

20 A. That's correct.

21 Q. So let's start with Row 7 of Exhibit 417.

22 Do you see that?

23 A. Yes.

24 Q. This is the head count reductions --

25 A. Yes.

0507

1 Q. -- that you've allocated to Washington
2 intrastate regulated operations; correct?

3 A. You're right.

4 Q. And the source for this is stated as Exhibit
5 CWK-4-HC, which is Exhibit 414; correct?

6 A. That's correct.

7 Q. Let's turn to that, please. And in Column
8 D, we see the Washington regulated factor; correct?

9 A. That's correct.

10 Q. And this is the same factor that you use in
11 the systemic case; correct?

12 A. Yes.

13 Q. And what you did here is you applied this
14 factor to all of the head count savings achieved by
15 both companies minus the long distance?

16 A. That's correct.

17 Q. Okay. Let's get into a little bit of a
18 discussion of how did you come up with this -- I'm
19 going to let the cat out of the bag -- 1.1898 percent
20 factor, okay?

21 A. It's on the next page, Exhibit 415.

22 Q. Thank you. Now, in Exhibit 415, you began
23 in Row 2 with the total revenues that Verizon
24 Northwest reports to this Commission; correct?

25 A. That's correct.

0508

1 Q. And Verizon Northwest also reports to this
2 Commission what fraction is interstate and what
3 fraction is intrastate, as shown on Rows 3 and 4 of
4 Exhibit 415; correct?

5 A. That's correct.

6 Q. And these revenues are reported to this
7 Commission consistent with FCC regulations
8 prescribing the way in which books of account are to
9 be maintained; correct?

10 A. Revenues are to be maintained, yes. Not
11 costs, but revenues.

12 Q. Right. These are revenue numbers we're
13 talking about here?

14 A. Yeah, I have to use those because I do not
15 have separated costs.

16 Q. Now, what you did, as I understand it, is
17 you adjusted those revenues to a different allocation
18 of interstate and intrastate; right?

19 A. No, I adjusted the revenues to reflect the
20 allocation that would occur in a separated cost
21 study. You see, I'm using revenues as a surrogate
22 for costs. That holds up only to a limited extent
23 because, as I point out in my testimony, the
24 disconnect between the 25/75 interstate/intrastate
25 prescription by the FCC of the separation of

0509

1 subscriber line plant.

2 Q. Right.

3 A. And then the revenues, though, don't follow
4 that prescription.

5 Q. Right.

6 A. They are highly distorted toward interstate
7 revenues, because the FCC has determined that all
8 broadband revenues are interstate.

9 Q. Right. I read your testimony on that point.

10 A. I understand. So that's the reason for
11 this.

12 Q. Right. So just stepping back for a moment,
13 you're developing a factor to allocate costs, head
14 count costs; right?

15 A. Right.

16 Q. So you're taking revenues, yes?

17 A. Using revenues as a surrogate for costs,
18 yes.

19 Q. You're then reallocating those revenues
20 between interstate and intrastate different than the
21 way the company reports it based on this 75/25 cost
22 split for subscriber line plant?

23 A. That's right. To the extent I can identify
24 them, and it's been difficult, I try and come up with
25 the revenues associated with subscriber line plant.

0510

1 Q. Okay.

2 A. And then reallocate those on a 25/75 basis.

3 Q. So let's look at Column C in Exhibit 415.

4 A. Yes.

5 Q. And the figure on Row 2 represents the
6 amount -- the total amount of access revenue?

7 A. You're having the same trouble I had. It's
8 Row 3.

9 Q. All right.

10 A. Total amount of access revenue. And when I
11 say access, I'm referring to revenue related to local
12 subscriber access plant.

13 Q. This includes switched access; correct?

14 A. Switched access, yes.

15 Q. Special access?

16 A. Yes.

17 Q. And as you said, the 75/25 relates to
18 subscriber plant; correct?

19 A. Subscriber line plant, which is most of the
20 plant, as you see, of the intrastate service.

21 Q. And just remind me here, the subscriber line
22 plant is what supports the subscriber line charge;
23 correct?

24 A. Well, it supports a subscriber line charge.
25 It also is supported by other revenues, as well.

0511

1 Q. Sure. Okay. So continuing on with Exhibit
2 415, on the bottom half of this page you develop an
3 MCI factor; correct?

4 A. That's correct.

5 Q. And what you're doing is you're coming up
6 with the portion of the MCI intrastate within Verizon
7 territory in Washington, yes?

8 A. Yes.

9 Q. And you're dividing that by overall MCI
10 revenues nationally; right?

11 A. That's correct.

12 Q. And the overall MCI revenues nationally,
13 I'll call that the denominator, okay?

14 A. That's the denominator, and the intrastate
15 revenue is the numerator.

16 Q. So in the denominator, you're including
17 MCI's enterprise revenue, yes?

18 A. Yes.

19 Q. And its commercial small business
20 residential mass market revenue; correct?

21 A. Yes, you'll see those in Rows 11 and 12.

22 Q. Right.

23 A. And then they total to 13, Row 13, which is
24 the national revenue.

25 Q. Right, right. And this does not include

0512

1 MCI's international revenues; correct?

2 A. I don't believe so, no.

3 Q. It does not include MCI's wholesale
4 revenues; correct?

5 A. I don't believe so.

6 Q. Okay. Let's turn the page to Exhibit 416,
7 please.

8 A. I have it.

9 Q. And this is the revenue synergies; right?

10 A. That's correct.

11 Q. So you didn't use that 1.1898 percent
12 factor. Sorry, the 1.1898 percent factor we just
13 discussed was something you derived using revenues
14 and you applied to head count costs, yes?

15 A. That's correct, because there I'm dividing
16 national numbers and I have to come up with a sort of
17 national allocator.

18 Q. And --

19 A. And here they have the -- the company
20 provided allocators specific to these particular
21 lines of business.

22 Q. Right. And you accepted those company
23 allocators as reflected on Rows 4 and 11 of Exhibit
24 416; correct?

25 A. That's correct.

0513

1 Q. But unlike the company, in Exhibit 416, you
2 include both the Verizon and MCI revenue synergies;
3 right?

4 A. That's correct.

5 Q. And also on line six, you adjust the
6 intrastate regulated factors that the company
7 provided; correct?

8 A. For enterprise, yes.

9 Q. Right, on Row 6; correct?

10 A. That's correct.

11 Q. Could you reconstruct that calculation for
12 us on Row 6?

13 A. It was done in the computer. I'm afraid the
14 calculation -- I shouldn't do this, but I do. I did
15 that within the Excel spreadsheet, so I can't do it
16 right here. Were I to have my computer, I could tell
17 you exactly how it was done. Essentially, what I did
18 was take the difference between each year's allocator
19 and then have that difference and add it to the -- or
20 apply it to the previous year, and that's the way
21 that was derived.

22 Q. Did you say you had an Excel spreadsheet
23 that you developed as support for your testimony?

24 A. This was all developed on Excel
25 spreadsheets, yes.

0514

1 Q. And we asked you for work papers in this
2 case; correct?

3 A. Yes.

4 Q. And you stated you had none; is that
5 correct?

6 A. Yeah, no work papers. Possibly, we should
7 have given you the Excel spreadsheet, but I apologize
8 if we did not.

9 Q. In fact, we asked you for anything that you
10 referred to, and you didn't give that to us; right?

11 A. This is the one and only calculation that
12 I'm afraid we didn't supply, and I apologize.

13 MR. FFITCH: Your Honor, if I may make a
14 comment, I -- we may need to confer with opposing
15 counsel about what we actually did provide. My
16 understanding is that we did provide working Excel
17 spreadsheets with respect to some of these exhibits.
18 I'm not an expert on Excel, but I -- we could at
19 least perhaps have a conference at a break with the
20 witness and the opposing parties to see if perhaps we
21 provided something that's, although not apparent in
22 hard copy, might have been derivable from electronic
23 versions of the spreadsheets that were provided.

24 JUDGE WALLIS: Very well. I am going to
25 suggest, in light of the time, that this might be a

0515

1 good time to take our afternoon recess. Counsel, if
2 this issue is one that requires follow-up when we go
3 back on the record, counsel are free to consult among
4 yourselves now. In the meantime, let's be off the
5 record for about 20 minutes and come back at 20
6 minutes past 3:00 by the clock on the wall.

7 (Recess taken.)

8 JUDGE WALLIS: Let's be back on the record,
9 please. Mr. Weissmann.

10 MR. WEISSMANN: Thank you, Your Honor.

11 Q. Just to wrap up the point we were talking
12 about before the break, I'll invite the witness'
13 attention to Exhibit 419, which is one of your cross
14 exhibits.

15 A. I have it.

16 Q. There we asked you for work papers and you
17 stated that there were none; correct?

18 A. What we -- what I found out over the break
19 is that we supplied you with the Excel spreadsheets,
20 and I think there is a additional worksheet on those
21 Excel spreadsheets which you received which had the
22 calculation we were discussing. Unfortunately, I
23 don't have the -- my computer with me to be able to
24 check on that.

25 Q. Just to clarify, Mr. King, you're saying

0516

1 that, in addition to the material that are in these
2 exhibits, there was some other worksheets that
3 contained the computation reflected on line six of
4 Exhibit 416; correct?

5 A. I believe there was one other, yes, which
6 was included in the Excel disc.

7 MR. WEISSMANN: Your Honor, I'll make a
8 representation that we did check over the break the
9 material that we've received, and we have no evidence
10 of having received that particular sheet that the
11 witness just referred to.

12 JUDGE WALLIS: Very well.

13 MR. FFITCH: Your Honor, may I make a
14 statement for the record?

15 JUDGE WALLIS: Mr. ffitich.

16 MR. FFITCH: We have also inquired into this
17 matter. I've spoken with Mr. King and also with a
18 member of our staff who is involved in this filing,
19 and it is our understanding and recollection that we
20 provided a working Excel spreadsheet for this
21 exhibit, which included within the workbook portion
22 of it the calculation pages that we've been
23 discussing.

24 I will acknowledge that we did not
25 specifically draw the opposing parties' attention to

0517

1 that component of the electronic exhibit, and that
2 that was unintentional, but we did not draw their
3 attention to it. We believe we did provide that.
4 I'm not sort of doubting counsel's word, but that's
5 where it stands at this point, Your Honor, and we'd
6 be happy to provide it again to counsel if they would
7 like to have that to supplement the record.

8 MR. WEISSMANN: Just to clarify, Your Honor,
9 we did confirm that we did receive a working Excel
10 spreadsheet, but so far as we could determine by
11 double-checking over the break, it did not appear to
12 contain this additional sheet that the witness
13 referred to, so I am informed over the break.

14 Q. Continuing on with Exhibit 416?

15 A. I have it.

16 Q. And just to remind us all, we're here
17 referring to revenue synergies; right?

18 A. That's correct. It's called go to market
19 revenue benefits.

20 Q. For enterprise?

21 A. Well, that's the top part of it, and the
22 bottom is small, medium business.

23 Q. And directing your attention to Row 8. Do
24 you see that?

25 A. Yes.

0518

1 Q. And this summarizes the revenue synergy, the
2 gross revenues from the --

3 A. That's the gross revenue increase.

4 Q. And referring you to Exhibit 88, do you have
5 that? That was the last of Mr. Smith's documents.

6 A. Again, I'm afraid I don't have those.

7 MR. FFITCH: Your Honor, I believe the
8 witness has Mr. Smith's exhibit book. I believe I
9 provided it.

10 THE WITNESS: Oh, I put it back there. I
11 gave it back to you, Simon.

12 MR. FFITCH: May I approach, Your Honor?

13 JUDGE WALLIS: Yes.

14 THE WITNESS: I thought I was finished with
15 it.

16 MR. FFITCH: What is the -- is that 3-HC?

17 Q. Yeah, it's SES-3-C. It's the very last
18 page.

19 A. Well, I have something. I hope it's the
20 exhibit you're referring to. It's page 32 of -- you
21 say it's SES-3-C?

22 Q. Yes, sir.

23 A. I have it.

24 Q. This document is a summary of the buildup to
25 the \$7.3 billion synergy estimate; correct?

0519

1 A. That's correct.

2 Q. And as we've discussed earlier, there were
3 two synergy estimates, originally a 7.0, and later a
4 7.3; correct?

5 A. Yes.

6 Q. Now, I'll ask you, if you would, please, to
7 compare the revenue for SMB reflected on the third
8 row of Exhibit 88 to the revenue reflected on Row 8
9 of Exhibit 416 and confirm that those match for the
10 relevant years?

11 A. SMB, we're looking at?

12 Q. Correct.

13 A. Yes, they do.

14 Q. All right.

15 JUDGE WALLIS: I don't recall whether anyone
16 identified this document as Exhibit 88-C in the
17 record, but just for the record, let's make that
18 clear.

19 MR. WEISSMANN: Thank you, Your Honor.

20 Q. Okay. Keep your finger on that one, and
21 turn back to Exhibit 416, please?

22 A. I've got it.

23 Q. And directing your attention to Row 9.

24 A. Yes.

25 Q. This is the cost of sales --

0520

1 A. Yes.

2 Q. -- associated with the SMB revenue; correct?

3 A. Yes.

4 Q. And going back to 88-C, would you confirm

5 that the cost of sales shown here does not match

6 what's shown in Exhibit 416?

7 A. That's correct, it was drawn from another

8 source, Staff DR-45.

9 Q. Yes, and that document has already been
10 marked as Exhibit 91.

11 MR. WEISSMANN: If I may approach, Your
12 Honor?

13 JUDGE WALLIS: Yes.

14 THE WITNESS: That's this one here.

15 Q. You're ahead of me. Just to be formal, I'll
16 leave it here for you.

17 A. Okay.

18 Q. Mr. King, do you have in front of you
19 Exhibit 91?

20 A. Yes, I do.

21 Q. Attached to Exhibit 91 is a document
22 entitled Project ELI Synergy?

23 A. Yes.

24 Q. Dated February 2005; correct?

25 A. That's correct.

0521

1 Q. Turning your attention to page three of this
2 document, this is the buildup for the original seven
3 billion dollar estimate; correct?

4 A. Apparently, yes.

5 Q. Turning your attention to page four of this
6 document?

7 A. Yes.

8 Q. This is the source cited in Exhibit 416;
9 correct?

10 A. That's correct.

11 Q. And indeed the figures in line nine of
12 Exhibit 416 correspond to the costs shown about the
13 middle of the page on page four of Exhibit 91;
14 correct?

15 A. That's correct.

16 Q. So just to be clear, you were using the
17 costs from the lower estimate and the revenues from
18 the higher estimate?

19 A. So it appears. It was not intentional.

20 Q. Turning your attention to Exhibit 417,
21 please. This is our old friend, the summary of the
22 rate case synergies; right?

23 A. Yes.

24 Q. And Row 1, you show enterprise revenues for
25 both Verizon and MCI; correct?

0522

1 A. That's right.

2 Q. And in Row 2 you show SMB, small, medium
3 business revenues for both Verizon and MCI; correct?

4 A. That's correct.

5 Q. And those link back to 416; right?

6 A. That's correct.

7 Q. In Row 3, you show success based capital
8 carrying charges; correct?

9 A. That's correct.

10 Q. And this is the carrying cost for the
11 capital that needs to be invested in order to achieve
12 these additional revenues; right?

13 A. That's right.

14 Q. And this Row 3, success based capital
15 carrying charges reflects only the Verizon portion of
16 the capital costs; right?

17 A. Let me check and see. I'm sorry to take so
18 long, but I've got to look at where these sources
19 are. I suppose that's correct.

20 Q. All right.

21 A. As you see, they're very small numbers.

22 Q. Turning to Exhibit 417, the total row, Row
23 9?

24 A. Yes.

25 Q. These are nominal dollars; correct?

0523

1 A. That's correct, non-discounted.

2 Q. So to come up with a present value, we would
3 take the factors that are shown in Row H of Exhibit
4 418; correct?

5 A. Column H, yes.

6 Q. Pardon me. Thank you. So for example, we
7 would take the 2007 figure that appears in Row 9 of
8 417, and multiply it by 95.92 percent, as shown in --

9 A. Yes, I haven't made that calculation, but
10 that's what you would do, except that -- well, yes.

11 Q. Okay. This one, I think, actually, is
12 correct for subject to check. Would you accept,
13 subject to check, that applying the figures in Column
14 H, the present value of the amounts shown in Exhibit
15 417, is approximately \$8.78 million?

16 A. I'm sorry, you've made that calculation?

17 Q. Yes. I'm asking you to accept it, subject
18 to check?

19 A. Well, I'll accept it, subject to check, but
20 this -- bear in mind this only runs through 2009, and
21 if you're going to do present value of synergies,
22 you've got to run them out much longer than that. I
23 think it's a useless calculation.

24 Q. Well, let me clarify what I was trying to
25 do, and --

0524

1 A. All right.

2 Q. -- trying to ask you. You've shown on
3 Exhibit 417 three values --

4 A. Yes.

5 Q. -- 2007, 2008, 2009, on Row 9 of Exhibit
6 417; correct?

7 A. Right.

8 Q. And those are nominal numbers?

9 A. Mm-hmm.

10 Q. And I was suggesting that, to derive the
11 present value of those three nominal numbers, you
12 would take the 2007 value and multiply it by 95.92
13 percent?

14 A. That's what I've done on 418, yes.

15 Q. And you take the 2008 number and multiply it
16 by 88.26; right?

17 A. Yes.

18 Q. And you take the 2009 number and multiply it
19 by 81.2; correct?

20 A. If that's what you were doing, yes.

21 Q. And I'm asking you to accept, subject to
22 check, that if you put those numbers into your
23 calculator, you come out with \$8.78 million?

24 A. Yes, it's a meaningless number, but that's
25 what you would come out with.

0525

1 Q. And this, as we've established, this is not
2 -- this Exhibit 417 is not the basis for your one
3 dollar per month?

4 A. No.

5 MR. WEISSMANN: Okay. That's all I have,
6 Your Honor. Thank you, Mr. King.

7 JUDGE WALLIS: Mr. Thompson.

8 MR. THOMPSON: Yes, thank you, Your Honor.

9

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

11 BY MR. THOMPSON:

12 Q. Good afternoon, Mr. King.

13 A. Good afternoon.

14 Q. My name is Jonathan Thompson, I represent
15 the Commission Staff. Could I have you please -- I'm
16 just going to ask you some questions about your
17 testimony, which is Exhibit 411T-HC. And in
18 particular, if I could have you turn to page five.

19 A. I have it.

20 Q. And just up at the top there at line two,
21 you state that not to share those synergies creates
22 harm because it would deprive ratepayers of the
23 benefit of the lower revenue requirement resulting
24 from the merger synergies. The effect is the same as
25 overcharging. You assume that these savings are

0526

1 going to materialize; right?

2 A. Yes.

3 Q. Did you look at the possibility that they
4 might not materialize?

5 A. Not really. I'm taking the company at its
6 word that these savings will materialize, and I would
7 also take them at their word that they may not
8 materialize as they predict them, but there certainly
9 should be savings.

10 Q. Okay. Have you made any study of savings
11 predicted for other mergers and whether those panned
12 out or not?

13 A. No, I have not.

14 Q. Would you agree that, in response to many of
15 Staff and Public Counsel's data requests to the
16 companies, that they had indicated that the planning
17 had not yet begun, transition planning or --

18 A. Yes, which is one of my criticisms, is that
19 the company assumed the perpetuation of two separate
20 companies and assigned the savings on that basis when
21 clearly that is not what's going to happen.

22 Q. Okay. But did that lack of planning cause
23 you any -- cause you to question at all the -- sort
24 of the accuracy or the solidness of the synergy
25 projections?

0527

1 A. No, because the synergy projections have to
2 be based upon the concept of consolidating the two
3 companies. Otherwise, they would never occur.
4 Exactly how that consolidation will occur I cannot
5 say and obviously the company cannot say.

6 Q. Is it a possibility that things could turn
7 out worse than predicted by the companies?

8 A. They could turn out worse, turn out better.
9 I have no idea.

10 Q. Does the proposal that you and your -- well,
11 Public Counsel, I guess, generally makes, does it do
12 anything to protect ratepayers against the
13 possibility that the financial status quo for the
14 company's -- for Verizon, in particular, would become
15 worse as a result of the merger?

16 A. We haven't, although your witness, Ms.
17 Folsom, has suggested that should there be a bond
18 downgrading, that that should not ever be recognized
19 in the future rate case, and I would endorse that
20 recommendation. Unfortunately, I don't think it got
21 into the settlement.

22 Q. Would you agree that a settlement provision
23 requiring the company not to come in for a rate case
24 for four years would have the effect of protecting
25 ratepayers against negative financial impacts in the

0528

1 merger?

2 MR. FFITCH: Your Honor, I'm going to object
3 to the characterization of the settlement as a
4 four-year stay-out.

5 Q. Well, let me just amend my question to say
6 that the two-year extension of the existing two-year
7 stay-out.

8 A. Well, it may or may not be worth anything,
9 depending on whether one can hypothesize whether the
10 company would have come in anyway for a rate
11 increase. It's probably better -- it's certainly
12 better than nothing, but I don't think it's as good
13 as an affirmative give-back to ratepayers based on a
14 sharing of synergies.

15 Q. Well --

16 A. Particularly as we have an impending rate
17 increase coming up in 2007.

18 Q. Okay. Assuming that there -- well, let me
19 stop there on that. Are you suggesting that --
20 elsewhere in your testimony, you indicate that if
21 there were presently a rate case ongoing, that these
22 savings would be captured in the revenue requirement;
23 right?

24 A. If the rate case were right now, they
25 wouldn't be captured very much, because we're right

0529

1 at -- well, assuming we had just consummated the
2 merger, what you would be getting would be most of
3 the transaction costs and not much of the synergies
4 yet.

5 The appropriate time frame to consider is
6 beyond 2007, which is when the rate freeze, current
7 rate freeze goes off, and sometime within the next
8 two or three years is when the company would be
9 filing and then the synergies would be beginning to
10 kick in. And that's why I give 2007, 2008, 2009
11 results.

12 Q. So you're not really suggesting what would
13 be a pro forma adjustment in a rate case?

14 A. Well, I think the theory is that these
15 synergies would filter down into the revenue
16 requirement calculation to be -- with the result that
17 the revenue requirement would be lower than it would
18 be were Verizon not to merge with MCI, principally
19 through the effect of overhead allocations.

20 Q. Just one clarifying question. On page 24 of
21 your testimony, same exhibit we were just looking at.

22 A. Yes, sir.

23 Q. The first question, full question on that
24 page, you were talking about sharing the benefits of
25 the savings between the ratepayers and shareholders.

0530

1 And at about line 18 there, you're talking about
2 allocating 46 percent of the synergy benefits to the
3 company shareholders?

4 A. That's correct.

5 Q. Now, just for clarification, is the figure
6 that you are applying that percentage to, is that
7 your system savings or the rate case?

8 A. No, it's the global system savings.

9 Q. Okay.

10 A. Which I've allocated to Washington
11 intrastate operations based on the allocator in one
12 of my -- in my second exhibit, which is Number 415.

13 MR. THOMPSON: Thank you. That's all the
14 questions I have.

15 JUDGE WALLIS: Mr. ffitch, redirect.

16 MR. FFITCH: Thank you, Your Honor.

17

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

19 BY MR. FFITCH:

20 Q. You've stated, in response to various
21 questions here, Mr. King, that the pass-through of
22 savings recommended by Public Counsel in this case is
23 essentially derived from the global synergies
24 calculation; right?

25 A. That's correct, the calculation in Exhibit

0531

1 Number 418.

2 Q. And you also have what you characterized as
3 the minimum synergies figure, which also has been
4 called the rate case scenario; correct?

5 A. That is correct.

6 Q. Now, does the fact that you've not
7 recommended a specific recognition or pass-through of
8 that lower figure mean that you don't feel that is
9 regard to be shared with Verizon customers in
10 Washington?

11 A. The lower figure is not a sharing number; it
12 is a number that constitutes the absolute minimum
13 money that should flow back to ratepayers by reason
14 of the merger synergies. The larger number, which
15 you see developed on Exhibit 418, is a sharing
16 number, in which we have a 46/54 split between
17 shareholders and ratepayers.

18 Q. And you're not suggesting that that lower
19 number, if the Commission were to decide not to go
20 with your recommendation regarding the reduced rate
21 increase, you're not suggesting that the lower
22 synergy number be disregarded and retained by the
23 company, are you?

24 A. No. The lower number should go to
25 ratepayers as the minimum compensation to ratepayers.

0532

1 Q. On another issue, Mr. King, it's correct, is
2 it not, that the company's initial testimony in this
3 case contained essentially no financial testimony
4 whatever with regard to synergies or any other
5 matter?

6 MR. WEISSMANN: Objection, beyond the scope
7 of cross.

8 MR. FFITCH: Well, Your Honor, the witness
9 was cross-examined about the information that was
10 provided by the company with regard to the
11 justification or calculation or buildup for the
12 synergies number, and I'm just trying to establish
13 when that was provided.

14 JUDGE WALLIS: Very well. The objection's
15 overruled and the witness may respond.

16 THE WITNESS: The answer is no, nothing was
17 provided initially. Only much later did we get the
18 Washington-specific studies and the national studies.

19 Q. A little while ago now, earlier in your
20 examination, when you were being examined about
21 Exhibit 418, this was before the break, with regard
22 to total system synergies, and you were being asked
23 whether certain items were excluded from that, for
24 example, international revenues and other items of
25 that nature. Do you recall that?

0533

1 A. Yes.

2 Q. And you were beginning to explain why you
3 did not exclude those items and you were asked to
4 stop that explanation. Do you want to explain at
5 this point for the record why you did not exclude
6 those items from this calculation?

7 A. Well, it is explained in my testimony that
8 synergies are really fungible, because -- for a
9 couple reasons. One, because of an overheading
10 process, whereby any benefit to the parent company
11 flows down to all elements of the operation,
12 including intrastate local service, by reason of
13 lower costs at the corporate level. There's more to
14 it than that, though.

15 To the extent that there is bundling, and I
16 think bundling is the wave of the future, if
17 Verizon/MCI is able to reduce the cost of
18 non-regulated services or services not regulated by
19 this Commission, such as DSL, and if they go into
20 video, if they're able to provide that cheaply, they
21 are then in a position to create bundles that are
22 much more attractive than the competing bundles of,
23 say, the cable companies who will probably go into
24 telephony in order to match the corresponding bundle
25 with Verizon.

0534

1 So the bundling process means that the
2 benefit that flows to one service, then attaches to
3 other services, including the telephony service that
4 you regulate, and that's the reason that it is
5 irrational to attempt to isolate synergies that
6 solely relate to intrastate regulated telephony
7 service. Synergies that relate to all services
8 benefit ultimately the services that you regulate,
9 and that's why I believe there should be a sharing of
10 those synergies with intrastate telephony customers.

11 Q. Mr. King, you have two different
12 recommendations in the so-called rate case scenario
13 that's been discussed. Am I correct in understanding
14 that's entirely to be shared with ratepayers;
15 correct?

16 A. That's right. That flows entirely to
17 ratepayers because that's the money that would come
18 out of a revenue requirement calculation.

19 Q. Whereas the system synergies figure that
20 you've recommended is actually split between
21 shareholders and ratepayers; correct?

22 A. That's correct.

23 Q. And so in the former case, the case of the
24 rate case scenario or the minimum scenario, why is it
25 that you recommend that the full amount of those

0535

1 savings be directed to Washington ratepayers?

2 A. Well, once more, is because if you had a
3 revenue requirement calculation and that revenue --
4 which establishes what intrastate regulated rates
5 are, you would have that much of a reduction in those
6 -- in that calculation, and that reduction would then
7 flow immediately into cost-based rates. And that's
8 why the entirety of that calculation should go to
9 ratepayers.

10 In the case of global synergies, I think
11 there should be a sharing, because, as I noted, the
12 synergies don't relate entirely or directly to
13 intrastate telephony, and as a consequence, they
14 should be shared with the company so that both
15 ratepayers and shareholders get their benefit.

16 Q. Now, with regard to the rate case scenario,
17 would the ordering by the Commission as a condition
18 of the merger of a merger credit to customers in that
19 amount be one mechanism for passing those funds back
20 to ratepayers?

21 A. Yes. It could be a one-time credit, it
22 could be a rate reduction. There's numerous ways of
23 handling it.

24 MR. FFITCH: I don't have any other
25 questions. Thank you, Your Honor.

0536

1 JUDGE WALLIS: Mr. Weissmann.

2 MR. WEISSMANN: Thank you, Your Honor,
3 briefly.

4

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

6 BY MR. WEISSMANN:

7 Q. On the subject of bundling --

8 A. Yes.

9 Q. -- Mr. King, I want to make sure I
10 understand your testimony here. You're saying that
11 the local exchange company could increase its sales
12 to the mass market of local service?

13 A. It would -- what it would do is increase its
14 sales to -- let's not say increase its sales. It
15 could stem the loss of land line market, which is now
16 a national trend, by bundling land line service with
17 other services, such as DSL, wireless, and
18 ultimately, possibly video.

19 Q. All right.

20 A. And that would make a very attractive
21 package and it would retain customers that the
22 company might otherwise lose.

23 Q. So it's an avoidance of loss that you
24 foresee?

25 A. Principally, yes.

0537

1 Q. And this would result in increased revenues
2 relative to the non-merger scenario; right?

3 A. That is correct.

4 Q. But you're not saying it would change our
5 costs; correct?

6 A. Well, it does, because when you put bundled
7 services over one pipe, as you do in the case of DSL,
8 and if you get into video service, video, as well,
9 you are using that loop for a whole lot more
10 services. So on a per service basis, yes, there is a
11 reduction in cost.

12 MR. WEISSMANN: All right. Thank you.
13 That's all I have, Your Honor.

14 JUDGE WALLIS: Very well. Are there
15 questions from the bench? Very well.

16 THE WITNESS: Thank you, sir.

17 JUDGE WALLIS: Mr. King, thank you for
18 appearing today. As Mr. King steps down, the next
19 witness on the schedule appears to be Ms. Roth. I'll
20 ask her to step forward with her materials and take
21 the stand when it is vacated. Let's be off the
22 record for a brief procedural discussion.

23 (Discussion off the record.)

24 JUDGE WALLIS: All right. Let's be back on
25 the record, please. We have inquired of counsel

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1 regarding the exhibits on cross for Mr. King's
2 testimony and received Exhibits 419 through 423 for
3 identification, and counsel for Verizon has indicated
4 that Exhibits 424 and 425 are withdrawn; is that
5 correct?

6 MR. WEISSMANN: Yes, Your Honor, thank you.

7 JUDGE WALLIS: Thank you, Mr. Weissmann.
8 Now, in lieu of -- well, not in lieu, I guess, but
9 taking in different order, Staff has called its
10 witness, Ms. Folsom, to the stand. Ms. Folsom, would
11 you please stand, raise your right hand.

12

13 Whereupon,

14 KATHLEEN M. FOLSOM,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17 JUDGE WALLIS: Please be seated. Mr.
18 Thompson.

19

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

21 BY MR. THOMPSON:

22 Q. Ms. Folsom, would you please state your full
23 name for the record and your position with the
24 Commission?

25 A. My name is Kathleen M. Folsom, and I'm a

0539

1 regulatory analyst with the telecommunications staff.

2 Q. And are you the same Kathleen Folsom who
3 caused to be filed in this case the testimony that's
4 marked as Exhibit 150T-HC?

5 A. Yes, I am.

6 Q. And if I were to ask you the questions that
7 are set forth in that testimony today, would your
8 answers be the same?

9 A. Yes, they would.

10 Q. And are you also the sponsor of the exhibits
11 that have been marked as 151-HC, 152, 153, and
12 154-HC?

13 A. Yes.

14 Q. And are those exhibits true and correct, to
15 the best of your knowledge?

16 A. Yes.

17 MR. THOMPSON: I believe those exhibits have
18 been stipulated into evidence and the witness is
19 available for cross-examination.

20 JUDGE WALLIS: Yes, we will acknowledge for
21 the record that Exhibits 150T-HC through 154-HC are
22 received in evidence by stipulation.

23 MR. FFITCH: Your Honor, in the ordinary
24 course, I would ask if we could go into confidential
25 session for the next two witnesses, because we are

0540

1 talking about numbers quite a bit, all of which have
2 been designated to be confidential or highly
3 confidential. I realize we're at a late hour and I
4 don't want to request cumbersome procedures that
5 would extend the proceedings here, but --

6 JUDGE WALLIS: In the past, we've been very
7 successful and counsel have been successful
8 previously in this docket in engaging in examination
9 without revealing the essence of any confidential or
10 highly-confidential information. And I understand
11 that you are dealing with numbers here, but I'm
12 wondering if it might be possible to maintain that
13 stance and, if not eliminate, then minimize to a bare
14 amount the necessity for a confidential session.

15 MR. FFITCH: All right, Your Honor. I will
16 endeavor to do that.

17 JUDGE WALLIS: Thank you.

18

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

20 BY MR. FFITCH:

21 Q. Good afternoon, Ms. Folsom.

22 A. Good afternoon.

23 Q. Can I ask you to turn to your testimony,
24 which is Exhibit 150T-HC, page three?

25 A. Okay.

0541

1 Q. And at lines 14 through 18, you recommend
2 that if the debt rating of Verizon is downgraded
3 specifically as a result of the merger, an adjustment
4 in calculation in the cost of debt should be made for
5 ratemaking purposes to remove the effect of the
6 downgrade on Verizon Northwest; correct?

7 A. Yes.

8 Q. And if Verizon's debt is downgraded as a
9 result of the merger, the consequence would be,
10 absent the adjustment that you propose, higher
11 revenue requirements for Verizon and higher rates for
12 Verizon ratepayers; correct?

13 A. I believe I say in testimony that it could
14 lead to a higher cost of debt, which ultimately might
15 lead to higher rates for ratepayers of Washington.

16 Q. And perhaps you've already answered this,
17 but you're saying, are you not, that a debt
18 downgrade, absent affirmative action to make
19 adjustment in future rate cases, would have
20 substantial impact on Verizon's cost of capital, or
21 could have?

22 A. It could have.

23 Q. And this recommendation that you've made
24 here is not a component of the settlement agreement;
25 correct?

0542

1 A. Correct.

2 Q. Now, Ms. Folsom, your analysis leads you to
3 conclude that there is a certain minimum level of
4 savings that should flow through to Washington
5 intrastate operations; correct?

6 A. My analysis was to measure the portion of
7 synergies and savings that would be attributable to
8 Washington operations.

9 Q. All right. And that number is shown on the
10 next page, page four, and this is marked as highly
11 confidential. You indicate that the total number is
12 the number shown on line six; am I correct?

13 A. Yes.

14 Q. And this value is based on net present
15 value; correct?

16 A. Yes.

17 Q. That's accounting for the time value of
18 money?

19 A. For future cash flows, yes.

20 Q. All right. And if we did not account for
21 the net present value, then the nominal value of the
22 merger savings would be higher; correct?

23 A. Yes.

24 Q. The dollar value that you've been discussing
25 here, the line six number, is only for the years 2006

0543

1 through 2009; correct?

2 A. Yes.

3 Q. Would you please turn to page 22 of your
4 exhibit, Exhibit 150, lines -- or line 13?

5 A. I'm there.

6 Q. And at that page, you indicate that, and I
7 don't believe this is highly confidential, you
8 believe that this analysis is conservative; correct?

9 A. Yes.

10 Q. Would you please turn to page 27, lines 12
11 through 13? And you say there, and this is the
12 non-shaded portion, Limiting the intrastate savings
13 to the first four years after the merger very likely
14 understates its share of overall synergies; correct?

15 A. Yes.

16 Q. And then you go on, in the shaded portion,
17 to explain why that is.

18 A. Correct.

19 Q. So -- and would you characterize the net
20 present value figure that we saw earlier, then, as a
21 highly conservative measure of the expected merger
22 benefits that are attributable to Washington if we
23 take into account these future years?

24 A. Not necessarily. I'd be more likely to
25 characterize it as a reasonable number that would

0544

1 take into effect the synergies in the outer years.

2 Q. All right. And did you attempt to quantify
3 the total net present value, including the subsequent
4 years?

5 A. I gave an example, holding all things
6 constant, just spreading the synergies I previously
7 calculated for the first four years out further and
8 came up with an estimate of what that value might be.

9 Q. All right. And that's shown on the next
10 page, page 28; correct?

11 A. Yes, at line 11.

12 Q. All right. Now, can I ask you to take a
13 look at Confidential Attachment A to the settlement
14 agreement? Do you have that?

15 A. Yes, I do.

16 Q. And there is a section at the bottom
17 entitled Summary, Total Cost; correct?

18 A. Yes.

19 Q. And that identifies a value stated there for
20 the first two items at the rate of the settlement
21 listed above, terms one and two, the rough line
22 extension and the rate center consolidation; correct?

23 A. Yes.

24 Q. Is this a nominal value or a net present
25 value?

0545

1 A. Ms. Roth actually is probably a better
2 witness to ask. I didn't present any -- none of my
3 calculations were done by me for this page.

4 Q. All right. Do you know if this --

5 A. I don't know.

6 Q. All right. So if the only merger benefits
7 that flow through to Washington ratepayers are those
8 identified specifically here on Confidential Appendix
9 A, then the split of merger synergies is this amount
10 from the summary total cost going to ratepayers, and
11 the number from page 28 of your testimony, line 11.
12 See that number? The difference between those two
13 numbers goes to Verizon shareholders, does it not,
14 over the full term that you've calculated?

15 A. Well, as a starting point, Ms. Roth could
16 probably better speak to the settlement. My task was
17 to measure -- was to provide an estimate of the
18 reasonable amount of savings attributable to
19 Washington, as well as some information on financial
20 -- on the financial situation. There are very likely
21 other dollars included on this page that she could
22 speak to. So I don't think you can compare the
23 number under summary to my number.

24 Q. Your number is not reflected on the
25 Confidential Appendix A, is it?

0546

1 A. You don't see the exact same number, no.

2 Q. Going back to your four-year number, which
3 is back, I think on page -- around page three. I
4 apologize. Let's see.

5 A. Page four.

6 Q. Page four, line six. That's very close to
7 Mr. King's rate case scenario number, reasonably
8 close to Mr. King's rate case scenario number, is it
9 not?

10 A. It's a little higher, but close.

11 MR. FFITCH: All right. Thank you, Ms.
12 Folsom. No further questions.

13 JUDGE WALLIS: Are there other questions
14 from counsel? Are there questions from the bench for
15 Ms. Folsom? Let the record show that there are none.
16 Redirect?

17 MR. THOMPSON: No redirect.

18 JUDGE WALLIS: Very well. Ms. Folsom, thank
19 you very much for appearing. You're excused from the
20 stand at this time. Mr. Thompson, which of your
21 remaining witnesses would you like to call at this
22 time? Let's be off the record for just a moment.

23 (Discussion off the record.)

24 JUDGE WALLIS: Let's be back on the record.
25 During the break, it has been determined that Mr.

0547

1 Wilson's personal appearance will not be required,
2 and pursuant to the stipulation of parties, Exhibits
3 121T-HC through 130-HC are received in evidence at
4 this time. Commission Staff has recalled to the
5 stand its witness, Ms. Jing Roth.

6 Ms. Roth, I will merely observe that you
7 have previously been sworn in this matter.

8 MS. ROTH: Yes, Your Honor.

9 THE WITNESS: And you may resume the stand.
10 Mr. Thompson, this is your witness.

11 MR. THOMPSON: Thank you.

12

13 Whereupon,

14

JING ROTH,

15 having been previously duly sworn, was called as a
16 witness herein and was examined and testified as
17 follows:

18

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

20 BY MR. THOMPSON:

21 Q. Ms. Roth, did you cause to be filed in this
22 proceeding the testimony that is marked as Exhibit
23 101T-HC?

24 A. Yes.

25 Q. And if I were to ask you the questions that

0548

1 appear in that testimony today, would your answers be
2 the same?

3 A. Yes, it is.

4 Q. And are you also the sponsor of the
5 exhibits, Exhibits 102 and 103-C?

6 A. Yes, I am.

7 Q. And are those exhibits true and correct, to
8 the best of your knowledge?

9 A. Yes, they are.

10 MR. THOMPSON: I believe those exhibits have
11 been stipulated into the record and the witness is
12 available for cross-examination.

13 JUDGE WALLIS: I acknowledge that Exhibits
14 101T-C through 106 are received in evidence. Mr.
15 Ffitch.

16 MR. FFITCH: Thank you, Your Honor.

17

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

19 BY MR. FFITCH:

20 Q. Good afternoon, Ms. Roth.

21 A. Good afternoon.

22 Q. First of all, I wanted to ask about a
23 statement that you made during the settlement panel,
24 and I'm going to have to paraphrase it here, but I
25 believe that you made the statement to the effect

0549

1 that Staff proceeded to settle the case separately
2 with the joint petitioners with Public Counsel's
3 understanding and acceptance; is that correct?

4 A. What we said is that, after the second
5 meeting on September 27th, that the Public Counsel
6 understand that Staff is going to continue negotiate
7 with the company and, you know, Public Counsel will
8 no longer participate in such a settlement discussion
9 after the second meeting. That's what it mean.

10 Q. All right. Well, I believe you did use the
11 words understanding and acceptance, and I just want
12 to clarify that you were not suggesting that Public
13 Counsel in any way agreed with Staff's decision to
14 settle separately with the joint petitioners or with
15 specific terms that the parties agreed on. You're
16 not suggesting that we agreed to that, are you?

17 A. Oh, if I did, I didn't mean to.

18 Q. All right. Could you please take a look at
19 the settlement narrative statement, which was Exhibit
20 502, page 11? And if you look at the first
21 paragraph, you state there in the second sentence
22 that the settlement adopts almost every condition
23 Staff proposes in its testimony, as well as a certain
24 condition recommended by one of the CLEC intervenors;
25 correct?

0550

1 A. Yes.

2 Q. And then, partway down the next paragraph,
3 you state -- or Staff states the settlement adopts
4 all of Staff's proposals with one exception or
5 modification; correct?

6 A. Yes.

7 Q. And that exception or modification relates
8 to the issue of intrastate access charges. Am I
9 understanding this correctly?

10 A. Right. And since we're there, I want to
11 note the -- I want to note that we better insert the
12 special access charges right after the phrase
13 "Verizon Northwest's intrastate," insert the word
14 "special access charges to UNE-based levels."

15 Q. All right.

16 CHAIRMAN SIDRAN: I'm sorry, I didn't follow
17 that. Where is that?

18 JUDGE WALLIS: Could The witness go back to
19 identify the line and then repeat the terms that you
20 mentioned?

21 THE WITNESS: Okay. There's no lines, Your
22 Honor --

23 JUDGE WALLIS: Very well.

24 THE WITNESS: -- on the narrative. It's
25 page 11, paragraph number two. If you spot my last

0551

1 name there at 12. The sentence currently read, you
2 can read that, The settlement adopts all of Staff's
3 proposals, with one exception or modification.
4 Instead of reducing Verizon Northwest's intrastate
5 access charges to UNE-based levels. Rest of the
6 sentence, after Verizon Northwest intrastate, I
7 suggest we insert the word "special." Do I need to
8 read that sentence again?

9 CHAIRMAN SIDRAN: No, I think I have it.
10 You're just adding the word "special" before the word
11 "access"?

12 THE WITNESS: (Nodding.)

13 CHAIRMAN SIDRAN: Thank you.

14 Q. Ms. Roth, could you please -- let me back up
15 before we go to a specific place in your testimony.
16 You categorize the merger conditions that Staff has
17 proposed in general into the following groups:
18 Conditions to mitigate competitive harm, flow-through
19 of merger savings to consumers, and service quality.
20 Is that a reasonable summary, the three areas?

21 A. Yes.

22 Q. I'd like to discuss the settlement agreement
23 in light of these categories, beginning with
24 conditions to mitigate competitive harm. If you
25 could turn to page 16 of your testimony, Exhibit 101,

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1 to line 14 -- excuse me, lines 13 through 18, and
2 there you identify two types of competitive harm that
3 are caused by the merger. The first is direct harm
4 resulting from both business and residential
5 customers losing MCI as an alternative to Verizon,
6 and second, indirect harm due to the elimination of
7 MCI as a wholesale supplier to other CLECs; correct?

8 A. That's right.

9 Q. And then, on page 17, you indicate that --
10 I'm sorry, let me find the line reference here. I
11 apologize. I apparently have a quote that I can't
12 find on this page. Well, you testify, do you not,
13 that there will no longer be the possibility of
14 greater competition from MCI, and that the increase
15 in concentration will likely prolong the need to
16 regulate Verizon's business rates and to regulate
17 Verizon's access private line rates; is that correct?

18 A. Are you referring to page 17 of my
19 testimony?

20 Q. Yes.

21 A. Yes, they are. I said that.

22 Q. Right. Now, you have a condition that is
23 the seventh merger condition, and to see that, I'm
24 not sure what you prefer to refer to, either the
25 settlement agreement or the narrative statement.

0553

1 Let's see. I'm going to be referring to the -- just
2 one moment, please, Your Honor. I'm referring to the
3 summaries of the terms beginning on narrative
4 statement page six, and this is Exhibit 502, and I'm
5 going to just ask you to look at condition seven.
6 This relates to the wholesale advantage services
7 agreement; correct?

8 A. Right.

9 Q. Now, if MCI does not continue to operate as
10 a separate entity following the merger, this merger
11 condition provides very little countervailing weight
12 to the negative competitive impact with merger,
13 doesn't it?

14 A. MCI is going continue -- is going to
15 continue to operate as a separate entity after the
16 merger. That is my understanding. So I disagree
17 with you that -- the first part of the question, if
18 MCI is no longer a separate entity.

19 Q. But if you're incorrect about that, Ms. Roth
20 -- and let me just phrase the question this way. If
21 MCI does not continue to operate as a separate entity
22 at some time after the merger is consummated, then
23 this particular condition will have little value in
24 terms of protecting competition, will it?

25 A. No, MCI today has both interconnection

0554

1 agreement and commercial agreement on file with this
2 Commission with Verizon, and those agreements have a
3 effective date somewhere between three and five
4 years. Based on that, you know, I would think that
5 those type of agreement continue to be in force after
6 the merger, unless, you know, there's some amendments
7 filed and -- to change that.

8 Q. All right. Let's look at merger condition
9 six, and this addresses issues associated with a PIC
10 change charge; correct?

11 A. Yes.

12 Q. And what does PIC stand for?

13 A. Primary interexchange carrier charge.

14 Q. And that's a charge that's imposed on
15 customers who change their long distance carrier;
16 isn't that right?

17 A. Right.

18 Q. Right. And the settlement agreement
19 requires Verizon to file a promotional tariff under
20 which they'll waive this charge when the customer
21 changes their local toll provider or their long
22 distance toll provider; correct?

23 A. That's correct.

24 Q. And these charges are either \$5 or \$4.35,
25 depending on whether the customer's in a former GTE

0555

1 or a former Con-Tel property; is that right?

2 A. I believe there's only two numbers we're
3 looking at. Yeah, somewhere between four and five.

4 Q. Okay. I'm just looking for the ballpark.

5 A. Right.

6 Q. All right. And you've raised this issue as
7 a competitive concern because the merger will result
8 in declining competition in long distance market;
9 correct?

10 A. Right.

11 Q. And at page 22 of your testimony, if you
12 could go there, please? You explain the basis of
13 this condition, and you state that, at line ten,
14 Staff is concerned about less customer choice and
15 such a dominant presence by Verizon in this market.
16 That's correct; right?

17 A. Yes, that is in my testimony.

18 Q. And then you go on to say, These customers
19 could have chosen Verizon as their long distance
20 provider and made the decision to use a competing
21 provider. Their choice not to use Verizon will
22 effectively be thwarted by this transaction; correct?

23 A. Yes.

24 Q. Now, you've testified that the market for
25 local service is also very highly concentrated, have

0556

1 you not, in this case?

2 A. Where are you in my testimony?

3 Q. I'll find it. All right. This is on page
4 17, line one and two. You state the market -- I'm
5 sorry, do you have that?

6 A. Yes.

7 Q. Okay. The market for residential local
8 exchange service is already very highly concentrated
9 in the geographic areas where Verizon operates?

10 A. That's what my testimony says.

11 Q. All right. Well, you agree with that, don't
12 you?

13 A. Yes, I agree.

14 Q. All right. So that makes them a dominant
15 carrier, does it not?

16 A. Right, but --

17 Q. All right.

18 A. But the point is here is Verizon is dominant
19 carrier in its local service market. What Staff
20 intends to do in this is saying, By merging with MCI,
21 does that increase the dominant status of Verizon or
22 not. We say that increase is very minimal, it's
23 negligible.

24 Q. Isn't it also true, however, that as a
25 result of the merger, there will be less customer

0557

1 choice in the residential local market than
2 previously?

3 A. MCI does providing some local service. It's
4 very minimal. Actually, we couldn't even capture
5 that by changing HHI for pre-merger and after merger
6 in the local service market for how much that would
7 change.

8 Q. But just as a matter of objective fact, MCI
9 is currently a competitor for local exchange service
10 within Verizon's service territory, is it not?

11 A. Yes, it is.

12 Q. And so the merger will eliminate their
13 presence as a competitor and thereby reduce the
14 amount of competition; correct?

15 A. No, after the merger, MCI will continue to
16 offer local service in Verizon territory.

17 Q. You're not suggesting that they're going to
18 continue to be an independently-owned and operated
19 competitive local provider, are you?

20 A. No, I'm not, but I'm saying they continue to
21 offer their services they're offering today and
22 there's no plan that Staff have seen to change the
23 price list on file that MCI will charge its
24 customers, both local and long distance.

25 Q. Well, my question is actually very

0558

1 straightforward. Will there be less customer choice
2 in the residential local market? I realize that you
3 have an opinion about how significant the less is,
4 but will there be less customer choice after Verizon
5 is no longer an independent provider?

6 A. After Verizon is not?

7 Q. I'm sorry, MCI.

8 A. I think I already answered that. I think
9 after the merger, a customer can continue to buy
10 MCI's local service as it can do today. And I don't
11 -- you know, it's still MCI and it doesn't change --
12 MCI is not ceasing to do business here.

13 Q. All right. Can you look at line two of page
14 17, please?

15 A. Yes.

16 Q. You state that Verizon's acquisition of MCI
17 will eliminate its largest single competitor, and
18 then go on to say that, in your view, the effect on
19 concentration is negligible.

20 A. Right.

21 Q. But you disagree that this will eliminate
22 Verizon's largest single competitor?

23 A. Yes, I agree with that. There's a
24 difference between if MCI will directly compete with
25 Verizon or not. It's a different question than say

0559

1 that is MCI no longer to offer local and long
2 distance services.

3 Q. So there's a slight difference between the
4 current situation and the post-merger situation, and
5 that is that, after the merger, a customer who, in
6 your scenario, chooses MCI, will now be purchasing
7 service from a wholly-owned --

8 A. Subsidiary.

9 Q. -- affiliate, subsidiary of Verizon;
10 correct?

11 A. Right.

12 Q. You express concern in your condition for
13 the competitive choices of long distance customers.
14 Isn't it also true that, as a result of the merger,
15 residential customers who could have chosen Verizon
16 as their local service provider, but made the
17 decision to use a competing provider are now
18 effectively thwarted by the merger transaction from
19 that choice?

20 And just to clarify, I'm talking about folks
21 who did exercise that decision and choose to go with
22 MCI. Aren't they now thwarted in that choice of
23 deciding to leave Verizon and go to a competitive
24 company?

25 A. Giving that I do not know why the customer

0560

1 choose MCI long distance today versus Verizon long
2 distance, you know, the customer, yeah, is, you know,
3 less of choice if they don't like Verizon at all,
4 they said, Oh, now Verizon buy MCI, I don't like it.
5 In that sense, yes.

6 Q. And I'm talking about local service here,
7 Ms. Roth.

8 A. Local service. Okay. I thought you said
9 long distance.

10 Q. All right. I apologize if my question is
11 confusing. You have recommended a condition having
12 to do with choice in the long distance market. I am
13 asking if customers in the local service market who
14 have chosen to go away from Verizon are thwarted in
15 that choice?

16 A. One less choice, yes.

17 Q. And so if that customer decides to make a
18 change because they now would like to leave Verizon
19 -- excuse me, leave MCI, go back to Verizon or go to
20 another carrier, that customer may have to pay some
21 kind of service initiation fee; isn't that correct?

22 A. That's correct, but every customer today in
23 the state of Washington pays the initiation fee if
24 they choose to leave one local provider to another.
25 This merger is -- you know, it didn't impose any

0561

1 additional charges in that regard.

2 Q. And you don't see anything involuntary in
3 the recapturing by Verizon of these customers who
4 chose, at one point in time, to leave Verizon and go
5 to an independent competitor?

6 A. No, I don't.

7 Q. And so -- and you believe it's reasonable
8 that if that customer wishes to continue and retain
9 that opinion that they don't want to be a Verizon
10 customer and wishes to choose an alternative, that
11 they should now have to go ahead and pay that
12 additional setup fee for the new carrier they moved
13 to?

14 A. Right, and if I were today doesn't like
15 Qwest, I choose a provider providing local service in
16 Olympia, I still have to pay the same charges as, you
17 know, this -- you know, not the same charges, but
18 same type of charges that customer has to pay for
19 Verizon's services.

20 Q. Let's just say -- I've been talking about a
21 customer who wants to go to a competitor. Let's say
22 this customer, the current MCI customer decides to go
23 back to Verizon, just as an example, partly because
24 we have their service connection tariff in the
25 record. That's going to cost them around \$43,

0562

1 correct, based on the tariff that we have in the
2 record?

3 A. Which tariff?

4 Q. All right. I can direct you to that. It
5 will take me a moment. Verizon's service connection
6 tariff. We looked at that with Mr. Danner, I
7 believe.

8 MR. CARRATHERS: Mr. Beach.

9 Q. Mr. Beach. It's Exhibit 65. Do you need to
10 see that, Ms. Roth?

11 A. I don't have a copy.

12 Q. Right. Perhaps your counsel can provide you
13 with that. I wasn't expecting this would be a matter
14 of question. I can just hand -- you can use this one
15 if you'd like.

16 MR. THOMPSON: Maybe I might suggest that we
17 ask the witness if she is -- yeah, subject to check
18 or -- I don't know if she's had a chance to study the
19 tariff and be able to offer a definitive response,
20 anyway.

21 Q. Would you accept, subject to check, Ms.
22 Roth, that Exhibit 65, which is titled -- is a
23 Verizon Northwest, Incorporated tariff sheet
24 indicates that the charge for initial service is
25 \$26.25 residential, and the line connection charge is

0563

1 \$17?

2 A. I accept that, subject to check.

3 Q. And so, just to summarize, if a customer
4 decided to leave MCI and go back to Verizon, that
5 would be the fee they would have to pay to Verizon?

6 A. Right, let me say it again. That would be
7 every customer in Verizon territory today. If they
8 move, if they go to a competitor, come back, they all
9 have to pay. That's not something this merger is
10 inventing that they have to pay. It's just every
11 customer has to pay that charge today.

12 Q. But there's -- the only customers who are
13 being acquired by Verizon are the MCI customers;
14 correct? Isn't there a difference between these MCI
15 customers and non-MCI CLEC customers elsewhere in the
16 service territory? You don't see any difference
17 between those two groups of people?

18 MR. CARRATHERS: Your Honor, this may be a
19 little irregular, but I'd like to object on behalf of
20 Verizon, because Mr. ffitich's question characterizes
21 these now Verizon customers, and that is not true.
22 They are served by MCI. Yes, MCI's an affiliate,
23 they are MCI customers, they buy the services that
24 are MCI's price list. This is not a situation where
25 Verizon is seeking a transfer of those customers.

0564

1 Indeed, this Commission has a very specific rule that
2 applies when, in a merger, the companies seek to
3 transfer customers from one company to another.

4 So I apologize for my perhaps irregular
5 objection, but I would request that Public Counsel
6 recharacterize who serves these customers.

7 MR. THOMPSON: I would join in that, and
8 just to add, I think the objection is assumes facts
9 not in evidence.

10 JUDGE WALLIS: Mr. ffitch.

11 MR. FFITCH: Well, I can move on, Your
12 Honor. We spent enough time on this particular
13 issue, this narrow issue.

14 Q. Ms. Roth, is it at least possible that CLECs
15 remaining in the market that might be chosen by these
16 MCI customers who wish to leave may have similar
17 service establishment fees to the one in Exhibit 65?

18 A. Exhibit 65?

19 Q. This is the tariff that we just spoke of.

20 A. If MCI customer chose to leave MCI today, go
21 to another competitor, they have to pay what in those
22 competitors' price list for installation and initial
23 services.

24 Q. All right. Now, in this hearing, have you
25 been in the entire hearing, listening to the

0565

1 testimony, Ms. Roth?

2 A. For most part, yes.

3 Q. And you've read the testimony of Verizon
4 witnesses, including Mr. Beach?

5 A. Long time ago.

6 Q. Well, you would agree, would you not, that
7 Verizon has candidly stated that it's raising
8 residential rates to manage the decline of its mass
9 market business?

10 A. Verizon did?

11 Q. MCI. Pardon me.

12 A. You know, the MCI witness and the testimony
13 on behalf of MCI stand for itself, and I have to
14 agree whatever the transcript says is what they said.

15 Q. All right. Well, if it says that MCI's
16 raising rates as part of the way that it manages the
17 decline of its mass market business, don't you think
18 it's likely that its customers might seek service
19 elsewhere?

20 A. If MCI filed a request with the Commission
21 for cessation of service or transfer of customer
22 base, yes. They would -- the customer have to find
23 some competitors and -- or go back to Verizon.
24 That's not the case here. Again, MCI is offering
25 services like they're doing today in post-merger

0566

1 environment and the customers still have the same
2 choices and I just -- if they raise their rates, they
3 have to come to the Commission to file increased rate
4 request, and we'll reevaluate then why they have --
5 you know, request the Commission to permit them to
6 increase their local service rates. And if I didn't
7 answer your question, you know, I apologize, but --

8 Q. Well, let me ask it again. It's actually
9 quite a narrow question. It's simply if MCI raises
10 its rates, as it's indicated in its testimony that it
11 is doing, wouldn't customers of MCI be likely to
12 leave?

13 A. That depends. Based on the earlier question
14 you have, those customers choose MCI for a reason.
15 Maybe because they don't like Verizon, maybe because
16 they don't like Qwest, maybe because they don't like
17 any other carrier, they choose MCI. And for a lot of
18 reasons, if a company increase rates, not necessarily
19 will a customer leave that company.

20 Q. And let me follow up on a comment, statement
21 that you just made, Ms. Roth. You indicated that if
22 MCI does decide to increase its rates, that it would
23 have to come before the Commission and get Commission
24 approval to do that. Is that what you just --

25 A. Well, they have to file changes in their

0567

1 price list.

2 Q. Okay. And in your experience, how often
3 does a price list filing by a carrier trigger a
4 detailed Commission review or a suspension or a
5 contested case in front of the Commission? When was
6 the last --

7 A. Very unlikely, but in light of the merger,
8 because MCI now is a subsidiary of Verizon, we may
9 pay a little more attention to that.

10 Q. Ms. Roth, I'd like to move on to discuss
11 retail service quality. And let's see which
12 provision is that. I'm looking at the narrative, Ms.
13 Roth, and trying to locate your retail -- thank you.
14 Item five.

15 A. I'm there.

16 JUDGE WALLIS: It's on page eight of the
17 narrative?

18 MR. FFITCH: Item five on page eight of the
19 narrative, which is Exhibit --

20 JUDGE WALLIS: 502.

21 MR. FFITCH: -- 502. Thank you, Your Honor.

22 Q. And this condition simply recites that
23 following the merger, MCI will have a legal
24 obligation under Commission rules to file reports
25 with the Commission; correct?

0568

1 A. That's right.

2 Q. So this would have occurred whether or not
3 there was a condition in a merger settlement
4 agreement, would it not?

5 A. That's right.

6 Q. And could I ask you to turn to page 35 of
7 your testimony, Exhibit 101, line 12? And that
8 states, Therefore, the Commission should require
9 Verizon to guarantee its retail service quality
10 performance will not deteriorate after the merger;
11 correct?

12 A. Right.

13 Q. Can you explain to me how condition five in
14 the narrative or in the settlement agreement
15 guarantees that the merging parties will not allow
16 service quality on the retail side to deteriorate?

17 A. Give me a moment. Let me see the narrative
18 five again. Narrative page eight, condition number
19 five, the first sentence states that Verizon and MCI
20 natural access transmission services agree to
21 continue to meet the Commission's retail service
22 quality standards.

23 So if Verizon continue to meet the
24 Commission's service quality standard and file report
25 with the Commission, Staff review those report,

0569

1 monitor those report, enforce the standards set in
2 the rule, so that's how we deal with that if the
3 service quality decline from its current performance.
4 That's violation of the rule.

5 Q. And so that's the extent of the guarantee?

6 A. That's right.

7 Q. And that activity that you've described is
8 no different than the ongoing activity that's of
9 Staff in monitoring industry performance of any
10 company, is it?

11 A. Right. In this merger that Staff didn't
12 view that Verizon service quality is a problem.
13 Verizon is currently have good service quality and
14 the Commission current rule is good set of rule that
15 ensure the Verizon continue to providing high quality
16 of service in the state of Washington.

17 Q. Isn't it the case, Ms. Roth, that service
18 quality conditions are often imposed on mergers not
19 because of past performance, but because of a concern
20 about impaired performance following the merger?

21 A. That was the case in previous merger, that's
22 because the control of the companies, you know, was
23 changed, you know. In this case, the control of the
24 management did not change. The same management team
25 will continue to control Verizon's service quality

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1 and there is no upper management change, so that's
2 why Staff less of concern about service quality in
3 this particular merger than the previous merger.

4 Q. Wasn't that lack of control argument made in
5 every recent merger before this Commission, Ms. Roth,
6 both on the energy and telecom side?

7 A. What lack of control?

8 MR. THOMPSON: Objection, calls for a legal
9 conclusion.

10 MR. FFITCH: Let's go to -- I'll withdraw
11 the question, Your Honor.

12 Q. Let's go to page 33 of your testimony,
13 Exhibit 101, Ms. Roth.

14 A. Sorry, I missed the page number.

15 Q. Page 33, and line 18.

16 A. I'm there.

17 Q. And there you state that Staff reviewed
18 Verizon's monthly service quality reports for the
19 last six months; right?

20 A. Right.

21 Q. And what is that six-month period that
22 you're referring to there?

23 A. January to June, 2005.

24 Q. Right. So you did not review the company's
25 performance during 2004?

0571

1 A. We did. We did 12 months.

2 JUDGE WALLIS: Ms. Roth, could you bring
3 that microphone closer to your mouth?

4 THE WITNESS: Oh, okay.

5 JUDGE WALLIS: It will help me hear you
6 better. Thank you.

7 THE WITNESS: Okay.

8 Q. Well, this states specifically that you
9 reviewed reports for the last six months, and so can
10 you just clarify what you mean by the 12 month? Are
11 you referring to the fact that the reports take a
12 backward look 12 months, or maybe you could just
13 explain?

14 A. When we review the report, this is a filing
15 by Verizon in a data request by Public Counsel. I
16 want to say it's 177. It's a service quality report
17 filed June 2005. In that cover letter, it says that
18 we filed this report in addition to the information
19 required by WAC 480.120.469. We're also providing
20 the document, quote, VZNWTRBL, 12 months, unquote, at
21 the request that -- for the convenience of the
22 Commission Staff. So you know, so we look at the six
23 months, but when you look at the report, you can't
24 help it. Maybe if you go back to July of 2004.

25 Q. Well, Exhibit 38 in this record contains the

0572

1 response to Data Request Number 177, and just to
2 clarify, are you testifying that you've looked at
3 that same information?

4 A. You could ask the report filed at the
5 Commission.

6 Q. All right. Ms. Roth, I want to discuss the
7 merger conditions in the settlement related to the
8 matters discussed on the confidential appendix. It
9 may be -- I'm going to be referencing, actually, Ms.
10 Folsom's testimony on occasion here, with her
11 numbers, and I don't know, do you have that with you?

12 A. I don't have it, but --

13 Q. Let's try to just go -- I think folks have
14 those numbers in mind, if need be. We can -- you
15 know, if you're having trouble following me, we can
16 make sure you get a copy of the testimony. I'm not
17 sure it's necessary.

18 Staff has, in Ms. Folsom's testimony, taken
19 the position that a particular dollar amount of
20 merger savings represents the appropriate allocation
21 or flow-through amount for Washington intrastate, has
22 it not?

23 A. Yes.

24 Q. And that's expressed in terms of a net
25 present value; correct?

0573

1 A. Correct.

2 Q. And does the testimony indicate a benefit
3 which should generally flow to Verizon's customers?

4 A. Where it states that?

5 Q. I'm asking you.

6 MR. THOMPSON: I'd like to object. Could I
7 maybe have the witness have a look at the testimony
8 of Ms. Folsom if Mr. ffitch --

9 THE WITNESS: Are you referring to her
10 testimony now when you ask me?

11 MR. FFITCH: I'd be happy for her to have a
12 copy of the testimony if --

13 JUDGE WALLIS: Off the record, please.

14 (Discussion off the record.)

15 JUDGE WALLIS: Very well. Let's be back on
16 the record, please. I will acknowledge that, through
17 courtesy of counsel, Ms. Roth does have Ms. Folsom's
18 testimony. However, in order to accommodate
19 Commissioner Jones' scheduled obligation, counsel
20 have agreed to allow him to proceed with some
21 questions of the witness before it's necessary that
22 he leave. Commissioner Jones.

23 COMMISSIONER JONES: Thank you, counselor.
24 Thank you.

25

0574

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

2 BY COMMISSIONER JONES:

3 Q. Ms. Roth, on page four of your testimony,
4 could you turn there? You talk about that this
5 settlement meeting the public interest is defined
6 under our laws and WAC, and I just want to make sure
7 I understand.

8 The statement that you make on paragraph
9 seven and eight, where you state this merger is,
10 broadly speaking, a transaction that has relatively
11 modest benefits for the two companies and virtually
12 no societal benefits, does this reflect the
13 Commission Staff position?

14 A. Yes.

15 Q. And then you talk about the conditions, the
16 eight conditions in the settlement as a way of
17 mitigating potential harm to the public interest;
18 correct?

19 A. Right.

20 Q. And then you state that, with the
21 conditions, with these eight conditions as stipulated
22 in the settlement agreement, that it's the view of
23 Commission Staff that it does meet the public
24 interest; correct?

25 A. Will not cause harm to the public interest.

0575

1 Q. Will not cause harm to the public interest.

2 A. Right.

3 Q. As the chairman indicated earlier, there
4 have been some intervening events since the
5 settlement was reached, such as the FCC decision to
6 approve the mergers on Monday. Have you had a chance
7 to review those conditions specifically relating to
8 UNEs and special access charges?

9 A. I read the press release.

10 Q. Okay. So you read the press release and
11 there is no order out yet, of course, but is there
12 anything, based on your reading of the press release,
13 that would change Commission Staff's position of this
14 determination of the public interest in these eight
15 conditions in the settlement?

16 A. No.

17 Q. My final question relates to special access
18 charges. I think it's on page 26, 27 of your
19 testimony. Could you turn to that page?

20 A. Yes.

21 Q. Can you -- and I think that in your
22 testimony you urge or you recommend that the special
23 access rates be reduced, not frozen, not stay the
24 same, but actually reduce. For my benefit, could you
25 explain the reasons why you think that special access

0576

1 rates, intrastate special access rates should be
2 reduced?

3 A. In my testimony, and I stated four reasons
4 that start on line 11, page 27, to -- through line
5 29, line seven. But first and foremost, let me state
6 that the majority of concern -- the major concern for
7 Staff for proposed special access rate reduction in
8 our testimony is because of the FCC TRRO docket that
9 this non-impairment standard during the discovery and
10 in discussion with the company in the settlement
11 discussion that Staff realized that there is only
12 very limited route in the state of Washington will
13 meet that non-impairment standard. Actually, there's
14 only one, only for one service, in DS3 transport, and
15 that -- and knowing that, you know, Staff's concern
16 is lessened, but we still have the same concern, but
17 it's the reason that we didn't propose a rate
18 reduction for special access in the settlement
19 discussion.

20 Q. Would you state that again, because in your
21 second reason, I think you say that reducing
22 Verizon's special access rates will mitigate the
23 potential competitive harm of the merger when these
24 high capacity loops will no longer be available as
25 UNEs.

0577

1 A. Right. Under the --

2 Q. So what you're saying is that there are only
3 two?

4 A. There -- only one.

5 Q. There's only one?

6 A. Mm-hmm, one route for DS3 transport.

7 Q. There's only one route for DS3 transport
8 where this particular potential competitive harm
9 applies?

10 A. Right.

11 COMMISSIONER JONES: Okay. Thank you.
12 That's all I have. And thank you, counselor. Thank
13 you for your indulgence. And just for the record, I
14 will -- would you like to state that, Judge, that I
15 will be reading all of the testimony and all of --

16 JUDGE WALLIS: Yes, we have your commitment
17 that you, although you must leave now, you will
18 closely read the transcript before taking any action
19 on this docket.

20 MS. SINGER NELSON: Thank you.

21 MR. FFITCH: Thank you, Your Honor. May I
22 proceed, Your Honor, then?

23 JUDGE WALLIS: Please proceed.

24

25 C R O S S - E X A M I N A T I O N (CONTINUING)

0578

1 BY MR. FFITCH:

2 Q. Ms. Roth, could you please take a look at
3 the exhibit, the narrative statement, page six?

4 That's Exhibit 502, item one.

5 A. I'm there.

6 Q. And this first condition resolves a
7 complaint against Verizon in Docket UT-050778;
8 correct?

9 A. Right.

10 Q. And this complaint involves 12 residents on
11 the Index-Galina Road?

12 A. That's right.

13 Q. All right. And the merger condition will
14 require that Verizon extend service to these
15 customers, but the customers will pay the customary
16 charges associated with line extension; right?

17 A. No, they don't.

18 Q. They do not under the settlement?

19 A. That's right.

20 Q. All right. And this indicates that the
21 maximum that Verizon would be required to spend in
22 order to extend service to these 12 customers would
23 be \$325,000; correct?

24 A. That's correct.

25 Q. And that if Verizon spends more than that

0579

1 amount, Staff will support the company seeking to
2 recover the additional costs? Isn't that what the --
3 does the settlement say that?

4 A. No.

5 Q. All right. Well, I'm looking at the last
6 sentence of condition one. Could you please explain
7 what the last sentence means?

8 A. I'm not sure. My counsel may have to help
9 me. Those discussions came up in the negotiation
10 settlement that Verizon has some concerns about laws,
11 federal laws, and whether they can access road. I
12 don't know if those discussions, you know, would be
13 for me to disclose in this hearing right now.

14 Q. All right. That's fine.

15 A. I mean, if --

16 Q. We can move on, unless the bench would like
17 to inquire further, but I don't need to inquire
18 further into that detail. That's an adequate
19 clarification.

20 Now, this was related to a pending complaint
21 before the Commission, as we've just indicated.
22 Isn't it possible, Ms. Roth, that after the complaint
23 proceeding was over, the Commission would have, in
24 fact, ordered Verizon to extend these facilities
25 absent this merger condition?

0580

1 A. It's possible that, in that pending
2 complaint, the Commission could order Verizon doing
3 it, but under the current line extension rule that
4 Verizon is entitled to recover that cost through line
5 extension cost and also the customer has to pay much
6 more higher rates to get the line into their home.

7 Q. All right.

8 A. And in this case is Verizon will agree to do
9 that and the customer only pay the, you know, the
10 numbers that you just used in the docket for the
11 initiation fee for the installation and line
12 connection charge.

13 Q. All right. And if we reference Confidential
14 Appendix A, this is discussed in term one under
15 settlement of the Rupp line extension, and although
16 it's in yellow, the number's already been stated
17 publicly in the narrative statement, is \$325,000, so
18 that's -- that's a statement of essentially the value
19 of this particular term; is that correct?

20 A. In dollar amount, yes. The value is more
21 than that. The value is that the customers today has
22 no telephone service. In my testimony, I stated that
23 -- let me find the page. On page 25 of my testimony,
24 I believe that's Exhibit 101, page 25, start line
25 three through line six, I said -- I stated that,

0581

1 While we're in a era of rapid technology development,
2 promoting competition and customer choice, we should
3 not forget to achieve the fundamental goal of
4 universal service. As a matter of fact that, you
5 know, I heard a lot about the discussion about
6 deployment of broadband services to Washington
7 consumers, you know, the customers have no broadband
8 service today, but in that discussion, let's not
9 forget these 12 residents in this rural Washington
10 doesn't have telephone service. And I think the
11 value for them is more than the dollar amount stated
12 in this Appendix A.

13 Q. All right. So you're essentially sort of
14 pointing to the public interest value of the
15 universal service principle; right?

16 A. Absolutely.

17 Q. And this -- once Verizon makes this
18 investment in these facilities, will that investment
19 go into Verizon's rate base?

20 A. The investment?

21 Q. Yes.

22 A. For recovery or for continue as rate base as
23 set for the company? I would think so.

24 Q. Correct. Okay. And Verizon will earn a
25 return on that rate base investment, won't it?

0582

1 A. I hope so.

2 Q. Let's take a look now at merger condition
3 two. And this is the condition that -- this is page
4 six of Exhibit 502. You have that?

5 A. 502. Narrative?

6 Q. Correct, the narrative, page six, term two.

7 A. Okay.

8 Q. And this is the rate center consolidation
9 item; correct?

10 A. Right.

11 Q. And this results in -- this is an agreement
12 that there will be a rate center consolidation for
13 Anacortes, Mt. Vernon and Sedro Woolley into a single
14 rate center so that those residents can have
15 countywide local calling; correct?

16 A. That's what my testimony states.

17 Q. And there is also other consolidation of
18 Arlington, Darrington, Granite Falls and Marysville;
19 correct?

20 A. Right.

21 Q. And other provisions that are stated there
22 in term two. And let's take a look now at
23 Confidential Appendix A, term two. And this states
24 some specific dollar amounts that Verizon will forgo
25 in toll revenues under the rate consolidation;

0583

1 correct?

2 A. Right.

3 Q. And also another lower specific dollar
4 amount per year in revenue that they will forgo from
5 premium adders; correct?

6 A. Mm-hmm.

7 Q. And the premium adder is that additional
8 line item on your phone bill that folks were
9 currently paying for extended area service; isn't
10 that a correct description of what that adder is?

11 A. Right.

12 Q. So they can call -- by paying that, nearby
13 long distance calling is actually just billed to them
14 as a flat rate as part of their local service.
15 That's what the adder does; right?

16 A. That's what -- yes.

17 Q. Do you know the number of Verizon customers
18 in the Arlington, Darrington, Granite Falls and
19 Marysville rate centers?

20 A. The lines?

21 Q. Yeah.

22 A. Number of lines or number of customers?

23 A. Can you state those names again? In rate
24 consolidation number one or number two?

25 Q. Well, I want to talk about all of them, but

0584

1 I'm looking at Arlington, Darrington, Granite Falls
2 and Marysville, and I can ask you to turn to, to
3 maybe help, you could turn to Public Counsel Cross
4 Exhibit 106?

5 A. Yes, I see. 106 or 105?

6 Q. 105, thank you. Page three of 105 is an
7 excerpt prepared by Public Counsel from highly
8 confidential wire center line count data provided by
9 Verizon.

10 A. Mm-hmm, I see that.

11 Q. And the line counts for primary residential,
12 retail and business retail are provided there for all
13 of the wire centers or rate centers that are
14 addressed by this term two, are they not?

15 A. Term two stated that those are the wire
16 centers being consolidated, but the impact of that
17 rate center consolidation is much bigger than is
18 stated on page three of Public Counsel's Cross
19 Exhibit 105.

20 Q. Well, but let's just start with the basic
21 facts. These are the lines in the wire centers that
22 are affected by this term, are they not?

23 A. Yeah, just a little bit off.

24 Q. Because they're --

25 A. Because there's additional lines that, in

0585

1 the data request, you generate those numbers from a
2 particular data response from Verizon, and they
3 didn't include in there the additional lines in those
4 rate centers.

5 Q. Does that change these numbers
6 significantly?

7 A. No, it's just a little bit difference.

8 Q. All right. Well, if we look at each
9 grouping on page three of the exhibit here, it's
10 highly confidential.

11 A. Mm-hmm.

12 Q. If we look at each grouping, we see that,
13 for consolidation one, starting with Anacortes,
14 there's a percentage stated of all Verizon lines for
15 primary residential and for business; correct? Do
16 you see that?

17 A. I see that.

18 Q. And then, for Arlington through Marysville,
19 consolidation two, there is a percentage stated for
20 both of those types of retail lines, also; correct?

21 A. I see that, too.

22 Q. And finally, for the third grouping, which
23 is the elimination of the adders, a percentage of
24 Verizon lines is listed there, as well, isn't it?

25 A. Yes.

0586

1 Q. And those, subject to your correction about
2 the specific line counts here, those are generally
3 accurate percentages, are they not?

4 A. No, they're not.

5 Q. These are not accurate percentages of the
6 ratio of these particular line counts to the total
7 Verizon -- total of all Verizon lines?

8 A. It's a good -- it is correct mathematic
9 calculation, but the lines, for instance, in the --
10 let's take the Arlington, Darrington, Granite Falls,
11 Marysville, that there's a line stated. That's the
12 line that I believe you claim is impacted by term
13 number two. That's not the case. Those are the
14 lines that, in the wire centers, are being
15 consolidated. Because they're being consolidated,
16 for instance, a customer in Everett today can also
17 call -- am I using the right map? Let me just go
18 back to my binder and find it.

19 Yeah, so the customer today in Everett, that
20 is not one of the wire centers being consolidated in
21 term two, but Everett today can only call, for
22 instance, Marysville, for a local call. If people
23 live in Everett, want to make a call to Arlington,
24 Granite Fall, Darrington, today they have to pay a
25 toll charge. Because we consolidate the three,

0587

1 Arlington, Darrington, Granite Fall, with Marysville,
2 for instance Everett, I'm using Everett, because it's
3 a big wire center, that that customer would be able
4 to call all of this area as a local call.

5 That's why at the very beginning I said the
6 impact of term two on the number of customers is much
7 larger than it shows on the Cross Exhibit 105. Even
8 if we don't take into account additional lines.
9 That's minor. So do you want me to continue?

10 Q. Well --

11 A. Or do you want me to go through it and --

12 Q. I think perhaps the way to approach this
13 initially is you've indicated, for consolidation two
14 --

15 A. Yes.

16 Q. -- that Everett customers would also benefit
17 from that consolidation; correct?

18 A. Yeah. So would Silver Lake and Stanwood
19 customer.

20 Q. Well, Everett, Silver Lake and Stanwood?

21 A. Mm-hmm.

22 Q. And what about consolidation one?

23 A. Consolidation one, other than the Anacortes,
24 Mt. Vernon, Sedro Woolley, you will have -- how to
25 pronounce this, Alger, Big Lake, Concrete, Conway,

0588

1 Conway, C-o-n-w-a-y, Addison, Lyman, or Lyman, I
2 don't know, Marblemount, Burlington.

3 Q. And your testimony is that all of those
4 exchanges or wire centers would now have --

5 A. Countywide calling, local calling.

6 Q. Countywide calling. They already have
7 countywide calling, but these would be now included
8 in their calling area; is that what you're saying?
9 The Anacortes through Sedro Woolley; is that what
10 you're saying?

11 A. I have to find my map again. Today Mt.
12 Vernon and La Conner has countywide calling by the
13 first rate center consolidation. Now all of them has
14 countywide local calling.

15 Q. Let's look at the elimination of the adders
16 portion. That -- the impact of that change, is that
17 restricted to these communities that are listed here?

18 A. Yes, you're right on that one.

19 Q. All right.

20 A. But can I just say that the adder is quite
21 big for customers reside in there, in those areas.
22 The adder, Verizon enjoys \$15 in addition to what
23 they're paid currently. For business, it's \$30 in
24 addition to what they have to pay today for a line.

25 Q. Fair, okay. So this -- for these people

0589

1 shown on this chart, this is an improvement. That's
2 your --

3 A. Right.

4 Q. -- what you're saying. Do you have any
5 sense of -- it appears you've given a bit of thought
6 to this issue. Do you have any sense of what
7 percentage of Verizon's total lines benefit from,
8 under your theory here, benefit from the two
9 consolidations?

10 A. The total line, I don't know if it's
11 confidential or not, but let me just put this way.
12 Look at your Cross Exhibit 105, page three. For
13 residential rate, for consolidation number one, do
14 you have a percentage? I don't know. Is the
15 percentage confidential?

16 Q. Well, let's just start with my question. Do
17 you have in mind or have you calculated --

18 A. Yes, I did.

19 Q. -- a percentage impact under your theory?
20 All right.

21 A. Yes, I have.

22 Q. So all right. So now the question is you
23 probably would like to tell us what that is, and
24 we're thinking it's highly confidential.

25 A. Right.

0590

1 JUDGE WALLIS: Could we have that as a
2 record requisition?

3 MR. FFITCH: We could have that. We could
4 handle it that way, Your Honor.

5 THE WITNESS: But --

6 Q. And in fact, it would be useful, I think, to
7 have Staff put together this assertion with the
8 various communities listed in an organized fashion so
9 that we can compare it with the underlying data that
10 we've used in our exhibit.

11 A. Could I just add one point there? May I?

12 Q. Well, all right.

13 A. The -- your witness, I believe it's Dr.
14 Roycroft, when was crossed by the Chairman, he said,
15 Well, that second term is roughly ten percent. That
16 was not a confidential number. So I just want to
17 make sure that I can, you know, just say that, you
18 know, for that ten percent, Staff calculation would
19 be 30 percent. So that's something that is already
20 in the record, non-confidential, but we'll provide in
21 more detail because we'll also have business line
22 also in this calculation.

23 MR. FFITCH: Nudge nudge, wink wink, say no
24 more. I think I'd still like to make a record
25 requisition to have the detail behind Staff's --

0591

1 JUDGE WALLIS: Very well. Does the witness
2 understand what the requisition would be seeking?

3 THE WITNESS: It is -- yeah, maybe, you
4 know, Simon can tell me exactly what he want. Is it
5 you want a calculation just like what you did in
6 Exhibit 105, including all of the lines I just
7 stated?

8 Q. I'm really responding to your point. The
9 point I believe you were making is that there are
10 additional wire centers affected, and you listed
11 them, and you also had in mind how many lines were
12 affected, so that the -- you wanted to essentially
13 increase the numbers of lines in each of these
14 groupings for the consolidations and change the
15 percentage.

16 And so what I would like to see in a record
17 requisition is a table or a chart using the same
18 underlying data response from the company, with the
19 communities listed, the line counts, and your
20 calculation of the percentage.

21 A. My pleasure.

22 MR. BUTLER: You're under oath now.

23 Q. Have you already prepared that exhibit, Ms.
24 Roth?

25 A. No, I haven't.

0592

1 Q. All right.

2 JUDGE WALLIS: That's Record Requisition
3 Number Eight.

4 Q. All right. And just looking, I guess, maybe
5 just to wrap up this line, just a couple more
6 questions.

7 Again, looking back at the Confidential
8 Appendix A, the settling parties have provided this
9 appendix and -- to indicate the amounts of revenue
10 that Verizon will forgo from the rate consolidation
11 and the premium adders. And we've already taken a
12 look at that.

13 A. Right.

14 Q. Correct. And just to recap, as far as the
15 premium adders are concerned, the line counts and
16 percentages shown on Public Counsel Exhibit 105 are
17 essentially correct?

18 A. Right.

19 Q. So to summarize up to this point -- well,
20 before I do that, can you please look at Ms. Folsom's
21 testimony again on page four?

22 MS. SINGER NELSON: What's the exhibit
23 number?

24 MR. FFITCH: That's Exhibit 150.

25 MS. SINGER NELSON: Thank you.

0593

1 Q. At the top of the page, there is a summary
2 of Staff's calculation of the synergies; correct?

3 A. Right.

4 Q. And line six is the four-year net present
5 value amount you have identified?

6 A. Mm-hmm.

7 Q. And Staff still agrees that that is the
8 correct calculation, does it not? That's still
9 Staff's testimony?

10 A. That is Staff's testimony.

11 Q. All right. And about \$325,000 of the amount
12 shown on line six will benefit, in a one-time
13 fashion, 12 customers on the Index-Galina Road;
14 correct?

15 A. Yeah, I think I don't have to repeat my
16 point. I think, you know, the dollar amount states,
17 you know, it's a dollar amount, it's 325. And I have
18 stated that, earlier, that the benefit that Staff see
19 is matter of public policy, universal service, and
20 that the value to those customers is unquantifiable
21 and is, you know, more value than the money that we
22 see here.

23 Q. All right. Does it add up to the difference
24 between \$325,000 and the number on line six?

25 MR. THOMPSON: Objection, argumentative.

0594

1 Q. All right. Withdraw the question. Can you
2 please look at the summary total cost on Confidential
3 Appendix A, please? And this gives a figure for the
4 sum of lost revenues sum, lost revenues to Verizon of
5 the first two terms alone. Is that a nominal or a
6 net present value figure?

7 A. That is a net present value figure.

8 Q. Are you certain about that?

9 A. Do I have a reason not to? I said, yes, it
10 is.

11 Q. If that were a nominal figure,
12 hypothetically, it would be lower calculated at a net
13 present value basis, would it not?

14 A. Sure.

15 Q. And then, let's take a look at item three of
16 the narrative supporting this settlement, that's page
17 seven of Exhibit 502, also term three on the
18 Confidential Appendix A.

19 A. I'm there.

20 Q. It's correct that, under the settlement
21 agreement from Verizon's last general rate case,
22 Verizon is entitled to institute a rate increase in
23 July of 2007; correct? That's step two of the agreed
24 rate increase?

25 A. Oh, you're talking about the rate case

0595

1 settlement now?

2 Q. Yes.

3 A. Yes.

4 Q. Is it possible that, absent this merger
5 condition regarding stay-out for rate increases,
6 Verizon might have stayed out anyway?

7 A. I don't know that for sure. I cannot answer
8 that question. I mean, until they stay out July 1st,
9 2007, or you're saying they're going to stay out
10 after July 1st, 2007?

11 Q. Between 2007 and 2009?

12 A. I don't know. It's very possible the
13 company will come back for a rate case or ask for
14 increases, residential services.

15 Q. And do you think it's very possible that the
16 company would do that immediately after receiving its
17 rate increase on July 1st, 2007?

18 A. Without the term number three, it's
19 possible.

20 Q. It might happen, it might not happen; right?

21 A. That's right.

22 Q. That's speculation; correct?

23 A. Right.

24 Q. And term three on Confidential Appendix A
25 does not assign any specific dollar amount to term

0596

1 three, nor does the narrative supporting settlement;
2 correct?

3 A. In Appendix A?

4 Q. Appendix A, there's no specific dollar
5 amount assigned to the stay-out?

6 A. Right, but there is some confidential
7 information that Staff received during the settlement
8 that give a revenue number that satisfies Staff that,
9 you know, that term three is -- has possible revenue
10 impact on the company, a negative impact -- revenue
11 impact on the company if the company would come in
12 after July 1st, 2007, file rate case.

13 Q. All right. That's not reflected in
14 Confidential Attachment A, though, is it?

15 A. That dollar amount is not stated here.

16 Q. Is it stated anywhere in the record of this
17 case?

18 A. No.

19 MR. FFITCH: I don't have any other
20 questions for this witness, Your Honor, I don't
21 believe. Let me just check my notes. Your Honor,
22 that's all the questions I have. I just want to make
23 sure I offer the cross-examination exhibits for Ms.
24 Roth. And they are 104, 105 and 106.

25 JUDGE WALLIS: My notes indicate those have

0597

1 already been received in evidence.

2 MR. THOMPSON: Well, Your Honor, actually, I
3 would object, and I think I reserved the right to do
4 so, to the page three of Exhibit 105-HC, which was
5 the subject of discussion earlier with Ms. Roth. And
6 the issue is the -- as she pointed out, the exhibit
7 is not accurate for what it purports to show, and so
8 Staff's producing Record Requisition Number Eight to
9 show Staff's calculation.

10 JUDGE WALLIS: We understand your concern.
11 However, there was extended discussion about it. The
12 discussion, I believe, between the questions of
13 counsel and the answers of the witness, make it clear
14 the strengths and limitations of that document, and I
15 will overrule the objection.

16 MR. FFITCH: Thank you, Your Honor.

17 JUDGE WALLIS: Mr. Kopta.

18 MR. KOPTA: Thank you, Your Honor.

19

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

21 BY MR. KOPTA:

22 Q. I couldn't pass up the opportunity, I'm
23 sorry. I'm actually following up on Commissioner
24 Jones' questions to you, Ms. Roth.

25 A. Okay.

0598

1 Q. Specifically, he asked you whether there was
2 anything in the press release issued by the FCC that
3 impacted Staff's position with respect to the
4 settlement in this case. Do you recall him asking
5 you about that?

6 A. Right, he said have that change your
7 position. I say, No, this hasn't changed our
8 position in the settlement, the proposed settlement.

9 Q. Right, okay. Would you look at Exhibit 502,
10 which is the narrative supporting the multi-party
11 settlement agreement, on page nine?

12 A. The narrative, right?

13 Q. The narrative, that's correct.

14 A. Okay. Make sure.

15 Q. Specifically settlement condition number
16 eight.

17 A. Okay.

18 MR. CARRATHERS: Apologize, Greg. What page
19 number again?

20 MR. KOPTA: It's on page nine of Exhibit
21 502.

22 MR. CARRATHERS: Thank you.

23 THE WITNESS: I'm there.

24 Q. Okay. Does Staff have a position at this
25 point about whether, based on the FCC's press

0599

1 release, condition number eight would be triggered if
2 this settlement agreement were approved?

3 A. In my opening statement, I have stated that
4 FCC issue order and there's something -- conditions
5 on special access, interstate special access. Staff
6 is ready to review that order and, if we see any
7 impact whatsoever for intrastate special access due
8 to when you read the order, maybe in Footnote 352,
9 there's something that, you know, we will engage in
10 discussion with the company and, if necessary, bring
11 that issue back to the Commission for resolution.

12 Q. Okay. Hypothetically, if there is nothing
13 in the FCC order that requires any reduction to
14 Verizon's or MCI's special access rates, is there
15 anything in the settlement agreement in this case
16 that would preclude Staff from raising the issue of
17 Verizon's intrastate special access rates in another
18 proceeding?

19 A. I have to say I don't think there is a
20 provision precludes that to initiate some type of
21 docket to look at that, and actually, we already have
22 a pending docket, which is the TRRO docket.

23 Q. You read my mind. I won't ask that
24 question. And speaking of the TRRO, Commissioner
25 Jones also asked you about -- specifically about the

0600

1 intrastate special access, and I believe that your
2 explanation to him was that, through discovery, you
3 found out that there is only one route --

4 A. Mm-hmm.

5 Q. -- for DS3 transport, and that Verizon no
6 longer would be required to provide that particular
7 UNE, and that's the only UNE that would be taken off
8 the table, as it were, in Verizon's service territory
9 in Washington; is that correct?

10 A. Right. That may not be even one, Greg,
11 because once we recalculate the collocators, that may
12 change that, too.

13 Q. True. But you're also aware that in the
14 TRRO, there are caps or limitations on the
15 availability of high capacity UNEs, even where there
16 is impairment?

17 A. I'll take your words. I don't recall. I'm
18 sure there is.

19 Q. And were those a consideration in Staff's
20 decision to include paragraph -- or condition number
21 eight of the settlement agreement?

22 A. No.

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

24 MR. FFITCH: Your Honor, if I may, I have a
25 question prompted by Mr. Kopta's line.

0601

1 JUDGE WALLIS: What I would prefer, inasmuch
2 as the other members of the bench have not had the
3 opportunity to ask questions, is that we hold
4 questions on matters following up on questions from
5 the bench until we complete redirect.

6 MR. THOMPSON: I actually have no redirect.

7 JUDGE WALLIS: All right. So do we have
8 further questions from the bench?

9 COMMISSIONER OSHIE: Thank you, Your Honor.
10 I have a few questions of Ms. Roth.

11

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

13 BY COMMISSIONER OSHIE:

14 Q. Let's -- there's been a lot of discussion
15 earlier this afternoon, and it's been a long
16 afternoon, and it's -- I think we're pressing to
17 close here, but I do want to talk to you briefly, Ms.
18 Roth, about a couple of things. One is the Rupp
19 matter, as well as the rate center consolidations.

20 Let's -- so just moving on to the Rupp
21 matter, there's a pending complaint, as I understand
22 it, and we have -- the Commission's not had an
23 opportunity to look at that. We had looked at a case
24 that involved the same issue of extending service to
25 customers that were -- at least, it seems to, at

0602

1 least in this situation I believe was the Taylor
2 matter, which was Docket UT-011439, which there was a
3 significant distance that the company would have been
4 required to install facilities if we had agreed with
5 Staff's position in that matter. I assume that
6 you're familiar with the Taylor case?

7 A. I'm not, but I know that there's -- I heard
8 about that case, but --

9 Q. Well, I guess my question is how is the --
10 how is this case settlement involving those
11 customers, I guess colloquially or just by filing the
12 caption the Rupp case, how is the principles that
13 were enunciated by the Commission in Taylor, how is
14 that incorporated in Staff's view of the settlement
15 of this case?

16 A. In this particular term?

17 Q. Yes.

18 A. I don't -- I don't have that order. I don't
19 know what the Commission's view is. I apologize.

20 Q. Well, I think what -- maybe to summarize,
21 that the Commission believed that the cost of
22 extending service to those customers was -- exceeded
23 what the Commission believed to be in the public
24 interest and did not require the company to do that.

25 What distinguishes this case from --

0603

1 understanding perhaps you do not have a complete
2 understanding of Taylor, but why is it -- it may be
3 better said, Ms. Roth, why is it in the public
4 interest to spend the money to provide
5 telecommunications services to these customers given
6 these circumstances?

7 A. Because they don't have telephone service
8 today and they don't even have a wireless option.
9 That may be a difference than the Taylor case.

10 Q. Is that something that the -- aren't there
11 other customers within Verizon's territories that do
12 not have telecommunications services, as well?

13 A. I'm not aware of. They're not before the
14 Commission. And also, I think the difference in the
15 Taylor case, I don't know the cost, that could be
16 saying the company need to construct that cost and
17 it's way too high, and the company can recover that
18 through the access charge, the line extension charge,
19 and you know, after all, it's the ratepayer of
20 Verizon bigger base are going to pay for that. In
21 this case, that's not case. Verizon just need to
22 make that investment.

23 Q. Well, I thought that without -- not to, you
24 know, to dig too deeply here, but I thought your
25 testimony earlier was that the \$325,000 that the

0604

1 company was required to spend to provide services to
2 the Rupps would be then just added to rate base, and
3 then that, then -- the rest of the customers for
4 Verizon would therefore be paying on that. Is that
5 -- did I misunderstand your testimony?

6 A. I believe the investment in the company, the
7 cables, the lines, the investment made will be in the
8 rate base, but not the cost incurred by the company.
9 That will not be -- it's not going to be in the rate
10 base to be recoverable through general customer rate
11 base. That would be disallowed cost.

12 Q. I'm missing that point, because it seems as
13 if -- I mean, I would assume that the \$325,000 is the
14 cable and is the installation of facilities which,
15 you know, the entire work order, so to speak, to
16 install facilities to serve the customers would all
17 be included in rate base?

18 A. Just let me take a look at the backup cost
19 so I can tell you. The cost I'm looking at majorly
20 showing, like, engineering and, you know, the time to
21 figure out how to do so, so those are generally the
22 overhead expense. It doesn't show that -- shows
23 labor cost. So I would think those are the costs
24 identified by the company to extend that service and
25 that those costs will now be recovered through rate

0605

1 base. So the investment will be something the
2 company already have, you know, the facilities
3 network there, they will be able to earning a return
4 on that investment.

5 MR. CARRATHERS: Your Honor, if it would
6 help, we actually -- the Taylor case was a Verizon
7 case, we're familiar with that, and can -- we'd be
8 more than happy to explain to you the facts in that
9 case and the issues and why this really is a benefit,
10 you know, in a minute or two. We'd be more than
11 happy to give you our position if you have further
12 questions on it.

13 COMMISSIONER OSHIE: I think that, Mr.
14 Carrathers, that I'm just asking really for Staff's
15 position here.

16 MR. CARRATHERS: Yes, sir.

17 COMMISSIONER OSHIE: I sat on the bench
18 during the Taylor case and have a memory of at least
19 the general facts and circumstances related to it.

20 MR. CARRATHERS: Thank you.

21 COMMISSIONER OSHIE: Okay. Thank you, but
22 -- thank you for the offer.

23 Q. Ms. Roth, let's move on also to a question
24 that was related to Rupp, and it's -- I believe Mr.
25 ffitich asked you, and maybe to clarify a bit, what if

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1 the costs exceed or there's a decision by the company
2 that the cost to serve the Rupps would exceed
3 \$325,000? What happens in that circumstance?

4 A. The conversation I had with the company is
5 they would come back to Staff to see why that limit
6 is, you know, not the maximum limit. The original --
7 the cost support I have, the estimates was below
8 300,000, so we actually put a little extra in there
9 just in case there's some permit or something that
10 would cost extra money for the company.

11 Q. The settlement agreement said -- the
12 language, I'm not going to read it verbatim, but it
13 said something about using the monies on some similar
14 public interest or to that effect.

15 A. If Verizon can do it. I was told by Verizon
16 that there might be federal laws or environmental
17 concerns that will not allow Verizon to do that.
18 Then they will have to, you know, spend the money
19 somewhere else.

20 Q. So it's not really a question of the money
21 being -- exceeding \$325,000, as whether Verizon can
22 do the job or not?

23 A. Yeah, under the current law and the
24 environmental laws, things like that.

25 Q. And if it does exceed -- or excuse me, if

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1 the job cannot be done, then the money goes into a
2 trust, so to speak? I mean, just -- that can be used
3 for some other purpose at a later date?

4 A. For what on my mind, I can tell you is when
5 if the Verizon engineers already out there and they
6 already think it's possible to do it physically,
7 engineeringly, unless there's some other concerns and
8 laws prohibit them to do that. So Verizon said,
9 Okay, we'll spend \$325 (sic) somewhere else in
10 similar instance. So in my mind, I would say that
11 \$325 would be spending on other line extension,
12 something.

13 Q. I'd like to move on to -- I believe it's
14 condition number two.

15 A. The rate center?

16 Q. The rate center consolidations. Let's start
17 with consolidation number one. I don't think I'm
18 going to use the proper term, but it's my
19 understanding, at least, that the consolidation of
20 the Anacortes, Sedro Woolley, Mt. Vernon rate centers
21 would not meet the test that the Commission has
22 established for consolidation in that there's the
23 community of interest for those calling communities
24 are within those calling communities, not outside.
25 And I believe there was a letter that was sent by the

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1 Commission's secretary to that effect not too long
2 ago. So are you aware of that letter, Ms. Roth?

3 A. Yes, I am.

4 Q. Under the circumstances, what has changed in
5 Staff's position from its earlier analysis of the
6 consolidation of those rate centers and this
7 settlement?

8 A. Actually, nothing has changed. In that
9 letter, we basically respond to a outside increase
10 and whether, you know, we can do that, whether they
11 can petition the Commission to do that. If you get
12 certain signature, they will file the petition, the
13 Commission has to take that petition under
14 consideration under existing rule to see if, you
15 know, that meet the test to do that.

16 In this case, Staff, you know, in review of
17 the merger, we're trying to find some specific
18 benefits for Washington consumers. And we are --
19 consider customer has no phone service or local
20 calling, so those are specific to Washington, because
21 we know the bigger issues, like the DSL, you know,
22 interstate services and FCC is going to -- has to
23 review and resolve that. So in consider (sic) of
24 that, we said what can we do to do rate center
25 consolidation, and we also gave consideration of

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1 numbering issues. That's what I didn't bring up.
2 Another benefit of that is, to consolidate those two
3 rate centers would, you know, conserve the number as,
4 you know, the prefix, the one thousand block. That,
5 in bigger sense, that would delay the possibility of
6 another area code for Western Washington.

7 So there's a lot of consideration go into
8 what are the issues that Staff will address in the
9 future, you know, for -- so we're trying to resolve
10 those as a matter of settlement.

11 Q. The consolidation number one and number two,
12 it's Staff's position that it would meet the
13 Commission's test for rate center consolidation
14 without -- or but for the settlements?

15 A. Our analysis still stands in that letter. I
16 don't recall exactly. We said, you know, even if
17 their petition, we will see if they have a community
18 interest. At that time, we look at it, you know, if
19 they petition it, we would say does it meet that
20 standard. But what I'm trying to say, I guess, is
21 there's a lot of other considerations went into this,
22 this term.

23 Q. Let me just ask one other question on this,
24 then, and it's a very broad question, but why these
25 communities and why not others that may be in

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1 similarly-situated?

2 A. I don't know if there are other rate center
3 consolidations in Verizon's service territory today
4 that Staff would like to resolve, and these are the
5 two that, you know, we will ask the company to do it
6 sooner or later.

7 Q. Let's move on to the premium adder that has
8 been discussed earlier, the premium adders for those
9 affected communities. Are those the only communities
10 where there are premium adders for extended area
11 service?

12 A. That's my understanding.

13 Q. Okay. I want to move on to provision number
14 four in the settlement agreement. And what's the
15 California JPSA metric? What are we talking about
16 there?

17 A. I have a binder back there in my box. I
18 could go get it and explain it to you, what are they.

19 Q. Well, why don't you just try to explain it
20 in general terms, and that should be sufficient.

21 A. My understanding of it, very briefly,
22 Integra or Verizon may better to answer that
23 question, is the JPSA standards is much more
24 detailed, much more stringent than the current
25 wholesale standards set out by the FCC for Bell

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1 Atlantic and GTE merger, and then it's expire, too.

2 Q. And what kind of reports does Staff expect
3 to receive from the company?

4 A. All the reports that they're currently
5 publish on their wise system that they report at --
6 reports electronically to FCC, and we will be able to
7 access same report.

8 Q. I just have one final question. It really
9 is -- I think it's been discussed at some length, but
10 I'm not sure if I had a clear answer from Staff on
11 this.

12 When I read Ms. Folsom's testimony, there
13 are significant merger benefits that she has at least
14 identified and believes in her testimony to be
15 reasonable. I think other places in her testimony
16 say it's a conservative estimate what those merger
17 benefits may be. And when I look at the dollar
18 amounts and what Staff has agreed to settle for, I
19 think it's fair to say that they are quite far apart.
20 And so my question really is -- you know, what is the
21 -- if not the dollars, what was driving Staff in
22 settling this case?

23 A. Because we have -- Staff started litigation
24 position with eight conditions, and -- in my
25 testimony, and the company agreed to do it -- should

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1 I say seven and a half of them in the settlement
2 discussion, so I think I have a better chance, you
3 know, to prevail on Staff's litigation position than
4 litigate that with the company. That's number one.

5 Number two, the dollar amount, let me go
6 back to the dollar amount. Term three had a
7 significant dollar amount attached to that. But it's
8 also said, Well, yes, Verizon file rate case, you
9 know, if they could come or not. So it's the synergy
10 savings. Those are projected savings. That, you
11 know, is projected by the company, it's -- we do not
12 know if they're going to realize that amount or not.

13 And also in Ms. Folsom's testimony, I
14 believe on page -- I don't have it, on I want to say
15 page 18, she said the savings would realize in later
16 years of the merger and the transaction cost is going
17 to be likely occur in early part of, you know, the
18 earlier years and the later years of the savings.

19 So to that extent, to settle this case, to
20 have Verizon agree not to come in until July 2009, I
21 think the benefit to consumers is tremendous. It's
22 because the transition cost, by then, I hope will
23 flow through the system and we'll now be able to
24 recognize in the rate base. If there is any, will be
25 minimal and I will be here to challenge that. The

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1 savings, however, by then, we will know if the
2 company had realized the savings they claimed they
3 are. By then, the Verizon retail customer will reap
4 the benefits of the savings.

5 COMMISSIONER OSHIE: All right. Thank you
6 very much. No further questions.

7 JUDGE WALLIS: Chairman Sidran.

8

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

10 BY CHAIRMAN SIDRAN:

11 Q. Ms. Roth, I just want to follow-up on a
12 couple of points that Commissioner Oshie's raised.
13 With respect to this Rupp matter, I know in the prior
14 Taylor and Nelson matters, in the litigation of that
15 matter Staff prepared, in effect, an analysis and a
16 recommendation with respect to whether or not the
17 Commission should require line extension.

18 I'm wondering if -- is there any similar
19 document that's been prepared by Staff with respect
20 to the Rupp line extension and preparation for that
21 litigation that, in effect, sets forth the analytical
22 criteria that Commissioner Oshie was referring to.
23 Does a document exist?

24 A. No.

25 Q. Has Staff done an analysis applying the

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1 criteria that historically has been applied by Staff
2 in determining the merits of a line extension?

3 A. If Staff going to -- if Staff prepare
4 analysis, it would be happening in that docket, the
5 complaint docket. Staff would have to analyze what
6 the impact is, what the cost is, and make argument
7 there.

8 Q. So let me reframe my question. Has Staff
9 done any analysis of the Rupp line extension on the
10 merits? I understand it hasn't been reduced to
11 writing, apparently; correct?

12 A. I haven't.

13 Q. Has anyone?

14 A. Not that I'm aware of.

15 Q. Would you be aware of it if it had been
16 reduced to writing?

17 A. I would think I would.

18 Q. Okay. So I'll take it that it doesn't exist
19 in writing. Has Staff --my question was simply
20 whether anyone has done any analysis of the merits of
21 this proposal?

22 A. The merit of that proposal, as stated, you
23 know, is the customer will get the phone services,
24 the elderly, residential customers, because where
25 they live is just barely outside Verizon's service

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1 territory. It's not -- you know, it's not that
2 distance as the Taylor case, that's my understanding,
3 and also because where they live, they also don't
4 have the options of wireless, either.

5 Q. I understand those points.

6 A. That's the analysis that -- you know.

7 Q. That was the content of the petition?

8 A. Right.

9 Q. But my question was simply whether anyone
10 has done any analysis applying the criteria the
11 Commission has historically applied to the
12 consideration of these types of petitions in this
13 case?

14 A. No.

15 Q. Okay. The other issue I wanted to follow-up
16 on was the one raised by Commissioner Oshie with
17 regard to expanding the calling areas up in Skagit
18 County. Because one of the letters, and I think
19 there was more than one, one of the letters went out
20 over my signature to a state legislator who had
21 written on behalf of his constituents seeking this
22 kind of extension of the calling area on behalf of
23 his constituents. And in that letter, it contained,
24 in effect, the Staff's analysis, the application of
25 the criteria in explaining to that legislator why,

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1 recognizing that people from the community could
2 petition. It laid out the criteria the Commission
3 historically applies to the consideration of this
4 kind of request and why it was unlikely that those
5 conditions would be met in those particular
6 communities.

7 A. Mm-hmm.

8 Q. So similar to my previous question, is there
9 any document or has anything been done by Staff in
10 writing that would constitute an analysis applying
11 the Commission's historic criteria to this proposed
12 expansion of the calling areas?

13 A. No.

14 Q. Last question I have just relates to this
15 notion of the societal benefits, as you put it in
16 your testimony, that there's virtually no societal
17 benefit to this merger. And I was wondering if you'd
18 care to respond to the FCC's characterization of the
19 benefits in their press release and whether you think
20 that's applicable to Washington State or not. I
21 don't know if you had a chance to look at -- this is
22 Exhibit 511. It's the press release regarding the
23 FCC's approval of the merger and it's the -- I guess
24 the second paragraph, and I won't take the time to
25 read it, but it simply states in the first sentence

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1 that the Commission concluded that consumers will
2 reap the rewards of public interest benefits that
3 will flow from these mergers and then goes on to
4 detail the benefits, which, I have to say, giving
5 some deference to the FCC, are societal benefits.

6 A. Right. When Staff prepare its testimony,
7 it's in response to company's testimony and company's
8 litigation position is that there's no merger savings
9 in the initial testimony. There's no merger saving
10 identified. So therefore, there's no merger savings
11 should be shared with the Washington consumers, and
12 also that it's saying there's no detailed proposal
13 how or detailed discussion of how Washington customer
14 will benefit from that, from the merger.

15 So in that regards, Staff responded to say
16 that, you know, there is -- the benefit is minimal,
17 and then there's no -- any societal benefit to
18 Washington.

19 Q. So what do you think of what the FCC had to
20 say in this paragraph?

21 A. The FCC definitely states that the benefit
22 will flow from this merger to the public, and I don't
23 disagree.

24 Q. So the no societal benefit observation was
25 at an earlier point --

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1 A. Right.

2 Q. -- in time with relationship to litigation?

3 All right. That's all. Thank you.

4

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

6 BY JUDGE WALLIS:

7 Q. I have, I think, just one question. Were

8 you here during the examination of Dr. Roycroft?

9 A. Yes, most part.

10 Q. Did you hear him criticize the allocation of

11 merger benefits, specifically with regard to items

12 one and two, on the basis that they benefited a

13 relatively small portion of Verizon's customer base,

14 rather than the entire customer base?

15 A. That's what he said.

16 Q. What would be your response to that?

17 A. My response to that is the dollar amount may

18 be small, but the benefit to the consumers,

19 regardless the percentage, you know, my percentage

20 higher than Public Counsel, the revenue is relatively

21 small, but the benefit for the customers go way

22 beyond that. For instance, the -- let's use the rate

23 center consolidation. There is expanded local

24 calling areas, you know, more than what Public

25 Counsel's cross exhibit shows, and so the impact is

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1 much larger. The second is the number conservation,
2 delay the possibility of area code overlay or split
3 for Western Washington, for mandatory 10-digit
4 dialing, and other one is that -- another thing going
5 into this is a customer move, for instance, from one
6 of these wire centers to another because of this,
7 they don't have to change their telephone numbers.

8 JUDGE WALLIS: Very well. Thank you very
9 much. Mr. Thompson.

10

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

12 BY MR. THOMPSON:

13 Q. I have one follow-up question. Ms. Roth,
14 you had a number of questions from the Commissioners
15 about the Rupp case. There is a Staff member
16 assigned to that case, isn't there?

17 A. Yes, there is.

18 Q. And Staff has made an appearance in the
19 complaint case, haven't they?

20 A. I believe so.

21 MR. THOMPSON: That's all I wanted to ask.

22 Thank you.

23 JUDGE WALLIS: Very well. Is there anything
24 further of the witness?

25 MR. FFITCH: Yes, Your Honor. Just one or

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1 two questions on one issue, Your Honor.

2

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

4 BY MR. FFITCH:

5 Q. If you could look at Exhibit 502, Ms. Roth,
6 which is the narrative. Look at -- look at condition
7 eight. That is the condition that at least
8 potentially would contemplate a reduction in
9 Verizon's special -- interstate special access;
10 correct?

11 A. Right.

12 Q. And if that occurs, Verizon would lose some
13 revenue; correct?

14 A. If the Commission determine that Verizon
15 intrastate special access should be reduced.

16 Q. All right. But this condition at least
17 opens the door to that potentially happening partly
18 depending on -- or depending on what the FCC does;
19 correct?

20 A. Right.

21 Q. And could you take a look, please, at
22 condition three? Now, this is the stay-out, two-year
23 stay-out period. If you look at the second sentence,
24 this permits Verizon to make other rate changes on --
25 either reduce local service rates, and we look

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1 forward to that day, and make other rate changes on a
2 revenue neutral basis, and then it also goes on to
3 say that this does not affect the rights of Verizon
4 -- I'm sorry, it goes on to say that this doesn't
5 supersede any provisions of the general rate case
6 settlement; correct? I'm summarizing this properly,
7 am I not?

8 A. Yes, you are.

9 Q. Now, my question is if there is a special
10 access reduction approved and Verizon has a loss of
11 revenue from special access, is it permitted under
12 this settlement agreement and under the -- and/or the
13 rate case settlement agreement for Verizon to come in
14 and seek a revenue neutral rate change which would
15 actually increase residential or business local
16 rates?

17 A. The rate case settlement, I believe there is
18 provisions in the rate case settlement specific
19 dealing with special access charges, and I don't have
20 the settlement in front of me. In that rate case
21 settlement is stated that if Verizon is required by
22 this Commission to reduce special access base,
23 special access services, that it will be done on
24 revenue neutral basis. That's the rate case
25 settlement.

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1 This settlement, I don't see a tie between
2 term number three and number eight. That -- at least
3 that if -- that's what my understanding, that FCC has
4 made a determination in this order to reduce Verizon
5 interstate special access services, Staff would, you
6 know -- Verizon would also support Staff review of
7 its interstate special access rate. And if that
8 happens, reduction in revenues would not be made
9 revenue neutral, and it's absolutely not increased
10 the capped residential and business rates until, you
11 know, the cap provision until June 30th in 2009.

12 Q. So that stay-out acts as a rate cap, an
13 absolute rate cap with respect to the special access?

14 A. That's my understanding.

15 Q. Any special access rate rebalancing; is that
16 your understanding?

17 A. That's my understanding.

18 Q. All right. Do you know if that's Verizon's
19 understanding?

20 A. I don't know if -- what Verizon
21 understanding is.

22 MR. FFITCH: All right. That was my only
23 question, Your Honor.

24 JUDGE WALLIS: Very well. Is there anything
25 further of the witness? Let the record show that

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1 there's no response. Ms. Roth, you're excused from
2 the stand at this time. Let's be off the record,
3 please.

4 (Discussion off the record.)

5 JUDGE WALLIS: Let's be back on the record,
6 please. In our concluding discussions regarding the
7 process of this docket, we earlier acknowledged the
8 distribution by Mr. Weissmann of a document entitled
9 Project ELI Synergy. We are marking that as Exhibit
10 92 for identification. It is the highly confidential
11 attachment to Exhibit 91, which is described as a
12 document without a highly confidential attachment.

13 The company earlier distributed these
14 documents on white paper and has agreed to
15 redistribute them promptly on blue paper, which
16 indicates their highly confidential nature.

17 In addition, Mr. ffitch desires to make a --
18 bring a matter to the record regarding public notice.
19 Mr. ffitch.

20 MR. FFITCH: Thank you, Your Honor. At the
21 outset of the hearing, counsel for Verizon provided
22 us with a draft notice to be sent to customers in
23 this case, and we had hoped to be able to consult
24 during the hearing and we have not been able to do
25 so.

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1 I just want to state for the record that
2 Public Counsel does object to the current form of the
3 notice and we also would like to ascertain the
4 company's specific plans with regard to provision of
5 the notice to its customers in significantly more
6 detail than the discussions that we've had so far.

7 And due to the fact that the hearing is now
8 concluding, I would propose that we have further
9 discussions with the company, and we probably should
10 include the Staff, at a minimum, because they
11 apparently have also been involved in this draft, and
12 try to bring something back to the -- get our
13 questions answered, provide some edits, and bring
14 something back to the Commission that hopefully is
15 agreed upon.

16 JUDGE WALLIS: Is Verizon open to that
17 process?

18 MR. CARRATHERS: Yes and no, Your Honor.
19 Let me explain my answer. Public Counsel has taken
20 the position that notice is required under a
21 particular rule, and we disagree. But in a good
22 faith effort to try and resolve this issue, we
23 volunteered to do notice, and so we developed a form
24 of notice that comports with the requirements of that
25 particular rule. That rule very specifically states

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1 that you have to give to Commission Staff, advance
2 notice, before you publish it, so that Staff could
3 comment, be comfortable that it complies with the
4 rule, and be comfortable that it meets a department
5 or some folks that look at that issue. That is
6 precisely, precisely what we did.

7 We will be more than happy to have Mr.
8 ffitch make some suggestions, but I just want to be
9 clear, we don't view this as a collaborative process
10 where, you know, if Mr. ffitch and the company
11 disagrees on a particular verbiage or font size, that
12 it's appropriate for him to lodge a new objection.
13 Again, the rule is very specific, it says give it to
14 Staff, Staff has approved it, and with that in mind,
15 we'd be more than happy to talk to Public Counsel,
16 with Staff, and chat through its concerns with the
17 notice.

18 MR. FFITCH: Well, I certainly am not
19 suggesting that we can dictate the outcome to the
20 company, but we certainly can bring concerns to the
21 Commission if we can't work them out and the
22 Commission has the authority, I think, to decide the
23 form of the notice. Hopefully it won't come to that.

24 I think we need to try to have a time line
25 on this, because the clock is ticking both on

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1 publication and on receipt of public comment, so that
2 it's of some value to the Commission. So I don't
3 know. Perhaps we can consult -- would you like to
4 set a date by which we report to you, Your Honor?

5 JUDGE WALLIS: Would Monday or Tuesday of
6 next week be too early?

7 MR. FFITCH: Not for us, Your Honor.

8 MR. CARRATHERS: Monday. We'd prefer either
9 Friday, this Friday or Monday.

10 JUDGE WALLIS: Very well. No later than
11 Monday.

12 MR. FFITCH: All right. I expect I'll be
13 able to be in touch with the company this week on it,
14 and we'll try to -- and we will report to you no
15 later than Monday.

16 JUDGE WALLIS: Very well.

17 MR. CARRATHERS: Thank you.

18 JUDGE WALLIS: All right. Is there anything
19 further? It appears that there's not. I want to
20 thank everybody for your participation. You have
21 been a wonderful group to deal with, and we certainly
22 look forward to sometime when we have the opportunity
23 to work with you again. Thank you.

24 MS. ENDEJAN: Thank you, Your Honor.

25 MS. SINGER NELSON: Thank you, Judge.

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MR. KOPTA: Thank you, Your Honor.

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(Proceedings adjourned at 6:30 p.m.)

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