

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 NORTHWEST PAYPHONE ASSOCIATION,))
 a Washington nonprofit))
 4 corporation, DIGITAL ACCESS))
 COMMUNICATIONS CORP., NCS)) Hearing No. UT-920174
 5 TELEWORK COMMUNICATIONS CO.,)) VOL. XIV
 PAYTEL NORTHWEST, INC., and)) PGS. 974 - 1153
 6 PUBLIC COMMUNICATIONS OF))
 AMERICA,))
 7))
 Complainants,))
 8))
 vs.))
 9))
 U.S. WEST COMMUNICATIONS, INC.,))
 10))
 Respondent.))
 11 -----))

12 A hearing in the above matter was held on
 13 December 13, 1993, at 9:30 a.m., at 1300 South
 14 Evergreen Park Drive Southwest, Olympia, Washington,
 15 before Commissioner RICHARD HEMSTAD and Chairman
 16 SHARON NELSON and Administrative Law Judge ALICE L. HAENLE.

17 The parties were present as follows:

18 NORTHWEST PAYPHONE ASSOCIATION, DIGITAL,
 ACCESS COMMUNICATIONS CORP., NCS TELEWORK
 19 COMMUNICATIONS CO., PAYTEL NORTHWEST, INC., and PUBLIC
 COMMUNICATIONS OF AMERICA by BROOKS HARLOW, Attorney,
 20 of Miller, Nash, Wiener, Hager & Carlson, 601 Union,
 Suite 4400, Seattle, Washington 98101-2352.
 21

22 U.S. WEST COMMUNICATIONS, by EDWARD T. SHAW,
 Attorney, Post Office Box 21225, Seattle, Washington
 98111.
 23

24 THE COMMISSION by Sally Brown, Assistant
 Attorney General, 1400 South Evergreen Park Drive
 Southwest, Olympia, Washington 98504.
 25 Donna M. Davis, CSR, CM, Court Reporter

1 I N D E X

2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM VOIR
3 DIRE

4 NINA W. CORNELL

5 981 984 1106 1108 1094

6 1079 1098

7 DAVID W. COULSON

8 1111 1120 1130 1114

9 JOHN S. FLETCHER

10 1132 1134

11

12 EXHIBIT MARKED ADMITTED

13 T-70 980 984

14 C-71 980 984

15 72 980 984

16 C-73 980 984

17 C-74 980 984

18 C-75 980 984

19 C-76 980 984

20 C-77 980 984

21 C-78 980 984

22 C-79 1012

23 C-80 1012

24 81 1048 1056

25 82 1049 1056

976

1	EXHIBIT	MARKED	ADMITTED
2	C-83	1059	1062
3	C-84	1063	
4	T-85	1111	1120
5	C-86	1111	1120
6	C-87	1111	1120
7	88	1111	1120
8	89	1111	1120
9	90	1121	1127
10	T-91	1132	1134
11	T-92	1132	1134

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

2 JUDGE HAENLE: The hearing will come to
3 order. This is the fourteenth day of hearing in Docket
4 No. UT-920174. The hearing is taking place on December
5 13, 1993, at Olympia, before the commissioners. The
6 purpose of the hearing this morning is to take direct
7 and cross-examination of the Complainant's rebuttal
8 case.

9 I would like to take appearances. Just give
10 your name and your client's name, please, since you
11 have all given your addresses before.

12 MR. SHAW: Ed Shaw, U. S. West
13 Communications.

14 JUDGE HAENLE: Mr. Harlow?

15 MR. HARLOW: If anyone will give me a
16 chance, Brooks Harlow representing the complainants in
17 this case.

18 JUDGE HAENLE: Thank you.

19 Ms. Brown?

20 MS. BROWN: Sally Brown, Assistant Attorney
21 General, appearing on behalf of the Commission staff.

22 JUDGE HAENLE: In the way of the preliminary
23 matters, there is a motion to correct transcript from
24 complainants. I asked you before we went on the record

25 if everyone had seen it and if there were any objection

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1 to it.

2 It's my understanding that you have no
3 objection to it, Mr. Shaw.

4 MR. SHAW: Correct.

5 JUDGE HAENLE: Ms. Brown?

6 MS. BROWN: Correct.

7 JUDGE HAENLE: I will grant the motion to
8 correct the transcripts.

9 Second matter is a request from Mr. Harlow
10 to delay the briefing schedule by one month. Have you
11 discussed this request with the other parties, Mr.
12 Harlow?

13 MR. HARLOW: Yes, I have, your Honor.

14 JUDGE HAENLE: Do you briefly want to state
15 the reason for it?

16 MR. HARLOW: I don't know how much detail
17 you want me to go into. It's basically personal.

18 JUDGE HAENLE: Very little.

19 MR. HARLOW: Personal reasons causing me to
20 be out of the office for three to four weeks in the
21 months of December and January.

22 JUDGE HAENLE: All right. Since everyone
23 has indicated that they would not oppose your request,
24 I will change the briefing schedule so that briefs will

25 now be due on February 21. Remember, that's a receipt

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1 date, not a mailing date, please.

2 MR. HARLOW: Appreciate the courtesies of
3 all concerned, your Honor.

4 JUDGE HAENLE: Are there any other motions,
5 anything else we need to take care of a preliminary
6 nature?

7 MR. SHAW: Your Honor, because sometimes
8 there is confusion on the briefs and the length
9 thereof, the rules provide for the lengths of brief.
10 And I want to ascertain whether it's your view that
11 that includes any appendices or attachments within the
12 page limitations.

13 JUDGE HAENLE: Yes, it does, in my
14 interpretation. I believe that's actually addressed
15 specifically within the rule. If you all are going to
16 request a different page limit, which we will discuss
17 at the very end of all this, we will discuss briefs, I
18 suggest you discuss it among yourselves and come up
19 with a proposal to the Commission.

20 I haven't discussed with the commissioners
21 the lengths of briefs yet, but we want to know what
22 your proposal was.

23 MR. SHAW: Thank you for that clarification.

24 JUDGE HAENLE: It's my understanding that we

25 will take the witnesses, first Doctor Cornell, then Mr.

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1 Coulson, then Mr. Fletcher. I have estimates of about
2 five and a half hours for cross-examination of those
3 witnesses.

4 Anything else we need to discuss before we
5 take the first witness?

6 Hearing no response, then, Doctor Cornell
7 has assumed the stand and I remind you that you were
8 sworn previously in this matter and remain under oath.

9

10 NINA W. CORNELL,
11 having been previously duly sworn, was called as a
12 witness herein and was examined and testified
13 as follows:

14

15 JUDGE HAENLE: We marked the documents off
16 the record. That's why I almost went without doing it.
17 The testimony is Exhibit T-70 for identification,
18 prefiled rebuttal testimony.

19 The documents NWC-15 through NWC-22 are
20 marked as C-71 through C-78 for identification except
21 that NWC-16, which is Exhibit 72, is not confidential.
22 So, don't put the C in front of it.

23 (Marked Exhibits T-70, C-71, 72, C-73, C-74,
24 C-75, C-76, C-77 and C-78)

25 JUDGE HAENLE: All right, go ahead, Mr.

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1 Harlow.

2 MR. HARLOW: Thank you, your Honor.

3

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

5 BY MR. HARLOW:

6 Q. Would you please state your name and address
7 for the record.

8 A. My name is Nina W. Cornell. My address is
9 1290 Wood River Road, Meeteetse, M-e-e-t-e-e-t-s-e,
10 Wyoming, 82433.

11 Q. Doctor Cornell, do you have before you
12 Exhibits T-70 and Exhibits C-71 through C-78?

13 A. Yes, I do.

14 Q. Was Exhibit T-70 prepared by you or under
15 your direction and supervision?

16 A. Yes, it was.

17 Q. If I were to ask you the questions contained
18 in Exhibit T-70, would your answers be the same as
19 contained in that exhibit?

20 A. Yes.

21 Q. Would you please summarize your testimony
22 briefly for the Commission.

23 A. Yes. I'm basically saying the same thing in
24 effect that I said in direct. There is, indeed, a

25 price squeeze being imposed upon the non-LEC public

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1 payphone providers. And that price squeeze is being
2 imposed by U. S. West, and it needs to be corrected.

3 My testimony goes through once again price
4 squeeze calculations, taking into account a corrected
5 version of Mr. Lanksbury's attempts to calculate an
6 estimate of so-called public policy payphones and to
7 take into account changes in rates that have occurred
8 since my original testimony was filed.

9 My testimony also lays out very explicitly a
10 set of recommendations -- recommended rates to be
11 charged non-LEC payphone providers that would end the
12 price squeeze if the Yellow Page payment that was
13 raised in the rebuttal testimony of Mr. Lanksbury is,
14 indeed, properly considered to be a payphone revenue.

15 Finally, my testimony does contain an
16 analysis of the contract with the Sea-Tac authority
17 that tries to show in an explicit context of this
18 single customer exactly how the price squeeze works and
19 why it precludes the non-LEC payphone providers from
20 competing for those customers to which U. S. West is
21 willing to go to such lengths to get and retain that
22 business.

23 Q. The conclusion of your prefiled testimony,
24 you stated that once you had the answer, referring to

25 the directory revenue, you will supplement your

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1 testimony.

2 Can you explain very briefly why you haven't
3 supplemented your testimony on that point?

4 A. I still am not absolutely certain whether
5 those Yellow Pages revenues are properly considered to
6 be payphone revenues. The members of the Northwest
7 Payphone Association have tried to discuss this issue
8 with U. S. West Direct. If they were genuinely
9 payphone revenues, U. S. West Direct would want to pay
10 non-LEC payphone providers to maintain U. S. West's
11 directories at non-LEC payphone provider payphones just
12 as much as it would want to pay U. S. West for the same
13 service.

14 The answer seems to be, "We'll discuss this
15 with you later, but not now."

16 MR. HARLOW: Thank you, Doctor Cornell.

17 The complainants offer Exhibits T-70 and
18 C-71 through C-78 in evidence.

19 JUDGE HAENLE: Any objection, Mr. Shaw?

20 MR. SHAW: None.

21 JUDGE HAENLE: Miss Brown.

22 MS. BROWN: No.

23 JUDGE HAENLE: Exhibits T-70 and C-71
24 through C-78, remembering that 72 doesn't have a C in

25 front of it, are entered into the record.

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1 (Received Exhibits T-70, C-71, 72, C-73,
2 C-74, C-75, C-76, C-77 and C-78)

3 JUDGE HAENLE: Go ahead, Mr. Shaw.

4 MR. SHAW: Thank you, your Honor.

5

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

7 BY MR. SHAW:

8 Q. Good morning, Doctor Cornell.

9 A. Good morning, Mr. Shaw.

10 Q. Doctor Cornell, directing your attention to
11 your C-75, which is your imputation study, you have
12 added three new expenses at Lines 21 through 23, being
13 the E-911 surcharge, the TSA surcharge --

14 JUDGE HAENLE: Before you precede, Mr. Shaw,
15 we need to get copies of confidential materials for the
16 Commissioner.

17 (Discussion held off the record.)

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

19 During the time we were off the record, a copy of the
20 confidential materials was provided to the
21 Commissioner. Would you begin again with your
22 question, Mr. Shaw?

23 MR. SHAW: Yes, I will.

24 BY MR. SHAW:

25 Q. Doctor Cornell, directing your attention to
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1 C-75 and Lines 21, 22, and 23, do you see those?

2 A. Yes, I do.

3 Q. And you have reflected a cost of service be
4 imputed to U. S. West payphones consisting of an E-911
5 tax, TAS or aid to the deaf surcharge, telephone
6 assistance program tax or charge; is that correct?

7 A. That's correct.

8 Q. At Page 6, I believe it's Line 17 of your
9 testimony, T-70, you make the statement that a PAL
10 subscriber would be disconnected if it did not pay
11 these three State taxes.

12 Do you see that reference?

13 A. I see the reference, yes.

14 Q. I take it by your statement at Line 17 and
15 18 you do mean to say that if a PAL subscriber failed
16 to remit these charges to U. S. West, that U. S. West
17 would disconnect their service?

18 A. That's correct.

19 Q. On what basis do you make that assertion?

20 A. I make that assertion both based on my own
21 belief based on how telephone companies have behaved
22 and on questions that were put to Mr. Lanksbury during
23 the previous phase of this hearing.

24 Q. Do you understand that the E-911 tax has

25 been placed by the legislature of the State of

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1 Washington on each subscriber line?

2 A. Yes.

3 Q. And, likewise, the TAS surcharge or the
4 benefit to the deaf program?

5 A. That's correct.

6 Q. And the telephone assistance program to aid
7 low-income subscribers?

8 A. Correct.

9 Q. And, as such, U. S. West is the collection
10 agent for the State?

11 A. That's my understanding.

12 Q. I take it you cannot point to any rule of
13 this Commission, tariff language of the tariffs of the
14 Company in this state or statutory language that
15 enables U. S. West to disconnect service for nonpayment
16 of State taxes, can you?

17 A. I didn't look for one. As I said, Mr.
18 Lanksbury agreed that's what would happen if they were
19 not paid.

20 Q. Can you give me a transcript reference for
21 this alleged statement of Mr. Lanksbury?

22 A. Not as I sit here now, no. I didn't
23 annotate my testimony with it. I apologize.

24 Q. That is the sole basis for your statement at

25 Line 17, Page 6, of your testimony is that Mr.

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1 Lanksbury said so?

2 A. That's the major basis for it. I said
3 before that it's the practice of telephone companies to
4 the best of my knowledge to disconnect service if
5 people don't pay their bills. That's part of the bill.
6 Eventually the telephone company would disconnect
7 service if you were in arrears.

8 Q. If you were informed that, in fact, U. S.
9 West does not disconnect service for nonpayment of
10 these taxes, but merely reports the nonpayment to the
11 State, would your conclusion as to the propriety of the
12 inclusion of Lines 21, 22, and 23 of C-75 change?

13 MR. HARLOW: Objection, your Honor. There
14 is no evidence in the record to support this
15 hypothetical, and there is no opportunity for U. S.
16 West to submit any such evidence. Therefore, I think
17 the hypothetical is irrelevant.

18 JUDGE HAENLE: Mr. Shaw?

19 MR. SHAW: Well, your Honor, in fact, U. S.
20 West does not disconnect. I don't believe that there
21 is any evidence in the record that they do, despite the
22 witness's recollection. And we will stand on that
23 record. There is no evidence that they do. Therefore,
24 the hypothetical that they don't is totally

25 appropriate.

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1 JUDGE HAENLE: I suggest we wait on this.
2 Look in the transcript over the lunch hour, Doctor
3 Cornell and Mr. Harlow. Bring it back with a reference
4 if you have one, and I'll rule on it at that time.

5 MR. SHAW: Your Honor, I do need to
6 continue. I want to know the basis for the inclusion
7 of these costs in C-75. And I think it's a totally
8 appropriate question to ask if the witness were to be
9 informed that U. S. West does not do so, would her
10 opinion change as to the inclusion of these items.

11 JUDGE HAENLE: The questions going on after
12 that do not rely on the answer to that, I assume, Mr.
13 Shaw. We'll take that question up when we have an
14 answer one way or the other.

15 Go ahead and ask the other questions.

16 BY MR. SHAW:

17 Q. Doctor Cornell, do non-regulated private
18 payphone operators pay State and local utility taxes in
19 the State of Washington?

20 A. I do not know.

21 Q. If you were informed that they do not pay
22 such taxes, would it be appropriate to credit U. S.
23 West's imputation test with the amount that it pays
24 allocated to its payphone operation?

25 A. I think the answer is no. But I haven't --

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1 I quite honestly have not looked at the utility tax. I
2 don't even know the basis of it.

3 Q. Do you know that U. S. West as a regulated
4 telephone communications company pays a substantial
5 regulatory fee to this Commission?

6 A. I suspect that I have known that. It's not
7 something I have thought about, frankly.

8 Q. And the unregulated payphone competitors you
9 represent pay no such regulatory fee to this
10 Commission; correct?

11 A. I simply do not know the status of what they
12 pay and what they do not pay in terms of utility taxes.

13 Q. If you were informed that they did not pay a
14 regulatory fee to this Commission if they were not
15 regulated by this Commission, would U. S. West be
16 entitled to a revenue credit to its imputation test for
17 the amount of the regulatory fee it pays attributable
18 to its payphone operation?

19 A. I think I have answered this already. And I
20 thought I said I did not think so. I do not know the
21 basis of the regulatory fee. And I would go further to
22 say that, whatever is the basis of the regulatory fee,
23 it is almost certainly, in effect, covered by the
24 charge for a PAL line. So that, in effect, this

25 imputation analysis already attributes a part of that

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1 to the non-LEC payphone providers.

2 Q. Is it your testimony, then, that, if the
3 unregulated competitors of U. S. West have to pay
4 taxes that U. S. West doesn't, that U. S. West must
5 impute those taxes to its cost test?

6 A. Not exactly. And I would like to explain.

7 If you provided your payphones through a
8 separate subsidiary, which is my first recommendation
9 to this Commission, you would be paying the very same
10 taxes that I have included on this sheet of paper
11 because you would then be a subscriber. They would be
12 subscriber lines, as indeed they should be, and you
13 would be paying taxes on those subscriber lines.

14 Q. Is it your testimony, then, that in doing an
15 imputation cost test to place a price floor under
16 services offered by U. S. West on a unified basis as a
17 regulated telecommunications company, that you first
18 must separate whatever service you're testing into a
19 separate subsidiary mode of operation and presume that
20 that separate subsidiary will operate exactly like its
21 unregulated competitors?

22 A. I think the answer to that is something like
23 no, yes, yes, no. I think you asked me four things in
24 one.

25 I did not say you actually had to put it

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1 into a separate subsidiary, number one, but you need to
2 go through that kind of mental exercise. If it were a
3 separate subsidiary, what tariffs would it be
4 subscribing to? So, to that one, it was no, not
5 actually put it. Yes, think like it.

6 No, I don't assume it would necessarily
7 behave exactly like its unregulated competitors. Each
8 firm operates in the way that firm knows how to operate
9 best. That may or may not be exactly like its
10 unregulated competitors.

11 Q. You understand that this Commission has
12 proscribed an imputation test to arrive at a price
13 floor for U. S. West's intraLATA toll services?

14 A. Yes.

15 Q. Is it your assertion that in applying that
16 test the Commission should view U. S. West's intraLATA
17 toll services as if they were provided from a separate
18 subsidiary?

19 A. You're asking me about a test that it's been
20 a long time since I have looked at it in detail, Mr.
21 Shaw.

22 But, yes, the concept conceptually, the
23 question that is asked in an imputation test is, if U.
24 S. West provided the service through a separate

25 subsidiary, what tariff services would it have to take

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1 from the core network company.

2 Q. And, therefore, you would then deduct from
3 this imputation test all of the taxes, regulatory fees,
4 that U. S. West, in fact, pays as a regulated
5 telecommunications company; correct?

6 A. I do not think you have stated correctly
7 what I just said. And I do not think it follows from
8 what I just said.

9 The imputation test would include every
10 charge that the hypothetical separate subsidiary would
11 have to pay to the core parent. If there were a tax,
12 let's say, per intraLATA toll call, that subsidiary
13 would have to pay the tax. That would be part -- and
14 if the U. S. West core network company were the
15 collection agent, that would be part of what would be
16 included as an imputed rate.

17 Q. If U. S. West provided its payphone
18 operations through a separate subsidiary, that separate
19 subsidiary would not be regulated by this Commission,
20 would it?

21 A. That's a legal question that I don't have an
22 answer to.

23 Q. You are aware that your clients and
24 apparently at least the Commission staff agrees that

25 their operations are not telecommunications companies

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1 subject to the regulation of this Commission so long as
2 they do not provide operator services themselves?

3 A. I was going to say some of them are and some
4 of them are not precisely because of the issue of
5 operator services.

6 Q. If U. S. West created a separate subsidiary
7 of its payphone operations, is it your assumption that
8 it would take its operator services with it or leave it
9 behind in U. S. West, the regulated company?

10 MR. HARLOW: Objection. Calls for
11 speculation.

12 JUDGE HAENLE: Mr. Shaw?

13 MR. SHAW: I don't think it calls for
14 speculation at all, your Honor. The issue is, under
15 this hypothetical separate subsidiary, whether U. S.
16 West then is like its unregulated competitors and pays
17 the same taxes or continues to pay utility taxes and
18 regulatory fees to this Commission.

19 So, the assumption of the witness on what is
20 in the separate subsidiary bears on this question.

21 MR. HARLOW: Your Honor, perhaps if Mr. Shaw
22 could rephrase. If he asked what Doctor Cornell's
23 opinion is as to what should be in the separate
24 subsidiary and what is not, maybe I would not object.

25 But when he asks what U. S. West might do, I object.

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1 MR. SHAW: I'll withdraw the question.

2 BY MR. SHAW:

3 Q. What is your assumption when you make this
4 imputation test on whether operator services would be
5 in the separate subsidiary or not?

6 A. When you do an imputation test for payphone
7 services, operator services are not part of that
8 hypothetical separate subsidiary because that's a
9 separate set of services.

10 Q. So, if U. S. West placed its payphone
11 operations in a separate subsidiary or was assumed to
12 have done so for the purposes of an imputation test and
13 it did not provide operator services, that separate
14 subsidiary would not be a telecommunications company as
15 viewed by your clients; correct?

16 A. Again, without calling for a legal judgment
17 on my part because I'm not a lawyer, I would assume
18 that it would be able to be treated in the same way
19 that a non-LEC payphone company that did not directly
20 provide operator services is treated.

21 Q. And as a result in making this imputation
22 test, you would need to deduct all of the taxes that U.
23 S. West pays as a regulated utility which it would not
24 pay in this hypothetical subsidiary; correct?

25 A. The answer is you would go through in the

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1 case that I am -- if you actually put together a
2 separate subsidiary, Mr. Shaw, the separate subsidiary
3 would have to make a profit. Or if it incurred a loss,
4 it would not be allowed to put the loss into the
5 revenue requirement for the core network company. And
6 at that point I'm not making any calculations.

7 In doing an imputation study, you did not
8 include utility taxes as best I can determine in this
9 set of costs. There is, therefore, nothing to deduct.
10 To the extent they are there, they are covered by
11 rates, including PAL rates and so on, and they are
12 being paid for by imputing the PAL charge.

13 Q. Is it your testimony that in the various
14 cost studies that you have looked at underlying
15 operator services and PAL lines and coin and MTS,
16 billing and collection in this case, that those cost
17 studies do not contain taxes as costs of those
18 services?

19 A. The taxes that are contained have been
20 income taxes that the cost studies will show capital
21 costs, investments, in effect, and then there will be a
22 line for income taxes, a line for depreciation, and a
23 line for return on investment.

24 Q. But, nonetheless, it's your opinion that

25 taxes that U. S. West does not pay but that its

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1 competitors pay should be imputed to U. S. West's price
2 floor for pay telephone service?

3 A. Taxes that are collected as a condition of
4 being able to subscribe to bottleneck monopoly elements
5 are as much a cost of those bottleneck monopoly
6 elements as is the actual U. S. West tariffed rate.
7 And, yes, those should be imputed and, indeed, a
8 separate subsidiary of U. S. West would have to pay
9 them.

10 JUDGE HAENLE: I think we're kind of back to
11 the question of taxes that we were at before in your
12 question, Mr. Shaw. Did you have a transcript
13 reference to give to the witness where Mr. Lanksbury
14 testified to that?

15 MR. SHAW: No. I didn't know until this
16 morning that that was the sole basis for the witness's
17 position. To my knowledge, Mr. Lanksbury never
18 testified to that, and we're not going to find any
19 reference. If I'm wrong on that, we'll cross that
20 bridge when we get to it, I guess.

21 JUDGE HAENLE: All right. Go ahead.

22 BY MR. SHAW:

23 Q. Doing an imputation test as reflected by
24 C-75, you have not taken account on the revenue side

25 any of the toll revenues gained by U. S. West from

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1 customers that use its payphones; is that correct?

2 A. That's not correct.

3 Q. Looking at C-75, your Line No. 2, coin toll

4 surcharge revenues, --

5 A. Yep?

6 Q. -- that is to reflect the surcharge placed

7 on a toll call from a coin phone, but not the toll

8 revenue itself; correct?

9 A. That's correct.

10 Q. Line 3, the operator surcharge revenues, you

11 conclude that there are none; correct?

12 A. I have gone through in both my direct and my

13 rebuttal to explain why I'm not attributing to its

14 payphone services any operator surcharge revenues.

15 Q. But in Line 4 you do attribute as revenue to

16 U. S. West payphone operations directory assistance

17 charges that customers who walk up to a U. S. West

18 payphone would pay if they called directory assistance

19 from that payphone; correct?

20 A. That's correct.

21 Q. Directory assistance is an operator service;

22 correct?

23 A. I don't know whether you call it an operator

24 service in your terminology or not. It's not an

25 operator service in my mind in the same way that other

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1 operator services are in that this is truly one that
2 ultimately is a bottleneck monopoly of U. S. West or
3 other local exchange companies.

4 Q. Directory assistance is simply a matter of
5 placing a phone call to an operator and asking the
6 operator to look up a published number for you; is that
7 correct?

8 A. It may be an unpublished number. It may be
9 a new listing. It is placing a call to the holder of
10 that database, which by definition the creator of that
11 database is the local exchange company.

12 Q. So, your conclusion that directory
13 assistance is a bottleneck monopoly service is based
14 upon the fact that it is derived from a database
15 created by the local exchange company; correct?

16 A. It's created by the fact of subscription,
17 and you subscribe to the local exchange company, yes.

18 Q. As a result, the local exchange company has
19 a list of all of its customers and the numbers assigned
20 to those customers?

21 A. I hope so.

22 Q. And that list is available to other operator
23 service companies and carriers; correct?

24 A. It is available to them for a price and with

25 some kind of a time lag in terms of the accuracy and

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1 completeness of the listings.

2 Q. AT&T and other carriers provide directory
3 assistance services; correct?

4 A. Yes.

5 Q. And they do that with an operator and a
6 workstation utilizing the database they get from the
7 LECs; correct?

8 A. That's my understanding.

9 Q. And that database is available to all
10 operators, service companies, and carriers on equal
11 terms and conditions; correct?

12 A. That I do not know, Mr. Shaw.

13 Q. The operator and the workstation is not a
14 bottleneck monopoly, is it?

15 A. The operator and the workstation per se are
16 not bottleneck monopolies. The database is uniquely
17 derived from the fact of the subscription. That is a
18 bottleneck monopoly.

19 Q. An AOS or a carrier is free to provide
20 directory assistance by obtaining the database from the
21 LEC and providing its own look-up-type service;
22 correct?

23 A. In a technical sense, yes.

24 Q. And, in fact, so-called information service

25 providers exist that do just that sort of service on an

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1 enhanced basis; correct?

2 A. Mr. Shaw, I do not know, and I do not know
3 what you mean by "enhanced basis."

4 Q. Have you ever heard of electronic Yellow
5 Pages, Doctor Cornell?

6 A. I have heard of it. You have to remember,
7 Mr. Shaw, I have reminded you several times of the
8 backward nature of my own personal telephone services.
9 We don't have those services where I am.

10 Q. You hold yourself out as a national expert
11 on national telecommunications, regulation, and current
12 conditions?

13 A. I hold myself out as knowing something about
14 how to regulate them and a lot about what is available.
15 Electronic Yellow Pages are not at this stage a
16 commonplace thing that people use and have. I
17 certainly don't see them where I go where people have
18 modern telecommunications.

19 Q. But you do know that directory assistance,
20 both in its basic and enhanced forms, is in and of
21 itself not a bottleneck monopoly of a local exchange
22 company; correct?

23 A. I think I have spent the morning telling you
24 why I think it is a bottleneck monopoly. The creation

25 of the database occurs simultaneously with the fact of

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1 subscription. Therefore, the database starts out as a
2 bottleneck monopoly just as does the subscription
3 itself of the local exchange company.

4 If you want to talk about the fact that
5 other people can incur more costs by having that
6 database go through more hands with some kind of a
7 delay to other people, yes, it could be offered. It is
8 in that sense, however, economically a bottleneck
9 monopoly of the local exchange company.

10 There are people, as you say, electronic
11 Yellow Pages, who try to do enhancements to it. At the
12 moment, however, plain, ordinary, garden variety
13 vanilla directory assistance is a bottleneck monopoly
14 economically of the local exchange carrier.

15 Q. Are you familiar at all with the pending
16 tariff filing of U. S. West to raise its directory
17 assistance charges in the state of Washington?

18 A. No, I am not.

19 Q. Do you have any knowledge or opinion on
20 whether the directory assistance charges of U. S. West
21 cover the directory assistance costs?

22 A. No, I do not.

23 Q. And you imputed or took as a cost of U. S.
24 West's public telephone service at Line 14 of C-75 a

25 directory assistance cost which derived just from the

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1 tariffed rate for directory assistance, I take it?

2 A. That is correct.

3 Q. Is intraLATA toll service of U. S. West, the
4 retail toll service, a bottleneck monopoly service?

5 A. For most customers on a One Plus dial-in
6 basis, yes.

7 Q. In the payphone context, is it your
8 testimony that other payphone operators have to use U.
9 S. West's retail toll service --

10 A. No.

11 Q. -- to resell to their customers?

12 A. Sorry. I thought you were finished.

13 No.

14 Q. In fact, they have a choice of many carriers
15 and they exercise that choice; correct?

16 A. I believe they have a choice. I have no
17 idea whether they exercise it or not.

18 Q. You do know that your clients use
19 alternative operator services companies that use other
20 carriers than U. S. West to provide intraLATAs to their
21 customers of their way phones; correct?

22 A. The first half is correct. The second half,
23 I do not know what other alternative operator services
24 use as their toll carriers. I do know that the

25 payphone providers use alternative operator service

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1 companies because U. S. West refuses to pay commission
2 to operator service calls.

3 Q. When a customer of a payphone makes an
4 operator-assisted toll call, the way you're viewing
5 this is that entire charge for that call an operator
6 assistance charges? Or does it consist of what pieces?
7 Operator assistance charge and the underlying toll
8 charge for completing the call?

9 A. Could you repeat the question?

10 Q. Sure.

11 A. You lost me as to what you included at the
12 revenue part in the beginning.

13 Q. Sure. When looking at an operator-assisted
14 toll call placed from a payphone, are you looking at
15 all of the revenue received from that call as an
16 operator-assistance charge? Or is it composed of two
17 pieces? Operator assistance charge and the underlying
18 charge for the toll call that is put through by that
19 operator?

20 A. It's the latter. It's both a charge for the
21 toll call and a surcharge for the form of operator
22 handling that's involved.

23 Q. AT&T operates payphones in the state of
24 Washington?

25 A. I imagine so.

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1 Q. I imagine you go through the Sea-Tac airport
2 in and out of the State of Washington. You see AT&T
3 payphones situated at the Sea-Tac airport?

4 A. I imagine they are there. I don't use AT&T
5 payphones. I don't really register where they are
6 precisely.

7 Q. You have seen them in other airports, I take
8 it?

9 A. Yes. I know that AT&T -- I'm not trying to
10 be funny. I just haven't registered where and how much
11 how many and so on there are at Sea-Tac. I assume they
12 are there because they are in every other big airport
13 practically.

14 Q. And AT&T as a toll carrier provides
15 payphones in order to get customers to use its toll
16 services; correct?

17 A. I assume that's why they do it.

18 Q. They are not really interested in local
19 payphone service; their focus is on selling more AT&T
20 toll by placing payphones for the convenience of the
21 traveling public; correct?

22 A. I imagine that's correct.

23 Q. And you would imagine that AT&T considers
24 that those payphones produce toll revenue to it;

25 correct?

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1 A. Toll and operator surcharge revenues.

2 Q. If they didn't have those payphones, they
3 wouldn't get as much toll and operator surcharge
4 revenues as they otherwise get, would they?

5 A. They must believe so.

6 Q. If their payphone wasn't there, the
7 potential customer would walk up to somebody else's
8 payphone that might be pre-subscribed to a different
9 carrier than AT&T; correct?

10 A. They might. They also might walk up to a
11 different payphone, pull out their AT&T card and dial
12 1-800 AT&T toll and go on with the call.

13 Q. And they might make a cellular call;
14 correct?

15 A. You're taking me to a place I can't follow
16 you. I doubt very much -- I certainly know I don't
17 have the option to make a cellular call. I either make
18 a payphone call, or I don't call.

19 Q. Cellular service is growing at a high rate
20 in the country, is it not?

21 A. Yes.

22 Q. AT&T has just bought McCaw, the largest
23 cellular company; correct?

24 A. I'm not sure that the transaction has been

25 fully consummated. They have announced an intention to

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1 acquire some share of it. But I don't know beyond
2 that.

3 Q. And they have stated that one of their
4 primary motivations for buying McCaw is to sell more
5 toll?

6 A. I'm not sure I can agree with that. They
7 wish to be a full-service company. I don't know what
8 their mode for providing a call is and I'm not here
9 claiming to have intimate knowledge of AT&T's
10 intentions.

11 Q. You haven't read in the trade press or the
12 popular press Mr. Allen's statements that that was one
13 of the primary motivations for the transaction was to
14 gain another outlet to sell toll?

15 A. No. I'm not saying he did or didn't say it.

16 Q. I take it that a payphone customer that
17 wishes to place a toll call, whether it's interstate or
18 intrastate or intrastate/intraLATA, has three basic
19 choices. Four if he decides not to make the call at
20 all.

21 One is to find a payphone and use it. Two
22 is to place a cellular call. Three is to wait until he
23 can get to a wire line phone at his home or his office.
24 Would that be correct?

25 A. I don't think that's necessarily correct,

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1 Mr. Shaw. If I'm in an airport and I need to make a
2 toll call, I need to make a toll call, and I have two
3 choices, make it or don't make it, presumably. If I
4 need to make it, the latter is not a very compelling
5 choice.

6 I can, therefore, either go to find a
7 payphone of one kind or another. Unless I am a
8 cellular subscriber, I cannot make a cellular call.
9 It's not an option available to me.

10 Q. That would be a condition to that option is
11 you would have to be a cellular subscriber?

12 A. That is correct. And if I'm in an airport,
13 I do not have the option of getting to my home or my
14 office and using my home or office phone.

15 Q. You expect that, like AT&T is, is a
16 motivation of U. S. West who is also an integrated toll
17 and payphone provider to sell its toll from its
18 payphones, not only at the airport but at any other
19 high usage site?

20 A. That may be one reason that U. S. West
21 decided to place payphones. Of course, you place them
22 at sites that generate virtually no toll at all. So,
23 the history of why you decided to place payphones, you
24 presumably did it because you thought it was a good

25 idea or U. S. West did it because U. S. West thought it

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1 was a good idea.

2 Q. U. S. West, you understand, is a regulated
3 telecommunications company in the state of Washington?

4 A. Yes.

5 Q. Including its payphone operations?

6 A. That's my understanding.

7 Q. Do you also understand that it is required
8 to provide service on demand and provide sufficient
9 facilities on a statewide basis?

10 A. Service on demand and sufficient facilities
11 in what context? Where, when, and how? That statement
12 is too broad for me to agree absolutely. You do have
13 from time to time held orders. And there are certain
14 services you are obligated to provide. But not
15 everybody can walk in and demand a public payphone from
16 U. S. West and have one placed.

17 Q. You agree from looking at U. S. West's data
18 that it has payphones with very little usage on them in
19 very remote locations in the state of Washington?

20 A. I can agree that you have payphones with
21 very little usage on them. I do not know how remote
22 the location is. The data came back by wire center
23 without an indication of whether the low revenue
24 payphones were in all cases in remote locations or

25 located right next to the CO.

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1 Q. As an integrated, regulated
2 telecommunications company in the state of Washington,
3 U. S. West gains local coin revenues, operator revenues
4 including directory assistance, and toll revenues from
5 its payphones, does it not?

6 A. Those kinds of calls are placed over the
7 payphones. Whether it would lose them if it did not
8 place the payphone is a different issue.

9 Q. Is it your testimony that if U. S. West had
10 no payphones whatsoever, that it would receive the same
11 operator surcharge revenues and toll revenues that it
12 receives today with those payphones?

13 A. No. But it is my contention that you could
14 receive much of the same toll and operator revenues by
15 paying a commission that you receive today without ever
16 placing a single payphone.

17 Q. Are you here empowered to make a commitment
18 on behalf of your clients that if they and all the
19 other members of the association and other members of
20 the industry were paid a commission on U. S. West's
21 intraLATA toll and operator services that they would
22 use exclusively those services for intraLATA service in
23 the state of Washington?

24 A. No. But you will notice that in the

25 interstate and the interLATA arena, that's exactly what

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1 the companies do in order to get the toll and
2 operator service traffic. Where there are multiple
3 suppliers, they pay commissions.

4 To the best of my knowledge, MCI and Sprint
5 -- well, Sprint directly as Sprint does not have
6 payphones, yet they get toll and operator service
7 revenues through payphones, from payphones. They do it
8 by paying commissions.

9 You don't have to place a payphone to get
10 the revenues.

11 Q. It's true, is it not, that AT&T's toll
12 competitors are integrated interstate interLATA and
13 intraLATA providers; correct?

14 A. For toll?

15 Q. Yes.

16 A. Yes; except that in almost no location do
17 they have One Plus, yes.

18 Q. It's true, isn't it, Doctor Cornell, that,
19 but for U. S. West's payphone operations, whether or
20 not it paid commissions to other payphone providers, it
21 gains operator and toll revenues from its payphone
22 operations.

23 A. I'm not sure precisely. Can you rephrase
24 the question? I'm not sure I understood precisely what

25 you were asking me.

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1 Q. Whether or not it would pay a commission to
2 other payphone providers to use its toll and operator
3 services, U. S. West payphone operations do provide
4 additional operator and toll revenues to the integrated
5 company they do not offer through payphones?

6 A. I think the thing I will agree with, which I
7 said before, is that U. S. West does receive revenues
8 from calls placed over U. S. West payphones. Those
9 revenues are local toll operator revenues.

10 I do not agree that U. S. West could not get
11 the bulk of the toll and operator surcharge revenues if
12 it did not place the payphones.

13 It is true in the world today where U. S.
14 West refuses to pay a commission that that is the case.
15 But if U. S. West were to behave like the competitive
16 firms in the industry and pay a commission, I'm not at
17 all persuaded that they would fail to receive the bulk
18 of the intraLATA toll and operator service revenues.

19 Q. Do you have any studies that defines the
20 "bulk" of the revenues? I take it your assertion is
21 that if U. S. West withdrew from the payphone business
22 it would nonetheless get the bulk of the operator
23 surcharge and toll revenues that it got from its old
24 payphones if it would just pay a commission? Have you

25 defined "bulk"?

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1 A. No, I have not. I do not know -- just let
2 me explain -- that the issue is what level of
3 commission would U. S. West have to offer in order to
4 get the non-LEC payphone providers to send their
5 intraLATA toll and operator service traffic to U. S.
6 West. I do not know the answer.

7 MR. SHAW: Your Honor, I would like to hand
8 up some paper and have it marked for identification.

9 JUDGE HAENLE: In which order did you want
10 them marked? Look at the very last number on the
11 bottom line, the last digit of one of them is an 8, the
12 last digit of the other is a 0.

13 MR. SHAW: No particular order. But let's
14 mark the one that has the smaller number first.

15 JUDGE HAENLE: All right. The smaller total
16 number, the one million et cetera number. It's a
17 one-page document entitled Imputation Test for Public
18 Telephone, All Proposed Costs/All Revenues. I'll mark
19 this as Exhibit C-79 for identification.

20 The other document has the same caption at
21 the top, but a larger number in the bottom line than
22 the previous one. I will mark this as C-80 for
23 identification.

24 (Marked Exhibits C-79 and C-80)

25 MR. SHAW: Thank you, your Honor.

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1 BY MR. SHAW:

2 Q. Doctor Cornell, directing your attention to
3 what's just been distributed as C-79 and C-80 --

4 A. Can you hold just a second? My pen ran out
5 of ink. I need to get them labeled before I forget
6 which is which.

7 Q. Do you need a pen?

8 A. No, I have got one. Sorry.

9 Q. Directing your attention, Doctor Cornell, to
10 what's been marked for identification as C-79 and C-80,
11 do you generally recognize them as imputation tests set
12 out in the same format we have been working with
13 through the duration of this case, similar to your
14 format of C-75?

15 A. Roughly speaking.

16 Q. And the top eight lines then are designed
17 to represent revenues, and you see that those revenues
18 include all the revenues that U. S. West derives from
19 its payphones, including toll and operator services?

20 MR. HARLOW: Objection, your Honor. There
21 is no foundation that the witness has any basis to
22 verify the validity of these numbers. Both parties
23 have been proceeding in this case for, when you said
24 five, I think it's more like a year that we have been

25 exchanging data.

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1 Mr. Lanksbury prepared his imputation test
2 using only local or coin revenues, did not include
3 operator service revenues as Exhibit C-79 and C-80 do.
4 So, we haven't done any data requests that would get
5 into the specific revenue and cost figures for
6 operator-assisted calling in anything near this format.

7 I think it's obvious what Mr. Shaw is
8 attempting to do, given that the handwriting on the
9 wall is pretty clear that there is a price squeeze
10 here. This is an attempt to, through rebuttal and
11 through our witness, totally change the cost and
12 revenue structure that the parties have been looking at
13 throughout this case. And there is simply no
14 foundation, and the witness would probably need a
15 substantial period of time to do data requests. And
16 basically we would have to start the case over again on
17 a whole new set of assumptions.

18 To do this through our witness rather than
19 through Mr. Lanksbury, which is where this should have
20 been done if U. S. West indeed believes that is the way
21 to do the imputation test in this case, they should
22 have done it in their case, not through our witness.

23 JUDGE HAENLE: Mr. Shaw?

24 MR. SHAW: Your Honor, I haven't even begun

25 to lay the foundation, nor have I, you know, offered

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1 the exhibit. This is cross-examination.

2 The witness's Exhibit T-70 goes on at some
3 length why just some revenues but not other revenues
4 should be included. That's all going to be for
5 argument. The two parties have disagreed on which
6 revenues should be included and which revenues should
7 be excluded from the very beginning. That is not news.

8 I think it would be of -- very much of
9 interest in the Commission to see what the revenue/cost
10 relationship looks like if U. S. West recognized all
11 the revenues it gains from its payphone operations,
12 just like its competitors do.

13 Mr. Fletcher's testimony in this case, which
14 he will be offering later on, states that toll revenues
15 are a third or more of his total revenues; that he
16 could not survive on local revenues. But yet there
17 seems to be some implicit assumption in here that U. S.
18 West payphone operations should be able to survive
19 without any toll revenues whatsoever.

20 These two exhibits, which both conclude at
21 Line 33 that --

22 JUDGE HAENLE: Let's not discuss the
23 conclusion at this point. The issue was whether those
24 were proper questions to this witness.

25 MR. SHAW: Well, right now, I'm just asking

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1 her whether she can identify the exhibit. I'm sure
2 after the objection she will not be able to do so. But
3 I think I'm permitted to proceed until that is clear.

4 MR. HARLOW: Your Honor, I am obviously
5 going to object to the admission of these exhibits.
6 I'm not intending to seek a ruling on that at this
7 time.

8 But Mr. Shaw is starting to ask Doctor
9 Cornell -- it's been awhile since we heard the
10 question. So, we have probably all forgotten it.
11 Basically he is starting to ask Doctor Cornell to give
12 validity to the figures contained in this exhibit. And
13 he is simply going to have to lay a foundation that
14 Doctor Cornell has reviewed the cost and revenue data
15 before he can start doing that.

16 I think Mr. Shaw is right. I don't think
17 Doctor Cornell can do that. But he has to try to lay
18 the foundation in the proper order. And then if
19 somehow he can do that, I would still object to -- when
20 Mr. Shaw offers these exhibits, I will object to their
21 admission on the grounds that we're starting all over
22 again.

23 If you look at C-27, which is Mr.
24 Lanksbury's imputation study, you'll see a lot of lines

25 for revenues and costs that were not included on that

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1 exhibit.

2 JUDGE HAENLE: If this was not prepared by
3 the witness, Mr. Shaw, although we're not ruling at
4 this point on the admissibility or nonadmissibility of
5 the document, I do have concerns that the foundation
6 can even be laid through this witness.

7 MR. SHAW: May I be allowed to proceed?

8 JUDGE HAENLE: Well, I am telling you what
9 my concern is. If that question is answered and the
10 witness answers no, she can't help you with your
11 foundation, you're not going to have anywhere to
12 proceed.

13 What I was asking you, I guess, is why would
14 this be done through this witness, this foundation or
15 anything else to do with this document?

16 MR. SHAW: Your Honor, the entire case of
17 the complainants is based upon a selective imputation
18 test to support an argument that there is a price
19 squeeze in the state of Washington for coin service.
20 That critically depends upon what expenses you look at
21 and what revenues you look at.

22 I simply want to cross-examine this witness
23 on whether or not, if you included other revenues and
24 other expenses, whether you would come to different

25 conclusions.

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1 The determination on ultimately what would
2 have to be in such an imputation test would have to be
3 decided by this Commission.

4 JUDGE HAENLE: Go ahead with the foundation,
5 Mr. Shaw. Let's see what you have got.

6 BY MR. SHAW:

7 Q. Directing your attention to the first eight
8 lines of C-79 and C-80, do you recognize those as
9 revenues that could be considered to be attributable to
10 payphone operations?

11 A. No.

12 MR. HARLOW: Your Honor, I would like to
13 have the question clarified whether he is asking for
14 the categories or whether she is being asked to verify
15 the numbers. We're dealing with a tricky foundation
16 issue here, and it's important that the record be
17 clear.

18 BY MR. SHAW:

19 Q. Directing your attention to the text, Lines
20 1 through 8, do you have that, Doctor Cornell?

21 A. Yes.

22 Q. Let me ask it this way: Can you think of
23 any other revenues that could be considered for
24 attribution to a LEC payphone operation?

25 A. Possibly.

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1 Q. What would those be?

2 A. Sales of advertising at phone booths.

3 Q. Any others?

4 A. Not sitting here as I speak, off the top of
5 my head. I don't, however, agree that all of these are
6 attributable to payphones.

7 Q. I understand that. Your rebuttal testimony
8 in this case sets forth the argument on why you think
9 that the revenues properly attributable to U. S. West
10 payphone operations should be restricted to those items
11 on your Exhibit C-75; correct?

12 A. That's correct.

13 Q. Directing your attention to Line 30 on C-79,
14 and the lack of Line 30 on C-80, that's a billing and
15 collection line?

16 A. Yes.

17 Q. Do you understand that billing and
18 collection under the current orders of this Commission
19 is to be recognized in a cost study at LRIC costs and
20 not imputed tariff or price list prices?

21 A. I think I would have to have you show me a
22 reference to a Commission order to that effect.

23 Q. You are without knowledge of the
24 Commission's previous orders on the proper treatment of

25 billing and collection in a cost study?

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1 A. In a cost study, yes. I do know that it has
2 been classified -- I believe it to have been classified
3 as competitive. But I didn't know that the Commission
4 had, therefore, ruled about how you treat it in a cost
5 study.

6 Q. The cost study represented by this
7 imputation study, do you know whether under current
8 Commission orders billing and collection is to be
9 recognized at a LRIC level or some other level?

10 A. Could you repeat that?

11 Q. Yes. Do you know under current Commission
12 orders, when doing an imputation cost study, billing
13 and collection is to be recognized at LRIC level or
14 some other level?

15 A. I do not know how it is treated in the toll
16 case. And past that, it's been too long since I have
17 looked at the order on imputation in toll. What the
18 issue is before this Commission is to ask either for
19 separate subsidiary or for an order on imputation in
20 payphones. Therefore, there is not at this time a
21 stated treatment of it.

22 Q. In the Commission's existing orders on toll
23 imputation, are you aware of their holding on the
24 proper treatment of billing and collection?

25 A. No, I am not.

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1 Q. Directing your attention to Line 27 of the
2 two exhibits for identification, MTS, do you see that
3 reference?

4 A. Yes.

5 Q. Do you agree that if the Commission were to
6 consider toll revenues gained through payphones to
7 properly be a revenue of payphones, that on the cost
8 side the costs should be reflected at an imputed cost
9 level? That is, with imputed access rates and not just
10 LRIC toll costs?

11 A. That probably would be proper. I haven't
12 included any -- that isn't the way I would do toll in
13 the first place. If you were going to include MTS
14 beyond the coin surcharge rate that U. S. West is
15 allowed to charge for sent-paid toll, I would include
16 what they would be willing to pay in the Commission in
17 order to have all of that toll sent to them rather than
18 to somebody else.

19 JUDGE HAENLE: We need to take a break here
20 pretty soon, Mr. Shaw. Could you look for a good place
21 to do that?

22 MR. SHAW: This would be fine.

23 JUDGE HAENLE: Let's take a fifteen-minute
24 break now and be back at five minutes after 11:00.

25

(Recess.)

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1022

1 JUDGE HAENLE: Let's be back on the record
2 after our morning recess.

3 Go ahead, Mr. Shaw.

4 BY MR. SHAW:

5 Q. Doctor Cornell, do you see that Line 24
6 through 26 on both C-79 and C-80, these exhibits
7 include your addition of the 911 tax and telephone
8 assistance taxes of the numbers that you used on your
9 C-75?

10 A. Yes.

11 Q. Other than the Lines 27 through 30, do you
12 see any difference in the cost and tariffed rates
13 section between these two exhibits and your C-75?

14 A. I would have to take a few minutes and
15 compare them. (Reading.)

16 MR. HARLOW: Is it really necessary for us
17 to do this, your Honor? Doesn't the record speak for
18 itself in terms of which numbers are different and
19 which ones aren't?

20 JUDGE HAENLE: It depends on whether this is
21 admitted into the record.

22 THE WITNESS: I do see differences already.
23 I can tell you that.

24 JUDGE HAENLE: Mr. Shaw?

25 THE WITNESS: I can tell you the ones that I
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1 have seen.

2 BY MR. SHAW:

3 Q. There is a difference of a few pennies on
4 your Line 8 and the Line 11?

5 A. Yes. There is a difference of a few pennies
6 on Line 8 versus -- my Line 8 versus Exhibit C-79, Line
7 11. There is now an entry in your Line 15 for cost
8 element that I believed always to have existed but you
9 never supplied the cost data for it, which is shown on
10 my Line 12 versus your Line 15.

11 You have got a different figure by a
12 significant amount for Line 16 versus my Line 13.

13 You have got what I would consider to be a
14 significant difference on Line 18 versus my Line 15.

15 Similarly, on Line 19 versus 16. Your Line
16 19, C-79, Line 19, versus C-75, Line 16, which are
17 supposed to be the same thing.

18 Same statement is true for C-79, Line 20,
19 versus C-75, Line 17.

20 The same thing is true for C-79, Line 21,
21 versus C-75, Line 18.

22 A minor difference but nonetheless a
23 difference between C-79, Line 23, and C-75, Line 20.

24 Q. If the Commission were to decide to look at

25 all of the revenues in Lines 1 through 8 in making its

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1 decision in this case as well as look at all the
2 expenses indicated on Lines 10 through 30 of C-79 and
3 C-80 and Line 7 through 23 of your exhibit, given the
4 differences that you have just identified in your
5 previous answer, would you expect that the conclusion
6 of C-79 and 80 that contribution exceeds expenses --
7 excuse me -- that expenses are more than covered by
8 revenue would be correct?

9 MR. SHAW: Objection, your Honor. There is
10 still no foundation that any of these numbers are
11 correct.

12 JUDGE HAENLE: Mr. Shaw?

13 MR. SHAW: I'm asking for a relationship.
14 I'm not asking for precise numbers.

15 JUDGE HAENLE: We're getting now into things
16 that have more to do with these documents specifically.
17 Before you ask those questions, I feel you ought to
18 move the documents for entry. If they are entered, you
19 can continue. If they are not entered, that will be
20 pretty much the end of that.

21 MR. SHAW: That's the last foundation
22 question I needed in order to ask for their entry.

23 JUDGE HAENLE: I don't feel that's a proper
24 foundation question. I will sustain the objection.

25 MR. SHAW: Your Honor, I will move for the
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1 entry of C-79 and C-80.

2 JUDGE HAENLE: Any objection, Mr. Harlow?

3 MR. HARLOW: Yes, your Honor. While I'm
4 looking for it, I don't know if you have it available,
5 but I'm looking for Exhibit C-27.

6 JUDGE HAENLE: The basis for your objection
7 is what?

8 MR. HARLOW: The first thing I would like to
9 do is remind the Commission that Exhibit C-27 which was
10 sponsored by Mr. Lanksbury and admitted after --
11 actually, both an original and a revised -- include no
12 revenues -- some of this is not clear from the exhibits
13 but also comes from the testimony -- does not include
14 revenues -- and I'm referring to line numbers on C-79
15 and 80 at this time -- does not include non-coin local
16 revenues, does not include non-coin local operator
17 revenues, does not include coin operator assist toll
18 revenues, does not include non-coin toll revenues --
19 excuse me -- does include but only to the extent of
20 \$.25 per call to my understanding. Does not include
21 non-coin operator assist revenues and does not include
22 directory assistance revenues. It does include U. S.
23 West Direct revenues.

24 I simply point that out to point out

25 basically how U. S. West through another party's

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1 witness, the complainant's witness, is attempting to
2 introduce another imputation study that is quite
3 contrary to the imputation study that they sponsored
4 when it was their opportunity to present evidence in
5 this case.

6 That aside, I think the objection is really
7 quite simple, and that is there simply is no foundation
8 for these exhibits. The witness is not familiar with
9 the numbers. It's a complicated imputation study. The
10 witness did not prepare it. The witness has not had
11 time to study the numbers and other than certain
12 comparisons with her own exhibits hasn't had time to
13 check any math and has indicated in her testimony that
14 she does not agree with the premise of the study.

15 And I think that is basically an attempt for
16 U. S. West to once again try to revise Exhibit C-27.
17 It's a results-oriented process. They don't like the
18 way the numbers are coming out with the way they first
19 did their imputation study, and so they keep trying to
20 change it.

21 There is no foundation for these exhibits,
22 and they should not be admitted, and this procedure is
23 improper.

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

25 objection to the entry of the documents?

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1 MS. BROWN: I would have to conclude with
2 Mr. Harlow.

3 JUDGE HAENLE: Okay. Any brief response,
4 Mr. Shaw?

5 MR. SHAW: Yes, your Honor. I understand
6 fully that all that is true. The witness did not
7 prepare it. She has not had the time to verify the
8 numbers. I move the admission of the exhibits for
9 illustrative purposes.

10 I think it's important in the Commission's
11 consideration of this case to have some idea at least
12 of the relationships between costs and revenues. If a
13 decision were made to look at all payphone revenues and
14 not just selected payphone revenues, what should be
15 properly imputed to all subject to argument?

16 I offer them not for the truth of the
17 numbers but for the relationship between these expenses
18 and revenues if you consider all of them that have been
19 testified to in this case and not just some of them on
20 a selective basis.

21 So, not for the truth of the absolute
22 numbers, but for the relationships and what such an
23 analysis would look like, I think it would be helpful
24 to the record and should be admitted in this

25 administrative proceeding.

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1 JUDGE HAENLE: Anyone else?

2 MR. HARLOW: Your Honor, I would object to
3 its admission as an illustrative exhibit as well. I
4 think it's prejudicial to have this exhibit for
5 illustrative purposes. It contains facts or what
6 purport to be facts, and it's hard to sort out, I
7 think, between what is fact and what is illustration
8 when you have an exhibit like this.

9 JUDGE HAENLE: I do not feel that C-79 and
10 C-80 should be entered into the record. This witness
11 did not prepare them. She apparently does not agree
12 with the figures. And the figures differ substantially
13 from that which this witness has set forth.

14 I have heard Mr. Shaw's suggestion that
15 these be entered for illustrative purposes. But in
16 order to illustrate anything, the Commission would have
17 to, even to look at relationships among the figures,
18 the Commission would have to accept the figures. And I
19 don't feel that that is a proper conclusion that can be
20 drawn from these documents.

21 I am concerned that there is the potential
22 for prejudice if these documents were entered for any
23 reason at all. And, therefore, will reject C-79 and
24 C-80.

25 BY MR. SHAW:

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1 Q. Doctor Cornell, are you aware of what level
2 commissions AT&T pays payphone providers in the state
3 of Washington to use their toll instead of U. S. West's
4 or some other company's toll?

5 A. No, I am not.

6 Q. Are you aware that U. S. West in twelve of
7 its fourteen states pays commissions on its intraLATA
8 toll to other payphone providers at the level of
9 commissions paid by AT&T?

10 A. No, I am not.

11 Q. I take it if you're unaware of that, you're
12 unaware of whether that's deemed traffic back from AT&T
13 and other carriers?

14 A. It's the first I have heard that U. S. West
15 pays commissions, particularly in light of Mr.
16 Lanksbury's testimony that it does not.

17 Q. Clearly does not in the state of Washington;
18 correct?

19 A. Does not in the state of Washington. That
20 is correct.

21 Q. Direct your attention to Page 11, Line 13,
22 of your rebuttal testimony, T-70. Do you see where you
23 make the statements that U. S. West bundles into the
24 PAL rate the first four directory assistance calls?

25 A. Yes, I do.

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1 Q. Have you examined the PAL cost study
2 supplied to you in discovery in this case?

3 A. Yes. Quite awhile ago.

4 Q. Is it your testimony that that study shows
5 the first four directory assistance calls to be bundled
6 into the PAL rate?

7 A. I think you're mixing apples and oranges,
8 Mr. Shaw. The cost study shows -- as I said before,
9 it's been quite awhile since I have looked at the PAL
10 cost study -- shows, if I remember correctly, what was
11 the cost of providing a PAL line. I do not remember
12 what it showed about directory assistance.

13 It is my understanding of the tariff that
14 the PAL tariff bundles in four free directory
15 assistance calls. Now, if the cost study does not show
16 that, there is clearly an error in the cost study. But
17 this is working from the tariff.

18 Q. Directory assistance in the state of
19 Washington provides to all subscribers initial
20 directory assistance calls without charge; correct?

21 A. I have not looked at your rural directory
22 assistance rates. I have been dealing with -- maybe I
23 shouldn't make it so broadly. I'm sure I have at some
24 point, but not in preparation for this case -- I have

25 been dealing with what it is you charge and provide PAL

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1 subscribers.

2 Q. Do you know whether that parallels what U.
3 S. West charges all other directory assistance
4 customers?

5 A. No, I do not.

6 Q. Please turn your attention to Page 14, Line
7 18. Do you see where you assert that Mr. Lanksbury
8 fails to understand the market?

9 A. I think I said with regard to the extra
10 sources of revenues he claims I have ignored, yes.

11 Q. Is it your testimony in that answer starting
12 at Line 18 that a U. S. West site provider for U. S.
13 West payphone services gets the same level of
14 commissions by pre-subscribing the phone to a long
15 distance carrier like AT&T as he could get by signing a
16 contract with an alternative payphone provider?

17 A. Yes. Otherwise he wouldn't use a U. S. West
18 payphone.

19 Q. Are you stating in this answer that all
20 alternative payphone providers pass all of the revenue
21 they receive from operator services providers and toll
22 providers onto the space provider as space rent?

23 A. I am saying -- the answer is I do not know
24 in every single instance. But a non-LEC payphone

25 provider must provide the same commission payment to a

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1 space provider as that space provider can get directly
2 from AT&T or MCI or whomever they choose. Otherwise,
3 that space provider will not select an alternative
4 payphone provider's payphone.

5 Q. Have you reviewed Mr. Fletcher's proposed
6 testimony in this rebuttal phase?

7 A. Yes, at some point in the past. Not this
8 morning.

9 Q. Do you recall his statement to the effect
10 that his company earns more than a third of its revenue
11 from its alternative operator services provider?

12 A. I have a vague recollection that he talked
13 about that.

14 Q. And he further stated that without that
15 revenue he would be unprofitable and go out of
16 business?

17 A. Yes.

18 Q. Can you reconcile the testimony or the
19 proposed testimony of Mr. Fletcher with your statement
20 that alternative providers pass all of their discounts
21 to the space provider?

22 A. Well, you have now made a statement about my
23 testimony that is not accurate. I said an alternative
24 payphone provider must match the amount the space

25 provider can get directly from AT&T or MCI or whomever

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1 they prescribe the payphone to. Otherwise, the space
2 provider will not deal with the alternative payphone
3 provider.

4 I did not say that every bit of revenue that
5 a non-LEC payphone provider gets from its suppliers of
6 services is passed to the space provider. Nobody could
7 be in business if you can't get paid your costs.

8 Q. And from that we have to believe that the
9 compensation an individual space provider could get by
10 dealing directly with an intraLATA carrier is less than
11 a provider like Mr. Fletcher gets by aggregating a
12 bunch of payphones together and delivering that traffic
13 to an intraLATA carrier or alternative operator
14 services company; correct?

15 A. I do not know that, Mr. Shaw. There are
16 many cases, and my Sea-Tac example is a case in point,
17 in which alternative payphone providers cannot provide
18 and do not get those contracts.

19 The simple fact is, where they can get
20 contracts, that is the case. Where they cannot get
21 contracts, that may not be the case.

22 Q. Is it your testimony that a proper
23 imputation test has to be applied on a site-by-site
24 basis?

25 A. It is my testimony that a company that truly
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1 believed that its costs included imputation would be
2 doing that because, otherwise, if it were a real
3 competitive market, there is no place else they can
4 under commission, let me put it that way, in order to
5 make up the difference.

6 Q. Commissions are negotiated, are they not?

7 A. In some cases they are, and in some cases
8 they are off of the standard form or schedule, excuse
9 me.

10 Q. They are negotiated in the sense that a site
11 provider is free to accept U. S. West's offer or to go
12 to another company and accept their offer?

13 A. That is correct.

14 Q. Is your testimony that unless there is
15 perfect competition, an imputation test has to be
16 applied to U. S. West on a site-by-site basis?

17 A. No. U. S. West has to pass an imputation
18 test for each of its payphone services, in my opinion.
19 If it wishes to try to play the game of overpaying to
20 Peter and overcharging Paul, the market will correct
21 that as long as U. S. West really must live by an
22 imputation test. And that's the reason that within
23 each payphone service it can be free to figure out how
24 it meets it.

25

I put in the Sea-Tac case to show that the

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1 statements made by Mr. Lanksbury that U. S. West
2 genuinely believes in an imputation test seem somewhat
3 suspect because it does not pass by even Mr. Lanksbury.
4 The Sea-Tac does not pass, not even come close.

5 Q. Have you done an analysis of the Sea-Tac
6 site to determine whether U. S. West gains more
7 revenues than it has expenses if you consider toll and
8 operator services that it provides through the Sea-Tac
9 telephones?

10 A. I have not done any kind of imputation test
11 but two for Sea-Tac. I have done the one I believe is
12 the correct version. And I have done the one that Mr.
13 Lanksbury supplied, which presumably he, on behalf of
14 U. S. West, believed was the correct version. It
15 passed neither.

16 I haven't gone on to try to do other
17 versions that I do not believe in to try to find one
18 that it passes.

19 Q. You do agree that an imputation test does
20 not have to be applied on a customer-by-customer,
21 site-by-site basis; correct?

22 A. I believe -- let me make sure you understand
23 my answer to this -- the answer is it depends on who is
24 imposing the requirement. I do not believe the

25 Commission needs to impose that requirement if it

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1 imposes the requirement that each payphone service must
2 pass and if it does not allow the failure to pass to be
3 passed on to the ratepayers. After that, I am fairly
4 confident that it will not take too long for U. S.
5 West's management to impose that requirement itself.
6 Otherwise it's going to find itself with no place to
7 turn to make up the difference.

8 Q. U. S. West can conclude as an integrated
9 company like AT&T that it is better off paying the
10 rentals demanded by Sea-Tac than not providing any
11 payphone service at all at Sea-Tac because it sells a
12 lot of operator service and intraLATA toll through
13 those phones, could it not?

14 A. AT&T can decide that. AT&T has to turn to
15 its other competitive services to make up any losses.

16 U. S. West does not turn to competitive
17 services to make up the loss. It turns to ratepayers.

18 Q. It turns to the ratepayers of its
19 competitive toll, does it not?

20 A. Not in the least. It turns to its sum of
21 regulated revenues.

22 Q. Let's turn to public policy payphones.

23 Have you ever done a public policy payphone
24 analysis for any state regulatory commission?

25 A. Other than the analysis I have put in as to
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1 what I believe public policy payphones ought to be, no.

2 Q. You have not in any state looked at the
3 specific universe of payphones in that state and made a
4 recommendation on behalf of a commission or to a
5 commission as to exactly what telephones should be
6 considered public policy payphones other than this
7 case?

8 A. I don't believe I have done it in this case.
9 If you mean by that should the telephone at the corner
10 of Fifth and Main in town X be considered a public
11 policy payphone, the answer is clearly no. I have not
12 done that in this case, either.

13 Q. Looking at your testimony, Page 16, Line 5,
14 please, there you state a two-part test that I take it
15 in your opinion should control what individual phones
16 should be denominated public policy payphones?

17 A. It's hard for me to say yes because I think
18 you have put the cart before the horse.

19 I believe that a governmental body needs to
20 determine where there need to be payphones, perhaps in
21 addition to or among the collection that is there
22 already, even if those payphone locations are not
23 profitable. Those that are public policy payphones are
24 the ones that have been so designated as being

25 necessary and both are the only payphone within a

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1 reasonable radius of the payphone and do not generate
2 sufficient revenue to cover the cost of placing the
3 payphone.

4 Now, I would argue with you that there is a
5 real need to have a payphone at a big sports arena, for
6 example, or a bus terminal or an airport. But I do not
7 believe that anybody is going to agree that Sea-Tac
8 payphones are public policy payphones in the sense that
9 they are not profitable or could be profitable if the
10 proper commissions were paid.

11 Q. Mr. Fletcher has urged the Commission to
12 undertake an investigation of what should be deemed
13 public policy payphones.

14 Do you agree with that recommendation?

15 A. Yes.

16 Q. And when and if the Commission does that, I
17 take it it's your testimony that they should rely on
18 this two-part test on Page 16 of your testimony?

19 A. In terms of determining where those
20 payphones that are not profitable need to be, yes.

21 Q. Then you're in agreement that some
22 non-profitable payphones may be public policy phones,
23 but you doubt that all unprofitable phones are public
24 policy payphones; correct?

25 A. That is correct.

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1 Q. And so making two cuts, you would look at
2 the universe of unprofitable payphones provided by a
3 company like U. S. West, and then you would go to your
4 first test to find what localities only need a single
5 payphone within a reasonable radius of that location;
6 correct?

7 A. No. I would not start by looking at the
8 localities of U. S. West's payphones. I would start by
9 saying: Where is it that the public needs to have
10 payphone service available for public health and safety
11 reasons. Maybe there are payphones there now; maybe
12 there are not.

13 Q. What is a reasonable radius?

14 A. I don't have a precise footage. It depends
15 upon the characteristics of the location. It is not a
16 reasonable radius to have it twenty feet beyond Sea-Tac
17 when you have to cross six lanes of interstate highway
18 or something equivalent to get to it. Maybe twenty
19 feet is the wrong statement. Maybe thirty feet.

20 On the other hand, in a relatively isolated
21 area, having a payphone within thirty feet is probably
22 quite sufficient.

23 It depends. It is the same question. If
24 you have a very large park used by relatively small

25 children, grade school children, you don't want them to

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1 have to cross a busy street potentially to go to a
2 payphone, but you may not have to have it in the park
3 if right next to the park there is a 7-Eleven or gas
4 station that has a payphone.

5 Q. In applying your test, one, it's very fact
6 and location specific, I take it?

7 A. That's correct. It's where a governmental
8 body believes a payphone is necessary to protect the
9 public health and safety.

10 Q. Would you pull out your C-74, please.

11 I take it you agree that the eight generic
12 categories of locations are all reasonable candidates
13 for public policy payphones?

14 A. I believe that some of the locations within
15 those categories are, yes.

16 Q. But all eight of those suggested by U. S.
17 West should be looked at by the Commission? There is
18 not one of them that you think the category is totally
19 outside any reasonable definition of public policy
20 payphone?

21 A. Well, I suspect that's a correct statement.

22 Q. Trying to understand how you made the
23 judgments to cut the numbers identified by Mr.
24 Lanksbury in his testimony and backup as potential

25 public policy phones roughly in half, let's take the

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1 first category, airports.

2 It's correct that Mr. Lanksbury in surveying
3 small, non-major airports in the state came up with 44
4 payphones currently provided by U. S. West at such
5 airports that earn less than \$3 a month?

6 A. That's what one of the sheets in his backup
7 statement said. And the broken-down detail did not
8 support that number.

9 Q. You agree that the backup material supplied
10 to you showed four revenue categories that contained
11 all under \$3 per month, contained twenty, twelve, nine,
12 and three payphones located at small, isolated
13 airports?

14 A. Without having a copy of the backup data in
15 front of me, I could not agree to that. I really would
16 want to have it in front of me to --

17 Q. Can you tell me on what assumptions and on
18 what basis you cut Mr. Lanksbury's estimate of 44 down
19 to 24?

20 A. I went to the backup numbers that were
21 provided in several computer printout -- copies of
22 computer printout pages and literally added the number
23 of payphones at airports that had \$2 or less in rolling
24 average revenue. And the number was not 44.

25 Now, airport was one in which Mr. Lanksbury

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1 for a reason I do not understand and he could not
2 articulate anything that made sense to me said it was
3 \$3 a day rolling average at airports and \$2 at other
4 categories. I felt if it was \$2 elsewhere it's \$2 at
5 airports and used \$2 throughout in making this
6 comparison.

7 Q. So I understand: Is it your testimony,
8 then, that you deducted twenty because twenty of the
9 phones identified by Mr. Lanksbury earned more than \$2?

10 A. Let me -- twenty of the -- you don't have it
11 exactly right and I'm not going yes because it isn't
12 exactly stated correctly. Mr. Lanksbury had a page in
13 which he said there were 44 airport payphones that were
14 public policy.

15 When I went to his backup data, I counted,
16 using a \$2 M.I.G for rolling average revenue rather
17 than a \$3 figure, that there were 24 such payphones. I
18 apologize. It's been awhile. And I do not remember
19 what the second \$3 category was.

20 In some cases, however, even when I used Mr.
21 Lanksbury's \$2 figure, I could not make the backup data
22 comport to the number he used.

23 Q. Looking just at airports for now, is it your
24 testimony that if you used a \$3 threshold that you

25 would come up with 44 payphones?

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1 A. I cannot say yes to that without looking at
2 the backup data. There were some cases in which even
3 using Mr. Lanksbury's thresholds did not make the
4 backup data support his number.

5 Q. Is it your testimony that a phone that earns
6 \$3 or less in revenues a day is a profitable phone?

7 A. I do not know whether I could make it
8 profitable on \$2 a day rolling average revenue. But U.
9 S. West is willing to pay a commission at that level.
10 And, therefore, any phone on which U. S. West is
11 willing to pay a commission or that any provider is
12 willing to pay a commission is not a public policy
13 payphone in the sense that that term is being used by
14 me at least to mean payphones that need to be supported
15 in some fashion despite not being profitable.

16 Q. Is it your testimony that U. S. West pays
17 commissions on a phone that does not earn more than \$3
18 a day?

19 A. If you look at your commission schedule
20 which I provided in C-73 -- I'm trying very hard not to
21 go into confidential information -- there are
22 circumstances in which, yes, you pay commissions on
23 revenues that are less than \$2 a day rolling average
24 revenue.

25 Q. Can you point out to me by CRC code lines

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1 where you conclude that U. S. West pays commissions on
2 phones that produce \$3 or less per day.

3 A. 01, 02, 05, 08, 09, 10, 11, 13, 14, 15, -- I
4 don't think I really need to go on.

5 Q. What do you understand C-73 to be? A
6 statement of U. S. West's custom commission plans for
7 large accounts or a list of all commission standards
8 that the Company uses?

9 A. Well, we asked for all of your commission
10 formulas. I'm going to have to give you a long answer.
11 We asked for your commission payment schedules, and
12 you supplied this. We then asked you to please tell us
13 what the CRC code meant, and U. S. West basically
14 refused to tell us.

15 I have to assume from what you supplied that
16 this is all of your different commission plans. I
17 assume that some of the CRC codes, in effect, rarely
18 see a payphone that is at the lower end of the scale
19 that comes close to there, but I do not know that. And
20 based on what you are willing to do at Sea-Tac, I
21 probably should not be as willing to assume that is the
22 case.

23 All I can go by is what you gave me, Mr.
24 Shaw, or what U. S. West supplied to me. We asked for

25 the information as to what the CRC codes meant and were

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1 told, "It tells us what to bill somebody." And that
2 was the best we could get.

3 Q. C-73 is the sole basis on which you conclude
4 that U. S. West pays commissions on telephones of
5 non-major accounts as defined in the testimony in this
6 case that provide less than \$3 a day?

7 A. You have once again mischaracterized my
8 testimony. I said U. S. West is apparently willing to
9 pay commissions on payphones that earn at least \$2 a
10 day in rolling average revenue. And I based that on
11 C-73.

12 I did not say they were willing to pay it
13 for minor accounts. All I said is there are times when
14 U. S. West is willing to pay a commission on such a
15 payphone. If it's willing to pay a commission, it is
16 not a public policy payphone.

17 Q. Is a payphone at a rural, isolated airport a
18 major account as defined in the data that we have
19 supplied you?

20 A. I have no idea. You really have not
21 supplied data that fully describes a major account. If
22 it's part of a whole county's set of payphones and it
23 includes the county's jail and a few other things, it
24 could well qualify as a major account. If it is all by

25 itself as the lone airport authority, it probably does

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1 not.

2 Q. On Line 10 of your C-24, you make an
3 adjustment which you label 2 per CO. Do you see that?

4 A. That is correct.

5 Q. It's your testimony here, then, I take it,
6 that no wire center can qualify more than one public
7 policy payphone?

8 A. No. Mr. Lanksbury claimed in his testimony
9 that there were two public policy payphones per wire
10 center in smaller communities. He did not claim there
11 were two in Seattle by definition. He claimed two by
12 definition.

13 In the backup information for that
14 particular piece, it turned out that of the two per the
15 number of wire centers which would have been 62 that he
16 counted, there were only 11 that earned less than \$2 a
17 day.

18 Q. Look at Page 3, Line 3. Excuse me. I don't
19 have the right cite there. Strike that question.

20 JUDGE HAENLE: We need to look for a good
21 stopping point within the next five minutes, perhaps,
22 Mr. Shaw.

23 MR. SHAW: My notes are inaccurate. It's
24 going to take me a few minutes to find where I want to

25 reference.

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1 JUDGE HAENLE: How much more do you have?

2 MR. SHAW: About a half hour?

3 JUDGE HAENLE: Why don't we recess and be
4 back at 1:30.

5 (At 11:55 a.m. the above matter was recessed
6 until 1:30 p.m. of the same day.)

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1 OLYMPIA, WASHINGTON; MONDAY, DECEMBER 13, 1993

2 1:30 P.M.

3 --oo0oo--

4

5 JUDGE HAENLE: Let's be back on the record
6 after our lunch recess.

7 Go ahead, Mr. Shaw.

8 MR. SHAW: Thank you, your Honor.

9

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

11 (continued)

12 BY MR. SHAW:

13 Q. If I could direct your attention, Doctor
14 Cornell, to Page 23, Line 3.

15 MR. SHAW: While you're looking at that, I
16 would like to hand out, your Honor, some additional
17 exhibits to be marked.

18 Your Honor, if I could have mark next in
19 order the multi-page document that the first page talks
20 about response to Data Request No. 70.

21 JUDGE HAENLE: You have handed me a
22 multi-page document with that caption at the top. I'll
23 mark this as Exhibit 81 for identification.

24 (Marked Exhibit 81)

25

MR. SHAW: You'll see on Page 3 of that

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1 document, your Honor, that Pages 3 and following are
2 marked proprietary and confidential. But they are not,
3 and we specifically waive it. It's U. S. West data.

4 JUDGE HAENLE: All right. I will on the
5 copy that I have and the official copy cross that out
6 and initial it if you all want to do that on yours as
7 well.

8 Thank you for letting us know that.

9 MR. SHAW: The response to U. S. West Second
10 Data Request No. 47, single-page document, if I could
11 have that marked, your Honor.

12 JUDGE HAENLE: All right. I'll mark that 47
13 at the top, and it says, "Please provide the
14 following." I'll mark this as 82 for identification.

15 (Marked Exhibit 82)

16 BY MR. SHAW:

17 Q. Doctor Cornell, you recognize what's been
18 marked as 81 for identification as U. S. West's
19 response to your client's Data Request No. 70?

20 A. Yes.

21 Q. And response to your client's Data Request
22 No. 57, the latter pages?

23 A. Yes.

24 Q. Did you take into consideration in giving

25 your testimony at Page 23 in regard to preparing your

NINA W. CORNELL - Cross by Shaw - 12/13/93 1050

1 client's repair intervals and U. S. West's repair
2 intervals either of these responses to data requests?

3 A. I have certainly looked particularly at
4 Exhibit 81. It still, in the sense that I knew about
5 the answers, the answer is yes. I still stand by what
6 I say: that advertising is problematic.

7 Q. Do you think it is relevant data in
8 evaluating the relative quality of service between U.
9 S. West and your clients to look at the number and type
10 of complaints to this Commission from members of the
11 public?

12 A. Well, the answer is in one sense yes and in
13 one sense no. Complaints from the public about factors
14 that are truly under the control of the non-LEC
15 payphone providers are perfectly valid and appropriate.
16 Complaints to the Commission that derive ultimately
17 from failure to give those competitors of U. S. West's
18 equal access to the same kind of bottleneck monopoly
19 that U. S. West has, the answer is no.

20 MR. SHAW: I move the admission of Exhibits
21 81 and 82.

22 JUDGE HAENLE: Any objection, Mr. Harlow?

23 MR. HARLOW: Give me a moment, your Honor.

24 (Reading.)

25 I do not object to Exhibit 82, putting them
NINA W. CORNELL - Cross by Shaw - 12/13/93 1051

1 in reverse order.

2 I do not object to the first two pages of
3 81. I do object to the response to Data Request No.
4 57, which constitutes the last four pages of Exhibit
5 81. And the reason is that this data request response
6 deals with, at least purports to deal with, complaints
7 of an unspecified nature about PAL lines or PAL phones.

8 This document was created by U. S. West and
9 we do not have the U. S. West witness here to
10 cross-examine regarding what these complaints consist
11 of. No foundation has been laid with this witness to
12 sponsor this part of Exhibit 81.

13 Finally, it's beyond the scope of this
14 witness's testimony. The testimony in question and the
15 way that Mr. Shaw apparently is trying to tie this in
16 is with regard to service response times. Data Request
17 No. 57 simply doesn't have anything to do with that
18 that's apparent. We therefore feel there is, A, no
19 foundation and, B, no relevance to this testimony for
20 that portion of Exhibit 81.

21 JUDGE HAENLE: Do you have any objection to
22 the documents, Ms. Brown?

23 MS. BROWN: No, your Honor.

24 JUDGE HAENLE: Do you want to respond to the

25 objection, Mr. Shaw?

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1 MR. SHAW: Yes, your Honor. This is a
2 response to their data request No 47. "Compilations,
3 Summaries and Studies of Complaints from the Public or
4 Site Location Owners and Quality/Satisfaction Surveys
5 of the Public or Site Location Owners regarding USWC
6 payphones."

7 This is the record of complaints over the
8 relevant time period indicated with an indication of
9 whether the complaints were as to other payphone
10 providers or U. S. West's payphones.

11 This witness is testifying that, based upon
12 what she reviewed, in essence, the quality of U. S.
13 West's service consisting of time intervals for repair
14 as well as generally in regard to U. S. West's
15 advertising claims that it provides quality service is
16 inaccurate.

17 She just testified on cross-examination that
18 she recognized them; that she looked at them; and
19 considered specifically response to No. 57 relevant to
20 the issue in part. I believe she testified to the
21 extent that, yes and no, it is relevant data to a
22 conclusion of relevant quality of service.

23 On that basis, I think that it's got more
24 than an adequate foundation to be admitted under the

25 usual practice of this administrative agency.

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1 JUDGE HAENLE: I had thought it was 47 she
2 had referred to. Was I incorrect?

3 THE WITNESS: I had said I had looked at it.
4 I never addressed, quite bluntly, this in terms of
5 having any relevant data. I just said I had seen it.

6 JUDGE HAENLE: Anything else?

7 MR. HARLOW: Your Honor, I just don't think
8 there is any foundation here. The question says
9 regarding U. S. West payphones. And then there is this
10 list attached which says PAL, PAL, PAL, PAL, public,
11 question mark.

12 I don't have anyone to cross-examine and
13 figure out what this exhibit purports to show. Had I
14 considered this to be a very important issue or data
15 request, I probably would have moved to compel a more
16 complete answer because I can't figure out what it's
17 supposed to show. There is no way to lay a foundation
18 or refer to this portion of the exhibit without a U. S.
19 West witness to cross-examine on.

20 MR. SHAW: Your Honor, obviously this
21 witness has put in as exhibits that she is responding
22 to responses of U. S. West to data requests and has put
23 her interpretation on it, particularly C-73. She has
24 testified as to what she decided that that means. We

25 have no witness to cross-examine, either, in that we

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1 cannot put on our own witness to surrebut in any
2 fashion after we see these offered as evidence for the
3 first time.

4 If that objection of Mr. Harlow has any
5 merit, then the practice of this Commission has been in
6 error for a long time in allowing witnesses in rebuttal
7 stage to sponsor as exhibits responses to data requests
8 submitted by the opposite party.

9 JUDGE HAENLE: How would you describe the
10 relevance of this second part of the document that is
11 the response to Data Request 47 to your case, Mr. Shaw?
12 What are you attempting to demonstrate?

13 MR. SHAW: Your Honor, we are going to argue
14 based upon this evidence that, as set out in Part C of
15 the response to Data Request No. 70, Exhibit No. 81 for
16 identification, -- and I won't burden the record here
17 by reading it -- but the sense of that response is
18 that if you showed the number of payphones as between
19 U. S. West and its unregulated competitors, that the
20 level of complaints is 210 times higher as to our
21 competitors than it is to our service. And, therefore,
22 it's very relevant as to the claim by these
23 complainants that if the Commission would just take
24 steps to remove U. S. West from the market, that they

25 would provide higher quality service.

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1 JUDGE HAENLE: Mr. Harlow?

2 MR. HARLOW: Well, your Honor, I'm starting
3 to wonder if I shouldn't object to the whole thing. I
4 was really trying to be very conservative. The point
5 of the testimony, the advertising claim is that U. S.
6 West's phones are the most reliably built and regularly
7 serviced public phones. And Mr. Lanksbury testified on
8 cross here a month or two ago that that was based on
9 their claims that they get out there and service the
10 phones quickly.

11 So, we filed rebuttal testimony that shows
12 U. S. West services their phones much less frequently
13 than the competitive payphone providers do.

14 U. S. West now submits a self-serving
15 statement that says that statement is based on a number
16 of complaints. But we don't know what these exhibits
17 deal with. Are the complaints that the phones are
18 adequately serviced or based on rates, which is an
19 entirely different issue. Because of that lack of
20 foundation, we don't think that the exhibit goes to
21 this rebuttal testimony.

22 JUDGE HAENLE: I'm going to overrule the
23 objections and enter Exhibit 81 into the record. You
24 can take up on brief what you think this shows or does

25 not show. But I feel that the relevance has been

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1 demonstrated. So, I will enter 81 and 82.

2 (Received Exhibits 81 and 82)

3 MR. HARLOW: Should 81 be designated C since
4 it has a portion designated confidential?

5 JUDGE HAENLE: Because Mr. Shaw indicated a
6 moment ago that he was not claiming confidentiality on
7 that, I crossed that out.

8 MR. HARLOW: Now I know what I missed while
9 I was reading the exhibit.

10 JUDGE HAENLE: But it's certainly good to
11 bring it up just in case. I don't want anything to
12 slip through. So, thank you for your diligence.

13 Mr. Shaw?

14 MR. SHAW: Thank you.

15 BY MR. SHAW:

16 Q. Doctor Cornell, would you direct your
17 attention to Page 21 starting with your answer at Line
18 22. Do you have that?

19 A. Yes.

20 Q. You make the statement that U. S. West has
21 given its competitors inferior form of fraud protection
22 through billed number screening.

23 Do you see that reference?

24 A. Yes.

25 Q. Is it your testimony that billed number

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1 screening, as that term is used in the
2 telecommunications industry, is an outgoing screening
3 service?

4 A. My understanding -- I'm not quite sure which
5 way you mean that. So, I had better tell you my
6 understanding. Billed number screening is intended to
7 prevent calls from being billed back to the payphone.

8 Q. In fact, the term for that service having to
9 do with digit-sent ending automatic number
10 identification is called outgoing screening, is it not?

11 A. Now you have lost me. I'm sorry. I don't
12 understand what you're asking.

13 Q. When you used the term "billed number
14 screening," are you referring to a service that allows
15 protection from third-party billed calls and collect
16 calls?

17 A. Being made to the payphone, yes.

18 Q. Charges to the payphone only?

19 A. To that line number, if you will.

20 Q. So, you are not referring in your testimony
21 here to what the phone industry calls billed number
22 screening, which provides both PAL operators and LECs a
23 database to look up the correctness of a third-party
24 billed number or collect call?

25 A. Mr. Shaw, for some reason I'm finding myself
 NINA W. CORNELL - Cross by Shaw - 12/13/93 1058

1 hopelessly confused by what you're asking.

2 The purpose of billed number screening is to
3 prevent calls from being billed to the telephone number
4 assigned to the PAL line.

5 Q. What do you call the service, if you know of
6 such a service, that provides fraud protection to the
7 payphone operator from a customer attempting to bill to
8 a third-party number or collect call where that
9 third-party number is not appropriate to bill to?

10 A. Well, generalized not appropriate to bill
11 to, it would go through an operator service company who
12 can, as far as I understand it, for some kind of a
13 price, get information about the validity generally of
14 telephone numbers and credit card numbers and so on.

15 I do not know what the name of that service
16 is. It is provided to operator services, operator
17 service companies, and not directly to a payphone.

18 The billed number screening is designed to
19 prevent calls from being billed to the payphone
20 account, operator-handled calls being billed to the
21 payphone account, or calls even that call up and say
22 things: "I tried to place this call, and I couldn't
23 get through. Would you place the call to me and bill
24 it to this number."

25 Q. Let me direct your attention now to your

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1 Exhibit C-77.

2 MR. SHAW: While you're looking at that, let
3 me hand out another exhibit.

4 JUDGE HAENLE: Is this one confidential?

5 MR. SHAW: Yes.

6 If I could have this marked as the next
7 exhibit in order for identification, please.

8 JUDGE HAENLE: This is a two-page document.
9 The first page on U. S. West Communications letterhead
10 dated September 29, 1992. Since you have indicated
11 this is confidential, I will mark it as C-83 for
12 identification.

13 (Marked Exhibit C-83)

14 MR. SHAW: Thank you, your Honor.

15 BY MR. SHAW:

16 Q. Directing your attention to C-83 for
17 identification, Doctor Cornell, do you recognize this
18 summary of PAL costs for 1991 that was supplied to you
19 pursuant to data request?

20 A. It certainly looks similar. I didn't ever
21 memorize the numbers, but it looks similar.

22 Q. Do you see the cost per message on the last
23 line of the second page of C-83?

24 A. Yes.

25 Q. I would like you to compare that to the cost
NINA W. CORNELL - Cross by Shaw - 12/13/93 1060

1 per message that you indicate in the third column of
2 C-77 on Lines 11 and 12.

3 Do you see that?

4 A. I see the cost number that I have on Line --

5 Q. It is different from the cost per message
6 reflected by the 1991 PAL cost study; correct?

7 A. That is correct. But that's not what I
8 interpret the cost per message on the 1991 PAL study to
9 mean.

10 Q. Let me ask it this way: Where did you get
11 the number that you used at Lines 11 and 12 in the
12 third column under cost of C-77?

13 A. From the local usage cost study.

14 Q. C-77 is your portrayal of what you believe
15 the PAL rate should be and purports to demonstrate what
16 your recommended rate covers cost; correct?

17 A. That is correct.

18 Q. Do you believe that the PAL cost study done
19 by the Company and supplied to you is not relevant to a
20 determination of whether or not a change in a PAL rate
21 would cover its costs?

22 A. I used the PAL cost study because, if I
23 recall correctly, the backup information dealt only
24 with the line cost. I used the local usage cost study

25 to give me a cost per local call.

NINA W. CORNELL - Cross by Shaw - 12/13/93 1061

1 Q. The cost per local call to a subscriber to a
2 PAL line is determined by the PAL tariff; is that
3 correct?

4 A. Let's keep costs and tariffs straight.

5 Q. All right.

6 A. The cost to a PAL subscriber for a local
7 call is set at the rate that U. S. West charges in its
8 tariff.

9 The cost to U. S. West of making a local
10 call should be the same whether it's from a PAL line or
11 a business line or a local residence line in terms of
12 the actual cost per message.

13 I used the local calling number for that
14 cost. I used the PAL line cost study for PAL line
15 costs.

16 Q. On what basis do you assert that the cost
17 per message in the 1991 PAL cost study is in error and
18 that the local usage rate that you referred to is the
19 correct rate to use?

20 A. I don't know that I have stated that this
21 was "in error." The backup for this study that came
22 came backing up the discussion of the loop, the drop,
23 the billing, et cetera.

24 Those things that went into the line cost I

25 used for the cost per message above 300 messages, the

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1 local usage cost study that was supplied because, from
2 all of my experience in testifying and reading
3 depositions and listening to testimony of local
4 exchange company witnesses, the cost of a message from
5 a PAL line is no different for the local exchange
6 company than the cost of the same time of day, et
7 cetera, message from a business phone or a residential
8 phone in terms of usage cost.

9 MR. SHAW: Your Honor, I would move the
10 admission of C-83.

11 JUDGE HAENLE: Any objection, Mr. Harlow?

12 MR. HARLOW: Mr. Shaw, is there any reason
13 to include the cover letter with Exhibit 83?

14 MR. SHAW: It just identifies it and when
15 you received it. So, I would like it admitted.

16 MR. HARLOW: No objection.

17 JUDGE HAENLE: Ms. Brown?

18 MS. BROWN: No objection.

19 JUDGE HAENLE: Exhibit C-83 will be entered
20 into the record.

21 (Received Exhibit C-83)

22 JUDGE HAENLE: You have handed me a one-page
23 document, Analysis of PAL LRIC and Doctor Cornell's
24 Proposed Rate -- that's apostrophe S -- Proposed Rate.

25 I'll mark this one-page document as C-84 for

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1 identification since it is marked confidential.

2 (Marked Exhibit C-84)

3 MR. HARLOW: Your Honor, I would like the
4 record to reflect since we are admitting the cover
5 letter to C-83 that the second page does not constitute
6 the entire enclosure with that cover letter. There was
7 a large stack of cost studies which came with that, as
8 I recall.

9 MR. SHAW: We agree with that. Rather than
10 put in a huge amount of data, we put in the summary
11 sheet.

12 JUDGE HAENLE: Thank you.

13 BY MR. SHAW:

14 Q. Directing your attention to C-84, Doctor
15 Cornell, do you see that this is a depiction of the
16 long-run incremental cost for the basic access line and
17 then usage computed using the cost per message from
18 Exhibit C-83?

19 A. I'm sorry. Could you repeat that?

20 Q. Yes. You see what this is trying to portray
21 in the column marked LRIC -- first of all, is the LRIC
22 cost from the PAL cost study of the basic access line
23 of the PAL line and the cost of the usage at the 300
24 call level, isn't it, in the first example?

25 A. That's what it shows, yes, in the LRIC

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1 column.

2 Q. Yes. And is it correct that under the
3 column Proposed Rate, which refers to your proposed
4 rates of C-77, that you are proposing a \$19.51 PAL rate
5 at that usage level?

6 A. That's right, to which you have to add the
7 subscriber line charge.

8 Q. Subscriber line charge is a Federal charge;
9 is that correct?

10 A. It's a Federal charge designed to cover the
11 cost of an access line.

12 Q. Is it designed to cover the intrastate cost
13 of an access charge?

14 A. It's designed to cover the revenue
15 requirement. Your incremental cost studies are not
16 separated cost studies.

17 Q. You see that the third column called COCOT
18 Local Revenues is designed to reflect simply the
19 computation of \$.25 times the 300 calls in the first
20 example?

21 A. I will accept that that's what that is
22 showing.

23 Q. And that each of the remaining examples, No.
24 2, No. 3, No. 4, and No. 5 does exactly the same thing

25 as example No. 1 at different usage levels? That is,

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1 446 calls, 1,000 calls, 2,000 calls, and 3,000 calls?

2 A. Again, you have in each instance left out
3 the subscriber line charge. So, you have understated
4 the revenues. And you have used a message rate that is
5 not the one you showed as being the cost of local
6 calls.

7 But with those two caveats, if I may, that's
8 what you are showing in the first three lines of each
9 of them.

10 Now, I do not know what your parentheses
11 numbers are, and I do not agree that you should leave
12 out the subscriber line charge from calculating
13 contribution, and I do not know what the percentages
14 are of.

15 Q. If you were preparing this document, you
16 would add to the Proposed Rate column in each example a
17 \$5 and how many cent subscriber line charge?

18 A. I confess I have forgotten the exact number.

19 Q. I think the record indicates on your other
20 exhibits what subscriber line charge you are currently
21 using. For example, your imputation study, Exhibit
22 C-75. It's embedded, too.

23 JUDGE HAENLE: Do you have a number?

24 MR. HARLOW: I think it's \$5.39.

25 BY MR. SHAW:

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1 Q. Will you accept \$5.39 subject to check?

2 A. I'll accept subject to check that the
3 subscriber line charge of \$5.39 should be added as
4 revenue in each case.

5 Q. Would you accept subject to check the simple
6 mathematics that underlie these numbers on C-84?

7 A. Arithmetically, subject to check. But, you
8 know, I would have to go off line with my calculator.
9 The numbers I will accept. I do not accept that they
10 mean what they are purporting to mean.

11 I think they are the wrong numbers for the
12 cost of usage. They are the wrong number for the
13 revenue that you would get from an access line because
14 it does not include the \$5.39 subscriber line charge.
15 And I repeat that I still do not know what the
16 percentage number is purporting to be at all.

17 Q. Under the heading "Contribution" under each
18 of the five examples, would you accept subject to your
19 check that mathematically the first number in
20 parentheses stated in dollars is simply the difference
21 between the sum of the two columns?

22 A. Yes. I assumed that that was the case.

23 Q. And the percentage number is simply
24 converting that dollar difference into a percentage?

25 A. Of what?

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1 Q. Of the sum of the costs under the LRIC
2 column.

3 A. Again, I'll have to check it. I will accept
4 subject to check until I can pull out my calculator and
5 check it.

6 Q. Thank you.

7 MR. SHAW: Your Honor, I would move the
8 admission of C-84.

9 JUDGE HAENLE: Any objection, Mr. Harlow?

10 MR. HARLOW: Well, yes. The witness has
11 testified that the exhibit is flawed in her opinion and
12 that it fails to include the subscriber line charge.
13 The witness has testified that the cost basis of usage
14 is not the figure that she used or believes is -- the
15 cost figure for local usage is not the figure that the
16 witness used and believes is appropriate to use.

17 And as far as doing the math, I don't see
18 what correct math really has to do with anything when
19 you don't have proper numbers to begin with. Clearly
20 this witness has not laid a foundation for this
21 exhibit.

22 To the contrary, the witness disagrees with
23 this exhibit, and I don't think it should be admitted
24 based on this testimony.

25

JUDGE HAENLE: Ms. Brown?

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1

MS. BROWN: No objection.

2

JUDGE HAENLE: Mr. Shaw?

3

MR. SHAW: Your Honor, on cross the witness

4

has testified that notwithstanding the numbers in the

5

Company's 1991 PAL cost study, she chose to use a

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different cost for usage. The rightness or wrongness

7

of that is for argument.

8

The other exception she has to the depiction

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is that she believes that the Federal subscriber line

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charge should be included as revenue under the proposed

11

rate column. That is a simple calculation to add that.

12

That again is subject to argument.

13

This exhibit demonstrates in an easily

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understandable way what the cost/revenue relationship

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is of the rates advocated by the witness subject to the

16

arguments on what's properly included.

17

So, I think a foundation has been laid.

18

There is not a requirement for admissibility that the

19

sponsoring witness agree with everything that is in an

20

exhibit.

21

I think the record is clear on how she

22

disagrees with it. She does not disagree that it is a

23

proper approach to demonstrate what we're trying to

24

demonstrate here just what goes into it.

25 On that basis, I think that it is

 NINA W. CORNELL - Cross by Shaw - 12/13/93 1069

1 admissible.

2 MR. HARLOW: I'm not saying the witness has
3 to disagree with everything in an exhibit for it to be
4 inadmissible. However, this proposes to be an analysis
5 of PAL LRIC and Doctor Cornell's proposed rate.

6 We have here an economist testifying as to
7 what the appropriate cost figures should be. And that
8 figure which is the premise of this exhibit is directly
9 contrary to what Doctor Cornell feels is the
10 appropriate cost.

11 JUDGE HAENLE: Commissioners, did you have
12 questions?

13 We're going to take a brief recess and talk
14 about this. We'll be back in a couple of minutes.

15 (Recess.)

16 JUDGE HAENLE: Let's be back on the record.
17 During the time we were off the record, the
18 Commissioners were considering the motion for admission
19 of the document C-84 for identification.

20 The Commission has determined this should
21 not be entered into the record. Commission expressed
22 its concern that the witness had so many disagreements
23 with this document that it would not be properly put in
24 with this witness as a basis.

25

It did seem to me that this is the kind of

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1 presentation that could be done on brief to demonstrate
2 what the relationships are. I don't see that this adds
3 any numbers that we don't already have. It just
4 arranges them in a certain format. I don't think it
5 adds to the record. And because the witness has
6 indicated that she so firmly disagrees with it, I would
7 not put it in at this time.

8 So, the Chairman asked me to give you back
9 her copy, Mr. Shaw, so that we don't have any extras
10 floating around.

11 What I am doing with the confidential
12 documents that have been rejected is putting them in a
13 separate envelope clearly marked confidential
14 documents, but not exhibits, in case a reviewing court
15 disagrees with the Commission's treatment of those so
16 that the reviewing court would have a chance to look at
17 them.

18 Go ahead, Mr. Shaw.

19 MR. SHAW: Thank you, your Honor.

20 BY MR. SHAW:

21 Q. If the Commission adopts your recommended
22 PAL rate, would you also recommend that they allow or
23 direct the Company to forbid business customers to take
24 that rate for business service?

25 A. If this is less than the business line rate,
 NINA W. CORNELL - Cross by Shaw - 12/13/93 1071

1 which I just don't remember sitting here today, then,
2 yes, I guess they would have to. Not that I like using
3 user restrictions. I like price squeezes even less.

4 Q. Page 25, Line 26, of your testimony, you
5 state that if your recommendations are followed the
6 industry would earn normal profits.

7 Do you see that statement?

8 A. Would you give me the line again?

9 Q. Yes, Page 25, Line 26, I believe.

10 A. Carrying over to the next page. I believe
11 that to be the case in the long run, yes.

12 Q. Looking at your C-77, is your recommended
13 profit or contribution on usage of three percent a
14 normal profit as you have used that term?

15 A. Contribution is not the same as profit, Mr.
16 Shaw. Contribution is merely the amount to which a
17 particular price of a multi-product firm exceeds the
18 cost for that particular product, the direct
19 incremental costs of that particular product. That and
20 nothing more.

21 Q. Are you aware of standing Commission orders
22 in this state that adopt a rebuttable presumption that
23 contribution of less than fifteen percent over LRIC is
24 too little contribution on an individual service?

25 A. No.

NINA W. CORNELL - Cross by Shaw - 12/13/93 1072

1 Q. When you used the term "normal profit," what
2 do you mean? How would you define "normal profit"?

3 A. Normal profit is a term in economics for the
4 profits earned in a competitive industry taking into
5 account the risk experienced in that industry. And it
6 is not a number -- at any given point in time, that
7 profit level can and does differ when you look at the
8 economy as a whole. In a period of recession, normal
9 profits are often negative. In boom times, they are
10 positive.

11 The figures that you would see in terms of
12 return on investment will also be affected by the
13 inflation that's sitting out there at any point in
14 time.

15 Q. Are you aware that your clients sign
16 contracts with their site providers?

17 A. Yes.

18 Q. Do you know how long those contracts are
19 for?

20 A. No.

21 Q. Finally, as to your reservations about the
22 Yellow Page revenues gained by U. S. West payphone
23 operations for maintaining and servicing U. S. West
24 Direct's books and U. S. West Communication's

25 payphones, is it your testimony that Yellow Page and

NINA W. CORNELL - Cross by Shaw - 12/13/93 1073

1 White Page directories published by U. S. West Direct
2 are a monopoly bottleneck?

3 A. The answer is kind of yes and no again.
4 Other people do publish directories. I know they do
5 not have the same consumer acceptance that the official
6 telephone company directories have. And I also know
7 that the basic information about listings comes from
8 exactly that same database that we were talking about
9 earlier this morning with respect to directory
10 assistance.

11 The fact of the listing is almost -- I mean,
12 it is. It's not even almost -- it is created by the
13 fact of subscription, the data for that listing.

14 Q. Are you aware that those listings are
15 available on equal terms and conditions to all
16 publishers of telephone books?

17 A. I don't know about the equal terms and
18 conditions. But I know that they are available.
19 Whether in as timely a fashion, whether as accurately
20 is something I do not know in the case of U. S. West.

21 Q. Is it your testimony that any payment from
22 an affiliate of a local exchange company has to be
23 available to its unregulated competitors for the local
24 exchange company to count that payment as revenue and

25 use it to offset its operating expenses?

NINA W. CORNELL - Cross by Shaw - 12/13/93 1074

1 A. I don't know that I would make a blanket
2 statement about all circumstances. I have looked at
3 the Yellow Pages one. And the only reason for paying
4 U. S. West Communications to maintain Yellow Pages --
5 U. S. West Direct Yellow Pages at its payphones that
6 makes any sense is that it wants U. S. West Direct
7 Yellow Pages rather than some alternative carrier's
8 Yellow Pages.

9 Well, given that, U. S. West Direct not only
10 should be willing to pay the competitors to U. S. West
11 payphones, if anything they ought to be willing to pay
12 them more because the competitors are much more likely
13 to turn to alternative Yellow Pages directories than is
14 U. S. West Communications.

15 Q. Is it your testimony as a matter of proper
16 regulation economics that the imputation test for U. S.
17 West's services should ignore all revenue received from
18 an affiliate if that same revenue is not available to
19 an unregulated competitor?

20 A. I said before -- I think you have asked me
21 this question now twice -- that I would not make a
22 blanket statement in all cases without knowing more
23 about the circumstances.

24 I have looked at the circumstances in this

25 particular instance. It is proper to look to all

NINA W. CORNELL - Cross by Shaw - 12/13/93 1075

1 sources of revenues that are really caused by placing
2 the payphone.

3 In this instance, if U. S. West Direct is
4 not willing to pay the competitors to place payphones,
5 given what U. S. West Direct -- U. S. West Direct's
6 interest in making the payment at all must be based on
7 my ability to analyze it, that, if they are not willing
8 to pay it, it is, therefore, being paid for some reason
9 other than because U. S. West places payphones because
10 U. S. West Direct, in making those payments, is to make
11 sure it is its Yellow Pages and not somebody else's
12 that sits at the payphone.

13 Q. Is it your assumption that U. S. West Direct
14 would pay U. S. West Communications to maintain its
15 books and its pay stations if U. S. West had no pay
16 stations?

17 A. Obviously that's then not how it would be
18 worded. But the question is: Could U. S. West
19 Communications get an equivalent amount of revenue out
20 of U. S. West Direct if it had no pay stations. And
21 if, in fact, U. S. West Direct is not interested in
22 paying people to have it be U. S. West Direct Yellow
23 Pages as opposed to some other company's Yellow Pages,
24 presumably that's not why they are paying U. S. West

25 Communications, either.

NINA W. CORNELL - Cross by Shaw - 12/13/93

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1 Q. Are you aware that in addition to these
2 payments by U. S. West Direct and the payments for the
3 subscriber listings, that this Commission in addition
4 imputes over \$70 million a year from U. S. West Direct
5 to U. S. West Communication's Washington operations?

6 A. I didn't know the figure, but I did know
7 that there was an issue or that there is an imputation.

8 Q. In performing a cost test for U. S. West's
9 services, where should that large amount of regulatory
10 imputed revenue be assigned?

11 A. I believe it should be assigned frankly to
12 help cover the cost of the core services because, to be
13 blunt about it, those -- the core services create the
14 listings. The core services have helped create the
15 value of the logo. And those are the things that go to
16 make U. S. West Direct so profitable.

17 Q. Are public-interest payphones provided by U.
18 S. West in its assigned territory as part of its
19 obligations of a telecommunications company core
20 services that should get some share of the \$70 million
21 Yellow Page imputation?

22 A. You have made a number of things in the
23 question itself that I have to take issue with.

24 First of all, I know of no obligation to

25 provide payphones. So, I'm not sure that there is any

NINA W. CORNELL - Cross by Shaw - 12/13/93 1077

1 requirement to provide public-interest phones. That
2 does not mean that there should not be. But I do not
3 know that it exists.

4 Secondly, the core services that I'm
5 thinking of are providing subscriber lines and switched
6 local exchange usage particularly or usage of the
7 switched local exchange may be a better way to put it
8 because it goes by a variety of names, including
9 switched access. Those are core services.

10 Q. So, the Yellow Page imputation should be
11 attributed to residential exchange services, business
12 exchange services and carrier access charges only?

13 A. No. I said that the cost of providing lines
14 and the cost of providing usage of the switched local
15 exchange, it may well be that you have used some of
16 that or could use some of that to cover the cost of a
17 PAL line, to cover the cost of a coin line, to cover
18 the cost of business and residential access lines, to
19 cover the cost of the use of the switched local
20 exchange.

21 Q. Are U. S. West's competitors for switched
22 access for business and residential local exchange
23 service going to have advertising revenues available to
24 them to support their competitive telecommunications

25 services?

NINA W. CORNELL - Cross by Shaw - 12/13/93 1078

1 A. I don't even know what competitors you were
2 talking about. At the present time, the ability to
3 bypass switched access, which is the most likely thing
4 to be able to be bypassed, is decidedly miniscule.

5 The numbers I have seen in publications are
6 that less than one percent -- it may be less than one
7 tenth of one percent. I can't remember, but it's
8 certainly less than one percent -- of the carrier
9 access payments in total, switched plus special, go to
10 alternative access providers. That from companies
11 where the price, reported price/cost relationship of
12 access, is well over 100 percent of contribution and
13 sometimes double that or more, which indicates that
14 companies that could, if they knew of somebody
15 providing it at closer to incremental cost, would move
16 can't.

17 I do not view there to be alternatives to
18 switched access at this point. And the alternatives to
19 a business line are at the moment at best pie in the
20 sky.

21 Even cellular, which is a service that
22 exists, I know of nobody who has thrown away their
23 phone off the wall or off the desk in order to rely
24 solely on cellular telephone service.

25 Q. I take it from your answer you do not

NINA W. CORNELL - Cross by Shaw - 12/13/93 1079

1 anticipate in the foreseeable future any facilities
2 based competition for residential, business, and
3 switched access in the state of Washington?

4 A. I don't anticipate it any time soon. And
5 whether it exists at all is going to depend so
6 critically on the terms of interconnection between
7 anybody who tries to enter and U. S. West and GTE and
8 the other local exchange providers. And the signs for
9 that are not promising given the interconnection
10 policies with cellular and long distance companies
11 sitting out there as the only current models.

12 MR. SHAW: Thanks very much. It's always a
13 pleasure.

14 JUDGE HAENLE: Ms. Brown?

15 MS. BROWN: Thank you.

16

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

18 BY MS. BROWN:

19 Q. I would like to go back to the profitability
20 issue that Mr. Shaw was just asking about. Let me
21 direct your attention to Page 25, the bottom of the
22 page.

23 You defined what you meant when you used the
24 term "normal profits." Could you please tell me how

25 you would define "super normal profits."

NINA W. CORNELL - Cross by Brown - 12/13/93 1080

1 A. Once again, super normal profits occur when
2 a firm is earning higher than a normal profit level,
3 which again is what competitive firms -- the closest
4 sort of real-world approximation to it is what
5 competitive firms on average are earning as a normal
6 profit in really competitive industries.

7 Q. You would agree that reducing the PAL rate
8 would increase in increased profit potential for the
9 PAL subscribers in the short run?

10 A. In the short run, yes. In the long run,
11 what you have seen already with all of the sent-paid
12 part of the payphone industry is competing a way back
13 down to essentially normal levels of profit in the
14 sent-paid side.

15 You have, you know, the three for a dollar,
16 four for a dollar. I have seen circumstances, not
17 necessarily here in Washington, but in other part of
18 the country, where the \$.25 local call rate has been
19 competed down to \$.20.

20 So, you have in the sent-paid side of the
21 industry, you're seeing exactly what you expect out of
22 competition.

23 Q. How long is the short run?

24 A. Short run can be, depending upon the

25 characteristics of the industry, it can be several

NINA W. CORNELL - Cross by Brown - 12/13/93 1081

1 years. Again, there is this unfortunate habit of
2 having concepts but no short range concepts around
3 them.

4 If there are Constitutional barriers that
5 exist, the short run can last longer than if there are
6 not Constitutional barriers. It took a long time
7 before the non-LEC providers really were able to fully
8 take advantage of various discounted calling offerings
9 by long distance providers and to get up and running
10 things like three for a dollar, four for a dollar.
11 That's now going on, however. And those kinds of
12 things, once started, have a tendency to keep going and
13 mushroom.

14 Q. At Page 2 of your testimony, Lines 18
15 through 20, you discuss a price squeeze and indicate
16 that it results from a combination of inappropriate
17 local sent-paid rates and PAL rates.

18 Do you see that?

19 A. I see the lines that you're talking about.
20 I think there is an unstated thing in that sentence
21 that adds to that, which is you have the combination of
22 the PAL rates, the sent-paid rates, and the various
23 commission payments that U. S. West pays space
24 providers, that collectively all three of them come

25 together to create the price squeeze.

NINA W. CORNELL - Cross by Brown - 12/13/93 1082

1 Q. Isn't it true, though, that your clients say
2 they should reduce commissions to aggregators, accept
3 less profit, or cut costs to mitigate the effects, if
4 any, of this alleged price squeeze?

5 A. No. And I would like to explain why.

6 First of all, they are cutting costs every
7 place they can. That's the only way they are even in
8 existence now. If you accept less profits, you get
9 nobody to invest in payphones.

10 What you're saying is, really, in that
11 suggestion is that they should simply go out of
12 business. You're saying the same thing in the third
13 one as well. You're telling them to voluntarily take
14 less revenue to cover their costs.

15 That doesn't end -- excuse me. You're
16 telling them to pay less to site owners. That just
17 means they don't place any payphones. They can't
18 afford to go in -- there is no way you can walk into a
19 site provider and say, "Do I have a deal. I'll pay you
20 half the revenue you're getting from U. S. West. Take
21 my payphone." It just doesn't work that way. If you
22 were a site provider, you wouldn't do it, nor will any
23 of these others.

24 In terms of the aggregators, they are

25 receiving a commission from the aggregators. If they

NINA W. CORNELL - Cross by Brown - 12/13/93 1083

1 were to voluntarily take less of a commission, once

2 again, you have the same thing that I said before.

3 You're just asking them to go out of business because

4 you're now asking them not to have revenues to cover

5 their costs.

6 If it were a fair marketplace, if they were

7 paying what U. S. West is implicitly paying itself for

8 bottleneck monopoly inputs and if they still couldn't

9 make it, it's their tough luck.

10 In the face of a price squeeze where U. S.

11 West does it by over inflating commissions to space

12 providers and paying for them someplace else by

13 charging itself less for the bottleneck monopoly

14 inputs, in effect, there is no way that these things

15 work to affect the price squeeze.

16 Q. Of the private payphone providers, do you

17 know what percentage of total operating costs are

18 associated with public access lines?

19 A. No, I don't.

20 Q. So, then, you don't know if the PAL rate

21 is reduced, how much the total operating costs would be

22 reduced?

23 A. No, I don't.

24 Q. Have you performed any studies or done any

25 analysis of the shift in market share or increase in

NINA W. CORNELL - Cross by Brown - 12/13/93 1084

1 revenues year after year for the past four years for
2 either private payphone owners or AOS companies?

3 A. No.

4 Q. Have you conducted any comparisons of the
5 costs of AT&T and U. S. West versus AOS companies and
6 private payphone owners?

7 A. No.

8 Q. Is it your opinion that the alleged price
9 squeeze has created barriers to entry into the private
10 payphone owner or AOS markets?

11 A. I don't know about AOS. But, yes, to
12 private payphone.

13 Q. Could you please elaborate on that.

14 A. Well, I mean, in my opinion, it's very
15 personal. My husband and I were asked to invest in
16 one, and I said absolutely no way. I'm not going up
17 against a price squeeze, point blank. Told friends,
18 don't do it either. Point blank.

19 Q. You testified about inferior fraud
20 protection. Are you aware that the FCC recently
21 promulgated rules intended to remedy some of those
22 problems?

23 A. I am not fully up on all of the rules put
24 out by the FCC. I relied on what was in this docket to

25 talk about the fraud protection here.

NINA W. CORNELL - Cross by Brown - 12/13/93 1085

1 Q. Would you agree that with the advent of
2 sophisticated validation software and the creation of a
3 national database that the bad debt exposure is
4 significantly reduced or limited?

5 A. I'm not sure that I'm willing to ascribe
6 magical powers to any sophisticated software. Given
7 the ability of computer hackers, I don't know.

8 Q. Would you agree that, at least in theory,
9 competition is designed to benefit the end user?

10 A. Yes.

11 Q. You propose two alternatives, I believe, to
12 eliminate this alleged price squeeze. One being a
13 reduction in the PAL rate and one being an increase in
14 the local coin rate. And I would just invite you to
15 explain how your one alternative, which I understand is
16 not the one that you favor in this proceeding, but your
17 alternative proposal to raise the local coin rate to
18 \$.35 would benefit the end user.

19 A. Well, you were quite correct in saying that
20 I have tried to be very clear that I think it's better
21 to fix the PAL rate than the end user rate. I was
22 asked before in the first round whether raising the end
23 user rate would fix it, and I believe the answer to be
24 yes.

25 I don't believe that's the best choice, and

NINA W. CORNELL - Cross by Brown - 12/13/93 1086

1 I tried to say that. I do believe, however, that, even
2 if the choice is to raise the rate to the end user now,
3 as long as the Commission follows my second
4 recommendation -- I think it's my second -- which is to
5 take the steps necessary not just to end it now but
6 to keep it ended, that is, requires U. S. West to live
7 by an imputation test either through requiring a
8 separate subsidiary, which is the cleanest and fastest
9 way, or by annual filings done properly, monitored and
10 checked, with any losses going to the shareholders or
11 below the line rather than into the revenue
12 requirement, that that sets the premise, that sets the
13 conditions for there to be much fairer competition and
14 much more likely competition. And if it is correct
15 that it really should not have to be a \$.35 call rate,
16 what you will see is competition begin to bring that
17 back down as it has in Florida and which is the case I
18 know the best about, the \$.20 call rate.

19 Q. At Page 10, Line 8, you indicate that U. S.
20 West knew the tariff rate it has implemented for answer
21 supervision "would be too high for most of its
22 independent competitors to use the feature."

23 What evidence do you rely upon to make this
24 assertion?

25 A. Well, it says "dependent competitors." They
 NINA W. CORNELL - Cross by Brown - 12/13/93 1087

1 are not independent.

2 I rely upon Exhibits -- I would have to at a
3 break look up the exhibit numbers that were put into
4 the record during the October hearings. One of them
5 was a survey, I believe, of likely take rates at
6 different prices for answer supervision line side. And
7 -- that's the evidence, that plus the evidence that was
8 in the direct case from Mr. Coulson about why answer
9 supervision is important in terms of the refund
10 problem.

11 The best evidence, however, was put in in
12 the October hearing. It's a survey, and at a break,
13 unless my counsel will come to my aid and give the
14 exhibit number, I will look it up and tell you -- go
15 back and tell you the exhibit number.

16 But it was a survey that was done that had
17 likely take rates at different prices. And it showed
18 that a price significantly lower than the one they
19 chose was one that maximized the take rate.

20 Q. At Page 12, beginning at Line 1 of your
21 testimony, you mention coin surcharge revenues over
22 regular MTS rates for sent-paid calling.

23 Do you believe that the coin surcharge
24 revenues over regular MTS rates for sent-paid calling

25 are revenues which are properly counted as payphone

NINA W. CORNELL - Cross by Brown - 12/13/93 1088

1 revenues?

2 A. Yes. And I do include them in my analyses.

3 Q. At Page 15 of your testimony, Lines 12
4 through 14, you state that the wholesaler could simply
5 lower his wholesale rates so that his retail rates
6 covered them.

7 Could you explain what you mean by that?

8 A. Well, when you're talking here about the
9 relationship of retail to wholesale rates, which is, in
10 effect, what a price squeeze is talking about, there
11 are two things you can do.

12 Just as you started out asking me about
13 either lowering the PAL rates or raising local calling
14 rates, a wholesaler, if his retail rates are lower than
15 his wholesale rates, he can either lower his wholesale
16 rates or he can raise his retail rates.

17 Q. By that you weren't suggesting that the
18 wholesaler could or should lower rates below cost, are
19 you?

20 A. No. And I tried very carefully when I gave
21 you suggested PAL rates to show you that, indeed, those
22 rates are not below cost when you take into account the
23 full charge for a line and the proposed cost for local
24 calling compared to what -- excuse me -- the charge for

25 local calling compared to its cost.

NINA W. CORNELL - Cross by Brown - 12/13/93 1089

1 Q. I would like to go back to the public policy
2 payphone issue, which I believe you discuss in your
3 testimony at Pages 15 through 19.

4 Is it your understanding that U. S. West
5 does not include any of its payphones in large
6 metropolitan exchanges in its definition of public
7 payphones, public policy payphones?

8 A. I believe that is correct; that it took out
9 all of the ones in large wire centers.

10 Q. Do you believe that that is a valid
11 assumption? Would you agree that there could be public
12 policy payphones in Seattle, for example, or Olympia?

13 A. I would be surprised, and I would like to
14 explain why:

15 I know that a lot of people think about, for
16 example, public housing projects as being a place where
17 maybe you need public policy payphones. In Florida, at
18 least, I know at least two non-LEC payphone providers
19 who are competing to provide payphones in public
20 housing projects. They generate an enormous amount of
21 revenue. And so they are not at all unprofitable
22 payphones to place.

23 Similarly, if you think about another kind
24 of location where you might think, okay, public policy

25 payphones, it would be near sort of I want to use the

NINA W. CORNELL - Cross by Brown - 12/13/93 1090

1 word rustic recreational facilities, large parks and so
2 on.

3 But once again you're talking in Seattle, in
4 Olympia, areas that have high passer-by traffic. So,
5 once again, these are likely to be high revenue even
6 though they may fit the concept of a place where you
7 definitely want to have a payphone. The fact is the
8 market will work quite nicely, thank you, to ensure you
9 have one.

10 A public policy payphone is one that I think
11 about as being placed because you need it for public
12 health and safety but the market would not on its own
13 provide it.

14 Q. Does your estimate of the number of these
15 "public policy payphones" include any payphones in
16 large metropolitan exchanges?

17 A. No. And for the reasons that I have just
18 given you.

19 Q. At Page 22 of your testimony, you indicate
20 that the use by competitive payphone providers of their
21 surrogate bill number screening technology is less
22 likely to prevent fraud.

23 Do you see that?

24 A. Yes.

25 Q. Have you done any studies to support this

NINA W. CORNELL - Cross by Brown - 12/13/93 1091

1 particular conclusion?

2 A. I don't know what you mean by "studies."

3 So, I'll tell you the basis for that:

4 I have talked to non-LEC payphone providers
5 and to interexchange carriers who do, after all,
6 provide operator services and had both tell me the same
7 story: That it's more likely to have fraud on a
8 non-LEC payphone than on a LEC payphone.

9 Q. If the Northwest Payphone Association
10 receives the benefit of lower PAL rates, is it your
11 understanding that the Northwest Payphone Association
12 members will pass these savings through to the
13 consumers by reducing sent-paid rates and/or
14 contracting lower AOS rates?

15 A. In the long run, yes. Clearly the first
16 thing that any company is going to try and do is to use
17 it to help offset costs that it faces. But as I said
18 before, what you have got out there is a lot of
19 competition beginning to really show. I have given you
20 two examples. They show up in the sent-paid part of
21 the business.

22 Q. Would you please explain the basis for your
23 understanding conditions does not regulate the amount
24 U. S. West pays to location providers?

25 A. Statements that have been made early in this
 NINA W. CORNELL - Cross by Brown - 12/13/93 1092

1 case, I believe by Mr. Shaw; the fact that the
2 Commission payments are not a tariff; those kinds of --
3 they, in fact, have never come before you and asked for
4 permission to pay these.

5 Those are the bases for saying you do not
6 regulate them.

7 Q. At Page 29, Lines 10 and 11, you state that
8 a truly competitive firm would not enter into a
9 contract that does not cover what the firm believes are
10 its costs.

11 Isn't it possible that a competitive firm
12 might do that very thing for a short-term in an effort
13 to gain market share?

14 A. No. A truly competitive firm is out to make
15 profits, not market share at a loss. There is an
16 expression I have: You really can't say I'm losing a
17 penny on every sale and making it up in volume.

18 Q. You don't agree that toll revenue either
19 sent-paid or non-sent-paid is attributable to U. S.
20 West's being the owner of the payphone; is that right?

21 A. That's not quite correct. I believe that
22 you could attribute toll revenue, either sent-paid or
23 non-sent-paid, to the payphone to the extent that U. S.
24 West can get more of it by placing a payphone than by

25 paying a commission to somebody else placing a

NINA W. CORNELL - Cross by Brown - 12/13/93 1093

1 payphone.

2 As they do not pay a commission, I did not
3 include any of it other than the coin surcharge
4 revenues because those are available as well. U. S.
5 West can collect those for placing the payphone and so
6 can everybody else.

7 Q. So, you don't include toll revenues in your
8 Exhibit C-75; is that correct?

9 A. I do not include the underlying toll
10 revenues. I do include the coin toll surcharge
11 revenues.

12 Q. At Line 15 of Exhibit C-75, you impute
13 commission fee expenses; is that correct?

14 A. Hold on a second. I need to find it.

15 Q. Okay.

16 A. I impute commissions, yes. Those are
17 space-provider commissions.

18 Q. On what revenues is this commission fee
19 calculated?

20 A. That differs, depending upon which group it
21 is, what customer it is. I computed it simply based on
22 what U. S. West reported as its total commission
23 payments.

24 If you go back to, I believe it's C-74 --

25 no. I take that back. It's C-73 -- you'll see the

NINA W. CORNELL - Cross by Brown - 12/13/93 1094

1 commission formulas for U. S. West. And you can see
2 that it is sometimes -- it's on a variety of different
3 bases that they pay commissions.

4 Q. Does the amount shown on Line 15, Exhibit
5 C-75, is that amount based in part on sent-paid
6 intraLATA toll?

7 A. Yes. They pay commissions sometimes on all
8 revenues received through the payphone; sometimes on
9 cash in the box; sometimes different amounts. I mean,
10 that was what I was trying to direct you to without
11 reading it. But, yes, sometimes it does include
12 sent-paid intraLATA. Sometimes it included
13 non-sent-paid intraLATA toll.

14 MS. BROWN: Thank you.

15 JUDGE HAENLE: Commissioners, have you
16 questions?

17 CHAIRMAN NELSON: Yes. Just a couple.

18

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

20 BY CHAIRMAN NELSON:

21 Q. Doctor Cornell, you have mentioned Florida
22 as being a good regulatory framework; is that correct?

23 A. I don't know that I would call it a great
24 regulatory framework. What I did say was that there

25 was competition for sent-paid local calls.

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1 Q. You weren't holding it up as an ideal?

2 A. No.

3 Q. Did I also hear you say that you thought
4 there was a cause and effect relationship between
5 whatever they do with the sent-paid and the 20-cent
6 rate for the end user? Or did I mishear you?

7 A. I don't know that I said that. What I have
8 seen happen across the country basically is the
9 competitive pressure is breaking out at the moment in
10 one of two ways, and it always involves sent-paid.

11 One is here where you have got things like
12 three for a dollar and four for a dollar. So, it's
13 coming out in sent-paid toll.

14 In Florida it seems to be coming out in
15 terms of sent-paid local in terms of breaking out
16 because of all of the problems that exist in the
17 operator area, including what I believe to be a
18 fundamentally underlying problem of believing
19 incorrectly in the payphone case probably, correctly in
20 the interexchange carrier case, that billing and
21 collection is competitive.

22 You have got a real price squeeze going
23 there. And yet customers walking up to a payphone want
24 to use their local exchange company calling card. And

25 so you have enormous problems that arise out of sort of

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1 a snowball effect through those things.

2 But where sent-paid, where there is not a
3 problem of getting a payment from the customer for the
4 use of the payphone as well as a payment from the
5 customer for the network service the customer then
6 uses, you are seeing competition break out.

7 Q. Do you have any state you could refer to me
8 where you think this situation is regulated
9 appropriately?

10 A. No. And always -- I think the problem is
11 the same: That commissioners look at it, increasingly
12 are coming to believe there is a problem, and at the
13 same time they don't want to raise the local call rate,
14 which I understand. And yet, you know, there is this
15 whole issue of public policy payphones. And, you know,
16 quite honestly, I think in the past there has been a
17 feeling, "I don't care if there is competition in
18 payphones. I don't see any benefits to consumers from
19 it."

20 I think that's wrong, and I think you're now
21 beginning to see them. But it takes awhile also -- I
22 found telling other people that you go in to arguing
23 about public policy and you count on having to say it
24 ten times before somebody takes you seriously and says,

25 "Hmm, yes." And I think this is an issue that is

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1 coming before commissions in greater number just in the
2 last couple of years, certainly based on what I have
3 been asked to do in the last couple of years.

4 I think the thing to do is to look at what
5 you're saying about imputation in the toll case. After
6 all, think about how long that idea took to get
7 started, and there is still states that don't do that.
8 But it's exactly the same principle.

9 Q. We have adopted imputation as a guiding
10 star, if you will.

11 A. And I think you're right to do it. You have
12 my commendation.

13 Q. Thank you.

14 I'm also told that NARUC, that Iowa has,
15 quote unquote, deregulated payphones. Do you have any
16 knowledge of the situation in Iowa?

17 A. I do believe that is correct. I find it
18 interesting, the few times I have tried to use a
19 payphone in Iowa, I do believe I have paid \$.35 for a
20 local call. I haven't been there in nine months, since
21 before the floods. But that's what they did when they
22 deregulated it. U. S. West charged \$.35, and I don't
23 know what other people charge. Taking advantage, I
24 presume, of characteristics of demand.

25 Q. Do you have any idea what the penetration

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1 rate of the competitors would be?

2 A. I do not because I do not know anything

3 about the whole business of PAL rates and

4 relationships.

5 CHAIRMAN NELSON: Thank you.

6 JUDGE HAENLE: Commissioner?

7

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

9 BY COMMISSIONER HEMSTAD:

10 Q. Doctor Cornell, perhaps I missed this in

11 your references to Florida. What, in your opinion, are

12 they doing right in Florida?

13 A. Agonizing about the problem, I suppose, is

14 the best I can say.

15 Florida, like a number of states, in my

16 opinion, is lurching towards a solution. And the

17 reason I put it that way is Florida has allowed what

18 I'll call a box charge for non-LEC payphone providers.

19 But the LEC payphone providers don't charge it. So,

20 it's not a viable long-run solution.

21 Q. What is the box charge?

22 A. A charge is that when you step up to the

23 phone, either through a non-sent-paid or sent-paid, you

24 pay more -- part of what you pay is deliberately a

25 payment, rental of the phone instrument, in effect,

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1 which is correct.

2 You're walking up to a phone instrument
3 that's put there for you to use where you do not have
4 your own telephone and where you do not have your own
5 credit established with a network service provider,
6 and the phone instrument is providing you with those
7 capabilities. There is a cost to provide it, and the
8 provider should be reimbursed for that cost in some
9 way.

10 And I have always felt that ultimately
11 something like a box charge is going to be the way it's
12 going to have to go. But you can't have the dominant
13 player not charging a box charge and, indeed, not
14 allowed to charge a box charge and ask the entrants to
15 do that and still ultimately attract end users to their
16 payphones. Everybody wants to get it for free if they
17 can.

18 Q. So, everybody would pay the box charge?

19 Both LECs and non-LECs would collect the box charge? I
20 don't really understand.

21 A. Yes. If you were going to do it in that
22 fashion, yes. But everybody should collect the box
23 charge. I mean, all payphone providers should collect
24 that.

25 And you have it in sent-paid local if you

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1 think about it. A message unit rate is in here. It's
2 \$.06 cents at the moment but you pay \$.25 when you use
3 the payphone. So, you already have implicit in that a
4 box charge.

5 Q. I would like to explore at least briefly
6 here your proposed remedy.

7 There has been a fair amount of discussion
8 here about -- and I'm not going to reopen it -- your
9 first recommendation is either to lower the PAL rate or
10 increase the payphone rate.

11 Do you know how many non-LEC payphone
12 providers there are in Washington? Maybe that's in the
13 record.

14 A. It may be in the record. I don't know the
15 number precisely.

16 Q. Do you know if the number is increasing?

17 A. My suspicion is that, in fact, it's
18 decreasing partly because it's an industry that's now
19 seeing mergers and sort of consolidations and moving
20 from, at least for all but one category, if I can put
21 it that way, those who really are going out and
22 soliciting premise owners for the right to place
23 payphones, that part of the business is consolidating.

24 I do not know how many sort of mom and pop

25 cash only payphones at bars or at family restaurants

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1 there are and whether that's increasing or decreasing.

2 Q. Well, you testified that in making your own
3 judgment as to whether to make an investment in the
4 area that it was your conclusion it was not a good bet
5 or a good investment bet because there are lots of
6 reasons why people do or don't make investments.

7 Do you have any sense in this state whether
8 there is capital investment going into this industry?

9 A. Well, there certainly is some capital
10 investment going into this industry. The question I
11 would ask and the way I think about it as an economist
12 is: Is it as much as would go into this industry if
13 the conditions of competition were fair. And I have to
14 believe the answer is no.

15 Q. Are there any studies at all here or around
16 the country that have examined that question of capital
17 entry levels into the non-LEC payphone area?

18 A. Not that I'm aware of, no. The only thing I
19 can tell you is there clearly is some capital, net
20 capital, that has gone into it because the number --
21 the total number of payphones in most states that have
22 entry is greater than it was in the days when it was a
23 monopoly.

24 Q. I think you testified that as part of that

25 first remedy you also address the question of

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1 commission rates. It's probably in the record. But
2 would you have this Commission regulate commission
3 rates?

4 A. No. But if you tell U. S. West that the
5 rates are going to be restructured to end price squeeze
6 and that they are not going to be allowed to recreate
7 it, either through the separate subsidiary requirement
8 or the imputation requirement, what you're going to
9 find is that the end result is that U. S. West
10 management will revisit commission payments. And
11 that's, after all, the incentive you want to send them.

12 Q. Your second remedy is to prevent, your term,
13 a new "price squeeze," either create a separate
14 subsidiary or have an annual imputation study.

15 What are the implications of setting up a
16 separate subsidiary? Is it your view that any time the
17 Bell Operating Company is both a provider of, again,
18 your term, bottleneck services, and is providing the
19 end service itself, too, that that ought to be the
20 remedy?

21 A. Not necessarily. It happens to be in
22 payphones that it is a peculiarly well adapted case to
23 do just exactly that. There is a lot of dedicated
24 personnel to payphones as it stands now.

25

I mean, you have to realize that you don't

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1 need coin collectors, you know, for MTS. You don't
2 need certain kinds of repair people for, again, for
3 MTS. You need them for payphones. There is a lot of
4 personnel that does specialized work in payphones.

5 It is, therefore, much easier to segregate
6 the payphone activity from the rest of U. S. West's
7 activity than it would be to segregate intraLATA toll,
8 perhaps, although I know there are people who have made
9 that suggestion, too, or some other services where
10 there is beginning to be or may begin to be competition
11 in the future.

12 This one is particularly easily suited in
13 terms of not imposing a huge sorting cost to figure out
14 who belongs in which part of the company and what they
15 are doing and where it fits.

16 Q. I take it it would be your position this
17 would not be a precedent for applying that kind of a
18 standard to lots of other areas?

19 A. It does not have to be a precedent. Let me
20 put it that way. There are people who may think that's
21 the best way to go. I happen to believe the more you
22 separate them the easier your job is, Commissioner, as
23 a commissioner. But if you did it in the case of
24 payphones, it is certainly possible to talk about why

25 this is a fairly unique case if that's what a

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1 commission wants to do.

2 Q. Your third remedy as I understand it, would
3 be apparently to require this Commission or have this
4 Commission require U. S. West to open up all of its
5 current contracts for some window period for
6 opportunity for those contracting providers to go in
7 some other direction and make it across the board, all
8 contracts?

9 A. If it's legal to do so, yes, I would ask you
10 to ask them to -- to tell them that they must rebid
11 those contracts under the new rules that you have
12 established as opposed to allowing continuation of
13 losing proposition contracts. And that was to show you
14 how much they lose in some certain contracts was the
15 purpose of the Sea-Tac analysis.

16 Q. This is a legal question, I guess. But have
17 you thought about whether the contracts clause applies
18 to -- let me phrase it this way: Has any other state
19 applied such a remedy?

20 A. I don't know the answer to that, quite
21 honestly. I know there have been occasions in which
22 previously-established -- I think there were contracts,
23 but I'm not certain -- things like 800 contracts of
24 AT&T have been allowed to have been reopened by the

25 Feds. And they have been told they have to allow

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1 customers what I believe is known as the fresh look at
2 who they want to have once number portability came into
3 being.

4 Q. With regard to public policy payphones, I
5 think your testimony is to the point that some
6 government agency should determine the locations for
7 such public policy phones.

8 How practical is that? First, does any
9 other state do that now?

10 A. I don't know that any other state has done
11 it through what I'm going to call yet a contested
12 hearing kind of process. I believe that in Oregon, in
13 fact, U. S. West and the Payphone Association sat down
14 and began to try to identify public policy payphones.

15 It is certainly feasible to do it. I mean,
16 you could do it by putting out a notice asking
17 governmental, you know, cities, counties, to let you
18 know the places they think payphones are essential to
19 ensure emergency notification of problems.

20 Q. So, you would see that as ultimately being
21 done by actually geographically identifiable locations
22 rather than by category of services or areas?

23 A. Yes, geographic locations.

24 COMMISSIONER HEMSTAD: That's all I have.

25 JUDGE HAENLE: Commissioners, anything else?

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1 CHAIRMAN NELSON: No.

2 JUDGE HAENLE: Let me suggest we take our
3 afternoon recess before we get to your redirect. We'll
4 take fifteen minutes, which will take us to fifteen
5 minutes from now.

6 (Recess.)

7 JUDGE HAENLE: Let's be back on the record
8 after an afternoon recess.

9 Do you have redirect, Mr. Harlow?

10 MR. HARLOW: Briefly, your Honor.

11

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

13 BY MR. HARLOW:

14 Q. Doctor Cornell, I'm handing you Exhibit 25,
15 which was attached to Mr. Lanksbury's testimony as
16 LDL-C2. Is that your portion of your testimony that
17 Miss Brown was asking you about pricing at a price too
18 high to be useful to the competitive payphone
19 providers?

20 A. Yes.

21 Q. Do you recall Mr. Shaw was asking you about
22 why you included the directory assistance costs or
23 imputed costs and revenues in your imputation test,
24 which is Exhibit C-75?

25 A. Yes.

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1 Q. If you were to have not included directory
2 assistance in that imputation test, would the price
3 squeeze go away, Doctor Cornell?

4 A. No.

5 Q. Would it get any better?

6 A. No.

7 Q. What would happen if you hadn't included
8 directory assistance in that imputation study?

9 A. It would have gotten worse. The price
10 squeeze would have been bigger.

11 Q. Doctor Cornell, could you please explain why
12 you believe it is acceptable for AT&T to be able to
13 place payphones that are losing money but for toll
14 revenues, but it not also be the case with U. S. West?

15 A. Basically AT&T is now operating in pretty
16 much of a truly competitive environment. And if AT&T
17 places a payphone and it doesn't get sufficient toll
18 revenues in addition to or above those it could get
19 just by paying a commission to either a space provider
20 who takes a LEC payphone or a different non-LEC
21 payphone provider for toll revenues, it is AT&T
22 management and AT&T stockholders who pay the price.
23 They don't have the captive monopoly rate base.

24 The very forms of management discipline I

25 was suggesting I want this Commission to create the

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1 incentives to put in place for U. S. West exist for
2 AT&T and its payphone services.

3 When you have a local exchange company who
4 has got a regulated rate base and this is part of the
5 regulated rate base, there is no similar discipline.
6 There is no similar attempt to say, "We're only going
7 to place them when, where, and how this is the least
8 costly means of increasing our toll revenue from that
9 location."

10 MR. HARLOW: Thank you, Doctor Cornell.
11 That's all the redirect I have.

12 JUDGE HAENLE: Any recross?

13 MR. SHAW: Just briefly on one issue raised
14 by the bench, your Honor.

15

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

17 BY MR. SHAW:

18 Q. In regard to Florida, have you read the
19 order by the Florida Commission resetting payphone
20 rates in Florida?

21 A. I have read several orders of the Commission
22 on payphone rates, but not anything in the last year.

23 Q. There is a Commission order dealing with
24 lowering the sent-paid local rate to \$.20 and

25 instituting a box charge, is there not?

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1 A. That I do not know. I have not seen
2 anything in the last year.

3 Q. When you testified that in Florida the
4 sent-paid local rate has declined to \$.20, am I to
5 understand that you mean that the market has just gone
6 there without a Commission order requiring it?

7 A. It had partially gone there without a
8 Commission order requiring it. When I last examined
9 the case in Florida, which is now two or three years
10 ago, the Commission approved local call rate was a
11 quarter.

12 The largest payphone provider in Florida
13 and, indeed, as I understand it, in the United States
14 had started going around to the location providers
15 where that payphone provider had payphones and trying
16 to convince them to allow it to charge a 20-cent rate.

17 And when this came out in testimony, two
18 very small mom and pop companies, one there might not
19 even have been a mom, stood up and said, "We have been
20 charging \$.20 from the beginning."

21 Q. If you know, has the Florida Commission set
22 the local exchange companies' local sent-paid rate at
23 \$.20?

24 A. I do not know. If that's happened, it's

25 happened since I examined Florida closely.

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

2 JUDGE HAENLE: Anything more, Miss Brown?

3 MS. BROWN: No, your Honor.

4 JUDGE HAENLE: Commissioners?

5 COMMISSIONER HEMSTAD: No.

6 JUDGE HAENLE: Anything more of the witness?

7 MR. HARLOW: No, your Honor.

8 JUDGE HAENLE: You may step down.

9 Off the record.

10 (Discussion held off the record.)

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

12 During the time we were off the record, Mr.

13 Coulson assumed the stand.

14 I'll remind you, sir, that you were sworn
15 previously in this matter, and you remain under oath or
16 affirmation.

17 I marked a number of documents for
18 identification as follows: Marked as T-85 for
19 identification, a multi-page document which is the
20 prefiled rebuttal testimony of Mr. Coulson;

21 C-86 is DWC-85. That's confidential.

22 C-87, in four pages, DWC-6. That's also
23 confidential.

24 88 for identification, DWC-7, in one page.

25 And 89 for identification DWC-8 in one page. There

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1 was a revision distributed on Exhibit 89 for
2 identification.

3 (Marked Exhibits T-85, C-86, C-87, 88 and 89)

4 JUDGE HAENLE: Go ahead, Mr. Harlow.

5

6 DAVID W. COULSON,

7 having been previously duly sworn, was called as a

8 witness herein and was examined and testified

9 as follows:

10

11 DIRECT EXAMINATION

12 BY MR. HARLOW:

13 Q. Would you please give your name.

14 A. David W. Coulson, C-o-u-l-s-o-n, 701

15 Industry Drive in Seattle, Washington 98188.

16 Q. By whom are you employed, Mr. Coulson?

17 A. Digital Access Communications Corporation.

18 Q. Is that one of the complainants in this

19 case?

20 A. Yes, it is.

21 Q. Do you have before you Exhibits T-85 and

22 Exhibits C-86 through Exhibit 89?

23 A. Yes, I do.

24 Q. Was Exhibit T-85 prepared at your direction

25 and supervision?

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1 A. Yes, it was.

2 Q. Please first just identify the difference
3 between Exhibit 89 as it was prefiled a couple of weeks
4 ago and the corrected Exhibit 89, which does say
5 "corrected" in the top right-hand corner that we filed
6 last week.

7 A. On the line, the left-hand column, about
8 eight lines down, Desired Due Date, inadvertently when
9 we copied this --

10 Q. Please read the two different dates.

11 A. The due date that was on the first copy was
12 11/4/92. The corrected exhibit is 9/15/92, which was
13 the correct date.

14 Q. Did you actually make any change to this
15 particular document that is corrected Exhibit 89?

16 A. No. Only to remove the tape that was over
17 the original date. We reprocessed it at a later date
18 and changed this date to reflect the actual date that
19 we processed it.

20 Q. Please explain to me why there was tape over
21 that line that you identified when the exhibit was
22 first predistributed.

23 A. The original document was processed 9/15.
24 My secretary, rather than to recreate the document,

25 merely taped over the desired date and entered a new

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1 desired date there and submitted the same document the
2 second time.

3 Q. Why was the document submitted a second time
4 with a new date on it?

5 A. Because the original document and date had
6 long since expired before we got authorization to
7 install. So, we resubmitted the request for the PAL.

8 Q. Would the original Exhibit 89 accurately
9 reflect the document that was submitted to U. S. West
10 on August 25, 1992?

11 A. Yes. That would be 9/15/92.

12 Q. The original exhibit as opposed to the
13 corrected exhibit, would that accurately reflect the
14 document that you sent to U. S. West on August 25?

15 A. No, it would not.

16 Q. If I were to ask you the questions contained
17 in Exhibit T-85, would your answers be the same as are
18 contained in that exhibit?

19 A. Yes, they would.

20 Q. Would you please summarize just very briefly
21 the purpose of your rebuttal testimony.

22 A. I'm here to rebut the testimony of Mr.
23 Lanksbury who stated that U. S. West's policies
24 prevented such actions from occurring in the

25 marketplace.

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1 MR. SHAW: Thank you, Mr. Coulson.

2 Your Honor, the complainants offer Exhibits
3 C-86, C-87, 88, and 89.

4 JUDGE HAENLE: And T-85 you said?

5 MR. SHAW: Yes. I mentioned that first, I
6 thought.

7 JUDGE HAENLE: Anyway, the testimony and the
8 four documents that we marked earlier, I believe they
9 are T-85 through 89.

10 Any objection, Mr. Shaw?

11 MR. SHAW: I have no objection to T-85,
12 C-86, C-87, and 88. But I would like to voir dire on
13 proposed 89.

14 JUDGE HAENLE: Go ahead.

15

16 V O I R D I R E E X A M I N A T I O N

17 BY MR. SHAW:

18 Q. Mr. Coulson, as I understand your testimony,
19 it is that your company or some entity associated with
20 your company caused this form to be prepared?

21 A. That is correct.

22 Q. And on what date was this form prepared?

23 A. The date that it was originally prepared was
24 8/25/92.

25 Q. And your original 89 is the original
DAVID W. COULSON - Voir Dire by Shaw - 12/13/93 1115

1 document prepared?

2 A. Yes, it was.

3 Q. It was prepared on 8/25/92 and faxed to U.
4 S. West vendor services on 8/25/92?

5 A. That is correct.

6 Q. And on the very same day your secretary
7 taped over the handwritten date 11/4/92 a.m. and
8 rewrote 9/15/92 a.m. and refaxed it the same day?

9 A. No. This was originally faxed on 8/25/92
10 with the requested install date of 9/15/92 as the
11 corrected exhibit reflects. This was as it was
12 originally sent to vendor services.

13 Q. When was the revised 89 sent to U. S. West
14 vendor services?

15 MR. HARLOW: Excuse me. The witness was
16 just testifying about the revised 89 or the corrected
17 one, rather.

18 You mean when did the taped-over version?

19 BY MR. SHAW:

20 Q. Let's start over, Mr. Coulson. You have the
21 original 89 in front of you with the 11/92?

22 A. Yes.

23 Q. That was faxed to U. S. West vendor services
24 on 8/25/92?

25 A. No, it was not. It was faxed at a later
 DAVID W. COULSON - Voir Dire by Shaw - 12/13/93 1116

1 date.

2 Q. So, the notation in the upper right-hand
3 corner where it says "faxed 8/25/92" is incorrect?

4 A. There was no reason to change that date. We
5 were only changing the requested install date.

6 Q. Again, Mr. Coulson, did you fax your
7 original 89 to U. S. West vendor services?

8 A. Yes.

9 Q. On what date did you fax it to them?

10 A. I can't speak to that with certainty. I
11 didn't fax it, and it's not noted here as to exactly --
12 it isn't in my notes as to the date it went in. I
13 would assume it to have been within ten days of the
14 requested install date. That's our normal policy.

15 Q. But your testimony is you prepared it on
16 8/25/92; correct?

17 A. That is correct.

18 Q. And then on the very same day, 8/25/92, your
19 secretary changed the date and refaxed it on 8/25/92?
20 Is that your testimony?

21 A. No, sir. At a later date she pulled the
22 original and changed the desired due date, and that was
23 the only necessary change, and refaxed the original
24 document.

25 JUDGE HAENLE: I think the problem is what
DAVID W. COULSON - Voir Dire by Shaw - 12/13/93 1117
1 we're calling "original." There is an original document
2 that was submitted to this Commission as a prefiled
3 document. But that original has the tape on it. The
4 original --
5 MR. SHAW: No. The original with the tape
6 on it still resides in Mr. Coulson's office in his
7 original files.
8 JUDGE HAENLE: Dandy. The xerox that we got
9 as the exhibit is a xerox of something with tape on it.
10 Yes? Mr. Coulson?
11 THE WITNESS: The first one submitted, yes.
12 JUDGE HAENLE: Be real careful when you use
13 the word "original."
14 MR. SHAW: I'll try one more time because
15 I'm still confused even if nobody else is.
16 BY MR. SHAW.
17 Q. Do you have in front of you what I call the
18 original Exhibit 89 which is the exhibit you filed with
19 your testimony a couple of weeks ago with this
20 Commission?
21 A. That would be the one that has the date
22 11/4/92 for the install date?
23 Q. Yes.
24 A. All right.

25 Q. And if I followed you, your testimony is you
DAVID W. COULSON - Voir Dire by Shaw - 12/13/93 1118

1 he sent this to U. S. West vendor services, but you
2 don't know what date you sent it to them?

3 A. I would assume that it was within ten days
4 of the requested install date. That's our policy.

5 Q. But on 8/25/92, the same day that you
6 prepared this original 89, you or your staff had
7 changed the date to 9/15/92 and resent it on the same
8 date?

9 A. No, sir, not. I don't think the documents
10 speak that way. The original document was created on
11 8/25/92 and sent for the first time to vendor services.
12 At a later date, in order to prevent having to go
13 through the labor of recreating the same application,
14 my secretary merely taped out the original requested
15 date of installation and inserted a new desired date of
16 installation rather than to recreate the same document.

17 She did not create a document on 8/25 and
18 insert the date of 11/4/92 if that's -- that's what I
19 seem to be hearing.

20 JUDGE HAENLE: She did not tape over the
21 upper right-hand corner where it says, "Faxed 8/25"?

22 THE WITNESS: That's right.

23 MR. SHAW: When are you referring, your
24 Honor?

25 JUDGE HAENLE: At any point.

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1 MR. HARLOW: I hesitate to say anything.

2 Maybe we should go off the record for a minute.

3 JUDGE HAENLE: Are you still confused, Mr.

4 Shaw?

5 MR. SHAW: Your Honor, I'm going to object
6 to the foundation of revised 89 because apparently the
7 witness can't indicate whether U. S. West received the
8 revised 89. It obviously was not 8/25/92 but sometime
9 later if I understand his testimony. But it's unknown
10 when we received it.

11 So, we have an anomalous situation here that
12 the witness has not explained satisfactorily that on
13 apparently 8/25 we got one with a due date in October,
14 and then sometime later they sent us another one with a
15 due date in September. And as far as the record is
16 concerned, we might have received it after the due
17 date.

18 I object to the lack of foundation for
19 either exhibit.

20 JUDGE HAENLE: Any objection, Miss Brown?

21 MS. BROWN: No. I think I understand what
22 transpired. I don't object.

23 JUDGE HAENLE: I'm going to overrule the
24 objection. I think I will enter both of the documents

25 into the record. Otherwise, this entire exchange won't

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1 make any sense.

2 So, both the original and the revision. You
3 had indicated you had no objection to the rest of the
4 documents; is that correct?

5 MR. SHAW: Correct.

6 JUDGE HAENLE: And, Ms. Brown, were you
7 addressing the rest of the documents as well?

8 MS. BROWN: I have no objections.

9 JUDGE HAENLE: I will enter T-85, C-86,
10 C-87, 88, and 89. And 89 will now consist of two
11 pages, both the original and the revision.

12 (Received Exhibits T-85, C-86, C-87, 88 and
13 89)

14 JUDGE HAENLE: Mr. Shaw?

15 MR. SHAW: Thank you, your Honor. I would
16 like to have marked for identification an exhibit.

17 JUDGE HAENLE: You have handed me a
18 multi-page document. The caption at the top of the
19 first page is Response to Complainant's Seventh Data
20 Requests, Data Request No. 154. In this case it is
21 confidential. I will mark it as C-90 for
22 identification.

23 (Marked Exhibit C-90)

24

25

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

DAVID W. COULSON - Cross by Shaw - 12/13/93

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1 BY MR. SHAW:

2 Q. Mr. Coulson, do you recognize marked for
3 identification C-90 as U. S. West's response to your
4 Data Request No. 154?

5 MR. HARLOW: Your Honor, this is a document
6 that's been marked confidential by U. S. West. It
7 seems to me if it's going to be shown to one of the
8 complainants, there is no need to continue its
9 confidential designation in this proceeding.

10 MR. SHAW: Can I have a moment?

11 JUDGE HAENLE: Yes. Let's go off the record
12 to determine what its status should be.

13 (Discussion held off the record.)

14 JUDGE HAENLE: Let's go back on the record.
15 During the time we were off the record, Mr. Shaw was
16 conferring with his client.

17 Go ahead.

18 MR. SHAW: Your Honor, we waive the claimed
19 confidentiality of the attachment.

20 JUDGE HAENLE: All right. I'll need a copy
21 when you get the chance. It doesn't have to be this
22 instant, Mr. Shaw.

23 It will be 90 for identification then.

24 (Marked Exhibit 90)

25

JUDGE HAENLE: I will cross out on the top

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1 the confidential sticker and cross it out on each of
2 the following pages to indicate that you have waived
3 that, Mr. Shaw.

4 Go ahead.

5 MR. SHAW: Thank you.

6 BY MR. SHAW:

7 Q. Mr. Coulson, let me revise my question in
8 light of the fact that this is a public document.

9 Have you had a chance to look at the
10 response of U. S. West to your Data Request No. 154 and
11 see it to be composed of the contract between U. S.
12 West and the Southland Corporation for payphone site
13 locations?

14 A. I see its general purpose. I haven't had a
15 chance to study it in detail.

16 Q. Directing your attention to the first page
17 after the cover page, which is entitled First Amendment
18 to the Public Telephone Agreement, --

19 A. Yes?

20 Q. -- do you see Section 1 where it is recited
21 that Section 2 of the agreement shall be deleted and
22 the following new Section 6.2 substituted?

23 A. Yes.

24 Q. And, in addition, there is by this amendment

25 a new Section 6.3 added?

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1 A. Yes.

2 Q. And then directing your attention to the
3 fourth page after the cover sheet, --

4 A. Would that be Page 4 or Page 3?

5 Q. It would be Page 3 on the bottom.

6 A. All right.

7 Q. Page 3 of the Public Telephone Agreement.

8 A. Yes?

9 Q. Do you see the old 6.2 in the approximate
10 middle of the page --

11 A. Yes.

12 Q. -- that states: "That a franchisee is
13 required by Southland to continue to participate under
14 the terms of the contract between Southland and U. S.
15 West"?

16 A. (Reading.) Yes.

17 Q. And on the next to the last page of the
18 exhibit or Page 7, see the execution date of the
19 contract of March 20, 1991?

20 A. Yes.

21 Q. And then going back to the first page after
22 the cover sheet, the execution date of the first
23 amendment of February 16, 1993?

24 A. Sorry. I don't find the date that you refer

25 to. Would you reference that again?

DAVID W. COULSON - Cross by Shaw - 12/13/93 1124

1 Q. Look at the very bottom under the signature
2 block for the Southland Corporation. That date is
3 February 16, 1993?

4 A. Yes.

5 MR. SHAW: Your Honor, I would move the
6 admission of Exhibit 90 for identification.

7 JUDGE HAENLE: Any objection, Mr. Harlow?

8 MR. HARLOW: There has been no
9 authentication of this document supplied by U. S. West
10 labeled as confidential. And so obviously Mr. Coulson
11 has never seen it before.

12 JUDGE HAENLE: Do you have any reason to
13 think it's not the contract, Mr. Harlow?

14 MR. HARLOW: I have no reason to think it's
15 not the contract. I have no witness to question about
16 it.

17 JUDGE HAENLE: Miss Brown, have any
18 objection?

19 MS. BROWN: I think the situation is a
20 little bit different than merely rearranging numbers
21 and figures that are actually already a part of the
22 record into a form that, for example, U. S. West
23 prefers. I'm not at all certain that Mr. Coulson is
24 the appropriate witness through which this contract

25 between U. S. West and Southland Corporation should

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1 come in.

2 JUDGE HAENLE: Mr. Shaw?

3 MR. SHAW: Your Honor, Mr. COulson in his
4 testimony is representing that the franchisee
5 represented in his exhibits, Mr. Tony Sholing, was free
6 under his agreement with the Southland Corporation to
7 switch his pay telephone service from U. S. West to Mr.
8 Coulson's company.

9 Exhibit 154 shows that that was not the
10 case. Therefore, it's directly relevant. It's a
11 document that was produced to the complainants a long
12 time ago. It directly impeaches Mr. Coulson's
13 testimony and is directly relevant.

14 Otherwise, it's a catch 22 for U. S. West.
15 We obviously have no way of knowing what rebuttal
16 testimony is going to be, but yet we're not allowed to
17 impeach it with documents that the complainants are
18 well aware of.

19 If this is not admitted, then the Company is
20 going to have to be granted permission to recall a
21 sponsoring witness to the stand. This document is
22 directly relevant to Mr. Coulson's testimony and
23 totally impeaches it in our view.

24 JUDGE HAENLE: Mr. Harlow?

25

MR. HARLOW: Just briefly. Mr. Shaw is

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1 relying on the timing here. I think he has got it
2 wrong. Exhibit 86, which is the store franchise
3 agreement with Mr. Sholing, is dated in 1990. Exhibit
4 90 contains two contracts or contract and amendment
5 which are dated respectively 1991 and 1993.

6 So, the offered Exhibit 90 should have no
7 bearing on a prior contract or franchise agreement with
8 Mr. Sholing.

9 JUDGE HAENLE: Ms. Brown, anything else?

10 MS. BROWN: I don't think that Mr. Shaw
11 would be deprived of an opportunity to impeach Mr.
12 Coulson's testimony if this exhibit were not admitted
13 into the record. The question is whether or not the
14 impeaching document is admitted into the record. I
15 don't think that that's required.

16 JUDGE HAENLE: Mr. Shaw?

17 MR. SHAW: Well, your Honor, the contested
18 Exhibit 89 shows that apparently Mr. Coulson's company
19 attempted to change out this payphone service of this
20 particular Southland Corporation location in either
21 September or October of 1992. The amendment to the
22 agreement between U. S. West and Southland permitting
23 the franchisee to do that was not made until February
24 16, 1993.

25

So, I don't understand Mr. Harlow's

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1 comments. I don't understand Miss Brown's comments
2 that the Company is not allowed to introduce documents
3 which it produced in discovery when everybody else
4 certainly does the same thing with its documents.

5 There is no question raised as to the
6 validity and the accuracy of these documents. They are
7 obviously xeroxes of originals. And they are relevant
8 to the assertions made by Mr. Coulson.

9 JUDGE HAENLE: I'm going to enter the
10 document into the record. If you find, Mr. Harlow,
11 looking at the document, that the document is not an
12 accurate depiction of what it says it's going to be, I
13 suggest you let the Commission know in writing within
14 five days of the close of the hearing. And I will
15 reopen that issue.

16 Other than that, the document will be
17 entered into the record.

18 (Received Exhibit 90)

19 BY MR. SHAW:

20 Q. Mr. Coulson, would you turn your attention
21 to Page 5 of your T-85, the first question and answer.
22 Related to that, have you ever heard of the term
23 "slamming"?

24 A. Yes, I have.

25 Q. In the telecommunications industry, that

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1 relates to one competitor without proper authorization
2 attempting to substitute its service for another
3 competitor?

4 A. The only time I have heard the term "slamming"
5 used, it was used in connection with operator service
6 providers changing the pick of a phone without proper
7 authorization.

8 Q. In the payphone business, in your
9 experience, have you seen where competitors have
10 attempted to change out the payphones without proper
11 authorization from the site owner?

12 A. I have heard of these occurrences, yes.

13 Q. Now, if one of your sites served by you is
14 involved in the situation where a competitor of yours
15 calls up U. S. West and says disconnect your PAL and
16 install his, does U. S. West in that case not install a
17 second PAL if you raise an issue about the
18 authorization of the second PAL at that location?

19 A. I have to answer that question two fold, Mr.
20 Shaw: In the past, distant past, say, prior to two
21 years ago, it was U. S. West's policy to never allow
22 two PAL vendors access to the same site.

23 However, of late, if I order a PAL where
24 another vendor exists, they won't inform me that he

25 exists. They will accept my order and go ahead and

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1 install my PAL. They will do the same for my
2 competitors.

3 They do the same to install U. S. West
4 phones where I have a phone existing. And they have
5 done this.

6 Q. If the site provider protests, will U. S.
7 West install the second PAL?

8 A. Could you clarify? Protest what, Mr. Shaw?

9 Q. Yes. Assume with me a fact pattern where
10 you serve a particular site and, without authorization
11 from the site owner, one of your competitors orders
12 another PAL line to be provided and either the site
13 owner or you call that to U. S. West's vendor services
14 attention.

15 Will U. S. West in your experience install
16 that second PAL? Or does it decline to do so until the
17 dispute is clarified?

18 A. There again, I would have to say it's a
19 two-fold question. It's a dated question.

20 Previously it was their policy they would
21 not do that. They would notify the existing vendor and
22 demand a resolution. If two PAL requests were in
23 process at the same time, they would honor the one with
24 the earliest time date, although that seems to have

25 changed because they are now installing PALs where

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1 another PAL exists.

2 Q. Today, if you call to U. S. West vendor
3 services' attention or the site owner calls it to U. S.
4 West vendor services' attention, will U. S. West
5 install the second PAL?

6 A. I would have to say, based on my own
7 experience, yes, Mr. Shaw, they would. The PAL line
8 itself.

9 MR. SHAW: I have nothing further. Thank
10 you, Mr. Coulson.

11 JUDGE HAENLE: Miss Brown?

12 MS. BROWN: I have no questions.

13 JUDGE HAENLE: Commissioners?

14 CHAIRMAN NELSON: No.

15 COMMISSIONER HEMSTAD: No.

16 JUDGE HAENLE: Anything else of the witness,
17 Mr. Harlow?

18 MR. HARLOW: Very briefly.

19

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

21 BY MR. HARLOW:

22 Q. Mr. Coulson, would you please turn to
23 Exhibit 90, which is the one Mr. Shaw gave you, Page 3
24 of that exhibit.

25 A. Yes.

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1 Q. Do you see in Paragraph 6.2 where it says,
2 "In the event a corporate-owned store is sold to a
3 franchisee," and so on and so on, "said owner will be
4 required by Southland to continue to participate under
5 the terms of this agreement"? Do you see that?

6 A. Yes, I do.

7 Q. Can you tell from Exhibit 86 when this
8 particular store that's used as an example in your
9 testimony was sold to Mr. Sholing?

10 A. It was early in 1990. Let me find it. Yes,
11 I have it now.

12 Q. DWC-5?

13 A. Yes. 10/90.

14 MR. HARLOW: That's all I have.

15 JUDGE HAENLE: Let's go off the record to
16 change witnesses.

17 (Discussion held off the record.)

18 JUDGE HAENLE: All right, let's be back on
19 the record. During the time we were off the record,
20 Mr. Fletcher assumed the stand.

21

22 JOHN S. FLETCHER,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25

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1 JUDGE HAENLE: Also during the time we were
2 off the record I marked two documents for
3 identification as follows. Marked as Exhibit T-91 for
4 identification is a thirteen-page document. On the
5 front it says it is the rebuttal testimony of John S.
6 Fletcher.

7 Marked as T-92 for identification is a
8 three-page document. The cover page on that indicates
9 it is the supplemental rebuttal testimony of Mr.
10 Fletcher.

11 (Marked Exhibits T-91 and T-92)

12 JUDGE HAENLE: Your witness has been sworn,
13 Mr. Harlow.

14

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

16 BY MR. HARLOW:

17 Q. Would you please state your name and address
18 for the record.

19 A. John S. Fletcher, 11708 Northeast 62nd
20 Place, Kirkland, Washington.

21 Q. What is your occupation?

22 A. I am an owner of Public Communications of
23 America.

24 Q. Is that one of the complainants in this

25 case?

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1 A. Yes, it is.

2 Q. Do you have before you Exhibits T-91 and
3 T-92?

4 A. I do.

5 Q. Do you have any corrections to either of
6 those exhibits?

7 A. On T-91, Page 4, Line 26, the word is "an"
8 instead of "and."

9 Q. Is that before "OSP"?

10 A. That is correct.

11 Q. Any other corrections, Mr. Fletcher?

12 A. Yes. There is one other one. On Page 7 --
13 can you help me with this correction, Mr. Harlow?

14 Q. You say Page 7 or Page 11.

15 A. I wrote down Page 7 but I must have made a
16 mistake. Page 11, Line 16, my mistake. The sentence,
17 "registered with," insert the word "'the' Commission."

18 Q. Are those all the corrections?

19 A. Yes.

20 Q. Were Exhibits T-91 and T-92 prepared under
21 your supervision?

22 A. Yes, they were.

23 Q. If I were to ask you the questions contained
24 in T-91 and T-92 would your answers be the same as in

25 the exhibits?

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1 A. Yes.

2 Q. Would you please summarize your testimony?

3 A. To rebut the testimony of Mr. Lanksbury, Mr.
4 Wilson, and Mr. Borkowski in this issue, and also to
5 address the issues of the bottleneck monopoly, what we
6 believe is the unfair price squeeze that's being placed
7 on us by U. S. West.

8 MR. SHAW: Thank you, Mr. Fletcher.

9 The complainants offer at this time, your
10 Honor, Exhibits T-91 and T-92.

11 JUDGE HAENLE: Any objection, Mr. Shaw?

12 MR. SHAW: None.

13 JUDGE HAENLE: Ms. Brown?

14 MS. BROWN: No, your Honor.

15 JUDGE HAENLE: Exhibits T-91 and T-92 will
16 be entered into the record.

17 (Received Exhibits T-91 and T-92)

18 JUDGE HAENLE: Go ahead, Mr. Shaw.

19 MR. SHAW: Thank you.

20

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

22 BY MR. SHAW:

23 Q. Mr. Fletcher, is your company registered as
24 a telecommunications company with this Commission?

25 A. No, it isn't.

 JOHN S. FLETCHER - Cross by Shaw - 12/13/93 1135

1 Q. And when you express your opinion to the
2 effect that you don't think that the Commission should
3 require that or regulate you as a telecommunications
4 company, I take it you are not attempting to give a
5 legal opinion as to what the jurisdiction of this
6 Commission is?

7 A. That would be true, yes.

8 Q. And, furthermore, you're not attempting to
9 give a legal opinion as to whether this Commission has
10 the authority to decline to regulate some
11 telecommunications companies doing business in the
12 state of Washington?

13 A. I'm sorry. I don't quite understand that
14 question.

15 Q. Let me ask it again. Likewise, your not
16 being an attorney, I take it you're not offering an
17 opinion on whether this Commission has the authority to
18 decline to regulate some telecommunications company
19 doing business in the state of Washington?

20 A. I think I understand what you're saying is
21 that the Commission can take any position it wants
22 relative to the regulation of telecommunication
23 companies in the state of Washington?

24 Q. No. Let me try one more time.

25 In your testimony, you are not attempting to
 JOHN S. FLETCHER - Cross by Shaw - 12/13/93 1136

1 offer an opinion on the legal authority of this
2 Commission to decline to regulate some
3 telecommunications companies doing business in the
4 state of Washington?

5 A. Yes.

6 MR. HARLOW: If you're able to answer, I
7 won't interpose.

8 THE WITNESS: I would say yes.

9 JUDGE HAENLE: You're offering a legal
10 opinion?

11 THE WITNESS: No, I'm not offering a legal
12 opinion. I would agree the Commission has the right to
13 decide which companies within the state of Washington
14 that are in the telecommunications business it chooses
15 to regulate.

16 JUDGE HAENLE: And you're giving that
17 opinion not as a legal opinion?

18 THE WITNESS: That's true.

19 JUDGE HAENLE: All right. Let's press on.

20 BY MR. SHAW:

21 Q. Mr. Fletcher, does your company provide
22 local exchange service and toll service and operator
23 assisted service to the public in the state of
24 Washington?

25 A. In my opinion, no, Mr. Shaw. We provide

 JOHN S. FLETCHER - Cross by Shaw - 12/13/93 1137

1 access for that capability.

2 Q. So that when you buy a PAL line from U. S.
3 West at a flat rate plus a usage charge over 300 calls,
4 turn around and place a payphone and invite the public
5 to walk up to that payphone and pay you a quarter
6 apiece for local calls, you are not providing, in your
7 view, local exchange service in the state of
8 Washington?

9 A. I don't believe I am, no.

10 Q. What's the basis for that belief? Because
11 you are simply re-selling U. S. West's PAL access
12 service?

13 A. No, I wouldn't put it in the terms of being
14 a reseller. Simplistically, I would say that I'm
15 providing an instrument which allows an end user/caller
16 to access those services you just described.

17 Q. Let's take that local call. For a call over
18 the 300 message basic rate, U. S. West pursuant with
19 tariff on file with this Commission charges you six
20 cents for each call; is that correct?

21 A. That's my understanding, yes.

22 Q. And as Mr. Wilson has testified, you in turn
23 charge members of the public a quarter for that local
24 message?

25 A. Yes.

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1 Q. And you as an unregulated pay telephone
2 services provider are free to charge more than a
3 quarter if you wish; is that correct?

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

5 Q. Just as you're entitled to charge less than
6 a quarter?

7 A. Yes.

8 Q. And on the toll side you provide toll
9 services to the public through re-selling the services
10 of alternative operator service companies and other
11 long distance carriers, do you not?

12 A. Again, Mr. Shaw, I object to the term
13 "re-selling." Again, we provide access to a caller to
14 use our telephone to access a selected long distance
15 company for the purposes of making intraLATA or
16 interLATA calls.

17 Q. And you select that long distance carrier
18 and operator services provider for the customer unless
19 the customer engages in the effort of dialing around
20 your pre-selected carrier to the carrier of his choice;
21 correct?

22 A. Yes.

23 Q. And you make a third or more of your
24 revenues from charging that member of the public more

25 than you pay the carrier that you selected; correct?

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1 A. The only term I object to is we don't pay
2 that carrier anything. And not to dwell on semantics,
3 but we don't charge that customer anything, either.
4 That's done through the operator services company.

5 Q. When a customer walks up to your payphone
6 and places a toll call by putting money in the box, you
7 are charging that customer, are you not?

8 A. And that's what I guess is referred to in
9 this business as a sent-paid call, yes.

10 Q. And the customer charges that call to his
11 home phone or a third party or credit card, you're
12 saying that you're not charging him anything; your
13 selected carrier is doing the charging?

14 A. In the case you -- to me you're mixing
15 apples and oranges. You're talking about a sent-paid
16 call, and then you're talking about a collect call. In
17 our operation, a collect call would be billed through
18 that person's home phone number or number designated by
19 the caller.

20 Q. Billed by your selected carrier?

21 A. Yes, that's true.

22 Q. Do some members of your industry through
23 intelligence in their phone provide their own
24 operator-assisted services?

25 A. I understand that's true, yes.

JOHN S. FLETCHER - Cross by Shaw - 12/13/93 1140

1 Q. And you understand that at least at the
2 staff level of this Commission those members of your
3 industry are informed that they are telecommunications
4 companies if they provide operator services in that
5 fashion and must register?

6 A. I'm not totally sure of that, but I believe
7 that's the case, yes.

8 Q. Have you been advised by Mr. Wilson or other
9 members of the staff of this Commission that you, who
10 do not do that, do not have to register?

11 A. It's my understanding that I don't have to
12 register.

13 Q. Where did you gain that understanding?

14 A. I gained that through conversations with
15 staff members.

16 Q. To your knowledge, is there any Commission
17 order or rule issued by the Commission as opposed to
18 the staff that states that is the case?

19 A. I don't honestly know, Mr. Shaw.

20 Q. At Page 4, Line 17, of your testimony, you
21 make the statement that AT&T's compensation level is
22 relatively low.

23 Do you see that?

24 A. Yes.

25 Q. At the highest volume levels that you would

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1 deliver to AT&T, if you chose AT&T, what percentage
2 does it pay you for commissions?

3 A. The last contract I looked at from AT&T
4 relative to this issue based on our volume I think was
5 something like 12 percent.

6 Q. Are you aware of any commissions paid by
7 AT&T at higher levels than that, say, 24 percent?

8 A. No, I'm not.

9 Q. Do you use AT&T currently in your operation?

10 A. No, we don't.

11 Q. Who do you use?

12 A. International Pacific.

13 Q. What levels of compensation expressed in
14 percentage of revenue delivered does International
15 Pacific pay you?

16 A. I'm not sure I can answer that question
17 exactly the way you want it answered. I can answer it
18 by saying that in relation to our gross revenue the
19 amount of commissions that we receive from
20 International Pacific are in excess of thirty percent
21 of our overall gross.

22 Q. You do not know what percent of the
23 non-sent-paid traffic that you send to International
24 Pacific they pay you in commissions for using them?

25 A. No; because we don't use a 24 percent or 21

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1 percent-type figure. Quite frankly, I have never taken
2 the time to sit down and determine what percentage that
3 would be.

4 Q. Do you have a contract with International
5 Pacific?

6 A. No, I don't.

7 Q. Simply an oral agreement to send them all
8 your non-sent-paid traffic?

9 A. Yes, it's a verbal agreement.

10 Q. And the reason you have selected them is
11 because they pay you the highest levels of commission
12 or compensation for exclusively using them?

13 A. No, that's not true.

14 Q. Why have you selected International Pacific?

15 A. For a series of reasons.

16 Q. What are they?

17 A. I'm not sure I can put them in order. But
18 they were -- they are a Washington state and to my
19 knowledge the only Washington state-based alternative
20 service provider. In the beginning, they paid
21 commissions to payphone companies on a weekly basis as
22 opposed to a monthly basis.

23 Over the years, we have grown to develop
24 what I think is a very good working relationship with

25 them. They seem to be very responsive people to

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1 updating their network services operation, to providing
2 the service to our end users, to providing services to
3 our own operation.

4 Q. I gather from your testimony that you
5 believe that regulatory, legislative, and market
6 pressures are going to force International Pacific to
7 eventually lower its rates. Is that a fair reading?

8 A. I think so, yes, over time.

9 Q. And do you agree that international
10 Pacific's rates are too high to the end user/customer?

11 A. I can't answer that, Mr. Shaw. I can state
12 that in our five years of operation in this business my
13 company has received less than two complaints on the
14 rates that were charged to one of our 0-plus callers on
15 our payphones.

16 Q. Is it your testimony then that, in your
17 opinion, the reaction of this Commission to
18 International Pacific's rates and the reaction of the
19 legislature to the rates of International Pacific are
20 groundless? That is, there is no factual basis on
21 which to believe that International Pacific's rates are
22 too high and harm the consumers?

23 MR. HARLOW: I'm going to object to the
24 question as vague when he talks about the Commission

25 and the reaction of the legislature without defining

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1 what those reactions are that he is talking about.

2 JUDGE HAENLE: Mr. Shaw, do you want to be
3 specific?

4 BY MR. SHAW:

5 Q. Mr. Fletcher, what do you mean by regulatory
6 pressures on International Pacific to lower its rates?

7 A. I think, again, the action that you just
8 mentioned that's being brought by the Commission
9 against U. S. West and also the regulatory environment
10 in the state of Washington with regards to the
11 legislature.

12 Q. I direct your attention to Page 4 of your
13 testimony where you state: "This Commission currently
14 has a complaint pending against the rates of
15 International Pacific, an OSP."

16 Do you see that?

17 A. Yes.

18 Q. You're quite aware of the pending complaint
19 against International Pacific's that their rates are
20 too high and not in the public interest?

21 A. Again, I guess I take exception to the term
22 "too high" and "not in the public interest."

23 Q. That's the basis on which the complaint has
24 been brought, to your understanding, isn't it?

25 A. I'm not sure -- in my understanding, no, it
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1 wasn't the basis of the complaint.

2 Q. What is the basis of the complaint, to your
3 understanding?

4 A. From what I understood, the basis of the
5 complaint was the fact that they had received a number
6 of calls, complaints, filed against International
7 Pacific relative to non-compliance issues on payphones.

8 Q. Are you aware that there are two complaints
9 filed by this Commission against International Pacific?

10 A. I guess not, Mr. Shaw.

11 Q. What, in your opinion, caused the
12 legislature to pass in recent years statutes defining,
13 in general, alternative operator services companies'
14 rates as unreasonable if they are in excess of AT&T and
15 U. S. West's rates?

16 A. Has that been done? I'm not sure it's been
17 done.

18 Q. You're unaware of the content of the
19 statutes passed by the State legislature directly aimed
20 at the AOS industry?

21 A. I was under the understanding there was a
22 bill that was put forth last session. But I don't
23 think that bill ever got passed.

24 Q. Are you aware of statutes aimed at the AOS

25 industry that have been passed in the session prior to

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1 that?

2 A. No, I'm not.

3 Q. Is your industry -- by that I mean the
4 payphone industry -- together with the AOS industry
5 introducing a bill in this legislation to change the
6 regulatory authority of this Commission over AOS
7 industry?

8 MR. HARLOW: I object to Mr. Shaw defining
9 the term "your industry" to include the operator service
10 industry.

11 BY MR. SHAW:

12 Q. Mr. Fletcher, are AOS companies members of
13 the Northwest Payphone Association?

14 A. I believe they take an associate position.
15 They don't take a full membership.

16 Q. And by definition, as we earlier agreed,
17 payphone providers that provide operator services
18 companies are considered AOS companies and required to
19 register by this Commission; correct?

20 A. Yes.

21 Q. And named complainants in this complaint
22 here, particularly Paytel, are registered
23 telecommunications companies and AOS providers, are
24 they not?

25 A. Yes, that's true.

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1 Q. Now, do you recall my question that Mr.
2 Harlow objected to? Does your industry plan to
3 introduce a bill in this legislature changing the way
4 you're regulated by this Commission?

5 A. To my knowledge, no.

6 Q. The compensation that you get from
7 International Pacific, you pass that through 100
8 percent to your site providers as rent for the
9 privilege of occupying their premises with your
10 payphone?

11 A. No.

12 Q. What percentage of the compensation given to
13 you by International Pacific for routing all of your
14 toll traffic to them do you retain as revenue to your
15 company?

16 A. It varies by location based on the
17 percentage per contract. But it would probably be in
18 the 75 percent to 50 percent range.

19 Q. Do you have contracts with your site
20 providers?

21 A. In most cases, yes.

22 Q. Are they as long as ten years?

23 A. No.

24 Q. Are you aware of ten-year contracts by your

25 fellow members of the Northwest Payphone Association?

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1 A. No, I'm not.

2 Q. What is the average length of your contract
3 with your site providers?

4 A. I would say five years.

5 Q. If U. S. West paid you commissions so that
6 you would send all of your intraLATA toll traffic to U.
7 S. West at the level that AT&T pays commissions to send
8 your interLATA traffic to them, would you drop your use
9 of International Pacific for all your intraLATA toll
10 and use U. S. West exclusively?

11 A. I don't know. I would have to think about
12 that and take a look at it financially and to the
13 impact of our company.

14 Q. So, the primary concern --

15 MR. HARLOW: Did you get to finish your
16 answer, Mr. Fletcher?

17 THE WITNESS: No. I was just going to say
18 that it would certainly be an interesting proposal.

19 BY MR. SHAW:

20 Q. So, then, the primary reason you would have
21 to consider in switching your toll carrier for
22 intraLATA is what's the financial impact on your
23 company; right?

24 A. That certainly would be a strong

25 consideration, yes.

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1 Q. Now, International Pacific has the ability
2 to provide you world-wide as well as intraLATA toll
3 service. Isn't that correct?

4 A. I don't think we have world-wide service
5 through International Pacific.

6 Q. Nationwide?

7 A. Nationwide I believe, yes.

8 Q. And your services that you promote, three
9 minutes for a dollar, four minutes for a dollar are to
10 make a toll call anywhere in the country?

11 A. That's true, yes.

12 MR. HARLOW: Mr. Fletcher, could you speak
13 into the microphone? It could be people on the
14 microphone aren't hearing too well.

15 BY MR. SHAW:

16 Q. You use International Pacific in your case
17 to provide that service?

18 A. Not the 1-plus service, no.

19 Q. Who do you use to provide that sent-paid
20 toll service?

21 A. In the state of Washington, it would be U.
22 S. West and GTE or the local LEC.

23 Q. Perhaps you misunderstood me.

24 If a customer comes up to one of your

25 payphones and deposits a dollar to take advantage of

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1 your offer to make a three or four-minute long distance
2 phone call anywhere in the country for a dollar in
3 coin, which carrier do you deliver that call to?

4 A. Like I stated before, if it were an
5 intraLATA toll call, it would be handled by U. S. West.
6 If it were -- or the LEC carrier where that phone is
7 operating, such as GTE or PTI or whatever.

8 If it were an interLATA call, it would be
9 whomever that phone is picked to. And in most cases,
10 our phones are picked to AT&T.

11 Q. And you're quite sure that, if it's an
12 intraLATA call, that it goes to U. S. West?

13 A. It would go there, as I said, or wherever
14 that pay telephone was located within that LEC
15 boundary.

16 Q. Why do consumers dial around your selected
17 carrier to get to their own carrier?

18 A. I'm not sure I can answer that question in
19 its entirety. But it's my belief that large companies
20 provide corporate credit cards that enable their
21 employees when they are out on the job to use the
22 payphone and dial through AT&T or MCI or Sprint.

23 And I would guess that's probably the bulk
24 of our dial-around revenue with the exception of the

25 1-800 number.

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1 Q. Consumers do that because it's cheaper for
2 them than defaulting with the carrier that you have
3 selected; correct?

4 A. I'm not sure that's totally the answer, Mr.
5 Shaw. I think that there is, as I said, there is
6 ramifications such as corporate accounting with regards
7 to corporate credit cards. It's a way of identifying
8 costs associated with those particular activities.
9 That might be a very convenient way to do that.

10 Q. Do you pay rent to your space providers in
11 the form of commissions, including a share of interLATA
12 revenues generated by the phone?

13 A. We pay a commission on all of the revenue
14 that is generated by our pay telephone.

15 Q. Including interLATA?

16 A. Whatever revenue is generated, be it coin or
17 0-plus revenue, we pay on that.

18 JUDGE HAENLE: That's a yes?

19 THE WITNESS: I'm not sure.

20 JUDGE HAENLE: You don't know whether you --

21 MR. SHAW: Let me ask a question.

22 THE WITNESS: I thought I was defining the
23 answer more clearly by saying we paid a commission on
24 all of our revenue.

25 JUDGE HAENLE: That includes interLATA

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1 revenue?

2 THE WITNESS: It would include whatever
3 revenue that we get through that phone. And in
4 simplistic terms, it's the coin that's deposited in the
5 coin box, and it's the commission received from
6 International Pacific on the routing of 0-plus traffic
7 through their switch. And that's all.

8 JUDGE HAENLE: We still didn't get a yes or
9 no, I don't think. You said you don't know whether it
10 includes interLATA revenue?

11 THE WITNESS: I think by definition it
12 would.

13 JUDGE HAENLE: All right. Thank you.

14 How are you doing on your estimate, Mr.
15 Shaw?

16 MR. SHAW: Well, I'm about half done, and I
17 think I estimated an hour or less for this witness.

18 JUDGE HAENLE: Yes, you did.

19 Let's go off the record to discuss
20 scheduling, please.

21 (Discussion held off the record.)

22 JUDGE HAENLE: Let's go back on the record.
23 We went off the record to discuss scheduling. During
24 that time, the Commissioners determined this would be a

25 good time to break.

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1 9:00 in the morning? We will break now and
2 reconvene at 9:00 in the morning to complete the
3 hearing. Thank you.

4 (At 4:45 p.m. the above hearing was recessed
5 until Tuesday, December 14, 1993, at 9:00 a.m.)

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