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1 BEFORE THE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION
3 In The Matter of the)
4 Petition for Arbitration of)
5 an Interconnection Agreement) DOCKET NO. UT-043045
6 Between)
7) Volume II
8 DIECA COMMUNICATIONS, INC) Pages 15 to 203
9 d/b/a COVAD COMMUNICATIONS)
10 COMPANY)
11) with)
12) QWEST CORPORATION)
13 Pursuant to 47 U.S.C. Section)
14 252(b), and the Triennial)
15 Review Order.)
16 _____)

10

11 A hearing in the above matter was held on
12 August 26, 2004, from 9:30 a.m to 4:45 p.m., at 1300
13 South Evergreen Park Drive Southwest, Room 206, Olympia,
14 Washington, before Administrative Law Judge ANN RENDAHL.

13

The parties were present as follows:

14

15 COVAD COMMUNICATIONS COMPANY, by KAREN
16 SHORESMAN FRAME, Attorney at Law, 7901 Lowry Boulevard,
17 Denver, Colorado 80230, Telephone (720) 208-1069, Fax
18 (720) 208-3350, E-mail kframe@covad.com; and by ANDREW
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22 E-mail anewell@gorsuch.com.

18

19 QWEST CORPORATION, by WINSLOW B. WAXTER,
20 Attorney at Law, 1005 - 17th Street, Suite 200, Denver,
21 Colorado 80202, Telephone (303) 896-1518, Fax (303)
22 896-6095, E-mail winslow.waxter@qwest.com; and by ADAM
23 L. SHERR, Attorney at Law, 1600 Seventh Avenue, Suite
24 3206, Seattle, Washington 98191, Telephone (206)
25 398-2507, Fax (206) 343-4040, E-mail
adam.sherr@qwest.com.

23

24 Joan E. Kinn, CCR, RPR

25 Court Reporter

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04M-111T, In the Matter of the Review of
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Interconnection Agreement between Qwest
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Letter requesting approval of interconnection
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1 8 Order No. 01, Order Approving Negotiated
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1 16-RTC Response Testimony of Renee Albersheim, dated
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1 27 Covad Communications Monthly Invoice dated
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9 43 In the matter of review of the Section 251
10 unbundling obligations of incumbent local
11 exchange carriers, CC Docket No. 01-338,
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1 P R O C E E D I N G S

2 JUDGE RENDAHL: Good morning, we're here
3 before the Washington Utilities and Transportation
4 Commission today, Thursday, August 26th, 2004, for a two
5 day hearing in Docket Number UT-043045, which is
6 currently captioned In The Matter of the Petition for
7 Arbitration of an Interconnection Agreement Between
8 Dieca Communications, D-I-E-C-A, Incorporated, d/b/a
9 Covad Communications Company With Qwest Corporation
10 pursuant to 47 U.S.C. Section 252(b) and the Triennial
11 Review Order.

12 I'm Ann Rendahl, the Administrative Law Judge
13 and Arbitrator presiding over this arbitration. The
14 purpose of the hearing is to hear testimony from the
15 parties on the remaining unresolved issues in the
16 arbitration. I have distributed an agenda as well as a
17 chart compiling the parties' cross-examination estimates
18 and an exhibit list compiling all the parties' prefiled
19 testimony and exhibits as well as prefiled
20 cross-examination exhibits.

21 So after we take appearances, I would like to
22 discuss some preliminary administrative matters, and I
23 have a few general questions for counsel. As the agenda
24 indicates, it might be more effective to discuss, and
25 also as we have discussed off the record, it's probably

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1 more effective to discuss the effect of the Interim
2 Order, the FCC's Interim Order, on this arbitration
3 tomorrow morning rather than this morning.

4 So before we go farther, let's take
5 appearances from the parties. Most of you have made
6 formal appearances in the prehearing conference in this
7 matter, and so if you would just state your name and the
8 party you represent, that would be sufficient.

9 Mr. Newell, you will need to make a full
10 appearance, which means you need to state your full
11 name, address, party you represent, telephone number,
12 your fax number, and your E-mail for the record.

13 Okay, so let's begin with Covad.

14 MS. FRAME: Thank you, Your Honor, Karen,
15 K-A-R-E-N, Shoresman Frame on behalf of Covad
16 Communications Company.

17 JUDGE RENDAHL: Mr. Newell.

18 MR. NEWELL: Good morning, Your Honor, Andrew
19 Newell, Newell is spelled N-E-W-E-L-L, my address is
20 1515 Arapahoe, Tower I, Suite 1000, Denver, Colorado
21 80202. I'm with the law firm of Gorsuch Kirgis.

22 JUDGE RENDAHL: Can you spell Arapahoe and
23 Gorsuch Kirgis.

24 MR. NEWELL: Certainly. Arapahoe is
25 A-R-A-P-A-H-O-E, and Gorsuch Kirgis is G-O-R-S-U-C-H,

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1 new word, K-I-R-G-I-S.

2 JUDGE RENDAHL: Thank you.

3 MR. NEWELL: And my telephone number is (303)
4 376-5093, my fax number is (303) 376-5001, my E-mail
5 address is anewell@gorsuch.com.

6 JUDGE RENDAHL: Thank you.

7 And for Qwest.

8 MS. WAXTER: Thank you, Your Honor, Winslow
9 Waxter, W-A-X-T-E-R, on behalf of Qwest Corporation.

10 JUDGE RENDAHL: Thank you.

11 MR. SHERR: Good morning, Adam Sherr for
12 Qwest.

13 JUDGE RENDAHL: Thank you.

14 Okay, I have circulated the prefiled, the
15 exhibit list to the court reporter, and so the prefiled
16 testimony and exhibits along with any prefiled
17 cross-examination exhibits have been premarked as shown
18 in the exhibit list I circulated to all parties and the
19 court reporter on Tuesday, August 24th, and Wednesday,
20 August 25th. In the agenda for the hearing which I
21 distributed, it includes an order of the witnesses and a
22 schedule for the two days. Do the parties propose any
23 changes to that agenda?

24 MS. WAXTER: None from Qwest.

25 MS. FRAME: Not at this time, Your Honor.

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1 JUDGE RENDAHL: Thank you.

2 As I stated off the record, I would
3 appreciate it if everyone would turn off their cell
4 phones or turn them to vibrate and to refrain from
5 making any side conversations during the hearing so that
6 we can keep the noise to a minimum, that would be
7 helpful.

8 With those issues aside, I would like to
9 discuss the schedule that follows the service of my
10 report and decision in this arbitration, and we
11 discussed this briefly at the June 29th prehearing
12 conference. The report and decision is due on October
13 the 22nd. Given my schedule, I need to get it done by
14 that day anyway, so that works just fine. Petitions for
15 review I think we agreed would be due on November the
16 22nd with answers and any requests for approval due with
17 the Commission on December 7th, and that schedule was
18 included in the prehearing conference order.

19 But what we didn't resolve in the prehearing
20 conference or in the order was the date for the
21 Commissioners hearing the request for approval. The
22 statute requires Commission approval following a request
23 for approval within 30 days or that the agreement would
24 become effective. I note the parties have waived the
25 deadlines in this proceeding before, the problem being

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1 that the Commissioners are in hearing in a rate case
2 from December 13th to the 23rd and then again on January
3 3rd to the 7th, and the Commissioners have stated that
4 they don't want to have any hearings scheduled between
5 during the week of December 27th. The next availability
6 for an open meeting would I believe be January the 12th,
7 which would be past the 7 day period, the 30 day period.

8 So my question to the parties is first, would
9 you agree to waive that 30 day period to allow the
10 Commission to hold hearing and consider the issues, or
11 should we seek to try to incorporate a hearing on the
12 petition or request for approval during the week of the
13 29th. There is an open meeting the 29th, and it's
14 possible we can do it then. That's not optimal, because
15 it is within the holiday period. So I just pose that to
16 the parties beginning with Covad.

17 MS. FRAME: Your Honor, that is fine with
18 Covad to have the Commission hearing date January 12th.

19 JUDGE RENDAHL: And approximately how much
20 time do you think we would need; do you think we would
21 need a couple of hours or the whole afternoon?

22 MS. FRAME: Well, based on our experience
23 with Colorado, about three and a half hours, is that
24 about right, three hours.

25 MS. WAXTER: That's how long the Colorado

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1 commission deliberated.

2 JUDGE RENDAHL: When you mean deliberate, was
3 that time that you all were arguing before them, or they
4 just took that time to make the decision?

5 MS. WAXTER: No, in Colorado the open
6 meetings work where the staff makes presentations to the
7 commissioners, and then there's some back and forth.
8 The parties have no involvement. So that's just the
9 Commissioners asking questions of the staff advisor and
10 the staff attorney advising as well.

11 JUDGE RENDAHL: I believe in Washington it's
12 slightly different where we have a separate, it's not
13 necessarily an open meeting item, and so we schedule a
14 separate special setting of the open meeting generally
15 in the afternoon. And I believe the parties do have an
16 opportunity to argue their positions, it's not just the
17 Staff.

18 So I wonder, and you don't have to let me
19 know now, but it might be helpful in scheduling to know
20 how much time you all think you need. And then the
21 Commissioners generally don't make their decision from
22 the Bench, and an order will issue. So that's generally
23 the process here in Washington, so.

24 MS. WAXTER: I think two hours probably then
25 would be sufficient, an hour per side. We would have

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1 already filed a briefing and whatnot, so.

2 MS. FRAME: Right, we would agree with that.

3 JUDGE RENDAHL: Okay. And for Qwest, does
4 Qwest agree to waive the deadline as well?

5 MS. WAXTER: Yes, it does.

6 JUDGE RENDAHL: Okay. And the Commission
7 would endeavor to get an order out I would say within
8 ten days following the argument, so it would be a very
9 short period of time, understanding the parties have
10 agreed to waive the deadline. I will work with the
11 Commissioners' calendars and see what we can come up
12 with on that.

13 Okay, so now I have a few general questions
14 which we started to discuss off the record. Qwest has
15 provided a new, a revised draft agreement between the
16 parties. It was updated as of June 21st, 2004, and I
17 think what I would do is substitute this agreement for
18 what is currently marked as Exhibit 71. Would that be
19 the parties' preference to work with the new version?

20 MS. WAXTER: I think that makes some sense.

21 JUDGE RENDAHL: Okay, so we will substitute,
22 the only change in the description would be the date of
23 the draft agreement, and that would be a change to June
24 21st, 2004. So based on the changes that have been
25 made, Ms. Waxter, I understand that the maintenance of

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1 service charge language in the prior agreement, those
2 issues have been resolved.

3 MS. WAXTER: That's correct.

4 JUDGE RENDAHL: All right. And the other
5 issue I asked off the record was a question about
6 Section 8.3.1.3.1, which addresses collocation cable
7 augment "preparation fee", is that correct, and that's
8 been resolved?

9 MS. WAXTER: That has as well.

10 MS. FRAME: That's correct.

11 JUDGE RENDAHL: Thank you, Ms. Frame.

12 So the next question I had had to do with
13 Exhibit A and whether the parties had issues addressing
14 Exhibit A that we need to cover in this arbitration or
15 how we propose to address any Exhibit A issues. I will
16 begin with you, Ms. Frame. I mean are there disputes
17 over the fees at this point, the charges and the fees in
18 Exhibit A?

19 MS. FRAME: No, Your Honor, I don't believe
20 so. You're talking about the draft interconnection
21 agreement, correct?

22 JUDGE RENDAHL: Correct.

23 MS. FRAME: No, there are not.

24 JUDGE RENDAHL: Okay, so there's no disputes
25 over the fees, it's just the elements that are

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1 available?

2 MS. FRAME: That's correct.

3 JUDGE RENDAHL: Okay.

4 And is that your understanding, Ms. Waxter?

5 MS. WAXTER: Yes, it is.

6 JUDGE RENDAHL: Okay, so there are no Exhibit
7 A issues.

8 All right, then off the record we also
9 discussed the issue of the FCC's Interim Order that was
10 released on August 20th, and off the record we decided
11 that it's most appropriate to discuss the matter
12 tomorrow morning when Mr. Devaney is here, and that what
13 I would like from the parties tomorrow morning is a very
14 limited discussion primarily focused on the Commission's
15 authority or state commission authority to arbitrate an
16 agreement that reflects the three specific elements
17 discussed in the Interim Order, mass market switching,
18 enterprise market loops, and dedicated transport, and
19 also to the extent those three specific elements are at
20 issue in this arbitration.

21 I understand, Ms. Frame, you have an issue
22 involving Paragraph 9 of the Interim Order you might
23 want to address tomorrow morning.

24 MS. FRAME: Yes, we could address it tomorrow
25 morning or in briefs.

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1 JUDGE RENDAHL: All right.

2 MS. FRAME: Whatever Your Honor desires.

3 JUDGE RENDAHL: Well, I guess I would leave
4 that up to you. If you choose to address it tomorrow
5 morning, that's fine, but it's also an issue that could
6 be addressed in briefs because it does address the
7 Section 271 issue that I think will be more fully
8 briefed.

9 So with that, the only other question I have
10 for the parties is what is the status of the Colorado
11 arbitration, Ms. Waxter or Ms. Frame?

12 MS. FRAME: Your Honor, I believe that the
13 order out of Colorado will be issued tomorrow for
14 mailing.

15 Is that correct, Ms. Waxter?

16 MS. WAXTER: Tomorrow is the due date for the
17 order, yes. The Commission has deliberated, as we
18 mentioned earlier, so we have a general understanding,
19 but the specifics of the order are coming out in writing
20 tomorrow.

21 JUDGE RENDAHL: And are there other states,
22 what order is Washington state in the states?

23 MS. FRAME: It is number two.

24 JUDGE RENDAHL: Okay, so there are no other
25 states that orders might be pending during this process?

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1 MS. FRAME: That's correct. The next date
2 that we're actually going to arbitration in for the
3 hearing itself is in Minnesota next month. Now that
4 order may issue before the Washington order actually
5 issues just based upon the schedule, but at this point
6 it appears that maybe Washington state would be the
7 second state to order.

8 JUDGE RENDAHL: Okay, well, that's helpful.
9 And do you all think that the Colorado order would have
10 any effect on the parties' positions?

11 MS. FRAME: No, we don't at this point.

12 JUDGE RENDAHL: Ms. Waxter.

13 MS. WAXTER: Your Honor, I would never say
14 never, I think that whenever an order comes out to the
15 parties, Qwest at least always looks at its position to
16 see if there's room for movement.

17 JUDGE RENDAHL: Okay, thank you.

18 All right, well, with that I think I'm done,
19 and I appreciate your bearing with me, and I see our
20 first witness is here now, so are you ready, Ms. Frame?

21 MS. FRAME: Yes, we are, Your Honor. Covad
22 would like to call to the stand Mr. Michael Zulevic.

23 JUDGE RENDAHL: Good morning, Mr. Zulevic.

24 THE WITNESS: Good morning.

25 JUDGE RENDAHL: Good to see you back.

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1 THE WITNESS: Thank you, it's good to be
2 here.

3 JUDGE RENDAHL: Would you raise your right
4 hand.

5 THE WITNESS: (Complies.)

6 JUDGE RENDAHL: Would you state your full
7 name and address, spelling any words that may not be
8 common.

9 THE WITNESS: Michael Zulevic, Z-U-L-E-V as
10 in Victor, I-C.

11 JUDGE RENDAHL: Thank you.

12 (Witness Michael Zulevic was sworn.)

13 JUDGE RENDAHL: Okay, please be seated.

14 Go ahead, Ms. Frame.

15 MS. FRAME: Your Honor, may I approach the
16 witness and give him a copy of the exhibit list?

17 JUDGE RENDAHL: Please do.

18

19 Whereupon,

20 MICHAEL ZULEVIC,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23

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

25 BY MS. FRAME:

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1 Q. Mr. Zulevic, you have already stated your
2 full name for the record, could you please state your
3 employer or your position and the relationship that you
4 now have with Covad Communications Company?

5 A. Yes, I am currently self employed as a
6 telecommunications consultant, and I'm working on behalf
7 of Covad Communications in this arbitration.

8 Q. Thank you. Do you have before you what has
9 been premarked as Exhibit 1-T, which is your direct
10 testimony of Michael Zulevic dated July 15th, 2004,
11 which has also been premarked as MZ-1T?

12 A. Yes.

13 Q. Thank you. Exhibit Number 2 which is
14 premarked as MZ-2 which is entitled Qwest's Initial
15 Comments in CPUC Docket Number 04M-111T in the Matter of
16 the Review of Certain Wholesale Rates of Qwest
17 Corporation dated June 15th, 2004?

18 A. No, I don't believe I have that.

19 MS. FRAME: May I approach the witness?

20 JUDGE RENDAHL: You may.

21 Why don't we be off the record for a moment.

22 (Discussion off the record.)

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

24 MS. FRAME: Thank you, Your Honor.

25 BY MS. FRAME:

0041

1 Q. Mr. Zulevic, do you have before you what has
2 been marked MZ-2, Qwest Initial Comments in CPUC Docket
3 Number 04M-111T in the Matter of the Review of Certain
4 Wholesale Rates of Qwest Corporation dated June 15th,
5 2004?

6 A. Yes, I do.

7 Q. Do you also have --

8 JUDGE RENDAHL: Ms. Frame, I guess I don't
9 know that we need to identify each item in the record.
10 The court reporter will put in the identification of
11 each exhibit, so if you maybe just ask Mr. Zulevic if he
12 has copies of all the exhibits, then that might speed it
13 up.

14 MS. FRAME: Okay, great.

15 BY MS. FRAME:

16 Q. Do you have copies of the exhibits attached
17 to your direct testimony?

18 A. Yes, I do.

19 Q. Do you also have in front of you your
20 corrected response testimony dated July 29th, 2004,
21 premarked as MZ-5T revised August 19, 2004?

22 A. Yes, I do.

23 Q. And those related Exhibits MZ-6 through MZ-8?

24 A. Yes, I do.

25 Q. Do you have any corrections to these

0042

1 exhibits?

2 A. No, I don't.

3 Q. Were these exhibits prepared by you or under
4 your direction?

5 A. Yes, they were.

6 Q. Do you stand by your direct and corrected
7 responsive testimony today, the questions posed and the
8 answers provided to them?

9 A. Yes, I do.

10 MS. FRAME: I'm going to move to admit at a
11 later time Mr. Zulevic's exhibits due to the fact that
12 he's going to be questioned on a number of them
13 throughout the course of today, just reserve the right,
14 or would you prefer that we just move to have them
15 admitted right now?

16 JUDGE RENDAHL: Well, I will just ask if
17 Qwest has any objection to admitting what has been
18 marked as Exhibits 1 through 8?

19 MS. WAXTER: Qwest has no objection.

20 MS. FRAME: Then we move to admit Exhibits 1
21 through 8.

22 JUDGE RENDAHL: They are admitted.

23 MS. FRAME: Thank you.

24 We tender Mr. Zulevic for cross-examination.

25 JUDGE RENDAHL: Ms. Waxter.

0043

1 MS. WAXTER: Thank you.

2

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

4 BY MS. WAXTER:

5 Q. Mr. Zulevic, in your response testimony and
6 actually in your direct testimony as well you refer to
7 line sharing, line splitting, and also loop splitting I
8 think at various times; is that correct?

9 A. Yes, that's correct.

10 Q. If you would please take a look at your
11 response testimony, page 7.

12 JUDGE RENDAHL: And that's Exhibit 5.

13 MS. WAXTER: I apologize, that is Exhibit
14 5-RT.

15 A. Yes, I'm there.

16 BY MS. WAXTER:

17 Q. The question that is posed at the top of the
18 page or near the top of the page is at page 14, line 15,
19 Ms. Albersheim points out that Qwest, not Covad,
20 submitted two CRs to the CMP, and the question there is
21 why is that relevant?

22 JUDGE RENDAHL: When you're saying CMP,
23 C-M-P?

24 MS. WAXTER: C-M-P, yes.

25 JUDGE RENDAHL: Thank you.

0044

1 BY MS. WAXTER:

2 Q. And I have read that question correctly, have
3 I not?

4 A. Yes, you have.

5 Q. Okay. Three quarters of the way down that
6 response, you say that, when Qwest submitted the first
7 CR, and that's capital C, capital R, which would allow
8 line sharing and line splitting to be ordered on a
9 single LSR, all caps, L-S-R, Qwest stated it was going
10 to create a similar capability for their retail
11 provisioning process. Did I read that correctly?

12 A. Yes, that's correct.

13 Q. First of all, what is a CR?

14 A. That's a change request, that's part of the
15 change management process.

16 Q. Okay. And an LSR?

17 A. That's a local service request.

18 Q. When you wrote that sentence and submitted
19 it, did you actually mean to say that that CR or change
20 request would allow line sharing and line splitting to
21 be ordered as a single LSR?

22 A. Yes, that was my intention, yes.

23 Q. Is it not the case that line sharing actually
24 involves a Qwest retail customer and a CLEC using the
25 high frequency portion of the loop?

0045

1 A. Yes, that's true.

2 Q. And a Qwest retail customer or a Qwest
3 customer who is ordering the voice portion of the loop,
4 is it your understanding that Qwest would submit an LSR
5 for that particular order?

6 A. No, not at all. Qwest does not submit LSRs
7 or local service requests, that's the vehicle used to
8 initiate a service order by a CLEC. Qwest would
9 initiate a service order, and this however doesn't
10 clearly point that out. But what the intention was here
11 was to demonstrate that the Qwest service order and only
12 one LSR would be required to provision that service of
13 combined Qwest voice and Covad data simultaneously
14 without having to wait until the voice service is
15 installed before adding the data using an LSR.

16 Q. Is it not true that in a line sharing
17 situation where Covad was submitting the order for the
18 high frequency portion of the loop that Covad would ever
19 only have had to submit one LSR for that high frequency
20 portion of the loop?

21 A. That part, yes, that is correct. And where
22 the -- where the problem comes in is that the loop
23 previously needed to be established first before Qwest
24 or before Covad could even submit an LSR to add the high
25 frequency portion of the loop. The change that I'm

0046

1 referring to here and the change that Qwest made on its
2 retail side at this time allowed the provisioning of
3 both voice and data simultaneously.

4 Q. But in a line sharing situation, Covad would
5 never or its partner would never be ordering the voice
6 portion of that loop, correct?

7 A. No, that's absolutely correct.

8 Q. So they would never have had to submit two
9 LSRs for that high frequency portion of the loop?

10 A. Not two LSRs in a line sharing scenario, no.

11 Q. Okay. So going back to this sentence then
12 that says, when Qwest submitted the first CR which would
13 allow line sharing and line splitting to be ordered on a
14 single LSR, Qwest stated it was going to create a
15 similar capability for their retail provisioning
16 process. The fact that -- it's actually not accurate
17 that two LSRs, that Covad would ever have had to submit
18 two LSRs for a line or in a line sharing situation?

19 A. No, that's absolutely correct.

20 Q. Okay.

21 A. Again, the issue gets to the ability to
22 provision both simultaneously, and that's the capability
23 that we're looking for.

24 Q. And when you say the ability to provision
25 simultaneously, isn't the issue here in this arbitration

0047

1 the ability to order simultaneously and that the issue
2 is not the ability to provision simultaneously?

3 A. Actually, in many respects they're
4 interrelated. You can not provision simultaneously
5 unless you have ordered simultaneously and have the
6 ability to do so.

7 Q. You are aware, are you not, that Covad can
8 submit two LSRs back to back, and those two LSRs can be
9 linked in the Qwest system so that they will be
10 provisioned together, correct?

11 A. I am aware that they can be. I am not aware
12 that they will consistently be linked, and that's why
13 this continues to be an issue.

14 Q. Are you aware that when Covad submits the two
15 orders that Covad populates the field to link those two
16 orders together?

17 A. Yes, I'm aware that Covad populates a field
18 called the RPON, which is a related purchase order
19 number, field. However, there are manual efforts that
20 are required on behalf of Qwest to populate the service
21 order which is used for provisioning. And unless
22 everything is done exactly right, it's very easy to lose
23 one part or the other part of that service, and they
24 don't ultimately get provisioned simultaneously.

25 Q. The way the process should work would be that

0048

1 Qwest -- that when the two LSRs are submitted by, at
2 least as it stands today, when the two LSRs are
3 submitted by Covad that the proper field is populated so
4 that those orders are linked, and then the orders are
5 provisioned at the same time, correct?

6 A. That is the way that the process is set up
7 right now using the OSS that Qwest currently has in
8 place for wholesale customers, yes.

9 MS. WAXTER: Thank you.

10 Your Honor, I have no further questions for
11 Mr. Zulevic.

12 JUDGE RENDAHL: Okay, Ms. Frame or
13 Mr. Newell, any redirect?

14 MR. NEWELL: Yes, Your Honor.

15 JUDGE RENDAHL: And if you will speak
16 directly into the mike, that will be helpful.

17 MR. NEWELL: I will certainly try.

18

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

20 BY MR. NEWELL:

21 Q. Mr. Zulevic, if you can give us a little bit
22 more background about the Qwest back office systems that
23 govern this process. CLECs submit LSRs, which are then
24 converted to service orders in the Qwest system; is that
25 a fair characterization of how --

0049

1 A. Yes, that's correct.

2 Q. For a Qwest retail customer, that step, for
3 Qwest to provision their own retail customer, that LSR
4 step is essentially removed, and the rest of the
5 provisioning process and the service order process is
6 the same?

7 A. Yes, that's correct.

8 Q. Can you describe for me the change that Qwest
9 made to its service order system that allowed Qwest to
10 provision voice and data simultaneously?

11 MS. WAXTER: Your Honor, I object, I think
12 that's outside the scope certainly of cross.

13 JUDGE RENDAHL: Mr. Newell.

14 MR. NEWELL: We talked in depth about the
15 ordering systems that are involved with the process and
16 the problems with the process, I think a complete
17 discussion of those issues is merited. I mean we're
18 talking about the same exact ordering and provisioning
19 system that was discussed on cross.

20 JUDGE RENDAHL: Is this addressed in
21 Mr. Zulevic's direct?

22 MR. NEWELL: It is, Your Honor.

23 JUDGE RENDAHL: And is there a need to cover
24 it again in a redirect question?

25 MR. NEWELL: I believe it is needed to

0050

1 provide in the record today a full discussion of the
2 processes involved so we can have a complete view of
3 what the Qwest systems and the CLEC's, Covad's
4 interaction with that system is. It's a relatively
5 complicated issue, I know it took me some time to wrap
6 my mind around it, I think it would be helpful.

7 JUDGE RENDAHL: Okay, well, actually I'm
8 going to reserve ruling on that, because I intended to
9 ask a few questions of Mr. Zulevic myself before I
10 allowed redirect. So if you don't mind, I'm going to
11 have you hold your question while I ask a few questions
12 to the witness, and then if you still think you need to
13 ask those questions, then we'll discuss it, if that's
14 acceptable.

15 MR. NEWELL: That's absolutely acceptable.
16 It sounds as though Your Honor would like to proceed
17 with her questions, and to the extent I have any further
18 questions on any of the subjects covered on cross, we
19 can deal with them then.

20 JUDGE RENDAHL: Okay. Sorry for the mix up,
21 I haven't got my head in hearing mode yet today.

22

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

24 BY JUDGE RENDAHL:

25 Q. Mr. Zulevic, is there a cost to Covad for

0051

1 submitting an LSR?

2 A. Yes, Your Honor, there is.

3 Q. So if Covad has to submit two LSRs for an
4 item, there's a double cost?

5 A. Yes, that's very true.

6 Q. What is the cost for -- is it the same cost
7 for an LSR no matter what the element is, or is there a
8 different cost per LSR depending on the element?

9 A. I think in general the cost will be the same,
10 it's the work required to actually input the data and
11 submit the LSR.

12 Q. Do you know what the cost is of an LSR in
13 Washington state?

14 A. I really don't, no, Your Honor.

15 Q. In Ms. Albersheim's testimony, she discusses
16 the fact that the two LSR ordering process doesn't
17 result in any provisioning delays, and you have just
18 been discussing that with Ms. Waxter. And I guess my
19 question was, based on your response, do you have any
20 specific examples in Covad's experience that
21 provisioning is not simultaneous when you have the two
22 LSRs linked?

23 A. I don't have the data, specific data
24 available, but I can tell you that a fairly significant
25 number of LSRs are either rejected or in some cases we

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1 can with a phone call, call and discuss whatever may not
2 be quite correct in one of the fields or to provide
3 additional information on an LSR in order to get it to
4 the point in the process where it's converted to a
5 service order. But when the order is actually rejected,
6 then it has to come back to Covad, Covad has to contact
7 Qwest, they have to resolve the differences, and then
8 resubmit the LSR on a supplement. Now if one or the
9 other of the LSRs associated with provisioning these
10 services gets rejected and the other one doesn't, it's
11 hard in my mind to believe that they can actually
12 provision both of them simultaneously.

13 Q. Is there any performance measure that
14 measures what you're calling the significant numbers?

15 A. There are, but I'm not that familiar with
16 those performance indicators as to which one would be a
17 part of that.

18 Q. And does Covad receive any payments from
19 Qwest under the QPAP for missing those performance
20 measures?

21 A. Again, I'm not that familiar with them. I
22 know we do receive penalty payments for some PIDs, I'm
23 not sure if these are among them.

24 Q. Now at one of the core -- at the core of this
25 issue, and Ms. Albersheim has not testified yet, but at

0053

1 the core of this issue is Qwest's assertion that the
2 October release, October IMA release 16, will address
3 this issue. And if, in fact, it is addressed in the
4 October release, why is it necessary to address it in
5 this arbitration?

6 A. Well, I believe it's necessary to address it
7 here because we still haven't had that release, nor have
8 we had an opportunity to make sure that the release does
9 what it's supposed to do. And based upon previous
10 experience with change management and with this
11 particular type of requirement where Qwest was unable to
12 complete the work as scheduled before and had to skip
13 into a subsequent release, we're not sure that this
14 wouldn't happen again. And so we felt that this is
15 something that's important enough to our business to
16 make sure that we have that capability available to us
17 when Qwest is now saying that it will have it available.

18 So far Qwest has declined to give us the
19 necessary assurances, which if they would have, we would
20 have been more than happy to pull this particular issue
21 off the table. If they would have given us a written
22 statement from someone empowered to do so committing to
23 actually making this happen in that release, then we
24 would have been more than happy to pull it.

25 Q. Thank you.

0054

1 I'm going to hand you Ms. Albersheim's
2 testimony, because I want to make a comparison of the
3 language on one of the items, and that's
4 Ms. Albersheim's direct testimony that's been marked as
5 Exhibit 11-T, and if you could look at page 8 and
6 compare Qwest's language that begins at line 22 with
7 Covad's language beginning at page 9, line 9, and can
8 you explain why Covad's proposed language excludes two
9 sentences, if you know. And if you would just state for
10 the record what section of the agreement that refers to,
11 that might help as well.

12 A. Okay, this is looking at Section 9.24.1,
13 okay, and I believe that the -- where you may have a
14 question is by defining, where it says on line 25 in
15 Ms. Albersheim's testimony, by defining loop splitting
16 as the provision of advanced data service simultaneously
17 with an existing unbundled loop, we have -- take
18 exception to the term existing because that would not
19 allow provisioning to be done simultaneously.

20 And there is another sentence that reads:
21 The CLEC DLEC, this is on line 29, may offer advanced
22 data services simultaneously with a new unbundled loop
23 order on the same LSR when that capability becomes
24 available through an IMA release. We also take
25 exception to that sentence, because as I just alluded

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1 to, Qwest has not firmly and definitively committed to
2 when that's going to happen rather than just giving us a
3 targeted release 16.0. We need something a little more
4 certain than that.

5 JUDGE RENDAHL: Okay, thank you.

6 THE WITNESS: You're welcome.

7 JUDGE RENDAHL: And with that, I have no
8 further questions of the witness.

9 Mr. Newell, do you have any redirect?

10 MR. NEWELL: Yes, 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. NEWELL:

14 Q. Mr. Zulevic, the Telecommunications Act
15 requires nondiscriminatory provisioning of unbundled
16 network elements; is that correct?

17 A. That's my understanding, yes.

18 Q. In your opinion, is the current system in
19 advance of this upgrade to Qwest's OSS, is this current
20 system nondiscriminatory?

21 A. No, in my opinion it is discriminatory,
22 primarily because there is an additional step required
23 when provisioning the CLEC service that is not required
24 when Qwest provisions its own retail services in that
25 with a CLEC service, the LSR or combination of LSRs need

0056

1 to be converted to service orders in order to do the
2 same provisioning that Qwest can do by populating only a
3 service order.

4 Q. And by only populating a single service
5 order; is that correct?

6 A. That's correct.

7 MR. NEWELL: May I approach, Your Honor,
8 approach the witness?

9 JUDGE RENDAHL: Yes, you may.

10 If you can identify what you're showing to
11 the witness so that other counsel has access to that,
12 that would be helpful.

13 MR. NEWELL: I will, I am providing the
14 witness with Exhibit A to the agreement being
15 negotiated. I believe he's on the second to last page
16 of the rate sheet that makes up Exhibit A.

17 BY MR. NEWELL:

18 Q. I have circled two rates, can you please
19 identify those rates, the description and the rate
20 charged for the record.

21 A. Yes, this is again on Exhibit A, page 13 of
22 14, and its dated February 26th of 2004. What's been
23 circled is 12.0, which is operational support systems,
24 and specifically 12.1.1, which reads, per local service
25 request, and that's \$3.27. And also circled is 12.2,

0057

1 ongoing maintenance, and subsection 12.2.1, per local
2 service request, and that amount is \$3.76.

3 Q. Mr. Zulevic, is it your understanding that
4 were a CLEC required as they are today to submit
5 separate LSRs for voice and data service for either a
6 line splitting or a loop splitting product that they
7 would pay these charges twice?

8 A. Yes, that would be my understanding, they
9 would pay both of these and then also incur the
10 additional cost internally of generating the LSRs.

11 Q. For each separate LSR?

12 A. Correct.

13 Q. And with the contemplated upgrade, how many
14 times would a CLEC be charged to provision a voice and
15 data product over either a line splitting or a loop
16 splitting arrangement?

17 A. Well, with the contemplated upgrade, it would
18 be my understanding that we would incur these charges
19 only once rather than twice as we would -- as we do
20 today.

21 MR. NEWELL: Thank you, I have nothing
22 further, Your Honor.

23 JUDGE RENDAHL: Ms. Waxter.

24 MS. WAXTER: Thank you, Your Honor, I have
25 just a few.

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

2 BY MS. WAXTER:

3 Q. Mr. Zulevic, you were speaking earlier with
4 the ALJ about the fact that certain LSRs that are
5 submitted by Covad are rejected. Do you recall that
6 testimony?

7 A. Yes, I do.

8 Q. And those LSRs are rejected because Covad has
9 failed to populate a proper field or has somehow
10 incorrectly completed the LSR, isn't that correct?

11 MS. FRAME: Objection, Your Honor, to that
12 form of the question, facts not in evidence.

13 JUDGE RENDAHL: Can you rephrase the
14 question, Ms. Waxter.

15 MS. WAXTER: Your Honor, on cross I would
16 hate to ask an open ended question, which is why the
17 question was phrased as it was, but let me try.

18 BY MS. WAXTER:

19 Q. Mr. Zulevic, isn't it correct that some of
20 the LSRs that may be rejected by Qwest are because they
21 have been improperly completed by Covad?

22 A. In my experience, that is the case sometimes.
23 Other times it's because of action taken by Qwest in
24 changing the edits associated with various fields.

25 MS. WAXTER: And, Your Honor, I have a

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1 question which will involve some confidential
2 information at this point.

3 JUDGE RENDAHL: Is there any way to do it in
4 a non -- is it in an exhibit, is it -- let's be off the
5 record for a moment.

6 (Discussion off the record.)

7 JUDGE RENDAHL: Ms. Waxter, I understand you
8 will address the issue in brief.

9 MS. WAXTER: Thank you.

10 BY MS. WAXTER:

11 Q. Mr. Zulevic, did you attend the status
12 conference that was held on this particular CR that was
13 held I believe last week or the week before?

14 A. No, I didn't.

15 Q. Have you heard or been informed as to what
16 the status of this CR is at this time?

17 MS. FRAME: Your Honor, again I'm going to
18 object, he has asked and answered this.

19 JUDGE RENDAHL: The first question was, I
20 understand, whether he had attended the conference, and
21 the second question was whether he had heard anything
22 about the conference. Maybe you can lay some foundation
23 as to why he might hear about it if he wasn't there.

24 MS. WAXTER: Well, certainly with this
25 particular CR -- lay it with you here, the proper --

0060

1 just the foundation?

2 The foundation would be that if Mr. Zulevic
3 was and Covad was interested in how this CR is
4 progressing through the process, that certainly a status
5 would be important for him to understand, and presumably
6 he has avenues to find out the status of the CR on, you
7 know, after the status conferences are held even if he
8 didn't have the opportunity to attend the conference.

9 JUDGE RENDAHL: Maybe, Mr. Zulevic, I can ask
10 you, are you involved in the change management process
11 for Covad?

12 THE WITNESS: That has not been one of my
13 consulting duties since leaving Covad, no.

14 JUDGE RENDAHL: Okay, well, I will ask you to
15 ask -- I will allow you to ask the question you had
16 intended to ask, but if the witness doesn't know, then
17 he doesn't know.

18 MS. WAXTER: Sure, thank you.

19 BY MS. WAXTER:

20 Q. Mr. Zulevic, are you aware that the CR that
21 is at issue here has completed the test, the system
22 testing phase of the change request process?

23 A. No, I'm not aware of that.

24 Q. What is your understanding of what happens to
25 a change request once it does generally complete the

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1 system testing process?

2 A. Well, then it goes into an evaluation status.
3 Once the release happens, all the testing is done, the
4 release actually happens, then it's in an evaluation
5 status for a number of months until the CLEC community
6 is satisfied that that change actually performs as it's
7 supposed to.

8 Q. And that would be after it actually goes into
9 the release, correct, after the release is released?

10 A. That's correct.

11 Q. And you would agree that once a change
12 request has completed the system testing process, it is
13 in essence near the end of its path, if you will,
14 through the change request process?

15 A. Usually it is, but that isn't always the
16 case. There have been times when a CR has had to remain
17 open for six or eight months after a release in order to
18 adequately assure everyone that it does what it's
19 supposed to do. And in some cases, some dot releases
20 have had to be done in order to correct some things that
21 weren't done in the actual release.

22 Q. Mr. Zulevic, are you aware that, going back
23 to the questions that the ALJ was asking you earlier
24 about the submitting the two LSRs and how one may be
25 rejected and one may go through, are you aware that if

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1 the LSR that is rejected is corrected and resubmitted
2 that it can still be linked to the LSR that went through
3 without being rejected?

4 A. I am aware that it can, and that's the issue
5 at point. Whenever you're going through a process where
6 you're taking multiple requests and combining them to
7 perform a single function, then problems arise. So it
8 can be done. It can also be done improperly.

9 Q. Mr. Zulevic, are you aware of any rejects
10 that Covad has received for a line splitting or loop
11 splitting simultaneously submitted LSRs?

12 A. I am not specifically aware of any. However,
13 line splitting and loop splitting orders are submitted
14 by the customer of record, which quite often is not
15 Covad. We may do it on behalf of one of ours, so there
16 may have been rejections or problems that some of our
17 partners have seen that we actually haven't seen.

18 Q. But you are not aware of any specific ones
19 that Covad has seen?

20 A. I am not personally aware of those, no.

21 MS. WAXTER: Thank you, that's all I have,
22 Your Honor.

23 JUDGE RENDAHL: Okay, thank you.

24 Well, I think this is an appropriate time to
25 take our morning break, so we will be off the record

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1 until 10:45, at which time Ms. Albersheim will come to
2 the stand.

3 So, Mr. Zulevic, you are released.

4 THE WITNESS: Thank you.

5 JUDGE RENDAHL: You may sit and listen or go
6 enjoy the rain.

7 Let's be off the record.

8 (Recess taken.)

9 JUDGE RENDAHL: Let's be back on the record
10 after our morning break.

11 Ms. Waxter, are we ready for Ms. Albersheim?

12 MS. WAXTER: Yes, thank you, Your Honor,
13 Qwest would call Renee Albersheim to the stand.

14 JUDGE RENDAHL: Could you state your full
15 name and your address for the record, please.

16 THE WITNESS: Renee, R-E-N-E-E, Albersheim,
17 A-L-B-E-R-S-H-E-I-M, my address is 1801 California
18 Street, 24th Floor, Denver, Colorado 80202.

19 JUDGE RENDAHL: Thank you. And if you would
20 raise your right hand, please.

21 (Witness Renee Albersheim was sworn.)

22 JUDGE RENDAHL: Okay, please go ahead,
23 Ms. Waxter.

24 MS. WAXTER: Thank you, Your Honor.

25

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1 Whereupon,

2 RENE E ALBERSHEIM,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

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

7 BY MS. WAXTER:

8 Q. Ms. Albersheim, do you have before you your
9 direct testimony, response testimony, and the exhibits
10 associated therewith?

11 A. Yes, I do.

12 Q. Have you had the opportunity to review your
13 direct testimony, the redacted portion of that
14 testimony?

15 A. Yes, I have.

16 Q. And have you also had the opportunity to
17 review your confidential testimony and your response
18 testimony?

19 A. Yes, I have.

20 Q. Do all of those -- do you have any changes,
21 corrections, additions, or deletions to make?

22 A. No, I don't.

23 Q. Do each of those exhibits, which have been
24 marked for hearing today as 11-T, 12-TC, 13, 14, 15-RT,
25 and 16-RTC, do all of those exhibits reflect your

0065

1 testimony as it was filed with the Commission?

2 A. Yes, it does.

3 Q. And do you stand by the statements made and
4 the information contained within those exhibits?

5 A. Yes, I do.

6 Q. And were those exhibits either prepared by
7 you or under your direction?

8 A. Yes.

9 MS. WAXTER: I would move to admit those
10 exhibits into the record, specifically 11-T through
11 16-RTC.

12 JUDGE RENDAHL: Any objection?

13 MS. FRAME: No objection, Your Honor.

14 JUDGE RENDAHL: Those exhibits will be
15 admitted.

16 MS. WAXTER: Thank you, Your Honor, and I
17 tender Ms. Albersheim for cross-examination.

18 MS. FRAME: Thank you.

19

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

21 BY MS. FRAME:

22 Q. Good morning.

23 A. Good morning.

24 Q. Let me call your attention to your direct
25 testimony, which is marked, I don't think it really

0066

1 matters, 11-T or 12-TC, specifically page 3.

2 A. I'm there.

3 Q. On lines 12 and 13 you state that, well, let
4 me start on line 11 here. First:

5 Covad's specific demands in timing
6 incorporated in interconnection
7 agreement would trivialize the CMP and
8 render much of its work meaningless.

9 What do you mean by trivializing the CMP,
10 which is the change management process?

11 A. What we mean there is if Covad and other
12 CLECs are allowed to dictate the systems changes through
13 their interconnection agreements, and these are systems
14 changes that impact all CLECs, then the CLECs who are
15 supposed to be given a voice in the CMP are superseded.

16 Q. Okay. But let's explore that a little bit
17 more. You state in your testimony that you're already
18 going through the process of putting together a single
19 LSR in IMA 16.0, which is to be released on October,
20 what date is that, October?

21 A. I believe that's October 16th.

22 Q. 16th again?

23 A. It's mid October.

24 Q. Okay. If you're putting together that
25 particular release and that change request within that

0067

1 release, then how specifically would the language that
2 Covad proposes in the interconnection agreement
3 trivialize the CMP since it is actually just reinforcing
4 the CMP?

5 A. What Covad was asking Qwest to do was put
6 language in our contract and sign the contract prior to
7 the release, and the release in October is only for part
8 of this problem. The single LSR for new connections and
9 transfers was implemented in April. The October release
10 is just for conversions and migrations. But what we
11 were being asked to do was have that language in our
12 agreement prior to the release without having the
13 capability to do single LSR --

14 Q. What --

15 A. -- at that point.

16 Q. I'm sorry to interrupt, I have a bad habit of
17 doing that.

18 A. It's all right.

19 Q. But so if that's your concern, then why
20 couldn't just another date be put in there, why don't we
21 say January 2005? Because by that point, you will have
22 signed the agreement, it will have been approved by the
23 Commission, and you will not be in breach of the
24 agreement prior to signing it?

25 A. What do you want us to say by January 2005?

0068

1 Q. That the single LSR for migrations will be
2 completed.

3 A. While we have --

4 Q. What's wrong with that language?

5 A. While we have targeted the IMA 16.0 release,
6 there are no guarantees in systems development, and we
7 can't make that kind of absolute commitment, and I can't
8 -- I don't have the authority to do that myself.

9 Q. Okay. Then I guess the concern I have here
10 then is, and you talk about this delay from IMA 13.0 to
11 IMA 15.0 for new, I believe, new LSRs or new customers
12 in the --

13 A. New connections.

14 Q. New connections for the single LSR. Then why
15 -- and that that was done I guess, and it was delayed
16 for a year and, I don't know, what, a year and a half?

17 A. No, it was delayed from August '03 to April
18 '04.

19 Q. Okay, August, so it was delayed for --

20 A. Eight months.

21 Q. -- eight months, okay. Then how is -- where
22 is the guarantee that this single LSR issue is going to
23 be completed by Qwest?

24 A. While there are no guarantees, I want to make
25 a couple points here. First, that is the only IMA CR

0069

1 that I'm aware of that has been delayed in that way, and
2 it was a technical issue that Qwest did not foresee.
3 Now those technical issues that surrounded developing
4 linking unbundled loops and loop splitting and UNE-P and
5 line splitting were resolved with the April release, and
6 what we are doing in the October release is building on
7 the solution for new connections. So the technical
8 issues have already been dealt with, and we should not
9 encounter the same kind of difficulty with the April --
10 October release.

11 Q. So you just testified that the release is
12 scheduled for October, mid October, and you were here
13 earlier listening to testimony presented by Mr. Zulevic;
14 is that correct?

15 A. Yes.

16 Q. And that the change request now is in its
17 testing phase?

18 A. It has completed the system test phase. If
19 you look in the change management document, there's a
20 timeline for change request development, and system test
21 is one of the last phases before implementation of the
22 release. So essentially the development and testing of
23 this CR are finished, and it just needs to be
24 implemented with the release.

25 Q. So this could take what, two months, three

0070

1 months, four months?

2 A. What could take two months?

3 Q. The implementation and the actual working out
4 of the kinks; is that correct?

5 A. That's not quite accurate. The
6 implementation happens on the release date. Testing by
7 the CLECs could take as long as the CLECs need it to
8 take. I heard Mr. Zulevic discuss how it could take
9 months before a CR is closed. Well, that is up to the
10 CLECs in how long it takes them to submit orders using
11 the new features, and that is not under Qwest's control.

12 Q. So but Qwest would possibly have some
13 interaction with the CLECs in trying to clean up that
14 particular CR that is being implemented, correct?

15 A. If the CLECs find issues with that, yes.

16 Q. Okay. Then again, my question is, why can't
17 Qwest commit to having the CR completed, done, and
18 implemented by a certain date?

19 A. Qwest can't control how long it will take the
20 CLECs to determine that everything in that CR is working
21 to their satisfaction.

22 Q. Let's go back to your direct testimony again
23 on page 4, lines 4 through 5.

24 A. Yes.

25 Q. You state that there's no basis for any

0071

1 suggestion, any suggestion, by Covad that Qwest has not
2 committed to the changes at issue.

3 A. Yes.

4 MS. WAXTER: Objection, Your Honor, that's
5 actually not a correct reading of the language.

6 JUDGE RENDAHL: I think the word has should
7 be changed to is in the question, and that would make it
8 correct.

9 Is that your reading?

10 MS. WAXTER: That is my reading, Your Honor.

11 JUDGE RENDAHL: Okay, with that change, go
12 ahead, Ms. Frame.

13 MS. FRAME: Okay, thank you, Your Honor.

14 BY MS. FRAME:

15 Q. So again -- actually why don't you just read
16 it into the record.

17 A. Okay. Beginning with there is?

18 Q. Yes, please.

19 A. (Reading.)

20 There is no basis for any suggestion by
21 Covad that Qwest is not committed to the
22 changes at issue.

23 Q. Is it your understanding though that a basis
24 could be that Qwest committed to supposedly implementing
25 the new single LSR issue in 13.0 IMA and then there was

0072

1 this unilateral delay to 15.0?

2 A. That was not a unilateral delay, and it had
3 no reflection on Qwest's commitment. In fact, it's
4 quite the opposite with what Qwest did do to get the CR
5 implemented. Qwest encountered technical issues with
6 the first LSR. That didn't reflect on Qwest's
7 commitment to get it done. It was not possible to get
8 it done by 13.0. So Qwest at its own expense and using
9 its own resources made sure that that CR was implemented
10 with 15.0 in April.

11 Q. But there is a basis at least for --

12 A. Not --

13 Q. -- the concern that Covad has here, correct?

14 A. No, there is no basis for a lack of
15 commitment on Qwest's part, and that is the statement
16 that Mr. Zulevic made in his testimony, that Qwest
17 wasn't committed to getting this done.

18 Q. In a timely manner and on time, correct?

19 A. On time based on Qwest's schedule?

20 Q. Based on what was committed to supposedly in
21 IMA 13.0.

22 A. And that was always Qwest's intent.

23 Q. Okay, let's talk about -- let's continue on
24 page 4 in lines 9 through 10, you state -- actually, I
25 will read this this time, the question is:

0073

1 To put this dispute in context, what
2 products are at issue here?

3 And your answer is:

4 Only two products are at issue. They
5 are line splitting and loop splitting.

6 Does that -- is your answer then to
7 trivialize the fact that there are supposedly only two
8 issues or two products at issue here?

9 A. It's not to trivialize, it's to make clear
10 what the dispute is, in part because Mr. Zulevic made
11 several references in his testimony to line sharing and
12 essentially generalized this to data products, and it is
13 only about line splitting and loop splitting. The first
14 CR that was implemented with 13.0 just excluded those
15 two products. All of the other changes that were
16 included in that CR were implemented on time, and that
17 included the ability to submit line sharing LSRs
18 immediately following a Qwest retail customer ordering
19 voice.

20 Q. Okay. In lines 16 through 19, and this is --
21 I believe this is -- let me just back up. Lines 21
22 through 23, which is confidential information.

23 A. Yes.

24 Q. You talk about whether Covad had ordered any
25 line split lines or loop split lines through the single

0074

1 LSR process, and that's just the question, I'm not going
2 to get into the answer for this.

3 A. But that's not an accurate reflection of the
4 question.

5 Q. Let me strike that.

6 Let me back up, I'm going to go back up to
7 lines 16 through 19.

8 A. Okay.

9 Q. Where you talk about how many line split
10 lines were involved in this process in March of 2003,
11 correct?

12 A. In this process?

13 Q. In the single LSR process.

14 A. That's not what I'm discussing there.

15 Q. Okay, what are you discussing there?

16 A. Just how many line split or loop split lines
17 were in service. It did not reflect ordered by single
18 LSR. It's total line split or loop split lines in
19 service.

20 Q. Okay, so these aren't necessarily Covad
21 ordered LSR lines?

22 A. No.

23 Q. Okay.

24 A. And they are not single LSR ordered either.

25 Q. Okay.

0075

1 A. They just reflect how many have been ordered
2 and are in service.

3 Q. Okay. And this is not confidential
4 information here, correct?

5 A. Right.

6 Q. In March of 2003 you state that there were
7 155 total line split lines; is that correct?

8 A. Yes.

9 Q. And then one year later in March of 2004 you
10 have noted that there are now 2,906 total line split
11 lines, correct?

12 A. Yes, and now since July there are about
13 3,500.

14 Q. So the numbers are going up substantially,
15 correct?

16 A. I wouldn't consider that substantial, not in
17 comparison to other products. They are increasing.

18 Q. So what would you say, that it's gone up,
19 let's see, from March of 2003 to March of 2004 like 20
20 fold; is that about right?

21 A. I would have to do the math.

22 Q. Okay.

23 A. I'm not good at numbers.

24 Q. All right. But all of these products would
25 be affected by the single LSR issue, correct, that

0076

1 we're --

2 A. These two products, yes.

3 Q. Okay.

4 JUDGE RENDAHL: Could both of you wait until
5 the other is finished before you begin speaking, because
6 it's quite difficult for the court reporter to take down
7 two answers at the same time.

8 THE WITNESS: Sure.

9 BY MS. FRAME:

10 Q. Let's talk about 21 through 23, lines 21
11 through 23, and again, we won't talk about the details
12 of it since it's confidential information, but who
13 typically orders, who places LSRs?

14 A. CLECs.

15 Q. And is it typically the voice CLEC or is it
16 the data CLEC?

17 A. Are you speaking of the customer of record?

18 Q. That's correct.

19 A. Okay.

20 Q. Who's the customer of record typically?

21 A. Well, that depends on the arrangement between
22 the CLECs. It could be the voice CLEC or the data CLEC.

23 Q. Would you agree that most of the time I would
24 say, I don't know, let's give it a percentage, but 90
25 something percent of the time would be the voice

0077

1 provider?

2 A. I really couldn't say. I don't have any data
3 on that, so I couldn't say.

4 Q. Let's turn to page 10 of your direct
5 testimony. Specifically I'm going to ask you some
6 questions about lines 11 through 15. I'm going to go
7 ahead and just read this so that I don't misquote here.

8 There is no dispute that the single LSR
9 process for conversions and migrations
10 is scheduled to be implemented with the
11 IMA release 16.0 in October. Covad's
12 claim that contract language is
13 appropriate to ensure that Qwest will in
14 fact implement the remaining process
15 change is misplaced, as is Covad's claim
16 that the process changes should be
17 mandated in contract language.

18 Isn't it true that there are a lot of things
19 that are mandated in contract language?

20 A. Of course.

21 Q. Let's look at page 11, lines 6 through 8, you
22 write or you testify in your direct:

23 Even so, Qwest recognized the utility of
24 being able to request both the voice and
25 data service on a single LSR.

0078

1 Didn't Qwest have to provide parity in this
2 regard?

3 A. I don't think parity applies in the whole
4 situation, no.

5 Q. Why doesn't it apply here?

6 A. It doesn't apply for unbundled loops with
7 loop splitting. The standard for those products is that
8 an efficient competitor will have a meaningful
9 opportunity to compete. That is not a parity standard.
10 But Qwest did, once Qwest decided to make the change to
11 its own systems, it did also make the change as it could
12 for CLEC systems.

13 Q. Let me call your attention to page 18 of your
14 direct testimony. You talk about here that Covad didn't
15 ask Qwest for manual handling of orders.

16 A. You're speaking of the requests for an
17 interim process?

18 Q. That's correct. And then you state something
19 to the effect that, well, it would only be for a few
20 months anyway, let's talk about that.

21 JUDGE RENDAHL: Ms. Frame, can you refer us
22 to lines on the page --

23 MS. FRAME: Yes.

24 JUDGE RENDAHL: -- that you're referring to.

25 MS. FRAME: Sure, lines 5 through 6.

0079

1 BY MS. FRAME:

2 Q. It states:

3 Neither Covad nor any other CLEC has
4 asked Qwest to consider an interim
5 process through the CMP.

6 And then the testimony continues on lines 9
7 through 19 pertaining to manual. Would you please read
8 that question and your answer.

9 A. The whole thing?

10 Q. Yes, please.

11 A. All right.

12 Would it make sense for Covad to submit
13 a CR today for a manual process for
14 submitting a single LSR for line/loop
15 splitting?

16 Answer: No, as I stated above, the
17 first Qwest sponsored CR for an
18 automated process for a single LSR for
19 new connects and transfers was
20 implemented with IMA release 15.0 in
21 April, and the second Qwest sponsored CR
22 for an automated process for a single
23 LSR for conversions is included in IMA
24 release 16.0 to be implemented in
25 October. It makes no sense to institute

0080

1 a process change through the CMP for a
2 manual process that no CLEC has
3 requested, would only be necessary for
4 conversions, and would only be needed
5 for a few months. And given that the
6 current two LSR process is electronic, a
7 slower manual process makes even less
8 sense.

9 Q. Isn't it true that Qwest has some manual
10 processes in place right now in this particular LSR
11 process; doesn't it have to manually take an LSR and
12 convert that in some instances to a service order?

13 A. We're speaking of two different manual
14 processes here. What I am speaking of is accepting what
15 would be called a manual order, in other words a faxed
16 order, which is what Mr. Zulevic was suggesting. The
17 manual handling of electronically submitted orders is a
18 different issue.

19 Q. Well, let's talk about that, how does that
20 work?

21 A. If an order must be -- if an LSR that has
22 been submitted electronically must be manually
23 processed, that means that a service delivery
24 coordinator must type the service order into Qwest's
25 back office systems.

0081

1 Q. Now you have testified a lot in your direct
2 that Qwest actually put the change request in, correct?

3 A. I mention that, yes.

4 Q. Do you know who suggested that this whole
5 process get going and be started?

6 A. If you mean this whole process, you mean a
7 single LSR?

8 Q. Correct.

9 A. Okay. According to the records, we received
10 a change request from Eschelon asking for the single LSR
11 process. Qwest has no other formal requests on record
12 for single LSR. That request was denied because the
13 back office system capability did not exist at that
14 time.

15 Q. So it was to Qwest's benefit then to try to
16 implement the single LSR, correct?

17 A. It was to everyone's benefit.

18 Q. Then why won't Qwest commit to the single LSR
19 language in the contract?

20 A. Again, what we were being asked to commit to
21 was to have the process in place at the time that the
22 contract was signed. We have committed to developing
23 the process, and it is partially developed already.

24 Q. Partially developed?

25 A. Yes, for new connections, yes.

0082

1 Q. But not for conversions?

2 A. Not for conversions.

3 Q. Or migrations?

4 A. Same thing.

5 MS. FRAME: I have no further questions.

6 JUDGE RENDAHL: Thank you, Ms. Frame.

7 Ms. Albersheim, I do have a few questions for

8 you.

9 THE WITNESS: Sure.

10

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

12 BY JUDGE RENDAHL:

13 Q. Assuming that for some reason the change

14 request at issue here, the conversion, migration

15 request, is not included in the next release, 16.0, when

16 is the next release planned?

17 A. I don't believe a schedule has been

18 established yet for the next releases, so I don't really

19 know.

20 Q. If it isn't implemented in release 16.0, what

21 could Qwest do in the interim to resolve the issue?

22 A. In terms of an interim process?

23 Q. Correct.

24 A. Well --

25 Q. What would Qwest propose to resolve the

0083

1 issues presented?

2 A. In effect, Qwest already has an interim
3 process in the ability to submit two electronic LSRs, so
4 there really isn't a better alternative until the single
5 LSR process is implemented. It's electronic now, so a
6 manual interim process would be slower and isn't a more
7 efficient way to do this.

8 Q. Okay. Were you here this morning when I was
9 asking -- when Mr. Zulevic testified?

10 A. Yes.

11 Q. And did you hear my questions and his
12 responses having to do with the cost relating to an LSR?

13 A. Yes.

14 Q. Would Qwest -- how would Qwest address the
15 cost issue associated with the two LSRs as opposed to a
16 one LSR process?

17 A. Are you speaking of the OSS charge on LSRs?

18 Q. Correct.

19 A. Okay. We are not charging that right now.
20 We have not implemented the OSS charge.

21 Q. So you do not charge for both the voice
22 portion or the loop split or line split LSR?

23 A. Not at this time.

24 And we're speaking of the OSS charges in
25 Section 12 of Exhibit A, correct?

0084

1 Q. Correct.

2 A. Yes, those are not charged at this time.

3 Q. For just the line split, loop split elements?

4 A. For any of them. No LSRs are given an OSS
5 charge as outlined in Section 12.

6 Q. Is there any other charge for an LSR?

7 A. There is a line sharing OSS charge that we
8 have implemented. That only applies to line sharing
9 LSRs.

10 Q. So there would be no cost differential for a
11 CLEC in using the interim process that you have
12 described, the two near simultaneous LSR ordering versus
13 the single LSR process projected for release 16.0?

14 A. That's correct.

15 Q. What is involved with what you testified as
16 "implementation with release"? You have testified that
17 the system testing phase is complete.

18 A. It's the actual release itself. That's done
19 over a weekend, and it's always possible that something
20 can go wrong when the release is installed. I don't
21 think it's very likely, but that is a possibility.

22 Q. So what does Qwest do following the system
23 test phase?

24 A. There is an integration test and then actual
25 implementation.

0085

1 Q. All right. And then following the release or
2 implementation, whichever word you want to use, what
3 happens after the release date?

4 A. Then the CLECs are given however much time
5 they need really to test the new changes for themselves
6 and to raise issues if they find any while they're using
7 the new changes that are implemented in the release.

8 Q. So the IMA release makes the change to the
9 OSS, makes that available to the CLECs to use, but they
10 go through some kind of a testing phase; is that what
11 you're stating?

12 A. Yes, and that's really because, especially
13 with IMA EDI, which is the electronic data interchange,
14 they must develop their EDI interface before they can
15 test it.

16 Q. Is this the evaluation process that
17 Mr. Zulevic was discussing on the stand?

18 A. I believe that's what he was speaking of,
19 yes.

20 Q. That's what you would interpret to be an
21 evaluation phase following the release?

22 A. Yes.

23 Q. Now in your testimony at page 11 of your
24 Exhibit 16-RT, your response testimony, at lines 13
25 through 16 you identified that the single LSR change

0086

1 request was still ranked number 2. Is it still ranked
2 number 2? I mean is there any change that will modify
3 anything between now and October?

4 A. No, and there wouldn't have been any change
5 after the release was packaged, at which time Qwest
6 indicated which CRs would be included in the release.
7 So no, there's no change there. And that was a couple
8 of months ago I believe.

9 Q. Okay. If you would look at page 7 of Exhibit
10 11-T.

11 A. I have 12, but I believe the numbering is the
12 same.

13 Q. 12 is the confidential version.

14 A. Confidential version, yeah.

15 Q. Either one will work.

16 A. Okay.

17 Q. And on that page you compare Qwest's proposed
18 language for Section 9.21.1 with Covad's proposed
19 language, and it appears that the only change are a few
20 words or the word and is struck from Covad's language
21 and a new or is included within the first sentence. Can
22 you explain what Qwest's objection is to Covad's
23 proposed change?

24 A. Yes, the idea was that this was -- this was
25 really about new connections with this language, and the

0087

1 issue was if the UNE-P was new, we didn't have the
2 capability on a single LSR to allow the data portion to
3 be ordered at the same time. With an existing UNE-P,
4 that means the UNE-P account is already in place, we're
5 just ordering the data. That would apply to the
6 conversions as well really. The account is already
7 established, the UNE-P account, it's -- I know that the
8 wording is not really specific about that, but it could
9 be interpreted that way, and that was our concern.

10 Q. So your concern is over -- is related to the
11 TRO, that you can't order new UNE-P, is that the issue?

12 A. No.

13 Q. Am I misconstruing this?

14 A. Yes. No, what I mean is that a UNE-P account
15 is already established, and all we're concerned about is
16 the data. If we say it's new, that could then imply
17 that the data and voice could be ordered at the same
18 time. That was our concern with this language.

19 Q. But hasn't that issue already been addressed
20 in the prior release?

21 A. It has for new connections. Our concern was
22 that it could also be interpreted to apply for
23 conversions in that the UNE-P account hasn't already
24 been converted to the CLEC.

25 Q. Okay, thank you for clarifying that.

0088

1 A. Sure.

2 Q. I have a few other questions. If you go back
3 to your response testimony at page 5, which is Exhibit
4 15 or 16, whichever version you have with you, and again
5 that's at page 5.

6 A. Yes.

7 Q. And on this page you talk about Qwest's LSR
8 ordering process. At line 6 you state that Qwest must
9 take the information from the LSR and create one or more
10 service orders, correct?

11 A. Yes.

12 Q. Is that service order generated
13 electronically, or is there a manual process involved?

14 A. That really depends on what is ordered.
15 Depending on the product it can be electronic, or it
16 could be manual.

17 Q. Okay. At the same page at lines 10 to 11,
18 you also discuss the processing of service orders. Do
19 you have any idea what percentage of service order
20 processing would be manual or electronic?

21 A. Not really. You know, we're getting into
22 what is happening in the downstream systems, and again
23 it really depends on what is ordered. For example,
24 generally an LNP order that was submitted on an
25 electronic LSR could be entirely electronic.

0089

1 Q. And LNP is?

2 A. Local number portability.

3 Q. Thank you.

4 Okay, and then if you turn to the next page,
5 page 6, at lines 17 through 22, in that section you
6 state, only one set of service orders may be generated,
7 and my question has to do with your use of the word may.
8 Does may mean it's only possible, it's only possible to
9 have one set of service orders processed or that one set
10 might be processed but that two might be processed?

11 A. It was --

12 Q. Do you understand my question about your
13 meaning of the word may?

14 A. Yes, I do.

15 Q. Okay.

16 A. And it's the latter. The circumstances
17 aren't just related to the RPON, but the due date of the
18 product being combined must also be the same, and that
19 is under the CLECs' control. And where a difference
20 will occur is if the two products have different service
21 intervals and the CLEC does not try and sync up the due
22 date of the two products. If they are not, then the
23 separate service orders will be generated.

24 JUDGE RENDAHL: Okay, thank you, those are
25 all the questions I have.

0090

1 Ms. Waxter, do you have any redirect?

2 MS. WAXTER: Thank you, Your Honor, I have
3 just a few.

4

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

6 BY MS. WAXTER:

7 Q. Could you, Ms. Albersheim, turn to page 10 of
8 your direct testimony, which is Exhibit 11 or 12-TC,
9 whichever one you have there.

10 A. Page 10?

11 Q. Yes. Lines 11 through 15 you were asked some
12 questions by Covad about that particular paragraph. Can
13 you expound a little bit upon what you mean by the
14 process change being -- the remaining process change
15 being misplaced with respect to the implementation.

16 A. Well, this goes back to my prior answers
17 regarding trivializing the CMP. What we're -- what we
18 would be asked to do here is mandate systems changes
19 that impact all CLECs in our contract as opposed to
20 allowing the CMP to do its job.

21 Q. Thank you.

22 You also responded to a question that
23 Ms. Frame asked you about the fact that the two CRs that
24 were -- we have been discussing here today are -- one
25 being partially developed, and I think you said the

0091

1 partial development is with respect to the new connects
2 and that the I guess non-developed part would be the
3 conversions.

4 A. It just hasn't been implemented yet.

5 Q. Okay.

6 A. Yes.

7 Q. So when you say partially developed, when you
8 use the word developed, are you really referring to the
9 actual implementation of whether the process is in
10 place?

11 A. Yes.

12 Q. Okay, thank you.

13 Can you think of any reason why the CR for
14 conversions or the change request for conversions that
15 is at issue here would not be implemented in the 16.0
16 release scheduled for October?

17 A. I can't think of any reason, no.

18 MS. WAXTER: Those are all the questions I
19 have.

20 JUDGE RENDAHL: Thank you.

21 Ms. Frame, any recross, or Mr. Newell?

22 MR. NEWELL: None, Your Honor. I would ask
23 your permission, however, we would like to verify the
24 information Ms. Albersheim provided with respect to
25 Qwest not charging the OSS charges that are in Exhibit

0092

1 A. That's just simply new information to us. We
2 certainly have no reason to doubt Ms. Albersheim on
3 that, but because it is new information, we would like
4 to verify that. To the extent we can do that while this
5 hearing is still underway, we will do so. But we would
6 like an opportunity to supplement the record after
7 hearing, if necessary. We certainly don't think it will
8 be, but we think it's a very important point, and to the
9 extent there's some confusion, we would like a chance to
10 clarify.

11 JUDGE RENDAHL: Okay, let's be off the record
12 for a moment.

13 (Discussion off the record.)

14 JUDGE RENDAHL: Do you have any additional
15 recross?

16 MR. NEWELL: No, Your Honor.

17 MS. FRAME: No, we don't, Your Honor.

18 JUDGE RENDAHL: Okay.

19 Well, Ms. Albersheim, for now you are
20 released from the stand. I understand that the parties
21 are going to discuss the issue Mr. Newell raised about
22 the charge for the LSR, and if need be we will bring you
23 back on the stand to address that, or we'll address the
24 issue through a records requisition, so let's be off the
25 record for a moment while we discuss our next move.

0093

1 Ms. Albersheim, you can stand down.

2 (Discussion off the record.)

3 JUDGE RENDAHL: Ms. Doberneck is now at the
4 stand.

5 Could you please state your full name for the
6 record and your address, please.

7 THE WITNESS: Megan Doberneck, M-E-G-A-N,
8 last name is D-O-B-E-R-N-E-C-K, and my business address
9 is 7901 Lowry Boulevard, L-O-W-R-Y, and that's Denver,
10 Colorado.

11 JUDGE RENDAHL: Thank you. Please raise your
12 right hand.

13 (Witness Megan Doberneck was sworn.)

14 JUDGE RENDAHL: Please be seated.

15 Ms. Frame.

16 MS. FRAME: Thank you, Your Honor.

17

18 Whereupon,

19 MEGAN DOBERNECK,
20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

22

23

24

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

0094

1 BY MS. FRAME:

2 Q. Would you please state the name of your
3 employer, and you have already given the address, your
4 position, and basically what you do for Covad in that
5 capability.

6 A. I am employed by Covad Communications Company
7 as Vice President of External Affairs for the Qwest
8 Region. In my position I have overall responsibility
9 for essentially the regulated relationship between Qwest
10 and Covad in Qwest's incumbent 14 state region.

11 Q. Thank you. Do you have before you what has
12 been premarked as Exhibits 21-T which is your KMD-1T,
13 which is your corrected direct testimony dated July 15,
14 2004, and revised August 19th, 2004?

15 A. I do.

16 Q. Do you also have before you 22-TC, which is
17 your direct testimony dated July 15th, 2004, but it's
18 your confidential version?

19 A. I do.

20 Q. And the related exhibits 2 through 7?

21 A. Yes, I have those as well.

22 Q. And also do you have before you what has been
23 premarked as 29-RT, which is your corrected responsive
24 testimony dated July 29th, 2004?

25 A. I do.

0095

1 Q. Do you have any corrections to these
2 exhibits?

3 A. I do not.

4 Q. And were these exhibits prepared by you or
5 under your direction?

6 A. They were.

7 Q. Do you stand by your testimony here as you
8 sit here today, the questions posed and the answers that
9 you provided to them?

10 A. I certainly do.

11 MS. FRAME: And, Your Honor, Covad would like
12 to admit what has been premarked Exhibits 21-T, 22-TC
13 through 29-RT into evidence.

14 JUDGE RENDAHL: Is there any objection?

15 MS. WAXTER: No objection.

16 JUDGE RENDAHL: The Exhibits 21-T through
17 Exhibit 29-RT are admitted.

18 MS. FRAME: Thank you, Your Honor, Covad
19 tenders Ms. Doberneck for cross-examination.

20 MS. WAXTER: Qwest has no cross-examination
21 for Ms. Doberneck on this issue.

22 JUDGE RENDAHL: Okay, thank you.

23 And as we discussed off the record, I
24 understand there's no objection to my having questions
25 for the witness.

0096

1 MS. WAXTER: That's correct.

2

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

4 BY JUDGE RENDAHL:

5 Q. Good morning, Ms. Doberneck.

6 A. Good morning, Your Honor.

7 Q. I have a few questions on this Issue Number 8

8 of the payment billing timing questions.

9 A. Yes.

10 Q. If you would turn to Exhibit 21-T, which is
11 your initial direct testimony, page 27, at line 10, this
12 is just a simple clarification.

13 A. Sure.

14 Q. What does the acronym BAN stand for?

15 A. I believe it stands for billing account
16 number.

17 Q. Simple. All right, at page -- and of course
18 I didn't write it down here, that's helpful. At some
19 point in your direct testimony you discuss an annualized
20 amount of billing.

21 A. Yes, that's actually also on page 27, line
22 13.

23 Q. All right. Does this amount represent the
24 total annual amount that Qwest bills Covad for all
25 services that Covad orders, or is this amount the total

0097

1 amount that Qwest bills Covad for which Qwest doesn't
2 include the circuit ID number?

3 A. It is just those lines for which Qwest does
4 not include the circuit ID. I should clarify, this is a
5 regional number, not a Washington specific number.

6 Q. Thank you.

7 Okay, and considering the discussion in your
8 testimony about Covad's bill review process, how much
9 does Covad conduct its review just with the electronic
10 bills, and how much does it also combine with a manual
11 process, so how much is your bill review solely
12 electronic, and how much is it solely manual or a
13 combination?

14 A. Sure. It is a combination, and the original
15 breakdown depends on the media in which we receive the
16 bill. So the majority of the bills we receive from
17 Qwest come in a format that we can review I guess you
18 would call it electronically. It comes in a format that
19 we can run through our billing software in order to
20 review it. What happens after I think it may be like
21 electric magnetic tape, something like that, something
22 that can be loaded electronically though, depending
23 though on what happens as a result of the software going
24 through that and running our billing rules against it,
25 it generates what we call an exception report. And that

0098

1 exception report for the billings that we receive
2 electronically then necessitate manual review, because
3 they're something that have fallen out from the
4 electronic process that somebody has to look into, a
5 person has to look into.

6 And then the other portion of the manual
7 review relates to the bills for which we can only
8 receive it in paper format, and that relates to the
9 collocation nonrecurring charges. There are a few other
10 areas that I lay out in my testimony where we also have
11 manual review despite receiving the bill in electronic
12 format, and that's in some respects because of the way
13 things are billed, and I think one of the examples I
14 gave was the recurring variable billing for transport.

15 It is difficult to estimate a precise
16 percentage, because it really does depend on the level
17 or number of exceptions that are generated as a result
18 of the electronic review. The paper versus electronic
19 billing is fixed generally month to month, and then the
20 other manual portion is really dictated by the level of
21 exceptions we get.

22 Q. Okay. Has Covad to your knowledge reviewed
23 how other CLECs or ILECs conduct their bill review or
24 evaluation?

25 A. Are you talking generally or with respect to

0099

1 the circuit ID issue, because I think the answer is
2 different.

3 Q. All right, why don't you explain for both.

4 A. Sure. Generally I know that while we have
5 not talked directly to other IXCs and CLECs in terms of
6 their billing process, we did retain a third party
7 vendor in order to develop our billing software and the
8 rules we use to review electronic billings and how to
9 appropriately generate exception reports, and my
10 understanding is this is a third party vendor that does
11 it industrywide and has had experience with a number of
12 other companies, so we use that as a proxy for how other
13 companies have done it. That's generally.

14 Q. And when did Covad retain the third party
15 vendor?

16 A. That process began -- I know the vendor
17 selection process began in approximately October of 2001
18 I would say. I don't recall when we retained the
19 vendor, but I would say we actually had our billing
20 system, our electronic billing system up and running, we
21 call TCAT, T-C-A-T, late 2002.

22 Q. Thank you.

23 And for the circuit ID issue?

24 A. The circuit ID issue is unique to Qwest. All
25 of the other ILECs including what I call the subILECs,

0100

1 like GTE is Verizon West which has its own billing
2 system or the PacBell or Ameritech or SWBT, which is all
3 now SBC, which all have a similar billing system. All
4 bills --

5 Q. When you say SWBT, you're referring to
6 Southwest Bell?

7 A. Yes, I'm sorry, SWBT, Southwest Bell
8 Telephone, excuse me.

9 They all bill, and it's this is a line
10 sharing issue, using the circuit ID number. It is only
11 Qwest that does not.

12 Q. Okay. Concerning that circuit ID issue, are
13 you familiar, have you read Mr. Easton's testimony, his
14 direct and responsive testimony on this issue?

15 A. Yes, I have.

16 Q. Meaning Issue 8?

17 A. Yes.

18 Q. And in his testimony, and I will give you the
19 page reference and line reference, but I think you can
20 probably discuss it without reference to it, I'm
21 referring to testimony beginning at page 5, line 23, and
22 going over to page 6, and he discusses the fact that a
23 unique identification number, that Qwest assigns a
24 unique identification number during the ordering process
25 and that this should resolve Covad's issue. What is

0101

1 your response to Mr. Easton's testimony on that issue?

2 A. While I agree that we do receive a unique
3 number, it's not the circuit ID, it's a different type
4 of identification number, and my understanding is we do
5 receive it both when we receive the FFC from Qwest, and
6 it does show up on the bill. The problem is our billing
7 software extracts from the various data warehouses that
8 we pull together, that we maintain, one of which of
9 course is the FOC information Qwest provides. However,
10 our billing software was generated on what I would call
11 generally industry standard practices. So for billing
12 software it doesn't pull and it does not have the
13 capability right now to pull from that FOC information
14 in order to allow us to validate, and it's a reflection
15 of the fact that Qwest is out of sync with how the other
16 ILECs bill. So the information is there, but our
17 software is not capable of pulling that information in
18 order to validate on an electronic basis.

19 Q. Has Covad looked into modifying its software
20 to do that?

21 A. We have looked into it. At this point
22 though, the costs have not been fully quantified, but it
23 reflects additional costs. There are costs and
24 obviously workload allocations within Covad that we
25 would have to resolve in order to address this

0102

1 deficiency in the Qwest bill.

2 Q. Okay, thank you.

3 Discussing overall the changes that Covad's
4 requesting in this area, there's four subissues to Issue
5 8 as I understand. The first is the additional 15 days
6 for bill payment and then additional days for
7 discontinuation of orders and discontinuation of
8 services.

9 A. And repeated, the determination of repeated
10 delinquencies the fourth time where we have a difference
11 in the timing with Qwest.

12 Q. Correct. Why does Covad need the additional
13 60 days for the other three issues, for subissues 8.2,
14 3, and 4, when it's only seeking 15 more days for the
15 additional bill payment; shouldn't that be more
16 consistent?

17 A. Well, I would make one distinction from what
18 you stated. We are seeking an additional 60 days where
19 we're talking about disconnection of services and
20 discontinuation of order processing. On the
21 determination of repeated delinquency, we are only
22 seeking an additional -- wait, I don't have my little --
23 I had a cheat sheet that showed the difference. I don't
24 think it's 60 days. And I apologize, I don't have that
25 in front of me.

0103

1 JUDGE RENDAHL: Let's be off the record for a
2 moment.

3 (Discussion off the record.)

4 BY JUDGE RENDAHL:

5 Q. While we were off the record, we clarified
6 that for the subissue related to repeated delinquency
7 it's an additional 30 days, not 60 days.

8 A. Yes.

9 And I would just like to treat the repeated
10 delinquency separately than the other two issues,
11 because I think they are a little different. On the
12 repeated delinquency where the gap in time we have, we
13 have a 30 day gap in time, and that reflects the
14 additional 15, the 15 days difference that we have on
15 the payment due date. Qwest is requesting 30, we are
16 requesting 45. In terms of establishing what we think
17 is the appropriate time frame for repeated delinquency,
18 we tacked on an additional 15 days to get us to a total
19 of 60 days, and the rationale behind that was if we have
20 45 days in which to pay, we will have an additional 15
21 days after that time period under agreed upon language
22 in the agreement being negotiated, because you have 15
23 days after the payment due date, whatever that date
24 might be, to submit a bill dispute. So we went with,
25 well, if our payment due date is 45 days, you aren't

0104

1 going to know really until the next 15 days have elapsed
2 as to whether Covad is really delinquent, because until
3 we have the time period for disputes has elapsed, it is
4 unknown to Qwest as to whether Covad is going to dispute
5 the amount it did not pay or just simply didn't pay, in
6 which case it would be delinquent, so that's where our
7 60 day request comes from.

8 Q. But if the language is approved for the 45
9 days, for the additional 15 days for payment, won't the
10 contract language that allows that 15 day period cover,
11 why would you need to change the 30 days to 60 days --

12 A. The way --

13 Q. -- for repeated delinquency?

14 A. Okay, let me give this a second shot. The
15 way the language is drafted or written right now is you
16 have your payment due date, and let's say the Commission
17 agrees with Covad and that payment due date is 45 days.
18 The agreement also says, Covad, you will have 15 days
19 beyond the payment due date within which to submit a
20 dispute to us, and that's where we get the 60 days for
21 the determination of repeated delinquency. Because
22 right now the language is a determination of repeated
23 delinquency is keyed to the payment due date, and we
24 believe it shouldn't be keyed to the payment due date,
25 it should be keyed to the point in time at which you

0105

1 know Covad has failed to pay and is not disputing.

2 Q. Okay, thank you.

3 And for the other two elements, why the
4 additional 60 days?

5 A. And that has to do -- basically that's driven
6 by two issues. One is what I discuss in my testimony, I
7 believe it's my direct testimony, about the challenges
8 we can have sometimes in getting Qwest to acknowledge
9 the existence of a dispute. And the other component of
10 why we believe an extension of time is appropriate is
11 because of the nature of the remedies Qwest can invoke.
12 And what our concern is is you really can't get much
13 worse from sort of a competitive standpoint than not
14 being able to place orders or having services
15 disconnected, and in light of the severity of the
16 consequences and the challenges we can have in getting a
17 dispute acknowledged, which is key to making sure Qwest
18 doesn't invoke those consequences without legitimate
19 reason, is why we think an additional 60 days is
20 appropriate. I mean sometimes it just takes time to get
21 a dispute across, to get a dispute acknowledged, to get
22 a dispute recognized, and it's just because of the
23 severity of the consequences that we think additional
24 time is appropriate.

25 Q. Okay, I just have one other question, and

0106

1 that has to do with again statements in Mr. Easton's
2 testimony concerning, this is at page 8 of his
3 responsive testimony, that it's not necessary to obtain
4 USOC number for bill validation. Do you remember that
5 discussion?

6 A. Yes.

7 Q. Has Covad ever requested USOCs from Qwest for
8 bill validation?

9 A. Sure. The answer is -- I think maybe where I
10 might have a misunderstanding with Qwest is who we
11 request it from or where we get the information. We
12 have I believe made infrequent requests to Qwest to the
13 billing account personnel asking them what the
14 appropriate USOC is. We have also made those requests
15 to our account management team. I would say probably
16 the most common resource though that we use, on the
17 Qwest wholesale Web site there is a USOC finder, and you
18 can navigate either by product or by USOC, and so that
19 is probably the more dominant resource we use in order
20 to determine what the appropriate USOC is when it's not
21 populated on the bill.

22 Q. And do you use the Web site because it's more
23 time efficient?

24 A. Generally, yes. And it, you know, it's
25 something that can be done at any point. It can be

0107

1 pulled up and you get it, you can find an immediate
2 answer generally speaking for the more basic
3 descriptions that might show up on your bill rather than
4 having to wait for a phone call back or a responsive
5 E-mail.

6 Q. Okay. Does Covad document its interactions
7 with Qwest's billing assistance personnel? I don't have
8 the right name for them off the tip of my tongue.

9 A. In certain situations, yes. Where it is a
10 more problematic issue is when you have a I would say
11 probably a bigger problem in terms of bill review, but I
12 don't -- my understanding is that the billing folks do
13 not document if they have made a call and may not
14 necessarily retain all E-mails if it's something they
15 consider fairly mundane.

16 JUDGE RENDAHL: Okay, well, thank you for
17 your patience. Those are all the questions I have.

18 And I don't know, Ms. Frame or Mr. Newell, if
19 you have any redirect.

20 MS. FRAME: No, we don't, Your Honor.

21 MS. WAXTER: Your Honor, I have a few just
22 based upon your questions, a few cross.

23 JUDGE RENDAHL: Please go ahead.

24 MS. WAXTER: Thank you, Your Honor.

25

0108

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

2 BY MS. WAXTER:

3 Q. Ms. Doberneck, you were talking earlier about
4 the time frames and needing to change the time frames or
5 extend the time frames with respect to Qwest's ability
6 to discontinue processing orders or disconnect, or
7 disconnect service to Covad in the event of non-pay.
8 Now you would agree that the dates that -- that the
9 timing that Qwest is proposing in the ICA or the
10 interconnection agreement are the same that are in Covad
11 and Qwest's current interconnection agreement?

12 MR. NEWELL: Objection, beyond the scope of
13 direct and cross by Your Honor.

14 JUDGE RENDAHL: Ms. Waxter, is this covered
15 in the testimony already?

16 MS. WAXTER: No, it's not.

17 JUDGE RENDAHL: I will allow the question
18 just to clarify.

19 Do you remember the question, Ms. Doberneck?

20 THE WITNESS: I do.

21 A. I would break them out into three different
22 answers though on the payment due date. Our 1998
23 agreement does contain the 30 day payment interval.
24 Again, I don't think, but I could be wrong and I did --
25 I haven't checked our current interconnection agreement,

0109

1 I don't believe there are specific provisions that deal
2 with discontinuation of order processing for the
3 disconnection of services in the event of nonpayment.

4 BY MS. WAXTER:

5 Q. I don't presume you have the current
6 Qwest-Covad interconnection agreement with you today, do
7 you?

8 A. I do not.

9 Q. Okay.

10 MS. WAXTER: Your Honor, if I might ask that
11 Qwest be permitted to supplement with, just the record I
12 guess after the fact, with the current provisions in the
13 interconnection agreement that are applicable to this
14 particular section.

15 JUDGE RENDAHL: I think the most appropriate
16 way is to ask a record requisition to Ms. Doberneck for
17 those provisions of the interconnection agreement.

18 MS. WAXTER: Okay, and how do I do that?

19 JUDGE RENDAHL: Say, I would like to make a
20 records requisition.

21 MS. WAXTER: Okay, then I would like to make
22 a record requisition of Covad to produce those
23 provisions of the current interconnection agreement
24 between Qwest and Covad to the extent they do apply to
25 discontinuing processing orders and disconnecting.

0110

1 THE WITNESS: Can I just ask a question to
2 make sure, so if, just to make sure we give you what you
3 want, if there is a provision or provisions that relate
4 to the disconnection of services or discontinuation of
5 order processing in the event of nonpayment, that is
6 what you are requesting?

7 MS. WAXTER: That is correct.

8 THE WITNESS: Okay.

9 JUDGE RENDAHL: Okay, and that would be
10 Record Requisition Number 1. The process for that is
11 that Ms. Doberneck will provide a response to Qwest. I
12 believe the time frames are within the Commission's
13 procedural rules. However, they are frequently provided
14 more quickly if the witness has that available. Then
15 the party making the record requisition needs to move to
16 enter that into the record as an exhibit.

17 MS. WAXTER: Okay.

18 JUDGE RENDAHL: So that's the process.

19 Any questions, Ms. Frame?

20 MS. FRAME: Yes, I do. Because it's a Qwest
21 kept document, it's just a procedural question, wouldn't
22 Qwest already have this information? And Covad is happy
23 to oblige and produce the document or the sections
24 within the current interconnection agreement, but it's
25 just a procedural matter, isn't this something that's

0111

1 already kept by Qwest?

2 JUDGE RENDAHL: Yes, it is, but I assume both
3 parties have it.

4 MS. FRAME: Correct.

5 JUDGE RENDAHL: It's an agreement that both
6 parties have, so I think it's a fair question for Qwest
7 to ask of Ms. Doberneck.

8 MS. FRAME: Okay, thank you.

9 JUDGE RENDAHL: Okay, is there anything more,
10 Ms. Waxter?

11 MS. WAXTER: Just a couple more, Your Honor.

12 BY MS. WAXTER:

13 Q. Going back to the discussion you had with the
14 ALJ earlier regarding reviewing the bills that Covad
15 receives from Qwest, those bills that are actually
16 received by Covad electronically but Covad reviews those
17 bills manually, do you recall that testimony?

18 A. I did not state that we review those bills
19 manually. What I stated was to the extent that there
20 are exceptions that are generated by our billing system,
21 when the exceptions are generated, that is reviewed
22 manually.

23 Q. And then I think a follow on question or
24 response was that there are other bills that you do --
25 that Covad does receive electronically that Covad

0112

1 chooses to review manually?

2 A. Yes, and I think it's -- I state what
3 portions of that are done in my direct testimony. The
4 one that comes to mind is the variable recurring for
5 transport.

6 Q. And I think you also testified that Covad has
7 chosen not, because of resource constraints or what have
8 you, has chosen not to develop an electronic process to
9 review those electronic bills, correct?

10 A. No, I didn't say that.

11 Q. Okay. Would you agree then that the bills
12 that Covad receives electronically could be subject to
13 an electronic review with the proper software?

14 A. I don't know if that's possible.

15 Q. Covad does have the ability to electronically
16 review some of the bills that Qwest submits to them
17 electronically, correct?

18 A. Absolutely.

19 Q. And that is because of software that's been
20 developed and has the capability to do the auditing or
21 the truing up, if you will?

22 A. Yes.

23 Q. Okay. And this is really just a
24 clarification based upon a question that the ALJ asked
25 you with respect to repeatedly delinquent. I think I'm

0113

1 still a little confused as to the tacking on the 15 days
2 to the Covad proposed 45 day payment due date and coming
3 up with the 60 days for repeatedly delinquent. Are you
4 suggesting then that the language in Section 5.4.5 that
5 ties the repeatedly delinquent determination to the
6 payment due date would need to be changed as well as the
7 actual days that are listed?

8 A. Can I just repeat what I think you asked me?

9 Q. Sure.

10 A. The question is, does the way -- you know,
11 can you just ask me your question again.

12 Q. Sure.

13 A. I'm sorry, it was long and I was looking for
14 the language.

15 Q. Well, it was, and it was probably a bit
16 convoluted, so let me see if I can make it easier.

17 Section 5.4.5, which discusses repeatedly
18 delinquent --

19 A. Before you move on from there, I just have
20 the issues matrix, so for --

21 Q. That's what I'm looking for.

22 A. So if there are any subsections, then I will
23 need the interconnection agreement.

24 JUDGE RENDAHL: And you're looking at the
25 disputed issues list, which is marked as Exhibit 70.

0114

1 MS. WAXTER: That is correct, and I'm looking
2 at page 47.

3 THE WITNESS: I confess I have the Colorado
4 list, but I believe the language is exactly the same.

5 BY MS. WAXTER:

6 Q. In any event, the section we're talking about
7 of the proposed ICA or interconnection agreement is
8 5.4.5, okay?

9 A. Yes.

10 Q. Now when it gets down sort of halfway through
11 the paragraph, it talks about or gives a definition of
12 repeatedly delinquent.

13 A. Yes.

14 Q. And for the ALJ's benefit, that's almost the
15 -- it's the third line from the bottom of the Covad
16 proposed language of page 47. And it says, repeatedly
17 delinquent means any payment received, Qwest proposes
18 the timing of 30 days, Covad proposes the timing of 60
19 days to be inserted there.

20 A. Oh, I see.

21 Q. Do you see that?

22 A. Yes.

23 Q. Okay. Or more after the payment due date,
24 and then it goes on and gives some other requirements.
25 But as I understand your prior testimony, that you were

0115

1 suggesting that the repeatedly delinquent timing not be
2 tied to the payment due date but rather be tied to the
3 point in time when Qwest understands that Covad is
4 either disputing the charges and hasn't paid a certain
5 amount of the bill or is just failing to pay the bill?

6 A. Correct.

7 Q. So --

8 A. So basically it's at the point in time when
9 there's no confusion in terms of did we just not pay or
10 did we have a reason to not pay.

11 Q. Okay. So then the question is, wouldn't
12 Covad need to propose different language or a different
13 point in time from which to start determining repeatedly
14 delinquent rather than the payment due date?

15 A. I don't think so. I was trying to get to how
16 I got to the 60 days.

17 Q. Okay.

18 A. As opposed to the 30 days --

19 Q. But you're still --

20 A. -- in terms of calculation.

21 Q. Okay. And you are still tying the 60 days to
22 the payment due date then?

23 A. Yes.

24 Q. Okay.

25 A. So no, it's just the timing, not what the

0116

1 trigger is.

2 Q. Okay.

3 A. If that makes sense.

4 MS. WAXTER: That does, and that clarifies my
5 question, and I have no further, thank you.

6 JUDGE RENDAHL: All right, well, thank you,
7 we've gone a bit over what I thought we would.

8 Mr. Newell, you look like you have a
9 question.

10 MR. NEWELL: I have one question, well,
11 perhaps a group of questions based on Ms. Waxter's
12 questions.

13 JUDGE RENDAHL: Okay, I guess because of the
14 time we'll have to bring Ms. Doberneck back after lunch
15 I believe. I think it's appropriate to take a lunch
16 break now and come back. I would like to start up again
17 at 1:45 to give us our full hour and a half given
18 traffic. So if you can hold that thought, Mr. Newell,
19 we will be off the record for our lunch break, and we'll
20 come back and continue with Ms. Doberneck after lunch.

21 Let's be adjourned for lunch.

22 (Luncheon recess taken at 12:10 p.m.)

23

24

25 A F T E R N O O N S E S S I O N

0117

1 (1:45 p.m.)

2 JUDGE RENDAHL: Let's be back on the record
3 after our lunch break, and after we went off the record
4 I was asking counsel about exhibits, and, Ms. Frame, I
5 understand Covad is withdrawing what was marked as
6 Exhibits 17 and 18 as cross-exhibits for Ms. Albersheim;
7 is that correct?

8 MS. FRAME: Yes, that's correct.

9 JUDGE RENDAHL: And, Ms. Waxter, exhibits,
10 what's been marked as Exhibits 30 and 31 will likely be
11 used during hearing time tomorrow; is that correct?

12 MS. WAXTER: That's correct.

13 JUDGE RENDAHL: All right, let's go forward.
14 Mr. Newell, I believe you had a few questions on
15 re-redirect for Ms. Doberneck.

16 MR. NEWELL: Yes, thank you, Your Honor.

17

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

19 BY MR. NEWELL:

20 Q. Ms. Doberneck, you confirmed for Ms. Waxter
21 that the current Qwest-Covad interconnection agreement
22 provides for a 30 day payment interval?

23 A. Yes, that's correct.

24 Q. And how does Covad comply with that 30 day
25 interval today?

0118

1 A. In essence we skimp on bill review. We
2 comply with the 30 day window or the 30 day provision
3 contained in the interconnection agreement by not
4 completing review of the bills and choosing instead to
5 send payment on time. Sounds a little irrational, but
6 our finance folks looked at what the monetary
7 ramifications are in terms of incurring late payment
8 charges on the trying to decide whether to skimp on bill
9 review or incur late payment charges, and their
10 evaluation demonstrated that from a financial
11 perspective it was simply not feasible to incur what
12 would be the anticipated late payment charges that we
13 would incur if we actually took the time that we needed
14 to complete the bill review.

15 Q. With respect to Covad's proposed extended
16 timelines prior to discontinuance and disconnection of
17 wholesale services from Qwest, to what use would Covad
18 put the extra time that it has proposed?

19 MS. WAXTER: Objection.

20 JUDGE RENDAHL: And what's the nature of the
21 objection?

22 MS. WAXTER: I think this goes far outside
23 the scope of the cross and Your Honor's questions. It
24 seems a gratuitous question, if you will, and I think
25 it's just far outside the scope, far outside the scope

0119

1 of where we have been.

2 JUDGE RENDAHL: Well, I would tend to agree.

3 I also believe it's been addressed in direct testimony

4 as well. So to the extent of what Covad does with bill

5 review and would do I believe is addressed in

6 Ms. Doberneck's testimony.

7 MR. NEWELL: I don't believe the question or

8 the answer was directed towards bill review but toward

9 the issues that were touched upon in response to some of

10 your questions regarding the recognition of disputes and

11 the activity that would take place between the payment

12 due date and the time that Qwest could elect to

13 discontinue either processing orders or disconnecting

14 wholesale services.

15 JUDGE RENDAHL: Why don't you restate your

16 question, and I will see if I think it's appropriate.

17 MR. NEWELL: Okay.

18 BY MR. NEWELL:

19 Q. With respect to the proposed extended

20 timelines for prior to the discontinuance or

21 disconnection of wholesale services provided to Covad by

22 Qwest, to what purpose would Covad put the additional

23 time it has proposed?

24 JUDGE RENDAHL: And does your question go to

25 discontinuance of service and ordering?

0120

1 MR. NEWELL: Yes.

2 JUDGE RENDAHL: I will allow the question.

3 A. As I discussed in my direct testimony, we
4 consider the remedies available to Qwest to be
5 Draconian. In the event we were faced with a situation
6 where it appeared to us that there was a possibility
7 Qwest would invoke those rights to either discontinue
8 processing orders we would place or disconnect services,
9 we would have to take the steps necessary to protect
10 ourselves on a legal front. So in my mind it would take
11 the form of preparing petitions in each of the states
12 impacted, which could be up to seven, to seek some type
13 of injunctive relief so that Qwest could not invoke
14 those remedies if, in fact, we believed we did not
15 legitimately owe the money and Qwest disagreed. Having
16 practiced, that's not a rapid activity, and it does take
17 time to prepare the kind of legal documentation and
18 prepare the case so that we could appropriately file
19 those petitions and protect ourselves.

20 MR. NEWELL: Thank you.

21 Nothing further, Your Honor.

22 JUDGE RENDAHL: Ms. Waxter.

23 MS. WAXTER: Your Honor, I have one follow up
24 question.

25

0121

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

2 BY MS. WAXTER:

3 Q. And that would be, isn't it true that if
4 Covad believed it did not owe the money that was billed
5 that it could dispute those funds and not pay it on that
6 30 day schedule?

7 A. We could certainly dispute, but I would
8 certainly advise the business that if that were -- if
9 that is the remedy Qwest was going to invoke, I would
10 not rely on the dispute process. It's not sufficient
11 given the remedy that would be invoked by Qwest.

12 Q. Well, I'm not actually asking you about the
13 dispute process that's contained in the interconnection
14 agreement, it's more the dispute process of the billing
15 and the requirement contained within the interconnection
16 agreement that the CLEC, Covad in this case, only pay
17 the undisputed portion of the bill. So what Covad could
18 do in that case is not pay the disputed portion, pay the
19 undisputed portion, and would not be subject to
20 discontinuance or disconnection, because they would
21 dispute that portion and allow the dispute process to
22 take effect.

23 A. You are assuming Qwest would acknowledge, is
24 acknowledging or responding to the dispute. I am not
25 necessarily certain I would agree with that assumption.

0122

1 The other component of it is, that I think perhaps
2 you're neglecting to think about, is if for example
3 Qwest said, we're denying your dispute, you will pay or
4 we will invoke the remedies available. And if we truly
5 believe we do not owe those sums, we need to take the
6 steps to protect ourselves, just as you're taking the
7 steps or Qwest would take the steps that it thought
8 appropriate as well.

9 Q. And there is a dispute resolution process
10 contained within the interconnection agreement that
11 would take care of that, it still would not permit Qwest
12 to invoke the discontinuance or disconnection if Covad
13 legitimately disputed a portion of the bill, correct?

14 A. I don't know if that is the case. But I
15 would also say, if my recollection of the dispute
16 process is correct, there is nothing that precludes us
17 at any point from taking the steps we believe are
18 appropriate, including recourse to a commission or a
19 court or things of that nature during the dispute
20 process.

21 Q. Now you mentioned that Covad would have to go
22 to the extreme of preparing some kind of injunctive
23 relief in presumably a court of law versus at the
24 commission; is that what your suggestion is?

25 A. It would be -- I know it varies from state to

0123

1 state, so -- but the steps we would take would be to
2 ensure to the extent possible that Qwest could not
3 invoke those remedies. So whether we could go to a PUC
4 that does have some kind of injunctive authority or we
5 would have to go to a court, that would be a state by
6 state determination, which adds to the time.

7 Q. And we're talking though here specifically
8 today about the state of Washington, are we not?

9 A. Yes.

10 MS. WAXTER: Your Honor, may I have 30
11 seconds to confer with Mr. Sherr?

12 JUDGE RENDAHL: Please.

13 MS. WAXTER: Thank you.

14 JUDGE RENDAHL: Let's be off the record.

15 (Discussion off the record.)

16 JUDGE RENDAHL: Ms. Waxter.

17 MS. WAXTER: Thank you, Your Honor, I have no
18 further questions.

19 JUDGE RENDAHL: Okay, thank you.

20 With that, Ms. Doberneck, you are released
21 from the stand for now until your next issue comes up.

22 Let's be off the record while we change
23 witnesses.

24 (Discussion off the record.)

25 JUDGE RENDAHL: Good afternoon, Mr. Easton.

0124

1 THE WITNESS: Good afternoon.

2 JUDGE RENDAHL: Could you please state your
3 name and your address for the record, please.

4 THE WITNESS: My name is William Easton, my
5 address is 1600 Seventh Avenue, Seattle, Washington.

6 JUDGE RENDAHL: Thank you. If you would
7 raise your right hand, please.

8 (Witness William R. Easton was sworn.)

9 JUDGE RENDAHL: Okay, please be seated.
10 Ms. Waxter.

11 MS. WAXTER: Thank you, Your Honor.

12

13 Whereupon,

14 WILLIAM R. EASTON,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17

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

19 BY MS. WAXTER:

20 Q. Mr. Easton, do you have before you your
21 direct testimony with attached exhibits and your
22 response testimony, which have been labeled hearing
23 Exhibits 35-T through 40-RTC?

24 A. I do.

25 Q. And have you had the opportunity to review

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1 those?

2 A. I have.

3 Q. And do you have any changes, corrections,
4 additions, or deletions to make to those exhibits?

5 A. No, I do not.

6 Q. If asked the same questions today that you
7 were asked in your direct and response testimony, would
8 your answers be the same?

9 A. They would.

10 MS. WAXTER: With that, Your Honor, I would
11 move to admit the testimony of Mr. Easton, trial
12 exhibits or hearing Exhibits 35-T through 40-RTC.

13 JUDGE RENDAHL: Is there any objection from
14 Covad?

15 MS. FRAME: No, Your Honor.

16 JUDGE RENDAHL: Okay, those Exhibits 35-T
17 through 40-RTC are admitted.

18 Please go ahead.

19 MS. WAXTER: Itender Mr. Easton for
20 cross-examination.

21 JUDGE RENDAHL: Ms. Frame or Mr. Newell.

22 MS. FRAME: Yes, thank you.

23

24

25

0126

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

2 BY MS. FRAME:

3 Q. Welcome back after lunch.

4 A. Thank you.

5 Q. You were here in the room when Ms. Doberneck
6 proffered her testimony and her cross-examination and
7 her redirect examination, correct?

8 A. I was.

9 Q. And you heard Ms. Doberneck testify about the
10 reasons why Covad is concerned about this particular
11 payment issue, correct?

12 A. Which particular payment issue?

13 Q. I guess I will even just talk about the first
14 one where we have Covad has proposed a 45 day period for
15 payment.

16 A. Yes.

17 Q. And calling your attention to your testimony,
18 the direct testimony, which is actually make sure I have
19 it --

20 JUDGE RENDAHL: Exhibit 35-T.

21 MS. FRAME: Thank you very much, 35-T.

22 JUDGE RENDAHL: Or 36-TC, whichever.

23 MS. FRAME: Same one.

24 BY MS. FRAME:

25 Q. On page 4 you state, lines basically 2

0127

1 through 6, essentially it appears as though you're
2 hypothesizing as to why Covad is concerned about this
3 payment period and why Covad has been so aggressive
4 about the payment terms, correct?

5 A. Yes.

6 Q. And can you please tell us what you're
7 hypothesizing here in lines 2 through 6?

8 A. Okay. In a typical interconnection
9 agreement, the two parties are going to be purchasing
10 services from each other. As a result through
11 negotiations they try and seek a balance that's going to
12 balance the needs of the bill payer with the needs of
13 the bill issuer. And, in fact, that's what happened
14 throughout the 271 proceeding where the parties
15 discussed the issues we're talking about here today and
16 agreed on a consensus language that is in the Washington
17 SGAT and is also the Qwest language that we're proposing
18 in the interconnection agreement. What I'm suggesting
19 here is there isn't that give and take relationship with
20 Covad to the extent that Qwest is not purchasing
21 services from Covad.

22 Q. Okay. So after listening to Ms. Doberneck's
23 testimony here today, do you still believe that the
24 reason why Covad is trying to change the terms of its
25 interconnection agreement to 45 days from 30 days is

0128

1 because we don't have to get paid by Qwest?

2 A. I stand by my statement here that you
3 referenced.

4 Q. Okay. Calling your attention to page 4
5 again.

6 A. Okay.

7 Q. And lines 6 through 9, you state that, and I
8 will just read it into the record:

9 Covad's proposed extended time frames
10 are at odds with the standard and
11 commercially reasonable practice that
12 would improperly require Qwest to
13 continue to provide services without
14 compensation to Covad for extended
15 periods of time even though Covad does
16 not dispute the amounts due.

17 What do you mean by extended --

18 MS. WAXTER: Your Honor, again, I just object
19 to the extent that she has not accurately read the
20 statement. I mean the additions are minor, but it is
21 not actually accurate.

22 JUDGE RENDAHL: All right, well, I think the
23 wording itself is in the document, so to the extent
24 that, Ms. Frame, you're asking the witness to refer to a
25 specific section, it might be best to have the witness

0129

1 read it or just refer to the language if there's an
2 issue.

3 MS. FRAME: Okay, Your Honor.

4 BY MS. FRAME:

5 Q. I'm going to focus on the word extended, so
6 extended, and you emphasize that here, means 15 days?

7 A. What I'm speaking about here is this is the
8 overall purpose of testimony section, so I'm in fact
9 referring to all four of the issues here. Let's take
10 for example Qwest recourse of disconnecting service in
11 cases of nonpayment. And under the language that Covad
12 is promoting, Covad would have 45 days to pay the bill,
13 they could continue not to pay for an additional 120
14 days before Qwest could disconnect service. I would say
15 that 165 day period is an extended period, that's nearly
16 6 months.

17 Q. And you're comparing the 165 days to how many
18 days that would have originally been according to
19 Qwest's proposed language?

20 A. No, the 165 days is based on Covad's
21 proposal.

22 Q. What's Qwest's proposal?

23 A. Qwest's proposal would be 30 days, and then
24 the disconnection period would be 60 days, so it would
25 be 90 days.

0130

1 Q. So 165 days to 90 days?

2 A. Yes.

3 Q. Okay. You talk about in your direct
4 testimony that you believe that Covad has sufficient
5 time to analyze its monthly bills. Have you ever
6 analyzed Covad's monthly bills?

7 A. I have not analyzed Covad's monthly bills. I
8 have seen examples of their bills, but I have not done
9 the analysis myself.

10 Q. And you also state in your direct testimony
11 that Covad has a number of years' experience in
12 analyzing its bills from Qwest and that, since early
13 1998 even I think is what your testimony states, and
14 that Covad has been paying its bills within this 30 day
15 period for a number of years. Since the last
16 interconnection agreement, or since actually let's just
17 even make it sooner, since the 271 proceedings, there's
18 been a number of years that have been intervening,
19 correct?

20 A. There have, we're talking about 2001 to 2004,
21 so two and a half, three years.

22 Q. So Covad has much more experience in
23 analyzing Qwest's bills now than it did back in 1998
24 when it agreed to a 30 day payment period, correct?

25 A. I guess you could argue that from 1998 to

0131

1 2001 they had three years experience, and they have had
2 an additional three years, so yes, I would agree they
3 have had some additional experience since 271.

4 Q. And speaking of 271, you have stated a number
5 of times in both your direct and response testimony it
6 appears that you believe that the 30 day payment period
7 should stick, quote, unquote, I'm paraphrasing this,
8 because Covad was part of the CLEC group and the CLEC
9 group came to some sort of consensus in 271 proceedings,
10 correct?

11 A. No, my point in my testimony was that these
12 issues were discussed at length during the 271
13 proceedings. Covad was a participant, an active
14 participant, in those discussions. The result of those
15 discussions was the agreed upon language that Qwest is
16 proposing here.

17 Q. Okay. So because Covad was a participant in
18 the 271 proceedings, it's your opinion that Covad should
19 stick with the 30 day language here as well, correct?

20 A. Let me state it this way. I believe these
21 issues were fully aired at the time, and I believe what
22 the parties agreed to balances the needs of both the
23 billing party and the billed party, and I think that
24 continues to be true three years later. And I say that
25 based on the fact that this same language is in the

0132

1 Qwest SGAT, 30 companies have opted into that SGAT, I
2 say that based on the fact that we recently had an
3 arbitration with another large company, they also agreed
4 to the same payment language that we're talking about
5 here today.

6 Q. Well, the other company is not at issue here
7 today, correct?

8 A. That's correct.

9 Q. Just Covad. So Qwest was a participant in
10 these 271 proceedings as well, correct?

11 A. Correct.

12 Q. And would Qwest agree to the same UNEs that
13 they agreed to in 271 and rates and terms and
14 conditions?

15 A. Well, as you're well aware, there have been a
16 number of changes of law have gone on. I don't think
17 when it comes to the billing and payment process that we
18 have had those changes occur.

19 Q. You state in your direct testimony that
20 you're concerned about this possibility of opt in, that
21 if Qwest agrees to Covad's, you know, proposed language
22 and the payment term or it may be the days before Qwest
23 disconnects services or discontinues orders or maybe
24 even the repeatedly delinquent days, that other CLECs
25 could opt in into those provisions?

0133

1 A. That's correct.

2 Q. And you're aware that this opt in has been
3 eliminated through a recent ruling by the FCC?

4 A. That is not correct. What the FCC did is
5 eliminated the pick and choose option. A company is
6 still able to opt in to an agreement in its entirety.

7 Q. But it would have to be a company that would
8 agree to opt in into the entire Covad agreement,
9 correct?

10 A. That is correct.

11 Q. And there aren't very many companies that
12 would possibly benefit from doing that, correct?

13 A. That I can't tell you.

14 Q. Turning your attention to page 5 of your
15 direct testimony, you state that Qwest would actually be
16 deprived of cash for an additional, and I'm paraphrasing
17 here, for an additional 15 days if Covad didn't pay, you
18 know, within the 30 days; is that correct?

19 A. That's correct, to the extent that they have
20 to pay within 45 days rather than 30 and they take the
21 full 45 days, that's 15 days of cash flow that Qwest has
22 been deprived of.

23 Q. Do you know, let's say if Covad goes ahead
24 and pays what they may consider to be some disputed
25 bills, just as you -- and you heard Ms. Doberneck

0134

1 testify that Qwest has made that business decision to do
2 so, do you know how long it takes to get disputed issues
3 through the dispute resolution process?

4 A. It would depend on the dispute.

5 Q. So it could take maybe months or possibly
6 even ten months for Covad to get its money back?

7 A. It could take months. I believe when you're
8 referring to the ten months you may be referring to the
9 Arizona case that Ms. Doberneck talked about in her
10 testimony, and if we want to talk about that, I don't
11 think that is really your typical dispute.

12 Q. But it could take up to ten months or longer
13 or shorter?

14 A. It could take shorter, I'm not willing to say
15 it would take longer than ten months.

16 Q. Now Qwest would be made whole though if, you
17 know, the amounts that were billed ended up not --
18 actually ended up being correct; is that correct? They
19 would get paid by Covad plus get, you know, a late
20 payment charge if the disputed amounts appeared to be
21 really correct billing amounts?

22 A. Could you repeat the question, please.

23 Q. Well, you state in your testimony that
24 basically Qwest would be without payment for a possible
25 extra 15 days here in this instance. But if Covad,

0135

1 excuse me, if Covad actually disputed the bill, then
2 Qwest eventually would be made whole again, correct, if
3 Covad -- if the dispute was actually found not to exist
4 and so Covad, so excuse me, Qwest would get the money
5 back plus a late payment, which essentially is interest
6 in this case, correct?

7 A. No, I think we're talking past each other
8 here. Let's leave disputes aside for a moment. My
9 point is that in changing the language from 30 days to
10 45 days, Qwest is deprived of that 15 days of cash flow.
11 In other words, it's going to receive every payment from
12 Covad 15 days later than it does under today's
13 interconnection agreement.

14 Q. I have a question then. So if it supposedly
15 receives every payment from Covad 15 days later, isn't
16 that only after the first payment is due, after that
17 Covad is on a regular, I hate to say it, regular, but 30
18 day cycle, correct?

19 A. Covad is on a 30 day cycle, but each of those
20 payments is made two weeks later than it would have
21 under today's interconnection agreement. Covad is going
22 to take 45 days to pay each bill rather than 30.

23 Q. Wouldn't you agree though that it would be
24 better to give Covad the extra 15 days so that it costs
25 less to both parties in the future with respect to

0136

1 billing disputes and taking these billing disputes in
2 front of various forums?

3 A. I would disagree with that, because I don't
4 believe that, in fact, providing 45 days to pay the bill
5 actually provides any additional billing analysis time
6 for Covad.

7 Q. Do you know what percentage or how many,
8 actually it's probably better for me to phrase it this
9 way, what percentage of CLECs actually pay their bills
10 within 30 days?

11 A. I can't tell you an exact percentage. A
12 large percentage would.

13 Q. Do or don't?

14 A. They do.

15 Q. They do pay their bills within 30 days?

16 A. Yes.

17 Q. So but you don't know the percentage?

18 A. No, I don't.

19 Q. What about the percentage of the CLECs that
20 pay their bills within 30 days actually provide local
21 service; do you know that percentage?

22 A. No, I don't.

23 Q. Do you know what percentage of CLECs have
24 actually audited their bills within those 30 days?

25 A. When you say have audited their bills, have

0137

1 done bill analysis?

2 Q. Bill analysis.

3 A. That I can't tell you either.

4 Q. You talk a lot in your testimony about this
5 really being a payment date issue, not a billing format
6 issue, correct?

7 A. That's correct.

8 Q. Do you know how billing format -- well, let
9 me strike that.

10 Billing format issues are brought before
11 billing personnel, correct?

12 A. That is one of the forums that they can be
13 brought before.

14 Q. And it --

15 A. Change management process would be another
16 one. Service delivery coordinators would be another
17 avenue.

18 Q. So that would be the account teams?

19 A. Yeah, and account teams would be yet another.
20 Account teams are more on the sale side of things.

21 Q. And in the CMP or the change management
22 process, one, meaning the CLECs, could make changes to
23 the billing formats, the system changes, and items like
24 that; is that the correct forum?

25 A. What would happen in CMP is that companies

0138

1 can come forward and say, this is an issue for us
2 through that forum, agree whether it's an issue for
3 others, and see if there can be a fix put in place to
4 address that issue.

5 JUDGE RENDAHL: Can both Ms. Frame and
6 Mr. Easton, if you would avoid talking over each other,
7 that would be helpful. If you just wait a minute until
8 the person is done, and then begin, that would be
9 helpful.

10 MS. FRAME: Okay, thank you.

11 BY MS. FRAME:

12 Q. Are you aware that Qwest is not allowing
13 CLECs to prioritize billing change requests in the CMP
14 now?

15 A. That is not true. There was recently a
16 letter sent out where Qwest said that they can no longer
17 guarantee funding amounts and commit those guaranteed
18 amounts. They still ask in that letter that the
19 companies continue to bring issues forward and
20 prioritize those issues.

21 MS. FRAME: Can I have a moment, Your Honor?

22 JUDGE RENDAHL: Let's be off the record.

23 (Discussion off the record.)

24 MS. FRAME: Thank you, Your Honor. Covad
25 would like to make a records request for the letter that

0139

1 Mr. Easton just referred to. And I can't really -- if
2 we could read back Mr. Easton's testimony as to what
3 specifically that letter is, then I could be a little
4 bit more clear as to what we need.

5 JUDGE RENDAHL: Mr. Easton, can you clarify
6 maybe a date and to whom the letter was sent.

7 THE WITNESS: I believe it was sent to each
8 of the CLECs, or at least those who participate in the
9 change management process. The copy I have before me is
10 dated August 16th. I just want to make sure that the
11 one that actually went out was dated that same date.
12 And it was signed by Susan Bliss, the director of
13 project management for Qwest.

14 MS. FRAME: Okay. That is the letter that we
15 would like.

16 JUDGE RENDAHL: Okay, so that would be Record
17 Requisition Number 2, and it appears it would be
18 reasonable for Qwest to provide that today given that
19 Mr. Easton is here and has the letter.

20 MS. WAXTER: That won't be a problem.

21 JUDGE RENDAHL: Right, so once you, maybe at
22 a break, you can coordinate amongst each other, and we
23 can see if we can get a copy made here at the Commission
24 so you don't have to go to Kinko's, and we'll take that
25 up after the break.

0140

1 MS. FRAME: Thank you, Your Honor.

2 BY MS. FRAME:

3 Q. I want to clarify with you, Mr. Easton, about
4 the different ways that Covad could bring actually a
5 billing issue to Qwest's forefront I guess you could
6 say, and we talked about bringing the issue in front of
7 the billing personnel, the account team, and what was
8 the other team that --

9 A. The service coordinator.

10 Q. The service coordinator. But all of those
11 requests though filter down to the CMP though, correct?

12 A. Not necessarily. For example, let's assume
13 for a moment that I'm Covad and I receive my bill and I
14 have a question about a particular item. I call the
15 Qwest service delivery coordinator who has been
16 designated to work with Covad and say, could you help me
17 understand what this charge is for. They would
18 hopefully give you an answer right there over the phone
19 or if not do some investigation, give you an answer.
20 That would not go to change management process.

21 Q. But true system changes have to go to CMP,
22 correct?

23 A. System changes would, that's correct.

24 Q. Okay. And even if it was a product or
25 process change, it would have to go through CMP as well;

0141

1 is that correct?

2 A. Certainly if it was a process change, because
3 a process change, and I believe product changes as well,
4 would affect all of the CLECs, and they need to have a
5 chance to weigh in and help prioritize that issue.

6 Q. Thank you.

7 How much revenue does Covad generate for
8 Qwest on a monthly basis? You state in your testimony
9 that you would be out a significant amount of money if
10 you agreed to allow Covad an extra 15 days to pay.

11 MS. WAXTER: Your Honor, I don't know if
12 we're -- if the question is actually asking for
13 confidential information if Covad would be willing to
14 waive the confidentiality, since they haven't designated
15 it as such, but it seems to me that the question itself
16 asks for confidential information.

17 JUDGE RENDAHL: Let's be off the record.

18 (Discussion off the record.)

19 JUDGE RENDAHL: My understanding while we
20 were off the record is that the response would, in fact,
21 reveal confidential information. My understanding,
22 Ms. Frame, is that you would retract the question.

23 MS. FRAME: That's correct.

24 BY MS. FRAME:

25 Q. What I was really getting at is a percentage

0142

1 of all the CLECs that Qwest gets revenue from, Covad
2 wouldn't be a significant amount of those revenues that
3 Qwest would be recognizing?

4 A. I can't tell you what the percentage would
5 be. I can tell you that it would represent, the lost
6 interest to Qwest would represent enough money that we
7 would be concerned about it. I can also tell you from
8 having read Ms. Doberneck's testimony, she expresses
9 concerns about cash flow. And so it obviously is at
10 least significant enough to mention that in her
11 testimony.

12 Q. You heard Ms. Doberneck testify earlier
13 about, well, actually I believe Ms. Waxter posed a
14 question to Ms. Doberneck regarding, well, why can't
15 Covad just change its electronic systems to recognize
16 Qwest's bills with respect to a few elements I believe,
17 and you heard Ms. Doberneck testify to or answer that
18 question. Then she was asked a question or actually
19 stated in response to a question that Qwest seems to be
20 out of step with other ILECs in their billing formats,
21 meaning Verizon and SBC and BellSouth and the other
22 ILECs. Who do you believe should bear the burden of
23 changing the billing software in this case, should it be
24 Covad or should it be Qwest?

25 A. Well, I think the parties need to work

0143

1 together. We have a change management process to do
2 that. The issues that Covad has mentioned in their
3 testimony are not issues that other CLECs that Qwest
4 works with have brought forward in the change management
5 process and said this is a big problem with us.

6 Q. You talk a lot in your testimony about the
7 importance of USOCs. Could you tell us what a USOC is
8 again?

9 A. It's a universal service order code.

10 Q. And those codes actually dictate rates for
11 Qwest, correct?

12 A. That's correct.

13 Q. And Qwest uses these USOCs on a regular basis
14 I assume to determine the appropriate rates that you're
15 going to be billing the CLECs, correct?

16 A. It does.

17 Q. And in the absence of a USOC, Qwest wouldn't
18 be able to actually bill Covad correctly, correct?

19 A. That's not correct. What you're actually
20 talking about is the fact that on certain nonrecurring
21 charges the USOCs are not appearing. In fact, on the
22 bill though there is an English language description of
23 what that charge is for. There is also the rate that
24 corresponds to that USOC.

25 Q. Okay, you say that there's --

0144

1 A. So Qwest is, excuse me, Qwest is in fact able
2 to bill and is billing. It is providing an English
3 description of what the bill is for. It's got quantity
4 information, it's got rate information, but as
5 Ms. Doberneck pointed out, it does not have the USOC.

6 Q. Okay. You state on page 12 of your direct
7 testimony, and if you would just look at lines 15
8 through 17.

9 A. I have it.

10 Q. Could you just read that silently to yourself
11 for a minute. I'm going to ask you a couple of
12 questions about that.

13 A. (Reading.)

14 Okay.

15 Q. Are you aware, and I guess why don't you
16 paraphrase your testimony for the record here. I will
17 strike my first are you aware, so could you please
18 paraphrase your testimony here.

19 A. I will be glad to. Covad is apparently
20 changing its business strategy and appears to be moving
21 from a line sharing to a line splitting strategy, which
22 line splitting is a product that has one carrier
23 providing the voice service, another carrier providing
24 the data service, and requires a partnership
25 relationship between those two. And as a result of

0145

1 that, Covad is saying, you need to give us more time to
2 pay the bills so that we can work with our new partner.

3 Q. And you are aware that line sharing has
4 essentially gone away pursuant to the TRO, Triennial
5 Review Order, as of October 2nd, 2004?

6 A. That is correct. There's some
7 grandfathering, and we'll see how all the rules shake
8 out, but.

9 Q. But you are aware that Covad has had to
10 change its business strategy as a result of that FCC
11 order?

12 A. I am aware that the FCC is -- changed rules
13 around line sharing and will not offer it if those rules
14 hold up.

15 Q. So Covad is forced to, not forced, but is
16 going to work with other CLECs in order to provide a
17 similar type of service to its end users?

18 A. That is my understanding, yes.

19 Q. Calling your attention to your response
20 testimony on page 9, lines 9 through 22.

21 A. Which line numbers, please?

22 Q. 9 through 22.

23 A. I've got it.

24 Q. Please read that to yourself so I can ask you
25 a question about it.

0146

1 A. (Reading.)

2 Yes.

3 Q. You do admit here that Qwest has incurred
4 some billing errors, correct?

5 A. There have been billing errors, yes.

6 Q. Let's move forward to page 10 of your
7 response testimony, lines 10 through 21. If you could
8 read that to yourself, that would be great.

9 A. (Reading.)

10 Got it.

11 Q. Okay, thank you. You state that LTPA, being
12 long-term PID administration, is going away because the
13 charter is up; is that correct?

14 A. I don't state it's because the charter is up.
15 Well, I guess I do say the initial term has ended.

16 Q. Okay.

17 A. But go on to say that it hasn't proven to be
18 the forum that Qwest had hoped it would be and that we
19 believe there's better ways to address the charter of
20 the long-term PID administration.

21 Q. So if the LTPA is going away and Qwest
22 considered it not to be a successful forum in that it's
23 too formal I believe you state in your testimony?

24 A. It was a very formal process, yes.

25 Q. That BI-3A could go away possibly as well,

0147

1 correct?

2 A. No, that is not correct.

3 Q. But there is basically a unilateral
4 termination of the LTPA?

5 A. That is correct, and in its place Qwest has
6 developed a communications process that CLECs have been
7 notified of this, it's out on the Web site, and Qwest
8 welcomes CLECs to come forward with changes to PIDs, new
9 PIDs, deleting PIDs. To the extent they can reach
10 consensus with Qwest, Qwest and the CLECs will bring it
11 to the Commission for approval. To the extent they
12 can't reach consensus, we still have the six month
13 review process with the commissions where any final
14 decisions about what PIDs exist and don't exist will be
15 made.

16 Q. Okay. And in this new process though, the
17 CLECs are not notifying you as a group, they're working
18 all individually with Qwest; is that correct?

19 A. Qwest would hope that the CLECs would work
20 together themselves and come forward with a consensus
21 and say we went out and worked with our fellow CLECs,
22 this is important to us, Qwest, we want to make this
23 change.

24 Q. Did you know that Covad has objected to this
25 new forum that Qwest has proposed?

0148

1 A. I was not aware of what Covad's response has
2 been, no.

3 MS. FRAME: I have no further questions.

4 JUDGE RENDAHL: Thank you, Ms. Frame.

5

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

7 BY JUDGE RENDAHL:

8 Q. Mr. Easton, I do have a few questions. Some
9 of them have been asked, and I have a few more questions
10 based on what you said. So first of all, I just want to
11 clarify on page 2 of your direct testimony, which is
12 Exhibit 35-T, you're talking about what you -- in which
13 dockets you have testified. I just want to clarify that
14 you filed testimony in Docket UT-033044, but you didn't
15 actually provide testimony in person; is that correct?

16 A. That is correct, we -- that docket was
17 closed, as you're aware.

18 Q. Yes.

19 In reference to this Issue Number 8 and the
20 billing payment issues, you and Ms. Frame were
21 discussing how the process would work where you would
22 bill Qwest, you would bill -- Qwest would bill Covad,
23 and then Covad would have a 45 day period to pay.

24 A. That's correct.

25 Q. And I just want to clarify how that would

0149

1 work. For example, if Qwest billed Covad on January 1st
2 and the bill was due 30 days later on January 30th,
3 31st, whatever, Covad -- ordinarily would be due 30 days
4 later and now would be due February 15th, would Qwest
5 then generate another bill on February 1st?

6 A. The Qwest billing systems, in fact the
7 nondisputed portions of the interconnection agreement
8 call for a bill to be issued every 30 days.

9 Q. Okay. So Qwest would continue to bill Covad
10 every 30 days?

11 A. Correct.

12 Q. So, for example, the bill would go out on the
13 1st of January, Covad would pay by February 15th, but on
14 February 1st another bill would be issued, and then
15 Covad would have until March 15th?

16 A. That's correct.

17 Q. So you would have this somewhat of an overlap
18 going?

19 A. It puts the payment period out of sync with
20 the billing period.

21 Q. Okay, I just wanted to clarify how that was
22 working, I didn't quite understand what was being said.

23 There was some discussion between you and
24 Ms. Frame about how quickly Qwest resolves disputed
25 amounts. I want to clarify with you my understanding of

0150

1 the dispute resolution process. If Covad paid the bill
2 in full and yet protested, can Covad pay the bill in
3 full and then later protest --

4 A. Yes.

5 Q. -- an amount?

6 A. Yes.

7 Q. Okay. What is the time period for Covad to
8 protest a bill that's been paid?

9 A. I believe it's 120 days from the due date.
10 There is some language in there that says we would like
11 to receive notice of the dispute within 15 days.
12 There's some additional language, and I can give you
13 some section numbers here if you would like, that allow
14 additional time to come forward with disputes. I
15 believe ultimately there is language in Section 5.18.5
16 that says disputes may not be raised more than 120 days
17 from the bill date.

18 Q. If Covad were to pay a bill in full and in
19 fact notify you within that 15 day period, how quickly
20 does Qwest respond to bill disputes that have already
21 been paid?

22 A. It depends on the dispute, on the work levels
23 out in the centers, and it can vary. I think it would
24 be fair to say some could be handled very quickly,
25 others may in fact take a number of months. During that

0151

1 time -- well, let me back up. Ultimately if the dispute
2 is found in Covad's favor, Covad would receive back the
3 money they paid. In addition they would receive
4 interest associated with that overpayment for the period
5 of time during which the dispute was being resolved.

6 Q. And under that scenario, Qwest would have no
7 reason to seek recourse for discontinuing service or
8 orders or have any issue with, I seem to have a problem
9 with this wording, somebody being --

10 A. Service disconnected?

11 Q. No.

12 MS. WAXTER: Repeatedly delinquent.

13 JUDGE RENDAHL: Thank you.

14 BY JUDGE RENDAHL:

15 Q. Repeatedly delinquent, so those three issues
16 wouldn't come into play?

17 A. No, those would not be involved.

18 Q. All right. But under the other scenario, if
19 Covad were to pay a portion of the bill and to withhold
20 payment on a portion it disputes, within the 30 day, the
21 current 30 day payment period, does Qwest have the
22 option to use those remedies of discontinuing service,
23 discontinuing orders, and finding Covad to be repeatedly
24 delinquent for the portion that has not been paid?

25 A. No, the language on discontinuing taking

0152

1 orders, disconnecting service, specifically excludes
2 undisputed portions, or excuse me, disputed portions.

3 Q. And how quickly does Qwest respond to similar
4 disputes that are on the disputed portions of the bill?

5 A. They would be handled in exactly the same
6 process we talked about a moment ago as if the bill had
7 been paid in full.

8 Q. Okay, thank you.

9 I had asked Ms. Doberneck if there was a, I
10 believe I asked Ms. Doberneck this, if I didn't I meant
11 to and I will ask you, is there a PID that tracks
12 resolution of bill disputes?

13 A. There is a PID, I believe it's BI-5A. Right
14 now it's just a diagnostic PID. In other words, it's
15 being measured, it's not a part of the performance
16 assurance plan payout. I know there have been
17 discussions on making that a benchmark measurement. I'm
18 not sure quite frankly where they stand on that.

19 Q. But that does resolve the timing for bill
20 resolution?

21 A. It would measure that, and depending on what
22 benchmark they came up with, to the extent that Qwest
23 exceeded that, they would incur a penalty payment.

24 Q. Thank you.

25 Were you here when Ms. Doberneck was

0153

1 testifying?

2 A. Yes.

3 Q. Do you recall the discussion she and I had
4 over circuit ID numbers and what is included in Covad's
5 billing software?

6 A. Yes.

7 Q. Is Qwest aware that it is the only ILEC who
8 is not including circuit ID numbers in its billing?

9 A. I was not aware of that.

10 Q. What would be involved for Qwest in changing
11 its process to add circuit ID numbers to its bills?

12 A. Obviously that information is available. You
13 know, it would require a systems change to do that, and,
14 you know, that is certainly possible. Again, as I
15 mentioned, this is not an item that has been brought
16 forward in the change management process and been
17 prioritized and funded.

18 Q. So you're not aware that Covad has raised
19 this concern with the account team?

20 A. Covad has, in fact, talked to our service
21 delivery coordinators about the issue, and it's been
22 explained to them why we don't provide the circuit ID,
23 that it's not a circuit based service, but that we
24 provide a unique identifier with the firm order
25 commitment and that that unique identifier is also part

0154

1 of the customer service record.

2 Q. Okay. But Qwest has never seen this to be a
3 system change to move it on to the change management
4 process?

5 A. Qwest I don't believe has brought that
6 forward. My point is that Covad has not brought that
7 forward as an issue of significant enough importance to
8 take it through that process.

9 Q. Okay. In your discussions with Ms. Frame,
10 you had some discussion about the process of bringing
11 issues forward to CMP and that it would have to be a
12 product or a process change that would be moved forward
13 to CMP, correct?

14 A. The intent for CMP is things that affect the
15 entire CLEC community, that those issues are addressed
16 so people can, number one, weigh in, is this how, you
17 know, we want to spend change dollars, is it of
18 significant importance to us, and number two, to let
19 them know what changes are going to be made so that
20 changes can also be made to their processes or systems
21 within their own companies.

22 Q. Okay. And my understanding of your
23 discussion with Ms. Frame is that you said that these
24 issues could come through the account teams, service
25 delivery coordinators, or billing personnel, correct?

0155

1 A. No, billing issues can come through any of
2 those avenues. Change management does need to go
3 through the formal change management process itself. In
4 other words, if I am a CLEC, I would not call my service
5 delivery coordinator and say this is bothering me, why
6 don't we take it to change management. There's a formal
7 process that needs to be followed.

8 Q. Okay, I guess I misunderstood your discussion
9 with Ms. Frame. I thought I understood you to say that
10 if a systems change was brought to the attention of one
11 of these three types of groups that Qwest could bump
12 that up to the change management process if it saw that
13 it was a system change as opposed to a product change?

14 A. No, that would be something that needs to be
15 initiated by Covad through the formal change management
16 process.

17 Q. So Qwest would not initiate, if they were
18 alerted to an issue by a CLEC, they would not initiate
19 that in the change management process?

20 A. No, I would think that our service delivery
21 coordinators would say, that is something that needs to
22 go through change management, you should follow the
23 change management procedures.

24 Q. Okay, thank you.

25 Okay, my last question has to do with the

0156

1 difference between the SGAT and arbitrations, and isn't
2 the purpose of an SGAT to create a standard agreement
3 that's available to requesting carriers who don't want
4 to arbitrate an individual agreement?

5 A. That's correct.

6 Q. It also creates a standard offering from
7 Qwest so that carriers are familiar with what Qwest
8 routinely makes available?

9 A. That's correct.

10 Q. But isn't one of the objectives of
11 arbitrating an agreement the opportunity to negotiate
12 unique provisions that are relative to a particular
13 company?

14 A. That's correct.

15 JUDGE RENDAHL: Okay, I have no further
16 questions.

17 Ms. Waxter, do you have any, or I guess, yes,
18 do you have any redirect?

19 MS. WAXTER: I do have just a couple. It
20 seems like Covad may have more on recross, so I'm happy
21 to -- which will probably prompt more questions from me,
22 so I don't know which order you want to do it in.

23 JUDGE RENDAHL: Well, let's hear from you
24 first.

25 MS. WAXTER: Okay, that's fine.

0157

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

2 BY MS. WAXTER:

3 Q. Mr. Easton, in response to the last couple of
4 questions that the ALJ asked you regarding the SGAT and
5 arbitrating or negotiating provisions that are unique to
6 the companies that are coming to Qwest for an
7 interconnection agreement, I think you have also talked
8 about or you spoke with Ms. Frame earlier about the opt
9 in versus the adoption of interconnection agreements.
10 Even if Qwest were to negotiate a term that is unique to
11 Covad in this particular instance or to arbitrate a term
12 that is unique to Covad in this instance, would other
13 CLECs have the ability to get that same provision?

14 A. They would. They would need to opt in to the
15 entire agreement, but to the extent they did, they would
16 have those new terms available to them as well.

17 Q. Are you aware, this goes to the questions
18 that you were asked regarding the change in business
19 direction that Covad was taking moving from line sharing
20 to perhaps line splitting or loop splitting, are you
21 aware that Qwest and Covad have entered into a
22 commercial agreement that would permit Covad to have
23 access to line sharing?

24 A. That is correct.

25 MS. WAXTER: I have no further questions.

0158

1 JUDGE RENDAHL: Ms. Frame or Mr. Newell.

2 MR. NEWELL: Thank you, Your Honor.

3

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

5 BY MR. NEWELL:

6 Q. Mr. Easton, are you aware of a change request
7 that was brought before the CMP asking that Qwest
8 include circuit IDs on the firm order commitments they
9 provided to CLECs?

10 A. I am not aware of that particular one.

11 Q. And you're not aware that Qwest denied that
12 change request?

13 A. Let me back up for a second. There was one I
14 made reference to in testimony, it may have been in
15 Colorado, and I believe Ms. Doberneck also refers to it
16 in her testimony, and it did not actually -- it was not
17 a billing issue, it was a provisioning issue for move
18 orders, and I believe there was a change request and CMP
19 related to that particular one.

20 Q. Is the change request to which you're
21 referring, does it seem to you that it's the same change
22 request that I just described?

23 A. You would have to tell me given your
24 question. What I'm telling you, I am aware that there
25 was a change request, but it was not related to the

0159

1 billing issue we're talking about here, rather it was a
2 provisioning issue, and I believe Ms. Doberneck makes
3 reference to that in her testimony as well.

4 Q. I asked you specifically whether you were
5 aware of a change request that would involve Qwest
6 providing a circuit ID on their firm order commitment?

7 A. And what I am telling you, I am aware of a
8 request having to do with resolving a provisioning
9 problem. I can't tell you any more than that.

10 Q. So it may or may not be the request to which
11 I'm referring?

12 A. That may well be the case.

13 Q. Based on your testimony, it sounds like
14 you're relatively familiar with the CMP document. I
15 assume you're aware there are two types of CR, change
16 requests, that the document contemplates. There are
17 regulatory CRs and carrier initiated CRs; is that
18 correct?

19 A. I'm not here to testify as an expert on the
20 change request process. I did refer in my testimony
21 that the change management process is an avenue where
22 these changes can be pursued. As to the details of
23 change management, I'm not familiar with all of those.

24 Q. So you're not familiar with the fact that the
25 document calls for the prioritization and implementation

0160

1 of requests that are based on regulatory decisions?

2 A. I know there is a distinction made between
3 regulatory mandates and those requests that are not
4 related to mandates, and that's about the depth of my
5 knowledge in that area.

6 MR. NEWELL: Thank you, I have nothing
7 further.

8 JUDGE RENDAHL: Ms. Frame.

9 MS. FRAME: I have a procedural question. It
10 doesn't relate to recross of Mr. Easton, but it has to
11 do with a request made earlier about whether Covad is
12 being charged for the single LSR issue and will have to
13 -- we would like to discuss that. We could discuss it
14 off the record.

15 JUDGE RENDAHL: Well, I think at this point
16 we are done with Mr. Easton's testimony, I don't believe
17 he comes back to address any other issues; is that
18 correct?

19 MS. WAXTER: That is correct.

20 JUDGE RENDAHL: So, Mr. Easton, I don't
21 believe that there is any other remaining issue for
22 Mr. Easton.

23 MS. FRAME: No, that's correct.

24 JUDGE RENDAHL: Aside from the Record
25 Requisition Number 2, which I think that can be resolved

0161

1 today.

2 MS. WAXTER: Hopefully we can provide it.

3 Again, we just want to check to make sure we've got the
4 correct date.

5 JUDGE RENDAHL: Okay.

6 So with that, Mr. Easton, you're excused, and
7 thank you very much for testifying today.

8 Let's be off the record.

9 (Discussion off the record.)

10 (Recess taken.)

11 JUDGE RENDAHL: We took an extended afternoon
12 break to allow the parties to discuss the issue and what
13 they wanted to do about the LSR fee. So what's the
14 consensus?

15 MR. NEWELL: Well, Your Honor, without
16 putting on a witness I think we can summarize the
17 present situation relatively quickly. There is a charge
18 in the Washington Exhibit A in Section 12, two separate
19 OSS charges. Qwest has never designed a system to
20 collect those charges, therefore they are not currently
21 being billed or collected. At some point in the future,
22 Qwest could design a system to bill and collect that
23 charge, and in addition they could avail themselves of
24 the back billing provisions in their interconnection
25 agreement with Covad and presumably with other CLECs to

0162

1 retroactively at least for a time assess that charge,
2 but today that has not happened. And the confusion
3 arose over a separate line sharing OSS charge that was
4 being misapplied for a time and then removed and I
5 believe is also under development at this point.

6 JUDGE RENDAHL: Okay.

7 Ms. Waxter.

8 MS. WAXTER: The only thing I would add to
9 that, Your Honor, is that there is nothing in the
10 pipeline at Qwest right now to actually develop the
11 capacity or capability to apply that charge.

12 JUDGE RENDAHL: Okay. So the answer that
13 Ms. Albersheim gave is currently what is occurring?

14 MS. WAXTER: That is correct.

15 JUDGE RENDAHL: All right, so there's no need
16 to clarify her statement further than what you all have
17 just stated?

18 MR. NEWELL: No, Your Honor.

19 MS. WAXTER: That is correct.

20 JUDGE RENDAHL: Okay, well, I appreciate your
21 delving into it and clarifying it for yourselves, I'm
22 sure that was useful at any rate.

23 So now I think we're ready to bring
24 Mr. Zulevic back to discuss Issues 4 and 5; is that
25 correct?

0163

1 MS. FRAME: That is correct.

2 JUDGE RENDAHL: Okay.

3 Mr. Zulevic, you remain under oath from this
4 morning.

5 THE WITNESS: Understood.

6 JUDGE RENDAHL: And so go ahead, Ms. Frame.

7 MS. FRAME: Your Honor, I believe we have
8 already moved for the admission of the exhibits
9 associated with Mr. Zulevic, and so we would tender him
10 for cross-examination.

11 JUDGE RENDAHL: Thank you.

12 Ms. Waxter.

13 MS. WAXTER: Thank you, Your Honor.

14

15 Whereupon,

16 MICHAEL ZULEVIC,
17 having been previously duly sworn, was called as a
18 witness herein and was examined and testified as
19 follows:

20

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

22 BY MS. WAXTER:

23 Q. Good afternoon, Mr. Zulevic.

24 A. Good afternoon.

25 Q. A couple questions for you about let's start

0164

1 with Issue 4, the collocation issue, and it's a
2 relatively simple issue just on its face in that what
3 Covad seeks to do is to just add a sentence to Section
4 8.1.2., make that 8.1.1.3. And the sentence that Covad
5 seeks to add in that section is that:

6 Qwest shall provide such space in an
7 efficient manner that minimizes the time
8 and cost.

9 Is that your understanding of essentially
10 this collocation issue?

11 A. Yes, that's correct.

12 Q. Okay. Now the language, that sentence that
13 Covad proposes would be judged, in the event that a
14 dispute arises in the future, would be judged from the
15 perspective of Covad in terms of whether Qwest had
16 efficiently assigned collocation space; is that correct?

17 A. Well, given that it's Covad that will be
18 paying the bill, yes, that's the perspective.

19 Q. And when you consider the timing of a request
20 for collocation space, Covad's position is that Qwest
21 must take into consideration the current request that is
22 being made for that collocation space as well as
23 forecasted requests?

24 A. There are actually two different elements to
25 that. The forecasted requests that come in are --

0165

1 that's something that Qwest should be looking at on a
2 proactive basis before the actual requests come in in
3 planning the utilization of the space within the central
4 office environment. With respect to the actual request
5 that Covad would send in for collocation space, at that
6 point in time, then Covad -- the space should be looked
7 at based upon efficient collocation practices and least
8 cost to provide the space that would most appropriately
9 fit that requirement for Covad.

10 Q. And would you agree that the timing of that,
11 of looking at the assignment of collocation space and
12 whether it was efficient, and the least cost I think is
13 what you just said, would be at the time the request
14 comes in by Covad in this case for a collocation space?

15 A. That would be the case, right, it's what's
16 available at that time. We're not in any way seeking to
17 step in front of anyone else through using this language
18 in our interconnection agreement. It's just at that
19 point in time.

20 Q. And the space that Qwest would assign would
21 be what is available obviously at the point in time that
22 the request is made, and what is available can be at
23 least determined to a certain degree by Covad based upon
24 the space availability report?

25 A. Yeah, it can to a certain extent, yes, but

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1 not always.

2 Q. And would you agree that Covad also has the
3 option of giving to Qwest when they're making their
4 collocation request a couple different suggestions in
5 terms of where they would want to be based upon the
6 space availability report?

7 A. In the case where we have that information
8 available, we have been able to see what's available in
9 the central office, we can request specific space, yes.

10 Q. And the space availability report is actually
11 on the Qwest wholesale Web site, correct?

12 A. Yes, it is.

13 Q. So let's think about a hypothetical situation
14 here. Covad makes a request for collocation space to
15 Qwest, and Qwest says here are three options for you,
16 Covad, tell me which one you want. And let's say Covad
17 doesn't like any of the options that were given by
18 Qwest. Would you agree that Covad can at that point
19 request a walk through of the central office?

20 A. Yes, that provision is available.

21 Q. And on a walk through, Qwest and Covad, a
22 representative from each company, would actually go to
23 the central office, walk through, and at that point
24 Covad could tell Qwest, oh, here's a space available,
25 this is the one I would like. And assuming nobody has a

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1 -- no other CLEC had reserved that space or there was,
2 you know, no plans for the use of that space that were
3 imminent pursuant to the FCC's reservation of space
4 policy and whatnot, Qwest could give that space to
5 Covad, correct?

6 A. Assuming that Qwest agrees that that space
7 could be made available, yes.

8 Q. Okay.

9 A. That has not always been the case, however.

10 Q. Well, before I go to that point, your last
11 point, let's go back. When looking at space that is
12 available, you would agree that Qwest will look at
13 existing infrastructure, HVAC and whatnot, so that it
14 assigns space in a place where it doesn't necessarily
15 need to build the infrastructure, correct?

16 A. This is the language that's in our current
17 IA, and Qwest has agreed to similar language in part of
18 the IA that we're renegotiating, yes.

19 Q. Okay. Now let's talk about this concept of
20 efficient engineering of collocation space, and you have
21 worked in the industry for 36 years?

22 A. Correct.

23 Q. Part or much of that time, 30 years of that,
24 was spent with U S West, correct?

25 A. That's correct.

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1 Q. And you were a technician early in your
2 career, correct?

3 A. That's correct.

4 Q. Did you have an opportunity to engineer
5 collocation space by chance?

6 A. No, I didn't.

7 Q. But you were engineering other kinds of
8 network facilities and whatnot?

9 A. I worked very closely with the engineering
10 process of the central offices, the space and so forth
11 required for Qwest or at that time U S West space
12 utilization. It was before collocation was a reality.

13 Q. And I think in your testimony you said that
14 it's common in the industry for any engineer who is
15 planning space or facilities or engineering any kind of
16 network to do so in an efficient manner?

17 A. Correct.

18 Q. And that would apply too when you were
19 working at U S West?

20 A. That's correct.

21 Q. Okay. Now would you agree that something
22 that is cost effective to Covad would not necessarily be
23 cost effective to Qwest?

24 A. In some cases, that may happen. However,
25 Qwest, due to its unique position as keeper of the space

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1 and whatever, has the ability to recover any costs that
2 they may incur that would maybe not be as efficient by
3 passing the costs along to the CLEC, because they're
4 given the right to recover their costs plus a reasonable
5 profit.

6 Q. And those costs, many of those costs, have
7 been developed through cost dockets and are listed in
8 Exhibit A to the interconnection agreement, correct?

9 A. Many have, yes.

10 Q. You would agree, would you not, that the
11 language that Covad proposes for Section 8.1.1.3 does
12 not define the word efficient, correct?

13 A. I would agree that it does not define the
14 word efficient any more than the use of the word
15 efficient in other places does not go that step and
16 actually define it. As I have indicated in my
17 testimony, it's used in several other places. What the
18 word efficient and least cost do is to put some
19 parameters, some high level parameters, around the more
20 specific language that Qwest has already agreed to with
21 respect to providing space where existing infrastructure
22 is in place.

23 Q. Section 8.1.1.3 however in and of itself when
24 looked -- when one looks at that just by itself with
25 nothing more does not put hands around or parameters

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1 around what Covad means by efficient, correct?

2 A. Again, yeah, I would agree with that, and
3 that's why that language has to go along with the rest
4 of the language associated with the space that we're
5 going to be provided. Because it all has to be taken in
6 context and not out of context in order to get the full
7 meaning and actually develop a collocation space that is
8 being provided in the most efficient and cost effective
9 manner.

10 Q. Would you agree that the FCC has provided
11 some guidance to the ILECs in terms of how collocation
12 space should be assigned?

13 A. I would agree that they have provided some,
14 yes.

15 Q. I would like to move now if we could to the
16 issue of regeneration. In your testimony, your direct
17 testimony, which is Exhibit Number 1-T, on page 12,
18 line, and it's a little hard to see, I think it's 22 and
19 23, but the text is sort of in between the lines, but
20 that last part that starts with, Qwest controls central
21 office space.

22 A. I see it.

23 JUDGE RENDAHL: Which page?

24 MS. WAXTER: I'm sorry, page 12, bottom of
25 the page.

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1 JUDGE RENDAHL: Page 12 of 1-T?

2 MS. WAXTER: Correct.

3 JUDGE RENDAHL: Thank you.

4 BY MS. WAXTER:

5 Q. It's Covad's position, is it not, that again
6 Qwest controls the central office space which would
7 affect Covad's ability to interconnect or to connect
8 with another CLEC, meaning if Qwest places a Covad
9 collocation in one space and then places another CLEC
10 collocation space in another space that Qwest is the one
11 who is controlling that; that's Covad's position,
12 correct?

13 A. Yes, it is.

14 Q. And as we discussed in conjunction with our
15 collocation discussion though, Covad or any other CLEC,
16 presuming they have similar language in their
17 interconnection agreement, can check the space
18 availability report before accepting a collocation space
19 or could also request a walk through of a central office
20 if they were unhappy with the assignment that Qwest has
21 made, correct?

22 A. Yes, as we discussed, those options are
23 available.

24 Q. So in that situation, Qwest is not actually
25 controlling, Qwest does not dictate where a CLEC will be

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1 placed in a collocation space, correct?

2 A. I would disagree with that, because you --
3 and again, a lot of my experience comes with building
4 out the initial collocations with Covad throughout the
5 entire Qwest region. And from my experience, many areas
6 were not available for us to even do a walk through in
7 some of the larger central offices. So we did not
8 really know what space was or was not available as a
9 whole. We could take a look at the space that Qwest had
10 allocated for collocation, sometimes even on different
11 floors, but we weren't always given access to the entire
12 building.

13 Q. Are you suggesting that when -- that Covad
14 actually requested a walk through and was denied the
15 walk through?

16 A. Well, actually at that time, no, because I
17 don't think that the provisions had come out of the FCC
18 at that point that required the ILEC to give us an
19 entire walk through through the entire central office.

20 Q. So are you talking during this, in your
21 testimony I think you have referred to it as the
22 technology boom, was this the time frame that you're
23 talking about?

24 A. Pretty much. This is when we were very busy
25 building out the entire network. Qwest was scrambling

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1 to make collocations available, and you didn't always
2 have time, either on the Qwest side or on the CLEC side,
3 to do a thorough investigation of what would best fit
4 your business needs. Spaces were built out and CLECs
5 were assigned, and if you didn't like it, then you had
6 two choices. You could either contest it and not get
7 your collocation built out and delay your time to
8 market, or you could accept what was available.

9 Q. And during that technology boom when Covad
10 was trying to get into the collocation spaces or the
11 Qwest central offices by way of collocation spaces,
12 Covad made a business decision to accept whatever spaces
13 were available rather than taking the time, if you will,
14 to ask for a walk through or to pursue that further with
15 Qwest?

16 A. In some cases. In some cases, however, I did
17 choose to go ahead and contest it and was assigned
18 different space.

19 Q. Okay. Let me refer you if I could to Exhibit
20 1-T, page 13, starting at line what looks to be again 7
21 1/2, if you will, between 7 and 8, going down to 12 or
22 13. You state there that the FCC may not require, well,
23 that ILECs may not require CLECs to use an intermediate
24 interconnection arrangement in lieu of a direct connect
25 to the incumbent network. Do you see that testimony

0174

1 there?

2 A. Yes, I see that.

3 Q. Are you suggesting by that testimony that
4 Qwest forces Covad to use an intermediate
5 interconnection arrangement, or are you just merely
6 restating what the FCC says?

7 A. No, and let me explain what it is that I
8 tried to point out here. When we initially built out
9 the collocation arrangements, Qwest or U S West I guess,
10 well, it was Qwest actually, made the decision to
11 provide intermediate distribution frames, and at that
12 time they were called SPOT frames, single point of
13 termination frames. And all CLECs were required to
14 connect at those points, and there were a lot of charges
15 associated with that. And also Qwest had a lot of costs
16 associated with providing the tie pairs to those frames
17 that would allow connectivity back into their network.

18 The FCC, this was challenged at the FCC, and
19 the FCC after a year or so or two finally came out and
20 said, you know, you don't really need to have that, so
21 you're going to have to allow direct connection. So the
22 problem arises though where we have already established
23 everything and quite a bit of future capacity to those
24 locations, and so we didn't have a need for a very long
25 time to do any direct connection, which of course is now

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1 available from Qwest because of the FCC order. So
2 that's kind of what I was trying to get to in my
3 testimony.

4 Q. Okay, so you were giving us a historical
5 analysis, if you will, of sort of how we got to where we
6 are today?

7 A. I would say that's fairly accurate, yeah.

8 Q. And today, I think you said this, I just want
9 to confirm, you agree that Qwest will permit CLECs to do
10 a direct connection with each other without having to go
11 through a Qwest ICDF?

12 A. Yes, it will, yes. I think there are some
13 limitations as to whether or not it's on the same floor.
14 I think it's on a different floor. I would have to go
15 back and reread the PCAT. But yes, generally it's
16 available.

17 JUDGE RENDAHL: And when you say PCAT, you
18 mean the product catalog?

19 THE WITNESS: Yes, Your Honor, that's
20 correct.

21 JUDGE RENDAHL: Thank you.

22 BY MS. WAXTER:

23 Q. And I think by your testimony what you were
24 suggesting is that, again going back to the FCC order
25 that you discuss, that where the FCC can not require the

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1 ILEC to require the CLEC to come to an intermediate
2 connection point, that you think that that also applies
3 to or should be extended to include the CLEC to CLEC
4 connection; is that correct?

5 A. I'm sorry, I'm not sure I followed.

6 Q. Well, it wasn't a very good question, so let
7 me strike it.

8 JUDGE RENDAHL: Or ask it again, I wasn't
9 following it either I will admit.

10 MS. WAXTER: Okay.

11 I'm going to move on to sort of a different
12 area of this. I'm not even going to try that one again.

13 JUDGE RENDAHL: Okay.

14 BY MS. WAXTER:

15 Q. Mr. Zulevic, in your response testimony you
16 have a discussion in there regarding, well, let me go
17 ahead and refer you there, on page 5, and this one isn't
18 lined but the last question before you get to Issue 6,
19 the question is:

20 Do you have other evidence that Qwest's
21 proposed language on regeneration should
22 be rejected.

23 Do you see that question?

24 A. Yes, I do.

25 Q. And your discussion there surrounds the

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1 interconnection agreement that Qwest and Qwest
2 Communications Corporation, QCC, entered into recently
3 here in Washington state?

4 A. That's correct.

5 Q. And the implication of that testimony is that
6 Qwest and QCC somehow negotiated an agreement that is
7 discriminatory or that is more favorable to QCC than
8 what Qwest is offering to other CLECs. Would you agree
9 that that's basically the implication?

10 A. Yes, I would agree.

11 Q. Okay. Now I presume you are familiar with
12 the Washington 8th Revised SGAT?

13 A. I would have to take a look to see if it's
14 the version that I'm most familiar with. I don't
15 remember by number.

16 JUDGE RENDAHL: I will clarify for the record
17 that the Washington 8th Revised SGAT is the version the
18 Commission approved at the end of the 271 proceeding.

19 THE WITNESS: Thank you.

20 A. I am somewhat familiar with that, yes.

21 BY MS. WAXTER:

22 Q. Great, thank you. Have you had the
23 opportunity to compare the 8th Revised SGAT with the
24 Qwest-QCC interconnection agreement, the one that you
25 referred to in your testimony?

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1 A. No, I have not. I only compared this
2 agreement with the proposed language that we were
3 negotiating.

4 Q. Okay. If you would please turn to your
5 Exhibit, let's see, it's MZ-6 to your testimony, it's
6 been identified --

7 JUDGE RENDAHL: That's Exhibit 6.

8 Q. As Exhibit 6, oh, that's easy, for the
9 hearing.

10 JUDGE RENDAHL: Is there a particular page?

11 Q. We can start with just the first page of that
12 exhibit if you like.

13 A. Okay, I'm there.

14 Q. At the bottom left-hand corner of that, it
15 says there, template version, Washington SGAT 8th
16 Revision, June 25th, 2002. Do you see that?

17 A. I see that.

18 Q. Is it your understanding or do you know why
19 that appears on the bottom left of actually each page of
20 this exhibit that you have there?

21 A. Well, I assume because that's the template
22 version that we're dealing with here.

23 Q. And would it surprise you to know that the
24 provisions that we're discussing with regard to
25 regeneration are the same as, in the 8th Revised SGAT,

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1 are the same provisions, the wording is exactly the same
2 as those provisions that are contained in the Qwest-QCC
3 interconnection agreement, meaning essentially that the
4 Qwest-QCC interconnection agreement is, in fact, based
5 upon the Washington 8th Revised SGAT?

6 A. I would sure like to take a look at it.

7 MS. WAXTER: Your Honor, I have both
8 documents which I can give to Mr. Zulevic just to make
9 that confirmation, or we could do it sort of at a next
10 break and bring him back.

11 JUDGE RENDAHL: Ms. Frame.

12 MS. FRAME: Your Honor, I'm going to object.
13 I don't know where Ms. Waxter is heading on this. She
14 wants to compare, I guess I need some clarification, she
15 wants Mr. Zulevic to compare the SGAT 8th Revision to,
16 the entire SGAT 8th Revision to the proposed language
17 that Covad has proposed on these particular sections as
18 well as Qwest Corporation and QCC agreement?

19 MS. WAXTER: Your Honor, I'm happy to proffer
20 what it is that I expect to be revealed by that
21 comparison.

22 JUDGE RENDAHL: Let me note you can also ask
23 questions subject to check in Washington, so you can ask
24 Mr. Zulevic subject to check whether he's aware whether
25 they're the same.

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1 MS. WAXTER: Okay.

2 JUDGE RENDAHL: Whether you're referring to
3 the entire agreement or just this one particular
4 provision.

5 MS. WAXTER: Okay.

6 BY MS. WAXTER:

7 Q. Mr. Zulevic, subject to check, would you
8 agree that the Qwest-QCC interconnection agreement
9 language with respect to the sections that are at issue
10 here today on collocation and regeneration are in fact
11 identical to the Washington 8th Revised SGAT?

12 A. With all due respect, I would like to take a
13 look at the documents. Subject to check puts the burden
14 on me if indeed I am right and they're different. But I
15 would be happy to take a look at them at a recess or
16 whatever.

17 JUDGE RENDAHL: Why don't we take a five
18 minute break, and if you have the documents here and you
19 can provide them to Mr. Zulevic to make a comparison,
20 and then we can go back on the record and address it.

21 So let's be off the record.

22 (Recess taken.)

23 MS. WAXTER: And let me clarify the question,
24 because I think it's easier. The only section I asked
25 Mr. Zulevic to compare was Section 8.2.1.23.1.4, because

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1 that is the only section he attached to his testimony,
2 so that is the comparison.

3 BY MS. WAXTER:

4 Q. Mr. Zulevic, have you had the opportunity to
5 compare the 8th Revised SGAT with the Qwest-QCC
6 interconnection agreement that you attached to your
7 testimony?

8 MR. NEWELL: Your Honor, we object to the
9 question. The premise of Ms. Waxter's question is that
10 the terms offered to QCC are available to other CLECs by
11 virtue of their being included in the SGAT. The problem
12 is those terms were not offered to Covad, and that is
13 the relevant question. It's not really relevant to
14 compare terms in the Washington SGAT that weren't made
15 available to Covad with terms in the QCC agreement
16 between Qwest and QCC that weren't made available to
17 Covad.

18 JUDGE RENDAHL: I'm going to allow the
19 question because I think if nothing else it bolsters
20 Covad's position in this situation. I don't think it
21 really changes the dynamics to allow this information
22 in. If it was just QCC that was given this language,
23 then that's one thing, but if it's all CLECs who opted
24 in to the SGAT, then I don't see how that harms Covad in
25 any way, so I'm going to allow the question.

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1 MS. WAXTER: Thank you.

2 A. I'm sorry, would you mind repeating the
3 question.

4 BY MS. WAXTER:

5 Q. Oh, boy, yes.

6 Have you had the opportunity to review
7 Section 8.2.1.23.1.4 of the 8th Revised SGAT and compare
8 that language to the Qwest-QCC interconnection
9 agreement?

10 A. Yes, I have.

11 Q. And is that language, is the language in both
12 of those agreements the same?

13 A. The language in both agreements is identical,
14 but again, I don't understand why this was never offered
15 to us as part of the Qwest proposed language in the
16 state of Washington.

17 MS. WAXTER: I have nothing further.

18 JUDGE RENDAHL: Okay, I have some questions,
19 I just had to think about where we were in the order
20 here.

21

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

23 BY JUDGE RENDAHL:

24 Q. Mr. Zulevic, on the collocation space
25 allocation question or the efficiency issue, have you

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1 read and are you familiar with Mr. Norman's testimony in
2 this proceeding?

3 A. Yes.

4 Q. What he's prefiled?

5 A. Yes.

6 Q. Okay. And in that testimony, I will give you
7 a page reference, on page 2 of his response testimony,
8 which has been marked as Exhibit 45-T, nope, 46-RT and
9 47-RTC, he discusses Qwest's collocation space
10 provisioning and dispute processes. Are you familiar
11 with that testimony?

12 A. Somewhat, but I would like to follow along
13 with you, and I don't have his with me. I have it in a
14 binder out here if I could --

15 JUDGE RENDAHL: Well, let's be off the record
16 for a moment.

17 (Discussion off the record.)

18 BY JUDGE RENDAHL:

19 Q. I'm not going to ask you anything
20 specifically about his particular language, but just the
21 general issue as to whether these processes, in other
22 words the provisioning and the dispute processes, are
23 sufficient to address Covad's concerns about efficiency.
24 In other words, you have talked with Ms. Waxter about
25 the process Covad would go through now to seek

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1 collocation space, and there are dispute processes
2 available as I understand it to Covad if it's not happy
3 with Qwest's option, the options that Qwest makes
4 available to Covad. I understand your concerns about
5 what happened during what we now call the technology
6 boom, but as far as the current processes that are
7 available, do those sufficiently address Covad's
8 concerns?

9 A. Your Honor, I think that they definitely have
10 taken some steps in the right direction with respect to
11 providing more information on space availability.
12 However, again, as I was discussing with Ms. Waxter, the
13 concept of efficient space, utilization of a space in an
14 efficient manner, and least cost is the concept that
15 every engineer should strive for on a high level. Now
16 sometimes, as I explained with Ms. Waxter, sometimes
17 it's going to be more specific in efficiency or the
18 perception of efficiency and low cost to the CLEC than
19 it is to Qwest, but then again they have the ability to
20 recover their costs plus a reasonable profit.

21 I think that because the specifics that we
22 have agreed to include in the interconnection agreement
23 around the existing infrastructure and power, that if we
24 have the efficient use and low cost, or at least cost
25 with it, it kind of wraps it up. Because it is possible

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1 to be given a space that is less acceptable that has
2 existing infrastructure, which would result then in it
3 being less efficient and higher cost. So that's why I
4 feel it's important to have all of that language
5 together to really get a hold of the issue.

6 Q. Okay. Now at some level both the Issue
7 Number 4 and Issue Number 5 address what I guess Covad
8 would consider to be efficiency concerns; is that
9 correct?

10 A. Yes, they are.

11 Q. Are the two issues linked in any way such
12 that if language for one is not included in the SGAT,
13 the other is affected in Covad's view?

14 A. You know, I really don't think so. In
15 Covad's perspective, the overall efficient use and least
16 cost should be the by-product of planning for the entire
17 utilization of the central office. So by looking at it
18 that way, regeneration costs if required between two
19 different collocation arrangements should then be spread
20 amongst all of the CLECs who are in that central office.
21 Just because one CLEC comes in at the wrong time and is
22 assigned four or five floors away from another CLEC,
23 according to Qwest's proposal and requirement for
24 regeneration, this would put them at a competitive
25 disadvantage just based upon the sheer timing of when

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1 other CLECs have decided to collocate.

2 Q. Okay. As to the regeneration requirements,
3 the section that you were just discussing, the section
4 of the SGAT and the section of the Qwest-QCC agreement
5 that you were just discussing, in Mr. Norman's testimony
6 I believe there is, and I don't have the page reference
7 here, there's a suggestion that Qwest is going to seek
8 to revise the SGAT to address -- to change that
9 language. Are you familiar with that testimony?

10 A. Yes, I recall it.

11 Q. And I'm sorry I don't have a page reference.
12 If the SGAT is modified, which would then presumably
13 modify all the agreements, all the agreements to which
14 various companies have opted in to the SGAT, would that
15 remove the discriminatory effect to Covad?

16 A. Well, I'm not sure -- I'm trying to recall,
17 and I wish I knew exactly where that discussion was.

18 JUDGE RENDAHL: Let's be off the record while
19 I take a look.

20 (Discussion off the record.)

21 BY JUDGE RENDAHL:

22 Q. Mr. Zulevic, if Qwest modifies Section
23 8.2.1.23.4 of the SGAT to remove the provision that it
24 will no longer -- that it will not charge CLECs for
25 regeneration and that change is made to all

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1 interconnection agreements with carriers that opted in
2 to the SGAT, would that remove the discriminatory effect
3 of those agreements, not just with Qwest Communications
4 Corporation, QCC, but all other carriers who may have
5 opted in to this provision?

6 A. I want to make sure I understand your
7 question. Is your question, if Qwest were to modify the
8 SGAT, the current, and remove the provisions in
9 8.2.1.23.1.4, effectively saying that it's no longer
10 free of charge.

11 Q. Correct.

12 A. If they were to remove that, would that
13 remove the discrimination with respect -- from Covad's
14 perspective?

15 Q. Well, not only just remove it from the SGAT
16 as the SGAT itself, but effectively remove it from their
17 agreements with other carriers, the carriers that have
18 adopted into the SGAT and adopted it as their agreement.

19 A. Well, I'm not an attorney, but I would
20 suspect that you would have an awful lot of people
21 knocking on your door if they were to do that, remove a
22 provision that they have agreed to as part of that SGAT
23 and just unilaterally remove it. Now Qwest does have
24 the right to update its SGAT any time it chooses, but
25 not previous versions that have already been opted in

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1 to. So I don't know that that would really resolve the
2 issue from Covad's perspective.

3 JUDGE RENDAHL: Okay, I believe that's all I
4 have for Mr. Zulevic.

5 MS. WAXTER: Your Honor, I was just thinking
6 about the one question that you had earlier, is it
7 perhaps a footnote in Qwest's response to the petition
8 in Washington?

9 JUDGE RENDAHL: That may be it.

10 MS. WAXTER: Okay.

11 JUDGE RENDAHL: Thank you.

12 MS. WAXTER: I just didn't know if you wanted
13 to go back and --

14 JUDGE RENDAHL: I seemed to recall it was
15 somewhere in Washington, but having read so much in the
16 last few weeks I can't remember exactly where it was I
17 found that. But thank you.

18 Mr. Newell or Ms. Frame, do you have any
19 redirect for Mr. Zulevic on this issue?

20 MR. NEWELL: If we can have a moment, Your
21 Honor.

22 JUDGE RENDAHL: Let's be off the record.

23 (Discussion off the record.)

24

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

2 BY MR. NEWELL:

3 Q. Mr. Zulevic, the ALJ asked you whether it
4 would alleviate your concerns about discrimination
5 against Covad if essentially all carriers were subject
6 to retail charges for regeneration. In that
7 circumstance, Qwest would have a competitive advantage,
8 would they not, as they raised the cost of collocation
9 on all of their competitors?

10 A. Well, it would definitely provide a
11 significant revenue stream to Qwest should all CLEC
12 cross connects be subject to the retail rates, which are
13 extremely high compared to the rates that are even
14 currently available in some states for regeneration and
15 definitely would be much higher than zero.

16 Q. Would it also be discriminatory, the fact
17 that even if Covad were permitted to place their own
18 cross connection within the central office that they
19 would have no ability to place a mid span repeater
20 within Qwest racking or within Qwest's equipment without
21 essentially initiating a new collocation mid span?

22 A. Well, that would be the only way to do it,
23 and then trying to determine where that mid span would
24 be, and then of course having to incur the cost of a mid
25 point collocation just for purposes of placing

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1 regeneration equipment would be very cost prohibitive.

2 Q. And those aren't costs that Qwest would incur
3 to regenerate its own signals within its central
4 offices?

5 A. No, Qwest has their regeneration equipment
6 already in place in the central offices next to their
7 digital cross connect systems, and so it would not be a
8 cost that they would incur, an additional cost to
9 providing the regular service.

10 MR. NEWELL: Thank you, nothing further.

11 JUDGE RENDAHL: Ms. Waxter.

12 MS. WAXTER: Nothing further.

13 JUDGE RENDAHL: Okay.

14 Now, Mr. Zulevic, I believe you are truly
15 done for the day. I don't believe we're going to be
16 bringing you back, so thank you very much for appearing
17 at the hearing, and you're excused.

18 THE WITNESS: Well, thank you very much.

19 JUDGE RENDAHL: Okay, let's be off the record
20 while we change witnesses.

21 (Discussion off the record.)

22 JUDGE RENDAHL: Good afternoon, Mr. Norman.

23 THE WITNESS: Good afternoon, Your Honor.

24 JUDGE RENDAHL: If you could state your name
25 and your address for the record, please.

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1 THE WITNESS: Yes, my name is Michael Norman,
2 my last name is spelled N-O-R-M-A-N. My business
3 address is 700 West Mineral Avenue, Littleton, Colorado
4 80120.

5 JUDGE RENDAHL: Thank you. And if you would
6 raise your right hand, please.

7 (Witness Michael Norman was sworn.)

8 JUDGE RENDAHL: Please be seated.

9 THE WITNESS: Thank you.

10 JUDGE RENDAHL: Okay, Ms. Waxter.

11 MS. WAXTER: Thank you, Your Honor.

12

13 Whereupon,

14

MICHAEL NORMAN,

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

17

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

19 BY MS. WAXTER:

20 Q. Mr. Norman, do you have before you your
21 direct testimony and response testimony that was filed
22 in this matter?

23 A. Yes, I do.

24 Q. And have you had the opportunity to review
25 that testimony?

0192

1 A. Yes.

2 Q. Do you have any changes, corrections,
3 additions, or deletions to make to that testimony?

4 A. No.

5 Q. Do you or was that testimony either prepared
6 by you or under your supervision?

7 A. Yes.

8 Q. If asked the same questions today that are
9 contained in that testimony, would your answers be the
10 same?

11 A. Yes.

12 MS. WAXTER: I would move to admit hearing
13 Exhibits 45-T, 46-RT, and 47-RTC.

14 JUDGE RENDAHL: Any objection?

15 MS. FRAME: No objection, Your Honor.

16 JUDGE RENDAHL: Exhibits 45-T, 46-RT, and
17 47-RTC are admitted.

18 Ms. Frame, I do have a question, did you
19 intend to withdraw the exhibits for Mr. Easton?

20 MS. FRAME: Yes, Your Honor.

21 JUDGE RENDAHL: So Exhibits 41, 42, and 43
22 are withdrawn?

23 MS. FRAME: May I have a moment, please?

24 JUDGE RENDAHL: You may have a moment.

25 MS. FRAME: Thank you.

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1 JUDGE RENDAHL: We will be off the record.

2 (Discussion off the record.)

3 JUDGE RENDAHL: While we were off the record,
4 Ms. Frame confirmed that what have been marked as
5 Exhibits 41 through 43 are withdrawn, correct?

6 MS. FRAME: That is correct.

7 JUDGE RENDAHL: Okay.

8 MR. NEWELL: Your Honor, at this point I
9 would offer opposing counsel a choice. If they would
10 like to stipulate to Exhibits 53, 54, 55, and 56,
11 stipulate to their admission, and those exhibits are
12 admitted, we would have no questions for Mr. Norman.

13 MS. WAXTER: Let me check one thing.

14 JUDGE RENDAHL: We'll be off the record.

15 (Discussion off the record.)

16 JUDGE RENDAHL: While we were off the record,
17 counsel for Qwest indicated they agreed to stipulate to
18 the admission of Exhibits 53 through 56. With that,
19 they will be admitted.

20 And counsel for Covad indicated that Exhibits
21 48 through 52 for Mr. Norman would be withdrawn and that
22 there is no cross for Mr. Norman.

23 I do have a few questions, and I will try to
24 be brief, and then we will be done for the day unless
25 you all have a few questions based on my questions.

0194

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

2 BY JUDGE RENDAHL:

3 Q. Mr. Norman, if you look at page 7 of your
4 response testimony, which is Exhibit 46-RT or 47-RTC,
5 whichever one you have.

6 A. Yes.

7 Q. Beginning at line 5 you discuss problems with
8 the Lakeview central office, do you see that, problems
9 that Covad I believe raised about problems in the
10 Lakeview central office?

11 A. Yes.

12 Q. Okay. And now I'm going to pose a
13 hypothetical based on the Lakeview central office. If
14 Covad requested cageless collocation in that office and
15 was offered space in the prebuilt collocation space, the
16 separate space that Qwest built, what would Covad's
17 options be in seeking cageless space in the main central
18 office? Does that question make sense to you?

19 A. I don't know for sure.

20 Q. Okay.

21 A. I'm familiar with the floor plan of that
22 central office.

23 Q. Okay, that's fair.

24 A. I did investigate that. And the caged
25 collocation and cageless collocation are close together,

0195

1 and there's options available in that central office for
2 the caged collocation. If you want to put cageless in
3 there, that can happen, that can be completed.

4 Q. Okay. Well, say for example there is, assume
5 in this floor plan that Qwest offered space in the
6 separate newly built collocation space and Covad wanted
7 space in the main building, what would be Covad's
8 options faced with Qwest's offer?

9 A. Well, if we couldn't give them a cageless
10 collocation, we could give them a virtual collocation,
11 if cageless collocation was not available.

12 Q. Could Covad seek a walk around the central
13 office to see what was available in the main building?

14 A. Absolutely.

15 Q. Okay. Turning to the regeneration issue, you
16 were here when we were discussing the Exhibit 7 to
17 Mr. Zulevic's testimony, which is the Qwest Corporation
18 and Qwest Communications Corporation or QCC agreement?

19 A. Yes.

20 Q. Okay. And are you familiar with that
21 agreement?

22 A. I'm not familiar with the agreement, but I'm
23 assuming that and I'm pretty sure it's the same as the
24 rest of the SGAT.

25 Q. All right. Why is it not discriminatory to

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1 allow Qwest and its affiliate to include that SGAT
2 section in its interconnection agreement but not to
3 allow Covad to have the benefit of the same language?

4 A. I'm not sure how to answer that. If you
5 don't mind, would you please just repeat the question
6 one more time.

7 Q. Sure.

8 A. Just to make sure I clearly understand what
9 you're asking.

10 Q. I will try to make it more clear.

11 If Qwest and its affiliate have that language
12 in its interconnection agreement, why isn't it
13 discriminatory to not allow Covad to have that same
14 language?

15 A. I don't think that it is nondiscriminatory.
16 I think it is discriminatory. If we have language in
17 our interconnection agreement with our affiliate, then
18 Covad should be able to have the same language. But,
19 however, I do know that there was a lot of problems with
20 that particular section that we're talking about. I'm
21 hoping you're talking about 8.2.1.23.1.4 or whatever it
22 is.

23 Q. Correct.

24 A. And that there was clearly a mistake when we
25 added that language into the Washington SGAT.

0197

1 Q. Was Qwest aware of the mistake do you know
2 when it entered into the agreement with QCC?

3 A. No.

4 Q. And when did Qwest become aware of the
5 mistake?

6 A. During these arbitration proceedings.

7 Q. Okay, thank you.

8 Do you know when the Commission, this
9 Commission, approved the agreement with QCC?

10 A. No, I don't.

11 Q. Okay. Concerning the regeneration charge
12 itself, can you explain why it's appropriate to charge
13 for the regeneration between two CLECs as a finished
14 charge as opposed to a wholesale rate?

15 A. The reason I -- well, do you want my
16 interpretation or --

17 Q. Well --

18 A. Basically --

19 Q. Why in your opinion as the expert testifying
20 on these issues for Qwest --

21 A. Okay, for --

22 Q. -- is it appropriate to charge for
23 regeneration as a finished charge as opposed to a
24 wholesale rate?

25 A. In a CLEC to CLEC relationship, there is no

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1 involvement by Qwest. And in a CLEC to CLEC
2 relationship, the provisioning of the circuits is all
3 done by the CLECs, and they're -- it's basically a third
4 party relationship with Qwest no involvement. So
5 because they have -- because they have all of the
6 information required to design those circuits and figure
7 out their own provisioning, because Qwest allows that in
8 the central office, the only way we would get involved
9 in that CLEC to CLEC regeneration is if there was a
10 request submitted to Qwest to engineer a service.

11 Q. Do you know how long Qwest has provided for
12 CLEC to CLEC channel regeneration as a finished product
13 under its FCC Access Tariff Number 1?

14 A. Not for sure, but I can go back and say that
15 clearly when I looked at some information that I have
16 that I researched that after 2001, that offer has been
17 since 2001.

18 JUDGE RENDAHL: Thank you, and I believe
19 that's all I have for you, Mr. Norman.

20 Any redirect?

21 MS. WAXTER: Your Honor, may I have a minute?

22 JUDGE RENDAHL: You may.

23 MS. WAXTER: Thanks.

24 JUDGE RENDAHL: We'll be off the record.

25 (Discussion off the record.)

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1 MS. WAXTER: I have no redirect, thank you.

2 JUDGE RENDAHL: All right, I believe we're
3 done.

4 MR. NEWELL: Actually, I did have two quick
5 questions.

6 JUDGE RENDAHL: Based on my questions?

7 MR. NEWELL: Derived from your questions,
8 Your Honor.

9 JUDGE RENDAHL: Please go ahead.

10

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

12 BY MR. NEWELL:

13 Q. Mr. Norman, you mentioned that you had
14 researched the retail central office cross connection
15 product and said that it had been available as a retail
16 offering since 2001; is that correct?

17 A. No, that's not correct. She asked me about
18 regeneration, not the cross connect offering.

19 Q. Okay, excuse me, a cross connection with
20 regeneration, was that the product you referred to?

21 A. No, cross connection does not include
22 regeneration.

23 Q. So are there any instances that you found in
24 your research where a CLEC ordered a cross connection or
25 any product that would connect its collocation to the

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1 collocation space of another CLEC within the same
2 central office where regeneration was required and Qwest
3 charged a retail FCC tariffed rate for the regeneration
4 involved in that connection?

5 A. Are you still talking about cross connection
6 or -- I guess I don't quite understand the question.
7 It's clear to me that under the FCC tariff we can charge
8 for regeneration. But when you talk about cross
9 connection, that's a separate product, and they're not
10 inclusive of each other.

11 Q. Would you agree though that regeneration and
12 the need for regeneration only arises when you are
13 designing a circuit between one point and another point?
14 Is that a fair characterization of when regeneration is
15 required?

16 A. But the CLEC would have to look at their own
17 circuitry and tell Qwest that regeneration is required
18 and then ask us for that type of service.

19 Q. And that's the way the system works today?

20 A. That's correct.

21 Q. Mr. Norman, if let's say a CLEC decided they
22 wanted to connect with another CLEC within a central
23 office, and they were able to do the design work to come
24 up with let's say it's a DS3 connection, and the
25 distance, the racking distance between the two was of a

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1 length that regeneration would be required, is it not --
2 is it efficient engineering practice to place that
3 repeater regeneration equipment as close to mid span as
4 possible?

5 A. Not necessarily. Regeneration can be placed
6 either at the collocation of where cageless is at either
7 one of the CLECs, and that will work as well. It
8 doesn't have to be a mid span repeater to qualify or,
9 you know, boost the signal. It can be -- it can be
10 boosted from your own collocation SPOT.

11 Q. If it was boosted from one end or close to
12 one end of the circuit as you just characterized,
13 wouldn't that limit the effectiveness of the
14 regeneration of the signal?

15 A. No. If it would, if it was to the point that
16 it didn't meet the ANSI standard, then each CLEC could
17 boost the signal.

18 JUDGE RENDAHL: When you say ANSI, you refer
19 to A-N-S-I standard?

20 THE WITNESS: The American National Standard
21 102.1.

22 JUDGE RENDAHL: Thank you.

23 THE WITNESS: To be specific.

24 BY MR. NEWELL:

25 Q. So in that circumstance, what you're saying

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1 is to the extent, due to the laws of physics, there
2 would be a diminished signal only regenerating that
3 signal on one side that you could employ another
4 regenerator. I don't know if that's the right --

5 A. No, that's okay.

6 Q. -- label for the equipment but --

7 A. That's okay.

8 Q. -- if you put two regeneration units on
9 either end of the circuit, then that would solve the
10 problem; is that your testimony?

11 A. That's what I'm saying, that it, you know,
12 depending on the design of that circuit, and the CLEC
13 would have to decide, if it reaches both ends, then it
14 clearly has reached the standard of T-102, then that
15 would -- that would be correct.

16 Q. Well, there were some qualifications built
17 into that answer, so I want to understand it. Are there
18 any circumstances where providing regeneration equipment
19 on one end or either end of the cross connect circuit
20 would not be sufficient to make the signal meet ANSI
21 standards?

22 A. There will be some situations like that I
23 think in the future. As of today I think we're -- they
24 would be very minimal. But as we move forward with
25 collocation and CLECs decide they want to partner with

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1 each other, that could be -- that would be true.

2 MR. NEWELL: Okay, thank you.

3 I have nothing further, Your Honor.

4 JUDGE RENDAHL: Okay.

5 MS. WAXTER: Nothing further.

6 JUDGE RENDAHL: All right, well, I believe we
7 are done for the day, and, Mr. Norman, you are excused.

8 THE WITNESS: Thank you.

9 JUDGE RENDAHL: And is there anything else we
10 need to address this afternoon before we adjourn for the
11 day?

12 MS. WAXTER: Nothing from Qwest.

13 JUDGE RENDAHL: All right, well, at this
14 point we will be adjourned for the day, we'll recess for
15 the day and come back in the morning. We'll see you at
16 9:30.

17 Let's be off the record.

18 (Hearing adjourned at 4:45 p.m.)

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