

00353

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

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4 In the Matter of the Complaint) Docket No. UT-991292
and Request for Expedited) Volume VI
5 Treatment of AT&T) Pages 353-473
Communications of the Pacific)
6 Northwest, Inc. Against US)
WEST COMMUNICATIONS, INC.)
7 Regarding Provisioning of)
Access Services.)
8 _____)

9

10 A hearing in the above matter was
11 held on February 2, 2000, at 1:13 p.m., at 1300
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge C. ROBERT WALLIS,
14 Chairwoman MARILYN SHOWALTER, and Commissioner
15 WILLIAM R. GILLIS.

16 The parties were present as
17 follows:

18 AT&T, by Susan Proctor and Michel
Singer-Nelson, Attorneys at Law, 1875 Lawrence
19 Street, Suite 1575, Denver, Colorado, 80202.

20 US WEST COMMUNICATIONS, INC., by
Lisa A. Anderl, Attorney at Law, 1600 Seventh Avenue,
21 Room 3206, Seattle, Washington 98191.

22 THE COMMISSION, by Shannon Smith,
Assistant Attorney General, 1400 Evergreen Park
23 Drive, S.W., P.O. Box 40128, Olympia, Washington
98504-0128.

24

Barbara L. Spurbeck, CSR
25 Court Reporter

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1 JUDGE WALLIS: Let us be on the record,
2 please, for the February 2, 2000 session in the
3 matter of Commission Docket Number UT-991292,
4 consisting of a complaint by AT&T versus US West.

5 By way of preliminary matters, we
6 acknowledge the distribution today of Exhibit 228,
7 which is marked for identification and proposed for
8 possible use on cross-examination of Ms. Halvorson.

9 We also acknowledge that Exhibit Number 20,
10 consisting of the deposition of Ms. Field relating to
11 this docket also has some attachments or exhibits
12 associated with it. After some discussion, we have
13 agreed that Counsel will work together to exclude
14 those attachments or exhibits that relate exclusively
15 to circumstances in other states and do not relate to
16 Washington, and the remaining documents will be
17 collectively marked as Exhibit 20-A and will be
18 received in evidence, unless there is further
19 objection upon their receipt.

20 Today we have two matters to take up before
21 we resume the cross-examination of Mr. Wilson. The
22 first has to do with the Washington tariff and
23 questions that were asked and representations made by
24 Ms. Field. At the Commission's request, Ms. Field is
25 being recalled to the stand for further inquiry as to

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1 Washington tariff provisions.

2 I note that Ms. Field is at the witness
3 table and appears to be ready. I'll merely remind
4 you that you have previously been sworn under oath in
5 this proceeding and we'll turn you over to your
6 counsel for examination. Ms. Proctor.

7 MS. PROCTOR: Thank you, Your Honor.

8 Whereupon,

9 CHARLOTTE FIELD,

10 having been previously duly sworn, was recalled as a
11 witness herein and was examined and testified as
12 follows:

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

14 BY MS. PROCTOR:

15 Q. Ms. Field, the facilities that AT&T is
16 purchasing under either tariff in this case, do the
17 facilities carry both interstate and intrastate
18 traffic?

19 MS. ANDERL: I object, Your Honor. This
20 was supposed to be a very focused line of inquiry
21 with regard to the Washington tariff, not a general
22 line of inquiry starting with redirect of Ms. Field's
23 or AT&T's entire case.

24 And while I realize that my objection to
25 the first question might be a bit premature, I don't

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1 believe that there's any foundation necessary. There
2 was an extensive discussion on what Ms. Field was
3 going to be testifying about, and I would object and
4 ask that if Counsel is going to be permitted to
5 conduct direct examination, that she be asked to
6 limit her inquiries to the Washington tariff.

7 JUDGE WALLIS: Ms. Proctor.

8 MS. PROCTOR: My thought here, Your Honor,
9 was that we're talking about buying network services,
10 and that it was a simple matter to ask a question or
11 two to establish what it was that we were purchasing,
12 because in that context, it is easier to understand
13 the tariffs. Understanding tariffs, I always think,
14 is, frankly, a challenge.

15 JUDGE WALLIS: I do believe that Ms. Anderl
16 has a good point. There was extensive examination
17 yesterday as to the nature of the traffic, the nature
18 of the purchase, and the issue that we have to take a
19 look at today is the Washington tariff and what is in
20 that tariff and what that means, so I am going to ask
21 you to confine your examination to that narrow
22 question.

23 MS. PROCTOR: Okay. And as I understand
24 the question, it was directed to having Ms. Field
25 identify those portions of the tariff that AT&T

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1 wanted the Commission to enforce; is that -- do I
2 have that correctly in mind?

3 JUDGE WALLIS: My recollection is that Ms.
4 Field testified as to the language of the Washington
5 tariff, but on examination of that tariff, the
6 language was not there. And what we want to do at
7 this point is verify what the language is in that
8 tariff and rectify the --

9 MS. PROCTOR: State of the record?

10 JUDGE WALLIS: -- state of the record as it
11 existed at the conclusion of the witness, based upon
12 that misunderstanding.

13 MS. PROCTOR: Okay.

14 Q. Ms. Field, do you happen to have in front
15 of you the direct testimony of Barbara Wilcox?

16 A. No, I don't.

17 MS. PROCTOR: And I do that because Ms.
18 Wilcox quotes the tariff language, and this is where
19 Ms. Field read the tariff language that she was
20 referring to.

21 CHAIRWOMAN SHOWALTER: That wasn't her
22 answer yesterday.

23 THE WITNESS: The language --

24 JUDGE WALLIS: Just a minute, Ms. Field.

25 THE WITNESS: Okay, sorry.

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1 MS. PROCTOR: As I recall, she testified
2 yesterday that she had read it in the tariff.

3 CHAIRWOMAN SHOWALTER: I recall you saying
4 that. I don't recall her saying that.

5 JUDGE WALLIS: Why don't we start off by
6 asking the witness if there are any answers from
7 yesterday that she would like to correct. There was
8 a reference to the Washington tariff. I believe it
9 would be helpful to the Commission to have access to
10 the pertinent language, and if you can get there
11 other than producing the document itself.

12 MS. ANDERL: And Your Honor, I would just
13 note for the record that US West would not object to
14 additional provisions of the Washington tariff being
15 placed before Ms. Field and have her examined on
16 those. It was certainly my understanding that that's
17 what you were asking to have happen yesterday, and
18 our expectation that she would be asked to actually
19 review the Washington tariff, rather than Dr.
20 Wilcox's testimony, which may or may not have the
21 sections in it that she needs to talk about.

22 JUDGE WALLIS: That was our expectation at
23 the conclusion of the day.

24 Q. Ms. Field, did you review the Washington
25 tariffs?

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1 A. Yes, I looked at a number of sections, both
2 in the switched access services tariff and the
3 private line transport tariff.

4 Q. And what did you find?

5 A. I found that, different than what I believe
6 I testified to yesterday, which was that I believed
7 that the language that was contained in the FCC
8 tariff was also contained in the Washington tariffs,
9 was incorrect; that the Washington switched access
10 services tariff does have the language that I spoke
11 of that also exists in the FCC tariff, but that the
12 private line transport tariff appears not to have
13 that language or to have other language in it that's
14 contained in either the federal or the switched
15 access services tariff, such as, you know, what
16 information you need to order.

17 Q. So based on your review of the Washington
18 tariffs, were you able to find in the private line
19 tariff any provisions on ordering of special access
20 services in that Washington tariff?

21 A. No, I couldn't.

22 Q. Did you find in the tariff -- or actually,
23 I guess, did you find in the testimony of Dr. Wilcox
24 other portions of the Washington tariff language that
25 you had been expecting to find in that tariff? And I

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1 would direct your attention to page 22 of Dr.
2 Wilcox's testimony.

3 A. Yes, basically, there was a -- there is a
4 sentence within the private line transport services
5 tariff that basically talks about the company will
6 make every reasonable effort to provide the services
7 delineated in Section Five, upon reasonable notice of
8 request of service from the customer.

9 MS. ANDERL: I'm sorry, may I ask for the
10 page reference on that?

11 MS. PROCTOR: Yes, it's Dr. Wilcox's direct
12 testimony. I'm afraid I don't --

13 THE WITNESS: Page 22.

14 JUDGE WALLIS: Of Exhibit 201.

15 THE WITNESS: I'm sorry, or 101?

16 MS. PROCTOR: Thank you. Exhibit 101?

17 MS. ANDERL: It must be 501.

18 Q. Yes, it's Exhibit 501-T, page 22, at line
19 one, and that refers to Section 1.1 of the private
20 line transport services tariff WN U-33; is that
21 right?

22 A. Yes, it does.

23 Q. Now, the other language from the federal
24 tariff that you had expected to find in the
25 Washington tariff -- and I would direct you to page

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1 24 of Dr. Wilcox's testimony, where she summarizes
2 that language.

3 A. Yes, there's language in the switched
4 access tariff, 5.1.1, which basically talks about the
5 time required to provision the services known as a
6 service interval. You know, such intervals will be
7 established in accordance with the service date,
8 interval guidelines as set forth in the service
9 interval guide mentioned in 5.2.1, following, and
10 where possible, will reflect customer's requested due
11 date.

12 Q. Actually, the word here is requested
13 service date?

14 A. Sorry. Yes, that's correct.

15 Q. And that language is in the switched access
16 tariff; is that right?

17 A. Yes, it is.

18 Q. Were you able to find that language in the
19 private line tariff, the Washington private line
20 tariff?

21 A. No, I could not, and in addition, the
22 specific reference that I believe I had yesterday in
23 my testimony is that the language that I had also
24 expected to see is one where it's in also 5.1.1 of
25 the switched access tariff, where it says the company

00365

1 will establish a service date when the customer has
2 placed an order for service with all the appropriate
3 information to allow processing of the access order.
4 The date on which the service date is established is
5 considered to be the application date.

6 JUDGE WALLIS: Slow down just a little bit,
7 please.

8 THE WITNESS: Sorry. And I did not find
9 that same section in the private line transport
10 section or something that looked like this ordering
11 condition section of 5.1.1.

12 Q. And the final language that you had in mind
13 and did find in the private line tariff, is that
14 contained in Section 3.2.2(L), as in Larry, and is
15 that shown on page 24 of Dr. Wilcox's testimony, at
16 line 23?

17 A. Yes, that was the other part that was in
18 the special access tariff or private line tariff,
19 that says the -- and I think I read this into the
20 record yesterday, that the company shows that all
21 provision requests --

22 Q. Slow down.

23 A. -- for DDS, DS1 and DS3 service will be
24 installed on the customer requested service date (due
25 date), providing it is equal to or greater than the

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1 standard intervals published in the service interval
2 guide.

3 Q. In the federal tariff, the ordering
4 provisions are contained in Section Five of US West
5 Tariff FCC Number Five; is that your understanding?

6 A. Yes, that's my understanding.

7 Q. And those ordering provisions apply to both
8 switched and special access services?

9 A. Yes, according to Section 5.1, general, it
10 indicates that they apply for switched access
11 services, private line transport services, advanced
12 communication networks and expanded interconnection
13 collocation service.

14 Q. And in Colorado, the other state where you
15 testified, the ordering provisions were contained in
16 both the special and the switched access service
17 tariffs; is that correct?

18 A. Yes.

19 Q. And so that was your understanding
20 yesterday when you were testifying?

21 A. Yes, it was.

22 MS. PROCTOR: Thank you.

23 JUDGE WALLIS: Ms. Anderl, will you have
24 follow-up questions of the witness?

25 MS. ANDERL: Yes, I will. I would prefer

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1 to follow Chairwoman Showalter, if she has questions.

2 CHAIRWOMAN SHOWALTER: Thank you.

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

4 BY CHAIRWOMAN SHOWALTER:

5 Q. I just want to go back to the question that
6 I had yesterday. And my question was, or the bottom
7 line on my question, I think, was, looking at Exhibit
8 5 --

9 A. Yes.

10 Q. -- is there any order in Exhibit 5 that
11 violates the Washington tariff, now that you have the
12 Washington tariff in front of you?

13 A. I believe that, yes, when --

14 Q. What one? And I'd like you to point me to
15 which one, or more than one.

16 A. Okay. I think going back to the reasonable
17 effort, which is Section 1.1 of the Washington tariff
18 -- do you mean the PON? Do you want me to tell you
19 which PON it is? I'm sorry, I misunderstood your
20 question, I think.

21 Q. Well, my basic question is does the
22 evidence presented establish a violation of the
23 Washington tariff, and the evidence that you have
24 presented is Exhibit 5. That's what I'm focused on,
25 is Exhibit 5. So what I want to know is what portion

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1 or part of Exhibit 5, in your view, constitutes a
2 violation of the Washington tariff? And if so, what
3 number or what part of Exhibit 5 and what part of the
4 Washington tariff?

5 A. Okay. I believe yesterday we talked about
6 PON Number VWS01790560, which was on --

7 Q. Page two?

8 A. -- the second page.

9 Q. Page two of Exhibit 5?

10 A. Which was the facility that was purchased
11 out of the intrastate tariff. And essentially, this
12 went into a held condition and was held on -- as of
13 the 8/6 time frame. I don't have the information
14 about when it was filled, but it's our belief that we
15 would expect that the tariff identifies some portions
16 of the responsibilities of telecommunications
17 companies to provide reasonable and adequate service,
18 and that clearly in the tariff it says, We'll provide
19 a reasonable effort.

20 And in our view, the fact that we have so
21 many orders that go held, one purchased out of the
22 intrastate tariff, but many purchased out of the
23 interstate tariff, which those circuits only have to
24 have 10 percent intrastate traffic to be purchased
25 out of the interstate tariff --

00369

1 Q. I'm trying to stick here, for this line of
2 questioning, to the Washington State tariff.

3 A. Okay. Basically, I would say Section 1.1
4 of that tariff.

5 Q. Of the Washington State tariff?

6 A. Of the Washington State private line
7 services tariff.

8 Q. Okay. And it says what?

9 A. It says the company will make every
10 reasonable effort to provide the services delineated
11 in Section Five following on reasonable notice of
12 request for service from the customer.

13 That tariff also looks back into the
14 service interval guide, which basically sets forth
15 standard intervals that we think should be what you
16 would expect as a standard, not as an exception.

17 Q. And so looking back at this particular
18 order number, it looks to me as if it was -- FOD
19 stands for --

20 A. That's when we deliver the order to US
21 West.

22 Q. So you ordered it on July 2nd, 1999?

23 A. Yes.

24 Q. And you had a desired -- a customer desired
25 date of July 7th?

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1 A. July 7.

2 Q. And you were given a firm order date of
3 July 16th, and as of August 6th, 1999, the order had
4 not been filled; is that correct?

5 A. Yes, that's correct.

6 Q. And then, going over the last column, it
7 says, No facilities available from US West office to
8 customer premises?

9 A. Yes.

10 Q. So is it your view that this was -- that in
11 this particular case, it was unreasonable for US West
12 to have held the order as of August 6th, when it was
13 requested, or July 2nd? And again, I guess you'd say
14 a desired date of July 7th.

15 A. Yes, you know, if --

16 Q. Do you know any more about this particular
17 case?

18 A. I have some information, but I don't have
19 it with me right this moment. I believe this order
20 was eventually filled, but I can't recall the
21 specifics associated with it. But I guess we believe
22 that the orders -- the orders that are filled across,
23 you know, intrastate and interstate, but intrastate
24 should be filled, the majority of time, either on
25 standard interval or on customer desired due date,

00371

1 whichever one is later in the process, unless US West
2 accepts an expedite.

3 Q. Does that standard interval or the
4 reference over standard interval apply to situations
5 where there is no facility, or is it not explicit one
6 way or the other?

7 A. Well, there's a standard interval
8 associated with specific quantities, and then it says
9 -- and then there is an ICB process.

10 Q. ICB meaning?

11 A. Individual case basis. But I believe that
12 a standard interval should be achieved for most of
13 the circuits and not that we should be going into an
14 ICB process, you know, a significant amount of time.

15 Q. All right. Are there any other violations
16 of the state tariff, in your view, contained in
17 Exhibit 5?

18 A. I would say, focusing on -- if you're
19 basically asking me just to say, you know, on this
20 tariff and things that were purchased out of this
21 tariff, I would say that's the only intrastate one.
22 I believe that the facilities that are being provided
23 are facilities to Washington businesses and consumers
24 on the interstate and do carry intrastate traffic.
25 So my take, my perspective is is that there's other

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1 statutes and regulations associated with the
2 Commission's, you know, control, responsibility over
3 those areas.

4 Q. So that there may be statutory provisions
5 at issue in addition to the Washington State tariff?

6 A. Yes.

7 CHAIRWOMAN SHOWALTER: Okay. Thank you.

8 JUDGE WALLIS: Ms. Anderl.

9 MS. ANDERL: Thank you.

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

11 BY MS. ANDERL:

12 Q. Ms. Field, following up on that last
13 question, is it AT&T's position, then, that the
14 Washington Commission has jurisdiction over all
15 telecommunications services that affect Washington
16 businesses and consumers?

17 MS. PROCTOR: Objection. Calls for a legal
18 conclusion.

19 MS. ANDERL: Your Honor, as I mentioned
20 yesterday, Ms. Field's testimony is replete with
21 references to why it's appropriate for this
22 Commission to take jurisdiction over more than just
23 the intrastate tariff services, so I believe it's
24 appropriate.

25 JUDGE WALLIS: I think the witness may

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1 respond with her position, and we will understand
2 that it is not a legal opinion.

3 THE WITNESS: It's my belief that the
4 Commission has responsibility over service quality
5 issues that affect businesses and residences in
6 Washington, yes.

7 Q. So that's not the question that I asked
8 you, though. The question that I asked you was
9 whether it was AT&T's position that the Commission
10 has jurisdiction -- not responsibility for service
11 quality issues, but jurisdiction over all
12 telecommunications services that affect Washington
13 businesses and consumers?

14 MS. PROCTOR: I'm going to object.
15 Jurisdiction is obviously a legal conclusion. The
16 witness was told that she could answer to the best of
17 her ability, which is what she did, and she looks at
18 this as an issue of responsibility. So I think that
19 the witness is answering absolutely appropriately,
20 and I object to Ms. Anderl's characterization.

21 MS. ANDERL: If I may respond, Your Honor,
22 the Exhibit 1 contains a significant number of
23 references to jurisdiction, not to responsibility,
24 and so I think it's appropriate to use the witness's
25 own words in order to formulate the question.

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1 JUDGE WALLIS: The question calls for
2 AT&T's position. Is the witness authorized to state
3 AT&T's position?

4 MS. PROCTOR: The witness is certainly
5 authorized to state AT&T's position, and if Ms.
6 Anderl has particular portions of the witness's
7 testimony in mind, I think that that would be a
8 simple matter of directing her attention to a portion
9 of her testimony, which she will then be prepared to
10 respond to.

11 JUDGE WALLIS: It strikes me that the
12 question does call for a question as to whether -- as
13 to what is AT&T's position. And the witness, if the
14 witness is authorized to state AT&T's position, the
15 witness may respond, say yes, no, or I don't know.

16 THE WITNESS: Yes, it's my position, and
17 AT&T's position, that the Commission does have
18 jurisdiction over service quality issues.

19 Q. Does the Commission have jurisdiction over
20 all telecommunications services that affect
21 Washington businesses and consumers?

22 A. My testimony on Exhibit 1 was associated
23 with service quality issues and the jurisdictional
24 issue was associated with service quality issues. I
25 don't know what you mean by all telecommunications

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1 services. I'm talking about quality of service
2 issues and my belief, AT&T's belief that the
3 Commission does have jurisdiction over those issues.

4 Q. Going back to your Exhibit Number 5, and
5 talking about that one particular intrastate order
6 that went held for some time, I asked you yesterday
7 if you would accept, subject to your check, that
8 AT&T's records, as presented in Mr. Wilson's
9 exhibits, show that order number as filled or
10 completed on August 25th, 1999. Have you undertaken
11 to check that?

12 A. No, I have not had the time to do that.

13 Q. Would you accept, subject to your being
14 able to verify it by looking at a calendar yourself,
15 that July 2nd, 1999 was a Friday? I'd be happy to
16 provide the witness with a calendar if she doesn't
17 want to accept that.

18 A. No, I have no reason not to -- I believe
19 you.

20 Q. How many business days are there between
21 July 2nd and July 7th?

22 A. There were Friday, if -- I don't
23 necessarily recall which day was the day for July
24 4th. I guess I would say there was three.

25 Q. So would the requested due date on this

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1 particular order, then, have been shorter than the
2 standard interval?

3 A. It was a shorter than the standard
4 interval.

5 Q. Do you know where the customer's premises
6 were or the central office that was involved?

7 A. Not by looking at just this information, I
8 do not.

9 Q. You don't know if it was in a low-density
10 area or a high-density area, do you?

11 A. No, not looking at just this information, I
12 do not.

13 Q. Is there anything that we can tell from
14 this document upon -- well, is it your contention
15 that it was unreasonable for US West not to be able
16 to fill this order prior to August 25th, 1999?

17 A. I think, when you look at all the
18 information together, it basically shows that there's
19 an issue with providing services within a reasonable
20 amount of time. So if you ask me to look at this one
21 specific order in isolation, the answer's probably
22 no, but when you look at the whole history of the
23 situation, I think my answer would be I think that
24 the number of orders that are in this situation of
25 held, and also missed, indicate that there's an

00377

1 issue.

2 Q. But as to this specific order, there are no
3 facts that you can identify which would help us to
4 explain -- help us to understand whether AT&T thought
5 it was reasonable or unreasonable on this specific
6 order?

7 A. I would say that the fact that it was
8 unreasonable is that there was a firm order
9 confirmation with a commitment date of 7/16 that was
10 not met. And then, hence, there was a promise made
11 and a promise broken, which impacted a customer in
12 the state of Washington.

13 Q. Can you tell from this order whether or not
14 AT&T was advised prior to the 16th that that date was
15 not able to be met because of a facilities issue?

16 A. No, I can't tell just by this information
17 on this sheet.

18 Q. The Reason column, where does that come
19 from?

20 A. The Reason column is information that US
21 West provides to AT&T. If there's a reason that
22 indicates that US West provided some information at
23 some point in time during the order history, there's
24 no reason given, then US West did not give us
25 information about what the issue was so that it could

00378

1 be documented.

2 Q. And this exhibit was prepared on August
3 6th; is that right?

4 A. Yes, it was.

5 Q. And so at least as of that date, you had
6 received information from US West that there were no
7 facilities available from US West's office to the
8 customer's premises; is that correct?

9 A. Yes, that is correct.

10 Q. Ms. Field, AT&T is alleging in this case
11 that US West has violated its tariffs; is that right?

12 A. Yes.

13 Q. Prior to -- well, what investigation of US
14 West's Washington state tariff did you undertake
15 prior to filing your testimony or appearing to
16 testify here yesterday?

17 A. Prior to filing my testimony, AT&T, myself,
18 in conjunction with our attorneys, reviewed the
19 tariffs and also the appropriate state statutes
20 associated with service quality and telecom.

21 Q. Did you review the Washington intrastate
22 private line tariff?

23 A. Prior to filing the testimony, we looked at
24 all the different tariffs, including the state
25 tariffs.

00379

1 Q. Did you look at the Washington one?

2 A. Yes.

3 Q. Did you specifically, or one of your
4 attorneys?

5 A. I did look at the Washington state tariff,
6 as well as the other state tariffs and the interstate
7 tariff, but I don't recall whether or not I actually
8 looked at it in total or in sections with the
9 attorneys prior to the testimony being filed.

10 MS. ANDERL: Thank you. That concludes my
11 questions.

12 JUDGE WALLIS: Ms. Smith, do you have
13 anything?

14 MS. SMITH: No, thank you.

15 JUDGE WALLIS: Is there anything further
16 from the bench? Ms. Proctor?

17 MS. PROCTOR: Yes, please.

18 R E D I R E C T E X A M I N A T I O N
19 BY MS. PROCTOR:

20 Q. Sorry, Ms. Field, just one or two
21 questions, and I know you're ready to go. In Exhibit
22 5, the snapshot of held orders that you discussed
23 with both Counsel and the bench?

24 A. Yes.

25 Q. Those facilities and -- to the best of your

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1 knowledge, would those facilities carry both
2 intrastate and interstate traffic?

3 MS. ANDERL: Objection, Your Honor. It's
4 outside the scope of any of the questions we had
5 asked this witness, and is inappropriate re-cross.

6 MS. PROCTOR: I don't believe it is at all.
7 I mean, Counsel went far afield talking about what
8 she did before she filed her testimony. I'm simply
9 asking about this exhibit and the facilities that are
10 provided.

11 JUDGE WALLIS: I think that the nature of
12 the exhibit, the qualification of the exhibit, the
13 range of the exhibit was inquired into at some length
14 yesterday, and my preference would be that we confine
15 the discussion today to the specific issues that we
16 have before us.

17 MS. PROCTOR: Thank you. We'll leave it at
18 that.

19 JUDGE WALLIS: All right. Ms. Field, thank
20 you for coming back to see us again.

21 THE WITNESS: Thank you.

22 JUDGE WALLIS: You're excused from the
23 stand at this time. And let's be off the record for
24 a few moments.

25 (Discussion off the record.)

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1 JUDGE WALLIS: Let's be back on the record,
2 please. During an off-record discussion, it became
3 apparent that a problem existed with one of the
4 exhibits. And we have agreed to wind back our clock
5 and share for the record the nature of the issue and
6 the parties' views as to how to deal with it. And
7 for that, let's turn to Ms. Proctor.

8 MS. PROCTOR: Thank you, Your Honor.
9 Yesterday, during the cross-examination of Mr. Wilson
10 by Ms. Anderl, there were a number of questions
11 directed to Exhibit C-119, which is a printout of a
12 portion of the data set that was produced to US West
13 by AT&T as the underlying data for Mr. Wilson's
14 December 17th testimony.

15 That data set was subsequently marked as an
16 exhibit to Mr. Wilson's January testimony, and the
17 backup data was marked as Exhibit 118-C. That backup
18 data had been provided pursuant to an agreement of
19 Counsel that, in order to avoid disputes as much as
20 possible between the parties and to provide for a
21 clear record, that each of the parties would provide
22 the data underlying their witness's testimony, that
23 being the testimony of Mr. Wilson and then the
24 responsive testimony that was ultimately filed by Ms.
25 Halvorson.

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1 Yesterday, AT&T realized that in the
2 electronic file provided to US West, which was then
3 the file from which the printout was made, the column
4 headings of the fifth and sixth columns had been
5 reversed, transposed, swapped, switched, I'm not sure
6 what the word is, but the fifth column should be
7 labeled Completion Date, and the sixth column should
8 be labeled FOC, for firm order confirmation, that
9 being the date that US West has provided to AT&T.
10 Instead, the reverse is true.

11 And we did some investigation last evening,
12 basically to address two issues. One, was the data
13 that Mr. Wilson analyzed in any way compromised by
14 the swap of the column labels. The conclusion that
15 we reached is that it was not.

16 Mr. Wilson and his associate were obviously
17 working in electronic form. They were analyzing the
18 data, they realized the error immediately, spoke to
19 AT&T personnel who had provided them the data
20 originally, and in their analysis recognized that,
21 yes, the column headings had been swapped, so Mr.
22 Wilson is prepared to indicate that his analysis has
23 been unaffected by any of that confusion.

24 Then the second question, obviously, is as
25 Ms. Anderl had indicated in our off-the-record

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1 discussions, was US West deprived of an opportunity
2 to see this data and to analyze it and respond to it.

3 Our investigation shows that the data
4 properly labeled was provided to US West on September
5 22nd, in response to Data Request Number Six. This
6 issue of the confusion of how the data was presented
7 in the spreadsheet was raised by Ms. Anderl in the
8 deposition of Ms. Field on -- I believe it's November
9 10th. A portion of that data had been included in
10 Ms. Field's originally-filed testimony here in
11 Washington.

12 Ms. Field then provided a new exhibit to US
13 West, and all of this is addressed by Ms. Halvorson
14 in her testimony, which is going to -- or actually, I
15 guess has already been marked for identification as
16 C-201-T.

17 Ms. Halvorson addresses this on page 38 of
18 her testimony. She explains that data was provided,
19 that during the deposition, Ms. Field realized there
20 was a problem, that Ms. Field submitted a revised
21 exhibit, and Ms. Halvorson goes on to note at the top
22 of page 39, lines one through three, even though
23 additional data on orders is provided in AT&T's
24 discovery responses, AT&T never makes a clear linkage
25 to the exhibits filed in Ms. Field's testimony. So

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1 Ms. --

2 JUDGE WALLIS: Could you repeat the
3 citation, please?

4 MS. PROCTOR: Yes, I'm reading from the
5 direct testimony of Ms. Halvorson. The question
6 begins on page 38, at line 20, and the answer runs
7 through page 39, lines one through three. Ms. Field
8 responded to that testimony in her testimony on
9 December 17th, and Ms. Field's testimony has been
10 marked and accepted into evidence as Exhibit 18-C.
11 The particular question and answer of Ms. Field is
12 found on page 11 of that exhibit, beginning at line
13 11 and running through line 21.

14 The confusion resulted, I believe, because
15 Counsel for AT&T, Ms. Tribby, who provided the data
16 responses, attended the deposition, left on maternity
17 leave just before we filed the December testimony.
18 And when I picked up the case, I was not aware of
19 this concern about the labeling of the spreadsheets.
20 I am confident that my colleague, Ms. Tribby, would
21 have assured that the electronic file was
22 appropriately labeled.

23 Certainly I would have preferred not to
24 have caused that mistake, and would have appreciated
25 a telephone call when US West realized that there

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1 obviously was a continuation of the confusion in the
2 labeling.

3 The data, however, has been in their
4 possession since September. And last night we went
5 back to compare the data originally provided and the
6 data that is on Exhibit C-119, as well as the data in
7 Mr. Wilson's testimony, and it is a simple matter to
8 compare them and see that the data is all there and
9 the same and correctly displayed.

10 JUDGE WALLIS: Do you have a citation to
11 pages in the deposition where this is addressed?

12 MS. PROCTOR: I do. And actually, I made
13 copies of the materials that I have been referring to
14 and the pages, if that would make life simpler. The
15 deposition pages begin at 134 and go through 140.
16 The discussion, apparently, of providing a revised
17 exhibit must have occurred off the record. We were
18 unable to locate it in the deposition, but that is
19 addressed in the testimony of both Ms. Halvorson and
20 Ms. Field.

21 JUDGE WALLIS: So it's your view that,
22 apart from making a notation in the transcript that
23 the columns are mislabeled, no further action need be
24 taken; is that correct?

25 MS. PROCTOR: That would be our view of

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1 what might be appropriate, yes.

2 JUDGE WALLIS: Ms. Anderl.

3 MS. ANDERL: Thank you, Your Honor.

4 There's a lot to respond to here. I'll try to keep
5 it easy for folks to track here. I think the gist of
6 AT&T's claim here is, you know, that US West should
7 have known that the data US West was provided by AT&T
8 was not good data, and that's simply a false
9 assumption. What we were provided in discovery was
10 obviously different from what we were provided in
11 testimony and what the witness claimed to have relied
12 upon.

13 I think it was entirely reasonable for us,
14 especially in light of the issue that had arisen in
15 the deposition about incorrect completion dates,
16 which I'll go into in a minute -- it was entirely
17 reasonable of us to accept at face value the
18 representations in the witness's testimony that this
19 was, in fact, the analysis he conducted and this
20 attached KW-6 contained the data that he had relied
21 upon.

22 As I said, I prepared my cross-examination
23 based on that, and in fact gave Mr. Wilson ample
24 opportunity on the record yesterday to verify that
25 this data was accurate, that he and his associate had

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1 checked it, and to confirm that these printouts were
2 representations of the data that he had been provided
3 by AT&T.

4 I would have felt more comfortable with
5 this situation if Counsel had not just disclosed that
6 Mr. Wilson realized a long time ago that this data
7 was in error. Ms. Proctor said that, in analyzing
8 the data, Mr. Wilson realized the error immediately
9 and spoke to AT&T, who assured him that the columns
10 were simply mislabeled, and yet we received no
11 correction of the testimony or the exhibits, and in
12 fact, I proceeded to cross-examine Mr. Wilson at
13 length about these documents.

14 I simply cannot accept that all we do right
15 now is change the column headings to reverse the
16 fifth and sixth headings and say that everything is
17 fixed. This is not what Mr. Wilson testified to
18 yesterday. He testified that he relied on the
19 exhibit that I showed him and the exhibit that was
20 attached to his testimony.

21 US West is substantially prejudiced by this
22 shift in what purports to be the evidence or the data
23 relied upon by the expert witness, and we would
24 object to essentially changing the evidence in the
25 middle of the hearing.

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1 The question whether or not US West should
2 have been aware of this as of the time of Ms. Field's
3 deposition, what I need to explain to you is that the
4 data that I determined in Ms. Field's deposition was
5 in error is not, on its face, evidently the same data
6 as we're talking about here in Exhibit C-119.

7 The exhibit that I cross-examined Ms. Field
8 on in her deposition or asked her questions about in
9 her deposition is the document that is admitted into
10 the record in this case as Exhibit Number 14. It's a
11 six-page document. It's entitled Customers With
12 Untimely Service.

13 I don't frankly know if AT&T filed a
14 corrected version with the Commission or not, but
15 what happened is we have this document, which is
16 Exhibit 11 to her testimony. It is, as I said,
17 Exhibit 14, admitted into the record here today. The
18 document contains only four columns. There's a
19 number column, which is just numbers one through 157,
20 a service type column, a customer desired due date
21 column, and a completion date column.

22 And actually, Your Honor, I see you looking
23 in your notebook. I would like to confirm that that
24 is what you see before you before I go on.

25 JUDGE WALLIS: Exhibit 14 bears the

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1 designation Exhibit 11, Customers With Untimely
2 Service, and consists of four columns, one of which
3 is a linear numbering. Is that the document to which
4 you are referring?

5 MS. ANDERL: Yes, it is, Your Honor. It
6 appears as though the Commission may still have as
7 the document admitted in the record a document that
8 AT&T identified to me to be incorrect, and so perhaps
9 we can -- and I would do this without objection --
10 undertake to correct this at this time, as well.

11 If you turn to page four of six on that
12 document, and starting with Order Number 99, you can
13 see that the customer desired due date and the
14 completion date is the same. Order 100 says the
15 completion date was 11 days earlier than the customer
16 desired due date. Order Number 101, 102, indicate
17 that the dates are the same. Your Honor, may I ask
18 if that's what your document reflects?

19 JUDGE WALLIS: Yes, it is.

20 MS. ANDERL: All right. I pointed this out
21 -- asked Ms. Field a number of questions about this
22 document in her deposition. And in fact, as you go
23 through the document from page four to the end,
24 you'll find quite a number of ones in which the
25 customer desired due date and the completion date is

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1 the same. I asked Ms. Field about that document at
2 length, and two days later I received a cover letter
3 from Ms. Tribby with a substitute Exhibit 11. That
4 may or may not have been filed with the Commission as
5 a substitute exhibit for Ms. Field's testimony.

6 The substitute Exhibit 11 added a column,
7 the firm order date column, and purported to correct
8 the completion date on a number of the orders that I
9 had identified as being the same completion date as
10 the customer desired due date.

11 All we received, by way of explanation, was
12 a letter saying, Here's a revised Exhibit 11. Ms.
13 Field did not, in her testimony, her deposition
14 testimony, explain what the error was and nor were we
15 provided, in the deposition or in either of these
16 exhibits, purchase order numbers or other sufficient
17 identifying detail for us to understand that any of
18 these orders matched up with the orders that were
19 included in Exhibit C-119.

20 So as I said, I think it's absolutely
21 incorrect to suggest that US West knew about this
22 problem with Exhibit C-119 as early as November. In
23 fact, AT&T knew about problems it was having in terms
24 of correctly entering the completion date or the
25 customer desired due date in its exhibit as early as

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1 November, and yet did not undertake to ensure correct
2 filing of testimony and exhibits subsequent to that.

3 So I absolutely reject the suggestion that
4 we either knew or should have known or should have
5 called to advise Counsel of something. And we do
6 believe that, at a minimum, Mr. Wilson, if he did
7 know about this error, had an unconditional
8 obligation to make that change in correction to his
9 testimony before he testified yesterday and before he
10 underwent cross-examination on this.

11 We do not believe that there's any cure for
12 this error, and we would simply ask that the record
13 remain in its current state.

14 MS. PROCTOR: Could I respond?

15 JUDGE WALLIS: I'd like to ask Staff's view
16 at this time.

17 MS. PROCTOR: Certainly.

18 MS. SMITH: Thank you, Your Honor. Staff
19 is at a bit of a disadvantage to comment on the
20 discussions between Counsel for AT&T and Counsel for
21 US West prior to today with respect to the substitute
22 Exhibit 11. But it is Staff's preference that the
23 record in this case contain the correct information,
24 as opposed to incorrect or mislabeled information.

25 Staff does not believe it does the

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1 Commission any good or it is not helpful for the
2 Commission to accept data that is incorrect, and the
3 Commission can't make a decision based on information
4 that's incorrect. And if curing that defect would be
5 a problem to US West or to the Commission, I believe
6 that we need to address that problem, however
7 difficult that may be logistically, in order to get
8 the correct information before the Commission, so the
9 Commission can make an informed decision in this
10 matter.

11 JUDGE WALLIS: Ms. Proctor.

12 MS. PROCTOR: Thank you. I was probably
13 unclear, and from Ms. Anderl's response, I'm sure I
14 was unclear about when Mr. Wilson and his associate,
15 Mr. Kail, realized that the column headings were
16 swapped. That happened in early November, when the
17 data was first provided to them and Mr. Kail went to
18 run the data and realized that this couldn't be
19 right. If this data purported to be missed orders,
20 how could it be, as Ms. Anderl was asking questions
21 yesterday, that completion dates were before
22 committed due dates and the like.

23 So that happened in early November and, as
24 I think I've already explained, the problem with
25 providing the mislabeled data was in the electronic

00393

1 versions. Obviously, people who are dealing in the
2 spreadsheet were focused on the data in the
3 spreadsheet. And I think that it is quite clear on
4 the record that there is no problem with the data.

5 When Ms. Anderl started out her comments,
6 she mentioned that this is not good data, and that is
7 not the case. There is no problem with the data, and
8 as far as fixing the problem, it seems to me it's a
9 very simple matter of either drawing two arrows or
10 crossing out the initials FOC and writing Completion
11 Date and the reverse on the other column, that
12 nothing else changes in the data.

13 US West had the data electronically.
14 They've been able to manipulate it electronically, as
15 their testimony indicates. So thank you.

16 JUDGE WALLIS: I do not believe that it
17 would be acceptable to the Commission to merely leave
18 incorrect data in the record, so I think that rules
19 out Ms. Anderl's first preference. I think our
20 choice is either to strike the exhibit or to correct
21 it, and I would like parties to address the
22 consequences of that.

23 I think that the consequences of making the
24 change go beyond merely changing the column headings,
25 but do have repercussions in the litigation of this

00394

1 matter. So I'm going to ask parties to address those
2 options, their preferences, and how we deal with your
3 preferred option. Do you have anything to add to
4 your suggestion, Ms. Proctor?

5 MS. PROCTOR: If I could check with Mr.
6 Wilson, because I'm not understanding why changing
7 the column headings isn't a solution. Because -- so
8 if I could take a minute to consult with him, I'd
9 appreciate it.

10 JUDGE WALLIS: Changing the column headings
11 would be a solution, but the consequences of that
12 change would go beyond merely making the designation.

13 MS. PROCTOR: And it's those consequences
14 I'm not understanding.

15 JUDGE WALLIS: Perhaps we can let Ms.
16 Anderl address that.

17 MS. ANDERL: Thank you, Your Honor. I
18 guess the consequences, in my view, are that -- and
19 this is notwithstanding Ms. Proctor's representation
20 that this is good data. We don't know that. The
21 only witness who sponsored this exhibit told me that
22 this exhibit was the one he'd analyzed, and that he
23 checked the underlying data and it was accurate.

24 The data is not independent of the column
25 headings. The data is only meaningful if it is

00395

1 associated with the column heading which
2 appropriately identifies what it is. You know, a
3 date, May 12th, 1999, doesn't mean anything unless
4 somebody tells me that it's a customer desired due
5 date or a completion date or a firm order
6 confirmation date, and it makes a lot of difference
7 which one it is.

8 JUDGE WALLIS: So if the Commission were to
9 direct in response to Ms. Proctor's suggestion that
10 the column headings change, what effect would that
11 have on your client?

12 MS. ANDERL: Well, you know, we haven't
13 been able to analyze this document in its
14 reconfigured manner. We would need, at a minimum, to
15 have appropriate time to analyze the data, check it,
16 perhaps cross-examine a witness or do discovery on
17 it. I mean, it would be -- I've had it for a month.
18 I've been preparing for this hearing.

19 What effect would it have on my client? It
20 would be highly prejudicial for us to just swap out
21 the column headings and have everybody say it's fine,
22 because, as I said, we have no sworn testimony on
23 this record that those column headings ought to be
24 switched. I think that it would definitely be US
25 West's preference that this exhibit and the exhibits

00396

1 it supports be stricken.

2 JUDGE WALLIS: In the exhibit as it stands,
3 are there a number of completion dates which are
4 shown as completions prior to what is shown as the
5 due date?

6 MS. ANDERL: No, not prior to what is shown
7 as the customer desired due date. There are some
8 completion dates that show earlier than the firm
9 order confirmation, but that, in and of itself, was
10 not, on its face, not necessarily an error.

11 MS. PROCTOR: Your Honor, if --

12 MS. ANDERL: So you know, there are not a
13 lot of -- if what you're looking for is is there data
14 on this table that should have made anybody say,
15 Well, you can't have it completed before it was
16 ordered, or something like that, no, there's nothing
17 like that, in my view.

18 JUDGE WALLIS: Ms. Smith.

19 MS. SMITH: I'm wondering if perhaps a way
20 to begin some of this discussion is to find out from
21 the witness whether the mislabeling would have any
22 effect on the other exhibits that were submitted in
23 his testimony. If the witness looked at this data
24 the way it should have been labeled and testified
25 accordingly and produced exhibits that support the

00397

1 exhibit as it should have been labeled, then it's
2 much less of a problem to switch the labeling, as far
3 as having accurate data and an accurate exhibit
4 before the Commission.

5 I mean, I understand that that could cause
6 problems for Ms. Anderl in her cross-examination of
7 that witness, but it does show that there's been sort
8 of a contamination of this mislabeling throughout the
9 testimony. And that might be one place to start, to
10 figure out what would be the proper way to deal with
11 the mislabeling.

12 JUDGE WALLIS: Do parties have a response
13 to Ms. Smith's suggestion? Ms. Proctor.

14 MS. PROCTOR: I think there are two other
15 pieces of information. I'm not quite sure how to
16 address those. The spreadsheet material, if one
17 looks at the data response from September, has every
18 piece of information that is on the spreadsheet
19 introduced yesterday by US West.

20 So to Ms. Anderl's position that they have
21 not had an opportunity to examine the data with --
22 every piece of data is not accurate, as looking at
23 that data request shows. Ms. Singer-Nelson also
24 pointed out to me that Exhibit C-120, marked by US
25 West -- I'm not sure whether it's been introduced --

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1 is material from AT&T's Service Order Tracking
2 System, which of course, this being telecom, has an
3 acronym of SOTS, which has been discussed.

4 It is the support information produced by
5 AT&T for each of the orders. That particular order
6 shows -- I'm sorry, that particular exhibit, C-120,
7 refers to Purchase Order Number W, as in William, S,
8 as in Susan, 01802183, which purchase order number is
9 on line 72 of Exhibit C-119. So --

10 JUDGE WALLIS: What does that mean?

11 MS. PROCTOR: This is -- this Exhibit C-120
12 is a US West exhibit. US West had all of the SOTS
13 logs supporting each of the orders that were on this
14 exhibit. They obviously had an opportunity to review
15 them.

16 JUDGE WALLIS: Ms. Anderl.

17 MS. ANDERL: Well, Your Honor, that's all
18 well and good, but the point of fact is it's not
19 our obligation to check every single one of those
20 orders. Mr. Wilson didn't check every single one of
21 the orders; he said he checked a sample. So did we.

22 The Order Number 72, because the firm order
23 confirmation and the completion date are the same
24 date, is one of the few orders that would be
25 unaffected by the change if you were to swap the

00399

1 column headings out. And it was an area that I was
2 perhaps going to explore in turn with Mr. Wilson on
3 cross-examination. If he had examined the SOTS logs,
4 I was planning on perhaps asking him some questions
5 about the various columns on this exhibit, the firm
6 order date, the customer desired due date, the firm
7 order confirmation, and how those dates lined up to
8 what was contained in the SOTS log. That's entirely
9 beside the point.

10 US West did not know what AT&T was going to
11 rely on for their testimony until AT&T filed their
12 testimony. And we believe that we had every right to
13 accept AT&T's testimony and exhibits on their face.
14 AT&T could have corrected this problem. AT&T knew
15 about this problem in November.

16 You know, we think that there's no cure to
17 this problem with the data aside from striking the
18 exhibit. US West does not have notice of the change,
19 US West is unable, at this point in time, to
20 undertake to verify the accuracy of the data.

21 JUDGE WALLIS: Why is that?

22 MS. ANDERL: We're in the middle of the
23 hearings, Your Honor. I have no ability to do that.

24 JUDGE WALLIS: Why would your opportunity
25 to verify the accuracy of the data with different

00400

1 headings be different from your opportunity to verify
2 the accuracy of the data with the headings that
3 you've had for however long you've had them?

4 MS. ANDERL: Well, now that we know that
5 there's problems -- that there were problems with the
6 data, we would feel a greater need to check this
7 exhibit, as well as the other ones, to ensure that
8 there weren't other problems that had either not been
9 identified or not been discovered. You know, it's
10 kind of like you assume that the data is good or at
11 least accurate and reliable unless you begin to have
12 reasons to suspect otherwise, and now we do.

13 JUDGE WALLIS: Ms. Proctor, I don't recall
14 that you've addressed the consequences to your client
15 if the Commission decides to strike the exhibit.
16 Would you do so at this time, please?

17 MS. PROCTOR: Which exhibit are we talking
18 about striking? US West's exhibit?

19 JUDGE WALLIS: Right now, I think we're
20 probably talking about both exhibits that are
21 mislabeled.

22 MS. PROCTOR: Well, in some ways, it's
23 rather ironic. The reason that I proposed providing
24 the data underlying Mr. Wilson's analysis was an
25 effort to avoid a conflict which had arisen between

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1 the parties in the Colorado hearing in the same
2 complaint matter. And it was an effort to be as
3 forthcoming as possible.

4 I understood, when I made the proposal,
5 from Ms. Anderl, that discovery had been closed some
6 months earlier. And when AT&T filed Mr. Wilson's
7 testimony, that being the December testimony, US West
8 would not have had an opportunity either to get the
9 underlying data or to depose Mr. Wilson in this case.

10 And AT&T was particularly concerned to have
11 this matter brought to hearing as expeditiously as
12 possible. And frankly, I was concerned that if we
13 filed Mr. Wilson's testimony without providing US
14 West the opportunity to see the data, that US West
15 would move for a continuance and that the bench could
16 well be sympathetic to a concern about a full
17 opportunity to examine and respond.

18 And I knew that US West was going to
19 produce an analysis where they were using data, and
20 that my clients would appreciate the opportunity to
21 be able to examine that data.

22 We could go back to the point that we would
23 be without that underlying data, which, in my view,
24 would be fine. Mr. Wilson's testimony would go in as
25 it already has. Mr. Wilson's analysis and his

00402

1 conclusions would be unaffected, because US West had
2 no right to get the underlying data because discovery
3 had been closed at a time when unfortunately I was
4 not involved in the case, so I wasn't aware of that.

5 So I guess my desire to have a full and
6 fair participation by both parties and the confusion
7 with the column headings has basically created this
8 problem, but I did not indicate earlier that Staff's
9 suggestion is fine with us, but if both exhibits are
10 stricken, I imagine that the parties will simply go
11 on to argue in brief the same matters that they would
12 have argued in brief anyway. Thank you.

13 JUDGE WALLIS: Ms. Anderl.

14 MS. ANDERL: Your Honor, I don't want to
15 leave the wrong impression here. I was, you know,
16 quite grateful to Ms. Proctor for her offer that we
17 exchange underlying data. I thought it was
18 appropriate under the circumstances. I don't think
19 that that was our only alternative for getting the
20 underlying data for Mr. Wilson's analysis.

21 Certainly I could have and would have
22 deposed him prior to the hearing in this docket and
23 obtained the documents in that manner if they had not
24 been offered up by Ms. Proctor. I do not mean to
25 suggest that she is at fault here, you know, and I

00403

1 don't -- it's not my intention here to point fingers
2 or assign blame. I simply want to ensure that the
3 record is clean and that my client is not prejudiced
4 by what, in fact, is bad data, if it is.

5 JUDGE WALLIS: Do you agree with Ms.
6 Proctor's analysis of the consequence if the exhibits
7 are stricken?

8 MS. ANDERL: If I can summarize what I
9 thought I heard her say is we'll just kind of argue
10 the same issues that we were going to argue anyway on
11 a smaller data set.

12 MS. PROCTOR: No, actually, it would be a
13 larger data set.

14 MS. ANDERL: Well, fewer exhibits.

15 MS. PROCTOR: Two fewer.

16 MS. ANDERL: There would be more than two
17 fewer, because I believe, of course, Mr. Wilson
18 prepared Exhibits 7 and 8 to his testimony based on
19 Exhibit C-118, and as replicated in C-119. I think
20 they'd all have to go, but --

21 MS. PROCTOR: That, of course, would be a
22 different --

23 JUDGE WALLIS: Let's just have one party at
24 a time here. Ms. Anderl.

25 MS. ANDERL: If we were -- I don't disagree

00404

1 with Ms. Proctor that -- well, I guess Ms. Proctor's
2 in the best position to describe what AT&T will argue
3 if they don't have this data available to them. They
4 are the Complainant, it's their burden. But it would
5 be US West's view, of course, that if portions of
6 Exhibit C-118 would be stricken, all of C-119, and
7 then the two exhibits identified by Mr. Wilson as
8 having been prepared based on that data, as well as
9 any others that relied in part on that data, would
10 all have to go.

11 JUDGE WALLIS: Are there any concluding
12 comments from Staff?

13 MS. SMITH: I would just reiterate that --

14 JUDGE WALLIS: Excuse me. Could you pull
15 the microphone closer, please?

16 MS. SMITH: Staff would just reiterate our
17 comments that it does the Commission no good to look
18 at an exhibit that is incorrectly labeled, and I
19 believe our suggestion earlier to find out whether
20 the witness relied on the exhibit as mislabeled in
21 preparing his testimony and other exhibits or whether
22 he relied on it as properly labeled would be a good
23 place to find out how far back -- how far back this
24 mislabeling goes in the testimony.

25 And while that will not alleviate all of

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1 Ms. Anderl's concern, it will help the Commission
2 determine the extent to which it is making a decision
3 based on properly-labeled spreadsheets.

4 JUDGE WALLIS: How do the parties feel
5 about bringing Mr. Wilson back for the very limited
6 purpose at this time of testifying as to the labeling
7 and his reliance on the labeling?

8 MS. ANDERL: Your Honor, I believe I
9 already asked the witness those questions.

10 MS. PROCTOR: I think we already indicated
11 -- I just indicated earlier that that would obviously
12 be fine with us.

13 JUDGE WALLIS: Very well. What I would
14 like to do now is ask the witness to return for those
15 limited questions, and then we'll take a recess.

16 Mr. Wilson, I'm going to remind you that
17 you are still under oath, and you may resume the
18 stand at this time.

19 MR. WILSON: Yes, Your Honor.

20 JUDGE WALLIS: Let's be off the record,
21 please.

22 (Discussion off the record.)

23 JUDGE WALLIS: Let's be back on the record,
24 please. Ms. Singer-Nelson.
25 Whereupon,

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1 KENNETH L. WILSON,
2 having been previously duly sworn, was recalled as a
3 witness herein and was examined and testified as
4 follows:

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

6 BY MS. SINGER-NELSON:

7 Q. Mr. Wilson, do you have before you what's
8 been marked as Exhibit C-119?

9 A. Yes, I do.

10 Q. There's been some discussion that the
11 columns that are labeled FOC and completion date on
12 that exhibit were reversed. Are you aware of that
13 discussion?

14 A. Yes. When Ms. Anderl was questioning me
15 yesterday and pointing out that on the printout, many
16 of the orders were showing that the commitment date
17 was before the -- or that the completion date was
18 before the commitment date, I thought that was
19 strange. I had really not looked at the printed
20 version of this. I deal with computer data files.
21 And since these are all missed orders and that was
22 made clear, I think, a number of times, I had -- when
23 I was attempting to answer her questions -- and let's
24 be clear. I had only had these printouts that they
25 wanted to cross me on for a few hours yesterday,

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1 during most of the time during which I was listening
2 to Ms. Field's testimony, so I had not really had a
3 chance to look at the printout here.

4 And so on further examination and
5 discussion with my associate, Mr. Kail, who provided
6 the file to Ms. Proctor to produce to US West, we
7 discovered that, in fact, what had happened is that
8 Mr. Kail had provided to Susan, because this was --
9 had to go out at the last minute and I was in a case
10 in Los Angeles, that he had given her the -- or he
11 had given to Ms. Proctor the original file that had
12 come from Ms. Field's people, and which he had
13 quickly discovered back in November had had two
14 columns reversed. In other words, the headers were
15 reversed, as we have discussed.

16 Anyone doing a quick analysis on a
17 spreadsheet, such as Excel, which this file was in
18 and which was provided to US West in that manner,
19 anyone doing a quick analysis on this data would see
20 that many of the -- or the exhibits that I used this
21 for in the analysis I used would have shown negative
22 numbers. In other words, if you did a subtraction
23 between the commitment date and completion date, many
24 of those would have shown negative numbers.

25 And that's, in fact, what Mr. Kail did when

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1 I told him I wanted to look at completion versus the
2 commitment date, I told him I wanted to look at the
3 desired date versus the completion date, the desired
4 date versus the commitment date, and some of those --
5 many of those values would go negative if you do
6 that. You would immediately know that something was
7 funny.

8 And in fact, when Mr. Kail was doing that
9 on the electronic file, he immediately discovered
10 that. He called Ms. Field's people. They went back
11 and checked the SOTS order logs and determined that
12 indeed those columns were reversed.

13 So the analysis that my organization did
14 was corrected almost immediately, because we saw that
15 AT&T had represented this was missed orders, and this
16 wasn't -- in the way it was first delivered to us, it
17 wasn't showing missed orders. It was showing
18 something different. So it was very obvious, just
19 doing a simple analysis, that there was something
20 wrong, and we fixed it.

21 And unfortunately, Ms. Proctor asked for
22 the underlying data. And several months had passed
23 since he had done that analysis, and he merely sent
24 to Ms. Proctor the file that he had been sent,
25 forgetting, after two months of doing analysis on

00409

1 other cases, that there had been a problem with that
2 initial file.

3 So the analysis that my company did was all
4 with the corrected version, and all of my charts and
5 my testimony is based on the correct version of this.

6 Q. Could you please identify which exhibits
7 are based on this data set?

8 A. Yes, I can. Exhibit 109-C, which is the
9 Case to Meet Customer Desired Due Date, is based
10 solely on this data; Exhibit 110-C, Missed Days, is
11 based solely on this data; and half of the chart on
12 113-C is based on this data. I say half because the
13 other half of it is based on the August to October
14 data, which is also part of 119-C, which is correct.
15 The columns have -- are in the correct.

16 I would like to reiterate that the data is
17 good. It is simply a matter of the column headings
18 being shifted.

19 Q. Are those all of the exhibits that you
20 relied upon this data for?

21 A. Those are the three exhibits that rely on
22 or in part on the data which has the switched
23 columns.

24 MS. SINGER-NELSON: I think that's all I
25 wanted to ask about that. Thank you.

00410

1 JUDGE WALLIS: Ms. Anderl.

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

3 BY MS. ANDERL:

4 Q. Mr. Wilson, why did you not undertake to
5 explain any of this to me yesterday when I was
6 cross-examining you?

7 A. I didn't realize it, or I would have,
8 because I would not want to have confused record
9 here. And certainly the error of the switched
10 columns would present the data in a light which is
11 not correct. And I would not have done that.

12 I didn't realize that those were -- that
13 those were switched until it was brought up. What I
14 did realize was that something was wrong, because you
15 were going through the list in a very quick manner,
16 and it didn't seem to jibe with the analysis that I
17 had done of the same data. So I had a feeling that
18 something was wrong, but we were going so quickly, I
19 was not able to determine what it was.

20 Q. Isn't it true, Mr. Wilson, that this
21 exhibit, with the same data on it, was filed with
22 your testimony in January, earlier -- well, let me
23 just go ahead and get the exact date. January 21st,
24 2000, almost two weeks ago?

25 A. Yes, the problem there is that this error

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1 in the -- that the same file, which was given
2 electronically to US West, was merely reproduced by
3 the AT&T Disk Copying Center to provide with this
4 testimony. I never looked at it. I presented my
5 testimony to AT&T and the graph exhibits, and Susan
6 said she wanted to be triple sure that US West
7 received the data, so that she wanted to print out a
8 copy to attach to the testimony, as well, and the
9 copy center merely reproduced the same file that had
10 gone to US West. I did not look at it before it went
11 out.

12 Q. And after it went out, from January 21st
13 until yesterday, when you got on the stand, you did
14 not look at it, either?

15 A. No, I didn't. I didn't look at that. I
16 was a little surprised it was even in the book. I
17 consider that just underlying data. As I say, I
18 always look at this on the computer, and the analysis
19 -- the analysis will always show you when you're
20 doing it if there's a problem with the data, because
21 things start looking very funny, in a big way.

22 It's one thing for a few orders to be -- I
23 mean, sure, there are orders that were met in some
24 and there were some that were on the completion date,
25 but when three-quarters of a data set is showing

00412

1 negative numbers, you tend to start asking questions,
2 but when you have a printout, it's pretty difficult
3 to do that.

4 Q. Mr. Wilson, did you testify yesterday that
5 your prefiled testimony and the exhibits were true
6 and correct, to the best of your knowledge?

7 A. I believe I said subject to check, and I
8 believe that I hadn't checked that document, that
9 attachment.

10 Q. Have you checked your testimony and
11 exhibits now?

12 A. I did a rigorous examination and checking
13 of what was provided and all the issues associated
14 with this problem last night, and my testimony of the
15 last few minutes, I believe, is an accurate depiction
16 of what happened, as best I can tell you. We had
17 thought Ms. Field could give a little more background
18 as to what happened before I got the data file, but
19 that's probably not necessary.

20 Q. When did Mr. Kail tell you that the initial
21 file that he received from AT&T contained mislabeled
22 columns?

23 A. Well, I didn't actually remember any
24 indication from him at all until I talked to him last
25 night, and I vaguely remember now that he mentioned

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1 that he remembered the problem back the first week of
2 November, that he may have, in passing, said, Oh,
3 there was a problem with that data, but I talked to
4 Mr. MacCorquodale, and we straightened it out.

5 I didn't really even remember there was a
6 problem until I called him. In fact, when I first
7 called Mr. Kail last night, he didn't remember at
8 first, either. He had to look at the data, and then
9 he remembered. Because we've done this type of
10 analysis since that time on Colorado and on
11 Minnesota, and those data files had no trouble.

12 Q. Did you review your testimony in this
13 docket before it was filed?

14 A. By testimony, you mean the written
15 testimony?

16 Q. Yes.

17 A. Well, I wrote it, I did several drafts of
18 it, I reviewed -- certainly, I reviewed the written
19 testimony and the exhibits.

20 Q. Okay. You state, Mr. Wilson, that you were
21 surprised to see Exhibit KW-6 in your testimony,
22 because you didn't consider it an exhibit, but rather
23 just backup. And yet your reply testimony refers to
24 that exhibit; isn't that true?

25 A. It refers to the backup data. It refers to

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1 charts and graphs. I don't recall that I take out --
2 the only reason I would think to do that would be to
3 pick out particular orders and make comment on them.
4 I don't remember doing that.

5 Q. Could you turn to your Exhibit Number
6 112-C, which is your January 21 reply testimony?

7 A. Do you have a page?

8 Q. I'm sorry, yes, I was waiting for you to
9 get to the testimony. Page two, footnote number one.

10 A. Yes, that's a reference to the backup data.

11 Q. Did you write that?

12 A. I put in the footnote, yeah.

13 Q. So if you reference Exhibit KW-6 there, why
14 did you just a minute ago tell me you were surprised
15 to see it in your testimony?

16 A. Well, I don't always get involved in what
17 they actually attach to it, so I don't recollect. I
18 didn't recollect that this footnote was in there. I
19 think it was put in at the last moment, when Susan
20 decided that we had better provide an extra copy.

21 And I'd like to also comment that when
22 Susan told me that we needed to provide an electronic
23 copy, I asked her why should we do that. This has
24 already been provided to US West as a discovery
25 response. And she said, So we don't get into the

00415

1 problem we got into in Colorado in this case.

2 Q. What effort have you undertaken since
3 yesterday to verify the data in this exhibit, the
4 accuracy of the other columns and the accuracy of the
5 data contained within those columns?

6 A. I had Mr. Kail look through his data files
7 extensively, which he did. He spent several hours
8 looking at what had come from US West and what was
9 done. Mr. MacCorquodale and I looked at various
10 versions of this data back in our workroom, and Mr.
11 MacCorquodale conferred with some of the people back
12 at AT&T this morning.

13 Q. Is it your testimony, as you sit here
14 today, that you believe this exhibit to be accurate
15 if the two columns that we've discussed are reversed?

16 A. If the two columns are reversed, that would
17 be the data that I used in the analysis that I'm
18 relying on in my testimony, yes.

19 JUDGE WALLIS: Do you mean if the columns
20 were reversed or the headings were reversed?

21 THE WITNESS: The headings were reversed.

22 MS. ANDERL: Same effect, I guess. Thank
23 you, Your Honor.

24 Q. And what do you believe this exhibit shows?

25 A. Well, I believe it shows a number of

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1 things. I've used it to show a number of things in
2 my testimony. It's a set of missed orders that Mr.
3 MacCorquodale and his team carefully selected from
4 the order -- from the SOTS logs. I use it to show
5 the number of days that it took between the order
6 date and the customer desired due date, I used it to
7 show how many days US West missed the desired due
8 date, and then I also use it -- that's an average
9 chart, 110-C, and then I also have a scatter plot in
10 113-C, half of which is based on these orders. So --

11 Q. Okay. So let me go back to what you said
12 earlier. You believe that this represents missed
13 orders?

14 A. It's a representation of orders where US
15 West missed the desired due date.

16 Q. Okay. And did you undertake on any of
17 these '98 orders to check the SOTS data?

18 A. We reviewed the --

19 Q. You personally?

20 A. Yes, I reviewed several of them. As I
21 said, I reviewed a sample, I didn't review every one
22 of them.

23 Q. Which ones did you review?

24 A. I don't have a list of those. I should
25 add, Mr. Kail checked more -- a larger sample than I

00417

1 did.

2 Q. How large was the sample that you checked?

3 A. I believe that he checked about a quarter
4 of them. I probably checked 10 percent of them.

5 Q. Nine or ten?

6 A. Ten would -- I checked approximately ten
7 before we used the data to finalize the reports.

8 Q. In reviewing this document, assuming that
9 the change that has been discussed is made, did you
10 suggest to AT&T that there were any orders that were
11 inappropriately included on this document, because
12 they were, in fact, not missed?

13 A. I was asked to analyze this data. I did
14 not make comment back. There could be a few errors.
15 In general, as I said, I thought that Colin and his
16 team were erring on the side of being conservative
17 and giving US West the benefit of the doubt. I think
18 that gets to some of the issues you brought up
19 yesterday with respect to it appearing that some of
20 the intervals between the order date and the desired
21 due date were extremely short. There were
22 supplemental orders that made this artificially look
23 like short days, in many cases.

24 Q. So you undertook to analyze all of these
25 orders as missed orders, even if the data showed, in

00418

1 one or more instances, that the order was not missed?

2 A. Well, if the order was not missed, it would
3 show up as -- on some analysis, as a zero, which we
4 would represent accurately. So we didn't pull any of
5 those orders for that reason, I don't believe.

6 Q. Okay. And you don't recall which ones you
7 checked the SOTS logs on?

8 A. No, I didn't -- I mean, we were in their
9 room where they have all of their SOTS logs. We were
10 -- we had the stacks of orders, which are behind --
11 lay behind these logs, and we were taking samples of
12 them and looking at the orders, but we did not make a
13 record of which ones.

14 Q. How did you determine which ones to look
15 at?

16 A. We were simply taking them pretty much at
17 random.

18 Q. You personally?

19 A. I was taking them at random from the
20 several stacks of SOTS logs.

21 MS. ANDERL: Your Honor, I have more
22 questions of this witness on this exhibit, as well as
23 I was only half, really, complete with my cross
24 yesterday, unfortunately. I don't know if you wanted
25 to take a break. I'm kind of done, I think, with

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1 accuracy and verification efforts.

2 JUDGE WALLIS: Very well. Let's ask if

3 Staff has any questions.

4 MS. SMITH: No, thank you.

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

6 BY JUDGE WALLIS:

7 Q. Mr. Wilson, if the columns had been
8 accurately labeled in the document that you provided
9 as Exhibit 118-C or KW-6, would that have changed the
10 information in the text of Exhibit 112-C?

11 A. Let me see if I understand your question.
12 Could you repeat your question, please?

13 Q. If the columns had been accurately labeled
14 and you had run your analyses on the basis of those
15 labels, as well as the numbers underneath the labels,
16 would that have produced testimony that differed from
17 the testimony that you present?

18 A. Well, I did run the data with the correct
19 labels, with the labels corrected.

20 Q. If you had run it with the incorrect
21 labels, as presented --

22 A. Oh, okay.

23 Q. -- would that change any of your testimony?

24 A. It would change the Exhibit 110-C, days
25 missed. It would not change 109-C, because that is

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1 days to meet the customer desired due date, which are
2 using columns which were correctly labeled. But the
3 column -- or the Exhibit 110-C, Days Missed, would
4 come out differently.

5 Q. Just referring to your testimony, that is
6 Exhibit 112-C, would there be any changes in that?

7 A. Very little. A couple of sentences, I
8 believe. I relied more heavily on the larger data
9 set. Also, the particular part of the missed orders
10 that we are dealing with, the missed order database,
11 did not contain as much information as the subsequent
12 production of data, of the August to October data,
13 which I used for more of the later exhibits. So I
14 believe there are only a couple of passages that
15 would be affected.

16 JUDGE WALLIS: Very well. Is there
17 anything further before we recess?

18 MS. ANDERL: Your Honor, your question just
19 brought something to mind.

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

21 BY MS. ANDERL:

22 Q. I believe, Mr. Wilson, you said that there
23 was nothing on 110-C that would change if you ran the
24 data the way it's currently presented in the exhibit?

25 A. Could you repeat that?

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1 Q. Didn't you say that there was nothing on
2 Exhibit 110-C, Days to Meet Customer Desired Due
3 Date, that would change if you had run the analysis
4 with the exhibit the way it currently looks?

5 A. No, I said it would change.

6 Q. It would, okay.

7 A. Yes, because 110-C is looking at the
8 overall average days that was missed, and that's
9 relying on one of the mislabeled columns.

10 Q. And what about 109-C? What columns did
11 that rely on?

12 A. That only relies on the order date column.
13 Let me get the -- that relies on the FOD column and
14 the CDDD columns, which have not -- were not -- the
15 labels were not switched on those two.

16 Q. Okay. So that exhibit just purports to
17 measure the requested interval?

18 A. Yes, that's true.

19 MS. ANDERL: Okay, thank you. Sorry, Your
20 Honor.

21 JUDGE WALLIS: Is there anything further?
22 Let's be in recess. And because the Commission is
23 going to deliberate, let's aim to be back by 20
24 minutes from now, at 3:30, but it's possible we could
25 take a few moments in addition.

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1 (Recess taken.)

2 JUDGE WALLIS: Let's be back on the record
3 following a deliberative recess that doubled as our
4 afternoon recess.

5 Just a scheduling matter first. After some
6 discussion about scheduling and relevant blood sugar
7 levels, we have decided that we would begin now with
8 the examination of Ms. Halvorson, begin with Staff's
9 questioning, and then turn to questions from AT&T.
10 We'll go until about 5:30 this afternoon, depending
11 on what turns out to be an appropriate break point,
12 and then we'll take up at 9:15 tomorrow morning,
13 conclude Ms. Halvorson, and return to Mr. Wilson's
14 examination.

15 The purpose of our deliberative session was
16 so that the Commissioners could consider and rule
17 upon a matter that was first brought to the
18 Commission's attention last night, and that is the
19 consequence of some mislabeling of a portion of
20 Exhibit 118-C, which carries over into a portrayal of
21 the same data with the same labels on Exhibit 119-C,
22 and which has apparent effect on the Exhibits 109-C,
23 110-C, and 113-C, and some portions of Mr. Wilson's
24 direct testimony.

25 Considering the arguments that the parties

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1 made and the descriptions of consequence and
2 considering the responsibility of a Complainant in a
3 private complaint before the Commission to provide
4 the proper basis for that complaint, the Commission
5 has decided that it will strike the exhibits or the
6 portions of the exhibits that contain and rely upon
7 the mislabeled data.

8 Consequently, the portion of Exhibit 118-C
9 that relies on that data will be stricken, Exhibit
10 119-C will be stricken, and inasmuch as Mr. Wilson
11 will not be back on the stand until tomorrow morning,
12 I would like the parties and Mr. Wilson to confirm
13 the extent to which Exhibits 109, 110, and 113, and
14 portions of the prefiled evidence will also be
15 stricken. So we will take that up when Mr. Wilson
16 comes back to the stand.

17 Let's move now to the examination of Ms.
18 Halvorson. I have previously dictated to the court
19 reporter the identification of exhibits that have
20 been presented in conjunction with Ms. Halvorson's
21 testimony here today, and I will ask the court
22 reporter to insert the identification of exhibits at
23 this point in the transcript as though I were reading
24 that information at this point.

25 Let us identify the documents that the

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1 parties propose to use in the examination of Ms. Beth
2 Ann Halvorson. The following documents have been
3 prefiled for use on her direct examination. I'm
4 marking these documents as follows.

5 Marking as Exhibit C-201-T for
6 identification, a document entitled Direct Testimony
7 of Beth Ann Halvorson, dated November 17th, 1999.
8 Exhibit 202 for identification is the Big Four Emerge
9 Color Graph, also designated Exhibit BAH-1. I'm
10 marking as Exhibit 203 for identification a document
11 entitled AT&T Consolidation, a color flow chart, also
12 designated as Exhibit BAH-2. Marking as Exhibit 204
13 for identification, a document entitled AT&T News
14 Release: AT&T, Five Companies Sign Alternative Access
15 Agreements, and AT&T, McLeod USA to Provide Access
16 for AT&T Business Customers. This is also designated
17 as Exhibit BAH-2A. Exhibit 205-C for identification
18 is Carrier Access Information Management System,
19 Private Line Transport Services, Interstate and
20 Intrastate Circuit Count, Exhibit BAH-3.

21 Exhibit C-206 for identification is Gap
22 Closure Planning, Exhibit BAH-4. I'm marking as
23 Exhibit 207-C for identification a document
24 designated AT&T Designed Services, 1999 Performance
25 Improvement Plan, also designated Exhibit BAH-5.

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1 Exhibit 208 for identification is a document
2 purporting to be a letter to Charlotte Field from
3 Christie Doherty, dated September 26th, 1996. This
4 is also designated Exhibit BAH-6. Exhibit 209 for
5 identification is a document entitled Review, Third
6 Quarter 1998, Connectivity Vendor Performance, an
7 excerpt only, dated December 16, 1998, and also
8 designated Exhibit BAH-7.

9 Exhibit C-210 for identification is a
10 letter to Lydia Elguren from Tom Pezel, dated
11 February 10, 1999; the voice transcript of a message
12 from Warren Wilkes; e-mail to distribution list from
13 Beth Halvorson, re Many Thanks; E-mail to Scott
14 Schipper from Becky Nilsen re AT&T Complaints (sic);
15 E-mail to Carrier Carter from Keith Scandora re Flash
16 Report for Two-Week Period Ending October 28, '99.
17 This is also designated Exhibit BAH-8.

18 I'm marking as Exhibit 211-C for
19 identification a document designated Exhibit BAH-9,
20 which consists of graphs and chart labeled Design
21 Service Order Completion On Time. Exhibit 212 for
22 identification is a letter to whom it may concern
23 from Chris Garrison, dated November 12, 1999. This
24 is also designated BAH-10. Exhibit 213 for
25 identification is an article, AT&T Faces T-1 line

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1 Shortage, Exhibit BAH-11.

2 Exhibit C-214-T for identification is the
3 rebuttal testimony of Beth Ann Halvorson of January
4 11, 2000, resent on January 21, 2000. Exhibit 215
5 for identification is Access Services Network
6 Diagram, Special Access Network Diagram, also
7 designated BAH-12. Exhibit C-216 for identification
8 is the Analysis of AT&T Orders, January 1999 to
9 November 1999, Exhibit BAH-13. Exhibit C-217 for
10 identification is AT&T Unfilled Orders, Washington,
11 January 6th, 2000, a graph, also designated BAH-14.

12 Exhibit C-218 for identification is
13 entitled Design Services Results, Customer JEPS, also
14 designated Exhibit BAH-15. And the final document
15 presented for the direct examination of this witness
16 is marked as Exhibit 219 for identification, and it
17 consists of a letter to John Blasczyck, from Beth Ann
18 Halvorson, dated December 14, 1999, a letter to the
19 same person from the same person, dated December 20,
20 1999, an Overview of FOC Process for DS1 and DS0
21 Access Services. These are collectively designated
22 Exhibit BAH-16.

23 The following documents have been presented
24 for identification for possible use during the
25 cross-examination of Ms. Halvorson. These are marked

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1 as follows: Exhibit C-220 is US West Response to
2 AT&T Data Request 01-086-I. Exhibit C-221 for
3 identification is US West Response to AT&T Data
4 Request 01-011-I. Exhibit 222 is US West Response to
5 AT&T Data Request 01-010-I.

6 I'm marking as Exhibit C-223 for
7 identification a document designated US West Response
8 to AT&T Data Request 01-005-I. Exhibit C-224 for
9 identification is the US West Response to AT&T Data
10 Request 01-064-I. Exhibit C-225 for identification
11 is US West Data, January 6th, 2000. Exhibit 226 for
12 identification is US West Response to AT&T Data
13 Request 01-026-I. And the final document presented
14 for marking for possible use on cross-examination is
15 marked as Exhibit 227 for identification. This is or
16 purports to be an e-mail to John Blaszczyk from Scott
17 Schipper, dated November 18, 1999, regarding AT&T SO
18 Number C53404205.

19 MS. PROCTOR: Excuse me, Your Honor. There
20 was also Exhibit 228, that is another data request.
21 It is US West Response to Staff's Data Request WUTC
22 01-003, and I distributed copies to US West last
23 night, and I need to provide you with copies for the
24 bench.

25 JUDGE WALLIS: You have not yet provided

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1 those; is that correct?

2 MS. PROCTOR: That's correct.

3 JUDGE WALLIS: Okay. I'm marking as

4 Exhibit 228 for identification a document, and would
5 you repeat the description, please?

6 MS. PROCTOR: Certainly, I'm sorry. It's
7 US West's Response to Staff's Data Request Number
8 WUTC 01-003. And I would note that the actual
9 response included a copy of the service interval
10 guide from 1999 that is marked as one of Mr. Hooks's
11 exhibits, so I did not include that with this
12 exhibit. This includes a response of the service
13 interval guide effective January 2, 1996.

14 JUDGE WALLIS: Is there a reason why that
15 could not have been provided yesterday?

16 MS. PROCTOR: I did have it here yesterday.
17 I just didn't hand it out. I gave it to US West last
18 night. I forgot.

19 JUDGE WALLIS: Very well. That concludes
20 the exhibits for Ms. Halvorson. I'm going to ask the
21 witness to stand, raise your right hand.

22 Whereupon,

23 BETH ANN HALVORSON,
24 having been first duly sworn, was called as a witness
25 herein and was examined and testified as follows:

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1 JUDGE WALLIS: Please be seated. Ms.
2 Anderl.

3 MS. ANDERL: Thank you, Your Honor.

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

5 BY MS. ANDERL:

6 Q. Good afternoon, Ms. Halvorson.

7 A. Good afternoon.

8 Q. Could you please state your name and your
9 business address for the record?

10 A. It's Beth Ann Halvorson, H-a-l-v-o-r-s-o-n,
11 and the address is 200 South Fifth Street, 24th
12 Floor, Minneapolis, Minnesota, zip code 55402.

13 Q. By whom are you employed?

14 A. US West.

15 Q. And what is your job title?

16 A. It's Vice President, Wholesale Major
17 Markets.

18 Q. And can you briefly describe what your
19 responsibilities are as they relate to AT&T and this
20 complaint?

21 A. Yes, I am the executive with US West that's
22 responsible for all aspects of the business
23 relationship with AT&T.

24 Q. And do you have before you, Ms. Halvorson,
25 the direct and rebuttal testimony and associated

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1 exhibits that the Administrative Law Judge just
2 described, that have been identified as C-201-T,
3 which is your direct testimony, through 219, which is
4 the Exhibit BAH-16, attached to -- the last exhibit
5 attached to your rebuttal?

6 A. Yes, I do.

7 Q. Do you have any changes or corrections to
8 make to any of that testimony or those exhibits?

9 A. Yes, I just have one. It's a -- do you
10 want me to tell you what it is?

11 Q. I was going to say, do you want to tell me
12 where it is, please?

13 A. It's a proprietary change, and it's in my
14 rebuttal testimony.

15 JUDGE WALLIS: Excuse me. By proprietary,
16 do you mean that it is confidential?

17 THE WITNESS: Yes, it is.

18 JUDGE WALLIS: I wonder if, rather than
19 reading it on the record, we could provide that in
20 written form to the parties, or perhaps we could go
21 off the record and state it and then follow up with a
22 written correction.

23 MS. ANDERL: Well, that's kind of exactly
24 what we were planning on doing, Your Honor. In our
25 zeal to keep the number confidential, we only

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1 provided asterisks on any version of the testimony,
2 and so we were going to suggest that we could have
3 Ms. Halvorson give the numbers off the record, or we
4 could just provide a corrected page tomorrow. But I
5 just wanted her to identify where in her testimony it
6 was.

7 JUDGE WALLIS: I'm going to suggest that,
8 for administrative purposes, you give the number off
9 the record, but also tomorrow provide a corrected
10 page.

11 MS. ANDERL: Both, then. Thank you.

12 JUDGE WALLIS: Thank you.

13 Q. While we're on the record, then, Ms.
14 Halvorson, can you direct us to where in your
15 rebuttal testimony the correction needs to be made?

16 A. Yes, it's on page four of the rebuttal
17 testimony.

18 CHAIRWOMAN SHOWALTER: What exhibit number
19 is that?

20 THE WITNESS: It's in my rebuttal
21 testimony.

22 MS. ANDERL: 214-TC.

23 MS. PROCTOR: I'm sorry, page four?

24 THE WITNESS: Page four of the rebuttal.

25 MS. PROCTOR: Oh, the new page four.

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1 MS. ANDERL: Right, the yellow page four.

2 CHAIRWOMAN SHOWALTER: I just have a white
3 page four.

4 MS. PROCTOR: That's the original.

5 MS. ANDERL: We provided a corrected copy
6 for filing the day after.

7 JUDGE WALLIS: Let's be off the record,
8 please.

9 (Discussion off the record.)

10 JUDGE WALLIS: Let's be back on the record,
11 please.

12 Q. Ms. Halvorson, turning your attention to
13 page four of your rebuttal testimony, which is
14 printed on yellow paper, there's a continuation of a
15 footnote at the bottom of the page, which indicates
16 proprietary, and then asterisks for numbers of DSO
17 and DS1 orders received from AT&T in Washington in
18 1999.

19 Should the proprietary version of your
20 testimony, as shown on yellow paper, in fact, contain
21 the actual numbers of orders?

22 A. Yes, it should have.

23 Q. Okay. And do you have those numbers with
24 you today?

25 A. Yes, I do.

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1 MS. ANDERL: Okay. Your Honor, we'd be
2 happy to give those off the record and file corrected
3 pages tomorrow.

4 JUDGE WALLIS: Let's be off the record,
5 please.

6 (Discussion off the record.)

7 JUDGE WALLIS: Let's be back on the record,
8 please.

9 Q. Ms. Halvorson, in addition to providing the
10 confidential numbers on a corrected testimony page
11 tomorrow, do you also need to insert the words "and
12 DS3" after DS1 in that footnote on page four?

13 A. Yes, I do.

14 Q. Does that conclude the changes or
15 corrections you have to your direct and rebuttal
16 testimony?

17 A. Yes, it does.

18 Q. And with those changes and corrections, if
19 I were to ask you the questions contained in your
20 testimony here today, would your answers be the same?

21 A. Yes, they would.

22 MS. ANDERL: Your Honor, I'd offer Exhibits
23 201, C-201-T through 219, and tender the witness for
24 cross-examination.

25 JUDGE WALLIS: Ms. Smith.

00434

1 MS. SMITH: Thank you.

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

3 BY MS. SMITH:

4 Q. Good afternoon, Ms. Halvorson. My name is
5 Shannon Smith, and I'm Counsel for Commission Staff,
6 and I have a few questions for you this afternoon.

7 A. Okay.

8 Q. Is US West obligated to provide access
9 service to long distance carriers?

10 A. US West is obligated to meet the terms and
11 conditions of its tariff, FCC Tariff Number Five, and
12 the Washington State tariffs. And those tariffs
13 first obligate us to meet the exchange access
14 requirements, first and foremost, before we meet any
15 interexchange access, as you refer to it.

16 Q. And do those tariffs require US West to
17 provide both switched access and special access?

18 A. I think I said the tariffs did not require
19 us. We need to meet the terms and conditions of
20 those tariffs, but yes, they do apply to both
21 switched and special.

22 Q. In what circumstances will US West refuse
23 to provide access services to long distance
24 companies?

25 A. We don't refuse to provide. We do

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1 everything in our power to meet the needs of the --
2 and be an interexchange carrier. And in this case,
3 it's AT&T.

4 Q. Does US West have a standard interval for
5 providing switched access service?

6 A. Yes, I believe we do. It's in the service
7 interval guide.

8 Q. Does it have a standard interval for
9 providing special access service?

10 A. Yes. Again, that's in the service interval
11 guide.

12 Q. Does US West provide DS1s for switched
13 access service?

14 A. Yes, they can be a component of switched
15 access.

16 Q. What about DS3s?

17 A. Yes, they can.

18 Q. Does US West provide DS1s for special
19 access?

20 A. Yes, we do.

21 Q. And what about DS3s?

22 A. Yes, we do.

23 Q. Are the standard intervals for providing
24 switched and special access services the same?

25 A. I don't believe they are. I think I'd have

00436

1 to check that.

2 Q. Do you know how they're different?

3 A. Number of days.

4 Q. Do you know whether the company's standard
5 intervals for special access is longer or shorter
6 than the standard intervals for switched access?

7 A. I don't know that off the top of my head.
8 I have to check the service interval guide.

9 Q. And the answer to that question would be
10 found in the standard interval guide?

11 A. Yes, it is.

12 Q. Is US West obligated to provide special
13 access services when facilities are not available?

14 A. We're, again, required to meet the terms
15 and conditions of our tariffs, and our tariffs say
16 that when facilities are not available, we are on an
17 individual case basis in terms of setting up the
18 date.

19 Q. If facilities are not available and the
20 order goes to an ICB basis, is US West still
21 required, under the terms and conditions of its
22 tariff and any applicable laws in the state of
23 Washington, to provide that service?

24 MS. ANDERL: Your Honor, I believe Ms.
25 Halvorson can generally answer the question, but I

00437

1 will object in terms of asking for her interpretation
2 of what the laws of the state of Washington require,
3 as calling for a legal conclusion.

4 MS. SMITH: I'm not asking for a legal
5 conclusion. I'm asking what her understanding is
6 under the terms of the tariff and under her
7 understanding of Washington State.

8 JUDGE WALLIS: The witness may respond.

9 THE WITNESS: Could you repeat the
10 question? I'm sorry.

11 Q. I'll try. In situations when facilities
12 are not available, is US West still required, under
13 the terms and conditions of its tariff and under your
14 understanding of Washington State law, to provide
15 those services?

16 A. I cannot comment on Washington State law.
17 I'm not familiar with that.

18 Q. Okay. With respect to the company's
19 tariffs, is US West required to provide those
20 services when facilities aren't available on an
21 individual case basis?

22 A. What US West will do, based on our tariff,
23 is we will work with the person who's purchasing from
24 the tariff and negotiate an individual case basis.
25 If special construction is required, we can charge

00438

1 special construction, but we will work with them to
2 try to determine an acceptable date.

3 Q. And that's under the terms and conditions
4 of the company's tariffs; is that correct?

5 A. The tariff allows for individual case-based
6 negotiations where facilities are not available.

7 Q. What does facilities not available mean?

8 A. It can mean the facilities are not
9 available from the end office to the central office,
10 it can mean that facilities are not available within
11 the central office, it can mean that facilities are
12 not available between central offices.

13 Q. If DSIs are being provided to a customer's
14 location, but the facilities are exhausted or out of
15 capacity, does US West consider that situation to be
16 facilities not available?

17 A. Let me make sure I understand your
18 question. What you're saying is that we have an
19 order from a customer, from that customer to the
20 central office?

21 Q. That's correct.

22 A. And there are no facilities available?

23 Q. That there are DSIs already being provided
24 to a customer's location, but that facility is
25 exhausted, it's out of capacity. Does that mean

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1 facilities are not available?

2 A. If there are no facilities, and I'm
3 assuming, by out of capacity, you mean that there are
4 no facilities to provision that DS1, that would be an
5 out of facilities condition, yes.

6 Q. Okay. Just to clarify on your meaning,
7 does US West consider an out of capacity situation to
8 be a facilities not available situation?

9 A. I think they're fairly synonymous in how I
10 think about it, yes.

11 Q. If, on the other hand, the DS1 facilities
12 had never been provisioned by US West to that
13 customer's location, would that also be a facilities
14 not available situation?

15 A. Now, let me make sure I understand your
16 question again. There's no facilities there and
17 we've never had facilities there, so this is a new
18 construct?

19 Q. That's correct.

20 A. And so there's nothing to build on. If
21 it's a new construct, there aren't any facilities, so
22 yes, that would be a no facilities available.

23 Q. Would US West treat both of those
24 situations the same with respect to a customer order
25 for facilities at that location?

00440

1 A. In my mind, I don't see any difference,
2 really, between the actual circumstance. In both
3 cases that you've described, there are no facilities
4 to provision that order. So yes, the treatment for
5 both of those would be the same. We'd have to look
6 at them and try to determine how are we going to
7 provision them.

8 Q. Has US West ever refused to provide special
9 access services to long distance carriers when
10 facilities have not been available?

11 A. What we do with an order when facilities
12 are not available is look to try to find every way
13 possible. It is not our policy to refuse to provide.
14 We want the business. This is a competitive
15 marketplace for design services. We want AT&T's
16 business, we want other carriers' business, so we do
17 not refuse. We will take the order and try to figure
18 out a way to provision it.

19 Q. Does the facilities not available situation
20 also apply to switched access services?

21 A. Yes, it does.

22 Q. Under what circumstances would facilities
23 not be available for switched access services
24 service?

25 A. Well, let me give you an example. I think

00441

1 with the demand that -- the use of the Internet, the
2 huge demand on bandwidth has caused strain on our
3 interoffice facilities, so that would be an example
4 of trunks that are oftentimes used for switched
5 access that could be in a restrained capacity
6 situation.

7 Q. If US West cannot meet an order interval
8 for an access service, does that order become a held
9 order?

10 A. Could you repeat that question?

11 Q. If US West cannot meet the standard order
12 interval for an access service, does that order
13 become a held order?

14 A. No, not necessarily.

15 Q. Under what circumstances would it not be
16 considered a held order?

17 A. Based on our process, what we do is, when
18 we get an access service request on the application
19 date, we take a look at the order to see if it's
20 correct, and on that date, if the order's correct,
21 then that goes into the system. The next day, it's
22 designed. And our circuit designers, our testers,
23 our engineers take a look at it, and they actually
24 lay out the route to say can we provision this order.
25 Then, in our vernacular, that's called records

00442

1 issuance date, or RID date. On that date, if there's
2 no facilities available, we determine that that can
3 be a held order.

4 Q. If a DS1 order is held, is that considered
5 one order or 24 orders?

6 A. That would probably be -- if it's ordered
7 as a DS1, and that's the only thing on the order, it
8 would be considered one order.

9 Q. Are these held orders reported to the
10 Washington Utilities and Transportation Commission?

11 A. I'm not aware of that. I'm sorry.

12 Q. Do you know whether they're reported to the
13 FCC?

14 A. I'm not aware of that, either.

15 Q. With respect to a firm order commitment
16 date to AT&T, how often -- and if you can state in a
17 percentage of time, I would appreciate it. How often
18 does US West have to change the commitment date?

19 A. I can't give you that exact number.

20 Q. Would you say it would be more than 10
21 percent of the time?

22 A. I really don't know.

23 Q. With respect to commitment dates that are
24 changed, how many of those are changed within 48
25 hours?

00443

1 A. Well, again, you're going back to trying to
2 -- I don't know how many are changed, so it's hard to
3 know if they changed within 48 hours.

4 Q. Does US West believe that it requires more
5 than 24 hours to make commitments when facilities are
6 already available?

7 A. Yes, we do.

8 Q. Why is that?

9 A. Our process, and let me -- I think we need
10 to step back and talk about these kinds of orders.
11 These are complex orders, they're designed orders by
12 nature, and the word special access denotes that
13 they're special. On the day that we receive them, we
14 put them into the system and then they go to the
15 circuit designed -- the system design center and the
16 circuit designers. They need to look at the circuit
17 layout, the facility route. Testers have to look at
18 it. If there's no facilities available, the
19 engineers have to look at it. That is a custom
20 design and it takes time to do that.

21 So it's our firm belief that in order to
22 give AT&T good service and an accurate firm order
23 confirmation, we need that time to go through that
24 system design center. So we adamantly believe this,
25 and it's proven, when we have that time, that our

00444

1 service delivery is greatly enhanced and our on-time
2 provisioning is greatly enhanced.

3 Q. And how long would that time be?

4 A. Our -- AT&T's the only carrier that wants
5 it 24 hours. Everybody else gets it in 48 or 72
6 hours. And when I say everyone else, it's all other
7 CLECs, CAPs, interexchange carriers.

8 Q. And you had answered that question with
9 respect to special access, I believe. Does US West
10 need more than 24 hours to make commitments when the
11 facilities ordered are switched access and they're
12 already available?

13 A. Yes, we do. We believe the same conditions
14 apply for -- these are designed complex services.

15 Q. On page 25 of your direct testimony, at
16 lines five through nine, you talk about improved
17 performance when 48 hours are used to issue a firm
18 order commitment.

19 JUDGE WALLIS: Is that Exhibit Number
20 201-T?

21 MS. SMITH: I apologize. That is Exhibit
22 201-T.

23 MS. PROCTOR: I'm sorry, Shannon. What
24 page?

25 MS. SMITH: It's page 25.

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1 MS. PROCTOR: Thank you.

2 MS. SMITH: It's lines five through nine.

3 Q. And you mention improved service

4 performance when 48 hours are used to issue a firm

5 order commitment. Is that statistic based on AT&T

6 access service requests?

7 A. This particular statistic, the 82 percent,

8 is US West's overall number. The corresponding

9 AT&T-only number is [stricken on order of the

10 Administrative Law Judge] percent. So what that

11 means is that, using a 48-hour firm order commitment,

12 we meet [stricken on order of the Administrative Law

13 Judge] percent of those dates on time for AT&T in the

14 month of October.

15 MS. PROCTOR: Wouldn't that typically have

16 been confidential information, since it's

17 carrier-specific, as opposed to market?

18 MS. ANDERL: The AT&T-specific number, Ms.

19 Proctor?

20 MS. PROCTOR: Yes, consistent with our

21 position that information which is carrier-specific,

22 and I thought this was kind of commonly the way we

23 were doing this. Obviously market or the entire

24 industry data is usually not a problem, unless it's a

25 problem for you guys, but AT&T-specific data, we

00446

1 would view as confidential, so I ask that particular
2 number just be stricken.

3 MS. ANDERL: I mean, I don't have any
4 problem with it being treated as confidential. I
5 guess I'm just a little puzzled, because it's a
6 calculation. It's not an actual AT&T number. It's
7 something we've calculated in terms of what we
8 believed we could have done with AT&T. Additionally,
9 we did put the number on line four, the percentage on
10 line four in and had not been made aware that AT&T
11 believed that that number was confidential. So I'm
12 just looking for some road signs or consistency here.
13 But, again, no problem with putting the number in as
14 a confidential number, if that's what AT&T wants.

15 MS. PROCTOR: Well, could I just ask for
16 clarification? Because I don't know where the number
17 came from, other than, obviously, the witness's
18 testimony right now. I don't know if it's an
19 exhibit. But previously those numbers had come off
20 an exhibit which was BAH-9, which had been designated
21 by US West as confidential. So it's a little
22 difficult for us to know what the standard is, if the
23 entire exhibit is marked as confidential, what is or
24 is not confidential on it.

25 MS. ANDERL: Ms. Proctor, it would have

00447

1 been helpful if we were aware of your concern prior
2 to this moment. We take every step to maintain the
3 confidentiality of AT&T data, and whatever you would
4 like us to do to cure it, we will do.

5 MS. PROCTOR: Well, it would have been
6 difficult for me to raise a concern about this,
7 because the witness just mentioned the number.

8 MS. ANDERL: The percentage on line four
9 has been in evidence -- it's been on file for months.

10 MS. PROCTOR: I'm sorry. If that's --

11 JUDGE WALLIS: If we're going to have some
12 general discussion about this, let's go off the
13 record, and then we can restate the conclusion of
14 that discussion when we go back on the record.

15 (Discussion off the record.)

16 JUDGE WALLIS: Let's be back on the record
17 and see if I can restate where we are. The witness
18 has stated a number for the record, and I'm asking
19 the court reporter to strike that number from the
20 transcript at this point.

21 The issue of confidentiality may be raised
22 in conjunction with Mr. Wilson's testimony and
23 cross-examination, and will be addressed at that
24 point. And if at that time it is determined that the
25 number is properly a matter of public record and not

00448

1 one that should be retained as confidential, then the
2 number will be reinserted into Ms. Halvorson's
3 testimony. Does that state where we are?

4 MS. PROCTOR: Yes.

5 MS. ANDERL: Seems reasonable.

6 Q. When does US West begin charging AT&T for
7 access services?

8 A. US West begins charging AT&T when the
9 order's accepted by AT&T.

10 Q. And what does accepted by AT&T mean?

11 A. Basically, when the completion date -- when
12 the order's completed.

13 Q. How long does it take US West to determine
14 whether facilities are available to fill an order
15 that's been placed by AT&T?

16 A. That's done on the day after the
17 application date, that RID date that I was discussing
18 earlier, it's called the records issuance date. And
19 on that date, the engineering and the design service
20 center take a look at the circuit layout, the
21 facilities available, and determine whether or not
22 there are facilities.

23 There are some occasions when an order does
24 get a due date on it, when the installer or the
25 technician gets to the premise or into the central

00449

1 office that they find that what they thought was
2 there is not there, and so the order goes held for
3 facilities at that time.

4 MS. SMITH: That's all I have. Thank you.

5 JUDGE WALLIS: Ms. Proctor.

6 MS. PROCTOR: Thank you.

7 MS. ANDERL: Your Honor, before we go
8 there, could we just make sure that Ms. Halvorson has
9 all of her cross-examination exhibits, and I don't
10 think that she does.

11 MS. PROCTOR: Since I don't see that pile
12 of pink.

13 (Discussion off the record.)

14 JUDGE WALLIS: Let's be back on the record,
15 please. It has come to my attention that the
16 exhibits on direct examination were offered, but no
17 ruling was made on those. And let me say that those
18 documents, consisting of Exhibit 201-TC through 219
19 are received in evidence. We've now moved to
20 cross-examination by Ms. Proctor.

21 MS. PROCTOR: Thank you.

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

23 BY MS. PROCTOR:

24 Q. Good afternoon, Ms. Halvorson. I'm Susan
25 Proctor, from AT&T.

00450

1 A. Good afternoon.

2 Q. Just to follow up quickly on the correction
3 you made, in the rebuttal testimony, which was filed
4 on your behalf on January 11, originally there was a
5 different number in that footnote, wasn't there?

6 CHAIRWOMAN SHOWALTER: What page and
7 exhibit number are we on?

8 MS. PROCTOR: I'm sorry.

9 MS. ANDERL: Well, Your Honor, I would
10 object at this point. The previous testimony was not
11 offered or admitted, and we made a correction to the
12 admitted testimony, so I'm not sure where we're going
13 with this, but it's, in general, not done to
14 cross-examine a witness on a piece of testimony that
15 was filed, but then revised.

16 JUDGE WALLIS: Ms. Proctor.

17 MS. PROCTOR: I would take it as an
18 admission against interest. It was a document filed,
19 it was a document provided to us, which purported to
20 be Ms. Halvorson's testimony. I sent an e-mail to
21 Ms. Anderl noting that certain numbers we viewed as
22 confidential, and asking that those numbers be
23 treated as confidential. Ms. Anderl indicated
24 there'd be no problem, and they would, of course,
25 file corrective pages. She did not indicate to me

00451

1 that the numbers would be changed.

2 The copy that I received that was the
3 corrected copy, as was noted earlier, had asterisks
4 with no numbers in it. I naturally assumed that the
5 numbers were going to be the same as the ones that I
6 had identified we were asking be kept confidential.
7 I'm simply wanting to inquire, which I suppose I
8 should have done on voir dire, but decided that I
9 could just do it in cross -- I just wanted to know
10 what happened that the numbers changed.

11 JUDGE WALLIS: Very well. It's my
12 recollection that there was some discussion as to the
13 change at the time the correction was entered, and I
14 will allow the question.

15 MS. PROCTOR: Thank you.

16 MS. ANDERL: May I confer with my witness
17 that she has the previously-filed testimony, or may I
18 provide her with a copy of it?

19 THE WITNESS: I don't have it, so I'll need
20 it.

21 MS. ANDERL: May I?

22 JUDGE WALLIS: Yes.

23 MS. ANDERL: All right, Your Honor. The
24 witness has been provided with a copy of the
25 testimony as originally filed.

00452

1 JUDGE WALLIS: Thank you.

2 MS. PROCTOR: Thank you.

3 Q. Ms. Halvorson, on page three of the
4 testimony as originally filed, in footnote one, and
5 comparing that to Exhibit C-214-T, also at page
6 three, footnote one, which footnote continues over
7 onto page four, which I guess is where actually the
8 number appears, the numbers are different, are they
9 not?

10 A. Yes, they are.

11 Q. And in the original testimony, it refers to
12 DS1 orders, but not to DS3 orders; is that right?

13 A. That's correct.

14 Q. And what caused the number of orders to
15 change by some 25 percent?

16 A. The numbers that I gave earlier that are
17 proprietary --

18 Q. Yes.

19 A. -- were for the full year of 1999, and they
20 included all DSO, DS1 and DS3.

21 Q. And the statement in the original testimony
22 is that the number cited in there was for orders in
23 1999, as well?

24 A. It would have been what was available to us
25 at the time this was filed.

00453

1 Q. So that wasn't all of '99?

2 A. It's my understanding that this data that I
3 gave this morning was all of 1999. Or this
4 afternoon, I should say.

5 Q. And do you know how much of 1999 was
6 available the day before, when your testimony was
7 filed?

8 A. It's my understanding that that was 1999,
9 also.

10 Q. The entire year?

11 A. That's what I understand.

12 Q. So if the databases for all of 1999 and the
13 number reported on January 11th was for all of 1999,
14 and the data and the number you're reporting today is
15 supposed to be all of 1999, why is there a
16 difference?

17 A. Maybe I didn't answer that clearly. The
18 two data sources are all of 1999. The difference
19 between the two data sources is that the numbers I
20 quoted this afternoon include DS3s.

21 Q. So that would be the difference in the two
22 numbers, because you've now included DS3s?

23 A. That's correct.

24 Q. Does one DS3 count as one, or something
25 else?

00454

1 A. Counts as one, one order.

2 Q. Thank you. Now, I believe you have the
3 stack of pink in front of you?

4 A. Yes.

5 Q. Okay. I'm going to ask you some questions,
6 and I'm going to be focusing on the area of AT&T's
7 claim that US West has failed to provision service.
8 Do you have that area in mind?

9 A. Mm-hmm.

10 Q. Okay. And in your rebuttal testimony,
11 which we've been just discussing, Exhibit C-214-T, at
12 pages two and three, you discuss AT&T orders that are
13 held due to lack of US West facilities; is that
14 right?

15 A. Yes. Could you give me the line cite, so I
16 make sure I'm with you on this?

17 Q. Certainly. That would be that same
18 footnote we were talking about where you were
19 discussing held orders; isn't that right? That
20 footnote one on page three of four, and also on page
21 two, at lines six and eight.

22 A. Okay.

23 Q. Great. Now, if you could turn to Exhibit
24 220, C-220, that's the big fat one.

25 A. Yes.

00455

1 Q. Okay. That's US West's response to AT&T
2 Data Request 86; is that right? That shows up under
3 request number --

4 A. Yes.

5 Q. Actually, the US West convention, I guess,
6 is that it's 01 for the first set, and then 086?

7 A. Yes, I see that.

8 Q. Is that what it says there?

9 A. I see that.

10 Q. Do you know what the I stands for?

11 A. I do not.

12 Q. That makes two of us. And under the
13 supplemental response, dated 10/18/99, US West
14 characterizes this as a summary of held orders for
15 AT&T; isn't that right?

16 A. That's what it says under the supplementary
17 response, right.

18 Q. Thank you. Now, if you could turn to
19 Exhibit 221. And Exhibit 221 is also a US West
20 response to a data request, is it not?

21 A. Yes, it is.

22 Q. And that's a response to data request --
23 what is labeled here as 01-011; is that right?

24 A. That's correct.

25 Q. And in this response at -- or I'm sorry, in

00456

1 the request, AT&T was asking for the total number of
2 held orders, first for AT&T, and second for US West
3 retail customers; isn't that right?

4 A. Yes, it is. That's what you're asking for.

5 Q. Right. And in the response, at paragraph
6 B, which is about two-thirds of the way down the
7 page, US West states that it does not segment held or
8 unfilled order results into a retail customer
9 category; isn't that right? That's what the response
10 says?

11 A. The response does say US West does not
12 segment held or unfilled order results into our
13 retail customer category. Is that what you're
14 reading from?

15 Q. Yes, I'm asking you, isn't that what it
16 says?

17 A. That's what it says, yes.

18 Q. Right. And if one wanted to determine
19 whether a wholesale customer had been discriminated
20 against, in that the wholesale customer had more held
21 orders than a retail customer, one would need to know
22 the number of held orders for retail customers,
23 wouldn't you agree?

24 A. I believe what this is saying is in a
25 normal course of business, we look at held orders.

00457

1 It's a group that handles it for the network. Both
2 wholesale and retail work with the same network
3 organization. So on a normal course of business, we
4 don't segment that. In the case of AT&T looking for
5 a profile on held orders, I can pull that and help
6 them with their held order look.

7 Q. But if the Commission wanted to determine
8 whether retail customers were being -- had more held
9 orders or fewer held orders or basically the same
10 number of held orders as wholesale customers, US West
11 is saying it does not have that information; is that
12 right?

13 A. We're not saying that. What I'm saying --
14 and in fact, I provided you that in Exhibit 9 of my
15 testimony. We can take a look and see if there's
16 discrimination. I can go into the databases and look
17 and see whether there are more held orders for a
18 retail customer or for a wholesaler, AT&T. And
19 that's what we did in Exhibit 9.

20 Q. But in this response here, US West states
21 that it does not have the number of held orders for
22 retail customers as a total category; isn't that
23 right?

24 A. I think I answered that question by saying
25 it's not a normal course of business. Our network

00458

1 people take all orders as they come in and try to
2 fill them.

3 Q. So if I understand this, when you wanted
4 that data for your exhibit, it was available to you?

5 A. Well, let me correct your statement first,
6 if I might. That actually was a request by AT&T.
7 Your folks asked us to produce that, and so we went
8 through quite a bit of detail, quite a bit of effort
9 to come up with that exhibit, and I think the people
10 on Ms. Field's team know that that took us a while to
11 do that.

12 Q. But that exhibit wasn't produced in
13 response to this data request, was it?

14 A. No, it was already part of my testimony.

15 Q. Your testimony was filed on November 17th,
16 is that right?

17 A. Is that the date it was due? Let's look.
18 That's the date on the testimony, yes.

19 Q. And your Exhibit 9 to your direct
20 testimony, which has been admitted into evidence as
21 Exhibit C-211, that exhibit does not show a number of
22 held orders, does it?

23 A. Not specifically. What it does show is the
24 number of due dates met.

25 Q. But it does not show the number of held

00459

1 orders for retail customers, does it?

2 A. The exhibit, per se, does not, no.

3 Q. Could you turn to Exhibit 222, please?

4 A. Yes.

5 Q. Do you have that?

6 A. Mm-hmm.

7 Q. And that is also a US West response to AT&T
8 Data Request Number 10; is that right?

9 A. Yes, that's correct.

10 Q. And AT&T asked for a definition of a held
11 order, and US West stated that an order is held if
12 current capacity is not available for that order. Is
13 that part of the response?

14 A. Yes, it is.

15 Q. Would that be the same definition of held
16 order that you have in mind when you're talking about
17 held orders?

18 A. I think that's a piece of it. I answered
19 that question of Counsel, Shannon Smith, and I added
20 to that that, to clarify current capacity, an order
21 could be held for facilities whether it's from the
22 end user to the central office, within the central
23 office, or between central offices. It can be
24 facilities or equipment.

25 Q. And that's your definition of current

00460

1 capacity; is that right?

2 A. I would include that in there, yes.

3 Q. Okay. Now, in this data response, US West
4 also refers to the issue of whether there is a
5 determination made by US West to fund a job, isn't
6 that right, in order to make capacity available?

7 A. It discusses that. It says, If it is
8 determined to fund a job and the job is issued, to
9 make the capacity available.

10 Q. Could you turn to Exhibit C-223, please.

11 A. Okay.

12 Q. This is US West's response to AT&T Data
13 Request 01-005; is that right?

14 A. That's correct.

15 Q. And it provides a series of confidential
16 documents, which set forth the process for funding
17 for custom design services; is that right?

18 A. Yes, but I think you have to be very
19 careful with this document, because what it does is
20 it guides our sales teams on how to look at getting
21 funding on a sales proposal. It's pretty clear right
22 in the first pages that this is for request for
23 proposals, so in a competitive bid situation, where
24 the customer has asked us to provide a bid, our folks
25 need to come and follow this process to make sure

00461

1 that they are going to be able to respond to that
2 bid.

3 Q. And that interpretation of the document
4 that you're offering is not included anywhere in the
5 response, is it?

6 A. It just says look at these for additional
7 information, and if you read the documents, it does
8 say that in the document.

9 MS. ANDERL: Ms. Proctor, just for
10 clarification, are you and the witness both referring
11 to Attachment A?

12 MS. PROCTOR: I'm not quite sure. I was
13 referring to Attachment A, because that was the
14 regional funding process. I'm not sure -- is that
15 what you're referring to also?

16 THE WITNESS: That's what I was referring
17 to also.

18 Q. Fine. And the request was for the
19 processes and methodologies that US West employs in
20 determining whether to fund or fulfill access service
21 requests; isn't that right?

22 A. Yes, and this would be one of the documents
23 that we do use in an RFP situation.

24 Q. So this document would not be used when
25 AT&T simply submits an access service request; is

00462

1 that what you're saying?

2 A. Typically, a DS3 is an ICB basis, so the
3 guidelines that are laid out here could be used for
4 provision of DS3, but for the most part, this
5 document is used to guide the sales teams in a
6 competitive bid.

7 Q. So are there other documents that would
8 respond to AT&T's request for the processes and
9 methodologies that US West employs in determining
10 whether to fund or fulfill access service requests?

11 A. I believe we gave you a fairly
12 comprehensive package here of different documents
13 that do respond and try to indicate how we do our
14 funding process. If you have any further questions
15 on that, Ms. Retka will be available for you.

16 Q. Thank you. Could you turn to Exhibit
17 C-225, please?

18 A. Okay.

19 Q. Do you recognize that document?

20 A. Yes, I do.

21 Q. And could you please describe it?

22 A. I believe it was an addition to the exhibit
23 in my rebuttal testimony. It would have been in
24 addition to Exhibit 15, that helped give underlying
25 data to the chart that is in Exhibit 14.

00463

1 MS. ANDERL: And Ms. Halvorson, you're
2 referring to --

3 THE WITNESS: For the purpose of the
4 Commission, I'm sorry.

5 Q. That would be Exhibit C-217, when you're
6 referring to Exhibit BAH-14; is that right?

7 A. Yes, that's correct.

8 Q. Okay. So your testimony had been that, of
9 the orders -- of the AT&T orders unfilled on January
10 6th, 2000, this represents a subset of those unfilled
11 orders; is that right?

12 A. No, that's not right. If you look at the
13 testimony -- and hold on just a moment. I'll get you
14 that. The testimony on page eight, I believe, in my
15 rebuttal talks about that that was December. So the
16 date this data was pulled was January 6th, but it was
17 data through December 31st.

18 Q. Okay. Thank you for that clarification.

19 A. Mm-hmm.

20 Q. But this data is a subset of the total set
21 that you -- part of which had been provided in
22 BAH-13, I think, or is that --

23 MS. ANDERL: Fifteen.

24 MS. PROCTOR: No, 14.

25 MS. ANDERL: Fourteen?

00464

1 THE WITNESS: Yes, let me see if I can
2 explain it for you. If you go to BAH-14, for the
3 Commission --

4 Q. Fourteen is -- I'm sorry, 14 is the chart;
5 15 is the data; right?

6 A. Right.

7 Q. Fourteen is C-217; 15 is C-218?

8 A. That's correct.

9 Q. Okay. And this simply fits in with C-218,
10 which had been your Exhibit 15; right?

11 A. Yes, it's more underlying data to the chart
12 on C-14.

13 Q. Okay. These orders that were unfilled,
14 there is a column here, JEP, which is the fourth
15 column over. That stands for jeopardy, doesn't it?

16 A. Yes, it does.

17 Q. This is a set of codes that identify the
18 reason that something is or is not happening to an
19 order; is that --

20 A. That's correct.

21 Q. Okay. And K-17 means lack of local
22 facilities; is that right?

23 A. It's just lack of facilities. I'm sorry,
24 local facilities is appropriate.

25 Q. Lack of local facilities; right?

00465

1 A. Yeah, let me just double check. I think
2 that that is local.

3 Q. I have --

4 A. Yes, it is local facilities not available.

5 Q. Okay. I have a document which is a strain
6 for anyone's eyes, least of all mine, Jeopardy
7 Administration Job Aid, and that provides the
8 explanation of what these codes are; is that right?

9 A. Yes. The one I'm looking at, I don't know
10 which one you're looking at in terms of date, but
11 that is generally what the explanation of the job
12 codes comes from.

13 Q. Okay. And K-19 is lack of interoffice
14 facilities, is that right, interoffice facility not
15 available, according to the job aid?

16 A. That's correct.

17 Q. And K-22, which is the code for the first
18 entry here, is switching equipment not available?

19 A. That's correct.

20 Q. And the next one is central office
21 equipment installation not completed?

22 A. Which one are you looking at? I'm sorry.

23 Q. K-23.

24 A. K-23.

25 JUDGE WALLIS: What exhibit are you on,

00466

1 please?

2 MS. PROCTOR: I'm defining the jeopardy
3 codes, because the Exhibit C-225 does not do so.

4 THE WITNESS: So are we on K-23?

5 Q. K-23, yes.

6 A. Central office equipment order installation
7 not completed.

8 Q. Thank you. And K-18, which there's one
9 down below, is local facility defective?

10 A. That's correct.

11 Q. I think we skipped K-21, unable to meet
12 design requirements; is that right?

13 A. That's correct.

14 Q. And K-01 is not ready, and does that -- I'm
15 sorry, you just nodded your head.

16 A. Correct, not ready.

17 Q. Thank you. And who is not ready, US West
18 capacity provisioning? Is that what that means?

19 A. The K always stands for capacity
20 provisioning, so that means it's not ready.

21 Q. Okay, thank you. So all of these orders --
22 and I guess the question is as of which date, I'm not
23 quite sure. Perhaps you can help me out with that,
24 whether it's December 31st or January 6th, but all of
25 these orders were held for lack of capacity or

00467

1 facilities problems; is that correct?

2 A. Yes, the list of C-225 are all held for
3 facilities.

4 Q. And as of what date, December 31st or
5 January 6th?

6 A. It is December 31st, and I'll give you the
7 cite to my testimony.

8 Q. Oh, that's fine. I just wanted to make
9 sure about the date.

10 A. Okay.

11 Q. Now, in the earlier data request that we
12 looked at, which was Exhibit 221, US West stated that
13 it could not identify held orders, but in your
14 testimony, you are able to identify held orders. So
15 I wonder if you could please explain why there is
16 that difference?

17 A. I don't think that's what the data request
18 said. I think what it says, as the normal course of
19 business, we don't sort. Because I'm responsible for
20 AT&T, as the executive, to make sure that they get
21 their services in, I very closely monitor AT&T's held
22 orders and, at AT&T's request, have produced this
23 report for them.

24 Q. Well, could we go back to Exhibit 221,
25 please?

00468

1 A. Okay.

2 Q. Okay. The request was, Identify the total
3 number of held orders for AT&T. And the response,
4 supplemented on November 23rd is, Despite expending
5 significant time trying to extract the requested
6 data, US West is as yet unable to provide a response
7 to this request; is that right?

8 MS. ANDERL: Your Honor, I would object.
9 Ms. Proctor, I believe, is just trying to be
10 efficient, but ends up mischaracterizing the data
11 request itself. It doesn't asking for total number
12 of held orders for AT&T; it asks for total number of
13 held orders by month from 1996 for the present for
14 AT&T.

15 MS. PROCTOR: That's true, it does.

16 THE WITNESS: And I believe it also asks
17 for all of US West's retail customers and all of US
18 West's subsidiaries' retail customers.

19 Q. Right. But if you look, the request is A,
20 AT&T; B, retail; C, subsidiaries; and this response
21 is for A, AT&T. Would that be your understanding?

22 A. The A, it says that we're working on
23 compiling the information, which is what we have
24 done, which is what you have in this report.

25 Q. And I'm sorry. You're working on compiling

00469

1 it, and it refers us to the big fat exhibit we
2 started with, right, 186, summary of held orders?

3 A. Yes, but let me clarify what that big
4 exhibit was. I didn't have a chance to do that in
5 your first question on it. What this is is not just
6 held orders. This is the entire file for the time
7 period requested, in an attempt to be responsive,
8 until we had some more definitive information.

9 And what it is is it's a file that our
10 service design consultants do when you get a call --
11 when they get a call from AT&T or a carrier. It's an
12 escalation and held order database. So when one of
13 your folks calls into the Des Moines center on an
14 escalation, they will put this order into a file. So
15 it's not just held orders; it's escalations and
16 missed orders.

17 Q. Well, the response says it's a summary of
18 held orders, does it not?

19 A. It is what was available in that file. We
20 were trying to be responsive. You asked for anything
21 on held orders, and this is something that had held
22 orders in it.

23 Q. Ms. Halvorson, looking at the response
24 provided to AT&T in C-220, it says, Attached, the
25 attached confidential summary of held orders, right,

00470

1 without any further explanation?

2 A. That's correct, it doesn't say anything
3 further than that, but --

4 Q. Thank you.

5 A. -- a summary of held orders is what would
6 be unavailable in that database.

7 MS. PROCTOR: Your Honor, I would move the
8 admission of Exhibits 220, 221, 222, 20 -- let me
9 start again. Exhibits C-220, 221, 222, C-223, and
10 C-225.

11 JUDGE WALLIS: Is there objection?

12 MS. ANDERL: Yes, Your Honor. We object to
13 Exhibit C-220, as well as -- no, just C-220, on --

14 JUDGE WALLIS: Exhibits C-221, 222, C-223,
15 and C-225 are received. Now, your objection as to
16 C-220?

17 MS. ANDERL: C-220, US West was required to
18 respond to a request here that asked US West to
19 produce all documents related to US West's held
20 orders. US West did provide documents, did not edit
21 or redact them, and therefore finds that it has
22 produced a number of documents that have information
23 in them relating to orders that were not ever held.

24 As Your Honor is well aware, producing
25 documents in discovery is not any sort of an

00471

1 agreement that the documents are relevant or
2 otherwise admissible, and we believe that the time
3 period covered by these documents, which is '97, '98,
4 and '99, is not directly or reasonably related to the
5 70 held orders that AT&T has in issue as of August
6 1999. And as well, the documents include a number of
7 orders which, because they were not ever held, have
8 no bearing on this case.

9 And the few orders that may be the same as
10 the ones that AT&T has at issue, if AT&T had wanted
11 to introduce documents on those, could have
12 segregated them out. But at this point, this would
13 simply burden the record with a lot of irrelevant
14 material not related to the complaint.

15 JUDGE WALLIS: Ms. Proctor.

16 MS. PROCTOR: First of all, AT&T's
17 complaint is not limited to the snapshot of held
18 orders that AT&T filed. AT&T has been complaining
19 about held orders. If we were to attempt to identify
20 held orders, one would have to do that on a daily
21 basis, and change and update on a daily basis, which
22 is clearly not reasonable.

23 A snapshot was provided as an indication.
24 There's also testimony indicating that some orders,
25 over the course of a year, get filled; other orders

00472

1 go held, as indicated by Ms. Halvorson's own exhibit.
2 This data response was provided to us. It
3 says it's a summary of held orders. It is certainly
4 an indication of a problem. The response was filed
5 on October 18th, 1999. Had US West needed to
6 supplement and identify that there were some problems
7 in its initial response, it clearly had time to do
8 so. It did not. There's no way for AT&T to have
9 known that this was not what it purported to be,
10 which is a summary of held orders.

11 Data requests and responses are routinely
12 admitted into the record. They have been so far in
13 this hearing. So I would submit that this is a
14 perfectly appropriate exhibit, submitted entirely for
15 the purpose for which Ms. Anderl is objecting to it,
16 which is to impeach her witness and her company's
17 position.

18 MS. ANDERL: Your Honor, I don't recall
19 having made that objection for that purpose.

20 JUDGE WALLIS: The objection is overruled
21 and the exhibit is received.

22 MS. PROCTOR: Thank you, Your Honor.

23 JUDGE WALLIS: Is this an appropriate -- I
24 don't want to say breaking point.

25 MS. PROCTOR: I think that would aptly

00473

1 characterize it, frankly. And also, I was about to
2 move to a new area, if that would be convenient for
3 you or --

4 JUDGE WALLIS: Very well. I just want to
5 confirm that Exhibit C-224 has not been moved?

6 MS. PROCTOR: No, that was going to be
7 next.

8 JUDGE WALLIS: Okay. After your next area
9 of examination?

10 MS. PROCTOR: Yes, it is part of my new
11 area.

12 JUDGE WALLIS: Okay. All right. Pursuant
13 to our earlier discussions, let's reconvene at 9:15
14 tomorrow morning. Let me inquire, before we go off
15 the record, whether any party anticipates having any
16 administrative points to raise or procedural points
17 to raise before we take up with tomorrow's session?
18 It appears that we have no volunteers. So
19 consequently, we will see everyone at 9:15. Thank
20 you very much.

21 (Proceedings adjourned at 5:28 p.m.)

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25