

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UT-941464

4 Complainant,) VOLUME 3

5 vs.) Pages 56 - 264

6 U S WEST COMMUNICATIONS, INC.,)

7 Respondent.)

8 -----)
TCG SEATTLE and DIGITAL DIRECT)

9 OF SEATTLE, INC.,)

10 Complainant,)

11 vs.)

12 U S WEST COMMUNICATIONS, INC.,)

13 Respondent.)

14 -----)

15 A hearing in the above matter was held
16 at 10:00 a.m. on June 19, 1995, at 1300 South
17 Evergreen Park Drive Southwest, Olympia, Washington
18 before Chairman SHARLON L. NELSON, Commissioners
19 RICHARD HEMSTAD, WILLIAM R. GILLIS and Administrative
20 Law Judge LISA ANDERL.

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22

23

24 Cheryl Macdonald, CSR

25 Court Reorter

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 TCG SEATTLE,)
4 Complainant,)
5 vs.)
6 GTE NORTHWEST INCORPORATED,)
7 Respondent.)

) DOCKET NO. UT-950146

8 GTE NORTHWEST INCORPORATED,)
9 Third Party Complainant ,)
10 vs.)
11 U S WEST COMMUNICATIONS, INC.,)
12 Third Party Respondent.)

13 ELECTRIC LIGHTWAVE, INC.,)
14 Complainant,)
15 vs.)
16 GTE NORTHWEST INCORPORATED.)
17 Respondent.)

) DOCKET NO. UT-950265

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1 The parties were present as follows:
2 U S WEST COMMUNICATIONS, by EDWARD SHAW,
3 MOLLY HASTINGS, WILLIAM O'JILES, Attorneys at Law,
4 P.O. Box 21225, Seattle, Washington 98111
5
6 WASHINGTON UTILITIES AND TRANSPORTATION
7 COMMISSION STAFF, by STEVEN W. SMITH and GREGORY
8 TRAUTMAN, Assistant Attorneys General, 1400 South
9 Evergreen Park Drive Southwest, Olympia, Washington
10 98504.
11
12 FOR THE PUBLIC, DONALD TROTTER, Assistant
13 Attorney General, 900 Fourth Avenue, Suite 2000,
14 Seattle, Washington 98164.
15
16 AT&T, by SUSAN D. PROCTOR, Attorney at
17 Law, 1875 Lawrence Street, Denver, Colorado 80202.
18
19 TCG SEATTLE and DIGITAL DIRECT OF SEATTLE
20 INC., by DANIEL WAGGONER and GREGORY KOPTA, Attorneys
21 at Law, 1501 Fourth Avenue, Suite 2600, Seattle,
22 Washington 98109.
23
24 WITA, by RICHARD A. FINNIGAN, Attorney at
25 Law, 1201 Pacific Avenue, Suite 1900, Tacoma,
Washington 98402.
26
27 ELECTRIC LIGHTWAVE, INC., by ARTHUR A.
28 BUTLER, Attorney at Law, 601 Union Street, Suite
29 5450, Seattle, Washington 98101-2327 and ELLEN
30 DEUTSCH, Attorney at Law, 8100 NE Parkway Drive, Suite
31 200, Vancouver, Washington 98662-6401.
32
33 TRACER, by STEPHEN J. KENNEDY, Attorney at
34 Law, 601 Union Street, Suite 5450, Seattle 98101-2327.
35
36 MCI TELECOMMUNICATIONS CORORATION and MCI
37 METRO, by SUE E. WEISKE, Senior Attorney, 707 17th
38 Street, Suite 3900, Denver, Colorado 80202 and CLYDE
39 H. MacIVER, Attorney at Law, 4400 Two Union Square,
40 601 Union Street, Seattle, Washington 98101-2352.
41
42 DEPARTMENT OF DEFENSE/FEDERAL EXECUTIVE
43 AGENCIES, by ROBERT A. GANTON, Trial Attorney, 901 N
44 Stuart Street, Suite 713, Arlington, Virginia 22203
45
46 SPRINT, by LESLA LEHTONEN, State Regulatory
47 Attorney, 1850 Gateway Drive, 7th Floor, San Mateo,
48 California 94404-2467

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APPEARANCES (Cont.)

INTEREXCHANGE ACCESS COALITION, by BRAD E.
MUTSCHELKNAUS, Attorney at Law, 1776 16th Street
Northwest, Washington DC 20006.

GTE NORTHWEST, INC., by RICHARD POTTER,
Attorney at Law, 1800 41st Street, Everett,
Washington.

MFS INTELENET OF WASHINGTON, INC., by
RICHARD M. RINDLER, Attorney at Law, 3000 K Street
Northwest, Suite 300, Washington, DC 20007

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1 PROCEEDINGS

2 JUDGE ANDERL: Let's be on the record.

3 This hearing will please come to order. The
4 Washington Utilities and Transportation Commission has
5 set for hearing at this time and place consolidated
6 docket Nos. UT-941464, et al. The first docket is
7 captioned Washington Utilities and Transportation
8 Commission versus U S WEST Communications, Inc. My
9 name is Lisa Anderl. I'm the administrative law judge
10 presiding. Commissioners Gillis, Hemstad and Chairman
11 Nelson are on the Bench today, and it is June 19,
12 1995, and we are convened in Olympia, Washington for
13 the cross-examination of all of the prefiled testimony
14 of all the parties.

15 Let me begin by taking appearances, please.
16 We'll just go around the table, if you would state
17 your name and your client's name, you don't need to
18 state your address. Beginning with you, Mr. Shaw.

19 MR. SHAW: Thank you. Ed Shaw and Doug
20 Owens for U S WEST, and additionally I would like to
21 introduce to the Commission an attorney that has not
22 appeared before you before, Mr. Bill O'Jiles who's a
23 regulatory counsel for U S WEST headquartered out of
24 Denver that specializes in interconnection matters, so
25 the three of us will be handling the case.

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1 JUDGE ANDERL: Mr. Finnigan.

2 MR. FINNIGAN: Thank you. Rick Finnigan
3 appearing on behalf of the Washington Independent
4 Telephone Association.

5 MR. KENNEDY: Steve Kennedy appearing on
6 behalf of intervenor TRACER.

7 MR. BUTLER: Art Butler and Ellen Deutsch
8 on behalf of Electric Lightwave.

9 MR. WAGGONER: Dan Waggoner and later in
10 the week you will also be seeing Greg Kopta on behalf
11 of TCG Seattle.

12 MS. WEISKE: Sue Weiske for MCI Metro and
13 MCI Telecommunications Corporation.

14 MS. PROCTOR: Susan Proctor on behalf of
15 AT&T.

16 MR. MACIVER: Clyde MacIver for MCI Metro
17 and MCI Telecommunications.

18 MR. TROTTER: Donald T. Trotter, assistant
19 attorney general for the public counsel section.

20 MR. SMITH: Steven Smith and Gregory
21 Trautman on behalf of Commission staff.

22 MR. RINDLER: Richard Rindler representing
23 MFS and Intelenet of Washington, Inc.

24 MS. LEHTONEN: Lesla Lehtonen representing
25 Sprint Communications Company LP.

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1 MR. MUTSCHELKNAUS: Brad Mutschelknaus for
2 the Interexchange Access Coalition.

3 MR. POTTER: Richard Potter for GTE
4 Northwest.

5 MR. GANTON: Robert Ganton for the
6 Department of Defense and Federal Executive Agencies.

7 JUDGE ANDERL: Thank you. Is there anyone
8 here who has not yet had an opportunity to make an
9 appearance?

10 Thank you. As I stated before we went on
11 the record, we have several motions pending. I would
12 like to go ahead and begin with argument on those
13 motions first. And let's go ahead and take the
14 motions to compel discovery from AT&T, Sprint and
15 TRACER. Mr. Shaw, you will be arguing those and if I
16 could ask you to just state -- make a very, very brief
17 statement as to what the substance of each of those
18 is.

19 MR. SHAW: Yes. Thank you. We have four
20 motions to compel in addition to the one you named
21 that we had, MCI. We have gotten a response from MCI
22 that we will withdraw our motion to compel on that one
23 and deal with the responsiveness of it on cross.
24 Additionally, I would at this time withdraw my motion
25 to compel against TRACER. We feel that we're entitled

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1 to the information asked for, but in the interests of
2 time we feel that we can adequately deal with the
3 issue of their membership on cross. So I will
4 withdraw that one and just address the motion to
5 Sprint and to AT&T.

6 First Sprint. We asked Sprint for
7 documents that would indicate their plans to provide
8 local service in the state of Washington in their
9 publicly announced consortium or joint venture between
10 themselves, various large cable companies and French
11 and German investment. We feel that that is directly
12 relevant. I think in this case a cable company based
13 telecommunications company has one of the best
14 prospects to provide ubiquitous local exchange
15 companies in competition with the incumbent carriers,
16 and their plans and their intent to do that has a
17 direct bearing on an issue in this case, which
18 generally is an assertion that local exchange
19 competition will be very limited and take years to
20 develop and therefore U S WEST is not entitled or
21 otherwise shown that it should be able to charge the
22 tariff rates that it's proposed in this case.

23 The defense is a technical one that Sprint
24 is a member of the joint venture and has no documents
25 available to it. U S WEST doesn't find that credible.

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1 That is certainly not a defense for U S WEST in the
2 heavy discovery that it has to respond to that it can
3 restructure itself out of the jurisdiction of this
4 Commission. Sprint is a full party intervenor in this
5 case. Sprint is an interexchange carrier that owns a
6 local exchange carrier, United, doing business under
7 the name of Sprint and has this business relationship
8 with TCG, another party in this case, as well as the
9 cable companies.

10 I'm not interested in highly proprietary
11 internal documents. I want their documents that
12 disclose their plans for providing service in
13 Washington through this consortium of companies.

14 Would you like me to move on to the AT&T
15 motion?

16 JUDGE ANDERL: Yes.

17 MR. SHAW: AT&T we have asked for very
18 specific data about the costs of their services and
19 the service that they provide and they have objected
20 on the basis of relevancy and have refused to provide
21 it. One of the issues in this case is the competitive
22 nature of access services as well as private line
23 services for special access bypass and direct
24 connection. We have asserted in the various
25 testimonies in this case that U S WEST is the only

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1 provider of such services and therefore it has
2 implications for its pricing. We are entitled to
3 prove what services are provided by other carriers
4 including the largest carrier in the country, AT&T, and
5 at what price those services are offered.

6 Additionally, it's asserted that all of
7 our services offered to other carriers should be
8 offered at incremental costs or referred to as TS LRIC
9 in this case by many parties and we are entitled by
10 way of impeachment to explore whether our competitors
11 in fact price anywhere near at that low level.

12 So these data requests are directly
13 relevant and not burdensome in any way, shape or
14 form, particularly considering the relative size of the
15 discovery that all of these parties have undertaken
16 against U S WEST, and U S WEST has responded to that
17 discovery in good faith. That completes my arguments.

18 JUDGE ANDERL: Thank you. Ms. Lehtonen.

19 MS. LEHTONEN: First I would like to advise
20 the commissioners that Sprint filed a brief response
21 to U S WEST's motion to compel this morning, and I
22 would just briefly summarize what we said in that
23 response. First, U S WEST has said that they assumed
24 -- that we are assuming that the joint venture is
25 somehow an entity apart from Sprint. In fact the

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1 joint venture is an entity apart from Sprint. Sprint
2 is a minority holder in the joint venture. It is not
3 a part of Sprint. Sprint Communications Company, a
4 limited partnership, which is the party here, does not
5 have possession, custody or control of the documents
6 related to the joint venture and we're unable to
7 obtain them.

8 And furthermore, we think that the data
9 requests are irrelevant. This case started as a
10 tariff filing on local transport by U S WEST, was
11 consolidated with a number of complaints by parties on
12 interconnection. The joint venture's plans are simply
13 irrelevant to this proceeding.

14 I would also like to just respond briefly
15 to the statement just made by Mr. Shaw where he stated
16 that he was not interested in highly proprietary
17 information and that he basically just wanted the
18 joint venture plans which were in Washington. This is
19 the first time that I've heard that from him. His
20 data requests asked us for all documents relating to
21 the joint venture and when they called us to try to
22 come to some kind of a friendly agreement on this they
23 would refuse to narrow it down.

24 I've tried as much as I can to obtain
25 documents. They're simply not in our possession.

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1 They're not in our control and we're unable to get
2 them.

3 JUDGE ANDERL: Ms. Lehtonen, did that
4 conclude your comments?

5 MS. LEHTONEN: Yes.

6 JUDGE ANDERL: To the extent that the
7 request has now been narrowed, do you believe that it
8 might be fruitful for you and Mr. Shaw to have
9 additional discussions?

10 MS. LEHTONEN: I think if Mr. Shaw is only
11 looking for things -- the information in Washington I
12 can see what I can do. I've been told that these --
13 that this information or documents related to the
14 joint venture are unavailable to Sprint Communications
15 LP, but again, when a request is narrowed like that,
16 perhaps there might be a way to work something out.

17 JUDGE ANDERL: Why don't you and Mr. Shaw
18 talk today and maybe get us a progress report this
19 afternoon.

20 MS. LEHTONEN: Okay.

21 JUDGE ANDERL: Mr. Shaw.

22 MR. SHAW: I just want the record to be
23 clear that we asked a specific data request for the
24 business plan to provide service in Washington.
25 Sprint answered that it did not have possession of

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1 that business plan and so we made an all documents
2 request as a follow-up data request believing that
3 they were purposely reading our first request too
4 narrowly. The thrust and the relevance is their plans
5 in Washington, and that certainly has always been the
6 thrust of the request, and we haven't narrowed the
7 request in any sense other than we want documents that
8 reflect their plans in Washington.

9 JUDGE ANDERL: Well --

10 MS. LEHTONEN: I would just like to say --

11 JUDGE ANDERL: That's fine. You just let
12 us know if you reach any agreement on this by this
13 afternoon. If not then you will certainly get a
14 ruling on the motion to compel.

15 MS. LEHTONEN: Thank you.

16 JUDGE ANDERL: Ms. Proctor, do you want to
17 respond for AT&T then.

18 MS. PROCTOR: Yes. On behalf of AT&T, the
19 request to us was to provide our private line rates in
20 our response and, as I'm sure everyone is aware, AT&T
21 is an interexchange carrier, a long distance provider.
22 We do not provide local service in the state of
23 Washington. We responded with the obvious response
24 that our private line rates are on file with the
25 Commission. We were also asked for contract rates.

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1 Those are also on file with with the Commission. When
2 we had our discovery conference, Mr. Shaw's colleague,
3 Mr. Owens, emphasized that they wanted to know how we
4 did our pricing relative to our TS LRIC costs. I
5 volunteered to provide to him in response to the query
6 a description of how we do our pricing. That was
7 rejected as inadequate. They want our TS LRIC costs
8 for our services.

9 I go back to the nature of the case, which
10 is a filing of an interconnection tariff for local and
11 switched access services. Obviously AT&T purchases
12 switched access services from U S WEST. We are
13 therefore a customer. U S WEST is asking for our
14 costs for the services we provide to retail end users.
15 Those services are clearly not competitive. The fact
16 that U S WEST asserts that we are a competitor does
17 not make us a competitor. We are simply talking about
18 the prices that we charged to end user customers. And
19 I frankly don't see the relevance. Strikes me that if
20 a customer is put at risk every time they attempt to
21 challenge a rate by U S WEST attempting to drag into
22 the proceeding the cost and prices and revenues,
23 customers will be extremely reluctant to do so in the
24 future.

25 JUDGE ANDERL: Thank you, Ms. Proctor.

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1 Mr. Shaw, a very brief response.

2 MR. SHAW: Characterization of AT&T as a
3 customer I find incredible. AT&T of course is a very
4 fierce intraLATA competitor of ours and provides
5 private line service both interexchange and intra-
6 exchange. AT&T's testimony is very aggressive in this
7 case arguing that our rates should be set at
8 incremental cost with no contribution to common
9 overheads or shared costs.

10 We are also under attack by various of the
11 parties that our costs are miscalculated. AT&T as a
12 very sophisticated and large competitor of ours
13 obviously has TS LRIC costs for the same thing that we
14 provide, and we suspect it does not price its services
15 anywhere near those costs so we need to know those
16 costs and we need to know the markup that AT&T puts
17 on their prices. It's directly relevant to impeach
18 their testimony that we should be held to a different
19 standard.

20 JUDGE ANDERL: Thank you, Mr. Shaw. Let's
21 move, then, to the motions to strike portions of Mr.
22 Owens's testimony. Mr. Butler, do you want to go
23 ahead for ELI and summarize your position on that.

24 MR. BUTLER: Yes. We have moved to strike
25 portions of Mr. Owens's rebuttal testimony designated

1 surrebuttal testimony. Specifically those portions
2 outlined in our written motion which contain
3 quotations, references and portions from the prefiled
4 direct testimony of Mr. Tom Turner, Mr. Tom Harris in
5 a proceeding currently pending in the state of Oregon.

6 The motion is based on two grounds. First,
7 that the referenced testimony is irrelevant to this
8 proceeding. Secondly, that it is inadmissible
9 hearsay. It is irrelevant because it relates
10 specifically to Oregon issues. Oregon law, Oregon
11 policy does not purport in any way, shape or form to
12 realty to the Washington regulatory environment or to
13 factual situations existing in this state. It is
14 hearsay because it is clearly offered to prove the
15 truth of the matters asserted therein. In order to be
16 admissible as former testimony U S WEST must
17 demonstrate that the witness is unavailable. They have
18 not done so. They have not demonstrated any attempt to
19 get the witness to appear.

20 Secondly, it is not even testimony in the
21 sense that it has not been sworn to. It has not been
22 admitted into evidence, and it has not been subjected
23 to cross-examination. It in short does not satisfy
24 any of the criteria for admissibility as former
25 testimony.

1 JUDGE ANDERL: Thank you. And Ms. Weiske,
2 then, similar motion to strike different portions of
3 this witness's testimony?

4 MS. WEISKE: Thank you. We also filed a
5 written pleading so I will just briefly summarize our
6 request to strike portions of Mr. Owens's testimony.
7 For the first time on May 31st after U S WEST filed
8 almost a 300-page tariff in November of 1994, U S WEST
9 has now proposed a new local transport restructure
10 tariff filing with new terms, conditions and rates.
11 Per this judge's procedural order any discovery issued
12 within a five-day period after that, which was June 5,
13 is not even due to be responded to until close of
14 business today.

15 It appears to me Mr. Owens, however, will
16 be testifying possibly today. The tariff is
17 extensive. It deals with all the local transport
18 restructure issues in a way that we have seen for the
19 very first time with less than two weeks to prepare.
20 Thus we think it's perfectly appropriate to strike the
21 new local transport restructure tariff filing as well
22 as the terms, rates and conditions thereof.

23 I will point out that a number of these
24 issues were litigated extensively in Oregon, and we
25 had ample time to prepare on these issues. It strikes

1 me as disingenuous for the very first time U S WEST
2 finds two weeks before hearing that they're going to
3 change a tariff filing that has extensive implications
4 for interexchange carriers on, as I said, a filing
5 that was made for the first time in November of 1994.
6 It's now June of 1995. Thus we would ask that the
7 tariff filing attached to Mr. Owens's testimony be
8 stricken as well as pages 49, line 13 through the rest
9 of the page through pages 52.

10 JUDGE ANDERL: Thank you, Ms. Weiske. Mr.
11 Owens, response.

12 MR. OWENS: Thank you, Judge. Responding
13 first to the motion by ELI, I would observe with
14 regard to the claim of relevance that this Commission
15 does not act in a vacuum. We have an interconnect
16 telecommunications network that operates in Washington
17 as it operates in Oregon. ELI was a party to the case
18 in which the testimony has been prefiled in Oregon.
19 It's certainly no stranger to these issues. If you
20 examine the copies of the pages of the testimony you
21 will see that they clearly address the issues that this
22 Commission is talking about, compensation between
23 competitive local exchange carriers and the incumbent
24 for local traffic that's exchanged between them.
25 Number portability, a number of issues which were

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1 raised in the testimony of these -- of all the
2 witnesses that you're considering in this case.

3 I think it's facetious to suggest that the
4 regulatory environment in Washington is so materially
5 different from that in Oregon that that alone makes
6 the testimony of an Oregon staff witness irrelevant.
7 All that's required for relevance is that the
8 testimony make some question of fact more or less
9 likely than it would without the evidence, and it
10 seems to me that where you're involved in setting
11 policy, which you are in a number of areas in these
12 questions, that certainly the statements of an
13 official of the government of a neighboring state
14 on similar issues are something that you're entitled
15 to know about and to take into consideration if you
16 choose to.

17 With regard to the question of hearsay, the
18 rule under administrative proceedings is that agencies
19 are entitled to use evidence that is of a kind that
20 prudent people would ordinarily use in the conduct of
21 their serious business affairs. Clearly, it seems to
22 me that the written statement of an official of the
23 government of the state of Oregon, a member of the
24 staff of Oregon PUC, would fall into that category.
25 You're certainly not allowed to make a finding of fact

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1 exclusively on the basis of such evidence but we're not
2 suggesting that you do so.

3 In Electric Lightwave's own witness's
4 testimony, Mr. Page Montgomery makes numerous
5 references to actions in other states. It seems to me
6 that you are entitled if you consider that evidence to
7 also consider the evidence of the Oregon staff
8 witnesses that we have included as exhibits to Mr.
9 Owens's testimony and to which he's referred simply as
10 a statement by a government official of that state of
11 what his opinion is. It is not something that is
12 offered for the truth of the matter asserted. It is
13 simply offered as a statement of the result of that
14 government witness's analysis of the fact and is
15 something that you're entitled to assign what weight
16 you choose to to it.

17 JUDGE ANDERL: Mr. Owens, is your
18 microphone on?

19 MR. OWENS: I'm sorry. I wasn't speaking
20 closely enough. With regard to the challenge to the
21 portion of Mr. Owens's testimony that relates to the
22 modification of the local transport restructure
23 tariff, I think it's very significant to note that
24 both the -- this Commission staff and Electric
25 Lightwave argued against the U S WEST original tariff

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1 on the point of the virtual colocation so-called
2 equipment leaseback, and I won't burden the record too
3 much, but just to note there was an issue presented as
4 to whether the original filing of U S WEST should be
5 rejected in favor of a model that has been adopted at
6 the federal level by U S WEST and a number of other
7 companies which is perceived generally I think by a
8 number of parties to be simpler in terms of dealing
9 with the compensation for virtually colocated service.

10 U S WEST after consideration of the
11 positions of the parties in their testimony decided to
12 agree, and thereby move closer to their positions, and
13 in fact it determined that it would not assume the
14 burden of trying to prove reasonableness of what it
15 had originally filed but would attempt to prove the
16 burden or assume the burden of proving something
17 somewhat less. I think it's not disingenuous, as
18 counsel suggests, for a party to attempt to narrow the
19 issues that this Commission has to decide and that's
20 what we did. So I don't think that motion is properly
21 taken.

22 JUDGE ANDERL: Thank you, Mr. Owens.

23 MS. WEISKE: Your Honor, MCI Metro would
24 concede the lines that deal with the leaseback. Our
25 motion goes to the remaining aspect of the tariff

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1 filing which is quite beyond a one dollar leaseback.

2 MR. OWENS: Well, Your Honor, I'm
3 representing to you, and certainly counsel can
4 undertake cross-examination on this, the other aspect
5 of that is simply a fallout, a mathematical fallout
6 of that decision, how that works through the other
7 parties of the tariff.

8 JUDGE ANDERL: Ms. Weiske, any response?

9 MS. WEISKE: Simply I don't agree that
10 that's factually correct, and also like to point out
11 that in the alternative we ask if our motion to strike
12 is not granted that Mr. Wood is permitted as much time
13 in surrebuttal live from the stand to rebut each of
14 these portions of the new tariff filing.

15 JUDGE ANDERL: Mr. Butler, any response.

16 MR. BUTLER: Yes, to a couple of points.
17 First of all, the prefiled direct testimony to which
18 we object and seek to have stricken does not represent
19 in any way, shape or form an action of a government
20 official or an agency of the state of Oregon. This
21 is prefiled, written direct testimony of a staff
22 witness. It has no official status. It hasn't even
23 been sworn or admitted into evidence yet. By no means
24 represents an action of the Oregon Public Utility
25 Commission.

1 In addition, I think it is clear to
2 everyone here that the legal environment in Oregon is
3 different from what it is in Washington with regard to
4 the status of new entrants and what must be required
5 in order to provide service. In Oregon they're
6 clearly going through a different proceeding with
7 different requirement. There are different factual
8 situations in the state of Oregon. Neither Mr. Turner
9 nor Mr. Harris purported in that testimony in any way,
10 shape or form to be expressing opinions about what
11 would be appropriate for the state of Washington. We
12 don't think it is relevant in that respect.
13 Fundamentally, at this point that prefiled direct
14 testimony from a legal standpoint has no status
15 whatsoever. It has not been admitted into evidence,
16 has not been tested by cross-examination. It would be
17 highly improper to permit that to be admitted in this
18 proceeding.

19 JUDGE ANDERL: Thank you, Mr. Butler. All
20 right. That concludes arguments on the motions. As I
21 said, you will get a ruling on the motions regarding
22 Mr. Owens before he takes the stand, and we'll see
23 what happens on the motions to compel Sprint and U S
24 WEST and then we'll rule on the AT&T one likely this
25 afternoon. Is there anything else before we have U S

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1 WEST call its first witness?

2 All right, then. Mr. Shaw has told me that
3 will be Dr. Harris and let's go off the record while
4 he takes the stand.

5 (Recess.)

6 JUDGE ANDERL: Let's be back on the record.
7 Whereupon,

8 ROBERT G. HARRIS,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE ANDERL: As I just stated, Dr.
12 Harris's prefiled direct testimony was previously
13 identified as Exhibit T-20. His Exhibit RGH-1 and
14 RGH-2 are identified as Exhibits 21 and 22 and his
15 prefiled rebuttal testimony we just marked this
16 morning off the record and identified it as Exhibit
17 T-31. Mr. Shaw.

18 MR. SHAW: Mr. Owens will present Mr.
19 Harris.

20 (Marked Exhibit T-31.)

21 DIRECT EXAMINATION

22 BY MR. OWENS:

23 Q. Good morning, Dr. Harris.

24 A. Morning.

25 Q. Please state your name and address for the

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1 record.

2 A. Robert G. Harris, 2000 Powell Street, Suite
3 600, Emeryville, California.

4 Q. Are you the same Dr. Robert G. Harris who
5 has caused the prefiled documents entitled Testimony
6 of Robert G. Harris, an exhibit consisting of your
7 vitae and an exhibit consisting of an article entitled
8 Suppliers of Last Resort and Rebuttal Testimony of
9 Robert G. Harris which have been marked respectively
10 as Exhibits T-20, 21, 22 and T-31 in this docket?

11 A. Yes.

12 Q. And were all of these exhibits prepared
13 by you or under your direction and supervision?

14 A. Yes.

15 Q. If I were to ask you the questions in
16 Exhibits T-20 and T-31 would your answers be as set
17 forth therein?

18 A. Yes.

19 Q. Are Exhibits 22 and 23 the documents that
20 are referred to in the body of Exhibit T-20, that is,
21 your vitae and the articles on Suppliers of Last
22 Resort?

23 A. Yes.

24 Q. Do you have any additions or corrections to
25 make to any of these exhibits?

00082

1 A. No.

2 MR. OWENS: Dr. Harris is available for
3 cross, and I offer Exhibits T-20, 21, 22 and Exhibit
4 T-31.

5 JUDGE ANDERL: Thank you. Because of the
6 number of parties I'm not going to go through and ask
7 each party if they object. I will just ask if there
8 are any objections to the admission of these exhibits
9 and expect whoever might have an objection to speak
10 up.

11 All right. Hearing none those exhibits
12 will be admitted as identified.

13 (Admitted Exhibits T-20, 21, 22, T-31.)

14 JUDGE ANDERL: Mr. Trautman.

15

16 CROSS-EXAMINATION

17 BY MR. TRAUTMAN:

18 Q. Good morning, Dr. Harris.

19 A. Morning.

20 Q. Like to refer you first to your rebuttal
21 testimony. Do you have that with you?

22 A. I do not.

23 Q. Could you please turn to page 23?

24 A. Yes.

25 Q. And this deals with a question from page 23

00083

1 to 24. On those pages you discuss the fact that in
2 other markets new entrants typically target a part of
3 the market that is not well served by incumbents and
4 then you go on to discuss the computer, the discount
5 store, the automobile and the watch industries; is
6 that correct?

7 A. Yes.

8 Q. Can you tell us in which of the situations
9 you have described there are situations in which the
10 entrants you refer to are entering a monopoly market
11 at the time of entry?

12 A. Possibly the IBM case, but certainly not in
13 the others.

14 Q. That would be the only one?

15 A. Yes.

16 Q. Thank you. Could you please turn to page
17 30 of your rebuttal testimony. And this pertains to
18 the testimony that goes from 30 to 33 and in those
19 pages you describe the steps that the Illinois
20 Commission has taken since 1983 to bring competition
21 into the local exchange network, and you suggest at
22 lines 14 through 17 on page 32 that Illinois is the
23 most progressive and procompetitive state commission.
24 Do you see that?

25 A. I believe it says -- yes, under the most

00084

1 progressive.

2 Q. Are you aware that in Washington U S WEST
3 has been under an alternative form of regulation for
4 the last five years that has only recently sunset?

5 A. Yes.

6 Q. And despite the so-called progressiveness,
7 as you put it, of the Illinois Commission, would you
8 accept subject to check that they only recently in the
9 last month received the Ameritech proposal regarding
10 interconnection rates?

11 A. Yes. That is a specific tariff. The
12 generic proceeding has been concluded sometime
13 earlier, but the specific tariffs have just been
14 recently filed.

15 Q. How many new entrants have been given local
16 exchange switch authority in Illinois?

17 A. I believe two.

18 Q. How many have received similar authority in
19 Washington?

20 A. I believe four.

21 Q. Would you accept subject to check that it's
22 five?

23 A. Yes.

24 Q. How many of the new entrants in Illinois
25 are actually providing local service as we speak?

00085

1 A. I do not know.

2 Q. And how many of those providing service
3 today, assuming there are any at all, are doing so
4 knowing what the price of local interconnection
5 service will be?

6 A. In Washington?

7 Q. In Illinois.

8 A. Well, no one would know yet what the price
9 will be.

10 Q. How are they operating, under contract,
11 interim agreement?

12 A. I'm not certain of that.

13 Q. Turning to page 34 of your rebuttal
14 testimony. At line 10 you state that LECs have
15 substantial common costs. Is that correct?

16 A. Yes.

17 Q. Substantial as compared to what? Which
18 industries or companies are you comparing them with in
19 this comment?

20 A. Sort of all industries across the board.
21 They would rank near the high end of the scale in
22 terms of the share of costs that are common.

23 Q. Are you comparing them with companies in
24 more competitive industries?

25 A. Including that, yes.

00086

1 Q. Simply because a company has substantial
2 common costs, is that in itself any indication of
3 whether those costs are appropriate for recovery from
4 ratemaking?

5 A. If the firm has common costs, yes, it
6 should be allowed to recover those costs through
7 ratemaking unambiguously.

8 Q. If the common costs included substantial
9 research and development costs which were designed to
10 facilitate the LEC's entry into the cable TV or the
11 personal communications services, would you suggest
12 that those costs are appropriate for recovery from new
13 entrants?

14 A. No.

15 Q. Could you please turn to page 48 of your
16 rebuttal testimony. And at lines 13 and 14 you state
17 that "it is interesting to recall that AT&T was never
18 required to unbundle its interexchange network yet MCI
19 has grown to a \$13 billion company by building its own
20 network as have Sprint and other IXCs." Is that
21 correct?

22 A. Yes.

23 Q. Which other IXCs have built national
24 ubiquitous networks?

25 A. Well, ubiquitous. I don't know what you

00087

1 mean by ubiquitous necessarily, but I had in mind
2 WilTel as a fourth carrier that has an extensive
3 national network.

4 Q. When MCI carries a long distance customer's
5 call, what essential elements must it pay for in order
6 to complete the call for from, for example, a Boston
7 MCI customer to a Seattle MCI customer?

8 A. That would depend on how the service is
9 provisioned.

10 Q. Would the essential element be access to
11 the local loop?

12 A. Depends on how the call is provisioned. If
13 a customer has some sort of a facility, a microwave
14 that connects directly to MCI, then, no, there
15 wouldn't be.

16 Q. Assuming that MCI did not use a private
17 microwave, would access to the local loop be
18 essential?

19 A. To whose local loop?

20 Q. The local exchange company on either end of
21 the call.

22 A. If that was the way MCI and the customer
23 either/or jointly decided to provision the call,
24 yes.

25 Q. Could you please turn to page 17 of your

00088

1 direct testimony. And turning to line 24 you refer to
2 what you call the fourth of eight economic principles
3 that you recommend be used in designing regulatory and
4 local competition and interconnection policies in
5 Washington, and namely, that the Commission must
6 "recognize fundamental differences among competitors."

7 Do you recall that testimony?

8 A. Yes.

9 Q. In discussing the fundamental differences
10 among competitors, you do not discuss difference in
11 market power between U S WEST as the incumbent local
12 exchange service provider and the new LECs, do you?

13 A. I do not.

14 Q. Do you believe that any service or a part
15 of a service or any geographic service territory of
16 U S WEST is or may be a natural monopoly?

17 A. Yes.

18 Q. Could you identify which services and which
19 locations?

20 A. For at least the time being until there are
21 alternative technologies developed, such as telephony
22 over cable or wireless communications, I believe it
23 may be the case that the local loop to the most remote
24 areas, the lowest density areas, those customers most
25 spread out over geography, may be a natural monopoly.

00089

1 Q. Do you believe that local exchange service
2 in Washington is currently subject to effective
3 competition or indeed any competition?

4 A. In some aspects, yes.

5 Q. Where specifically?

6 A. Well, for example, for businesses, at least
7 medium and large businesses, the competition between
8 PBXs and central office-based services where the LEC
9 typically has somewhere between 15 and 25 percent
10 market share would indicate that it's very highly
11 competitive.

12 Q. Would your opinion that U S WEST is subject
13 to some competition for local exchange services, would
14 that include switching services?

15 A. In the case of PBX, of course it is a
16 switch.

17 Q. Are you familiar with Brian Farrow's
18 testimony in this docket?

19 A. Yes.

20 Q. And are you familiar with Barbara Wilcox's
21 testimony in this docket?

22 A. Yes.

23 Q. And have you read Mr. Wilson's testimony in
24 this docket?

25 A. Yes.

00090

1 Q. Would you agree that if a firm were subject
2 to effective competition that its prices will be
3 somewhere near the marginal costs?

4 A. Not necessarily, not if it has large common
5 costs.

6 Q. Could you specify any particular level of
7 profit taking enjoyed by a firm that might indicate to
8 you whether a firm possessed market power?

9 A. No.

10 Q. Are you familiar with the testimony of Mr.
11 Owens in this docket?

12 A. Yes.

13 Q. And are you familiar with his
14 recommendation that the Commission should require new
15 LECs to pay an interim universal service charge until,
16 among other things, the new LEC serves the same
17 proportion of residential to business customers as U S
18 WEST.

19 A. Or the Commission rebalances rates, if I
20 recall his testimony. Either condition would suffice.

21 Q. Assuming a hypothetical situation,
22 hypothetically, if cost studies were to reveal that
23 U S WEST current rates for residential service
24 recovered U S WEST marginal cost of service plus a
25 fair contribution to common costs, would you still

00091

1 recommend that the new LEC be required to pay an
2 interim universal service charge?

3 A. If I believed the cost studies were
4 accurate, yes. That is, I would not support an
5 interim universal service.

6 Q. You would not?

7 A. I would not.

8 Q. Is it your opinion that U S WEST
9 residential is currently provided below a competitive
10 level?

11 A. Yes.

12 Q. Is it your opinion that U S WEST
13 residential services is currently provided below cost?

14 A. Yes.

15 Q. Are you aware of any studies that show that
16 LEC costs of providing residential service are
17 actually below U S WEST current prices?

18 A. Am I aware of any studies?

19 Q. Yes.

20 A. My bottom line opinion on the relationship
21 between price and cost is not based on cost studies.
22 It's based upon observed market behavior. New
23 entrants enter markets where they can make money, if
24 there was money to be made. If the price of
25 residential service was above cost, I have every reason

00092

1 to believe that at least one if not all of these five
2 new entrants in Washington would be eagerly seeking to
3 serve that market and make money there. The fact that
4 they have all chosen not to do so is far more powerful
5 evidence in my mind than any cost study possibly could
6 be.

7 Q. But are you aware of any studies that show
8 that?

9 A. That show?

10 Q. In response to my question, are you aware
11 of any studies that show that the LEC costs of
12 providing residential service are actually below U S
13 WEST current prices?

14 A. U S WEST studies show that, yes.

15 Q. Again, for clarification, are you aware of
16 studies that show that the costs of providing service
17 are below U S WEST prices?

18 A. Yes.

19 Q. Turning to page 27 of your rebuttal
20 testimony. You have the question "why should the
21 Commission allow greater pricing flexibility by LECs
22 as local exchange competition develops?" Do you see
23 that?

24 A. Yes.

25 Q. With that in mind, do you believe that

00093

1 there needs to be any policy in place to protect
2 against potential monopoly abuse in cases where
3 vestiges of market power may continue to exist?

4 A. Yes.

5 Q. Turning to page 43 of your rebuttal
6 testimony?

7 A. I'm sorry. What was the page?

8 Q. Page 43. And turning to line 16, you
9 discuss what might happen under a bill and keep system
10 of mutual compensation, and you state, "under a system
11 of bill and keep, AECs would have an economic
12 incentive to target customers who will terminate a
13 disproportionate share of their calls on LEC networks
14 because the AEC then avoids a share of the costs of
15 handling those calls." Do you see that?

16 A. Yes.

17 Q. Do you not believe that under a system of
18 mutual compensation involving reciprocal payment of
19 usage-sensitive prices, such as is proposed by U S
20 WEST, that the new LECs would then have an economic
21 incentive to target customers who will terminate a
22 disproportionate share of their calls on the new LEC
23 networks?

24 A. No. My understanding under mutual
25 compensation is they would be paying for the costs of

00094

1 terminating those calls.

2 Q. Could you turn to page 44 of your rebuttal
3 testimony. And there you discuss the question of
4 whether U S WEST should be allowed to include the
5 costs of developing and installing measurement systems
6 for local interconnection traffic. And you state,
7 "such costs should be borne by customers just as the
8 other cost of doing business should be." That's at
9 line 18. Do you see that?

10 A. Yes.

11 Q. Are you familiar with the term co-carrier?

12 A. Yes.

13 Q. Could you please define that term as you
14 understand it.

15 A. It's an arrangement among the existing
16 franchised LECs in most of the country that enables
17 them to terminate each other's traffic over EAS routes
18 without any mutual compensation.

19 Q. Is it your view that new LECs are U S WEST
20 customers for local interconnection of traffic between
21 U S WEST and the new LECs?

22 A. I'm sorry. Would you repeat that.

23 Q. Is it your view that new LECs are U S
24 WEST's customers for local interconnection of traffic
25 between U S WEST and the new LECs?

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1 A. Yes.

2 MR. TRAUTMAN: I have no additional
3 questions.

4 JUDGE ANDERL: Thank you, Mr. Trautman.
5 Now, just so this is clear on the record, the
6 complainants and intervenors have explained to me that
7 they're going to vary which of them leads off for
8 cross with each of U S WEST's witnesses. They assure
9 me that this is going to promote efficiency in the
10 hearing process and so we're going to do it that way.
11 Mr. Waggoner, are you next?

12 MR. WAGGONER: Yes, I am.

13

14 CROSS-EXAMINATION

15 BY MR. WAGGONER:

16 Q. Good morning, Dr. Harris. Have you ever
17 read any of the FCC's decisions on the definition of a
18 co-carrier and who qualifies as a co-carrier?

19 A. Can't say that I have, no.

20 Q. Would you accept subject to check that the
21 FCC uses the term co-carrier to include cellular call
22 carriers and competitive local carriers?

23 A. Yes.

24 Q. And so you use the term co-carrier
25 differently than the FCC; is that correct?

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1 A. I guess in answer to that prior question I
2 did, yes.

3 Q. Let's follow up on a couple of other things
4 you talked about with Mr. Trautman. On page 43 of
5 your rebuttal testimony, you talk about bill and keep
6 providing an incentive to terminate a disproportionate
7 share of their calls on LEC networks?

8 A. Yes.

9 Q. Would that you agree that a minute of use
10 compensation system provides new local exchange
11 carriers with an economic incentive to obtain
12 customers with a disproportionate share of traffic
13 that is inbound to the new LEC?

14 A. Not unless their prices are out of line
15 with their costs for terminating that traffic.

16 Q. I would like you to assume a hypothetical
17 in which the new LEC and the incumbent LEC are paying
18 reciprocal identical minute of use rates to each
19 other. Are you with me on that?

20 A. Yes.

21 Q. Wouldn't you agree in that circumstance
22 that the new LEC has an economic incentive to search
23 out and obtain customers that have a disproportionate
24 share of inbound calling to the new LEC?

25 A. No, I don't see the logic there.

00097

1 Q. Following up on one other question from Mr.
2 Trautman. You told him that you thought that a
3 competitive area in local service was as between
4 Centrex like products and PBX vendors; is that
5 correct?

6 A. Yes.

7 Q. Can you identify any other segments of the
8 local exchange market you believe are similarly
9 competitive?

10 A. I think in some cases provision of
11 dedicated facilities private lines in certain urban
12 areas.

13 Q. Which urban areas?

14 A. Seattle.

15 Q. Any other urban areas?

16 A. San Francisco, Los Angeles, Chicago, New
17 York.

18 Q. Thank you. Any other areas where segments
19 of the local exchange market in Washington state you
20 would identify as competitive?

21 A. IntraLATA toll services in many states is
22 competitive, becoming competitive. Certain calling
23 features that are now available from telephone
24 handsets competing with those otherwise provisioned
25 by the central office switch.

00098

1 Q. You also told Mr. Trautman that one of the
2 things you've looked at is I believe you used the term
3 whether the new LECs are eagerly seeking to serve
4 residential customers and you thought that was
5 evidence that the price of local residential service
6 was below cost. Am I remembering your testimony
7 correctly?

8 A. Yes.

9 Q. Are you aware of whether, for instance, TCG
10 Seattle's operating authority is limited to business
11 service?

12 A. I don't understand that it is, no.

13 Q. And would your opinion change if TCG
14 Seattle were eagerly seeking to serve residential
15 customers within a two-year time period?

16 A. If they were out building a network it
17 might, yes.

18 Q. At page 15, lines 13 through 15 of your
19 testimony, you offer the opinion --

20 JUDGE ANDERL: Mr. Waggoner, rebuttal or
21 direct?

22 MR. WAGGONER: I'm sorry, rebuttal
23 testimony.

24 Q. -- you offer the opinion that small
25 business and residence customers will depend on the

00099

1 incumbent LEC for universal service?

2 A. Yes.

3 Q. When you offered that opinion, did you have
4 a time frame as to how long you thought that small
5 business and residential customers will depend on the
6 incumbent LEC for universal service?

7 A. Something like the next five or so years.

8 Q. And what is that opinion based upon?

9 A. Just based on an assessment and reading of
10 the literature as to the rate at which these
11 alternative technologies, distribution facility
12 technologies as in telephony over cable and wireless
13 are likely to become extensively competitive with the
14 existing distribution facility of the LECs in place.

15 Q. Have you made any market analysis of the
16 actual behavior of competitors in any Washington state
17 markets in reaching that conclusion?

18 A. No.

19 Q. And so would you be surprised to discover
20 that in fact some of the new LECs are targeting small
21 business customers?

22 A. No, not if they're sitting next to large
23 business customers. Doesn't have to do with the size
24 of the customer. It has to do with where the
25 customers are, vis-a-vis the facilities of the new

00100

1 entrant.

2 Q. So in any area in Washington state where
3 there are large business customers you would also
4 believe that small business customers will have access
5 to competitive carriers; is that correct?

6 A. Potentially.

7 Q. And do you know which areas of the state
8 that would be?

9 A. As of now I've only seen maps for Seattle.

10 Q. So you don't have any opinion, then, do you,
11 as to whether today 90 percent of small businesses in
12 this state or 40 percent of small businesses in this
13 state have an alternative carrier that they could use
14 for local service?

15 A. No, I do not.

16 Q. It's correct, isn't it, that you believe
17 that the new local exchange competitors are more
18 likely to serve urban areas first?

19 A. Yes.

20 Q. Have you ever studied the growth of the
21 telephone network earlier in the century?

22 A. I've read a couple of articles about it.

23 Q. And is it your opinion that the incumbent
24 LECs when they began providing service immediately
25 started to serve all of the state?

00101

1 A. No, they did not.

2 Q. And which large of the state did they serve
3 first, in your opinion?

4 A. I think barge urban areas.

5 Q. Do you believe that they initially targeted
6 large customers first for service?

7 A. That I couldn't say. I don't recall that
8 any of the articles I've read specified customer size.

9 Q. And you studied railroads, correct?

10 A. I have, yes. In an earlier lifetime.

11 Q. It's correct, isn't it, that railroads did
12 not immediately begin serving all of the country on
13 day one when they began service?

14 A. No, they didn't build their network
15 overnight.

16 Q. At page 23, lines 32 through 34 of your
17 rebuttal testimony, you posit that in competitive
18 markets new entrants, "target a part of the market that
19 is not well served by incumbents." Do you recall that
20 testimony?

21 A. Yes.

22 Q. In your opinion, is it possible that
23 competitors of the incumbent LECs might choose to
24 target small business customers if U S WEST is
25 perceived is not providing high quality service to

00102

1 those customers?

2 A. Yes.

3 Q. Have you done any analysis of U S WEST
4 quality of service record in Washington or other
5 states?

6 A. No, I have not.

7 Q. Sticking with the computer market for a
8 moment, to the best of your recollection, did Apple
9 have to pay IBM if it took business from IBM at the
10 time it began to enter the market?

11 A. No, but I presume if IBM would have been a
12 supplier to Apple for, say, CPUs, Apple would have had
13 to pay for those.

14 Q. That's correct, but would Apple have had to
15 pay IBM a noncost-based subsidy charge for no services
16 that it received if it took business from IBM?

17 A. If IBM had been a regulated monopoly and
18 been forced to sell computers which Apple was going to
19 be competing away at a price far above cost, yes, I
20 presume it would have been. That's just not
21 comparable situations here. The price of business
22 exchange service in Washington is too high. There's
23 no evidence to suggest that IBM's prices were in any
24 way controlled by a government agency that used the
25 force of public policy to distort prices from a

00103

1 competitive level.

2 Q. So you would agree, wouldn't you, that your
3 analogies to the computer market have nothing to do
4 with this case?

5 A. They have very much something to do with
6 this case. What I'm trying to say is there's a lot of
7 people talking about competition, how we want
8 competition, and I'm saying, yes, let's have
9 competition but let's have all of it. When you reduce
10 entry restrictions, you reduce exit restrictions.
11 When you allow competitors to come in and price freely
12 you allow the incumbents to price more freely and so
13 on. You can't have it both ways. Have competition
14 for the new entrants and have the old regulatory
15 regime for the incumbents. That's the argument I'm
16 trying to make.

17 Q. Was that a yes?

18 A. Yes.

19 Q. Thank you. Have you examined any actual
20 market data from Washington state in reaching any of
21 your conclusions?

22 A. Some concentration of revenue data and some
23 revenue to cost relationships.

24 Q. That's the testimony that's offered by Mr.
25 Owens, correct?

00104

1 A. Yes.

2 Q. Have you considered in reaching any of your
3 conclusions whether U S WEST is a high cost
4 inefficient supplier of telephone service?

5 A. Relative to what? Relative to if they
6 could start from scratch and build a new network
7 today? What's the frame of reference here?

8 Q. I simply asked whether you considered the
9 possibility at all and the answer to that is just
10 either yes or no and we can go on from there?

11 A. No.

12 Q. At page 25 of your rebuttal testimony,
13 lines 8 through 18, you offer four suggestions for the
14 Commission's regulation of incumbent LECs. Are you
15 there?

16 A. Yes.

17 Q. And are those the same four suggestions you
18 would make if we were in a price cap proceeding, an
19 alternative form of regulation proceeding or a general
20 rate case?

21 A. Yes.

22 Q. Have you reviewed Mr. Owens's testimony --
23 I believe you said you did already. At page 16, lines
24 5 through 10 of it he describes I believe four
25 competitors who he alleges have installed switches

00105

1 with capacity for up to 50,000 lines?

2 A. I'm sorry, the page reference was 16?

3 Q. Page 16, lines 5 through 10. This is in
4 his rebuttal testimony. I apologize.

5 A. Yes.

6 Q. Based on your examination of competitive
7 markets, would you expect all four new competitors to
8 survive in the market?

9 A. That depends on the policies of this
10 Commission.

11 Q. And assuming there a purely competitive
12 market with no Commission involvement, would you have
13 any expectation that all competitors in a market would
14 necessarily survive in the market?

15 A. No.

16 Q. Again, referring to your rebuttal testimony
17 at page 35, lines 7 through 10. You offer the opinion
18 that the total cost of U S WEST proposed
19 interconnection tariff represents "a relatively small
20 share of the market price of business exchange
21 services." Do you see that reference?

22 A. Yes.

23 Q. Do you consider 50 percent to be relatively
24 small in your terms?

25 A. No.

00106

1 Q. Would you be surprised to discover that the
2 cost of simply the interim universal service charge is
3 over 50 percent of the alleged imputed cost as Mr.
4 Purkey has calculated it?

5 MR. WAGGONER: Have I got it right?

6 UNIDENTIFIED VOICE: Yes.

7 Q. Would you be surprised that the interim
8 universal service charge alone was over 50 percent?

9 MR. OWENS: Of what?

10 Q. Of the alleged imputed -- excuse me -- the
11 alleged revenues for business service as Dr. Harris
12 was testifying to?

13 A. No, not given how high the markup is of
14 business -- U S WEST business price now above cost
15 since the -- one of the rationales for the magnitude of
16 the interim universal service charge was to replace the
17 subsidy contribution that would -- that U S WEST would
18 realize were it to retain that customer as a business
19 customer.

20 Q. But just with reference to your testimony
21 about relatively small, I take it you change that
22 testimony now that you've determined that it's more
23 than 50 percent for one element alone?

24 A. Relatively small doesn't seem like quite
25 the right term in this context.

00107

1 Q. So relatively small would require less than
2 25 percent perhaps?

3 A. No, I didn't have a particular number in
4 mind. What I had in mind is relative to the cost of
5 providing the access service, the rest of the access
6 service. If the business access rate were now, let's
7 say, \$13 like it is in California, then this interim
8 universal service charge would be extraordinarily
9 large.

10 Q. Dr. Harris --

11 A. Because it's in the range of \$38 I'm saying
12 it's not so large as to prevent the AECs from
13 competing for that traffic.

14 Q. Dr. Harris, I'm sorry. If you look at your
15 own testimony you will see what you're talking about is
16 a relatively small share of the market price of
17 business exchange services, not the cost of the new
18 LECs.

19 A. What I was trying to express there is that
20 price is only relevant with respect to cost if the
21 service was priced at the cost of providing the
22 service, without any access charges whatsoever, any
23 interconnection charges whatsoever, and that was to
24 compete in the marketplace, the AEC had to charge that
25 price or something maybe even lower, then there would

00108

1 be no margin left over for paying this interim
2 universal service charge. Because, in my view, the
3 prevailing market price is far above cost there is a
4 considerable margin for paying this interim universal
5 charge.

6 Q. Have you looked at all at the costs of U S
7 WEST of providing the interconnection?

8 A. As only presented in the testimony of the
9 U S WEST witnesses.

10 Q. And you would agree, wouldn't you, that the
11 interim universal service charge is not based on the
12 actual costs of providing interconnection?

13 A. I would, yes.

14 MR. WAGGONER: No more questions.

15 JUDGE ANDERL: Thank you, Mr. Waggoner.

16 Like to go ahead and take a morning recess at this
17 time. Let's be back, since we are getting close to
18 lunch, be back in ten minutes.

19 (Recess.)

20 JUDGE ANDERL: Let's be back on the record
21 after our morning recess. We'll continue with the
22 cross of Dr. Harris. Ms. Weiske.

23 MS. WEISKE: Thank you.

24

25 CROSS-EXAMINATION

00109

1 BY MS. WEISKE:

2 Q. Good morning, Dr. Harris. How are you?

3 A. Good morning.

4 Q. I wanted to follow up on a couple of
5 questions that you were already asked before the
6 break. I thought you said in response to a question
7 that a PBX was a switch. Am I recalling your
8 testimony correctly?

9 A. Yes.

10 Q. Is a PBX a switch that can operate for
11 local exchange calls to another customer without going
12 through a local exchange carrier switch?

13 A. Depend on whether that PBX was
14 interconnected to another PBX. Many of them are using
15 cable facilities or the customer's own facilities.
16 Hewlett Packard for example has a network in the Bay
17 area that interconnects its PBX.

18 Q. What about in Washington?

19 A. I don't know in Washington.

20 Q. Did you also say in response to some
21 earlier questions that you believe both PBX and
22 Centrex were competitive services?

23 A. Yes.

24 Q. And I thought you gave us a market share
25 figure?

00110

1 A. Right.

2 Q. What were those figures again?

3 A. In the 15 Centrex -- in the business
4 systems market for medium and large businesses has --
5 I've seen figures in the range of 15 to 25 percent.

6 Q. What's your source for those figures?

7 A. Various sources.

8 MS. WEISKE: I would like to make a record
9 request for whatever those various sources are for
10 those figures. Is that possible?

11 A. Yes.

12 JUDGE ANDERL: That would be record
13 requisition No. 1 then.

14 (Record Requisition 1.)

15 Q. I think that was your response then for
16 Centrex?

17 A. Yes.

18 Q. What about PBX? Did you have numbers that
19 you gave for that?

20 A. PBX collectively would be the remainder.

21 Q. And are the sources for the response as to
22 PBX the same as the sources you just gave me for
23 Centrex?

24 A. Right.

25 Q. And in response to the questions of local

00111

1 exchange services subject to effective competition I
2 thought you also said that you believe intraLATA toll
3 could be effectively competitive?

4 A. Yes.

5 Q. Isn't it true that for the state of
6 Washington an intraLATA toll call carried by MCI could
7 not be carried on a one plus basis?

8 A. It is true.

9 Q. But you still believe that would be a
10 competitive service?

11 A. For some customers. Customers, for
12 example, that have dedicated access facilities than
13 the one plus dialing is not an issue.

14 Q. What about if I'm a residential user in
15 Washington, would you believe for me that that would
16 be a competitive alternative?

17 A. It would be a competitive alternative but
18 not fully competitive.

19 Q. How do you make the difference between
20 competitive and fully competitive?

21 A. Well, competition isn't a dichotomy zero to
22 one, there is either competition or there is not
23 competition. There are degrees of competition.
24 Something is a partial substitute, a moderately good
25 substitute, a good substitute, a perfect substitute for

00112

1 something else. I'm saying it does compete. Some
2 customers might choose to use MCI even though they have
3 to dial some extra digits to use it, but it's not fully
4 competitive as it would be with one plus dialing.

5 Q. So you would agree it's not an effectively
6 competitive service for the MCI residential end user?

7 A. Yes.

8 Q. Would you please turn to page 28 of your
9 direct testimony. Direct.

10 A. Yes.

11 Q. You refer there to these tariff services.
12 You don't have any line numbers on your page. It's in
13 the response to your last question about four lines up
14 you say, "During the transition to full competition it
15 may be necessary to reprice these tariff services."
16 Which tariff services do you have in mind there?

17 A. I'm sorry. I was lamenting the fact
18 there's no line numbers so I didn't follow where you're
19 coming up.

20 Q. So have I been, Dr. Harris. It's the
21 last --

22 A. I was even trying to figure out as a word
23 processing proposition why that would be true.

24 Anyway, what's the quote again?

25 Q. I apologize. It's page 28. It's the last

00113

1 question and answer. It's the portion of your answer
2 that starts, "during the transition to full
3 competition." You refer there to "these tariff
4 services," and I would like to know specifically what
5 tariffed services you were referring to?

6 A. Private line network access channels and
7 the services related thereto, whatever their technical
8 terms are, performance monitoring of the lines and so
9 on.

10 Q. At page 30 of that same testimony did you
11 assume when you wrote this that U S WEST had an
12 exclusive franchise, your response on page 30?

13 A. I don't believe so, because I believe I was
14 informed very early on in my work on this case that
15 they did not.

16 Q. Would you now turn to your rebuttal
17 testimony, page 3 and define your use of the term
18 mature industry.

19 A. In business strategies there's a concept
20 known as the industry life cycle which is related to
21 product life cycles which distinguishes the early or
22 takeoff stage, the growth stage, the mature stage and
23 the declining stage. Those refer to the rate of growth
24 of output in the industry. The mature stage is a stage
25 after the growth stage in which there's still growth

00114

1 occurring but at a substantially slower rate, and
2 typically one observes little or no new entry of
3 competitors. The firms in the industry by that time
4 are pretty much a stable set of firms. The auto
5 industry would be the classic mature industry now.

6 Q. Do you believe that digital voice and data
7 services are a mature industry given that definition?

8 A. As I noted there's a relationship between
9 product life cycles and industry life cycles, but
10 they're not one and the same. Digital services would
11 be in the growth, in my assessment, would be in the
12 growth phase of the product life cycle, but they're
13 offered by firms in an industry that is by and large a
14 mature industry. The same way you could have a new
15 product come out of the auto industry but that
16 wouldn't change the fact that the auto industry is a
17 mature industry.

18 Q. You state at the bottom of page 5 top of
19 page 6 that "As prices for wireless service and
20 equipment continue to decline, AT&T's wireless
21 services will increasingly compete with U S WEST wire
22 line services." How can AT&T service compete if for
23 every cellular call terminated they have to pay
24 termination charges greater than the price for a wire
25 line local exchange call?

00115

1 A. Oh, because you make money by the sum of
2 the revenues in prices paid for all the services that
3 the customer consumes relative to the cost of
4 providing it. MCI I think gave away free calls
5 yesterday. I assume they didn't do it as a charitable
6 act. They did it because it's good business. They
7 did it in spite of the fact that it was Father's Day.

8 Q. I think you already answered my question,
9 but thank you, Dr. Harris.

10 At the bottom of the page 11 you begin to
11 discuss market penetration for cellular service
12 competing with wire line service. Do you have any
13 proof that consumers that have both wire line and
14 cellular services available choose cellular over wire
15 line meaning do you have any studies, documentation,
16 analysis, that shows that a consumer is choosing only
17 to have cellular service provided to them but also
18 does not have wired service to their home or office?

19 A. Oh, no. I don't think -- I can't imagine
20 there's very much of that at all, but that's not
21 -- again competition is not a zero/one kind of game.
22 If I make 20 percent of my calls on cellular, calls
23 that I would otherwise have made on my wire line and
24 therefore make only 80 percent of the calls I would
25 have otherwise made on my wire line, those are --

00116

1 those two services are thereby competing at the
2 margin.

3 Q. I think, Dr. Harris, I asked you if you
4 knew of any consumers where they were using cellular
5 service exclusively as a substitute for wire line. Is
6 your answer you do know of those consumers or you do
7 not know of those consumers?

8 A. Studies I've seen indicate that the major
9 incidence of that is places like construction sites
10 where historically firms would have wire line service
11 installed temporarily to the site and now instead use
12 cellular service because it's all things taken into
13 account, including installation fees, and the mobility
14 on the site, that it's more economical than wire line
15 service.

16 Q. When you make the cellular calls you just
17 referred to, could you have also made those same calls
18 over your wired service?

19 A. No, because I make them in my car on the
20 way to work rather than waiting until I get to work
21 to make those calls.

22 Q. At page 13 you begin to talk about the
23 entrants using the same technology as the dominant
24 incumbent in each of these markets. What's your proof
25 for the fact that the entrants will use the same

00117

1 technology as the dominant incumbent? Maybe we could
2 start with AT&T in CPE -- excuse me. You say at line
3 27 on page 13 "new entrants in CPE and long distance
4 use the same technology."

5 A. Yeah. That's just a historical fact.

6 Q. What's a historical fact? What technology
7 was being used by MCI when the breakup of AT&T
8 occurred that was similar -- CP, excuse me?

9 A. In CP I don't think MCI was in the CPE
10 business.

11 Q. Weren't CPE providers using digital
12 technology when AT&T was using analog technology?

13 A. No.

14 Q. So it's your belief at that point in time
15 they were both using the same technology?

16 A. The new equipment that AT&T was
17 manufacturing also was digital, yes. Big installed
18 base of analog to be sure.

19 Q. Are you familiar generally with MCI T or
20 MCI Metro's position on universal service?

21 A. No, I can't say that I am.

22 Q. So you're not familiar with any of the
23 policy papers or presentations that MCI has put forth
24 in the last year in terms of their commitments on
25 universal service?

00118

1 A. I don't recall them in particular, no.

2 Q. Your principle at page 17, if support for
3 consumers were deaveraged to account for costs, would
4 average pricing matter?

5 A. I'm sorry. Now, this page does have line
6 numbers, so I would appreciate knowing which they are.

7 Q. Starting at about line 7.

8 A. Okay. And so, I'm sorry, now what is your
9 question with reference to this?

10 Q. If support for consumers were deaveraged to
11 account for costs, would average pricing still matter?

12 A. If support for consumers as in universal
13 service? What support are you talking about?

14 Q. Universal service.

15 A. So there's some kind of a subsidy. We
16 could have the end consumers paying all the same
17 price, but the provider might get more or less based
18 on the costs of the service?

19 Q. Yes.

20 A. Yeah. You could do that.

21 Q. Then would average pricing matter?

22 A. Not in the sense that it wouldn't allow --
23 would prevent the firm from recovering its cost. It
24 would matter, obviously. What it would mean is some
25 customers are getting large subsidies and some

00119

1 customers aren't, but it would allow the firm
2 providing the service to recover its cost if in fact
3 that subsidy did have the effect of covering the
4 difference between this price that's averaged and the
5 cost of providing service, which is not the same
6 across customers.

7 Q. Would you accept subject to check that
8 that's the proposal that MCI has been putting forth
9 that I just asked you about?

10 A. Yes.

11 Q. Page 17, line 15 through 21, you begin to
12 talk about the extensive regulation that no incumbent
13 firm should be subject to. Am I correct, Dr. Harris,
14 that you would prefer that U S WEST be regulated by
15 price regulation?

16 A. Yes.

17 Q. And in a price regulated or price cap
18 scheme, is it your belief that there would be a
19 requirement for advanced approval for price decreases?

20 A. Depends on the scheme.

21 Q. Are you familiar with any price cap plans
22 today that require prior approval for price decreases?

23 A. Some limit the amount of decreases to an
24 annual percentage and require filing an approval if
25 the decrease exceeds that amount, yes.

00120

1 Q. When you said some do you have a particular
2 plan in mind?

3 A. I don't, no. Of the dozen or so states
4 that have adopted I can't tell you which specifically
5 have that provision in them.

6 Q. But it's your belief that there are some?

7 A. Yes.

8 Q. What regulations in Washington forbid U S
9 WEST to make nonneutral price decreases?

10 A. I don't know of any.

11 Q. And isn't it true in fact that U S WEST
12 just recently filed for a \$7 million MTS reduction, if
13 you know?

14 A. I don't know.

15 Q. Would you turn to page 18 of your rebuttal
16 testimony, please. What proof do you have that total
17 revenues attributable to any customers being served
18 by a particular community are less than the total
19 service long-run incremental costs of serving that
20 community?

21 A. I'm sorry. Where are we on page 18?

22 Q. Starting at line 12.

23 A. And what is your question?

24 Q. What proof do you have that the total
25 revenues attributable to any customers being served by

00121

1 a particular community are less than the total service
2 long-run incremental costs of serving that community?
3 Particularly trying to get at your understanding of
4 the revenues gained from local exchange service.

5 A. I have not seen a study of that kind.

6 Q. So you don't have any proof of that?

7 A. No.

8 Q. And I believe you said earlier in response
9 to Mr. Waggoner that you would change your testimony
10 if you saw that entrants were willing to serve both
11 business and residential consumers?

12 A. I said I might change my testimony.
13 Whether or not I would change it in the sense in which
14 he was inquiring would depend on what else that firm
15 is doing. Is it packaging telephone service with
16 cable service? Is it packaging it with long distance
17 services? It might well be that the firm is entering
18 residential service but only to target those
19 customers, those households, that spend a fairly high
20 amount of money monthly on communication services of
21 the kind that could be offered by that firm, in which
22 case it would be in the firm's interest to sell basic
23 exchange service, quote, below cost, unquote, in order
24 to gain those other revenues where the money would be
25 made, as in fact the cable companies have done in

00122

1 England where initially they gave away free local
2 telephone service as a way of rapidly penetrating the
3 market.

4 Q. Isn't it true, for example, that ELI's
5 application in Washington permits them to serve both
6 residential and business consumers?

7 A. It is.

8 Q. Isn't it true that MFS has filed record
9 testimony saying that they specifically target small
10 business users?

11 A. Yes.

12 Q. Isn't it also true that Teleport
13 Communication Group's application, as Mr. Waggoner
14 earlier indicated, provides them the authority to
15 serve both residential and business users?

16 A. Yes. My comment is not about the
17 authority. It's about what people actually do and why
18 they do it.

19 Q. Do you think generally that an entrant
20 would seek authority for something that they don't
21 intend to do?

22 A. Of course if it served their political
23 objectives it would.

24 Q. You state at page 22, line 14 that
25 Ameritech may also be disadvantaged by noneconomic

00123

1 rate structures and pervasive patterns of cross
2 subsidies. What's your proof for that statement?

3 MR. OWENS: Excuse me. That's a quote from
4 an AT&T witness. I don't believe that Dr. Harris
5 testified that that was his statement.

6 MS. WEISKE: He states at line 7 that
7 "Additional support for my position on the competitive
8 distortions inherent in the current system of cross
9 subsidies and the need for LEC rate rebalancing and
10 pricing flexibility is provided by expert witnesses
11 for AT&T and recent state regulatory proceedings in
12 which I have been involved."

13 If he's going to keep this portion of his
14 testimony in the record then I think he should be asked
15 and required to answer his proof for the statement that
16 I just read to him.

17 MR. OWENS: I'm objecting that it misstates
18 the evidence. The evidence is clear that this is not
19 Dr. Harris's own personal testimony. It's the
20 testimony of another person and that's what the
21 question asked him. If she wants to ask him does he
22 agree with it, that's fine.

23 JUDGE ANDERL: Well, it's now been
24 clarified that it's not his testimony. It's clear
25 that he does agree with it. He's using it in his own

00124

1 testimony, support for his position. I think she can
2 inquire into what additional background or basis he
3 has for that belief.

4 MR. OWENS: I'm not objecting to that. I'm
5 objecting to the form of the question.

6 Q. So what is your basis for that belief
7 including any proof or record evidence you might have
8 for that belief, Dr. Harris?

9 A. Many, many sources and studies that have
10 been done. National Telecommunications Information
11 Administration did an extensive study coming to this
12 conclusion. And this is just general industry
13 knowledge. There are many sources that would support
14 it.

15 Q. Dr. Harris, the NTIA study you just
16 referenced was that specific to Ameritech?

17 A. No.

18 Q. Thank you.

19 Pages 23, lines 32 through 34 of your
20 rebuttal testimony --

21 JUDGE ANDERL: I'm sorry. Restate the page
22 and line reference.

23 MS. WEISKE: Page 23, lines 32 through 34
24 of your testimony.

25 Q. You state that "typically new entrants

00125

1 target a part of the market not well served by
2 incumbents." Is this true for all markets?

3 A. No. That's why I said typically.

4 Q. What markets did you have in mind there?

5 A. Most of the markets that I've studied as an
6 economist.

7 Q. What are most of the markets you had in
8 mind there? Could you be more specific about what
9 kind of market?

10 A. I can't be more specific about what kind of
11 market. I guess I could enumerate some of the
12 industries if you would like, but it's a very long
13 list.

14 Q. Why don't we go the other way. What are
15 your exceptions to that statement?

16 A. I can't think of any. I'm just allowing
17 for the possibility there may be some.

18 Q. But you don't have any particular exception
19 in mind?

20 A. No. Well, other than regulated industries,
21 but I'm saying in unregulated markets, it has happened
22 repeatedly in regulated markets and that's the
23 distinction I'm trying to make. Every regulated
24 industry that uses these cross subsidy schemes new
25 entrants come in and skim off the cream. MCI did it

00126

1 with AT&T in the initial days of long distance
2 competition. It happened in transportation. It's
3 happened in financial services. I'm talking about
4 unregulated markets.

5 Q. Let's talk about an unregulated market, Dr.
6 Harris. Do you ever go out to eat?

7 A. Occasionally.

8 Q. When you go out to eat do you ever have to
9 rush through and go to a fast food restaurant versus a
10 sit down restaurant? Do you have children and isn't
11 it true --

12 MR. OWENS: One question at a time, please.

13 A. I am often in a rush when I go out to eat.
14 I do often have to stop although that doesn't preclude
15 sitting down and I do have children, yes, in that
16 order.

17 Q. Wonderful multi-answer to a multi-part
18 question.

19 A. And the children are the reason I'm in a
20 rush and have to stop at a fast food restaurant.

21 Q. When you go to a fast food restaurant do
22 you normally see on one corner a Burger King and just
23 adjacent to it within a block or so maybe a
24 McDonald's?

25 A. Yes.

00127

1 Q. And aren't those like forms of businesses?

2 A. Oh, yes.

3 Q. And aren't they proximately located to each
4 other?

5 A. Yes.

6 Q. And aren't they both unregulated?

7 A. Yes.

8 Q. Page 26, line 7 through 11, you do mean
9 long-run incremental costs there or do you mean total
10 service long-run incremental costs?

11 A. I was treating them as roughly equivalent
12 for purposes of this argument.

13 Q. Are you generally familiar with Mr.
14 Farrow's testimony on behalf of U S WEST?

15 A. Yes.

16 Q. Are you generally familiar with the term
17 ADSRC?

18 A. Yes.

19 Q. Are you equating total service long-run
20 incremental costs to ADSRC?

21 A. Yes.

22 Q. Would you define fully distributed costs
23 for me?

24 A. Fully distributed costs is a costing
25 concept in which all of the firm's costs are

00128

1 distributed in some formulaic way, some arbitrary way,
2 some specified way to the respective products of that
3 firm so there are none left undistributed, so to
4 speak.

5 Q. Why do you call that arbitrary?

6 A. Because there's no economic principle for
7 describing those costs. It's not arbitrary.

8 Q. What would be the economic principles?

9 A. What would be the economic principles?
10 There aren't any.

11 Q. How does that approach differ from an
12 allocation or recovery technique for shared costs in
13 common overhead?

14 A. Depending on common to what? If it's
15 common for a family of services, as I understand the
16 shared residual is, and the ADSRC cost model employed
17 by U S WEST, that is equivalent to a total service
18 long-run incremental cost because it is distributing
19 only those costs that are common to a specified family
20 of like services. It does not distribute the sort of
21 general overhead, more general common costs of the
22 firm.

23 JUDGE ANDERL: Ms. Weiske, let me just ask
24 how are you doing on your time?

25 MS. WEISKE: Probably got 10 or 15 more

00129

1 minutes at most.

2 JUDGE ANDERL: Let's go ahead. We'll take
3 our lunch recess now and come back at 1:30. We won't
4 necessarily take an hour and a half every day but
5 today we're going to.

6 (Lunch recess taken at 12:00 noon.)

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1

AFTERNOON SESSION

2

1:30 p.m.

3

JUDGE ANDERL: Let's be back on the record
4 after our lunch recess. Ms. Weiske, would you like to
5 continue with your cross of this witness.

6

MS. WEISKE: Thank you.

7

BY MS. WEISKE:

8

Q. Dr. Harris, are you generally familiar with
9 the data request responses in this case?

10

A. My own.

11

Q. I apologize. This is my only copy but I'm
12 going to approach you with request No. ATT 1-017.

13

JUDGE ANDERL: Ms. Weiske --

14

MS. WEISKE: I didn't want that on the
15 record. That's my only copy. I'm telling him what
16 questions I'm going to be asking him about.

17

Q. Do you have those in mind?

18

A. Uh-huh.

19

MS. WEISKE: Counsel, do you have a copy of
20 this, I would appreciate it.

21

MR. O'JILES: AT&T what?

22

MS. WEISKE: 1-017.

23

Q. Before lunch, Dr. Harris, we were talking
24 about total service long-run incremental cost as it
25 compares to ADSRC. And isn't total service

00131

1 incremental cost the only costs caused by offering a
2 service where if the service was not offered that line
3 would not be there?

4 A. I'm sorry, when you say "that line" --

5 Q. The total service incremental cost line,
6 which is the total of the volume-sensitive and the
7 service-specific fixed costs would not be there if
8 that service were not being offered?

9 A. Yes. Depending on whether the -- all of
10 the costs of that service are separable to that
11 service. In other words, supposing it's possible to
12 buy a software package to provide three different
13 features, calling features. It's not possible, it's
14 not on the market to buy the software package for any
15 one of them, then there is a common cost across the
16 three services that's incremental to the three
17 services together even those it's not literally
18 incremental to any one of the services individually.

19 Q. I'm done with that exhibit. Thank you.
20 Back on page -- or that data request. On page 26,
21 lines 7 through 11 of your rebuttal testimony, I
22 believe you said to me before lunch that you were
23 using generally LRIC and TS LRIC interchangeably?

24 A. For those purposes. They're very often
25 very, very close to each other in numerical magnitude.

00132

1 Q. Do you, Dr. Harris, believe in different
2 price floors for monopoly versus competitive services?

3 A. No.

4 Q. And I think you misheard something you said
5 this morning. Do you believe that entrants have shared
6 and common costs, competitive provider?

7 A. Yes.

8 Q. And do you believe that some of those
9 common costs should be recovered in the
10 interconnection rates that U S WEST pays to that
11 entrant?

12 A. Yes.

13 Q. At page 28, lines 2 through 9 --

14 MR. OWENS: Still on the rebuttal?

15 MS. WEISKE: Still on the rebuttal.

16 Q. If the incumbent is just as creative as the
17 entrant, why wouldn't the incumbent already have
18 offered the new service?

19 A. I don't believe creativity comes only in
20 the sake of creating original ideas but to being very
21 quick to recognize which ideas seem to have merit and
22 following suit.

23 Q. Is it your belief that the highest volume
24 customers are customers that the entrants are going to
25 be seeking out?

00133

1 A. In many cases. I wouldn't think
2 exclusively.

3 Q. You believe those high volume customers are
4 generally served by tariff or by contract?

5 A. Often by contract.

6 Q. If they're by contract how does a potential
7 entrant know that they are the most profitable
8 customers?

9 A. There would be market indices of volumes
10 based on number of employees, the type of business
11 they're in. Business marketing groups can buy data
12 sources that identify firms that are in industries
13 that are very telecommunications intensive industries
14 like banking, for example, being one such industry.
15 Most banks put a sign out in front.

16 Q. Doesn't that data speak to the volumes?
17 How do you still know that that customer would be
18 profitable or the most profitable?

19 A. In those cases where we're talking about
20 business exchange service, which is the tariff service
21 that's priced way above cost, then the number of
22 exchange lines would be a very good indicator of the
23 potential for profitability for that income.

24 Q. Even if that customer is currently being
25 served by contract off tariff?

00134

1 A. Yes, because contract prices are not
2 unrelated to tariff prices.

3 Q. What is your belief of the relationship
4 between the contract rate and the tariffed rate?

5 A. Depending on where the customer is located
6 and what alternatives it's had, presumably most people
7 price set discounts as a percentage off of their
8 tariffed prices.

9 Q. That discount could be any percentage
10 imaginable though, couldn't it?

11 A. It could be. I said these are only
12 indicators not that they're reliable proof of high
13 profitability. They suggest where your sales people
14 ought to be spending their time and finding out
15 whether that indicator happens to be true in that
16 particular case.

17 Q. Page 37 of your rebuttal testimony. Could
18 cross subsidies be funded through a universal service
19 fund?

20 A. Which lines of page 37?

21 Q. 1 through 25.

22 A. Could --

23 Q. -- cross subsidies be funded through a
24 universal service fund?

25 A. They wouldn't be cross subsidies then.

00135

1 Cross subsidy is an alternative to a universal service
2 fund by definition, at least as I know the word cross
3 subsidy.

4 Q. And at page 38 lines 5 through 21 of your
5 testimony, do all users have the same usage per line?

6 A. I'm sorry, I'm not following your
7 reference.

8 Q. Page 38, lines 5 through 21.

9 A. Is this my rebuttal?

10 Q. Yes, still on your rebuttal.

11 A. This is a discussion about price squeeze
12 and what's your question?

13 Q. Do all users have the same usage per line?

14 A. No.

15 Q. On that same page, on page 39, line 16
16 through 17, if I trade something for something else,
17 am I paying a zero price for what I get?

18 A. Depends on whether you compute the value of
19 what's being traded.

20 Q. So if I'm trading doesn't it have some
21 value that I want to attain back in what I've traded?

22 A. You trade this cup for a dinner tonight
23 that would be -- there's some value in this cup, yes.

24 Q. At page 40, lines 3 through 8, has U S WEST
25 kept track of traffic with the independents on the EAS

00136

1 routes?

2 A. I'm sorry, I missed that last part of your
3 question.

4 Q. Page 40 lines 3 through 8. Has U S WEST
5 kept track of the traffic volumes with the
6 independents on the EAS routes?

7 A. Are you on page 48?

8 MR. OWENS: 40.

9 Q. Lines 3 through 8.

10 A. I'm not sure of that. My understanding is
11 they may do periodic traffic studies for management
12 and operation purposes but they don't measure it on an
13 ongoing basis.

14 Q. Page 45, lines 6 through 11, you state that
15 the cost of reviewing or auditing bills is a standard
16 cost of doing business. Does MCI have any incentives
17 to make customers' costs higher than absolutely
18 necessary?

19 A. Make what? The prices their customers pay?

20 Q. No, the costs of reviewing and auditing.

21 A. The cost to a customer of MCI reviewing a
22 bill, no.

23 Q. Page 48, lines 13 through 16. You talk
24 about the fact that AT&T was never required to
25 unbundle its interexchange network. In terms of a

00137

1 toll call, if company A originates the call at point A
2 and wants to terminate it to point D, but if at point
3 B it puts it on another company's network and the
4 other company carries the call from point B to point
5 D, isn't this a form of unbundling of the second
6 company's networks?

7 A. Not if that service was available for
8 tariff as, say, U S WEST network access channels are,
9 no, it's an existing service.

10 Q. You're referring to the private line
11 tariff?

12 A. Right.

13 Q. So your answer to my question is no, that's
14 not a form of unbundling?

15 A. No. By unbundling I mean something that's
16 done that's not already available that wouldn't
17 otherwise be on a voluntary basis.

18 Q. Do you know whether before divestiture if
19 AT&T was ordered to provide resale?

20 A. Yes.

21 Q. Yes, you know, or yes, they were ordered to
22 provide resale?

23 A. Yes, I know that they were ordered to
24 provide resale.

25 Q. And once AT&T was forced to allow resale,

00138

1 for example, of WATS, was that when Sprint and MCI then
2 offered universal termination across the United States?

3 A. I don't know that it was universal but
4 certainly widespread.

5 Q. Are you familiar generally with the
6 Illinois order that you cite at the bottom of page 48
7 of your rebuttal testimony? Actually you cite them as
8 the most progressive regulatory Commission in the
9 country and state that they adopted a very limited form
10 of unbundling?

11 A. Yes.

12 Q. Isn't it true that the Illinois Commission
13 ordered unbundling beyond the level of the loop to
14 specific subelements?

15 A. No. My understanding is they ordered a
16 series of workshops to be conducted as to whether that
17 was going to be technically feasible to do.

18 MS. WEISKE: Can I have a minute, please.

19 So it's your testimony that the Illinois
20 Commission did not order Ameritech to provide unbundled
21 loops and the subelements?

22 A. As far as I know that's correct.

23 Q. Page 56 of your testimony, where you
24 discuss resale, starting about line 11. If a local
25 exchange company is required to provide resale, what

00139

1 does a local exchange company lose if that service is
2 being resold?

3 A. What do they lose? They lose the other
4 revenues that might go along with that customer, like a
5 customer that makes \$50 a month in toll calls would
6 have a lot of access charge revenues associated with
7 it.

8 Q. What if someone is reselling local exchange
9 service and a customer wanted custom calling features?
10 Where do those custom calling features come from?

11 A. Probably from the owner, the provider of
12 the facilities.

13 Q. So they come from the local exchange
14 company's switch?

15 A. Probably.

16 Q. Wouldn't there be revenues generated by
17 that switch?

18 A. Yes.

19 Q. And wouldn't the local exchange company
20 receive those revenues?

21 A. Yes.

22 Q. What if a customer wants one plus toll
23 calling? Where would those services come from
24 intraLATA?

25 A. The actual implementation of the one plus?

00140

1 Q. Yes.

2 A. From the switch of the service provider.

3 Q. And where would those revenues come from?

4 A. Or from the button of the speed phone for
5 that matter.

6 Q. Where would the revenues from that go?

7 A. The revenues from what?

8 Q. The switched access revenues.

9 A. Not the toll call itself?

10 Q. The toll call, excuse me. The revenues
11 from the toll call, where would they go?

12 A. If the customer uses -- makes in fact a one
13 plus call over the intraLATA carrier it would go to
14 the intraLATA carrier.

15 Q. So you mean the local exchange company?

16 A. Yes.

17 MR. FINNIGAN: I'm going to object. Could
18 you clarify your definition of what -- of the
19 relationship between local exchange carrier and
20 intraLATA carrier?

21 MS. WEISKE: I simply meant the local
22 exchange company in the example that I just gave.
23 Does that help your objection which I'm frankly
24 puzzled by?

25 JUDGE ANDERL: Mr. Finnigan, you're going

00141

1 to need to speak up.

2 MR. FINNIGAN: Are you asking Mr. Harris to
3 respond by using U S WEST communications as the local
4 exchange carrier?

5 MS. WEISKE: If you want that qualification
6 with the example, that's fine.

7 MR. FINNIGAN: Thank you.

8 A. That was the assumption underlying my
9 answers, in fact.

10 Q. And that was the assumption of my question,
11 so thank you. Page 59 you refer to some
12 confidentiality reports that should remain --
13 competitively sensitive reports that should remain
14 absolutely confidential at the bottom of that page.
15 Do you mean by that that no party could see those
16 reports?

17 A. No.

18 Q. What did you mean by that?

19 A. I mean confidential to the Commission or
20 parts thereof.

21 Q. Thank you. So I'm assuming others could
22 see it pursuant to protective order?

23 A. That would be a judgment the Commission
24 would have to make.

25 Q. Well, are you recommending that other

00142

1 parties pursuant to a protective order could not get
2 those materials?

3 A. No. I'm not a lawyer. I'm not offering
4 legal opinions or legal propriety opinions. I'm just
5 cautioning that in a competitive market these data can
6 be very competitively valuable and that the Commission
7 should be very careful about that.

8 Q. You state at lines 9 through 11 on page 60
9 that the Commission should recognize that U S WEST has
10 not yet recovered its capital investment in existing
11 plant due to uneconomic depreciation rates. Wouldn't
12 unbundling reduce the incentive of competitive
13 providers to build their own networks thereby helping
14 U S WEST recover its capital investment?

15 A. If the unbundling elements are rationally
16 priced, yes.

17 Q. Would you turn back, please, to your direct
18 testimony, page 10, line 17 through 18. Do you
19 believe that the fastest growing segments of the
20 market as you use the phrase are the most competitive
21 segments?

22 A. I wouldn't say necessarily in all cases,
23 no.

24 Q. Well, you said in response to a data
25 request IAC 2-010 "generally speaking, yes."

00143

1 A. Generally speaking, but you asked if they
2 always are. I don't believe they always are.

3 Q. So your answer still today is generally
4 speaking, yes?

5 A. Yes.

6 Q. What do you believe are the fastest growing
7 most profitable market segments as referenced in that
8 same line?

9 A. Generally speaking toll services are
10 growing faster than local services and digital
11 services are growing faster than analog services.

12 Q. And in fact, Dr. Harris, do you recall a
13 response to IAC 2-009 where you stated that interstate
14 and intrastate toll dial equipment minutes of use have
15 grown at moderate to high rates with toll minutes
16 growing at a much faster rate than local traffic?

17 A. Yes.

18 Q. And is it still your response today that
19 these represent some of the fastest growing most
20 profitable market segments?

21 A. Yes.

22 MS. WEISKE: Thank you. That's all I have.

23 JUDGE ANDERL: Thank you, Ms. Weiske. Who
24 is next? Is that you, Mr. Butler?

25 MR. BUTLER: Yes.

00144

1

2

CROSS-EXAMINATION

3 BY MR. BUTLER:

4 Q. Dr. Harris, do you consider yourself
5 generally familiar with the development of competition
6 in the long distance industry?

7 A. Yes.

8 Q. Would you agree that long distance
9 competition began with new entrants seeking to provide
10 service in high density routes and over time moved
11 towards the point where a number of carriers developed
12 a fairly extensive nationwide network?

13 A. Yes.

14 Q. Do you know what percentage of, for
15 example, MCI's present customers are residential?

16 A. I don't know.

17 Q. Would you agree that a substantial portion
18 of those customers are residential?

19 A. Yes.

20 Q. Would you agree that there's been a fairly
21 long series of regulatory changes adopted by the FCC
22 to accommodate and respond to the development of long
23 distance competition?

24 A. Yes.

25 Q. Would you agree that the FCC has required a

00145

1 discount in access charges until such time as equal
2 access was achieved?

3 A. Yes.

4 Q. Would you also agree that the FCC required
5 AT&T to offer wholesale pricing to other carriers?

6 A. I understand that AT&T had so-called
7 wholesale pricing available and that the FCC forbade
8 AT&T from discriminating against firms that might want
9 to buy that for the purpose of reselling it.

10 Q. Would you agree that they were required to
11 offer, for example, WATS at least the best rate offered
12 to a retail customer?

13 A. Yes.

14 Q. At page 20 of your direct testimony, you
15 draw an analogy to the railroad industry, and you make
16 the statement that "regulators failed to allow
17 railroads pricing flexibility in response to growing
18 competition from motor carriers."

19 A. Yes.

20 Q. Do you know what pricing flexibility U S
21 WEST has with respect to its intrastate
22 telecommunications services in Washington?

23 A. I understand they have downward pricing
24 flexibility.

25 Q. Do you understand that that means that they

00146

1 can reduce prices for any service at any time so long
2 as they do not seek an offsetting increase within one
3 year?

4 A. So long as they're willing to have their
5 shareholders eat the difference, yeah, they're allowed
6 to reduce their prices.

7 Q. Are you aware what U S WEST's ability and
8 authority is to enter into individual case basis
9 contracts in instances of competitive necessity?

10 A. I believe they have such authority.

11 Q. Are you aware of what provisions or what
12 authority they have to seek competitive classification
13 for services that are subject to effective
14 competition?

15 A. They have such authority.

16 Q. For services that have been classified as
17 competitive, would you agree that U S WEST then has
18 complete pricing flexibility subject only to the
19 restriction that they not price below long-run
20 incremental cost?

21 A. Yes.

22 Q. Are you aware that the features and
23 intercom portion of U S WEST Centrex type services
24 have been classified as competitive?

25 A. Yes.

00147

1 Q. Are you aware that certain custom calling
2 features have been classified as competitive?

3 A. Yes.

4 Q. Are you aware that high volume toll
5 services have been classified as competitive?

6 A. I was not aware of that.

7 Q. At page 15 of your rebuttal testimony you
8 discuss a window of opportunity which you believe is
9 rapidly closing for the Commission to make what you
10 think are desirable regulatory changes. I think you
11 did previously testify that you're familiar with Mr.
12 Owens's testimony submitted?

13 A. Yes.

14 Q. Are you aware of his testimony that new
15 entrants could be expected to achieve approximately 20
16 percent market share in the next four years?

17 A. Yes.

18 Q. In your opinion, with this window of
19 opportunity, would there be implications for how fast
20 this window of opportunity would change if in fact the
21 new entrants were able to achieve only five percent of
22 market share in that same time period?

23 A. If you were willing to take that kind of a
24 risk as to how fast this is going to occur. You
25 could wait until after the fact but my suggestion is

00148

1 that it's not a risk worth taking, that given the
2 prospect that that might happen, that that's well
3 within the range of possible outcomes. It's much more
4 prudent to make these changes I've suggested first and
5 lower most rate rebalancing to bring prices generally
6 closer to cost and to reduce the scale of subsidies so
7 that competition can proceed.

8 Q. Would you agree that the Commission will
9 retain authority to monitor developments in the
10 telecommunications industry in Washington state and
11 retain regulatory authority to make changes in the
12 form of regulation for U S WEST after conclusion of
13 this proceeding?

14 A. Authority as in legal authority, yes, of
15 course, but let's distinguish that from the ability to
16 control market forces. This the Commission would not
17 have.

18 Q. You believe the Commission would have the
19 ability to monitor what happens in the development
20 of --

21 A. Yes, of course.

22 Q. -- telecommunications industry?

23 MR. BUTLER: I have no further questions.

24 Thank you.

25 JUDGE ANDERL: Thank you, Mr. Butler. That

00149

1 was considerably less than 45 minutes. Next on my
2 list is MFS. Mr. Rindler, do you want to just go
3 ahead?

4

5

CROSS-EXAMINATION

6 BY MR. RINDLER:

7 Q. Dr. Harris, I have just a few questions for
8 you. On the rebuttal testimony, page 11 you talk
9 about cellular calls. Do you know what percent of
10 cellular calls used LEC land lines for a portion of
11 their transmission of the calls?

12 A. Oh, I would guess probably well above 90
13 percent.

14 Q. Well above 90 percent?

15 A. Yeah.

16 Q. In response to the development of
17 competitive access providers provision of access --
18 special access and private line services, isn't it
19 true that LECs accelerated the deployment of fiber
20 optic cable in the very markets in which the CAPs are
21 located?

22 A. I can't say that I would know that they
23 accelerated them because that would presume I had
24 knowledge of what they would have otherwise have done,
25 but it is true that if you observe the patterns of

00150

1 deployment they are somewhat faster in those
2 situations, yes.

3 Q. Do you know what percent of U S WEST
4 regulated revenues in the United States are generated
5 in Washington state?

6 A. I do not.

7 Q. On page 16 of your direct testimony, on
8 lines 16 and 17, you state, "The premise of continuing
9 monopoly power is questionable." Do you see that?

10 A. Yes.

11 Q. Is there any question that U S WEST
12 presently has monopoly power in the areas it serves in
13 Washington state?

14 A. In many cases I think it does, yes.

15 Q. Are there any cases in which it doesn't?

16 A. I think in those cases where, for example,
17 in Centrex where it's competing with PBXs and in those
18 cases where it's competing for special access services
19 with CAPs who have facilities in place, it does not.

20 Q. It does not have monopoly power?

21 A. Right.

22 Q. How do you define that?

23 A. I define that as the ability to raise price
24 and exclude competition as is traditionally defined in
25 antitrust law. Since it's not excluded competitors it

00151

1 must not have monopoly powers, otherwise you wouldn't
2 be here.

3 Q. I'm here because the regulators allow me to
4 be here.

5 A. Yes.

6 Q. Isn't another measure of market power, a
7 monopoly power in the antitrust terms, market share?

8 A. No. It's widely held by economists that
9 market share is only one indicator and that other
10 factors are very often much more important.

11 Q. So it is an indicator?

12 A. It can be an indicator, yes.

13 Q. Do the economists and the lawyers have the
14 same view on monopoly power under the antitrust laws?

15 A. Not only would you have difficulty finding
16 agreement between lawyers and economists, I suspect
17 you would find some minor difference of opinion among
18 economists themselves on this account. I'm just
19 telling you what my opinion is.

20 Q. On page 18 you state that "U S WEST prices
21 its basic services below cost."

22 MR. OWENS: Is that the direct testimony?

23 MR. RINDLER: Yes, sorry.

24 A. At what lines is that?

25 Q. Lines 2 through 4. What basic services are

00152

1 you referring to?

2 A. Residential basic service.

3 Q. Is there any -- if you add the revenues
4 from vertical services sold to POTS users, does U S
5 WEST receive revenues in excess of its cost?

6 A. No. For some customers, yes. Some
7 customers have a total bill that exceeds their total
8 cost. I mean, that's the basic problem that we're
9 dealing with. People that use the phone a lot --

10 Q. Excuse me. That was a yes or no.

11 A. It was a yes in some instances the total
12 bill, the revenues that once the bill is paid would
13 exceed the total cost to preserve.

14 Q. What do you base that on?

15 MR. OWENS: Had you finished your answer?

16 JUDGE ANDERL: Excuse me, Mr. Rindler, you
17 have to let him finish his answer. Dr. Harris, let
18 him finish his question.

19 THE WITNESS: Which one gets to finish
20 first?

21 JUDGE ANDERL: The one who starts first.
22 Mr. Rindler, re-ask your question, please.

23 Q. If I can remember my question. Let's go
24 back if we could, Dr. Harris. I believe you just
25 testified that if you add revenues from vertical

00153

1 services paid by certain residential customers, you
2 would have revenues in excess of costs; is that
3 correct?

4 A. Yes.

5 Q. On what basis do you say that you would not
6 have such revenues in excess of costs in other -- with
7 respect to other residential customers?

8 A. Because they don't buy any vertical
9 services.

10 Q. Do you know this in U S WEST territory?

11 A. I know that their penetration rates for
12 these vertical services is much, much less than 100
13 percent.

14 Q. Are we talking about --

15 A. Therefore there must be a lot of customers
16 that don't buy them.

17 Q. Are you saying that with respect to all
18 vertical services?

19 A. Yes. There's no vertical service that has
20 100 percent market penetration. None.

21 Q. Absent those situations in which a customer
22 did not buy any vertical services, would the revenues
23 exceed the costs?

24 A. No. If they only buy one or two probably
25 still don't exceed.

00154

1 Q. Have you seen any studies which indicate
2 what residential customers receive?

3 A. What I've observed is the testimony of Dr.
4 Owens as to the average cost of providing residential
5 service and the price that they now collect from
6 customers. The difference between them being on the
7 order of \$12 a month. If you take the price of a
8 vertical service as being around \$3, that means you
9 can only make up the difference on average if a
10 customer buys four. Very few customers buy four.

11 Q. What do you base that on?

12 A. Penetration ratios of vertical services.

13 Q. Have you seen those ratios for U S WEST?

14 A. Yes. Not specifically in Washington.

15 Q. You have not seen them in Washington?

16 A. I have not seen them specifically for
17 Washington.

18 Q. Dr. Harris, isn't it true that the major
19 reason for financial condition for the railroads in
20 the east in the '70s and '80s were overbuilt systems,
21 antiquated work rules, bloated payrolls and bad
22 management?

23 A. Those were the major reasons? As in
24 regulation had nothing to do with it?

25 Q. Can you answer my question?

00155

1 A. The answer is no if by that you mean that
2 regulation had nothing to do with it. Were those
3 contributing factors, yes, I would agree to that.

4 Q. Do you happen to know whether or not the
5 condition of the railroads in Washington state or in
6 the west were similar to those in the east?

7 A. They weren't quite as bad but it was not
8 strictly a regional phenomenon.

9 Q. Have you done any studies of the cost of
10 originating and terminating traffic between LECs in
11 Washington state?

12 A. No.

13 Q. Do all LECs in Washington state serve
14 territories having the same customer density?

15 A. No.

16 Q. Page 30 of your direct testimony you
17 discuss a term that you put in quotations,
18 recontracting. Do you see that?

19 A. Yes.

20 Q. Is recontracting a change in rules which
21 favors the LEC?

22 A. That could be recontracting, too.

23 Q. Is price caps recontracting?

24 A. Yes.

25 Q. ICB prices?

00156

1 A. Yes.

2 Q. Rate deaveraging?

3 A. Yes.

4 Q. Removing various competitive services from
5 regulation?

6 A. Yes. I don't find any of those
7 objectionable. That's what the testimony says.

8 Q. Removing LEC revenues for Yellow Pages, is
9 that a recontracting?

10 A. Yes.

11 Q. So recontracting in favor of the LEC is
12 okay?

13 A. No.

14 Q. It is not?

15 A. That's not what I'm saying. I'm saying --

16 Q. Is that recontracting --

17 MR. OWENS: Had you finished your answer?

18 A. No, I had not finished my answer.

19 JUDGE ANDERL: Dr. Harris, go ahead and
20 finish your answer.

21 A. I'm not saying that only those rules which
22 are adverse are objectionable. I'm saying it's for
23 the public policy makers to take into account the
24 effects of changes in the rules of the game on all of
25 the parties. If one of those parties operates under a

00157

1 long-term contract where investments have been made,
2 some into the ground under not merely an expectation
3 but a commitment from the state, constitutionally
4 protected commitment to the shareholders whose capital
5 was put at risk, that they would be allowed to recover
6 that capital and a fair return on it, then I believe
7 the state should honor that contract.

8 Other businesses enter into business
9 without such a contract. The state might decide to
10 build a freeway in front of my retail store in which
11 case the retail store didn't have an access ramp, it's
12 not worth much any more. I don't think all business
13 activities are protected. I'm talking about
14 specifically that which the state has with U S WEST.

15 Q. Where do you find that?

16 A. In the rate of return regulation.

17 Q. Is it true that U S WEST is seeking
18 regulation other than rate of return regulation?

19 A. It is.

20 Q. Is that because it no longer has the
21 commitment to its shareholders?

22 A. I don't know specifically why U S WEST made
23 the decision it did. I wasn't privy, but I have
24 advised it to companies because I believe that over
25 the long run this Commission will not be in a position

00158

1 to honor that contract, because it cannot control
2 market forces. That's what I'm talking about, this
3 window of opportunity, over the next few years, exactly
4 how many years, I don't know, I don't believe anybody
5 else knows, but it's not a very long time and I believe
6 now is the time to make that transition because rate of
7 return regulation is simply not sustainable in a
8 competitive marketplace.

9 Q. But you don't know whether that was the
10 basis upon come U S WEST decided to seek the --

11 A. I do not.

12 Q. Is the U S WEST telephone system in
13 Washington characterized by over capacity?

14 A. I don't know.

15 Q. Is U S WEST operating in a downward portion
16 of the demand curve?

17 A. All demand curves are downward sloping as
18 far as I know.

19 Q. Is it output reduced?

20 A. Is it output --

21 Q. Reduced.

22 A. Reduced? This may be a case where lawyers
23 and economists aren't speaking the same language. I
24 don't know what that means.

25 Q. If we turn to Exhibit 21, I believe that's

00159

1 the exhibit that's your article.

2 A. Yes.

3 MR. OWENS: 22 is the article.

4 A. I do not have a copy of that in this
5 binder.

6 MR. OWENS: (Handing to witness.)

7 A. What page of this are you referring to?

8 Q. Page 19.

9 A. Yes.

10 Q. There's a statement in the middle paragraph
11 towards the end of it. "For one thing there are the
12 external costs of excess capacity imposed by the
13 private supplier on the last resort supplier. For
14 another if the common carrier is operating on a
15 downward sloping portion of the demand curve in the
16 specific market in which the traffic is being lost
17 then the reduced level of output will result in a
18 higher average cost of serving the remaining
19 customers."

20 A. That's a mistake. This thing has been in
21 print 16 years and nobody has ever pointed that out to
22 me. That should say downward sloping portion of the
23 cost curve not the demand curve. I would have to send
24 a note to the editor of the journal and criticize them
25 for not catching my mistake. I was talking about the

00160

1 cost curve. No wonder you were confused. Well, I've
2 been waiting for 16 years to catch that mistake I
3 planted in the article.

4 Q. Are you aware of any telecommunications
5 market in which as characterized in the United States
6 -- which is characterized by over capacity?

7 A. Am I aware of any specifically, no, I can't
8 say that I am.

9 Q. You have cited the Illinois Commission as
10 being one of the most if not the most progressive in
11 terms of deregulation of regulatory reform; is that
12 correct?

13 A. Yes.

14 Q. A review of your testimony indicates that
15 for ten years Illinois Bell has been receiving the
16 benefits of regulatory reform; is that correct?

17 A. They and the citizens of Illinois, yes.

18 Q. Has this reform resulted in a local
19 exchange market being competitive?

20 A. Not yet, no. I think they're getting ready
21 for it. That's why I used the term progressive. I
22 mean laying the ground work, making the reforms that
23 are necessary for competition to proceed and develop
24 fully.

25 Q. Does that suggest that in Washington state

00161

1 we have ten years before that will happen?

2 A. No, it does not. I don't think it will
3 take ten years.

4 Q. It hasn't happened yet in Illinois?

5 A. It hasn't happened yet in Illinois, that's
6 right.

7 Q. Are you aware of the complaint that MFS
8 Intelenet filed against Illinois Bell for its refusal
9 to provide MFS Intelenet of Illinois with the same
10 arrangements it provides to other LECs?

11 A. I'm only aware that such a complaint
12 exists. I'm not aware of the complaint itself.

13 Q. Are you aware of what the Commission
14 decided in that case?

15 A. I am not.

16 MR. RINDLER: I have no further questions.

17 JUDGE ANDERL: Thank you. Ms. Proctor,
18 still no questions?

19 MS. PROCTOR: Still no questions.

20 JUDGE ANDERL: Ms. Lehtonen.

21 MS. LEHTONEN: No questions.

22 JUDGE ANDERL: Mr. Mutschelknaus.

23 MR. MUTSCHELKNAUS: I have a couple of
24 questions.

25

1

CROSS-EXAMINATION

2 BY MR. MUTSCHELKNAUS:

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Q. Good afternoon, Dr. Harris. Just a couple

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of questions. Referring to your rebuttal testimony on

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pages 45 and 46, you dedicate that portion of your

6

rebuttal testimony to responding to the direct

7

testimony filed by Mr. Gillan on behalf of

8

Interexchange Access Coalition which Mr. Gillan

9

discussed or criticized the company's pricing of local

10

transport service. Do you recall that?

11

A. Yes.

12

Q. And you respond here by criticizing Mr.

13

Gillan, and at the very bottom of page 45 and at the

14

top of page 46 you say that he "ignores the reality of

15

the marketplace and the implications of economies of

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scale and scope." Can you tell me specifically what

17

reality of the marketplace you had in mind?

18

A. I am only saying that if there are

19

instances in which one customer carrier of a local

20

exchange carrier has inherent in their business

21

operations, due to the array of customers they serve,

22

the services they offer, the way they've engineered

23

their network, has a cost advantage over a second

24

customer carrier of U S WEST, it would be wrong to

25

require U S WEST to somehow price its services to

00163

1 those two customer competitors in such a way as to try
2 to eliminate that competitive advantage. That's what I
3 meant to say.

4 Q. Did you read Mr. Gillan's testimony as
5 stating that costs differences should not be allowed
6 to be passed through in rates?

7 A. No.

8 Q. In fact his testimony was that the company
9 shouldn't be permitted to discriminate in the level of
10 contribution design. Isn't it?

11 A. Yes.

12 Q. In that case how is it -- where is the
13 efficiency question in that? Isn't that an arbitrary
14 allocation?

15 A. It's an arbitrary allocation as according
16 to the economist, if you use fully distributed cost
17 for that. It's not arbitrary if you base it upon
18 prevailing market conditions, no. That's the
19 difference between common cost allocation based upon
20 market demand as opposed to one based upon an
21 arbitrary accounting rule.

22 Q. What do you mean by market forces? Do you
23 mean the ability of one customer to have more
24 bargaining power than the other customer?

25 A. Yes, that would be one possible factor, not

00164

1 the only one.

2 Q. Is that the economy of scale you're
3 referring to there?

4 A. No.

5 Q. What's the economy of scale?

6 A. For example, in this instance how much
7 traffic is moving between a given customer location
8 and a point of presence of a long distance carrier.

9 Q. Have you examined what economies of scale
10 in fact exist in the transport market?

11 A. No.

12 Q. So where do you get that from? I mean,
13 you're stating in line 6, "given that there are
14 real economies of scale in the scope of providing
15 services" -- and I assume you're referring to
16 transport service?

17 A. I am.

18 Q. What do you base that statement on?

19 MR. OWENS: Your Honor, there are two
20 questions there combined with an assumption. I would
21 ask that counsel ask one question at a time.

22 MR. MUTSCHELKNAUS: Fine. I will back off.
23 I'm just asking on line 6, Dr. Harris says that there
24 are real economies of scale or scope, and what does he
25 base that statement on.

00165

1 A. You asked me whether I had done a study. I
2 have not done a study of it. I have simply observed
3 that the unit cost of providing access services over a
4 DSO versus a DS1 versus a DS3 go down markedly with
5 volume. That is a scale economy.

6 Q. You refer to price distortion. It's only
7 -- would you agree with me that it's only a price
8 distortion if the company is precluded from passing
9 through in rates those actual economies that are
10 incurred by the company as opposed to allocation of
11 contribution in rates?

12 A. No. I would say it's a distortion if the
13 efficiency maximizing set of prices for two services
14 are not allowed by regulators because of the effects
15 they would have upon those who pay those rates.

16 Q. Well, has it occurred to you that one
17 portion of transport may be somewhat competitive and
18 another may be a monopoly service?

19 A. Yes.

20 Q. And wouldn't it make sense then that the
21 person who is buying the somewhat competitive portion
22 would have more bargaining power to LEC than the
23 person who has the monopoly portion?

24 A. That could be.

25 Q. Isn't there a role for the regulator

00166

1 in making sure that the customer who has to buy the
2 monopoly portion is treated fairly?

3 A. Yes.

4 Q. When I look down to your line 16 through 19
5 on the same page, page 46 of your rebuttal and you're
6 talking about using demand and competitive factors to
7 determine the markup above incremental cost, are you
8 assuming that this is a fully competitive market, the
9 transport market?

10 A. No.

11 Q. Do you believe that the demand and
12 competitive factors should be the only criteria in
13 determining markup in the transport market?

14 A. No. I think they should be the principal
15 ones but not necessarily the only ones.

16 Q. What are the other ones?

17 A. The Commission might want to take account
18 of instances at which due to differences in the levels
19 of competition it would offset that difference.

20 Q. And in fact looking to the next page, page
21 47 where you lay out examples of other industries,
22 each of those industries is a fully competitive
23 industry, is it not?

24 A. I don't believe the long distance industry
25 is a fully competitive industry yet, no.

00167

1 Q. Is it more competitive than the local
2 access business?

3 A. Yes.

4 Q. And are you aware that there are no
5 competitors to U S WEST in Washington for tandem
6 switching?

7 A. No.

8 Q. You're not aware or you believe that there
9 are?

10 A. I do not know.

11 MR. MUTSCHELKNAUS: Thank you, Dr. Harris.

12 JUDGE ANDERL: Thank you. Mr. Potter.

13 MR. POTTER: I have no questions.

14 JUDGE ANDERL: Mr. Finnigan.

15 MR. FINNIGAN: No questions.

16 JUDGE ANDERL: Mr. Kennedy.

17 MR. KENNEDY: No questions.

18 JUDGE ANDERL: Mr. Ganton.

19 MR. GANTON: My questions have been
20 covered, thank you.

21 JUDGE ANDERL: Thank you very much. Mr.
22 Trotter.

23

24 CROSS-EXAMINATION

25 BY MR. TROTTER:

00168

1 Q. Mr. Harris, did you do any analysis of the
2 average residential bill for U S WEST Washington
3 customers?

4 A. No.

5 MR. TROTTER: Nothing further. Thank you.

6 JUDGE ANDERL: I think that covers all the
7 attorneys. Commissioners, do you have questions for
8 this witness?

9 CHAIRMAN NELSON: Yes.

10

11 EXAMINATION

12 BY CHAIRMAN NELSON:

13 Q. I apologize for having been out part of the
14 time. If these have been asked just go ahead and tell
15 me that you've answered them already. Page 5 of your
16 direct testimony, Dr. Harris. At line 21 you say it's
17 only a matter of time before the cable TV networks are
18 upgraded. Do you have a more specific prediction of
19 the matter of time?

20 A. I think it's likely to begin within the
21 next year in specific instances, like Times Warner is
22 talking about turning it on in Rochester in that time
23 frame. Also in Atlanta I believe is in that time
24 frame. It will begin to happen fairly soon, but if I
25 said at what point is it really becoming more than

00169

1 an incidental situation I would say somewhere in the
2 five-year time frame.

3 Q. And you specifically describe as point-to-
4 point telecommunications. Do you think that the cable
5 companies will be providing switched within that time
6 planning horizon also?

7 A. Yes.

8 Q. At page 8 of your testimony you give us
9 some percentages of density. I just wondered, were
10 these U S WEST figures or are these national figures?

11 A. No. These were national figures, and in
12 fact because I felt a little uncomfortable about using
13 them we didn't have the U S WEST numbers I guess at
14 the time, but in any case now in Mr. Owens' rebuttal
15 testimony there are specific figures for Washington.
16 And they closely approximate these.

17 Q. Thank you. With respect to the policy
18 goals and objectives you start describing at page 12
19 of the supplemental testimony, you enumerate as number
20 one, as a lot of people do, universal service, but
21 then later made quite an emphasis on recommending
22 price deaveraging. Now, don't a lot of people when
23 they talk about universal service mean price
24 averaging?

25 A. I think they do. I don't. I think

00170

1 universal service needs to be redefined. I don't
2 think people like you or I need any kind of a subsidy
3 in our residential access rates. I think we ought to
4 pay a price based on market conditions. Those people
5 who do need a subsidy because without it they would
6 either, A, not be able to afford telephone service, or
7 it would come at some substantial sacrifice, meaning
8 they would have to do without something else, and what
9 percentage of the population that is, I don't know.
10 That's a difficult social judgment we need to make.
11 Is it 15 percent? Is it 20 percent? It's just not
12 100 percent. Now, the factors that would be important
13 in deciding how many people ought to receive a subsidy
14 would be not only their income level but what would
15 the price of the service be in the absence of the
16 subsidy.

17 So I really see there's two parts to the
18 universal service problem. One is based on household
19 income and the other is based upon the high cost of
20 providing service. That by and large is a rural area
21 phenomenon, and I would certainly support policies
22 that took care of those two, but the dollar required to
23 do that is a much smaller amount of dollars than we're
24 spending today effectively because we give that
25 subsidy to everyone.

00171

1 Q. Well, I think it's the high cost places
2 rather than individuals that a lot of people with the
3 substantial rural geography in our states worry about.
4 And so I guess I am concerned about the
5 recommendations about price deaveraging. Short of
6 changing the whole jurisdictional settlements and
7 separations procedures, can you see how a deaveraged
8 in-state system would interact with the rest of the
9 nation? Have you thought through the sort of
10 practical implementation steps?

11 A. Yeah. I think a system that allows prices
12 to go -- at least to cover long-run incremental costs
13 and some reasonable contribution to common costs with
14 the most broadly based tax one can institute --
15 something like a gross revenues tax on all providers of
16 telecommunications services operating in the state --
17 that then would be paid basically to customers who
18 could then spend that, a kind of telephone stamp, if
19 you will, who could use that and the eligibility would
20 be based upon some ratio of the price of service in
21 their area to the statewide average. It would in a
22 sense redo a substantial portion of the deaverage by
23 saying, well, your price is so far above the average
24 you get some subsidy but by paying the subsidy to the
25 end user then the end user could choose which supplier

00172

1 from whom to buy the service so that it would be
2 competitively neutral among providers.

3 Q. Well, we're considering that in other
4 forums, just that kind of proposal. Do your
5 recommendations with respect to price averaging change
6 if you know that U S WEST isn't the sole provider of
7 in-state toll services, that we have two toll
8 providers in the state of Washington? And do they
9 change if you know that so far at least U S WEST has
10 been able to exit some of its rural exchanges?

11 A. Right. I see perhaps a little less degree
12 of urgency in that area than in basic exchange, but I
13 think that the underlying, that is, my understanding
14 or my beliefs about the shape of the underlying cost
15 curves, that it's really -- the loop is the killer, if
16 you will. The length of the loop is the major
17 determinant of the cost of providing access services
18 to a customer, and that varies enormously. If you
19 happen to live in an apartment building in downtown
20 Seattle and you're quarter mile away from a central
21 office switch, that's a very short loop, it's a
22 quarter mile long. The rest of it is building riser
23 cables.

24 If you're out in a rural area and you see
25 some of these really low densities that U S WEST and

00173

1 other independent LECs have, you're talking about
2 running a lot of miles of copper just to serve a very
3 small number of households. So I think that's the
4 imperative, underlying economic imperative for
5 deaveraging. I don't mean to suggest, however, that
6 that means prices are going to go to the level of
7 those costs because I believe that as we move in that
8 direction, if we're smart about it, we can encourage
9 the development of technologies that are inherently
10 much more efficient than running copper twisted pairs
11 to serve those high cost areas.

12 In eastern Europe, for example, where there
13 isn't a wire line network in place in many cases
14 they're using a technology known as stationary
15 wireless because it doesn't have mobility, doesn't
16 have to move around. It's much, cheaper than our
17 cellular system in the U.S. Basically means putting a
18 transmitter in a village or a town, running some wires
19 to nearby areas and using wireless transmission to
20 cover the long part of the distance.

21 I think that the potential for doing that
22 -- also cable of course, if you already have a cable
23 network in rural areas running telephony over that.
24 In other words, we shouldn't look at the costs today
25 using today's technology and say well, somehow we're

00174

1 going to have to come up with that money. I don't
2 think we'll have to. I think there's a way of
3 bringing the costs down, which means either the prices
4 wouldn't have to go as far or we don't need as many
5 subsidy dollars to cover the gap between costed and
6 price.

7 CHAIRMAN NELSON: Thank you. That's all I
8 have for now.

9

10 EXAMINATION

11 BY COMMISSIONER HEMSTAD:

12 Q. Dr. Harris, the term average direct and
13 shared residual costs is used by the U S WEST
14 witnesses, is that a term that is commonly used by
15 economists?

16 A. No.

17 Q. Have you ever heard it before?

18 A. No.

19 Q. Is it your understanding that that term is
20 something different from total service long-run
21 incremental cost?

22 A. It would depend on the specific situation
23 as to whether it was different or not. I believe
24 conceptually it's a very -- it's a first order
25 approximation of total service long-run incremental

00175

1 cost. There might be instances in which it would lead
2 to a different result. That I can't say.

3 Q. How would you describe your understanding
4 of the difference between the two terms?

5 A. I'm not sure because I haven't gotten in
6 deep into the details of the cost mechanism of what
7 definitions of these families of products are used and
8 whether that's the same that I would normally see
9 employed under a TS LRIC approach. If it's a broader
10 definition then you're including costs that wouldn't
11 be included in TS LRIC. If it's a narrow definition
12 you would not be including costs that would be
13 included in a TS LRIC.

14 Q. As I read that testimony, it addresses the
15 difference between cost methodology and a target for
16 pricing. Is that your understanding?

17 A. Yes.

18 Q. And the difference would include how shared
19 and common costs are allocated?

20 A. Yes.

21 Q. Is there a methodology or a formula by
22 which a neutral or third party would be able to
23 determine how those should be allocated?

24 A. If I'm correct in my assessment of what
25 difference there may be then the way to evaluate

00176

1 whether that is a significant difference as opposed to
2 an academic difference, so to speak, would be to look
3 at the definition of the family groups that are
4 included for the purposes of sharing a residual. If
5 that's too broad a definition, if it includes products
6 that don't really have a set of common cost that are
7 not caused by any one of them but are in fact caused
8 by that group of products and no other, then the scope
9 of that family of products should be reduced and the
10 amount of cost that go into shared residual would
11 likewise be reduced.

12 Q. Is the definition of families again
13 something that is intuitive or is that a fairly
14 subjective?

15 A. In this instance it has nothing to do with
16 the likeness of the products from a market or demand
17 point of view but from a cost causality point of view.
18 I mean, in a simple case like in the answer I gave to
19 an earlier question, if there's three products or
20 features that can be purchased with one piece of
21 software and it's not possible -- there is no software
22 available on the market to provide any one of them,
23 you can only buy three -- there's a very clear-cut
24 question. I dare say that's an open and shut case.
25 Unfortunately it won't be all that easy. Even if I

00177

1 say there's a third party way of evaluating it's going
2 to require some judgment, and reasonable people can
3 differ but it's not beyond the realm of possibility
4 either. That's why you would ask what is it about the
5 way those costs are incurred for those group of
6 products that caused you to share that residual among
7 them. Make sense or doesn't make sense.

8 Q. Changing the subject to the issue of bill
9 and keep versus U S WEST proposal which -- I'm not
10 sure of the shorthand way to refer to it -- measured?

11 A. An interconnection charge of some kind.

12 Q. What is your understanding of how that
13 interconnection charge would be measured or
14 determined?

15 A. It would be determined on a minute of use
16 basis by measuring equipment to the installed by U S
17 WEST and presumably by the AECs.

18 Q. And on the terminating side only or on both
19 sides?

20 A. No. I think my memory is correct, Mr.
21 Owens could give you a more assured answer. I believe
22 the capacity exists on the originating side now. It's
23 only on the terminating side that the additional
24 investments is required.

25 Q. And as I recall from that testimony, that

00178

1 software will be available by the end of this year so
2 it will be measured on both sides?

3 A. No. I believe that would only measure the
4 traffic that the U S WEST is delivering to the AEC,
5 but again I'm not certain of that.

6 Q. Well, I'm trying to get to the ultimate
7 question here. The argument is made that bill and
8 keep is a system that is not symmetrical or is
9 asymmetrical, and it can advantage or disadvantage one
10 -- either U S WEST on the one hand or the competitive
11 provider on the other depending on whether there is an
12 imbalance in originating versus terminating traffic.
13 Isn't there going to be, at least perhaps in a
14 different way, an imbalance using the other method
15 too?

16 A. No, I don't think so. Either because the
17 measurement technology that U S WEST is installing is
18 capable of measuring it in both ways or because an AEC
19 can install the same or similar acceptable adequate
20 form of measurement capability. I would point out if
21 I could that when we're talking about measuring
22 traffic we measure it not merely for pricing it. We
23 measure it to see how fast it's growing, how much
24 there is of it, how much it fluctuates by time of day,
25 day of week. Telephone company managers, the

00179

1 operations, you know, the ones that actually provide
2 telephone service, as opposed to sit around in rooms
3 and talk to each other, need to know what's going on
4 in their networks, and I think you could probably make
5 a pretty good argument for this kind of measuring
6 equipment in a competitive environment for that reason
7 alone. In any case it's certainly a contributing
8 factor to justify the expense of the measuring
9 capability.

10 Q. I will have to pursue that further with the
11 other witnesses I think. Shifting the discussion to
12 the issue of imputation. I believe it was your
13 testimony that it should be applied only against
14 essential services?

15 A. Yes.

16 Q. Is essentiality something that is
17 comfortably defined?

18 A. The antitrust in essentiality goes back
19 90-some years. The defining case is something like
20 1902 or '3, a railroad case as a matter of fact.

21 Q. In the current contemporary context of
22 telecommunications services?

23 A. Yeah. It requires a showing that that
24 service in fact is essential. Without it, without the
25 so-called monopoly provider making that available to a

00180

1 competitor it would not be economically feasible to
2 compete with that firm.

3 Q. But is that concept then specific to the
4 competitor or is that generic?

5 A. No, because if -- I believe it's generic in
6 the sense that if one firm has an alternative then it
7 must be true that other firms have an alternative.
8 They may not have recognized it. They may prefer to
9 buy from the local exchange incumbent carrier, but if
10 firm A says, well, we're going to provide it ourselves
11 then it must be true that firm B could also do that.

12 Q. So as competitors build local networks over
13 time the definition of what is an essential service
14 would change?

15 A. It certainly will. If I'm right about --
16 or when I'm right I think it's only a matter of timing
17 that wireless and/or either one would be sufficient.
18 If telephony over cable become widely deployed then it
19 can't be true any longer that those copper twisted
20 pairs out there are essential facilities. So that's
21 one of my concerns about excessive unbundling now as we
22 spend a lot of time and effort doing something for
23 really a very short period of time.

24 Q. Pursuing your example, does that mean that
25 if a wireless system is deployed then a wire based

00181

1 competitor would no longer be in a circumstance of
2 demanding access to essential services?

3 A. I think they shouldn't be granted such
4 regulated access.

5 Q. Fine. That's a better way to put it. So
6 the --

7 A. Because that would be an alternative
8 provider of it. You could buy the wireless portion of
9 the wireless service and put that with some switching
10 facilities or whatever rather than just buying loops
11 from the wire line carrier.

12 COMMISSIONER HEMSTAD: That's all I have.

13 JUDGE ANDERL: Commissioner Gillis.

14

15 EXAMINATION

16 BY COMMISSIONER GILLIS:

17 Q. Following up on the topic of imputation,
18 why is imputation for what's defined in your testimony
19 as nonessential services contrary to the notion of
20 balanced competition?

21 A. I just don't believe there's any reason for
22 doing it. There's a cost of doing these things. And
23 if you impose that cost on one firm and you don't
24 impose that cost -- the people who have jobs as cost
25 analysts might like it. But it's hard then -- how

00182

1 do you recover that overhead expense? That's why I
2 think you ought to do it where it's necessary where it
3 serves a specific public policy purpose and try not to
4 go beyond that.

5 Q. But -- I understand the cost associated
6 with the process of imputation. The concept of
7 imputation itself is that a service that's priced
8 above its imputed price is going to lead to some level
9 of duplication or additional capacity where there's an
10 inefficient solution. Would that be right?

11 A. Yes.

12 Q. What you're saying is we're hoping that the
13 market will drive it to its imputed price and it's
14 not necessary to go through the extra expense of
15 measure of that imputation?

16 A. Right.

17 Q. I follow. You made a statement in response
18 to staff counsel this morning that local loops in
19 remote areas are an example of a natural monopoly. Is
20 that your perception? Does it follow from that that
21 access to the incumbent's local loop in a rural area
22 is an essential service where it wanted to be an
23 alternative provider in such a rural area?

24 A. Let me say that my client U S WEST didn't
25 exactly send me here to testify to that fact, but I

00183

1 would have to say yes, it does follow logically.

2 Q. You made a strong statement in your direct
3 testimony that U S WEST should not be -- using your
4 words -- forced to sell unbundled loop services to
5 AECs at subsidized prices. Are there terms and
6 conditions where offering unbundled local loops
7 services would be both more efficient and promote
8 balanced competition?

9 A. I guess I have to allow that there may be.
10 But frankly, you go back to these two questions, this
11 one and the prior one are very closely linked
12 obviously. If it is a natural monopoly then why are
13 we trying so hard to induce competition in that
14 market? What would you have to say? There's going to
15 have to be some cost of unbundling that market.
16 It can't possibly be free. Nothing is. Somehow that
17 entrant has to be bringing something of value that
18 exceeds that. Maybe someone can show me or to you,
19 more to the point, that that exists, but I frankly
20 haven't seen any evidence of it yet. It's a lot about
21 the generic benefits of competition. I understand
22 those when the market is not a natural monopoly but
23 nobody has shown to me what those benefits of
24 competition are when it is a natural monopoly.

25 Q. If prices were deaveraged would the rate of

00184

1 -- in your opinion would the rate of competitive entry
2 differ from the situation where we are today with
3 average pricing?

4 A. I think it would be more even, more spread
5 out. Less focused on those customers where under the
6 current average rates there's the largest difference
7 between price and cost.

8 Q. Be less focused?

9 A. Yes. Well, and/or you would see different
10 entrants following -- having different foci. That is,
11 attacking different segments of the market because
12 they decide they want the reputation of being the new
13 residential local exchange provider.

14 Q. Well, assuming that U S WEST would be a
15 new entrant responding to the same pricing
16 opportunity, price signals, does U S WEST have any
17 more incentive to invest in areas where costs are
18 higher, relative return, than a would be entrant?

19 A. Strictly speaking, I guess they don't, but
20 they do have certain obligations. This Commission
21 would, I suspect, call them to account if they simply
22 said, you know, we don't really make any money there
23 so we have these customers calling up wanting phone
24 service but we don't want to do it. We're not going
25 to provide it. I suspect you folks would come down

00185

1 pretty hard on them. Now, if on the other hand, you
2 pass these rules with things like bill and keep, I
3 would advise U S WEST to make investments all right.
4 I would advise them to run some fiber up to Everett
5 and serve their big Boeing facility up there. Run
6 some fiber up to Redmond and serve the Microsoft
7 facilities. Whatever rules you adopt for alternative
8 carriers they're going to be an alternate carrier
9 outside of their existing territory, so, yeah, they
10 will invest but they will invest following the same
11 pattern that the other AECs are investing where
12 there's a lot of money to be made.

13 Q. And that's what they're doing today; is
14 that right? The incumbent telephone company and the
15 would be entrants are after the same markets
16 essentially today?

17 A. Except that they have very different
18 obligations to serve. One has it and the other ones
19 really don't.

20 Q. But take that away for a second and where
21 the competitive market would deaverage prices, the
22 incumbent providers such as U S WEST and the new
23 entrant would still have an incentive to pursue those
24 markets that are of the highest growth and potential
25 profit in the future?

00186

1 A. Yes. I think that's right. If we don't do
2 something about those high cost areas -- we tore up a
3 lot of railroad branch lines. We terminated a lot of
4 airline service. We've gone through that process in
5 each regulated industry. If we have not come up with
6 an alternative funding mechanism lots of communities
7 have lost service, and I sure hope telephone isn't one
8 of them.

9 Q. Which brings me to railroad. The question
10 on railroad is, is there a functional concept similar
11 to interconnection in the rail business?

12 A. There is. It's called reciprocal switching
13 and they have it in Canada and they don't have it in
14 the United States except in limited instances where
15 there have been mergers there have been merger
16 applications. In the good old days we still had an
17 ICC then -- we all know we're not going to have an ICC
18 after September 30th -- it was quite common for the
19 ICC to impose reciprocal switching joint trackage
20 agreements, which are very analogous to the kind of
21 things we're talking about here, as a condition of
22 approving the merger, yes. So railroads can in those
23 instances use each other's lines rather than having to
24 build their own, and in fact I just consulted to
25 Southern Pacific in the current merger between the

00187

1 Burlington Northern and Santa Fe and Southern Pacific
2 was able to negotiate such provisions including access
3 to the ports north of Seattle, and what they gave up
4 in return was they didn't challenge the Commission at
5 the ICC, so, yeah, there are definite analogies there.

6 Q. Just an observation. It appears to me that
7 the market solution that was facilitated by lighter
8 touch regulation was essentially mergers and
9 acquisitions. Some say we're going to be down to four
10 class one railroads in a few years, which I guess is
11 one solution to interconnection. But my question for
12 you is, do you have any basis? You may not, but just
13 out of the air do you see similar trends that might
14 follow in the telephone industry as a result of a
15 lighter regulatory touch and allowing more market
16 forces to work? Seen it in rail, seen it in air, in
17 trucking to a lesser extent?

18 A. I think we'll see a degree of industry
19 consolidation, yes. I think most customers not even
20 for just local and long distance but as the FCC is
21 predicting 60 million wireless telephone users, I
22 mean, the idea of having a different supplier for a
23 cellular phone and a different supplier for paging and
24 a different supplier for local service and a different
25 supplier for long distance service, that's not the way

00188

1 the market is served. I teach a course in telecom
2 strategy and having industry execs come in from
3 various firms and they're all pointing to one
4 capability, which is the capability to offer to the
5 customer not necessarily to produce themselves. It
6 may be produced by a combination of firms but to offer
7 to the customer a one stop shopping. One source of
8 most -- never literally all but most of their
9 communications needs.

10 The big advantage of that is that they can
11 be integrated to work together, so we don't have to
12 have five by seven business cards to include all of
13 our phone and fax numbers on them. We can maybe have
14 one number and somehow that system, that supplier will
15 sort out what kind of message is coming in and what
16 ought to be done with it.

17 Q. Thank you.

18 JUDGE ANDERL: Dr. Harris, I have a few
19 questions for you.

20

21 EXAMINATION

22 BY JUDGE ANDERL:

23 Q. Assuming for purposes of this question, as
24 U S WEST contends, U S WEST's business customers are
25 charged rates substantially above cost for local

00189

1 exchange service while residential customers are
2 charged substantially below cost. Do you believe that
3 competitors would sink considerable financial
4 resources in competing local networks relying on the
5 assumption that these averaged rates would always
6 exist?

7 A. I would think they would be foolish if they
8 did that. I think it's one of the reasons we need to
9 rebalance the rate sooner because I don't want to see
10 the prospect four or five years down the line where
11 someone comes back in and says, well, gee, you can't do
12 that now. We made all of these investments. You're
13 recontracting on us. We thought you sent out a signal
14 that averaged rates, the current disparate between
15 business and residences, was going to go on forever.
16 At that point, the Commission, a different set of
17 commissioners probably can say well, that was then and
18 this is now. But you would have a very -- a tough
19 situation and an element of unfairness. That's why I
20 point to the Illinois Commission of doing the rate
21 rebalancing and economically rational pricing first
22 before competition has advanced very far. It helps
23 reduce that very problem.

24 Q. Well, following up on that question then
25 how do you think that competitors' entry decisions and

00190

1 service offerings would be affected if rates were
2 deaveraged? Would those firms choose not to enter the
3 competitive local telecommunications market?

4 A. In some cases it might have that effect. I
5 think what it's likely to do, though, instead of or in
6 addition to that is that it would cause them to
7 refocus their entry strategies in a different way to
8 reflect these changed prices, and perhaps serve more
9 differentiated strategies among them.

10 Q. And then turning to the question of mutual
11 compensation for the exchange of local traffic, U S
12 WEST has proposed the mutual compensation with I guess
13 what is called a software solution for measuring
14 terminating minutes?

15 A. Yes.

16 Q. If you could assume that interconnecting
17 parties could agree on a method of mutual compensation
18 that covered the costs imposed upon both carriers for
19 terminating each other's calls and that didn't rely on
20 the expensive measuring or metering or equipment, do
21 you believe that that is something that should at
22 least be considered as an option?

23 A. The greater the expense of measuring then
24 the more I think one ought to look to that solution.
25 My understanding is I think we're talking about a

00191

1 couple of hundred thousand dollars for the state of
2 Washington, and I don't mean to suggest that's not
3 real money, but in the broader scheme of things it's
4 not a real expense.

5 Q. Thank you.

6 JUDGE ANDERL: Mr. Owens, can you give me
7 an estimate on your redirect?

8 MR. OWENS: Probably 20 minutes or so.

9 JUDGE ANDERL: Let's take a break. We'll
10 be back at 3:15.

11 (Recess.)

12 JUDGE ANDERL: Let's be back on the record,
13 please, after our afternoon recess. Mr. Owens, do you
14 want to go ahead with your redirect.

15 MR. OWENS: Thank you, Judge Anderl.

16

17 REDIRECT EXAMINATION

18 BY MR. OWENS:

19 Q. Dr. Harris, the staff asked you to accept
20 subject to check that the Illinois Commerce Commission
21 only recently received the Ameritech proposal for
22 specific tariff charges concerning interconnection.
23 Do you recall that?

24 A. Yes.

25 Q. Does that have any impact on your

00192

1 conclusion with regard to the relative progressiveness
2 of the Illinois Commission approach that you described
3 in your testimony?

4 A. No, because I'm not using progressive in
5 the sense of who is first to authorize competitors,
6 but who is first to make the array of regulatory
7 reforms I've suggested ought be made to both prepare
8 the way for and to facilitate balanced efficient
9 competition.

10 Q. And similarly, does the fact that U S WEST
11 is now operating under an alternative form of
12 regulation have an impact on whether or not the
13 reforms that you described still need to be made?

14 A. No, not at all.

15 Q. There was a couple of questions and answers
16 by counsel for the staff with regard to whether you
17 were aware of the existence of any studies that showed
18 that U S WEST cost to provide residence service was
19 below the current residence price. Do you recall
20 that?

21 A. Yes. I don't recall it in that way. I
22 heard a different question. I heard the opposite
23 relationship between the only studies that I have seen
24 indicate that the price of residential basic access
25 service in Washington for U S WEST, the price is below

00193

1 the cost of providing that service.

2 Q. So do you amend your prior answer to the
3 extent the record shows it's as I said?

4 A. Yes.

5 Q. Counsel for TCG asked you about whether
6 under a hypothetical that there was the minute of use
7 interconnect compensation arrangement that U S WEST
8 has proposed and that an interconnect local exchange
9 company had as its charge an identical charge to that
10 that was in the U S WEST tariff there would be an
11 incentive on the part of that interconnecting local
12 exchange company to solicit or otherwise obtain
13 traffic that would be disproportionately inbound to
14 that company, and you indicated that you didn't
15 understand the logic there. Did you want to amend
16 that answer?

17 A. Yes. I didn't understand the premise. I
18 was operating on the premise that each -- that the AEC
19 would be charging a price based on its cost. Under
20 the assumption that they're charging the same price
21 for terminating local interconnection charges, then it
22 is true that the AEC would have an incentive to market
23 to customers who have a lot of terminating calls,
24 because in that instance the revenues received would
25 much more than cover the cost of terminating those

1 calls.

2 Q. Now, let's also examine a question that
3 counsel for MCI asked you where she asked whether you
4 believed that under a mutual compensation arrangement
5 the AECs should recover their common shared costs. Do
6 you recall that?

7 A. Yes.

8 Q. And taking into account the answer you just
9 gave but changing the hypothetical as to make the
10 traffic volumes equal, and under the assumption
11 further that the AECs' claims that they might be more
12 cost-efficient than the LEC would be supported, would
13 there be any similar incentive from that standpoint in
14 terms of relatively unequal contribution flows to of
15 the competing AEC?

16 A. Yes. If by assumption the AEC has lower
17 costs than the LEC, and the prices are the same then
18 the contribution is higher and so there's therefore
19 that incentive to handle more of that kind of traffic.

20 Q. Counsel for TCG also asked you a question
21 after a series of questions about the computer
22 industry example that you gave in your testimony about
23 industry strategies. I believe he asked you whether
24 you then agreed that computers had nothing to do with
25 your testimony in this case, and you gave an answer

00195

1 and then he followed up saying is that a yes. Do you
2 want to amend that answer?

3 A. I meant to say no for the reason I stated
4 in the prior part of my answer.

5 Q. Counsel for MCI asked you whether or not
6 you would prefer that U S WEST be price-regulated, and
7 I believe you said yes. Are there any conditions to
8 that?

9 A. Conditions that rates be rebalanced as a
10 starting point, initial rates for price regulation.
11 Otherwise the price regulation is going to only make
12 matters worse.

13 Q. Counsel for MCI also asked you a series of
14 questions about comparing your analysis of industry
15 strategy with the juxtaposition of a Burger King and a
16 McDonald's at the same street corner across from one
17 another. Do those questions and your answers have
18 anything at all to do with your testimony about entry
19 strategy?

20 A. No, they don't relate to entry strategy.
21 Burger King is not a new firm entering the market. It
22 hasn't been for a long time. When it did, when the
23 new emerging competitors to McDonald's entered the
24 market they didn't build their stores next door to
25 McDonald's. They built them in places where

00196

1 McDonald's weren't at the time. As that industry
2 became mature and the geography became more saturated
3 then now they're head to head competitors and they do
4 very frequently place their outlets next to each
5 other.

6 Q. Similarly, with regard to that same
7 subject, and the testimony in your direct and your
8 cross-examination about cream skimmers, did you mean
9 to suggest that cream skimmers are bad?

10 A. No, not at all. It's rational business
11 strategy. Businesses should do what will serve their
12 long run interest. If they don't serve their
13 customers they wouldn't serve their long run
14 interests. They have a fiduciary responsibility to
15 their shareholders to make money. That's why I
16 suggested if this Commission adopted rules that
17 encourage cream skimming those are bad rules. Saying
18 the rules are bad is not the same thing as saying
19 people that take advantage of opportunities in the
20 marketplace are bad. That's why I suggested I would
21 advise U S WEST to go after Microsoft or Boeing or
22 whomever to try to take advantage of those rules.

23 Q. Counsel for MCI also asked you whether U S
24 WEST had historically kept track of the traffic it
25 exchanges between its own switches and those of

00197

1 independent telephone companies pursuant to EAS, and
2 you answered no. Are you aware of anything that would
3 in the future affect whether U S WEST would or could
4 continue that practice?

5 A. I am aware that U S WEST has committed
6 itself as a matter of corporate policy to ending bill
7 and keep even in those cases where it's implemented it
8 historically, as in EAS arrangements, for pretty much
9 the same reasons. It doesn't make any sense for AECs,
10 it doesn't even make any sense as a, quote,
11 compensation, unquote, mechanism among LECs.

12 Q. Counsel for MCI also asked you a question
13 about whether if a subscriber makes a one plus
14 intraLATA call the revenues for that call, it would go
15 to the intraLATA carrier, and you were later advised
16 to assume that meant U S WEST. In a previous answer
17 you had stated that another way to make that call
18 would include the use of a speed dialer. If the
19 customer used the speed dialer would the revenues
20 necessarily go to US West?

21 A. No. Presumably they would not. If their
22 program is programmed as mine is the first button is
23 10288 so I dial around -- it's an AT&T phone I should
24 point out as well -- because at least for promotional
25 purposes they've offered very substantial discounts

00198

1 for Pac Bell for intraLATA calling, so of course I
2 press that one button instead of the button that has
3 a 1 on it.

4 Q. And finally, Commissioner Gillis asked you
5 a question and I believe you responded in terms of
6 your perception that there was a reduction or
7 potential future reduction in the number of providers
8 in the telecommunications marketplace as customers
9 demanded one stop shopping kind of approach to the
10 provision of a basket of services. Have you seen
11 anything on the landscape that indicates that in fact
12 this is happening as we sit here today?

13 A. Yeah. Absolutely. Certainly AT&T and MCI
14 and Sprint are pursuing a strategy along those lines.
15 An attempt to integrate, provide wireless and local
16 and long distance services, a real array of
17 communications services. I think that's very healthy.
18 I think that's a very good sign. I don't worry that
19 it's going to collapse down to such a small number of
20 firms that there won't be competition. I think there
21 will be very healthy competition, but it will probably
22 be among a smaller number of firms than exist today in
23 the marketplace.

24 Q. Thank you.

25 MR. OWENS: Nothing further on redirect.

00199

1 JUDGE ANDERL: Thank you. Mr. Trautman.

2

3 RE CROSS-EXAMINATION

4 BY MR. TRAUTMAN:

5 Q. I have one question and perhaps a
6 follow-up. When you were discussing the definition of
7 the ADSRC in response to Commissioner Hemstad's
8 question you talked about looking at a definition of
9 the family of costs that are shared. Do you mean that
10 if costs are shared among a family of services that
11 you would want to know which services are grouped in
12 the family that shares those costs?

13 A. Yes.

14 Q. So would you want basically a matrix of the
15 functional costs categories that would show which
16 services share which costs?

17 A. That would be one way of doing it.

18 Q. Have you done that?

19 A. No.

20 MR. TRAUTMAN: That's all. Thank you.

21 JUDGE ANDERL: Mr. Waggoner.

22 MR. WAGGONER: Nothing.

23 JUDGE ANDERL: Ms. Weiske.

24

25 RE CROSS-EXAMINATION

00200

1 BY MS. WEISKE:

2 Q. Dr. Harris, is it possible that long, less
3 dense loop provision is a natural monopoly provision
4 but switching is not a natural monopoly?

5 A. Yes.

6 Q. And you were just asked that question by
7 Mr. Trautman about a matrix. Are you familiar with
8 any of the proceedings in Oregon relating to U S WEST?

9 A. No -- I'm testifying in one, I guess, so I
10 better at least be moderately knowledgeable about it.

11 Q. Are you familiar with any orders in Oregon
12 that might order a matrix to be provided by U S WEST?

13 A. I haven't seen that exact term, no.

14 JUDGE ANDERL: Mr. Butler.

15

16 RE-CROSS-EXAMINATION

17 BY MR. BUTLER:

18 Q. Dr. Harris, you testified just a moment ago
19 in response to Mr. Owens's questions that you thought
20 that pursuit of a one stop shopping strategy was
21 healthy. Does that mean that you think that the
22 availability of a one stop shopping source of supply
23 is good from an end user standpoint?

24 A. Yes.

25 Q. If you believe that is true, does that mean

00201

1 that you would support a requirement by this
2 Commission for the development and deployment of a
3 service provider number portability in Washington
4 state at the earliest possible time?

5 A. Yes.

6 Q. Thank you.

7 JUDGE ANDERL: Mr. Rindler, any recross?

8

9 RECCROSS-EXAMINATION

10 BY MR. RINDLER:

11 Q. Dr. Harris, talking about Illinois again.
12 Did Illinois hold off approving local competition
13 until it got the reforms that you think need to be put
14 in place in place?

15 A. No, I wouldn't say that it did, but it
16 didn't even have the opportunity to address the issues
17 until many of the reforms were well done.

18 Q. Didn't have the opportunity because nobody
19 applied?

20 A. Right.

21 JUDGE ANDERL: Mr. Mutschelknaus, any
22 cross?

23 MR. MUTSCHELKNAUS: No further questions.

24 JUDGE ANDERL: Let's see. Mr. Trotter,
25 anything else?

1 Commissioners, anything else for this
2 witness?

3 Thank you, Dr. Harris, for your testimony.

4 You may step down. U S WEST's next witness.

5 MR. OWENS: Mr. Jeffrey Owens.

6 JUDGE ANDERL: Before he takes the stand
7 let me get then to the rulings on the motions since we
8 will need to know what we're marking as testimony. On
9 the motions to strike by ELI, the Commission has
10 considered ELI's motion and finds it well taken.
11 Mr. Butler's arguments with regard to the relevancy
12 and the hearsay on it are accepted and that portion of
13 the testimony will be stricken and not considered.

14 With regard to the motion to strike by MCI,
15 the Commission denies that motion and feels -- well,
16 the testimony submitted is proper as rebuttal.
17 However, MCI's witness will be allowed to respond to
18 it orally on the stand. I will take a moment off the
19 record while we get Mr. Owens's testimony. His
20 prefiled direct has already been marked as Exhibit
21 T-10 and his exhibits after that are Exhibits 11
22 through 19. We'll go off the record and identify the
23 other pieces.

24 (Recess.)

25 JUDGE ANDERL: Let's be back on the record.

00203

1 While we were off the record Mr. Owens took the stand.
2 Whereupon,

3 JEFFREY D. OWENS,
4 having been first duly sworn, was called as a witness
5 herein and was examined and testified as follows:

6 JUDGE ANDERL: We previously identified Mr.
7 Owens' direct testimony as Exhibit T-10. His Exhibits
8 JDO-1 through 9 are Exhibits 11 through 19, and on
9 rebuttal, his testimony is Exhibit T-32. His Exhibit
10 JDO-1 is a confidential exhibit. It's Exhibit C-33.
11 His Exhibit JDO-2 is Exhibit 34. His Exhibit JDO-3 is
12 a confidential Exhibit, it's Exhibit C-35. Exhibit
13 JDO-4 is Exhibit 36. JDO-6 is Exhibit 37. JDO-7 is
14 Exhibit 38. JDO-5 was the one that was subject to the
15 motion to strike and is therefore not identified as an
16 exhibit since that motion was granted.

17 (Marked Exhibits T-32, C-33, 34, C-35, 36,
18 37 and 38.)

19 JUDGE ANDERL: Mr. Owens, go ahead.

20

21 DIRECT EXAMINATION

22 BY MR. OWENS:

23 Q. Mr. Owens, please state your name and
24 address for the record.

25 A. My name is Jeff Owens. My address is 1600

1 Bell Plaza, Seattle, Washington.

2 Q. And are you the same Jeffrey D. Owens who
3 has caused to be prefiled in this docket documents
4 purporting to be Exhibit T-10 and Exhibits 11 through
5 19 consisting of your direct testimony and exhibits?

6 A. Yes.

7 Q. And also Exhibits T-32, Exhibits C-33,
8 Exhibit 34, Exhibit C-35 and Exhibit 36, 37 and 38?

9 A. Yes.

10 Q. And were these exhibits all prepared by you
11 or under your direction and supervision?

12 A. Yes, they were.

13 Q. Do you have any additions, corrections or
14 changes to make to any of these exhibits?

15 A. Not to these exhibits, no.

16 Q. If I were to ask you the questions that are
17 printed on Exhibits T-10 and Exhibit T-32
18 respectively, would your answers be as set forth
19 therein?

20 A. Yes.

21 Q. Are the references to the Exhibits T-11 and
22 Exhibits C-33, 34, C-35 and 36 through 38 those
23 numbers that should be substituted within the text of
24 your testimony exhibits respectively?

25 A. Yes.

00205

1 Q. Thank you.

2 MR. OWENS: I would offer the exhibits that
3 have been pre-identified consisting of T-10, 11
4 through 19, T-32, C-33, 34, C-35 and 36 through 38 and
5 Mr. Owens is available for cross-examination.

6 JUDGE ANDERL: Thank you. Is there any
7 objection to those previously identified exhibits
8 being made a part of this record?

9 Hearing no response I will admit those
10 exhibits as identified. Mr. Smith.

11 (Admitted Exhibits T-10, 11 - 19, T-32,
12 C-33, 34, C-35, 36 - 38.)

13

14 CROSS-EXAMINATION

15 BY MR. SMITH:

16 Q. Mr. Owens, page 6 of your direct testimony
17 you discuss the differences between new local exchange
18 companies and the incumbents. Is another difference
19 between some of the new local exchange companies and
20 U S WEST the fact that the Commission has found that
21 those companies are competitive telecommunications
22 companies?

23 A. I'm not familiar with their specific
24 classification by the Commission.

25 Q. So you are unaware of whether the

1 Commission has classified any of the new ALECs as
2 competitive telecommunications companies?

3 A. I believe that to be true.

4 MR. OWENS: Excuse me. You believe that
5 you're unaware?

6 JUDGE ANDERL: Can you clarify that?

7 THE WITNESS: I believe that's the
8 classification. I'm not certain what that implies.

9 Q. At page 9 of your direct testimony on lines
10 9 and 10 you state, "the rates U S WEST communications
11 will soon propose in its 1995 rate case will represent
12 an initial step in this process." And you're
13 referring there to the change in the company's rate
14 structure to bring it into alignment with the
15 competitive marketplace. Now, you're referring there
16 to docket No. UT-950200; is that correct?

17 A. Could you give me a line number? I'm not
18 -- page 10 of my direct?

19 Q. Right. Lines 9 and 10, last sentence.
20 Excuse me. Page 9, lines 9 and 10.

21 A. I believe that's true, yes.

22 Q. And if the rates to be proposed in the rate
23 case are the initial step in the process, can you tell
24 us what the next step will be?

25 A. My understanding is that in that rate case

00207

1 we propose a series of changes over time not just the
2 initial rates that would go into effect but rates that
3 would change a year after.

4 Q. So you're not talking about anything beyond
5 the proposal in the rate case to phase rates in over
6 four years?

7 A. Well, I say that the rates we're proposing
8 are initial step in the process. So what I was
9 referring to as the initial step in the rate case is an
10 initial step but the rate case also provides for
11 additional steps as well.

12 Q. Page 14 of your direct testimony at the top
13 you discuss a proceeding in the state of Maryland, and
14 phase 2 of that proceeding in which the Maryland
15 Commission will determine the reasonableness of the
16 6.1 cents per call charge has not been decided yet; is
17 that correct?

18 A. Not that I am aware of.

19 Q. Are you aware of the Maryland hearing
20 staff's position on the 6.1 cent per call contribution
21 charge?

22 A. No, I'm not.

23 Q. Are you aware of their position on bill and
24 keep in phase 2?

25 A. No, I'm not.

1 Q. Are you aware of their position on flat
2 rated ports?

3 A. No.

4 Q. In regard to your rebuttal testimony at
5 page 36 where you indicate that the New York Commission
6 has rejected the bill and keep procedure, do you know
7 whether the flat rated ports option has been rejected
8 by the New York Commission?

9 A. I believe they've accepted it as an interim
10 measure. That's my recollection.

11 Q. Moving back to your direct testimony, page
12 19 -- I don't know that you need to refer to it but
13 you discuss the notion of traffic being in balance
14 there. And you indicate that in your opinion, balance
15 is an unlikely event, is that correct, a balance of
16 traffic?

17 A. That's correct.

18 Q. Would it be possible to have each party,
19 meaning an ALEC and an incumbent LEC, report the
20 number of local minutes originated and if there is a
21 substantial imbalance to arrange for a net payment of
22 the flat rate each month?

23 A. Seems to me that that would be even more
24 complex mechanism than measuring the traffic and
25 rendering bills each month based on that measurement.

00209

1 Given the likelihood that the amount of traffic
2 between U S WEST and any particular AEC will vary much
3 more significantly, I believe, each month than the
4 traffic, for example, between U S WEST and an
5 independent, I think it would be appropriate to
6 measure the traffic each month than to render bills on
7 that basis.

8 Q. U S WEST presently measures originating
9 traffic, is that correct, originating minutes?

10 A. Yes, that's correct.

11 Q. Under a system of mutual compensation such
12 as the one proposed by U S WEST, wouldn't the new LECs
13 have an economic incentive to target customers who make
14 more incoming calls than outgoing calls?

15 A. They may have such an incentive, yes, just
16 as they would have an incentive under a bill and keep
17 arrangement to target customers who originate a great
18 deal of calls that terminate on U S West's network.

19 Q. With incoming calls they avoid paying
20 access charge; is that correct?

21 A. Under what scheme?

22 Q. Under a mutual compensation scheme such as
23 the one proposed by the company.

24 A. Under calls inbound to an AEC?

25 Q. Yes.

00210

1 A. Under calls inbound to an AEC from U S
2 WEST, U S WEST would pay the AEC terminating access.

3 Q. Now, in response to a data request made by
4 the staff to the company, which is No. 62B, the
5 company forecasts that by 1997 the new LECs will have
6 gained a 20 percent share of the residential market
7 and a 30 percent share of the business market. Do you
8 recall that response?

9 A. Yes. I've reviewed that response.

10 Q. And you are recommending that an interim
11 universal service charge apply until among other
12 things the new LECs serve similar proportion of
13 business to residential customers as does U S WEST.
14 Is that correct?

15 A. That's correct.

16 Q. What is U S WEST's mix of residential and
17 business customers?

18 A. I believe the number is just under three,
19 three to one. Three residents to one business.

20 Q. So would that mean that the interim
21 universal service charge is going to be in place at
22 least through 1997 under your projections?

23 A. Not necessarily. If an AEC made a
24 commitment to serve both residents and business
25 customers in the same general geographic area that U S

00211

1 WEST serves, say the Seattle market, then the interim
2 universal service charge would not apply to such an
3 AEC.

4 Q. Are you saying that a commitment is all
5 that was required and that the actual ratio of
6 residential to business customers would not have to
7 match U S WEST prior to the lifting of the USC?

8 A. We would want it -- in our view we would
9 like to see some evidence that they're actually going
10 to serve a comparable ratio and that the ratio of
11 customers, the types of residence customers would be
12 comparable. For example, that they would serve a
13 similar number of lifeline customers. This is the
14 same kind of arrangement that the New York Commission
15 has established with AECs in New York where they have
16 granted essentially a waiver of the equivalent interim
17 universal service charge to MFS but have denied that
18 waiver to ACC. In the one case MFS made a commitment
19 to serve the residence customers. In the other it's
20 my understanding that ACC did not make a similar
21 commitment. They're concentrating on the business
22 marks.

23 Q. Can you tell us today what level of
24 commitment will satisfy this condition for lifting the
25 universal service charge?

00212

1 A. A commitment to serve a comparable ratio of
2 business and residence customers in a similar
3 geographic area.

4 Q. And would the company be the sole decider
5 of whether that commitment was sufficient?

6 A. I would presume the Commission would have a
7 very keen interest in making that determination.

8 Q. So if there was some dispute as to whether
9 the commitment were good enough -- some dispute
10 between the company and a new entrant -- that would
11 come before this Commission could be resolved?

12 A. Yes.

13 Q. Are you aware of any evidence today to the
14 effect that local traffic between an incumbent Bell
15 operating company and an ALEC is out of balance based
16 upon actual data?

17 A. No, I have not seen any actual data.

18 Q. In your rebuttal testimony on page 19,
19 beginning at line 9 you described GTE's Tele-Go
20 service which they provide in several cities and on
21 the island of Maui. Is that correct?

22 A. Yes.

23 Q. Are you aware of the portability technology
24 which enables this geographic end service portability?

25 A. No. Now, this is based on an article that

00213

1 I read on the service.

2 Q. So that's something presumably GTE knows
3 about but you have no knowledge yourself?

4 A. That's right.

5 Q. A minute ago you mentioned the commitment
6 required in New York for new LECs to provide lifeline
7 service in order to avoid their universal service
8 element in that state. Are you aware that in this
9 state new local exchange companies as a condition of
10 entry are required to contribute to the universal
11 service fund lifeline, the telephone assistance plan
12 and the telephone relay system for the deaf?

13 A. I'm not familiar with that.

14 Q. Do you know who provides the telephone
15 relay system services in the state of Washington, what
16 telephone company?

17 A. I want to say AT&T but I could be corrected
18 on that.

19 Q. Page 44 of your rebuttal testimony, line 5,
20 you state that "an LEC should not have to unbundle all
21 of the elements recommended by Dr. Cornell because
22 that would allow a new entrant to provide a facility
23 for a time and then abandon it and its costs with the
24 LEC when it is prepared to provide that facility for
25 itself." Do you see that testimony?

00214

1 A. Yes.

2 Q. Would not your concern about abandonment be
3 addressed through contract with the new LEC to deal
4 with the situation of one party abandoning the
5 service?

6 A. You're suggesting that if we do unbundling
7 that unbundling be done pursuant to a five-year
8 contract for each element?

9 Q. No. I'm saying couldn't contractual terms
10 deal with the problem of abandoned plan that you
11 referred to in that portion of your testimony?

12 A. I'm not sure how you would do that. If we
13 constructed a loop, for example, to serve a customer
14 on behalf of an AEC and the AEC were to later
15 construct its own loop, I would presume that that that
16 loop would be abandoned. Similar approach would
17 result to some of the other elements that Dr. Cornell
18 proposes to be unbundled.

19 Q. And would it be possible for the company to
20 contract with the new LEC for compensation in the
21 event of abandonment to compensate for that
22 investment?

23 A. Again, I think it would have to be on an
24 element by element basis rather than on a generic
25 basis for all elements.

00215

1 Q. Page 44 of your rebuttal testimony, line
2 11, you discuss, as Dr. Harris did, that AT&T was not
3 required to unbundle the interexchange market. Now,
4 when MCI carries a long distance call, what essential
5 element must it pay for in order to complete a call,
6 say from the east coast to Seattle?

7 A. It depends on the particular call, but if
8 you're talking about a traditional POTS type call.

9 Q. Yes.

10 A. Terminating access charges.

11 Q. So access to the local loop?

12 A. It can be but not in all cases. MCI offers
13 an 800 service and they may be terminating the call
14 directly to one of their 800 customers in Seattle
15 without using U S WEST facilities, for example.

16 Q. But in a traditional POTS call the local
17 loop is an essential part of completing that
18 interchange call; is that correct?

19 A. That's correct.

20 Q. And under the FCC rules that access was not
21 only made available but priced the same to all
22 carriers; is that correct?

23 A. No. I believe there were discounts for
24 nonpremium access so it was not priced the same.

25 Q. Other than that it was priced the same; is

1 that correct?

2 A. Yes.

3 Q. And would you accept that this access to
4 the local loop was all that was required to get the
5 interconnections necessary to provide long distance
6 service at that time?

7 A. No, I would not say that.

8 Q. Was any unbundling required to provide that
9 access?

10 MR. OWENS: Unbundling by whom? I think the
11 question is vague.

12 MR. SMITH: By AT&T.

13 A. No. And that's my point. MCI offered 800
14 service in competition with AT&T, and I don't believe
15 that MCI required AT&T to unbundle its 800 database at
16 the time. MCI deployed its own.

17 Q. On pages 12 to 13 of your direct testimony
18 you discuss four conditions that would have to be met
19 for an alternative exchange company to avoid the
20 interim universal service charge. Now, under your
21 proposal, who would determine whether those four
22 conditions are met?

23 A. We have these conditions in our tariff so
24 U S WEST would review a request to not have them
25 applied and, as we discussed earlier, if there were a

00217

1 dispute, I presume it would be dealt with by this
2 Commission.

3 Q. Now, your first condition is that, "the
4 alternative exchange carrier has a sustained ratio of
5 residence to business customers that is equal to or
6 greater than U S WEST's comparable ratio." What is a
7 sustained ratio in that condition? How long would
8 that be?

9 A. Well, the idea here is to avoid a situation
10 where if our ratio were three to one a carrier were to
11 achieve that ratio by serving a single high rise
12 building in downtown Seattle and achieve the ratio
13 temporarily only to have that ratio decline to a lower
14 number as they begin to concentrate more and more on
15 the business market. So the idea is that, for
16 example, a cable TV company that might provide service
17 initially in a residential area would almost certainly
18 have a sustained ratio of business to residence
19 customers similar to U S WEST.

20 Q. But can you tell us today how long
21 sustained would be to meet that criterion?

22 A. I would think greater than a year.

23 Q. And how would an alternative carrier
24 determine U S WEST's ratio of residential to business
25 customers?

00218

1 A. We would provide that to this Commission.

2 I don't know if I included that as a number in my
3 testimony. If I did it may be a proprietary number.

4 Q. I'm sorry, you would provide that
5 information to this Commission and then the new
6 entrant would have access to it here?

7 A. Yes.

8 Q. And how would the -- how would the
9 alternative carrier verify the company's ratio?

10 A. Through reports we would file with this
11 Commission.

12 Q. Now, you indicated that the ratio would
13 have to be sustained for a year. How often would that
14 condition be retested once it was met?

15 A. I would think no more than annually.

16 Q. So is it possible that an ALEC who met all
17 four conditions at some point in time could be
18 resubjected to the universal service charge when its
19 residential to business ratio fell below U S WEST's?

20 A. Yes. I would like to add that of course
21 our interim universal service charge was called
22 interim for a reason. Under our proposal we would
23 hope to rebalance our rates and to eliminate the
24 interim universal service charge over time, so I would
25 certainly hope that the interim universal service

00219

1 charge would not be something that would be present
2 for a ten-year period, for example.

3 Q. Now, your second condition to avoid the
4 universal service charge is that the AEC providing
5 coverage has a telecommunications common carrier with a
6 similar demographic and geographic penetration as the
7 relevant U S WEST communications exchange.

8 What is meant by the term similar
9 demographic and geographic penetration?

10 A. Well, what we're talking about here is,
11 again, if we're talking about the Seattle market, it
12 would be inappropriate to pick downtown Seattle where
13 all we have are high rise business buildings and say
14 that they have achieved the same business to residence
15 ratio that we have in downtown Seattle. Obviously
16 there's relatively few residential customers in
17 downtown Seattle. What we're talking about is a
18 broader geographic area including the Seattle market.

19 Q. So does geographic penetration refer to the
20 entire Seattle exchange?

21 A. Generally, but if an AEC is serving a
22 portion of the exchange, then we would look at that as
23 well.

24 Q. Now, if they are serving a portion of the
25 exchange, would a residential neighborhood with a

00220

1 lower population density have the same demographics as
2 a residential neighborhood with a higher population
3 density under this criterion?

4 A. I think what we are getting to here with
5 demographics would be the number of lifeline
6 customers. If an AEC were to provide service on
7 Mercer Island, let's say, and attract those residence
8 customers who generate a substantial amount of toll
9 and access revenues and custom calling features but
10 not serve those parts of the Seattle community that
11 may have a higher proportion of lifeline customers
12 that would not be a similar demographic area that U S
13 WEST serves.

14 Q. That requirement is not spelled out
15 anywhere in your testimony, is it?

16 A. No, it's not.

17 Q. And your third condition is that the AEC
18 provides its residence and business services through
19 the use of its own facilities. Now, what facilities
20 are you referring to there?

21 A. Loop and switching.

22 Q. And does it have to be 100 percent of its
23 own facilities?

24 A. To achieve the ratio, yes.

25 Q. I'm sorry, you confused me there. Is this

00221

1 related to the ratio criterion in some way?

2 A. Yes, it is.

3 Q. What's that relationship?

4 A. Well, the relationship would be if the AEC
5 were using U S WEST's loops to reach residence
6 customers then we would not consider that -- those
7 particular residence customers as satisfying the
8 ratio.

9 Q. But that wouldn't be the AEC's own
10 facilities in any event, would it?

11 A. That's right.

12 Q. And as you indicated earlier that as a
13 tariff matter any disputes between the alternative
14 carrier and U S WEST would be brought before this
15 Commission could be resolved; is that correct?

16 A. That's correct.

17 Q. Turn to your rebuttal testimony at page 13,
18 lines 12 through 23. You describe the calculation of
19 the level of the proposed interim universal service
20 charge; is that correct?

21 A. Correct.

22 Q. And I'm interested in understanding how you
23 came up with the confidential number on line 20.

24 A. I'm sorry, you're on rebuttal?

25 Q. Yes.

00222

1 A. Page 13?

2 Q. Yes.

3 A. And the number you're asking about is on
4 line --

5 Q. 20, yes.

6 A. That number represents our estimate of the
7 number of minutes of use that an AEC would terminate
8 on our network from a business exchange line.

9 Q. Would you accept subject to check that six
10 CCS per business line per busy hour would be a typical
11 amount of traffic for which a business switch would be
12 designed to handle?

13 A. It's been sometime since I've dealt with
14 CCS so I would have to accept that subject to check.

15 JUDGE ANDERL: Mr. Smith, CCS?

16 THE WITNESS: Hundreds of call seconds.

17 Q. So that six CCS would mean 600 call seconds
18 or ten minutes; is that correct?

19 A. I believe that's right.

20 Q. So is it possible that busy hour usage
21 might comprise, say, ten percent of the total usage in
22 a day, typical 24-hour day?

23 A. You're saying kind of a duty cycle how
24 often is the phone off hook placing calls?

25 Q. Yes.

00223

1 A. Subject to check.

2 Q. So assuming that's true or accepting it
3 hypothetically, there would be 100 minutes of usage in
4 that hypothetical day; is that correct?

5 A. 100 minutes of use per business line per
6 day?

7 Q. Yes.

8 A. For local call?

9 Q. Business.

10 A. For business local calls?

11 Q. Yes.

12 A. Excluding intraoffice calls? Remember
13 these minutes that we're dealing with here are only
14 those calls that go from an AEC are to U S WEST. They
15 exclude calls that might go from AEC to an
16 interexchange carrier, from an interexchange carrier
17 to an AEC, from one AEC customer to another AEC
18 customer so we have to be careful what minutes we're
19 talking about.

20 Q. It would be the same assumption you used in
21 calculating the minutes per month on line 20.

22 A. Given those assumptions, what is your
23 question?

24 Q. That there would be 100 minutes of usage in
25 that hypothetical 24-hour day?

00224

1 A. I don't accept that, no.

2 Q. If you accept that six CCS means ten
3 minutes, and that the busy hour usage might comprise
4 ten percent of the total usage in a day, then it's
5 just mathematically correct that if ten minutes equals
6 ten percent, 100 minutes equals 100 percent; is that
7 correct?

8 A. Yes.

9 Q. And there are 21 business days in a month;
10 is that correct?

11 A. In some months, yes.

12 Q. And under my hypothetical with the 21
13 business day month that would equal 2100 minutes a
14 month; is that correct?

15 A. Under your hypothetical.

16 Q. And if I changed that number, 2100 minutes
17 for the number on line 20 I would -- the result would
18 be roughly one third of the number you estimate; is
19 that correct?

20 A. Well, you know, I'm not going to go about
21 calculating or revealing proprietary information here,
22 but, you know, one thing I can say to you is this.
23 Couple of things. First of all, if we've got the
24 wrong number here, if we're in business and we measure
25 the traffic and it turns out that the number is

00225

1 incorrect, that they're delivering more minutes or
2 fewer minutes and we're therefore receiving too much
3 or too little interim universal service funding then
4 we'll change the calculation.

5 I think, you know, frankly, we don't know
6 what the number will be because we don't know what
7 customers they will be serving, in what markets, and
8 so I'm not suggesting that that number is cast in
9 concrete. However, I do think that the number that
10 you're coming up with is substantially overstated
11 because I don't think that you're looking at the
12 various types of calls that an AEC business customer
13 might place, not all of which are going to be hit with
14 an interim universal service charge.

15 Q. But we don't know until after that traffic
16 is actually measured, as you indicated; is that
17 correct?

18 A. That's correct.

19 Q. How will you know if you receive too much
20 or too little?

21 A. Well, we intend to measure the traffic and
22 we'll know how many minutes we are generating.

23 Q. Now, Mr. Farrow, I would like to ask you
24 about -- I'm sorry, Mr. Owens -- like to ask you about
25 the company's proposed rates for expanded

1 interconnection colocation service. Is it correct to
2 say that the expanded interconnection rates that were
3 first proposed by the company in this proceeding were
4 equal to the company's initially proposed interstate
5 expanded interconnection rates?

6 A. I think that's the case. There have been a
7 lot of changes to those federal rates over the past
8 six months.

9 Q. And at the time your direct testimony was
10 filed on February 6, is it your understanding that
11 these rates had been approved by the FCC?

12 A. The FCC rates were put into effect I
13 believe on one day's notice subject to investigation,
14 so I think they were in effect at the time.

15 Q. Weren't the rates you were proposing
16 initially here in Washington suspended and investigated
17 by the Common Carrier Bureau and were not accepted as
18 filed?

19 A. That's correct.

20 Q. And the Common Carrier Bureau had
21 prescribed interim rates for U S WEST expanded
22 interconnection service that as its investigation
23 continued were about 30 percent lower in some cases?

24 A. That's right. What we've done in the
25 latest proposal is to bring our intrastate rates in

00227

1 line with the interstate rates, the most recent
2 interstate rates which I think went into effect on May
3 27th.

4 Q. And generally the Common Carrier Bureau had
5 prescribed that the markups above cost or overhead
6 loadings for these rate elements could be no more than
7 1.2; is that right?

8 A. That's generally true. There are a few
9 rate elements that they allowed us to have a somewhat
10 higher markup, but what I did in our proposal here is
11 to use a uniform 1.2. Also there's a couple of
12 elements that have no markup here, like the, quote,
13 preparation fee.

14 Q. And the FCC adopted the interim rate
15 adjustments on a permanent basis; is that correct?

16 A. I don't know that they're permanent. I
17 think they may still be under investigation but I'm
18 not certain about that.

19 Q. So in your rebuttal testimony when you
20 proposed modified rates for expanded interconnection
21 and say that the rates will use the same overhead
22 factor of 1.2 used to establish our interstate prices,
23 you're referring to the interstate prices that the FCC
24 had ordered the company to use which were lower than
25 the original proposal; am I correct?

00228

1 A. That's correct.

2 Q. And are you aware that the staff witness
3 Scott Lundquist recommended that this Commission adopt
4 the same rate levels as has been prescribed by the
5 Common Carrier Bureau which were based on more uniform
6 overhead loadings of 1.2?

7 A. I believe I recall that in his testimony.

8 Q. And is it your view that the rates you are
9 proposing today are consistent with staff's
10 recommendation concerning rate levels for expanded
11 interconnection service?

12 A. If the staff recommended a uniform loading
13 factor of 1.2 that is what I used with a few
14 exceptions which are somewhat lower.

15 Q. Now, you've also added some new rate
16 elements to your proposal for EIC. Can you identify
17 each rate element and tell us whether -- first of all,
18 can you identify each rate element.

19 A. Yes. Let's see. The new rate elements
20 would include equipment maintenance, labor rate. Did
21 you want the rates for this?

22 Q. No. Just the elements.

23 A. The elements, all right. Training charge
24 to train our employees to maintain the collocator's
25 equipment; an engineering charge to cover the cost of

00229

1 engineering the arrangement; installation labor and an
2 equipment bay charge and I think it's 48 volt power as
3 well.

4 Q. Now, I think you may have answered that but
5 I just want to make sure. Do any of those elements
6 have a loading factor of higher than 1.2?

7 A. None have a loading factor of higher than
8 1.2.

9 Q. Can you describe the costs that are to be
10 recovered through the VEIC training charges assessed
11 on interconnectors?

12 A. Sure. If an interconnector were to specify
13 a piece of equipment that they wanted located in our
14 central office dedicated to their use, if that piece of
15 equipment is the same type of equipment that U S WEST
16 currently has in its central office then there would be
17 no training charges at all because our employees would
18 already be trained. If, however, they were to specify
19 a new piece of equipment, the equipment that our
20 employees are not familiar with then they would need to
21 be trained. We would ask the collocator to reimburse U
22 S WEST for training three employees on that equipment
23 along with the cost of the training course itself. So
24 it would be three employees training.

25 Now, if a second collocator came along after

00230

1 the first and specified the same equipment, then we
2 would refund half of the training charge to the first
3 colocator and the second colocator would only pay half
4 of the training.

5 Q. In the case of an initial colocator, can
6 you estimate the typical costs that would be incurred
7 for that training?

8 A. I can't. It would depend on the type of
9 equipment. What we propose is when a colocator
10 requests a particular colocation arrangement, we will
11 respond, I believe within five days, whether or not we
12 have our own employees trained and how many employees
13 would need to be trained -- no more than three -- and
14 hopefully the colocator would provide us, if we do
15 need training, what kind of training courses would be
16 available for those employees.

17 Q. Now, you say no more than three employees
18 would be trained. Is that also the minimum number
19 that would be trained?

20 A. I think it would depend on the
21 circumstance, but generally we would want three
22 employees to be trained to provide coverage, you know
23 on a 24-hour business to the colocator.

24 Q. Can you describe the specific functions
25 entailed in the VEIC engineering and equipment

00231

1 charges? How do those two differ?

2 A. The equipment maintenance charge versus the
3 engineering charge?

4 Q. Yes.

5 A. The engineering charge would be associated
6 with the initial installation, and that would involve
7 making certain that we had sufficient floor space,
8 changing the drawings to indicate where the
9 colocator's equipment will be, identifying 48-volt
10 power fuse and designing the run of the 48-volt power
11 equipment and so forth. That would be the engineering
12 charge. The installation charge would be the actual
13 placement of the equipment in our central office, the
14 running of the power cabling and so forth.

15 Q. Now, the power cable charges are based on
16 power feeds that are sized in 20 amp increments. Are
17 those sizes company standards that are used for its
18 own equipment?

19 A. Yes, I believe so.

20 Q. Has the company provided any information
21 regarding the total charges that these new rate
22 elements would add to interconnectors' bills for
23 virtual colocation?

24 MR. OWENS: Provided that to whom and in
25 response to what?

1 MR. SMITH: Well, provided to any of the
2 parties in discovery here.

3 MS. WEISKE: That discovery is not due
4 until close of business today.

5 MR. SMITH: It's been asked for.

6 A. I think we have provided similar
7 information. The process -- with our federal tariff
8 for example, would be if a colocator is interested in
9 colocation, they submit a quote request and we respond
10 to that quote request detailing the specific rate
11 elements and charges that would apply in that
12 circumstance, so we have responded to requests for
13 colocation in the past but not with respect to the
14 intrastate Washington tariff.

15 Q. I understand that MCI requested that
16 information.

17 MS. WEISKE: MCI has got outstanding MCI's
18 requests 42, 43, 44, 45, 46, and 47 related to those
19 questions.

20 MR. SMITH: We would ask that we be
21 provided with copy of those responses when they're
22 provided, please.

23 Q. Mr. Owens, in your testimony or is it your
24 testimony that the company has now accepted the
25 staff's recommendation to tariff arrangements that

00233

1 allow interconnectors to purchase their desired
2 equipment for colocation purposes and supply it to the
3 company under a leasing arrangement?

4 A. That's the arrangement that we're
5 proposing. That is the arrangement that's in effect
6 in the federal tariff.

7 Q. The proposed tariff indicates that
8 installation maintenance and removal on interconnector
9 designated equipment could be performed by the company
10 authorized vendor. Are the authorization procedures
11 written up in a document?

12 A. I have not seen them if they are.

13 Q. Is there any reason that an interconnector
14 could not become authorized to perform this work on
15 its own equipment?

16 A. Are we talking about maintenance now?

17 Q. Maintenance, installation, removal. Well,
18 let's start with maintenance.

19 A. Generally we do not use vendors for
20 maintaining our equipment, so I believe we do not have
21 procedures for certificating maintenance vendors, so
22 there would be no procedures for that. We of course
23 do use installation of vendors, and I'm sure we have
24 procedures for how we would deal with an installation
25 vendor.

1 Q. So there are no procedure now that you are
2 aware of that would allow an interconnector to
3 maintain its own interconnection equipment?

4 A. No. We would view that as physical
5 colocation.

6 Q. The tariff also cites several different
7 types of regulations that interconnectors colocated
8 equipment must comply with. Are there any such
9 requirements that would not also apply to the company
10 equipment placed in the same location?

11 A. Are you suggesting -- your question is
12 are our requirements for the colocator equipment more
13 stringent than U S WEST requirements?

14 Q. I'm not suggesting. I'm just asking.

15 A. They're not with the following exception.
16 The colocator's equipment is restricted to
17 transmission equipment, in other words, not switches.

18 Q. Can you explain the basis of the proposed
19 tariff restriction that "initial and subsequently
20 added equipment should be sized and equipped to handle
21 a minimum of 12 months' forecasted growth?

22 A. Where is that?

23 Q. Section 7 of sheet 17 in your rebuttal
24 exhibit. Toward the bottom.

25 A. I think the idea behind this is to avoid

00235

1 U S WEST installing equipment on the colocator's
2 equipment bay on a weekly basis sort of arrangement,
3 but I think that's the general idea.

4 Q. That's all I have. Thank you.

5 JUDGE ANDERL: Thank you, Mr. Smith. Of
6 the complainants and/or intervenors who is going to --

7 MS. WEISKE: I have a question first. MCI
8 has outstanding U S WEST data requests 34 through 54
9 which are due at close of business today. Are we
10 going to be provided those because that might affect
11 -- if we are I would like time to review those
12 responses and Mr. Waggoner would precede me. If we're
13 not I would like to make a motion to compel.

14 JUDGE ANDERL: Mr. Owens or Mr. Shaw, can
15 you respond to that?

16 MR. SHAW: I can. We do have I believe
17 answers to those and we can distribute them today.

18 MS. WEISKE: Given that I would ask that
19 Mr. Waggoner would precede me. If we're going on a
20 normal schedule that would mean me starting in the
21 morning. I think he indicated he has 20 minutes to
22 half an hour.

23 MR. BUTLER: I understand we're in the same
24 position.

25 JUDGE ANDERL: Go ahead, Mr. Waggoner.

00236

1

2

CROSS-EXAMINATION

3 BY MR. WAGGONER:

4 Q. Good afternoon, Mr. Owens. I would like to
5 return for a few minutes to the mechanics of the
6 interim universal service charge so I can try and
7 understand it a little better. And just so I'm
8 correct on it, is it now 2.28 cents or has it changed
9 at all?

10 A. It is 2.28 cents.

11 Q. And it has changed several times over the
12 last year?

13 A. The interim universal service charge?

14 Q. Yes.

15 A. I don't believe so.

16 Q. Let's just focus then on the mechanics of
17 how it would work. If a CLEC or a new LEC gets a new
18 business minute of use and it terminates that to U S
19 WEST, it pays 2.28 cents in addition to the one cent
20 cost-based termination charge; is that correct?

21 A. That's correct.

22 Q. And you would agree with me, wouldn't you,
23 that the 2.28 cents is not cost-based in the sense
24 that it doesn't recover some cost associated with U S
25 WEST for actually terminating the traffic?

00237

1 A. It's not associated with the cost of that
2 particular call. It's associated with contribution
3 that U S WEST has lost which is being used to support
4 residential rates.

5 Q. And U S WEST is assuming that when a
6 competitive or new local exchange carrier gets a
7 minute of use that it terminates to U S WEST that that
8 is a lost minute of use that U S WEST had; is that
9 correct?

10 A. I would say it's more correct to assume
11 that when a minute of use is terminated on our network
12 from an AEC's business customer that U S WEST has lost
13 a business exchange line. The interim universal
14 service charge is designed to recover the contribution
15 that has been lost from that business exchange line.

16 Q. So I'm wrong. It's not a lost minute of
17 use for U S WEST. It's a lost business exchange line;
18 is that correct?

19 A. That's right.

20 Q. So the assumption, then, is that every time
21 a competitive new carrier gets a business exchange
22 line that means U S WEST has lost a business exchange
23 line. Is that the assumption?

24 A. Yes.

25 Q. And do you have any studies to support that

00238

1 assumption?

2 A. Well, if the assumption is that U S WEST
3 had 100 percent of the market for business exchange
4 lines and at sometime in the future we have some
5 exchange lines that are provided by AECs and the
6 remainder provided by U S WEST, then the difference,
7 the ones that are being provided by the AECs would be
8 lost exchange lines.

9 Q. Does U S WEST operate in a static market?

10 A. No. It's operating in a growing market,
11 both our residence lines and business lines are
12 growing.

13 Q. And so the supposition then is that even if
14 a new competitive local exchange carrier acquires a,
15 quote, new business line and not -- it doesn't cause a
16 customer to replace an existing business line, this
17 2.28 cent per minute is still going to apply; is that
18 correct?

19 A. That's correct.

20 Q. Now, let's just explore for a minute or two
21 where the 2.28 cents comes from, and I will try and do
22 so without revealing any of the confidential
23 information here. The 2.28 cents is derived, isn't
24 it, by calculating a supposed contribution that comes
25 from business exchange service to residential exchange

00239

1 service, correct?

2 A. Correct.

3 Q. And so if for some obscure reason I didn't
4 believe that there was a contribution going from
5 business exchange service to residential exchange
6 service then I would think that this -- that this
7 interim universal service charge wasn't necessary; is
8 that correct?

9 A. It would have to be a very obscure reason
10 when our business rates are priced at \$37 and our
11 residence rates at \$14, but --

12 Q. Well, is it possible that some of the money
13 that U S WEST uses -- excuse me -- obtains on business
14 exchange service is used for some purpose other than
15 subsidizing residential exchange service?

16 A. Yes. We're not asking for recovery of all
17 the lost revenue for that reason.

18 Q. And what are some of those other purposes
19 for which U S WEST uses some of that contribution that
20 you say comes from business exchange service?

21 A. Support of our common costs.

22 Q. Does that money get used for paying
23 dividends or making other investments by U S WEST?

24 A. Yes.

25 Q. And do you know how much?

00240

1 A. No.

2 Q. So you don't know sitting here today
3 whether it's 40 percent, 20 percent, 60 percent or 90
4 percent, do you?

5 A. That's right.

6 Q. So if it were 90 percent that gets used for
7 other investments the new LECs under your theory would
8 be paying you so you can go make other investments; is
9 that correct?

10 A. Under that unusual set of assumptions, yes.

11 Q. Let's explore another possibility which is
12 that some of U S WEST business services do not recover
13 the same equivalent rate per minute of use, okay. So
14 let's assume there's a business service of U S WEST
15 that is priced differently than standard business
16 exchange service. Are you with me on that?

17 A. Could you give me an example.

18 Q. Well, let's talk about digital switched
19 service, for instance. Are you familiar with digital
20 switched service?

21 A. A little bit.

22 Q. What do you know about digital switched
23 service?

24 A. Digital PBX trunk, is that what we're
25 talking about?

00241

1 Q. Well, it's a U S WEST service. I just want
2 to find out whether you know about it or not.

3 A. That's the limit of my knowledge.

4 Q. Would you accept subject to check that the
5 equivalent per minute of use rate for digital switched
6 service for a customer is a lot less, and perhaps as
7 low as 25 percent of the equivalent per minute of use
8 rate that you've calculated?

9 MR. OWENS: I'm going to object unless
10 there's some foundation laid as to what assumptions
11 Mr. Owens is being asked to accept in that
12 calculation.

13 MR. WAGGONER: Well, we can do it as a
14 hypothetical if you would like instead.

15 Q. I would like him to accept for hypothetical
16 purposes that customers who have digital switched
17 service pay a fixed monthly charge and that they are
18 able to have a lot of minutes of use over that trunk.

19 Is that a possibility that seems realistic
20 to you?

21 A. Yes.

22 Q. And in fact customers who buy digital
23 switched service may be higher volume customers; is
24 that correct?

25 A. Yes, I would accept that.

00242

1 Q. And isn't it possible that the effective
2 minute of use rate that that customer is paying is
3 significantly less than a customer of a standard
4 business line service on a minute of use basis?

5 A. But of course we're not charging on a
6 minute of use basis, but yes.

7 Q. Well, you want to charge your competitors
8 on a minute of use basis, though, right?

9 A. For the traffic that they terminate on our
10 network, yes.

11 Q. Do you think it's appropriate that you're
12 charging your competitors on a minute of use basis
13 while at the same time in a retail environment you are
14 charging on a flat rated basis to the retail customer?

15 A. Yes, because we're also proposing to pay
16 our competitors on a minute of use basis.

17 Q. Are you proposing to charge your retail
18 customers on a minute of use basis?

19 MR. OWENS: I'm going to object to the
20 extent that it assumes that the company could do
21 something other than what's required by the law of the
22 state of Washington with regard to mandatory local
23 measured service.

24 JUDGE ANDERL: I think Mr. Waggoner is
25 entitled to ask the question.

00243

1 Q. Do you want me to repeat the question?

2 A. Please.

3 Q. Are you aware of any plans by U S WEST to
4 charge retail customers in the state of Washington on
5 a per minute of use basis?

6 A. We do charge some customers on a minute of
7 use basis today.

8 Q. Are you aware of plans by U S WEST to
9 charge a larger group of customers on a minute of use
10 basis than U S WEST is today?

11 A. No.

12 Q. Let's get back to the hypothetical. What
13 we have is a situation where a customer is paying,
14 let's say, an effective per minute of use rate, .6
15 cents per minute. Do you have that hypothetical in
16 mind?

17 A. All right.

18 Q. That's what they're paying U S WEST today,
19 okay?

20 A. Just so we're clear, we're taking a flat
21 rated service and dividing by both originating and
22 terminating minutes.

23 Q. We're dividing by minutes of use.

24 A. Originating and terminating?

25 Q. Actually for the purposes of my

00244

1 hypothetical the only thing I want you to assume that
2 the effective per minute rate that customer is paying
3 is .6 cent per minute?

4 A. I need to know what minutes we're talking
5 about, originating, terminating or a combination of
6 the two.

7 Q. A combination of the two.

8 A. All right, thank you.

9 Q. And let's assume that that customer decides
10 they would like to use a competitive carrier, and they
11 come to U S WEST and they say, well, we have one line
12 of digital switched service from you. We would like
13 to take our next line of digital switched service from
14 Teleport, which happens to be my client. In that
15 situation would U S WEST still charge Teleport 2.28
16 cents per minute of use to terminate traffic on its
17 network?

18 A. Yes.

19 Q. Did U S WEST ever attempt to calculate an
20 interim universal service charge by dividing the
21 minutes of use it expected to lose to competitors into
22 what it believed was the lost subsidy contribution
23 required by residential customers?

24 A. No.

25 Q. So instead what U S WEST did was take the

1 subsidy it believed it received in its business
2 exchange lines and divided that by an assumed set of
3 minutes of use to calculate the interim universal
4 service charge; is that correct?

5 A. That's what we did, yes.

6 Q. Changing subjects slightly. At page 21,
7 you mention --

8 A. Are we in the direct testimony?

9 Q. In the rebuttal testimony. And you
10 probably can remember this without even referring to
11 it. You mention AT&T's potential partnership with
12 Times Warner per cable as an example of potential
13 competition for U S WEST?

14 A. Yes.

15 Q. Do you know which areas of the state of
16 Washington Time Warner serves?

17 A. None that I am aware of, I used that as an
18 example of AT&T establishing relationships with cable
19 companies in general.

20 Q. Are you familiar with any other companies
21 represented in the room that have established
22 relationships with cable companies?

23 A. No. As you can see by my testimony, the
24 articles are those that suggest that AT&T is in
25 discussions with cable companies. I don't know for a

00246

1 fact which cable companies they're talking with.

2 Q. And which cable companies has U S WEST
3 developed a relationship with?

4 A. Time Warner.

5 Q. Any others?

6 A. We have purchased a cable company I believe
7 in Atlanta.

8 Q. Do you believe generally that new entrants
9 target business customers first in the
10 telecommunications market?

11 A. I believe new entrants target those
12 customers that have high margins and in the
13 telecommunications market then it's business
14 customers.

15 Q. Do you think the volume of use by customers
16 has any impact on the customers that are targeted by
17 new entrant or do you think it's simply the perceived
18 profit margin?

19 A. Well, part of the profit calculation would
20 include not only the profit that would be realized
21 from the flat rated exchange rates but also from toll
22 and access and other services which are usage-based.
23 If the company wanted to maximize its profit it would
24 try to serve those customers who generate a great deal
25 of toll and access revenues, which would be business

1 customers.

2 Q. Going back to page 12 of your rebuttal
3 testimony you allege there that there is a cost amount
4 that U S WEST requires per month to provide
5 residential service.

6 A. Correct.

7 Q. And I'm a little perplexed about this
8 because I think I've seen it on a nonconfidential
9 basis elsewhere, but I don't want to ask something
10 that's supposed to be confidential. Is that cost
11 figure supposed to be confidential?

12 A. Yes.

13 MR. WAGGONER: If we might go off the
14 record.

15 (Discussion off the record.)

16 Q. Just for now at least I will assume that's
17 a confidential number and try and avoid asking about
18 the number. The number is, let's see, shown at line 8
19 of page 12, is that correct, as the cost of providing
20 residential service?

21 A. Correct.

22 Q. If and could you just explain to me, is
23 that a number that is per month, per use, per what
24 time period?

25 A. It's a monthly cost.

00248

1 Q. It's a monthly cost. And does it include
2 both loop and switching and related cost?

3 A. Yes, it does.

4 Q. Now, having that figure in mind, have you
5 ever seen other figures for providing basic
6 residential service that are significantly less than
7 the amount that is shown on line 8 of page 12?

8 A. Not for the state of Washington, no.

9 Q. And do you think it's possible that it
10 would be significantly less expensive for new entrants
11 to provide basic residential service at a lower cost
12 than U S WEST?

13 A. It's certainly possible. I would expect
14 them to be constructing networks in the suburbs rather
15 than in downtown Seattle.

16 Q. Do you know whether they're constructing
17 them in the suburbs rather than downtown Seattle?

18 A. I certainly know they're constructing them
19 in downtown Seattle.

20 Q. Have you checked in the suburbs?

21 A. I haven't seen any trucks in my
22 neighborhood, but no, I don't know if they're
23 constructing.

24 Q. Have you reviewed any of the evidence in
25 this proceeding showing where the networks of the new

00249

1 carriers are?

2 A. I've seen the maps, yes.

3 Q. And it's correct, isn't it, that they
4 include suburban areas as you describe them?

5 A. Not that I can recall.

6 Q. Would you accept subject to check that they
7 do? You consider Issaquah to be a suburban area
8 generally?

9 A. There are businesses in Issaquah. Are you
10 suggesting that they are building distribution
11 facilities to the suburbs to homes within Issaquah?

12 Q. I'm asking whether you consider Issaquah to
13 be a suburban area?

14 A. In total, yes.

15 Q. Maybe I should explore with you a little
16 further what's being explored by staff earlier, which
17 is this concept of reaching a similar demographic area
18 in order to avoid the 2.3 cents, approximately,
19 charge. If the carrier has distribution facilities
20 within Issaquah, I take it you would not consider that
21 they qualified to avoid the interim universal service
22 charge unless they also serve your neighborhood in
23 Issaquah; is that correct?

24 A. I don't live in Issaquah, but close. If
25 they have run fiber through the downtown -- if we can

1 call it that -- section of Issaquah where there's
2 shopping and there are businesses and the AEC is
3 providing service to those stores and businesses but
4 have not constructed distribution facilities out to
5 individual homes in Issaquah, then, no, I don't think
6 they have taken on the same obligation that U S WEST
7 has.

8 Q. I'm a little perplexed here. I thought we
9 were talking about lifeline customers and I'm not that
10 familiar with Issaquah but I didn't know there were a
11 lot of lifeline customers in Issaquah.

12 MR. OWENS: Is that a question?

13 MR. WAGGONER: That's a question.

14 MR. OWENS: Sounded like argument.

15 JUDGE ANDERL: To the extent the witness
16 knows whether or not there are or are not lifeline
17 customers in Issaquah.

18 A. To the extent there are lifeline customers
19 in Issaquah served by U S WEST then I would expect
20 that the AEC would serve a similar number of lifeline
21 customers.

22 Q. Well, let me offer another hypothetical.
23 Let's assume U S WEST has 10 percent lifeline
24 customers in all of its service territory. And let's
25 assume my client decides for whatever reason that it

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1 doesn't want to leave downtown Seattle and it turns out
2 that in downtown Seattle there are at least ten percent
3 lifeline customers and they serve those customers and
4 that's what they've taken on. Now, does that allow
5 them to get out of the interim universal service
6 charge?

7 A. No, because presumably your client would
8 then be serving perhaps as many as three business
9 lines for every residence customer they're serving,
10 and no, I don't think that would be a comparable
11 contribution to universal service in that case.

12 Q. Do you consider the 2.28 cent per minute of
13 use charge you would impose on competitive carriers to
14 be a significant burden on their ability to compete
15 with U S WEST?

16 A. No, I don't.

17 Q. At page 46 of your -- I believe what's now
18 been denominated a rebuttal testimony -- you refer to U
19 S WEST willingness to offer an "unbundled loop."

20 A. Yes.

21 Q. And I take it an unbundled loop would be
22 something that would go from my house on Queen Anne
23 Hill to the nearest central office and there I could
24 connect with my preferred local carrier; is that
25 correct?

00252

1 A. Correct.

2 Q. And is U S WEST proposing to charge for
3 this unbundled loop on an average basis or are you
4 proposing that you would deaverage rates for unbundled
5 loops?

6 A. We're looking at a number of alternatives
7 but one of them may be a deaveraged rate.

8 Q. And I take it then it's correct that you
9 don't yet know what rate U S WEST would propose for
10 this service?

11 A. That's correct.

12 MR. WAGGONER: Mr. Shaw, if I could ask you
13 about Mr. Purkey's Washington imputation price floor
14 analysis using DB-2. I'm a little confused about that.
15 Is that a confidential exhibit?

16 MR. SHAW: Yes, it is. It's labeled
17 proprietary instead of the confidential format we use
18 in Washington.

19 MR. WAGGONER: I was confused because I
20 received it without any confidentiality designation,
21 so it's been a little confusing. I won't get into
22 that line of questioning. I will save it for later.

23 Q. You purport to speak in your testimony on
24 behalf of U S WEST Direct; is that correct?

25 A. No, I don't.

00253

1 Q. Well, for instance at page 54 of your
2 testimony and page 55 of your testimony you state that
3 U S WEST Direct would be willing to negotiate directly
4 with AECs.

5 MR. OWENS: Is this the rebuttal or the
6 direct?

7 MR. WAGGONER: Still on the rebuttal.

8 A. Page 54?

9 Q. Lines 21 through 23 and page 55 lines 17
10 through 19.

11 A. Right. It's my understanding that they are
12 prepared to negotiate those agreements.

13 Q. And how did you achieve that understanding?

14 A. I spoke with U S WEST Direct.

15 Q. And with whom at U S WEST Direct did you
16 speak?

17 A. Diane Hammond.

18 Q. And do you know whether competitive local
19 exchange carriers have been given an equipment
20 opportunity to speak with U S WEST Direct as you have
21 been given?

22 A. Yes.

23 Q. And how do you know that?

24 A. I know that they have talked with members
25 of U S WEST Direct.

1 Q. How does U S WEST arrange to have its
2 listings included in U S WEST Direct's White Pages and
3 Yellow Pages?

4 A. We have a contract with U S WEST Direct.

5 Q. And what do you pay U S WEST Direct to have
6 your phone numbers listed in the White Pages and
7 Yellow Pages?

8 A. I don't know.

9 Q. I take it you would be willing to pay U S
10 WEST Direct the same rates that you propose should be
11 paid by the competitive local exchange carriers to
12 obtain listings in U S WEST Direct?

13 A. I don't know what U S WEST Direct is
14 offering to the AECs to publish their listings in the
15 U S WEST Direct White Pages.

16 Q. Well, do you think it's appropriate for
17 competitive local exchange carriers to have to pay --
18 to have their listings included in either the White
19 Pages or Yellow Pages by U S WEST Direct if U S WEST
20 does not pay?

21 A. I would think comparable terms and
22 conditions would be appropriate.

23 Q. Could you just turn briefly to Exhibit 36
24 in your testimony. I'm sorry, where are we going now?

25 Exhibit 36 attached to your rebuttal

1 testimony.

2 A. That's JDO?

3 JUDGE ANDERL: JDO-4.

4 Q. This is a nice package labeled Competition
5 for Local Service Telephone Service is Well
6 Established and Growing Rapidly in Major Urban
7 Centers?

8 A. Yes.

9 Q. Do you know who prepared this?

10 A. No, I don't.

11 Q. Do you know for what purpose this was
12 prepared?

13 A. I believe it was prepared in -- with
14 respect to some lobbying effort in Congress.

15 Q. And do you have any basis to believe that
16 it's correct or accurate?

17 A. Yes. I believe it is accurate.

18 Q. Was it prepared under your supervision --

19 A. No, it was not.

20 Q. Who prepared it?

21 A. A consulting firm.

22 Q. Which consulting firm?

23 A. I don't recall.

24 Q. Do you know how the consulting firm
25 prepared it?

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1 A. No, I don't.

2 Q. It includes something called appendix A,
3 Seattle Buildings Already Connected or Contracted for
4 Connection to Local Competition. Do you see that
5 document towards the end?

6 A. Yes.

7 Q. Do you know whether that's correct?

8 A. My guess is it's somewhat outdated. This
9 is at least a year old.

10 Q. And do you know how it was prepared, this
11 list?

12 A. I'm not certain.

13 MR. WAGGONER: I know this is somewhat an
14 unusual time to move to strike something, but I think
15 I'm going to have to move to strike this exhibit. He
16 obviously has no knowledge of whether it's correct or
17 not. It was not prepared for any purpose relating to
18 this proceeding. He said it wasn't prepared under his
19 supervision or control even though in his -- before
20 the testimony was offered we were told that it was
21 prepared under his supervision or control. I just
22 don't see that there's any basis for this exhibit to
23 be included.

24 JUDGE ANDERL: Does the company have any
25 response to that?

1 MR. OWENS: No.

2 JUDGE ANDERL: Well, I think I have some
3 real problems with it based on what the witness just
4 testified to, and so on that basis I'm going to grant
5 the motion to strike. Exhibit 36 is stricken.

6 (Withdrawn Exhibit 36.)

7 Q. Could we look at Exhibit C-33 which I
8 understand is a confidential exhibit, Mr. Owens?

9 MR. OWENS: Yes.

10 MR. WAGGONER: I believe there's no problem
11 in referring to the headings on the lines above the
12 numbers; is that correct?

13 THE WITNESS: This is JDO-3.

14 MR. OWENS: JDO-12.

15 Q. It's labeled Access Line Density. And my
16 question for the company is whether there's any
17 objection to referring to the headings at the top or
18 the localities on the left side.

19 MR. OWENS: No.

20 Q. Mr. Owens, do you have any opinion as to
21 whether greater density levels make it more expensive
22 at a certain point to provide local service?

23 A. I'm not quite sure what you mean by at a
24 certain point.

25 Q. Well, let's take the point between, oh, the

00258

1 first two cities on this exhibit. And you would agree
2 with me, wouldn't you, that there is a measurable and
3 noticeable difference in the column labeled density A
4 LSQMI?

5 A. Between 1 and 2?

6 Q. Yes.

7 A. There is a difference although it's not --
8 if we're talking about relative difference it's
9 relatively small difference compared with some of the
10 other locations.

11 Q. And you've offered some testimony, haven't
12 you, about what it costs to provide residential and
13 business service in certain areas of Washington state,
14 correct?

15 A. Yes.

16 Q. And my question for you is whether you have
17 any opinion as to whether in the most dense areas it
18 is more or less expensive to provide than in, for
19 instance, the next three cities.

20 A. I've not seen any specific cost studies for
21 those cities, but I would presume that the greater the
22 density, the lower the cost in general.

23 Q. And would you presume that even in the most
24 dense urban situations rather than in the three cities
25 just below that?

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1 A. You're saying do I believe that the cost of
2 providing service is lower in the top three than in
3 the next three. Is that the question?

4 Q. Well, no, what I'm suggesting to you is
5 that is it a possibility at a certain point of density
6 it becomes more expensive to serve customers rather
7 than less? And I am trying to find out if you agree
8 with that or disagree.

9 JUDGE ANDERL: How are you doing, Mr.
10 Waggoner?

11 MR. WAGGONER: Almost finished.

12 Q. Like to offer you one last hypothetical, if
13 I might, and I will go through it slowly. A
14 hypothetical assumes that the costs of providing
15 residential service are covered by the overall
16 revenues acquired from residential customers. That's
17 element one. Element two is that raising residential
18 rates would produce significant dollar increases. Are
19 you with me so far?

20 A. Okay.

21 Q. Element three is that charging high
22 interconnection charges would produce high dollar
23 revenues.

24 A. All right.

25 Q. In that hypothetical, would you consider it

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1 to be a rational business decision to take those
2 revenues and to use them to lower prices where a
3 company faces competition?

4 A. Your hypothetical will take revenues from
5 residence customers and use it to lower business
6 rates?

7 Q. Residence and interconnection charges.
8 Would that be a rational business decision?

9 A. I think it's a rational business decision
10 to lower prices towards cost in a competitive market.

11 Q. One last question. There was some
12 discussion earlier about measurement of minutes and
13 then requiring new competitive local exchange
14 companies to submit data on the ratio of business and
15 residence customers. Do you believe that calling and
16 called party data and volume of use data and data on
17 the mix of customers would be competitively useful
18 information to U S WEST if it had obtained it from its
19 new competitors?

20 A. It could be.

21 MR. WAGGONER: Thank you, no more
22 questions.

23 JUDGE ANDERL: Thank you, Mr. Waggoner. I
24 think we will recess for today and come back with Ms.
25 Weiske tomorrow. There are a couple of things we need

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1 to do. One is Mr. Finnigan has indicated he is not
2 going to be able to be here tomorrow. He has three
3 exhibits that the company will stipulate to the
4 admission of those exhibits. Is that right?

5 MR. SHAW: That's correct.

6 JUDGE ANDERL: Mr. Finnigan, do you want to
7 go ahead and distribute those.

8 Other things you need to know is we're going
9 to start at 8:30 tomorrow morning. And Mr. Shaw, maybe
10 you could tell me, have you and Sprint made any
11 progress?

12 MR. SHAW: Your Honor, I've been informed
13 by Sprint that they have or that there is no documents
14 that pertain to Washington, plans to provide local
15 exchange service, so I have to take that at face value
16 if that is their answer and they will so represent on
17 the record that that is their response to the data
18 request.

19 JUDGE ANDERL: Ms. Lehtonen.

20 MS. LEHTONEN: We will so represent.

21 JUDGE ANDERL: Thank you. With regard to
22 the motion to compel discovery from AT&T, the
23 Commission has considered that motion and with regard
24 to data request No. 2, the Commission does believe
25 that it is appropriate discovery for U S WEST to

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1 request and receive the TS LRIC studies for AT&T, its
2 intrastate private line rates which are on file and
3 also for the contracts which are on file, and that is
4 the extent to which the Commission will grant that
5 motion to compel at this time.

6 MS. PROCTOR: I'm afraid I need a
7 clarification. The request doesn't seek --

8 JUDGE ANDERL: TS LRIC studies, doesn't it?

9 MS. PROCTOR: No, it doesn't.

10 JUDGE ANDERL: I read it data request No. 2
11 says "please provide AT&T's intrastate private line
12 rates" -- I'm sorry, not the cost studies. TS LRIC
13 costs for each private line service offered and if I
14 misspoke, I didn't mean cost studies. I meant costs.

15 Mr. Finnigan, have you gotten all your
16 exhibits passed out?

17 MR. FINNIGAN: It's on its way around to
18 various counsel.

19 JUDGE ANDERL: What are they now?

20 MR. FINNIGAN: They are responses to three
21 data requests that were promulgated by WITA to U S
22 WEST.

23 JUDGE ANDERL: So there's response to LEC
24 02-033?

25 MR. FINNIGAN: Correct.

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1 JUDGE ANDERL: 01-033?

2 MR. FINNIGAN: Correct and 02-029.

3 MS. PROCTOR: I'm missing the latter two.

4 MR. FINNIGAN: They're the ones that

5 just --

6 JUDGE ANDERL: Mr. Finnigan, do you want

7 them marked in any particular order?

8 MR. FINNIGAN: No, it doesn't matter.

9 JUDGE ANDERL: I will mark for

10 identification the data request and response LEC

11 02-033 will be Exhibit No. 39. Data request LEC

12 01-033 will be Exhibit No. 40, and then data request

13 and the response LEC-02-029 will be Exhibit No. 41.

14 (Marked Exhibits 39, 40 and 41.)

15 JUDGE ANDERL: Mr. Shaw, no objection to

16 those exhibits as identified?

17 MR. SHAW: None.

18 JUDGE ANDERL: Exhibits 39, 40 and 41 will

19 be admitted. Is there anything else we need to do on

20 the record before we reconvene tomorrow morning?

21 (Admitted Exhibits 39, 40 and 41.)

22 MR. BUTLER: Yes. If I could ask if the

23 responses to ELI requests will be available tonight as

24 well?

25 MR. SHAW: I have available what we were

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1 able to get answered and I believe there's some ELI
2 answers in there so we'll pass them out.

3 MR. OWENS: We have that and some MCI, I
4 think, and what I would propose, they're fairly
5 voluminous, if we could just put the boxes on the
6 witness table and after the hearing is over people can
7 come and collect them as they wish. They're all in
8 addressed envelopes.

9 JUDGE ANDERL: I'm sure that would be fine.

10 Anything else to come before us today?

11 We'll reconvene at 8:30 tomorrow morning.

12 Thank you all.

13 (Hearing adjourned at 5:07 p.m.)

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