Telecommunications Rulemaking
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SK: Welcome and overview of packets. Schedule.

BW: Amended and new Commission rules. General overview of rulemaking procedure.

SK: Any question or comments.

TV: I thank Bob for that explanation. But I'm very concerned that what we're starting with is two very different perceptions between the industry and the staff of what we're trying to accomplish here. What I heard in the explanation was that the scope of the activity is to re-write the rules and be very expansive in what we're going to be doing so that we're adapting to the new environment. What I'm disappointed in is that in our view the new environment should not be expanding rules. It should not be making more rigorous regulations. It should be looking at ways of how we're getting out of regulation. What we were concerned with when we saw these rules was that indeed we were getting additional regulation and new requirements and we're very disappointed in that. I'm not going to belabor that. We've heard your point of view. We understand what you've done. We do realize that there has been a lot of work that has gone into this. But I just want to have on the record that we have between the industry and the staff a very fundamental difference starting out. What we're looking at is reduced, streamlined kinds of activities and what we got was increased additional activities.

SK: I'd like to ask Shannon Smith to address another threshold issue that was raised in the companies comments and that's the nature of competitive telecommunications companies.

SS: The terms competitive company and competitive telecommunications company appear in the Commission's draft of the rules and from the comments it seems as though there isn't a common understanding of what those terms mean. When the Commission staff uses the term competitive company or competitive telecommunications company, it means a company that has been competitively classified by the Commission. And likewise when the Commission uses the term competitive service, it means a service that has been competitively classified by the Commission. We just wanted to make sure everybody had the same understanding for today's workshop.

GH: I just wanted to ask, I think maybe for the fifth or sixth time, a question in this context, just to make sure I have it clear. One of the major changes that has taken place in the rules is that quite often the term local exchange companies has been replaced by companies. Was the intent of that to include competitive companies as you've just defined them?

SW: Our intent was to, hopefully, of categorized the correct company in each of the rules. And that's what, hopefully, these stakeholders workshops will help us identify if we've done it correctly. We have gone back and realized in some places we should have said non-competitive company or competitive company and we want to adjust that through these rulemaking workshops. Our intent was to categorize the right company in the right rule. We tried to look at the definition in statute of telecommunications company and then use that throughout the rules but there may be some adjustments as we go through.

SK: Comments or questions? Fred is going to talk to you about these three chapters, 120, 121 and 80, and try to describe how we propose to move rules between them, or among them.

What's going to stay, what's moving, and what's in play.

FO: The Commission has opened, as you all are aware, a variety of rulemakings. And I think also, as you all are aware and pointed out so well in your comments, there's a tremendous amount of work that has been brought before all of us. We opened the chapter 480-121 which is the registration and competitive classification and price list of telecommunication companies, when we realized that there were rules in 120 that more appropriately belonged in 121, or at least that was our opinion. At the same time we opened the rule in 480-80, the rule dealing with tariffs, and the intent is to address that full rule as soon as we get some space under us, if you will, or some time to be able to get our arms around it. But we had to open it to again address rules that it appeared more appropriately belonged in 121 or in 120. What I want to cover this morning is an overview of the kind of shifting that we think is most appropriate in terms of moving these rules. Let me say up-front that in your package you have a schedule for the telecom rules under 120 and, bottom line, we want to come out even at the CR-102 stage with our rulemakings in 121 and 80 to the extent that there's movement between them. Translation for one thing we don't want to leave some rule on the floor that the intent is to survive in another chapter. We will, following today's meeting, mail to interested persons what we think the rules should look like after they have been moved. I might add that we also will be tweaking 121. There's a mistake or two I made when we did it a year or so ago that I'd like to correct. Also, due to changes in 120 there are various cites references that will change. We are going to try to make everything come out correct, if you will. In any event there will be mailed to you our proposed language and we have the comments that you have already submitted in terms of what should or should not move and we have your comments on the language and that will be part of our deliberation in terms of developing the new language. I would like to be able to get that out in such a fashion that we won't have more mailings than necessary. I would like to get it at stakeholders meetings that would make it not necessary for you to have to come down here more often than perhaps you would like. On the other hand I want to try to honor everyone being overloaded with rules right now, both on the staff and in the industry. I'm now going to shift to the three colored charts that you have. I want to hand out a key to go with those charts. As we go through them and as you look at what we have done, I must confess that I flunked kindergarten and our attempts to color code this and try to make it real easy and simple to understand wasn't a complete failure, but it wasn't a complete success either. The important thing is to recognize what rules that we are proposing to move and where we're proposing to move it to. You will notice on the colorful charts we are proposing a change in title to 120 and 80. This kind of leads into what we are moving where. The title on 121 proposal would be to read: Registration, Competitive Classification and Initial Price List of Telecommunication Companies. The intent here will be to capture in one chapter what a new teleco needs to do to become registered as a telephone company to file a price list and whatever else is necessary to get in the door. Also to deal with the classification of services by the filing of price list by those companies who are not competitive. Chapter 80, our proposal will be to change the title to: Utilities General, Tariffs, Price Lists, and Contracts. We're trying to capture the

pricing mechanisms that are generic. I'm going to work off of the paper that you have that has a green heading:

Telephone Companies Chapter 480-120. My intent is to go through quickly what we're proposing to move and where we're proposing to move it. Then if there are any additional comments that any of you may have in addition to those that you submitted with you're comments submitted earlier, we would like to hear those, along with any change in language that you may have thought of in view of some of the comments that I'm going to make.

Starting with rule number 480-120-022 which is entitled currently: Classification Proceedings we would propose to move to 480-121. I suspect we will retitle that to something like: Competitive Class - General Requirements.

Rule 480-120-023 which is currently titled: Filing a Petition for Competitive Classification of a Companies Services and Companies will also move to 480-121. My expectation is that we will split out services and companies.

JG: (not audible on tape)

FO: I was going to, but it would be easier to take comments as we go.

JG: (not audible on tape) Issues with where rules are located. Maybe no one...

FO: I would be more than happy to do so. I will only point out that it's not easy to track what's going where. But if everyone here feels comfortable with what is happening I would be more than happy to stop at this point. Particularly, I appreciated General Tels. Comments to the effect that Chapter 121 is an appropriate place to deal with all related issues of registration and classification. And you were consistent in those comments. Not everyone was but I did appreciate that.

GH: We hadn't talked about this possibility ahead of time, but I have to say I agree. Speaking for Sprint we have no concerns in this area at all and we'd be happy to see those people who do have their concerns go ahead and express them so we can get past this.

AF: We did comment, somewhat, on the move of the rules between various chapters. What U S WEST's concern is what we don't want to see is there are two distinct chapters one would apply to fully regulated companies or not entirely competitively classified companies and another chapter which would apply to only competitively classified companies in their entirety. I believe staff has not done that. I believe that staff has heard the comments of U S WEST and we appreciate the fact that staff has tried not to do that. But there are few rules where it would seem to make sense not to move them, move them out of 120 and into 121 for example, along these lines. I see there are a few rules that we proposed deleting that are being moved over and obviously we don't think those

ought to be moved over.

FO: I met to comment on that in my opening remarks. The fact that we're asking to move it doesn't necessarily mean that we want it to survive. We may or may not agree with you but we thought that the best place to address it's survival, would be in the rule that we're shifting it to.

AF: Then you know our comments on that so I won't belabor that at this time. There were a few rules, for example 480-120-024 Waiver of Regulatory Requirements for Competitive Telecommunications Companies. This is an example of a rule that U S WEST believes should be a generally applicable rule. Not a rule that's applicable only to competitive telecommunications companies, but it's applicable to all companies. If the intent is not to create a separate chapter that one dealing with competitively classified companies and one dealing with non-competitively classified companies in their entirety then it would seem that this rule, in any case, be most appropriate in 120 where we're dealing with the general telecommunications issue. Another is maybe the customer notice rule that is being developed for competitive companies. Thus far again, U S WEST proposes creating one rule that addresses all the issues and deals with services and not companies in terms of what's been classified as competitive. So, I don't want to spend a great deal of time going through each individual rule here. I think we have a lot on the plate today. But I do want to say, let me just step back and make one general comment, which is that, in today's environment companies shouldn't be the focus of regulation, necessarily. We should be thinking more in terms of services. Most companies have competitive services and in today's competitive environment we ought to be focusing on competitive services and not competitive companies. To that end developing two sets of rules, one that would deal with competitive companies versus non-competitive companies, as the term is applied, as Shannon explained, would (a) make a set of rules obsolete very quickly; and (b) I think would fail to recognize the environment in which we find ourselves today. That said, I'm happy to answer any more questions on where we're headed there but I think that give the general jest of what U S West has advocated throughout the comments with respect to these specific rules.

FO: Just a general remark then I'd like to hear if anyone else has comments in view of your comments.

Waiver of regulatory requirements is simply an extension which is provided in the statute that is that the Commission upon competitive classification of a company may waive certain statutes. Keep in mind that there are probably 20 companies classified per month in the state. These people look at 121 in terms of how to obtain that classification and our intent is to make it very clear to them, by looking at 121 the process which includes the request for waiver for certain requirements if they are classified as competitive. That's the reason for moving it to 121 and also that's the reason for survival of the rule, if you will. I'm curious if we have competitively classified carriers that may have some comments on this.

TV: Would any company file for anything for other than competitive classification? Would a company coming in to business in this state, is there a regular classification.

FO: Yes, as a matter of fact we've had two or three. The rule currently requires a company to file for competitive classification at the same time as they file for registration. However, we have had, 2 companies come to mind within the last several months that were, in effect, new Local Exchange companies that required waiver of that rule requiring competitive classification.

AF: Along the lines of the comments that I was making, I also wanted to touch on a point the Terry Vann made at the very outset today which was that the companies are really hoping that as we go forward and also expecting as a part of the Governor's order that we will find ways of streamlining and minimizing regulation where appropriate. If it's true that the statute lays out the requirements for waiver or authorizes waiver is it duplicative to have it here or is the thought that it makes is simpler or clearer. And if it is duplicative then maybe it ought to be removed in its entirety. U S WEST has also acknowledged that there are some rules that make sense to move here and among those have been like the two rules before 024. I think 022 and 023. We're not opposing making this clearer. We want it to be clearer. We think that's very appropriate. We just don't want to see one set of standards applied to various companies when today it's really all about competitive services.

FO: To answer your two questions, the answer is yes to both of them. It does duplicate the statute and it does clarify it for those who want to register as a telecommunications company. I might add, in response to Terry's comments and yours that the rulemaking that was completed on 121 substantially simplified the process of competitive classification registration and price list. Hopefully in this rulemaking that we're doing now on 121, which follows close on the heals, as I had mentioned earlier, of re-doing the registration process, we will be able to simplify that even more. Although I realize that some companies, such as U S WEST, aren't really overjoyed to see the process made easier to admit additional telcos in the state of Washington.

GH: Since no other CLEC has spoken up, speaking for Sprint as a CLEC, we do support your proposed moves to 121 and we certainly do support also separate standards for competitive and non-competitive companies.

AF: I just want to restate, to the extent that maybe I didn't state it clearly initially, that U S WEST does not oppose making this clearer, at all. U S WEST is supportive of what staff is doing. Is supportive of the obvious hard work and effort that has gone in to trying to make this clear, both in 121 but also in this rulemaking. U S WEST appreciates it. We are simply trying to ask for, as we go forward, we are trying find ways of making the rules apply in a competitively neutral way.

FO: Picking up on Joan's suggestion, let me repeat that there will be a staff proposed set of

rules on those rules that we are moving as soon as staff can get to it. There will then be opportunity for additional written comments and that will be followed by opportunity for a stakeholder session to deal specifically with the language. We felt that all of our plates were full at this point so we didn't propose any language at this point in time. Hearing no objections, I'll turn this back over to Steve.

SK: Shannon had one comment that she wanted to address.

SS: I just wanted to note that while the WAC that was discussed just a moment ago 480-120-024, the staff has proposed that that be moved to 480-121. In addition to that rule restating the statute that allows competitively classified companies to seek waiver of regulatory requirements, it goes beyond the statute and sets out the process the companies must follow. So that rule goes beyond just restating the statute and provides more information for those companies seeking waiver of regulations.

AF: Thank you for the clarification. I'll also note that in our comments, U S WEST did not propose deletion of this rule or anything similar. Following on the comments I wanted to touch on the comments of Terry Vann initially, and also just get some clarification of what Fred was indicating.

BW: Abe commented about the issue of duplication. I wanted to share that the Governor's office sponsored, shortly after the promulgation of Executive Order 97-02, a class in clear rule writing. The linguist who taught that class made a novel suggestion. Her suggestion was, make your rules so that someone can pick them up an understand what they have to do. She said it is silly if you promulgate a rule chapter and then have to write several pages of explanation on what people really have to do. So one of the reasons we do incorporate provisions from a statute is so that we can offer a chapter of rules that someone can pick up and understand what they need to do. We recognize that that sometimes that does cause duplication. It's kind of an art that we try to work with industry on as to how much to duplicate. But that's the purpose behind it.

SK: Any other questions or comments? At this point we'll turn to our first set of rules that we are going to discuss today. Rules for Customer Notice.

PH: (turned tape over) ....Staffs proposal is to move the requirement out of 480-80-120 and put it in chapter 480-120. To separate the notice requirements for competitive companies and services versus non-competitive companies and tariffs filings. I'd like to start this conversation out kind of backwards with the proposal for competitively classified telecommunications company and service which is 480-120-X15 under the draft rules. I want to point out that I inadvertently left out competitive services within this rule, so it would cover both competitively classified companies and competitively classified services. We will be making that modification. We made a little chart and basically what it means is if a company files, whose competitively classified, a price list filing it would be 10 day direct notice to affected customers, only affected customers, if it only

effects 10 customers that would be your requirement. If it effects the entire customer base then that would be your requirement. We gave an example of what staff's intent with the rule is of what a notice could look like for your companies. The effective date and your rate for, we used directory assistance, will increase by a percentage and will be whatever it is per call, period. That's what staff's intent is for this type of notice. With that said I'd be interested in hearing from the industry, any comments, concerns regarding this draft.

AF: I'd like to say that U S WEST appreciates the work that staff is doing with respect to the customer notice rules in trying to develop a clear set of rules that are universally applicable or in there appropriate contacts, universally applicable. That will clarify how companies will be expected to give notice going forward. U S WEST just wants to comment that it appreciates the work that staff has done on that. I have a question on the form of customer notice? Within the competitive. Is it an appropriate time to ask? One of the things that we've seen in the past is newspaper notices by competitive companies. I haven't seen any examples in the recent past but in the distant past I know that there are examples of it. My question is, what is staffs position on using newspaper notice for competitive companies, especially in light of the fact that there are alternatives for these sorts of services and that most companies that are providing competitive services, whatever they be, telecommunications or otherwise, use newspapers or other means of noticing customers of what they're offering their services at.

PH: It's staff view for the competitive market place to actually work to provide the affected customers what with the information so that they can make an educated choice. Newspaper notice is not guaranteed that the affected customer will receive that kind of information to be able to make that kind of choice to know that their service is changing because, it's staff view that there's no proof that customers all get the same kind of newspaper where that notice is located within the newspaper sometimes. So, staff believes that it would be appropriate for direct notice to affected customers.

SK: Abe I think had another part to his question, in the past when newspaper notice has been permitted, what was the characteristics of that? Do you recall? Abe cited that he couldn't come up with specific examples, but he knew that in the past that newspaper had been allowed as a means of accomplishing this. What were the characteristics of that situation that made that seem appropriate?

JG: We've used newspaper ads in rural areas on caller ID services because of the privacy issues related to it and did a series of them. One of the problems that we have with this rule is the fact that we don't have any evidence that everybody reads their bill messages or bill inserts either. It's a real gray area here.

JE: This is sort of an example of a problem area that we've highlighted in our comments and that I want to step back from a minute to explain which is, I think GTE, along with a lot of members of industry think that before you enact a new rule, and this is a new rule, you

really have to step back to ask yourself, is there a need for this. I you look at the current situation, there are 55 rules in chapter 120. Looking at this rulemaking, even taking into account all of the movement, you end up with 20 more rules than when you started. Now that seems kind of directly responsive to the direction the Governor sent, which was to streamline regulation.

GB: Just to interrupt more for a point of order. We were talking about the customer notice rule.

JE: This is new rule and that's my point. I want to get to...

GB: Didn't we go through this between 9 and 10. I thought we'd already gone through the points about whether we were expanding or not. We had Bob Wallis here, who explained what the Governor's directive did and didn't say.

JE: Perhaps I misunderstood when it was the appropriate time to make these remarks Glenn. I apologize.

GB: I don't mean to cut you off but I, for one, have to go real soon and I was hoping to participate in the...

JE: I just wanted to point out that this is a new rule. This is an added rule. This is a brand new thing. Our position is, before you add a new rule hold it up to the light and see if there is a real need for it, or is this something that truly can be addressed in the competitive marketplace. Because we have been operating, for instance, with this Competitive Classification scheme for many, many years. We have not had this rule in place. It's an example of an additional regulatory burden, when it appears that the direction from the executive order and the position of the industry is, wait a minute, let's look at this long and hard. Is this needed? Let us take a scalpel. Let us cut out so that we don't end up with 72 new rules as opposed to 50 existing ones.

GB: I think that the regulatory people at of each of the companies would confirm that in fact there is a notice rule today. That this is not a new rule. The problem is that that rule is in Penny Hansen's head. They don't always know what is expected of them and they sometimes find that it's a little hard to parse it out just based on looking back at the cases, trying to figure it out. We believe that one of the thing that we've been directed to do by the Governor, and that makes good sense, is to take the rules that exist, they are real rules, and they're not in the rule book, and put them in the rule book so that people do know what's expected of them and they'll have an easier job of complying and will have fairer treatment among the different companies.

PH: Just to add to that, is rules are to clarify the existing law. There is a law that says, price list effective ten days provided to the Commission and customers. This rule is to clarify

the existing laws and, like Glenn said, take it out of my head and put it on paper. So that if and when I leave, then we have a base start and the companies know what their obligations are.

RG: Penny I concur with you that it is in statute today that a competitively classified service must, in changing it's rates whether it's up or down, notify the Commission and it's customers 10 days in advance. I think what I'd like to propose is that notification itself. Because I think a question that was brought up by Glenn Harris from Sprint about the newspaper notification. The FCC has adopted such a notification for customers for competitive services, as well as 23 other states. Many other states, besides those twenty three, also have a lessened time frame in which to notify customers of competitive services. Obviously we can't lessen that time frame here in a rulemaking proceeding because of the statutory requirement of a ten day. But I think I would like to have the staff reconsider the "direct notification" because it is a very burdensome task to be able to notify every single customer, whether they may be affected or not and directory assistance would be a very good example. It's hard to know which customers, for certain, will be using that. There may be times when they use directory assistance in some months and other months they do not. So when do you pull that out. And also particularly for brand new companies starting out, that had not yet developed billing systems or may never develop billing systems, and have contracted billing services with independence and other incumbent local telephone companies to do a customer notification and to coordinate that all at one time, is a nightmare of administration. So, we would be proposing that the Commission look at notifications and perhaps rather than one maybe you'd want it to identify by company their service area, the newspapers you would want it run in and perhaps there would be more than one notice, if you'd so like. But the direct notification, in our experience, particularly in that past five years, has been of nightmarish proportions. So, we would like for you just to consider that recognizing that numerous other states have changed that. The Commission certainly has the authority by statute to direct the type of notification and the FCC has also done that two and one half years ago.

GH: One thing I want to pass the credit for bringing this up back to Abe. But I also want to concur in everything that Ron said. Not to jump again back to an over-arching comment but throughout we have commented on many of these rules that we do not feel it should apply or should come into existence in some instances as applying to competitive companies. I won't keep belaboring that point on every single rule where we've mentioned it because there were a great many. But we certainly do believe, with reference to this rule, and we agree entirely with AT&T.

JG: Can I just concur also for GTE and Penny, I wanted to add another point about a problem that we have. Our ILEC company which provides competitive services, but because of our billing structure and size of the company, direct notice to the customers that might be using that competitive service, they might be in any billing cycle. So, the problem that we have is that to ensure that "direct notice" is made in this fashion, we might have to

run a notice through all of the cycles in the month. And they occur over a whole month. And let's say because of our other internal processes there's several weeks in preparation of getting it in the cue. So, we lose the flexibility that's intended by competitive classification of a service because of the requirement of the notice. I realize that you would say that it's own problem. But we're a big company and we're trying to take advantage of some of the flexibility offered in that rule. And this would kind of defeat it for us. This is from an ILEC perspective of a competitive service.

SK: I'd like to give staff a chance to respond but I also want to tell the people that are on the bridge that we are talking about Customer Notice for Competitively Classified Companies.

TS: I am with Public Affairs. I also work with the media and do consumer education. So this is an issue that I've had to deal with from our end for some time now. So I was asked to sit in. I'm not normally on the regulatory team, so I'll be leaving after this customer notice discussion. I just want to share my input. It's nice to hear what you have to say about the importance of being competitively classified and having the value of that streamlining this process. But there's a consumer side to this too. We're looking at this in a extremely new way. Telephones are competitive. I think about other services in which I'm signed-up for and I pay for and I get a bill for and the rate goes up. And every company I know, lets me know before I pay more that I'm going to have to pay more. The fact that I hear in this room that you have problem with that tells me we kind of need a rule. Because in the competitive environment the customer needs to know what's going on to be able to make a rational choice about the services they get. I can see your point. This is a lot of hassle and we want to work with you one this. But I think our bottom line for staff and the Commissioners, from what we've heard, is direct notice. You need to let the customers know before they pay, before they incur the cost. So maybe there's some flexibility here. We're talking about the effective date of the price change. We can have an effective date but the customer shouldn't have to be obligated to pay for anything until that notice goes out. So maybe there's some flexibility here where the effective date goes in play but as your billing cycle allows you to notice the customer, they're not obligated to pay for that increase of the service until they get that notice in their bill. Just an idea here. In terms of just how this sells to the public and customers, I've had a meeting with 20 over 60 year old ladies this Monday morning talking about a variety of telephone issues and boy do they hate you guys. Telephone companies have a really bad reputation. Why? Because they do things without telling their customers. And I think it's really sad. I'd like to get to a point where government doesn't have to require these things of the industry. And I think everybody in this room and every company in this room does the right thing. It's the companies that aren't in this room that aren't doing the right thing and the taint is on all of you. That's why we need this rule written down. Here's a practice that we've doing for some time now. It's not a new obligation. But we want to make sure that everybody follows those same rules. So that's kind of where we're at on it.

GH: It is a dilemma. I hear what you're saying and I can't even disagree with anything you saying. The fact is that we have, I hadn't even thought of it when I was responding before, but what Joan said is true for them and is even more true for us, we've become so efficient that it can take up to 4 or 5 months to get a notice ready to go into the bill. So it really does, it not only defeats but makes absurd the 10 day notice idea. Regardless of whether we're good guys, bad guys, Methodist ladies, or mad at us or not, that's a fact and we all have to realize that if there is a rule like this the 10 days, at least to companies like mine, will no longer mean anything at all.

AF: First, I want to say that in terms of what U S WEST had proposed here and we proposed deleting this rule applying to competitive companies but of course Penny has clarified that the intent is to apply it to competitive services. I want to throw out here, that there may be a way to make one rule that addresses all of that as opposed to two rules in keeping with sort of the idea of minimizing. But, in any case U S WEST again, believes that it is appropriate to develop some clear guidelines here. I think what the industry is saying, and U S WEST concurs, that 10 days is really not at all 10 days, if fact it basically is 30 days like a tariff notice. The notice requirement essentially becomes completely the same for a price list filing as it is for any other filing because the way in which we generally notice customers and the way in which I think the Commission would most support noticing customers, which that is the way that is most cost effective, is through the customer bill. And the bill goes out over a period of 30 days and if it means, not only does it mean 30 days but then it's 30 days and the last customer that gets it on the last day of the 30th day of the billing cycle, then that person needs to have 10 days, as well. So what you have is a very expanded process and I think, kind of getting back to this newspaper notice question and the history there and the point that Ron Gayman raised from AT&T, is that I guess a newspaper notice, and I don't mean something necessarily something buried on the back page of the obituary section or something. I'm talking about something that's a reasonable notice to customers that is widely distributed. And maybe is required to go into more than one paper or target a good cross-section to actually get to customers, is one way of addressing this issue of 10 days versus 30 days and actually giving some teeth to the 10 day customer notice thing. I guess if we can work with staff, and maybe we won't resolve it right this moment, but if we can work with staff to try to come up with some ways of actually making the 10 day notice requirement, a ten day notice requirement and the 30 day notice requirement a 30 day notice requirement and making those actually different, as apparently the legislature and the Commission thinks that's appropriate, then I think we would like to try to do that. And whether it's a newspaper notice or some other suggestion that you may have or find a way to do it, we'd like to try to find a way that's reasonable for customers but also reasonable for companies and the services we provide. U S WEST does believe strongly in communicating with customers and we want to find ways of effectively communicating with customers and we often turn to the public affairs staff for help in constructing the messages in a way that does address the needs of customers and we will continue to do that and we want to do that but we want to find a way to do it that we think is reasonable given the competitive environment that we are in.

TV: I too have participated in those discussion that Tim was mentioning with customers and at the legislature and at hearings And what I'm concerned about, they do mention the companies by name that offend and those companies are not in this room. And that's what bothers me about this rule. We have taken all of the industry down to the lowest common denominator in this rule and penalized them by companies that aren't even here. What I'm asking is, is there a way that we could do a minimal kind of thing and if you are an offending company, then you have to do a more detailed kind of thing. Why are penalizing everyone up front. Because I really enjoy working with Penny Hansen on some of these notices that we do. So, I'm less concerned that we're not going to be able to work it out and do all that kind of stuff, even though it's not written down in a rule, I know that in our past work, we get it done and we get it done in a timely manner. But I'm very concerned that what we're doing here is putting additional requirements on companies that don't do this offensive behavior.

SK: Just a clarification Terry. What are your concerns about being penalized or an additional requirement?

TV: What I think is happening here is that by being very detailed about how everything has to be, if a company doesn't do all of this, what happens to that company. I suspect, in having worked with Penny, that it's not going to be a big deal. But I don't know what would happen with the next person that comes along. I just get concerned when I see these kind of lowest common denominator rules. That's my problem.

RG: I second Terry's comments about Penny Hansen. I'd like to have rules written in here that Penny Hansen can't leave the Commission! We've worked with Penny for a lot of years and it's been a absolutely outstanding relationship. I second Terry' comments on that. Perhaps maybe something that we can do here is that, rather than in rule language about a direct customer notification, we talk about customer notification. If a company is willing to do the notification to the satisfaction of the Commission, it may not necessarily have to be a direct notification. As an example, AT&T, if we're offering a service that is in specific geographic areas, we'll certainly mass populate newspapers. Alternatives to billing, again the problem that a lot of competitors have is their reliance upon the incumbent local telephone companies to render a bill on their behalf. And it's not the incumbent telephone companies problems or their holding up doing these bill notices. Competitors pay those companies to do billing notices for them. As an example, this particular month if there was a price change I wanted to effect, U S WEST might be able to render to those customers that subscribe to AT&T, a bill insert, but GTE may not simply because of the number of bill inserts that they have going out for that particular month. Perhaps Ellensburg Telephone Company has, it's three months out for them, that type of thing. That's where it becomes problems of great logistics. I know that advertising was an issue before the legislature this year and there was much discussion and I know Tim you are aware of some just recently some FTC and FCC adopted industry guidelines about truth in advertising that were announced on March 2. I would just like have to have latitude, the ability, without it being written in rule and without

having to petition the Commission to get a waiver of the rule that if we do a notification and it is successful and however it's mandated whether it's two or three or four newspaper ads that run in specific newspapers in which the ad runs and there isn't sufficient dramatic customer complaints, then give the industry that latitude. Again, both the Federal Communications Commission, as well as 23 other individual states have indicated that the marketplace is the best regulation. If AT&T pisses off a customer, pardon my French, there's 400 and some other companies that they can choose in this state alone. So it's incumbent upon companies to sufficiently and specifically notify their customers, otherwise those companies will hurt those company where it most counts and that's in the pocketbook and take their service somewhere else. But we'd like to have the latitude to be able to work around this absolute direct notice and with some other means perhaps.

TS: You mentioned about direct notice when you increase and lower rates. What we're talking about here is when you raise rates not when you lower rates. If you want to lower rates and you inform your customers, that's a good idea. But we're not going to require you to do that. That's not the purpose of the rule here. The purpose of the rule here is if customers are going to incur a higher rate, a higher cost, without being noticed, that's a problem. Again, I'd like to hear some creative. I'd like to hear some demonstrations, show some demonstration and Joan made a good point, people don't always their bill inserts. I totally agree with that point. So we can pretty much agree that people don't read the newspaper either. They don't even get the newspaper. They might not read that section that the add is in. If we're going to talk about demonstration I think the burden of proof here is do newspapers really provide the type of notification we need for customers to know before they incur the cost, that they're going to be paying more. Again I've tossed out one idea for a compromise here which is the rate increase doesn't go into effect for that particular customer, until they're noticed. I don't know if you can pull that one off, that might be kind of hard. Another one might be that you offer refunds for folks that aren't notified if they call in and complain because they didn't get a notice on this thing. The key thing is to get some sort of direct notice on the bill and we've made this pretty simple. Terry I think some of your comments have to do with later in the rule. We're really trying to talk about competitive classification here. We just gave you an example. That's not the way you have to structure the sentence you can propose a different sentence structure if you want. But we tried to make it as tight as possible and envision it on a bill, on your page of the bill if it's somebody else's bill. Or your direct billing. And it seems like a pretty straight forward message to me, not very onerous. I think most consumers would find that to be the basic type of notification that they deserve as being a customer. I think unless there's other comments, I think we can keep talking about this but let's keep the flow going. We're certainly not closed to the idea of some other way of doing this. It's just where we stand at this point.

JE: As its currently drafted it says it only applies to competitively classified telecommunications companies. So you would have to change that. I did not bring the actual statutes with me, maybe Shannon has them. I don't know what is in the statute. I

do know that the statute requires that the rates would only go into effect upon 10 days notice. I don't believe that it specifies the type of notice. It says here "provided under price list. Effective on 10 days notice to the Commission and Commissioners and customers." I guess I would only emphasize that the legislature, I think, if I could extrapolate what they're thinking, which is not necessarily always easy. They wanted to have a lot of latitude in this area so that companies could have the benefit of this 10 days price listing flexibility. And GTE also supports informing it's customers, but what you don't want to have is such a structure here that really prevents you from getting the benefits of this statute. And the last sentence of the last section of this section says that you're available for assistance on notice. Which I think is great and I've heard nothing but wonderful things about Penny. But, will companies reading this think uh-oh, just to be safe I'm going to always have to run this by, at least a week in advance before I do it. I think that companies will have a tendency to interpret that, not necessarily as voluntary, but kind of mandatory. And that adds another regulatory burden to companies, whether you intend it or not. This may be an unintentional sort of addition to the rule. And I would just point that out when we're going through and re-crafting it.

SK: 480-120-X14

PH: We want to start with subsection 2. This is for non-competitive telecommunications and start with subsection 2 of the rule which is a customer notification after UTC process. Under this current rule it's either prior or after depending on the type of filing that you have in front of the Commission, it's not both, it's not intended to be both. So with that said we would like to start with, Customer Notice After Commission Action. Our proposal is, is that after the UTC you make you filing, it goes through the process is that on the first bill billing cycle as the company can get to is that they notice the customers the same way as you would on the competitive. The effective May 15th so and so service has increased to whatever, or taxes have increased to because of and then that's what staff intends for after Commission action. For tax increases, non-recurring charges, late payment fees, NSF charges, things like that, just let them know that those prices have gone up based on a filing in front of the Commission. Grand fathering services, which is a change in policy. To let the customers know what that means and if they make any change to that particular service that's going under grandfather, that they'll have to choose a new service, things like that. So, let's open that section up for comment.

JG: Just as a point of clarification, then lets say we make a tariff filing and increase the rate and we've done the pre-Commission action notice, letting them know this is going to be addressed at this public meeting at the Commission. Then we would have to do the after?

PH: No.

JG: We wouldn't.

PH: No, just one notice. If the companies want to pre-notify your customers of the proposals

within this section of subsection 2 that would be alright. But what we were trying to do was make it easier on the companies and you have a choice. Either after or before, but we thought after would be better.

SK: I'd like to point out to everybody, this table that staff has tried to summarize. The notice requirements. One of the columns is customer notice required before or after Commission action.

General: We don't have that table.

PH: I think it was posted.

SK: The second column from the left says before or after Commission action. We talking now about those regulatory actions that say after. So for example, tax increases, grandfather of service.

AF: If a company comes before the Commission and it's one of the situations where the after notice is allowed, does that means the Commission might say OK this goes into effect, we approve this, its effective and then we need to get a notice out that month telling customers, or the next month or whatever, or when the next billing cycle starts, that this has happened but it already will be effective. In other words, we don't have to wait?.

PH: No. It would be in effect. It would be like the page prior of the competitive 10 day notice. It would be effective whatever date it was effective and then you explain the price. It would be just like the 10 day notice requirement for a competitive company, is what we were thinking for this particular after Commission action notice. A bill message informing the customer.

TS: Your bill might say, this bill reflects X percent increase in the city tax. So the tax has already been applied, it's already become effective.

PH: It's just to let them know the reason why that has increased. It's generally an ordinance from the city or county or something.

AF: On the competitive notice, was that notice intended to be after the things had already gone into effect?

PH: No. That's just an example. I was trying to get you back to the example we used for that type of notice. It would be the same type of notice for this particular....

AF: Be effective May 10...

PH: Exactly.

SK: Same methods of notice, I think, also. Bill message.

RF: Are you saying that when the Commission increases Y-TAP rate we have to notify customers? We have to send out a notice for that?

JG: That's like a tax right?

PH: Well, why not?

TS: Why don't you think that one through and give us some comments on it that we can use. That's definitely a jump ball.

PH: I never thought about that one. That's the kind of information that would be very useful to me because I can't think of every situation for every company out there. So, that's a good one.

RG: Y-TAP, TRS, and 911 would be three right off the bat.

TS: Maybe a way to kind of guide our thinking on this is we want to reduce the number of customer calls your getting in terms of why my bill changed, not increase it. That might be kind of another threshold decision. If putting a bill message on there actually increasing confusion or increases frustration over it that's wrong. It's a matter of just clarity, this is what happened. Generally we're thinking about the pass throughs on the city taxes, things like that.

PH: Staff recognizes that these proposed rules aren't going to capture every unique situation with the company out there. And that there's no way that we could draft one the would capture every unique situation out there and we would still be working with industry for fix and resolve those unique situations. These rules are more intended for the known generic normal type of filings that we get in front of the Commission.

SK: Any more questions about the notice that happens after Commission action? We'll pick up after break with Notice Prior to Commission Action.

*****BREAK*****

SK: On a whole we've done a really good job keeping the tone and the basis for the conversation very constructive and I really appreciate that. It's much nicer to do this job when that's the case. I just want to recognize that you guys have been very constructive in your comments and your approach to this. The other half of the notice rule for non-competitive companies and services.

PH: Under proposed WAC 480-120-X14 Subsection 1. This customer notice is for increases for tariff filings in front of the Commission. To notice affected customers of the intent.

And to give them a chance to participate or an opportunity to participate in the Commission processes as a concerned customer. So with that said, what we'd like to do is kind of go through the content of the notice of the way we see it as staff as appropriate customer notice and I think as we do that the industry will find that you already do this. Staff has made some changes in the draft because every time I look at these there's changes that pop out. As we go through this I'm going to tell you of some changes that I foresee making in the next draft for the industry under the particular subsection right now. Under the content which is subsection C, or should be start at A? Or do you guys want to go right to content and notice?

SK: Does anyone want to talk about 30 days prior notice?

PH: No? OK. There is an idea under subsection A under the file a general rate case of bringing that out into two different types of filings. One an informal filing and one a formal filing. There are companies like Yelm Telephone filed a general rate case. It went to the informal Open Meeting process and did not go to hearing. So if it goes to the informal process, a lot of times when these general rate cases are filed, you're going to know if it's going to be contested or go to the formal process. If it goes to the informal Open Meeting process then the requirement would be 30 day prior. But if it's going to be a contested rate case, such as a couple ago U S WEST filed and everybody knew that that was going to go to the formal process, then the notice requirement would be the 480-80-125, which is after Commission suspension set for hearing. So there would opportunity for the companies to have one less notice. You wouldn't have to pre-notice on a tariff filing that you knew that is was going to go to the formal hearing process. So, I'm thinking about adding that in there to give leverage to the companies also of knowing what type of notice they would need to do. Under content of notice, basically what staff is proposing is what's up on the board under subsection B. When we go to the content, we're asking for the date the notice has been issued, which is just the date. The company name and address, which is usually in the company logo. Subsection 3 and 4 staff will just suggest that we combine those. It's saying the same thing basically. A clear explanation and reason for the proposal that ensures that the customers understand the change, give examples is needed. So that would be the company has filed for what and why. Subsection 5 comparison. (Turned tape over) ...Probably doesn't meet the need for telecommunications industry, so I'd be willing to take that out. The requested effective date, if approved the rates will be effective on. The total annual revenue increase or percentage of increase. Staff would propose to remove that item at this time as long as the current proposed rates are kept in the notice. Explanation that the UTC has the authority to investigate the proposal. Description of where the customers can contact the company. Basically if you have questions, call us. Public involvement language. In the current draft you have public involvement language is quite lengthy. In other rulemakings that we've been working on, it's down to one paragraph. Staff would propose doing the same here. And still offering the company a chance to write your own, just including this type of information. That would be a change in the next draft as we move forward on these working documents. So that's what staff's intent is under

subsection 1 which is actually taking the same thing that is currently happening with our non-competitive companies now. With that said I'd like to open it up for comments, suggested changes, concerns.

DD: Penny is right. It looks like exactly what CenturyTel has been doing in the past. Again with Penny's assistance, all the time, we get through the process relatively easily and have them prepared. I personally see no problem with it Penny. I appreciate your help too.

SK: Can we get copies of what the language looks like for the other content under 11 A and B?

PH: I don't have it written out but I can read it. As you know I'm still making changes to it.

SK: Haven't we sent that out in energy?

PH: No we have not sent that out in energy yet. It's just basically all the public involvement language. If you chose this way instead of making your own, would state that all comments to the Commission must be submitted in writing or presented at the public meeting on this issue. If you have questions or you would like to be added to the mailing list on this case contact the UTC at our address. It's a one paragraph statement. That's what staff would propose.

SK: Other comments about content, subsection C?

PH: I have a little bit more. We did talk about formal hearing notice and as you know that's in chapter 480-80-125. Staff would propose that that notice requirement would remain within that chapter, however be drastically rewritten to make it easier for the industry. But when I talk drastically, it would be easier for the industry. Really the only thing that would change than what you have right here under this current proposal would be that there is going to be a public hearing scheduled. The statement that says that. The statement that says that public counsel has been assigned to be your attorney. And that's the only differences within the formal hearing proposal when we get that out for draft. Which is quite different than the confusing current WAC on the formal hearings.

SK: And that formal hearing language is going to be in 120?

PH: It's going to be in 480-80-125 for all industry.

SK: That's where it is now?

PH: Yes. So when we get there staff will be re-drafting that notice too and not be prescribing actual format for the notice which is in there right now. We're just going to focus on content of what needs to be in that notice to customers. Which would be the same except

for those two that items that I mentioned about the public hearings and about public counsel involvement.

SK: Any questions?

TV: The notice requirements today are only in the formal rules the 480-80-125? And what we're talking about here with the 480-120 are new?

PH: Actually there are already rules out there. 480-80-120 which what I'm proposing to repeal, delete, what have you, would replace it with this 480-120-X14 requirement within each chapter of telephone, gas, electric, and water has already been adopted.

TV: So this is across all utilities are adopting this?

PH: We're currently in a proposed rulemaking for the gas and electric industry and in addition to telecommunications.

TV: So if I went to there rules I would see this same language that you are proposing?

PH: Yes, but there is one thing that would still remain in Gas & Electric over it would still would be the example of the proposed based on average customer use because of the kilowatt hours concern.

TV: That would be the difference?

PH: That would be the difference.

SK: There's some additional notice of PGA. Different kinds of filings.

PH: It's unique to the industry.

SK: Any other questions about the formal notification that would be in 480-80?

GH: Your really going to try to explain the purpose of public counsel?

PH: Actually it's just a ....

GH: I'm not attempting to dis public counsel at all, it's just that once you bring it up the customers are actually need to understand. If you say this is your attorney, if you tell me this is my attorney that is going to raise certain questions in my mind certainly. Especially if I haven't heard of that process before.

PH: Exactly. Well, that currently is a requirement in the formal hearing notice, that you explain that a lawyer has been appointed and it's from the Attorney General of

Washington Public Counsel Division, yada, yada, yada. What this one would be, which you all will have a chance to participate when the 480-80 chapter goes forward on these drafts, will be a statement that a lawyer has been appointed to represent you. And that public counsel since has put out a phone number for rate cases that they are involved in that consumers can call them directly. It's just a simple statement and then the UTC's address and phone number would remain and then I'd receive those calls and explain what the difference is and how that would work. Or if they called the company.

MS: Maybe it would help to explain that this is more or less what happens already. We've had that phone number for a long time and we've been in those notices for a long time. We get those calls and this isn't going to change, I think, any of that.

AF: Is that for the formal notice only? The one that we're not looking at here.

PH: Yes. When chapter 480-80 goes out and the draft language goes out then we'll be coming back together and talking about the draft within those chapters and this particular draft will be contained and sent out to industry at that time. I just don't know the schedule of when that chapter is going forward.

SK: I want to make sure I understand that there are no comments people want to make about subsection 1A, which is affected customers must receive 30 days notice or B which is who the company must notify. We haven't talked about A or B in 120-X14.

TV: Just a clarification that while we have made no oral comments at this workshop, we may make comments about that in writing.

SK: That's understood and some of the companies have made written comments already. But you have nothing else to add at this point? Does anyone on the bridge want to make comments on customer notice at this point?

MS: Although we haven't made substantial comments in writing we're generally pleased with the directions that staff is going. So, we're comfortable with where this is right now.

TV: A general comment that I have for the telephone association is that while we have no problem letting customers know that are other avenues available for them, such as the Commission or public counsel, our first choice is always to have our customers come back to us with questions. So, I'm concerned that we not make in these rules that it looks like you are the first choice or the Commission is the first choice to come to. A lot of that has to do with just where you place certain things. That's a very important issue for us, is that we want our customers talking to our company representatives.

PH: I actually want that too. That's a good point. The example up on the sheet of paper there, you can formulate your notice however you like and the way that I have it is, is the first phone number will be the companies number on there. It's just as long as the

content needs are met in your notice, I'm totally fine with that.

SK: Our preference is always been to just discuss the Commission role and our process and leave it to the companies to talk about their proposal.

PH: I'd just like to thank the industry for all the comments and that I have heard your concerns and hopefully that the next draft that we send out on these rules I can meet some of those needs and concerns. I too want to say that our working relationships have been great and I appreciate how easy the industry is to work with me on these customer notice issues. So thanks for all the comments and I will say it won't go into WAC that I stay with the Commission. But, thanks for the opportunity.

SK: At this point we're going to go ahead. Let me ask first, do any of the companies have people who were going to talk about accounting issues that aren't here yet? And staff you're prepared to go ahead? OK. At this point we propose to go ahead and take up the accounting rules which was scheduled for 1 o'clock. Paula Strain will give us an overview of the rules and what the staff's thinking is.

PS: I'm going to give you an overview on, I think it's four of the rules and we'll skip over 032 and Sondra will handle that. Rule number 480-120-031 is now entitled Non-Competitive Companies Accounting. What we wanted to do was try and separate the reporting requirements for companies from the accounting requirements in the rules as they are today there interspersed and intermixed. We wanted to separate those for clarity. To give you the highlights of what we've done in this proposed rule, it updates the uniform system of accounts that we kind of use as our beginning framework for accounting for these companies from the version in 1991 to a 1998 version. That's the FCC part 32. It realigns the class A & B classification criteria so that it conforms with the statutory 2% of access lines criteria that was set forth statute 80-04-530. Like I said it moves reporting requirements out of this rule into a separate rule for clarity. We also did updating the uniform system of accounts, we also updated in what ways accounts kept for the UTC would deviate from the FCC. We removed all the language, tried to remove all the language, pertaining to ratemaking provisions from this rule. Rule 480-120-033, we renamed this Reporting Requirements for Competitive Companies. This essentially takes existing reporting requirements from several places and puts them all into one rule. We also removed accounting requirements from this rule. They were moved to a new rule. One of the items we've done here is relax the requirements for filing. It used to be you had to file a certified consolidated financial statement and the new rule proposes filing an income statement and balance sheet, which is a lesser requirement. And it moved a reporting requirement for information delivery and blocking service revenues from the information delivery rule into the reporting rule, just so that all the reporting rules are in one place. A new rule, X01, includes the accounting requirements for the competitive companies and so what this did was move the accounting requirements from 033 and then clarified the accounting required for intrastate revenues. It's no different than what was required to be reported previously for

the annual report and the regulatory fee requirement. New rule X02, contains the reporting requirements for the non-competitive telecommunications companies. This includes the reporting requirements moved from 031. It clarifies requirements for class A companies and updates requirements for the Class B companies so that they conform with the statute, 80-04-530 which relaxed reporting requirements for companies with less than 2% of access lines. It eliminates a requirement for supplemental reports on multi-state allocations. And it eliminates some references to budget rules. Questions and comments?

SW: Start with 031 and do one at a time.

AF: I'd like to say again U S WEST wants recognize the obvious hard work of staff on this group of rules. There have been significant changes and largely scaling back of many of the requirements in the rule and have really made it a more user friendly rule. I just want make one general comment about this sort of group. I just want to say that U S WEST also appreciates, and this is sort of evidence that staff has not tried to develop one group of rules, like a 121 chapter for competitive companies versus non-competitive companies, these rules are here together in what U S WEST believes the appropriate place, at this point. I just want to make clear, to extent that U S WEST has proposed deletion of two rules, X01 and X02. The reason for that deletion is that U S WEST believes that those rules ought to be rolled in together with their counterparts, 031 and 033 I believe they are, meaning that ones accounting requirements for competitive and ones accounting requirements for non-competitive, ones reporting requirements for competitive and ones reporting requirements for non-competitive. U S WEST believes that reporting requirements should be together as one rule and the accounting requirements should be together as one rule. While we recognize the intent of trying to make things perhaps clearer we believe again that there are really no companies left today that are "non-competitive" and if you go back to the definition that Shannon gave us earlier today, certainly not all companies have been competitively classified as companies, but all companies are facing competition and all companies have many services that are competitive and in today's environment, we ought to be focusing of services as opposed to companies and ought to be trying to create rules that require the same things of various competitors in the market regardless of whether they're entire company has been competitively classified at this point.

PS: One of things that we noticed when we going through this, and I took the same clear rule writing class that Bob Wallis had taken was, we noticed that we went through the entire accounting rule and at the very end it said these rules don't apply to competitively classified companies. So, part of the reason that we wanted to separate the rules into four rules was so that companies that were classified a certain way and the classification is statutory, it's not something that we can just say well let's just recognize this in the WACs and move on. It's a statutory distinction. We are required by law to distinguish companies with non-competitive services from companies that are competitively classified. What we were trying to do is just make it easier for companies going to our

WACs knowing which ones they had to look at so that they didn't have to go through an entirety of a three page WAC and then find out it didn't apply. So, that was part of the reason that we separated them into separate rules. I just was for the clarity.

AF: On the clarity and the streamlining issues, again, I just want to say that U S WEST really appreciates the obvious work that staff did to get these a lot more streamlined and a lot clearer. So thank you.

JE: X rules for competitive companies. As far as the accounting requirements. Apparently GTE's CLEC doesn't really keep its books on a jurisdictionally separated basis. And the way it's been redrafted it appears that it would call for such a jurisdictionally separated Washington intrastate operations for you.

PS: Could you point out where it says that?

JE: It would be X01, it says in addition the accounts must allow for identification of jurisdictional revenues for Washington intrastate operations.

PS: That's required for regulatory fees. Payment of regulatory fees. The regulatory fees are based on Washington intrastate revenues.

JG: Also in 033 I think you guys were proposing new language asking for results of operations for competitive companies. Our accounting folks just don't keep state specific information like this.

PS: 033 talks about the annual report form included a regulatory fee form and then it says companies must report all information delivery service and blocking revenues as separate revenue items. That's transferred from another rule. So that requirement did exist.

JE: We don't understand why you want to have specific, single out reporting of all information, delivery services and blocking service revenues. Do you know what the rationale for that is Paula?

PS: It was moved from rule 059 I believe, Information Delivery Services. If we go to 480-120-089 subsection 5C. Which deals with information delivery services.

JE: GTE proposed deleting that, but I figured the reasons for that we'd get to when we got to that rule.

PS: What we wanted to do was get reporting requirements in one spot and that was why we moved it and we can certainly talk about why that whole rule was there.

JE: I guess it kind of goes to fundamental question, again, operating from a platform of ignorance when it comes to accounting, I'm told that apparently whatever our CLEC has

done in the past they didn't have a problem with. In terms of reporting to you whatever it was you needed to make sure the regulatory fees were paid properly.

PS: Which is intrastate jurisdictional revenues, which is all were asking for to be on a jurisdictional level. We're not asking for expenses to be on a jurisdictional level or to be on a state level.

JG: We already report it in that fashion Paula? CLECs?

PS: Unless you're paying regulatory fees based on all of GTECC's revenues, I think you are.

JE: Do we need to, is there a need to report all information, delivery service and blocking service revenues as a separate revenue item? That's just kind of one of those questions which is, this might be an area where, do you really need it for a reasonable regulatory purpose? If so, fine. If not, then why don't we get rid of it?

PS: The reason it was there is because it's, and it might be that it needs to go someplace else. I think the reason that that requirement is there is because the cost for providing those services are suppose to be, it's to do with making sure that the revenues, I wish Mary Taylor were here, that's all I can tell you. There's language in the other rule about making sure that customers get free blocking and some other things. What we did is just take that from that other rule and put it into this rule because it was a reporting requirement. It's something we could look at.

SK: The reason it's in the rule that we're talking about today is that it's a reporting requirement that existed before. Maybe we ought to be talking about this when we talk about 089, which I believe is on April 11. We could talk about it now but the right staff aren't here today for that conversation.

JE: Maybe is we could make a note that this is something that we might want to look at as one of those areas where, do we need it and if we don't lets get rid of it?

PS: We weren't sure when we were splitting these rules out and trying to parse them out so we just included it by default. It's certainly appropriate to keep going and talk about it. Because we had the same questions in our mind too.

SK: That's agreeable to GTE?

JE: Yes

PS: Did we get a change to talk about all the rules that people want to talk about? Again, I'm not sure where the new rules would fit in the order of the old rules, but probably you would group them so that it made some kind of rational sense. The reporting together or accounting, I'm not sure, but at any rate they would probably be grouped together so that

a company would be able to say these are the rules that I have to look at versus going through a bunch rules and not knowing what they had to look at.

AF: We made several detailed comments and I guess at the outset I'd just say if staff has any questions about any of the comments that we've made, then I'd be happy to address them. But I don't want to go through them all here just because we're moving at a nice pace and I don't want to slow things down to go through everything. I'd like to highlight one specific suggestion in 031 and that is that U S WEST proposed adding some language in here about changes to the USOA made by the FCC, allowing those to go into effect without Commission approval where the affect on annual revenue requirements is less than 1% or $1 million of revenues, whichever is less. The reason that U S WEST is proposing that is to try to keep the process as simple and straightforward as possible both for the companies but also for staff and where the changes have a minimal revenue effect to allow them to take effect without having to make a filing every time. That takes a lot of time for companies and for staff.

PS: I think in our response we referred to the Washington Bill Drafting Guide in which in the section that entitled Incorporation by Reference, it states that we cannot do that. We can't just adopt changes that might happen later down the road in advance without us considering them. We not allowed to do that. The other reason that we disagree with what you're proposing is that a change may be less than 1% or $1 million in one year and the next year it might a $20 dollar impact and in terms of looking at materiality and trying to evaluate what the impact of the accounting change is it could fluctuate from year to year based on the activities of the company. We weren't comfortable with saying in this one year it's a very small change so that's fine. The next year whatever line of business is mushrooms and grows 100 fold and all of a sudden we're stuck with an accounting rule that had exempted something. And it would be something that we would have to look at every year. So I think logistically, no matter which way you do it, even if the bill drafting guide wasn't telling us that we can't really do this, when we incorporate by reference, either way it's going to be work for staff and the company. Either you're looking at it to make sure it's still exempt or you're looking at it to look at the issue and then decide how it should be treated.

AF: Maybe just as sort of a suggestion there, maybe we can find a way to make it so that we don't have to go through the formal process for every one of the changes that are small. But without the Commission sort of releasing it's discretion by rule. In other words, add some language in there saying, except as otherwise required by the Commission in the appropriate circumstances, or you don't even have to get into the in the appropriate circumstances, but basically just finding a way allow the Commission to retain it's authority to say wait a minute, this is one of these where it looks like it's only a $1 million this year but next year we think it's going to be $30 million and we need to deal with this. The idea isn't to try on our part is not to try and slide these through, where they're a million one year and 20 million the next, but rather to try to find a way to lessen the burden on the companies and staff if there's a way to do it.

PS: I think we do that on a case by case basis based on what proposals are. I just to cite an example, when the FCC changed the plant capitalization rule, the threshold limit from I think it was $500 to $1,000 or something.. Those were pretty much slam dunks as far as we're concerned. I don't recall that we had to go to a whole lot of trouble for any company to do that, for the ones that even did file a petition. I think the other thing is that there are waiver provisions in the rules and you can ask for a rule to be waived. If you have a change and you feel like it's really small, you can ask for a waiver of the rule or just point out what the materiality is. Usually the follow-up questions we have when people file accounting petitions is we say would you please provide us what accounts are affected. How much is it and so on. And that's usually not provided in the initial petition. So that tends to slow the process down. If that information if provided initially it could speed up the process. I'm comfortable that there are ways to deal with your concern, which we also share because these take our time also. We also have to worry about if it's something that's going to affect other industries, as well. Just in the impact or the principle of it. We would like to look at them on a case by case basis.

AF: Maybe we can strategize together, not necessarily here, but maybe before we get to the final rule we can think together, is there any other way of doing this which both relieves burdens on companies and staff. And if this is the best way to do it then by all means we ought to go forward with it. But if it's not and we can think of something then let's put our heads together and see what we can do. We proposed adding in a section 5 at the very end of 031, which we moved from X01. Because, again, we were trying to consolidate and not have two separate sets of requirements for competitive and non-competitively classified companies. If the staff ultimately decides that two rules are required, we don't think that this is necessary in this rule. The addition of this language is not necessary here unless you're consolidating the rule into one.

PS: Where is that?

AF: In section 031 we've added a section 5 at the very, very end of our proposed rules and I can walk over my copy to you. This is a U S WEST proposal. What we did was we said move basically word for word the language of X01 into 031 and make that subsection 5 of 031.

PS: It's clear. What it would do is apply reporting requirements for competitive companies to non-competitive companies.

AF: And visa versa.

PS: I don't think it would make non-competitive companies reporting requirements apply to competitive. If that's what you mean by visa versa.

AF: It would basically combine to two rules into one rule that would hopefully neutrally applied to all companies.

PS: The staff's position is that it's not appropriate when companies are non-competitive. Even if they have competitive services and I understand your position on that. But a company that provides non-competitive services has different reporting requirements and should have different reporting requirements until the time they are classified competitive.

AF: I'm happy to agree to disagree on that point. All I'm saying is that this language that we've proposed here, we don't support adding it into 031 unless we also delete X01. That's all I was saying. So, scratch our comments if we agree to disagree and you're going to keep X01, then we're not proposing that you also include this here.

GH: As an on-going matter every time Abe says that, we disagree. That competitive and non-competitive companies should be treated the same.

PS: Are you saying that as a competitive or a non-competitive company?

GH: I'm just piling all the hats at once and saying that.

JG: I have that same problem Glenn has.

SK: Staff has a follow-up question on your comment Mr. Friedman.

SW: You mentioned in section 5 in proposed language, I have your comments in front of me. I don't see them in our summary. Can you point me to what you're talking about?

TV: Abe were those the changes that WITA and U S WEST submitted together?

AF: Indeed

TV: I think that clarifies staff's response that the explanation that came from U S WEST about what was done and so we sent in the proposal, jointly, with U S WEST and then the explanation came from U S WEST.

SK: That's very helpful. Thank you.

PS: I'm all done unless anyone else has any comments or questions.

JE: I don't know, maybe it's in the summary here, I haven't studied it yet but, does the staff have a problem with the adding the language that GTE suggested in 031 for non-competitive companies accounting sub 2? That basically says, if the FCC allows class A companies to depart from USOA part 32 to use GAP you could do it for state reporting purposes. Would staff have a problem with that?

PS: At this time yes. We find that GAP reporting requirements wouldn't meet our needs in

terms of looking at where the companies are and what's covering costs, what isn't covering costs. Especially the companies that are offering both competitive and non-competitive services. We looked at that and thought about it hard and we feel like it's a not yet. At this point.

JE: How much longer?

TZ: Being familiar with jurisdictional separations, most of the incumbent companies have about say about 25% of the activity interstate. The other 75% of the activity is intrastate. I think it would be kind of like the tail wagging the dog when local service, which is basically a non-competitive service at this time, is under the jurisdiction of the Commission. Interstate services might be more possible to be competitive. I just think that that's just probably is part of our analysis, as well.

PS: I think our other concerns were with universal service provisions going on and the reporting that needs to be done for that program that part 32 serves the purpose and GAP likely would not.

JE: There was another change that the accounting folks at GTE wanted and I couldn't explain it to you if my life depended on it. It would be in 031-3D it's a sentence that follows accounting for federal income taxes. It says allowance for funds used during construction may be treated as a normalized item. 031 sub 3D. Where you're talking about accounting for federal income taxes. And GTE proposed adding a sentence there that would state "allowance for funds used during construction may be treated as a normalized item."

MT: The only thing I remember about that Paula, and maybe you'll remind me, is we figured that had more to do with ratemaking than actual record keeping and it doesn't need to be in the rule.

JE: I'll take that back. I'm just a conduit of that one.

PS: Judy if you want to get whoever raised that comment to call me or Maurice and we can chat about us or ask them to send an e-mail to clarify what their concern is, we'd be real happy to do that.

MT: We just felt that it didn't need to be further explained because in the sentence just before it says, "records using flow-through tax accounting methods to the extent permitted by federal tax regulations" covers the whole gambit. It's almost redundant to say when you identify allowance for funds used during construction.

JE: OK. Got you.

TV: Paula, can you explain to me what you're trying to do with 031 from a staff perspective,

just a general kind of explanation. Is what you're trying do is set up how the companies do their accounting?

PS: Yes

TV: For what purpose?

PS: So that they know in what ways they need to keep their books.

TV: Is that for a ratemaking purpose or another purpose?

PS: That's for record keeping purposes because then when they file reports with us they should be on that basis.

TV: So this is how you want the records of the company kept so that when they file reports with you it would be on the same basis for each company.

PS: And so that when we have rate proceedings with the company they have the information available. They have been accounting for the information that we know we will need, so that we don't go in there and say, now where are your records that show this. And they say well we don't keep it that way be cause the IRS says we don't have to do this.

TV: That applies to all companies? There's no distinction between competitive and...?

PS: There is a distinction.

TV: So the distinction is that the competitive companies have to do less accounting?

PS: The competitive companies... That's why we tried to make it two different rules because we believe there are two different standards for accounting for the two types of companies.

TV: Does that mean that they will be reporting differently?

PS: Yes and they do today. But the reporting requirements for most of the companies in WITA are in line with the statute that 80-04.

TV: In line with the statute then, they only do one or two reports annually?

PS: Yes and I think that's what we say in the rule. We deleted the portions of the rule that were not in alignment with that statute. Because that was a definite problem.

SK: Other questions or comments about any of the accounting rules?

AF: So far the rules that you've covered Paula, just to make sure I didn't miss anything are 31, 33, X01, and X02?

PS: Yes

SK: Are there rules in the accounting section (turned tape over)

PS: I know we'll be having many conversations as the months go on.

SK: We still have five accounting rules to do. 032, 036, 136, 058, and X09.

TV: Rick Finnigan had to leave but I think he had questions or clarification on this section. So after lunch he'll be able to re-join us is Paula would be available.

SK: That would be fine Terry.

*****LUNCH*****

SK: Rick Finnigan and Paula Strain are going to talk outside of this meeting about the questions or concerns that he had about the accounting issue that we talked about before lunch. At this point we're going to go ahead and finish up the accounting rules. We're going to talk about 032, 036, 136, and X09.

SW: Since these rules have been categorized with the accounting they're kind of a mish mash. They're not like the first group of rules that we did, that kind of all went together. So I want to take one of these at a time. We talked a little earlier, this whole chapter is going to be re-numbered at the end. Re-grouped and re-organized, because things are called X something it's not going to end up at the end of the chapter. That's just for our ability to keep track which rules are which and give people the ability to identify what rules we are talking about. If you have comments about how you'd like to see the rules grouped, we're open to that too. But they will be completely re-numbered.

Rule 032 Political Information and Political Information, we basically just rewrote this one to make it clearer as to what we feel we would want in this rule. We didn't really change anything. It's just basically clearer rule writing. I think the majority of the comments that came were asking us to eliminate this rule as a whole and currently we don't agree with that. I'd like to open that up to discussion.

AF: Would you tell us more about the Commission's position?

SW: This is a rule that we have in all of our chapters as far as addressing political contributions and political information and being assured that it's not end rates.

TZ: There might be more detail in this current rules than there is at the Public Disclosure

Commission. For things like lobbying. My recollection was that when we looked at this is that the level of detail was more sufficient in the current rule than it was at the Public Disclosure Commission.

AF: Does staff plan to strike the portions of the rule that are redundant and just put in anything additional and reference the other rule? Or was staff thinking they wanted to keep the redundancy, where there is redundancy?

TZ: When you say redundancy, do you mean between industries?

AF: Between the Public Disclosure Commission....we proposed deletion because we believe this issue is governed by the Public Disclosure Commission and that's set forth in RCW 42-17. To the extent that they have promulgated rules on this, is it necessary to repeat those? Or is it the staff's position that they will scale back the rule and only put in new or non-repetitive or redundant....

PS: Which portion of the Public Disclosure rule is duplicative of the rule we're proposing. Can you point to a certain section or sub-section that says the same thing or that does the same thing as this would do?

AF: We had cited 42-17 but not the specific sub-section. So I don't have it in front of me but we could try to take that as an action item and get back to staff.

SW: That would be good because when we went to 42-17 I couldn't find any duplication. We wrote it based on what we currently had in the rule. And again so that if a telecommunications company picks up this chapter, they're not having to go to PDC rules to figure out whether or not they can have political information or contributions in ratemaking. It's basically trying to bring everything together within one chapter.

RF: Unlike some of the other things where you'd want to have as much information as possible because you're dealing with a new entrant that's coming in and they'd want to know what it is they're suppose to do. This only applies in ratemaking and new entrants are coming in primarily, with one or two exceptions, primarily as competitive companies and this doesn't make sense to a competitive company. This is sort of a standard ratemaking adjustment. You don't have all of the standard ratemaking adjustments listed out here. So, from our perspective it would be better just to take the thing out. We all know what the Commission's position is. We know that there's a Supreme Court case that says that you're not suppose to include this for ratemaking. So there's really not a need, that I can see, at this time to include this information in the rules. Because you're not informing new competitive companies that register about anything that would effect them.

SW: Shannon is not here and I can't remember the legal reason why we were asked to keep this. But I'll take this up with her and offer that suggestion.

JE: From GTE's standpoint, I would echo what Abe and Rick have said. But, this might be a good example of a rule that you really could look at and say, to accomplish the objective that we're here to accomplish. This might be a real good example of one that could go. And we would support removing it. Because it really isn't necessary.

SW: I would ask the accounting people, is there any precedent why this particular ratemaking one has been in our rules in all the chapters?

PS: I'm not aware of any but I'm relatively new to this Commission compared to some of the people in the room. So I will defer to the longevity.

MW: I walked in late, are we talking about the section on political reporting? I have to agree with what you've said. We've cut it back as far as we could and I think the staff should take that under advisement because this is strictly for ratemaking purposes. One of the reasons that we felt that it should be there is just so that it's out there so if people really want to look at the political activity. But I think your point is well taken.

SW: Any more comments on this particular rule?

036 which is our Finance Securities and Affiliated Interests. I think the majority of the comments that came in on this rule were that it was duplicative. We already have a chapter that tells you what to do with this. And one of the approaches that we've taken in the rulemaking is, do we have pointers or don't we have pointers to other chapters? Right now the consensus on the Commission staff and on our management teams is that to make it clearer it's best to have a pointer to where you have to go to another chapter to figure out what it is that you need to do. That's the purpose of why we have 036 in here and you'll see that in some of the other rules too. We know it's duplicative, it's telling you where to go, but we're open to suggestions for additional comments on what we've received in the written comments.

SK: Purely informational.

JE: I appreciate your really trying to make clearer and easier for companies to operate here but, I would think that anybody that's coming into the state to operate is going to have to look at all the title 80 RCW's so that they know what their obligations and responsibilities are. I think that it's not necessary to necessarily have to put pointers in saying go look at this other chapter because when you register here, I think if you look back on the application, I think that there is reference there that says you have to abide by this, this, and this chapter. So I don't know what further purpose is being serviced by having these pointers. Also if you're going to have a pointer, are you going to cross-reference, on this issue goes to this chapter and on that issue go see that chapter? It seems to me if you want to streamline things, and one of the ways to streamline things is to not necessarily have pointers when the companies are advised at the get-go that these are the chapters, these are the statutes that you will be held to these.

AF: The other thing that staff has done and staff ought to be commended for, is they've worked on the titles for the different sections that are out there to try to make, at least in the WACs, it very clear for companies or customers, whoever wants to look at the WACs, to see what this chapter really deals with and what this chapter deals with. And I think the fact that you've worked to make some changes there to clarify what is going on, I think may be sufficient to cover an ambiguity or anyone's questions about where they need to look. If they look and see that this isn't clearly an issue that's dealt with here then they go there.

SW: I don't know if when a company registers for the first time if we send out all the different chapters of the rules, but one of the phone calls we get a lot is, whether it's a new company or an existing company, they usually get 120. That's our general rules for a telephone company and that's why, within this chapter, we've put some pointers to other chapters. We have not put pointers in 121 that sends you back to 120. We just have taken some of them and pointed them to some of the smaller chapters coming out of 120. Because our understanding is that 120 is what most people first go to figure out when they have to do something.

RF: We're confused over here. Are we talking about 033 or 036?

SW: 036

RF: If you agree with all the comments that there are not need for the rules, why.....

GH: You've got, staff agrees with all the suggestions that the rule be deleted.

SW: I think we may have gotten carried away with copying things over.

SK: So basically the parties that have commented on this, this is not needed and staff's perspective that it's intended to be helpful doesn't warrant another rule. Even though it doesn't require anybody to do anything. Is that the sum of the comments?

JE: I think that's accurate.

SW: 058 Protection of Customer Prepayments. This rule originally was mixed into all of our consumer rules. Our consumer people felt that this really wasn't a consumer, per say, strictly consumer rule, and it's more on the accounting side. That's why it was moved here. We really haven't made a lot of changes to this rule. Basically just tried to clean it up. Pretty much just cleaned this one up. Tried to make it a little clearer. I'll open this up for comments.

SK: I believe this rule is relatively recent.

GH: Just last year or something.

JE: The only comment that we would make is that in sub 1C the rule says the funds must be maintained in an account within the state of Washington. Because a lot of these companies are multi-jurisdictional and do their banking multi-jurisdictionally, is that really a necessary requirement? So long as the money is protected and deposited and you can get at it. Does it have to be in a Washington bank?

SW: Somewhere between the CR-102 and adoption we lost the word "branch.". It used to say within a branch, so it could be like Bank of America, but it could be a branch within the state of Washington. My understanding is that they do want to retain that the money is kept in some type of branch or bank within this state. So it makes is more easily accessible to repay this money back or pre-payments.

SK: I don't think our attorney generals don't like to practice law out of state.

GH: We didn't comment or notice this during the first go round when this rule was approved last year. I guess the only caveat I'd offer is that if we don't do any banking as corporation in Washington, and I don't know whether we do or not, you might it's harder to get at the money if they have to put in Washington, because we might lose track of where it is.

TV: Just as a practical matter it seems to me, as GTE pointed out, in an environment of electronic banking, this seems to be a mute issue. There's got to be a way to do what being suggested here without forcing funds to be kept in one location versus another location. It's probably something that we have to put our minds to figure out how to write it.

SW: And we're open to that because until I was revisiting all the comments this week, I went to Fred and said, what does this mean. That's why we pulled the old rulemaking. We saw it said branch and then by the time adoption came it was gone and unfortunately it was gone. We're definitely open to some suggestion or comments on how to re-write that or what's more logical in this day and age of electronic banking. Also, we'll have to look at our legal side of it too.

JE: I was wondering why there was a legal reason for that "must maintain an account within the state of Washington" requirement?

SW: I don't know if there is, but we always check with them before we eliminate something.

TV: The could be a holdover to before the electronic banking because I know before we moved into the new environment there were some rules about how you could move money around. Now that's all gone and that's an environmental change.

JE: Maybe just modifying it by saying, the funds must be maintained in an account within the state of Washington or any account to the satisfaction of the Commission. So that

there's some room there for flexibility. So that you're satisfied that GTE or Sprint aren't....they have the capability of getting the funds back.

HD: We had also suggested that there needed to be some clarification around customer prepayments, especially as it relates to payphones. I noticed that staffs disagrees and specifically mentions that it doesn't pertain to payphones but I wonder what harm is there in clarifying what you intend with customer prepayments?

SK: If I could go back to the bank in Washington State issue. In 058, A, B, or C, a company is covered in A or B or C. If you have a corporate bond debt rating covered in A then B and C don't apply. If you have an escrow or performance bond, A & C don't apply. I don't know if you were all reading that the same way. I'm not sure how the rule is currently constructed would apply to any of your companies.

JE: I guess the question is any of our companies CLECs, which are separate entities, sort of....

SK: That's right and it probably varies from CLEC to CLEC. I just wanted to point that out because that distinction about the or's didn't seem to be reflected in the comments people were making.

JE: You're right.

SW: Holly on your comment, I don't think we clearly understood why you guys referred to payphone. Because we have rule on payphones which the 138. Can you further explain what you meant?

HD: I think what we were just simply trying to do was clarify when and when it wasn't when customer prepayments, when and when they weren't required. And we just wanted clarification as it related to payphones.

PS: When I read pre-paid calling services defined, it means any transaction in which a consumer pays for service prior to use and the prepaid account is depleted as a customer uses the service. It's kind of general in my mind, but it might be something to look at.

MT: I understand you're talking about prepayment. I understand that you're talking about payphones. Where are you referring to in this rule that you're questioning.

HD: Where we see that there needs to be some kind of clarification is in 1, a company that intends to collect customer prepayments must first demonstrate to the Commission that it meets the criteria set forth in this section. It's there that we think there needs to be some additional wording.

SW: And are you saying it should not include payphones?

HD: It should be exempt.

TV: Are you referring to when they deposit the coin?

HD: Yes, prior to.

TV: And you're considering that a prepayment und this act.

HD: That's what we're wondering. That's why we're trying to get clarification.

TV: We wouldn't consider that a prepayment under this rule. And maybe that's the clarification that you're seeking?

HD: Right

AF: But, Terry, you heard what Paula said reading that definition. It sounds pretty clear that by definition one could ultimately say that this a prepayment.

TV: What I think I'm understanding here is that you are concerned that somebody might, down the line, say you should have held this in deposit somewhere? Which I think is really stretching the rule. I understand that you have that concern. What it really is is if a coin is deposited in a payphone being considered a prepayment and then does the rule apply to it. I just think that stretches it.

BE: Additionally we don't regulate payphones anymore. I guess we could say that this doesn't apply because of that.

MT: But we do regulate prepayments. So the argument is, is it a prepayment or is it not. But I agree with you, that's a payment that's not a prepayment. But I do know that if I make a call through a telephone company and for some reason I have to have it refunded I can call the company up and they'll spend 33 cents to send me a quarter. This is not met to reach that far. I don't know how you'd want us to clarify that. What in the language do you think needs to be clarified and how would you clarify it?

TV: I think we suggested some.

MT: So the reason this "except that companies intending to collect prepayment solely for the type required for deposit of pay telephone prior to making a pay telephone call shall not have to meet the requirements of this rule", that's what you want in there?

HD: That's correct.

MT: And if it's not in there what do you lose.

HD: It's not necessary that we lose anything. It's just ambiguous.

MT: I think we ought to take that under advisement because that really...

TV: (not clear on tape) Maybe that deposits at a payphone.....

MT: I have trouble with going this far in a rule to go down to a coin going into a payphone. That's taking a rule awfully far. I think we need to discuss this as staff because I didn't even catch why you were doing this.

BE: Do we have a definition for prepayments?

PS: It's in the beginning of that rule. It says prepaid calling service is defined in that rule. 052. It talks about pre-paid accounts. And I don't know that anything to do with putting a coin in a phone could be called an account.

TV: I think under the interest of time we should move on. Is that OK with U S WEST?

SW: Another other comments on 058? OK so on this rule we're going to work on the language about the bank within the state of Washington and you will submit some language on whether or not we should incorporate deposits into payphones.

HD: As you look at 052, we did make some suggestions as far as clarifying prepayments. So if we do clarify in 052 then we're fine not doing anything to 058.

MT: What did you do in 052?

HD: We added some clarifying language around prepaid services.

MT: Could you read that for me?

HD: It says "however, prepaid services does not refer to service using a pay telephone which requires deposits of coins or a credit or other calling card, prior to making a call."

MT: I think we ought to do the same with that that we have here, take it under advisement. I think it's stretching too far but I don't want to make that decision right now. We'll discuss it and see if we can come up with something.

TZ: I'd like a clarification from U S WEST on that. Do you mean if a customer puts a $1.00 worth of quarters in a payphone, if they lose it they lose it? Kind of like a vending machine, maybe it's immaterial. Is that your position?

HD: No.

MT: Because you do refund. Any customer that asks for their money back, you send them their money back, don't you?

HD: If it's warranted, yes.

SK: We're going to move on to Preservation of Records.

SW: 136 Retention of Preservation of Records. The changes we made to this was basically trying to make it clearer, streamline it and I believe main comment we got is reducing the time periods. I'd like to open this up for comments.

JE: I know you tried to make it clearer and maybe I'm sort of behind a beat here or something, but I was a little confused because, is the Commission saying that basically we're going to follow the FCC's preservation of records policy in sub 2? I seem to read sub 1 as saying really sub 2 controls. If that's the case why don't we just say that we're going to have the same records retention policies as the FCC? It would be simpler for me.

PS: I think the intent there was that we wanted the minimum period for records to be kept to be three years. There are places in the FCC rules in which a longer preservation period is required and we would want to adhere to that longer. Preservation period for those records for which it's required by the FCC which includes continuing property records and some other things. So the intent was that the minimum period would be three years unless the FCC requires a longer period in which case we would conform to that.

JE: I was a little confused about what you're trying to do here.

GH: What you just said that it would govern unless the FCC required a longer time, might be the way to put it, if that's what you mean.

JE: I think it's easier for companies, again wearing a multi-jurisdictional hat, if they look to one book. They have to comply with the FCC's record retention policy. And for the people that have that responsibility of keeping all those back records and purging disks, or whatever, if they have one standard it's easier for them from a regulatory standpoint to abide by.

PS: What would you want to use for records which the FCC has nothing to do with?

JE: Could you give me an example of that?

PS: Any state required records, the quarterly reports that we require, things like that.

JE: I guess what I propose there is, and I don't have the 47 CFR with me, is look to the comparable shortest time period that you could possibly equate in the federal scheme of

things and say these interstate records are required for two years and there's an equivalent set of intrastate records. So, for anything that's not covered by the FCC rules that deal with intrastate record keeping purposes, it will be a period of 2 years, 3 years, if in fact, the FCC rules say three years for these sorts of things.

PS: I'm talking about records that perhaps the FCC rules may not cover at all. And there could be records pertaining to quality of service or other reports that this Commission requires that aren't reports that the FCC requires parallel reports in an interstate basis.

GH: Would it be possible to put it that way then, more explicit and just say something like, records that the Commission is interested in that aren't covered by the FCC will have to be retained for three years. And all other records come under the FCC rules.

RF: I guess I'm confused again. Could U S WEST provide an example of a type of record that they would like to throw away after one year. Because I'm trying to think of something that I would tell a client to throw away after one year and I can't.

HD: I don't know that I could provide a specific example of something that we'd throw away after one year. But what we are suggesting is, where it's warranted, the FCC has dictated that we will keep records for three years or where the Commission has specifically as for record keeping of two, three, five years. Certainly we understand that. But there may be occasions where something is not necessarily specifically retained for two years, or three years, or five years and in that case we believe it should be our discretion to keep it for a year and then discard it.

JE: Maybe one way to revise it would say, companies must retain all records and reports required for state regulatory purpose for, we prefer two years, because that's, as we stated in our comments, the liability for any refund or overcharges set by statute at two years. But even if it's three years, it would certainly clarify things if you said, all records and reports required for state regulatory purposes must be kept for two or three years. All other records are not covered or other records that are required by the FCC to be kept according to the FCC rules will be kept according to those rules. Because you're really only interested in records and reports that relate to what you do with those companies. And those should be the only records that should be required to be kept for a specified period of time. As opposed to all records and reports. That's pretty broad and you kill a lot of trees.

GH: I can think of a couple of examples of things that we keep for only a year. For instance, that I've only discovered in fact because of some recent data requests in another proceeding. For instance, customer complaints that have nothing to do with the Commission, serious complaints, inquires, etc., we keep those records for only a year. The churn and picks we keep only for a year apparently. That's what long distance tells me. We can't go back further than a year. I'm sure there are all kinds of things, that it would turn out if catalogue them all we're not keeping them for three years. There's

certain things that you guys are interested in. This three year rule has been here for a long time. There are all kinds of things that we traditionally keep for three years for that reason. But there are also many things that have come up in the new environment that never fell under that that we don't keep for three years, because of the FCC requirement or other requirements that are different. And I would like not to have some new requirement put on those things. However it ends up being written.

PS: It might be helpful hearing the examples that you just gave us. Hearing what those are I think would be helpful to us so we have an idea of what you're talking about.

GH: I certainly couldn't come up with an exhaustive list. Those two I just discovered myself in the past two months for other reasons. But sure. If it could somehow be the other way around. The traditional WUTC needed things are for three years and everything we can't think of isn't for three years.

SK: Unless the FCC requires it.

SW: So to help us clarify better if we can get a list of types of reports that you guys already maintain, whether it's on a one year or three and then we can determine from that list which reports, for regulatory purposes, we really would want to adhere to the three year rule. Would that work?

HD: Our concern is not just reports. The way that it's written says it's all records and that's our concern.

GH: Both of the examples I just gave are records of something. There are all kinds of records of things that we have never kept for three years because it never came up between us as a Commission and a company.

TV: I think the earlier suggestion is a proposal about how to write, instead of all records, how to write that. The records that the Commission, blah, blah, blah.

SW: Would that also give us an example of the type of records or reports, to make sure we're understanding what we think regulatory reports are and what the companies think. I don't think we want to list the type of reports but if we know what we're referencing I think that would be helpful.

RF: Wouldn't it be records required to be kept by Commission rule or Order?

PS This is the Commission rule. This is suppose to be the rule where you say what records need to be kept.

RF: I'm thinking like 480-125 series talk about certain records on service performance that you're required to keep. There are various places where they say you need to keep this

record so it's available. So if we just had a generic reference to records required to be kept by Commission rule or order. Because there are other specific requirements imposed on companies.....

PS: Would it be your preference that the retention requirements for each particular document needed in a rule be in that one rule? If I look at the rule that you just cited I couldn't find...

RF: You've got a standard that if the FCC has a record retention period for it, we keep it the same. For any other records required to be kept ..... Records that are to be kept by Commission's rule or order would be three years....

PS: I get it.

GH: That would cover everything that we use for our reports because those are all Commission requirements. I think that would actually do it because that's the stuff that we've always kept for three years.

SK: I hear staff saying they need to mull this but we'll get back to you and you'll come up with some examples as we requested? That would be great.

SW: X09 Commission Ordered Refunds. This paragraph was imbedded in one of our consumer rules and it was an extraction out of that rule and in reading all the comments and going back the statute it is duplicative basically word for word of what's in the statute 80-36-330 and I think our response back was....

GH: You agreed to strike the language whether you intended to or not.

SW: We wanted to discuss it further today was our response. Nextlink had about the imputation in this one.

KA: We suggested a parallel rule. We don't have any problems with the rule (turned tape over)

SW: I don't think we need that in our WACs

KA: A group of other CLEC proposed. You

TZ: I don't know if we've gotten a staff consensus on the Nextlink proposal yet. My initial reaction was that I agree that imputation is an important concept that we need to be aware of and to use as regulatory tool. But to have it in a rule, I think it's a real specific and technical area which a rule might not address all the different caveats that might come up with respect to the different types of services and companies or circumstances involved.. I think the Commission has the jurisdiction and authority to review imputation but I'm

not so sure it can be clearly defined in a rule.

KA: I think that not every rule can fully anticipate or speak to every possible scenario. We did propose specific language that I think would be helpful as minimal requirements as far as this goes. I hope that this could be an on-going discussion and I think you said that the staff hasn't made up it's mind but it's certainly something that we'd be interested in seeing codified and applied uniformly not just in certain specific instances. I also just wanted to clarify that not only Nextlink but also the other companies that I mentioned earlier have this concern in proposed language.

JE: Is Nextlink's proposal been posted to the website yet?

KA: I don't know if it has or not. I have a copy of it here and it's brief and I'd be happy to go over it real quickly.

MT: Would you?

KA: Sure. Imputation: An incumbent local exchange company may not price any telecommunications service at a level than less than the sum of a) the prices of the network elements that the company uses to provide that service charged to competitors when provided on an unbundled basis, and b) the total service long run incremental cost of facilities and services, including but not limited to retailing operations other than the network elements the company uses to provide that service that are provided to competitors on an unbundled basis. And it goes through and it defines the key terms of that provision. I see people shaking their heads. I take it that's a bad sign.

RF: Could you read the introduction again?

KA: An incumbent local exchange company

RF: I just had to hear what the lead in was because that would be a very major change because every one of the small companies I work with, their local service, I think everyone recognizes, could not pass an imputation test.

SK: Some might agree.

PS: Bring your stuff in and we'll look at it an let you know.

KA: I was reading just the basics of the rule. It does go on after the definitions to address universal service.

SW: We're having some copies made.

SK: Why don't we come back to imputation.

TV: Is Nextlink's proposal part of this process or is it a separate process?

KA: We proposed it as a compliment to the proposal on price ceilings.

TV: Is price ceilings a different rulemaking or is it this rulemaking?

??: I think it's 609.

JE: I think, just an initial reaction is, I think that this bites off a little bit more than I think this rulemaking was intended to chew. Because what you're trying to do is codify the results of not one, but many developing adjudicative proceedings that have hammered out the imputation of formula and it's meaning. I think that it's going to be very difficult to lock and amber what imputation is at this Commission. I think it would be a dangerous thing, at this point, to reduce to a rule. That's just my initial reaction.

KA: I appreciate that. It seemed like and appropriate time to us to try to codify this. I understand that it's going a little bit further than the accompanying rule, but it didn't seem wholly inappropriate to bring it up at this time.

SK: We're going to take X09 out, is what staff said, out of the proposal. Go through the general rules, which are relatively brief and relatively standard, then take a break. People can take a look at Nextlink's language and we can talk about it at that point. It's my sense that people in the room haven't had a chance to look at the language and I think we'd get a better discussion if people had a chance to read it and think about it. Why don't we go on to the general rules and come back.

TV: X01 and X02, have we already discussed those?

PS: Yes

TV: So those were included in what you talked about?

PS: Yes.

SW: Basically what 1 and 3 did broke apart the accounting requirements and reporting requirements between competitive and non-competitives.

TV: Now it comes back to me.

SW: Moving on to the general rules. 011 is the Application of Rules. We've rewritten it, we've shortened it, and hopefully clarified it.

GH: We proposed language here saying that these rules do not apply to competitive companies because we understood, at that time, that the change from local exchange

company to companies, in your language, was intended to catch competitive companies under all these rules when they hadn't been before. We were attempting to undo that and clarify that it wasn't so. From your response this morning it seems kind of halfway in between now. Some will apply to competitive companies and some won't. What is the deal on that? We didn't get a clear answer this morning.

SW: One of things we did when we were drafting the rules, and we learned just recently is, we were trying to not always repeat in the context of the rules, non-competitive telecommunications company, competitive telecommunication company. We put that information in the title of the rule and we were told, and then just use company as you move forward. And we learned that we can't do that.

GH: When you were doing that then, that would have met that every rule that did not have the word competitive in the title, did not apply to competitive companies? That was your intention?

SW: No

GH: Then it was confusing.

SW: Yes and we're learning that now. I think where we didn't specify, it was telecommunications company as defined in our statutes. If we wanted to be specific, like we were in the accounting rules, we tried to say non-competitive and here's competitive. And everywhere else is telecommunication company. There were some instances, and I think it was mostly in the consumer rules, there were a lot of times in the current version it said whether it was just a CLEC and we tried to clarify, where we were just talking about a local exchange, we're talking about all companies and that's why I was saying this morning, we're not sure we captured all that accurately and that's what we need to figure out as we go through the rules.

GH: That would be in the consumer discussion but generally speaking where you refer to telecommunications companies without any other qualification, you're talking about competitive and non-competitive?

SW: Yes

GH: OK

JE: Could I maybe make a suggestion. One of the difficulties we had in struggling with this is the lack of definitions. Because, as we all know in the new environment we're in definitions frequently control obligations. What you are tells you what you have to do. So would it be possible, perhaps, to go through, between now and the next workshop, some of the terms of art that need to be defined and put together a glossary. Because I think that would be really useful. I know that there had been one on the old 120 and then

I think you thought that you'd wait until end to then write it.

SW: I wasn't really waiting until the end. It's doing it in conjunction with the rules.

JE: I think it would be a good idea to do a glossary. Because that would tell the reader exactly what you mean by that word when it appears in these rules.

GH: That worried us all the way through. There's places we didn't comment, for instance, where should it turn out that a definition was different than any way that it had been before, we might want to make a comment. Well before the process is done we have to see that glossary to be sure what you mean.

AF: Did you guys want us to comment on the general rules? I noticed on 011 staffs comments staff said there was further discussion on the standard of care issue that the language that U S WEST proposed adding at the end of the rule. I guess I'd just be interested if there were questions from staff. This language is just cut and pasted from different rule within this chapter. We just thought it made sense to put it up in the front so it's clear that the rules all the way through aren't intended to establish a standard of care for purposes of tort liability, for example.

SW: I think we asked for further discussion, because we really didn't understand why you were proposing to move it from 500 into 11. If I remember correctly....

AF: I think that the companies believe that this language really applies more broadly to all the rules or to any of the rules which do establish some standards in terms of interaction with customers. The purpose there is not to establish a standard of care for purposes of tort liability, for example. Not to create a duty owed to customers for tort liability, but rather to establish Commission standards of what the Commission performance standards and other standards that the Commission thinks the companies ought to perform at.

JE: If I could concur with what Abe is saying. I think that the thinking here is that under Washington law in tort suits plaintiffs can claim that something that appears in an administrative regulatory rule effectively establishes the legal standard of care and if you breach one of those rules it is an act of negligence. I don't think that it's the intent of this Commission to have anything to do with establishing negligence or liability for negligence one way or the other. The purpose of this sentence is to just clarify that we're not here to set the standard of care that would have to be otherwise established by a plaintiff in a civil lawsuit against a telephone company. We're here for purposes of regulating. We're not here for purposes tort law. That is the intent of that sentence. It may not seem significant or important to staff, but it would be important to companies who frequently, in defending litigation brought by plaintiffs, where because a telephone pole jumped in front their car or what have you, will look to things like this to say they breached their duty of care by failing to file this safety report with the Commission on this day. It has been know to happen. We just want something to neutralize what you're

doing here so that it's not involved in that other area of potential liability.

SW: We'll talk about that one.

GH: We also supported and proposed that same language for the same reason.

MT: It hasn't been there before. Why do we want it now?

RF: There's a couple reasons. When the quality of service rules were being adopted we did ask the that language be added there for the very reason that we're talking about today. We didn't want the quality service standards to become a default standard of negligence in a court action. What we're suggesting here is it seems appropriate when we were writing these two that make it a statement that the standards the Commission is enacting throughout 480-120 aren't met to establish a standard of negligence one way or the other. That's why. There's also a court of appeals case that draws this home. It's National Union Insurance versus Puget Sound Energy, where one of the Commission's regulations was used as the basis of what constitutes negligence.

MT: That makes the whole thing make sense.

AF: On 016 I guess, again we're in a position of saying, the rule here is pretty redundant of what Commission's clear powers are at set forth in the many statues that authorize the Commission to do what it does. For that reason we would propose deletion.

SW: Any other comments on 016? 026 is a pointer to 480-80 on tariffs. I don't remember where we left the discussion on pointers.

AF: We would support deletion of the rule consistent with the pointer discussion from before. However, we would certainly say that if the staff decides for whatever reason that they are going to keep it that they might as well combine 027 and 026 because now the new chapter is going to be tariffs, prices lists, and contracts, and there's not really a need to have it in tariffs and then in price lists.

SW: Right, we would do that.

JE: We agreed that if it appears elsewhere it's pretty self-evident that wasn't a need to have a pointer.

SW: X03 Access to Premises. This is a rule that we have in most of our other chapters. We received a request from one of the legislators to please put this in our rules because we had it in our other chapters. We did look at our other chapters and we tried to mirror the language that we had adopted. I think the comments were, that wasn't needed.

GH: I don't recall if we actually wrote a comments on this or not but I do know in our internal

discussions, we were a little confused because it appears to be a requirement put on the customer and we didn't know how you could do that. This rule basically says that a customer has to let in. This is the Washington Commission saying that I have a right to enter the customer's premises. The customer might have a different view of that.

JG: That's how we read it.

AF: We did too.

SW: This was to address that if a company needed to go to someone's premises, they had to give them a reasonable amount of time and reasonable hours. They couldn't just show up at 10 o'clock at night.

GH: The "during reasonable hours" is intended as a qualification on right to enter. It's not a statement about right to enter, per say?

SW: No

GH: OK. That is not how we read it.

TV: Was this based on a law?

SW: Do you mean do we have it currently in statute?

HD: It's 80-36-020. That's why we commented that we didn't think that is was necessary if we already have statutory authority to be on a customer's premise.

SW: Now it's coming back to me. What we did, the statute doesn't clarify, it should be reasonable hours. Basically what we tried to do with the rule is just make it a little clearer and when a company should go to a customer's premises. What the customer can ask for as far as identification. The statute doesn't address that.

PS: Can you also suggest some language that would make it a rule that applies to your companies rather than the rule that applies to what the customer does, that would clarify that?

JE: Basically, you'd flip it around rather than saying customers may seek. Companies must provide their identification when exercising their right under RCW 80–360-020. I think that's how you would flip it around. I don't think any company would have a problem. I don't think GTE sends people out at midnight to scare little old ladies.

PS: What about the reasonable hours? Do you have some language?

JE: Company may exercise this right during reasonable hours.

GH: Rather than saying the pro-actively that the company has the right. That's what threw us, saying the company's right. Must be exercised during reasonable hours.

JE: When exercising this right the company shall seek access during reasonable hours, at the request of the customer.

HD: I certainly understand staff's intent here, but I don't think that we have to have an additional rule. Would could provide clarifying language possibly in another rule that gets at the concerns you're trying to address, but I don't think an additional rule is needed here.

PS: What rule would you put it in Holly?

TV: You mentioned that a legislator brought this issue up to you. I'm trying to figure out what it is we're trying to address. Around this table I'm hearing that we don't typically work our employees at midnight to go out and repair phones or go onto customer's property. So what are we trying to get at.

SW: I'll read you what was sent to us. This is from Senator Tracy Eide. A constituent brought to my attention an issue I believe merits consideration by Utilities and Transportation Commission. The issue centers around the identification requirements of utility workers and sub-contractors. While considering telecom rules, please provide a rule that would require regulated telecom companies to provide a means of identification for those employees or agents required to enter the premises of the customer. As you consider adopting such a rule, please know that would mirror WAC 480-100-091 that regulates access to premises by electric company employees and please keep me informed as developments unfold relating to my request for a rule adoption. That came as an e-mail us from our legislative liaison as to why do we have access to premise rules in electric and water and stuff and we don't have one in telecom. We were trying to mirror that rule that we currently have.

GH: Do those other rules have those reasonable hours part too. Because that is really the only thing that we were focusing on. The identification, I couldn't argue with that.

SW: I don't have the electric rules in front of me. I pretty sure it's probably pretty close to what we did in water, which was just adopted in the past year. On these kind of rules we tried to keep standard language across all the industries.

RF: I guess I just have trouble with trying to legislate common sense. The statute just says that companies have access, that's it and it doesn't say anything else. The identification issue, I think is great. That's a public safety issue that needs to be addressed. But then trying to say reasonable hours, and then you get into a fight if you're working on a project trying to get caught up on your held orders and 7 o'clock at night and during the middle of summer when it's still light out. Is that an unreasonable hour? I think leaving

it to common sense instead of trying to legislate common sense makes a better practice.

SW: This is the rule you referred to. It says: "Each utility shall have the right of ingress to or egress from the premises of the customer by it's authorized employees or agents at such reasonable hours as may be necessary for meter reading, performance of necessary maintenance, testing, installation or removal of it's property. Utilities shall provide a means of identification for those employees or agents required to enter the premises. Your question was does it address reasonable hours. This is their current version. I don't know what they redrafted, but it's probably pretty close to what we have proposed in our telecom rules. We're trying to keep some of these rules the same across all industries.

DD: I believe that we have something in our tariff that reads almost identical to that. I'm not sure how the other two function, but we have something close to that in our tariff, or used to have.

GH: I don't think we should kill ourselves over this. We don't have a real problem with it, although I certainly agree with Rick that legislating of reasonableness is going a little far. And what you just read, in fact, shows how far it can go. If you heard yourself what you read there, you gave us permission to leave as well as enter the property.

SK: Exemptions to Rules.

SW: X04 Exemptions to Rules. This again is a rule that we had consistent in most chapters and for some reason was not in the telecom chapter and this is a rule that has been adopted in our other rulemakings that we've already done in the past couple of years. Just open to comment on it.

JE: I guess one of the questions I have when looking at this is how would this work with the typical petition for competitive classification. Because the way I read this it sounds like the Commission is going to assign a separate docket number for that particular request. And, as I understand the way the process works now, you file one application for registration and accompanying that is an application for competitive classification and buried in that is a request for exemptions from certain rules.

PS: The actual wording says, the Commission will request a docket number if needed. I think that would address your concern. Because if it was already under a docket it wouldn't be needed and therefore they wouldn't assign a docket number.

AF: I think it's somewhat intuitive that the Commission has the authority to grant an exemption or waiver in any circumstance that's reasonable and in the public interest an I think that there are specific rules which discuss the waivers themselves, where appropriate. It seems that telecom staff should commend themselves for not having this in it's rules even though it's in the other sections of the rules and the other parts of the

industry rules ought to think about if it's really necessary to have another rule on something already rather straightforward.

PS: Just to play devil's advocate. If I were someone new to this state or if I were looking at these rules and I wanted to know what happens if I want to do something different than these rules. I'd appreciate having that in the same document that I'm looking at the has all the rules in it so I didn't have to try and search out some other document to tell me how I could exempt myself from those rules. I'm not sure it addresses in statute what the process is that you would use to go about that. Maybe it does. But I'm not sure that it does.

AF: I suppose you're right potentially but at the same time if the idea is to minimize to streamline to make clear. There's also an argument to be made that if you get to a chapter of rules and it's this thick because we've added so many things to make everything so clear, it might not be so clear ultimately, because someone might look at it and just be so daunted and say I can't wade through this to figure out how I come in. I'll just go to the front desk and say I want to get a waiver from this rule and they'll say go see Paula. At some point it counterbalances itself.

SS: I didn't have anything to add to what Paula said. I think that while the Commission does have the authority to grant an exemption from a rule, I think it's important that companies know how to go about doing that. If there's a process in these rules that let a company know how to go about doing it, so they don't have to wonder, who do I have to talk to, who do I have to call. The process is laid out and the company knows exactly what it has to do in order to obtain an exemption from a rule. We're trying to fill the gaps so we're not leaving things that a just simply intuitive. We put the process in the rule.

SK: X10 Registrations

SW: We'll talk about our pointers. You'll see what we do in our next round of drafts. Unless anyone has any comments on that one.

AF: On the rules to move between chapters. We talked about moving them between chapters, but we didn't discuss the rules at all substantively. I'm just wondering, will we take those up substantively in subsequent discussions? Or what's the process there?

SW: We're sort of at two stages of this rulemaking. For the telecom rules we've proposed the draft language. Those rules that we're proposing to move, you can look at that kind of like phase one, kind of what we did back in May with chapter 120. We're proposing to move them, now we want comments from you. Do you agree to move them and if so, what should the proposed language be? So you can look at those as your first stage of that part of the rulemaking.

AF: U S WEST has filed comments on both the move and the language.

SW: Some have and some haven't.

AF: So we'll get to those on the next round. Phase two.

SW: Those rules that are proposed to move to 121 and those going to 80 will be addressed in those specific rulemakings in those chapters. 120 from here on will focus on those rules either that are coming into 120.

AF: That also seems that staff will consider the comments that the companies have made as to whether or not they should or should not be moved. If it turns out that staff agrees with a company, for example that a particular rule shouldn't be moved then that will be addressed in another workshop for this chapter.

SW: It will be reflected in a next round of draft. Let me make sure I understand. So if we had a rule we were proposing to move out of 120 say into 80 and we've read your comments and after today's meeting we decided it really should be in 120, in that next draft you'll see it remaining in 120 with some proposed language.

AF: Just take for example the customer notice rule for competitive companies. That was proposed to be moved to 121, but we said well the accounting rules and every other rules and the customer notice rule, you might as well keep the rules together. It doesn't make sense to move that one to 121. So if the Commission agrees with that, then later we'll have another chance to talk about it in a workshop on this...

SW: Yes.

AF: Great. Thank you.

SK: One of the purposes of this break is to give everyone a chance to read this language that was handed out. How much time do you need?

JE: We can read it, but unfortunately it's got to get sent to the people whose lives it will impact within the company. Even if we review it an come back, we're going to have to re-visit it again. Could we perhaps talk about it at the next workshop?

TV: To me the more critical element here is that this appears to be outside of the scope of the rulemaking that we have in process. That was my question earlier about was is this proposed to be part of this or is it proposed to be a separate rulemaking. I really think that's probably the critical issue here is, is this within the scope of this rulemaking. And I appreciate that it's brought up in this rulemaking, but I would have to agree with Judy's earlier comments that this truly seems to be outside the scope of this rulemaking. And would probably require a separate rulemaking.

KA: I have a question, inside this chart here it says that if staff disagrees and I don't know if

that went to the substance of what we were proposing or the fact that it was outside the scope of what was going on here. As I mentioned earlier I believe that it could be within the scope, and that's why we brought it up. I appreciate if people disagree with me on that, that's fine. But before we go on and decide how to handle this, I'm curious if you can give me a better idea of what you met by your comment there.

TZ: I think we agree with the concept of imputation and the use of it as a regulatory tool. But the but part we disagree with is that we necessarily need to codify it as a rule per say. But we can still use it as a tool in regulation and the Commission would have the authority and the jurisdiction to use it. I'm open to discussing it further depending on what everybody thinks because I don't think its necessarily outside of the scope of the process. But my own opinion is that it may not need to be there.

BS: If we're going to discuss it then we should have some time to round up some economists the weigh in on the discussion.

JG: There's no way that GTE is prepared to discuss this today.

KA: That's fine. I would like to point out that this was filed on February 4 and distributed to everyone on the list. It's not like I just brought it here today. I appreciate if people aren't prepared to discuss it today.

JG: You copied a service list?

BE: Kaylene, I've got to say that I didn't receive this.

SK: We have a proposal for this. Reflecting people's concern about this and not being prepared to discuss it today, we'd like to evaluate whether this is within or outside the scope of the rulemaking and we'll do that and we'll let you know what we think and if it's within the scope of the rulemaking, we'll bring it back on the 18th and talk about it with the other technical rules and it will part of the agenda that we post to the website at that time. Does that work for everybody?

SW: Actually you'll know it before the 18th because, like we did with this rulemaking, we will post for the meeting of the 11th and the meeting 18th, hopefully, the week prior to the meeting our summarized comments with staff responses and I will move X09 into the mid (turned tape over) the week prior to the meeting. So it will reappear

SK: Any questions about what comes next?

OK we're done. Thanks everybody. Thanks for your hard work!