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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3

4 In the Matter of the Complaint) Docket No. UT-991292
and Request for Expedited) Volume VIII
5 Treatment of AT&T) Pages 678-814
Communications of the Pacific)
6 Northwest, Inc. Against US)
WEST COMMUNICATIONS, INC.)
7 Regarding Provisioning of)
Access Services.)
8 _____)

9

10 A hearing in the above matter was
11 held on February 4, 2000, at 8:44 a.m., at 1300
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge C. ROBERT WALLIS,
14 Chairwoman MARILYN SHOWALTER, Commissioner RICHARD
15 HEMSTAD, and Commissioner WILLIAM R. GILLIS.

16 The parties were present as
17 follows:

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

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

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

24
25 Barbara L. Spurbeck, CSR
Court Reporter

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1 JUDGE WALLIS: Let's be on the record,
2 please. Last night, we concluded the examination of
3 Kenneth Wilson, and Ms. Anderl, on behalf of US West,
4 moved that the complaint be dismissed. There was
5 some argument on it and there is a pending question
6 on that matter this morning posed to Ms. Smith, and I
7 see Ms. Smith is ready to respond; is that right?

8 MS. SMITH: That's correct, Your Honor.

9 JUDGE WALLIS: Please proceed.

10 MS. SMITH: Early on in this proceeding, US
11 West filed a motion to dismiss this case, claiming
12 that the Commission does not have jurisdiction over
13 these issues because jurisdiction lies with the FCC,
14 because the facilities in this case were purchased
15 primarily off the FCC tariffs.

16 The Commission denied that motion and
17 stated that although it was denying the motion, it
18 had the expectation that AT&T would bring before it
19 evidence sufficient to show the Commission that there
20 was significant intrastate issues in this case and
21 that a good deal of the traffic would be intrastate
22 traffic that's carried over the facilities at issue.

23 So the question really is whether or not
24 AT&T has provided sufficient evidence on the record
25 that this Commission should consider the allegations

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1 raised in its complaint.

2 In answering that question, I would direct
3 you to the testimony of Charlotte Field, who
4 testified that the facilities used in this case carry
5 both interstate and intrastate traffic, and that
6 intrastate traffic would also include intraLATA
7 traffic, and in the provisioning of that traffic, US
8 West and AT&T are competitors in intraLATA toll.

9 I would direct you specifically to Exhibit
10 1-C, which is Charlotte Field's direct testimony,
11 pages 18 through 19 in particular, where she
12 discusses that both intrastate and interstate traffic
13 are carried on the same facility. Although AT&T may
14 purchase facilities off the federal tariff, that is a
15 function of either pricing or because, under FCC
16 rules, if a facility carries 10 percent or more of
17 interstate traffic, it must be designated interstate.

18 But that's not to say that this Commission
19 should ignore its responsibilities to look to perhaps
20 the other 89 percent of that traffic carried on those
21 special access facilities.

22 And it is also worth pointing to you page
23 10 of Ms. Field's testimony, it's a confidential page
24 in that testimony, at line nine, where Ms. Field
25 discusses a confidential number of calls in the nodal

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1 applications that are intrastate in nature, and that
2 is a fairly significant amount of traffic.

3 And finally, Counsel for US West, when she
4 renewed her motion to dismiss near the conclusion of
5 yesterday's session, stated that of the snapshot of
6 orders that we've looked at in this case -- and I
7 think she used a three or four, I think is perhaps
8 the number of actual circuits that were purchased off
9 the intrastate tariff -- it's important for the
10 Commission to note that that's a snapshot in time.
11 And while that may be a de minimis number of circuits
12 purchased off the intrastate tariff, de minimis is
13 enough for this Commission to look at these issues,
14 and that's assuming that the Commission is looking
15 only at facilities purchased off the intrastate
16 tariff and ignoring the fact that many of the
17 facilities purchased off the interstate tariff are
18 used to carry AT&T's intrastate and intraLATA toll
19 traffic. And that's a snapshot in time.

20 It's very possible that if another snapshot
21 in time were picked, perhaps in the future, there
22 could be more intrastate facilities, more facilities
23 purchased off the intrastate tariff.

24 So these issues are close enough to the
25 intrastate issues that this Commission regulates and

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1 the Commission should consider the issues raised in
2 AT&T's complaint. And if the Commission is concerned
3 about simply the facilities purchased off the
4 intrastate tariff and that there are a few number of
5 facilities in the snapshot that we've seen during
6 this proceeding, that issue perhaps goes to the type
7 of remedy or the type of order that this Commission
8 might draft. It does not go to whether or not the
9 Commission -- to the fact that the Commission would
10 not have jurisdiction.

11 The fact that some of the facilities have
12 been purchased off the intrastate tariff shows that
13 the Commission does have jurisdiction, and the fact
14 that these facilities carry all of the intrastate
15 traffic, as well as the interstate traffic, also show
16 that there is a significant intrastate connection in
17 this case that leads this Commission to have
18 jurisdiction over this matter.

19 CHAIRWOMAN SHOWALTER: Could I follow up
20 with some questions? I recognize that, for the three
21 cases that were on the intrastate tariff, clearly we
22 have a state interest in those, but there is further
23 questions about what those particular three cases do
24 or don't say about the allegations. But I'd like to
25 concentrate now on the interstate.

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1 Tie up for me, if you will, what the
2 evidence is of all of the orders, order numbers that
3 were purchased on interstate that are submitted in
4 this case, of the ones submitted in this case. What
5 is the evidence that they carry a significant amount,
6 or maybe even de minimis amount of intrastate
7 traffic? Is it the general statement that, well, in
8 general, they all do, or is it that we can say, of
9 these cases before us, we can draw an inevitable
10 conclusion that they carry intrastate traffic, and in
11 particular, these -- just remind me, I can't
12 remember. If these are private lines only, and I'm
13 not sure that they are at the moment, do we -- we do,
14 don't you agree, have to determine or conclude that
15 they do, in fact, carry intrastate traffic?

16 MS. SMITH: I believe that you need to
17 conclude that they do carry intrastate traffic. And
18 unfortunately, I am not Counsel in the best position
19 to answer what each of these facilities, in fact,
20 carry. I believe Counsel for AT&T is in a better
21 position to address questions as to what each
22 particular facility carries. I'm just not familiar
23 enough with these particular orders to answer that
24 question.

25 It is Staff's position that, given the

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1 evidence on how AT&T's network is designed, whether
2 it's designed with the bulk facilities -- the
3 facilities themselves carry AT&T's traffic, and
4 AT&T's traffic is both interstate traffic and
5 intrastate traffic. And the same facility, from my
6 understanding, and Counsel for AT&T could clarify
7 this, the same facility carries interstate and
8 intrastate traffic.

9 CHAIRWOMAN SHOWALTER: So you would put
10 together basically Charlotte Field's statements on
11 page 9 and 10 of her testimony, together with the
12 fact that there's a raft of interstate orders, and
13 say it must be the case that those interstate orders
14 do carry intrastate traffic?

15 MS. SMITH: Yes. And I know that's a very
16 general response to your question, and I know you
17 were trying to ask a more specific question. I just
18 don't feel that I could answer the specific question,
19 although I think Counsel for AT&T could.

20 CHAIRWOMAN SHOWALTER: Thanks.

21 MS. PROCTOR: I'm sorry, do you want me to
22 address that?

23 CHAIRWOMAN SHOWALTER: Same question.
24 What's the evidence in this case that the private
25 lines ordered under interstate traffic, or the lines,

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1 whatever your evidence is under the interstate
2 tariff, what is the evidence that they carry
3 intrastate traffic?

4 MS. PROCTOR: The evidence is contained in
5 the testimony of Ms. Field. In her direct testimony,
6 which is Exhibit 1, starting at page five, she
7 describes access services, explaining the difference
8 between switched and private line access services,
9 and then goes on to talk about the types of -- the
10 private line or dedicated access service that AT&T
11 purchases from US West, describes a number of the
12 applications of those facilities, the fact that the
13 customer places all of its traffic on those
14 facilities, that that traffic is --

15 CHAIRWOMAN SHOWALTER: Can you be pointing
16 me to pages and line numbers of testimony?

17 MS. PROCTOR: At the bottom of page six,
18 there's a description of the type of dedicated access
19 service that US West provides AT&T. She describes
20 the nature of the service, the type of traffic that
21 customers put over these facilities, the type of
22 applications and how the applications work.

23 CHAIRWOMAN SHOWALTER: Well, I'm still
24 trying to get to, can you tie it -- what I'm looking
25 for is, of the orders that are at issue here, the

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1 orders that you say were held unreasonably --

2 MS. PROCTOR: Yes, of which we provided a
3 snapshot view.

4 CHAIRWOMAN SHOWALTER: Right. How do you
5 show or what is your demonstration that those orders
6 -- those orders carry intrastate traffic, either in
7 evidence of, you know, this order carried it, this
8 order carried it, and that order carried it, or some
9 kind of generality that necessarily must apply to the
10 cases that you brought, the examples that you brought
11 in evidence?

12 MS. PROCTOR: The order is for a network
13 facility, a pipe, and that pipe is used for certain
14 things.

15 CHAIRWOMAN SHOWALTER: Okay. And --

16 MS. PROCTOR: And the testimony, which is
17 in evidence, describes the pipe that we purchase and
18 the traffic that customers put through it.

19 CHAIRWOMAN SHOWALTER: In general.

20 MS. PROCTOR: In general. And that's the
21 sort of description that you see in here about what
22 customers do with the pipe. In the case of a private
23 line pipe, the customer is the one who would know
24 what their traffic is, where it goes. A bank knows
25 that they're sending their data to various places

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1 around the country.

2 Because the pipe is not -- because the
3 private line facility is not switched, there is no
4 AT&T or US West switch involved in that service, and
5 the switch is what would enable anyone to be able to
6 determine what the traffic is. So it's the customer
7 -- in this case, the end-user customer, the bank, the
8 Wal-Mart or whoever, who knows precisely what kind of
9 traffic they're putting over that facility.

10 And the customer can change that daily or
11 hourly, on the nature of the traffic. Today they may
12 be sending data that's all intrastate, tomorrow it
13 could be interstate. The calling can vary in the
14 same way, and Ms. Field has described that. As
15 Counsel pointed out --

16 CHAIRWOMAN SHOWALTER: Is there -- well, I
17 won't ask you what AT&T could have known, but is
18 there anything, other than the statement that, in
19 general, these either could be or must be --

20 MS. PROCTOR: No, on page 10, the testimony
21 that Ms. Smith pointed to, Ms. Field testifies for
22 both outbound and inbound applications for those
23 customers, and Ms. Field is describing the large,
24 multi-national type of customer, financial services,
25 hotel chains, businesses, merchandise, retailers, et

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1 cetera. For those customers, approximately -- and
2 she names a not insignificant percentage of the calls
3 are intrastate in nature.

4 So she has looked at AT&T's records of some
5 type to enable her to provide that testimony, and
6 talks about the fact that those are on the private
7 line -- I'm sorry, private lines, even though those
8 calls may be carried over access facilities that are
9 purchased out of the interstate tariff. So she has
10 specifically, right there, identified the percentage
11 of traffic that AT&T estimates its customers are
12 putting over these facilities.

13 I would also note that when Ms. Smith was
14 talking about the number three or four, that is for
15 orders. That does not identify the number of
16 circuits. Obviously, there could be multiple
17 circuits. That also was for DS1s, which is 24 voice
18 grade channels in the equivalent.

19 COMMISSIONER HEMSTAD: I'm pursuing the
20 point of the evidence. In the exhibits, describing
21 the particular orders, for example, it's an order for
22 special access or private line, will that exhibit
23 reference to a particular order, does that describe,
24 say, that the special access is going from Seattle to
25 Tacoma, if not in that language, in the -- is the

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1 description such that it would be that the conclusion
2 of that is only an intrastate connection?

3 MS. PROCTOR: I don't think that the
4 material in the record would allow that conclusion,
5 because it doesn't -- it doesn't identify -- the
6 summary level data does not identify the originating
7 and terminating ends of the private lines.

8 COMMISSIONER HEMSTAD: Well, why not? Or
9 how does one looking at that description know, then,
10 what is being ordered? I'm merely asking that more
11 in layman's terminology. How would one know where
12 that special access line --

13 MS. PROCTOR: Is?

14 COMMISSIONER HEMSTAD: -- is, yeah.

15 MS. PROCTOR: Of course, that would be on
16 the actual ordering request, the actual -- I'm sorry,
17 the access service request, which is the order form
18 transmitted electronically.

19 COMMISSIONER HEMSTAD: That's not in the
20 summary data in the exhibits?

21 MS. PROCTOR: No, that would be the basis
22 of the order, so when we were talking about the
23 purchase order number, or the PON, that would tie to
24 the access service request. Obviously, this all
25 occurs electronically. And so it would be in that --

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1 it would be -- probably would not be in the logs,
2 because the tracking system is tracking the progress
3 of the order itself.

4 CHAIRWOMAN SHOWALTER: Shall we hear from
5 Ms. Anderl on that question?

6 JUDGE WALLIS: Ms. Anderl might wish to be
7 heard.

8 MS. ANDERL: Thank you. If I might respond
9 to Counsel's comments, and perhaps the questions of
10 the Commissioners directly. And Commissioner
11 Hemstad, let me first address your question about the
12 physical endpoints of the facilities. The physical
13 endpoints of the facilities, the US West facilities
14 are, in all cases, located within the state of
15 Washington, but the jurisdictional nature of the
16 traffic or even the physical nature of the traffic
17 carried over them is not determined by where the
18 endpoints are. We're just kind of the last piece
19 part of the rest of the huge toll network where even
20 the Seattle to Tacoma circuit may all be just
21 completing calls from Texas. And so it's interstate
22 100 percent.

23 COMMISSIONER HEMSTAD: Well, I don't
24 understand that. You can have communication going
25 from Seattle to Tacoma, beginning in Seattle, ending

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1 in Tacoma, and that's not an interstate call from
2 Texas, even though the network connects to Texas.

3 MS. ANDERL: It is.

4 CHAIRWOMAN SHOWALTER: It is?

5 COMMISSIONER HEMSTAD: It is what?

6 MS. ANDERL: An interstate call. See, for
7 the private line, if the calls go from -- and I'm
8 probably not the most technically-apt person to
9 explain this to you, but if an end-user customer has
10 a private line from AT&T to AT&T's point of presence
11 in Seattle, that is the part that US West provides.
12 So that's the Tacoma to Seattle piece of it. The
13 traffic that goes over that may well be calls that
14 originate in Tacoma. They don't terminate in
15 Seattle. They just get passed in Seattle out into
16 the interLATA toll network or the rest of the AT&T
17 network that then sends the calls to Texas, or vice
18 versa.

19 And so the fact that the physical
20 facilities are located wholly within the State of
21 Washington does not determine the nature of the
22 traffic as interstate or intrastate.

23 COMMISSIONER HEMSTAD: Well, we're mixing a
24 jurisdictional discussion here --

25 MS. ANDERL: No.

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1 COMMISSIONER HEMSTAD: -- with a physical
2 description of where a call begins and ends.

3 MS. ANDERL: Right. But these calls don't
4 end at the AT&T point of presence. That's just where
5 they get switched through AT&T's long distance
6 network on to their final destination.

7 COMMISSIONER HEMSTAD: Which may be Tacoma.

8 MS. ANDERL: It may be, but we don't know.
9 We don't know from the evidence in this case and we
10 don't know, when AT&T orders the service, whether
11 they want it to be interstate or intrastate unless
12 they designate that to us.

13 And in fact, what I was going to say is, in
14 some ways, maybe my renewing the motion to dismiss
15 was not exactly the right procedural vehicle, because
16 I would like to direct you to the testimony of Dr.
17 Wilcox, whose evidence is not yet admitted, so
18 perhaps it's more along the lines of a motion for
19 summary determination, asking you to consider
20 everything that's before you.

21 Dr. Wilcox's testimony establishes
22 conclusively and is unrebutted that on all but one of
23 these 70 held orders, AT&T designated a PIU, which is
24 percent interstate usage, of 100 percent. Now, does
25 that mean it's 100 percent interstate? We don't

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1 know. It could. It might not. I will grant you
2 that. But the physical nature of the traffic does
3 get kind of confused with the jurisdictional nature,
4 but when AT&T orders an interstate circuit from us,
5 they designate the percent interstate usage as 100
6 percent, and when they order an intrastate circuit
7 out of the Washington private line tariff, they
8 designate the percent interstate usage as zero.

9 Dr. Wilcox's direct testimony on page 20
10 establishes that, and AT&T did not rebut that.

11 CHAIRWOMAN SHOWALTER: What exhibit is
12 that?

13 MS. ANDERL: 501-T.

14 CHAIRWOMAN SHOWALTER: What do you have to
15 say about --

16 MS. ANDERL: Oh, I'm sorry. Are you asking
17 me a question?

18 CHAIRWOMAN SHOWALTER: Yeah.

19 MS. ANDERL: No, that's great. I have a
20 couple other things I want to bring up, as well, but
21 --

22 CHAIRWOMAN SHOWALTER: Okay. What do you
23 have to say about Exhibit 1-C, page 10, that is
24 Charlotte Field's testimony, where her testimony says
25 that -- well, I'll just let you tie it up.

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1 MS. ANDERL: Yes, I see it.

2 CHAIRWOMAN SHOWALTER: But where a
3 percentage of calls in general -- I guess my question
4 to you is what is your view as to whether this
5 testimony establishes that a percentage of the orders
6 in this case in evidence are intrastate, for
7 intrastate use?

8 MS. ANDERL: Right, thank you for asking me
9 that, because that's what I wanted to go to next
10 anyway. This is in the nature of a description of
11 the types of services that might be at issue. This
12 paragraph here, from lines five to 14, does not link
13 to any particular order number, does not indicate
14 that any of the circuits that are held in this case
15 are the, quote, unquote, nodal applications that are
16 described in Exhibit 1. In fact, I think that
17 they're not.

18 And the sentence on page 11, I think -- or
19 not page 11, I'm sorry, line 11, is the one that's
20 really determinative here, which is this percentage,
21 of course, varies according to the customer's
22 application. That tells you that all this is is a
23 very general description and does not tie to any
24 specific order number or any specific customer whose
25 order was held and is at issue in this case.

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1 The reason I say that I do not believe that
2 AT&T's established that any of the held orders are
3 the nodal applications is because I believe, and I'm
4 not sure about this, but I believe that the diagram
5 in Ms. Field's exhibit showing the nodal applications
6 indicates that that would be a DS3. And even the few
7 DS3s -- or that that type of a service could be
8 offered over a DS3. Even the three DS3s that were
9 brought up on the 70 held order snapshots are
10 dedicated and percentage interstate usage of 100
11 percent. All the DS1s are designated circuits, as
12 well.

13 So I think that, at a minimum, AT&T would
14 have had to link specific order numbers to the
15 description of a nodal application and say, See,
16 these orders are for that, and they haven't done
17 that. And so as I said, to me, this is just a
18 general description of what might be true under
19 certain circumstances, but we don't know it to be
20 true in this case for any of the circuits at issue.

21 CHAIRWOMAN SHOWALTER: Is it possible to
22 have done that? In other words --

23 MS. ANDERL: I think AT&T could have done
24 that if they had wanted to. I don't know what type
25 of -- I mean, I don't know how they would have

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1 proved, you know, what I would have done if I had
2 been in their shoes to prove this case or link those
3 things, but certainly they could have linked the
4 orders and described the type of traffic over them.

5 MS. PROCTOR: Could I respond to that?
6 What we're talking about here are loops, the pipe
7 that goes from, in the consumer's case, from the
8 house to the central office. In this case, we're
9 talking about loops or pipes purchased by big
10 customers, in the case of dedicated access.

11 In the case of switched access, we're
12 talking about connecting customers who have, you
13 know, who are residences, small businesses, what have
14 you. The usage that the customer puts of that
15 particular pipe is determined by the customer, not
16 typically shared with the carrier, and why should it
17 be. It's not our business. We're in the business of
18 providing them the pipe to enable them to make the
19 communications to enable them to use the facility as
20 they choose to, when they choose to. And that can
21 change.

22 When AT&T places an order for a pipe for a
23 business, there are only two options, zero and 100
24 percent. AT&T relies upon its customer, and I don't
25 think it takes a rocket scientist to know that the

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1 customer is going to look at the price in the
2 interstate tariff and the price in the intrastate
3 tariff and decide whether their traffic is 10 percent
4 or more interstate.

5 If you look at US West's revenue stream,
6 we're talking about almost a \$4 billion revenue
7 stream for access, of which three billion is
8 interstate in nature. It is the largest volume of
9 traffic.

10 The percentage that Ms. Field has testified
11 to applies to AT&T's estimate of the traffic that
12 customers place over these pipes. It is not an
13 insignificant amount of traffic.

14 CHAIRWOMAN SHOWALTER: Was that tied to
15 Washington State, that testimony?

16 MS. PROCTOR: That would be as a general
17 matter. It would not -- it would not vary
18 significantly by state, but it is an estimate,
19 obviously. Ms. Wilcox's testimony -- Dr. Wilcox's
20 testimony also states that, for switched access, 20
21 percent of the traffic is intrastate in nature. US
22 West obviously has that data, because switched
23 access, by its nature, goes through a switch.
24 Private lines don't go through a switch, so there's
25 no way of monitoring the traffic that goes over those

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1 facilities.

2 CHAIRWOMAN SHOWALTER: So are you saying
3 that the customer determines whether there's going to
4 be more than 10 percent interstate, and then the
5 choice at that point is, if it's interstate, to elect
6 a PIU of 100?

7 MS. PROCTOR: That is the only option at
8 that point.

9 CHAIRWOMAN SHOWALTER: So does that mean
10 that we should assume in these cases, for all of
11 these interstate connections, that no more than 10
12 percent is intrastate?

13 MS. PROCTOR: No, there could be as much as
14 89 percent intrastate traffic.

15 CHAIRWOMAN SHOWALTER: Oh, it has to be at
16 least 10 percent interstate, and then an election of
17 100 percent interstate?

18 MS. PROCTOR: Right, right.

19 MS. SMITH: Commission Staff would like to
20 make one more observation that lends itself to this
21 discussion, and it has to do with Counsel for US
22 West's comments that AT&T has to make a showing on
23 each and every order that is in this case, each and
24 every PON that's in this case.

25 And it's Staff's observation that the

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1 allegations in AT&T's complaint don't go to a list of
2 named orders. There is no list of named orders in
3 the complaint. The snapshot of the named orders was
4 offered to illustrate the allegations in AT&T's
5 complaint. So this complaint goes beyond those
6 enumerated orders that have been the focus of the
7 testimony.

8 AT&T is asking this Commission to make a
9 ruling on the manner in which US West fills its
10 orders and provisions the services it orders to
11 provide toll services to customers in the state of
12 Washington. Those toll services may be interstate
13 toll services or intrastate toll services, but the
14 allegations in this complaint are much broader than
15 the snapshot that we've had to look at in order to
16 illustrate how these allegations affect AT&T.

17 So even if all of the orders that have been
18 at issue in this case have already been filled, the
19 business practices and the situations that have woven
20 themselves into those order numbers are ongoing. So
21 regardless of the outcome of those particular order
22 numbers, these issues are still here.

23 CHAIRWOMAN SHOWALTER: Well, I understand
24 your point about the allegations perhaps being
25 broader than the evidence, but don't we have to -- we

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1 don't rule on allegations; we consider evidence.

2 MS. SMITH: That's correct, that's correct,
3 Chairwoman. And the evidence you have is a snapshot.

4 CHAIRWOMAN SHOWALTER: Yes.

5 MS. SMITH: And you need to weigh that and
6 weigh that in light of the fact that these two
7 companies will have an ongoing relationship, and the
8 obligation to provide access began before the
9 snapshot and continues after that. And that isn't so
10 much an argument on the jurisdictional issue as it is
11 an observation with respect to how much weight to put
12 on these individual order numbers when deciding the
13 jurisdictional issue.

14 CHAIRWOMAN SHOWALTER: Can we migrate to a
15 slightly different topic?

16 JUDGE WALLIS: Sure.

17 CHAIRWOMAN SHOWALTER: Let's say we get
18 over the issue that -- let's say we assume there is
19 sufficient evidence of intrastate traffic over these
20 interstate-tariffed lines. But let's stick with the
21 ones that have been ordered under the interstate, the
22 FCC tariff. If that's the case, then what are the
23 statutes or rules that we are being asked to find
24 were violated?

25 MS. SMITH: Those are contained and they're

00703

1 set forth in AT&T's complaint, and they include, but
2 aren't limited to RCW 80.36.080, regarding equipment
3 and service supplied. And the equipment and service
4 shall be fair, just, reasonable and sufficient and
5 the services rendered shall be performed in a prompt,
6 expeditious and efficient -- and the facilities shall
7 be modern, adequate and sufficient and efficient.
8 80.36.090, service shall be furnished on
9 demand. 80.36.170, unreasonable preference
10 prohibited. 80.36.186, cannot subject a
11 telecommunications company to undue or unreasonable
12 prejudice or competitive disadvantage as to access to
13 noncompetitive services. And 80.36.260, betterment
14 shall be ordered. And I believe AT&T listed some
15 other statutes in its complaint, as well.

16 CHAIRWOMAN SHOWALTER: Then setting aside
17 for the moment the statutes having to do with
18 discrimination or comparative treatment, for the
19 service quality statutes, we'll call them, do they
20 stand on their own or are they only affected through
21 tariffs?

22 In other words, the statutes are there,
23 they command a certain level of performance. Can we
24 find that that statute has been violated, even if a
25 tariff hasn't been?

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1 MS. SMITH: Yes. That really depends on
2 the wording of the tariff. But if, for example, a
3 tariff doesn't apply to a particular situation, or
4 if, for example, with respect to a violation of
5 80.36.080, on the provisioning of facilities and that
6 they have to be adequate and they have to be provided
7 in an efficient manner, if a tariff says that the
8 facilities will be provided in a specific way, and
9 that specific way isn't workable, then this
10 Commission has authority, under the statutes, to rule
11 that the Company hasn't been complying with the
12 statute, notwithstanding what's in the tariff, and
13 this Commission can order the Company to file tariffs
14 that would be more specific than the current tariffs
15 to address the particular situation.

16 So a violation of a tariff may not be a
17 violation of a particular provision in the statute.
18 And a violation of a particular provision in the
19 statute may not violate a tariff. But in situations
20 where the two aren't on the same page, the company
21 has to be held to the requirements in the statute,
22 regardless of whether or not it's in the tariff.

23 CHAIRWOMAN SHOWALTER: So --

24 MS. SMITH: The statutes supersede the
25 tariffs.

00705

1 CHAIRWOMAN SHOWALTER: So for example, in
2 the case of the ordering facilities, the standard
3 interval, you're saying if the tariff had a standard
4 interval of eight days, but we find, based on
5 evidence, that that's too long in some case under the
6 statute, then the remedy is to order a revised
7 tariff?

8 MS. SMITH: That's correct.

9 CHAIRWOMAN SHOWALTER: Essentially?

10 MS. SMITH: That's correct.

11 CHAIRWOMAN SHOWALTER: Does anybody else
12 want to comment on these things?

13 MS. ANDERL: Sure.

14 MS. PROCTOR: Could I go first? Do you
15 mind?

16 MS. ANDERL: No, go ahead.

17 MS. PROCTOR: To that issue, I think
18 there's sort of an intellectually interesting ready
19 example, which is that in the '95 rate case, an order
20 for which was entered in April of '96, the Commission
21 ordered that a remedy for customers whose private
22 line services were not timely installed would be
23 waiver of the nonrecurring charges, and that is the
24 service guarantee that we see in the tariffs.

25 However, the Commission also ruled that

00706

1 customers would be entitled to a credit on the
2 recurring charge if they did not get service
3 installed, and I think it started at three weeks and
4 then went in increments above that. That is not in
5 the tariff.

6 Now, obviously, no one has brought this to
7 the Commission's attention, and it is not in AT&T's
8 complaint alleging that AT&T has not received proper
9 credits, but I think it raises the issue quite
10 clearly that the tariff in that case does not comply
11 with the Commission's order.

12 And the statute -- one of the other
13 statutes upon which AT&T relies is 80.36.140, which
14 states that the Commission has the authority to
15 determine whether service is inadequate, inefficient,
16 improper or insufficient, and to make appropriate
17 rulings to determine what would be adequate and
18 efficient.

19 MS. ANDERL: Thank you, Your Honor. I was
20 just -- I apologize. I was just wanting to get a
21 couple of different statutory references, but I don't
22 know that I need them for what I wanted to talk to
23 you about.

24 It's very clear that the hierarchy of what
25 a company's required to do kind of starts with the

00707

1 statutes. But the statutes are so very generally
2 written, they're not necessarily a mandate for any
3 particular type of action or inaction on the part of
4 a company. They tell the Commission what the
5 Commission ought to be requiring of the companies,
6 and the details of those are really implemented
7 through rules, the WACs that you promulgate, which
8 contain specific service quality standards, or the
9 Company's own tariffs, which every noncompetitive
10 company who operates in this state files tariffs with
11 the Commission.

12 Those tariffs either become effective on
13 their own after 30 days or are actively approved or
14 rejected by the Commission upon filing. Once those
15 become effective, they have the force and effect of
16 state law.

17 If US West is operating in accordance with
18 its tariffs and Washington Administrative Code, to
19 the extent that those set forth the requirements of,
20 you know, what does reasonable mean, what does just,
21 adequate, and sufficient mean, then I think that
22 that's the standard we ought to be held to.

23 And I don't think that AT&T or any other
24 private complainant in a complaint like this ought to
25 be able to come in and say, Well, you know, 80.36.080

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1 requires you to furnish adequate service, and
2 80.36.090 requires you to furnish service on demand.
3 And in this particular case, it doesn't matter what
4 the tariffs say or the service quality WACs, you're
5 not doing a good enough job.

6 I think that what AT&T is asking here for
7 is for you to put aside the fact that this is an
8 adjudicative proceeding between two -- you know, kind
9 of a plaintiff and defendant-type situation. And the
10 plaintiff here is huge. It's AT&T, who is more than
11 capable of putting forth more than just a snapshot if
12 they've got problems with how US West is
13 provisioning. And they've got the capability of
14 either -- of attempting to prove specific statutory
15 or tariff or rule violations if they show you the
16 particular facts.

17 But I don't think that it's appropriate for
18 them to come in and say this is an illustrative
19 snapshot and the problem could be a lot bigger, and
20 so you ought to kind of make a public policy decision
21 to order revised tariffs or new service quality rules
22 based on that.

23 That is more of a legislative-type function
24 that could very well be accomplished in a
25 rule-making, where the Commission could look at

00709

1 evidence that is illustrative of types of
2 provisioning intervals that may or may not be
3 appropriate on an industry-wide basis. But in a
4 private complaint like this, I don't think that's
5 appropriate at all, and I don't believe that any
6 statutory violations have been established.

7 It's interesting, maybe to digress for a
8 moment, how this case has changed. When it first
9 started, it was in the nature of a breach of contract
10 case, where AT&T was claiming that we had not done
11 things that we had promised to do, in terms of
12 meeting the customer desired due date and other
13 things.

14 When US West came back and said, Well, no,
15 what really governs our obligations are the tariffs,
16 AT&T came back and said, Okay, well, then, you're
17 violating those tariffs.

18 Now, when we believe we've established very
19 clearly that there are no tariff violations, AT&T has
20 again shifted the focus to say, Well, this is a
21 general service quality complaint and you ought to
22 just consider the evidence that we have of these
23 snapshots as illustrative of service quality issues
24 in general and you ought to order remedies based on
25 that. I don't think that that's the right outcome

00710

1 here.

2 JUDGE WALLIS: The Commission is going to
3 take the motion under advisement, and we'll resolve
4 it on the evidence that has been presented at this
5 point in the proceeding. Let's be off the record for
6 just a moment.

7 (Recess taken.)

8 JUDGE WALLIS: Let us be back on the
9 record, please, following a morning recess. US West
10 is calling to the stand its next witness, Mary M.
11 Retka. I have previously identified for the record
12 by dictating to the court reporter the identification
13 of exhibits, and I'm going to ask that the reporter
14 insert that description and the identification at
15 this point in the transcript as though now read.

16 Let's go ahead and identify the exhibits
17 for Ms. Retka. I'm marking for identification the
18 documents that have been presented for use during the
19 direct and cross-examination of Mary M. Retka.

20 Beginning with the direct testimony of Mary
21 M. Retka, which is marked as Exhibit 301-T for
22 identification. Her Resume of Qualifications, also
23 designated MMR-1, is marked as 302 for
24 identification. Her rebuttal testimony is marked as
25 303-T for identification. And I'm marking as Exhibit

00711

1 304 a document entitled Forecast and Order Flow
2 Chart, also designated Exhibit MMR-2.

3 The following documents have been presented
4 for possible use during the cross-examination of this
5 witness, and they are marked as follows: US West's
6 Response to AT&T Data Request 01-038 is marked as
7 Exhibit C-305 for identification. The response to
8 Data Request 01-006 is marked as 306. The US West
9 Response to AT&T Data Request 01-008 is marked as 307
10 for identification, and the US West Response to AT&T
11 Data Request 01-014 is marked as Exhibit C-308 for
12 identification.

13 US West's response to AT&T Data Request
14 01-040 is marked as Exhibit 309. And I am marking as
15 Exhibit C-310 US West's Response to Data Request
16 01-022. US West's response to AT&T Data Request
17 01-015 is marked as Exhibit C-311 for identification.
18 US West's Response to Data Request 01-043 is marked
19 as Exhibit C-312. US West Response to Data Request
20 01-046 is marked as C-313. US West's Supplemental
21 Response to AT&T Data Request 01-012 is marked as
22 Exhibit C-314, and US West's Response to Data Request
23 01-001 is marked as Exhibit 315 for identification.

24 That concludes the list of exhibits that
25 have been presented for use during the examination of

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1 Ms. Retka.

2 There is an addendum to that description in
3 that US West has this morning -- I'm sorry, AT&T this
4 morning has provided a Replacement Exhibit C-310 for
5 possible use on cross-examination of this witness.
6 The replacement is identified on the confidential
7 pages by being bereft of the notations that were
8 placed on the original document. It was represented
9 to us that those were notations of counsel, not
10 relevant, and the purpose for submitting the
11 replacement is to provide a clean copy to the record.
12 I have marked Exhibit 310 as thus replaced Exhibit
13 310 Replacement, so that it will be identified in the
14 record.

15 With that, I'm going to ask the witness to
16 stand and raise her right hand.

17 Whereupon,

18 MARY M. RETKA,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21 JUDGE WALLIS: Please be seated. Ms.

22 Anderl.

23 MS. ANDERL: Thank you.

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

25 BY MS. ANDERL:

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1 Q. Ms. Retka, would you please state your name
2 and business address for the record?

3 A. Mary M. Retka, R-e-t-k-a, and my business
4 address is 700 West Mineral, and that's Littleton,
5 Colorado, 80220.

6 Q. And Ms. Retka, do you have before you your
7 direct and rebuttal testimony, along with the
8 exhibits attached thereto, that have been marked as
9 Exhibits 301-T through 304?

10 A. I do.

11 Q. And are you the same Mary Retka identified
12 in that testimony?

13 A. Yes.

14 Q. Ms. Retka, if I were to ask you the
15 questions contained in those documents today, would
16 your answers be the same?

17 A. Yes, they would.

18 Q. With one -- well, to the extent that a
19 cross-examination exhibit proposed by AT&T might
20 prompt additional explanation on a portion of your
21 testimony, your rebuttal testimony, Exhibit 301-T at
22 page four; is that correct?

23 A. Yes.

24 MS. ANDERL: Your Honor, with that, I would
25 ask that the exhibits be admitted, and I would tender

00714

1 the witness for cross.

2 JUDGE WALLIS: Is there objection to the
3 exhibits?

4 MS. SINGER-NELSON: No objection.

5 JUDGE WALLIS: Exhibits 301-T, 302, 303-T,
6 and 304 are received in evidence. Ms. Singer-Nelson.

7 MS. SINGER-NELSON: Thank you, Judge.

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

9 BY MS. SINGER-NELSON:

10 Q. Good morning, Ms. Retka.

11 A. Good morning, Ms. Nelson.

12 Q. Now, it looks like on Exhibit 302, which is
13 your resume, that your title is Director, Technical
14 Regulatory Interconnection Planning; is that right?

15 A. That's correct.

16 Q. And the focus of your organization is to
17 negotiate interconnection agreements with competitive
18 local exchange carriers?

19 A. That's correct.

20 Q. And also to testify in the proceedings --
21 in the arbitration proceedings for local market
22 entry; is that right?

23 A. That's correct.

24 Q. Your day-to-day job responsibilities as to
25 interconnection negotiation include making sure that

00715

1 the language in the interconnection agreements about
2 the network is clear?

3 A. Right.

4 Q. And that the interconnection negotiators
5 have a clear understanding of the network?

6 A. Yes, that's correct.

7 Q. So then they can have clear advocacy
8 positions in the interconnection negotiations?

9 A. Yes.

10 Q. Then, as to the arbitration proceedings,
11 you make sure that the negotiation -- or you make
12 sure that the witnesses are available at the
13 hearings?

14 A. Yes.

15 Q. And you review draft testimony and help
16 prepare it so that the witnesses are prepared to
17 testify about interconnection agreements and issues?

18 A. Yes.

19 Q. Your group does not deal with the
20 interexchange carriers and their needs for access
21 services from US West; is that right?

22 A. Oftentimes, Ms. Nelson, the interconnectors
23 are also involved with access, as well.

24 Q. So are special -- are local circuits also
25 used for access for interexchange carriers?

00716

1 A. What I'm referring to, Ms. Nelson, is the
2 fact that oftentimes parties who are also competitive
3 local exchange carriers are also involved in the
4 interexchange carrier business.

5 Q. But your group is not designated to deal
6 with Ms. Field's group at AT&T; is that right?

7 A. Well, in fact, over the course of time from
8 1996 on, we have been involved with the organization
9 at AT&T that has been doing the negotiation for the
10 interconnection agreement.

11 Q. But your group doesn't deal with the issues
12 that we have today in this case; isn't that right?

13 MS. ANDERL: Objection, Your Honor. Asked
14 and answered.

15 MS. SINGER-NELSON: It wasn't asked and
16 answered. It was --

17 JUDGE WALLIS: The witness may respond.

18 THE WITNESS: In terms of the work that --
19 or the information that we're covering today, my
20 group is involved in and understands that
21 information. We may not, on a daily basis, have the
22 direct involvement, but we are well aware of the
23 efforts that are going on in that arena.

24 Q. Ms. Halvorson's group is the group that has
25 the day-to-day responsibilities for Ms. Field's

00717

1 group; isn't that right?

2 A. Ms. Halvorson's group is their direct
3 interface.

4 Q. And you're not part of Ms. Halvorson's
5 group?

6 A. No, I'm not.

7 Q. In fact, you've never met with Ms. Field to
8 discuss AT&T's needs as a long distance carrier
9 purchasing access services from US West; isn't that
10 right?

11 A. That's correct.

12 Q. Now, the purpose of your testimony is to
13 address, as I understand it, AT&T's discrimination
14 allegations regarding US West's network provisioning,
15 the network funding process, and the dissemination of
16 network information; isn't that right?

17 A. That is correct.

18 Q. And you've testified that the single-most
19 important factor that drives network provisioning is
20 the growth for network services?

21 A. Is the growth in the network.

22 Q. You've also testified that US West develops
23 its network provisioning plans based on product
24 forecasts?

25 A. That's correct.

00718

1 Q. US West groups involved in developing those
2 forecasts include the wholesale and retail market
3 units, as well as the tactical planning engineers in
4 the network organization; isn't that right?

5 A. That's correct.

6 Q. Then those forecasts are provided to the
7 network resource allocation group, which goes on to
8 develop construction budgets based on those
9 forecasts?

10 A. Yes.

11 Q. Your group does not, in fact, develop the
12 forecasts that are used for construction budgets,
13 does it?

14 A. Not my direct group, no.

15 Q. And your group does not develop the budgets
16 for construction?

17 A. No, they do not. To be clear, Ms. Nelson,
18 my group is involved, though, in the network planning
19 organization. We are part of that planning
20 organization. And I am well aware, having had 13
21 years in the network organization, of the processes
22 and procedures used in planning the network.

23 Q. Ms. Retka, you've never seen an AT&T
24 forecast for special access services before filing
25 your testimony in this case, have you?

00719

1 A. AT&T's forecasts are provided to the
2 account team, the folks in Ms. Halvorson's
3 organization. In fact, the forecast provided by any
4 of our customers come in through that means. And
5 once in through that means, the network organization
6 sees them after they have been put together as a
7 bulk.

8 Q. Thank you. And the issue of hot spots, you
9 talk about hot spots in your testimony, don't you?

10 A. I reply to Ms. Field's use of the term hot
11 spots, but that is Ms. Field's terms; that is not a
12 term that US West uses.

13 Q. Well, on page three, lines 23 through 25 --
14 MS. ANDERL: Sorry, which -- direct or
15 rebuttal?

16 MS. SINGER-NELSON: It is Exhibit 301-T,
17 the direct. It's actually page four.

18 Q. You use the term hot spots in responding to
19 Ms. Field's testimony; isn't that right?

20 A. Yes, I use that term in responding to Ms.
21 Field, specifically putting it in quotations because
22 it was Ms. Field's use of that term.

23 Q. And that's referring to wire centers where
24 the demand for facilities is high and the
25 availability capacity is at a premium; isn't that

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1 right?

2 A. That's correct.

3 Q. Wire centers are typically high-usage
4 offices in locations that serve large amounts of
5 customers, usually in metropolitan areas. Isn't that
6 how hot spots are referred to in your testimony?

7 A. What I say in my testimony is that US West
8 does not have anything that we call hot spots.
9 However, it's generally known that these types of
10 areas that Ms. Field referenced are in larger wire
11 centers and major metropolitan areas.

12 Q. Right. Hot spots are the large switches in
13 the metropolitan areas; isn't that right?

14 A. Ms. Field uses it in that way.

15 Q. Ms. Retka, can you please identify what
16 makes up an interoffice facility for special access?

17 A. When you're talking about a special access
18 facility that is a private line, if you will, a
19 non-switched service -- is that what you're asking?

20 Q. Yes.

21 A. Okay. And in terms of the network; is that
22 what you're asking?

23 Q. Yes.

24 A. Okay. From the point where the customer
25 resides, which we call the POP, or point of presence,

00721

1 the traffic is delivered either via a facility that
2 the carrier provisions themselves or through a
3 facility they buy from someone else or through a
4 facility they get from US West, and it can be either
5 on fiber or on copper.

6 And they bring that facility into the
7 central office, US West's central office, where they,
8 if they bring that facility in on fiber, have to have
9 that facility then converted from an optical to an
10 electrical means, and then that facility has to
11 process through some cross-connection devices in the
12 central office in order to determine where it's going
13 to be routed to, if it's going to be multiplexed from
14 a DS3, let's say, to a DS1.

15 It has to get to that multiplexing
16 facility, so it has to travel through the central
17 office in a media in order to get to the multiplexing
18 facility. Once it is multiplexed, it can in fact
19 leave the central office in the means it is, as a
20 copper facility, or it can leave the central office
21 by, once again, being multiplexed to a higher level,
22 back up to let's say a DS3 level, and go out of that
23 central office either to another central office or to
24 an end user's premise. Does that give you what you
25 need?

00722

1 Q. Yes, thank you. So it sounds like
2 interoffice facilities have multiplexing equipment
3 and interoffice facilities have fiber and copper
4 facilities; is that right?

5 A. They can.

6 Q. Do interoffice facilities have switched
7 terminations?

8 A. They can -- no, not for -- well,
9 interoffice facilities, yes, can have switch
10 terminations. What you had asked me about originally
11 was a non-switched circuit, I believe.

12 Q. Mm-hmm.

13 A. But an interoffice facility can have switch
14 terminations, yes.

15 Q. Okay. How would you measure spare capacity
16 in those interoffice facilities?

17 A. On the non -- on the switched type of
18 interoffice facility, you would have to look at those
19 switch terminations, as well as the facility itself,
20 both the switch terminations that are required in the
21 central office and the switch itself, and then you
22 would have to look at the interoffice facility
23 requirements.

24 For a non-switched, what you need to look
25 at are all the piece parts that take that in through

00723

1 the central office and out.

2 Q. Would you measure at the DS1 level or the
3 DS3 level?

4 A. Depends on what type of circuit it is that
5 you have.

6 Q. When would you measure at the DS1 level?

7 A. If you had the circuit coming in as a DS1
8 totally from the carrier, going all the way through
9 the office as a DS1 and exiting the office as a DS1.

10 Q. And when would you measure at a DS3 level?

11 A. When you have the circuit coming in off of
12 a DS3 and you needed to connect it and multiplex it
13 through the equipment in the central office to take
14 it from an optical to an electrical connection and
15 then back, if it's going back out on a DS3. So it
16 all depends on really what parts of that circuit are
17 available and have capacity to be provisioned. You
18 have to look at each piece part.

19 Q. Thank you. Ms. Retka, US West uses several
20 different forecasts to determine network growth;
21 isn't that right?

22 A. Yes, we do.

23 Q. Can you identify those forecasts for us?

24 A. Ms. Singer-Nelson, could you be a little
25 more clear on -- are you asking the input type

00724

1 information?

2 Q. I'm asking for the names of the forecasts
3 that US West uses to determine network growth.

4 A. Are you looking at the fact that we look at
5 what the market base is in the area? Is that the
6 type of information you're looking for, or --

7 Q. Do you have specific forecasts with names
8 that have specific names like the central office
9 forecast, the network access line gain forecast, the
10 design service forecast, and the outside plant
11 forecast?

12 A. Well, actually, the network access line
13 gain is used in several of the forecasting elements,
14 but we do forecast our requirements for central
15 office equipment, for interoffice facility equipment,
16 and for our outside plant equipment.

17 Q. Could you please identify the purpose for
18 each of those forecasts, the central office forecast
19 first?

20 A. What we're looking for there are what types
21 of requirements are going to be made on equipment in
22 the central office, and this is because that
23 equipment drives a lot of other requirements. So we
24 have to look at, for example, if we're going to have
25 to add a number of different elements of equipment

00725

1 that have a great deal of heat dissipation, then we
2 have to have cooling in that central office to make
3 sure that the central office runs appropriately for
4 the equipment. We also to have to have powering, not
5 only for the equipment itself, but also to power the
6 cooling equipment, which oftentimes requires more
7 power than the equipment itself, and we have to have
8 the capability to do cross-connections in that
9 central office for all of the equipment to be able to
10 be routed appropriately as it comes and goes out of
11 that office.

12 So it's important for us to understand what
13 demand is -- what growth is going to require us in
14 terms of equipment in the central office so that we
15 can appropriately manage that central office.

16 Q. Ms. Retka, would you agree that a central
17 office forecast is a forecast of working lines and
18 reflects the network access line gain forecast and
19 the design services forecast?

20 A. Oh, yes, it does.

21 Q. What is the network access line gain
22 forecast?

23 A. What, basically, the network access line
24 gain forecast is is taking into account the network
25 access lines that are in -- are working, those are

00726

1 that are expected to be decreased from the total, and
2 those that are expected to be increased, and the
3 network access line gain is the result of that net.

4 And so what you're looking at there is the
5 true amount that you will need to be adjusting for.
6 In some cases, it could have been a negative number.
7 We haven't really seen that in our area in quite some
8 time.

9 Q. Explain what the design service forecast
10 is?

11 A. That is an amount of -- or a figure of what
12 type of design services are going to be required
13 based on our forecast of what the customer's demand
14 is going to be for design services in our area.

15 Q. And finally, the outside plant forecast,
16 could you please explain what the purposes of that
17 forecast are?

18 A. The outside plant forecast is looking at
19 also what the amount of gain is going to be that is
20 going to drive what we call our feeder and
21 distribution growth. In other words, in order to get
22 to the neighborhoods, you have to have, coming out of
23 the central office, enough big pipes to branch off
24 the smaller pipes to branch off the individual
25 customer's use beyond that in the neighborhoods.

00727

1 Q. Thank you. Could you please turn to
2 Exhibit 305?

3 A. I have that in front of me.

4 Q. Please identify that for the record.

5 A. This is an AT&T Discovery Request, Request
6 Number 01-038-I.

7 Q. Okay. And in that request, AT&T asks US
8 West to produce all documents reflecting US West's
9 processes used to forecast and any resulting forecast
10 for interoffice facilities, central office equipment,
11 and outside plant; isn't that right?

12 A. Yes, that's the request.

13 Q. And there's an explanation there in
14 response to the data request, and then there's also a
15 document attached to it. I did want to note that the
16 supplemental response, dated December 3rd, is highly
17 confidential. And I believe that it does refer to
18 the document attached as -- is it attached as Exhibit
19 C, Lisa?

20 MS. ANDERL: Ms. Singer-Nelson, I'm not
21 sure what you're talking about.

22 MS. SINGER-NELSON: I just want to make
23 sure that I protect US West's request to keep the
24 information that it produced in response to this
25 discovery request highly confidential. I just wanted

00728

1 to note that for the record. And I won't go into
2 detail on any numbers that are contained in the
3 attachments.

4 JUDGE WALLIS: Thank you.

5 MS. ANDERL: It is Attachment B that is
6 highly confidential.

7 MS. SINGER-NELSON: Thank you.

8 Q. In fact, the forecasts that you've been
9 discussing this morning are contained in Attachment
10 B; isn't that right?

11 A. Individual forecasts, I don't believe are
12 actually contained in here. Elements of it, I see,
13 but I --

14 Q. And you're right, Ms. Retka. They're
15 referred to and they're discussed in this document;
16 isn't that right?

17 A. Yes.

18 Q. On page five of Attachment B, could you
19 please look to the section that's entitled Risk to
20 the Forecast. Do you see that?

21 A. Mm-hmm.

22 Q. There appears to be a note there that talks
23 about competitive losses due to total bypass that are
24 included in the total market network access lines.
25 Do you see that discussion there?

00729

1 A. Yes.

2 Q. There are numbers reflected in there as to
3 what US West sees as bypass business market share.
4 Do you see that?

5 A. I don't see that it's referred to as US
6 West -- you're referring to US West C in this
7 statement.

8 Q. Well, this is a US West document; isn't
9 that right?

10 A. Yes.

11 Q. So the person who prepared this document is
12 a US West employee?

13 A. Yes.

14 Q. And they're discussing there an increase in
15 bypass business market share?

16 A. Yes.

17 Q. From 1999 to the year 2004?

18 A. Yes.

19 Q. And there are percentages noted?

20 A. Yes, there are, Ms. Singer-Nelson.

21 Q. Thank you.

22 A. In fact, appropriately so. Any business
23 that's in a competitive market needs to understand
24 the competition and the percent of take the
25 competition is going to have in order to

00730

1 appropriately plan for their network.

2 Q. And there's a -- that's also noted on page
3 -- well, let me clarify the record. The document
4 that we're looking at right now is dated March 1999;
5 isn't that right?

6 A. Yes, on page five, it's the March 1999
7 document.

8 Q. But also attached to this data response is
9 a document that is dated August 1998?

10 A. Yes, it's further back.

11 Q. Okay. And on page six of that document,
12 there's a similar discussion of risks to the
13 forecast?

14 A. Yes, there's, once again, that risk to the
15 forecast element in this one. And again, the purpose
16 of that is so that, as a corporation, US West
17 understands that it's a competitive market, and we
18 need to be aware of how to plan and manage in a
19 competitive environment.

20 Q. Please turn to the exhibit marked for
21 identification as 306. Could you please identify
22 that for the record?

23 A. This is a response to AT&T's Discovery
24 Request 01-006-I.

25 Q. All right. In that data response, US West

00731

1 explains the processes and methodologies that it uses
2 in making funding decisions to construct its
3 facilities; isn't that right?

4 A. That's correct.

5 MS. SINGER-NELSON: Judge, I'd like to move
6 at this time for admission of Exhibit Numbers 305 and
7 306.

8 MS. ANDERL: No objection, Your Honor.

9 JUDGE WALLIS: The exhibits are received.

10 Q. The next exhibit that I want to look at,
11 Ms. Retka, is Hearing Exhibit 315. Could you please
12 identify that document for the record?

13 A. This is AT&T's Discovery Request 01-001-I.

14 Q. And in that data request, AT&T asks US West
15 to state its Commission-approved total annual
16 construction budget for the years 1995 to the
17 present. And then, for each of the total figures
18 listed, to break out the budget for those, A through
19 F, which are different services and different
20 facilities. Do you see that?

21 MS. ANDERL: Your Honor, I object to any
22 questions on this document. It's very clear that the
23 response is nothing more than an objection to the
24 data request. The second page is not properly a part
25 of this data request response. And I am not sure

00732

1 where Ms. Singer-Nelson is going, but I do not
2 believe it's appropriate to ask this witness
3 questions about an objection to a data request that
4 US West's Counsel prepared.

5 MS. SINGER-NELSON: Judge, what I was
6 wanting to ask Ms. Retka, since she's the witness
7 that US West has brought here to talk about budgets,
8 is why, in this proceeding, US West objected to
9 producing the information requested, and then, in
10 response to the identical question in the Minnesota
11 proceeding, US West actually provided a document.

12 MS. ANDERL: Ms. Retka did not make those
13 decisions about whether to provide particular
14 documents in response to a data request in a
15 particular jurisdiction. Those decisions were made
16 with the assistance of counsel in each of the states,
17 and I don't believe it's appropriate to ask this
18 witness about that.

19 JUDGE WALLIS: We can allow the witness to
20 respond to the extent of her knowledge, and if that
21 knowledge is zero, that then would be the response.

22 MS. SINGER-NELSON: Okay.

23 THE WITNESS: And that would be my
24 response, Judge.

25 Q. Ms. Retka, do you know whether a document

00733

1 exists that responds to Data Request 1 here in
2 Washington --

3 MS. ANDERL: Your Honor, I object.

4 Q. -- similar to the document that was
5 produced in Minnesota?

6 MS. ANDERL: Your Honor, I object. We
7 argued a motion to compel on this particular data
8 request response, and AT&T did not prevail. If AT&T
9 had issue with that ruling, AT&T should have pursued
10 some sort of interlocutory review on it.

11 JUDGE WALLIS: I'm going to sustain the
12 objection.

13 MS. SINGER-NELSON: Okay, Judge.

14 Q. I'll move on to Exhibits 308, 310 and 311,
15 if you want to pull those three. Do you have 308 in
16 front of you, Ms. Retka?

17 A. Yes, I do.

18 Q. Could you please identify that for the
19 record?

20 A. This is the response to AT&T's
21 interrogatory 01-014-I.

22 Q. And in this request, AT&T asks US West to
23 define and describe its rating methodology when US
24 West rates end offices as platinum, gold, silver, or
25 by any other designation; is that right?

00734

1 A. That's the request.

2 Q. And in response to that request, US West
3 attaches three documents; is that right?

4 A. Yes.

5 Q. Could you please identify or explain each
6 of the documents that's attached to that request,
7 please?

8 A. Yes, I can. The first document is an
9 explanation that US West no longer uses those
10 designations, that those designations were used in
11 order to identify high growth or potential for other
12 growth-related activities, and that the designations
13 were gold, silver, and bronze, that gold is the areas
14 that had the highest growth, silver being those with
15 high growth or potential for other growth-related
16 activities, and that all other wire centers were
17 designated as bronze.

18 It indicates in here that the remote
19 switches, and this is in a host remote central office
20 environment, the remote switches were included with
21 the designations of what the host switches were, and
22 basically, also clearly indicates that regardless of
23 the designation, that US West remains committed to
24 striving to modernize and maintain all offices and
25 wire centers irrespective of gold, silver, bronze

00735

1 designations, at levels so as to meet or exceed the
2 state service level requirements, and reiterates that
3 we no longer use that.

4 The second document describes the
5 methodology through which the offices were
6 designated. Basically, what this goes into is the
7 network organization polled these business units
8 throughout the company and said, Tell us what your
9 high-growth offices are. And as you can imagine,
10 with any large company where you have multiple
11 business units, at the point in time when you come to
12 the network organization, which has to provide
13 services across those business units, would like to
14 sort of, if you will, herd the cats to get one list
15 of the prioritization of the highest growth, because
16 sometimes you can have a growth for a service that is
17 one type of service that is a very high growth, but
18 you might not have high growth in another service.

19 Q. Ms. Retka, excuse me. Where is that all
20 discussed in these documents?

21 A. I understood you to ask me to explain these
22 documents. And I'm explaining the system
23 methodology, which is the second document.

24 Q. So what you're talking about right now is
25 contained in these documents?

00736

1 A. In this document where we say, These
2 offices, wire centers were identified as high-growth
3 or the potential for other growth-related activities.

4 Q. Thank you.

5 A. I'm explaining the document.

6 Q. Thank you. And what is the third document?

7 A. Can I finish with my explanation of the
8 second document?

9 Q. Sure.

10 A. Basically, what that says, then, is that we
11 got that information from the business units and then
12 took all of the highest growth, and those were
13 determined to be the gold wire centers, the
14 high-growth was determined to be the bronze -- or the
15 silver wire centers, and all other offices were as
16 bronze.

17 And we did not say to the business units,
18 you know, give us this definition of growth; we asked
19 them for their growth. And we also made it clear
20 that, as things changed in their market unit, their
21 designation could change.

22 Q. Okay.

23 A. And we also made it very clear that we
24 intended to continue to meet the service levels for
25 managing and modernizing our network.

00737

1 The third document is a memo from Mr. Bob
2 Tregemba, and it went out to all the operations and
3 technologies managers, basically the managers in the
4 network organization. And it was telling them that
5 this was the new strategy by which offices were going
6 to be designated, indicating, of course, that this
7 was the strategy to be used, how the offices were
8 designated, and that they should move forward in
9 alignment with this new designation.

10 Q. Thank you. Now, isn't it true that this
11 wire center prioritization, as the gold, silver,
12 bronze wire center prioritization, the focus was to
13 spend US West capital where it would provide the
14 greatest benefit to the majority of the customers and
15 where it would provide the greatest opportunity for
16 revenue generation and service?

17 A. I think any time you're in a business --
18 and I honestly think that's kind of what this case is
19 about. I've heard Mr. Wilson say, you know, you
20 ought to have your capacity where we need it. So the
21 intent of this process was really to say let's focus
22 on getting the capacity where there's the greatest
23 need.

24 Q. Okay. But Mr. Tregemba's memo, that's
25 Attachment B, the July 10th memo says that the focus

00738

1 is to spend the capital where it would provide the
2 greatest benefit to the majority of the customers and
3 where it would provide the greatest opportunity for
4 revenue generation and service; isn't that right?

5 A. I believe that's what it said, the majority
6 of the customers. And obviously, where the majority
7 of the customers are is where the majority of the
8 revenue is going to be.

9 Q. And then the gold wire centers contained
10 the most tele-active customers, those who generated
11 high demand and high revenue.

12 MS. ANDERL: Your Honor, at this point, if
13 I might interrupt in the form of an objection or
14 clarification, US West would like to withdraw the
15 confidential designation from Attachment A, which is
16 the first one, because that is essentially already
17 contained in Ms. Retka's testimony. However, there
18 are two documents that are Attachment B, and
19 particularly the second one, we would like to retain
20 the confidentiality designation on that. Therefore,
21 to the extent that Ms. Singer-Nelson's questions are
22 essentially reading the memo into the record, and I
23 understand it's hard to ask --

24 MS. SINGER-NELSON: It was white, it was
25 copied white. I apologize.

00739

1 MS. ANDERL: I know. But if there's a way
2 to ask the questions without going into quite so much
3 reading, I'd sure appreciate it.

4 MS. SINGER-NELSON: I'm sorry. I
5 apologize. I do.

6 CHAIRWOMAN SHOWALTER: Did you say that
7 it's the first page of Attachment B that's --

8 MS. SINGER-NELSON: All three of them are.

9 MS. ANDERL: Attachment A, we're going to
10 withdraw the confidential designation.

11 JUDGE WALLIS: What's on pink is no longer
12 confidential, and the ones that are on white still
13 are.

14 MS. SINGER-NELSON: I really do apologize.
15 I'm sorry.

16 MS. ANDERL: I'm not -- I mean, no offense
17 taken. I just wanted to caution you before we got to
18 the point where it didn't do any good.

19 MS. SINGER-NELSON: Right. I do apologize,
20 and I'll change the way that I ask the questions.

21 Q. Ms. Retka, is the description of a gold
22 wire center and what the gold wire center should
23 stand for contained in paragraph three of that
24 document?

25 A. Yes.

00740

1 Q. And then, also a silver wire center is
2 described in that same paragraph?

3 A. Yes.

4 Q. And then, finally, the bronze wire center
5 is discussed?

6 A. Yes.

7 MS. SINGER-NELSON: Okay. That's all for
8 that. Judge, I'll move for admission of Exhibit 308
9 at this point.

10 MS. ANDERL: No objection.

11 JUDGE WALLIS: 308 is received.

12 Q. Now, could you please look at Hearing
13 Exhibit 311? Could you identify that for the record?

14 A. This is the response to AT&T's Discovery
15 Request 01-015-I.

16 Q. Thank you. And in that data request, AT&T
17 asked US West to provide a list of switches or wire
18 centers with the current US West rating of gold,
19 silver, and bronze; isn't that right?

20 A. That is correct.

21 Q. Could you identify the attachments to that
22 data request response, please? And note, for the
23 record they're confidential, they're on pink paper,
24 and they're, in fact, subject to a
25 highly-confidential designation.

00741

1 MS. ANDERL: Ms. Singer-Nelson, could I
2 ask, is it AT&T's intent to have two Attachment As?

3 MS. SINGER-NELSON: No.

4 THE WITNESS: I also have two copies on
5 mine. There should only be one; correct?

6 MS. SINGER-NELSON: Yes.

7 Q. Ms. Retka, could you please identify that
8 document for us?

9 A. This is the response to AT&T's Discovery
10 Request 01-015-I.

11 Q. What does it show, without revealing
12 anything confidential?

13 A. Okay. What we have here is an alphabetical
14 list of the wire center names in the state of
15 Washington, and a column that indicates their rating
16 as either a G, an S, or a B.

17 Q. And then G stands for gold, B stands for
18 bronze, and S stands for silver; isn't that right?

19 A. Yes, there's a legend off to the right-ish
20 area of the page.

21 Q. Thank you. Could you please take up
22 Hearing Exhibit 310?

23 JUDGE WALLIS: This is the Replacement
24 Exhibit 310?

25 Q. Replacement Exhibit 310.

00742

1 A. Mm-hmm. I have that.

2 Q. Identify for the record what that document
3 is?

4 A. This is the US West response to AT&T's
5 Discovery Request 01-022-I.

6 Q. And in that request, does AT&T ask for an
7 identification of all locations that don't currently
8 have and will not have, within the next 18 months,
9 facilities such as DSL facilities, DSLAMS, frame
10 relay networks, ATM networks, and any other data type
11 networks?

12 A. That's what the request is.

13 Q. What did US West provide in response to
14 that request?

15 A. Well, first of all, in the response, you'll
16 see that US West felt that the request was vague.
17 And US West stated that it's not possible to say with
18 certainty which locations will or will not have
19 certain facilities in 18 months in the future. And
20 yet, US West did provide Confidential Attachment A,
21 and it's on pink paper, so it is the response on the
22 paper listed in the columns as AT&T had requested it.

23 Q. And describe what that document shows.

24 A. There are three columns, Column A and B
25 being grouped as one column, Column C, and Column D.

00743

1 Q. So did US West intend this response to be
2 responsive to the question where it's identifying
3 wire centers that do not have and will not, within
4 the next 18 months, have the following facilities,
5 have those facilities listed on the data request?

6 A. What US West states in the response is,
7 regarding Confidential Attachment A, it's an
8 estimated forecast of where services/facilities
9 listed above will not yet have been deployed. And
10 actual locations may change with time.

11 MS. SINGER-NELSON: Thank you. Judge, I'd
12 like to move for admission of Exhibits 311 and 310.

13 MS. ANDERL: Your Honor, we do not object
14 to Exhibit 311, but we do object to Exhibit 310.

15 JUDGE WALLIS: Exhibit 311 is received.

16 MS. ANDERL: 310 is objectionable, Your
17 Honor, because it's it does not bear any demonstrable
18 relationship to any of the claims with regard to
19 provisioning of access services that AT&T raises in
20 this complaint. Furthermore, we do not believe that
21 it is probative of anything.

22 US West first objected to this data request
23 response and said the same thing, we don't think that
24 this is going to give any useful information. We
25 were ordered, nevertheless, to provide a supplemental

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1 response, and we did, I think, in my view, provide
2 one that was fairly highly caveated, in terms of its
3 usefulness. And I do not believe that it is
4 probative of anything other than this is what US
5 West's estimate was as of 12/3/99, in terms of where
6 we might be in May or June of the year 2001.

7 I think it's a stretch that any findings
8 could be made on that type of information and I don't
9 think it's relevant to the issues AT&T raises, in
10 terms of whether or not US West has timely
11 provisioned facilities or violated its tariffs in any
12 way.

13 MS. SINGER-NELSON: Judge, I think this
14 data response is very probative of several things.
15 The facilities that are listed out in A through E are
16 the types of facilities that are at issue in this
17 case. And it's important that -- well, what this
18 goes directly to is our claim of discrimination.

19 If you would compare the wire centers that
20 are listed in this document that -- where US West
21 does not plan, as it responds to the data request, to
22 have those facilities in place over the next 18-month
23 period, it shows that if you compare this document
24 with the document that was attached to Exhibit 311,
25 you would see that the wire centers that are listed

00745

1 in response to exhibit -- or in Exhibit 310 are
2 primarily bronze wire centers.

3 So it goes directly to AT&T's claims of
4 discrimination, that certain wire centers are being
5 chosen as the wire centers where the more advanced
6 services and the facilities needed by AT&T won't be
7 provided.

8 CHAIRWOMAN SHOWALTER: Can I ask a
9 question? Where is your evidence that your activity
10 is suffering from discrimination, alleged
11 discrimination, as occurring in the bronze areas?

12 MS. SINGER-NELSON: That's -- if you would
13 go to the attachment itself on 310, and compare it to
14 the attachment on 311, you would see that there's a
15 designation of gold, silver, and bronze on Attachment
16 A to 311.

17 If you take and compare the wire centers
18 that are on 310, you would see that the wire centers
19 on 310 are primarily B wire centers, or bronze wire
20 centers. One of AT&T's claims in this case is that,
21 in those wire centers, the communities are being
22 discriminated against as compared to other
23 communities in Washington.

24 CHAIRWOMAN SHOWALTER: But your claim is
25 that AT&T is being discriminated against.

00746

1 MS. SINGER-NELSON: Right.

2 CHAIRWOMAN SHOWALTER: Where is the
3 evidence that you are operating in those areas, those
4 wire centers?

5 MS. SINGER-NELSON: Mr. Wilson's testimony
6 talks about that connection. Remember when we had
7 that debate over whether to exclude the discussion of
8 gold, silver and bronze wire centers in Mr. Wilson's
9 testimony? That goes directly to this issue.

10 CHAIRWOMAN SHOWALTER: That was testimony.
11 Is it in the record, the written record, or is it in
12 the oral record?

13 MS. SINGER-NELSON: It's in the written
14 record.

15 CHAIRWOMAN SHOWALTER: Can you point me?

16 MS. SINGER-NELSON: Sure. Commissioner, it
17 is discussed, at least in part, on pages 11 --

18 CHAIRWOMAN SHOWALTER: Give me the exhibit
19 number, please.

20 MS. SINGER-NELSON: Oh, it's 112-C, the
21 reply testimony of Kenneth Wilson, page 11, page 12,
22 page 13. And then also in Exhibit KW-4, which, for
23 the record, is -- it looks like it's 116-C. And as
24 we've said, as to our discrimination claims --

25 CHAIRWOMAN SHOWALTER: I'm sorry, you mean

00747

1 116-C? Are you sure?

2 MS. SINGER-NELSON: Well, I've got it as
3 KW-4, attached to Mr. Wilson's testimony, his reply
4 testimony.

5 CHAIRWOMAN SHOWALTER: Okay.

6 MS. SINGER-NELSON: It's entitled Average
7 Days to Provision AT&T Washington DSL Access Orders.

8 CHAIRWOMAN SHOWALTER: I see. Okay.

9 MS. SINGER-NELSON: You see there's a
10 comparison of the three categories of wire centers?

11 CHAIRWOMAN SHOWALTER: And does this show
12 -- does this 116-C show the number of orders in these
13 categories or is this just days?

14 MS. SINGER-NELSON: It shows the days, to
15 compare the number of days it takes in each of the
16 wire centers to help show our discrimination claim.
17 And that's based on the data set -- it's based on,
18 oh, gosh, it would be the first report to Mr.
19 Wilson's KW-6 in his reply, which is 118-C.

20 CHAIRWOMAN SHOWALTER: Okay. So that you
21 could look at 118-C and see which were in which wire
22 center?

23 MS. SINGER-NELSON: Yes.

24 CHAIRWOMAN SHOWALTER: Okay, thanks.

25 MS. SINGER-NELSON: And what's critically

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1 important to this is, as AT&T has stated in response,
2 at a minimum, in response to data requests, that --
3 and maybe in our motion to compel in this proceeding
4 here in Washington, the only way that we can actually
5 prove our discrimination claims is through US West
6 documentation. We don't have this information on our
7 own.

8 So it was very important for us to obtain
9 discovery that was responsive to our data request in
10 order to prove legally what we presumed based on the
11 way that different -- the way that we were being
12 treated. So it's very important that this data
13 response be allowed to be put in the record at this
14 point in time. It would substantially harm our case
15 if it was excluded. I think the probative value
16 definitely outweighs any prejudice that US West might
17 claim in this -- in admitting it at this point in
18 time.

19 JUDGE WALLIS: Does Staff have a view?

20 MS. SMITH: Staff believes that these
21 exhibits do go toward AT&T's claim of discrimination
22 in this case. US West's objection, I would think,
23 goes more to the weight of the evidence, as opposed
24 to its admissibility. Ms. Singer-Nelson has shown a
25 link to this document and the testimony and AT&T's

00749

1 allegation in this claim, which is sufficient to
2 admit this evidence into the record, and whatever
3 weight the Commission wishes to put on that evidence
4 is a matter for the Commission.

5 JUDGE WALLIS: Ms. Anderl.

6 MS. ANDERL: Thank you, Your Honor, if I
7 may respond. And I don't know if I'm going to state
8 this exactly right, but I think we need to look at
9 whether this is relevant. And relevant evidence, I
10 think by anyone's definition, is something that tends
11 to make a determinative fact more or less likely,
12 and does this.

13 The fact that Ms. Singer-Nelson or AT&T
14 thinks that this is highly probative gives me even
15 more pause than if they were to say that they think
16 it's illustrative. As I said, this is essentially a
17 forecast that US West created under duress. Not any
18 negative implication there, Your Honor, but we were
19 ordered to do so. And reliance on this by AT&T to
20 prove or allege discrimination, I think, would be
21 wholly wrong.

22 Furthermore, there is not sufficient
23 linkage between the response and what the evidence is
24 or what the complaint is in this case. Ms.
25 Singer-Nelson alleged kind of globally that all of

00750

1 these services have to do with facilities that AT&T
2 needs. We don't have any evidence in the record that
3 DSL facilities or DSLAMS are relevant to whether or
4 not AT&T can provision access services.

5 Giving AT&T the benefit of the doubt, it
6 may be that Ms. Field's testimony references frame
7 relay networks and ATM networks. I don't recall.
8 But the point of fact is that they have not, even in
9 response to Chairwoman Showalter's direct question,
10 shown a linkage between any of these wire center
11 designations and held orders or missed orders on any
12 of the sheets that we've seen as snapshots or
13 designations or particular orders that are at issue.

14 So again, we would just reiterate that we
15 think this is objectionable as not relevant.

16 JUDGE WALLIS: The objection's overruled.

17 MS. SINGER-NELSON: Thank you, Judge.

18 JUDGE WALLIS: Exhibit C-310 is received.

19 Q. Okay. Ms. Retka, could you please put
20 Exhibit 309 in front of you?

21 MS. ANDERL: And Your Honor, if I might
22 just interrupt. I meant to do this a long time ago.
23 I just wanted to clarify for the record that the I
24 after the data request response number stands for
25 interrogatory, because we were asked both

00751

1 interrogatories and requests for admission. The
2 requests for admission were designated with a
3 hyphen-A at the end, so the duplicate numbers didn't
4 become confusing.

5 JUDGE WALLIS: Okay. Thank you.

6 MS. SINGER-NELSON: Good.

7 Q. Could you please identify that document,
8 Ms. Retka?

9 A. This is AT&T's request 01-040-I.

10 Q. And that request for Washington, from 1996
11 to the present, that US West produce all
12 documentation, whether contained in computer files,
13 e-mail, fax or otherwise on all US West
14 communications regarding AT&T's customer desired due
15 dates, or CDDD. Did I read that accurately?

16 A. I believe so.

17 Q. And what was produced in response to that
18 data request?

19 A. In the response, US West had stated an
20 objection, and without waiver of its objection,
21 states that it determined that it's received 2,000 --
22 or 20,834 ASRs, access service requests, from AT&T in
23 Washington since January 1 of '96. Each ASR contains
24 a reference to CDDD, and it would be unreasonable to
25 produce that, going on to say, also, See response to

00752

1 AT&T 01-083. And then, in supplemental response,
2 provided the attached confidential documents. These
3 I have are white, but --

4 Q. They're pink.

5 A. But they should -- they're pink, okay. And
6 basically, what this is is the report that -- as
7 forwarded to AT&T on the 15th of each month.

8 Q. Okay. And these reports start in January,
9 1998, and continue through September of 1999; isn't
10 that right?

11 A. That's what's in this packet.

12 Q. And could you please identify what the
13 first category that is addressed in that report,
14 using the January report as an example?

15 A. Do you mean header or --

16 Q. The first header. It's DMOQ Performance;
17 isn't that right?

18 A. That's what this states.

19 Q. And it shows a percentage meeting customer
20 desired due date?

21 A. That's what's shown.

22 Q. And there are percentages listed there for
23 two categories of services. Do you see that?

24 A. Yes.

25 JUDGE WALLIS: Let's be off the record for

00753

1 just a minute.

2 (Discussion off the record.)

3 JUDGE WALLIS: Let's be back on the record,
4 please.

5 MS. ANDERL: Your Honor, I'd just like to
6 point out that we've now provided the bench with
7 copies of Exhibit C-127 that was admitted on
8 cross-examination yesterday.

9 MS. PROCTOR: If we're doing miscellaneous
10 papers, do you want a Supplemental Exhibit 228, or
11 should we wait?

12 JUDGE WALLIS: Let's be off the record for
13 just a second.

14 (Discussion off the record.)

15 JUDGE WALLIS: Let's be back on the record,
16 please.

17 Q. Ms. Retka, do you now have Exhibit 309 in
18 front of you?

19 A. Yes, I do.

20 Q. And that's US West's response to AT&T
21 Interrogatory 40?

22 A. Yes, it is.

23 Q. And attached to that are communications
24 reports dating from January 1998 through September
25 1999?

00754

1 A. That's what's in this packet.

2 Q. These are reports that are provided by US
3 West to AT&T?

4 A. Yes, as we talked about before the break,
5 they are provided per the front note on a --
6 forwarded to AT&T on the 15th of each month.

7 Q. And these reports show US West's DMOQ
8 performance on a monthly basis?

9 MS. ANDERL: Your Honor, I object to that
10 question, lack of foundation. There's no basis in
11 the record for knowing whether or not this witness is
12 knowledgeable about these reports, had any hand in
13 the preparation of them, or can respond to any
14 questions about them.

15 JUDGE WALLIS: Why don't we engage in just
16 a little bit of foundation before proceeding, and
17 then we can find out what the witness does or does
18 not know.

19 Q. Ms. Retka, -- I don't know what to ask you.
20 Have you ever seen these reports?

21 A. I saw them when you gave them to me in the
22 packet for the hearing exhibits.

23 Q. You stated, in response to earlier
24 questioning of mine, that you had dealt with groups
25 at AT&T for various issues?

00755

1 A. Yes.

2 Q. Do you know anything relating to US West's
3 DMOQ performance?

4 A. That is not something that I am involved
5 in, no.

6 Q. Are you here to testify concerning the
7 issue of lack of facilities?

8 A. I believe I'm here to testify on the issue
9 of provisioning of facilities.

10 Q. And are you here to testify in response to
11 some of the problems that AT&T has been having with
12 US West's service provisioning for access services?

13 A. What I'm here to testify on is US West's
14 provisioning processes associated with the network
15 elements.

16 Q. And you talk about construction budgets in
17 your testimony; isn't that right?

18 A. I referenced the information in response to
19 Mr. Wilson in my rebuttal testimony, which is 303-T,
20 on page two, at the end of page two.

21 Q. And you discuss in your testimony issues
22 relating to US West's provisioning of interoffice
23 facilities; isn't that right?

24 A. In terms of -- could you restate your
25 question? I'm trying to figure out what it is you're

00756

1 asking me to point to.

2 Q. You testify, do you not, in your written
3 testimony, relating to US West's provision of
4 interoffice facilities to AT&T?

5 A. In my direct testimony, at page three, at
6 lines seven through 16, I talk about US West's
7 provisioning of the network.

8 Q. Okay. This document talks about concerns
9 relating to interoffice facility issues between AT&T
10 and US West; isn't that correct?

11 MS. ANDERL: Well, again, Your Honor, the
12 same objection. There's still no foundation.

13 MS. SINGER-NELSON: The foundation that --

14 Q. Well, Ms. Retka, you're an employee of US
15 West; isn't that right?

16 A. That's correct.

17 MS. SINGER-NELSON: Ms. Retka has talked
18 about the fact that she is a representative of US
19 West in this regulatory proceeding to talk about
20 network provisioning issues, and a lot of the
21 information contained in these reports discusses the
22 problems that AT&T has been having with interoffice
23 facility issues, network provisioning issues. She
24 talks about issues in her testimony relating to
25 forecasting, relating to construction budgets, and

00757

1 that kind of thing, in response to some of AT&T's
2 claims, and she is in the organization that actually
3 produces these reports.

4 She has talked about the fact that she's
5 part of the wholesale organization of US West that
6 deals with AT&T, albeit in the interconnection arena,
7 primarily, but when she was presenting her
8 qualifications this morning, she did talk about how
9 she deals with AT&T and access services.

10 MS. ANDERL: May I respond?

11 JUDGE WALLIS: Ms. Anderl.

12 MS. ANDERL: Thank you. In fact, Ms.
13 Singer-Nelson did not ask that question of Ms.
14 Retka, are you in the organization that produces
15 these reports. If she had asked that, Ms. Retka
16 would have said no, because it is Ms. Halvorson's
17 organization, the account team that produces these
18 reports.

19 Because AT&T receives these reports from
20 the account team on the 15th of every month, AT&T is
21 well aware that Ms. Retka is in the network
22 organization and has testified that she did not see
23 these documents ever before they were provided to her
24 as a cross-examination exhibit.

25 Now, are they admissible? Maybe. I don't

00758

1 know. We haven't talked about that. We certainly
2 wouldn't object to their admissibility for a lack of
3 foundation, because we agree that they're a proper
4 copy of the data request response that we provided.
5 We're not asking for the witness to authenticate
6 them. But the objection here is simply Ms. Retka is
7 not the proper witness to ask any questions about
8 these, and there's no foundation in Ms. Retka's
9 knowledge to testify about them, not that there's --
10 it's not an admissibility objection.

11 JUDGE WALLIS: Who would be the proper
12 witness?

13 MS. ANDERL: It would have been Ms.
14 Halvorson.

15 JUDGE WALLIS: I'm going to allow
16 questioning, not with the thought in mind that this
17 witness is familiar with the document, but that, as
18 Ms. Singer-Nelson points out, the topics addressed by
19 the document appear to be topics within this witness'
20 area of expertise.

21 MS. SINGER-NELSON: Thank you, Judge.

22 Q. Ms. Retka, this document discusses root
23 causes relating to the problems that are outlined in
24 the report; isn't that right?

25 A. There's a section called identify root

00759

1 causes, yes.

2 Q. And then there's also a section that
3 discusses US West's activities that are geared
4 towards correcting those root causes; isn't that
5 right?

6 A. In the next category, it describes supplier
7 activities/initiatives.

8 Q. And then there's a category talking about
9 implementation completion dates?

10 A. That's the next category.

11 Q. LEC exhaust areas?

12 MS. ANDERL: Your Honor, I guess I object
13 to this. The documents speak for themselves. I
14 don't know what purposes there is served in having
15 Ms. Retka agree that the page says what it says.

16 JUDGE WALLIS: Ms. Singer-Nelson.

17 MS. SINGER-NELSON: That's okay. I'll move
18 on.

19 Q. I would just note that, in the first
20 report, under the category Other Significant
21 Information, there's a reference to a settlement
22 agreement; isn't that right?

23 MS. ANDERL: Objection. We had the
24 settlement agreement discussion yesterday.

25 JUDGE WALLIS: And again, that is something

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1 that does appear to be shown on the face of the
2 document itself and you need not ask the witness
3 whether it does appear there.

4 MS. SINGER-NELSON: Okay.

5 Q. Please turn to the second report, which
6 appears to be the March 1998 report. In the root
7 cause discussion -- well, Judge, I'm having a little
8 bit of a problem, because the whole document is noted
9 as confidential, and I would assume that the headings
10 themselves aren't confidential, but to the extent
11 that any of the discussion contained in the body of
12 the document is confidential, I feel uncomfortable
13 asking any detailed questioning relating to that.
14 And that's basically why I was just identifying the
15 headings as I was talking with Ms. Retka.

16 I don't know if we want to designate a
17 portion of the transcript as confidential or --

18 JUDGE WALLIS: I have a strong desire to
19 avoid that, if that's possible.

20 MS. SINGER-NELSON: Okay.

21 JUDGE WALLIS: For one thing, I don't think
22 we've crossed the threshold of identifying whether
23 this witness has any personal knowledge about the
24 topic that is addressed in this particular passage.
25 So it might be fruitless to ask those questions in

00761

1 any event.

2 MS. SINGER-NELSON: Okay. Well, with that,
3 I will pass on any questioning I had relating to this
4 exhibit, and just ask that it be admitted into the
5 record.

6 MS. ANDERL: And I guess I would, as I
7 said, we would stipulate that it is a true and
8 correct copy of what we provided in supplemental
9 response to Data Request Number 40, but for what
10 purpose is it admitted? I don't know that it is -- I
11 don't know that it's appropriate to admit it through
12 this witness.

13 It seems to be something that AT&T, if what
14 they're doing here is making their direct case or
15 their case in chief, ought to have done that through
16 their witness. I don't know for what purpose Counsel
17 seeks to have it admitted, and I guess I would object
18 to it on that basis as an inappropriate attempt to
19 admit a portion of their direct case on
20 cross-examination.

21 JUDGE WALLIS: Ms. Singer-Nelson.

22 MS. SINGER-NELSON: Judge, I did want to
23 discuss some of the issues contained in the root
24 cause discussion of each of these reports with this
25 witness, but because I'm uncomfortable with the

00762

1 confidential nature of it and I think that the
2 document being in the record would be sufficient at
3 this point, as opposed to asking the witness any
4 questions relating to those particular provisions,
5 I'll pass on my questioning.

6 But I do think that because of Ms. Retka's
7 testimony relating to network provisioning, our
8 network provisioning issues that we have in this
9 case, and that really does go to the root cause
10 discussion in these reports, I would ask that it be
11 admitted.

12 MS. ANDERL: Well --

13 JUDGE WALLIS: You are contending that it's
14 relevant to your contentions?

15 MS. SINGER-NELSON: Yes, it is definitely
16 relevant to the contentions. The discussion is
17 consistent. The discussion in the root cause section
18 of these reports is consistent with the allegations
19 that we have in front of this Commission in this
20 complaint.

21 MS. ANDERL: Again, Your Honor, that
22 doesn't address why it wasn't admitted as a part of
23 AT&T's direct evidence or, in fact, why it was not
24 tendered through Ms. Halvorson. AT&T knows, beyond
25 any reasonable doubt, that it's Ms. Halvorson's

00763

1 organization that produces these reports to them. It
2 seems to me that here US West is faced with documents
3 on the record that AT&T will contend speak for
4 themselves, but which, if they had been admitted
5 through the appropriate witness, US West could have
6 taken an opportunity on redirect to allow Ms.
7 Halvorson to explain.

8 JUDGE WALLIS: Well, I think we're in a
9 situation here as we were before, where the arguments
10 appear to be addressed not to the veracity of the
11 document or to its relevance, but to a procedural
12 issue and to the weight that the Commission must give
13 it. And I think, on that basis, that the objection
14 should be overruled.

15 MS. SINGER-NELSON: Thank you, Judge. I
16 have no further questions of Ms. Retka.

17 JUDGE WALLIS: Ms. Smith.

18 MS. SMITH: Yes, Staff does have a few. If
19 you can bear with me for a moment while I find them.
20 Thank you.

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

22 BY MS. SMITH:

23 Q. Good morning, Ms. Retka. My name is
24 Shannon Smith. I'm Counsel for Commission Staff.

25 A. Good morning, Ms. Smith.

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1 Q. Would you agree that one of the criteria
2 for making commitments for new construction depends
3 on the company's return on investment?

4 A. That may be one item that is considered.
5 However, generally, you have to consider, in the
6 business that we are in, what our requirements
7 related to the tariffs and our, in some states,
8 franchises, in other states, our agreements as the
9 telecommunication provider in an area.

10 Q. Does the company take into consideration
11 return on investment when deciding whether or not to
12 fund or provide facilities for dedicated access?

13 A. In the network organization, decision on
14 funding is based on, in terms of the facility itself,
15 the factors of the location, where this is, the
16 reusability of such facilities. Should the user of
17 those facilities no longer want those facilities, are
18 they reusable in terms of another provider coming in.

19 So for example, if you've got an area where
20 there's a large building, and initially you've got
21 going in there someone who is perhaps an Internet
22 service provider, and they may want several DS3s into
23 that building, and you look at that and ask yourself,
24 in three months, if they no longer were in that
25 building, would other people in that building still

00765

1 require that amount of service.

2 Q. Would those same considerations be taken
3 into account in the Company's decision to fund or
4 provision facilities for switched access?

5 A. Essentially, those funding decisions follow
6 the same process.

7 Q. Do you know whether !nterprise provides
8 access services?

9 A. The organization within US West, is that
10 what you're referring to, that's known as !nterprise?

11 Q. Yes.

12 A. The !nterprise organization is a part of US
13 West, in terms of as a business unit, and US West
14 does provide services such as that.

15 Q. Does US West provide access -- by US West,
16 I mean US West C -- provide access services to
17 !nterprise?

18 MS. ANDERL: I guess --

19 THE WITNESS: !nterprise is not an end user

20 --

21 MS. ANDERL: Objection, Your Honor. The
22 question assumes facts not in evidence, and that is
23 that it assumes that !nterprise is a customer of US
24 West and asks whether or not US West provides access
25 services to !nterprise. Ms. Retka answered that

00766

1 Interprise is a division of US West Communications.
2 So if what Ms. Smith is asking is does US
3 West Communications provide access services to
4 itself, I guess then I would -- I guess I would ask
5 for clarification, if that's what the question is.
6 But the question, as framed, was confusing to me, so
7 --

8 MS. SMITH: It may very well have been
9 confusing to the witness and everybody else, as well.
10 I'm not trying to ask a confusing question.

11 Q. And I guess the question I want to ask is
12 the one that was suggested by Ms. Anderl, which is
13 does US West provide access services to itself?

14 A. And in that question, I'm also still a
15 little bit confused, because US West has a corporate
16 network that is used for the purposes of transmission
17 of data from one location to the other or for the
18 purposes of communications between one office,
19 business office, let's say, and another, but that
20 would not be something that is provided, you know,
21 outside of the corporate network, so I'm not quite
22 sure --

23 Q. Well, then, with respect to US West's
24 provision of toll service, US West provides toll
25 service, does it not, intraLATA toll?

00767

1 A. IntraLATA toll.

2 Q. With respect to the provisioning of that
3 service, does US West provide the access service for
4 that toll traffic?

5 A. The facility? Is that what you're looking
6 at, Ms. Smith?

7 Q. Yes.

8 A. The facility would be provided by US West.

9 Q. Now, regarding the designations gold,
10 silver, bronze, that were discussed earlier, is one
11 of the factors with respect to the designation of
12 those wire centers the return on investment that the
13 company would receive from that wire center?

14 A. First of all, I need to clarify that that
15 term is -- it's no longer used, so I wanted to
16 clarify that. But, secondly, the request was just
17 for the business units to identify the highest growth
18 offices. It was not requested in terms of any return
19 on investment.

20 Q. Now, if I could turn your attention to
21 Exhibit 308, and that is a confidential exhibit.

22 A. Yes.

23 Q. And Attachment B on that -- and I want to
24 be very careful, so as I don't put any confidential
25 information on the record. The last page, the

00768

1 memorandum page of Exhibit 308?

2 A. Yes.

3 Q. I believe in the third paragraph, there is
4 some discussion on revenue, is there not?

5 A. Yes, there is. Any time you're talking
6 about high growth, and I believe in this discussion,
7 it is linked with high growth, you're going to see
8 that that's where the high revenue is.

9 Q. You had testified that US West no longer
10 uses the gold, silver, bronze designation of wire
11 centers. Does US West have another designation
12 system for wire centers to replace that?

13 A. Not that I'm aware of.

14 MS. SMITH: That's all I have. Thank you,
15 Ms. Retka.

16 JUDGE WALLIS: Questions from the bench?

17 Ms. Anderl.

18 MS. ANDERL: Yes, Your Honor. Before I go
19 and ask any redirect questions, may I ask for an
20 understanding of which exhibits have been offered and
21 admitted on cross?

22 JUDGE WALLIS: Let's be off the record,
23 please.

24 (Discussion off the record.)

25 JUDGE WALLIS: Let's be back on the record,

00769

1 please. During a brief recess, we determined that
2 Exhibits 307 and 312 through 315 for identification
3 have not been offered or received in evidence, and
4 consequently, they will not be considered in the
5 determination on this matter. Ms. Anderl does have
6 some questions on redirect. Ms. Anderl.

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

8 BY MS. ANDERL:

9 Q. Good morning, Ms. Retka.

10 A. Good morning.

11 Q. You testified early on in the
12 cross-examination by Ms. Singer-Nelson that you have
13 never met with Ms. Field to discuss access purchases;
14 is that correct?

15 A. Yes.

16 Q. And can you explain briefly why it would be
17 that you would not be directly interfacing with Ms.
18 Field or her group on that subject?

19 A. Ms. Field's direct interface at US West is
20 through the account team, and the account team is Ms.
21 Halvorson and the folks in her organization who are
22 in our wholesale business unit.

23 Q. And are you in the wholesale business unit?

24 A. No, I am not.

25 Q. What unit are you in?

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1 A. I'm in the network organization called
2 operations and technologies.

3 Q. Thank you. You talked a little bit with
4 Ms. Singer-Nelson about product forecasts and the US
5 West groups that are involved in forecasts. Do you
6 remember that?

7 A. Yes.

8 Q. And you mentioned wholesale markets?

9 A. Yes, I did.

10 Q. Does wholesale markets provide information
11 to the forecasting process relative to demand for
12 access services?

13 A. Yes. Wholesale markets provides input into
14 the forecast. In fact, I believe it's illustrated in
15 the exhibit marked C-305. In the first page, it
16 talks about the marketing information in that flow
17 process that's on the far left-hand side.

18 Q. Okay. And you're referring there to the
19 chart?

20 A. Yes, I am.

21 Q. Okay. Do you know whether or not AT&T has
22 ever provided US West with any end-user forecasts for
23 demand for special access?

24 A. My understanding, in dealing with the folks
25 in our organizations who deal with forecasts is that

00771

1 what they receive is the wire center, but they do not
2 receive the end user identification.

3 Q. And so to the extent that no end user
4 information is provided, would that -- would those
5 forecasts assist US West in being able to forecast or
6 plan for growth in its outside plant or loop plant
7 facility?

8 A. Therein lies the difficulty. We know that,
9 from this wire center, we will need to go somewhere.
10 We just don't know exactly where to. And then the
11 outside plant section from that wire center is, at
12 best, a guess.

13 Q. You were asked some questions about the
14 gold, silver, bronze wire center designations. Now,
15 you say that network polled the business and service
16 units, and network is your organization; is that
17 right?

18 A. Right.

19 Q. Globally. Okay. And in polling the
20 business and service units throughout the company
21 with regard to identifying wire centers that would
22 have high growth, was growth in wholesale demand
23 taken into consideration?

24 A. That was the primary consideration, was
25 growth.

00772

1 Q. But wholesale demand, as opposed to retail?

2 A. Both wholesale and retail were included.

3 Q. Ms. Retka, in Mr. Wilson's testimony and in
4 Ms. Singer-Nelson's questioning of you, there's been
5 the suggestion that provisioning in bronze wire
6 centers took disproportionately longer, and thereby
7 evidencing discrimination against either AT&T or
8 those communities in general. Did you undertake to
9 evaluate whether that claim was accurate?

10 A. Yes, I did.

11 Q. Can you tell me whether or not you were
12 able to validate Mr. Wilson's analysis?

13 A. No, I was not able to. As I looked at --

14 MS. SINGER-NELSON: Judge, this is new
15 testimony. It could have been provided -- in fact,
16 we offered US West to allow Ms. Retka to respond
17 before this proceeding to this issue, and US West
18 refused at that time, and they chose instead to move
19 to strike Mr. Wilson's testimony. So I would object
20 to this line of questioning, because it goes beyond
21 and asks to introduce additional direct testimony
22 relating to this issue.

23 MS. ANDERL: Your Honor, on
24 cross-examination of Ms. Retka and in attempting to
25 admit certain exhibits through her, Ms. Singer-Nelson

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1 specifically pointed to those three pages of Mr.
2 Wilson's testimony that dealt with this. His exhibit
3 C-112, I think it's pages 11 through 13.

4 MS. SINGER-NELSON: That was not in
5 cross-examination. In fact, that was in response to
6 the Chair's questioning of me in response to your
7 objection to have that information excluded from the
8 record.

9 MS. ANDERL: It was in cross-examination of
10 Ms. Retka, because it was relative to the exhibit
11 that Ms. Singer-Nelson was seeking to admit through
12 this witness. I believe that that appropriately
13 opens that area for inquiry on redirect.

14 JUDGE WALLIS: The question is allowed.

15 MS. ANDERL: Thank you. Your Honor, Ms.
16 Retka, do you remember the question, because I do
17 not.

18 JUDGE WALLIS: Maybe we can ask the court
19 reporter.

20 (Record read back.)

21 MS. ANDERL: Okay. So middle of an answer.

22 THE WITNESS: I can pick it up from there,
23 if that's all right.

24 JUDGE WALLIS: Please proceed.

25 THE WITNESS: As I was looking at the data,

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1 and in particular, I took a look at Ms. Halvorson's
2 Exhibit BAH-13, to try to see --

3 CHAIRWOMAN SHOWALTER: Can we get a
4 cross-reference on there?

5 MS. ANDERL: Sorry, Your Honor. Nine is
6 211, so it must be 213. No, it's 214. I'm sorry.

7 MS. PROCTOR: 216.

8 MS. ANDERL: 216. 216, is that right?

9 JUDGE WALLIS: C-216.

10 THE WITNESS: So Exhibit C-216; is that
11 correct? I was not able to see any pattern, anything
12 that could be related to the designations associated
13 with the gold, silver and bronze. As I stated
14 previously, gold, silver and bronze were provided to
15 determine the highest growth areas, and as the
16 evidence that was presented shows, it was for a
17 different function than for provisioning.

18 Q. Were you able to find any correlation
19 between provisioning intervals and wire center
20 designation, any causal connection between --

21 A. I could not find any causal connection
22 between them, no.

23 MS. ANDERL: Your Honor, that concludes my
24 redirect.

25 COMMISSIONER HEMSTAD: I'm interested in

00775

1 your last response to Ms. Anderl's last question.

2 THE WITNESS: Yes, Commissioner.

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

4 BY COMMISSIONER HEMSTAD:

5 Q. When you say gold, silver and bronze
6 designations, now not used, had a different purpose
7 than for provisioning, I don't understand the answer.
8 Provisioning has to do with how ultimately the
9 company's resources are deployed. And isn't that
10 directly related to a classification of the wire
11 centers by high growth or lower growth?

12 A. Well, I understand the confusion, and let
13 me try to clarify that, Commissioner Hemstad. What
14 we were looking at, in terms of the original
15 designations, was to help us in the way that we put
16 together our plans in the network instead of having
17 one market unit who sees that this particular wire
18 center is one that they need to get services deployed
19 in for a particular type of service and another has a
20 different wire center.

21 We wanted to have, if you will, one list
22 that helped us to understand where, across the
23 corporation, the highest growth, the next highest
24 level, and all others would fall. And it wasn't in
25 any way driven by provisioning, but was driven by an

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1 attempt to understand where, you know, the wire
2 centers would be that we needed to focus on for high
3 growth. So that you didn't have the, if you will,
4 contention back and forth between market units, that
5 this is a very high-growth office, and other market
6 units saying, no, it isn't a high-growth office.

7 Q. Well, would those classifications be
8 irrelevant to your operations, to your personal
9 operations?

10 A. In terms of?

11 Q. How did your office use those categories?

12 A. Well, the network organization used those
13 categories, especially in terms of as an engineer
14 processed an order, in order to make that order go
15 through the process, instead of having to write a
16 large explanation for why this is being requested in
17 this office, they could say, for example, this is a
18 silver office.

19 Q. And therefore has a certain kind of
20 priority?

21 A. And therefore had a certain level of
22 growth, which would drive a need in that office.

23 Q. Well, what I'm trying to get to is, doesn't
24 that affect how much urgency would be given to the
25 event of provisioning for a service?

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1 A. Well, I think, in taking a look at urgency,
2 if there's a requirement that we have a demand for --
3 and there are a couple of solutions, one which drives
4 more capacity than is needed into an area, knowing
5 that an office is known by a market unit not to be
6 the highest growth office, you would use a solution
7 that met the requirements initially, but you wouldn't
8 build for a large demand, if you will. Does that
9 help clarify it?

10 Q. Yes. In response to questions from Ms.
11 Smith, I believe your response was gold, silver,
12 bronze is no longer used?

13 A. That's correct.

14 Q. But the organization must have some system
15 of identifying higher growth and lower growth wire
16 centers, doesn't it?

17 A. Well, at this point, as I understand it,
18 they're doing it based on the wire center itself and
19 they are actually writing the stories as they process
20 their engineering orders through to say, for example,
21 growth in this office is at a very high level. And
22 so it's not as much of a shorthand methodology as you
23 had with the designations.

24 Q. But in practical translation, there's some
25 methodology by which --

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1 A. Well, a business always has to determine --

2 Q. And I'm not -- my question isn't critical,
3 but a business has to have some mechanism to
4 prioritize or focus its activities?

5 A. Well, and of course that's going to be
6 growth, because that's what forces our demand.

7 COMMISSIONER HEMSTAD: Thank you.

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

9 BY CHAIRWOMAN SHOWALTER:

10 Q. I have a follow on question. I think it
11 was to your last answer to Ms. Anderl, but regarding
12 Exhibit 216, which is the BAH-13?

13 A. I don't have it in front of me.

14 MS. ANDERL: I'll provide the witness with
15 a copy.

16 Q. I believe you were asked the question -- I
17 believe you said you couldn't find a particular
18 correlation between this exhibit or the lengths of
19 time in this exhibit and the gold, silver, bronze.
20 Am I correct on that?

21 A. I believe that's roughly what I said.

22 Q. Can you tell me, in percentage terms --
23 object if this is a confidential problem -- in
24 percentage terms of this Exhibit 216, how many were
25 in the gold, silver or bronze categories? And wait

00779

1 to see if anybody has a problem with this.

2 A. Can I maybe explain what I did and that
3 might help answer your question?

4 MS. ANDERL: No, let me see if we can
5 answer the Chairwoman's question. Commissioner
6 Showalter, are you just asking, out of let's say
7 2,000 orders that are in Ms. Halvorson's, can we tell
8 you 1,000 of them were in connection with a gold wire
9 center, 700 with silver, and 300 with bronze, or are
10 you asking something different?

11 CHAIRWOMAN SHOWALTER: That's the question
12 I was asking, because I thought I heard her say there
13 wasn't any correlation, which I thought meant there
14 must have been a cross-tabulation of some kind in
15 here, and so I was wondering, in essence, the
16 absolute numbers, but I don't want that absolute
17 number on the record, but just how big was the
18 silver, how big was the bronze, and how big was the
19 gold.

20 MS. ANDERL: Right. And I think we should
21 let Ms. Retka -- I think Ms. Retka's explanation of
22 what she did may provide you with those orders of
23 magnitude without disclosing confidential
24 information. I would also, though, direct your
25 attention in general to one of the exhibits on cross

00780

1 that's already been admitted. And I think that that
2 is the -- it's the one with Bob Tregemba memo
3 attached, and I seem to have either covered it up or
4 --

5 CHAIRWOMAN SHOWALTER: 308?

6 MS. ANDERL: 308.

7 MS. PROCTOR: But we know where it is.

8 It's getting to be a big stack.

9 JUDGE WALLIS: Twilight zone.

10 MS. ANDERL: It's in the same place as all
11 the other misplaced exhibits. Here it is.

12 MS. PROCTOR: Could I --

13 MS. ANDERL: In any event, as I recalled
14 it, the fourth paragraph did give you some order of
15 magnitude.

16 CHAIRWOMAN SHOWALTER: I know, but that's
17 of US West. That's a US West figure. Doesn't BAH
18 have to do with AT&T's load, if you will?

19 MS. ANDERL: Right, but they're still all
20 connected with our wire centers.

21 CHAIRWOMAN SHOWALTER: Right, right. But
22 my question is -- my question basically is, of a list
23 of complaints or inquiries that AT&T made, how many
24 were in -- how were they distributed?

25 MS. ANDERL: Okay. And BAH-13, or 216, is

00781

1 not complaints or inquiries; it's just orders.

2 CHAIRWOMAN SHOWALTER: Okay. So really I
3 need to be focused on -- actually, I'll withdraw that
4 whole question.

5 MS. ANDERL: I'm sorry, I didn't mean to
6 try to derail this, but I wanted to make sure we're
7 getting accurate information on the record.

8 MS. SINGER-NELSON: I think the record
9 actually was different than what Ms. Anderl just
10 stated.

11 JUDGE WALLIS: My recollection is that --

12 MS. SINGER-NELSON: Ms. Halvorson's
13 testimony --

14 JUDGE WALLIS: -- that that exhibit
15 consists of matters that were escalated.

16 MS. ANDERL: That's Exhibit C-220.

17 JUDGE WALLIS: C-220.

18 MS. ANDERL: The big fat pink packet, with
19 multiple five-page stapled reports together. That's
20 not what Ms. Retka looked at.

21 MS. PROCTOR: Could I offer an observation
22 that hopefully may cut to the chase? The exhibit
23 that Ms. Retka testified she looked at has a list of
24 orders, and she was attempting to compare it to an
25 analysis done by Mr. Wilson of a data set that also

00782

1 is a compilation of orders. Mr. Wilson's data set
2 includes what is called the CLLI code, CLLI. That
3 refers to -- the CLLI code identifies a central
4 office. So in his data set, the order is tied to a
5 central office.

6 I believe that is the piece of information
7 that is needed in order to develop this
8 cross-reference to silver, bronze, gold. Since that
9 information does not appear on the paper printout of
10 the exhibit that Ms. Retka testified to, it would
11 indicate why she could not make that correlation.

12 MS. ANDERL: I don't believe that that was
13 her testimony.

14 JUDGE WALLIS: Maybe we could ask the
15 witness to give the answer she originally was
16 offering, and that might clarify things.

17 THE WITNESS: Thank you, Your Honor. Thank
18 you, Chairwoman Showalter. What I did was I looked
19 at this. I had to -- as Ms. Proctor stated, I did
20 not have the central office for this order, so I had
21 to look at -- have it looked up by a person in my
22 organization by what order it was and what central
23 office it was. And what I looked at was to see, you
24 know, were the gold wire centers provisioned faster
25 than other wire centers, and the answer was they

00783

1 weren't.

2 So you really -- and I think if you took
3 any data set at any given time of orders, you could
4 provide -- you could look at it and find a different
5 answer. You could pick a different week's worth or a
6 different month's worth to look and see what would be
7 the answer for that.

8 Q. Well, let me ask another question, and
9 again, stop if there's a problem, if anyone has with
10 my question, because I don't want it to be presumed
11 that, because I'm asking it, I've ruled it's in
12 order. We'll let the judge do that.

13 What I heard you to say is that you had
14 examined Mr. Wilson's analysis -- maybe we could do
15 it this way. Could you turn to Exhibit 116-C.
16 Here's my question to you. Did you do any analysis
17 yourself on either Exhibit 116-C or the information
18 that it relies on, which I believe to be 118-C, the
19 first part? And if you didn't, I'll stop asking
20 questions. Did you do any analysis of 118-C or 116-C
21 to see if your conclusions or observations were the
22 same as AT&T's?

23 A. What I used in specific was Ms. Halvorson's
24 list. And as I understand it, Mr. Wilson drew from
25 Ms. Halvorson's list on his exhibit.

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1 CHAIRWOMAN SHOWALTER: Okay.

2 MS. SINGER-NELSON: Objection. Excuse me,
3 but that is not in the record. That's not evidence
4 in the record. In fact, Mr. Wilson did not draw from
5 Ms. Halvorson's list for that report.

6 CHAIRWOMAN SHOWALTER: 118-C is in the
7 record, but --

8 MS. SINGER-NELSON: Right, but that
9 statement --

10 CHAIRWOMAN SHOWALTER: This witness didn't
11 examine 118-C.

12 MS. SINGER-NELSON: Well, the statement
13 that Ms. Retka just made that she understood that
14 Exhibit KWC, or Exhibit 118 was based on Ms.
15 Halvorson's list is incorrect. And in fact, there's
16 testimony in the record from Mr. Wilson that talks
17 about where that report came from.

18 Q. Okay. But you did not examine 118-C?

19 A. No, I used Ms. Halvorson's Exhibit 13.

20 Q. All right. So in your analysis of BAH-13,
21 which is Exhibit 216, my question to you was what was
22 the -- of those -- of all of the information in this
23 -- all of the PONs in here, what was the magnitude of
24 gold, silver or bronze, or did you not look at that
25 question?

00785

1 A. What I really looked at were the -- across
2 the board, were the gold provisioned faster than any
3 of the others, and what I found was that they were
4 not --

5 Q. Okay. But I'm not asking that question.

6 A. -- the fastest provisioned section.

7 Q. So you don't know if there are three golds
8 or 900?

9 A. I had that number at one point, but I
10 cannot recall that.

11 CHAIRWOMAN SHOWALTER: All right. Thanks.

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

13 BY JUDGE WALLIS:

14 Q. Ms. Retka, you've talked about network
15 provisioning being driven by growth and demand. I
16 asked Ms. Halvorson the other day to what extent
17 budget factors or financial considerations bear on
18 that. How does the budget process affect network
19 provisioning?

20 A. I understand. I think what you're asking,
21 Your Honor, is no business has a bottomless pit of
22 money, and you have to, at some point in time, make a
23 determination. And what our business is about is
24 trying to make the best determination about where we
25 need to grow in order to meet the requirements, the

00786

1 demand, and where people are going to be, where the
2 businesses and the residents are going to be. That's
3 a big part of -- that is our business.

4 And so because there is no bottomless pit
5 of money, you have to make some determination. And
6 that's really where you come to the art and science
7 of forecasting.

8 Q. Is your group -- I'm not sure I understand
9 the process. If your group proposes a budget and
10 headquarters says you can have half that, who is it
11 who makes the allocation of what projects actually
12 are completed?

13 A. I think it might help, if it would be all
14 right, to refer to C-305, to that process flow chart,
15 and kind of walk you through that process.

16 Q. You don't need to walk me through it if
17 it's in C-305.

18 A. And basically, what happens in there is
19 that the information comes in as inputs into the
20 forecasting tools that the end users, the engineers,
21 bring to bear from the systems. They pull their data
22 from the systems. And as they prepare their work,
23 their effort, it flows through to determine what the
24 unit cost and the overall cost of that job is going
25 to be. And then it comes to a point of decision of

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1 whether that job was sized appropriately and should
2 move through to be funded.

3 If there's a consideration that perhaps the
4 engineer sized the job too large, the request will go
5 back to the engineer to say, You need to take a look
6 at this again, not sure I agree with that, from the
7 folks in the network resource allocation
8 organization. And then, if the job is sized
9 appropriately, it will flow through for funding, and
10 if it is not sized appropriately, it will be sent
11 back.

12 There will be questions that will be asked
13 about are you sure this growth is -- basic
14 engineering questions of why do you build it, why
15 build it now, why build it this way, those types of
16 questions.

17 JUDGE WALLIS: Okay. Thank you very much.
18 Are there any further questions for the witness?

19 MS. SINGER-NELSON: I have nothing further.

20 MS. ANDERL: No, Your Honor.

21 JUDGE WALLIS: It appears that there are
22 not. Ms. Retka, thank you for appearing. You're
23 excused from the stand. Let's be off the record.

24 (Lunch recess taken.)

25 JUDGE WALLIS: Back on the record, please,

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1 following a noon recess. It's my understanding that
2 the parties have reached agreement that the evidence
3 sponsored by Mr. Perry W. Hooks, on behalf of the
4 Respondent, US West, may be received without
5 cross-examination; is that correct?

6 MS. ANDERL: That's my understanding, Your
7 Honor.

8 MS. SINGER-NELSON: That's correct, Your
9 Honor.

10 MS. SMITH: That's correct.

11 JUDGE WALLIS: Very well. I am marking for
12 identification the direct testimony of Perry W.
13 Hooks, Jr. as Exhibit 401-T. Marking as Exhibit 402
14 a document designated US West Communications Service
15 Interval Guide, Excess Services, also designated
16 Exhibit PWH-1. And I'm marking as Exhibit 403-T for
17 identification the rebuttal testimony of Perry W.
18 Hooks, Jr.

19 Pursuant to agreement among the parties, I
20 am receiving those exhibits in evidence. Now, let's
21 move on to the --

22 MS. PROCTOR: Your Honor, I'm sorry to
23 interrupt. You should also have up on the bench
24 copies of Supplemental Hearing Exhibit 228, which
25 was, by agreement of the parties, the two '96

00789

1 versions of the service interval guide were attached
2 to that. That had been admitted yesterday in
3 connection with Ms. Halvorson's testimony.

4 JUDGE WALLIS: Very well. Is this a
5 replacement or is this a supplement to the existing
6 exhibit?

7 MS. PROCTOR: I think it turns out that --
8 it was supposed to be a supplement, but it turns out
9 we have both copies, I think.

10 JUDGE WALLIS: Why don't we pend that and
11 we'll handle that with the other administrative
12 details later.

13 MS. PROCTOR: Okay, sorry.

14 JUDGE WALLIS: Now let us turn to Scott A.
15 McIntyre. I'm going to identify for the record the
16 exhibits that have been presented for the examination
17 of this witness.

18 I have no exhibits for use on
19 cross-examination. I'm marking as Exhibit 501-T the
20 direct testimony of Barbara M. Wilcox, Ph.D., which I
21 believe Mr. McIntyre is prepared to adopt as his own.
22 Exhibit 502 for identification is the qualifications
23 and experience of Barbara M. Wilcox, also called
24 BMW-1. Exhibit 503 is switched access network
25 diagram, Exhibit BMW-2. 504 for identification is

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1 switched access price structure, Exhibit BMW-3. 505
2 is US West Communications Access Services Tariff,
3 Tariff FCC Number Five, Exhibit BMW-4. 506 is US
4 West Communications Access Services Tariff, WN U-37,
5 Section Five, Exhibit BMW-5. 507 for identification
6 is US West Communications Private Line Transport
7 Services Tariff - Washington, WN U-33, Section
8 322(L), revised November 23, '99, Exhibit BMW-6. And
9 508-T for identification is the rebuttal testimony of
10 Scott A. McIntyre. With that, Mr. McIntyre, I will
11 ask you to stand, raise your right hand and be sworn.
12 Whereupon,

13 SCOTT A. McINTYRE,
14 having been first duly sworn, was called as a witness
15 herein and was examined and testified as follows:

16 JUDGE WALLIS: Please be seated.

17 MS. ANDERL: May I proceed, Your Honor?

18 JUDGE WALLIS: Please proceed.

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

20 BY MS. ANDERL:

21 Q. Mr. McIntyre, would you please state your
22 name and your business address for the record?

23 A. My name is Scott A. McIntyre. My business
24 address is Room 3009, 1600 7th Avenue, Seattle,
25 Washington, 98191.

00791

1 Q. And Mr. McIntyre, are you the same Scott
2 McIntyre whose rebuttal testimony is marked as
3 Exhibit 508-T in this matter?

4 A. Yes.

5 Q. And in that testimony, Mr. McIntyre, you
6 state your job title. Has that changed since the
7 time you filed your testimony?

8 A. Yes, it has.

9 Q. And what's the change?

10 A. My current title is director - market
11 strategy.

12 Q. And are your responsibilities generally the
13 same as they were at the time you filed your
14 testimony?

15 A. Yes.

16 Q. In that rebuttal testimony, do you adopt
17 the direct testimony and exhibits of Dr. Wilcox?

18 A. Yes, I do.

19 Q. Okay. And if I were to ask the questions
20 in your rebuttal testimony today, would your answers
21 be the same?

22 A. Yes.

23 Q. And maybe leaving aside the particulars of
24 Dr. Wilcox's experience and qualifications, if I were
25 to ask you the questions in her direct testimony

00792

1 today, would your answers also be the same?

2 A. I would like to adopt her qualifications,
3 but the questions and answers would be the same, yes.

4 MS. ANDERL: Okay. Thank you, Your Honor.
5 With that, I would move the admission of all of the
6 Exhibits 501-T through 508. And 502, in particular,
7 just for the sake of completeness.

8 JUDGE WALLIS: Is there objection?

9 MS. SINGER-NELSON: No, no objection.

10 JUDGE WALLIS: The exhibits are received.

11 MS. ANDERL: Thank you, Your Honor. The
12 witness is available for cross-examination.

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

14 BY MS. SINGER-NELSON:

15 Q. Hi, Mr. McIntyre.

16 A. Good afternoon.

17 Q. So you're director - market strategy?

18 A. Yes.

19 Q. What does that mean that you do?

20 A. I work with our marketing departments,
21 particularly the product organizations, and develop
22 strategies, help them develop strategies, and then
23 represent those strategies and their efforts in the
24 regulatory arena.

25 Q. What kind of strategies?

00793

1 A. Much of this involves compliance with
2 public utility commission issues, rate cases where
3 balancing of various products, rates, revenues, et
4 cetera, occurs.

5 Q. Anything else?

6 A. Seems like a lot else, characterizing it.
7 I represent those market units in cases like these.
8 I also have some product expertise that I represent
9 the corporation on, along those same lines.

10 Q. And in your testimony, which is 501 -- oh,
11 no, it's not, I'm sorry -- 508-T, you explain that
12 for the last 12 years you've managed private line
13 voice and data products, including special access
14 services?

15 A. Yes.

16 Q. Including the development, pricing and
17 market strategies for a wide range of products,
18 serving business customers across the region?

19 A. Yes.

20 Q. And that that wide range of experience has
21 provided you with an understanding of how your
22 services are provided and the pricing and marketing
23 necessary for these services to be successful?

24 A. Yes.

25 Q. Are you familiar with a policy of US West

00794

1 that's known as the customer not educated policy?

2 MS. ANDERL: Objection, Your Honor.

3 Outside the scope of this witness' direct testimony,
4 not relevant to this proceeding.

5 JUDGE WALLIS: What's the relevance?

6 MS. SINGER-NELSON: It's an admission of US
7 West's statement against interest. The customer not
8 educated policy is a policy that is --

9 JUDGE WALLIS: How does it relate to the
10 issues in the proceeding?

11 MS. SINGER-NELSON: The way it relates to
12 the issues in this proceeding is that AT&T has said
13 that US West provides AT&T with artificial commitment
14 dates, and that was one of the problems we were
15 having with their provisioning. So they provide a
16 firm order confirmation that has commitment dates,
17 and they don't meet those commitment dates time after
18 time. One of things we'd like to see from US West is
19 to have more real commitment dates and no longer have
20 artificial commitment dates.

21 The customer not educated policy is just
22 like that policy. In fact, as I understand the
23 policy -- and that's the evidence I was going to
24 elicit from Mr. McIntyre, is that --

25 JUDGE WALLIS: Very well. You don't need

00795

1 to state what it is, then. We'll wait and see if
2 it's okay to ask the witness.

3 MS. SINGER-NELSON: Thank you.

4 MS. ANDERL: If that's your ruling, Your
5 Honor, I will accept that, obviously. However --

6 JUDGE WALLIS: I'm looking to you for a
7 response.

8 MS. ANDERL: Oh, all right. I did not hear
9 Ms. Singer-Nelson relate the line of questioning to
10 any direct testimony given by Mr. McIntyre or Dr.
11 Wilcox. And again, this is something that, you know,
12 if AT&T thinks they have particular facts or
13 evidence, they should have presented it on direct
14 instead of trying to attempt to elicit it on
15 cross-examination of our witnesses, and particularly
16 with Mr. McIntyre, where it's clearly outside the
17 scope of his direct testimony.

18 JUDGE WALLIS: It appears to be related to
19 the general topic of the testimony, and I think we
20 should allow Counsel to at least proceed on a limited
21 basis until we establish the knowledge or lack of
22 knowledge by the witness.

23 MS. SINGER-NELSON: Thank you, Judge.

24 Q. Mr. McIntyre, are you familiar with that
25 policy that is known as the customer not educated

00796

1 policy?

2 A. Yes, I am.

3 Q. Could you please explain what that is?

4 A. When customers call in to our residence
5 service centers to place orders for residence
6 service, those service representatives make what we
7 call a facility check. They have access to limited
8 systems that give them a snapshot of what facilities
9 might be in place at that moment.

10 If that -- that rapid check can come back,
11 basically, in two conditions. One, it can say
12 facilities are no problem or it can say there's a
13 missing facility at this point. The policy -- there
14 was some study done that discovered that, 80 percent
15 of the time, when that order actually got into the
16 system for completion, the facilities that were
17 lacking were very easily remedied. It was a very,
18 very minor problem in delivering that service. And
19 so 80 percent of the time, facilities were not an
20 issue at all.

21 At the conclusion of that study, it was
22 determined that telling the customer at that point
23 that there might be a facility problem when, 80
24 percent of the time, there really wasn't, would
25 unduly alarm the customer and get the customer

00797

1 concerned about whether their due date could be met.

2 So the policy was instigated that we would
3 not inform the customer of that facility check,
4 because most likely it was inaccurate. And within 24
5 hours, we would do a more determine -- or a more
6 comprehensive facility check, and if in fact there
7 was indeed a facility problem, we'd follow up with a
8 center that was dedicated to following up with those
9 customers, and then informing them that there was
10 indeed a facility problem, and it might be -- we'd
11 have to negotiate a later due date.

12 So the intent of the policy was there's no
13 point in alarming customers when, most of the time,
14 this snapshot look at facilities was -- it was
15 accurate, but it only was a snapshot that could be
16 easily remedied by the technician in the field, for
17 example. They could do a few easy line cuts, and
18 facilities would be available.

19 Q. So Mr. McIntyre, you're saying that the
20 customer not educated was a policy of US West's that
21 a service representative did not inform the customer
22 at the time of the initial inquiry of the possibility
23 of a held order?

24 A. I'd probably choose different words, but
25 that is -- you're essentially correct.

00798

1 Q. And US West, in fact, received complaints
2 from consumers about that policy resulting in
3 artificial due dates?

4 A. It's my understanding that we had
5 complaints prior to that policy, that the customers
6 were -- if we informed the customer -- if the service
7 rep, not knowing a whole lot about facilities in the
8 field, told the customer that there might be a
9 facility problem, the customer would then say
10 something like, Okay, let's -- how about if we wait a
11 week, and we'll set the due date out a week later.

12 Well, if 80 percent of the time that
13 facility problem goes away, then you've given the
14 customer a longer due date than they really should
15 have gotten. Then you have to re-contact the
16 customer and say, How about the first due date, we
17 really can get it to you on the first due date. That
18 confuses the customer, they have to change their
19 scheduling. So we got complaints before the policy
20 was instigated, and I believe we got some complaints
21 after, as well.

22 Q. US West discontinued this policy in
23 November of 1999; isn't that right?

24 A. That's not exactly right. What we did was
25 we informed the service representatives that, at

00799

1 their discretion, they could inform the customer that
2 there might be a facility problem as a result of this
3 facility check. For example, if the service
4 representative knew -- had additional information
5 that wasn't generally available, but had taken many
6 orders in a situation in this particular area of town
7 and they knew that there really was -- there really
8 were facility problems, then they might take that
9 upon themselves to inform the customer of that.

10 Or if the customer had a particular medical
11 condition or there was some emergency, then they
12 would take the extra step to fully inform the
13 customer to make sure if there was a critical issue
14 around the due date, that they could do that. So we
15 basically gave the service representatives the power
16 to do that at their discretion, if they believed that
17 was necessary.

18 MS. SINGER-NELSON: That's all I have on
19 this, and I have no further questions.

20 JUDGE WALLIS: Ms. Smith.

21 MS. SMITH: Thank you. I believe I have
22 just one question for Mr. McIntyre.

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

24 BY MS. SMITH:

25 Q. Were you in the room during the

00800

1 cross-examination of Beth Halvorson, when I asked her
2 a question regarding US West's response to AT&T's
3 Data Request 01-011?

4 A. I was in the room when Beth Halvorson was
5 being cross-examined. I don't particularly remember
6 the reference to a particular data request.

7 MS. SMITH: May I approach the witness with
8 a copy of the exhibit?

9 JUDGE WALLIS: Yes. Please stop by Ms.
10 Anderl on your way over, so that she's aware.

11 MS. SMITH: The question is regarding
12 Hearing Exhibit 221.

13 MS. ANDERL: Oh, Data Request Response
14 Number 11. Sure, go ahead.

15 Q. Mr. McIntyre, have you taken a few moments
16 to familiarize yourself with that document?

17 A. Not yet.

18 Q. My question on that document -- well,
19 strike that. Does that document pertain to held
20 orders?

21 A. That appears to be the -- yes, it's asking
22 for held orders.

23 Q. And if you look at the question asked, I
24 believe in Subsection C of that data request, and I
25 don't have it in front of me, so I'm hoping I'm

00801

1 drawing you to the right spot, where AT&T had asked
2 for information regarding held orders on retail
3 services?

4 A. Yes, Subsection C is US West's
5 subsidiaries' retail customers.

6 Q. Isn't it true that US West answered in that
7 data request that it does not separate held orders on
8 a category of retail customers, or something to that
9 effect?

10 A. It says US West does not segment held or
11 unfilled order results into a subsidiary or affiliate
12 retail customer's category.

13 Q. Are you familiar with the reporting
14 requirements that US West must comply with at this
15 Commission with respect to numbers of held orders?

16 A. It's my understanding that we report held
17 orders on primary basic exchange service lines.

18 Q. And that would be a retail service,
19 wouldn't it?

20 A. I suppose so.

21 Q. So US West does some categorization with
22 respect to retail customers and held orders; correct?

23 A. I really don't know how those held order
24 reports are compiled or generated, so I'd have
25 trouble saying that that was a categorization.

00802

1 That's as much as I know about that.

2 MS. SMITH: Nothing further. I don't have
3 any more questions on that.

4 JUDGE WALLIS: Are there questions from the
5 bench?

6 CHAIRWOMAN SHOWALTER: Did you have more
7 questions?

8 MS. SMITH: No, I don't have any more
9 questions. Thank you.

10 CHAIRWOMAN SHOWALTER: No.

11 JUDGE WALLIS: Ms. Anderl.

12 MS. ANDERL: Thank you, Your Honor. Just
13 so that the record is clear --

14 JUDGE WALLIS: Ms. Anderl, I'm having
15 trouble hearing you.

16 MS. ANDERL: Sorry, that's not usually the
17 problem.

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

19 BY MS. ANDERL:

20 Q. Mr. McIntyre, could you please take a look
21 at that data request response that Ms. Smith gave
22 you? Is it Subsection B that asks for a
23 categorization by US West's retail customers?

24 A. Yes, Subsection B is US West retail
25 customers, and Subsection C is US West subsidiaries'

00803

1 retail customers.

2 Q. Okay. And does US West also have retail
3 customers for private line?

4 A. Yes.

5 Q. And to the extent of your understanding of
6 what US West's reporting requirements are for held
7 orders under Commission rules, did you understand
8 those reporting requirements to apply to private line
9 services?

10 A. No, I believe they only apply to basic
11 exchange service.

12 MS. ANDERL: Thank you. That's all I had.

13 JUDGE WALLIS: Is there anything further?
14 It appears not.

15 MS. SINGER-NELSON: I have nothing further.

16 JUDGE WALLIS: It appears not. Mr.
17 McIntyre, thank you for appearing. You may be
18 excused from the stand at this time.

19 MS. SMITH: Mr. McIntyre, could you leave
20 that exhibit on the table for me, please. I don't
21 know if you stuck it in your notebook or not, but
22 please don't.

23 JUDGE WALLIS: Let's be off the record.
24 (Discussion off the record.)

25 JUDGE WALLIS: Back on the record, please.

00804

1 There are some administrative details that we need to
2 attend to. And I'm going to do these kind of in the
3 order in which I think they're simplest.

4 First is to present a bench request, and I
5 believe that this would be to US West. If I'm
6 incorrect, please correct me. We have already
7 requested some documentation in electronic format,
8 and I would like to expand that to include Exhibit
9 C-216, Exhibits C-310 and 311, and Exhibit C-118.
10 And if those documents exist in electronic format,
11 that is, more particularly, some format in a language
12 that our computers may read, please provide that in
13 digital form. If they are provided -- if they're
14 available in a digital format that is strange, please
15 get in touch with us and we'll work with our
16 information services staff to see whether we can get
17 a usable copy.

18 Also, please provide in electronic form a
19 list of US West wire centers. And what, of course,
20 we're most interested in are those that are
21 referenced at any point during the proceeding, but
22 that may well be all of them. I don't know. And if
23 you provide all of them, that will be fine.

24 A list of US West wire centers spelled out
25 in English and also in the abbreviation code that the

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1 company uses, if any.

2 MS. ANDERL: I think I understand that.

3 JUDGE WALLIS: And a list of exchanges,
4 also spelled out in English and in whatever code the
5 Company may use for them.

6 MS. ANDERL: Would it be helpful for the
7 Commission to know which wire centers are in which
8 exchanges?

9 JUDGE WALLIS: Yes, it would.

10 MS. ANDERL: Because I don't believe --

11 JUDGE WALLIS: And in some cases, that may
12 be self-apparent, and others it may not. So that
13 would be very helpful.

14 MS. ANDERL: All right.

15 JUDGE WALLIS: Am I correct that all of
16 that information is basically within US West's
17 purview?

18 MS. PROCTOR: Exhibit 118 is ours.

19 MS. ANDERL: It is AT&T's. I do have it
20 electronically. However, I might go ahead and let
21 Ms. Proctor provide it.

22 JUDGE WALLIS: Very well.

23 MS. ANDERL: Exhibit C-118, though, is the
24 one that has three reports in it, and that's the one
25 that had the issue with some of the columns being

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1 stricken in the second report. As I recall, the
2 electronic version is three separate files, not a
3 single file, so --

4 MS. PROCTOR: It is.

5 JUDGE WALLIS: If you will provide all
6 three files, the Commission will disregard the
7 columns that have been stricken.

8 MS. PROCTOR: That's fine.

9 MS. ANDERL: Additionally, Your Honor, the
10 third report, in electronic format, will contain the
11 information regarding DSO circuits, and I would
12 understand the same treatment to be given to those.

13 JUDGE WALLIS: Yes, that has also been
14 stricken. All right. Any questions about that?
15 When might the Company be able to provide that
16 information?

17 MS. ANDERL: Your Honor, I believe no later
18 than Tuesday or Wednesday next week. And the only
19 reason I say that is because what I would like to do
20 is put the material on a disk and have it messengered
21 or overnighted down, rather than e-mailed, so that
22 puts me back in the office on Monday and getting it
23 to you on Tuesday.

24 Additionally, I don't think there's going
25 to be any problem with the wire center and exchange

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1 information within that same time frame.

2 JUDGE WALLIS: Well, let's ask for it to be
3 provided no later than close of business on
4 Wednesday, unless something unforeseen comes up, and
5 then you'll be in touch. And would that schedule
6 also work for AT&T?

7 MS. PROCTOR: Yes, that will be fine.

8 JUDGE WALLIS: Okay. Let's move to Exhibit
9 228. We were inquiring whether that is a
10 supplemental exhibit or a replacement exhibit.

11 MS. PROCTOR: Yes, Your Honor. That is a
12 supplemental exhibit.

13 JUDGE WALLIS: Okay.

14 MS. PROCTOR: Not a replacement exhibit.

15 JUDGE WALLIS: We will mark that as Exhibit
16 228 Supplement.

17 MS. PROCTOR: It is labeled that way.

18 JUDGE WALLIS: It is labeled that way, and
19 I take it there's no objection to receiving it in
20 evidence?

21 MS. ANDERL: That's correct.

22 JUDGE WALLIS: The Supplemental 228 is
23 received in evidence. We were going to do our best
24 to arrange through Ms. Watsek, of my staff, a
25 telephone conference for Wednesday to discuss the

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1 confidentiality of one particular company-specific
2 number that was mentioned on record, and also to
3 discuss perhaps in a little bit more broader terms
4 the issue of confidentiality on this record. And I
5 will ask the parties to be in touch with Ms. Watsek
6 on Monday and/or I will ask her to be in touch with
7 you to see what we can establish.

8 MS. PROCTOR: Your Honor, might I raise one
9 matter? Related to the particular number that had
10 been mentioned on the record, I believe Ms.
11 Halvorson's testimony was that that record was based
12 on a supplement to a data request. When that -- that
13 was the document that US West offered into evidence
14 on Ms. Halvorson's redirect and it was excluded.

15 So I don't quite know how to deal -- I
16 guess I would object to having the number in evidence
17 at all, because it was based on evidence which was
18 specifically precluded from being on the record.

19 JUDGE WALLIS: Well, I think my preference
20 at this point would be to take that up during the
21 conference.

22 MS. PROCTOR: Fine.

23 JUDGE WALLIS: And to the extent that
24 parties want the opportunity to create a record on
25 that, the parties will have the opportunity to do

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1 that.

2 MS. PROCTOR: Thank you.

3 JUDGE WALLIS: The last matter, I think, is
4 the briefing schedule. We had talked about a
5 schedule involving the sequential filing of briefs,
6 with AT&T first, other parties second, and AT&T
7 allowed, if it desires, to reply. Is that still the
8 parties's preference?

9 MS. SINGER-NELSON: That's fine.

10 MS. ANDERL: Yes, with a maybe minor
11 modification. Depending on what position Staff
12 takes, if Staff files at the same time we do, we
13 would perhaps like an opportunity to reply in the
14 third round, as well.

15 JUDGE WALLIS: Yes.

16 MS. SMITH: That would make sense, and I
17 think it would make sense for both parties to have an
18 opportunity to reply to any brief that Staff files.

19 JUDGE WALLIS: Yes.

20 MS. ANDERL: So AT&T first, Staff and US
21 West second, and then AT&T and US West third.

22 CHAIRWOMAN SHOWALTER: Third round, anybody
23 gets to reply to anybody else.

24 MS. ANDERL: Oh, right, right, right,
25 right. Sorry, thank you.

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1 JUDGE WALLIS: Then the Commission gets the
2 last word.

3 MS. SINGER-NELSON: Well, then --

4 JUDGE WALLIS: Does that really make more
5 sense than simultaneous?

6 MS. SINGER-NELSON: No, not anymore it
7 doesn't. It doesn't make sense anymore, because then
8 we have three briefs.

9 MS. ANDERL: That's fair.

10 MS. SINGER-NELSON: Well, what we talked
11 about initially was that AT&T was going to file the
12 initial brief, then US West was going to reply, and
13 then we would rebut in a more traditional way. But
14 then, if we're doing it this way, why not just do it
15 the way we typically do it in regulatory proceedings,
16 where we have simultaneous briefs or opening and then
17 simultaneous responses?

18 JUDGE WALLIS: Let's be off the record for
19 just a moment.

20 (Discussion off the record.)

21 JUDGE WALLIS: Back on the record, as we
22 have concluded the scheduling discussion. The
23 parties have agreed that we will receive sequential
24 briefs, with AT&T filing its opening brief on
25 February 29, with other parties answering on March

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1 21, and replies, if any, to any other party's
2 presentation on March 28th.

3 US West will brief the motion that it
4 presented and that was argued at the close of last
5 night's session and the opening of today's as to the
6 sufficiency of the evidence, and will choose and
7 announce to the Commission at a telephonic conference
8 to be scheduled next week whether US West wishes to
9 file its brief simultaneously with AT&T's opening
10 brief or whether it merely wishes to include that as
11 a separate enclosure along with its answering brief.

12 Does that set out the understanding of the
13 parties?

14 MS. PROCTOR: I think perhaps I was not
15 really focusing on that. That would mean that AT&T
16 would be in the position of having to, in a week's
17 period of time, respond on the merits and also have
18 to be responding to briefing on the law, which
19 strikes me as a little short.

20 MS. SMITH: I didn't understand that,
21 either. I understood that if US West wanted to file
22 a brief on those legal issues on the motion to
23 dismiss, it would file that brief on February 29th.

24 MS. SINGER-NELSON: Yes, that's what I
25 understood.

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1 MS. SMITH: Not put Staff in a bind, as
2 well, with respect to responding to everything.

3 JUDGE WALLIS: Well, let's be off the
4 record for further scheduling discussions.

5 (Discussion off the record.)

6 JUDGE WALLIS: Let's be back on the record
7 once more, and state the parties's understanding that
8 US West will file its brief on the motion on February
9 29th, and answers will be due to that and replies on
10 the same schedule as the briefing on the merits, on
11 which AT&T bears the laboring oar.

12 We will engage in a scheduling conference,
13 to be arranged during next week with the involvement
14 of the parties on Monday by Jennifer Watsek of our
15 Staff. Is there anything further to come before the
16 Commission in this proceeding?

17 MS. SINGER-NELSON: Nothing.

18 JUDGE WALLIS: Let the record show that
19 there is no affirmative response, and this matter is
20 concluded.

21 MS. ANDERL: I just thought of one other
22 housekeeping thing, and that is when -- and somebody
23 from AT&T and I are supposed to go to the Records
24 Center.

25 MS. SINGER-NELSON: I was going to go with

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1 you.

2 JUDGE WALLIS: I have had that note on here
3 and I got it mixed up.

4 MS. ANDERL: I guess we keep putting it
5 off, because it just sounds like such a fun task.

6 JUDGE WALLIS: Can we go back on the record
7 and insert something before the final goodbye?

8 MS. ANDERL: She's been on the record.

9 JUDGE WALLIS: Ah, way ahead of me, as
10 usual. We did agree that the parties would go to the
11 official file and substitute properly marked and
12 identified confidential information for any document
13 that remains in the record, including the documents
14 submitted for use on cross-examination that does not
15 comply with the requirements on marking in colored
16 paper that are a part of the protective order in this
17 docket.

18 And I'm going to ask that the substitutions
19 be completed no later than the close of business on
20 Wednesday of next week. Will that work for the
21 parties?

22 MS. SINGER-NELSON: Yes.

23 JUDGE WALLIS: Okay. With that, is there
24 anything further?

25 MS. ANDERL: No.

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1 JUDGE WALLIS: Now this matter is
2 concluded.
3 (Proceedings adjourned at 2:04 p.m.)
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