

00825

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

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

4)
Complainant,) VOLUME 6

5)
vs.) Pages 825 - 1156

6)
U S WEST COMMUNICATIONS, INC.,)

7)
Respondent.)

8 -----)
TCG SEATTLE and DIGITAL DIRECT) DOCKET NO. UT-941465

9 OF SEATTLE, INC.,)
)

10 Complainant,)
)

11 vs.)
)

12 U S WEST COMMUNICATIONS, INC.,)
)

13 Respondent.)
-----)

14

15 A hearing in the above matter was held
16 at 8:30 a.m. on June 22, 1995, at 1300 South Evergreen
17 Park Drive Southwest, Olympia, Washington before
18 Chairman SHARON L. NELSON, Commissioners RICHARD
19 HEMSTAD, WILLIAM R. GILLIS and Administrative Law
20 Judge LISA ANDERL.

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22

23

24 Cheryl Macdonald, CSR

25 Court Reporter

00826

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 TCG SEATTLE,)

4 Complainant,)

5 vs.)

6 GTE NORTHWEST INCORPORATED,)

7 Respondent.)

-----) DOCKET NO. UT-950146

8 GTE NORTHWEST INCORPORATED,)

9 Third Party Complainant,)

10 vs.)

11 U S WEST COMMUNICATIONS, INC.,)

12 Third Party Respondent.)

-----)

13 ELECTRIC LIGHTWAVE, INC.,)

14 Complainant,) DOCKET NO. UT-950265

15 vs.)

16 GTE NORTHWEST INCORPORATED,)

17 Respondent.)

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1 The parties were present as follows:
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00829

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INDEX

2 WITNESSES: D C RD RC EXAM
PURKEY 831 846 954 940 943

3

ROE 973 975 1023 1025

4

ANDREASSI 1028 1030 1068 1069

5

MONTGOMERY 1071 1081 1143 1147 1130

6

EXHIBITS: MARKED ADMITTED

7

T-30 1030

C-77 836 837

8

C-78 909

C-79 909

9

T-80 973 975

81 980

10

C-82 987 994

T-83 1026 1030

11

84 1026

T-84 1070 1074

12

C-85 1070 1074

T-86 1070 1074

13

14 RECORD REQU. PAGE
19 847

15

16

17

18

19

20

21

22

23

24

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1 PROCEEDINGS

2 JUDGE ANDERL: Let's be on record. We are
3 reconvened in docket UT-941464 et al. Today is June
4 22, 1995. Mr. Trautman, we'll go to you for cross of
5 Mr. Purkey.

6 MR. OWENS: Your Honor, before we commence
7 the cross of Mr. Purkey, I had a housekeeping matter.
8 The Commission had ruled on U S WEST's motion with
9 regard to surrebuttal testimony in a situation of
10 testimony and evidence that U S WEST characterized as
11 not proper rebuttal that we would have leave to renew
12 that. We would like to renew that with regard to
13 having Mr. Purkey provide oral surrebuttal testimony on
14 the subjects in TCG testimony that we identified in our
15 motion, and we can do that either now or following the
16 cross and introduction of the TCG case. Commission I
17 believe had indicated we could renew the motion at the
18 end of the hearing, and we're just indicating that
19 we're prepared to go forward now or at the end of the
20 hearing or at the end of TCG's case, however you want
21 to handle it.

22 JUDGE ANDERL: Well, do you know at this
23 point if the motion would then just be for this
24 witness to present surrebuttal and that would end it?

25 MR. OWENS: Yes.

00831

1 JUDGE ANDERL: And then we wouldn't be
2 looking at additional days of hearing then beyond June
3 30, is that what you're saying?

4 MR. OWENS: That's right. We're trying to
5 accommodate the schedule as much as we can and still
6 put our evidence on.

7 JUDGE ANDERL: Do you have a time estimate
8 as to how much additional time this might take?

9 MR. OWENS: Five to 10 minutes.

10 JUDGE ANDERL: Any objection?

11 MR. WAGGONER: I would just urge that he do
12 it now.

13 JUDGE ANDERL: Okay. Concurrence with it is
14 fine. Let's do it then.

15 MR. OWENS: Thank you.

16

17 DIRECT EXAMINATION

18 BY MR. OWENS:

19 Q. Good morning, Mr. Purkey.

20 A. Good morning.

21 Q. Mr. Purkey, you have read the testimony,
22 prefiled testimony of Steven Andreassi on behalf of
23 TCG Seattle, have you not?

24 A. Yes, I have.

25 Q. And at page 7 of that testimony, beginning

00832

1 at lines 20 to 23, Mr. Andreassi states his view that
2 U S WEST may see increased revenues even though its
3 market share declines based on the experience in other
4 telecommunications markets. Are you familiar with
5 that testimony?

6 A. Yes.

7 Q. Have you had any experience in the history
8 of telecommunications since you've been employed with
9 U S WEST of such a phenomenon?

10 A. Not exactly the one he's talking about.
11 Well, let me back up. I think the one that he is
12 talking about is the AT&T experience where AT&T has
13 seen market share erosion over the years and yet their
14 profitability has continued to increase.

15 Q. And that would be primarily in the long
16 distance market?

17 A. Exactly.

18 Q. Are there any differences that you're aware
19 of between that situation and the situation U S WEST
20 faces today in local exchange competition?

21 A. Yes. I think there are some substantial
22 differences. One is that the calling patterns of
23 customers have changed over the years which has caused
24 in part the long distance market to really slow in
25 increasing market share. Long distance has become a

00833

1 worldwide phenomenon in the last 10 to 15 years and
2 people are just calling more than they ever used to.
3 One of the reasons for this has been the price
4 decreases that have come through the years that have
5 been largely fueled by the access weight reductions
6 that the RBOCs have passed on to the carriers. So
7 there were some circumstances that caused the long
8 distance market to increase dramatically over the
9 years. While at the same time AT&T was losing market
10 share, it was not losing market share at such a rate
11 that the loss of market share was larger than the
12 increase in toll market share.

13 In local exchange area, however, the
14 increases for local exchange lines I think are
15 somewhat limited by a population. The need to call on
16 a per minute basis may increase but you don't
17 necessarily need more lines to do that. So there are
18 some restraints and constraints on the local exchange
19 market that would say that if the AECs are expanding
20 their market share at a rate that's greater than the
21 local exchange market is expanding, then U S WEST will
22 in fact see decreases in revenues.

23 Q. And is there any difference in the markets
24 based on whether the revenues are generally generated
25 on a per minute of use basis or on a flat basis?

00834

1 A. I'm sorry, could you repeat the question?

2 Q. Is there any difference in the markets that
3 Mr. Andreassi compares based on whether the revenues
4 are generated on a per minute of use basis or on a
5 flat rated basis?

6 A. The revenues on a per minute of use basis
7 obviously as the usage increase the revenues increase
8 whereas in a flat-rated scenario that's simply not
9 going to happen.

10 Q. So if there's a significant increase in the
11 minutes of use in the local exchange, does that
12 translate, other things being equal, into an increase
13 in revenues to a local exchange company?

14 A. Not necessarily for local service.

15 Q. At pages 19 and 20 Mr. Andreassi states
16 that TCG would be happy to share U S WEST's
17 residential burden at any time. How would that affect
18 your imputation analysis if at all?

19 A. Well, what that indicates to me is that TCG
20 will be actively marketing to residential customers.
21 They will be attaining residential customers and so
22 they will soon be meeting the conditions of having the
23 interim universal service charge waived. Since they
24 are so happy to be after this burden, it would make
25 sense that they would continue to do that on a

00835

1 marketing basis. Now, if we waive the interim
2 universal service charge, if you refer to my
3 Exhibit DP-2 which calculates the price floor for local
4 exchange services on an imputation basis, if you take
5 out the interim universal service charge that cuts that
6 price floor almost in half. So, it would be easy in
7 that scenario to pass the imputation test and still
8 have plenty of room for the AECs to make a profit.

9 Q. Now, Mr. Andreassi at page 14 makes a
10 calculation purporting to generate a revenue per
11 minute for a DSS switched service at approximately 6.8
12 cents or 6.86 cents per minute. Do you see that?

13 A. Yes.

14 MR. WAGGONER: Excuse me. Are you sure
15 you're saying this right?

16 THE WITNESS: .686 cents per minute.

17 Q. Thank you for the correction. And he
18 assumes in that calculation a divisor of 160,000
19 minutes per month; is that right?

20 A. Yes.

21 Q. Do you have any information on whether
22 that's an accurate representation of the actual usage
23 on such a facility?

24 A. Yes, I do. The problem with this
25 calculation is that he has maximized the amount of

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1 traffic that can take place over a DSS facility at
2 160,000 minutes per month. In fact, the actual usage
3 on PBX type trunks, of which DSS is one, is multiple
4 times lower than that. Therefore, the calculation of
5 his effective local calling rate is also multiple
6 times too low versus what it should actually be.

7 MR. OWENS: Your Honor, I would ask that
8 there be marked for identification a one-page document,
9 a confidential exhibit. Purporting to be a correction
10 to TCG's estimate of PBX usage.

11 MR. WAGGONER: Your Honor, could I object
12 to the question? He's mischaracterizing the
13 testimony. It's not a comparison of PBXs. It's a
14 comparison of DSS usage.

15 JUDGE ANDERL: Mr. Owens, do you accept
16 that correction?

17 MR. OWENS: The witness testified that a
18 PBX trunk was one possible use of a DSS. I think this
19 is something that counsel can inquire into on
20 cross.

21 JUDGE ANDERL: Okay. I think I agree with
22 that. I will mark this single page document for
23 identification as Exhibit C-77.

24 (Marked Exhibit C-77.)

25 Q. Mr. Purkey, you have before you what's been

00837

1 marked as C-77 for identification?

2 A. Yes.

3 Q. And was that exhibit prepared by you or
4 under your direction?

5 A. Yes.

6 Q. And is it true and correct to the best of
7 your knowledge and belief?

8 A. Yes.

9 MR. OWENS: I would offer C-77.

10 JUDGE ANDERL: Any objection?

11 Exhibit C-77 will be admitted as
12 identified.

13 (Admitted Exhibit C-77.)

14 Q. At page 12, Mr. Andreassi argues that one
15 should not install a measurement -- measuring system
16 measure terminating traffic because according to him
17 it costs more than the revenue received. Do you have
18 any comment on that?

19 A. Yes. There's been a lot of discussion over
20 the cost of this measuring equipment. The fact of the
21 matter is that the price being charged or the revenues
22 received greatly exceed the cost of this measuring
23 system. People seem to be comparing the cost of the
24 measuring system to other costs involved, and ignoring
25 the reality that the revenues that would be received

00838

1 from providing this service far exceed what the costs
2 are, so if the issue is -- I guess it doesn't make
3 sense -- the logical extension of that would be that a
4 business would never invest any cost because it costs
5 money. You have to spend money to make money and as
6 long -- the question should be do revenues exceed
7 costs and the answer is yes, and I think that should
8 be the end of the story.

9 JUDGE ANDERL: Excuse me, Mr. Owens. Could
10 I just get two more copies of that exhibit?

11 Q. Going back to Mr. Andreassi's calculation
12 of an effective rate per minute that's charged for
13 DSS, do you have any other comments besides the
14 comment that you made about the use of the 160,000
15 minutes in terms of the accuracy of that calculation?

16 A. The accuracy of the 100 -- oh, the accuracy
17 of --

18 Q. Of the figure that Mr. Andreassi has at
19 page 14 of his testimony of the effective local
20 calling rate.

21 A. Are you discussing the 4.3 cents?

22 Q. Yes, let's take that first.

23 A. The 4.3 cent number that he has on line 21
24 is overstated as a result of the -- well, as a result
25 of a number of things. First, U S WEST did make a

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1 correction in that so that the 4.3 cents on the same
2 basis using the same inputs would now be 3.228 cents.

3 Q. And this happened in Mr. Owens's rebuttal
4 testimony, did it not?

5 A. That's correct. Primary reason being that
6 we are no longer charging the residual interconnection
7 charge.

8 Q. And that was simultaneous with the filing
9 by Mr. Andreassi?

10 A. I believe that's the case, yes.

11 Q. So there's no way he necessarily could have
12 anticipated that?

13 A. No. However, there were other things that
14 he could have anticipated. If we start with the 3.228
15 cents as a base, he's not accounted for the fact that
16 the interim universal service charge will not apply to
17 all minutes that are generated by an AEC. For
18 example, intraoffice minutes that do not go into --
19 well, basically any minutes that do not terminate in
20 U S WEST territory will not have the interim universal
21 service charge applied to it. If you account for
22 that, the 3.228 cents effectively drops down to around
23 two and a half cents.

24 Further, he's kind of missed the point of
25 U S WEST's proposal, and he's only used half of our

00840

1 proposal. Our proposal is two parts. One, that we
2 charge the AECs for terminating traffic on our network,
3 but the second half of the proposal is that the AECs
4 will charge U S WEST for the traffic that we terminate
5 on their networks. As a result, inextricably linked in
6 this whole process is that the AECs will be receiving
7 revenue as a result of them simply being in business.
8 If you include that revenue calculation into the
9 equation, it effectively drops this rate down to about
10 a penny and a half.

11 Q. And with regard to that latter point, that
12 is, the noninclusion by Mr. Andreassi of revenue that
13 U S WEST would pay to the AECs, is that common to any
14 other analyses that he's done?

15 A. Yes. I believe it's common to all of the
16 analyses that he's done. Essentially only looking at
17 half of the equation and thereby presenting a skewed
18 view to the Commission.

19 Q. At page 20 of Mr. Andreassi's testimony he
20 states that there is "no market that AECs can serve
21 economically." In your view is that a correct
22 statement?

23 A. No. I believe that all markets are
24 available to the AECs to profitably serve. My Exhibit
25 DP-2 demonstrates that for business services in total

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1 there is adequate margin. The price floor is below
2 what the expected revenues are to be received. Even
3 if you were to go into, for lack of a better word,
4 subcategories of business service like looking directly
5 at PBX in isolation, it can be demonstrated that,
6 again, the AECs can serve all of these markets
7 profitably.

8 Q. Mr. Purkey, Mr. Andreassi has, as part of
9 his testimony, an example he calls market realities to
10 small business customers using as that example a local
11 measured business customer. Are you familiar with that
12 example? I believe it's on page 16?

13 A. Yes.

14 Q. Is there anything about local measured
15 business customers that affects the validity of his
16 calculation of which you're personally aware?

17 A. Well, when you look at the business
18 customers that take measured service, they do so in
19 general for a very specific reason and that reason is
20 because they are making few outgoing calls, which
21 would cost them money, but they are receiving a lot of
22 incoming calls. The average outgoing usage for a
23 measured business line is roughly a third of what an
24 average business line is. With my sales background in
25 dealing with customers and having seen them use this

00842

1 measured service they are using it for incoming lines,
2 like fax lines, ordering system type things, airline
3 reservation systems, those types of generally broad
4 categories that would receive a lot of incoming calls
5 are the types that these measured service customers
6 sign up for just for that reason.

7 Again, back to my point that the AECs will
8 be receiving revenue from U S WEST for U.S.
9 terminating traffic on their networks, a measured
10 business customer is going to be a great boon for the
11 AECs because they're going to be receiving revenues
12 for all this traffic terminating on their network, and
13 so while, it apparently in Mr. Andreassi's testimony
14 indicates that a measured service customer may not
15 necessarily be desirable in fact they would be highly
16 desirable.

17 Q. Just for clarity, when we talk about local
18 measured service, are we talking about a service
19 that's measured in both directions, incoming and
20 outgoing or just in one direction?

21 A. No. Local measured service is only
22 measured in the outgoing direction, so to the extent
23 that business customers can minimize those outgoing
24 calls and maximize the incoming calls they are getting
25 much more value for their money as a result.

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1 Q. At page 21 of his testimony, Mr. Andreassi
2 discusses the impact of the lack of local number
3 portability. Have you had any experience on the issue
4 of customers willingness to change their telephone
5 numbers?

6 A. Yes. I've had quite a bit of experience as
7 a matter of fact. Again back when I was in sales with
8 U S WEST we were involved in putting a new central
9 office in downtown Seattle, and as a result of that all
10 of the customers in the affected exchange had to
11 exchange their telephone number. There was an
12 interesting phenomenon that came out of that, though,
13 in that because this was a brand-new exchange no
14 numbers were taken. There were a lot of, quote, good
15 numbers available to be had by customers, so while
16 customers may have an affinity, some customers may have
17 an affinity to keeping their own telephone number,
18 customers also have a great affinity for getting a,
19 quote, good telephone number. For example, I have
20 media accounts, and there probably aren't many
21 businesses that are more attuned to public response and
22 public reaction than the media accounts. They were
23 concerned about the telephone number exchange because
24 they were all affected by it. However, for King TV,
25 Channel 5, I got them the telephone number 448-5555.

00844

1 For KIRO which is channel 7 I got them the number
2 728-7777. KOMO Channel 4 got 443-4000 so these
3 customers were very pleased by the process by now
4 having a phone number that they could identify with and
5 that their clientele could also identify with, so it
6 turned into a real positive benefit for them.

7 In addition, I sold a system to a retail
8 company that was owned by a Chinese corporation. Many
9 people in China and especially this ownership group
10 believe that the number 8 is a lucky number. I was
11 able to get them a phone number that contained a lot
12 of 8's in it, and that pleased them to no end and it
13 really did help me close the sale.

14 We had another case where we had a product
15 offering called digital Centrex in downtown Seattle.
16 Again, this had a completely separate prefix with it.
17 It required customers to change their telephone
18 numbers without moving and at their option. If they
19 wanted digital Centrex they had to change their
20 telephone number. In fact, digital Centrex proved to
21 be a highly successful service for us and customers
22 were willing to exchange based on the benefits that
23 were presented to them of making the change. So in
24 sum I believe the number portability issue is vastly
25 overstated by the AECs. I think it's a matter of

00845

1 marketing and it's a matter of a competent sales force
2 adequately presenting the benefits of a number change
3 to the customers. With the AECs having 50,000 new
4 numbers -- and that's just one of the AECs -- there are
5 lots of good numbers available for customers that they
6 can pick and choose at their will.

7 Q. Finally, is there any customer group that
8 you're aware of that presents a ready made market for
9 a company that would offer them a different telephone
10 number than they currently have?

11 A. In the last two years U S WEST in its
12 residential market has seen a churn of 33 percent of
13 its customers. What that means is that 33 percent of
14 our customers on an annual basis are choosing to move,
15 and as a result of that most frequently they have to
16 change their telephone number in the process. The
17 only way that they would not be able to change -- or
18 the only way that they would not have to change their
19 telephone number is to stay within the same serving
20 wire center or same central office. So these
21 customers basically are customers without a telephone
22 number. 33 percent of our residential market is up
23 for grabs every year with not a thought given to
24 number portability.

25 Q. Thank you, Mr. Purkey.

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1 MR. OWENS: That completes the oral
2 surrebuttal.

3 JUDGE ANDERL: Thank you, Mr. Trautman.

4

5 CROSS-EXAMINATION

6 BY MR. TRAUTMAN:

7 Q. Is it your testimony, Mr. Purkey, that now
8 U S WEST proposed price for local interconnection
9 service is effectively a penny and a half?

10 A. Just using Mr. Andreassi's basis, yes, but
11 I haven't actually done that calculation based on my
12 numbers in Exhibit DP-2.

13 Q. So would that apply to all new LECs or just
14 to TCG?

15 A. It would apply to essentially any new LEC
16 that would have the -- with the interim universal
17 service charge.

18 Q. How did you calculate the penny and a half?

19 A. I started with a 3.228 cents which is
20 simply the one cent local switching charge plus the
21 2.22 -- 2.28 cent charge for the interim universal
22 service charge. Those were essentially the same
23 elements that Mr. Andreassi used as the starting
24 point, which I think was seen initially in Mr. Owens's
25 rebuttal testimony, that calculation. Then I factored

00847

1 in the fact that the interim universal service charge
2 will not apply to all calls. All calls generated by
3 an AEC will not terminate on the U S WEST network. I
4 assumed for this study that the amount of calls not
5 terminating on U S WEST network would be the same
6 percentage of calls that do not terminate on U S WEST
7 network that are also not intraoffice calls. That's
8 a proprietary number. The result of that calculation
9 brought it down to, brought it down to the two and a
10 half cents.

11 MR. TRAUTMAN: Like to make a record
12 request for all the calculations that were supporting
13 that assertion.

14 JUDGE ANDERL: That will be No. 19.
15 (Record Requisition 19.)

16 MS. WEISKE: Your Honor, we don't
17 need to continue to remind U S WEST that we also made
18 a request for those yesterday, to be copied on those.

19 JUDGE ANDERL: Mr. Owens, were you able to
20 hear that?

21 MR. OWENS: No.

22 JUDGE ANDERL: Ms. Weiske is again asking
23 that MCI continue to be copied on those responses.

24 MR. OWENS: I assume --

25 MR. WAGGONER: Can I raise a point? I

00848

1 guess my experience in the past has been that record
2 requisitions are just like data requests. If you've
3 made an omnibus request to be copied that you would
4 get copies of record requisitions. So this is a new
5 practice for me. We certainly want record
6 requisitions and I would assume most parties do.

7 MR. BUTLER: It's true for Electric
8 Lightwave.

9 JUDGE ANDERL: Do each of you have an
10 outstanding request to be copied on all the responses?

11 MR. WAGGONER: Yes.

12 JUDGE ANDERL: Well, that should do it
13 then. No. 19 is staff's. Go ahead.

14 Q. In your surrebuttal testimony you spoke
15 about putting in the new central office in Seattle,
16 and the need for U S WEST's customers to change their
17 phone number. Did U S WEST lose any customers as a
18 result of this?

19 A. Not that I know of.

20 MR. TRAUTMAN: No further questions on the
21 surrebuttal.

22 Q. Are you the same Dan Purkey that filed
23 direct testimony in docket UT-950200?

24 A. Yes, I am.

25 Q. And that was the U S WEST rate case?

00849

1 A. Yes.

2 Q. Is it correct that you didn't file any
3 direct testimony in this case?

4 A. That's correct.

5 Q. And is it correct that no witness of U S
6 WEST filed any direct testimony in this case which
7 proposed any imputation test for any service?

8 A. I believe that's correct.

9 Q. Did the company believe, then, that
10 imputation questions did not need to be addressed in
11 any direct testimony in this case?

12 A. Did the company believe that we did not
13 need to address imputation in the direct testimony?

14 Q. Yes.

15 A. Apparently, yes, otherwise we would have
16 filed it.

17 Q. Why is that?

18 A. I really don't know the rationale behind
19 not offering the imputation tests. I do know that
20 during the period of time that direct was under
21 construction the imputation studies were also under
22 construction, and I don't know whether it was a timing
23 issue that the imputation studies were not completed
24 at the same time that direct was filed. I just don't
25 know.

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1 Q. So you were not a part of that decision?

2 A. I was not a part of the decision not to
3 file in direct, correct.

4 Q. Could you turn to page 2 of your rebuttal
5 testimony. And the sentence that starts at the bottom
6 of page 2 and goes to page 3 you state, "The
7 cornerstone principle of imputation is to set up
8 conditions which make the price floors of services
9 competitively equitable." Do you see that?

10 A. Yes.

11 Q. Could you explain in more detail what you
12 mean by set up conditions. What specifically, what
13 types of conditions are you referring to?

14 A. The conditions are to have from a
15 theoretical standpoint U S WEST incur the same costs
16 for essential components as its competitors would
17 incur, so what we're trying to do is to analyze the
18 prices that are offered and the costs that are
19 incurred by AECs for essential components and to see
20 if the price that U S WEST is offering is above the
21 costs that are being, if you will, imposed upon the
22 AECs. U S WEST generally does not have those same
23 costs associated with it, for example, the interim
24 universal service charge while the ISUC is inherent in
25 U S WEST's rates it's not an overt charge to us. In

00851

1 an imputation study we would now make that an overt
2 charge and pretend that U S WEST was an AEC just to
3 see if we could compete with U S WEST price and in
4 fact that is the case. The imputation study
5 demonstrates that the price floor is below the
6 revenues.

7 Q. You refer to essential components, and on
8 page 3 in the middle paragraph, second sentence you
9 state "essential components are those which are needed
10 by competitors to provision their competing services
11 and for which competitors have no feasible alternative
12 supplier other than U S WEST." How does U S WEST
13 determine whether a component is essential or not?

14 A. Basically we take a critical look at it
15 from the standpoint of the market, and our
16 understanding of the market and just ask ourselves the
17 questions is there someplace elsewhere this competitor
18 can get it. For example, originating local switching,
19 there's no study necessarily involved but it's clear
20 that the AECs are providing their own local switching.
21 That's the business that they're in. They are
22 originating dial tone to their customers, and so
23 therefore it's clear that originating local switching
24 is not an essential component, so we just go through
25 that type of processing and critically examine the

00852

1 market, how services are provisioned and then
2 determine whether it's essential or not.

3 Q. Do you have any objective standards that
4 you apply to all services or any standards of any kind
5 you could set forth?

6 A. The matter of essentiality is addressed in
7 antitrust law so there are some guidelines there, and
8 essentially -- no pun intended -- the process looks at
9 whether there is another provider of that particular
10 component out there, so first we take a look at the
11 component and then we turn to the marketplace and say
12 is there anywhere in the marketplace that this
13 component can be reasonably obtained from sources other
14 than U S WEST, and if there is one competitor out there
15 offering that component besides U S WEST than it's
16 obviously that the component is not essential, that the
17 AEC would have a choice as to which supplier of that
18 component it would like to use.

19 Q. So if an alternative is available to even
20 one competitor then it is not essential?

21 A. If it's available to one it's available to
22 all.

23 Q. And there are no other objective standards
24 that you would apply to determine essentiality?

25 A. That's really the process.

00853

1 Q. Is it correct that you are familiar with
2 the Commission's earlier decisions on imputations in
3 docket U-871083 and U-882052?

4 A. Yes, I am.

5 Q. Did the Commission in those cases ever
6 consider or adopt an imputation methodology which
7 explicitly included what the company is now calling
8 essential components?

9 A. I don't have the orders in front of me, so
10 I can't say for sure whether or not the Commission
11 used the term "essential," but that was certainly the
12 foundation of the imputation studies that were
13 ultimately approved.

14 Q. Do you recall whether they used the concept
15 of competitive services or non -- or noncompetitive
16 rather than essential components?

17 A. I don't recall the exact language.

18 Q. Are you asking in this case that the
19 Commission now adopt an imputation analysis which
20 calculates price floors based on the company
21 determination of essential components?

22 A. Having worked with imputation for a number
23 of years we do attempt to apply objective standards to
24 the process. That does not mean -- so if the
25 Commission is comfortable with our objective

00854

1 standards, then that would be their determination. If
2 they would like to review those and the rationale for
3 why a particular service is essential, I think that
4 would be appropriate as well. But I think part of the
5 problem is with the orders that you referenced is they
6 were done early in the imputation process. The
7 imputation was kind of in the toddler phase at that
8 point. We have now progressed a long way with
9 imputation, crystalized many of the standards and
10 principles involved that were not present and available
11 and considered at that time.

12 Q. And so is the new standard in the advanced
13 stage that if a service is available to even one
14 competitor then it is not essential for imputation
15 purposes?

16 A. I believe so, yes, and it's also backed up
17 by antitrust law to my understanding.

18 Q. Would you turn to your revised Exhibit
19 C-76, which is DP-2. And at the top it's entitled
20 1995 Washington Imputation Price Floor Analysis, All
21 Business Statewide.

22 A. Yes.

23 Q. On lines 6, 7 and 8 components titled
24 Originating Network Access Channel, Originating Local
25 Switching and Terminating Transport are Identified.

00855

1 Is that correct?

2 A. Yes.

3 Q. And in the middle of the page across from
4 each of those components are the letters LRIC or LRIC.

5 Do you see that?

6 A. Yes.

7 Q. In the context of the company's new cost
8 study method under which the company now identifies
9 costs as average, direct and shared residual costs,
10 keeping that in mind, do you know whether the cost --
11 the term LRIC is referring to is ASIC or is it ADSRC?

12 A. How did I know you were going to ask that?
13 It is ADSRC. I would state, however, that the use of
14 ADSRC in an imputation is a conservative assumption.
15 As Farrow explained yesterday, ADSRC is a larger number
16 than ASIC. ASIC is the appropriate standard for a
17 price floor test as Mr. Farrow explained yesterday
18 with the ASIC standard. That determines the point
19 below which you may not price, and that's what price
20 floor analysis is designed to look at. This is not
21 used for a target price floor or a level at which you
22 may want to price as ADSRC is intended to be used, but
23 from a conservative standpoint we used ADSRC in this
24 price floor study.

25 Q. Do you know whether the cost studies you're

00856

1 relying on for the LRIC estimates used economic
2 depreciation rates in the calculation of cost?

3 A. I don't know. You would have to ask Mr.
4 Farrow that.

5 Q. On page 2 of your exhibit there are
6 explanations provided as to how the various numbers
7 were calculated; is that correct?

8 A. Yes.

9 Q. Did you provide any work papers or studies
10 with your rebuttal testimony that shows exactly how
11 the costs were developed?

12 A. They were not provided in the testimony,
13 but they were provided in response to a data request
14 from ELI.

15 Q. On page 2 at lines 6 there's an explanation
16 which says that "the NAC cost was calculated as a
17 weighted cost for flat and measured business lines, PBX
18 trunks, PAL lines and DSS"; is that correct?

19 A. Yes.

20 Q. Is Centrex included in that as well?

21 A. No. The usage component for Centrex would
22 be a NAR or a network access register. The NAR is
23 simply a software choke in the system that limits the
24 number of calls incoming or outgoing to the system.
25 There is no physical line associated with the NAR.

00857

1 Q. Turning to line 21, this would be on page
2 4, the explanation of line 21. It states that this is
3 a weighted tariff rate for the various business lines.
4 Which business lines are included in that?

5 A. That would be all of those that are -- that
6 I had listed on the line 6 explanation that we
7 discussed with the addition of the NAR, because the
8 NAR does have a separate charge associated with it.

9 Q. Turning back to your testimony at page 8 on
10 lines 22 to 24 you indicate that when AT&T asked you
11 for the imputation test for business basic exchange
12 you understood that to be a combination of simple and
13 complex business lines; is that correct?

14 A. Yes.

15 Q. Is it the position of the company that an
16 imputation test for each business exchange service is
17 not necessary?

18 A. I don't know that it's not necessary. It
19 certainly will be appropriate to look at each
20 individual business type service, and by that I assume
21 you mean look at PBX simple separately from complex,
22 complex separately from measured. That certainly
23 would be an appropriate calculation to do. However,
24 there's a fundamental public policy issue in front of
25 us and that is how is universal service going to be

00858

1 supported when business contribution is lost
2 and to the extent that a given service does not pass
3 an imputation test -- and I would throw out a PBX as
4 an example -- that it under certain circumstances or
5 certain assumptions may not pass an imputation test
6 while business service as a whole passes an imputation
7 test, the question is do we adjust things to the least
8 common denominator. Does every business service have
9 to pass or is it sufficient for all business services
10 in total to pass effectively allowing the competitors
11 of the AECs to market their services if they market
12 them to a wider variety of customers. If the AEC
13 markets open to PBX customers, for example, and if the
14 determination is made under a certain set of
15 assumptions that the PBX doesn't pass, should we
16 therefore not charge the interim universal service
17 charge or should we not support universal service? So
18 there are a number of key questions there, but I would
19 state that using ASIC in the price floor studies a PBX
20 trunk does pass the imputation test.

21 Q. I'm not sure I completely understood your
22 response because you started by saying you thought it
23 was appropriate to calculate a separate test and then
24 you went off and seemed to say it wasn't.

25 A. I guess from a theoretical standpoint, yes,

00859

1 it's appropriate. From a practical standpoint when
2 you start to consider the public policy issues of
3 support for universal service then you kind of start
4 to have to ask yourself should we.

5 Q. You indicated that you were familiar with
6 cause U-88-2052; is that correct?

7 A. Yes.

8 Q. And isn't it true that in that case
9 separate imputation tests were developed for each toll
10 service including MTS toll pack, WATS and 800 service?

11 A. Yes.

12 Q. And in that rate case docket you have
13 calculated imputation costs floors for each toll
14 service; is that correct?

15 A. Yes.

16 Q. You may have answered this already, but why
17 -- given the fact that individual imputation tests for
18 each toll service were calculated in the prior docket
19 and were found appropriate, given that, why is it
20 appropriate to calculate only an average imputation
21 test for business local exchange?

22 A. I'm not saying it's appropriate to only
23 calculate that. That's all --

24 Q. That's all that you did, though.

25 A. That's all that we presented and in the

00860

1 time frames that we had to do the imputation studies
2 we had to make a determination -- we didn't have time
3 to do all of the imputation studies for each
4 individual service so we made the determination based
5 on the data request that we had from AT&T, the AT&T
6 No. 8 data request, we made a determination to look at
7 just those. Then when the testimony from
8 Mr. Montgomery came in and started to request what
9 about the rest of the business services we again under
10 a limited time made the decision, well, apparently he
11 is interested in looking at all business services and
12 so that's what we produced. We have subsequently --
13 and I will say in the last two days, done some interim
14 studies on a per service basis but there simply wasn't
15 time from this standpoint to get them in.

16 Q. Turning back to your Exhibit C-76, DP-2 on
17 the first page, line 20 shows the company calculation
18 of the total imputed cost; is that correct?

19 A. Yes.

20 Q. And is the amount on line 20 greater than
21 the current tariffed rate for 1FB service?

22 A. No.

23 Q. It is not?

24 A. Not on the same basis of including EAS and
25 the EUCL and looking at the simple and complex

00861

1 weighted average together.

2 Q. Would the answer be the same if you left
3 the EUCL out?

4 A. You are in the process right now of
5 comparing apples to oranges. The number that's shown
6 on line 20 is a combination of all business services.
7 That number on line 20 will change and in fact will go
8 down if you look at just simple and complex together.
9 So if you take that number and compare it to the
10 average revenue for those same services combined. In
11 fact I believe you could take out the EUCL and still
12 pass.

13 Q. But you don't know?

14 A. Yes, I do know.

15 Q. If the Commission were to order that the
16 parties use a bill and keep arrangement for exchanging
17 traffic, would that change your imputation analysis?

18 A. It would change it dramatically.

19 Q. And how would it exchange it?

20 A. Essentially all of the tariffed components
21 would go to zero.

22 Q. Would you turn to page 9 of your rebuttal
23 testimony. And on line 23 you state that "local
24 number portability should not be accounted for in an
25 imputation study." Is that correct?

00862

1 A. Yes.

2 Q. And at lines 26 to 27 you state that "this
3 is an application of the essentiality principle
4 because it is not essential that customers retain
5 their existing phone numbers." Is that correct?

6 A. Yes.

7 Q. So the principle of essentiality, as you
8 introduced it or used it in this case, has then at
9 least two applications. One as it applies to whether
10 an end user requires a functionality such as number
11 portability, and then second going back to page 3 of
12 your testimony, essentiality as it applies to
13 components required by competitors. Is that correct?

14 A. No. I believe there's still only one
15 principle involved and that is does the competitor
16 need to have this in order to provision their
17 competing service? That's the question. And it --
18 clearly competitors do not need to have number
19 portability. If number portability does not exist at
20 all competitors can still provision their services with
21 an effective competent sales force, as I discussed
22 earlier.

23 Q. So in your view it's the same principle?

24 A. It's exactly the same principle, and it's
25 demonstrated today. The AECs have customers on their

00863

1 networks and there is no number portability today.

2 MR. TRAUTMAN: I have no further questions.

3 JUDGE ANDERL: Thank you, Mr. Trautman.

4 Mr. Waggoner.

5

6 CROSS-EXAMINATION

7 BY MR. WAGGONER:

8 Q. Good morning, Mr. Purkey. It's always a
9 pleasure to see you but wouldn't you agree that we
10 wouldn't be seeing you at all if U S WEST were
11 proposing a bill and keep method?

12 A. That's quite likely.

13 Q. And it's also true, isn't it, that we
14 probably wouldn't be seeing you at all if U S WEST was
15 simply proposing to recover its ADSRC for local
16 interconnection?

17 A. Well, U S WEST likes to see me on the stand
18 so I guess that's the reason we did the proposals the
19 way we did.

20 Q. Is the answer yes?

21 A. I'm sorry, could you repeat the question.

22 Q. We wouldn't be seeing you either at all
23 would we if U S WEST were simply proposing to recover
24 its ADSRC of local interconnection?

25 A. No, I don't think that's the case because

00864

1 the recovery would incorporate charges for that
2 recovery and to the extent that we have charges on the
3 AECs then imputation gets involved.

4 Q. But isn't it correct, as you've already
5 testified, that U S WEST has proposed interconnection
6 charges that are many, many times its ADSRC for local
7 interconnection?

8 A. All I testified to was that the cost for
9 measuring was many times lower than the revenues
10 received.

11 Q. Well, have you ever looked at the costs
12 under the ADSRC analysis for local interconnection?

13 A. Yes.

14 Q. And you would agree, wouldn't you, that the
15 price U S WEST is proposing to charge what you call
16 AECs is many, many times its ADSRC?

17 A. Many, many times creates an impression of a
18 very huge number, and no, that's not the case but I
19 will say that, yes, the revenues far exceed the costs.

20 Q. Well, yesterday we were talking to
21 Mr. Farrow about the actual costs, which is on Exhibit
22 C-29, first line, and have you ever looked at that
23 before, do you know?

24 A. I believe I've seen portions of it.

25 MR. WAGGONER: May I approach the witness?

00865

1 JUDGE ANDERL: Yes.

2 Q. Mr. Purkey, I believe you testified that
3 the current proposed prices is approximately 3.3
4 cents; is that correct?

5 A. Yes.

6 Q. And if you look at line 1 of the exhibit
7 I've just given you you will see a cost for local
8 switching, correct, end office switching, local?

9 A. Yes.

10 Q. And you would agree, wouldn't you, that the
11 price you're proposing is many, many times that level?

12 A. Not necessarily because you're comparing
13 apples to oranges. You're comparing the 3.3 cents you
14 spoke of, which I assume is the 3.228 or the 3.28.
15 Incorporated in that 3.3 cent number is the interim
16 universal service charge. That's a cost recovery
17 mechanism to support universal service, not to support
18 the measuring of the AECs's traffic.

19 Q. Well, I'm sure my client Mr. Roe will be
20 very happy to hear that because he has to pay it. It
21 is a cost he has to pay, isn't it?

22 A. And that's why I've included it in the
23 imputation study which demonstrates you can recover
24 that.

25 Q. Let's return to the toddler stage of

00866

1 imputation as you described it. Is it the result of
2 your review of the antitrust law that you have
3 advanced to this advanced stage?

4 A. The review of the antitrust law was part of
5 the process. I think the major part of the process
6 was seven years experience in the industry and seeing a
7 wide variety of people attempt to do a wide variety of
8 things under the guise of imputation but losing sight
9 of the reason that we're doing it in the first place.

10 Q. Let's talk about the antitrust laws since
11 you've brought them up, Mr. Purkey?

12 A. Yes.

13 Q. How many ski areas do you think there are
14 in Colorado, Mr. Purkey?

15 A. I would say many, many.

16 Q. I'm sure you're familiar with the precedent
17 on the antitrust laws about ski areas in Colorado?

18 A. No, I'm not at all.

19 Q. The United States Supreme Court decision,
20 you're not familiar with that?

21 A. No, I'm not.

22 Q. How about football stadiums? How many
23 football stadiums do you think there are on the east
24 coast, Mr. Purkey?

25 A. Many, many.

00867

1 Q. Are you familiar with the decision on the
2 essential facilities doctrine as applied to a football
3 stadium?

4 A. No, I'm not.

5 Q. Mr. Purkey, you arrived at I believe a
6 number that was significantly lower to impute as a
7 result of offsetting what you would pay what you call
8 an AEC against what U S WEST gets paid by the AEC; is
9 that correct?

10 A. Yes.

11 Q. I would like to try to apply this in a
12 slightly simple example. Let's assume you and I each
13 have a car we want to sell to each other, okay?

14 A. Okay.

15 Q. Let's assume you sell me the car at a
16 dollar and I sell you the car at a dollar. Got that?
17 We each have separate cars. You're going to sell me a
18 car and I'm going to sell you a car.

19 A. And that's inherent in the agreement we're
20 not going to sell these cars unless we sell them to
21 each other?

22 Q. Let's start with the assumption that we
23 each have a car --

24 A. The assumption I just mentioned is
25 critical.

00868

1 Q. No, it's not. I'm asking you to accept the
2 assumption that we each have a car that we're going to
3 sell each other for a dollar. Can you focus on that
4 one?

5 A. With the understanding there are a number
6 of different assumptions with that beyond your
7 assumption.

8 JUDGE ANDERL: Just limited to what he said
9 so far.

10 Q. This is going to be a lot shorter if we can
11 do this. Okay. We now sell each other a car for a
12 dollar.

13 A. Okay.

14 Q. I assume my cost is now zero in your
15 analysis?

16 A. Essentially, yes.

17 Q. Let's assume you then turn around, and you
18 happen to have the same car sitting in your lot and
19 you sell it to somebody else for fifty cents. Okay,
20 got that?

21 A. Okay.

22 Q. And let's assume I take the car you sold me
23 for a dollar and I take it over and sell it to the
24 person or try to sell it to the person whom you sold
25 it to for fifty cents and I say can I get a dollar for

00869

1 this and they say, well, I'm sorry, I already bought it
2 for fifty cents I don't want to pay a dollar. Do you
3 think I should feel good about the fact that I have a
4 zero cost?

5 A. You've not lost anything.

6 Q. Just the opportunity to sell to the customer
7 you sold for fifty cents, correct?

8 A. The opportunity to sell is presented in the
9 imputation study and that opportunity to sell is
10 available.

11 Q. Okay. Well, if I want to lose fifty cents
12 which I go to sell to that customer, you're right, I
13 can make the sale.

14 Let's turn to another subject. You talked
15 about how different the long distance market is than
16 the local market?

17 A. Yes.

18 Q. And how the long distance market has
19 exploded and customers have received price benefits
20 and new services and so on; is that correct?

21 A. No. All I said was that the usage has
22 exploded.

23 Q. Do you think that might be because there's
24 competition in the long distance market?

25 A. I think the interexchange carriers would

00870

1 like us to believe that, but I don't believe that
2 that's entirely the case.

3 Q. Mr. Purkey, have you ever gotten a check
4 from an interexchange carrier offering you \$55 if you
5 will change service to them?

6 A. I've received similar offers.

7 Q. Have you ever gotten such a check from U S
8 WEST offering you \$55 to stay with U S WEST?

9 A. Not yet.

10 Q. And isn't it true that if there were price
11 competition in the local exchange market customers
12 actually might get price breaks?

13 A. We're proposing many price breaks in the
14 upcoming rate case.

15 Q. Oh, is that the increase in local
16 residential rates you were thinking of?

17 A. It would be the decrease in toll services
18 that our customers will benefit from as well.

19 Q. Why are you proposing toll decreases,
20 Mr. Purkey?

21 A. Basically because of competition.

22 Q. Correct.

23 A. And our costs are lower because the
24 imputation is lower because our access prices are
25 lower.

00871

1 Q. Mr. Purkey, are you familiar with the recent
2 Commission experience with the 360 area code?

3 A. Generally.

4 Q. And would you believe based on that
5 experience that telephone customers don't care about
6 keeping the same phone number?

7 A. I'm not sure that that was the issue with
8 the 360. I thought it was an issue of the PBXs not
9 being programmed correctly to accommodate the 360.

10 Q. You haven't talked to anybody who was
11 unhappy about the fact that somebody had to learn a
12 new phone number for them?

13 A. I'm not saying that there aren't customers
14 who are unhappy about phone number changes. There are
15 thousands and thousands of customers out there. It
16 would be ludicrous to think that all of them were of a
17 uniform mind. All I'm saying is that with a competent
18 sales force correctly presenting benefits to customers
19 you can overcome that problem.

20 Q. Do you think U S WEST has a competent sales
21 force?

22 A. I would like to think so, yes.

23 Q. And do you think that a competent sales
24 force of U S WEST might be explaining to customers the
25 benefits of keeping the same phone number?

00872

1 A. Yes. That's a part of sales. It's a part
2 of marketing.

3 Q. I believe you've already testified that if
4 the Commission were to reject U S WEST's interim
5 universal service charge that would cut the price
6 floor almost in half, did you say, or more than in half?

7 A. Almost in half roughly.

8 Q. I guess I think it's -- if you could look
9 at your exhibit what's been marked C-76. Could you
10 focus on what is line 18?

11 A. Yes.

12 Q. And you would agree, wouldn't you, that
13 that's almost entirely comprised of the interim
14 universal service charge?

15 A. Yes.

16 Q. And if you compare that to the number on
17 line 21, wouldn't you agree that that's significantly
18 more than 50 percent?

19 A. That number is yes, but the number on line
20 20 is a weighted number.

21 Q. I said 21.

22 A. Right. 21 is not the price floor. 21 is
23 the rate.

24 Q. I understand. I'm asking you a comparison
25 between the costs resulting from the interim universal

00873

1 service charge and the rate and you would agree that
2 it's more than 50 percent, wouldn't you?

3 A. Again, you're comparing apples to oranges.
4 The number on line 18 is not a weighted number, which
5 would be a more appropriate comparison, and again, the
6 number on line 18 does include the cost shown on line
7 8.

8 Q. Yes, but the costs shown on line 8 is a
9 very small number, isn't it?

10 A. Relatively, yes.

11 Q. Are you surprised by how small the numbers
12 are that are produced by LRIC and how large the
13 numbers are that seem to be produced by the tariffed
14 elements?

15 A. No.

16 Q. Why not?

17 A. That's historically been the case. Again,
18 looking at regulation in its entirety, we have set up
19 this system that has inherent subsidies in it, and it
20 only makes sense that if you have service A that is
21 below cost and service B has to -- then service B has
22 to be priced farther above its cost than it might
23 otherwise be in order to support service A. That's a
24 fundamental precept of the regulatory environment that
25 we're in.

00874

1 Q. Since we're talking about history, it's
2 correct, isn't it, that this year is the first time that
3 there's been any local switched service competition in
4 Washington state; isn't that correct?

5 A. Generally speaking, yes.

6 Q. So wouldn't you agree the Commission is
7 confronted with a new situation here?

8 A. Absolutely.

9 Q. And a new set of charges for a new type
10 of company?

11 A. Absolutely, and that's why we don't want
12 this subsidy for service A to be overlooked in the
13 process. The AECs seem to be focusing on service B.
14 All we're saying is, Commission, please look at both of
15 these services and consider both of them in this
16 process.

17 Q. Let's focus while we're on your Exhibit
18 DP-2 which is C-76, there are a lot of minutes up on
19 lines 1 through 5, aren't there?

20 A. Yes.

21 Q. Just minutes number?

22 A. Yes.

23 Q. Just trying to focus you on the minutes.

24 A. Right.

25 Q. And then you earlier in your surrebuttal to

00875

1 Mr. Andreassi offered some opinions about how many
2 minutes of use really go over trunks?

3 A. Yes.

4 Q. And you would agree, wouldn't you, that some
5 kind of trunks have more usage than others? Yes?

6 A. Are you talking about PBX trunks?

7 Q. No. Just in general. Trunks have lots of
8 different types of usage.

9 A. Varying from customer to customer, yes.

10 Q. And varying from service to service also?

11 A. Yes.

12 Q. And you would agree also that a DSS trunk
13 for instance would be likely to have more usage than a
14 simple business trunk?

15 A. Definitely.

16 Q. And that's because DSS is generally
17 purchased by customers with very heavy usage; is that
18 correct?

19 A. Yes.

20 Q. Wouldn't you agree, Mr. Purkey, that we
21 could entirely dispense with lines 1 through 5 if the
22 Commission were to adopt a flat-rated interconnection
23 charge as opposed to a message-based interconnection
24 charge?

25 A. I don't think that would be a good decision

00876

1 to base a --

2 Q. Mr. Purkey, could you just answer yes or no
3 and please explain.

4 A. If the Commission ordered a flat-rated
5 charge then we're kind of back to your original
6 question whether I would be here. There would be no
7 imputation analysis. We wouldn't need to look at
8 these minutes, that's correct, but are you implying
9 that the Commission would make such a decision to get
10 rid of the minutes analysis so that we don't have to
11 measure it?

12 Q. No. Mr. Purkey, what I'm trying to get you
13 to do is accept for a moment the Commission adopts a
14 flat-rated charge because the retail environment in
15 which U S WEST operates is also flat rated. Do you
16 have that assumption in mind?

17 A. Yes.

18 Q. Wouldn't it be simpler to use a flat-rated
19 interconnection charge because U S WEST operates in a
20 flat-rated retail environment and thus wouldn't you be
21 able to eliminate all the minute calculations on lines
22 1 through 5?

23 MR. OWENS: Objection, two questions.

24 Compound question.

25 JUDGE ANDERL: He can answer them one at a

00877

1 time.

2 A. It may be simpler but it's not necessarily
3 better. Simpler is not better.

4 Q. Well, I take it U S WEST likes simple when
5 it's marketing to customers with flat-rated business
6 service options, doesn't it?

7 A. Simple is sometimes better, simple is
8 sometimes worse.

9 Q. So simple is better when you're trying to
10 keep your retail customers but it's not better when
11 you're trying to deal with your competitors?

12 A. No. What we're trying to deal with here is
13 the support of universal service, and the simple method
14 doesn't provide that.

15 Q. Well, isn't it true, Mr. Purkey, that you
16 believe you obtained contribution from your business
17 customers?

18 A. Yes.

19 Q. And don't you like simplicity in offering
20 flat-rated service to your business customers?

21 A. Generally, yes. You also can offer
22 flat-rated service. That's the whole point of the
23 imputation study.

24 Q. Well, wouldn't you agree based on your
25 personal understanding of Washington state law that we

00878

1 have to offer flat-rated local service?

2 A. I overlooked that for a minute but, yes,
3 that's correct.

4 Q. Well, I take it you overlooked that
5 generally when you were preparing your Exhibit C-76?

6 A. Not at all. As a matter of fact, it was
7 made with that assumption in mind that you would be
8 charging flat-rated service.

9 Q. Who would be charging flat-rated service?

10 A. The AECs.

11 Q. Thank you. You had a discussion with staff
12 about the fact that you aggregated various business
13 services into your price floor analysis. Do you
14 recall that discussion?

15 A. Yes.

16 Q. Are there any the contract services
17 provided by U S WEST that you included in this
18 analysis?

19 A. To the extent that DSS service has
20 contracts associated with it, that would be included
21 in the analysis.

22 Q. And when U S WEST offers a contract service
23 doesn't it generally do it to offer a lower price in
24 response to competition?

25 A. Not necessarily. Sometimes a contract is

00879

1 offered for price stability purposes.

2 Q. Do customers ordinarily accept a contract
3 for price stability purposes if they don't also get a
4 discount?

5 A. Yes.

6 Q. You would agree, wouldn't you, that a flaw
7 in C-76 is that it fails to separate out, for
8 instance, DSS?

9 A. I would not say it's a flaw. I would say
10 that we have submitted a certain set of assumptions and
11 as a result this price floor analysis came out of that
12 certain set of assumptions. Now, if you want to
13 change the assumptions then we can do a different
14 study and look at those set of assumptions and see
15 what they stand for.

16 JUDGE ANDERL: Excuse me. I'm not sure the
17 record reflects what DSS stands for.

18 THE WITNESS: Digital switched service.

19 Q. You've already testified that the reason
20 you did a business-wide -- business service wide study
21 is because you think that that's the market in which
22 the AECs as you call them would be competing?

23 A. Yes.

24 Q. Do you think that U S WEST may offer to
25 customers lower priced services in order to retain

00880

1 them when an AEC offers that customer a competitive
2 alternative?

3 A. That certainly is a logical outcome of
4 competition.

5 Q. And so you think it's possible that in the
6 competitive environment AECs will be more often
7 competing on price with lower priced services offered
8 by U S WEST rather than the higher priced services?

9 A. It depends on the business strategies of
10 the AEC. Certainly another strategy that's available
11 is to compete at the same price but offer more
12 benefits. Somehow package its service so that it
13 offers more to the customer. So price is not
14 necessarily the only consideration there.

15 Q. But you would agree it's at least possible
16 that if an AEC comes to a customer and offers them a
17 lower price than U S WEST has offered that U S WEST
18 will in turn respond to that customer with the lowest
19 priced alternative U S WEST has available for that
20 customer? Isn't that correct?

21 A. It's a possibility, but it's only one of
22 many possibilities. For example, in request for
23 proposals that I've been involved in we are not
24 necessarily always the lowest priced provider.
25 However, we still win the contracts based on the other

00881

1 benefits that we bring to the table.

2 Q. Was that a yes?

3 A. It's a yes that it's a possibility and only
4 one of many possibilities.

5 Q. Let's just return briefly for a moment to
6 the concept of essentiality as you described it. It's
7 correct, isn't it, that U S WEST has not included the
8 tariffed element for tandem switching or transport; is
9 that correct?

10 A. Well, I'm just trying to think of --

11 Q. If the answer is --

12 A. I guess the answer is no, but there's a
13 reason for that.

14 Q. Well, maybe we can get to the reason then.
15 If a new local exchange carrier wants to connect at
16 U S WEST's tandem --

17 A. I'm sorry, I need to amend my previous
18 answer. Yes, we have --

19 Q. Where is it? Which line?

20 A. I'm sorry.

21 Q. Which line on Exhibit C-76?

22 A. I was trying to think in terms of the
23 matched traffic that we had included here.

24 Q. What I'm trying to do is look at the
25 component line 6 through 12 and if you can just help

00882

1 me out?

2 A. No, it is not there.

3 Q. Let me try a hypothetical on you and you
4 can tell me if I understood this at all right. Let's
5 assume an AEC decides it does not want to transport
6 out to all of the individual U S WEST central offices
7 in an area. Do you have that assumption in mind?

8 A. So it's made that business decision.

9 Q. It's made that decision?

10 A. Okay.

11 Q. And let's assume that it decides that it
12 want to connect to a U S WEST tandem and rely on U S
13 WEST for transport to various end offices?

14 A. Okay. So that's the decision it's made
15 among some alternatives that it has considered.

16 Q. We'll get on to the alternatives eventually
17 but let's just try and focus on this first. How would
18 a new local exchange carrier pay for that tandem
19 switching and transport under U S WEST's proposed
20 tariffs in this proceeding?

21 A. In that scenario where they have made that
22 business decision to use it, they would pay the
23 tariffed rates.

24 Q. And where are the tariffed rates shown on
25 Exhibit C-76?

00883

1 A. They're not in there because they are not
2 essential.

3 Q. And instead could you just by line number
4 and name of line tell me which components would apply
5 to that set of facilities, the tandem switching and
6 the transport? Just give me some line numbers is all
7 I'm asking for on your component list.

8 A. Line 8 for terminating transport would be
9 at the long-run incremental cost transport includes
10 the cost of tandem switching in it.

11 Q. Okay. That's a number that seems to have a
12 lot of zeroes in it. Am I seeing the right number?

13 A. Yes.

14 Q. Do you know what the tariff rate for that
15 service is?

16 A. No, I don't.

17 Q. Would you accept subject to check that it's
18 many, many, many times that --

19 A. That's three manys. I will accept that
20 it's much larger.

21 Q. How many central offices does U S WEST have
22 in Washington state?

23 A. I don't know exactly.

24 Q. More than 20? More than 100? More than
25 500? Do you have any idea at all?

00884

1 A. More than 100.

2 Q. And so in order for an AEC or a new local
3 exchange carrier to avoid the tandem switching and
4 transport it would have to connect to each of those
5 end offices individually; is that correct?

6 A. If it wanted to reach customers in all of
7 those, but again, that assumes that U S WEST in the
8 future is going to be the only provider of tandem
9 switching.

10 Q. Do you have any idea whether U S WEST ever
11 transports its own traffic through the tandem as
12 opposed to directly connecting all end office?

13 A. I believe we do transport some local
14 traffic through a tandem.

15 Q. And in fact probably a very, very, very
16 large number of minutes?

17 A. Yes.

18 Q. And that's because it's more efficient for
19 U S WEST to sometimes go through the tandem rather
20 than having to connect all of the end offices with
21 each other?

22 A. Sometimes being the operative word, yes.

23 Q. Well, do you have any opinion as to how
24 large the sometimes is, Mr. Purkey?

25 A. No, I don't. I just know that we have many

00885

1 central offices that are hooked together directly with
2 trunks and do not use the tandem based on traffic
3 volume. So there's a break even point. So if their
4 traffic volume is sufficiently large then it's better
5 economically to direct connect those two as opposed to
6 going through a tandem. I don't know what that break
7 even point is, though.

8 Q. So you don't have any opinion as to whether
9 that's 80 percent, 20 percent, 50 percent?

10 A. No.

11 Q. Could you look at lines 16 of your Exhibit
12 C-76.

13 A. Okay.

14 Q. That is the purported charge for connecting
15 U S WEST to independent companies; is that correct?

16 A. That's not the charge. That's the cost
17 that U S WEST incurs, and, again, it's not the number
18 -- the dollar figure shown there is not a weighted
19 number.

20 Q. Mr. Purkey, let me try and ask the
21 questions and this will go more quickly. Is that for
22 EAS traffic or toll traffic?

23 A. EAS.

24 Q. And what are U S WEST's current
25 arrangements for EAS with independent companies?

00886

1 A. I believe it can be characterized as bill
2 and keep.

3 Q. And if U S WEST were paying independent
4 companies for interconnection over EAS routes rather
5 than doing it on a bill and keep basis, would line 16
6 be correct?

7 A. No.

8 Q. Do you know whether GTE has a proposal as
9 to whether independent -- excuse me -- whether AECs
10 must pay for interconnection with GTE?

11 A. I believe it does, but I don't know what
12 the levels are.

13 Q. Would you accept subject to check that the
14 GTE proposed charge -- well, that makes it harder to
15 check if they haven't given a number. Well, let's try
16 and do this. Let's just ask you to assume that GTE
17 has a proposal in the range of three cents per minute
18 for interconnection by new local exchange carriers?

19 A. Okay.

20 Q. Do you have an opinion as to the effect on
21 line 16 if U S WEST had to impute or, in this case it
22 wouldn't even be imputing would it -- if U S WEST had
23 to include an approximately three cent cost for
24 terminating EAS traffic to GTE?

25 A. Number on line 16 would increase by a large

00887

1 amount. However, it would still need to be weighted
2 with the appropriate percentage of traffic down in line
3 20 but it would still be -- the input would be much
4 larger than it is now.

5 Q. One last question, if you look at line 5.
6 Line 5 is unmatched interoffice as you call it,
7 correct?

8 A. Yes.

9 Q. And that's a number you derived by
10 subtracting what you estimated would be the traffic
11 going from the AEC to U S WEST. You subtracted that
12 number from the number you thought would be going from
13 U S WEST to the AEC; is that correct?

14 A. That's the concept, yes.

15 Q. And you used a -- I assume the percentage
16 ratio that you estimated is not confidential?

17 A. That's correct.

18 Q. You used a 60/40 ratio, correct?

19 A. Right.

20 Q. You would agree wouldn't you that the
21 numbers shown on line 5 would be higher if you had
22 assumed a ratio of 80/20 as opposed to 60/40?

23 A. That's correct. I did do some sensitivity
24 analyses based on 60/40 versus the 70/30 versus an
25 80/20 split. And the impacts really aren't that

00888

1 great.

2 MR. WAGGONER: Your Honor, could I have
3 about a minute? I just want to go through the
4 surrebuttal since that was the first time I heard it.

5 JUDGE ANDERL: Sure.

6 Q. I do have one last question for you,
7 Mr. Purkey. I understand you're U S WEST's imputation
8 expert; is that correct?

9 A. Yes.

10 Q. So have you read the decision of this
11 Commission in the Northwest Pay Phone case?

12 A. I'm generally familiar with it, yes.

13 Q. Would you consider that decision still to
14 be in the toddler phase?

15 A. I guess I would have to review it more
16 thoroughly with that idea in mind. I haven't done it
17 with that idea in mind.

18 MR. WAGGONER: No further questions.

19 JUDGE ANDERL: Thank you. Mr. Butler, do
20 you still have about 15 minutes or shall we go ahead
21 and take our break?

22 MR. BUTLER: I think I would like to take a
23 break because I think a lot of the questions I
24 originally intended to ask may be unnecessary at this
25 point but I would like to be able to collect some

00889

1 thoughts about the surrebuttal.

2 MS. WEISKE: And also, if I do follow

3 Mr. Butler I do have exhibits to mark.

4 JUDGE ANDERL: Let's take 15 minutes and be

5 back at 10 after.

6 (Recess.)

7 JUDGE ANDERL: Let's be back on the record

8 then, and, Mr. Butler, we'll go to you for cross of Mr.

9 Purkey. Grab that microphone.

10

11 CROSS-EXAMINATION

12 BY MR. BUTLER:

13 Q. Mr. Purkey, I'm sure you will be glad to

14 know that a lot of the questions I was going to ask

15 you have already been asked and answered by you.

16 A. Extremely pleased.

17 Q. I have a couple questions about the

18 discussion that you've had with a couple of the other

19 questioners previously. You made a statement during

20 your questioning to the effect that as long as revenues

21 received exceed the measurement costs that should be

22 the end of the story. Would you agree that in addition

23 to the strict measurement costs in the pending U S WEST

24 rate case that the company has estimated approximately

25 \$6.8 million would have to be paid to the independent

00890

1 local exchange companies if measurement were imposed on
2 the exchange of the EAS traffic?

3 A. I'm not familiar with that.

4 Q. Would you accept the fact that there would
5 have to be compensation paid by U S WEST to
6 independent companies if there were a measurement
7 system imposed for the exchange of the EAS traffic
8 between carriers?

9 A. Yes. That general concept.

10 Q. Are you aware of whether with respect to
11 toll traffic U S WEST's pays access charges to the
12 independent companies for terminating traffic in their
13 territories?

14 A. We do.

15 Q. And U S WEST receives toll revenues because
16 it's a designated toll carrier; is that correct?

17 A. That's correct.

18 Q. Would you agree that the net exchange of
19 revenues between U S WEST and the independents flows
20 to the independent favoring that -- for that traffic?

21 A. No.

22 Q. You think that U S WEST collects more than
23 it pays to the independents?

24 A. Yes.

25 Q. You expect that would be the case with the

00891

1 exchange of local traffic?

2 A. I don't know.

3 Q. Do you think that the independent's access
4 charges generally are higher than U S WEST's access
5 charges?

6 A. For toll services?

7 Q. Yes.

8 A. Yes.

9 Q. If they were to impose measured rates for
10 the exchange of local traffic would you expect -- and
11 those rates reflected their access charges would you
12 expect that they would be higher than U S WEST rates?

13 A. I don't know that. I would think they
14 would be comparable.

15 Q. Are the rates that U S WEST is proposing
16 for the local switching -- or local interconnection
17 charges here, higher or lower than your switched
18 access rates?

19 A. I believe they're the same.

20 Q. But you accepted a moment ago that the
21 independent's access charges were higher than the U S
22 WEST access charges; isn't that correct?

23 A. Well, if the independents mirrored their
24 existing switched access charges then, yes, their
25 interconnection charges would be higher than ours.

00892

1 Q. So that was the question I asked you and
2 your answer would be yes, that you would expect that
3 they would be higher and that if the traffic volumes
4 changed were equal there would be a net revenue flow
5 to the independents, is that correct, from U S WEST?

6 A. If they were equal, yes.

7 Q. You made some statements about whether
8 customers care whether they have to change their
9 telephone numbers when they move or if they were to
10 change carriers. Have you done any surveys in regard
11 to the willingness of business customers to change
12 their telephone number?

13 A. None other than my own personal experience
14 when I was in sales dealing specifically with hundreds
15 of business customers.

16 Q. When was that again?

17 A. Essentially from 1981 through about 1988.

18 Q. At that time did business customers have
19 alternative choices for local exchange service?

20 A. No.

21 Q. Have you reviewed any surveys or studies
22 done by other party with regard to the willingness of
23 business customers to change their telephone number?

24 A. No.

25 Q. If I can direct your attention to your

00893

1 Exhibit C-76, please.

2 A. Okay.

3 Q. Specifically lines 6?

4 A. Okay.

5 Q. And that is the LRIC figure associated with
6 the network access channel, correct?

7 A. Yes.

8 Q. Can you tell me whether that is a blended
9 cost figure?

10 A. Yes. The footnote down at the bottom of
11 the page shows that it's a weighted average of flat
12 and measured business lines, PBX trunks, DSS and
13 public access lines. As I explained earlier it does
14 not include the NAR in that because the NAR has
15 essentially no cost associated with it.

16 Q. Does it include Centrex station lines?

17 A. No.

18 Q. Is there some reason why those were
19 excluded?

20 A. We were looking at essentially the network
21 access and the NAR is the function in Centrex that
22 gives the end users access to the network.

23 Q. The NAR is like -- would you say a fair
24 characterization would be that it would be like a
25 flat-rated port or a software restriction in the

00894

1 central office?

2 A. Yes.

3 Q. But in fact the network access channel that
4 connects the end user to the central office switch is
5 the Centrex station line, correct?

6 A. It is the Centrex station line. I'm not
7 sure --

8 Q. The NAR is not a physical facility. It
9 doesn't --

10 A. That's correct.

11 Q. And physical facility used is the station
12 line, correct?

13 A. Yes. But the station line does not give
14 you access to the network.

15 Q. The access to the network is given or
16 restricted by the NAR, right?

17 A. Yes.

18 Q. But it is still a network access channel,
19 correct, the station line?

20 A. It may use the network access channel, yes,
21 station line may.

22 Q. But again that was not included, correct?

23 A. No.

24 Q. Now, when you say that this is a blended
25 rate, does that mean that it was calculated using the

00895

1 various -- let me back up. Were you in the hearing
2 room yesterday when Mr. Farrow testified?

3 A. For part of the time.

4 Q. Did you hear his testimony about the
5 computation of the costs of a loop in the sense of it
6 was calculated assuming a variety of designs, for
7 example, high rise office building or a location in a
8 suburban area?

9 A. I was here for some of the follow-up
10 questions to that.

11 Q. Can you confirm whether this blended cost
12 figure on line 6 incorporates the various designs that
13 Mr. Farrow referred to?

14 A. I assume that it does, but I can't tell you
15 for sure. Its NAC costs are taken from Mr. Farrow's
16 testimony.

17 Q. So it would be your testimony, then, that
18 the NAC cost included here would include riser cable
19 in high rise buildings?

20 A. To the extent that those are included in
21 the studies, yes.

22 Q. But you have no independent knowledge about
23 that? You're just assuming that they are?

24 A. Per Mr. Farrow's testimony.

25 Q. I would like to ask you just a couple of

1 questions about your responses to Mr. Waggoner's
2 questions. If I understood your answer, answers to
3 him correctly, you stated that the figure on line 16
4 of Exhibit C-76 would be larger if measured
5 compensation scheme were imposed for an exchange of
6 traffic with independent local exchange companies? I
7 think the example was GTE?

8 A. Yes, I threw some caveats in there as well,
9 but generally, yes.

10 Q. Now, if the figure on line 16 were larger
11 than what is reflected here, would the figure on line
12 20 be larger as well?

13 A. The figure on line 20 would be but also the
14 figure on line 21 would be also essentially.

15 Q. Do you know the relationship between --

16 A. No, I don't. The principle behind that
17 would be that again it's a two-way street, so while U S
18 WEST would pay revenues to the independent companies,
19 pay charges to the independent companies it would also
20 be receiving revenues back, so the calculation that
21 Mr. Waggoner had me do only looked at one half of that
22 equation. We hadn't yet incorporated the revenues
23 that we would receive, so to do a full analysis of
24 this thing that hasn't been done.

25 Q. The line 20 would be larger, correct?

00897

1 A. Generally, yes.

2 Q. And did I understand you to say that line

3 21 would be larger as well?

4 A. I'm trying to figure out where I would put
5 in those revenues that we receive from the independent
6 companies.

7 Q. 21 represents tariff rate, correct?

8 A. That's true. I'm just trying to find a
9 spot in the study to include that.

10 Q. I'm going to ask you to make an extreme
11 hypothetical assumption, and that is that everyone
12 here agrees that your imputation analysis reflected in
13 C-76 is correct?

14 A. I don't find it so farfetched.

15 Q. You don't find it farfetched that everyone
16 here would agree with it?

17 A. I believe they should agree with it.

18 Q. Please make that assumption. Is that, if
19 I'm correct, the figure represented on line 20 is
20 supposed to be a price floor, that would be a level
21 below which U S WEST could not reduce its price; is
22 that correct?

23 A. Yes.

24 Q. And if it did you would have a situation of
25 undue discrimination against competitors. Is that a

00898

1 conclusion?

2 A. That's fair.

3 Q. Would you agree that one of the generally
4 perceived benefits of competition is its potential to
5 produce consumer benefits in a form of lower prices?

6 A. Yes.

7 Q. Would you also agree that an imputed price
8 floor such as would be calculated on line 20 of
9 Exhibit C-76 -- if we were to continue the assumption
10 that I asked you to make a moment ago -- would
11 represent the limit of the benefit that can be
12 achieved by ratepayers from competition in the form of
13 price reductions? In other words, U S WEST could not
14 reduce its price below that level?

15 A. Not at all. The key to that is the interim
16 universal service charge. Again, that's an interim
17 number. It's -- this study is --

18 Q. Let's assume --

19 MR. OWENS: Excuse me. Had you finished
20 your answer, sir?

21 THE WITNESS: No, I haven't.

22 MR. BUTLER: Let me change the question
23 here. I want him to also assume that all things
24 remain as they are today.

25 MR. OWENS: The witness is entitled to

00899

1 finish his answer before the question is changed.

2 MR. BUTLER: He's answering a question that
3 wasn't asked to him.

4 JUDGE ANDERL: Mr. Butler can change the
5 question. You can follow it up on redirect if you
6 want to.

7 Q. Assume that things remain as they are
8 today, that no new entrant has met the criteria that
9 the company has proposed, that the Commission were to
10 adopt the proposal the company makes and so this
11 interim universal service charge has not been waived,
12 and I've asked you to assume that the analysis that you
13 present here is accepted and correct and in effect. Do
14 you have those assumptions in mind?

15 A. So you're changing -- nothing is going to
16 change over time basically. This is a static study?

17 Q. Yes. That's correct. Nothing would change
18 over time for the purposes of this question.

19 A. More extreme assumption than the other one.

20 Q. Well, I will ask you to make some other
21 ones that will talk about some different circumstance.
22 With those assumptions, the limit of any benefits that
23 ratepayers could expect to see in the form of price
24 reductions would be as represented by that imputed
25 price floor on line 20; is that correct?

00900

1 A. No. That's also not true.

2 Q. Why is that not true?

3 A. The reason is because while U S WEST would
4 be constrained from pricing below that number
5 competitors certainly are not. They are under no
6 obligations to price above cost. They have a variety
7 of other services that they can get from customers in a
8 packaged form that will bring their total revenues
9 above, so while U S WEST will have that constraint, the
10 competitors certainly do not.

11 Q. Would you consider U S WEST to be a price
12 leader generally in the local exchange market?

13 A. I would think -- yes.

14 Q. And you did confirm that from a standpoint
15 of U S WEST ratepayers there could be no further
16 potential public benefit in the terms of lower prices
17 than what is represented on line 20?

18 A. I'm sorry, could you repeat the question.

19 Q. From the standpoint of U S WEST ratepayers
20 they could not expect, with the assumptions that we've
21 talked about, any further benefit in the form of a
22 possibility of lower prices than what is represented
23 by the price reflected on line 20?

24 A. On a weighted average, that's correct.

25 Q. Now, am I correct that in response to other

00901

1 questions by Mr. Waggoner you indicated that if the
2 Commission were to order that bill and keep be adopted
3 as the method for intercompany compensation that a
4 number of the figures on your Exhibit C-76 would
5 change, and they would in fact go away; is that
6 correct?

7 A. The tariffed component would be replaced by
8 long-run incremental cost components.

9 Q. And would that be the figures represented
10 on lines 16, 18 and 19?

11 A. I'm sorry, I'm still thinking back to my
12 answer with the tariffed component would be replaced
13 by LRIC, so the item on lines 9 through 12 would
14 become LRIC numbers, and then the calculations would
15 essentially be the same in lines 13 through 20.

16 Q. And you wouldn't be doing compensation on a
17 per minute basis, right -- bill and keep by
18 definition?

19 A. Oh, I'm sorry, yes, correct.

20 Q. So the figures on 16, 18 and 19 at least
21 would be significantly lower than what it represented
22 here, right?

23 A. Yes. We would just be simply looking at
24 the cost of U S WEST to provide the service.

25 Q. And the resulting figure on line 20 would

00902

1 also be lower; isn't that correct?

2 A. Yes, it would.

3 Q. So in fact the potential benefit for
4 ratepayers in terms of possible price reductions would
5 be significantly greater under that scenario; isn't
6 that correct?

7 MR. OWENS: Again, are we asking the
8 witness to assume a full static set of conditions such
9 as was assumed when he tried to answer before in the
10 negative?

11 MR. BUTLER: Well, I'm assuming if we have
12 bill and keep we're not having measured-by-the-minute
13 compensation.

14 MR. OWENS: But the basis of your question
15 is a comparison to another condition and I'm just
16 asking --

17 MR. BUTLER: My question is assuming bill
18 and keep -- and I'm asking him what that does to his
19 imputation analysis on Exhibit C-76 and he has
20 responded that it would change the numbers on at least
21 lines 16, 18 and 19 and lines 20.

22 MR. OWENS: But you asked him the cleanup
23 question, would that produce greater benefits, and I'm
24 asking in comparison to the static set of conditions
25 you asked him to assume before, is that the assumption

00903

1 that you're asking him to --

2 MR. BUTLER: I'm asking him to make
3 different assumptions, the assumption I just gave him
4 that we have bill and keep and not the compensation
5 scheme that has been proposed and was used to develop
6 the exhibit originally.

7 JUDGE ANDERL: Mr. Purkey, can you answer
8 that question?

9 MR. OWENS: So you're not asking him to
10 assume as the basis of that comparison the static set
11 of conditions?

12 JUDGE ANDERL: Mr. Owens, I think it's
13 pretty clear that he's not.

14 A. Could you repeat the question. I'm sorry.

15 Q. If the Commission were to order that bill
16 and keep should be the compensation method for the
17 exchange of traffic between the carriers you
18 indicated, if I'm correct, that the figures on line
19 16, 18 and 19 at least would be less than what we are
20 here, and as a result the figure on line 20 would be
21 less than is reflected here on Exhibit C-76?

22 A. Yes.

23 Q. And my question to you now is would you
24 agree that the potential benefit to ratepayers in the
25 form of possible price reductions would be greater

00904

1 under that scenario assuming bill and keep than it
2 would be under the scenario of the compensation scheme
3 that you have proposed?

4 A. Which customers? Residential or business
5 or both?

6 Q. Let's take the business customers that are
7 reflected in this analysis? In other words, you could
8 have greater price reductions before you reached the
9 point of dropping below an imputed price floor,
10 correct?

11 A. That's correct. The difficulty that I'm
12 having is that we are -- you're using this price floor
13 analysis and taking many of the components to zero but
14 you're not looking at the costs involved to still
15 provide the service, so, yes, while the number on line
16 20 would be lower, I'm not sure that because that
17 number on line 20 is lower that I can say yes to your
18 question, because there are other constraining factors
19 involved in there.

20 Q. Didn't you agree that imputed price floor
21 is a point beyond which U S WEST could not decrease
22 its prices without unduly discriminating against
23 competitors?

24 A. Yes. But that assumes that we've done an
25 appropriate imputation test.

00905

1 Q. Well, let's assume that --

2 A. And I'm not sure a bill and keep
3 environment can necessarily be applied to this
4 imputation is what I'm saying.

5 Q. Do you think if there's bill and keep you
6 can't have an imputation analysis of other elements
7 the competitors are required to purchase from U S
8 WEST?

9 A. We could do one. I'm just not sure that it
10 would be in this form that the assumptions would be
11 the same. That's the problem I'm having.

12 Q. Let's assume that you could do a correct
13 imputation analysis under a bill and keep environment.

14 A. Okay.

15 Q. Would you agree, then, that that imputed
16 price floor in a bill and keep environment would be
17 lower than the imputed price floor you've calculated
18 on Exhibit C-76 for your proposed compensation scheme
19 in this case?

20 A. I'm sorry to be difficult here, but it
21 seems to me we're still comparing apples to oranges
22 here. You're saying to make Exhibit 2 static that
23 we're going to keep the interim universal service
24 charge the same and then you're asking me to compare
25 that to a situation in which the interim universal

00906

1 service charge doesn't exist.

2 Q. Let's assume that you do not have an
3 interim universal service charge?

4 A. So now the number on line 20 is?

5 JUDGE ANDERL: One at a time, please.

6 Q. Let's make it real simple. No interim
7 universal service charge in bill and keep. The
8 imputed price floor would be lower than it is here,
9 correct? A difficult question for you?

10 A. No, it would be lower but we're not any
11 longer comparing it to the number as displayed on line
12 20. Now we're comparing it to a number as I testified
13 earlier that is approximately half of that.

14 Q. So we're talking about a lower imputed
15 price floor?

16 A. Right, I agree that the number would be
17 lower.

18 Q. Would you agree that the potential benefits
19 for ratepayers in the form of possible price decreases
20 that could result from competition would be greater
21 than would be possible if you used the compensation
22 scheme that's reflected in this imputation analysis?

23 A. If we exclude rate of return regulation
24 from that, yes.

25 Q. What difference would it make if there's

00907

1 rate of return regulation?

2 A. Because you're asking if customers are
3 going to receive a benefit from this --

4 Q. I'm saying if there's a potential benefit.
5 I mean, isn't it the case that competition tends to
6 create -- unfettered anyway -- a set of circumstances
7 where there is pressure over time for prices to be
8 reduced towards cost?

9 A. Yes.

10 Q. And would you agree that U S WEST would
11 have an incentive to respond to competition from other
12 providers of service in the local exchange market by
13 competing on price as well as other things?

14 A. Yes.

15 Q. And would you agree that if U S WEST faces
16 competition it would like to be able to reduce price
17 in order to retain customers?

18 A. Generally, yes.

19 Q. And you agreed before, correct, that an
20 imputed price floor would limit U S WEST's ability to
21 reduce its prices, correct?

22 A. Yes.

23 Q. So you would accept then that if your
24 imputed price floor is lower than what what's on
25 C-76 U S WEST would have a greater ability to reduce

00908

1 price to respond to competition, correct?

2 A. Yes.

3 Q. And as a result a greater potential benefit
4 for ratepayers in the form of lower prices would be
5 the result, correct?

6 A. That's where I fall off the wagon because
7 you made a narrow analysis looking at this weighted
8 business rate and now you've expanded your conclusory
9 question to include all ratepayers.

10 Q. Business ratepayers. Let's keep it at
11 business ratepayers. That's what we've been talking
12 about here with this imputation analysis, correct?

13 A. Yes, but your benefit --

14 Q. Amend my question, benefit to business
15 ratepayers. That's what you've shown here on this
16 analysis?

17 A. Yes. Again we've only looked at half of
18 the equation.

19 MR. BUTLER: Thank you. That's all I have.

20 JUDGE ANDERL: Thank you, Mr. Butler.

21 Ms. Weiske.

22 JUDGE ANDERL: I've been handed two
23 separate single page handwritten documents. Are they
24 both confidential or either one?

25 THE WITNESS: The first one definitely is.

00909

1 MS. WEISKE: I believe both are
2 confidential.

3 JUDGE ANDERL: First one is entitled
4 Additions to Exhibit DP-2 which is C-76. I will mark
5 this for identification as Exhibit C-78. And the next
6 document which is entitled at the very top MCI Cross,
7 Exhibit 2 Redo of Exhibit DP-2. I will mark that for
8 identification as Exhibit C-79.

9 (Marked Exhibits C-78 and C-79.)

10 MS. WEISKE: Sorry, Your Honor, what did we
11 mark this?

12 JUDGE ANDERL: C-78 is the shorter one.
13 C-79 is the longer one.

14 MS. WEISKE: And I apologize that they're
15 handwritten but I didn't have a printer with me. Are
16 we ready to start?

17 JUDGE ANDERL: Go ahead.

18

19 CROSS-EXAMINATION

20 BY MS. WEISKE:

21 Q. Mr. Purkey, I will give you time to look at
22 those documents but I have some questions that don't
23 involve the document first, please. I thought you
24 said earlier in response to both Mr. Butler and
25 Mr. Waggoner that you felt some confidence in knowing

00910

1 consumer minds about number portability because of your
2 past experience for U S WEST as a sales representative
3 or an account executive?

4 A. Yes.

5 Q. What exactly were the positions that you
6 were relying on? I've looked at your vitae but I'm not
7 quite sure what you're relying on there.

8 A. I was an account executive for U S WEST in
9 the sales department working with large end retail
10 customers, media accounts and school districts.

11 Q. In the state of Washington?

12 A. State of Washington. In addition I acted
13 as pseudo sales capacity kind of like a manufacturer's
14 representative in an organization that dealt with U S
15 WEST's premises sales force that sold PBXs and that
16 sort of thing.

17 Q. And your role at U S WEST changed around
18 1987, 1988; is that correct?

19 A. Yes.

20 Q. And since then have you had any dealings
21 with large business customers?

22 A. Not in sales capacity.

23 Q. Other than in a room like this?

24 A. No.

25 Q. I thought you also said in response to

00911

1 Mr. Butler that you had not done any studies,
2 documents, surveys, et cetera, on number portability;
3 is that correct?

4 A. Yes.

5 Q. Are you generally aware of the discovery in
6 this case?

7 A. Only my own.

8 MS. WEISKE: May I approach the witness,
9 Your Honor?

10 JUDGE ANDERL: Yes.

11 Q. Mr. Purkey, I just handed you a
12 document Number Portability National Study prepared by
13 the Gallup organizations for MCI Telecommunications
14 Corporation; is that correct?

15 A. Yes.

16 Q. Would you please open that study and turn
17 to the executive summary, second page, please, which
18 is titled Study Findings Business Customers?

19 A. Okay.

20 Q. I will give you a minute to look at that
21 page. I have some questions about that. Let me know
22 when you're ready, Mr. Purkey. Are you just about
23 gone to the bottom of the page?

24 A. Yes.

25 Q. Isn't it true that the page I asked you to

00912

1 look at states that the conclusion that leads to this
2 study is that a solid majority of business customers,
3 83 percent, felt that retaining their company's number
4 when switching local service providers was very
5 important?

6 MR. OWENS: I object. This is clearly
7 hearsay. The Commission has excluded our evidence on
8 the basis of hearsay. The Gallup organization is not
9 here for U S WEST to cross-examine. We are told only
10 that this study was prepared for Michigan. Presumably
11 MCI paid something for it. We have no idea what the
12 survey assumptions were or to what extent they were
13 directed by MCI. I think it's certainly not proper to
14 ask this witness to effectively through counsel having
15 recited a quote from the statement read the conclusion
16 into the record.

17 MS. WEISKE: First, Your Honor, I don't
18 think the study is a surprise to U S WEST. They asked
19 for it from MCI in discovery as the part of this
20 case. As to the hearsay objection, Mr. Purkey did
21 discuss that he had done no studies, information, et
22 cetera, to confirm his conclusion. I'm simply wanting
23 to ask him some questions as to whether there may be
24 studies out there that exist that have different
25 conclusions.

00913

1 MR. OWENS: I don't hear anything that
2 responds --

3 JUDGE ANDERL: I don't think that the
4 surprise issue -- or that the surprise element is an
5 issue. I don't think U S WEST is contending that they
6 were surprised by the existence of this document. I
7 think you can ask him about whether he knows about
8 other studies, but I think that your question as far
9 as this page reference is objectionable, and I will
10 sustain the company's objection. You can -- you're
11 certainly free to offer that study through another
12 witness but I don't think it should come in this way.

13 MS. WEISKE: That's fine.

14 Q. Mr. Purkey, did you also respond to some
15 questions from Mr. Waggoner and Mr. Butler on
16 essentiality?

17 A. Yes.

18 Q. Did I recall you correctly stating that if
19 there was one other provider of a function or a
20 service that was essential -- excuse me -- that was
21 being used by a competitive provider that it was no
22 longer essential in your mind?

23 A. Yes. If one company can do it by
24 definition all companies can do it.

25 Q. So, for example, if a company was able to

00914

1 provide and was up and running providing transport
2 service only for the city of Seattle, is it your
3 position that for the entire state of Washington that
4 function would not be essential?

5 A. No. You have to look at the
6 characteristics of the markets that you're trying to
7 serve, so in this case we're looking at the Seattle
8 area for this imputation study for that market.

9 Q. So it's your position that your imputation
10 study that sets rates for an entrant for the entire
11 state only looks at a market that's limited to Seattle
12 as to essentiality?

13 A. This study has -- well, this study has
14 looked at Metro areas not specifically just Seattle --
15 and I'm not sure what the Metro area -- what the Metro
16 area is that's included in the cost studies. That
17 would be a question for Mr. Farrow, so I don't know
18 whether, for example, this would include -- be
19 relevant to Spokane as well.

20 Q. But it is your testimony based on antitrust
21 law that for something to no longer be essential as
22 long as there's an alternative in the relevant market
23 it's no longer essential, as long as there's one
24 alternative in the market?

25 A. That's my understanding, yes.

00915

1 Q. In your response earlier to questions from
2 counsel were you limiting that response to the market
3 of Seattle?

4 A. Seattle is the market that I had in mind
5 when I was doing this study. Like I said, I don't
6 know the demographics of the costs that were included
7 in here, and for example, whether it would include
8 locations like Spokane, but it will be the Seattle
9 area including Bellevue and the more dense
10 metropolitan areas.

11 Q. I thought you also said in response to
12 counsel that an entrant was under no obligation to
13 price above cost; is that correct?

14 A. That's correct.

15 Q. And I thought you tried to say that an
16 entrant, for example, could bundle services in a way
17 that would somehow put those services above cost?

18 A. In total, yes.

19 Q. And so you have some sort of a belief that
20 an entrant is capable of producing services with
21 enough volume to account for the fact that they are
22 being priced below cost?

23 A. I'm sorry, run that by me again.

24 Q. Well, you seem to say that an entrant was
25 under no obligation to price something above cost and

00916

1 somehow implied that they could make it up in volume.

2 Is that where you were going with that issue?

3 A. No, that they would make it up with other
4 services.

5 Q. And bundling those services?

6 A. With their local exchange service, yes.

7 Q. In some sort of one stop shopping, for
8 example?

9 A. Yes.

10 Q. I want to take you through your Exhibit
11 C-76. I confess I'm neither a mathematician nor an
12 imputation expert, but I want to make sure I
13 understand the method you used on that page. Am I
14 correct that your imputation test combines both the
15 loop or what we call at MCI the network access channel
16 end usage?

17 A. Yes.

18 Q. And that if an entrant were to supply just
19 a loop wouldn't it need interconnection to U S WEST?

20 A. If the entrant were to supply just a loop
21 to its originating customer?

22 Q. Right. For example --

23 A. Yes, it would need to interconnect with U S
24 WEST.

25 Q. For example, a private line NAC would still

00917

1 require interconnection; isn't that correct?

2 A. If those customers want to reach U S WEST
3 customers, yes.

4 Q. Keep that assumption in mind with my
5 questions that they do want to reach the U S WEST
6 customers. So interconnection would be necessary for
7 switched usage, correct?

8 A. Yes.

9 Q. And your imputation test uses the
10 contribution from the loop to help pass the imputation
11 test; is that correct?

12 A. Yes.

13 Q. Do you believe that the loop is a different
14 service from local usage?

15 A. Yes.

16 Q. If you believe it's a different usage why
17 is your usage on the lines combining the usage and the
18 lines into the same service?

19 A. I'm sorry, I don't understand your
20 question. On which line?

21 Q. I thought you said in response to
22 Mr. Butler that you combined usage in the costs of the
23 loop.

24 A. No, I think the usage is all -- is handled
25 separately as shown on all of the lines 13 through 19.

00918

1 Those are all times the usage numbers, the minutes
2 shown on lines 2 through 5.

3 Q. But your results include one loop priced at
4 cost; is that correct? Let me say that again. The
5 results of your exhibit include one loop at cost; is
6 that correct?

7 A. Yes.

8 Q. As one of your inputs?

9 A. Yes.

10 Q. And you used all originating usage at cost;
11 is that correct?

12 A. Yes.

13 Q. And you used terminating intraoffice at
14 cost, usage at cost?

15 A. Yes.

16 Q. And you also used terminating traffic to
17 the independents at the cost of transport only?

18 A. Yes.

19 Q. Then you took terminating matched traffic
20 at the cost of terminating transport plus U S WEST
21 interim universal service charge; is that correct?

22 A. Yes.

23 Q. And then finally you took the terminating
24 unmatched traffic at the cost of the terminating
25 transport, added U S WEST's interim universal service

00919

1 charge plus the cost of expanded interconnection, plus
2 the local switching charge, plus the charge for
3 terminating multiplexer maintenance --

4 A. I'm sorry, I've lost you. Which line? Are
5 we on line 19?

6 Q. Take a look at lines 18 and 19. Seemed to
7 me when I looked at this that you took the terminating
8 unmatched traffic at the cost of the terminating
9 transport, you added U S WEST?

10 A. Wait, wait, wait.

11 Q. I'm looking at your whole exhibit in total.

12 A. Right, but the line 5 is not multiplied
13 times the cost of terminating transport. The only
14 thing line 5 is multiplied by is what's shown in line
15 19.

16 Q. I didn't say anything about multiplying,
17 Mr. Purkey. Let me go back. I said you took the
18 terminating unmatched traffic at the cost of
19 terminating transport?

20 A. Hold there, please. I guess I'm confused
21 because you're not saying something in terms as it's
22 presented in the study, so when you say unmatched
23 traffic that leads me immediately to line 19 and there
24 is no terminating transport included in the
25 calculation on line 19.

00920

1 Q. What's your line 5 that says unmatched
2 interoffice traffic, U to U, U to A?

3 A. Those are the number of minutes that the
4 AECs would terminate on U S WEST's network over and
5 above the number of minutes that U S WEST would
6 terminate on the AECs's network.

7 Q. And you didn't add this into your equation?

8 A. No, I did at line 19.

9 Q. Right.

10 A. Times the tariffed rates that are shown
11 there.

12 Q. And did you also add the U S WEST interim
13 universal service charge?

14 A. The interim universal service charge is
15 essentially for all of the terminating traffic that
16 the AEC terminates on U S WEST traffic, the matched
17 and the unmatched.

18 Q. And you added that?

19 A. Yes, that's in there.

20 Q. Then you add the cost of expanded
21 interconnection?

22 A. Yes. In line --

23 Q. Under your components line 10?

24 A. Right.

25 Q. Plus you add the local switching charge?

00921

1 A. Yes.

2 Q. Line 11?

3 A. Yes.

4 Q. Plus you added the charge for terminating
5 multiplexer maintenance, line 12?

6 A. Yes.

7 Q. Why didn't you apply the interim universal
8 service charge to intraoffice traffic?

9 A. Because it would not apply. Intraoffice
10 traffic by definition would not terminate on U S WEST
11 network.

12 Q. Are you generally familiar with Mr. Owens's
13 testimony in this case?

14 A. Generally.

15 Q. Would your counsel give you Mr. Owens
16 testimony at pages 19 and 20, please. Take a look at
17 that. If a competitive entrants' existence converts
18 intraoffice traffic to interoffice traffic shouldn't
19 intraoffice traffic also impute the interim universal
20 service charge?

21 A. I think you're mixing apples and oranges.
22 The intraoffice traffic -- intraoffice traffic by
23 definition does not terminate on another carrier's
24 network. But what Mr. Owens I believe is describing
25 is U S WEST's current intraoffice traffic, when it

00922

1 goes to a competitor, some of that traffic now may
2 terminate -- some of that traffic may still be true
3 intraoffice traffic from the perspective of the AEC.
4 Some of it now may become interoffice traffic. For
5 the purposes of the study I've assumed that the
6 intraoffice traffic from the perspective of U S WEST
7 is the same as the intraoffice traffic from the
8 perspective of the AEC on a percentage basis.

9 Q. Doesn't your own witness say that that
10 traffic will change and that it will not be in
11 balance?

12 A. That's not relevant to this assumption.

13 Q. So you won't accept that you should have
14 imputed the interim universal service charge to any of
15 the intraoffice traffic?

16 A. That's correct by definition of what
17 intraoffice -- you've applied a different perspective
18 to your view of the intraoffice traffic versus the
19 perspective of the intraoffice traffic that is shown
20 in this study.

21 Q. Well, take a look at MCI cross exhibit 1 if
22 you would and assume with me for the moment that the
23 Commission agrees with me that you should have applied
24 an interim universal service charge to intraoffice
25 traffic. Are you with me?

00923

1 JUDGE ANDERL: I'm sorry. What exhibit are
2 we looking at?

3 MS. WEISKE: C-78.

4 A. I can't make that assumption because that's
5 not the proposal for U S WEST. I mean, if you're
6 going to make your own proposal then I guess that's
7 fine. I don't know why it would apply to intra -- it
8 never touches U S WEST network by definition so it
9 can't have the interim universal service charge
10 applied to it because it never touches U S WEST's
11 network.

12 Q. Would you accept subject to check that at
13 least the calculation in the parenthetical on line 2
14 is your method which is the number of minutes times
15 the interim universal service charge?

16 A. That is the number of intraoffice minutes
17 times the interim universal service charge, yes.

18 Q. Which is I think also your line 2 from your
19 Exhibit C-76?

20 A. The intraoffice minutes, yes, does come
21 from line 2.

22 Q. You also did not assess -- I thought this
23 is what you said earlier to counsel -- you also did
24 not assess any charges for terminating traffic to the
25 independents. You only assessed a U S WEST cost of

00924

1 transport; is that correct?

2 A. That's correct.

3 Q. Are you generally familiar with the rate
4 case that you filed testimony in?

5 A. I'm most familiar with the items that I
6 filed.

7 Q. Are you aware of the fact that Ms. Wright
8 claims that the traffic sensitive rates U S WEST
9 expects to pay the independents will exceed the
10 traffic sensitive access charges U S WEST expects to
11 receive from the independents?

12 A. I guess I wasn't aware that we were
13 proposing in this rate case to move away from the bill
14 and keep environment that we're in currently so I
15 don't know.

16 Q. Then you're not willing to accept subject
17 to check that at page 37 lines 5 through 8 of that
18 testimony she states that the traffic sensitive rates U
19 S WEST expects to pay the independents will exceed the
20 traffic sensitive access charges U S WEST expects to
21 receive from the independents?

22 A. I have no knowledge of it.

23 Q. Let's say for the sake of this discussion
24 that's her expectation prefiled on behalf of U S WEST.
25 Wouldn't you agree then that line 2 of the exhibit

00925

1 shows the results of adding a penny per call to
2 reflect some of that imbalance?

3 A. If that's the calculation -- that's the
4 assumption you've made.

5 Q. Line 3.

6 A. Line 3, if that's the assumption you've
7 made that that would be the imbalance then, yes, that
8 would be correct.

9 Q. Well, do you have any reason to believe
10 that her assessment is incorrect?

11 A. Again, I have no knowledge. I haven't
12 looked at it. I'm not exactly sure whether it's
13 applicable to this particular study so I don't know.

14 Q. Would you agree with me that if you total
15 the math as I've defined it that you have a total
16 imputed price floor that's different not only from
17 your price floor but from the tariffed rate?

18 A. Well, I absolutely disagree with what
19 you've done on your line 2. Line 3 may be an
20 appropriate addition, but the item on line 2 is
21 clearly not and should not be included.

22 Q. What happens to the calculation if you just
23 add line 3, Mr. Purkey?

24 A. If you just add line 3 to my Exhibit 2 we
25 still pass the imputation test.

00926

1 Q. And what happens if you add the line 2 that
2 we've been discussing as to applying the imputed
3 universal service interim charge to terminating
4 intraoffice traffic? Does it still pass an imputation
5 test?

6 A. Not under the static conditions if you
7 assume static conditions, but again it's not
8 appropriate to do that.

9 Q. Let's talk about your exhibit and your
10 assumptions in terms of whether it's static or not.
11 Your Exhibit C-76 uses a weighted average of a wide
12 mix of services; is that correct?

13 A. A wide mix of business services, yes.

14 Q. And I thought you said earlier in response
15 to other questions that although it includes -- I'm
16 assuming it includes 1FB complex business lines, DSS
17 and public access lines. It did not include Centrex
18 NARS?

19 A. The usage for the NARS is in there. The
20 NAC component did not include any NAR.

21 Q. So when you did your weighting you did
22 include 1FB, 1MB, complex lines, Centrex NARS, DSS and
23 PALS?

24 A. I did not include Centrex NARS for the
25 weighting in line 6 for the NAC.

00927

1 Q. Did it include lines for U S WEST coin
2 phones?

3 A. That would be the public access lines.

4 Q. And your Exhibit C-76 is very sensitive to
5 usage; is that correct?

6 A. I don't know what you mean by very
7 sensitive to it, but, yes, usage is a component there.

8 Q. Well, you just combined all these different
9 usage amounts on an average basis per month; is that
10 correct? For example --

11 A. Yes.

12 Q. And I want to take you through your exhibit
13 now looking at MCI Exhibit 2, assuming --

14 JUDGE ANDERL: That's C-79.

15 Q. -- assuming the exact same methodology as
16 you used only increasing the number of minutes. And I
17 want you to assume with me that we're using business
18 customers who make an average of one hour of business
19 day calling using 21 days. So as you can see from
20 looking at that we're starting with a different number
21 of minutes.

22 A. And the reason for that is? Now we're
23 moving away from actuality and we're moving into
24 hypotheticals.

25 Q. I believe your own witness Mr. Owens said

00928

1 that entrants would target high volume business
2 customers so I want to see what would happen if that
3 targeting really exists, Mr. Purkey. Given that, let's
4 assume that we're starting with the total minutes of
5 use of a customer making an average of one hour of
6 business day of calling?

7 A. Okay.

8 Q. And would you accept subject to check that
9 lines 13 through 20 use exactly the same formulas that
10 that you use only the different calling minutes have
11 varied in lines 1 through 5? And I will give you a
12 minute to check that?

13 A. There's no way I can check it.

14 Q. Would you accept it subject to check that
15 that's what we did?

16 JUDGE ANDERL: There's no way you can check
17 it now or ever?

18 THE WITNESS: There's no way I can check it
19 now. I don't have enough information here to do that
20 with.

21 Q. Well, are you willing so we have this
22 discussion to accept subject to check that lines 13
23 through 20 use exactly the same formulas that you use,
24 the only difference is in the calling minutes that I
25 pointed out?

00929

1 A. Sure.

2 Q. And then when you get down to line 23,
3 that's where we still disagree about your use or our
4 use of the interim universal service charge imputed to
5 intraoffice traffic; is that correct?

6 A. That's true.

7 Q. But you are at least willing to concede
8 that there may be a higher payment for terminating to
9 an independent based on the discussion we had earlier
10 on Ms. Wright's testimony?

11 A. That may be appropriate.

12 Q. If you would use the methodology that MCI
13 has put forth applying the interim universal service
14 charge to intraoffice traffic, what happens to the
15 total on this page?

16 A. I'm sorry, could you repeat, if we use your
17 methodology what.

18 Q. If you use our methodology in total don't
19 you show that callers who originate higher volumes
20 than your average that you used in your exhibit fail
21 the imputation test and you're in an automatic price
22 squeeze?

23 A. Your problem is that you've not adjusted
24 line 21 to reflect the type of service that these high
25 volume customers use which would generally be PBX

00930

1 service only which will give you a higher revenue
2 number there. You've also --

3 Q. Wait, wait. Let's stop you there.

4 MR. OWENS: Excuse me. The witness needs
5 to be able to finish his answer, he was asked a
6 question.

7 MS. WEISKE: Happy to let him go on. I
8 want to ask him a question about that before I forget.

9 A. And I may forget.

10 Q. We'll both keep it in mind, Mr. Purkey.

11 JUDGE ANDERL: Go ahead.

12 Q. Where are you getting the assumption that
13 the business user is using PBX?

14 A. Because of the number of minutes that you
15 had started with at line 1 is much more characteristic
16 of a PBX customer than it is 1FB customer.

17 Q. What happens to this conclusion if the
18 minutes of use are the minutes of use that you would
19 be used to seeing from a 1FB customer? Is it still
20 your testimony that line 21 is incorrect?

21 MR. OWENS: Your Honor, this is a
22 completely hypothetical question that's contrary to
23 the evidence. The witness has testified that it's not
24 a pattern of usage that's expected from a 1FB
25 customer.

00931

1 MS. WEISKE: No, that's not true, Your
2 Honor. My hypothetical, it was my initial assumption
3 on minutes and all of a sudden he overlaid an
4 assumption of what those minutes looked like and I
5 asked him why he was making that assumption.

6 MR. OWENS: He's now being asked to accept
7 a condition that's directly contrary to his testimony.

8 JUDGE ANDERL: Ms. Weiske, it sounds like
9 he is being asked to accept an assumption that's not
10 supported.

11 MS. WEISKE: Let me go back through it.

12 Q. Why are you making the assumption that the
13 increased minutes of use would in all cases be a PBX
14 user? What's your evidence for that?

15 A. I'm not saying in all cases. I'm saying in
16 the majority of cases, in most cases, and that's based
17 on my knowledge of the usage patterns for PBX
18 customers versus 1FB and simple customers. I mean,
19 basically your number in here is kind of right in the
20 middle of that.

21 Q. And you believe that in most to all cases
22 that a business user making one call per day per month
23 is in most or all cases going to be a PBX user?

24 A. I'm not going to say all cases. I am going
25 to say by far the majority of cases are they're going

00932

1 to fall into that category, yes, at this rate level on
2 a per line basis.

3 Q. And do you have any -- other than your
4 experience with that, do you have any studies,
5 analysis, documentation that confirm that?

6 A. Well, I know what the average usage is for
7 PBX trunks, and I know what the average usage is for
8 1FB and simple, and this number is much more along the
9 lines of what a PBX trunk is.

10 JUDGE ANDERL: Well, I guess can you
11 imagine this kind of usage under 1FB service? Under
12 any circumstances?

13 THE WITNESS: It would be unlikely. It
14 would be at the extreme range of a 1FB type customer
15 but it's certainly possible.

16 JUDGE ANDERL: To the extent that it's
17 within the realm of possibility, Ms. Weiske, go ahead
18 with your questions.

19 Q. I'm still back at why he believes it's not
20 in the realm of possibility. Thank you, Your Honor.

21 A. No. I just said it is within the realm of
22 possibility. It's just at the extreme edge of that
23 realm.

24 Q. If the user were not a PBX user, do you
25 still have a problem with the conclusion reached on

00933

1 line 21?

2 A. If the user were not a PBX user then the
3 number on line 21 would actually be smaller so that
4 would help your case. Again, the number on line 21 is
5 a weighted average of all services. See, I guess that
6 maybe that's my basic problem is that you've taken a
7 weighted average for all services and now you're
8 trying to apply specific services and compare it to an
9 average of everything, and that's inappropriate.

10 Q. So you can't accept the conclusion on line
11 21 if the user were not a PBX user that the very
12 targeted customer that your company believes the
13 entrant is going to go after is not making one call
14 per day per month?

15 A. The conclusion would inherently assume that
16 now we're going to do an imputation test for each and
17 every customer and that's also inappropriate. The
18 generally accepted method for imputation is on a
19 service by service basis.

20 Q. And what you've done in this case in fact
21 was collapse the various usages of business usages; is
22 that correct?

23 A. And that's correct for this presentation,
24 again with my state of mind that I was trying to
25 respond to what Mr. Montgomery's concerns were.

00934

1 Q. But that's what you did, you took various
2 usages and you collapsed them and you put forth a
3 number on your 76?

4 A. Yes.

5 Q. What we've just gone through, have I done
6 anything differently than increase that usage? It's
7 the only thing I changed down through line 21; is that
8 correct?

9 A. Well, you may change the number, but
10 changing the number automatically and inherently has
11 the assumption coming along with it that now type of
12 customer changes as well.

13 Q. All I did is increase the total volume of
14 minutes of use for a business customer. Isn't that
15 true?

16 A. I understand that, Ms. Weiske.

17 Q. I'm just asking yes or no. Is that right?

18 A. Yes, that's what you've done. I don't
19 believe it's appropriate to do so.

20 Q. And you don't believe it's appropriate to
21 do an imputation analysis testing Mr. Owens's
22 testimony that entrants will target high volume
23 customers?

24 A. No. As a matter of fact, as I testified in
25 the last couple of days I've done an analysis of those

00935

1 high volume customers looking specifically at PBX
2 customers.

3 Q. And you don't agree that the starting
4 assumption of business customer making one call per
5 day per month would be characterized as high volume?

6 A. One call per day per month is certainly not
7 high volume.

8 Q. I mean -- I'm sorry, one hour.

9 A. High volume, yes. But it's not a 1FB
10 customer.

11 Q. I thought we were back at the point where
12 the hearings officer intervened to ask you to assume
13 that it was a 1FB customer not a PBX user and in that
14 case --

15 A. If we're going to make all of those
16 assumptions, which again I disagree with, then, yes,
17 your conclusions are right. I will agree that your
18 math is right. It's just not applicable.

19 Q. I thought we were talking about only one
20 conclusion or input which is that the increased volume
21 usage by a business user was going to be 1FB and not
22 PBX; isn't that correct?

23 A. I just agreed that your math is correct.

24 Q. And then you said to me that line 21 would
25 be smaller not larger?

00936

1 A. That's correct, if it was a 1FB.

2 Q. And assume with me that if the Commission
3 agreed that intraoffice traffic should also have
4 imputed to it the interim universal service charge,
5 wouldn't there be some number of some magnitude on
6 line 23 if that were the case?

7 A. In that very extreme assumption that's
8 beyond the scope of reality, yes.

9 Q. Well, assuming the Commission didn't
10 believe it was either extreme or beyond the scope of
11 reality, Mr. Purkey, and if you assume that they did
12 determine that the interim universal service charge
13 should be imputed to intraoffice traffic, are you at
14 least willing to accept the mathematical calculation
15 at line 23?

16 A. I've accepted your math.

17 Q. And I think we already talked earlier about
18 line 24 which would be the addition of a higher
19 payment for terminating traffic to an independent; is
20 that true?

21 A. Yes. Again under your assumptions.

22 Q. And the conclusion on this page at
23 least, Mr. Purkey, shows an automatic price increase
24 for an entrant trying to serve a customer for the
25 minutes of use we started with; isn't that correct?

00937

1 A. As I stated in my testimony on page 6 in
2 the seven years I worked with imputation I've
3 frequently seen people jump on the imputation bandwagon
4 and start imputing things right and left, I believe
5 this is such a case.

6 Q. I appreciate that you think MCI jumped on
7 that bandwagon with you, Mr. Purkey, but that wasn't my
8 question. My question was assuming the Commission
9 agreed that line 23 was appropriate in terms of
10 imputing the interim universal service charge to
11 intraoffice traffic and assuming the addition for the
12 higher payment for terminating to an independent that
13 Ms. Wright refers to in her testimony, doesn't the
14 concluding line on C-79 show an automatic price squeeze
15 for an entrant targeting customers with these minutes
16 of use?

17 A. And I think I've agreed with all of those
18 assumptions that have boxed me into a corner, yes.

19 Q. Thank you, Mr. Purkey.

20 MS. WEISKE: That's all I have.

21 JUDGE ANDERL: Thank you, Ms. Weiske.

22 Are you offering 78 and 79?

23 MR. OWENS: I object. First of all, the
24 witness has testified with regard to C-78 that it's
25 completely inappropriate to include line 2 in the

00938

1 calculation. And with regard to C-79 he's indicated
2 that it's an assumption that he disagrees with that
3 the current weighted tariff rate on line 21 is the
4 appropriate tariff rate to apply.

5 Further he disagrees with the line 23
6 addition that MCI is proposing here, so if MCI wants to
7 proffer this through their own witness, that's fine,
8 but I don't think it's appropriate to have this
9 witness's testimony be the foundation for these
10 exhibits.

11 JUDGE ANDERL: Ms. Weiske, do you have a
12 response? I tend to agree with Mr. Owens. I think you
13 would be better to offer this through another witness.

14 MS. WEISKE: I can try, Your Honor, but I
15 also think those exhibits are appropriate with the
16 qualifications that in both instances I asked him the
17 questions assuming the Commission ordered those input
18 but I'm happy to do it with Dr. Cornell.

19 JUDGE ANDERL: I'll withhold ruling on
20 those, then. Ms. Proctor, did you have questions for
21 this witness?

22 MS. PROCTOR: Nothing, thank you.

23 JUDGE ANDERL: Do any of the other
24 intervenors have questions for this witness?

25 MR. MUTSCHELKNAUS: One clarification

00939

1 question.

2 THE WITNESS: Just one?

3 MR. MUTSCHELKNAUS: Just one area.

4

5 CROSS-EXAMINATION

6 BY MR. MUTSCHELKNAUS:

7 Q. Just to follow up on something in your
8 response to Mr. Waggoner. I believe that in response
9 to questioning from Mr. Waggoner you testified, if I
10 heard it correctly, that tandem switching was not an
11 essential facility. Is that what you testified there?

12 A. On a local basis, yes. And I think what
13 Mr. Waggoner was getting into is serving all of the
14 exchanges in the state and what I haven't thought of
15 at the time but what I think of now is that gets into
16 long distance issues so from a local service it's
17 certainly not.

18 Q. You were not referring to the question of
19 whether it's an essential facility when applied to
20 access service provided to an interexchange carrier?

21 A. No. That would be that long distance
22 scenario.

23 Q. Would you agree with me that at least for
24 some interexchange carriers the tandem switching is an
25 essential facility?

00940

1 A. Again, I get back to my definition of
2 essential. If it's available for one it's available
3 for all, and I believe that there are starting to be
4 alternative tandem switch providers.

5 Q. If there were no other tandem switch
6 provider providing tandem switching for calls on U S
7 WEST's network would you agree with me then at this
8 point the tandem switching function is an essential
9 facility?

10 A. At this point, yes.

11 JUDGE ANDERL: Ms. Lehtonen.

12

13 CROSS-EXAMINATION

14 BY MS. LEHTONEN:

15 Q. Good morning, Mr. Purkey.

16 A. Morning.

17 Q. I have a couple of follow-up questions to
18 Mr. Mutschelknaus's. In regards to your proposal not
19 to impute what you regard as nonessential services?

20 A. Yes.

21 Q. U S WEST is proposing to charge the AECs a
22 \$4 charge for number portability; isn't that correct?

23 A. I'm not aware of the exact charge.

24 Q. But you can accept it that it is something
25 in that vicinity?

00941

1 A. Okay.

2 Q. But you consider that if number portability
3 is not an essential facility it should not be imputed?

4 A. That's correct.

5 Q. And U S WEST is planning on charging
6 approximately a dollar for the White Pages services;
7 is that correct?

8 A. I don't know that.

9 Q. They are planning to charge a certain fee
10 for that?

11 A. Okay.

12 Q. And in your opinion that's a nonessential
13 service which should not be imputed as well?

14 A. I believe Mr. Owens testified that there
15 were numerous White Pages providers out there, so
16 again, as long as there's an alternative by definition
17 it's not essential.

18 Q. What's an alternative to number
19 portability?

20 A. Not changing their number at this point.

21 MR. LEHTONEN: That's all I have. Thanks.

22 JUDGE ANDERL: Anything else? Mr. Rindler?

23

24 CROSS-EXAMINATION

25 BY MR. RINDLER:

00942

1 Q. Morning, Mr. Purkey,

2 A. Good morning.

3 Q. I just have one line of questioning just to
4 clarifying something. When you were talking about the
5 difference between local exchange markets and long
6 distance markets, do you recall that series of
7 questions?

8 A. Yes.

9 Q. Did I understand you to say that the local
10 exchange market was in effect static?

11 A. No, I didn't say it was static. I said
12 it's constrained by population growth to a large
13 degree. Now, that obviously customers are getting
14 second lines and that type of thing, but generally
15 there is a constraint on that market that really
16 doesn't exist in the long distance market.

17 Q. Do you offer fax service lines in the --
18 withdraw that. Are there new uses of the telephone
19 that are used in the local exchange as well as long
20 distance market?

21 A. Certainly there are. I guess if you
22 compared the growth of U S WEST's business lines to
23 the growth of long distance services you would see
24 that there is a marked difference.

25 Q. Have you done that?

00943

1 A. I have, yes.

2 Q. What was the order of magnitude?

3 A. Generally the long distance market is
4 growing, I would say two to five times faster than the
5 local exchange market.

6 Q. But the local exchange market is growing?

7 A. I believe so, yes.

8 Q. Do you have a projected level of demand --
9 does U S WEST provide or use a projected level of
10 demand in its planning?

11 A. I believe so.

12 Q. Are you familiar with it?

13 A. I know that we do demand forecasts. That's
14 about the extent of my familiarity.

15 MR. MUTSCHELKNAUS: That's all.

16 JUDGE ANDERL: Mr. Trotter.

17 MR. TROTTER: No questions.

18 JUDGE ANDERL: Questions from the
19 commissioners for this witness?

20 CHAIRMAN NELSON: No.

21

22 EXAMINATION

23 BY COMMISSIONER HEMSTAD:

24 Q. Well, I'm going to try a few. I'm trying
25 to understand the content of Exhibit C-76 about which

00944

1 thereof already been lots of questions. Does this
2 exhibit under U S WEST's theory of the case
3 incorporate all of the -- what would be categorized by
4 U S WEST as essential services that are at issue in
5 this case?

6 A. Yes.

7 Q. And how many are there?

8 A. If you look at lines 9 through 12 basically
9 four.

10 Q. All right.

11 A. Anything that's labeled tariff for an
12 imputation study, if you included it as a tariffed
13 rate that by definition is an essential component?

14 Q. At line 20, we have a grand total imputed
15 price floor. Now, if an AEC wanted to purchase an
16 essential service that would be a tariffed rate?

17 A. Yes.

18 Q. What does the meaning or usefulness of the
19 grand total imputed price total?

20 A. Really it comes down to a comparison of
21 line 20 and 21, and the price floor has two functions,
22 I guess. First it defines the point below which U S
23 WEST should not price if we are going to be
24 competitively fair. Second, it's used to compare to
25 the average revenue that we get, and that's really the

00945

1 question that's being asked. As long as the price
2 floor is below the revenue then we are being
3 competitively fair and competitors can come into the
4 market at or below the price levels that U S WEST
5 charges. So it really comes down to a yes or no
6 question, the bottom line decision is yes, we pass, or
7 no, we don't pass.

8 Q. One of those newly entering competitors
9 will need to purchase off the tariff the four
10 essential services. Is it the point that that the
11 other nonessential services -- well, if the other
12 nonessential services say in dispute are ultimately
13 determined to have a different cost level, does that
14 affect the essential services at all?

15 A. No. The essential services would stay
16 essential. Then you look at the cost input and, for
17 example, you said if you vary the cost input that's
18 really what I am proposing that we should do in this
19 case, because as I mentioned, the costs that we have
20 in there are at ADSRC levels, which is a higher number
21 than the ASIC levels, and for price floor analysis
22 really we wish be using ASIC, so there is a larger
23 margin available between lines 20 and 21 than what
24 this study -- what this conservative study would make
25 it appear. Which again makes it just easier to pass

00946

1 the price floor test, pass it by a wider margin.

2 Q. Well, shifting my focus somewhat, what is
3 essential is something that will change over time, I
4 assume, as new technology or new resources come into
5 the market --

6 A. Absolutely.

7 Q. -- by a new entrant. So if we have a
8 situation where there are currently competitive
9 providers who are buying essential services from U S
10 WEST, and say a new entrant comes into the market with
11 resources and provides one of those essential services
12 itself, then it would be your position that those
13 competitors who are buying that service with that
14 change in the circumstances, U S WEST would no longer
15 have to price at that level with regard to those
16 current competitors buying that service at the
17 tariffed rate?

18 A. The component would then change from a
19 tariffed rate to a LRIC cost. In that case the
20 function is still there, the function is still
21 necessary to provide the service, but if there's some
22 other method to obtain that component other than U S
23 WEST, then we don't use the tariffed rate any more.
24 We use the LRIC.

25 Q. Well, what would you do with their bill for

00947

1 that month? Tell them at the end of the month the
2 circumstances are changed?

3 A. Well, at that point if the -- let's say we
4 have an AEC that now has a choice of either using U S
5 WEST for a component that it needs or using another
6 company for that component that it needs. If the --
7 or a third option, the AEC provisioning that component
8 itself, so now the business has a decision to make.
9 It's got three choices to make. If it chooses to use
10 U S WEST for that component, their bill is not going
11 to change. The tariffed rate is still going to apply.
12 They will still incur that charge for U S WEST, but
13 they've made the business decision to incur that cost.
14 They have chosen to -- consciously chosen not to use
15 another provider for that component or consciously
16 chosen not to provision that component themselves, so
17 while their bill wouldn't change, if they were using
18 U S WEST today and then all of a sudden tomorrow they
19 had these three choices and they chose U S WEST, the
20 test for competitive fairness changes because now they
21 have these alternatives, U S WEST is not forcing them
22 to buy that component from U S WEST.

23 Q. And U S WEST would then be free to price at
24 a lower level?

25 A. Pardon?

00948

1 Q. U S WEST would then be free to price at a
2 LRIC level, lower level?

3 A. We would then -- because now there are
4 competitive alternatives out there, yes, under the
5 theory that competition drives prices towards cost we
6 would probably then begin to lower the price for that
7 particular component in the long term.

8 Q. Would it put to rest the practical problems
9 of, for example, how much capacity or availability of now
10 that alternative may be available in the marketplace?

11 A. Only to the extent that if the other types
12 of alternatives that are available have a limited
13 capacity so that they can't serve the customers that
14 are coming to -- if a customer comes to them and they
15 say I want to buy this service, and they say no, I'm
16 sorry we ran out of these widgets, you know, that
17 could certainly have an effect but I would find that an
18 improbable circumstance.

19 COMMISSIONER HEMSTAD: That's all I have.

20 JUDGE ANDERL: Commissioner Gillis.

21

22 EXAMINATION

23 BY COMMISSIONER GILLIS:

24 Q. I would like to have a clarification on --
25 I'm trying to understand the formulas in this C-76,

00949

1 and I think if I ask you about one it will probably
2 answer them for all of them actually. On line 4 of
3 that exhibit, that is the terminating minutes
4 interoffice from U S WEST to the independents; is that
5 right?

6 A. Yes.

7 Q. And line 8 is your LRIC cost of terminating
8 transport in general?

9 A. Yes.

10 Q. On line 16, that's terminate interoffice
11 from U S WEST to independents?

12 A. Correct.

13 Q. Somehow I want to multiply 8 times 4 rather
14 than 8 times 1 to get that number. Why do you
15 multiply 8 times 1?

16 A. We think alike apparently. That's the
17 reason that I revised this exhibit is because in the
18 first iteration of this thing I did in fact multiply 8
19 times 4. My problem was is that I still went down to
20 line 20 and you will see line 16 has a weighting
21 applied to it there as well, so essentially what I was
22 doing is applying a weighting for the original
23 component and then applying a weighting again, which
24 was mathematically incorrect. So the way I chose to do
25 it here is to just simply do it times all of the

00950

1 minutes at a 100 percent and then weight it down in
2 line 20. I could have done what you suggest except
3 then my formula on line 20 would change and I wouldn't
4 apply those weightings on line 20 in the same fashion.

5 Q. Okay. The only other question I had was in
6 doing the imputation on your suggested prices on line
7 6, 7, 8 of that same exhibit, that's C-76, I believe
8 you testified that when it says LRIC we should also
9 read ADSRC; is that right?

10 A. Yes. And as I said, that's not necessarily
11 appropriate for an actual imputation test or for a
12 more accurate imputation test. It's a conservative
13 approach to the situation.

14 Q. But, as I understand it the ADSRC has the
15 shared residual cost that are -- the other U S WEST
16 witnesses testified it's a market-based approach that
17 there's factors other than cost that go into the
18 decision of what ADSRC is?

19 A. Well, the ADSRC is kind of a target price
20 -- I say a target price floor but as soon as I say
21 price floor it means that you really shouldn't price
22 below that but it's really a target price. It's a
23 minimum target price. Maybe that's a better way to
24 put it. It's where you, if you have to, you can price
25 there, but it's not where you would like to price.

00951

1 You would really like to price above that, so I guess I
2 see maybe a stoplight analogy is good.

3 If at the bottom of Mr. Farrow's exhibit
4 yesterday he had all the common costs that were the
5 corporation, and I would say a green light is if you
6 can price in the market to recover ASIC, ADSRC and all
7 of those common costs, if the market is going to let
8 you do that, go for it, you got a green light. When
9 you get to ADSRC the light turns to yellow. You've got
10 to be a little cautious now, because the ADSRC is not
11 going to -- if you price at the ADSRC you're not going
12 to recover those common costs any more, so you need a
13 good reason to price at ADSRC, so you need to be
14 careful. There need to be market considerations.
15 Doesn't mean that you shouldn't price there or that you
16 shouldn't even necessarily price below that level
17 depending on what the market is going to do.

18 ASIC is a red light. Can't price below
19 there, period. Can't go beyond that level. So that's
20 how I would view them and that's what an imputed price
21 floor test is supposed to do. It's supposed to
22 establish that red light that says, hey, U S WEST you
23 can't price below that point.

24 Q. So the ADSRC cost or price, whichever we're
25 looking at it in this case, would be the same whether

00952

1 we were dealing with a situation where we had one
2 competitor, no competitors or 100 competitors?

3 Yes, it would be the same then?

4 A. Yes.

5 COMMISSIONER GILLIS: That's all I have.

6 JUDGE ANDERL: Mr. Purkey, I may have a
7 couple of questions for you, but what I would like to
8 do is take about three minutes off the record to figure
9 out whether I do or not.

10 (Recess.)

11 JUDGE ANDERL: Let's be back on the record.

12 I don't have the questions I thought I did but I do
13 have one or two.

14

15 EXAMINATION

16 BY JUDGE ANDERL:

17 Q. When you talk about essential services
18 including a situation -- well, strike that.

19 Nonessential services include a situation where the
20 AEC can self-provision service?

21 A. Yes.

22 Q. Does that include a situation where the AEC
23 is self-provisioning the service or only in your
24 estimation has the ability to?

25 A. There really is a judgment involved in

00953

1 that, and that's all I can say. I mean, we would
2 closely examine and critically look at the situation
3 to see if that company could self-provision. In the
4 case of originating switch it becomes clear. You
5 know, that's what these companies do so it's not a
6 hard decision in that case. In the other case, yes,
7 there is judgment involved. There's no question just
8 U S WEST does try to approach it from a critical
9 standpoint based on the market realities. The issue is
10 whether it's reasonable and comparable.

11 Q. Did you say in response to Mr. Butler that
12 U S WEST currently gets more money in toll revenues
13 than it pays in access charges as a whole?

14 A. Yes.

15 Q. Are you aware that Mr. Owens testified that
16 because U S WEST sometimes pays more in access charges
17 than it gets in toll revenues that it is not
18 interested in being a toll carrier for the AECs?

19 A. Yes, I am aware of that testimony. In
20 total the toll revenues do exceed the costs that we
21 pay to the independent companies and there may be some
22 companies where that situation doesn't exist but in
23 total it does in the state of Washington.

24 Q. But because there are some situations where
25 access charges exceed toll revenues the company is in

00954

1 no case interested in becoming the toll carrier?

2 A. No. I think Mr. Owens addressed that when
3 he was on the stand and I think he said that we would
4 like at it if it made business sense to it we might do
5 it we might not do it but certainly we would want it
6 to be profitable.

7 JUDGE ANDERL: I will look back at the
8 record then for that. Thank you. Those were the only
9 questions I had. Mr. Owens, redirect.

10 MR. OWENS: Thank you, Your Honor.

11

12 REDIRECT EXAMINATION

13 BY MR. OWENS:

14 Q. Mr. Purkey, I just wanted to make sure that
15 the record is clear. Commissioner Hemstad asked you
16 about the advantages of technology in the
17 telecommunications industry affecting whether specific
18 services that U S WEST has included in your imputation
19 study as being essential can change over time, and I
20 just wanted to get it clear that to the extent that
21 happens and that technology becomes generally available
22 to competitors, that in your analysis affected U S
23 WEST's pricing; is that correct?

24 A. Yes.

25 Q. And is the supposition there that the new

00955

1 technology will by definition be forward looking?

2 A. Generally I think yes.

3 Q. And would the expectation be that to the
4 extent the cost of that forward looking technology is
5 lower than the previous technology that the competing
6 local exchange providers would include that factor in
7 their analysis of what inputs they bought?

8 A. They should be doing that, yes.

9 Q. And if the cost was lower than the input
10 they bought from U S WEST would you expect that that
11 would affect whether they in fact buy the input from
12 U S WEST?

13 A. Certainly. I think they would drive toward
14 the lowest cost possible.

15 Q. Counsel for the staff asked you whether or
16 not in the calculations on line 6, 7 and 8 where you
17 have the LRIC number whether you were aware of the
18 method of depreciation that was used, whether it was
19 economic lives or Commission-described lives. I
20 believe you stated that you weren't particularly aware
21 of that. To your knowledge, from the relationship of
22 the numbers, if the economic lives had been used would
23 that make your study relative more conservative or
24 less conservative?

25 A. If the use of the economic lives -- I'm

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1 sorry.

2 Q. I'm sorry. Let me step back then. Is it
3 your understanding that generally the economic lives
4 would produce -- other things being equal -- higher
5 depreciation costs in the LRIC than the Commission-
6 prescribed lives?

7 A. Yes.

8 Q. So other things being equal, if it turned
9 out that the numbers that were used in those LRIC
10 calculations included the prescribed lives, would that
11 tend to make your study more conservative as compared
12 to using the Commission --

13 A. Yes. When does the redirect start?

14 Q. Counsel for TCG asked you whether or not
15 you would actually be sitting in the witness chair if
16 all that U S WEST was trying to do was recover its
17 ADSRC costs. Do you recall that?

18 A. Yes.

19 Q. Is that the purpose of your study to simply
20 demonstrate that U S WEST is recovering more than
21 ADSRC?

22 A. No, not at all. The purpose of this study
23 is simply to test for competitive fairness, to see
24 whether or not the prices that U S WEST is charging
25 for its competitive services in the marketplace versus

00957

1 the prices that it is in -- versus the prices that
2 AECs must incur from U S WEST are relatively in
3 balance. And the competitive fairness test is passed
4 as my Exhibit DP-2 demonstrates.

5 Q. You were asked some questions of your
6 understanding of essentiality. Just so the record is
7 clear you're not testifying as a lawyer; is that
8 correct?

9 A. That's correct.

10 Q. And as far as you know the company has
11 lawyers that advise it on questions of essentiality
12 for antitrust purposes?

13 A. Yes.

14 Q. We had some examination about the question
15 of digital switched services. Do you recall that?

16 A. Yes.

17 Q. Could you just explain briefly what digital
18 switched services are or is as the case may be?

19 A. Sure. Digital switched service is nothing
20 more than a PBX trunk in its basic form. A PBX trunk
21 is offered over analog facilities. DSS, digital
22 switched services, is offered over digital facilities.
23 There is nothing inherent in the service itself that's
24 going to create more usage over a DSS than there would
25 be over a regular PBX trunk. So the usage over those

00958

1 is the same because it is PBX customers that are using
2 the DSS. It's just that they're using a digital
3 service instead of an analog service. That's
4 essentially it.

5 Q. Is there any application that you're aware
6 of for a digital switched office other than a PBX
7 trunk?

8 A. No.

9 Q. Counsel for TCG also gave you a
10 hypothetical where you and he were going to sell each
11 other an automobile for a dollar. And he asked you to
12 further assume that after you bought his car for a
13 dollar you sold it to somebody else for fifty cents.
14 Do you recall that assumption?

15 A. Yes.

16 Q. Would that mean that you had lost fifty
17 cents on the deal?

18 A. No. That would mean I gained fifty cents.

19 Q. If you sold the car that you had paid a
20 dollar for for fifty cents?

21 A. Except I got a dollar in revenue from him
22 as well.

23 Q. Counsel for TCG also asked you whether the
24 company likes simplicity in offering flat-rated
25 service to its business customers. Do you recall

00959

1 that?

2 A. Yes.

3 Q. Do you know whether you have any choice
4 under the law of the state of Washington to avoid
5 offering flat-rated service to business customers?

6 A. We have no choice. We must offer
7 flat-rated service.

8 Q. Counsel for TCG also asked you to assume or
9 to count the number of central offices that U S WEST
10 has has in the state and I believe you accepted it was
11 around around 100?

12 A. Over 100 was the only category I put on it.

13 Q. Do you know whether TCG has any facilities
14 in the Spokane LATA?

15 A. I don't know.

16 Q. If their only facilities are in the Seattle
17 LATA, could U S WEST provide them tandem switched
18 transport to an end office in the Spokane LATA?

19 A. No, we could not. That would cross the
20 LATA boundaries and we are prohibited by the modified
21 final judgment from providing interLATA service.

22 Q. Further, would transport within the Seattle
23 LATA from Seattle in some cases be long distance to
24 some end offices in the Seattle LATA?

25 A. Certainly.

00960

1 Q. And if TCG had facilities in the Spokane
2 LATA, would it be possible that transport from those
3 facilities to some end offices in the Spokane LATA
4 would be long distance?

5 A. Yes.

6 Q. In fact, likely if they wanted to go
7 outside Spokane.

8 JUDGE ANDERL: Mr. Owens, if you just have
9 a minute or two I will let you finish up, otherwise I
10 think we should go ahead and take our lunch break.

11 MR. OWENS: I think that's a good idea. I
12 think I have more than a minute or two.

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

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AFTERNOON SESSION

2

1:30 p.m.

3

JUDGE ANDERL: Let's be back on the record
4 after our lunch recess. Mr. Owens, we'll go back to
5 you for redirect.

6

MR. OWENS: Thank you very much, Your
7 Honor.

8

9

REDIRECT EXAMINATION

10 BY MR. OWENS:

11

Q. Mr. Purkey, do you recall that counsel for
12 TCG asked you whether or not the end user common line
13 charge could be excluded from line 21 of your Exhibit
14 C-76?

15

A. Yes.

16

Q. And is there any reason why that would be
17 inappropriate in your view?

18

A. Yes. The end user common line charge is
19 inexorably charged to the actual line itself. U S
20 WEST will not receive the EUCL revenue unless it also
21 receives the line revenue. They are inseparable and
22 so it would be inappropriate to remove the EUCL from
23 the calculation.

24

Q. You mentioned, I think at one or more
25 points during the cross-examination by other counsel

00962

1 that you had made at least one conservative
2 consumption in your imputation cost study in the use
3 of ADSRC costs rather than ASIC costs. Do you recall
4 that?

5 A. Yes.

6 Q. Did you make any other assumptions that you
7 would characterize as conservative that affected the
8 results of your study?

9 A. Yes. There are a number of conservative
10 assumptions built into the study in order to make it
11 conservative, and provide the most stringent tests that
12 are reasonable for U S WEST. The first one as I
13 mentioned is ADSRC is used as opposed to ASIC. In line
14 16, the traffic that terminates into independent
15 company territory I have included the full terminating
16 transport cost for that when in fact a meet point
17 percentage should be applied which would reduce the
18 input.

19 I've also assumed a 60/40 traffic exchange
20 between U S WEST and the AECs. That means that the
21 AECs will terminate more traffic on U S WEST's network
22 than we will terminate on theirs at a ratio of 60/40.
23 The AECs seem to be of the general opinion that this
24 traffic is going to be in balance which would imply a
25 50/50 split. If you use the 50/50 split the number on

00963

1 line 19 would be to zero, so, again, by my use of a
2 60/40 that has increased my price floor that I've
3 displayed and it would be a conservative.

4 I've also assumed that all interoffice
5 traffic would terminate on U S WEST's network, and
6 that is not necessarily the case as well. There could
7 be, for example, MCI to ELI traffic and TCG to MCI
8 type traffic. None of that traffic would have the
9 interim universal service charge applied to it and so
10 to the extent that my calculation shows that all
11 interoffice traffic would have the IUSC applied would
12 be a conservative assumption.

13 I have also on lines 9 and 11 not accounted
14 for the proposed 10 percent reduction in those prices
15 that U S WEST is proposing in the current rate case.
16 In addition, the IUSC is displayed on line 9 as a
17 static number. In fact the IUSC is scheduled for
18 phase-downs, so to that extent there is -- that number
19 will get increasingly smaller over time even if the
20 AECs don't meet the other criteria for completely
21 waiving the IUSC.

22 Q. And at least with regard to that latter
23 assumption that you made, does that have any bearing
24 on the question that counsel for Electric Lightwave
25 asked you about whether or not ratepayers will

00964

1 relatively benefit under a bill and keep approach as
2 compared to the usage-based mutual compensation
3 approach that U S WEST is proposing?

4 A. Well, the business ratepayers would benefit
5 from the standpoint that the price floor would be
6 decreased allowing U S WEST to decrease its price
7 floor with these other assumptions included.

8 Q. Counsel for Electric Lightwave also asked
9 you with regard to your testimony in oral surrebuttal
10 about your experience in the sales force for U S WEST
11 whether during that period of time customers had any
12 alternatives for provision of local exchange service.
13 I believe you said no?

14 A. Yes.

15 Q. As far as you're concerned, does that have
16 any impact on your perception of customers
17 receptiveness to changing their telephone numbers?

18 A. Well, actually I would argue that in
19 today's environment customers would be more receptive
20 to the change simply because there are more good
21 telephone numbers available. There are more numbers
22 that would end in a thousand or more numbers that
23 would have a lot of 8's in them or more numbers that
24 would be all the same, so those customers that today
25 currently don't have what they consider good numbers

00965

1 now have all of those options available to them.

2 Q. Counsel for Electric Lightwave asked you
3 whether or not it would be possible or even likely
4 that U S WEST when faced with a competitive
5 environment if it were freed from what Electric
6 Lightwave characterized as the price floor imposed by
7 the minutes of use compensation method that U S WEST
8 would be able to lower its business prices relatively
9 greater amount under a bill and keep than under the
10 current proposal for U S WEST. Do you recall that
11 question?

12 A. Yes.

13 Q. If U S WEST by doing so would not recover
14 the support that now goes to keep residence rates low,
15 where would that support come from?

16 A. The support would have to come from the
17 residence service itself. The three major categories
18 for revenue streams for U S WEST are toll, access --
19 switched access and local exchange, and switched
20 access and toll are competitive services. There is
21 not a way realistically in a competitive market to
22 arbitrarily raise those rates in the anticipation of
23 getting more revenue. In fact by raising those rates
24 you probably get less revenue because customers would
25 leave, so there's only one source left.

00966

1 Q. Counsel for MCI asked you about Exhibit
2 C-76 and whether or not you had included the network
3 access channel for Centrex services in your
4 computation of the cost. Do you recall that?

5 A. Yes.

6 Q. And I believe you answered that you had
7 included the network access register but in terms of
8 the costs but not the actual physical facility; is
9 that right?

10 A. Well, I had included it in the usage
11 analysis, but I had not included the cost in the NAC
12 in line 6.

13 Q. Have you subsequently analyzed whether
14 doing so would have affected the outcome of your
15 imputation analysis?

16 A. Yes. Over the lunch hour I had an
17 opportunity to go back and look at those costs. The
18 average cost for the Centrex NAC is actually lower
19 than the average that I currently display on line 6 so
20 that would have the effect of lowering that number
21 which the bottom line result is it lowers the price
22 floor. In addition if we're going to include the
23 costs for the Centrex NAC we must also include the
24 revenues for the NAC as well on line 21, and that
25 would have the effect of raising that, so, again, I

00967

1 guess that's yet another conservative approach that
2 we've included in this study.

3 Q. Counsel for MCI asked you and suggested
4 that you had incorrectly done your analysis because
5 you had not included in the imputation an imputed
6 universal service charge for intraoffice minutes. Do
7 you recall those questions?

8 A. Yes, distinctly.

9 MS. WEISKE: So do I.

10 Q. If I can I would like to try to ask you a
11 clarifying question. Is the focus of your imputation
12 analysis what U S WEST would actually pay somebody
13 else or what a hypothetical alternative exchange
14 carrier would pay a company in the position of U S
15 WEST for terminating its traffic?

16 A. The imputation is really done from the
17 standpoint of the AEC so that we're trying to put U S
18 WEST in the same position as an AEC would be in, so
19 that we can understand what their costs would be, so
20 while on line 2, I have labeled intraoffice traffic as
21 U S WEST to U S WEST, in fact when we're thinking of
22 this imputation study we should be thinking of that in
23 terms of that intraoffice traffic is actually going to
24 be MCI to MCI traffic or ELI to ELI traffic within
25 their given central office. I've just simply assumed

00968

1 that the data that U S WEST has would apply to the AECs
2 as well, so even though things are labeled with a U S
3 WEST, the hat that we need to have on in looking at
4 this is from the perspective of the AEC.

5 Q. And so when you earlier testified that that
6 intraoffice traffic would never see U S WEST's
7 network, was it what you just explained?

8 A. Yes, exactly. An intraoffice call then by
9 definition will be an MCI to MCI call. U S WEST will
10 have no knowledge of the existence of that call, and
11 would obviously not be able to apply an IUSC charge to
12 that call.

13 Q. Now, Counsel for MCI asked you to make an
14 assumption that the Commission would on some basis
15 order the company to impute the costs for intraoffice
16 minutes of use. Do you recall being asked to make
17 that assumption?

18 A. Yes.

19 Q. Now, if you were to make such an assumption
20 would that have any effect mathematically on the
21 amount per minute of use of the interim universal
22 service charge that you would use in your imputation
23 analysis?

24 A. Yes, it would. In Mr. Owens's testimony he
25 went through the calculation of how the IUSC was

00969

1 derived. The denominator that he used was the same
2 number that appears in line 3 in my exhibit. However,
3 if now the Commission were to order that the IUSC
4 should be applied to all minutes that means that the
5 denominator should not be the one on line 3 but instead
6 should be the one on line 1. That's a larger number.
7 That means that the IUSC would be reduced so the
8 calculation would change accordingly.

9 Q. And so would that change affect the
10 calculations that you were asked to assume the
11 mathematical validity of in Exhibit C-78 and C-79?

12 A. It would lower the IUSC so I would assume
13 then the price floor would be lowered.

14 MR. OWENS: May I have a minute, Your
15 Honor.

16 Thank you, Your Honor.

17 Q. Finally, on Exhibit C-77, which was the
18 usage for DSS service?

19 A. Yes.

20 Q. Does the number that you have there under
21 actual data reflect the average usage for DSS?

22 A. Yes.

23 Q. Thank you.

24 MR. OWENS: That's all I have.

25 JUDGE ANDERL: Is there any recross for

00970

1 this witness, Mr. Trautman?

2 MR. TRAUTMAN: No questions.

3 JUDGE ANDERL: Does anyone have recross?

4 Ms. Proctor.

5

6 RECROSS-EXAMINATION

7 BY MS. PROCTOR:

8 Q. Mr. Purkey, the amount of money that U S
9 WEST pays to independent companies for access to
10 complete toll calls is an actual cost to U S WEST, is
11 it not?

12 A. Yes, as a whole, yes.

13 Q. And you had some discussion with a couple
14 of the commissioners about essential facilities. Do
15 you recall that conversations?

16 A. In general, yes.

17 Q. You've included with your testimony Exhibit
18 T-76 a one-page exhibit from Colorado and the bottom
19 of --

20 A. 75.

21 Q. 75, sorry. At the bottom of that page
22 there's a reference to a joint statement on predation.
23 Is that the concept of imputation that you have been
24 discussing?

25 A. Generally, yes.

00971

1 Q. And just so that the record is clear, that
2 was supported by Dr. Cornell, Dr. Harris, and Dr. Mayo.
3 Is that the name, Dr. Nina Cornell and Dr. Robert G.
4 Harris that have submitted testimony in this
5 proceeding?

6 A. Yes.

7 Q. And in that definition there's a reference
8 to bottleneck monopoly inputs. Are those the
9 essential facilities that you've been referring to or
10 the essential components?

11 A. Yes.

12 Q. You've also talked about the fact that if a
13 component is available from one other supplier then it
14 is no longer, quote, essential; is that correct?

15 A. That's correct.

16 Q. And is it your understanding that that's
17 the antitrust standard?

18 A. That's a component of the antitrust
19 standard. I believe the antitrust standard actually
20 goes even a little further than that.

21 Q. Do you have an understanding that the
22 determination of a bottleneck monopoly input would
23 also include an examination of the quantity of supply
24 and capacity?

25 A. If by that you mean is this other component

00972

1 available on reasonable -- reasonably available and on
2 comparable terms and conditions?

3 Q. No. I'm talking about capacity.

4 A. So if you could repeat the question then.

5 Q. Is it your understanding that the
6 determination of a bottleneck monopoly input would
7 also look at the capacity or the supply of available?
8 If you don't have an understanding --

9 A. Well, the issue is whether or not an
10 alternative is available, so to that extent, yes,
11 capacity would certainly be a consideration there. If
12 there's no capacity then the alternative is not
13 available so therefore it becomes essential.

14 Q. And is it correct that your position is
15 that the determination of whether a component is
16 essential or is a bottleneck monopoly input will be up
17 to U S WEST?

18 A. I believe we have the capability to make
19 that decision on a rational and objective basis based
20 on market conditions, yes.

21 MS. PROCTOR: Nothing further. Thank you.

22 JUDGE ANDERL: Anyone else have recross for
23 this witness? I see no hands. Thank you, Mr. Purkey,
24 for your testimony. You may step down. Does that
25 conclude U S WEST's case at this time?

00973

1 MR. OWENS: Yes, Your Honor.

2 JUDGE ANDERL: Thank you. I believe we
3 agreed that we would take the TCG witnesses next. Mr.
4 Kopta, do you want to make a brief appearance and then
5 we'll go off the record to get the testimony
6 identified.

7 MR. KOPTA: Thank you, Your Honor. My name
8 is Gregory J. Kopta and I'm appearing on behalf of TCG
9 Seattle.

10 JUDGE ANDERL: And your first witness will
11 be?

12 MR. KOPTA: Jeffrey Roe.

13 (Discussion off the record.)

14 JUDGE ANDERL: Let's be back on the record.
15 While we were off the record Mr. Roe took the witness
16 stand and we identified his rebuttal testimony as
17 Exhibit T-80. Mr. Roe, if you would raise your
18 right hand to be sworn.

19 (Marked Exhibit T-80.)

20 Whereupon,

21 JEFFREY ROE,
22 having been first duly sworn, was called as a witness
23 herein and was examined and testified as follows:

24

25 DIRECT EXAMINATION

00974

1 BY MR. KOPTA:

2 Q. Mr. Roe, would you state your full name and
3 business address for the record, please.

4 A. Jeffrey T. Roe, R O E, address 1215 Fourth
5 Avenue, Suite 1500, Seattle, Washington 98161

6 Q. Mr. Roe, do you have before you the
7 document that's been marked for identification as
8 Exhibit T-80 Rebuttal Testimony of Jeffrey T. Roe On
9 Behalf of TCG?

10 A. Yes, I do.

11 Q. And was this document prepared by you or
12 under your direction?

13 A. Yes, it was.

14 Q. Do you have any corrections, clarifications
15 or modifications that you need to make at this time?

16 A. No, I do not.

17 Q. If I asked you the same questions contained
18 in this exhibit would you give me the same answers?

19 A. Yes.

20 Q. So you adopt this testimony as your sworn
21 testimony in this proceeding?

22 A. Yes.

23 MR. KOPTA: At this time I would move for
24 admission of Exhibit T-80 and the witness is available
25 for cross-examination.

00975

1 JUDGE ANDERL: Any objection to that
2 testimony?

3 MR. SHAW: None.

4 JUDGE ANDERL: Exhibit T-80 will be
5 admitted as identified. And who for U S WEST will
6 be doing the cross?

7 MR. SHAW: I will, Your Honor.

8 (Admitted Exhibit T-80.)

9

10 CROSS-EXAMINATION

11 BY MR. SHAW:

12 Q. Hello, Mr. Roe.

13 A. Hello.

14 Q. Mr. Roe, you worked for Digital Direct of
15 Seattle when they filed their original application to
16 become a registered telecommunications company in the
17 state of Washington?

18 A. Yes, I did.

19 Q. And I see on your testimony on page 2 you
20 testified in that docket?

21 A. Yes, I did.

22 Q. And U S WEST was an intervenor in that
23 docket, correct?

24 A. Yes.

25 Q. And do you recall that U S WEST argued that

00976

1 there was no local exchange monopoly and that DDS
2 should be registered to provide local exchange
3 telecommunications services?

4 A. Yes.

5 Q. And further supported your request for
6 statewide authority and not exchange by exchange
7 registration?

8 A. My recollection is that there was no
9 objection, right.

10 Q. And on the appeal of the Commission order
11 finding that there was an intraexchange monopoly U S
12 WEST supported in the King County Superior Court the
13 argument that there was no such monopoly, correct?

14 A. I believe that's correct, yes.

15 Q. Now, let me just briefly review what
16 happened to Digital Direct of Seattle. Digital Direct
17 of Seattle was a wholly-owned subsidiary of what at
18 the time of the registration back in '91/92?

19 A. I believe the company name is Digital
20 Direct, Inc., that their Digital Direct of Seattle
21 Inc. was a direct subsidiary of Digital Direct, Inc.

22 Q. Which was in turn owned by whom?

23 A. WestMarc Communications.

24 MR. KOPTA: Excuse me, Your Honor, may we
25 have an offer of proof what the relevance of the

00977

1 ownership of a company that no longer provides service
2 in this state is.

3 JUDGE ANDERL: Mr. Shaw.

4 MR. SHAW: I'm not going to spend a great
5 deal of time with this. I just want to get up to who
6 TCG of Seattle is and who it's owned by.

7 JUDGE ANDERL: As quickly as you can.

8 Q. Was WestMarc owned by a cable company, Mr.
9 Roe?

10 A. Holding company called TCI.

11 Q. It was owned by TCI the largest cable
12 company in the country?

13 A. Correct, right.

14 JUDGE ANDERL: Mr. Roe, why don't you pull
15 that microphone a little closer.

16 THE WITNESS: I'm sorry.

17 Q. Did TCI subsequently buy together with
18 other entities Teleport?

19 A. Correct. They had an investment in part of
20 Teleport.

21 Q. And who are the cable company owners of
22 Teleport?

23 A. Presently Teleport Communications is owned
24 by TCI, Comcast, Cox and Continental.

25 Q. And then TCG Seattle is a wholly-owned

00978

1 subsidiary of TCG group of New York?

2 A. No. No, it is not. It's a general
3 partnership and TCG, Inc. is a managing general
4 partner.

5 Q. And the partnership is in turn owned by the
6 three cable companies or the four cable companies that
7 you just named?

8 A. The partnership is owned by TCG, Inc., and
9 therefore all of the four underlying owners have a
10 piece of it and there's two other partners.

11 Q. Subsequently have the cable company owners
12 of TCG and TCG Seattle entered into a joint venture
13 with Sprint?

14 A. That's correct. Three of the four owners.

15 Q. And that joint venture has successfully bid
16 on the PCS -- one of the PCS licenses for Seattle?

17 A. That's correct.

18 Q. And the general business plan is for the
19 three cable companies and Sprint to develop and
20 operate in Seattle in integrated wire line and
21 wireless telecommunications company providing local
22 exchange service and cable service?

23 A. I'm not aware of any plans to do that
24 specifically oriented to Seattle and I've not been
25 involved in that preparation.

00979

1 Q. Would it be reasonable to assume that TCG's
2 cable owners and Sprint would not have spent over a
3 billion dollars for that license without intending to
4 use it in the city of Seattle?

5 MR. KOPTA: Objection, calls for
6 speculation.

7 MR. SHAW: I'm just asking him if he thinks
8 it's reasonable to assume.

9 JUDGE ANDERL: I think that's fine. Go
10 ahead and answer.

11 A. I think it's a reasonable assumption.

12 Q. Is TCG Seattle and Sprint join marketing
13 their local exchange and toll services today?

14 A. No.

15 Q. Is Sprint and the cable companies joint
16 marketing their services in any way?

17 A. I've read about certain activities outside
18 of Seattle but I'm not involved in them, and I don't
19 know of any other than what I read in the newspaper.

20 MR. SHAW: Your Honor, like to have marked
21 --

22 JUDGE ANDERL: I've been handed a single
23 page document entitled Cable Long Distance Connect for
24 Promos. I will mark that for identification as
25 Exhibit No. 81.

00980

1 MS. LEHTONEN: Can I get a copy of that?

2 (Marked Exhibit 81.)

3 Q. Mr. Roe, I've handed you a copy of a page
4 from a magazine from the cable industry Broadcasting
5 and Cable that talks about a promotion of Sprint and
6 cable companies together in the United States. Have
7 you seen this article before?

8 A. Not this specific article.

9 Q. Your previous testimony when you said you
10 had heard that there are joint marketing between
11 Sprint and cable companies, is that what you had in
12 mind, that a cable customer signing up for Sprint Long
13 Distance gets discounts, substantial discount off
14 their cable bill?

15 A. Actually, the article I was referring to
16 was one that appeared in the Tacoma newspaper and
17 showed to me.

18 Q. To the same extent, is that to the same
19 idea?

20 A. I didn't get any specifics on whether there
21 were discounts involved in any way, shape or form.
22 There was a marketing effort.

23 Q. And the marketing effort that you
24 understand that Sprint and your cable company owners
25 are engaging in is to request cable subscribers to

00981

1 also subscribe to Sprint Long Distance and in return
2 get a discount off their cable bill?

3 MR. KOPTA: Objection. I believe that he's
4 already testified that he doesn't know the details of
5 this nor is he qualified to speak toward what Sprint
6 and ultimate owners of TCG are planning.

7 JUDGE ANDERL: It sounds like he doesn't
8 know anything about this, Mr. Shaw.

9 MR. SHAW: Well, I didn't hear that before
10 I passed out the exhibit. I heard him say that he had
11 understood that Sprint and his owners are engaging in
12 joint marketing and I haven't heard him say what that
13 joint marketing is yet and I was asking him is this it
14 that he was referring to.

15 JUDGE ANDERL: Well, I agree he said he
16 knew about some joint marketing. I guess I've already
17 understood him to say this isn't what he knows about
18 shown in Exhibit 81.

19 Q. What joint marketing were you referring to,
20 Mr. Roe, in your previous answer?

21 A. My recollection of the article was that
22 there was some things going out like bill stuffer type
23 stuff, but I have no knowledge of any discounts or
24 anything that was being offered.

25 Q. Bill stuffers offering some sort of a

00982

1 joint package between cable and long distance?

2 A. I really told you everything I know. It
3 was a real quick recall. I was interested to know it
4 was happening in Washington and that was about the
5 extent of it.

6 Q. And as vice-president of TCG I presume
7 you're very interested in marketing your local
8 exchange services and that joint offers with cable
9 companies would be an attractive way to build and
10 expand your business?

11 A. Well, as a general manager of TCG Seattle
12 I'm interested in who is going to own TCG Seattle
13 next, and all my employees -- our employees are as
14 well. But our business at this point is limited
15 strictly to business subscribers to telephone service.

16 Q. By that answer are you saying that you know
17 of another take-over of TCG Seattle that is looming?

18 A. Well, I believe that it's been public
19 knowledge that TCG would become part of what is now
20 known as Sprint Telecommunications Venture.

21 Q. So you would become a wholly-owned
22 subsidiary of Sprint together with United?

23 A. No. It's actually -- we would become, as I
24 understand it, part of a company that is a joint
25 venture company between Sprint and three of our

00983

1 existing cable companies owners.

2 Q. And become the local exchange operating arm
3 of that consortium?

4 A. It hasn't been determined. Obviously we
5 will -- it is anticipated that we will continue to do
6 what we do and we're told to anticipate nothing more.

7 Q. Do you offer long distance service to your
8 local exchange customers in the city of Seattle?

9 A. IntraLATA, yes. InterLATA, no.

10 Q. When you obtain a customer, I take it then
11 you tell them that they have to go find their own
12 interLATA carrier and you don't attempt to steer them
13 to Sprint in any way, shape or form?

14 A. No, we do not.

15 Q. Harking back to the proceeding when you
16 were were registered as telecommunications company as
17 DDS, I recall that you obtained all of your facilities
18 other than your switch, your transport facilities, by
19 lease from the TCI family of companies. Is that
20 correct?

21 A. The fiberoptic -- just to make sure this is
22 accurate. The fiberoptic facilities are obtained
23 under capital lease arrangement from our -- from the
24 local cable company. The electronics are direct asset
25 of TCG Seattle.

00984

1 Q. So the fiber in the street and on the poles
2 in the greater Seattle area is owned by TCI and leased
3 to TCG, correct?

4 A. Yes. More accurately the fiber and
5 conduits are owned -- title resides with the TCI or
6 Viacom respectively and certain fibers in the sheaths
7 or certain conduits -- space in certain conduits --
8 are leased back to TCG.

9 Q. When you say on page 1, line 6 that you own
10 and operate a fiberoptic digital network in the
11 greater Seattle area, what you mean by that is that
12 you own a switch and electronics and lease all your
13 fiberoptic transport facilities from TCI and Viacom
14 and then operate that as a network, correct?

15 A. Yes.

16 Q. And in the future as you grow your network
17 you will continue to look to TCI and/or Viacom as
18 exclusive provider of your fiberoptic network
19 facility?

20 A. No. And we do not now. We are under no
21 exclusive arrangement whereby we have to acquire use
22 of fiber from the cable company, but we do take
23 advantage of synergies and it does provide us with a
24 lower cost and so it has been that way over the past
25 four years in Seattle.

00985

1 Q. And TCI and Viacom have been aggressively
2 upgrading their cable plant with fiberoptic backbone
3 network facilities, have they not?

4 A. They've been building fiberoptic
5 facilities. How aggressive that would be I couldn't
6 say.

7 Q. But aggressively enough that to date you've
8 been able to obtain all your fiberoptic network
9 facilities that you need from the cable companies,
10 correct?

11 A. Yes.

12 Q. Now, does TCG Seattle itself own its own
13 switch?

14 A. Yes.

15 Q. And you installed that switch when?

16 A. We were installing it during the fourth
17 quarter of last year.

18 Q. I need to ask you, Mr. Roe, do you consider
19 any details about that switch, the type and the size,
20 to be proprietary?

21 A. No.

22 Q. And that's a 5E switch, I understand?

23 A. Correct.

24 Q. With a capacity of 60,000 lines? You could
25 serve 60,000 customers on that switch?

00986

1 A. 60,000 line capacity. We would not serve
2 that many subscribers.

3 Q. But that's a theoretical capacity?

4 A. I tell you, I have a little bit of a tough
5 time with describing capacity of the switch in terms
6 of a number of lines or any specific thing, but yes,
7 it's a 60,000 line switch. It's capable of providing
8 service over 60,000 lines.

9 Q. And as your company grew to that size in
10 Washington, somewhere in the 50, 60,000 lines you
11 would have to consider putting in another switch.
12 That's basic telephone engineering practice?

13 A. Oh, no. I think we could upgrade the
14 capacity in place substantially.

15 Q. How many possible lines could you serve out
16 of an AT&T electronic 5E switch?

17 A. I don't know the answer.

18 Q. 100,000?

19 A. My guess is that it's substantially more
20 than 100,000.

21 Q. You could serve the entire population of
22 the city of Seattle, some 500,000, out of one 5E
23 switch?

24 A. Probably not. And it probably wouldn't be
25 practical to do that, for other reasons.

00987

1 Q. Mr. Roe, I want to hand out another exhibit
2 and you may consider this to be confidential because
3 it's the schematic of what we have provided to you.
4 So if you would consider that while we're passing it
5 out.

6 JUDGE ANDERL: This will be Exhibit No. 82
7 for identification. Based on what Mr. Roe tells me it
8 may or may not be C-82.

9 THE WITNESS: Does C mean confidential?

10 JUDGE ANDERL: Yes.

11 THE WITNESS: Yes.

12 JUDGE ANDERL: This is C-82 then.

13 (Marked Exhibit C-82.)

14 Q. Mr. Roe, I want to turn now to the
15 interconnection facilities that U S WEST has provided
16 to you since you turned up your switch, and when did
17 you turn up your switch?

18 A. December, January time frame.

19 Q. And looking at C-82, the circle in the
20 middle of the schematic would be representative of
21 your switch. Do you see that?

22 A. Yes.

23 Q. Let me ask you, have you seen this before,
24 document that's been prepared by our vendor services
25 people as they've provisioned your services?

00988

1 A. No, I had not.

2 Q. Now, after you became registered and
3 installed your switch, we engaged -- that is U S WEST
4 and yourself and your company engaged -- in
5 discussions on what interconnection service you would
6 need, correct?

7 A. Yes. They were brief.

8 Q. Well, I understand about compensation, but
9 the discussions about the interconnection facilities
10 and services that you wanted were more extensive, were
11 they not?

12 A. Correct.

13 Q. And you told us essentially what you wanted
14 and we provisioned and worked with you to provision
15 those services; isn't that correct?

16 A. Yes, that's correct.

17 Q. And we installed a considerable amount of
18 T1 interconnection facilities and met your schedule
19 to turn up your switch, correct?

20 A. Essentially, yes, correct.

21 Q. Now, the spokes on this schematic, would
22 you agree, Mr. Roe, represent the T1 facilities that
23 have been extended from your switch or the end of your
24 facilities out in the greater Seattle area to various
25 end offices of U S WEST?

00989

1 A. Yes. This appears to be -- I'm not in this
2 group within our organization, but this appears to be
3 essentially what I believe our connection facilities
4 to be.

5 Q. And the small circles out in the outer part
6 of the schematic represent the U S WEST end offices
7 that you're connected to?

8 A. Yes. Appears to be.

9 Q. And by looking at the abbreviations you can
10 tell what greater Puget Sound cities those switches
11 are in?

12 A. Yes.

13 Q. For instance, STL stands for Seattle and
14 TAC stands for Tacoma and so forth?

15 A. Yes.

16 Q. Now, around the middle circle there's some
17 notes that say customer-provided transport. That
18 means that you have extended your own facilities, as
19 we've discussed, using TCI fiber out to points in the
20 greater Seattle area where you meet U S WEST at a POP
21 or a point of presence, correct?

22 A. Yes. That was our intent in putting these
23 things in place, to use our network wherever possible.

24 Q. Was there some delay in TCI testing its
25 signaling system 7 links that required MF technology

00990

1 to be installed and then converted to signaling system
2 7 at a later time?

3 A. You mean TCG?

4 Q. Yes.

5 A. Yes. There was a little bit of a delay.

6 Q. And after your engineers worked out those
7 problems the two companies worked together

8 cooperatively to convert those facilities to full
9 signaling system 7 which has been accomplished today?

10 A. Correct.

11 Q. And that process went very well and very
12 cooperatively, correct?

13 A. Yes. Of course I was more anxious in
14 having it happen faster but it did happen
15 satisfactorily.

16 Q. You agree from your years in the telephone
17 business that running a telephone company is a complex
18 business?

19 A. And I'm finding out more and more that's
20 true all the time.

21 Q. And as we sit here today, approximately six
22 months after you turned up your switch, you have all
23 of the interconnection facilities that you need to
24 provide the level of service that you want to provide
25 today in terms of the facilities that connect your

00991

1 network with U S WEST's network?

2 A. You're talking strictly about U S WEST.

3 Q. No. I'm talking about in terms of
4 interconnecting the two networks. From a technical
5 engineering standpoint you have ordered and U S WEST
6 has provided on a timely basis all of the
7 interconnection facilities you require to operate your
8 business at your current size and scope?

9 A. I would only qualify that or only qualify a
10 yes with the fact that there are certain types of
11 calls that we would like to be able to complete, and
12 of course there are other carriers we would like to
13 access, but we can complete calls throughout U S WEST
14 LATA 674, Seattle LATA, with these facilities.

15 Q. And the facilities on C-82 are all the
16 facilities that you have ordered in terms of
17 interconnection facilities from U S WEST as far as you
18 can tell?

19 A. As far as I know, yes.

20 MR. SHAW: Your Honor, move the admission
21 of C-82.

22 JUDGE ANDERL: Any objection?

23 MR. KOPTA: I object. First of all this is
24 a document which the witness already testified he's
25 not familiar. Second of all it's a document prepared

1 by U S WEST releasing proprietary information
2 concerning TCG without TCG's prior authorization, and
3 therefore we would prefer that this not be admitted
4 into evidence until we've had a chance to examine it
5 for accuracy and give our permission to release
6 proprietary information belonging to TCG.

7 JUDGE ANDERL: You have not seen this
8 document before today?

9 MR. KOPTA: I have not and the witness
10 testified that he had not.

11 JUDGE ANDERL: Is that true, Mr. Roe?

12 THE WITNESS: Yes, that's true.

13 MR. SHAW: May I respond, Your Honor?

14 JUDGE ANDERL: Yes.

15 MR. SHAW: I don't think in the context of
16 this hearing when there's a protective order that it's
17 an issue of U S WEST releasing proprietary data to
18 anyone no more than our proprietary data has been
19 released that's been extracted from us in discovery
20 and spread on this record. Typically when we ask in
21 discovery of our carrier and customer intervenors in
22 these cases, asking them for data, they respond that
23 we have the data in our own files and that we can look
24 it up ourselves.

25 I think it's important that this record

00993

1 reflect what in fact has been supplied and the witness
2 has clearly stated that this is what he has ordered
3 and what the company has supplied and indicates how
4 they have designed and constructed their network in
5 the city of Seattle and it's highly probative and it's
6 the only way we're going to get this evidence in.

7 JUDGE ANDERL: Let me ask you this. First
8 of all -- well, let me just say that I don't have any
9 problem with letting TCG look at it to verify its
10 accuracy, and I might be willing to withhold ruling
11 until it had a chance to do that. I guess what I'm
12 really curious about is that yesterday or the day
13 before when U S WEST was asked to produce data which
14 was proprietary to AT&T your position was that you
15 wouldn't or didn't want to release that until you had
16 gotten AT&T's permission to do that just as a kind
17 of a courtesy thing. I believe it was Mr. Owens's
18 position on the record -- maybe I'm misstating it but
19 if I'm not then what's the difference?

20 MR. SHAW: In terms of releasing customer
21 proprietary data to another customer in the context of
22 discovery I think we owe the courtesy to let that
23 other customer know even if they're a party in the
24 case that their data has been requested.

25 In this case, TCG is a complainant against

00994

1 U S WEST and is opposing our tariff in our tariff
2 filing, and they have -- Mr. Roe has made certain
3 statements about the relationships between the
4 companies, and I think it's fully appropriate that the
5 company be able to bring forth the evidence in its
6 possession as to what it has done in terms of its
7 relationship with TCG.

8 JUDGE ANDERL: Okay. Well, Mr. Kopta, how
9 much time do you need to look at it to verify its
10 accuracy? Or maybe we should just put it this way. I
11 think it's an admissible document, I don't think that
12 the proprietary considerations are relevant since we
13 do have a protective order and I am going to admit it.
14 I will be willing to revisit or reconsider that ruling
15 should the company find that there are inaccuracies in
16 it and you can bring that up sometime during the time
17 that we are on the record in these days of hearing.
18 C-82 is admitted.

19 (Admitted Exhibit C-82.)

20 MS. PROCTOR: Judge, can I ask for a
21 clarification? Certainly I understand that the
22 protective agreement maintains confidentiality of
23 documents, but there may be an implication from your
24 ruling that it is totally appropriate for U S WEST to
25 release whatever data is in its possession even though

00995

1 two days ago we all recognized that customers have
2 proprietary information they don't want released.

3 JUDGE ANDERL: This is a ruling on this
4 document only. Does that address your concern?

5 MS. PROCTOR: Yes, thank you.

6 A. Can I ask a question on this diagram
7 quickly? Does this include the facilities that go
8 inbound terminating calls to the switch from --

9 Q. As I understand it, Jeff, all of these
10 facilities are two-way.

11 A. They were provisioned as two-way
12 facilities, but U S WEST chose to install separate
13 one-way facilities from its tandem to TCG for
14 terminating calls into TCG and I didn't know whether
15 those circuits were part of this diagram or not.

16 Q. I will represent to you, Mr. Roe, that this
17 diagram represents what you have ordered from us.

18 A. Okay.

19 Q. In response to the data requests both from
20 U S WEST and from the independent LECs, you have
21 responded on how many access lines you have in
22 service. Do you consider that to be proprietary, Mr.
23 Roe?

24 A. Yes.

25 MR. FINNIGAN: I need to point out that in

00996

1 the data request response that they delivered to the
2 LEC request they did not identify that information as
3 confidential, so to this date it has not been
4 identified as a confidential piece of information.

5 JUDGE ANDERL: Thank you for pointing that
6 out.

7 MR. SHAW: Yes, Your Honor. In the like
8 data request from U S WEST they labeled it
9 confidential but did not label it confidential in
10 their response to Mr. Finnigan's request so that's why
11 I asked the question. Maybe it was just inadvertent.

12 JUDGE ANDERL: If it was inadvertently not
13 labeled confidential we'll continue to treat it as
14 confidential for this proceeding.

15 MR. SHAW: May I approach the witness?

16 JUDGE ANDERL: Yes.

17 Q. Mr. Roe, I would like to hand you a copy of
18 your response to our data request No. 3 and a copy of
19 your response to the WITA request No. 14 and point
20 out the highlighted number in the U S WEST response
21 compared to the highlighted number in the WECA
22 response, and would you agree that they're
23 substantially different?

24 A. Yes.

25 Q. Is there an explanation for the difference

00997

1 in the number of access lines in service between the
2 two data requests?

3 A. From this I can't tell you why there's a
4 difference other than it appears that maybe their
5 question was asked a different way or a different
6 time, and there's also a possibility that we count one
7 type of service as a bundled T1 business service
8 versus 24 trunks, that type of a thing.

9 Q. Which one is the most accurate as we sit
10 here today, the response to the WITA request or the
11 response to the U S WEST request?

12 A. I'm afraid I don't know.

13 Q. Let's talk briefly about what kind of
14 services you're providing today to however many access
15 lines you have. Do you provide PAL lines or access
16 lines to pay phone telephone service providers other
17 than U S WEST?

18 A. No.

19 Q. Have you elicited that business or would
20 you provide that service if you could get a customer?

21 A. We might. I haven't had the opportunity to
22 consider that business yet.

23 Q. Do you provide PBX trunk type services
24 including digital?

25 A. Correct. Yes, we do.

00998

1 Q. Do you provide Centrex type services where
2 you do the intercom switching for your customers in
3 your switch?

4 A. Yes, we do.

5 Q. Do you provide the equivalent of U S WEST's
6 complex and simple 1FB service?

7 A. We sell Centrex lines and a service we call
8 TelExpress. Both are delivered on a digital facility
9 and so they're comparable in that they're the economic
10 proxy for some customers but they're not the same.

11 Q. That's competitive with both
12 vendor-supplied PBX private business service as well
13 as U S WEST's Centrex service as well as competitive
14 with the three Centrex resellers that do business in
15 the state?

16 A. Yes.

17 Q. I have a tariff advice that you've just
18 filed announcing some new services, so I take it that
19 you are constantly adding new services to your book;
20 is that correct?

21 A. That's our intent, yes.

22 Q. And as of June 19, you filed a tariff where
23 you have a service called multi-location calling. Can
24 you briefly describe what that is.

25 A. I am afraid I can't.

00999

1 Q. Is that a Centrex type service offering,
2 intercom services between affiliated users located at
3 different sites?

4 A. I am not familiar with that filing, and not
5 familiar with those terms.

6 Q. I note that your tariff filings are made
7 from Staten Island by an Andrew Burke?

8 A. Yes.

9 Q. And you're cc'd with the tariff filings
10 that TCG makes from New York?

11 A. I'm sure it's in my in-box.

12 Q. Are all the decisions about the services to
13 be offered in Seattle made in Staten Island, New York?

14 A. No.

15 Q. Do you as the vice-president and general
16 manager have any role in what services are offered?

17 A. Very significant.

18 Q. What is TelExpress network service?

19 A. TelExpress is kind of a generic reference
20 that TCG makes to a product or what has now become a
21 family of products that are designed generally at the
22 DS1 level to connect to the back of a PBX end of the
23 trunk side of TCG switch providing tell --
24 TelExpress is somewhat similar I believe to the DSS
25 service that is provided by U S WEST, somewhat

01000

1 similar.

2 Q. Does it also provide connectivity between
3 your business customers and interexchange carriers?

4 A. I suppose it could. I don't believe we
5 have that service installed to an interexchange
6 carrier today.

7 Q. Tariff description says it's a dedicated
8 connection to services provided by interexchange
9 carriers that have interconnected to the company's
10 switch. Does that sound familiar?

11 A. Yes.

12 Q. Now, when you --

13 A. Okay.

14 Q. Now that's a dedicated service, you
15 understand, TelExpress?

16 A. It's -- no. It's a switched service. It's
17 dedicated to DS1 from a customer PBX to TCG's switch
18 just like that.

19 Q. Do you charge access rates to interexchange
20 carriers that your customers are prescribed to?

21 A. Yes.

22 Q. Are they at the levels of U S WEST access
23 charges that have been extensively debated in this
24 record?

25 A. They're similar.

01001

1 Q. At the same levels, same markups over
2 long-run incremental cost?

3 A. TCG offers its access service to
4 interexchange carriers at a slight discount below the
5 levels that U S WEST is charging now, with free
6 entrance facilities, in order to induce exchange
7 carriers to dedicate a port to our switch.

8 Q. So you consider that U S WEST access
9 charges to interexchange carriers set the market rate
10 for access and that you can charge as much as U S WEST
11 charges or slightly less?

12 A. Yes.

13 Q. What are Teleport -- strike that. You only
14 hold yourself out to business customers in the greater
15 Seattle area; is that correct?

16 A. Seattle LATA, yes.

17 Q. You can provide business exchange services
18 to, say, the federal government down in Fort Lewis
19 with your existing network?

20 A. No.

21 Q. When you say in the Seattle LATA, are you
22 ready and prepared to accept an order for business
23 service from any business customer in the Seattle
24 LATA?

25 A. No. I only qualified that because our

01002

1 network in some places does extend beyond what I might
2 consider the greater Seattle area to be.

3 Q. Does Exhibit C-82 where it indicates that
4 the end offices that you're connected to define the
5 outer limits of your service territory at least in U S
6 WEST territory -- I realize this doesn't indicate how
7 you're connected to General or other independent
8 companies, but would C-82 give a reader of it a good
9 approximation of the reach of your offering of
10 business services in the greater Seattle area?

11 A. I don't think so. The C-82 depicts the
12 outbound calling that we have connected both to end
13 offices and to certain tandems, and our trunking
14 design, and is basically for call completion. All the
15 call origination is presently from customers that are
16 connected to TCG Seattle's network.

17 Q. And that would be -- your facilities are
18 generally in Seattle and east of the lake and north
19 into General's territory all the way up to Everett; is
20 that correct?

21 A. Yes. It's more accurate to say at this
22 point we have customers in the Seattle and Bellevue
23 area who are using two NXX codes, one for each of
24 those rate centers.

25 Q. You have two NXX codes --

01003

1 A. In use.

2 Q. -- in use and that's 20,000 numbers,
3 correct?

4 A. 20,000 potential numbers, right.

5 Q. Now, pending the outcome of these
6 proceedings, TCG and U S WEST have agreed to
7 interconnect and cooperate with each other based upon
8 minimal good faith deposits for the services ordered
9 from each other, correct?

10 A. Correct. Understanding that after this
11 proceeding when there's a determination made of the
12 compensation arrangement we'll true up.

13 Q. And is it true that to date these
14 facilities have been installed since roughly the first
15 of the year and there's been no payment by TCG to U S
16 WEST?

17 A. Payment of the deposits that we spoke of,
18 yes, there's been that payment.

19 Q. It's your understanding that the deposits
20 have been paid?

21 A. Right.

22 Q. Do you provide directory assistance
23 services to your business customers?

24 A. Yes, we do.

25 Q. And how do you provide that service?

01004

1 A. Through outside contractor.

2 Q. In other words, you have entered into a
3 relationship with a a directory assistance provider
4 other than U S WEST, correct?

5 A. Yes.

6 Q. You provide operator services to your
7 business exchange customers?

8 A. Yes.

9 Q. And do you use one of the many other
10 operator services companies in the state to provide
11 that service?

12 A. Well, there aren't very many operator
13 services companies that offer operator services at the
14 level required for a local exchange carrier. The
15 answer is yes, but not one of the many.

16 Q. I have a recent report here from the
17 Commission that says that there's 64 alternative
18 operator services companies doing business in this
19 state. Does that sound about right to you?

20 A. I have no idea how many there are, but what
21 I meant behind that was there are certain types of
22 things such as operator interrupt and busy line
23 verification functions that are generally provided by
24 local exchange company operators and they're not when
25 you're talking about operator services that do

01005

1 business for interexchange companies, so you have to
2 -- if you want to provide good operator services you
3 have to be able to do those other things.

4 Q. And that's something that our two companies
5 need to get accomplished is get the interrupt and busy
6 line interconnection done so that that can be provided
7 between the two companies?

8 A. That's one of the many things, yes.

9 Q. And we're working on that. Do you
10 understand we're discussing that with you?

11 A. I don't understand that with you but that's
12 good news.

13 Q. You want to be -- do you understand the
14 Commission's rules to require all local exchange
15 companies to make provision for a printed directory
16 for their customers?

17 A. No, I don't understand the rule, but it's
18 pretty obvious that we want to do that.

19 Q. And the way you want to accomplish that
20 obligation, if you will assume with me that there is
21 such an obligation, is to put your customers' numbers
22 in U S WEST's White Page directory?

23 A. That's right.

24 Q. Do you want to put your numbers also in
25 GTE's directory?

01006

1 A. For those numbers up in their service area,
2 yes.

3 Q. And for whatever other independent company
4 that you might compete with you would want to put your
5 numbers in their directory?

6 A. I would to have my customers' numbers in
7 every directory that U S WEST's numbers are in.

8 Q. You would want to have your customers'
9 numbers in the incumbent LEC's directory with whom
10 you're competing, I take it, wherever you compete in
11 the state?

12 A. Yes. I think that's right, yes.

13 Q. And that's because you perceive that that's
14 the one that's used the most and that's the one that
15 --

16 A. The one that's get used.

17 Q. -- the one that will provide most value to
18 your customers?

19 A. Yes, as opposed to by publishing a TCG
20 directory with just the TCG customers in it, yes.

21 Q. Well, you agree that putting out a phone
22 book is not rocket science. There's a lot of
23 competing phone books around, isn't there, that have
24 more than just a small group of customers in it. You
25 can get the listings and put out a phone book?

01007

1 A. From my perspective we need to be in the
2 U S WEST telephone book at this point. Otherwise
3 there's going to be major objections on the part of
4 our customers from -- or potential customers from
5 buying our service.

6 Q. And so you're pleased to hear that U S WEST
7 will be willing to put you in its phone book, all your
8 customers in its phone book?

9 A. Or especially if they agree to do it at the
10 same terms and conditions they do their own numbers.

11 Q. Have you been advertising for customers? I
12 haven't seen any advertising blitz like MCI mounts in
13 attacking AT&T's dominant market share. Are you going
14 to come at us hard with some advertising one of these
15 days?

16 A. Well, I guess we haven't effectively
17 advertised that you have seen it. We've had a few
18 advertisements but we're challenged in doing that type
19 of blitz in that most of the interexchange carrier
20 advertising was done or much of it was done just prior
21 to equal access balloting, as I recall, and everybody
22 was going to have to have a chance to choose a long
23 distance carrier, and in our situation we can serve
24 customers that our network touches and those business
25 customers. It tends to be more of a rifle shot for

01008

1 us. We don't have the opportunity to get access to a
2 large number.

3 And of course the overriding thing is that
4 we're operating at this point in this state without
5 really an understanding of whether we'll be able to
6 clear any money. As a matter of fact, depending on
7 the outcome of this proceeding we could be writing a
8 much bigger check to true up our compensation to U S
9 WEST than the total revenues that we've received so
10 far, so it's little risky to go real hard and real
11 fast at this point.

12 Q. Are you suggesting that it's the obligation
13 of this Commission to make you as a start up local
14 exchange company profitable from the first day?

15 A. No.

16 Q. Do you know of any example in any business
17 that is even close to as complex and capital-intensive
18 as providing local exchange telecommunications where
19 an entrant expects to be profitable from day one?

20 A. No, but we like to believe that our revenue
21 covers our variable cost.

22 MR. SHAW: I have nothing further. Thank
23 you.

24 JUDGE ANDERL: Thank you, Mr. Shaw. Mr.
25 Potter.

01009

1

2

CROSS-EXAMINATION

3 BY MR. POTTER:

4 Q. Afternoon, Mr. Roe.

5 A. Good afternoon.

6 Q. Just a few questions and I think we can do
7 them pretty quickly. Are you familiar with the fact
8 that in response to data requests TCG indicated that
9 it planned to adopt the same local and EAS calling
10 areas as the current local exchange companies?

11 A. Yes. Well, with the caveat that those may
12 not be identical overlays due to NXX problems.

13 Q. That's what I was going to get into next.
14 My understanding would be that in order to adopt the
15 identical area you would need in effect identical
16 exchange boundaries for a given NXX. Would that be
17 your understanding also? Let me take an example. If
18 you were going to overlap or mirror the U S WEST local
19 calling area in Bellevue that you would in effect have
20 to have the Bellevue, U S WEST Bellevue, exchange
21 boundaries apply to one of your NXXs; isn't that
22 right?

23 A. The rate center, right. Rate center
24 boundaries.

25 Q. Has TCG filed any sort of a map with the

01010

1 Commission in its tariffs that show local calling
2 areas?

3 A. I believe the answer is no.

4 Q. Do you intend to do so at some point?

5 A. I don't know.

6 Q. In this case TCG is requesting that it be
7 allowed to terminate traffic to U S WEST, GTE and
8 other LECs on a bill and keep basis for local and EAS
9 traffic; is that right?

10 A. Yes.

11 Q. And on the other hand, if TCG provides toll
12 service and it is going to terminate a toll call to
13 U S WEST or GTE, it would pay the appropriate rates
14 out of those company's switched access tariffs,
15 correct?

16 A. Yes.

17 Q. So you would agree that it's necessary
18 between the companies in order to be able to
19 distinguish between toll on the one hand and local or
20 EAS on the other?

21 A. Right. That capability of course exists
22 right now.

23 Q. But if you're defining your traffic that
24 you call local or EAS to be identical to what would
25 be local or EAS traffic for U S WEST, you need to

01011

1 establish that fact by filing maps depicting your
2 local and EAS calling areas, do you not?

3 A. File with the Commission maps depicting our
4 calling areas?

5 Q. Yes.

6 A. I currently have no objection to that. I'm
7 not sure why it would be required for us to go market
8 the services.

9 Q. I'm not talking about marketing services.
10 I'm talking about defining your services for
11 intercompany compensation purposes. Does that affect
12 your answer at all?

13 MR. KOPTA: May I have a clarification at
14 this point whether Mr. Potter is referring to legal
15 obligation to file maps or a practical requirement to
16 file maps in order to accomplish this?

17 JUDGE ANDERL: Mr. Potter.

18 MR. POTTER: Leave it at the practical
19 sense at the moment.

20 A. I guess my thought is that we could
21 reference existing GTE or U S WEST maps in locations
22 that they were already existing and overlay them.

23 Q. And assuming that you would overlay
24 existing GTE and U S WEST exchange areas, is it your
25 company's intention to have a separate NXX for each of

01012

1 those exchange areas?

2 A. For each of those rate centers, yes.

3 Q. You use the word rate center rather than
4 exchange. Please explain the difference as you see
5 it.

6 A. Well, as I see it -- and I may be wrong --
7 what we're really looking at trying to do is to look
8 at the flat-rated local call calling areas and define
9 our rates out of those areas, so I believe that they
10 call them rate centers as I understood but if they
11 call them exchanges I will accept that. My
12 understanding exchange boundaries is that has a little
13 different meaning so that's why I use rate centers.

14 Q. Do you have in mind that a rate center is
15 a particular point on a map that's described by
16 vertical and horizontal coordinates, for example?

17 A. No. I have it in mind that the rate center
18 for -- there are I believe, technically speaking,
19 three rate centers in Seattle, major Seattle one, then
20 a small north and south one and that there's one rate
21 center in Bellevue, for example. But I'm not sure how
22 the exchange boundaries overlay those. The intent is
23 to essentially provide like calling arrangements that
24 the incumbent local exchange carriers do. So that
25 we're not in a confusing situation where what's a toll

01013

1 call for us is different than what the toll call for
2 U S WEST or GTE. It's a marketing decision, I think.

3 Q. Are you familiar with the current local
4 exchange company telephone directory such as U S WEST
5 and GTE where somewhere near the front they list the
6 prefixes to which free calls can be made?

7 A. Yes.

8 Q. Do you intend to do any similar listing of
9 your prefixes so customers can obtain similar
10 knowledge about calls to and from your areas for your
11 customers?

12 A. That's a good idea. We'll probably do
13 that.

14 Q. In your prefiled testimony you talk about
15 number portability of course. When TCG made the
16 business decision to begin to participate as a local
17 exchange service provider in Washington, did it have
18 any particular assumption on whether or not number
19 portability would in fact become available to it at
20 sometime?

21 A. I believe that the answer is yes. However,
22 there's nothing detailed in any business plan that
23 says when and what is expected as a direct result of
24 it, but yes.

25 Q. In other words, TCG decided to go ahead and

01014

1 start competing in the Washington market without the
2 certainty that it would in fact obtain number
3 portability; is that right?

4 A. TCG entered into its -- entered into the
5 local exchange business on the basis of the fact that
6 it's our ultimate objective to be another local
7 exchange provider and that the Commission in allowing
8 us label authority was attempting to incent
9 competition throughout the state and that in order to
10 derive that we had to be in the business. There
11 wasn't a specific portability assumption.

12 Q. Similarly, we're talking about compensation
13 for local and EAS traffic, and your company's
14 testimony talks about bill and keep or flat-rated
15 ports as opposed to measured compensation. Did your
16 company make any assumption as to what sort of
17 intercompany compensation would exist when it decided
18 to start doing business in Washington?

19 A. Yes. Our overriding assumption is that we
20 would be able to sell local exchange services to
21 customers providing whatever compensation on a port or
22 permanent basis we needed to to a local exchange
23 carrier we were dealing with and that there would be a
24 contribution to our own marketing, general
25 administrative and hopefully fixed cost.

01015

1 Q. I direct your attention to your testimony
2 page 11. At lines 10 and 11 you use the phrase
3 "multiple traffic-specific trunks." By that phrase do
4 you have in mind one set of trunks for toll traffic
5 and another set of trunks for local and EAS traffic?

6 A. No. I have in mind in some cases one
7 two-way trunk group that could facilitate all types of
8 calls from either carrier. That is, local intrastate
9 access, interstate access.

10 Q. I'm sorry, then I don't follow. Let me
11 just read this one sentence that I picked a phrase out
12 of it and ask you if that changes your answer. This
13 sentence says, "U S WEST and GTE proposals for one way
14 or multiple traffic specific trunks would require
15 access facilities and would unnecessarily increase the
16 cost of interconnection."

17 A. Yes, that's a good statement. I agree with
18 it.

19 Q. If multiple traffic-specific trunks means
20 trunks that can handle all kinds of traffic --

21 A. Oh, I'm sorry. Multiple traffic-specific
22 trunks --

23 Q. Yes.

24 A. -- is what I understand is being proposed
25 by U S WEST and GTE would be separate trunks for

01016

1 separate end offices, separate types of calling, for
2 example, a one-way trunk going from TCG to U S WEST
3 that would be strictly local calling. A one way trunk
4 separately for toll access and then of course one way
5 trunks going the other way, and that's what I'm
6 disagreeing with.

7 Q. Is it the fact that they're one way that
8 bothers you or the fact that they have different type
9 of traffic?

10 A. Both.

11 Q. I might direct your attention to page 10 of
12 your testimony, lines looks like 7 to 10 in that
13 range. Let me know when you find that sentence. It
14 starts out "as a simple rule of thumb."

15 A. Yes.

16 Q. The sentence says essentially that as a
17 simple rule of thumb your company would like U S WEST
18 in this case to treat it the same that U S WEST treats
19 other LECs; is that right?

20 A. That's right.

21 Q. And are you aware that between U S WEST and
22 GTE Northwest, for example, the companies have
23 separate trunks for toll service and EAS service?

24 A. Yes, I am aware of that. That doesn't hook
25 on that rule of thumb, I guess, but it is important

01017

1 for us because we want to establish multiple point of
2 interconnection and it's imperative that we have each
3 point be as efficiently trunked as possible. That's
4 one of the differences between being an overlay
5 company rather than next-to-you company.

6 MR. POTTER: All the questions I have.
7 Thank you.

8 JUDGE ANDERL: Thank you, Mr. Potter.
9 Do you have cross questions for this
10 witness?

11 MR. SMITH: No.

12 JUDGE ANDERL: Mr. Rindler.

13 MR. RINDLER: I think I just have one, Your
14 Honor.

15 JUDGE ANDERL: Grab the mike.

16 MR. RINDLER: More in the way of
17 clarification.

18

19 CROSS-EXAMINATION

20 BY MR. RINDLER:

21 Q. In response to one of the questions Mr.
22 Shaw asked you, you said that you could only serve
23 customers on your network. Do you recall that?

24 A. I hope I said we were only serving
25 presently customers on your network.

01018

1 Q. And that was the reason you didn't do an
2 advertising blitz?

3 A. Yes. That was one of the reasons that
4 we're at this point serving customers that touch our
5 network or where we physically connect the customer
6 with our own facility to our switch.

7 Q. Is it a limitation on your ability to serve
8 other customers the fact that there are not unbundled
9 links?

10 A. Yes.

11 MR. RINDLER: Thank you. I have no more
12 questions.

13 JUDGE ANDERL: Mr. Finnigan?

14 MR. FINNIGAN: Your Honor, there is one
15 item that involves the information that I didn't
16 realize was confidential.

17 JUDGE ANDERL: The number of lines?

18 MR. FINNIGAN: Correct, and so I will need
19 now to make copies of an exhibit that I didn't think I
20 would have to do because it's been recently designated
21 as confidential.

22 JUDGE ANDERL: Sounds like a perfect time
23 to take an afternoon recess.

24 MR. FINNIGAN: That's what I was going to
25 suggest.

01019

1 JUDGE ANDERL: Be back at 10 after 3.

2 (Recess.)

3 JUDGE ANDERL: Let's be back on the record
4 after our afternoon recess. Mr. Finnigan.

5 MR. FINNIGAN: Thank you.

6

7 CROSS-EXAMINATION

8 BY MR. FINNIGAN:

9 Q. Mr. Roe, you indicated in response to some
10 questions from Mr. Shaw that TCG Seattle was being
11 transferred to a new ownership interest, if I remember
12 that correctly. Is that correct?

13 A. That's my understanding.

14 Q. And in fact an application was filed with
15 this Commission to do that dated May 31, 1995; is that
16 correct?

17 A. That may be. I wasn't aware of that.

18 Q. Since it bears your counsel's signature
19 maybe he could verify that for you.

20 MR. KOPTA: That is accurate.

21 Q. And the application states that there's a
22 joint venture which will own TCG Seattle and that
23 joint venture is owned 40 percent by Sprint, 30
24 percent by TCI, 15 percent each by Comcast and Cox.
25 Does that appear to be accurate?

01020

1 A. Yes. That describes the Sprint
2 Telecommunications Venture.

3 Q. You also indicated that you currently lease
4 facilities from TCI and Viacom and Viacom is currently
5 one of the indirectly or ultimately one of the current
6 owners of TCG Seattle; is that correct?

7 A. Yes.

8 Q. Are you going to continue to lease
9 facilities on the same terms and conditions from
10 Viacom once Viacom is out of ownership interest?

11 A. Well, certainly continue to lease the
12 existing facilities. How we go forward in the future
13 is yet to be determined.

14 Q. You also indicated that you began to offer
15 intraLATA toll services. When did you begin to offer
16 those services?

17 A. Well, we began to offer them early this
18 year.

19 Q. Can you be a little more specific? When
20 did you first have a first customer for which you
21 provided intraLATA toll services?

22 A. I suspect that our first intraLATA toll
23 calls were made by customers in February time frame.

24 Q. When TCG became authorized -- start over
25 again. In the process of seeking authorization to

01021

1 provide intraexchange services -- and make that intra-
2 exchange switched services in the state of Washington
3 -- TCG committed to collecting and paying the
4 universal service additive of access charges; is that
5 correct?

6 A. Yes.

7 Q. And for the toll services that it offers,
8 that TCG offers itself, that it would impute that
9 element and transmit those revenues to WECA; is that
10 correct?

11 A. Yes.

12 Q. Has TCG made any payments to WECA of the
13 universal service funds for toll services that TCG
14 provides itself?

15 A. I don't know the answer to that question.
16 I can tell you that we are in the process of billing
17 and collecting and we intend to remit the amounts
18 through that service.

19 Q. But as of this date you don't know whether
20 you've actually remitted those funds or not?

21 A. I can certainly find out but I don't know
22 the answer.

23 Q. When did you begin to charge access rates
24 to interexchange carriers?

25 A. We probably began to charge the carriers in

01022

1 the -- maybe the May time frame but, frankly, the
2 amounts at this point aren't really material.

3 Q. You realize that WECA may have a different
4 opinion as to whether those amounts are material or
5 not. If they are to be remitted to WECA, WECA may
6 have a different opinion as to whether they're
7 material?

8 A. Oh, sure, yeah.

9 Q. You also discussed with Mr. Shaw the idea
10 of directory listings and wanting to be included in
11 an incumbent LEC's directory. Do you remember those?

12 A. Yes.

13 Q. Are you aware that most of WITA's members
14 do not publish their own directories either through
15 themselves or through an affiliate and must contract
16 with an unrelated or unaffiliated publisher for that
17 service?

18 A. No.

19 Q. Would you accept subject to check that that
20 is the case?

21 A. Sure.

22 Q. Just to conclude, on the subject of the
23 commitment of TCG to pay the universal service element
24 to WECA, are you aware that ELI has entered into a
25 contract with WECA under which it agrees to remit

01023

1 those funds to WECA?

2 A. No.

3 Q. You're not aware of that?

4 A. They didn't tell me they had. But I will
5 accept it subject to check.

6 MR. FINNIGAN: Your Honor, if I may have
7 just a moment.

8 Thank you. Those are the only questions I
9 have for this witness.

10 JUDGE ANDERL: Are there any other
11 intervenors who have questions? Mr. Trotter, do you
12 have any questions?

13 MR. TROTTER: No.

14 JUDGE ANDERL: Questions from the
15 commissioners for this witness?

16 COMMISSIONER HEMSTAD: I have none.

17 COMMISSIONER GILLIS: I have no questions.

18 JUDGE ANDERL: Redirect.

19 MR. KOPTA: Very briefly, Your Honor. May
20 I approach the witness?

21 JUDGE ANDERL: Yes.

22

23 REDIRECT EXAMINATION

24 BY MR. KOPTA:

25 Q. Mr. Roe, Mr. Shaw asked you a couple of

01024

1 questions about responses of TCG to data requests,
2 one from U S WEST and one from independent local
3 exchange carriers. Do you recall that line of
4 questions?

5 A. Yes.

6 Q. And in conjunction with that question,
7 Mr. Shaw showed you the two different responses in
8 which there were two different numbers dealing with
9 access lines. Do you recall that?

10 A. Yes.

11 Q. As you review these responses, can you
12 explain the difference between those two numbers?

13 A. Yes. I believe the higher number that's
14 depicted in the WITA response --

15 Q. Independent local exchange carrier?

16 A. -- independent local exchange carrier
17 response is actually the switch line side capacity as
18 of 12-94. The other number, the lower number in U S
19 WEST's response is the number of lines in service at
20 the time that we responded to the request.

21 Q. Mr. Shaw also asked you a series of
22 questions about the most recent tariff revision filing
23 made by TCG. Do you recall those questions?

24 A. Yes.

25 Q. Are you familiar with that filing?

01025

1 A. Yes. I was aware that it was filed and was
2 confused where it referred to by what appears to be
3 a Centrex option that we had filed along with some
4 other stuff, and the other stuff was the fall
5 completion service for originating and terminating
6 access intrastate for interexchange carriers.

7 Q. Thank you very much.

8 MR. KOPTA: That's all I have.

9 JUDGE ANDERL: Is there any recross,
10 Mr. Shaw?

11

12 REXCROSS-EXAMINATION

13 BY MR. SHAW:

14 Q. One question. Mr. Finnigan was asking you
15 about the May 31 application to transfer your company.
16 What name will the new company use to market services?
17 Will it be Sprint or TCG or what will the name be?

18 A. I don't know, and it's an issue that a lot
19 of us are guessing right now.

20 Q. As of this date there is no decision made
21 on the corporate name that your organization is going
22 to present to the public?

23 MR. KOPTA: May I have a clarification as
24 to whether you're talking about the Washington entity
25 or the national entity?

1 MR. SHAW: I had in mind the national
2 entity that's going to be providing service in
3 Washington.

4 A. A few weeks ago I was introduced to the new
5 code name of Sprint Telecommunications Venture and
6 that's what we were told to refer to this as at this
7 point. I have no understanding of what the venture
8 will ultimately be called.

9 MR. SHAW: Thank you.

10 JUDGE ANDERL: Anyone else have any
11 additional cross for this witness?

12 I see no show of hands. Thank you, then,
13 Mr. Roe, for your testimony. You may step down.

14 JUDGE ANDERL: Your next witness will be?

15 MR. KOPTA: Steven C. Andreassi.

16 JUDGE ANDERL: Let's go off the record
17 while he takes the stand.

18 (Recess.)

19 (Marked Exhibits T-83 and 84.)

20 JUDGE ANDERL: Let's be back on the record.

21 While we were off the record Mr. Andreassi took the
22 witness stand. I will let Mr. Kopta explain what the
23 company wants to do, but we marked Mr. Andreassi's
24 direct testimony as T-30 which would we'll be
25 substituting for the direct testimony originally filed

01027

1 by Mr. Kourupas in this matter. There is a letter in
2 the file explaining what the company wants to do about
3 that or why they were doing it. The other testimony
4 submitted by this witness is his rebuttal. We marked
5 that for identification as Exhibit T-83 and his SCA-1
6 exhibit attached thereto is attached and marked for
7 identification as Exhibit 84.

8 Whereupon,

9

STEVEN ANDREASSI,

10 having been first duly sworn, was called as a witness
11 herein and was examined and testified as follows:

12 MR. KOPTA: Initially the exhibit currently
13 marked as Exhibit T-30 was submitted as the direct
14 testimony of Paul Kourupas. Mr. Kourupas was unable
15 to attend these hearings and therefore we substituted
16 the current document marked Exhibit T-30 as the direct
17 testimony of Steven C. Andreassi, which is identical
18 in all respects to the prior document with the
19 exception of identifying information about Mr.
20 Andreassi, and we would ask at this time that the
21 direct testimony of Mr. Paul Kourupas be withdrawn and
22 the direct testimony of Steven C. Andreassi currently
23 identified as Exhibit T-30 be substituted in its
24 stead.

25

JUDGE ANDERL: I don't believe there will

01028

1 be any objection to that. We'll take that up when you
2 offer the exhibit.

3

4 DIRECT EXAMINATION

5 BY MR. KOPTA:

6 Q. Mr. Andreassi, would you state your full
7 name and business address for the record, please.

8 A. My name is Steven C. Andreassi. My
9 business address is Teleport Communications Group
10 Inc., Two Teleport Drive, Suite 300, Staten Island,
11 New York, 10311.

12 Q. Mr. Andreassi, do you have before you at
13 this time documents that have been marked for
14 identification as Exhibits T-30 and T-83?

15 A. Oh, yes, I do.

16 Q. And were these documents prepared by you or
17 under your direction?

18 A. Yes.

19 Q. Do you have any corrections, clarifications
20 or modifications that you need to make at this time?

21 A. Excuse me. I don't have the T-83 with the
22 attachment on it.

23 MR. KOPTA: May I approach the witness,
24 Your Honor?

25 JUDGE ANDERL: Yes.

01029

1 Q. Is this the document that you prepared or
2 had cause to be prepared?

3 A. Yes.

4 Q. And do you have any corrections,
5 clarifications or modifications to make to either
6 document at this time?

7 A. No.

8 Q. If I were to ask you the same questions
9 contained in that document today, would your answers
10 be the same?

11 A. Yes.

12 Q. Do you adopt Exhibits T-30 and T-83 as your
13 sworn testimony in this proceeding?

14 A. Yes.

15 MR. KOPTA: Your Honor, in light of
16 previous rulings we are not going to offer what's been
17 tentatively marked for identification as Exhibit 84,
18 but we would offer for admission Exhibits T-30 and
19 T-83 and the witness is available for
20 cross-examination.

21 JUDGE ANDERL: I was just anticipating some
22 argument on that. Any objection to T-30 or T-83?

23 MR. OWENS: Could I just ask a question on
24 voir dire in aid of my objection?

25 JUDGE ANDERL: Yes.

01030

1

2

VOIR DIRE EXAMINATION

3 BY MR. OWENS:

4 Q. Good afternoon, Mr. Andreassi.

5 A. Good afternoon.

6 Q. At page 12 of Exhibit T-83 you recite some
7 statements apparently by Dr. Zepp beginning at line
8 9 and going through line 21. Do you know those facts
9 of your own knowledge?

10 A. Yes.

11 Q. Thank you.

12 MR. OWENS: Nothing further. No objection.

13 JUDGE ANDERL: From any other party?

14 Hearing none Exhibits T-30 and T-83 will be
15 admitted as identified. I will just consider Exhibit
16 SCA-1 or 84 withdrawn and we'll use that exhibit
17 number again.

18 MR. KOPTA: Thank you, Your Honor.

19 JUDGE ANDERL: Mr. Owens, cross?

20 MR. OWENS: Thank you, Your Honor.

21 (Admitted Exhibits T-30 and T-83.)

22

23

CROSS-EXAMINATION

24 BY MR. OWENS:

25 Q. Mr. Andreassi, at page 7 of Exhibit T-83 at

01031

1 line 20 you state that in your view there's every
2 reason to believe certain things based on experience
3 in other telecommunications markets. What markets are
4 those?

5 A. At this point primarily it's the long
6 distance market. Experiences of AT&T, MCI and other
7 competitors.

8 Q. And were you intending to refer to the
9 beginning of competition in that market as we're
10 looking at the beginning of competition in the local
11 exchange market here?

12 A. It's primarily the experience of
13 competition throughout both the beginning and the
14 duration to date.

15 Q. In the long distance market it's your
16 testimony that revenues were concentrated in a few
17 locations so that competitors could take as much as 30
18 percent of an incumbent's long distance revenue by
19 serving one percent of the locations?

20 A. I'm not familiar with those exact numbers,
21 one percent and 30. I think my intent here was there
22 is potential for growth in the market even after
23 competitors enter and even because of competitors
24 entering. Perhaps new and innovative services can
25 bring additional revenues and in essence increase the

01032

1 pie bigger than what it may have been prior to only
2 one, one provider.

3 Q. In the long distance market were the
4 entrants of equal or greater size than the incumbent
5 long distance carrier?

6 A. I don't believe the entrants, for example
7 MCI, was the size; i.e., smaller than AT&T at the
8 time.

9 Q. Considerably smaller wasn't it?

10 A. I would say they were considerably smaller.

11 Q. In the interexchange market were the
12 competitive entrants deploying a new technology
13 compared to the technology that was in use by the
14 incumbent?

15 A. I'm not as familiar with what was in use
16 by AT&T. I mean, MCI began itself as a microwave
17 carrier. Hence the name MCI, Microwave
18 Communications, Inc. I don't know if AT&T had
19 microwave or not. I assume that there were a lot more
20 -- more copper-based facilities.

21 Q. But to your knowledge, at the time of,
22 let's say, divestiture, did AT&T use microwave for its
23 intercity communications?

24 A. I don't know.

25 Q. Direct your attention to page 12 of your

01033

1 Exhibit T-83. It's your testimony, as you sit there,
2 that you believe that Dr. Zepp states in his
3 testimony -- and I assume you mean in this case --
4 that the total service long-run incremental cost of
5 terminating traffic is relatively small in comparison
6 to the cost of U S WEST and CLECs of measuring,
7 billing collecting and administering under the
8 compensation program proposal put forth by U S WEST.
9 Is that your testimony?

10 A. Yes.

11 Q. What specific reference in Dr. Zepp's
12 testimony do you have in mind in making that
13 statement?

14 A. I don't have Zepp's testimony in front of
15 me to reference. It was the general idea. He had a
16 statement that the cost to bill outweigh the cost of
17 actual -- providing the service itself.

18 Q. Are you sure of that?

19 A. Did he specifically say it?

20 Q. That's what I'm asking you. Are you sure
21 that he testified as you're saying that he did?

22 A. At this point I guess not having it in
23 front of me and being able to review it, I can't give
24 you a specific line.

25 Q. Let me ask you to accept subject to check

01034

1 that at page 22 of his prefiled direct testimony he
2 states, "Based on USWC's assumed cost of measurement,
3 billing and collection, such costs would represent
4 almost one half of the costs of terminating local
5 calls."

6 A. That's correct. The reference -- are you
7 making the 70/30 reference that I have?

8 Q. I'm just asking you if that is what you
9 relied on in stating that Dr. Zepp states --

10 A. Yes, that is. I'm sorry.

11 Q. So if we understand the fractions that
12 means that the cost of terminating the traffic exceeds
13 the cost of measuring, doesn't it?

14 A. No. There were, I believe, five components
15 in the U S WEST cost study that listed what it costs
16 to do the complete service. We contend that the
17 actual end office switching itself, if you compare
18 what it costs to do the billing and collection, that
19 is greater than 50 percent of that or it exceeds it.
20 There were other elements such as end office
21 switching. There was billing and collection, IXC
22 measurement, operator assistance and I believe
23 intercept. So when looking only at end office
24 switching, I believe what's stated here holds true.

25 Q. Looking at Exhibit C-29 and bearing in mind

01035

1 it's a confidential exhibit, it's your testimony that
2 the cost of billing and collection exceeds the cost of
3 end office switching even when coupled with the IXC
4 measurement?

5 A. I don't believe -- I believe you reviewed
6 Dr. Zepp's testimony. He did not use ADSRC. He used
7 ASIC.

8 Q. So that's your testimony of his testimony?

9 A. Absolutely. And when you compare those
10 numbers I believe the relationship stated here holds.

11 Q. At page 12 of Exhibit T-30 you accuse U S
12 WEST of seeking to thwart competition "by compelling
13 TCG Seattle and other competitors (but not other
14 incumbent LECs) to compensate it for any reduction in
15 revenues." Beginning at line 9.

16 A. Yes.

17 Q. Are you aware that U S WEST has proposed in
18 this case that the compensation for traffic
19 interexchange with independent LECs for extended area
20 service be subject to the same usage-based
21 compensation that U S WEST was proposing for AECs?

22 A. Yes, I am, and I believe at the time that
23 the direct testimony was filed I was not aware of
24 that.

25 Q. So would you modify this statement?

01036

1 A. Yes, I believe it should be modified. At
2 least removal of the parenthetical statement "but not
3 other incumbent LECs." I guess it's line 11.

4 Q. And are you further aware that Mr. Owens
5 testified that under U S WEST's proposal if an AEC
6 were to serve the same ratio of residence customers to
7 business customers and the same ratio of lifeline
8 customers that U S WEST serves that there would be no
9 charge for interim universal service support?

10 A. I understood that to be Mr. Owens'
11 testimony.

12 Q. So under those circumstances, would there
13 be any charge from U S WEST to TCG Seattle to, as you
14 phrase it, compensate it for any reduction in
15 revenues?

16 A. I certainly don't support the one penny
17 charge either as being cost-based. If you're
18 referring to does that -- does the universal service
19 -- the interim charge, is that the sole mechanism of
20 compensation for revenues then I would agree with you.

21 Q. We heard Mr. Roe testify -- I believe you
22 were in the room at the time?

23 A. Yes, I was.

24 Q. And I believe he testified that TCG holds
25 itself out only to business customers; is that right?

01037

1 A. Yes.

2 Q. And I believe he also indicated that TCG
3 has been in service since approximately first of the
4 year; is that right?

5 A. That's correct.

6 Q. And TCG currently offers dial tone services
7 in Seattle; is that right?

8 A. Yes.

9 Q. So if TCG only holds itself out to business
10 customers, would we be safe in assuming that TCG
11 currently provides no service at all to any
12 residential customers?

13 A. That would be true.

14 Q. And that would include any lifeline
15 customers?

16 A. Yes.

17 Q. Any Washington telephone assistance program
18 customers?

19 A. To the extent that they would be
20 residential, yes, we would not -- we do not serve them
21 today.

22 Q. And nonetheless it was your testimony that
23 TCG would be delighted to share the carrier of last
24 resort responsibility to U S WEST; is that right?

25 A. Do you have a reference for that? I would

01038

1 like to review it.

2 Q. I think it was page 8 of Exhibit T-83.

3 A. Line 20?

4 Q. Line 19 and 20.

5 A. The burden referred to there was the
6 carrying of a ubiquitous network and having access to
7 each and every customer. That was the burden that I
8 said we would be happy to share. I don't think
9 there's anything referring to a residential customer
10 in there.

11 Q. So you would be happy to share the burden
12 of having ubiquitous access to business customers, is
13 that it?

14 A. Ubiquitous access to all customers. We
15 wouldn't mind having a network so extensive that it
16 could reach each customer.

17 Q. So far you haven't done anything to
18 accomplish that; is that correct?

19 A. I would state that TCG and its investors
20 would find it very hard to duplicate the entire
21 network overnight. Certainly it's a challenge
22 economically to provide customers, even big business
23 customers, on an economic basis; and again, as Mr. Roe
24 testified our marketing plans are, of course, tied to
25 the compensation agreement that we can achieve here.

01039

1 To that extent, until we know what that is, it
2 wouldn't be, in my estimation, poised to jump into the
3 water until I know can I make any contribution by cash
4 flow on those customers.

5 Q. Can you answer the question I asked which
6 is have you done any anything to accomplish that?

7 A. I believe we have in building a network in
8 putting an AT&T E5 ESS switch, would be a good initial
9 step toward that.

10 Q. Are there any areas in Seattle come would
11 be characterized as having a population of low income
12 residential customers, to your knowledge?

13 A. I believe there would be, yes.

14 Q. Has TCG Seattle offered service to those
15 customers?

16 A. No, they have not.

17 Q. Has TCG offered any service to residential
18 customers at rates that are below cost?

19 A. TCG has not offered any services to
20 residential customers.

21 Q. Has TCG offered any service to any homeless
22 shelters in Seattle?

23 A. Not to my knowledge.

24 Q. In the event that the Commission were to
25 adopt TCG's pricing proposal for the exchange of

01040

1 traffic between itself and U S WEST, does TCG plan to
2 serve low income and homeless shelters in Seattle?

3 A. A specific customer like that, I don't
4 know. It would be a great step toward being able to
5 offer an economically viable product.

6 Q. If the Commission accepts the TCG's
7 proposal for pricing the exchange of traffic between
8 TCG and U S WEST, does TCG plan to offer service to
9 residence customers at rates comparable to U S WEST's
10 currently 1FR rates?

11 A. I don't know that either.

12 Q. Who would know that?

13 A. I believe the marketing plan where the
14 decision would be made based on what kind of
15 compensation arrangement to get, that would be looked
16 at, and then would the market be viable to enter into.

17 Q. But I asked you to assume that you would
18 get everything you've asked for in this case.

19 A. Yes.

20 Q. So you're still not able to answer the
21 question?

22 A. No, I'm not. I couldn't make that
23 decision. That's not, certainly, my responsibility to
24 contemplate.

25 Q. Do you know whether or not it's within --

01041

1 excuse me -- TCG's capability to bundle together
2 vertical services and package them with an offering
3 that would be attractive to residential customers?

4 A. Package them with what? I understand the
5 vertical services but do you mean local calling?

6 Q. Yes, local calling.

7 A. I would think so, yes.

8 Q. Has TCG taken any steps towards doing that?

9 A. TCG is in the midst of a residential trial
10 in Illinois and that is, to my knowledge, all that we
11 have going on with residential and it's a trial, so I
12 don't know what costing will be involved, whether it's
13 technical or a marketing trial.

14 Q. Would it be possible that such a package
15 could be marketed by TCG at a price that would be
16 attractive to consumers that would be above U S WEST's
17 current residence rates?

18 A. U S WEST's rates for all those elements
19 combined or just their line rate?

20 Q. Just the line rate.

21 A. Above it?

22 Q. Yes.

23 A. Sure, it's possible.

24 Q. At page 14 of Exhibit T-83 you make a
25 calculation using an assumed capacity of 160,000

01042

1 minutes per month on a digital switched service
2 facility; is that correct?

3 A. That's correct.

4 Q. Is that the average usage per month on
5 current U S WEST facilities, to your knowledge?

6 A. No, it is not.

7 Q. Do you know what that average usage is?

8 A. I recall numbers from Mr. Purkey's
9 testimony.

10 Q. Do you have any reason to believe that
11 they're incorrect?

12 A. No, but it's --

13 MR. OWENS: Thank you. That's all.

14 MR. KOPTA: Would you allow him to explain
15 his answer, please.

16 JUDGE ANDERL: Why don't you just take it
17 up on redirect.

18 Q. Now, on line 21 of Exhibit T-83 you
19 include a per minute charge which you say U S WEST is
20 proposing to charge CLECs of 4.3043 cents per minute.
21 Now, does that include the residual interconnection
22 charge?

23 A. Yes, it does. The correct number should be
24 3.28 cents.

25 Q. And wherever that number appears in your

01043

1 testimony, would your answer be the same?

2 A. Yes, it would.

3 Q. In your analysis where you conclude at page
4 15 on Exhibit T-83 that it is economically impossible
5 to compete, did you include in that mathematical
6 analysis any effect of access payments that U S WEST
7 would make for delivering traffic to TCG over that
8 digital switched service facility?

9 A. Yes.

10 Q. You did. Where would you have done that?
11 Can you point me to it?

12 A. Certainly be in the work paper. Basically
13 my point there was this was on the assumption that we
14 would terminate a lot more traffic to U S WEST than
15 they would terminate to us. At least initially.

16 Q. You draw the conclusion that it is
17 economically impossible to compete by comparing the
18 .686 cents per minute, which you characterize as the
19 effective local calling rate, with the now corrected
20 3.2 cents per minute charge from U S WEST to the
21 CLECs. Is that correct?

22 A. That is correct.

23 Q. So where in that comparison have you given
24 effect to payments that TCG Seattle would receive when
25 U S WEST terminated traffic over that same facility to

01044

1 TCG Seattle?

2 A. My assumption was the reader would
3 understand that the margin was so large that even in a
4 50/50 split it would still be uneconomic, i.e., under
5 my assumed 160,000 even if I was only -- even if I got
6 a payment back. I mean, I think there's a wide range
7 in there. My intent was the margin was so large that
8 it would almost be self-evident.

9 Q. Well, without using any proprietary
10 numbers, you indicated you had no reason to disagree
11 that the figure for average usage on such a facility
12 that Mr. Purkey testified to was correct. Would you
13 agree with me that mathematically that would result in
14 multiplying the effective local calling rate that you
15 have shown here by several times, just mathematically
16 carrying that figure through?

17 A. Yes. But on recalculation with Mr.
18 Purkey's numbers, using the methodology I have here
19 it's still well below the U S WEST rate of 3.28 cents,
20 if you calculated again the effect of permanent rate.

21 Q. Are you then assuming that the entire
22 average usage that you would be using in that
23 calculation would be outgoing?

24 A. Based on conversations with TCG's marketing
25 people in their experiences with customers and also

01045

1 with the technical people there, given that they do
2 see in the market outbound advanced trunks, and that's
3 what I've included in my example here. It is a
4 product that is currently being used by customers in
5 Seattle. In this case it's configured outbound only.

6 Q. Well, that's a fairly convenient assumption
7 for your argument, isn't it? Are you saying that
8 people don't receive traffic to their PBXs on a DSS
9 facility?

10 A. No, not at all.

11 Q. If they did and if the trunks were arranged
12 for two-way, would that be appropriately factored into
13 your calculation?

14 A. It could be redone in such a way.

15 Q. Are there inbound only DS1 digital switch
16 service facilities?

17 A. There's a DID option that allows for
18 inbound calling.

19 Q. And if you had constructed your analysis
20 using that assumption, would all of the access charges
21 have run in the direction of TCG Seattle?

22 A. I suppose so.

23 Q. You have also an example which you
24 characterized beginning at page 15 of market realities
25 for smaller business users. And would I be correct in

01046

1 understanding that you haven't given effect in this
2 example of any inbound calling that would generate
3 charges payable to TCG Seattle?

4 A. Are you referring to the end result on page
5 17? I'm sorry, you're correct. Yes the results are
6 listed in lines 8 through 19 on page 16, yes, that's
7 correct.

8 Q. And similarly in your analysis of market
9 realities for medium volume business customers on
10 pages 16 and 17, have you given any effect to inbound
11 traffic that would generate access payments under U S
12 WEST's proposal to TCG Seattle?

13 A. The chart on that page, if you in effect
14 treat, for example, the 800 minutes as net minutes,
15 say, TCG -- say the customer made a thousand minutes
16 and 900 went to U S WEST and 100 came back to TCG then
17 that could in effect be a net payment. It could be
18 interpreted in that way. Explicitly it's not
19 mentioned like that, but you could certainly interpret
20 this as net minutes and the margins with the
21 correction for 3.28 cents would hold.

22 Q. But that's not how you originally portrayed
23 it; is that right?

24 A. No.

25 Q. And the note could just as easily be the

01047

1 other way, couldn't it, depending on the customer?

2 A. I think I mention in my testimony -- this
3 is getting into the number portability issue -- that I
4 believe that to be unlikely.

5 Q. But it's possible, isn't it?

6 A. It is possible.

7 Q. In that case, the access charges that
8 you've shown would all flow to TCG Seattle except for
9 the interim universal service charge, correct?

10 A. That's correct.

11 Q. Page 22 of Exhibit T-83, you discuss
12 permanent number portability. Do you personally know
13 technically how permanent number portability can be
14 accomplished?

15 A. My only understanding is we would be with
16 the database option. An in-depth understanding, no.

17 Q. Do you understand that such a facility is
18 available anywhere in the world today?

19 A. My understanding is it is currently being
20 worked on. It is not available today.

21 Q. Is it your understanding that the concept
22 has been proven to operate conclusively as a matter of
23 technical arrangements?

24 A. I'm sorry, I don't understand your
25 question.

01048

1 Q. Is it your understanding that the concept
2 has been demonstrated to operate completely and
3 without any flaws?

4 A. No, it is not my understanding that that's
5 the case.

6 Q. We heard that TCG has operating today
7 approximately 20,000 telephone numbers, correct, in
8 Seattle and Bellevue?

9 A. They're not operating. They're available.

10 Q. They have turned up two NXX codes which
11 equates to 20,000 telephone numbers?

12 A. They are available, yes.

13 Q. And have they been assigned additional NXX
14 codes over and above that?

15 A. I don't know.

16 Q. Would you agree with me that customers who
17 are being assigned service for the first time or
18 customers who are adding facilities have no affinity
19 for their former telephone number; is that right?

20 A. If TCG's central office NXX would be
21 different, if they have an affinity for that then I
22 would not agree with you. If they don't have an
23 affinity for the entire seven-digit number then I
24 would agree with you.

25 Q. Do you know whether or not there is a

01049

1 substantial body of customers that have no particular
2 affinity for their former telephone numbers that are
3 available to be marketed to by TCG Seattle?

4 A. I can answer that question as responses
5 from customers that have indicated an affinity to the
6 numbers. I can't give you an estimate or the size of
7 the body. I believe it to be a generally large body
8 of customers that would be averse to changing their
9 numbers simply based on our experience.

10 Q. Did you hear the testimony of Mr. Purkey
11 who indicated that approximately one third of U S
12 WEST's residence customers move and change their phone
13 number in any given year?

14 A. Yes.

15 Q. So would that body of customers have any
16 resistance, in your view, to taking a TCG telephone
17 number?

18 A. Resistance, no. It's a simple fact of life
19 that they have to. We're talking about businesses
20 that, given the option of taking service from an
21 alternative carrier, have to change their number. If
22 I move I think it's generally accepted that, yes, I'm
23 expecting to change my phone number if I move
24 sufficiently far away from the central office serving
25 me, and I think it's entirely different for someone

01050

1 that the condition on them getting service is a change
2 in the phone number when they stay put.

3 Q. Now, you've proposed a bill and keep which
4 you characterize as bill and keep arrangement with a
5 modification for flat-rated port charges for tandem
6 interconnection; is that right?

7 A. That's correct.

8 Q. And is that because of any particular way
9 that TCG Seattle has chosen to build its network?

10 A. The tandem differential is really based on
11 two things. Number one, there may be -- there is a
12 public policy argument that you may want to develop as
13 diverse networks as possible, so creating an economic
14 incentive to build to the end office of another
15 carrier would be supported by that economic
16 differential between terminating there and terminating
17 at the tandem.

18 It also displays the fact that new
19 entrants, at least for a time initially, may not be
20 offering a tandem type function, i.e., they have
21 limited number of central offices, end offices. In
22 that case it recognizes that U S WEST is performing an
23 additional function over and above essentially bill
24 and keep. They're mirror images of each other. I'm
25 terminating to your end office and you're terminating

01051

1 to mine. If I go through a tandem -- and again, a new
2 LEC may also do a tandem function, too, but if I go
3 from an end office to your tandem and expect you to
4 terminate to at lot of other end offices there may be
5 a cause for a charge there.

6 Q. And is that because there are costs that
7 are incurred at the tandem?

8 A. There are costs incurred at the tandem.

9 Q. And in fact aren't the costs according to
10 U S WEST cost studies that occur in end office
11 switching greater than the tandem switching costs?

12 A. I don't recall those numbers exactly in
13 that relationship, but the point is, if it's bill and
14 keep at the end office we are reciprocally doing that
15 for each other, and if I go from my end office to your
16 tandem, again, there's the element of reciprocity end
17 office to end office, but you have a tandem in the
18 middle and it's recognizing that.

19 Q. Are you aware of any alternative exchange
20 carriers who have adopted a different strategy than
21 TCG in terms of where they interconnect with U S
22 WEST's network?

23 A. I think there's interconnections at both
24 tandems and end offices.

25 Q. Would the tandem connection always also

01052

1 presume U S WEST's transport for the purpose of
2 terminating calls to end offices?

3 A. Yeah.

4 Q. You indicated that you believe there are no
5 variable costs associated with peak usage; is that
6 right?

7 A. Based on conversations with TCG engineering
8 and the way that they engineer a port for a switch,
9 it's based on, to a very large degree, predominantly
10 on fixed cost, capital costs reporting in another port
11 and facilities.

12 Q. If, in response to interconnection by an
13 AEC, usage on that port increased, might it be
14 possible that U S WEST would have to add capital
15 investment to add capacity?

16 A. Add another port?

17 Q. Yes.

18 A. Yes. And if it went the other way,
19 certainly the AEC would have to add another port.

20 Q. Would the cost of the additional capacity
21 increase with the amount of the increase in peak
22 capacity?

23 A. That's my supposition that that is how they
24 are engineered, yes.

25 Q. Now, you've proposed that your flat-rated

01053

1 port charge would be applied through the determination
2 of relative responsibility at the peak hour of the
3 month for each port; is that right?

4 A. Across that two-way facility, whatever the
5 relative traffic flows are, yes.

6 Q. Now, wouldn't both parties have to measure
7 their traffic in order to determine which particular
8 hour of the month was the busy hour?

9 A. On an originating basis, yes.

10 Q. So those measurements you intend only are
11 originating?

12 A. That's currently what's in place today.

13 Q. And once the busy hour is determined each
14 party would then determine relative responsibility
15 based only on originating minutes. Is that your
16 proposal?

17 A. Well, if I'm prorating my port or my port
18 based on origination and you're doing the same, I
19 think you would get the net result. And again that's
20 only to tandem. We are proposing bill and keep at the
21 end office.

22 Q. Wouldn't this require each party to
23 exchange records for each port each month?

24 A. If each company wanted verification it may
25 in aggregate.

01054

1 Q. Well, the relative responsibility is
2 determined on a port by port basis, is it not?

3 A. That's correct.

4 Q. We heard Mr. Roe testify that TCG today
5 obtains its directory assistance from a provider other
6 than U S WEST. Do you recall that testimony?

7 A. I recall that, yes.

8 Q. In light of your testimony on ancillary
9 services, is it your position that U S WEST had
10 refused to provide directory assistance to TCG
11 Seattle?

12 A. I don't know what circumstances led Mr. Roe
13 to negotiate on the contract.

14 Q. So the answer is no, it's not your position
15 that U S WEST refused directory assistance?

16 A. My answer is I don't know.

17 Q. You don't know that U S WEST refused. Is
18 that your statement?

19 A. Yes.

20 Q. Do you know whether U S WEST has refused
21 TCG listings?

22 A. I don't know that they have refused them,
23 no, but I would like to add to that I don't know that
24 they've been offered on the same terms and conditions
25 that they're offered to other customers.

01055

1 Q. But you don't know that they haven't been?

2 A. That is correct.

3 Q. At page 23 of your Exhibit T-83 you state
4 that "U S WEST's cost studies show that the costs of
5 recording and billing are higher than the costs of
6 terminating traffic at the end office."

7 A. Yes.

8 Q. Is that based on Mr. Zepp's testimony?

9 A. That is based on a review of interrogatory
10 ELI 01-04 and cost information included there.

11 MR. OWENS: May I approach the witness?

12 JUDGE ANDERL: Yes.

13 Q. Is this the data request that you referred
14 to?

15 A. No. I'm sorry. 014.

16 Q. And that's again based on the sometime use
17 of average service incremental cost rather than
18 average direct shared and residual cost?

19 A. That's correct.

20 Q. On an average direct and shared residual
21 cost basis, is your statement correct?

22 A. Based only on end office switching the two
23 charges would be -- end office switching alone would
24 be slightly higher. It would be almost equal.

25 JUDGE ANDERL: How are you doing there, Mr.

01056

1 Owens, on time?

2 MR. OWENS: Not too bad, Your Honor. Just
3 a little bit longer.

4 JUDGE ANDERL: Five, ten minutes?

5 MR. OWENS: About, yes. Maybe less.

6 Q. Is the function that the local exchange
7 company performs in terminating traffic for an
8 alternative exchange carrier any different from the
9 function it performs in terminating a toll call?

10 A. I believe there are some technical
11 differences in the types of trunks used, the
12 specifications used on those trunks. To that end I
13 believe there are, although I am not an engineer.

14 Q. To the extent that both toll and
15 terminating a local call from an AEC would use a
16 tandem, would your answer be the same?

17 A. My answer would be I don't know.

18 Q. You give an example in your testimony about
19 a car rental company, and you assume -- you ask the
20 Commission to assume that the real cost to the rental
21 company is based on peak demand for cars rented rather
22 than on the number of miles each car is driven. Do
23 you see that?

24 A. Yes. Excuse me.

25 A. Let me find it.

01057

1 JUDGE ANDERL: Page 28?

2 THE WITNESS: Yes.

3 Q. Do you ever read the Wall Street Journal?

4 A. No. I prefer the New York Times.

5 Q. Are you aware of whether the New York Times
6 and the Wall Street Journal have recently carried
7 articles about the development in car rentals where
8 car rental companies are reinstating mileage
9 charges?

10 A. No, I am not.

11 MR. OWENS: May I approach the witness?

12 JUDGE ANDERL: Yes.

13 Q. Hand you an article that I will represent
14 was from the Seattle Times on June 18, 1995 and ask if
15 you're aware of what that article states with regard
16 to at least two of the major car rental companies
17 reinstating mandatory mileage charges in their
18 rental programs.

19 JUDGE ANDERL: Before he reads it or after
20 he reads it?

21 MR. OWENS: I will let him read it.

22 A. "Avis, Hertz, National, Budget and others
23 are putting free mileage caps on their cars."

24 Generally --

25 MR. KOPTA: Objection. This is just

01058

1 reading the article itself. This is not from your
2 personal knowledge?

3 THE WITNESS: Exactly.

4 MR. KOPTA: I would object. He's simply
5 reading the newspaper article into the record if he
6 has no personal knowledge of the underlying facts.

7 JUDGE ANDERL: Mr. Owens, I think that's
8 kind of pushing it there.

9 MR. OWENS: I just asked him if he was
10 aware of whether or not at least two companies -- I
11 didn't ask him to read it into the record.

12 JUDGE ANDERL: I understand but his answer
13 was already that he wasn't aware of any such program
14 by any rental program.

15 MR. OWENS: I asked him first if he had
16 seen any articles in the Wall Street Journal or New
17 York Times. He said he hadn't seen any such article.
18 I then showed him an article in the Seattle Times.

19 JUDGE ANDERL: Again, I understood his
20 testimony was that he was not aware of any such plan,
21 period. Perhaps I misheard him but I'm going sustain
22 the objection.

23 A. My understanding is there's a cap on the
24 unlimited mileage. It's not a complete doing away
25 with the unlimited mileage. There's a cap.

01059

1 JUDGE ANDERL: Mr. Kopta --

2 THE WITNESS: I wanted to clarify that as
3 opposed to a complete eradication.

4 MR. KOPTA: Are you aware of that from
5 your personal knowledge before having read that
6 newspaper article?

7 THE WITNESS: No, I am not.

8 Q. Is it possible that car rental agencies are
9 behaving in a manner inconsistent with what you're
10 asking this Commission to assume about the economics
11 of that industry?

12 A. It's possible they may. I don't think they
13 are yet.

14 Q. Do you consider the car rental business to
15 be a competitive market?

16 A. Yes, I do.

17 MR. OWENS: That's all I have.

18 JUDGE ANDERL: Thank you. Mr. Potter.

19

20 CROSS-EXAMINATION

21 BY MR. POTTER:

22 Q. Good afternoon.

23 A. Hi.

24 Q. I have a few questions on your direct
25 testimony Exhibit T-30.

01060

1 A. Did you get the page number?

2 Q. Not yet. Page 6. I won't point you to a
3 specific line because you make a similar statement
4 in a couple of places. Would it be fair to say that
5 you state on this page that TCG desires to have
6 network connection arrangements with the local
7 exchange carriers similar to what the local exchange
8 carriers have historically had between themselves?

9 A. Physically and in a compensation
10 arrangement, yes.

11 Q. Are you aware that in Washington and
12 Seattle area in particular that the local exchange
13 companies have separate connections with each other
14 for EAS traffic on the one hand and toll traffic on
15 the other?

16 A. I was not aware of that.

17 Q. Assuming that that is the case, would TCG
18 be willing to have the same sort of interconnection
19 arrangements agreements with the local exchange
20 companies?

21 A. Would the compensation mechanism be the
22 same?

23 Q. Let's assume for the hypothetical that it
24 would.

25 A. If that's the first best negotiation. That

01061

1 would certainly not be TCG's preference. I guess that
2 would be a decision for Mr. Roe really.

3 Q. Do you know whether or not the local
4 exchange companies in their current interconnection
5 arrangements bill each other flat-rated port charges
6 for tandem connections?

7 A. No, I do not. Like to amend that it would
8 be to my understanding that for toll traffic it's on a
9 switched access basis. My understanding for EAS and
10 local would be on a bill and keep basis.

11 Q. Thank you for that comment. Leads me to
12 the next question I wanted to ask you and I see that
13 it's related to your rebuttal testimony, right along
14 that line. Page 25 of your rebuttal testimony?

15 A. Yes.

16 Q. On I think it's line 20 in the middle of
17 this answer to a question concerning your flat-rated
18 port charge you make a reference to intraLATA toll
19 traffic. Do you see that?

20 A. Yes.

21 Q. Especially in light of your last statement
22 about how the local exchange companies compensate each
23 other for toll traffic at the moment, is it TCG's
24 proposal in this case to compensate the local exchange
25 companies for intraLATA toll traffic based on a bill

01062

1 and keep and flat-rated port arrangement?

2 A. It would be switched access rate for
3 intraLATA toll.

4 Q. So would it be appropriate to strike the
5 phrase intraLATA toll from this answer?

6 A. No, it would not. To achieve this billing
7 mechanism over flat-rated port carriers may decide to
8 issue each other a percent local usage much like the
9 percent interstate usage is done for IXCs and that way
10 the port could be rated both on a minutes of use on a
11 proration and on a flat-rated basis.

12 Q. In order to do that then you would need to
13 measure all the minutes at the port; is that right?

14 A. I think we would do it based on an assumed
15 capacity of the port.

16 Q. Do the local exchange companies receive
17 compensation from other local exchange companies or
18 toll carriers for access charges on that basis today?

19 A. It is my understanding that they do not.

20 Q. So this would be a new proposal that TCG is
21 introducing into this state; is that right?

22 A. This state as well as many others.

23 Q. Does TCG make this sort of access billing
24 arrangement available to interexchange carriers
25 terminating traffic on TCG today?

01063

1 A. No.

2 Q. Does it intend to?

3 A. I don't know that we rate toll carriers on
4 a flat-rated basis solely for any traffic.

5 Q. You make the statement several times in
6 your testimony, and I can give you a reference if you
7 need one, that you do not expect the local traffic
8 between TCG and U S WEST and GTE to be in balance for
9 some initial period; is that correct?

10 A. It certainly contemplates the likelihood
11 of that and then that would be, you know -- our
12 initial feeling is having potentially less than one
13 percent of the market we would be terminating a lot
14 more traffic to, say, U S WEST or GTE than the
15 reverse.

16 Q. Well, your testimony also contemplates at
17 some point in the future as you build out your network
18 and expand your operation you would expect to see the
19 traffic in balance; is that right?

20 A. Yes.

21 Q. How long until the in balance situation
22 would --

23 A. I believe that would vary office by office.
24 For instance, if we felt we had a heavy amount of
25 inbound to a particular office then it may be very

01064

1 quick to achieve balance inbound and outbound. Other
2 offices perhaps not.

3 Q. Looking at your operation on an overall
4 basis, do you expect the exchange of traffic to be in
5 balance at a particular time in the future?

6 A. I have no estimate.

7 Q. So you wouldn't have an estimate of whether
8 it be one year or ten years?

9 A. That would be dependent on market share,
10 how quickly we could acquire customer base, what their
11 calling patterns were.

12 Q. So it could be several years before you
13 would achieve a balanced situation; is that right?

14 A. It could be, and again, I don't know.

15 Q. In your direct testimony again on page 8.
16 Top of the page you're talking about number
17 portability and you have a sentence starting on the
18 second line that "this disadvantage" -- meaning the
19 lack of numbers to portability -- "should be reflected
20 in discount interconnection rates." Do you see that?

21 A. Yes.

22 Q. Since you're proposing bill and keep at the
23 end office anyway, are you saying here that you want a
24 discount off of some flat-rated port charge?

25 A. Bill and keep I think would be the ultimate

01065

1 discount. In that case there would be no need to
2 discount.

3 Q. So is this statement directed to a
4 situation where the Commission would adopt a measured
5 proposal such as U S WEST or GTE has made?

6 A. Yes.

7 Q. And you did not advocate a specific
8 discount level or percentage, do you?

9 A. No.

10 Q. Back to the issue of the flat-rated port at
11 the tandem. And your testimony, for example, bottom
12 of page 9 in your direct, you characterize that as a
13 DS1 port. Do you remember that?

14 A. Yes.

15 Q. How many minutes of traffic could pass
16 through such a port in a month?

17 A. It's my understanding that a typical
18 engineering standard would be 216,000 minutes of use a
19 month.

20 Q. And you propose -- I believe it's near the
21 end of your rebuttal testimony -- that you pay either
22 110 or 130 a month for such a port; is that right?

23 A. 130. That's with the bill and keep at the
24 end office and flat rate at the tandem.

25 MR. POTTER: I think I've covered all of my

01066

1 questions. Thank you.

2 JUDGE ANDERL: Mr. Smith.

3 MR. SMITH: No questions.

4 JUDGE ANDERL: Mr. Finnigan, do you have
5 questions?

6 MR. FINNIGAN: Yes, I do.

7

8 CROSS-EXAMINATION

9 BY MR. FINNIGAN:

10 Q. Hopefully very briefly.

11 A. I hope so, too.

12 Q. Looking at your testimony in Exhibit T-30
13 at page 6.

14 A. Yes.

15 Q. Looking at lines 11 through 18 -- well,
16 excuse me, 11 through 14. You talk about arrangements
17 that have historically existed. Do you have any
18 firsthand knowledge of arrangements as they have
19 historically existed within the state of Washington?

20 A. Just what's been revealed through the
21 discovery process in this case.

22 Q. Then you are aware that through review of
23 that discovery process that prior to adoption of the
24 Commission's rule on EAS in 1991 it was common for
25 compensation to be paid on EAS routes?

01067

1 A. Yes.

2 Q. And you are then also aware that under the
3 Commission's EAS rule there was a compensation
4 mechanism put in place called a community calling
5 fund. Are you aware of that?

6 A. Generally.

7 Q. Thank you.

8 JUDGE ANDERL: Is that it, Mr. Finnigan?

9 MR. FINNIGAN: Yes.

10 JUDGE ANDERL: Do any of the other
11 intervenors have any questions for this witness?

12 MR. BUTLER: One question. Are you aware
13 that community calling fund was declared illegal?

14 THE WITNESS: I was not aware of that.

15 JUDGE ANDERL: Anyone else? Mr. Trotter,
16 questions?

17 MR. TROTTER: No.

18 JUDGE ANDERL: Redirect.

19 MR. KOPTA: Very briefly. Are there no
20 questions from the Commission?

21 JUDGE ANDERL: Sorry, Commissioners.

22 COMMISSIONER HEMSTAD: Well, I'm deeply
23 offended but I have no questions.

24 COMMISSIONER GILLIS: I guess I don't
25 either then.

01068

1 JUDGE ANDERL: Well, then, Mr. Kopta.

2

3 REDIRECT EXAMINATION

4 BY MR. KOPTA:

5 Q. Mr. Andreassi, Mr. Owens asked you some
6 questions about your assumption of the use of 160,000
7 minutes. Do you recall that line of questioning?

8 A. Yes.

9 Q. Would you explain to me why you used the
10 number 160,000?

11 A. That was based on customer contacts in the
12 Seattle area specifically. Based on the actual -- is
13 it within the realm of reason of a capacity of a
14 facility like that. TCG engineers have said yes.
15 It's also based on selling a similar product in other
16 TCG cities. That if it's at the high end or low end
17 it's certainly possible and it certainly is and
18 certainly from those conversations --

19 MR. OWENS: I'm going to object to the
20 further description of those conversations as hearsay.
21 I can't cross-examine those people to know what
22 assumptions they made in assuming that a given number
23 of minutes of use would be passed over a DSS.

24 JUDGE ANDERL: Let's leave the answer of
25 what the witness has personal knowledge of then.

01069

1 Q. Does that complete your response?

2 A. Yes.

3 Q. Is U S WEST's average minutes of use number
4 an appropriate number to use in your --

5 A. No, it isn't.

6 Q. Why not?

7 A. That assumes that my average would be their
8 average and I don't know that it is. I simply wanted
9 to show what was possible over their facility and
10 if that was attained what the effective local calling
11 rate would be.

12 MR. KOPTA: That's all I have.

13 JUDGE ANDERL: Any further cross questions
14 for this witness?

15 Mr. Owens.

16

17 RE-CROSS-EXAMINATION

18 BY MR. OWENS:

19 Q. In that last answer you say that you don't
20 know that the U S WEST average is the appropriate
21 average to be used. You don't know that it's an
22 inappropriate average either in terms of what your
23 customers would actually put across a DSS facility.
24 Isn't that true from your own knowledge?

25 A. From my own knowledge, yes.

01070

1 JUDGE ANDERL: Anyone else have questions
2 on recross for this witness?

3 Hearing none, then, Mr. Andreassi, I will
4 thank you for your testimony. You may step down.
5 Does that conclude TCG's presentation?

6 MR. KOPTA: Yes, it does.

7 JUDGE ANDERL: I believe we agreed that ELI
8 would go next. Mr. Butler, your first witness will
9 be?

10 MR. BUTLER: Mr. Montgomery.

11 JUDGE ANDERL: Off the record while he
12 takes the stand.

13 (Recess.)

14 JUDGE ANDERL: Let's be back on the record
15 after an afternoon break. While we were off the
16 record Mr. Montgomery took the witness stand. We
17 identified his testimony as Exhibit T-84, his
18 confidential exhibit as C-85 as his reply testimony as
19 T-86.

20 (Marked Exhibits T-84, C-85 and T-86.)
21 Whereupon,

22 WILLIAM MONTGOMERY,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25 JUDGE ANDERL: Go ahead, Mr. Butler.

01071

1

2

DIRECT EXAMINATION

3 BY MR. BUTLER:

4 Q. Mr. Montgomery, would you please state your
5 name and business address for the record, please.

6 A. My name is William Page Montgomery, and my
7 business address 135 Wallis, W A L L I S Road,
8 Chestnut Hill, Massachusetts.

9 Q. Have you submitted prefiled direct and
10 rebuttal testimony in this proceeding?

11 A. Yes, I have.

12 Q. Is what has been marked for identification
13 as Exhibit T-84 the written direct testimony?

14 A. Yes, it is.

15 Q. Is what has been marked as Exhibit C-85 a
16 confidential exhibit to that testimony?

17 A. Yes.

18 Q. Is what has been marked for identification
19 as Exhibit T-86 the prefiled rebuttal, or reply
20 testimony?

21 A. That's correct.

22 Q. Do you have any additions or corrections to
23 make to Exhibit T-84?

24 A. Yes, Mr. Butler. I have a correction that
25 affects both Exhibit T-84 and Exhibit C-85. The

01072

1 correction is on page 18 of my testimony and consists
2 of eliminating the text starting on the first word on
3 line 11 through the first word on line 20. First word
4 on line 20 being "ago." That change --

5 JUDGE ANDERL: I'm sorry --

6 THE WITNESS: On page 18.

7 A. That change also eliminates the footnote
8 No. 18 which refers to table 1 in Exhibit C-85, and
9 accordingly that table should be eliminated from the
10 exhibit.

11 The other change that accompanies this
12 change is on the next page, page 19, line 2, the
13 question, I would like to strike the words
14 "transactions like these suggest that", just those
15 words for continuity's sake.

16 Q. Can you explain briefly why this material
17 is being eliminated?

18 A. In the preparation for the hearing I came
19 across testimony from another Commission docket in
20 which Mr. Smith, the WITA witness, provided the number
21 -- I guess in that capacity he was testifying for PTI,
22 I'm sorry -- provided the amount of money that PTI
23 would qualify for if it purchased U S WEST's
24 exchanges, the amount of money they would qualify for
25 from the high cost fund, and that number was

01073

1 substantially more than I had estimated.

2 So, when I re-examined the numbers, I
3 realized that the purchase by PTI of the U S WEST
4 exchanges would in effect have a positive payback
5 because of the increased high cost fund, a positive
6 payback in about seven to eight years, so rather than
7 get into the calculations and recalculate it on the
8 spot, so to speak, I think it's just better to
9 eliminate that material. I don't think it changes my
10 conclusion, however, that to date we don't have any
11 economic evidence from U S WEST --

12 JUDGE ANDERL: Well, okay. I think we
13 should probably have these admitted before we get into
14 any extensive discussion about that.

15 A. And then I have one other change.

16 Q. Where is that?

17 A. On page 45, footnote 47, the reference in
18 the third line to IAC request 11 should be AT&T
19 request No. 11.

20 Q. Do you have any additions or corrections to
21 Exhibit T-86?

22 A. Not at this time.

23 Q. And other than the correction that you just
24 talked about with respect to Exhibit C-85, do you have
25 any other additions or corrections to that exhibit?

01074

1 A. No.

2 Q. Were Exhibits T-84, C-85 and T-86 prepared
3 by you or under your direction?

4 A. Yes, they were.

5 Q. If I were to ask you the questions that are
6 contained in Exhibit T-84, would your answers be the
7 same as written therein?

8 A. Yes, with the change that we noted.

9 Q. If I were to ask you the question contained
10 in Exhibit C-85, would your answers today be the same
11 as written there?

12 A. It's T-86.

13 Q. Excuse me, T-86.

14 A. Yes.

15 MR. BUTLER: I move the admission of
16 Exhibits T-84, C-85 and C-86.

17 JUDGE ANDERL: Any objection to those
18 exhibits? Hearing none T-84, C-85 and T-86 will be
19 admitted as identified.

20 (Admitted Exhibits T-84, C-85 and T-86.)

21 Q. Mr. Montgomery, was the submission of Mr.
22 Purkey's reply testimony the first time you saw his
23 imputation analysis Exhibit C-76?

24 A. Yes, it was.

25 Q. What points that Mr. Purkey made with

1 respect to that imputation analysis do you agree with?

2 A. Well, Mr. Purkey --

3 MR. OWENS: Is this oral surrebuttal?

4 JUDGE ANDERL: I don't know. What is it?

5 MR. BUTLER: Yes.

6 MR. OWENS: Has there been a motion?

7 JUDGE ANDERL: Did we agree on this?

8 MR. BUTLER: Can I ask some questions about
9 his imputation analysis? It's the first time anybody
10 had a chance to see it or respond to it.

11 JUDGE ANDERL: I understand. I thought
12 that MCI had made a request to respond orally to some
13 of the new information.

14 MR. BUTLER: Yes. I thought that that
15 would apply to everyone since we would all be in the
16 same position.

17 JUDGE ANDERL: How many questions do you
18 have?

19 MR. BUTLER: Oh, I've got three brief
20 questions.

21 JUDGE ANDERL: I will allow it.

22 MR. OWENS: For what it's worth we object.

23 JUDGE ANDERL: Okay.

24 Q. Can you briefly summarize what points of
25 Mr. Purkey's that you agree with?

1 A. Well, the essential point that I heard from
2 Mr. Purkey was that -- and read in his testimony was
3 that he understands imputation to be the process of
4 trying to put U S WEST in exactly the same position as
5 the AEC would be in a competitive situation. I agree
6 with that. I think that is the essence of what we're
7 trying to do. However, the way Mr. Purkey implements
8 that is incorrect because he doesn't understand or
9 properly apply the concept of essential facilities and
10 because he doesn't actually pick up all of the
11 facilities and costs that an entrant like Electric
12 Lightwave would incur to terminate traffic on U S
13 WEST's network.

14 Q. Could you tell us briefly what you believe
15 the proper test for when a function is essential?

16 A. Mr. Purkey testified that the test of
17 essential facility was whether an alternative exists.
18 That is an important initial condition whether there
19 is an alternative, but it is not sufficient in itself
20 to prove that there is a reasonable alternative. The
21 reasonable alternative must be one that would be
22 cost-effective in a normally efficient environment.
23 In other words, it would be -- if ELI were operating
24 as an efficient supplier, that it could take advantage
25 of that alternative at the point in time and at the

01077

1 place where it needs that alternative.

2 So, for example, with respect to tandem
3 switching ELI provides tandem switching functions.
4 Those tandem switching functions in ELI's network
5 don't allow or don't connect to U S WEST's network by
6 definition. So even though ELI provides tandem
7 switching functionality of its own, it must still rely
8 on U S WEST's tandem switching functionality or
9 another type of network connection in order to reach U
10 S WEST's network. So, although an alternative exists,
11 it is not -- the alternative being ELI's own tandem
12 switching, it is not a substitute alternative.

13 By the same token we've talked about
14 directory listings. Now, I completely agree that
15 there are alternative directory listing publishers,
16 but the fact of the matter is that it's not reasonable
17 to expect ELI or another entrant to publish a
18 directory and distribute it to every home and business
19 in the Seattle area. It's not the function of
20 publishing the directory that makes that alternative
21 economically unreasonable. It's the cost of
22 distributing it to every home so that anyone who wants
23 to call an ELI customer could look in that directory
24 and find the number. So irrespective of the
25 inconvenience of that I view that as not a reasonable

01078

1 economic substitute.

2 Q. Are there any other major functions which
3 were not included in Mr. Purkey's analysis that you
4 believe should be included?

5 A. Well, the exhibit that we marked the other
6 day shows that there is a --

7 JUDGE ANDERL: Which one was that?

8 THE WITNESS: C-42.

9 A. -- shows that there are a range of
10 functionalities that an entrant would purchase either
11 from the usage-based IUSC and the local switching
12 charge or in some combination from the virtual
13 expanded interconnection service. The point is all of
14 those have to be factored into the mix in some
15 particular way.

16 Q. Briefly, is there anything else about Mr.
17 Purkey's imputation analysis that teaches us about the
18 company's interconnection rate -- how the company's
19 interconnection rate proposal would affect entrants?

20 A. Yes. There's been some discussion today
21 and with Mr. Purkey about whether an average or a
22 certain level of usage is the appropriate one. I
23 think we've missed the fundamental point, which is,
24 whether we're talking about 1FB service, PBX service,
25 digital switching service, whether we do nine types of

01079

1 price floor analyses or just one that's an average,
2 for any given service, U S WEST's proposal confines
3 the entrant to serving customers at the average level
4 or below. Mr. Purkey is correct that if you were
5 looking only at 1FB service, for example, his analysis
6 would show a lower price floor and a lower tariff
7 rate. There would still be a margin between the two.

8 What we overlook in this is that the nature
9 of these usage charges, particularly in a pricing
10 environment that demands flat rate service, confines
11 an entrant under this arrangement to only serving
12 customers at that average level or below. If they go
13 above, if they seek out customers who have above
14 average usage that -- by definition usage-based
15 charges will raise the cost of interconnection. At
16 the same time we've seen today and in other examples
17 in the testimony that U S WEST tariffs, properly, I
18 think, offer lower prices for larger volume service so
19 that if you're able to use, for example, a DS1
20 facility more efficiently as an end user you have a
21 lower unit charge. It may or may not be as low as we
22 were talking about with Mr. Andreassi, but in fact the
23 point is the usage charge goes down as the volume of
24 use goes up.

25 This proposal is just contrary to that in

01080

1 the sense that the interconnection charge goes up as
2 the volume of use of a particular customer would go
3 up. Therefore, the nature of this proposal is to
4 confine an entrant to serving only the lower than
5 average usage customers.

6 The paradox of this is that the lower than
7 average usage customers are the ones who are likely to
8 be least sensitive to price, because they're low
9 users, least sensitive to any improved services that
10 an entrant could provide, and probably least willing
11 to change their phone number in order to take
12 advantage of these potentially lower prices or better
13 terms and conditions that they're not interested in in
14 the first place. So we have here a paradox, in Mr.
15 Purkey's analysis, and I think the usage discussion
16 and the discussion of average usage revealed that
17 today. A paradox in the sense that the end user
18 tariffs typically have a declining unit price with
19 volume, whereas the interconnection proposal has an
20 increasing unit price with volume.

21 So there may be some point of usage for 1FB
22 service or PBX trunks or digital switching service
23 that passes some sort of an imputation test, but the
24 dynamic nature of the proposal is always to place a
25 price squeeze on that class of customer that is most

01081

1 likely to be attracted to competition.

2 Q. Thank you.

3 MR. BUTLER: Mr. Montgomery is available
4 for cross-examination.

5 JUDGE ANDERL: Thank you. Mr. Owens.

6

7 CROSS-EXAMINATION

8 BY MR. OWENS:

9 Q. Mr. Montgomery, you're representing
10 Electric Lightwave; is that right?

11 A. That's correct.

12 Q. Do you know who owns Electric Lightwave?

13 A. I believe it's Citizens Utilities.

14 Q. And in the course of your activity studying
15 this industry, have you had occasion to be familiar
16 with Citizens Utilities?

17 A. I know it is one of the larger nonBell
18 telephone holding companies. Probably ranking below
19 Cincinnati Bell, Southern New England,
20 Rochester Telephone or Frontier and several others,
21 but it's in that tier of carriers.

22 Q. Have you had occasion to review Citizens
23 Utilities' annual report as it regards its operations
24 with Electric Lightwave?

25 A. No, I haven't, as a matter of fact.

01082

1 Q. Do you happen to know since you've
2 testified about exchange sales whether or not Citizens
3 Utilities within the last year acquired approximately
4 700,000 access lines from GTE?

5 A. I don't know the exact number. I know
6 there were exchange transactions.

7 Q. Are you aware of whether or not Citizens
8 Utilities is receiving a \$38 million payment from
9 Pacific Bell as a result of its withdrawal from the
10 intercompany settlement pool in that state in
11 California?

12 A. I don't know that but I would accept it.

13 Q. You're here recommending to this Commission
14 that it adopt what you characterize as bill and keep
15 or mutual compensation without any payment between
16 companies for the exchange of traffic between Electric
17 Lightwave and U S WEST; is that right?

18 A. Well, specifically for the termination of
19 the call on either carrier's network.

20 Q. And would you agree with me that from a
21 technical standpoint the function that a U S WEST
22 provides to terminate a call that it receives from
23 Electric Lightwave is indistinguishable from the
24 function it performs when it receives and terminates a
25 call from an interexchange carrier?

01083

1 A. There may be some technical differences but
2 on the terminating end I would think that
3 interexchange usage between one U S WEST exchange and
4 another, between a U S WEST exchange and an
5 independent company, between the U S WEST exchange and
6 an entrant like ELI, in between the U S WEST exchange
7 and a long distance carrier would all be reasonably
8 technically similar. There may be some differences
9 but they're broadly identical.

10 Q. And U S WEST currently has access charges
11 on file that it charges interexchange carriers for
12 terminating their traffic. Isn't that true?

13 A. That's correct.

14 Q. And they're generally similar to what it's
15 proposing to charge Electric Lightwave with the
16 exception of the interim universal service charge; is
17 that correct? And the residual interconnection
18 charge?

19 A. No, I don't think it's correct. They're
20 similar in terms of rate level but they're not similar
21 in terms of effect because --

22 Q. I'm just asking you about the tariff.

23 A. You asked me if they were similar.

24 Q. I asked you is the tariff that U S WEST has
25 on file to serve interexchange carriers generally

01084

1 similar, except for the waiver in this case of the
2 residual interconnection charge and the inclusion in
3 this case of the interim universal service charge, to
4 what U S WEST is proposing for the termination of
5 local traffic for alternative exchange carriers?

6 A. The tariffs are not the same in their
7 economic impact. They are the same for those elements
8 you mentioned in terms of their rate level.

9 Q. You've stated that it's a canard to say
10 that under your proposal the alternative exchange
11 carrier has free use of U S WEST's network. Isn't
12 that true?

13 A. That's quite true.

14 Q. Like you to accept that there's a statute
15 in this state that says except as provided in RCW
16 80.36.150 "no telecommunications company shall charge,
17 demand, collect or receive different compensation for
18 any service rendered or to be rendered, and the charge
19 applicable to such service as specified in its
20 schedule on file and in effect at that time." And it
21 continues. Under your proposal what charge would U S
22 WEST have in its schedule on file and in effect that
23 would apply to traffic it terminates from Electric
24 Lightwave?

25 A. There would be two types of conditions or

01085

1 compensation method. The first would be the physical
2 facilities that would be required to terminate at the
3 virtual expanded interconnection point or at a meet
4 point, because there's nothing in the bill and keep
5 process that speaks to the cost of actually tying the
6 two networks together. There would also, I would
7 imagine, be a provision in U S WEST tariff that would
8 say, U S WEST would undertake to construct and provide
9 sufficient facilities for the entrant to complete its
10 traffic in consideration for the entrant constructing
11 and maintaining sufficient facilities to complete U S
12 WEST traffic.

13 And although I'm not qualified to talk
14 about the Washington statutes, I understand that in
15 effect you could have a binding contract upon the
16 promise of two people to conduct mutual building of
17 facilities in this case even though no money changes
18 hands, so I would think that would be a legitimate
19 tariff provision. It would be recognized as a charge,
20 and at least in my understanding of the word, which
21 may or may not be literally in the statute because I
22 have not read the statute.

23 Q. Now, can you answer the question I asked,
24 which is what charge would appear in U S WEST's tariff
25 for a service of terminating traffic tendered to U S

01086

1 WEST by Electric Lightwave?

2 A. The charges would be the charges for the
3 network interconnection and the respective obligations
4 referred to in U S WEST's tariff for both parties to
5 maintain enough facilities to complete calls with a
6 sufficient grade of service, and I would think that is
7 an economic promise and that's within my definition of
8 what a charge is.

9 Q. Would there be a charge stated in dollars
10 for the service of terminating traffic as opposed to
11 building facilities under your proposal?

12 A. There would be a charge, as I said before,
13 for the connection of the networks.

14 Q. Aside from that, would there be a charge
15 for terminating the traffic?

16 A. Well, since the connection is part of the
17 function of terminating traffic -- it's just not the
18 completion of the call -- I would think that is the
19 charge.

20 Q. So there wouldn't be a charge for the
21 completion of the call in dollars?

22 A. No.

23 Q. With regard to your statement that a
24 contract could consist of sufficient mutual
25 obligation, is it your intent that this Commission

01087

1 force U S WEST to enter into such a contract?

2 A. I'm sorry, I don't understand the context
3 of that question. Let me just put it this way.
4 Regulators do many things with respect to regulated
5 companies that the regulated companies might deem to
6 be forcing the regulated company to do something. I
7 mean, in the history of competition all the
8 interconnection rules, all of the unbundling of
9 customer premises equipment and uniform interfaces,
10 everything that's been done from the mid '60s until
11 today has been done over the protest of the incumbent
12 provider, so I assume that incumbent providers felt
13 they were being forced to do something.

14 Q. You stated a minute ago that you thought
15 that the economic impact of the tariffs on file for
16 local was different from or that U S WEST's proposed
17 for local termination was different from toll. It's
18 true, isn't it, that what type of call is local and
19 what type of call is toll is essentially an arbitrary
20 matter that the Commission determined?

21 A. Well, I don't know if I like that
22 arbitrary. The definition of what is a toll or local
23 call can change over time.

24 Q. Well, there are local calling areas that
25 are served by more than one exchange in which a call

01088

1 must -- to complete between two end users within that
2 local calling area must traverse more than one central
3 office. Isn't that true?

4 A. Yes.

5 Q. And there are some calls within a local
6 calling area that indeed have to traverse two central
7 offices and a tandem; isn't that true?

8 A. I would think so, yes.

9 Q. And from a telephony standpoint are some
10 toll calls identical in terms of that functionality,
11 that is, calls that have to traverse two central
12 offices and a tandem?

13 A. Yes.

14 Q. And so whether a call is rated as a toll
15 call or is rated as a local call depends on the
16 regulatory decision of what the toll free calling area
17 is, doesn't it?

18 A. To some extent, that's correct.

19 Q. What else does it depend on?

20 A. Well, I think a lot of the toll free
21 calling areas in the United States are not the result
22 of regulatory prescription. They were the result of
23 long-term marketing by the telephone company of how
24 they would like to have their market defined, but I
25 will grant you that regulators are involved in that.

01089

1 Q. Directing your attention to page 22 of
2 Exhibit T-84. You criticize U S WEST cost studies.
3 Then at line 6 where you say that they are poor
4 estimators of long run costs covering a period when
5 most inputs to a U S WEST service become variable
6 costs. Is it your testimony that there was specific
7 inputs that U S WEST did not treat as being variable
8 in these cost studies?

9 A. There may be. I must say that listening to
10 Mr. Farrow's testimony yesterday I would tend to say
11 that more variables were identified than may be
12 suggested by this testimony.

13 Q. Sir, can you tell me of your own knowledge
14 that you know that there were inputs that U S WEST did
15 not treat as variable in its cost studies?

16 A. I don't know, and I think that's the
17 dilemma of using incremental cost studies is that it's
18 virtually impossible for anyone but the company to
19 really understand how the studies are put together and
20 how they are constructed, and my position on this has
21 been misconstrued before. I do understand that
22 incremental costs are important, but I tend to
23 downplay -- try in my policy recommendations to
24 downplay reliance on incremental costs not because
25 they're not important as a matter of economics but

01090

1 because they're difficult for a regulator or any other
2 party to actually understand and evaluate, and that's
3 what economists call the company's information rent
4 with respect to its own cost function.

5 Q. So the answer to the question I asked is
6 no, you don't know that the company used or treated
7 any inputs as not being variable?

8 A. That's right, I'm sorry.

9 Q. Did you examine U S WEST's long-run
10 incremental cost studies?

11 A. I examined them, the material that was
12 provided by the company in response to discovery. In
13 some cases I believe the company only provided
14 executive summaries of cost studies when in fact there
15 were underlying work papers, and I have seen some sets
16 of work papers, but I doubt if I've seen all of the
17 work papers.

18 Q. Do you know if there was a specific request
19 for work papers that was made that was not responded
20 to by the company?

21 A. I couldn't tell you without looking at the
22 requests. My recollection is that where people asked
23 for the cost studies it was U S WEST's practice only
24 to provide the executive summary. And there were many
25 copies of the executive summary of the DS1/DS3

01091

1 transport study, the local interconnection study. The
2 table that is Mr. Farrow's Exhibit BEF-6, those
3 tables, the confidential exhibit, whatever number it
4 is, were provided perhaps 14 or 15 times in response
5 to requests, but never did I see any underlying work
6 papers.

7 Q. So is the answer to the question that I
8 asked a couple of minutes ago that you don't know that
9 there were any specific requests for work papers that
10 were not responded to by the company?

11 A. I believe it was the company's practice
12 only to provide the executive summaries when people --

13 MR. OWENS: Your Honor, may I ask the
14 witness be directed to answer the question that I ask
15 and not give a speech?

16 JUDGE ANDERL: Mr. Montgomery, it is a
17 pretty straightforward question. Could you please
18 just answer it directly?

19 A. I don't know whether the company provided
20 work papers to some information request.

21 MR. OWENS: That wasn't the question.

22 Q. The question was do you know of any request
23 for work papers that was not responded to by the
24 company?

25 A. No.

01092

1 Q. On page 36 of Exhibit T-94, you criticize,
2 beginning at line 14, U S WEST's studies on the basis
3 that they may assume something. Do you know whether
4 they assume what you suggest they may assume?

5 A. Actually from what Mr. Farrow said during
6 the hearing the statement on his testimony on pages 14
7 and 15 is probably not correct in the sense that he
8 said that they were using SONET as the technology. On
9 the other hand, the statement on -- starting on line
10 15 and continuing through line 17 and 18 about the
11 treatment of spare capacity I think was an open
12 question after Mr. Farrow's description of how the
13 average service incremental cost is marked up to the
14 average direct and shared residual cost, so part of
15 that answer is probably not or part of this statement
16 is probably not correct and part of it is.

17 Q. Direct your attention now to page 4 of
18 Exhibit T-84. Lines 17 and 18 you describe what you
19 characterize as U S WEST's proposal, and are you aware
20 of Mr. Owens's rebuttal testimony in which he
21 indicated that U S WEST was no longer proposing to
22 charge the residual interconnection charge?

23 A. Yes.

24 Q. And does that affect that number on lines
25 17 and 18?

01093

1 A. Yes. It reduces it by the value of the
2 residual interconnection charge which is probably
3 about 1.06 cents.

4 Q. Is it your general principle that a company
5 in a position of U S WEST should be required to charge
6 only at TS LRIC for services that it would provide
7 a company in the position of Electric Lightwave?

8 A. It should be required for interconnection
9 to charge no more than TS LRIC leaving aside the
10 position that there are social costs, shall we say,
11 that U S WEST has incurred that should be recovered
12 through some universal service mechanism.

13 Q. And so you say you leave it aside, but it's
14 not something U S WEST can leave aside. Is that true?

15 A. To the extent that the social costs are
16 identified, you know, in a universal service context
17 they should be recovered from all entrants. The
18 essence of my testimony is that they have not been
19 identified.

20 Q. I realize that's your position, but to the
21 extent there appeared on the record evidence
22 sufficient to convince the finder of fact that they
23 had been identified I guess you're saying here you
24 agree it's appropriate to recover them. Would that be
25 a fair statement?

01094

1 A. It would have to be appropriate to recover
2 them in a competitively neutral manner that left every
3 provider of service in the same position.

4 Q. Well, U S WEST is still serving the below
5 cost residential customers, isn't it?

6 A. I don't agree that the residential
7 customers are below cost.

8 Q. U S WEST is still serving the customers
9 that it has produced evidence in this case it's
10 serving at below cost. Would you agree with that?

11 A. Still no. I would agree that U S WEST's
12 studies indicate that one component of service for one
13 class of customers, access for some residential
14 customers, appears to be below the incremental cost as
15 calculated by U S WEST. I hope that's sufficient for
16 your purpose.

17 Q. You also heard the testimony of Dr. Harris,
18 did you not, that based on his examination of U S
19 WEST's information there was not sufficient vertical
20 service penetration for those residential customers to
21 make up the difference?

22 A. I don't recall hearing that, and I don't
23 recall seeing any quantitative or empirical evidence
24 in Dr. Harris's testimony or rebuttal testimony, so
25 therefore I don't see how he could have reached that

01095

1 conclusion independently.

2 Q. Well, do you disagree with his analysis
3 that vertical services on average are priced
4 approximately \$3 per month?

5 A. I don't have any basis on which to disagree
6 with that.

7 Q. Do you have any basis to disagree with his
8 statement that generally few customers consume three
9 or more of those services?

10 A. Well, I have no basis to determine what the
11 percentage usage of CLASS services is, which is what
12 you're apparently talking about. I'm really talking
13 about the entire residential class including all the
14 toll usage and services other than the CLASS feature,
15 which I think probably is true. Very few people take
16 more than three. I don't. I know that.

17 Q. Now, with regard to your general statement
18 that you believe that a company in the position of U S
19 WEST should be required, aside from the social cost
20 issue, to price at TS LRIC for services it provides to
21 a company in the position of Electric Lightwave, is it
22 your testimony that this is something that's derived
23 generally from some kind of market analysis of
24 companies in competitive environments?

25 A. I think if the TS LRIC cost is properly

01096

1 calculated it is a reasonable approximation for the
2 level of incremental cost that would be considered in
3 a competitive market.

4 Q. So it's your testimony, if I understand
5 correctly, that you believe that in a competitive
6 market where competitors purchase inputs from one
7 another that those inputs are never priced at anything
8 above TS LRIC, that is, in order to produce a
9 contribution to the common costs of the enterprise?

10 A. There may be some slight increase in the
11 price to cover certain common costs, but the
12 fundamental assumption is that the input is being
13 purchased by one entity from another in a competitive
14 market in which the purchasing entity presumably has
15 multiple sources of alternative supply, and with that
16 assumption the selling entity would probably try to
17 price what it's selling to the buyer at its avoided
18 cost in order to maximize the use of any fixed cost
19 facility. So I would think that my answer is
20 generally true in an industry that has fixed costs
21 spare capacity and is fully subject to multiple
22 competitive alternatives.

23 Q. In a competitive environment, would a
24 multi-product firm that priced all of its products at
25 no higher than TS LRIC recover any of its common

01097

1 costs?

2 A. If the market price were the equivalent of
3 its TS LRIC price and it could not price above that
4 it would not recover its common costs.

5 Q. And would it stay in business? I'm sorry,
6 please, finish your answer.

7 A. I will answer your question. It would
8 either write those costs off, as what's done in U.S.
9 industry typically, or it would cease doing business,
10 but typically what happens is that the General Motors
11 and the IBMs and the Delta airlines restructure their
12 balance sheets to lower their costs, improve their
13 financial outlook and maintain appropriate prices in
14 the marketplace with the result that both their
15 shareholders and their consumers are better off.

16 Q. In the long run if a company in a
17 competitive market is prevented from charging in
18 excess of its TS LRIC and it is also a multi-product
19 or multi service company, can it stay in business?

20 A. Yes, by lowering its TS LRIC.

21 Q. So you're saying that TS LRIC is something
22 that's within the company's control?

23 A. Absolutely.

24 Q. So you're saying the company can control
25 what is forward looking technology?

01098

1 A. It can control the common costs in effect.
2 And what we're really talking about is either lowering
3 the amount of common costs it has to recover or
4 finding a new technological solution to lower its TS
5 LRIC. That is what is called dynamic efficiency.

6 Q. If the company is prevented by law from
7 manufacturing the new technology, it's a technology
8 taker; isn't that correct?

9 A. That's correct.

10 Q. So let's just make that one of our
11 assumptions that the company is a technology taker and
12 let's further assume -- I think you've agreed with me
13 that a multi product company will by definition have
14 some common costs. Will you agree with that?

15 A. Yes.

16 Q. And if in the long run the company is
17 prevented from pricing at anything above its total
18 service long-run incremental cost and it's a
19 technology taker, can it stay in business?

20 A. Absolutely.

21 Q. How?

22 A. Well, in the case of telecommunications, to
23 be specific, as a technology taker a large phone
24 company is the beneficiary of very significant
25 decreases in the cost of inputs. You may be aware of

01099

1 appendix F of the FCC's recent price cap decision in
2 docket 94-1 that has data on that topic. I won't
3 belabor that, but it's -- even a technology taker can
4 be significantly benefited by new technology and
5 increased rivalry in the upstream market for the
6 technology inputs. So it's quite possible for a firm
7 to restructure itself, particularly in a declining
8 technology cost environment, as we are in in
9 telecommunications.

10 Q. But if the only effect of that, sir, is to
11 continually lower the TS LRIC, and if in my example
12 the company is constrained to a price at no higher
13 than the TS LRIC, whatever it is at any given time,
14 how does it cover any common costs?

15 A. Well, I think I see your point. Eventually
16 the market has to reach an equilibrium in which the
17 price covers the industry TS LRIC, if you will, and
18 the industry's typical common costs. So at some point
19 in the airline industry, for example, United Airlines,
20 American, Delta all have to achieve a relatively
21 efficient cost structure.

22 Now, I can see in that -- in saying that
23 that cost structure consists both of their total
24 service long-run incremental costs for airline flights
25 and some common costs that cannot be attributed.

01100

1 That's an industry equilibrium position that doesn't
2 have a whole lot to do with a monopoly market.

3 Q. So, if I understand your answer correctly,
4 you do recognize that even in a competitive
5 environment where a company would be a technology
6 taker and it was constrained to price at no higher
7 than its TS LRIC that in the long run if it couldn't
8 cover its common costs it would no longer be able to
9 continue in business; is that correct.

10 A. I don't think that's what I said. What I'm
11 really saying is that if it finds itself in the
12 position of being able to price no higher than a
13 market price which happens to be equal to its TS LRIC
14 price, but it still has a residual of common costs
15 that have to be recovered that its solution is fairly
16 to go out of business or more likely to find a new set
17 of circumstances so that it lowers its TS LRIC costs.

18 Q. And then on the other hand you indicated
19 that in the airline industry, which is undeniably a
20 competitive industry, that competitors do purchase
21 inputs from one another at something above TS LRIC
22 which would go toward recovering common costs. Is
23 that a correct understanding?

24 A. I don't think I used the airline industry
25 as an example of competitors purchasing inputs from

01101

1 each other, but I would suggest that -- I'm trying to
2 think of an example. The price for nonessential
3 competitive inputs that Delta might purchase from
4 American or vice versa are probably priced at avoided
5 cost which may be below the TS LRIC.

6 Q. So, if the airlines don't cover their
7 common costs how do they stay in business?

8 A. Well, they cover their common costs other
9 than through the sale of nonessential spare capacity,
10 if you will, or nonessential inputs to another
11 airline. And remember, we're talking about here if
12 Delta can't get it from American they can presumably
13 get it from United.

14 Q. So it's your testimony that there's no
15 input that an airline buys from a competing airline at
16 any price above TS LRIC?

17 A. No, but to the extent the price is above TS
18 LRIC, it suggests a condition of scarcity, I would
19 think. And so to bring it back to telecommunications,
20 what we're talking about with respect to
21 interconnection is the ultimate degree of scarcity
22 monopoly, or monopoly in an essential facility, so I
23 think that's consistent, and I'm sure within the
24 airline industry that there are transfers of inputs
25 between airlines at higher than TS LRIC cost, but I

01102

1 don't believe that that would be a sustainable
2 condition priced well in excess of TS LRIC as long as
3 there were substitute inputs available from other
4 sources.

5 Q. So if I understood that statement, you
6 recognize there are transfers between competing
7 airlines for inputs that are at some minute above TS
8 LRIC?

9 A. Yes, and I think I would characterize that
10 as a transitional pricing phenomenon and not a long
11 run condition.

12 Q. Are there some examples of that like the
13 airline reservation systems?

14 A. I would argue that the airline reservation
15 system potentially is not an example of that because
16 it's a scarce resource. When there were only two or
17 three reservation systems it was a resource that was
18 provided under probably oligopoly conditions, and
19 you're right that in those circumstances both the
20 terms and conditions and potentially the prices of
21 another airline accessing that airline reservation
22 system might demonstrate the exercise of some market
23 power, which is why I think the government, even under
24 a Republican administration several years ago, had
25 some serious problems with the way the airline

01103

1 reservation databases were being handled.

2 Q. What about airline ticket exchanges? Don't
3 airlines accept other airlines' tickets for completion
4 of through service even if the issuing airline also
5 serves the destination point?

6 A. Yes.

7 Q. And don't those settlements between
8 airlines involve payments that can exceed the TS LRIC
9 of the service involved?

10 A. I believe the settlement mechanism in the
11 airline is basically a net bill and keep system in the
12 sense that what is transferred at the end of the
13 accounting period is only any imbalance in accounts
14 receivable between the systems.

15 Q. Can you answer the question?

16 A. Well, I thought that was the answer. I'm
17 sorry.

18 Q. Well, but the accounting involves a pricing
19 of those fares in dollars, doesn't it?

20 A. Yes.

21 Q. And each airline charges the other airline
22 a dollar amount and they net the balance at the end of
23 the accounting period as you stated?

24 A. Yes, but the clearing house function can be
25 for a ticket that's priced that I bought the day I

01104

1 went to the airport and bought at full fare or that I
2 bought six months ahead of time on a tourist fare, and
3 most airlines that are in active competition with each
4 other in my experience will gladly take the coupon of
5 another airline regardless of the price it was issued
6 at, and some of those prices are well above TS LRIC
7 and some of them are probably at or below avoided
8 cost, at least at avoided cost, and what I'm saying is
9 that they will take any ticket.

10 Q. And some of them, as you indicated, would
11 be above TS LRIC and some below?

12 A. That's right.

13 Q. And what you call a net bill and keep does
14 involve accounting on a ticket by ticket and dollar by
15 dollar basis for the exchange of that traffic between
16 the airlines. Isn't that true?

17 A. Yes, but it's not a real time accounting
18 system. It's sort of an end of the month or end of
19 the period true-up process, which is very compatible
20 with bill and keep. The problem with -- we're talking
21 about in terms of measured compensation, everything
22 gets measured eventually. The problem is the dead
23 weight cost of real time measurement and real time
24 billing and collection. Do you know what I mean by
25 real time? Active on-line minute by minute activity

01105

1 as opposed to some true-up at the end of the process.

2 Q. Telephone minutes of use are somewhat more
3 volatile than paper tickets. Is that a correct
4 statement?

5 A. I don't know what you mean by volatile, no.

6 Q. Well, if you don't make a record of the
7 minute of use at the time that it's actually on the
8 system it's gone forever. Isn't that true?

9 A. That's not true at all. One can
10 reconstruct by traffic analysis the usage that passed
11 through a system without having to capture that minute
12 at the moment it's placed. Of course -- if I could
13 just follow up on this -- the real thing that we're
14 trying to capture from the standpoint of economic
15 efficiency is the capacity utilization at peak, and so
16 if that minute passes between you and me, you know, at
17 three a.m. when both of our networks probably are
18 completely unused or nearly unused, it obviously is
19 not very important to capture that minute in real
20 time, whereas if that minute passes between us at 11
21 a.m., that's an important economic minute, but that
22 minute can be estimated after the fact by traffic
23 studies.

24 Q. So it's estimated but not an actual account
25 as the example in the airline industry. Would that be

01106

1 correct?

2 A. Well, but I think the airline industry may
3 also be an estimate in the sense it's a net after
4 the fact of process. But you're right, it's not a
5 real time accounting but that's how networks are
6 managed. They're managed by these after-the-fact
7 traffic studies. It's not as if the network engineers
8 for ELI would sit there with a computer terminal
9 watching the minutes by minutes and say, oh, it's time
10 to re-engineer the network. They do it periodically
11 based on traffic studies. They don't -- you know, the
12 real time usage measurement capability that would be
13 required by this system would not be used by the
14 engineers in a real time way to engineer the network.
15 It's redundant to that function. It's only a matter
16 of billing record.

17 Q. Are you an engineer?

18 A. No, but I know a little bit about it.

19 Q. So it's your testimony that you know that
20 the information that would be gained by measuring
21 terminating traffic would be unusable for any purpose
22 other than the collection of access charges?

23 A. No. I'm just saying it would be
24 unnecessary for any other purpose. It might be used
25 for some other purpose if you went to the trouble of

01107

1 collecting it, but since the cost of collection is
2 relatively dear and the -- it's really a dead weight
3 loss in the sense that it may not be efficient that if
4 you had the data you could use it. I'm sure network
5 engineers would get printouts or whatever and look at
6 that, but in fact if they don't have the real time
7 usage data they can still manage the network and grow
8 the network just as effectively as if they did have
9 the real time usage.

10 Q. I want to ask you to assume that there was
11 an interexchange carrier that was enterprising in
12 terms of wanting to cut its costs. Would it be
13 possible for such an interexchange carrier under your
14 approach to purchase PBX trunks from Electric
15 Lightwave and forward terminating long distance
16 traffic onto U S WEST's network in such a way that it
17 would simply look like terminating local traffic?

18 A. I think that's a possibility, yes. And
19 that's why you would have to have some sort of
20 understood agreement that the data exchanged between
21 the carriers would be subject to audit and review. We
22 don't live in a perfect world, but my taxes, I file my
23 taxes once a year, in effect, and the IRS doesn't
24 collect on a minute by minute basis as I make money or
25 a day-by-day basis. I pay my taxes quarterly and

01108

1 that's good enough for them.

2 Q. But if you didn't capture the data on a
3 minute-by-minute basis the task of auditing would be a
4 lot more difficult, wouldn't it?

5 A. I'm not sure. I think the records -- as
6 long as there were agreed upon standards for an audit
7 trail of the data, I don't see why it would be that
8 difficult, and if I were a regulator I would make sure
9 that there was sufficient penalties in place for
10 anyone who tried to cheat that it would be a deterrent
11 if they were ever discovered cheating, so I'm not
12 saying that we should be oblivious to the fact that
13 there might be someone who would try to fool around
14 with the system. I'm saying that taxes or any other
15 mechanism you want to think about, it's really
16 possible to put in both audit checks and penalties so
17 that you don't have to measure one's income on a
18 day-to-day basis or one's whatever in taxes.

19 Q. Under the hypothetical that I asked you to
20 assume, what exactly would be audited?

21 A. Traffic records, I think that would be
22 maintained.

23 Q. But if the interexchange carrier purchases
24 PBX trunks from Electric Lightwave, are you saying
25 that Electric Lightwave would record that incoming

01109

1 traffic on its PBX trunks in terms of originating
2 ANI, every minute of use -- or every call?

3 A. That's the whole point. They don't want to
4 capture every minute, but there would be a trunk group
5 from that PBX that would be sized in a certain way,
6 and it would be, presumably in your hypothetical,
7 identified by ELI as local incoming traffic, but in
8 the audit it would be understood that there would be
9 some way of checking as to whether that was in fact
10 traffic that was being mislabeled somewhere up the
11 road, upstream in the system, and I wouldn't think it
12 would be in ELI's and U S WEST's mutual interest not
13 to detect and foreclose cheating because the long
14 distance carrier could do the same thing through U S
15 WEST. They could buy a PBX and they could do that
16 today, actually, buy a PBX, trunk it into U S WEST
17 switch, call it local, and use that as a way of
18 avoiding the terminating long distance charges, so
19 that is something the system has to account for. I
20 think it does a good job of accounting for it now
21 because that same arrangement could presumably be done
22 today.

23 Q. Under the hypothetical that I asked you
24 about, what financial interest would Electric
25 Lightwave have to detect and prevent such a set up?

01110

1 A. Really the same financial interest they
2 have with respect to bill and keep generally and that
3 is, if they're not good actors they can -- the system
4 breaks down and they will be exploited by U S WEST or
5 by some other entrant who does the same type of thing.
6 It's sort of a mutual reinforced incentive to honestly
7 report data and make sure that there's no fraud,
8 because they can just as much be victimized by fraud
9 as they can perpetuate it -- perpetrate it, excuse
10 me.

11 Q. They have no financial interest in
12 detecting and preventing the specific transaction that
13 I mentioned to you because they would be gaining
14 incremental revenue from the sale of the PBX trunk and
15 would not be losing any access charges themselves;
16 isn't that correct?

17 A. If you looked at it -- that's correct if
18 you looked at it on a specific transaction basis, but
19 I can't imagine --

20 Q. That's fine.

21 A. No. I really have to tell you, I can't
22 imagine not looking at the big picture in this
23 circumstance.

24 Q. And you answered my question a moment ago
25 by saying that it was possible for such an arrangement

01111

1 to be set up with a U S WEST provided-PBX trunk.
2 Would you agree with me that U S WEST in that
3 situation would itself be able to exercise whatever
4 security measures it had in place to deal with that
5 and would not have to rely on Electric Lightwave?

6 A. By its same token --

7 Q. Isn't that a true statement? Yes or no,
8 sir.

9 A. It's a true statement with respect to both
10 ELI and U S WEST, as I understood your hypothetical.

11 Q. You answered me a moment ago saying that an
12 interexchange carrier could set up the same kind of
13 situation buying a U S WEST PBX trunk and terminating
14 long distance traffic over that without paying access
15 charges, and I am simply asking you under that
16 circumstance U S WEST would not need to rely on
17 Electric Lightwave to detect the situation. It could
18 use its own measures to detect it. Isn't that true?

19 A. That is true. However, the hypothetical
20 you're -- the inverse of the hypothetical you offered
21 me is whether ELI would have to rely on U S WEST in
22 this example to detect that misuse of the PBX not
23 only as to U S WEST itself but as to any traffic that
24 that carrier presented to ELI. So I think it's the
25 mirror image and the incentives are the same for both

01112

1 ELI and U S WEST.

2 Q. Except that ELI is proposing this and U S
3 WEST isn't. Isn't that true?

4 A. But U S WEST is not proposing this, and I
5 don't recall any testimony by U S WEST to this point
6 that has anything to do with the possibility of fraud.

7 Q. I'm sorry, what I meant by this is ELI is
8 the one that's proposing bill and keep, not U S WEST.
9 Isn't that true?

10 A. Yes, but I don't understand U S WEST's
11 opposition to bill and keep to be based in any degree
12 on the theory of fraud. It's based on a social
13 obligation or a carrier of last resort obligation
14 which I don't necessarily agree with. I don't believe
15 Mr. Owens in his testimony really brought up fraud as
16 a major issue, and I am telling you that as we
17 discussed ii here I don't see that there's any
18 difference in the incentives --

19 JUDGE ANDERL: Mr. Montgomery --

20 A. -- between U S WEST and ELI.

21 JUDGE ANDERL: Thank you.

22 Q. At page 11 of your direct testimony,
23 Exhibit T-84, you criticized U S WEST's proposal --
24 this is at line 17 -- and characterize it as in effect
25 an attempt by U S WEST to insulate it from having to

01113

1 become more efficient. Is that correct?

2 A. Yes.

3 Q. And to the extent -- and I realize that
4 your position is you disagree with U S WEST cost
5 studies, but to the extent those cost studies
6 demonstrated with sufficient evidence that in fact
7 residence service was being provided below its cost,
8 and to the extent that you would assume for purpose of
9 this question that that state of affairs is not
10 something that U S WEST proposes to continue, but U S
11 WEST has proposed to change that situation in its rate
12 case, is that fact an example of what you characterize
13 as inefficiency?

14 A. No. The hypothetical you've given me is
15 not an example of inefficiency.

16 MR. OWENS: If I can have a minute, Your
17 Honor, I need to try to understand a little better the
18 oral surrebuttal in order to prepare questions on
19 that. I'm nearly at the end of my cross-examination.

20 JUDGE ANDERL: All right. Take a minute.

21 MR. OWENS: I'm ready to go ahead.

22 JUDGE ANDERL: Mr. Owens, go ahead.

23 Q. With regard to your oral surrebuttal and
24 your testimony that tandem switching is essential, are
25 you familiar with the decision of the federal

01114

1 communications in CC-91-141 phase 2?

2 A. Yes, I am.

3 Q. Isn't it true that in that case the FCC
4 established rules that would require U S WEST to allow
5 Electric Lightwave or any other alternative
6 interexchange carriers to connect its tandem to a U S
7 WEST end office?

8 A. I believe that event will be the outcome.
9 I'm not sure that's fully implemented yet. Is it
10 October that tariffs will be filed for that?

11 Q. I'm not here to answer your questions.

12 A. I believe that's the ultimate outcome that
13 will result from that.

14 Q. Are you aware of whether or not Electric
15 Lightwave, your client, is advertising a tandem
16 switching function in the state of Washington today?

17 A. Yes, they are, but that was why I used that
18 as an example of an alternative. That's not a fully
19 effective substitute because it still requires
20 connection to U S WEST network.

21 Q. But it requires connection to U S WEST
22 network at the end office. Isn't that true?

23 A. Yes.

24 Q. Is there anything at all once -- if there
25 is implementation to be done -- once that occurs, that

01115

1 would prevent an interexchange carrier from using the
2 Electric Lightwave tandem switching function to
3 terminate calls to a U S WEST end office?

4 A. Is there anything technically or
5 economically?

6 Q. Technically.

7 A. There is nothing technically.

8 Q. Do you have Exhibit C-82?

9 A. I don't believe I do.

10 Q. You heard Mr. Roe indicate that this was a
11 diagram of Teleport's current network in a schematic
12 form in the greater Seattle area -- not its network
13 but its connections to U S WEST network?

14 A. I did hear that.

15 Q. In the event that Teleport were to install
16 a tandem using these connections, would it be able to
17 perform a tandem switching function under the FCC's
18 rules in the greater Seattle area?

19 A. It would be able to perform a tandem
20 switching function, I believe, to the extent of these
21 offices.

22 MR. OWENS: Thank you. That's all I have.

23 JUDGE ANDERL: Completely done, Mr. Owens?

24 MR. OWENS: Yes.

25 JUDGE ANDERL: Let's see. Mr. Potter,

01116

1 questions for this witness?

2 MR. POTTER: A few. Thank you.

3

4 CROSS-EXAMINATION

5 BY MR. POTTER:

6 Q. Good evening.

7 A. Good evening.

8 Q. I have a couple of questions with regard to
9 your direct testimony to start off with. Your page
10 10, if you will turn to that. The sentence that
11 starts at the top runs I think from about line 1 to
12 line 4. There you're saying, are you not, that a bill
13 and keep arrangement would be best at least -- and I'm
14 going to quote from line 4 -- "at least until full
15 local interconnection is available to CLECs." Is that
16 right?

17 A. That's correct.

18 Q. And you discuss elsewhere what you mean by
19 full local interconnection and that includes things
20 like number portability; is that right?

21 A. It does include generally some form of
22 number portability.

23 Q. So do you have any estimate in general or
24 for the state of Washington if possible on how long it
25 would be before your full local interconnection

01117

1 situation could occur?

2 A. It's difficult to estimate exactly, but
3 given the progress that has been made in number
4 portability technologies, at least service provider
5 number portability within a LATA or within a defined
6 local area would be my expectation that that would be
7 achievable within two to three years.

8 Q. Between now and then would you expect the
9 ratio of terminating traffic between local exchange
10 carriers such as GTE and company such as ELI to be in
11 balance? Out of balance? What?

12 A. Under a bill and keep arrangement it would
13 be more in balance absent number portability then it
14 would be under some sort of compensation because of
15 the distorting effects that compensation could have on
16 incentives as to what kind of customers to acquire, so
17 I would think it would be closer to being in balance,
18 and given the evidence that is cited in the
19 information requests and from the staff study, I think
20 in general it would be on average in balance not on a
21 route by route basis but on an average.

22 Q. I see. On your page 13 there's a footnote
23 down there, 14. The second sentence says, "The rental
24 and/or sharing of any facilities needed for the inter-
25 LEC and CLEC connection should be priced on a cost

01118

1 basis. Do you see that?

2 A. Yes.

3 Q. What do you mean by priced on a cost basis
4 in that context?

5 A. Priced at the appropriate
6 Commission-determined rate levels for that which would
7 be based, I think, on incremental costs plus some type
8 of markup, and in this case we're talking about a
9 situation where ELI uses a U S WEST facility to reach
10 GTE. Obviously U S WEST is going to be compensated
11 for that transiting facility.

12 Q. Since you mentioned markup, then for this
13 piece anyway you're not recommending that the price
14 actually be the same as incremental cost; is that
15 right?

16 A. That's right.

17 Q. I think if you would turn to page 24 of
18 your reply testimony. Here and on the next page I
19 think you're talking about Dr. Beauvais's prefiled
20 testimony where he's talking about the issue of
21 whether local exchange companies or competitive local
22 exchange companies should pay, if you will,
23 terminating access charges to cellular carriers,
24 shared tenant service providers and that sort of
25 thing. Are you with me?

01119

1 A. Generally. I don't know that I was
2 thinking about shared tenant providers.

3 Q. I just noticed on line 16 you mention STS
4 providers, but in any event my question is what would
5 your policy recommendation be to this Commission or to
6 your client Electric Lightwave on whether Electric
7 Lightwave should pay cellular carriers or shared
8 tenant service providers who terminate Electric
9 Lightwave traffic?

10 A. I would imagine that Electric Lightwave
11 would be constrained by the market to charge as U S
12 WEST charges today or GTE charges today, which, in
13 this case, would be -- I don't know in Washington
14 whether there are any surcharges on STS providers as
15 there are in some states. I don't approve of those,
16 but if there are I would suspect the market would
17 allow ELI to do that. Otherwise they will just be
18 charging for the STS provider the trunk connections,
19 and with respect to the cellular carriers I'm sure
20 that the initial compensation arrangement between ELI
21 and the cellular carrier would be very similar to the
22 compensation arrangements between dominant incumbents
23 and cellular carriers.

24 Q. In your reply testimony -- if you turn back
25 to page 21. Back to the question of traffic being in

01120

1 or out of balance. I think it's on line 2 you say,
2 "It's unlikely over time traffic will be seriously
3 out of balance." How long a period did you have in
4 mind when you said over time there?

5 A. At the -- ending at the point where ELI or
6 another entrant's traffic reaches the point where, if
7 you will, the downward slope of the average cost curve
8 starts to flatten out. In other words, in the very
9 first period of the existence of TCG or ELI they're
10 going to have tremendously declining costs with every
11 new customer that they add but they're going to be
12 starting at such a high level that it's meaningless,
13 so at some point that cost, that average cost curve
14 has got to flatten out, and at that point I would
15 guess if they are serving coincidental service
16 territories with an incumbent -- by coincidental I
17 mean overlapping -- that they will end up having
18 reasonably balanced traffic. And it will happen
19 sooner than it would in adjacent -- between adjacent
20 exchanges, say, with one small carrier and one large
21 carrier, so eventually that traffic can be in balance
22 in the latter case.

23 Q. I meant to ask, did you have a particular
24 time period in mind such as months, years, so on, when
25 you thought this would likely happen?

01121

1 A. No. I should have explained that you can't
2 understand -- one cannot estimate how the cost curve
3 will flatten out until this Commission makes
4 compensation decisions because compensation is such a
5 big part of that curve that at this point it would be
6 impossible for anyone to know when that would be. I
7 think under a reasonable circumstance it would be, as
8 I said before, maybe two to three years but I really
9 don't know. There is no real basis and I shouldn't
10 speculate because there's no real way to estimate
11 that.

12 Q. If traffic is out of balance in the sense
13 that, say, GTE, for example, is terminating more
14 Electric Lightwave traffic than Electric Lightwave is
15 terminating GTE traffic, then you would agree, would
16 you not, that the costs of traffic termination are
17 more -- more dollars to GTE in that circumstance than
18 it would be to Electric Lightwave?

19 A. Generally I think that would be true.

20 MR. POTTER: That's all my questions.

21 Thank you.

22 JUDGE ANDERL: Mr. Finnigan.

23

24 CROSS-EXAMINATION

25 BY MR. FINNIGAN:

01122

1 Q. Mr. Montgomery, would you please look at
2 page 44 of your direct testimony, T-84?

3 A. Yes.

4 Q. At line 18 you make a statement that "for
5 decades the monopoly industry has prospered with bill
6 and keep." Do you see that testimony?

7 A. Yes.

8 Q. It's true in response to discovery request
9 that that statement is based upon your experience in
10 states other than Washington and is not based on
11 anything related to the state of Washington; is that
12 correct?

13 A. Well, no. It's actually true in large
14 measure for the state of Washington.

15 Q. Excuse me. Let me direct your attention to
16 discovery request LEC 18 and your response to that
17 request.

18 A. I don't have that in front of me.

19 JUDGE ANDERL: Mr. Butler, can you provide
20 it to him? If you have your copy handier, Mr.
21 Finnigan, maybe he could share.

22 MR. FINNIGAN: It's very short. Maybe
23 I can just read it. Take me longer to walk up there.

24 Q. The response -- the question directs you to
25 that portion of the testimony and says "please provide

01123

1 in detail the basis of Mr. Montgomery's statement
2 particularly as it relates to EAS routes in the state
3 of Washington." The response that I was provided by
4 you is, "the basis for the statement is Mr.
5 Montgomery's substantial experience with respect to
6 EAS compensation arrangements which dates from 1978.
7 See response to LEC 16 (including with regard to
8 Connecticut, Florida, Indiana, Kansas, Minnesota,
9 Texas). The statement is not specific to Washington
10 state." Are you familiar with that response to that
11 data request?

12 A. That sounds like an accurate reading --

13 Q. Mr. Montgomery --

14 A. -- but I don't think the record is complete
15 here because --

16 Q. Mr. Montgomery, my question has been asked
17 and answered.

18 JUDGE ANDERL: It does sound like the
19 question has been asked and answered. Your counsel
20 can take that up on redirect.

21 THE WITNESS: He will have to.

22 Q. Mr. Montgomery, will you now go to your
23 reply testimony, T-86. And directing your attention
24 to page 14 of that testimony. Do you have in front of
25 you?

01124

1 A. Yes, I do.

2 Q. That testimony suggests that there were
3 some agreements struck between WITA and U S WEST about
4 positions to take in this case. Is that your
5 intention with the testimony there at page 14?

6 A. Presumably, I guess. On line 11 you're
7 talking about?

8 Q. 11 and 15 and 17.

9 A. Yes. That statement refers to the document
10 that was entered here in the hearing as Exhibit 41,
11 which is the response -- U S WEST response to LEC
12 request 01-32.

13 Q. Do you have any information, Mr.
14 Montgomery, that would lead you to believe that there
15 was anything other than a series of data requests
16 promulgated and responses given?

17 A. My general understanding of the industry
18 over many years would lead me to that conclusion.
19 I've never seen before a phone company accept a
20 provision for its tariff, language for its tariff,
21 just as written by another party. I don't have any
22 direct evidence that there were negotiations, but I
23 think my surmise in that respect is quite well-founded
24 in my historical experience in this industry.

25 Q. Do you have any basis for making that

01125

1 statement as it relates to your experience in the
2 state of Washington?

3 A. It would be equally true of any inter-
4 carrier situation. I've never seen in 20 years a
5 carrier like U S WEST simply accept language that was
6 proffered by anybody else that's being included in its
7 tariff if that language hadn't been discussed or run
8 by the company whose tariff it was going to be
9 inserted in. That was a first for me when I saw that
10 data request.

11 Q. Are you saying, then, that you believe that
12 it is not possible?

13 A. It's possible but generally speaking
14 carriers don't allow other people to willy-nilly write
15 language into their tariffs.

16 Q. Mr. Montgomery, are you aware that WITA
17 offered to ELI the opportunity to appear before it and
18 meet with its board of directors to discuss what
19 position WITA ought to take in this case?

20 A. I'm not specifically aware of that, no.

21 Q. Will you accept subject to check that that
22 did in fact occur?

23 A. A meeting between ELI and WITA?

24 Q. Yes, correct.

25 A. I will accept that. Certainly easy to

01126

1 check.

2 Q. Will you accept subject to check that ELI
3 accepted that invitation and did in fact make a
4 presentation to WITA's board concerning the position
5 it felt WITA should take in this case?

6 A. If you say so, I will accept it.

7 Q. In your experience in the industry, would
8 you view that to be unusual?

9 A. Not particularly. I think that there have
10 been many meetings between dominant incumbent and
11 entrants as markets opened up in telecommunications.
12 Certainly MCI I'm sure met with AT&T when they were
13 beginning to compete with each other.

14 Q. Mr. Montgomery, are you familiar with the
15 characteristics of WITA's members?

16 A. I would believe that they're smaller
17 telephone companies. Specifics characteristics, no.

18 Q. So it wouldn't surprise you that
19 approximately half of WITA's members serve
20 approximately 2,000 access lines or fewer?

21 A. I would think that would be quite typical
22 of the independent telephone companies in most states.

23 Q. And it wouldn't surprise you then that all
24 but three of WITA's members serve fewer than 20,000
25 access lines?

01127

1 A. I would accept that.

2 Q. And you would accept that that's in the
3 category of a small telecommunications company?

4 A. Yes.

5 Q. Would it surprise you to learn that WITA's
6 members serve predominantly rural areas?

7 A. No.

8 Q. Are you familiar with the characteristics
9 of rural telecommunications service areas?

10 A. In general I think I can --

11 Q. You would agree with me, then, that rural
12 service areas consist primarily or usually consist of
13 a core area that is relatively concentrated
14 geographically and has the majority of the access
15 lines and the remainder of the access lines are
16 dispersed over a wide area of farm land and ranches
17 and more rural areas?

18 A. It sounds like Rush County, Indiana where I
19 grew up.

20 Q. Are you familiar with the Commission's
21 orders in U-85-23?

22 A. I can't say that I recognize that docket
23 number.

24 Q. Would you recognize it if I described it as
25 the orders which created the role of designated

01128

1 carrier for U S WEST for intraLATA toll?

2 A. I know that that was a condition, and I
3 still don't know the docket number.

4 Q. Would you find it reasonable that -- if I
5 told you that U S WEST Communications has facilities
6 built to and very often through the exchanges of the
7 independent LECs?

8 A. That's correct.

9 Q. Do you believe that the policies of the
10 state of Washington in telecommunications and
11 particularly in interconnection should recognize the
12 service needs of rural areas?

13 A. In general, going back to, oh, I think
14 1981, it's been my position that rural companies
15 deserve different consideration. Small rural
16 companies deserve different consideration than the
17 companies who are largely urban and multi-state in
18 nature.

19 Q. And you would agree with me that, I would
20 take it, that small companies that serve 20,000 access
21 lines or less have on a relative basis relatively
22 little economic power?

23 A. I don't believe I would characterize it as
24 relatively little economic power. As to those 20,000
25 people they have monopoly power. Relative to U S WEST

01129

1 or GTE obviously they are small companies.

2 Q. And that would also be as relative to TCI?

3 A. No, I don't think so. The relevant
4 comparison with respect to TCI would be the number of
5 assets devoted to switched telecommunications service.
6 Not the assets that need to be devoted to programming
7 or cable television because those, except where
8 they're using the backbone, those assets aren't really
9 functionable.

10 Q. If TCI is a partnership in a venture that
11 spent over a billion dollars for a PCS license, does
12 that change your response?

13 A. No.

14 Q. Just as a final question, do you know --
15 WITA is an acronym for the Washington Independent
16 Telephone Association?

17 A. Yes.

18 Q. Do you know what the "I" stands for, what
19 the word independent derives from?

20 A. It derives from the day when most of the
21 major urban carriers were part of the Bell system.

22 Q. So it's independent from the Bell system?

23 A. Well, there is no Bell system any more but
24 it's independent from the large dominant carriers.

25 Q. Or its progeny? Thank you.

01130

1 JUDGE ANDERL: Mr. Smith, did I ask you if
2 you have any cross?

3 MR. SMITH: I have no questions.

4 JUDGE ANDERL: Any of the other intervenors
5 have cross for this witness?

6 Mr. Trotter?

7 Commissioners, any questions for this
8 witness?

9

10 EXAMINATION

11 BY COMMISSIONER HEMSTAD:

12 Q. On page 5 of your rebuttal testimony, at
13 line 11, and first as a footnote where you say it
14 would be unwise and probably impossible for a firm in
15 any competitive market to select out and serve only
16 the most profitable individual customers, but isn't
17 that precisely the strategy of the competitive LECs as
18 they come into new market?

19 A. That is the short-run entry strategy, but
20 the history of competition in telecommunications shows
21 that for legitimate economic reasons you want to
22 expand your coverage to people who are smaller users
23 and perhaps residential users. For example, if you
24 select only the business market you reach a point
25 where your network is only being used during the

01131

1 business day and all evening and all weekend it just
2 sits there, so -- the people who make predominant
3 calls in the evenings and weekends are residential
4 customers, so it just makes good sense from the
5 standpoint of using that network more efficiently to
6 go out and market to residential customers, which is
7 exactly what MCI and Sprint did once they achieved
8 relatively -- relative independence from using AT&T's
9 network facilities and long distance we started seeing
10 Friends and Family and Sprint Most and all of this TV
11 advertising and that's not just a coincidence.
12 There's a legitimate reason for them to want to fill
13 up their networks off peak.

14 Q. I find footnote 4 on that page to be of
15 interest where it says, "As a policy matter CLECs
16 would be encouraged to serve as many customer groups
17 in areas of the state as economically feasible in the
18 shortest period of time." Do you have any thoughts as
19 to how that would be implemented by this Commission to
20 encourage the CLECs to pursue those -- for the purpose
21 of discussion, this discussion, call them less
22 attractive groups in the areas?

23 A. Well, there are several ways. I think the
24 first thing that has to be done is some basic
25 unbundling of the access line facilities that reach

01132

1 customer premises that aren't on entrants' networks.
2 Beyond that I think providing the entrants with the
3 ability to market to residential customers. In the
4 longer term you might find that the Commission wanted
5 to encourage, for example, a service bureau approach
6 to ordering telephone service so when I move to
7 Seattle from Boston I can call a service bureau, and
8 it will hook me up with the best price local carrier,
9 which might be at that point in time or in my
10 neighborhood U S WEST or ELI or somebody like that.
11 And there are I guess people who fulfill those
12 functions now in terms of persons with bad credit,
13 so-called restoration services.

14 Over time I think the way you do this is by
15 unbundling, by efficient pricing and encouraging the
16 development of an industry structure where there are
17 more people providing separate functions like
18 providing ordering functions or a company that
19 provides tandem switching but nothing else and you
20 will reach -- over the next five years you will have
21 ample opportunities to consider policies that will
22 perhaps allow you to do that.

23 Q. You know, it's clear that you don't like
24 the term "carrier of last resort" from your testimony.

25 A. That's quite true.

01133

1 Q. But isn't there a difference between the
2 expectations in law and at least with this Commission
3 with respect to the obligations of U S WEST on the one
4 hand and the competitive LECs on the other? In other
5 words, ELI has, does it not, has the opportunity to
6 decline requests for service whereas at least it's
7 commonly understood that is not the case with regard
8 to U S WEST. Isn't that true?

9 A. That's true in a technical sense but of
10 course U S WEST declines to provide service where
11 it doesn't have a facility, so-called held orders. It
12 also declines for people who don't have good credit.
13 It also declines for people who haven't established
14 credit. When you look down the list, if you look at a
15 business, a competitive business, and you look at how
16 it serves or chooses not to serve its customers, U S
17 WEST looks very much like a business like that in my
18 opinion. There may be some sort of an obligation
19 there, but it's -- when you work through all of the
20 issues, as I said in my testimony, there's no firm in
21 the United States that would not love to be a carrier
22 or provider of last resort in the circumstances where
23 they start with a monopoly.

24 Q. That's true. But the Commission to my
25 knowledge doesn't have a held order list for ELI.

01134

1 A. No, absolutely not.

2 Q. Your recommendation is that the Commission
3 reject the use of an interim universal service charge,
4 and is it your position that the assessments against
5 access lines is in itself sufficient to meet the
6 universal service needs with nothing more?

7 A. On the present state of the data that I've
8 seen my answer would be yes, that the assessment per
9 access line is sufficient. What should happen is if
10 U S WEST can identify or GTE can identify a particular
11 exchange or set of exchanges where it thinks that it
12 is burdened by a carrier of last resort obligation it
13 should identify that exchange and see if there are any
14 people willing to come and provide service in that
15 exchange, as it has done, I guess, out in the east
16 part of the state.

17 The problem we have right now is it's a
18 generalized notion to the extent that you can look at
19 this on a community by community basis, exchange by
20 exchange basis and identify a real obligation, then
21 all of the entrants here -- this is the advantage of
22 having five or six telephone companies -- should be
23 given a chance to see if they can serve that or will
24 take over service in that community, and perhaps lower
25 -- at a lower cost. So that's how I think the carrier

01135

1 of last resort situation should be handled with data
2 collected if and when and to the extent U S WEST can
3 actually identify some area, some exchange where its
4 net business, if you will, is underwater.

5 Q. Are you aware of any other state that has
6 addressed these issues to date that has adopted
7 something such as you're proposing or something
8 similar to it?

9 A. There is currently pending in phase 2 of
10 the Maryland case involving MFS, which I think we've
11 referred to, I think Mr. Owens referred to in his
12 testimony. CMP of Maryland or Bell Atlantic Maryland
13 performed a study that looked at the cross subsidies
14 between residence and business on an area by area
15 business. They used counties in Maryland, which in my
16 opinion was the wrong way to do it in retrospect, but
17 I cannot tell you the results of that study because
18 it's proprietary. I suspect that that Commission will
19 reach an order in phase 2 of that docket, probably by
20 the early fall. I believe to the extent that the
21 proprietary material becomes available or the
22 conclusions become available, it will have a positive
23 impact on the notion of whether or not there is a
24 carrier of last resort obligation.

25 COMMISSIONER HEMSTAD: That's all I have.

01136

1 JUDGE ANDERL: Thank you. Commissioner
2 Gillis.

3

4 EXAMINATION

5 BY COMMISSIONER GILLIS:

6 Q. My mind is getting mushy at this point. I
7 was interested in your discussion early on where you
8 were talking about the implications of higher volumes
9 and for the imputed costs early on that on a unit
10 basis, as I understand it with the approach that was
11 proposed by Mr. Purkey as your testimony related,
12 higher volume would result in higher imputed costs.
13 What's the opposite of that? Are there implications
14 for incentives for a new entrant to pursue smaller
15 customers that might be associated with that same kind
16 of relationship?

17 A. Well, the effect of the company's
18 compensation proposal is to limit the entrant -- or
19 the most profitable customer that the entrant can
20 serve is the low use customer, so if you want to
21 spread the benefits of competition to low use
22 customers, one could argue that the company's
23 compensation proposal does that. The flaw in that
24 argument is that those are the people who are least
25 likely to want to change their phone number or sit

01137

1 down with a marketing representative from ELI.

2 So eventually I think it's -- as I said
3 before with Commissioner Hemstad, it's an appropriate
4 policy to see that lower use customers get the benefit
5 of competition, but to start out that way with the
6 company's compensation proposal, as it does, is --
7 that's where the price squeeze occurs, because the
8 company is saying to entrants, we'll give you
9 profitable customer base in the people who are least
10 likely to take your service.

11 Q. Would you recommend to the Commission in
12 evaluating and coming up with compensation structure
13 that the Commission should take into consideration
14 price incentives that would encourage entrants to
15 reach more broadly into the market over -- I guess
16 over a period of time?

17 A. Yes. I think you have to do that partly by
18 price incentives and partly by structural method,
19 which would include unbundling at some basic level --
20 some process that I discussed in my reply testimony
21 -- to unbundle further if it was feasible to do so in
22 certain cases. Structural reform of the relationships
23 that are ancillary to the network, and the example
24 here is the White Pages directory. It's easy to see
25 that the White Pages directory was never part of the

01138

1 natural monopoly of telecommunications in the sense
2 that the cost of publishing directory is never sub-
3 additive to the costs of the network. But the
4 directory could always have been published by the
5 Seattle Times, you know, in Seattle on its printing
6 presses.

7 So, given that it's not part of the network
8 system policy should encourage there to be one
9 directory and for the convenience of users. So that's
10 a structural kind of issue that's not just saying
11 lower the price, although part of the problem with
12 White Pages directories is the price that the company
13 want to charge is quite steep, but irrespective of the
14 price, the policy should be to keep all the phone
15 numbers in one book. And there are many other
16 structural examples like that, and you can't implement
17 all of them or even identify all of them at the
18 outset, but you will have plenty of opportunity to do
19 that in the future. That may be bad news but that's
20 the truth.

21 Q. I was also interested in your comment that
22 -- not just U S WEST but in general company's
23 incremental cost studies are difficult for any outside
24 party to verify and understand. In kind of a reverse
25 way I find that reassuring that there might be a

01139

1 reason I don't understand them.

2 A. You have large company, I think, with you.

3 If I could just comment on that. Part of the new
4 theory of regulation of which price caps, for example,
5 is an example or alternative regulation is to adopt
6 regulations that don't allow a party with superior
7 information to use that information to its advantage.
8 And the problem with incremental cost studies is it
9 fails that test. It's what they call the information
10 rent which is like a monopoly rent, but I have an
11 information rent with respect to certain things I know
12 that you don't know but in terms of regulation the
13 phone company has an information rent vis-a-vis the
14 regulator. And I go so far -- they won't like this.
15 ELI has an information rent vis-a-vis the Commission
16 or they will have as they develop.

17 So your purpose as a regulator is to come
18 up with rules that don't depend on that information,
19 and that's one of the reasons why a properly
20 constructed price cap plan is considered by academic
21 economists who look at regulations to be superior to
22 cost of service regulation, a properly constructed
23 price cap plan. And that is why when I've looked at
24 the imputation issue, for example, I've looked at it
25 strictly -- trying to look at it as much as possible

01140

1 strictly in terms of the price that an entrant would
2 pay for terminating usage versus the price that U S
3 WEST receives.

4 I agree with U S WEST that what happens on
5 the originating end or in the intraoffice part of the
6 traffic is irrelevant to this discussion. Of I agree
7 with Mr. Purkey on that, but in terms of the
8 terminating compensation, the more you can look at
9 revenues that are -- that U S WEST receives and not
10 look at incremental costs, the better you are as a
11 regulator because you don't have to disentangle those
12 LRIC studies.

13 Q. Do we have any options for what we've been
14 referring to in this docket as essential
15 interconnection services other than imputation based
16 on some sort of cost information?

17 A. Try to look at revenue caps. What I did on
18 my table 2 in my exhibit was to say in effect that --
19 the whole exhibit is confidential but the number that
20 U S WEST realizes on average from local calls is much
21 below the revenue, average revenue value is much
22 below the revenue on a unit basis that they would
23 achieve under their proposal, and I did that as much
24 as I possibly could without looking at costs.

25 Q. But the relevance of that, doesn't that

01141

1 depend on an assumption of similar customer-based
2 structures?

3 A. It does. It does. You have to -- and that
4 analysis is very aggregated.

5 Q. But to do -- how does that help us in
6 evaluating the appropriate imputed costs for a new
7 entrant that doesn't have a customer-based structure
8 at this point? And how do we know that that new
9 entrant is going to go to a customer-based structure
10 in an efficient manner that is similar to where a more
11 mature incumbent is at?

12 A. Well, if you set the rules correctly the
13 entrant will either achieve an efficient structure or
14 it will, quote, go out of business, unquote. In fact
15 they won't go out of business. They will just sell --
16 I won't use any real, if you don't mind, any real
17 entrants here. Entrant A will sell its facilities to
18 entrant B at a discount. They don't -- once you have
19 the fiber in the ground people aren't going to really
20 go out of business because you have those assets, but
21 I don't think it's your business to worry about
22 whether every entrant succeeds, only whether you have
23 the right incentives for the entrants to get down
24 their cost curve in an appropriate way?

25 Q. Moving down the cost curve, what is your

01142

1 view of where the decision to be made in this docket,
2 what implications do they have for the small companies
3 that Mr. Finnigan was discussing?

4 A. In general the implications are that as
5 competition -- if and as competition develops in the
6 vicinity of the smaller telephone companies, you will
7 have to decide whether you want to alter the
8 competitive rules for the entrants in those
9 circumstances. Not to protect WITA members, as
10 virtuous as that might be, the issue is always to
11 protect the ratepayers in those counties, and if you
12 find a way that effectively protects the ratepayers
13 then the service provider who is providing the service
14 will either continue in existence or will sell out and
15 there will be a consolidation, but it will be
16 efficient consolidation, as long as you've covered the
17 needs of the ratepayers.

18 Q. One final question. I think that you
19 touched on this in your discussion with Commissioner
20 Hemstad. I don't know where the reference is in the
21 testimony, but I believe that one of your concerns
22 with the universal -- interim universal service charge
23 proposed by U S WEST is that it lacks a cost basis.
24 Is that --

25 A. Absolutely. Yes.

01143

1 Q. What would be an example of a cost basis
2 that would justify interim universal service charge?

3 A. An identification of, as I say, an exchange
4 area, something like what they're trying to do in
5 Maryland. An identification of a particular area
6 where, on balance, the service provided by the phone
7 company is not profitable. And my suggestion -- and
8 it's not really an analysis at this point because we
9 don't have the data -- is that in circumstances where
10 U S WEST can sell its least dense exchanges to PTI --
11 for book value plus a premium, even though the high
12 cost fund will undoubtedly make up a good deal of the
13 difference, those kinds of transactions suggest to me
14 that finding areas where the service as a whole is
15 really underwater are going to be more difficult than
16 one might believe listening to Mr. Owens. Not to get
17 personal about it.

18 COMMISSIONER GILLIS: That's all my
19 questions.

20 JUDGE ANDERL: Redirect?

21 MR. BUTLER: Couple of questions.

22

23 REDIRECT EXAMINATION

24 BY MR. BUTLER:

25 Q. Mr. Montgomery, you were asked a question

01144

1 by Mr. Finnigan about a response to a data request and
2 how that related to some of your testimony. You
3 indicated that the answer that you gave did not
4 complete the record. Would you like to complete the
5 record?

6 A. Yes, I would. The request, as I answered
7 it a month ago or whenever, was that my testimony was
8 not specific to the state of Washington. Since that
9 time, in fact this week, we have received from WITA
10 copies of various EAS contracts that exist which show
11 that there is no usage-sensitive compensation. One of
12 those contracts I believe was dated -- was entered
13 into 15 years ago. We can look at it. I don't
14 remember the exact date, but it's the same thing I've
15 seen in other states. Sometimes the independent
16 companies in an EAS group will compensate each other
17 for the costs of connecting their networks, which
18 we're saying in this context is also an appropriate
19 cost to be recovered, but once that connection is made
20 or once the revenue adjustments have been taken care
21 of there is not a usage-based compensation on those
22 EAS elements, so what I'm saying is I supplement my
23 testimony and that data request with respect to the
24 information we've received since then.

25 Q. With these pre 1991 contracts?

01145

1 A. I believe so.

2 Q. Mr. Owens read to you a portion from a
3 Washington statute regarding inclusion of charges in a
4 tariff. Are you aware of any provision in U S WEST
5 tariff setting forth a charge in dollars for the
6 termination of EAS traffic from other local exchange
7 carriers?

8 A. No. I gathered that there is not one.

9 Q. Commissioner Hemstad asked you a question
10 about what actions, in your opinion, the Commission
11 could take that would encourage new entrant to serve
12 a broader base of customers and you mentioned
13 unbundling of loops. Are there other policies
14 relating to resale or extension of availability of any
15 universal service subsidies to new entrants?

16 A. Well, I think of resale as being inherent
17 in unbundling. I guess technically you could say
18 that's a separate activity, but the other thing that I
19 mentioned with respect to the carrier of last resort
20 concept is consistent with the if there is an exchange
21 that U S WEST feels is a burden to it -- or it doesn't
22 have to be an exchange; I'm just using that as an
23 example -- it can identify that, and offer it in
24 effect up to anyone who would like to take it off
25 their hands, and that would be an opportunity for --

01146

1 literally an opportunity, depending on the
2 circumstances, for an entrant or another independent
3 company to say, well, we can go in there with a new
4 technology and with other things that we have
5 available and actually serve those people quite
6 profitably. The assumption here being that this
7 Commission will not allow rate increases to take place
8 on that transaction, as they should not.

9 So I think that the way to extend service
10 is to see if there are -- among other things is to see
11 if there are areas where the incumbent would like to
12 exit the business, and to see if on a net basis that
13 can be done economically so as to protect the
14 ratepayers in those areas.

15 Q. Finally, you had a discussion with Mr.
16 Owens regarding switched access charges versus local
17 interconnection charges, including interim universal
18 service charge and you indicated that you felt that
19 they had different economic impacts. Would you
20 explain what you meant by that?

21 A. Yes. In the case of switched access
22 charges for long distance carriers -- I did say this
23 in my testimony -- it is universally conceded that
24 they are not cost-based. They are set at above even
25 the fully distributed cost of access by the fact that

01147

1 there are subsidies in the jurisdictional separations
2 process. That is unfortunate but it's not fatal to
3 the system because MCI, AT&T, Sprint, LDDS, others,
4 pay approximately the same access charges. Now, in
5 the local transport restructure obviously there's an
6 issue as to the relative level that they will pay in
7 the future, but the point is that the difference
8 between what the various providers pay in long
9 distance access is miniscule compared to the
10 difference between what U S WEST proposes to charge
11 entrants in this case, and what in effect it is
12 charging itself. Notwithstanding Mr. Purkey's
13 imputation.

14 MR. BUTLER: No further questions.

15 JUDGE ANDERL: Thank you, Mr. Butler. Is
16 there any recross for this witness?

17 MR. OWENS: Yes, Your Honor. Thank you.

18

19 RECCROSS-EXAMINATION

20 BY MR. OWENS:

21 Q. Directing your attention to your last
22 statement. U S WEST isn't pricing its business
23 services at its price floor, is it?

24 A. According to Mr. Purkey's analysis it is
25 not but Mr. Purkey's analysis is not --

01148

1 Q. You can answer yes or no.

2 A. No. It's not pricing at Mr. Purkey's price
3 floor but it still doesn't pass an imputation test.

4 Q. Thank you. You were asked by counsel for
5 GTE about traffic balance and you gave a hypothetical
6 where you stated that traffic between an AEC and an
7 adjacent LEC exchange would be in balance before too
8 long. Did that assume that both companies served
9 essentially the same mix of customer types?

10 A. I think that that makes it much easier
11 for the traffic to become in balance -- into balance
12 sooner, yes.

13 Q. And if, for example, one company served
14 exclusively business customers and the other company
15 served residence customers and business customers, is
16 there any reason to believe that the traffic would be
17 in balance any time soon or ever?

18 A. I think it would depend on how many
19 customers were involved. I think I made a reference
20 in a data request to the so-called law of large
21 numbers. If ELI hopefully obtains enough customers of
22 its own then residential customers will be calling
23 those businesses and vice versa, so I'm not sure that
24 the character of the -- whether it's residence or
25 business is going to have that material an effect on

01149

1 the traffic balance issue. It's possible. I will
2 concede for purposes that it's possible that it could
3 make a difference but I'm not sure that we'll know
4 that until we get further down the road.

5 Q. You stated in answers I believe to a
6 question from Commissioner Gillis that resale was
7 inherent in unbundling. Does that mean that
8 arbitrage is inherent in unbundling?

9 A. Not if it's done correctly, and certainly
10 there has been resale in the interstate environment
11 without real arbitrage.

12 Q. So in order to do it correctly you need
13 some use and user restrictions that don't now exist;
14 is that correct?

15 A. No. In the interstate environment, as you
16 know, there were no use or user restrictions on
17 resale.

18 Q. But in order to prevent arbitrage in the
19 local exchange wouldn't you need some such
20 restrictions?

21 A. The only restriction that I've contemplated
22 is that an unbundled functionality would have to be
23 acquired only by an entity that was under this
24 Commission's jurisdiction, so that I could not go out,
25 you know, as the Midnight Telephone Company and try to

01150

1 do business with my -- with your unbundled links. I
2 think it's important -- I agree with Dr. Beauvais on
3 this that everyone involved should be subject to
4 Commission oversight.

5 Q. Is it possible, to the extent there were no
6 use or user restrictions in the interstate
7 jurisdiction, that the pricing structure in that
8 jurisdiction prevented arbitrage?

9 A. There were changes in the pricing structure
10 that were made to accommodate resale, but nevertheless
11 resale occurred and had the effect that an MCI or
12 another carrier was able to buy bulk discounted WATS
13 services in order to terminate traffic to places where
14 MCI didn't yet have a network, and that was an example
15 of resale that occurred. It was not arbitrage. If it
16 was arbitrage presumably those WATS rates would have
17 gone up, and if anything they went down with MegaCom
18 and the other types of bulk WATS services, and in the
19 meantime entrants who were less than fully mature,
20 companies like MCI or Sprint, used resale of AT&T's
21 WATS services to complete their network. So I'm sorry
22 to take such a time -- resale does not necessarily
23 relate to arbitrage. In fact MCI and Sprint went
24 ahead and built their own facility. They didn't
25 continue to rely on AT&T WATS to terminate their

01151

1 network.

2 Q. In response to a question from Commissioner
3 Gillis you stated that U S WEST's pricing proposal in
4 your view restricted the attractiveness of entrants'
5 proposals to what you call low use customers, those
6 who would be most unlikely to use the service. Isn't
7 it true that U S WEST's proposal to the extent that a
8 customer who had what you characterized as low
9 outgoing use, would have high incoming use, would
10 result in a net payment to the Electric Lightwave
11 under U S WEST's proposal?

12 A. It would, and that's an example of the
13 proposal having a distorting effect on traffic flows,
14 an artificial effect.

15 Q. Commissioner Gillis asked you whether it
16 might be appropriate to -- for this Commission to
17 embrace policies that would encourage companies to
18 reach out more broadly. Do you recall that and you
19 answered with some answer regarding structural
20 changes primarily?

21 A. Yes.

22 Q. Would you agree that to the extent U S
23 WEST's proposal would waive the interim universal
24 service charge for a company that served a ratio of
25 residence customers that was equal to that of U S WEST

01152

1 and also lifeline customers, that would represent a
2 policy that encourages entrants to reach out more
3 broadly than just a business community?

4 A. No, I don't agree that that proposal makes
5 any sense from the standpoint of ease of
6 administration and in the meantime while --

7 Q. I'm not asking you about ease of
8 administration. I'm asking you if it would have the
9 effect economically of encouraging the alternative
10 exchange carriers to reach out more broadly than just
11 the business community.

12 A. No.

13 Q. You mentioned some sales of U S WEST
14 exchanges in Washington. Are you aware of whether ELI
15 bid on any of those exchanges?.

16 A. I would imagine ELI didn't since it's not
17 near their current limited service territory but I
18 don't know.

19 Q. If it were this Commission's decision to
20 impose only reciprocal switching charges as the
21 manner of intercompany competition -- or compensation,
22 would that impede the development of competition?

23 A. Unfortunately, I think it would. The
24 situation in Washington where you have the expectation
25 -- and that's putting it mildly -- of flat rate

01153

1 service, because it's mandated by law, is very
2 different from, say, Illinois or New York or Michigan
3 where the underlying local usage pricing structure to
4 residence and business customers both is usage-based.
5 And in fact in Illinois -- I believe I was involved in
6 that case -- I'm not sure that there is a flat rate
7 option for certain zones. Basically the whole state
8 has a unified pricing structure. Each minute of use
9 gets more expensive the further out you go from your
10 home base. Same thing in New York. That's the
11 problem in flat rate jurisdictions and that's why a
12 usage-based fee in Illinois as the .5 and .75 cents
13 that they ordered in Illinois doesn't have that same
14 effect that I described to Commissioner Hemstad and
15 actually in my oral presentation of forcing the
16 entrant to market to the low users. That's why this
17 bill and keep is much more critical in a -- where the
18 prevailing end user price is flat rate. And within
19 bill and keep I would suggest that the trunk
20 connection, even if the trunk connection rate were set
21 at a premium or at a markup it should still be on a
22 flat rate basis for that reason.

23 MR. OWENS: Thank you. Nothing further.

24 JUDGE ANDERL: Mr. Potter.

25 MR. POTTER: No questions.

01154

1 JUDGE ANDERL: Show of hands. Any other
2 cross for this witness?

3 Mr. Finnigan.

4

5 REXCROSS-EXAMINATION

6 BY MR. FINNIGAN:

7 Q. Mr. Montgomery, you will agree with me,
8 won't you, that the EAS contracts called for ongoing
9 monthly compensation?

10 A. Yes. As I would say there should be in the
11 case of entrant and incumbent in Washington, but not
12 on a usage basis on a per call or per minute basis.

13 Q. The answer is yes?

14 A. Yes. There is ongoing compensation in many
15 of those agreements and that is not at all
16 inappropriate to the extent it reflects cost.

17 Q. And some of those -- some of those
18 contracts are still in force today and that
19 compensation is flowing today; is that correct?

20 A. I'm sure that's true. I don't know. I
21 assume the contracts we were provided are still in
22 effect.

23 Q. And that some of those contracts, the
24 compensation is based upon -- depending on the time
25 they were negotiated -- lost settlement revenue from

01155

1 transitioning the route to an EAS route or in today's
2 vernacular it would be lost access route; isn't that
3 correct?

4 A. I didn't see a contract that had a
5 compensation schedule based on lost settlement
6 revenues. I wouldn't deny that that might not have
7 been done at some point.

8 Q. Would you accept subject to check, then,
9 that the underlying basis for compensation in some, if
10 not all, but in at least some of those contracts was
11 lost settlements or access revenue?

12 A. I can imagine that that would have been
13 something that would have been agreed to.

14 MR. FINNIGAN: Thank you.

15 JUDGE ANDERL: Anyone else?

16 Thank you, Mr. Montgomery, for your
17 testimony. You may step down. Before we adjourn
18 for the evening I just want to say that I have
19 estimates for ELI's next three witnesses totaling
20 approximately two hours and 15 minutes. I have
21 estimates for Sprint's witnesses totaling
22 approximately an hour and a half. IAC's witness
23 totaling about 40 minutes and the Department of
24 Defense's witnesses totaling about an hour and a half
25 for roughly five and a half to six hours worth of

01156

1 cross. Does anyone think we can't accomplish that
2 tomorrow?

3 All right then. I hear no response.

4 I will take that as a good sign. We'll adjourn for
5 tonight and be back tomorrow at 8:30.

6 (Hearing adjourned at 7:25 p.m.)

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