

01351

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

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

4)
Complainant,) VOLUME 8

5)
vs.) Pages 1351 - 1572

6)
U S WEST COMMUNICATIONS, INC.,)

7)
Respondent.)

8 -----)

TCG SEATTLE and DIGITAL DIRECT)
9 OF SEATTLE, INC.,)

Complainant,)DOCKET NO. UT-941465

11 vs.)

12 U S WEST COMMUNICATIONS, INC.,)

13 Respondent.)

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15 A hearing in the above matter was held
16 at 9:05 a.m. on June 26, 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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23

24 Cheryl Macdonald, CSR

25 Court Reorter

01352

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 TCG SEATTLE,)
4 Complainant,))

5 vs.))
6))

6 GTE NORTHWEST INCORPORATED,))
7 Respondent.))

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

8 GTE NORTHWEST INCORPORATED,))
9 Third Party Complainant ,))

10 vs.))
11))

11 U S WEST COMMUNICATIONS, INC.,))
12 Third Party Respondent.))

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13 ELECTRIC LIGHTWAVE, INC.,))
14 Complainant,))

15 vs.))
16))

16 GTE NORTHWEST INCORPORATED.))
17 Respondent.))

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DOCKET NO. UT-950265

1 The parties were present as follows:
 U S WEST COMMUNICATIONS, by EDWARD SHAW,
2 MOLLY HASTINGS, WILLIAM O'JILE, DOUGLAS OWENS
Attorneys at Law, P.O. Box 21225, Seattle, Washington
3 98111

4 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION STAFF, by STEVEN W. SMITH and GREGORY
5 TRAUTMAN, Assistant Attorneys General, 1400 South
Evergreen Park Drive Southwest, Olympia, Washington
6 98504.

7 FOR THE PUBLIC, DONALD TROTTER, Assistant
Attorney General, 900 Fourth Avenue, Suite 2000,
8 Seattle, Washington 98164.

9 AT&T, by SUSAN D. PROCTOR, Attorney at
Law, 1875 Lawrence Street, Denver, Colorado 80202.
10

 TCG SEATTLE and DIGITAL DIRECT OF SEATTLE
11 INC., by DANIEL WAGGONER and GREGORY KOPTA, Attorneys
at Law, 1501 Fourth Avenue, Suite 2600, Seattle,
12 WASHINGTON 98109.

13 WITA, by RICHARD A. FINNIGAN, Attorney at
Law, 1201 Pacific Avenue, Suite 1900, Tacoma,
14 Washington 98402.

15 ELECTRIC LIGHTWAVE, INC., by ARTHUR A.
BUTLER, Attorney at Law, 601 Union Street, Suite
16 5450, Seattle, Washington 98101-2327 and ELLEN
DEUTSCH, Attorney at Law, 8100 NE Parkway Drive, Suite
17 200, Vancouver, Washington 98662-6401.

18 TRACER, by STEPHEN J. KENNEDY, Attorney at
Law, 601 Union Street, Suite 5450, Seattle 98101-2327.
19

 MCI TELECOMMUNICATIONS CORPORATION and MCI
20 METRO, by SUE E. WEISKE, Senior Attorney, 707 17th
Street, Suite 3900, Denver, Colorado 80202 and CLYDE
21 H. MacIVER, Attorney at Law, 4400 Two Union Square,
601 Union Street, Seattle, Washington 98101-2352.
22

 GTE NORTHWEST, Inc., by RICHARD POTTER,
23 Attorney at Law, 1800 41st Street, Everett,
Washington.
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APPEARANCES (CONT.)
MFS INTELENET OF WASHINGTON, INC., by
RICHARD M. RINDLER, Attorney at Law, 3000 K Street
Northwest, Suite 300, Washington, DC 20007

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8 EXHIBITS: MARKED ADMITTED

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10 T-107, C-108 1358 1364

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1 P R O C E E D I N G S

2 JUDGE ANDERL: Let's be on the record. We
3 are convened in docket Nos. UT-941464 et al. Today is
4 June 26, 1995. We're going to be taking the direct and
5 cross-examination today of Mr. Lundquist for Commission
6 staff. Since we've all been gone for the weekend let's
7 go around and take appearances very briefly so we all
8 know who is here. Beginning with you, Mr. Shaw.

9 MR. SHAW: Ed Shaw and Doug Owens, Molly
10 Hastings and Bill O'Jile for the company, U S WEST.

11 JUDGE ANDERL: For TCG.

12 MR. KOPTA: Greg Kopta of Davis Wright
13 Tremaine for TCG Seattle.

14 JUDGE ANDERL: For ELI.

15 MR. BUTLER: Art Butler and Ellen Deutsch.

16 JUDGE ANDERL: For Commission staff.

17 MR. SMITH: Steven Smith and Gregory
18 Trautman.

19 JUDGE ANDERL: Public counsel.

20 MR. TROTTER: Donald T. Trotter.

21 JUDGE ANDERL: Intervenors.

22 MS. PROCTOR: For AT&T Susan Proctor.

23 MR. MACIVER: For MCI, Sue Weiske and Clyde
24 MacIver.

25 JUDGE ANDERL: I forget GTE at the back

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1 table.

2 MR. POTTER: Richard Potter for GTE

3 Northwest.

4 MR. FINNIGAN: Rick Finnigan for Washington

5 Independent Telephone Association.

6 JUDGE ANDERL: Are there any other parties

7 making an appearance today?

8 MR. KENNEDY: Steve Kennedy for TRACER.

9 JUDGE ANDERL: And I was advised this

10 week by the attorney for Sprint and also for the

11 Interexchange Access Coalition that they would not be

12 attending the hearings this morning. Before we went on

13 the record this morning we premarked Mr. Lundquist's

14 testimony as Exhibit T-107 and his confidential Exhibit

15 SCL-1 as C-108 and before I swear him in let me just

16 also cover that the parties distributed a revised

17 version of Exhibit C-42, and it's my understanding that

18 that is to be substituted and the original one

19 withdrawn and destroyed; is that right.

20 MR. BUTLER: Correct.

21 JUDGE ANDERL: Does the company have any

22 objection to this?

23 MR. OWENS: No, Your Honor.

24 JUDGE ANDERL: Thank you. I will

25 substitute this revised C-42.

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1 (Substituted Exhibit C-42.)

2 MR. SMITH: Your Honor, on page 2 of the
3 revised C-42 there's a question mark, and ask can
4 someone explain that.

5 MR. BUTLER: It means that we don't have
6 that data.

7 JUDGE ANDERL: Mr. Smith.

8 (Marked Exhibits T-107 and C-108.)

9

10 DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q. Would you please state your name and
13 business address for the record.

14 A. My name is Scott C. Lundquist. I'm senior
15 consultant with Economics and Technology,
16 Incorporated, One Washington Mall, Boston, 02108.

17 JUDGE ANDERL: Go ahead and pull the
18 microphone a little closer to you, please.

19 Q. Mr. Lundquist, do you have before you
20 what's been marked as Exhibit T-107?

21 A. I do.

22 Q. And do you recognize that as your prefiled
23 direct testimony in this proceeding?

24 A. Yes.

25 Q. Do you have any corrections or additions to

01359

1 make at this time?

2 A. No.

3 Q. If I were to ask you the questions
4 contained in Exhibit T-107, would your answers be the
5 same?

6 A. Yes.

7 Q. You also have before you what's been marked
8 as Exhibit C-108.

9 A. Yes.

10 Q. And was that prepared by you or under your
11 direction and control?

12 A. Yes, it was.

13 Q. And is that the exhibit to which you refer
14 in your direct testimony?

15 A. Yes.

16 Q. Mr. Lundquist, could you please summarize
17 your testimony?

18 A. Certainly. My testimony addresses two
19 aspects of U S WEST's proposals in this proceeding.
20 First I address the company's proposed tariff and
21 rates for expanded interconnection and central office
22 colocation arrangements. Second, I consider the
23 company's proposal to increase the local switching
24 element of its switched access tariff by more than 50
25 percent.

1 Expanded interconnection is a crucial
2 feature of the company's restructure of switched access
3 local transport, since it will permit competitive
4 access providers to supply local transport in
5 competition with U S WEST as one portion of a complete
6 access service to an end user.

7 Colocation is the placement of circuit
8 termination equipment that is dedicated to
9 interconnector's use directly in LEC central office.
10 Colocation is another means to increase competitive
11 opportunities since it permits alternative service
12 providers to take advantage of the economies of scale
13 and scope that result from traffic concentrations
14 occurring at the central office.

15 In my review of the company's filing I found
16 several deficiencies that could severely limit the
17 competitive potential of these new arrangements, and
18 recommended specific modifications to its expanded
19 interconnection and colocation proposal. The company
20 has made several significant changes to its proposal
21 since my prefiled testimony was written. First, the
22 company has accepted my recommendation that the
23 markups or overhead loadings on these services should
24 be reduced and made more useful and has refiled rates
25 that appear more reasonable. Second the company now

01361

1 proposes to establish a leaseback arrangement for
2 interconnector designated equipment, I D E, for
3 colocation, which I had recommended as superior to the
4 tariff listings approach that it had originally
5 proposed.

6 Third, the company has at least minimally
7 responded to my recommendation that a tariff expanded
8 interconnection at the DS0 level in that the company
9 now indicates that it will provide that service upon a
10 bona fide request.

11 Nevertheless, U S WEST's expanded
12 interconnection proposals fall short of what could be
13 done to promote competition in the access market. The
14 company has not proposed to make colocation available
15 on a physical basis, which is generally preferred by
16 interconnectors and is being offered on a voluntary
17 basis by other LECs in the country. Therefore, I
18 continue to recommend that the Commission order the
19 company and other LECs to tariff physical colocation
20 if it believes it has the legal authority to do so.
21 Or, in the alternative, to encourage the provision of
22 physical colocation on a voluntary basis.

23 Staff has also had difficulties in
24 obtaining complete and up to date cost support for the
25 company's expanded interconnection rate proposals. In

1 addition, U S WEST has introduced several new rate
2 elements and tariff language for colocation late in
3 this proceeding.

4 MR. SHAW: Your Honor, I don't mind brief
5 summaries, but the witness is clearly reading a long
6 prepared statement which is just additional direct
7 testimony, and I would object on that basis. This is
8 far beyond a summary.

9 JUDGE ANDERL: Mr. Smith, we didn't discuss
10 anything like this before you started, and I agree
11 that it is much more extensive than just a brief
12 summary of his testimony.

13 MR. SMITH: Could I allow the witness to
14 summarize his recommendation?

15 JUDGE ANDERL: Very, very briefly, yes.

16 A. First, I would just say the reason I wanted
17 to do a summary of this kind was because there have
18 been significant changes in the proposal and I wanted
19 to make sure that those changes have been recognized
20 and my recommendations treat those accordingly. My
21 recommendations are for the rates for all expanded
22 interconnection and virtual colocation elements should
23 be reduced further to reflect average service
24 incremental cost results under the staff's alternative
25 assumptions, including Commission prescribed cost of

01363

1 money and depreciation rates.

2 Second, that U S WEST IDE leaseback tariff
3 should define standard procedures for certifying
4 contractors to install and maintain colocated IDE and
5 permit interconnectors to become certified if they
6 wish. Third, the leaseback tariff should permit
7 interconnectors to conduct training of
8 U S WEST employees on colocated IDE equipment that is
9 unfamiliar to them. And fourth, language that would
10 inappropriately restrict interconnector sizing of IDE
11 to meet a minimum of one year's forecasted demand
12 should be eliminated from the leaseback tariff. These
13 changes would further help to insure that the
14 competitive potential of the switched access markets in
15 Washington will be realized.

16 Finally, I will just say that the company's
17 local switching proposal to increase the local
18 switching rate for switched access has not changed
19 since my prefiled testimony was written. Therefore, I
20 continue to recommend that that proposed increase be
21 rejected as not cost-based and anti-competitive.

22 MR. SMITH: Your Honor, move for admission
23 of Exhibits T-107 and C-108?

24 JUDGE ANDERL: Is there any objection to
25 those exhibits?

1 Hearing none those two exhibits will be
2 admitted as identified.

3 (Admitted Exhibits T-107 and C-108.)

4 MR. SMITH: Mr. Lundquist is available for
5 cross-examination.

6 JUDGE ANDERL: Thank you. For U S
7 WEST you're going to do that, Mr. Shaw?

8 MR. SHAW: Yes, thank you.

9

10 CROSS-EXAMINATION

11 BY MR. SHAW:

12 Q. Mr. Lundquist, to get your testimony in
13 context, I would like to briefly talk about access
14 charges, and generally would you agree that in this
15 state like most if not all states access charges have
16 long been set on a fully embedded assigned revenue
17 basis as opposed to an incremental cost basis?

18 A. They have been historically, yes.

19 Q. And historically -- strike that. Would
20 you agree that the majority of any local exchange
21 company's costs are its nontraffic sensitive costs for
22 extensive copper loop plant?

23 A. I think those are important contributors to
24 the costs. If majority meaning over 50 percent, I
25 don't have the evidence in this proceeding to say that

01365

1 U S WEST's nontraffic sensitive costs comprise over 50
2 percent of its costs.

3 Q. For the purposes of this discussion, we can
4 at least agree that the nontraffic sensitive loop
5 costs of a local exchange company are very
6 significant, somewhere in the 50 percent range, just
7 for purposes of discussion?

8 A. They are significant, sure.

9 Q. And because of that regulation has long
10 allocated those costs to both the interstate
11 jurisdiction and to intrastate toll and access
12 charges, has it not?

13 A. Yes.

14 Q. And the allocation from -- to the
15 interstate is on the order of 50 percent of those
16 costs?

17 A. The allocation to interstate?

18 Q. Yes.

19 A. I believe it's now closer to 25 percent.

20 Q. In any event, the FCC provides rates to
21 recover the allocated NTS expense to the LECs,
22 correct?

23 A. Yes. There's several rate elements that
24 are designed to recover the NTS cost.

25 Q. And the most significant one is the carrier

01366

1 common line charge together with the subscriber line
2 charge, correct?

3 A. Yes.

4 Q. And the carrier common line charge is a per
5 minute charge paid by the interconnecting carriers and
6 the subscriber line charge is a flat rate per month
7 access line charge?

8 A. Yes.

9 Q. And the charge on business lines is
10 approximately twice as much as the charge on
11 residential lines?

12 A. In that magnitude.

13 Q. Yes. And the rationale for the large or
14 the larger charge on business lines is that business
15 customers derive more value from their access lines
16 because they're in a for profit business and they're in
17 effect reselling their access lines as part of their
18 service or product or whatever that they market?

19 A. I'm not sure whose rationale you're
20 referring to, the FCC's when it set the subscriber
21 line charges?

22 Q. Would you agree that historically a
23 regulatory rationalization or reason, public policy
24 decision, for larger charges on business lines is
25 because of the value of service to that business?

01367

1 A. I think I would want to be more specific
2 about what regulatory agencies you're referring to,
3 the FCC, many state commissions.

4 Q. Let's back up. We agree that the loop
5 plant is nontraffic sensitive?

6 A. Yes. In general the costs for loop plant
7 are considered nontraffic sensitive.

8 Q. And the FCC has allocated back to the end
9 user part of the nontraffic sensitive expense assigned
10 to it -- to the interstate jurisdiction on a ratio of
11 about two to one to business customers, residential
12 customers. We've agreed on that, haven't we?

13 A. Yes.

14 Q. And since it's not traffic sensitive,
15 there's no rationale that business customers use their
16 loop more, is there?

17 A. I think it's true that business customers
18 do generally use their loop more, but so, I don't
19 understand your rationale.

20 Q. A loop is a nontraffic sensitive
21 investment, isn't it?

22 A. Yes.

23 Q. And the business charge is twice as much as
24 the residential charge and the reason for being twice
25 as much is not because the business customer uses it

01368

1 more, is it?

2 A. Would you repeat the question, please.

3 Q. Yes. If it's nontraffic sensitive plant
4 there cannot be a rationale to charge a business
5 customer twice as much as a residential customer on a
6 rationale that the business customer uses it more,
7 that's just logical, isn't it?

8 A. Well, I think certain local exchange
9 companies might take the position that because there
10 is greater usage on a business line, therefore the
11 customer -- the business customer receives greater
12 value of service and therefore it would be reasonable
13 to allocate a greater portion of those NTS costs to
14 business customer, but that's not necessarily my
15 position.

16 Q. If you know, do you know why the FCC
17 allocated twice as much of the interstate NTS cost to
18 the business customer as opposed to the residential
19 customer?

20 A. I don't know specifically.

21 Q. Would you expect that one reasonable
22 rationale is that the loop is of more value to the
23 business customer than it is to the residential
24 customer because the business customer is in effect
25 using it for profit?

1 A. That is one possible rationale. However,
2 I'm not familiar in detail with the FCC's order that
3 set the subscriber line charge levels and the
4 differing ratio between residential and business
5 subscriber line charges.

6 Q. You don't have any idea why the business
7 subscriber line charges is twice as much as the
8 residential line charge?

9 A. I could conjecture that that was a factor,
10 but I said, I don't recall the detail and that's not
11 the purpose of my testimony today, to be frank.

12 Q. Given this historic assignment of
13 nontraffic sensitive costs, you would agree that the
14 pricing of telecommunications services has been
15 designed to avoid recovering from particularly the
16 residential end user a significant portion of those
17 nontraffic sensitive loop costs. Would you agree with
18 that?

19 MR. SMITH: Your Honor, I'm going to object
20 at this point. We've been going quite a ways down the
21 road with historical access charges which have nothing
22 to do with the testimony of Mr. Lundquist.

23 MR. SHAW: Well, they have everything to
24 do, Your Honor. This witness is testifying, as I
25 understood his summary and reading his testimony, that

01370

1 carrier access charges should be set at the lowest
2 possible incremental cost, which is about as drastic of
3 a change from the way this Commission has been doing
4 it for many, many years as I can think of, so I think
5 it's a totally appropriate line of cross.

6 JUDGE ANDERL: I will allow you to continue
7 to inquire.

8 Q. Would you agree that in this state and at
9 the FCC today carriers are looked to to pay a very
10 significant portion of a local exchange company's
11 nontraffic sensitive costs on a usage-sensitive basis?

12 A. Yes. I think the current switch access
13 rate elements includes substantial amounts of above
14 cost contribution, portions of which would relate to
15 the recovery of nontraffic sensitive costs.

16 Q. And the whole point of that pricing
17 philosophy that both federal and state regulators have
18 used for many years is to avoid having primarily
19 residential end users pay a significant portion of the
20 nontraffic sensitive costs of the loop plant that
21 serves them?

22 A. I wouldn't say that was the whole point. I
23 would say that the switch access rates have been
24 developed over time and were developed at a time when
25 the actual costs of the company with respect to the

01371

1 costs caused by different services were not very well
2 specified and therefore now that we are obtaining
3 better costs information we're getting a better
4 understanding of the degree to which different services
5 contribute above the cost level to the common costs of
6 the company and the overhead costs and nontraffic
7 sensitive costs.

8 Q. Regulatory philosophy consciously ignored
9 cost causation, did it not? It assigned revenue
10 requirement, assigned nontraffic sensitive costs to a
11 certain class of service without any analysis of
12 whether or not the carriers in this case caused those
13 costs?

14 A. Could you specify? Are you speaking of the
15 FCC or this Commission? Both? Other commissions?

16 Q. Both.

17 A. I would say again at the time that the
18 revenue requirements for switched access and their
19 division into different rate elements was first
20 established, which was some years ago, the cost levels
21 for those services were not very well understood or
22 specified by the companies.

23 Q. As we sit here today, this Commission has
24 outstanding orders requiring the regulated local
25 exchange companies to separate on a fully embedded

01372

1 basis its costs and create a revenue requirement for
2 access charges; isn't that correct?

3 A. That's my understanding of how the access
4 charges have been developed to date.

5 Q. Have you reviewed this Commission's orders
6 in docket U-85-23?

7 A. No, I haven't.

8 Q. Do you think it would be important to
9 review those orders in order to understand the
10 existing public policies of the state of Washington as
11 expressed by this Commission?

12 A. I am generally familiar with the concept of
13 revenue requirements for switched access and how those
14 revenue requirements have been developed, and as I
15 understood it the thrust of U S WEST's proposal in
16 this proceeding was to move away from the revenue
17 requirement approach for switched access and to
18 restructure its elements for switched access in a
19 manner in which you could make a more direct
20 determination of the relationship between the rates
21 for those elements and their underlying economic
22 costs.

23 Q. Do you know whether or not U S WEST and its
24 predecessor companies in the state of Washington have
25 been advocating ever since divestiture that access

01373

1 should not be relied upon for so much of its revenue
2 requirement?

3 A. Well, I can say I haven't seen anything in
4 this proceeding that indicated that.

5 Q. Do you agree that the thrust of Ms.
6 Wilcox's testimony on behalf of the company is that
7 access charges are too high and need to be phased
8 down?

9 A. I wouldn't necessarily characterize it that
10 way. She has certainly recommended that certain rates
11 for switched access be reduced, namely, those that U S
12 WEST appears to view as competitive rate elements,
13 namely local transport rates. On the other hand, her
14 proposal includes a residual interconnection charge
15 which is explicitly designed to retain the overall
16 level of revenues for switched access which the
17 company has the starting point of its proposal.

18 Q. We just discussed your understanding of the
19 Commission's orders in U-85-23, and you apparently
20 agreed to the extent that you understand it that this
21 Commission has currently assigned to switch access
22 charges a revenue requirement on a fully embedded
23 basis?

24 A. Yes. That would be my understanding.

25 Q. And you agree that any regulated company is

01374

1 entitled to fair, just, reasonable and sufficient
2 rates so as to create an opportunity to earn its
3 revenue requirement? Isn't that very basic to utility
4 regulation?

5 A. As an overall matter for the company's
6 overall revenue requirement, I would expect that
7 comports with Washington state law, although I'm not
8 giving a legal opinion on that.

9 Q. Assume with me that the Commission or,
10 excuse me, that the company has long advocated to this
11 Commission that the reliance on access charges to
12 recover such a significant portion of the company's
13 nontraffic sensitive costs was unreasonable and should
14 be phased down, and further assume with me that since
15 the Commission's adoption of its access charge
16 policies in the time of divestiture in docket U-85-23
17 that has not been done. Would you agree that it will
18 be necessary to transition reliance on access charges
19 to recover such a large amount of the nontraffic
20 sensitive costs to slash cut would create potential
21 rate shock for other end users?

22 A. Well, one issue here is I think we don't
23 have defined in this proceeding what the level of
24 nontraffic sensitive costs are that are being
25 allocated to the interstate jurisdiction at this point

01375

1 for the company.

2 Q. Have you read Mr. Wilson's testimony,
3 rebuttal testimony and Ms. Wilcox's testimony which
4 indicate that the rates being proposed by the company
5 in this proceeding together with the residual
6 interconnection charge do not recover the company's
7 allocated access revenue requirement?

8 A. My understanding is that the full rate
9 restructure would, as the company desires in this
10 proceeding, would be revenue neutral.

11 Q. That is certainly the intent, but you
12 didn't answer my question. Have you reviewed Mr.
13 Wilson's testimony and Ms. Wilcox's testimony to the
14 effect that in fact it is slightly less than revenue
15 neutral?

16 A. I believe it might be slightly less.
17 Perhaps you could reference me to the portions that
18 you're referring to of their testimony.

19 Q. You haven't reviewed their testimony?

20 A. Yes, I have.

21 Q. Now, is it the staff's position as a matter
22 of new public policy for the state of Washington that
23 carrier access should be based upon the lowest
24 possible incremental cost and should not bear any
25 responsibility for assigned nontraffic sensitive costs?

01376

1 A. I believe the staff's position is that the
2 rate elements for switched access that are being
3 proposed to be restructured should be based upon the
4 total service long-run incremental cost estimates which
5 our best approximation to that as provided by the
6 company would be average service incremental cost
7 results. However, specifically staff would recommend
8 that the cost results that are based upon staff
9 assumptions regarding cost of money and depreciation
10 and other factors should be used because they are
11 consistent with the company's authorized cost of money
12 and prescribed depreciation rate.

13 Q. Let me see if we've answered the question
14 here. I asked you a very basic question. Is it now
15 the staff's position that notwithstanding the historic
16 practice that carrier access rates should now be set
17 on the lowest possible incremental cost without any
18 assignment of nontraffic sensitive costs, if you were
19 to direct your attention to the question.

20 A. Yes. I was explaining --

21 Q. Well, just answer the question before you
22 launch into an explanation and this will go a lot
23 faster.

24 A. But your question was predicated on the
25 lowest economic costs, I believe, is the phrase you

01377

1 used and as I'm saying we are recommending the use of
2 total service long-run incremental costs as
3 approximated by ASIC costs.

4 Q. Without any shared residual costs, without
5 any common costs assigned to the service?

6 A. There would certainly be residual costs and
7 shared costs that would be reflected in the carrier
8 common line charge, and also of course in the interim
9 residual interconnection charge.

10 Q. Let me return to my question again. And
11 listen this time. Is it the staff's position as a
12 matter of new public policy in the state of Washington
13 that access charges to carriers by local exchange
14 companies should be set at the minimum marginal cost
15 with no contribution, no rate, no carrier common line
16 charge, no contribution to the nontraffic sensitive
17 costs of the company?

18 A. No.

19 Q. Is it the staff's position that
20 interconnecting carriers to a local exchange company
21 should pay rates that have contribution to the shared
22 residual costs and the common costs and the nontraffic
23 sensitive costs of the company?

24 A. Certainly at this point, particularly with
25 the continuation of the carrier common line charge and

01378

1 the establishment of a residual interconnection charge
2 there would continue to be substantial contribution to
3 the overheads and nontraffic sensitive costs and
4 shared residual costs of the company. And staff does
5 agree that the carrier common line charge and a
6 residual interconnection charge should be established
7 in the company's switched access rates, rate
8 structure.

9 Q. And maintained on the carriers as necessary
10 to meet the company's revenue requirement? In other
11 words, should residential rates continue to be
12 residually priced, and the RIC and the carrier common
13 line charge continued as representing the carrier's
14 contribution to the common and nontraffic sensitive
15 costs of the company?

16 A. No, we are certainly not recommending that
17 the residual interconnection charge be continued
18 indefinitely. The residual interconnection charge is
19 specifically related to above cost contribution which,
20 at this time, is collected through the local transport
21 rates of the company. And we are recommending that
22 the residual interconnection charge should be phased
23 out over time. However, I would just remind you that
24 the residual interconnection charge is being dealt
25 with by Dr. Selwyn.

1 Q. I'm just asking you when you testified that
2 the rates that you're addressing should be set at the
3 minimal cost whether you've given any consideration to
4 whether carriers should pay on a per minute basis for
5 the foreseeable future any contribution to the shared
6 residual common and nontraffic sensitive costs of the
7 company. So, let's see if we can figure out what you
8 have said. Should you advocate that the rates that
9 you've addressed in your testimony should be set at
10 the minimal marginal cost, as you've recommended, and
11 additionally, carrier common line charges and/or a RIC
12 charge should be continued as part of the permanent
13 rate design in order that these carriers will pay
14 adequate contributions to the company's common costs?

15 MS. PROCTOR: Excuse me, Your Honor. Can I
16 ask for a clarification of what kind of carriers we're
17 talking about, because Mr. Shaw has been talking about
18 switched access and now I think he's talking about
19 local interconnection.

20 MR. SHAW: I make no distinction. I'm
21 talking about carriers.

22 JUDGE ANDERL: Okay.

23 A. If I can answer the question. My testimony
24 specifically addresses the rate elements for expanded
25 interconnection and virtual colocation, which, you

01380

1 know, are new elements that have not previously
2 appeared in the switched access tariff and are
3 designed to increase competitive potential for
4 switched access services. For those elements, because
5 they are noncompetitive monopoly elements that
6 comprise a bottleneck resource that interconnecting
7 competitive providers of switched access service needs
8 to have to provide their service in a competitive
9 fashion, those -- I am recommending that those rate
10 elements should be based upon the total service
11 long-run incremental cost which is, at this point,
12 best approximated by the ASIC cost estimates, using
13 staff assumptions, with reasonable overhead loading
14 factors to recover a portion of the company's common
15 costs.

16 Q. Have you examined at all in preparing your
17 testimony the statutes this Commission administers in
18 its rules and its definitions?

19 A. Briefly.

20 Q. Would you agree that this Commission
21 regulates telecommunications companies, which are in
22 turn described as common carriers that hold themselves
23 out to the public to provide such services?

24 A. Certainly that's one of the functions of
25 the Commission.

01381

1 Q. Yes. And U S WEST is a telecommunications
2 company that provides local exchange services and
3 interexchange services, generally?

4 A. IntraLATA, interexchange services, yes.

5 Q. And a company like AT&T is a
6 telecommunications company that has chosen to provide
7 only interexchange services at least currently?

8 A. Has chosen to provide them. At the moment
9 I believe it's not providing other services other than
10 interexchange.

11 Q. Do you agree that AT&T has been and is
12 today free to provide any telecommunications service
13 that it wants to provide.

14 MS. PROCTOR: Objection. Calls for a legal
15 conclusion.

16 MR. SMITH: I will object also.

17 MR. SHAW: Only if he knows. I asked him
18 if he reviewed the statutes.

19 JUDGE ANDERL: If the witness knows.

20 A. I don't know for sure.

21 Q. You talk in your testimony a lot about
22 CAPs. That's a term, a competitive access provider,
23 that arose in the context of federal regulation, isn't
24 it, as a telecommunications company that specializes in
25 bypassing in whole or in part the switched access

01382

1 services of a local exchange company?

2 A. I might differ with your characterization
3 of their services as bypass, but, yes, they provide
4 competitive alternatives to local exchange carrier
5 switched access services or portions thereof.

6 Q. And the concept of a CAP arose in an
7 environment where local exchange competition was
8 generally prohibited by state law, correct? That is,
9 the FCC did want to encourage alternative provisions
10 of interstate access?

11 A. Yes, at that time, yes.

12 Q. Do you understand that local exchange
13 competition is and has been legal in the state of
14 Washington?

15 A. That's my understanding.

16 Q. The concept of a CAP is inappropriate, isn't
17 it, in a state that does not prohibit intraexchange
18 competition? Essentially the model is that a new LEC
19 by capturing the customer has also captured the access
20 to that customer by carriers who choose just to provide
21 interexchange services?

22 A. Not necessarily. The use of the term CAP
23 just refers to the fact that the -- I was referring to
24 the entities that are providing switched access
25 service, and I was not particularly considering in my

01383

1 testimony whether or not they could also provide local
2 exchange service.

3 Q. Can you name one carrier doing business in
4 Washington that does not provide local exchange
5 service as well as access service or intends to so
6 provide?

7 A. No, I don't think so.

8 Q. So in fact --

9 A. But I am not intimately familiar with their
10 business plans.

11 Q. In fact, what you've been calling CAPs in
12 the state of Washington are new local exchange
13 companies or what U S WEST has called alternative
14 local exchange companies?

15 A. For those companies that do intend to
16 provide both local exchange service and competitive
17 access services, yes.

18 Q. And as you just testified, you don't know
19 of any company doing business or registered to do
20 business in the state of Washington that intends to
21 provide just switched access competition?

22 A. I'm not specifically familiar with the
23 company's business plans in this state.

24 Q. Would you agree that when an alternative
25 local exchange company captures a local exchange

01384

1 customer in the sense of assigning a number to that
2 customer and providing an access line to that customer
3 that company now controls the switched and dedicated
4 access to that customer by any other carrier that
5 provides interexchange services?

6 MR. SMITH: I'm going to object, Your
7 Honor. This is well beyond the scope of the direct
8 testimony.

9 MR. SHAW: Your Honor, he testifies at
10 length that he believes switched access to be a
11 bottleneck monopoly service, and I am entitled to
12 explore why he believes that to be the case.

13 JUDGE ANDERL: The objection is overruled.

14 A. I'm sorry, could you just quickly repeat
15 the question. I'm sorry.

16 Q. We've agreed that in Washington there are
17 new local exchange companies that are competing for
18 the entire business of an end user customer, correct?

19 A. Yes, there may be. I'm not again familiar
20 with their business plans. It's not an unreasonable
21 assumption.

22 Q. You understand at least two such companies,
23 ELI and TCG, to be in business with customers today in
24 the state of Washington?

25 A. I believe so.

01385

1 Q. With two more, MCI Metro and MFS also
2 registered to provide local exchange service in the
3 greater Seattle area?

4 A. Yes.

5 Q. When those companies successfully obtain a
6 customer, assign that customer a number, provide that
7 customer an access line, they now control the switched
8 access dedicated access to that customer by any other
9 carrier that provides interexchange services; isn't
10 that correct?

11 A. I don't believe so. I think in the
12 majority of cases end users are going to for the
13 foreseeable future use a combination of U S WEST local
14 exchange service and even access services and the
15 services of the new competitive entrants, partly
16 because one of the rationales of business for using
17 alternative services is to increase the reliability of
18 their telecommunications services so they would want
19 to use more than one company.

20 Q. Let's explore that. If there is a one
21 access line customer, there is no way for two local
22 exchange companies to provide local exchange service
23 to that customer, is there?

24 A. Of course there is.

25 Q. The companies can share the access line and

01386

1 both provide originating and terminating local
2 exchange service to that same customer over the same
3 line?

4 A. No. I'm speaking of the case of having
5 more than one line which most business customers would
6 generally do. You can split traffic between two
7 providers of switched access, U S WEST and another
8 company, through different trunks.

9 Q. So you would certainly agree that for the
10 lines that any customer obtains from any given local
11 exchange company that local exchange company controls
12 the access over those lines?

13 A. Yes, and historically the case has been
14 that U S WEST has controlled essentially 100 percent
15 of those lines. That's the whole purpose of
16 introducing competition is to introduce choice.

17 Q. Listen to my question and answer my
18 question.

19 MR. SMITH: Your Honor, the witness is
20 answering Mr. Shaw's question.

21 MR. SHAW: Your Honor, he is not. I asked
22 him a very direct question and he answers another
23 question of whether U S WEST in some prior time served
24 all the lines. And that's not responsive at all.

25 MR. SMITH: Your Honor, part of that --

01387

1 JUDGE ANDERL: Mr. Lundquist -- I think he
2 was not directly responsive. Mr. Lundquist, if you
3 could just limit your answer specifically to the
4 question asked.

5 THE WITNESS: Sure.

6 Q. You would agree that a local exchange
7 company that provides an access line to an end user
8 customer controls the access over that line by
9 interexchange carriers, correct?

10 A. Yes.

11 Q. And therefore, local exchange companies, as
12 an inherent part of their operation, provide a
13 bottleneck service to interexchange carriers that want
14 to sell interexchange services to the local access end
15 user customers that that local exchange company
16 controls?

17 A. No.

18 Q. Why not?

19 A. For the reasons I had previously stated in
20 response to your questions, namely, that an end user
21 can split his use of telecommunications services
22 between two providers of local exchange service or
23 switched access service, and therefore there is, at
24 that point, no bottleneck previous to that point.
25 There is if there's only one single provider of those

01388

1 services.

2 Q. So in your hypothetical that a business
3 customer has elected to take service from two local
4 exchange companies -- say a 10-line customer gives five
5 lines to one company and five lines to the other
6 company -- your testimony then is that neither company
7 has a bottleneck because the customer can go back and
8 forth between each LEC or the carrier that desires
9 interconnection can go back and forth between each
10 LEC. Is that a proper understanding?

11 A. Well, in an ideal world that would be so.
12 However, to have that really hold true you would have
13 to have equivalent conditions for the provision of the
14 service, in particular such things as full number
15 portability and there's many other aspects that would
16 be addressed in Tom Wilson's testimony regarding the
17 conditions you need before you really have a fully
18 competitive local exchange service and the elimination
19 of the bottleneck.

20 Q. Let's take this hypothetical customer.
21 Again, a 10-line customer that split five lines apiece
22 between two local exchange companies and the second
23 local exchange company has assigned that customer five
24 numbers. Are you with me?

25 A. Yes.

01389

1 Q. Without number portability each local
2 exchange company in this hypothetical has exactly the
3 same standing, does it not?

4 A. No, because, as I said, there are other
5 elements to local exchange service that would -- for
6 instance, directory assistance listings and many, many
7 elements that are specifically addressed in Tom
8 Wilson's testimony that are necessary before you can
9 say you have a parity in terms of competitive local
10 exchange services.

11 Q. If you recall the line of questions, we're
12 talking about switched access, whether or not it's a
13 bottleneck service of a local exchange company, and in
14 this hypothetical we're discussing the extent that
15 switched access is a bottleneck service of a local
16 exchange company, it's the same as to both companies
17 in this hypothetical. Doesn't have anything to do
18 with directory listings or anything like that?

19 A. Now you're referring to switched access and
20 not local exchange service. Previously I understood
21 your hypothetical to include both. I'm just trying to
22 clarify what the scenario is here.

23 Q. You've testified, haven't you, that the
24 switched access rate elements that you've directed
25 your testimony to are monopoly bottleneck services of

01390

1 U S WEST and therefore need to be priced at marginal
2 cost. Isn't that your testimony?

3 A. I don't know if I need to repeat myself. I
4 did not specifically refer to marginal costs in my
5 previous testimony. I would stand by my previous
6 answer.

7 Q. Did you refer to total service long-run
8 incremental cost?

9 A. Yes.

10 Q. Do you understand that to be a marginal
11 cost?

12 A. In my view marginal costs is an economic
13 concept which needs to be implemented and total
14 service long-run incremental cost is one
15 implementation of that concept.

16 Q. Now that we've agreed that total service
17 long-run incremental cost is a version of marginal
18 cost, is it your testimony that the rate elements that
19 you've addressed in your testimony have to be priced
20 at that cost because they're bottleneck monopoly
21 services?

22 A. No. My testimony has recommended that
23 those elements be based upon the approximation to
24 total service long-run incremental cost represented by
25 ASIC costs rerun under the staff's assumptions plus a

01391

1 reasonable overhead level, and my understanding is
2 that the company has agreed to tariff rates for
3 expanded interconnection and virtual colocation that
4 do use a reasonable overhead level.

5 Q. Do you agree that all carriers
6 interconnecting with another carrier need and require
7 expanded interconnection from each other?

8 A. No, not at all. I think the carrier that
9 already has ubiquitous facilities within its serving
10 area does not require expanded interconnection
11 arrangements.

12 Q. In order to interconnect U S WEST with
13 other carriers, other local exchange carriers, is it
14 your testimony that U S WEST does not need expanded
15 interconnection from those carriers?

16 A. No. If you're referring to existing local
17 exchange carriers it is already connected to their
18 networks and does not have expanded interconnection.

19 Q. And is it your testimony that U S WEST does
20 not need expanded interconnection from new local
21 exchange companies?

22 A. You're correct.

23 Q. It's simply one way that they need expanded
24 interconnection with U S WEST but U S WEST needs
25 nothing from them in order to terminate its traffic?

01392

1 A. U S WEST now has ubiquitous facilities in
2 its serving area. Therefore it can provide switched
3 access to any customer that it desires so therefore it
4 does not need expanded interconnection arrangements
5 with alternative, with local exchange carriers.

6 Q. Can U S WEST provide switched access to a
7 customer of ELI that has a number assigned to that
8 customer by ELI?

9 A. It could through its own facilities, of
10 course not through the lines that have been routed
11 through that, the number assigned to ELI.

12 Q. The only way that U S WEST can access a
13 customer served by ELI with numbers assigned by ELI
14 and access lines provided by ELI is through expanded
15 interconnection with ELI, correct?

16 A. No. ELI can provide -- U S WEST, I'm sorry
17 -- could provide its own service in competition with
18 the new provider of competitive access service. That
19 is the entire point of competition.

20 Q. Can U S WEST reach that customer and
21 terminate that call from one of its customers without
22 taking interconnection services from that company?

23 A. As I said, U S WEST can provide switched
24 access services of its own. Therefore it does not
25 require expanded interconnection service from the

01393

1 competitor.

2 Q. Are you assuming that U S WEST also has
3 access lines and numbers assigned to ELI's customer in
4 my question?

5 A. Yes.

6 Q. Assume with me that that is not the case,
7 that we have a customer that has taken all of his
8 access lines from ELI. Can U S WEST reach that
9 customer without obtaining expanded interconnection
10 from ELI?

11 A. In the case where all of the traffic has
12 been routed through ELI facilities, there would have
13 to be some interconnection arrangement between the
14 companies. That doesn't necessarily imply an expanded
15 interconnection arrangement.

16 Q. Therefore the new carrier should not have
17 to offer expanded interconnection to U S WEST, that
18 they can offer something else?

19 A. Yes.

20 Q. And what would that something else be?

21 A. You're talking about a situation where ELI
22 might have to develop actual switched access charges.

23 Q. Did you hear the vice-president/general
24 manager of TCG's testimony last week?

25 A. No.

01394

1 Q. Would it surprise you to know that he
2 testified that his company mirrors U S WEST's access
3 charges or charges slightly under?

4 A. I would expect they would want to do that
5 to remain competitive, sure.

6 Q. From that testimony and from your own
7 knowledge you fully expect all alternative local
8 exchange companies to charge access to interconnecting
9 interexchange carriers, correct?

10 A. As a reasonable approach. There may be
11 others.

12 Q. And you expect them to charge more than TS
13 LRIC?

14 A. I'm not sure of their business plans but I
15 would expect they could charge somewhat more than TS
16 LRIC in order to recover their overheads.

17 Q. And we are in general agreement that access
18 service is a necessary telecommunications service of
19 any local exchange company?

20 A. It's a very important service. I'm not
21 sure how you're defining necessary here.

22 Q. That if local exchange companies are to be
23 interconnected they're going to have to offer access
24 services to each other?

25 A. Not necessarily. You could have other

1 arrangements. For instance, with -- there's no reason
2 in principle you couldn't apply something -- well, I
3 wouldn't say bill and keep, but you could have other
4 arrangements, I mean, arrangements before this whole
5 switched access regime began. I would expect that's
6 the way they would want to do it.

7 Q. Are you working on the rate case for the
8 staff?

9 A. Yes.

10 Q. Are you familiar with the staff's data
11 requests to U S WEST in the rate case?

12 A. A few of them. I know there have been
13 hundreds. I'm not familiar with all of them.

14 Q. Maybe even thousands?

15 A. That's probably true.

16 Q. Are you familiar with a staff data request
17 asking U S WEST to recalculate its access revenue
18 requirement at an increased NTS allocator of 25
19 percent instead of its current 16 percent or so?

20 MS. PROCTOR: Excuse me, Your Honor. I
21 fail to see the relevance for this case of what's
22 going on in the rate case. So I'm going to object to
23 the question.

24 MR. SHAW: Well, the witness has testified
25 that issues ought to be deferred to the rate case so I

01396

1 think I'm entitled to ask him what he intends to do
2 with them in the rate case.

3 MR. SMITH: Well, Your Honor, I will object
4 to that line of questioning if we're going to get into
5 what the staff is going to do in the rate case. Quite
6 frankly, we're still formulating our case.

7 JUDGE ANDERL: I think staff has not yet
8 been required to file their testimony in that case yet,
9 have they?

10 MR. SMITH: That's correct. And discovery
11 of course goes well beyond what you may see and
12 hopefully in your direct filing.

13 JUDGE ANDERL: I will sustain the
14 objection.

15 MR. SHAW: I have another question.

16 Q. Are you recommending to staff that the
17 access charge revenue requirement of U S WEST be
18 increased?

19 MR. SMITH: Your Honor, may I have
20 clarification? Which document?

21 MR. SHAW: In the rate case.

22 MR. SMITH: Well, then I will object to
23 that question.

24 MR. SHAW: Your Honor, I think I am
25 entitled to --

1 JUDGE ANDERL: I'm not going to let him
2 inquire into what staff's position is going to be, but
3 to the extent that this witness's recommendation in
4 the rate case is relevant and connected to the
5 recommendation he's making in this docket, I think I
6 will allow that.

7 A. I haven't -- it's premature at this point.
8 I haven't formulated recommendations at this point
9 regarding the rate case. Need a long way to go.

10 Q. As a matter of public policy are you
11 recommending to this Commission that the revenue
12 requirement assigned to access charges should be
13 either maintained or increased to current levels?

14 A. I think staff's recommendation at this
15 point consistent with what the company proposed was to
16 maintain revenue neutrality in this case as we
17 restructure the switched access rate elements and
18 introduce expanded interconnection. Beyond that point
19 we'll have to decide that in the rate case.

20 Q. You think it's appropriate for the staff to
21 take inconsistent positions on the contribution to be
22 gained from interexchange carriers in this case in the
23 rate case?

24 A. I don't see any inconsistency. Just
25 logically it makes some sense to first determine the

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1 rate relationships in this case and make sure that the
2 tariffed rate elements are appropriate and then after
3 that point we can -- staff and Commission can review
4 the overall revenue requirement for switched access in
5 the general rate case.

6 Q. End result of your recommendations are that
7 the contribution derived from the actual tariff access
8 charge elements, aside from the RIC and the carrier
9 common line charge, are to be reduced?

10 MS. PROCTOR: Can I ask for clarification
11 of what tariff elements we're talking about?

12 MR. SHAW: The tariff elements that you
13 address in your testimony should be reduced from
14 current levels, correct?

15 A. None of the tariffs and rate elements
16 specifically addressed in my testimony are tariffed at
17 this point. They are all new and designed to serve
18 competitive interconnectors. My testimony does not
19 specifically address -- other than the local switching
20 element, I'm sorry, I meant to add that -- other than
21 the local switching element my testimony does not
22 address the entire suite of existing switched access
23 elements or how they're being restructured.

24 Q. I understand that. And the expanded
25 interconnection company proposal of the company is

01399

1 designed to be used by all interconnecting carriers,
2 correct?

3 A. All interconnecting carriers that would be
4 providing competitive access services. Obviously not
5 necessarily independent local exchange companies who
6 interconnect.

7 Q. The tariff is not limited to just carriers
8 that provide competitive access services, is it?

9 A. The expanded interconnection channel
10 termination elements and virtual colocation services
11 are included in the switched access tariff so that was
12 my understanding.

13 Q. It's available to all interconnecting
14 carriers, correct?

15 A. It's available to them, yes. But it
16 wouldn't necessarily supersede existing
17 interconnection arrangements.

18 MR. SHAW: Thank you. That's all I have.

19 JUDGE ANDERL: Thank you, Mr. Shaw. Let's
20 go ahead and take a recess this morning and be back at
21 25 after. We'll pick up with you, Mr. Potter.

22 (Recess.)

23 JUDGE ANDERL: Let's be back on the record
24 after our morning recess. Mr. Potter, do you have
25 cross for this witness.

01400

1 MR. POTTER: No, I do not.

2 JUDGE ANDERL: I also had estimate from
3 some other parties. AT&T, Ms. Proctor, do you have
4 cross for this witness.

5 MS. PROCTOR: That was last week.

6 JUDGE ANDERL: And this week you have zero?

7 MS. PROCTOR: Right.

8 JUDGE ANDERL: TCG.

9 MR. KOPTA: No questions.

10 JUDGE ANDERL: Mr. Trotter -- well, before
11 I go to Mr. Trotter, are there other intervenors or
12 parties who have cross for this witness?

13 Mr. Trotter.

14 MR. TROTTER: No.

15 JUDGE ANDERL: I could have done this
16 before the break.

17 JUDGE ANDERL: Commissioner Gillis.

18 COMMISSIONER GILLIS: I have none.

19 JUDGE ANDERL: Redirect?

20 MR. SMITH: No.

21 THE WITNESS: Thank you.

22 JUDGE ANDERL: Thank you for your
23 testimony. You may step down. We agreed on Friday
24 that we would take AT&T's witness Sumpter next so
25 let's be off the record for a brief moment while we

01401

1 get his testimony.

2 (Marked Exhibits T-109 and T-110.)

3 JUDGE ANDERL: Let's go ahead and be back
4 on the record. While we were off the record Mr.
5 Sumpter took the stand. We premarked his testimony as
6 Exhibit T-109 and his prefiled rebuttal testimony as
7 Whereupon,

8 JOHN SUMPTER,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE ANDERL: Go ahead, Ms. Proctor.

12

13 DIRECT EXAMINATION

14 BY MS. PROCTOR:

15 Q. Would you say please state your name and
16 address for the record?

17 A. My name is John Sumpter. My business
18 address is 795 Folsom Street, San Francisco,
19 California.

20 Q. By whom are you employed and in what
21 capacity?

22 A. I'm employed by AT&T in the capacity of a
23 regulatory manager for the western region.

24 Q. And did you cause to be prepared and
25 prefiled in this case direct testimony which has been

01402

1 marked as Exhibit T-109 and rebuttal testimony which
2 has been marked as Exhibit T-110?

3 A. Yes.

4 Q. And that was prepared under your
5 supervision and direction?

6 A. Yes, it was.

7 Q. And if I ask you the questions that are
8 contained therein, would your answers be the same
9 today?

10 A. Yes, they would.

11 MS. PROCTOR: I would move the admission of
12 Exhibits T-109 and T-110.

13 JUDGE ANDERL: Okay. And just so that it's
14 noted for the record, on page 2 of that exhibit T-109
15 we did make a correction. The correct docket number on
16 line 5 should read U-85-23 not 85-73.

17 Is there any objection to the admission of
18 Exhibits T-109 and T-110 from any party?

19 I hear no objection. Those two will be
20 admitted as identified.

21 (Admitted Exhibits T-109 and T-110.)

22 Q. Mr. Sumpster, have you also reviewed the
23 stipulation presented by the interexchange carriers in
24 this proceeding?

25 A. Yes, I have.

01403

1 Q. And could you please state AT&T's position
2 on the stipulation.

3 A. AT&T supports the stipulation.

4 Q. And that stipulation proposes that the
5 switched access rates would be established in the rate
6 case according to certain principles outlined in the
7 stipulation; is that correct?

8 A. Yes. There are five specific issues
9 outlined in the stipulation, and the basis is that the
10 rates should be established in the rate cases for the
11 two companies, that is, U S WEST and General Telephone
12 and that those rates be set at TS LRIC.

13 Q. Thank you, Mr. Sumpter.

14 MS. PROCTOR: The witness is available for
15 cross-examination.

16 JUDGE ANDERL: Mr. Owens,

17 MR. OWENS: Thank you, Your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. OWENS:

21 Q. Good morning, Mr. Sumpter.

22 A. Morning, Mr. Owens.

23 Q. Referring you to your rebuttal testimony,
24 Exhibit T-110 at page 7, line 20, you describe what
25 you characterize as a barrier to effective competition

01404

1 for 800 service, and would I be correct in
2 understanding that what you mean there is a lack of 800
3 number portability was such a barrier?

4 A. That was the public policy determination of
5 the regulatory agencies that had jurisdiction over
6 that issue.

7 Q. Well, by including that statement in your
8 testimony do you want this Commission to understand
9 that you also believe that it was such a barrier?

10 A. In hindsight, yes.

11 Q. At divestiture was there in existence an
12 800 number database?

13 A. I don't recall when the database solutions
14 were introduced for providing 800 service. 800
15 service was first introduced far in advance of
16 separating signaling from the inband transmission of
17 services and simple dialing arrangements were used to
18 create the 800 service, and I don't recall when out of
19 band signaling and databases were first introduced for
20 providing 800 service.

21 Q. Can you accept subject to check that there
22 was a mechanism by which AT&T provided the necessary
23 number translations at divestiture that went to AT&T
24 at divestiture?

25 A. Yes. I'm willing to accept that.

01405

1 Q. And didn't other parties, putative
2 competitors ask to be permitted to use that
3 instrumentality so that they could compete to provide
4 800 traffic?

5 A. Given the assumption that the database
6 existed at divestiture, as we have accepted, that
7 seems a reasonable -- I recall that, yes.

8 Q. And didn't AT&T take the position that it
9 would not allow such access?

10 A. Yes.

11 Q. Did any of AT&T's competitors characterize
12 that at the time as a barrier to effective competition
13 for 800 service?

14 A. Yes, they did.

15 Q. Does AT&T today have a calling card
16 validation database that it uses to validate calls
17 from proprietary number calling cards?

18 A. Yes. All of -- well, I can't say all but
19 many of the interexchange carriers have at least some
20 calling cards that can be characterized as
21 proprietary, cards which can only be validated by
22 their database.

23 Q. Directing your attention to, again, your
24 rebuttal testimony at page 8. And beginning at line
25 4, you state that the enormous difference in price

01406

1 between interexchange access and free local
2 interconnection will create powerful artificial
3 incentives to avoid the interexchange access rates by
4 using local interconnection service.

5 My question is, if for some reason your
6 recommendation in the stipulation that interexchange
7 access be moved to TS LRIC is not followed but the
8 other recommendation that local access be set at TS
9 LRIC is, wouldn't there still be such an enormous
10 difference in the prices of those two services?

11 A. Could you state again the assumption that
12 you're --

13 Q. I'm sorry. You've recommended by adopting
14 the stipulation of the interexchange carriers that in
15 the rate case not only local access but all access
16 charges be moved or set at TS LRIC; is that right?

17 A. Yes.

18 Q. So I'm asking you to assume for the
19 purposes of this question that the Commission does not
20 follow that particular recommendation in the rate case,
21 but that in this case, the Commission agrees with the
22 other part of your recommendation which is to set
23 local access at or near TS LRIC. Do you have that
24 assumption in mind?

25 A. Yes.

01407

1 Q. Wouldn't there under that assumption be
2 also an enormous difference between the effective rate
3 for interexchange access and the effective rate for
4 local exchange access?

5 A. Yes, that is correct.

6 Q. And I think you've already indicated in
7 your testimony, but let's make sure the record is
8 clear, that as far as you can tell those are
9 essentially identical service for terminating traffic
10 as far as the local exchange company that provides the
11 service is concerned?

12 A. You're speaking of local exchange traffic
13 termination and access?

14 Q. Yes.

15 A. Are they the same?

16 Q. Yes.

17 A. Yes. For all intents and purposes they are
18 the same.

19 MS. PROCTOR: Mr. Sumpter, could you just
20 pull the mike closer?

21 THE WITNESS: Yes, I could.

22 MS. PROCTOR: Would you?

23 THE WITNESS: Yes.

24 Q. On the same page, that is page 8, you
25 describe the ALEC's proposal as being flawed and you

01408

1 state that one of the reasons for that is that the use
2 of a valuable resource with no charge would create
3 incentives to over use the resource. Am I correct in
4 understanding that you believe in addition to the
5 resource having value that the process of terminating
6 the traffic imposes a cost on the local exchange
7 company that does the terminations?

8 A. Yes, that is correct.

9 Q. Was it your testimony that zero is a just
10 and reasonable rate for a service that imposes a cost
11 on the company that provides that service?

12 A. Yes, it is during the interim period.

13 Q. So your testimony is that zero is a just and
14 reasonable rate for up to a year but after a year it
15 would cease to be a just and reasonable rate?

16 A. No. I'm suggesting that during the interim
17 period prior to local number portability being
18 available and prior to TS LRIC studies that are
19 validated and accepted, zero is a just and reasonable
20 rate to charge.

21 Q. But the service would not change and as far
22 as you know the costs to U S WEST of providing the
23 service would not change from the interim period to
24 after the interim period; is that correct?

25 A. That's correct.

01409

1 Q. During the interim period who is it that
2 would cover the costs that are imposed on U S WEST by
3 the alternative local exchange carriers who send their
4 traffic for termination?

5 A. U S WEST would cover its costs and the new
6 entrants would cover their cost for the calls that
7 originate on U S WEST's network and terminates on the
8 networks of the new entrant.

9 Q. If there is an imbalance in the relative
10 rates at which those carriers exchange traffic for
11 termination, is it likely that there would be an
12 imbalance in the costs incurred by the companies?

13 A. That's certainly a possibility, but at the
14 moment it is hypothetical, and I believe the
15 experience in the local exchange industry among local
16 exchange carriers who currently interconnect with one
17 another is that the traffic is relatively in balance,
18 and it seems to me that that's a factual question that
19 could best be answered with a little experience in the
20 marketplace.

21 Q. Now, when you say that U S WEST will cover
22 its costs how exactly will U S WEST cover its costs?

23 A. I guess pretty much the same way most
24 commercial entities cover their costs. They recover
25 revenues from customers and they pay their bills.

01410

1 Q. So when you say U S WEST will cover its
2 costs, you mean by charging tariff rates for other
3 services for other customers; is that right?

4 A. Yes.

5 Q. Now, you've I think proposed that U S WEST
6 not be permitted to segregate different types of
7 traffic on different trunk groups that it receives for
8 termination from alternative local exchange carriers;
9 is that right?

10 A. Do you have a citation in mind?

11 MR. OWENS: May I have a moment, your
12 Honor?

13 JUDGE ANDERL: Yes. Mr. Owens, perhaps you
14 could just move on to your next questions.

15 MR. OWENS: Thank you.

16 Q. I will ask it a different way. You've
17 indicated that technically terminating a local call is
18 not different from terminating an interexchange access
19 call as far as the local exchange carrier is
20 concerned?

21 A. That is correct.

22 Q. To your knowledge, is it possible today to
23 distinguish incoming switched access calls that are
24 forwarded from an interexchange carrier from incoming
25 local calls if they come over the same trunk group of

01411

1 facilities from whomever deliveries them to the local
2 exchange company?

3 A. I don't think it is -- those calls are not
4 identified today real time as the call is being
5 processed. Of course, while the call is being
6 processed physically so that the customer can use the
7 telephone service there's no physical or
8 administrative reason to identify the call.
9 However, after the fact the jurisdiction of the call,
10 the origination of the call, can be identified and is
11 currently done in the interexchange market for billing
12 purposes, both for access and for billing the end
13 customer.

14 Q. Does that depend on some exchange of
15 information both generated at the originating and
16 terminating end of the call?

17 A. Yes.

18 Q. And does that depend -- that process in
19 turn depend on the carriers all using the same set of
20 instructions on how that information is to be gathered
21 and accumulated and then sent to a clearinghouse?

22 A. Yes. And that's why technical standards
23 are always an important and significant consideration.

24 Q. So, in order for that to work in the
25 context of separating incoming, after the fact, local

01412

1 from switched access, assuming that the same facility
2 were used the local exchange carrier that terminates
3 to, let's say, U S WEST, would have to generate
4 and collect that information on its local calls that
5 were transmitted to U S WEST; is that correct?

6 A. Yes.

7 Q. At page 3 of your rebuttal testimony,
8 Exhibit T-110, you recommend that an effective and
9 competitively neutral universal service plan should be
10 developed in a separate focused proceeding. Are you
11 aware of whether or not the Washington Supreme Court
12 has spoken on the extent of the WUTC's authority to
13 engage in funding a plan that would have as its
14 objective payments for specific companies for
15 purposes, among other things, of maintaining universal
16 service?

17 A. No. No, I'm not.

18 Q. Ask you to accept subject to check that the
19 Supreme Court has indicated that the Commission does
20 not have that power, that is, to in effect tax one
21 company for the purpose of establishing a fund from
22 which payments will be made to another company, and
23 this was in the context of extended area service and
24 the community calling fund.

25 MR. OWENS: I'm just going to ask him to

01413

1 accept that for the purpose of this question.

2 MR. BUTLER: Is it critical for your
3 purposes of the question that it has to be the Supreme
4 Court? That's an incorrect assumption.

5 MR. OWENS: All right.

6 Q. With the amendment that it was a final
7 decision of a court in Washington, do you have a
8 specific treatment of universal service with that
9 assumption in mind that AT&T recommends consistent
10 with this Commission's authority?

11 A. No, I do not.

12 Q. At your rebuttal testimony at page 5, line
13 15, you attribute an attitude to the LECs in general
14 with regard to local number portability. Are you
15 aware of whether or not U S WEST is currently
16 participating at its own expense in a trial to
17 demonstrate the feasibility of a database solution for
18 number portability in Seattle?

19 A. No, I was not aware of that.

20 Q. At page 7 of your rebuttal testimony.
21 Beginning at line 1, you describe what you
22 characterize as the LEC's refusal to offer unbundled
23 monopoly elements, and I would like to ask you a few
24 questions about the practical aspect of this type of
25 unbundling. We're talking -- at least I would like you

01414

1 to focus on the unbundling of a loop. Do you have that
2 in mind?

3 A. Yes, I do.

4 Q. Currently, to the extent that loop would be
5 used for switched service by U S WEST, that loop would
6 be part of U S WEST's nontraffic sensitive investment
7 that's subject to allocation part to the interstate
8 and part to the intrastate jurisdiction; is that
9 right?

10 A. Yes.

11 Q. So if if U S WEST were to be required to do
12 what you suggest, of providing that loop for use by a
13 competing local exchange carrier, would its investment
14 for purposes of determining its carrier access charge
15 revenue requirement be reduced by the amount of that
16 loop?

17 A. I think whether or not it would be included
18 in the calculation of, for example, the federal
19 carrier common line charge, would depend upon
20 application of the current federal rules.

21 Q. Based on your experience in this business,
22 do you have an opinion as to whether or not the
23 company's investment for purposes of determining its
24 interstate revenue requirement that would be recovered
25 in part through the carrier common line and in part

01415

1 through the subscriber line charge would be reduced by
2 the amount of that loop?

3 A. My opinion is that under current rules it
4 would still be included in the calculation of the
5 revenue requirement and the company would continue to
6 recover both a subscriber line charge and a carrier
7 common line, or you would recover the subscriber line
8 charge and carrier common line charge revenues through
9 application of the CCL to minutes.

10 Q. Let's take the first part of that answer.
11 With regard to the subscriber line charge, would U S
12 WEST collect the subscriber line charge from the end
13 user that was connected to that loop under the
14 scenario that it was an unbundled loop that had been
15 provided to an alternative exchange carrier for that
16 carrier's use in serving that end user?

17 A. I don't know if you would recover it from
18 the end user or from the company purchasing it from
19 you. I have no opinion on that.

20 Q. Do you know whether or not the FCC's rules
21 would allow U S WEST to charge the AEC for that
22 subscriber line charge?

23 A. I don't know if they would or would not.
24 It seems to me that the AEC would be your customer in
25 that case.

01416

1 Q. And if, hypothetically, the alternative
2 exchange carrier offers its customer to whom it is
3 connected over the unbundled loop the service of
4 terminating interexchange traffic over that loop,
5 would U S WEST receive the carrier common line charge
6 for those terminating minutes?

7 A. No, it would not.

8 Q. You would agree, I think, based on your
9 testimony that under the scenario of the unbundled
10 loop U S WEST itself would not be providing any common
11 carrier service to the customer over that loop; is
12 that right?

13 A. When you use the phrase common carrier
14 service, what are you speaking of?

15 Q. U S WEST would not be carrying any
16 communications over that loop?

17 A. That is correct.

18 Q. Now, I believe you indicated that in
19 addition to requiring the unbundling of a loop you
20 proposed that U S WEST should be allowed -- or
21 required to provide unbundled ports, is that right, for
22 switching?

23 A. Yes.

24 Q. And you recommend a flat-rated charge for
25 that service.

01417

1 MS. PROCTOR: I believe, Mr. Owens, that
2 that is the testimony of Mrs. van Midde.

3 Q. Ms. van Midde refers to Mr. Sumpter for
4 certain things and so I just wanted to make sure that
5 she is the witness that I should examine about that.
6 So I should examine her on the amount of the port
7 charge that AT&T recommends?

8 A. Yes.

9 Q. I believe it's your testimony that you
10 recommend that there should not be any use and user
11 restrictions specifically on resale of any U S WEST
12 service; is that right?

13 A. Yes.

14 Q. I think you've already indicated that you
15 recommend that the price for the unbundled loop should
16 be at or slightly above TS LRIC; is that right?

17 A. I don't think I discuss the price of the
18 unbundled loop. I believe that is Ms. van Midde's
19 testimony.

20 Q. Would I be correct in assuming that
21 someone, let's say a retail customer, if they wanted
22 to under your proposal purchase the unbundle loop and
23 the flat rate port service.

24 A. When you say a "retail customer," you mean an
25 end user?

01418

1 Q. An end user, yes.

2 A. Not necessarily. I believe the tariff
3 should be structured so that certified local exchange
4 carriers can purchase those services.

5 Q. And, well, would that not be a use and user
6 restriction?

7 A. Not for the industry, no.

8 Q. And so use and user restrictions are okay
9 if they keep retail customers from purchasing services
10 that the industry wants? Is that a correct
11 understanding of your testimony?

12 A. Well, actually on reflection I don't see
13 any reason to prevent retail end users from purchasing
14 the loops, if they can find a use for it without a
15 switch.

16 Q. What about the unbundled flat-rated port
17 charge? Is that a switch, a service of a switch?

18 A. Yes.

19 Q. If the end user bought those two services,
20 would they in effect have the component of a finished
21 local exchange service?

22 A. Yes, they would.

23 Q. To the extent that the price for the
24 combination of those ingredients would be significantly
25 less than the U S WEST tariffed charge at a retail

01419

1 level for those services, would anyone have a reason
2 to pay the retail rate?

3 A. Well, you're leaving out what I assume
4 would be a third rate element which would be the
5 interconnection in your office between the end of the
6 loop and the start of the point.

7 Q. You would be recommending that that
8 connection be provided at something around TS LRIC; is
9 that right?

10 A. I don't know. I hadn't thought about the
11 pricing of that.

12 Q. If an alternative local exchange carrier
13 wanted to avail itself of the flat-rated unbundled
14 port service that you recommend U S WEST be required
15 to provide, that carrier might provision its own loop
16 terminating at the main distribution frame in U S
17 WEST's central office; is that right?

18 A. I'm sorry. I got hung up when you said my
19 recommendation that it be flat-rated. Given that I'm
20 not recommending a particular price, Ms. van Midde --
21 could you ask the question again?

22 Q. Sure, I would be glad to. If an
23 alternative exchange carrier wanted to make use of the
24 unbundled port service that you're recommending U S
25 WEST be required to provide, one thing that that

01420

1 carrier might do would be to provision its own loop
2 into the U S WEST central office terminating at the
3 main distribution frame, correct?

4 A. Yes.

5 Q. And as you just indicated, in order then to
6 make use of the port service to provide a finished
7 service to its customer, the alternative exchange
8 carrier would need some form of a connection from the
9 main distribution frame to the port?

10 A. Yes.

11 Q. At page 13 of your rebuttal testimony,
12 beginning at line 26, you refer to the rate case and
13 you give your view that the Commission will there be
14 able to determine whether U S WEST's revenue
15 requirement should be the sole measure for
16 establishing prices in a competitive environment. You
17 there I think -- and correct me if I'm wrong --
18 suggest that there would be something else besides the
19 revenue requirement that would be the basis of -- or
20 the measure for establishing prices. Can you tell us
21 what that something else would be.

22 A. Yes. And it's from experience working for
23 a company that has moved from a status in most states
24 where it was rate base rate of return regulated to a
25 status where it is in effect regulated by the behavior

01421

1 of its competitors. If U S WEST's markets become
2 effectively competitive then the determining factor
3 for its prices will be the prices dictated by the
4 market.

5 Q. So if I understand you correctly, somehow
6 in the rate case process, there should be an input of
7 the expected behavior of the market that's used to
8 temper pricing decisions that would otherwise be made
9 based on revenue requirement? Is that what I
10 understand? Is that a correct understanding?

11 A. That is a correct understanding of
12 certainly one possibility.

13 Q. And just so the record is clear, if the
14 expectation, for example, in one area of the market is
15 that prices set on the basis of revenue requirement
16 would be above the market level and therefore unlikely
17 to be collected, is the tempering of the revenue
18 requirement that you assume such that that revenue
19 requirement is simply eliminated, or on the other hand,
20 is that revenue requirement then available to be
21 assigned to other services for recovery?

22 A. Well, in AT&T's experience, once you end up
23 in a competitive situation you can't re-assign cost
24 anywhere, and if you discover that some of your
25 embedded investment is no longer supported by revenues

01422

1 to justify its booked value you end up writing off
2 some of the investment.

3 Q. Moving now to your direct testimony,
4 Exhibit T-109. Beginning at line 24 and continuing
5 over on to top of page 4, you state that "If a
6 LEC switch cannot distinguish among the minutes of use
7 of a local service provider or a long distance provider
8 then the compensation arrangement should not make a
9 distinction among them either," and I believe we
10 established through earlier discussion that you agree
11 that the U S WEST switch cannot currently distinguish
12 between terminating local and terminating switched
13 access and you offer as a possible resolution of a
14 differential price for those two services the after the
15 fact sorting that you describe that applies today is in
16 the interexchange environment; is that right?

17 A. Yes.

18 Q. So that's how your proposal, in your view,
19 would meet this criteria?

20 A. I'm sorry, I think you misread slightly the
21 intent of that testimony. I was not talking about
22 whether or not you could identify the minutes after the
23 fact for purposes of billing either the end user or the
24 carrier but that since the minutes are identical to the
25 switch -- and by that I mean the costs are the same in

01423

1 the physical network of the terminating company -- then
2 eventually the prices charged for those services should
3 be the same.

4 Q. But initially you're willing to accept a
5 compromise on that proposal; is that right?

6 A. Well, we've compromised for the last decade
7 to the extent that interstate access and intrastate
8 access, in most jurisdictions, are priced differently.

9 Q. So this represents a second compromise
10 then?

11 A. Yes.

12 Q. At page 6 of your direct testimony
13 beginning at line 16 you indicate you believe that bill
14 and keep would give the LEC an incentive to get their
15 cost studies completed in a timely manner. What
16 specific incentive is that?

17 A. Well, based on your company's witnesses'
18 testimony it appears that your company is strongly in
19 favor of a charge for terminating local traffic.
20 Based on that I assumed that that meant if you were not
21 allowed to charge initially that would provide an
22 incentive to your company to obtain what apparently it
23 wants.

24 Q. Did you not understand U S WEST's advocacy
25 to be to the effect that if the two services used the

01424

1 facilities of the local exchange company in the same
2 way -- and by two services I'm talking about switched
3 access and local exchange terminations -- that they
4 should be priced the same way?

5 A. No, I didn't understand it that way. If
6 the service that has a price is priced properly --
7 that is at TS LRIC -- then perhaps, but to the extent a
8 price on local termination would act as a barrier to
9 entry, then it's improper, at least initially, to
10 charge new entrants a rate that would in effect be a
11 barrier to entry.

12 Q. Do you have any evidence that, for example,
13 should the Commission simply issue a direction to the
14 Commission under its power to require -- issue a
15 direction to the company under its power to require
16 the company to provide information that the
17 information would be provided sooner under your
18 proposal than it would in response to such a direction
19 from the Commission?

20 A. Let me make sure I understand your
21 question.

22 Q. I will restate it. With regard to the
23 completion of cost studies, which you say the company U
24 S WEST should be required to do, do you have any
25 evidence that should the Commission simply issue a

01425

1 directive to the company to complete such cost studies
2 that they would be completed any sooner under a bill
3 and keep environment than they would without that
4 environment simply in response to the exercise of the
5 Commission's authority under law?

6 A. My general experience in dealing with local
7 telephone company cost studies, whether they are
8 embedded or TS LRIC, is that they -- they the
9 companies -- have their own internal time schedules to
10 keep and that it's frequently an opportunity to extend
11 the time period of the proceeding.

12 Q. Now, sir, can you answer my question. Do
13 you have evidence that in this situation, these cost
14 studies that you say U S WEST should be required to do,
15 that they would be done sooner under a bill and keep
16 proposal than they would if the Commission simply set
17 an order and established some time schedule for its
18 completion?

19 A. No.

20 Q. At page 7 of your direct testimony,
21 beginning at line 12 you describe your understanding
22 of the relative treatment of independent local
23 exchange companies and alternative local exchange
24 companies by U S WEST. You understand that U S WEST
25 has indicated in this case that it proposes to charge

01426

1 a usage-based access charges to the independent local
2 exchange companies for terminating local traffic? I
3 realize this testimony was written early on in the
4 docket. I'm just asking if you currently understand
5 that's U S WEST's position?

6 A. No, I don't know.

7 Q. If it were to appear on the record that
8 that is U S WEST's proposal and that -- strike that.
9 Let me ask another question. Do you understand that
10 it is U S WEST's proposal with regard to the charges
11 to the alternative local exchange carriers that the
12 interim universal service charge would not be imposed
13 if the alternative local exchange carriers served a
14 ratio of residence to business customers that's equal
15 to U S WEST and also the same ratio of lifeline
16 customers as U S WEST serves? You understand that to
17 be U S WEST's proposal?

18 A. I'm willing to accept that, but I don't
19 know that.

20 Q. I see. So your testimony here was made
21 without knowledge of those facts should they turn out
22 to be facts; is that correct?

23 A. That is correct. But it still wouldn't
24 change my testimony because it would still leave in
25 place the possibility of a price squeeze.

01427

1 Q. Well, I'm referring to your statement here
2 that U S WEST would charge ALECs more than it would
3 charge other LECs with which it does not compete. Now
4 I'm simply asking you about that qualitative
5 statement. Is it possible based on the facts that
6 I've asked you about that U S WEST would not charge
7 the ALECs more for the same service than it would be
8 charging the independents?

9 A. If that is U S WEST's proposal then that is
10 U S WEST's proposal.

11 Q. And then I think the answer to my question
12 is, yes, it's possible that U S WEST would not be, as
13 you say, charging the ALECs more than the independent
14 LECs?

15 A. Yes.

16 Q. At page 8 of your direct testimony you
17 refer to the claims you attribute to U S WEST on the
18 previous page, and you state that all of these
19 concerns were raised after divestiture about the
20 interexchange market. Do you recall who it was who
21 raised those claims?

22 A. Yes. AT&T.

23 Q. Do you recall, Mr. Sumpster, in the
24 interexchange market whether or not there was some
25 mechanism under come for the same service -- let's

01428

1 take for example message toll service -- AT&T's
2 business customers would pay rates that were several
3 times the rates that residence customers paid?

4 A. Are you talking about pre-divestiture?

5 Q. No, sir, after divestiture.

6 A. My recollection is that shortly after
7 divestiture AT&T implemented several high volume
8 services for business customers.

9 Q. Maybe you didn't listen to my question.
10 The question was for the same service, MTS, was there
11 a mechanism by which business customers paid several
12 times higher rates than residence customers per minute
13 of use for the same service?

14 A. My experiences in state pricing issues
15 around the time of divestiture and my recollection is
16 that at least with regard to state tariffs there was
17 not a separate schedule in MTS for business and
18 residence, so small business customers -- and by small
19 I mean low volume -- they would have purchased MTS out
20 of the same schedule in the states that I am familiar
21 with as residence customers.

22 Q. And the only reason that you qualified that
23 answer to refer to small business customers is that
24 large business customers would have to have been very
25 imprudent to have purchased high volume toll services

01429

1 out of the MTS tariff, is that right, because there
2 were lower cost options available to them?

3 A. Yes.

4 Q. And just so the record is clear, it's
5 correct, isn't it, that in the interstate -- excuse me
6 -- in the interexchange market that you refer to the
7 competitors were free to price under AT&T's umbrella?

8 A. Or in some cases over it.

9 Q. Either way?

10 A. Yes.

11 Q. When you say that AT&T lost market share,
12 reduced prices, introduced new services and rebuilt
13 its network, are you aware of whether or not the
14 volume of calling in the interexchange market grew at
15 a faster rate than AT&T's loss of market share?

16 A. Yes, I am aware, and it did.

17 Q. At the same page, beginning at line 15, you
18 say, "There's every reason to believe should
19 competition develop in the local exchange alternatives
20 to the incumbent services would ultimately be available
21 in all areas of the state." Do you have any timetable
22 as to when such ubiquitous deployment of alternatives
23 would occur?

24 A. Not really. There are two examples of how
25 long it might take something to extend to what you

01430

1 would call all areas of the state. There's the
2 buildout of the local telephone company's network which
3 started in the first half of the century and is still
4 ongoing today so that took quite a while. And then
5 there is the example of the interexchange carriers who,
6 over the course of just a few years, expanded their
7 service to cover all parts of the state.

8 So it might be fairly short period of time
9 or it might take a little longer.

10 Q. I'm tempted to use the Battle of Midway
11 example, but is it possible that completely different
12 technologies than either the current local exchange or
13 the current interexchange technology could result in a
14 deployment of those ubiquitous substitutes much faster
15 than either of your two models?

16 A. That is certainly a possibility.

17 Q. You say toward the bottom of that same page
18 that "In a competitive market the incumbent need not
19 ultimately bear this responsibility." Is that
20 equivalent to saying that it will be acceptable for
21 the incumbent to exit markets that it believes it
22 can't serve profitably whenever ultimately it occurs
23 under your approach?

24 A. Under my approach ultimately means there's
25 more than one vendor in a market and once that happens

01431

1 either company should be able to withdraw but would be
2 unlikely to.

3 Q. At page 9, beginning at line 15, you state,
4 you believe "There's ample time even with competitive
5 entry" -- "as even with competitive entry any impacts
6 on the incumbent LECs should be gradual." Are you
7 again generalizing from the experience in the
8 interexchange market?

9 A. Yes.

10 Q. So, to the extent that there would be
11 differences that would affect the rapidity of not only
12 deployment but capture of customers in the local
13 exchange market compared to the interexchange market
14 that example might not hold; is that correct?

15 A. The only issue which has a reasonable
16 chance of changing the application of that example is
17 something you mentioned in an earlier question which
18 is a significant change in technology, but barring a
19 significant change in technology, it is most likely
20 that both the incumbent and the Commission will have
21 ample time to examine the changes in the marketplace.

22 Q. The concentration of revenues in a small
23 number of locations is another distinguishing factor
24 that separates the local exchange from the
25 interexchange market; isn't that true?

1 A. No, that is not true. AT&T's revenues
2 experience exactly the same type of skewedness. I
3 recall in an earlier case here in Washington
4 presenting that kind of evidence. I've seen it in
5 every state that I've participated in. That
6 skewedness of revenue where a small percentage of your
7 customers provide a relatively large percentage of
8 your revenues -- and that's the concentration you're
9 talking about -- is a fact in most markets if not all.

10 Q. Well, my question was as to the locations
11 not customers. In the local exchange the revenues are
12 concentrated in a relatively small number of locations
13 in urban areas, isn't that true, the bulk of the
14 revenues?

15 A. To the best of my knowledge that is correct
16 but it is also true of interexchange carrier traffic.

17 Q. At page 9, line 19, you talk about what you
18 characterize as all telecommunications rates are
19 currently averaged to some extent. Does AT&T currently
20 maintain rates such that an identifiable group of
21 customers is charged significantly more than the cost
22 to serve them?

23 A. There were several parts to your question
24 that are worth thinking about. The first thing that
25 caught my attention was your use of the phrase

01433

1 identifiable customers. And the second was charged
2 significantly more than the cost. I don't know what
3 you mean -- I will take the second one first. I don't
4 know what you mean by significantly more. To the best
5 of my knowledge, AT&T charges rates that are
6 compensatory for all of its services. None of our
7 services are priced below cost, but that's a generally
8 true statement. I know of no exception.

9 With regard to the first part, are there
10 identifiable customers, we can identify our customers
11 by the services they purchase. I don't know if that
12 has anything to do with what you were asking.

13 Q. Has AT&T ever sought to deaverage rates by
14 providing custom contracts for its large customers?

15 A. Yes.

16 Q. You indicated at page 10, beginning at line
17 21, that with regard to the local transport restructure
18 U S WEST has lowered prices where it feels competitive
19 pressures. And were you there referring to local
20 transport?

21 A. Yes. I was referring to my understanding
22 of Dr. Wilcox's testimony.

23 Q. Do you recall responding to a data request
24 from U S WEST in which you indicated that AT&T believed
25 that local transport was still a monopoly service?

01434

1 A. No, I don't recall.

2 Q. Beginning at page 12, your item 3 where you
3 talk about the administration of the North American
4 Numbering Plan. You're not suggesting, are you, by
5 bringing up this topic that that's something this
6 Commission can influence directly?

7 A. Yes. This Commission can influence
8 directly issues such as how an area code split is
9 implemented or how the state administrator, which I
10 believe is U S WEST, assigns numbers to new entrants.

11 Q. Well, your recommendation is that,
12 "Administration of the North American Numbering Plan
13 must be placed with a noncompetitive neutral party."
14 Are you saying that this Commission can and should
15 issue an order in this case forthwith terminating U S
16 WEST's role as an administrator in Washington of the
17 North American Numbering Plan?

18 A. No, I wasn't suggesting that at all.

19 Q. Do you have any suggestions as to who the
20 noncompetitive neutral should be assuming that this
21 recommendation were somehow to be implemented?

22 A. AT&T.

23 Q. AT&T is a noncompetitive neutral party?
24 I'm glad you at least smiled on that one.

25 A. I've thought about this personally a lot,

01435

1 and I've talked with people. We haven't identified
2 the appropriate party yet.

3 Q. Let me ask you this. If all of your
4 recommendations that you've made here were satisfied
5 100 percent -- do you have that assumption in mind?

6 A. I do.

7 Q. Is that a sufficient condition for U S WEST
8 to be allowed to compete for interLATA traffic?

9 A. No, it is not. It simply puts in place the
10 conditions that would make possible effective local
11 competition. Local telephone companies, or at least
12 the incumbent like U S WEST, should first be in a
13 position where they are experiencing effective local
14 competition before they're allowed in the interLATA
15 market.

16 Q. And finally, if all of U S WEST's local
17 access charges and switched access charges were set at
18 TS LRIC, as I believe it's your recommendation, where
19 would U S WEST recover its common costs?

20 A. U S WEST and all other participants in this
21 market, including AT&T as a telecommunications vendor,
22 should recover their overheads through their retail
23 rates to end users.

24 MR. OWENS: Thank you. Nothing further.

25 JUDGE ANDERL: Thank you. Mr. Potter, did

01436

1 you have cross for this witness?

2 MR. POTTER: Few questions.

3

4 CROSS-EXAMINATION

5 BY MR. POTTER:

6 Q. Morning, Mr. Sumpter. You need to take a
7 drink of water?

8 A. I'm just preparing. Thank you.

9 Q. Picking up on your last answer, then, if
10 your recommendation for unbundling were adopted and
11 there were no user restrictions then U S WEST's retail
12 customers could put together their own retail services
13 at U S WEST's TS LRIC, correct?

14 A. That's essentially a possibility. I hadn't
15 thought much about end users purchasing loops and/or
16 ports.

17 Q. In your direct testimony and your rebuttal
18 for that matter -- and I'm referring specifically now
19 to your direct starting on page 11. You proposed
20 several policy positions or advice for type of
21 regulation that would have the Commission treating LECs
22 differently from ALECs; is that correct?

23 A. Yes.

24 Q. I'm curious about your opinion on this
25 situation. I assume you would put U S WEST in the

01437

1 category of a LEC normally; is that right?

2 A. Normally, yes.

3 Q. For the purposes of applying your rules
4 here if U.S. were to begin providing local exchange
5 service in GTE territory, as some questioning last
6 week suggested, in that capacity would you treat U S
7 WEST as a LEC or an ALEC?

8 A. My first reaction would be to treat them as
9 an ALEC but I really think I would want to examine the
10 specifics of the situation. If the area, for example,
11 that U S WEST were to enter were contiguous with an
12 area that they currently serve they may already have
13 some significant facilities available to them that
14 would in effect put them in the position of an
15 incumbent.

16 Q. Let's take the reverse and make a
17 hypothetical. Let's say GTE Northwest decided it
18 wanted to start providing local exchange service in
19 downtown Seattle. Can you assume with me for the
20 moment that GTE does not have any facility in downtown
21 Seattle?

22 A. I am willing to assume that.

23 Q. So in that case you would recommend that
24 GTE, under your rules, be treated like an ALEC; is
25 that correct?

01438

1 A. Yes. I think, though, that some
2 requirements such as a separate subsidiary for that
3 part of the business that is entering in new
4 territories might be appropriate.

5 Q. You have not gone into that in your
6 testimony, however; is that right?

7 A. No. And I had not thought much about
8 incumbents entering each other's territory. It's an
9 intriguing thought.

10 Q. You mention in your testimony -- let me see
11 if I can find a reference here for you that, yes,
12 question starts at the bottom of page 5 of your
13 direct. You have just at that point completed making
14 your recommendation that LECs interconnection prices
15 should be set at or very close to TS LRIC. Do you see
16 that?

17 A. Yes, I do.

18 Q. And then at the top of page 6 you answer
19 the question should the ALECs establish
20 interconnection tariffs and you say they should but
21 they should not be forced to do TS LRIC studies. By
22 that document that the ALEC should be under no
23 obligation to set their interconnection rates at or
24 near TS LRIC?

25 A. I believe that their prices should be

01439

1 capped at the incumbent's interconnection rate, and I
2 believe that as a practical matter their costs will
3 either be the same or perhaps lower than the
4 incumbents. If their costs are higher and their
5 prices are capped at the incumbent' rates then they
6 won't last long.

7 Q. So if they are able to -- if they do have
8 lower costs but they're able to price at the higher
9 level of a LEC's rate then the ALECs will be permitted
10 to recover some of their common costs from their
11 interconnection charges whereas the LEC would not; is
12 that correct?

13 A. Well, actually I think the situation will
14 be that that perhaps they have some funding to invest
15 in infrastructure and expand their service. That's
16 exactly the same situation that happened in the
17 interexchange market after divestiture.

18 Q. At the top of page 6 in the middle of your
19 answer there on line 2 you refer to nondiscriminatory.
20 You're saying the ALECs should establish
21 interconnection tariffs and apply them in a
22 nondiscriminatory way. By that document that the
23 ALECs should charge the same interconnection price to
24 all the other carriers that would be interconnecting
25 with them?

01440

1 A. Yes.

2 Q. You understand it's possible that an ALEC
3 may serve territory that today consists of both GTE
4 and U S WEST exchanges?

5 A. Yes.

6 Q. So let's assume that hypothetical, going
7 back to your prior recommendation that the ALEC's
8 interconnection rate be capped at the LEC's rate,
9 which LEC's rate would you select in that case?

10 A. Well, if the ALEC is terminating traffic
11 from U S WEST then their reciprocal rate should be
12 capped at U S WEST's rate. And if they're terminating
13 General Telephone traffic then their cap should be for
14 reciprocal traffic from General -- it should be capped
15 at General's rate.

16 Q. So that would be an exception, then, to
17 your general proposal that the ALEC's interconnection
18 rates be nondiscriminatory; is that right?

19 A. No, no. Because for the traffic from any
20 company that was originated in what is a General
21 Telephone service area, the General Telephone rate
22 should be the cap for the ALEC, and for any carrier
23 serving the U S WEST service area, the U S WEST rate
24 should be the cap.

25 Q. You would agree, would you not, that at some

01441

1 point, if it's not happening already, that the ALECs
2 will be interconnecting local traffic between
3 themselves, right?

4 A. Yes. I thought that was the situation
5 we've already been talking about.

6 Q. I think we were just discussing ALECs and
7 LECs interconnecting. So let's assume Electric
8 Lightwave and TCG are interconnected and they're
9 passing local traffic. I assume that the ELI's
10 nondiscriminatory interconnection tariff rate would
11 apply to TCG; is that right?

12 A. Yes.

13 Q. But if the TCG traffic happens to occur in
14 GTE territory, then it would have the GTE capped rate
15 available to it whereas if it occurred in U S WEST
16 territory it would have the U S WEST capped rate
17 available to it? Have I got that right?

18 A. Mechanistically that's the way it sounds
19 like, yes.

20 Q. I believe -- if you need a reference I will
21 find it, but I believe you've also stated that
22 eventually at any rate the switched access rates paid
23 by interexchange carriers should be set at the same
24 level as the local interconnection rates; is that
25 right?

01442

1 A. Yes.

2 Q. So should the ALECs also have to file
3 switched access tariffs for the service they provide
4 to the interexchange carriers?

5 A. Yes. Although I'm aware that ALECs
6 categorized as competitive companies file what are
7 called price lists.

8 Q. Correct.

9 A. So I'm willing to use that term
10 interchangeably.

11 Q. Let's do that since I believe the current
12 state of affairs is it's some are competitively
13 classified and some are not, so with regard to those
14 switched access tariffs that an ALEC would file, then
15 those are the rates that AT&T would pay when it
16 originated or terminated a call involving an ALEC
17 customer; is that right?

18 A. Yes.

19 Q. Is it AT&T's position that the ALEC
20 switched access rates should be uniform throughout the
21 state of Washington?

22 A. I hadn't considered uniformity. We're so
23 used to paying different companies different rates in
24 different areas now the thought never occurred to me.

25 Q. Let's take Electric Lightwave. The same

01443

1 company that its price listed or tariff switched
2 access rate that AT&T would pay would be the same
3 anyplace in the state that AT&T encountered Electric
4 Lightwave?

5 A. I hadn't considered it.

6 Q. Well, let me give you a more specific
7 situation. Let's go back to the situation you had
8 with the local interconnection. Let's assume that
9 AT&T is terminating a call to an Electric Lightwave
10 customer in Seattle, which is currently U S WEST's
11 territory, and then let's contrast that with AT&T
12 terminating a call to an Electric Lightwave customer
13 in Everett, which is currently GTE territory. Should
14 AT&T pay Electric Lightwave the same terminating
15 switched access rate for both of those calls?

16 A. Not necessarily, but once again, I really
17 haven't thought about uniformity of access rates.

18 Q. So you didn't really have uniformity in this
19 sense in mind when you used the phrase
20 "nondiscriminatory"?

21 A. That is correct.

22 Q. Just a couple here. I think I'm just about
23 finished.

24 MR. POTTER: Those are all my questions.

25 Thank you.

01444

1 JUDGE ANDERL: MCI had given me an estimate
2 of cross. Ms. Weiske, do you have questions for this
3 witness?

4 MS. WEISKE: Yes.

5 JUDGE ANDERL: Grab the microphone.

6

7 CROSS-EXAMINATION

8 BY MS. WEISKE:

9 Q. Mr. Sumpster, my questions go to your
10 rebuttal testimony. My recall of that testimony is
11 that generally you put forth a solution of mutual
12 traffic exchange as a recommendation until real number
13 portability is implemented. Do you recall that
14 testimony?

15 A. Yes, I do.

16 Q. If traffic were in balance after real
17 number portability were implemented, would you still
18 be recommending a change to a mutual traffic exchange
19 solution?

20 A. While mutual compensation is still AT&T's
21 preferred solution, if as a factual matter traffic
22 were in balance bill and keep would be a reasonable
23 ongoing solution.

24 Q. And isn't it true that if traffic were in
25 balance bill and keep, as you just said, would be a

01445

1 reasonable solution because why incur the additional
2 costs of billing?

3 A. That is the logic, yes.

4 Q. And it would not make sense, then, from your
5 perspective to incur those additional costs as an
6 entrant?

7 A. That is correct.

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

9 JUDGE ANDERL: Thank you, Ms. Weiske.

10 Staff? Any of the other parties or intervenors?

11 Public counsel.

12 Mr. Potter.

13 MR. POTTER: I have a question prompted by

14 Ms. Weiske's cross if that's all right?

15 JUDGE ANDERL: Go ahead.

16

17 CROSS-EXAMINATION

18 BY MR. POTTER:

19 Q. Mr. Sumpster, do you have any idea how it
20 would be determined whether or not traffic was in
21 balance?

22 A. That would be a factual question that would
23 require some experience in measurement.

24 Q. So the traffic will have to be measured
25 under that scenario so it could be determined if it

01446

1 was in balance; is that right?

2 A. Yes. And that would be one of the purposes
3 of an interim period.

4 Q. Oh, I see. You're suggesting that you make
5 a balanced determination at some point and then that's
6 good indefinitely?

7 A. Nothing is good indefinitely in this
8 industry. That's a question that can be revisited if
9 the facts changed.

10 Q. How would we determine if the facts would
11 change?

12 A. Identifying the relative balance of traffic
13 after the fact is not all that difficult. Samples are
14 possible. One thing this industry does is measure
15 things pretty well. They've got traffic usage
16 recorders, boxes that you can carry to offices, plug
17 into circuits and keep track of what's going on. So,
18 after the fact studies of relative traffic volumes is
19 something that can be done.

20 Q. And if those studies determined that
21 traffic had been out of balance in this past period
22 then would it be your position that some compensation
23 ought to flow between the companies to make up for
24 that imbalance?

25 A. No. No. It's my position that whatever

01447

1 happens up to a point in time you may use that for
2 measurements but the purpose is to set rates for what
3 happens in the future.

4 Q. All right. So let's take an example. For
5 a year there's no charging between companies for
6 interconnection. At the end of the year studies are
7 done and it's determined that the traffic is out of
8 balance say 60/40 and it doesn't really matter which
9 direction it goes. So there would be no back billing,
10 so to speak, for that first year; is that right?

11 A. I wouldn't propose back billing.

12 Q. But then on a going forward basis, since it
13 would have been established that traffic was out of
14 balance, then you would implement the minute of use
15 charging system; is that right?

16 A. I would implement some charging system.
17 Minute of use is the most likely in my mind.

18 MR. POTTER: Thank you.

19 JUDGE ANDERL: Any further cross for this
20 witness? Any questions from the commissioners?

21 CHAIRMAN NELSON: Yes.

22

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

24 BY CHAIRMAN NELSON:

25 Q. Mr. Sumpster, at some point in your direct

01448

1 testimony you outline nine conditions. Dr. Harris for
2 U S WEST gave us his opinion on the state of reform in
3 Illinois. I'm wondering if any state in the union is
4 coming close to meeting your preferred nine
5 conditions?

6 A. No. There's a lot of movement in that
7 direction. This state certainly has moved
8 significantly in that direction, especially with
9 regards to things like franchise requirement, and the
10 fact that we're here today gives testimony to that.
11 But as far as AT&T is concerned this is still a big
12 experiment and in the states where there are
13 opportunities to participate, Chicago is one example,
14 Grand Rapids, Michigan is another, and of course
15 Rochester, we're just learning things, and we keep
16 discovering new things, surprises, that need to be
17 worked out. So in no state are we any farther along
18 than we are here in Washington.

19 Q. Triggered another question. Would you
20 recommend -- those are very city-specific. Would you
21 recommend pilot projects on a metropolitan area basis
22 or -- again, here, we have permitted entry on a state-
23 wide basis. I guess we could roll back the clock sort
24 of pilot project for a discrete city.

25 A. I don't think that's a problem. Even in

01449

1 the specific instances where it appears that the
2 experiment is city-specific, that wasn't the result of
3 regulatory fiat. That represents the behavior of the
4 market entrants, and at least in the case of
5 Ameritech's situation, the result of negotiations
6 between the party.

7 CHAIRMAN NELSON: Thank you.

8

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

10 BY COMMISSIONER HEMSTAD:

11 Q. My question was also focused on that list of
12 nine criteria. And these are generalized nationally,
13 not directly applied to the state of Washington, I take
14 it?

15 A. That is correct.

16 Q. In your first criterion includes
17 elimination of government policy that preclude or
18 burden entry by ALECs including certification
19 requirement. Are you aware of any constraints in this
20 state in the certification requirement?

21 A. No.

22 COMMISSIONER HEMSTAD: That's all I have.

23 COMMISSIONER GILLIS: I had a question as
24 well.

25

1 EXAMINATION

2 BY COMMISSIONER GILLIS:

3 Q. Would an interim local interconnection
4 tariff priced at zero, which I understand is your
5 proposal on an interim basis, would that provide
6 adequate certainty for a new entrant to make long-term
7 investments?

8 A. I think it would have to. The entrant is
9 -- I'm a little uncomfortable speaking for the
10 entrants, I'm sure they want to speak for themselves,
11 but they're faced with a market opportunity they can
12 figure out how many customers they may have an
13 opportunity to serve, and putting in place an access
14 -- putting in place a tariff structure that allows
15 them to order interconnection gives them some
16 certainty about at least the administration of their
17 interconnection.

18 Q. But, as I understand your proposal they
19 wouldn't actually know the costs they would be facing
20 and if the TS LRIC studies were completed for each of
21 the components of the unbundle loop.

22 A. That's true as an absolute matter, but
23 they're smart people and they have knowledge of
24 information about TS LRIC costs from other
25 jurisdictions and they can make estimates about what

01451

1 the most likely outcome of those studies would be.

2 Q. So your position is that you don't think
3 that would introduce more uncertainty to investors,
4 uncertainty associated with the fact that they really
5 would not know what their actual costs are going to
6 be. They're going to have to base it on knowledge of
7 what's happening in other settings?

8 A. You're absolutely correct in that it would
9 introduce more uncertainty. There's no question about
10 that.

11 Q. To the extent that it introduces more
12 uncertainty, could that in fact be a barrier to entry?

13 A. It depends, and in my mind what it depends
14 on is the order that comes out of this proceeding. If
15 it appears that the Commission would, for example,
16 order an interim period with a zero tariffed rate
17 followed by rates that are equal to access, then that,
18 to my mind, would create a barrier to entry.

19 Q. What I'm real interested in, I guess, is
20 how your proposal is an advance over I guess an
21 alternative proposal offered by some of just simply
22 pricing at TS LRIC or pricing at a different cost
23 structure. To the extent that it introduces
24 uncertainty and it's a barrier to entry, which you're
25 saying may or may not be the case, but to the extent

01452

1 that it is a barrier to entry I'm wondering if it might
2 have the opposite effect that you're suggesting in your
3 testimony, that you're suggesting that pricing it at
4 zero would actually be an incentive for the unincumbent
5 company to move ahead with providing cost studies that
6 would be as acceptable to the parties and the
7 Commission, and in fact to the extent it's a barrier
8 would it be possible that it would be a disincentive if
9 the incumbent in their evaluation were to determine
10 that a tariff structure established by this Commission,
11 which would have an interim basis to it, rather than I
12 guess a direction, with more uncertainty and more
13 uncertainty led to less investment, it might be in the
14 incumbent's interest to just stay with that
15 uncertainty?

16 A. That's correct. There is one aspect to
17 setting a rate right now, though, that was not
18 addressed while I was being cross-examined, and that is
19 the fact that the incumbent's residential local service
20 certainly is flat-rated and there is no charge for
21 incremental usage, and if the incumbent charged the new
22 entrants some finite amount for that interconnection,
23 then the new entrants have to incorporate that explicit
24 rate, that cash outflow into their calculation of
25 prices. It puts you in the position of having a price

01453

1 squeeze.

2 Q. One final question. Are you confident
3 enough in I guess the ability of companies, their
4 economists and other professionals to produce cost
5 studies on whatever basis that would be reflective of
6 this factual costing of components of either a bundled
7 or an unbundled loop?

8 A. As opposed to flim-flam cost studies or --

9 Q. No. I find a problem I guess of -- there
10 may not be any alternatives which is a different
11 question, but to the extent that there are other
12 alternatives, which I think couple of the parties in
13 this proceeding are suggesting there may be other ways
14 of looking at unbundling -- I mean of bill and keep is
15 an example of an arrangement where you don't worry
16 about the cost studies. But to have a, I guess, an
17 improvement you would need to have I guess some reason
18 to believe that the companies and their professionals
19 are able to produce information that is believable and
20 verifiable. I'm just asking do you believe that's a
21 reasonable technical possibility?

22 A. Yes, I do.

23 COMMISSIONER GILLIS: Thank you.

24 JUDGE ANDERL: Ms. Proctor, do you have
25 redirect for this witness and if so how much?

01454

1 MS. PROCTOR: Three short questions.

2 JUDGE ANDERL: Go ahead.

3

4 REDIRECT EXAMINATION

5 BY MS. PROCTOR:

6 Q. Mr. Sumpster, Mr. Owens was asking you some
7 questions about U S WEST's classification as a common
8 carrier in the context of providing an unbundled loop.
9 Do you remember that discussion?

10 A. Yes, I do.

11 Q. And I believe the discussion went that when
12 U S WEST provides an unbundled loop to an alternative
13 local exchange company that the alternative local
14 exchange company is its customer; is that correct?

15 MR. OWENS: That wasn't the question that I
16 asked him.

17 A. Could you repeat that, please.

18 Q. I think in the discussion either you or
19 Mr. Owens said that if U S WEST were providing an
20 unbundled loop to the ALEC that the ALEC would be U S
21 WEST's customer in that case.

22 MR. OWENS: That's not what I asked him.

23 JUDGE ANDERL: Her question is did either
24 you or the witness say that, so to the extent that you
25 didn't say it we'll let the witness answer it.

01455

1 A. I did say that.

2 Q. I'm sorry?

3 A. I did say that.

4 Q. And U S WEST in providing an unbundled loop
5 to the ALEC is providing a communications service, is
6 it not?

7 A. Yes, it is.

8 Q. And since it is providing a communications
9 service, would U S WEST be a common carrier, in your
10 understanding?

11 A. Yes, it would.

12 MS. PROCTOR: Thank you. That's all I have.

13 JUDGE ANDERL: Does this bring up recross,
14 Mr. Owens?

15 MR. OWENS: Yes.

16 JUDGE ANDERL: Let's go ahead and do that
17 after lunch. I want to find out -- let's be off the
18 record for our lunch recess. I want to find out about
19 the witness after this one.

20 (Luncheon recess taken at 12:10 p.m.)

21

22

23

24

25

01456

1

AFTERNOON SESSION

2

1:30 p.m.q

3

JUDGE ANDERL: Let's be back on the record
4 after our lunch recess. Before we took our lunch
5 break, Mr. Owens was going to begin his recross of Mr.
6 Sumpter. Go ahead.

7

MR. OWENS: Thank you, Your Honor.

8

9

REXCROSS-EXAMINATION

10 BY MR. OWENS:

11

Q. Good afternoon.

12

A. Good afternoon.

13

Q. Perhaps this is more in the nature of
14 clarification, but I believe in response to a question
15 from counsel for MCI you said that one purpose of the
16 interim period that you envisioned was to be able to
17 measure the relative traffic on the facilities. Did I
18 misunderstand you on that?

19

A. No, you did not, although I did not
20 originally propose that in my testimony.

21

Q. But to the extent the Commission were to
22 accept your recommendation for a bill and keep traffic
23 exchange regime during the interim what practical
24 function would the measurement perform?

25

A. As I recall, the questions I received

01457

1 regarding that issue had to do with whether or not the
2 relative balance of traffic between two companies
3 would be equal, whether or not the traffic would be in
4 balance. That's a factual question that's best
5 answered by experience.

6 Q. I believe in response to a question from
7 Commissioner Gillis with regard to studies of
8 incremental cost you indicated that there would not
9 necessarily be uncertainty during the interim about the
10 level of investment to make because the providers here
11 have knowledge of a TS LRIC cost study results from
12 other jurisdictions. Do you recall saying something
13 like that?

14 A. I recall saying something like that, yes.

15 Q. Okay. With that in mind, is it your
16 understanding that all of these jurisdictions would
17 necessarily require the same assumptions that this
18 Commission would require in such a study?

19 A. I don't mean this to sound like an elitist
20 answer, but the assumptions and the methods and the
21 procedures for performing a TS LRIC study are
22 independent of jurisdiction and independent of the
23 Commission. It is a matter of fact and I want to say
24 truth, but I mean there is such a thing as the TS LRIC
25 of a particular service and the purpose of a study is

01458

1 to find that TS LRIC cost.

2 Q. Finally, your counsel asked you in redirect
3 about whether or not by providing an unbundled loop
4 U S WEST would be performing a telecommunications
5 service for the carrier that used that loop. Do you
6 recall that?

7 A. Yes, I do.

8 Q. Now, you aren't a lawyer, I take it; is
9 that correct?

10 A. That is correct.

11 Q. And so to the extent whether a given act
12 such as providing a bare facility such as a loop
13 constitutes a telecommunications service involves a
14 legal opinion, you weren't purporting to give such an
15 opinion, I take it; is that right?

16 A. To the extent it requires a legal opinion,
17 I was not giving a legal opinion.

18 MR. OWENS: That's all. Thank you.

19 JUDGE ANDERL: Does any other party have
20 recross for this witness? Ms. Weiske.

21 MS. WEISKE: No.

22 JUDGE ANDERL: Any other questions for
23 Mr. Sumpster? Thank you, Mr. Sumpster, for your
24 testimony. You may step down.

25 THE WITNESS: Thank you.

01459

1 JUDGE ANDERL: Unless staff's witness
2 Selwyn is here yet, which I assume he is not, we will
3 go with AT&T's witness Vanmidde next. Let's be off
4 the record for a moment while she takes the stand.

5 (Recess.)

6 (Marked Exhibits T-111, 112, T-113.)

7 JUDGE ANDERL: Let's be back on the record.
8 While we were off the record Ms. van Midde took the
9 stand and we identified her prefiled direct testimony
10 as Exhibit T-111, her Exhibit PVM-1 is Exhibit 112 and
11 her prefiled rebuttal testimony is Exhibit T-113.

12 Whereupon,

13 PAT VAN MIDDE,
14 having been first duly sworn, was called as a
15 witness herein and was examined and testified as follows:

16 JUDGE ANDERL: Go ahead, Ms. Proctor.

17

18 DIRECT EXAMINATION

19 BY MS. PROCTOR:

20 Q. Would you please state your name and
21 address for the record?

22 A. My name is Pat van Midde. It is spelled
23 V A N M I D D E. My business address is 795 Folsom
24 Street, F O L S O M, San Francisco, California.

25 Q. And by whom are you employed and in what

01460

1 capacity?

2 A. I'm employed by AT&T and I'm a state
3 regulatory manager for the western region.

4 Q. And did you cause to be prepared and filed
5 in this docket direct testimony which has been marked
6 as Exhibit T-111 with Exhibit 112 consisting of one
7 page attached to it?

8 A. Yes.

9 Q. And did you also cause to be filed rebuttal
10 testimony which has been marked as Exhibit T-113?

11 A. Yes.

12 Q. And were those prepared under your
13 supervision and direction?

14 A. Yes.

15 Q. Do you have any corrections to make?

16 A. Yes. I have one on my rebuttal testimony.
17 Page 3 of 9, line 7. Actually line 8. The first
18 sentence starting at line 7 should -- after the word
19 "requests" should finish with "unbundled services,
20 period, and the balance of the sentence ending on line
21 9 should be deleted. Do you want me to read it?

22 Q. Yes.

23 A. It should now say starting at line 7:

24 "Answer: Yes. AT&T urges the Commission to
25 reject proposals that would require the new entrants to

01461

1 make requests for unbundled services." The words to be
2 deleted would be starting with "would be sufficient to
3 achieve the goal of effective competition."

4 Q. And with that correction, is your testimony
5 true and correct to the best of your knowledge?

6 A. Yes.

7 Q. And if I asked you these questions would
8 your answers be the same today?

9 A. Yes.

10 Q. I would move the admission of Exhibits
11 T-111, Exhibit 112 and Exhibit T-113.

12 JUDGE ANDERL: Is there any objection to
13 these exhibits from any party?

14 Hearing none, those three exhibits will be
15 admitted as identified.

16 (Admitted Exhibits T-111, 112, T-113.)

17 MS. PROCTOR: Witness is available for
18 cross-examination.

19 JUDGE ANDERL: Thank you. Mr. Owens.

20 MR. OWENS: Thank you, Your Honor.

21

22 CROSS-EXAMINATION

23 BY MR. OWENS:

24 Q. Good afternoon, Ms. van Midde.

25 A. Hello.

1 Q. Directing your attention to your direct
2 testimony, Exhibit T-111, page 2, line 23. Is it your
3 understanding that there are at least two functioning
4 providers of local exchange service in the city of
5 Seattle that are not either U S WEST or GTE Northwest
6 Incorporated?

7 A. My understanding is that there are two new
8 entrants in that area, yes.

9 Q. Directing your attention to page 3 of your
10 direct testimony beginning at line 5. Would you agree
11 with me that in any given case whether an investment
12 of capital is prohibitive will depend on the expected
13 return to be derived from that investment?

14 A. I believe that's true in any industry.

15 Q. Directing your attention to page 4 of your
16 direct testimony, line 32, you say that your basic
17 network functions are available almost exclusively
18 from the LEC. Can you identify which of the basic
19 network functions are available today from providers
20 other than the LEC?

21 A. I can think of one at the moment. I believe
22 US Intelco provides a hubbing for database. I'm not
23 completely familiar with it but I do believe they
24 provide that service.

25 Q. Is that the only one?

01463

1 A. It's the only one I can think of right now.

2 Q. It's your testimony that switching is not
3 available from any entity other than the LEC?

4 A. Can you be a little more specific regarding
5 switching?

6 Q. Well, the way you define it on page 5.

7 A. In today's environment the ubiquitous
8 provider of switching across the country at the local
9 level is the local exchange company, the incumbent
10 local exchange company. While there are some new
11 entrants who are attempting to enter that market, I
12 don't believe they're really there yet.

13 Q. Well, isn't it true that your company
14 manufactures switches?

15 A. And they sell them to local exchange
16 companies.

17 Q. And they sell them to putative entrants to
18 the local exchange markets, correct?

19 A. That's true.

20 Q. And there are other manufacturers of
21 switches besides your company; is that correct?

22 A. Yes.

23 Q. And so anybody with the capital to pay the
24 price for a switch can provide switching, correct?

25 A. I don't believe that necessarily answers

01464

1 the question that you asked me originally.

2 Q. Can you answer the question I asked you
3 just now?

4 A. Can you repeat the question, please.

5 Q. Anyone with the capital to pay the price
6 for a switch can provide switching?

7 A. I think the question is incomplete. If I
8 were to answer it in a positive way there would have
9 to be other things included in that. It's not my
10 understanding today that somebody can simply buy a
11 switch and start providing switched services to access
12 to interexchange carriers, that there are other things
13 they must do. They must come forward to the
14 Commission and also get approval from the Commissions
15 to provide that service.

16 Q. Well, let's assume for the purpose of
17 argument that anybody who can afford to buy a
18 telecommunications switch would be able to satisfy the
19 Commission's criteria as to their financial capability
20 to provide telecommunications service in the state of
21 Washington. What else are you aware of that would
22 prevent such an entity from providing switching?

23 A. Well, I think part of the questions that
24 need to be answered are the questions that we're
25 attempting to try and answer in this hearing.

01465

1 Q. Is the answer then that you don't know of
2 anything specifically?

3 A. That would prevent somebody from buying a
4 switch and providing switched services?

5 Q. Yes.

6 A. I thought I just named them. They have to
7 get approval from the Commission. It's not just simply
8 a money issue.

9 Q. Do you know of any other condition attached
10 to registration as a telecommunications company in
11 Washington besides a general showing of financial and
12 technical capability to provide the service?

13 A. I can't think of any other right now. That
14 doesn't mean that there aren't any others.

15 Q. Let's assume that an entity that could buy
16 a telecommunications switch could satisfy those two
17 criteria.

18 A. They would also have to provide facilities.

19 Q. What facilities?

20 A. Well, if they're going to provide switched
21 services to an interexchange carrier they have to
22 interconnect to the interexchange carrier.

23 Q. Would those include any of the other items
24 that you've listed as BNFs?

25 A. They would have to provide those

01466

1 functionalities also.

2 Q. So focusing solely on switching, if you
3 assume that those other things that you've identified
4 are available to them on reasonable terms and
5 conditions, is there anything else that you can
6 identify that would prevent an entity that could buy a
7 telecommunications switch from providing switching?

8 A. Them being a new entrant into the market?

9 Q. Yes.

10 A. And assuming that they have a switch and
11 that they can buy the rest of these components?

12 Q. Yes.

13 A. On an unbundled basis so that they only have
14 to buy the components that they need and supply the
15 components --

16 Q. For the purpose of this question assume
17 that whatever level of unbundling you specified in
18 your testimony for the BNFs would be available. Can
19 you think of anything else?

20 A. The and other conditions that we talked
21 about earlier.

22 Q. That they could satisfy the Commission's
23 criteria for financial capability and technical
24 expertise.

25 A. I can't think of any -- I can't think of

01467

1 any right now. That doesn't mean that there aren't
2 others.

3 Q. If you think of one, let me know. Now, on
4 page 11 of your direct testimony, line 11 --

5 A. You said page 11?

6 Q. Yes. You say, "an authorized local
7 exchange and competitor is entitled to the same quality
8 of interconnection as an adjacent service territory
9 incumbent would have." Now, is it your testimony,
10 Ms. van Midde, that U S WEST today provides the
11 facilities unbundled as you have described and the sub
12 BNF elements as you have described to any abutting or
13 adjoining local exchange company today?

14 A. It's my understanding that there are several
15 of the BNFs that I've described that are provided on an
16 interconnection basis between adjacent carriers, local
17 exchange carriers. I can name one as an example.
18 There is a link that goes from the local
19 exchange carrier's serving wire center to their STP, a
20 service transfer point. It's called an A link, and in
21 the configurations that I have seen there is usually an
22 A link that goes from, as an example, a GTE switch to
23 -- and in some cases can go to the same STP shared --
24 you would have an A link that goes from serving wire
25 center to the service transfer point, interconnect at a

01468

1 service transfer point port and then another A link
2 going, as an exam, to a U S WEST switch, as opposed to
3 both providers having an STP and what we would call a D
4 link going between the STPs. My statement here on page
5 11 was to say that if -- since that arrangement, as I
6 understand it, exists today between adjacent local
7 exchange companies when a new entrant enters, the same
8 convenience should also be available.

9 Q. Let's take on page 5. It's your testimony
10 that U S WEST provides unbundled loops and
11 disaggregated to the levels of distribution,
12 contribution and feeder to any independent local
13 exchange company today.

14 A. I believe what you're describing is BNF 1,
15 2 and 3?

16 Q. Right.

17 A. Those components have not been unbundled by
18 U S WEST nor tariffed by U S WEST and my understanding
19 is no, they're not providing those. I gave an example
20 of one that I was aware of, but my understanding is
21 that BNFs 1, 2 and 3 in U S WEST territory are not
22 unbundled nor are they available by tariff.

23 Q. On your example of dedicated transport
24 links, item 6, is it your understanding that the
25 current links between independent switching systems and

01469

1 U S WEST switching systems are jointly owned?

2 A. I'm not sure that they're jointly owned.

3 Q. Is it your understanding that one of the
4 two companies -- and it's not always the same one in
5 all circumstances -- owns the facility and allows the
6 other company to occupy part of it?

7 A. That's one of the arrangements I'm aware
8 of, yes. Let me clarify. You're referring to two
9 adjacent local exchange companies?

10 Q. Yes. And I take it it's not your testimony
11 that U S WEST today provides the nine sub BNF elements
12 for switching or the two sub elements for tandem
13 switching that you describe at pages 8 and 9 to any
14 independent company on the unbundled basis that you've
15 described today.; is that right?

16 A. That's correct.

17 Q. Is it your testimony that U S WEST today
18 records the sub BNF elements for switching and tandem
19 switching that you describe at page 8 and 9?

20 A. On an -- it is my understanding is that
21 there is no unbundling of those sub rate elements at
22 this particular point, that no carrier is providing
23 them on an unbundled basis. They are being recorded,
24 maybe not individually but they are an event on a
25 switch which occur and they're being recorded and

01470

1 lumped together as either a toll call or whatever.
2 Digit collection, as an example, is one of those things
3 that I've described here. Digit collection in the
4 switch is an event. It creates a call. It can be as
5 simple as collecting the 10 digits and processing a
6 toll call of some type. It can also mean that you
7 collect the digits for an 800 call which starts another
8 process. The call is held in queue while the lookup is
9 done to see who the appropriate carrier is so that the
10 call can be sent and processed correctly. It's not --
11 digit collection is not separately identified as a
12 component of the call, but it certainly happens.

13 Q. What kind of a call would be involved which
14 did not require digit analysis?

15 A. At this point I can't think of a call that
16 wouldn't require digit analysis.

17 Q. If the serving vehicle for a particular
18 exchange was an AT&T 5ESS switch, do you know whether
19 that switch would be capable without modification of
20 recording and generating billing information for the
21 switching and tandem switching sub elements you
22 identified?

23 A. My understanding is that it would take some
24 modification.

25 Q. At page 2.

01471

1 MS. PROCTOR: Of which testimony?

2 Q. Of the direct testimony, T-111, beginning
3 at line 25 you say they -- referring to U S WEST, GTE
4 and the other LECs -- provide the means by which IXCs
5 obtain virtually all of their access to end users.
6 Now, you say virtually all. Would that qualification
7 be in there to recognize the fact that AT&T provides
8 access to large business customers by means of a
9 direct connection to the AT&T switch?

10 A. We have some services where we provided
11 dedicated link to our switch to provide services.
12 That's a true statement, yes.

13 Q. Going back to page 8 of the direct, I would
14 like to ask you about this ISDN user part signal
15 generation. This is as you describe it, generation and
16 transmission of an out of band signaling message.

17 Now, what I correctly understand is that
18 this message could be used at all or some of the
19 phases of setup, completion or take-down of an
20 interswitch call?

21 A. It's used in all of those phases.

22 Q. But it's a different message each time; is
23 that right?

24 A. I don't know the answer to that part.

25 Q. Well, I mean, if we were to adopt your --

01472

1 if the Commission were to adopt your proposal to
2 require that this item be separately tariffed, billed
3 and recorded, would we be recording three messages per
4 call or would we count them as they occurred?

5 A. You mean the ISUP messages?

6 Q. Yes.

7 A. You would have one event and my belief is
8 that's what you would record, one event.

9 Q. One event being the generation and
10 transmission of one message?

11 A. Yes.

12 Q. And that would occur at setup?

13 A. Setup and completion.

14 Q. And what about take-down? Would that be a
15 separate message, separate event?

16 A. No. It's one event.

17 Q. Before I forget it there were a couple of
18 questions that were deferred to you by Mr. Sumpster. I
19 presume you were in the hearing room when he testified.

20 A. I was out of the hearing room for about 30
21 minutes and when I was here I didn't hear him defer
22 anything to me. Thanks, John.

23 Q. Let me represent to you that I asked him a
24 question about the proposal for unbundled loops and
25 unbundled ports that AT&T is now advocating and that

01473

1 the port is charged for on a flat rate. Are you
2 familiar with that? He indicated that you should be
3 examined on that.

4 MR. PROCTOR: Mr. Owens, could you direct us
5 to a part of the testimony?

6 Q. I can ask the witness is it AT&T's proposal
7 that switching be provided on an unbundled flat basis
8 per port?

9 A. Switching for what?

10 Q. Switching as --

11 MS. PROCTOR: I'm sorry, are you not going
12 to direct us to a part of the testimony as I asked?

13 JUDGE ANDERL: I think he was going to ask
14 the question in a different way.

15 MR. OWENS: Yes.

16 A. There's really two things there, and in the
17 absence of not knowing where in my testimony to look,
18 I would have to go back and restate what you've asked.
19 AT&T in other jurisdictions in conjunction with new
20 entrants, as an example in Ameritech's case, has
21 initially supported the disaggregation of the loop,
22 basic exchange loop, and the port as a means for entry
23 into a local exchange marketplace. Are you referring
24 to that?

25 Q. Is that consistent with your recommendation

01474

1 in this case?

2 A. It's not anywhere in my testimony in this
3 case. What we've suggested in this case is the
4 unbundling as you will see and we've talked about
5 already, of the BNF 1, 2 and 3.

6 Q. So what would be the basis of pricing a BNF
7 No. 4 switching?

8 A. Switching is the switch.

9 Q. But what would be the basis of pricing what
10 you're advocating for this tariffed element that
11 you're recommending U S WEST be required to provide?
12 Would it be a flat rate or would it be a usage rate?

13 A. It could be a combination or it could be a
14 usage rate or it could be a flat rate, a simple flat
15 rate.

16 Q. What's AT&T's recommendation to the
17 Commission?

18 A. AT&T's recommendation to the Commission for
19 switching is that the event that occurs in a switch,
20 whether it can switched access, which is one event,
21 how do you get the call from the switch to another
22 switch or inside the switch -- should probably be based
23 on a minute of use basis.

24 The connection, the plug-in, the point of
25 interface in the switch should be a flat rate. They

01475

1 are two different things. You have to have a point of
2 interface to plug into the switch and you have an event
3 when you're inside the switch. Now, there's also the
4 possibility that you don't use switching internal to
5 the switch and when that happens you have no switched
6 costs and you should pay no switching price.

7 Q. Let's assume that you do use switching.
8 What would be the basis of the pricing of the
9 connection element?

10 A. Well, there are many different cases when
11 you have switching. You have an end user service that
12 is a retail service, a toll call. You have a rate for
13 that.

14 Q. With regard to your proposal for
15 unbundling, am I correct in understanding that U S
16 WEST should be required under your proposal to
17 unbundle the connection to the port as well as the
18 charge for the event?

19 A. Yes.

20 Q. So what would be the basis of the pricing
21 of the connection to the port that U S WEST should be
22 required to unbundle and separately tariff?

23 A. The basing for the pricing?

24 Q. Yes.

25 A. It should be a cost-based rate element

01476

1 based on TS LRIC.

2 Q. Good, good. We're getting there. Now, on
3 the event, what's the basis that you recommend U S WEST
4 be required to price the event on? You said the
5 switching is comprised of two elements, the connection
6 and the event. So what should the tariff price for
7 the event be based on?

8 A. TS LRIC.

9 Q. Okay. And further, Mr. Sumpter deferred to
10 you the question of the appropriate basis to price the
11 unbundled loop facility, and would your answer be the
12 same as the last two questions that you've answered
13 with regard to AT&T's recommendation for that?

14 A. Cost-based pricing TS LRIC.

15 Q. So in your view would it be likely that the
16 combination of the unbundled loop, the connection and
17 the event would be significantly less than the U S
18 WEST retail tariff for a local exchange service?

19 MS. PROCTOR: Objection, no foundation.

20 A. I have no idea.

21 JUDGE ANDERL: Mr. Owens, you will have to
22 lay some additional foundation if you want to pursue
23 that.

24 A. And --

25 JUDGE ANDERL: That's okay.

01477

1 THE WITNESS: Thanks.

2 Q. You have no knowledge of the level of TS
3 LRIC costs for any switching functions from reviewing
4 any of U S WEST's studies?

5 A. I haven't reviewed U S WEST's studies.

6 Q. So at page 13 --

7 A. Of my direct?

8 Q. -- of your direct beginning at line 20 when
9 you say, "However, today's carrier compensation on
10 current LEC tariffed intrastate access rates fails to
11 acknowledge that compensation at existing access rate
12 levels may make it difficult or impossible for new
13 exchange providers to compete," you're not expressing
14 any opinion about the relationship of current
15 intrastate access rates to what you advocate which is
16 TS LRIC?

17 A. Say the question again.

18 Q. When you express your opinion that basing
19 carrier compensation on current tariffed access rates
20 may make it impossible for new exchange providers to
21 compete, you're not expressing any opinion on the
22 relationship between current intrastate access rates
23 and what you advocate which is TS LRIC; is that
24 correct?

25 A. I believe that I am stating an opinion, a

01478

1 generic opinion, between the access rates and TS LRIC,
2 and to the degree that I have read Barbara Wilcox's
3 testimony, in the absence of reviewing U S WEST's work
4 papers or cost studies, I believe that she also
5 acknowledges that there is significant markup or
6 contribution in the access rates that U S WEST has
7 today.

8 Q. But you have no opinion as to whether or
9 not a retail customer if unbundling were required to
10 the extent that you recommend could assemble the
11 equivalent of a retail service at a significant cost
12 savings compared to the existing retail rate?

13 MS. PROCTOR: Objection. There's still no
14 foundation.

15 MR. OWENS: Well, I just established that
16 she has read Dr. Wilcox's testimony. She's expressed
17 an opinion about the markup in the access tariffs over
18 costs so we've got one leg of the comparison. I'm
19 simply asking her if she has an opinion on the other
20 leg. She can answer she doesn't know.

21 JUDGE ANDERL: I think -- okay. The
22 objection is overruled. I will allow the question.

23 A. Would you restate the question.

24 Q. You have no opinion on whether a retail
25 customer, if unbundling is prescribed the way you've

01479

1 recommended and priced at TS LRIC, could assemble the
2 equivalent of a retail local exchange service at a
3 significant cost saving compared to U S WEST's
4 existing retail rate?

5 A. I think you misspoke. I think you meant to
6 say that, the last part, the retail rate of the new
7 service provided by a new entrant, but you meant the
8 new entrant.

9 Q. No, no. I'm saying AT&T's also recommended
10 -- I believe this is in Mr. Sumpter's testimony --
11 abolition of any use and user restrictions especially
12 on resale. And so I'm asking you, if any restriction
13 against a particular user using a particular kind of
14 service were abolished and services were unbundled the
15 way you recommend and priced at TS LRIC, would it be
16 possible for an end user, a retail customer, to
17 assemble out of this unbundled service the tariff of
18 the equivalent of what that customer would buy from the
19 retail tariff and save a lot of money?

20 A. I had never envisioned that an end user
21 would assemble the unbundled components.

22 Q. So you, like Mr. Sumpter, assume that there
23 is one at least good, kind end user restriction?

24 A. That's not what I said. What I said is I
25 had never thought of it that way.

1 MS. PROCTOR: I would also note that that
2 was not Mr. Sumpter's ultimate testimony.

3 MR. OWENS: I guess the record will speak
4 for itself.

5 JUDGE ANDERL: I guess so.

6 Q. Now let's take your example of the new
7 entrant. Would I be correct in assuming that with
8 your 11 elements, at least to start with, that a
9 company could provide an end-to-end communication
10 service using only U S WEST facilities and services?

11 A. Well, first I find your question unclear.

12 Q. I'm sorry. You've asked that U S WEST be
13 required to unbundle services into these 11 elements,
14 correct?

15 A. The way we stated it is that the local
16 exchange network should be unbundled into the 11 basic
17 network functions. The 11 BNFs, in fact, make up the
18 component necessary to provide local service. That's
19 what they are.

20 Q. So to the extent that the other part of
21 your recommendation is that U S WEST be required to
22 sell these services at no higher than TS LRIC --

23 A. Is that what I said?

24 Q. Well, let me back up. Is that your
25 recommendation?

01481

1 A. My recommendation is that they be cost-based
2 priced and that the costs basis be TS LRIC.

3 Q. Well, so then, you're not requesting that
4 the Commission require that cost -- or that TS LRIC
5 equal price; is that right?

6 A. I'm not the economist for AT&T so I'm not
7 in a position to state our economic position. That
8 should be to Don Buorgo who is our economic witness.

9 Q. Luckily he comes after you in the witness
10 lineup. Now I would like to ask you another question
11 or two about your proposal that switching be treated
12 in the fashion that you recommend. You recommend this
13 because you contend that switching is a basic monopoly
14 function; is that right?

15 A. It's a -- yes.

16 Q. We've already gone through the conditions
17 under which somebody else might provide switching and
18 I won't belabor that point, but I wanted to ask you, do
19 you know whether or not switches come in specific
20 minimum sizes in terms of their capacity?

21 A. My understanding is switches come in sizes.

22 Q. And that within a given classification
23 nobody can buy a switch smaller than the smallest
24 minimum size that's available on the market to
25 everybody; is that right?

01482

1 A. Yeah, but I mean a switch to an end user
2 comes in two line sizes.

3 Q. But I'm talking about somebody who wants to
4 become a telecommunications company?

5 A. You're talking about a serving wire
6 center --

7 Q. Yes.

8 A. -- switch.

9 Q. One of the new entrants, who wants to be a
10 telecommunications company, they would be faced with
11 the same minimum size that U S WEST would be faced
12 with if it wanted to equip a central office?

13 A. Yes.

14 Q. Under the proposal to unbundle switching,
15 isn't it true that an entrant could implement an entry
16 strategy to serve a smaller market and thereby acquire
17 a smaller capacity of switching than the minimum size
18 available on the market to everybody else?

19 A. I was unaware that there's any
20 discrimination in the switching market. It's a highly
21 competitive market.

22 Q. Perhaps you didn't understand my question?

23 A. Maybe that's it.

24 Q. You've asked that U S WEST be required to
25 unbundle switching on the basis of a connection per

01483

1 line to the port and so much per event, correct?

2 A. Okay.

3 Q. And in that situation the new entrant who
4 buys that to be tariffed service from U S WEST would
5 not be investing any capital for the acquisition of a
6 switching capability; is that right?

7 A. You're suggesting, I think, that a new
8 entrant would buy the unbundled loop and the unbundled
9 switching and then provide service?

10 Q. Yes, let's assume that.

11 A. Without buying a switch.

12 Q. Is that possible?

13 A. It's called resale.

14 Q. So they could do that?

15 A. Yeah. If the use and user restrictions are
16 lifted from the incumbent's tariff then they could
17 resale but that's not facilities-based competition.

18 Q. And would such a reseller be able to
19 increment the switching capability that that entity
20 used in smaller chunks than would be available on the
21 open market if that entity instead had to buy a
22 switch?

23 A. I quite frankly don't understand your
24 question. I think you're suggesting that an entrant
25 could buy a smaller switch than would be available to

01484

1 you?

2 Q. No, no.

3 A. I truly don't understand the question.

4 Q. An entrant by buying the unbundled
5 switching capability that you're proposing U S WEST be
6 required to make available could increment its
7 effective switching capability in smaller modules than
8 are available on the open market if it chose instead
9 to be a facilities-based carrier?

10 A. Yes. A new entrant could be a combination
11 facilities-based provider and a reseller of the
12 incumbent's service. Would that be effective? I have
13 no idea.

14 Q. At page 9 of your direct testimony
15 beginning at line 24 you state that "interconnection
16 must include equal access to all associated
17 intelligence and support functions, for example,
18 operation, administration, maintenance and provision."
19 Now, are you talking there when you say intelligence
20 and support functions the mechanized systems that U S
21 WEST today uses to perform those general categories of
22 telecommunications service?

23 A. Yes, on an automated basis this same
24 capability that exists when U S WEST processes an
25 order for itself for its own end users.

01485

1 Q. Is it possible under such an arrangement
2 for a new entrant to engage in slamming?

3 A. I have no idea.

4 Q. Well, by definition if, as you stated, the
5 entrant would have the same access to the service
6 order process that U S WEST does, wouldn't that
7 entrant have the capability to transfer customers from
8 U S WEST to itself without having to talk to a U S
9 WEST service person first?

10 A. Well, let me --

11 Q. Can you answer yes or no?

12 A. I can't answer yes or no.

13 Q. That's fine. That's fine. We'll go on.

14 A. I'm not going to. Thanks.

15 Q. You don't know that that would not be
16 possible, though?

17 A. Well, it happens today in the interexchange
18 market.

19 Q. That's a great argument for what you're
20 proposing, isn't it?

21 A. Well, let me explain. I mean, you asked
22 the question so let me explain. We have both a manual
23 process and an automated process, and we also have
24 third party verification and slamming still occurs,
25 but we have, you know, that in every industry in this

01486

1 country. There are going to be people that are going
2 to do things that are wrong, and you put the processes
3 in place that best protect the customers, but you
4 don't simply foreclose the opportunity to allow
5 competition to occur.

6 Q. So what processes should we put in place to
7 prevent slamming if your recommendation is followed?

8 A. Well, for the automated processes similar
9 to the automated processes that we have in place today
10 in the interexchange market for carrier -- to pick
11 primary interchange carrier, it requires third party
12 verification. You could put the same process in place
13 at the local level to insure that customers are not
14 moved when in fact they haven't authorized.

15 Q. Are you certain that that can be put into
16 U S WEST's mechanized programs? Have you investigated
17 it?

18 A. I have not investigated it but the third
19 party verification exists in U S WEST's process today
20 for interexchange carriers. I don't know how
21 difficult it would be to port it to a local event.
22 But we have a history. I mean, we have something to
23 go by.

24 Q. What about maintenance? Would it be
25 possible under your proposal for a new entrant to

01487

1 enter orders requiring that U S WEST's service
2 personnel be dispatched to clear trouble on the new
3 entrant's facilities first?

4 A. Instead of?

5 Q. Instead of in whatever order they came in
6 the door.

7 A. If a mechanized process were put in place
8 that insured it was a first come/first serve basis,
9 that would be fair. The difficulty and the experience
10 that has occurred on behalf of AT&T in our Rochester
11 trial is that there is no way to audit first/first
12 serve when they are processed manually.

13 Q. So is the answer you don't know to the
14 question I asked?

15 A. I don't know. I know what our experience
16 has been.

17 Q. With regard to fixing trouble, are you
18 aware of whether or not the alternative exchange
19 carriers would be responsible to the Commission for
20 incidents of trouble reports and rapidity with which
21 those are cleared?

22 A. No.

23 Q. You have no doubt that U S WEST is?

24 A. I don't know what the rules are in
25 Washington.

01488

1 Q. Before we go into that, you say that
2 interconnection must include equal access to all
3 associated intelligence and support functions.

4 A. I say that --

5 Q. On page 9 of your direct. Would that
6 include things like the database that records the
7 physical usage of all of the U S WEST facilities
8 showing where there are available facilities and where
9 there aren't?

10 A. No. That's not intended in there.

11 Q. Wouldn't that be part of provisioning?

12 A. It is part of provisioning. To the degree
13 that an order is input into U S WEST's system for
14 processing. It does not necessarily mean that you
15 allow direct access to capacity limitations associated
16 with a particular entrance into a building. But you
17 wouldn't foreclose the opportunity to enter an order
18 requesting provisioning of service to a particular
19 building.

20 Q. And would I be correct then that the entry
21 of these orders into the provisioning mechanized
22 support function would have the effect of actually
23 dispatching U S WEST employees indirectly?

24 A. That could be one of the scenarios that a
25 U S WEST employee would go and provision the service at

1 a particular location.

2 Q. On page 11 you talk about "If the incumbent
3 LEC has any advance notice or additional information
4 about network plans or services that is not afforded
5 to other providers in the same manner competition will
6 be distorted."

7 MS. PROCTOR: I'm sorry, Mr. Owens, where is
8 that?

9 MR. OWENS: Page 11, beginning at line 20.

10 MS. PROCTOR: Thank you.

11 MR. OWENS: You're welcome.

12 Q. Now, that's a very broad statement. Is it
13 your testimony that there is no information about new
14 services that would be competitive in nature and that
15 the incumbent LEC would have the right to deploy on
16 its own schedule without notifying its competitors
17 first?

18 A. What was attempted to be addressed in that
19 statement is not necessarily a particular service, but
20 as an example the deployment of advanced intelligent
21 network across a switching environment that the
22 incumbent has, the BellCorp triggers associated with
23 advanced intelligent network. As they're done today
24 it's public information. If that was closed and
25 competition were to attempt to try and find out what

01490

1 was going on and they couldn't, that's the problem we
2 wanted to make sure didn't happen.

3 Q. Were you aware of whether or not the
4 modification of final judgment imposes requirement on
5 U S WEST with regard to disclosure of specific types
6 of technical network information?

7 A. I'm not an MFJ specialist.

8 Q. To the extent there is such a requirement
9 then, you don't think that this Commission could
10 affect it one way or another; is that correct?

11 A. I think that's a legal question. I am not
12 a lawyer.

13 Q. I wanted to ask you about a proposal for
14 unbundled loops, and referring to your Exhibit 112 if
15 you can help me understand this a little bit. At the
16 left side of the diagram you have an array of what you
17 would characterized as distribution and would I
18 correctly understand that that would be the wires that
19 go to the individual subscriber premises?

20 A. Yes.

21 Q. And then there's a box called C O N C which
22 I guess stands for concentrator?

23 A. That's correct.

24 Q. And then a horizontal line called feeder
25 which terminates at the switch; is that right?

01491

1 A. Correct.

2 Q. And the concentrator I think as you
3 described would be a multiplexer type of facility?

4 A. Yes.

5 Q. So there would be another multiplexer at
6 the other end in the box that you have designated for
7 the switch perhaps?

8 A. Perhaps.

9 Q. So that you -- and were you envisioning,
10 for example, a DS1 type facility to be the feeder?

11 A. DS1, most likely DS3.

12 Q. And we heard earlier in the case that DS1
13 would be 24 voice grade equivalent channels and DS3
14 would be 672. Does that sound right?

15 A. That sounds right.

16 Q. Okay. So let's -- would we correctly
17 assume let's say if we had a DS3 that one possible
18 environment in which that would be working is that you
19 had 672 customers with access lines out to the left
20 side that feed into that concentrator; is that right?

21 A. If you had a one for one ratio, yes.

22 Q. Under what circumstances would you not have
23 a one for one ratio?

24 A. A lot of times you engineer for one call
25 block out of 100 in a busy hour environment so you

01492

1 don't necessarily have to have a one for one.

2 Q. So you got some spare capacity in the
3 feeder? Is that the net effect of engineering for your
4 call block requirement?

5 A. Yes.

6 Q. Now, one of your proposals for this
7 unbundling is that, if I understood you, the
8 alternative exchange carrier would have the right to
9 self provision any of these elements 1, 2 or 3 on your
10 diagram; is that right?

11 A. Yes.

12 Q. So let's assume that the alternative
13 exchange carrier has signed up customers with 100
14 access lines on the left side of the diagram and that
15 there are -- allowing for the engineering with spare
16 capacity -- 400 other customers whose access lines are
17 riding on that feeder but who are U S WEST customers.
18 Do you have that hypothetical?

19 A. So from the switch to the distribution to
20 the end user today that's all U S WEST?

21 Q. Right. And that the local -- or the
22 alternative exchange carrier signs up a hundred of
23 those customers?

24 A. Okay.

25 Q. Now, is the effect of your proposal that

01493

1 the alternative exchange carrier be allowed to self
2 provision the feeder that carries the combined traffic?

3 A. The proposal that we've made is that the
4 loop, which would be 1, 2 and 3 bundled, be unbundled
5 so that an entrant can interconnect on there as they
6 are capable of interconnecting. If they have the
7 capability to provide their own switching mechanism
8 and they are close to the concentrator maybe it would
9 be best for them to interconnect at the concentrator as
10 opposed to interconnecting at the switch.

11 Q. So, you are not envisioning a situation,
12 then, such as I asked in my question, that is, where
13 individual piece parts would be separated out but that
14 traffic that was not all that destined to the
15 alternative exchange carrier would ride on that piece
16 part facility?

17 A. I was not envisioning it as you described
18 it, no.

19 Q. Let's take your assumption where if I
20 understood your answer let's say that the alternative
21 exchange carrier is providing the switching, item 4.

22 A. Okay.

23 Q. And U S WEST is providing the loops, item 1
24 -- that is, the distribution item 1 -- and the
25 concentrator, and the alternative exchange carrier is

01494

1 also providing the feeder. Correct? That's one
2 possible outcome under your approach?

3 A. Yes.

4 Q. Under your approach who takes
5 responsibility for the end-to-end service to the
6 customer?

7 A. You mean who is the -- the likely scenario
8 is that the new entrant is purchasing from U S WEST
9 components 1 and 2 and branding the entire end-to-end
10 service as theirs, that it is their end user customer.

11 Q. In case of trouble, let's assume that
12 there's a circuit that doesn't work?

13 A. Happens.

14 Q. Happens. Who goes out and tests under that
15 hypothetical that I asked you to assume?

16 A. There are any number of ways that the
17 circuit could be tested. It could be tested in an
18 automated fashion if this -- and assuming that you had
19 the type of digital facility in place where you could --
20 the ALEC in fact, the new entrant, could test down to
21 the end user, even in this scenario. As an
22 interexchange carrier it's also possible to test all
23 the way down when you purchase an access link, you can
24 test all the way in a digital environment. So --

25 Q. So the digital environment will tell you

01495

1 that the problem is in the concentrator and not in the
2 distribution or that it's in the concentrator --

3 A. It can tell you where it's not. A digital
4 line can tell you where it is not, and you would
5 probably have to deploy a technician to -- if as an
6 example having the experience at this, I will do it
7 based on experience. If as an example you have a line
8 that's gone bad for a residence customer and you can't
9 tell which side of the concentrator it's on but you
10 know it's on the concentrator, you would have to deploy
11 a technician in addition to clear it, but you would
12 know through the testing mechanism that it is at the
13 concentrator. Now, I'm not sure that answered your
14 question. I think you wanted to know whose technician
15 would go.

16 Q. Yes, among other things, I wanted to know
17 that?

18 A. Well, based on AT&T's experience in
19 Rochester we, as a reseller of service, would prefer
20 to send our own technicians to clear the trouble, but
21 that process hasn't been worked out, and so what we
22 have is Rochester sending their technicians to
23 customers who are buying service end to end from AT&T.
24 It's a very uncomfortable situation.

25 Q. Now, are you aware of whether or not U S

01496

1 WEST today has mechanized systems that allow remote
2 testing of loops all the way to the network interface?

3 A. From an AT&T perspective as an interchange
4 carrier we buy what we call extended super frame, which
5 is a digital link, access, and it gives us the
6 capability to test all the way down to the end user in
7 what we call a nondisruptive fashion. We do not have
8 to put the customer out of service in order to test
9 the line. It also gives us the capability to check
10 alarms prior to the line going out of service.

11 Q. Now, under the scenario that we've been
12 talking about where, let's say, U S WEST owns the
13 boxes or items 1 and 2 and the alternative exchange
14 carrier is self-provisioning 3 and 4 and some of the
15 other elements that you recommended. By definition,
16 then, U S WEST would no longer have an electrical or
17 optical connection to that concentrator that would
18 allow it to test those lines; is that right?

19 A. That's correct.

20 Q. And so in the event of trouble testing and
21 correcting that trouble would require a manual
22 deployment of that technician outside to the
23 concentrator in the distribution facility?

24 A. If the call went to U S WEST, but the ALEC,
25 or the new entrant, if they -- they would have the

01497

1 capability through the optical piece if they're
2 interconnecting at the concentrator with an optical
3 connection and so on they would be able to test.

4 Q. And so your scenario would be that the
5 alternative exchange carrier would perform the repairs
6 on the facilities items 1 and 2?

7 A. They would be able to test. I thought I
8 had answered the question earlier about the repairs.

9 Q. Well, you indicated that you felt
10 uncomfortable with the experience you had in
11 Rochester. I'm just asking you what you envision in
12 Washington under the scenario that we've been
13 discussing?

14 A. The preference is that a generic technician
15 would fix the trouble, and the reason for that is that
16 if customers are buying from a new entrant a component
17 -- if the new entrant is buying component such as 1
18 and 2 from U S WEST and then packaging it with their
19 service, the feeder, the switch and so on, and a U S
20 WEST technician goes out to repair a trouble and that's
21 what the customer sees, it creates confusion.

22 Q. So I want to take both pieces of that now.
23 A generic technician --

24 A. One that doesn't have a U S WEST logo on.

25 Q. Would the generic technician have the AEC

01498

1 logo on?

2 A. Could. I mean, we could put magnets on the
3 doors and have them changed.

4 Q. Well, whose employee would you suggest this
5 generic technician be?

6 A. There are two issues here. There's end
7 user customer perception and then there's convenience.
8 A new entrant, it's possible, may want to contract
9 with U S WEST to clear the trouble, but if U S WEST
10 goes out in their uniform with their trucks and their
11 logos and their business cards, it doesn't send the
12 right message necessarily to the end user customer of
13 the new entrant.

14 Q. So what do you propose? I still haven't
15 heard an answer to that question. You've told me
16 what's difficult. What does AT&T propose?

17 A. AT&T proposes, I think -- let me back up
18 for a second. The ideal situation is that the new
19 entrants and the incumbent would negotiate the
20 appropriate environment for their relationship, but
21 that it's not always the incumbent's technicians that
22 go.

23 Q. Even though it's the incumbent's property?

24 A. That's right.

25 Q. Are you aware of whether or not any

01499

1 requirement that employees other than U S WEST
2 technicians' work on repairing U S WEST trouble --
3 that is property -- trouble on U S WEST facilities --
4 would require any provisions of any collective
5 bargaining agreement that U S WEST has with its
6 employees?

7 A. I have no idea.

8 Q. Would that be of a concern to you?

9 A. I'm sure it would enter into the
10 negotiations between U S WEST and the new entrant.

11 Q. Do you have any new entrant that is a union
12 company?

13 A. I don't know the make-up of the new entrant.

14 Q. Don't you know that they're all nonunion?

15 A. No, I don't know that.

16 Q. Do you think it's likely if they were
17 nonunion that that would cause problems with the U S
18 WEST collective bargaining agreement?

19 MS. PROCTOR: Excuse me, Your Honor. I
20 don't see any basis in the record for this line of
21 questioning. The witness has already indicated she's
22 not familiar --

23 MR. OWENS: I'll withdraw it.

24 Q. Let's talk about the physical aspects of
25 this unbundled interconnection proposal. Would I

01500

1 correctly understand that one possible scenario that
2 you have in mind would be that the alternative
3 exchange carrier would run its wire up to the U S WEST
4 pedestal and interconnect with the distribution
5 facility at the pedestal?

6 A. Yeah. I thought that's what we were
7 talking about.

8 Q. Okay. And so that would involve taking the
9 cover off the pedestal and we're talking about one of
10 those things that's about three feet high and six
11 inches square; is that right?

12 A. Some of them, yes.

13 Q. And they're all filled with wires, right?

14 A. Uh-huh.

15 Q. Well, would a U S WEST employee be involved
16 in snipping the existing connection and hooking up the
17 alternative exchange carrier's connection to make sure
18 they got the right wire?

19 A. I don't know.

20 Q. Now, the Washington Commission has some
21 rules that establish design criteria for facilities
22 including loops; is that right?

23 A. The Washington Commission has what?

24 Q. The Washington Utilities and Transportation
25 Commission, WAC 480-120-515?

01501

1 A. I'm not familiar with that rule.

2 Q. So you're not aware of whether there are
3 requirements for end-to-end loop parameters such as
4 external loop resistance, circuit noise objective,
5 transmission loss to the subscriber network interface.
6 Are you aware of any of those things?

7 A. No.

8 Q. Under the scenario that we've been
9 examining where the loop is provided by two entities,
10 who takes responsibility for meeting the end-to-end
11 design criteria for the outside plant?

12 A. I haven't necessarily gone through that
13 whole scenario.

14 Q. The Commission also has rules or a rule on
15 major outages and service interruption, WAC
16 480-120-520.

17 MS. PROCTOR: Mr. Owens, I think the
18 witness has already indicated that she's not familiar
19 with the Washington rules.

20 MR. OWENS: I'm asking her to accept that
21 there is such a rule. It's a different rule.

22 JUDGE ANDERL: I will allow the question.
23 Bearing in mind, Mr. Owens, that she's subsequently
24 not familiar with it after you describe it, if the
25 questions are going to be limited.

01502

1 MR. OWENS: Thank you, Your Honor.

2 Q. Would you accept subject to check that the
3 Commission does have a rule requiring each local
4 exchange company to make reasonable provisions to
5 minimize the effects of major outages resulting from a
6 number of different causes. Do you recall that or can
7 you accept that?

8 A. Subject to check.

9 Q. Again, who takes responsibility for
10 responding on an end-to-end basis to a condition of
11 service outage caused by acts of God or some other
12 cause that's abnormal under your -- under this scenario
13 that we examined for the last half hour or so?

14 A. I haven't spent a great deal of time
15 thinking about the question you've posed.

16 Q. I'm going to ask you to accept subject to
17 check that the Commission has another rule, WAC
18 480-120-525, network maintenance which contains some
19 requirement for trouble reports. Would your answer be
20 the same if I asked you who takes responsibility for
21 the reporting to the Commission and the resolution of
22 trouble reports on this divided network that we've
23 talked about for the last half hour?

24 A. Same answer as my one before.

25 Q. Yes.

01503

1 A. Yes.

2 Q. At page 4 of your rebuttal, you talk about
3 ancillary services. And you say that that includes
4 operator services functions. Is that correct there at
5 line 15, that those are essential?

6 A. Well, I don't know that I use the word
7 essential.

8 Q. Well, it's right there on line 16, "access
9 to these databases and services are essential." Now,
10 do you mean that in the sense that -- and I guess you
11 do because you're recommending U S WEST be compelled
12 to provide them -- that there aren't any acceptable
13 substitutes from non-U S WEST sources?

14 A. My understanding is today there are not
15 substitutes available for the local service. Operator
16 services as an example when you dial 411 there is one
17 provider, U S WEST. The call goes to U S WEST. If a
18 new entrant comes into the market and they provide
19 local service it is AT&T's recommendation that the 411
20 service that is provided by the incumbent be made
21 available to the new entrant.

22 Q. Do you know whether or not 411 is even
23 provided in Washington?

24 A. Directory assistance not 0 minus, but
25 directory assistance, and if there is no 411 service in

01504

1 Washington that's what I am referring to.

2 JUDGE ANDERL: I'm sorry, can you clarify
3 that?

4 THE WITNESS: In California when you dial a
5 local 411 you get a live operator, you ask for a
6 number, directory assistance, a listing and then they
7 send you to an automated platform and it gives you the
8 number and that's what I'm referring to, and I
9 apologize that I don't know the equivalent numbers to
10 dial in Washington.

11 JUDGE ANDERL: It's just the area code, 555,
12 and then 1212 is what we do here.

13 A. Thank you.

14 Q. Were you present in the hearing room when
15 Mr. Roe testified for TCG last week?

16 A. No, I was not.

17 Q. Would it surprise you that he testified --

18 A. At least I don't think so.

19 Q. Would it surprise you that he testified
20 that TCG was using a provider other than U S WEST for
21 directory services?

22 MS. PROCTOR: Excuse me. I don't believe
23 that that was Mr. Roe's testimony.

24 MR. OWENS: I guess the record would speak
25 for itself. I just asked if he would be surprised to

01505

1 that extent.

2 JUDGE ANDERL: If that's what the record
3 shows, I will allow it. If not on subsequent review
4 then the question should be disregarded.

5 A. Let me say that I would not be surprised
6 based on what I have just learned from the judge that
7 when you dial the area code plus the number that there
8 are in fact other providers of the service. I am
9 familiar with the service that is provided in most
10 states where you simply dial what we call an N 11 or
11 411 in California, which, as the switches are set up
12 today, are only available -- you only get directed to
13 the incumbent. It turns out that you have a different
14 arrangement here and based on that arrangement, because
15 of the dialing pattern that is provided, you're able to
16 direct the call to a different provider of directory
17 listing service.

18 Q. So does that affect your recommendation
19 that U S WEST should be compelled to provide directory
20 assistance?

21 A. Yes. It would because you have solved a
22 problem that hasn't necessarily been solved in the
23 states where there's a three-digit dialing pattern.
24 It doesn't necessarily solve one of the other problems
25 which is a ubiquitous database that contains all of

01506

1 the phone numbers of all of the people that are on the
2 service, regardless of who the carrier is, and I don't
3 know how that problem has been solved or whether it
4 has been.

5 Q. Just so I understand correctly when you use
6 the phrase "operator services function" there at line
7 15, you were referring only to directory assistance?

8 A. I'm not referring only to directory
9 assistance. Use directory assistance as an example.
10 It happened to be the one that I could think of at the
11 moment.

12 Q. What other operator services functions do
13 you believe U S WEST should be compelled to provide to
14 AECs?

15 A. If I look at the list there's an operator
16 service function that's listed separately on that
17 list, the line identification database, which is a
18 line-based card capability, and we believe it would be
19 more convenient if a new entrant had the capability to
20 have access to that database, as opposed to attempting
21 to deploy their own, particularly if a number is
22 ported to them.

23 Q. So if it's just more convenient does that
24 make it essential such that U S WEST should be
25 compelled to provide it?

01507

1 A. It's essential if the service is resale and
2 not facilities-based.

3 Q. And that's again based on convenience?

4 A. It's not based on convenience, in my
5 opinion. It's based on being able to compete in this
6 marketplace and if competition is going to have a
7 chance to occur the customers have to not be
8 disadvantaged when they decide that it is in their own
9 best interests to change their local exchange company.

10 Q. So you said it's essential when the service
11 is resale. What I then assumed correctly is that it's
12 not essential if the service is facilities-based?

13 A. I think the answer is what I had said just
14 30 seconds ago, that the customer's perception has to
15 be that they are not disadvantaged by changing their
16 local exchange carrier, and to the degree that they
17 would be then those barriers to entry to local
18 exchange competition must be removed.

19 Q. Well, then if it's facilities-based
20 competition and you previously stated that the
21 difference with regard to the line identification
22 database was convenience, is that --

23 A. I misspoke.

24 Q. I see. In what respect?

25 A. It's not -- the term shouldn't be

01508

1 convenience.

2 Q. Well, what is it?

3 A. It's what I clarified it as. Customers
4 should not be disadvantaged.

5 Q. Are you saying that a facilities based
6 carrier can't provide the same capability?

7 A. To the line identification database?

8 Q. Yes.

9 A. To the degree that they can have end user
10 phone numbers in a line identification database that is
11 deployed today, it is essential for competition to have
12 an opportunity to take place that that database be made
13 available initially and immediately for competition to
14 take place. Otherwise you're creating something that's
15 already there.

16 Q. So your answer is they can do it themselves
17 but you don't think they should have to?

18 A. I don't know that they can do it
19 themselves.

20 Q. Under the assumption that the line
21 identification database was going to be made
22 available, what other operator service functions is it
23 your testimony U S WEST should be compelled to
24 provide?

25 A. I don't have a list readily available right

01509

1 now.

2 Q. Does that mean you don't know of any?

3 A. It means I can't think of any others right

4 now.

5 Q. Directing your attention to page 12 of your
6 direct testimony, lines 26 through 28. You indicate
7 that technical concerns could be more quickly resolved
8 with appropriate direction from this Commission. What
9 specific concerns are you discussing there?

10 A. Right now I don't have any specific
11 technology concerns.

12 Q. Well, as you point out, we have an
13 increasingly complex network infrastructure that has
14 to operate across state lines; is that right?

15 A. Yes.

16 Q. So would any direction that the Commission
17 give have to take into account things happening in
18 other states and at the national and even
19 international level technically?

20 A. My answer is not a yes or no answer. There
21 are numerous standards bodies that we as carriers in
22 this industry participate in. It is sometimes
23 important for commissions to step in and ask that
24 resolution be speeded up. The FCC does it on a
25 regular basis and various states do it on a regular

01510

1 basis. The FCC as an example is dealing with the
2 issue of advanced intelligent network.

3 Q. Well, it's not your position that the
4 Commission can by some -- this Commission can by some
5 rule or order establish standards that would apply
6 necessarily in other states or other levels of
7 government regulation, is it?

8 A. No.

9 JUDGE ANDERL: Mr. Owens, how are you doing
10 on your time?

11 MR. OWENS: Just a couple of more, your
12 Honor.

13 Q. On page 13, line 24 you describe what you
14 recommend as a requirement for cost-based rates and
15 applying --

16 A. What page was that again?

17 Q. Page 13 of the direct. Requiring
18 cost-based rates applying an imputation test to
19 incumbents' exchange service rates. Is it your
20 testimony that such a test would be applied to U S
21 WEST residence rates?

22 A. Yes. My answer is yes to that.

23 Q. At page 15, beginning at line 12 -- this is
24 still at the direct -- you state that "it's likely
25 that network infrastructures will have to be modified

01511

1 to accommodate changes in a number portable
2 environment." Do you have a recommendation as to what
3 rates U S WEST should charge to recover those costs?

4 A. No.

5 Q. Do you have any timetable for when local
6 number portability will be available in Washington?

7 A. Specific to Washington?

8 Q. Yes.

9 A. No.

10 Q. AT&T has recently announced a development
11 of number portability, local number portability and is
12 that what you were referring to in your direct
13 testimony where you stated that this capability might
14 be available sooner than previously expected?

15 A. Yes.

16 Q. And is the AT&T proposed solution the same
17 as the solution that's undergoing trial in Seattle
18 under the auspices of US Intelco?

19 A. No, AT&T is not a participant in the trial
20 in Washington.

21 Q. I never suggested you were. I was asking
22 the same technically. So it's a different approach to
23 the same problem; is that right?

24 A. Yes.

25 Q. Is there something that is generated when a

01512

1 call is commenced in the network called the initial
2 address message?

3 A. An IM message?

4 Q. Yes.

5 A. Yes.

6 Q. What's the function of that?

7 A. I'm not a technical person. To that
8 degree. I can't describe it without first looking it
9 up.

10 Q. So do I gather then from that answer that
11 you don't know what if any effect on that message
12 there would be on the AT&T proposed solution?

13 A. No, I would not.

14 Q. Do you know anything at all about the AT&T
15 proposed solution?

16 A. I know enough to be dangerous. Quite
17 frankly, the industry numbering committee meeting is
18 this week in Newport Beach, and AT&T is doing their
19 formal presentation to the industry on our solution.
20 At that time I will be there to hear it.

21 Q. We'll all wait with interest.

22 MR. OWENS: Thank you. Nothing further.

23 JUDGE ANDERL: Staff had given me an
24 estimate. Do you have some questions, Mr. Trautman?

25 MR. TRAUTMAN: About five to ten minutes.

01513

1 JUDGE ANDERL: Let's go ahead.

2 CROSS-EXAMINATION

3 BY MR. TRAUTMAN:

4 Q. Could you turn to page 17 of your direct
5 testimony. And at lines 1 through 8 on that page you
6 discuss number assignment; is that correct?

7 A. Yes.

8 Q. And specifically at line 6 you state that
9 "this should include," quote, "limited government
10 participation"; is that correct?

11 A. Yes.

12 Q. Are you aware of whether the industry has
13 already had number administration standards under
14 consideration for some time, at least ten years?

15 A. Yes.

16 Q. And are you also aware of whether the
17 industry has discussed but been unable to reach
18 consensus or recommendation on how to audit requests
19 for new central office codes for at least eight years?

20 A. Subject to check.

21 Q. Specifically what role do you see for
22 limited government participation, as you put it, in
23 the context of number assignment? Would this --
24 specifically would this involve establishing standards
25 or time lines and if so how?

1 A. There are -- the FCC is investigating how
2 numbers should be administered and there have been --
3 it's an open docket. Comments have been filed, reply
4 comments, and the industry is waiting for a
5 resolution. BellCorp, who is the current national
6 administrator, releases numbers and loads them into
7 the big database, I call it, has asked to be relieved
8 of the responsibility of that, and in conjunction with
9 that the FCC said, okay, let's take a look at the whole
10 thing.

11 All of the issues that you've just
12 mentioned are included in the comments at the FCC.
13 Local number administration has historically been
14 through the largest incumbent carrier within a state.
15 In Washington it's the R BOC. It's U S WEST. The
16 concern has been that numbers in a competitive
17 environment with new entrants coming in, there's a
18 possibility that they would be administered in an anti-
19 competitive manner. Those concerns started to happen
20 as number exhaust has occurred and area codes have been
21 split. The first instance that I can recall of that is
22 Ameritech territory where there were several formal
23 complaints filed in Chicago about the deployment of
24 numbers.

25 That's sort of a history to the answer to

01515

1 the question. What we envisioned by what we said here
2 is that we would like to see a neutral third party
3 administer numbers with continued oversight from the
4 regulatory environment to sure that administration
5 doesn't slip back into an anti-competitive possible
6 environment. That while numbers may be administered by
7 a neutral third party that does not diminish the
8 Commission's regulatory oversight responsibility.

9 Q. Then how would this Commission be able to
10 assert authority over a third party administrator
11 under your concept of limited government participation
12 if that third party administrator were perceived to be
13 acting antithetical to the public interest?

14 A. We don't perceive that the Commission's
15 regulatory authority diminishes simply because the
16 management of numbers is moved to a neutral third
17 party. Numbers are in the public domain, and that's
18 where the authority lies to administer it, regardless
19 of who that neutral third party is.

20 Q. Could you turn to page 8 of your rebuttal
21 testimony at the top three lines, and actually on line
22 1 you state, "geographic number portability is not
23 necessary and is not the issue." Do you see that?

24 A. Yes.

25 Q. What support do you have regarding

01516

1 geographic number portability and the value of that?

2 A. There have been three studies --

3 MR. OWENS: I'm going to object, Your
4 Honor, on the basis of hearsay. I think we've
5 established that the studies that previously have been
6 attempted to have references made are not -- I mean,
7 they're offered for the truth and we don't have the
8 assumptions and I can't cross-examine the people who
9 delivered them.

10 MR. TRAUTMAN: I'm simply asking whether
11 there's anything in support of the statement she made.

12 JUDGE ANDERL: Yes. I think Mr. Trautman is
13 entitled to ask about and the witness is entitled to
14 explain the basis for her testimony, and if that
15 includes reliance on studies, you can inquire into the
16 depth of her knowledge on recross, but I am not going
17 to exclude it on the basis of hearsay in this case.
18 The objection is overruled.

19 There are three studies?

20 A. There are two studies and then one report.
21 There was one study conducted by home test in
22 Connecticut, I believe, and it showed that when -- the
23 result of that study confirmed what we had believed,
24 which was that when customers stay in a specific
25 location but change carriers their perception is they

01517

1 can keep their number, but if they moved their
2 perception is they have to change their number, so
3 ergo, what I've said here that when new entrants come
4 into the market it's not carrier, it's service provider
5 not location, not geographic.

6 The second study is one that was
7 commissioned by MCI by Gallup that confirmed the same
8 kind of result, and the final document that I read to
9 substantiate my belief, which I've stated here, is a
10 report out of the New York Commission on number
11 portability that says customers who change carriers
12 expect to keep their number.

13 Q. You state that the customers expected that
14 they might have to change their number. Do you know
15 whether the studies indicate that customers would view
16 geographic number portability as desirable if it were
17 available?

18 A. Yes.

19 Q. Yes, they indicate that?

20 A. Yes.

21 Q. Would you agree that geographic number
22 portability is a benefit in conserving number
23 resources?

24 A. I can't necessarily draw that conclusion.
25 People move in and out of community regularly, and when

01518

1 they move in they get a number and where they left,
2 they left their old number behind. So I'm not sure
3 that geographic number portability would relieve that.

4 Q. Are you aware that area code 206 may again
5 have to be split in two to five years without
6 geographic number portability?

7 A. I am aware that area code 206 may have to be
8 re-split. I am not sure I would draw the conclusion
9 it's because of geographic number portability as much
10 as new entrants into the marketplace.

11 Q. Would you agree subject to check that MCI
12 has requested 17 central office codes be turned up in
13 area code 206 immediately after the end of the
14 permissive dialing period?

15 A. Yes.

16 Q. Are you aware that both Sprint and GTE have
17 plans to implement PCS service in the Seattle area?

18 A. I have read, you know -- can take it as
19 gospel -- I have read that Sprint has been successful
20 with its partnership in getting many of the PCS
21 licenses.

22 Q. Would you think that PCS could have a
23 significant impact on number resources and the need
24 for geographic portability?

25 A. I would agree that as more services are

01519

1 introduced, such as PCS, that number exhaust will
2 accelerate. I'm not sure that geographic number
3 portability would necessarily relief that.

4 Q. So is it your understanding that geographic
5 number portability may be necessary for PCS service?

6 A. I don't know.

7 MR. TRAUTMAN: No further questions.

8 JUDGE ANDERL: From any other party?

9 Mr. Potter.

10 MR. POTTER: Yes.

11

12 CROSS-EXAMINATION

13 BY MR. POTTER:

14 Q. Good afternoon.

15 A. Hi.

16 Q. On the issue of the studies that you read,
17 you do not claim to be an expert on surveys and
18 studies of public opinion, do you?

19 A. No.

20 Q. So you read those studies as a layman as
21 any of the rest of us might read them; is that
22 correct?

23 A. That's correct.

24 Q. Did you have the entire study or did you
25 just have some sort of summary or report of it?

01520

1 A. For the home test I have the complete
2 study, the raw study, the questions that were
3 answered, the package that was sent out, and the raw
4 data that came back of all of the questions. It's an
5 extensive document. I think that the raw data is in
6 excess of 57 pages or something like that.

7 Q. As to the other studies you had?

8 A. The MCI commissioned one, what I have is an
9 executive summary from Gallup, and the New York Service
10 Commission is their report, the level playing field I
11 think it's based to.

12 Q. Where to start?

13 A. You said a couple of questions.

14 MS. PROCTOR: Excuse me, if Mr. Potter is
15 going to be more than a few minutes can we just take a
16 health break?

17 JUDGE ANDERL: I think we will then.

18 Let's be back on the record in 15 minutes.

19 (Recess.)

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

21 Mr. Potter. Go ahead and continue.

22 MR. POTTER: Thank you.

23 BY MR. POTTER:

24 Q. You're here testifying on behalf of AT&T
25 Communications of the Pacific Northwest; is that

01521

1 right?

2 A. Right.

3 Q. And is that the AT&T subsidiary by which
4 you're employed?

5 A. No.

6 Q. What company is that?

7 A. AT&T Communications.

8 Q. And could you describe to me the
9 relationship between the two just briefly?

10 A. AT&T Communications is our corporate
11 company and then we're -- we have companies in each of
12 the states and officers and so on, and those documents
13 are on file with each of the states. That's the
14 relationship.

15 Q. And your office is in San Francisco,
16 correct?

17 A. Correct.

18 Q. So do your job responsibilities include
19 work for more AT&T subsidiaries than AT&T
20 Communications of the Pacific Northwest?

21 A. Yes. I have responsibilities having to do
22 with unbundling and interconnection mutual
23 compensation, number portability, number
24 administration for California, Hawaii, Nevada,
25 Washington, Oregon, and for a short period of time

01522

1 possibly New Mexico, Arizona, Utah, Montana, Wyoming
2 and hopefully I didn't forget any. There's 13 states.

3 Q. The west.

4 A. Some people call it the west.

5 Q. And what sort of services does AT&T
6 Communications of the Pacific Northwest provide in
7 Washington?

8 A. We have interstate services that originate
9 and terminate in Washington and then we have
10 intrastate services, switched, dedicated residence and
11 business services. Are you looking for specific
12 product names?

13 Q. No. Are those services strictly speaking
14 long distance services as --

15 A. Yes.

16 Q. So AT&T Communications of the Pacific
17 Northwest is not providing any local exchange
18 services; is that right?

19 A. Right.

20 Q. And are any of the other AT&T entities for
21 which you have responsibility in the west providing
22 anything other than long distance service?

23 A. No. They're providing long distance
24 service.

25 Q. In your testimony you made several

01523

1 statements reflecting that some AT&T company is doing
2 in Rochester, New York. Do you remember that?

3 A. Yes.

4 Q. Which AT&T company is that?

5 A. That's -- I'm not sure. I would be
6 guessing. I would guess that it's our AT&T of New
7 York company.

8 Q. Otherwise would have been known as the AT&T
9 long distance company for New York?

10 A. Yes.

11 Q. Now getting involved in these --

12 A. Yes.

13 Q. Is it correct, then, though that your job
14 responsibilities did not involve that Rochester
15 operation?

16 A. Correct.

17 Q. But the testimony you gave earlier was
18 based on some information you obtained through AT&T
19 sources or something like that?

20 A. Yes.

21 MS. PROCTOR: Incredible as that may seem.

22 A. From employees who have participated in the
23 market trial.

24 Q. Now, turn to your direct testimony if you
25 want to. You have an answer that starts on line 20.

01524

1 It's talking about your responsibility?

2 A. Which page?

3 Q. Page 1, line 20.

4 A. Pick a page. Any line 20.

5 Q. Page 1, line 20, I will ask a question. So
6 there you're talking about your responsibilities and
7 it says, "you have responsibility for the development
8 and implementation of AT&T's policies regarding the
9 unbundling of an interconnection to the local exchange
10 network to promote competition in the local exchange
11 market." Correct?

12 A. Correct.

13 Q. When you're speaking of interconnection to
14 the local exchange network, are you talking about
15 interconnection by AT&T of the Pacific Northwest or by
16 somebody else?

17 A. From a policy perspective from a generic
18 basis -- it's in AT&T's best interests to insure that
19 the rules that come out of the various Commission
20 investigations are in our best interests both from a
21 long distance perspective and from any possibility at
22 some point in time we might do something here locally.

23 Q. Would it be fair to say, though, that your
24 testimony focuses on the interconnection between
25 alternative local exchange companies such as the

01525

1 complainants here, Electric Lightwave and so on and
2 the incumbent local exchange companies such as U S
3 WEST?

4 A. Yes.

5 Q. Is there a direct relationship to AT&T's
6 long distance operation of how ELI and U S WEST
7 interconnect?

8 A. I'm not sure I understand that: Direct
9 relationship between how they interconnect with each
10 other?

11 Q. Yes.

12 A. And how AT&T does what?

13 Q. Does anything. Does it make any difference
14 to AT&T's long distance business how ELI and U S WEST
15 interconnect?

16 A. Yes, it does.

17 Q. What's that?

18 A. If the manner in which ELI and U S WEST or
19 ELI and GTE interconnect turns out to be inefficient
20 it could -- it could create price increases or costs
21 issues for AT&T when it terminates calls on either one
22 of those networks.

23 Q. All right. As Electric Lightwave -- and
24 just using them as an example, I don't mean this to
25 apply to any particular carrier -- as Electric

01526

1 Lightwave begins providing local exchange service and
2 obtains customers for that service, then AT&T will
3 begin terminating calls through Electric Lightwave to
4 Electric Lightwave's customers; is that right?

5 A. If our long distance customers are making
6 calls to their local customers, yeah, we would have to
7 terminate through their facilities.

8 Q. And you would have to pay ELI whatever its
9 access rates are for that service, right?

10 A. Correct.

11 Q. By the same token if ELI customers
12 subscribe to AT&T's long distance service and dial an
13 AT&T long distance call through their Electric
14 Lightwave local service then you would pay the
15 originating access charges to ELI, right?

16 A. That's correct.

17 Q. Now, on page 2 of your direct testimony you
18 define the term unbundling. But then you also use the
19 term interconnection throughout your testimony, and I
20 didn't find the definition of how you were using that
21 term. Could you give me one briefly.

22 A. It's just the physical interconnection
23 between carriers.

24 Q. So in the example of ELI interconnecting
25 with U S WEST what function would that interconnection

01527

1 be performing?

2 A. ELI interconnecting with U S WEST for the
3 exchange of local traffic?

4 Q. Right. So ELI would originate a local call
5 from -- one of ELI's customers would call U S WEST
6 customer so at some point ELI would need to
7 interconnect, hand that off to U S WEST and be
8 completed and that's what you have in mind?

9 A. Yes.

10 Q. Is it your testimony that the unbundling
11 that you describe is necessary for that type of
12 interconnection to occur?

13 A. There are BNFs that I have listed that need
14 to be unbundled in order for that connection to work
15 and the one I had described earlier was the A link to
16 the STP on the local side of the STP as opposed to the
17 D link.

18 Q. But would I be accurate if I stated that
19 interconnection as we've defined it does not have
20 anything to do with ELI obtaining unbundled local
21 loops in order to provide local exchange service to an
22 end user?

23 A. It does also include the local loop. It's
24 possible for -- you picked on ELI so I will continue
25 -- ELI to have a switch as an example in Seattle. I'm

01528

1 going to plead ignorance. I'm not completely familiar
2 with the Seattle area, but let's presume there's an
3 area outside of Seattle that ELI also wants to provide
4 service to but they don't necessarily want to put a
5 switch there yet. They could in fact buy unbundled
6 loops and interconnect them with their switch and
7 provide service through unbundled loops to that area
8 extending their capability.

9 Q. I understand they could do that, but I don't
10 see how that pertains to the situation of an ELI
11 customer originating a call which ELI then needs to
12 hand off to U S WEST to be terminated. Am I missing
13 something here?

14 A. Well, if a U S WEST customer calls a
15 customer that is an ELI customer in the absence --
16 you're saying they don't need the unbundling to do
17 that?

18 Q. I'm asking you for your position on that.

19 A. They do need some unbundling for that to
20 happen, including the local loop. If they buy
21 unbundled local loops that terminate on their switch
22 and the U S WEST customer calls and the call goes
23 through U S WEST's switch to an ELI switch it could in
24 fact terminate on a U S WEST unbundled loop at the
25 customer PREM.

01529

1 Q. So you're giving me the situation where a
2 U S WEST customer calls an ELI customer?

3 A. Or vice versa.

4 Q. And Electric Lightwave uses U S WEST's
5 facilities to complete that call to its own customer;
6 is that right?

7 A. Yeah. Through their switch.

8 Q. I see. So unbundling is needed by ELI to
9 actually provide local exchange service to its
10 customer; is that right?

11 A. Yes.

12 Q. But presume for the moment that ELI would
13 occasionally self provision the local loop to its own
14 end use customers then it would not need any
15 unbundling of the local loop to interconnect calls to
16 U S WEST; is that right?

17 A. That should also be an option.

18 Q. I'm asking you to assume that they self
19 provision their local loop?

20 A. Yes.

21 Q. So when they do that local loop unbundling
22 is not needed to hand off a call to U S WEST for
23 termination; is that right?

24 A. That's right.

25 Q. Would you turn to your page 3 of your

01530

1 direct. There's a sentence that starts at the end of
2 line 5. You used the word unbundling in that
3 sentence. Am I correct that in that context you have
4 in mind the unbundling of local loop and perhaps other
5 functions so that the alternative carrier could use
6 them to provide local exchange service?

7 A. Yes.

8 Q. At the end of line 6 you have the word
9 "prohibitive" talking about investing prohibitive
10 amounts of capital. Do you have any criteria in mind
11 to decide when an amount of capital would be
12 prohibitive?

13 A. No.

14 Q. Would the question of whether required
15 capital is prohibitive be made on a generic basis by
16 this Commission or on a case-by-case basis so you might
17 get a different answer for each alternative exchange
18 question?

19 A. I think the latter would be true, that each
20 alternative exchange carrier would in fact do their
21 own cost benefit analysis.

22 Q. So is what you're recommending here that
23 whenever an individual, alternative exchange carrier,
24 does a cost benefit analysis and decides it would
25 rather have U S WEST make the investment in the

01531

1 infrastructure then U S WEST should be compelled to do
2 so?

3 A. I'm not referring to a compelling of U S
4 WEST to make the investment, but the unbundling of the
5 local exchange network as a means to allow competition
6 to occur.

7 Q. Let me rephrase then. So the Commission
8 would make an AEC by AEC determination on whether U S
9 WEST should be compelled to unbundle particular
10 functions based on the AEC's own cost benefit
11 analysis?

12 A. No.

13 MS. PROCTOR: Objection. The witness has
14 already answered the question.

15 MR. POTTER: The answer in the record could
16 be read back. Otherwise I would appreciate it if she
17 could be allowed to answer the question I just asked.

18 MS. PROCTOR: I don't think she actually
19 did.

20 JUDGE ANDERL: I don't think it's
21 specifically in there. Ms. van Midde, if you could
22 just answer Mr. Potter's question?

23 A. Let me break your question into two parts.
24 AT&T's recommendation is that the local exchange
25 network be unbundled into 11 BNFs as a means to have

01532

1 local exchange competition occur. The second part of
2 the question is, I believe, who does the analysis as to
3 whether the investment made by the new entrant is
4 prohibitive if in fact the local exchange network is
5 not unbundled into 11 BNFs and that would be made by an
6 ELI, TCG or an MFS. If we go back in history and we
7 look back at what MCI did in terms of deciding to
8 provide radio service to truckers, they wanted to
9 interconnect with the long distance network and they
10 did that. And then they resold AT&T's services and
11 provisioned where it made sense and then they grew and
12 that's what we envision will happen on the local
13 exchange environment, that you will have a combination
14 of things will happen. You unbundle, you take the use
15 and user restrictions away, you have resale, and all of
16 those things happen and competition happens
17 differently, with different prices and at varying rates
18 for each.

19 Q. So, in other words, your recommendation
20 that the Commission order unbundling is not based on
21 any specific evidence that the ALECs operating here
22 would find it cost prohibitive to make certain
23 investments. You're just ordering unbundling right up
24 front as a policy matter; is that right?

25 A. Our recommendation to the Commission is

01533

1 that the local exchange network be unbundled into the
2 11 BNFs so that new entrants into the local exchange
3 marketplace can provision those items themselves that
4 make sense for them and purchase from the incumbent LEC
5 the balance of the facilities that they need in order
6 to enter this market.

7 Q. Bear with me for a second. I think I have a
8 couple of more questions.

9 Your direct testimony, page 13 you have an
10 answer that starts on line 14 that goes to line 25. Is
11 the thrust of that that you think at some point in the
12 relatively near future any interconnection rates
13 charged for local interconnection between ELI and U S
14 WEST should be the same as the access rates charged to
15 AT&T for its long distance calls?

16 A. That possibility exists if the component
17 associated with an access call that terminates over a
18 local exchange company from an interexchange company
19 is using the same elements as those associated with
20 the transport of a call between two local providers,
21 and I think that's what my statement says here.

22 Q. So if the Commission were to set a
23 relatively low interconnection rate between ELI and
24 U S WEST and if the Commission were to adopt your
25 policy position then eventually AT&T's long distance

01534

1 operation would benefit by lower switched access rates;
2 is that right?

3 A. Yes.

4 Q. Thank you.

5 MR. POTTER: That's all my questions.

6 JUDGE ANDERL: Thank you, Mr. Potter.

7 Mr. MacIver.

8

9 CROSS-EXAMINATION

10 BY MR. MacIVER:

11 Q. I just have one question more in the way of
12 clarification Ms. van Midde. You indicate, I believe
13 in response to a question by Mr. Trautman -- where on
14 your direct testimony at page 9 you indicated a
15 permanent data solution may be available sooner than
16 anticipated. Are you also aware that MCI has recently
17 proposed a database solution to number portability that
18 can be implemented in 1996?

19 A. Yes.

20 MR. MacIVER: Thank you. I have no further
21 questions.

22 JUDGE ANDERL: Any other cross for this
23 witness?

24 Any questions from the commissioners?

25 CHAIRMAN NELSON: No questions.

01535

1 COMMISSIONER GILLIS: No questions.

2 JUDGE ANDERL: Redirect?

3

4 REDIRECT EXAMINATION

5 BY MS. PROCTOR:

6 Q. Ms. van Midde, Mr. Owens asked you some
7 questions about providing local switching, and at that
8 time you told him if you thought of some other
9 requirements that would be needed in order for a
10 company to provide local switching you would get back
11 to him. Are you able to do that now?

12 A. Yes. After having an opportunity to think
13 about it. Included in that would also be the nine
14 conditions that Mr. Sumpster has included in his
15 testimony.

16 Q. And in the series of questions that
17 Mr. Owens asked you concerning testing and maintenance
18 and quality of service, I'm sure you recall those?

19 A. Yes.

20 Q. If ELI had a customer and they were
21 providing service using some various mixture of
22 unbundled elements, who would be responsible to the
23 customer for any problems?

24 A. ELI would be. The customer would look to
25 ELI and ELI would be responsible.

01536

1 Q. Does AT&T making any recommendation that
2 the quality of service standards from the Washington
3 Utilities and Transportation Commission be changed in
4 any way?

5 A. No.

6 Q. And in your view would competition require
7 ELI could at least meet or perhaps improve upon the
8 quality of service standards of U S WEST?

9 A. Yes. Competition usually dictates that a
10 provider who is entering the marketplace provide
11 service at a higher quality standard.

12 MS. PROCTOR: No further questions.

13 JUDGE ANDERL: Any recross?

14 MR. OWENS: Yes, Your Honor. Thank you.

15

16 RE-CROSS-EXAMINATION

17 BY MR. OWENS:

18 Q. You were asked a group of questions by
19 counsel for the Commission staff about the
20 administration of numbers and NXXs. Do you remember
21 those questions?

22 A. Yes.

23 Q. And just so the record is clear, I think
24 you mentioned discrimination a couple of times in
25 those answers. You didn't intend to convey that you

01537

1 have evidence that there's been discrimination in the
2 administration of the NXX codes in Washington, do you?

3 A. No. I did not mean to imply that.

4 Q. And I think you used the phrase that we
5 need to be careful not to slip back into an anti-
6 competitive environment in that regard, and from that
7 immediately preceding answer you didn't mean that you
8 had evidence that there had been anti-competitive
9 activity in that regard in Washington, did you?

10 A. Rather than answer that with a yes or no,
11 let me give you my perception.

12 Q. I'm entitled to a yes or no on cross. If
13 you can't answer it yes or no then let me ask this.
14 Do you have affirmative evidence of anti-competitive
15 acts by U S WEST in the administration of the NXX codes
16 in Washington?

17 A. I have no evidence.

18 Q. Thank you. Now, you were also asked some
19 questions about some surveys, and you testified over
20 our objection on those, and so I guess I need to ask
21 you a few questions. Is it correct that the New York
22 document that you referred to is entitled The Level
23 Playing Field, an Interim Report?

24 A. Yes.

25 Q. Now, that report was not the result of an

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1 actual survey with a questionnaire, was it?

2 A. No, and I think I made that clear in my
3 testimony earlier.

4 Q. Do you know whether -- first of all, were
5 you present at any of the meetings at which the things
6 were discussed that are reported on in this document?

7 A. No.

8 Q. Do you know whether the parties discussed
9 the issue of the availability of new relatively
10 attractive numbers as Mr. Purkey testified to in his
11 cross-examination?

12 MS. PROCTOR: Excuse me, the witness wasn't
13 here for Mr. Purkey's.

14 Q. Let me ask you to accept subject to check
15 -- actually I think it was in redirect and cross --
16 that Mr. Purkey testified that --

17 A. Which Mr. Purkey?

18 Q. Dan Purkey, U S WEST's witness.

19 -- testified to -- good question -- that in
20 his experience that business customers had an affinity
21 or a desire in certain circumstances for what he
22 characterized as good numbers, that is, numbers that
23 had like -- ended in double zero or triple zero or had
24 certain numbers that made marketing tasks easier and
25 that the AECs had an availability of those numbers that

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1 because they were new NXXs greatly exceeded the
2 availability under the incumbent LEC, and so I'm just
3 wondering, do you know whether that issue, that
4 phenomenon relating to customer desire to change or not
5 change telephone numbers when they change service
6 providers was discussed in New York?

7 A. No, I don't.

8 Q. Another document you referred to was the
9 Local Number Portability National Study for MCI by the
10 Gallup organization; is that right?

11 A. That's right.

12 Q. Do you know whether the Gallup organization
13 asked customers whether they would be willing to change
14 if they were given a number that had some marketing
15 benefits to them?

16 A. No.

17 Q. And the third document that you referred to
18 was the Home Testing Institute Study; is that right?

19 A. Right.

20 Q. Do you know whether any of the questions
21 that the respondents were asked in the Home Testing
22 Institute Study included whether such customers would
23 be interested in changing phone numbers to change
24 providers if they could get a number that had some
25 marketing appeal?

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1 A. No, I don't know whether that question was
2 asked.

3 Q. Now, did that study also ask customers if
4 they would be interested in obtaining wireless local
5 exchange service at a flat monthly rate of either 40,
6 30 or \$20 with unlimited local phone calls?

7 MS. PROCTOR: Mr. Owens, since you're
8 reading from a document you might want to share it
9 with the witness or else mark it in evidence.

10 Q. Question 3.8(c).

11 A. Okay.

12 Q. So did the questionnaire ask respondents
13 whether they would be interested in subscribing to
14 wireless at a flat monthly rate of either 40, 30 or
15 \$20 with unlimited local phone calls?

16 A. It says here they asked the question, yes.

17 Q. And the results of this study are
18 confidential, are they, as far as you know?

19 A. As far as I know.

20 Q. So almost 32 percent say that they would be
21 so interested?

22 A. Yes.

23 Q. With regard to whether customers for wire
24 line services would change their phone service in
25 response to a competitive offer where they would

01541

1 receive a 20 percent discount and have to change their
2 phone number, did fewer than half say they were not
3 likely or very unlikely to change? I believe that was
4 question 7.F.

5 A. Likelihood to switch local phone companies
6 at a zero to 20 percent discount given that you had to
7 change your phone number, and as I totaled it up more
8 than 50 percent were unlikely, neither likely nor
9 unlikely, 14. Not likely, 24. Very unlikely, 27.
10 And does not apply almost 3.

11 Q. Can I see that? So you included the neither
12 likely nor likely in with that answer?

13 A. Yes.

14 Q. So they would be neutral.

15 A. Well --

16 Q. Did you understand my question to refer to
17 those who expressed an opinion that they were not
18 likely or very unlikely?

19 MS. PROCTOR: Excuse me, Your Honor. I
20 think since we're going into such an extensive
21 examination of this document it would be appropriate
22 to include all of it in the record rather than just
23 the selected portions that Mr. Owens is talking about.

24 JUDGE ANDERL: Well, I think we're splitting
25 hairs here, Mr. Owens. I think you can ask this

01542

1 witness on cross who she included and argue about it on
2 brief.

3 MR. OWENS: And that's all I'm asking is
4 whether the two categories not likely and very
5 unlikely together in answer to that question is less
6 than 50 percent.

7 Q. Can you add those two numbers and tell me if
8 that's true.

9 A. Not likely and very unlikely?

10 Q. Correct.

11 A. Combined together is less than 50?

12 Q. Yes. Is that a true or an untrue statement?

13 A. I can't add numbers in my head. They're
14 close. 49.88 percent.

15 Q. Close.

16 A. Splitting hairs.

17 Q. Now, I understood you to say to counsel for
18 GTE that you would need unbundling to make a call
19 terminate on a U S WEST unbundled loop. Do you recall
20 that if it was an ELI switched call terminated to an
21 ELI customer?

22 A. I don't exactly recall it exactly that way.
23 We went through a number of different scenarios, this
24 piece from here and that piece from there and so on.

25 Q. Well, I'm trying to understand the

01543

1 assumptions. Do you not recall saying that you would
2 potentially need unbundling to allow a handoff of a
3 call from U S WEST to ELI for termination to an ELI
4 customer under the assumption that the ELI customer was
5 located in an area where ELI had not chosen to place a
6 switch and it had been used as an unbundled U S WEST
7 loop to reach that customer. Do you recall that?

8 A. I recall that.

9 Q. And that is what you intended to say in
10 effect?

11 A. That unbundling would allow them to
12 terminate that call on U S WEST loop through their
13 switch, yes.

14 Q. Now, with that hypothetical in mind, if the
15 U S WEST loop runs from the end user customer to the
16 U S WEST central office, how does it get from the U S
17 WEST central office to the ELI switch?

18 A. If they buy an unbundled loop I'm presuming
19 the unbundled loop isn't going through the U S WEST
20 switch.

21 Q. Is it your assumption, then, that somehow
22 there would be an unbundled loop already in place
23 connecting the end user location with the ELI switch?

24 A. If I could draw a diagram there's the
25 possibility that the loop that is in place to the

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1 customer today probably extends to U S WEST switch.
2 If you unbundle that loop and interconnect it, let's
3 say at the concentrator -- pick a concentrator -- then
4 it doesn't go through the U S WEST switch.

5 Q. So under your scenario then ELI or whatever
6 the alternative exchange carrier would be would build
7 its own facility from its switch not to the end user
8 premise but to, let's say, the concentrator; is that
9 right?

10 A. Yes.

11 Q. You gave an example of the use of what you
12 characterized as unbundling in the interstate
13 environment where MCI provides service to truckers and
14 then they expand it by reselling AT&T service. What
15 was unbundled in the interexchange environment that
16 allowed that to happen?

17 A. What was done as I have read is that the
18 use and user restrictions that may have existed in
19 AT&T's tariffs were eliminated, and as a result MCI
20 was in a position to resell AT&T services.

21 Q. Do you draw any distinction in your own
22 mind between the elimination of use and user
23 restrictions and unbundling?

24 A. I think that use and user restriction --
25 yes, I do.

01545

1 Q. You stated in response to a question by
2 counsel for MCI that you were aware that MCI had
3 proposed a number portability solution and the
4 question to you was, that can be implemented in 1996,
5 and you said you were aware. Is it your testimony
6 that you know as a fact that that solution can be
7 implemented in 1996?

8 A. I have read the press documents associated
9 with MCI's -- I believe it was in Washington, D.C. --
10 announcement and that's what I know, and I think that
11 was responsive to the question I was asked.

12 Q. So the answer to my question is you don't
13 know for a fact anything more than what's in the press
14 document?

15 A. That's correct.

16 Q. So if I were to ask you the same question
17 as to what the technical details of the MCI solution
18 are, would you not know those either?

19 A. No. I don't know the technical details
20 beyond what was in their press kit.

21 Q. You said in redirect that in addition to
22 the conditions that we discussed in your
23 cross-examination all nine of Mr. Sumpter's conditions
24 would have to exist before a competitor could provide
25 switching service. Is that your testimony?

01546

1 A. Yes.

2 Q. So it's your testimony that until the
3 administration of the North American numbering plan
4 has been made with a noncompetitive neutral party no
5 one can provide switching service in Washington?

6 A. No, that's not what I meant.

7 Q. I didn't think so. You said that under the
8 hypothetical that we were discussing in
9 cross-examination where U S WEST provided the
10 distribution and concentrator and Electric Lightwave,
11 or some other alternative exchange carrier, divided the
12 feeder and switching, that Electric Lightwave would be
13 responsible for the end-to-end service, and just so
14 that I'm correct on that, you're saying that that
15 responsibility would extend to making modifications or
16 physical changes in the U S WEST owned property; is
17 that correct?

18 A. ELI would be responsible to the customer.

19 Q. Can you answer yes or no?

20 A. No, I can't, because the question -- I don't
21 think the question can be answered with a yes or no.

22 Q. Fine. That's fine.

23 MR. OWENS: Nothing further.

24 JUDGE ANDERL: Any further recross for this
25 witness?

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1 Okay. Thank you, Ms. Van Midde, for your
2 testimony. You may step down. All right. We
3 previously agreed that staff's witness Dr. Selwyn would
4 testify next. Let's be off the record while he takes
5 the stand.

6 (Marked Exhibits T-114, C-115, T-116.)

7 JUDGE ANDERL: Let's be back on the record.
8 While we were off the record staff's witness Selwyn
9 took the stand. We marked his prefiled direct
10 testimony as Exhibit T-114, his confidential exhibit
11 LLS-1 as Exhibit C-115 and his supplemental testimony
12 as Exhibit T-116.

13 Whereupon,

14 LEE L. SELWYN,
15 having been first duly sworn, was called as a
16 witness herein and was examined and testified as follows:

17 JUDGE ANDERL: Go ahead, Mr. Smith.

18

19 DIRECT EXAMINATION

20 BY MR. SMITH:

21 Q. Would you please state your name and
22 address for the record?

23 A. My name is Lee L. Selwyn. My business
24 address is One Washington Mall, Boston, Massachusetts,
25 02108.

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1 Q. Dr. Selwyn, where are you employed and in
2 what capacity?

3 A. I'm employed by the firm of Economics and
4 Technology Incorporated and I'm its president.

5 Q. Do you have before you a copy of what's
6 been marked for identification as Exhibit T-114?

7 A. Yes, I do.

8 Q. Is that your prefiled direct testimony in
9 this proceeding?

10 A. Yes, it is.

11 Q. Do you have any corrections or additions to
12 make?

13 A. I have two small corrections to page 5 of
14 Exhibit T-114. The first is at line 4. The word,
15 words "price cap" should be deleted and be placed with
16 the words "incentive regulation." And at line 5 the
17 word four, F O U R, should be deleted and replaced with
18 the word "five."

19 Q. With those corrections if I were to ask you
20 the questions contained in Exhibit T-114, would your
21 answers be the same?

22 A. They would.

23 Q. Do you also have before you what has been
24 marked for identification as Exhibit C-115?

25 A. Yes, I do.

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1 Q. And was that prepared by you or under your
2 direction?

3 A. Yes, it was.

4 Q. And is that the exhibit you refer to in
5 your testimony T-114?

6 A. It is. I should also point out that Exhibit
7 T-114 has three appendices that are also referred to
8 which are not in question and answer form.

9 Q. Thank you. And finally, do you have before
10 you what's been marked as Exhibit T-116?

11 A. I do.

12 Q. And is that your supplemental direct
13 testimony in this proceeding?

14 A. It is.

15 Q. And do you have any corrections or
16 additions to make to that testimony?

17 A. No, I don't.

18 Q. If I were to ask you the questions contained
19 in Exhibit T-116 would your answers be the same?

20 A. They would.

21 MR. SMITH: Your Honor, move for admission
22 of Exhibits T-114, T-115 and C-16.

23 JUDGE ANDERL: Any objection from any party
24 to those exhibits?

25 Hearing none, those documents will be

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1 admitted as identified.

2 (Admitted Exhibits T-114, T-115, C-116.)

3 MR. SMITH: Dr. Selwyn is available for
4 cross-examination.

5 JUDGE ANDERL: Mr. Shaw.

6 MR. SHAW: Thank you.

7

8 CROSS-EXAMINATION

9 BY MR. SHAW:

10 Q. Dr. Selwyn, could you list for me the
11 competitive services that U S WEST Communications
12 provides in Washington today?

13 A. It's my understanding that the Commission
14 has designated certain services as competitive, and I
15 am not familiar with the precise list. I can give you
16 my opinion as to what services are probably subject to
17 some degree of competition if that will be helpful but
18 not necessarily those that the Commission has made a
19 determination on competitive.

20 Q. Well, let me ask you this first. From that
21 last answer do I gather that when you discuss monopoly
22 and competitive services in your testimony you have in
23 mind as competitive services only those services that
24 have been classified as effectively competitive by
25 this Commission?

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1 A. No. I believe that one has to view the
2 boundary between monopoly and competitive more
3 dynamically, and recognize that there are strategic
4 pricing and other initiatives being pursued by LECs
5 with respect to services that currently are either
6 entirely monopolistic or for which the LEC maintains a
7 dominant market position but which have the potential
8 to become competitive. So when I'm speaking generally
9 about pricing practices with respect to monopoly and
10 competitive services, I'm focusing on the evolution of
11 competition in the industry as opposed to any specific
12 previously determined classification based upon then
13 extant market conditions.

14 Q. Then I will return to my very first
15 question. Please list for me the services in
16 Washington that you consider to be competitive when
17 you talk about, for instance, in your appendix 2 about
18 assigning costs of joint use plant between monopoly and
19 competitive services. List the services in Washington
20 that are competitive as you use that dichotomy?

21 A. Well, that or that are expected to become
22 competitive in the future and for which the discussion
23 in that appendix 2 would apply, I would include
24 certainly a service such as Centrex which is currently
25 competitive. I would also include the transport

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1 component of switched and special access, which has
2 limited competition in certain concentrated geographic
3 areas today but that is likely to be expanded.

4 Down the road I would include broad band
5 services that the company may introduce having
6 subsequently acquired -- previously acquired the
7 network resources to so do, and eventually I think
8 that certain, to a certain extent local -- the local
9 loop will be competitive at least in some segments of
10 the market.

11 Q. You understand, Dr. Selwyn, that in
12 Washington no service that a local exchange company,
13 an historical local exchange company provides is
14 protected from competition as a matter of law. Do you
15 understand that?

16 A. It's my understanding is that the
17 Commission does not preclude entry as a legal matter
18 in any service category. I believe that's correct.
19 Now, if you mean by not protected as a matter of law
20 I'm not sure those two are quite the same thing but I
21 don't believe that there are entry restrictions per
22 se.

23 Q. Do you agree that any company that can show
24 that it's financially and technically competent can
25 register to provide telecommunications services

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1 without limitation on those services with this
2 Commission?

3 A. With that legal limitation. There may be
4 plenty of economic limitations.

5 Q. Do you consider any portion of the
6 telecommunications services provided by U S WEST in the
7 state of Washington to be a natural monopoly?

8 A. Well, once again, that is a question that
9 has different answers at different points in time and
10 at different points in the evolutionary cycle of the
11 industry. There are certainly services that are
12 currently provided that -- by U S WEST that exhibit
13 characteristics that one would normally associate with
14 natural monopoly.

15 Now, natural monopoly per se is a static
16 concept in economic theory. That is, the principle of
17 natural monopoly suggests that viewed at a single
18 moment in time there are efficiencies associated with
19 the provision of the service by a single provider that
20 would be sacrificed if multiple providers were
21 permitted to enter the market or did enter the market,
22 and we think of a natural monopoly as one in which
23 these barriers as an economic matter is sufficiently
24 strong that entry per se would not be possible as an
25 economic matter.

01554

1 Now, the more modern view of natural
2 monopoly has a dynamic element. The notion is that
3 there are dynamic efficiencies associated with
4 stimulation, of innovation and efficiency gains due to
5 the pressures of a competitive market that in certain
6 respects overcome static losses associated with the
7 loss of efficiency that might result from having
8 multiple providers.

9 So with that caveat my answer to you would
10 be that certainly at the present time the provision of
11 local transport -- excuse me a second -- the provision
12 of local transport -- I'm sorry, the provision of local
13 switching and interconnection of multiple end users in
14 a common network exhibits the characteristic of natural
15 monopoly. The provision of local loops exhibits the
16 characteristics of natural monopoly due to the
17 ubiquitous and extensive distribution network that is
18 already in place. Those would be probably principal
19 examples as well as other services such as database,
20 maintenance of certain databases such as customer
21 telephone number databases, directory databases and the
22 like.

23 Q. I understood your answer previously you
24 consider only two services that U S WEST currently
25 provides to be competitive as you used that term,

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1 Centrex and the transport component of switched access
2 in the urban market, and I presume you mean Seattle?

3 A. I did not necessarily mean for that list to
4 be exhaustive, no. I'm sure there are others that
5 would probably fall in that category, voice mail, for
6 example would probably fall in that category. And
7 certain types of interoffice services, long distance
8 services exhibit characteristics of competition
9 particularly where there is a -- where the
10 interexchange carrier even on an intraLATA basis is
11 hauling the traffic that is actually carrying all over
12 its network and not merely reselling switched access
13 service. I don't consider these to be -- this list to
14 be exhaustive.

15 Q. Do you have any evidence to support your
16 apparent assertion that U S WEST has invested any
17 money in Washington to provide broad band services?

18 A. I have not conducted a study of the U S
19 WEST construction program nor of its current
20 investment plans. I am aware, however, from
21 participation in U S WEST proceedings that the
22 corporation is pursuing a fiberoptic deployment
23 strategy throughout its 14-state territory, and it had
24 been my assumption, perhaps incorrectly, but it had
25 been my assumption that Washington state was one of

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1 those 14 states that was included in the deployment
2 plan to bring fiberoptic distribution capacity to the
3 customer premises, and on that basis I had believed and
4 do believe that U S WEST is pursuing broad band in
5 this state.

6 Q. It's true that there is no FCC 214 on file
7 for the state of Washington to invest any monies in
8 fiber to the end user, is there?

9 A. The FCC 214, as I understand it, relates
10 specifically to the provision of video dial tone
11 service. The company may well be investing in broad
12 band without having made a video dial tone type of 214
13 application.

14 Q. As you sit here, you know of no investment
15 by U S WEST in the state of Washington to provide
16 fiberoptic broad band capability to the end user, do
17 you?

18 A. I don't know that it is occurring and I
19 don't know that it's not.

20 Q. Do you consider the investment by U S WEST
21 in fiberoptic interoffice capacity to be imprudent and
22 an investment that should not be made in light of the
23 emerging competitive environment?

24 A. Let's separate those two -- that question
25 into two pieces. The issue of imprudency requires an

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1 answer at two levels. It may be perfectly prudent
2 investment from the perspective of the corporation as
3 an economic matter to pursue any particular investment.
4 Whether or not that investment is required for the
5 continued efficient provision of services that are
6 expected to remain monopolistic and subject to
7 regulation is a separate matter. And I don't think the
8 issue is as much one of prudence as one of cost
9 allocation.

10 Q. Let's assume a telephone company that
11 provides 100 percent monopoly services consisting of
12 providing POTS or voice grade telecommunications to
13 end users as well as interexchange service, within a
14 given geographic area, would that company be imprudent
15 in investing its capital construction dollars in
16 fiberoptic plant interoffice?

17 A. If the company determined as a result of a
18 properly constructed capital budgeting analysis that
19 gave appropriate weight to demand growth, to
20 technological risk to -- made adjustments for risk in
21 its target rate of return, utilized target depreciation
22 rates as opposed to historic depreciation rates in
23 undertaking that study, and if as a result of all of
24 that it concluded that it was efficient and beneficial
25 to the continued provision of the services that you

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1 described for that investment to be undertaken then it
2 certainly would be appropriate for that investment to
3 be undertaken.

4 Q. Assume the same monopoly company. Would
5 your answer be the same for an investment decision of
6 signaling system 7 capability?

7 A. That's a little bit different because the
8 capital budgeting analysis in the case of signaling
9 system 7 would include, among other things, various
10 revenue projections associated with services that
11 would be made possible through signaling system 7, some
12 of which in the future could be subject to competition
13 after which the company may be making strategic
14 commitments in advance of the entry of competition.
15 But as a general matter the answer would be the same
16 subject to the possibility that perhaps an even
17 greater adjustment for technological risk as well as
18 business risk would be required in such a study.

19 Q. This Commission orders U S WEST to
20 provision rural exchanges with signaling system 7
21 capability that it otherwise would not provision on a
22 business case basis, happened the Commission made an
23 error in considering signaling system 7 capability to
24 be an aspect of a modern telecommunications
25 infrastructure in rural Washington?

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1 A. I wasn't sure if I heard the very first word
2 of your question. Was it if or did you simply start by
3 making a statement?

4 Q. If you assume with me that the Commission
5 has done that.

6 A. If the Commission has made a judgment that
7 acting as the representative of the public that the
8 service standard it feels appropriate for rural
9 customers in Washington state includes signaling
10 system 7 capabilities and it directs the company to
11 acquire signaling system 7 capabilities in those
12 areas, then the company certainly would not be acting
13 imprudently in so doing even if the investment
14 undertaking did not nominally satisfy a capital
15 budgeting analysis.

16 I would observe, however, that if the
17 Commission were to pursue a policy of that sort, it
18 ought to be coupled with a policy to assure that there
19 were service upgrades that would make the benefits of
20 signaling system 7, the additional capability of
21 signaling system 7 available to the customers who were
22 being called upon to fund that investment.

23 Q. As you sit here, do you have any evidence
24 that any investment made by U S WEST in the state of
25 Washington was an investment not required to meet its

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1 obligation to provide modern efficient
2 telecommunications services in its exchanges?

3 A. I can refer you to the study that our firm
4 did for this Commission several years ago with respect
5 to outside plant utilization in which we expressed the
6 belief that the company continue to acquire additional
7 subscriber loop capacity in its Washington state
8 infrastructure despite the fact that the demand for
9 such additional capacity had dropped off considerably
10 as a result of the dropoff in demand for Centrex that
11 was experienced beginning in 1980.

12 So I would have to answer your question
13 that at least with respect to the one area that I did
14 undertake to study, it appears as if the company
15 continued to acquire new -- to add new loop capacity
16 to its network at exactly the same rate of annual
17 additions, essentially the same rate of annual
18 additions, despite the fact that there was a material
19 change in demand and consequently, I would believe
20 that with respect to the continuing need to provide
21 services other than Centrex beginning in 1980 that
22 there was in fact over investment and that's what that
23 report concluded.

24 Q. What was the date of that report?

25 A. It was provided to the Commission in March

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1 of 1990.

2 Q. Have you examined the held order reports
3 that this company files with this Commission in the
4 last two years?

5 A. No, I have not.

6 Q. If you will accept subject to your check
7 that the company has had held orders at a level high
8 enough to violate the Commission's rules on the number
9 of held orders that are considered reasonable,
10 including held orders in downtown Seattle, would your
11 opinion change on whether the company is over invested
12 in outside distribution plant?

13 A. That would not be sufficient information
14 upon which to base a judgment. The company may have
15 been investing in outside plant in the wrong places
16 and consequently not being in a position to respond to
17 demand that was arising, I don't know, and I would not
18 be able to respond to that question based on that
19 information. All I do know is that beginning in
20 approximately 1980 the company was acquiring -- was
21 utilizing, if my memory serves me right, well under 50
22 percent -- I think it was approximately 25 percent --
23 of the loop pair that were being added each year.

24 Q. The basis of that report that you prepared
25 for the staff a number of years ago, did the

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1 Commission ever take any action in making an excess
2 investment disallowance or take any other action to
3 correct the company's investment decisions?

4 A. I am not aware one way or the other whether
5 they did. I was never requested to testify, so if
6 action was taken certainly something I am not aware
7 of.

8 Q. Assume --

9 A. Excuse me. I need to add to that answer.
10 My recollection, and it's going back some years now,
11 that this was an issue in a rate case that was pending
12 at that time which case was subsequently settled. So
13 I can't tell you definitively since this report had
14 been filed and the case never -- if I'm remembering it
15 correctly the case never came to litigation. I can't
16 tell you one way or the other whether or not the
17 content of the report and the conclusions in the
18 report may well have influenced the settlement, and to
19 the extent that it did influence the settlement then
20 my answer I guess would be that the Commission did
21 take action.

22 Q. You simply do not know, however, do you?

23 A. I do know that there was a settlement and I
24 do know that this report was available to the parties
25 prior to the -- to the best of my recollection prior

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1 to the completion of the settlement.

2 Q. Assume with me that today a new residential
3 development or downtown apartment building is being
4 constructed and the company has not built any plant to
5 that development on the basis that it has decided not
6 to compete for it against the other LECs that are
7 striving to serve the same area. And --

8 A. We're assuming that such LECs actually
9 exist and are in business?

10 Q. Well, okay. I thought that was established
11 but maybe we better establish that. Are you aware
12 that there are four new LECs authorized to provide
13 local exchange service in the state of Washington that
14 are concentrating their efforts in the city of Seattle
15 and two that are actually in service with their
16 switches up and running with customers?

17 A. That is my understanding.

18 Q. With that understanding assume with me the
19 hypothetical I just outlined to you, that there is a
20 new construction with new customers available and the
21 company, U S WEST, makes a decision not to build plant
22 to do that development, would rather concede the
23 development to one of the new LECs. In that situation
24 is it your view that U S WEST should be able to make
25 that investment decision not to build the plant out to

01564

1 that contestable group of customers?

2 A. In the long run I would say yes.

3 Immediately I would say probably no, and let me
4 explain why I'm qualifying the answer in that way. If
5 the market does become effectively competitive, then
6 it is entirely possible that a developer of a new
7 residential subdivision or building, residential or
8 commercial for that matter, may seek to acquire
9 communications service from one of any number of
10 sources, and to provide the communication service to
11 its tenants or occupants via whatever arrangement it
12 works out with the service provider.

13 In that situation, if the market is
14 competitive, I would assume that it would be an unwise
15 business investment for each of the two, through
16 however -- however many competing LECs there happen to
17 be in that area -- to each construct facilities capable
18 of serving the entire demand from that building or
19 subdivision in the hopes that they may pick up some of
20 those customers.

21 So in answer to your question is when we
22 get to an effectively competitive market, I don't
23 think there would be any real reason for any one
24 carrier, U S WEST or otherwise, to have some sort of a
25 carrier of last resort type of responsibility.

1 In the instant situation where we are
2 dealing with the creation of a competitive market that
3 does not today exist, and where the company is
4 subject to rate of return regulation, as it is, if the
5 Commission determines that at least for the present
6 public policy requires that the company assume a
7 carrier of last resort obligation, is prepared to
8 compensate the company on that basis, then the company
9 I think does have an obligation to serve that area.

10 Now, that having been said, the company can
11 make judgments as to the extent to which it needs to
12 deploy facilities. It can make judgments as to the
13 potential amount of demand that may be satisfied by a
14 competing carrier and it may well decide on a different
15 construction scenario given the presence of competition
16 in that particular geography that might lead to a
17 different strategy than if it were the sole monopoly
18 provider.

19 Q. If U S WEST in the immediate situation has
20 this carrier of last resource obligation you just
21 outlined and thus would have to reasonably predict the
22 construction of this new residential group of consumers
23 and provide facilities sufficient to serve all of those
24 consumers, and in fact one of the four new entrants in
25 Seattle successfully competed for some or all of those

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1 residential consumers, would you then expect pursuant
2 to the testimony you filed in this case that the U S
3 WEST shareholders would have to eat that structure that
4 they built that was never used?

5 A. Let's talk about what this structure might
6 look like.

7 Q. Why don't you just answer my question
8 first: Would, pursuant to the testimony you filed,
9 would the U S WEST shareholders have to eat that
10 investment?

11 A. That would depend on what they did.

12 Q. I'm just -- we just talked about that. You
13 said that U S WEST would have a carrier of last resort
14 obligation to anticipate that demand and build
15 sufficient facilities to serve those customers. Are
16 you changing that answer now?

17 A. No.

18 Q. Let's assume that's exactly what U S WEST
19 did, that there were 20 new residences and had built
20 20 pairs plus some administrative pairs and in fact it
21 only got 10 of the customers and 10 of them went with
22 Electric Lightwave, would the U S WEST shareholders
23 have to eat those 10 loops?

24 A. I will go back to the answer that I gave
25 you before. I explained that given the presence of

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1 competition I would assume that U S WEST would pursue a
2 different construction scenario than under monopolistic
3 market conditions. If U S West believed and once it
4 gained some experience in the market, becomes aware of
5 the likely penetration rate of its competitors, I would
6 assume in the example you just provided that if U S
7 WEST's experience is that of those 20 new units only 10
8 would take service from U S WEST that it would
9 provision on that basis rather than provision for all
10 20. In which case it should not be a problem. If on
11 the other hand U S WEST ignores the existence of
12 competition, as it appears it did with respect to the
13 PBX competition that confronted it in the beginning of
14 1980, then in my view the shareholder does have
15 responsibility for that.

16 Q. Let's assume that U S WEST reasonably
17 predicts that it would not gain all of those customers
18 and it built less than adequate facilities to serve
19 them all and it turns out that in fact the customers
20 prefer U S WEST for whatever reason and they request U
21 S WEST to provide the service and
22 U S WEST now has held orders in that subdivision.
23 Should U S WEST be excused from the held orders rule of
24 the Commission in that situation?

25 A. Yes, it should, because I think that the

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1 Commission has to recognize that when it pursues a
2 policy, a regulatory policy, that is predicated upon
3 encouraging competition that there will be conditions
4 that occur as competition develops, enters the market
5 and becomes a fact in the market that will lead to
6 results that, at least hopefully, in the transitional
7 situation, may be something less than what it might if
8 the Commission might have come to expect under pure
9 monopolistic conditions.

10 We have been experiencing things like this
11 for the past 20 some-odd years as we've tried to
12 introduce competition in telecommunications. There is
13 still, for example, a lot of unrest about alternative
14 operator services and private pay phones and that issue
15 is still -- that is nonLEC pay phones -- and that issue
16 is still not fully resolved by regulators. Customers
17 have felt that they have been overcharged and there are
18 other service problems and that's something that will
19 have to be dealt with.

20 Similarly, if the Commission is putting U S
21 WEST on notice that it is no longer in a monopoly
22 position, that it does have to expect and confront
23 competition, but at the same time the Commission at
24 least in a transition situation expects U S WEST to
25 provide for services throughout its geography, then it

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1 seems to me that the Commission may well discover that
2 things like held orders are a problem or that there
3 are other service difficulties that ultimately the
4 competitive market will resolve.

5 Northwest Airlines cancelled the nonstop
6 flight from Boston to Seattle this morning, I believe
7 for revenue reasons and not for weather or equipment
8 since they managed to get everybody on the connection.
9 Next time I'm going to think twice about taking
10 Northwest out here. That's a competitive outcome.
11 That's something I can in theory do in a competitive
12 market given that kind of experience. We don't live in
13 a perfect risk free world and we all have to make
14 adjustments.

15 Q. In your testimony you talk about a bona
16 fide request approach to providing facilities which
17 you define as services to competing LECs. Does U S
18 WEST under your scenario have a carrier of last resort
19 obligation to build plant for a competitive provider,
20 in our subdivision assumption U S WEST doesn't build
21 plant out there, another carrier decides that it wants
22 to serve, it doesn't want to invest the money either
23 and so it can come to U S WEST and demand that U S WEST
24 build plant out there which the competitive provider
25 can in turn resell to these end users, my question then

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1 being does U S WEST have an obligation to build plant
2 to the specification and demand of its competitors?

3 A. Let me try to respond to that in this way.
4 I have declined in my recommendations with respect to
5 unbundling to specify a detailed list of features, a
6 detailed list of components that absolutely has to be
7 met, and I've recommended the bona fide request
8 approach. And the purpose of the bona fide request
9 approach is to permit economic decisions to be made.
10 We don't want to -- I don't think it's in anybody's
11 interest for the incumbent to be required to undertake
12 enormous expenditures to achieve a particular
13 unbundling result that would then produce an erection
14 of or -- bad choice of word -- that would then fail to
15 be recovered as a result of the demand for the --
16 actual demand for the facility.

17 In the example that you specify you provide
18 where we're not so much talking about the individual --
19 an individual feature or function but we're sort of
20 focusing on a particular geography, I guess I would
21 have to respond in this way.

22 Let me give you an analogy to a real estate
23 developer who builds a subdivision further down the
24 road from the previous subdivision. Each time a
25 developer builds further out of town along that

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1 essentially adjacent land moving progressively further
2 out the developer has to build a road not all the way
3 back into the city but all the way up to the place
4 where it previously ended. He has to connect the water
5 main again only up to the place where it previously
6 ended, has to build other utilities and infrastructure
7 up to the place where it ended. So I would anticipate
8 a situation in the general matter that in the case you
9 described in a subdivision of 20 homes that the
10 existence of the U S WEST infrastructure as it is
11 presently constituted would permit U S WEST to
12 equip that subdivision at relatively low cost by
13 comparison to any other provider which in order to
14 serve that subdivision may be required to, in effect,
15 build the road all the way back into the city.

16 Therefore, if U S WEST declines to
17 construct facilities into that subdivision then it
18 certainly must make efficient unbundled facilities
19 available to a competing carrier at the nearest point
20 of interconnection so that the carrier can benefit from
21 the existence of the in-place infrastructure and still
22 serve that subdivision with roughly the same economic
23 conditions that would confront U S WEST.

24 JUDGE ANDERL: Mr. Shaw, would that be a
25 good place to pick up tomorrow?

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1 MR. SHAW: Fine.

2 JUDGE ANDERL: Can you give me an estimate
3 of how far along we are?

4 MR. SHAW: Well, if the answers could
5 shorten up a little bit we could get this finished.
6 Another 15 minutes.

7 JUDGE ANDERL: Let's be back at 8:30
8 tomorrow morning and take this up where we left off.

9 (Hearing adjourned at 5:14 p.m.)

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