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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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In the Matter of the Joint) DOCKET UT-100820
Application of)

6

) VOLUME IV

QWEST COMMUNICATIONS)

7

INTERNATIONAL, INC., and) PAGES 360 - 602

CENTURYTEL, INC.)

8

)

For Approval of Indirect)

9

Transfer of Control of Qwest)

Corporation, Qwest)

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Communications Company, LLC,)

and Qwest LD Corp.)

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A Public Comment Hearing in the above matter was held on

14

January 6, 2011, at 9:30 a.m., at 1300 South Evergreen Park

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Drive Southwest, Olympia, Washington, before Administrative Law

16

Judge MARQUERITE FRIENDLANDER.

17

18

The parties were present as follows:

19

20

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0362

1 -----

2 INDEX OF EXAMINATION

3 -----

4 WITNESS: PAGE :

5
6 PANEL 2 - MICHAEL HUNSUCKER, CHRISTOPHER VIVEROS,
G. BAILEY and DOUGLAS DENNEY

7 Direct Examination by Mr. Shifman 366
8 Cross Examination by Mr. Butler 380
9 Cross Examination by Mr. Trincherro 382
10 Examination by Chairman Goltz 384
11 Examination by Commissioner Jones 396
12 Redirect Examination by Mr. Simshaw 402

10

11 JAMES A. APPLEBY

12 Direct Examination by Mr. Shifman 413
13 Cross Examination by Simshaw 423
14 Cross Examination by Ms. Rulkowski 429
15 Examination by Chairman Goltz 431
16 Examination by Commissioner Oshie 435
17 Examination by Commissioner Jones 441
18 Redirect Examination by Mr. Shifman 445

16 PANEL 3 - BILLY H. PRUITT and WILLIAM A. HAAS

17 Direct Examination by Mr. Trincherro 451
18 Examination by Chairman Goltz 452
19 Examination by Commissioner Jones 455
20 Cross Examination by Ms. Anderl 465
21 Redirect Examination by Trincherro 468

20 G. BAILEY

21 Cross Examination by Ms. Endejan 472
22 Examination by Chairman Goltz 502

23 TIMOTHY J. GATES

24 Direct Examination by Mr. Trincherro 514
25 Examination by Chairman Goltz 515
Examination by Commissioner Oshie 527

25

0363

1	Examination by Commissioner Jones	538
	Redirect Examination by Mr. Trincherro	553
2		
3	PANEL 4 - MICHAEL HUNSUCKER, CHRISTOPHER VIVEROS and MICHAEL WILLIAMS	
4	Direct Examination (Surrebuttal) by Ms. Anderl	561
	Direct Examination (Surrebuttal) by Mr. Simshaw	574
5	Cross Examination (Surrebuttal) by Mr. Trincherro	580
	Examination by Chairman Goltz	591
6	Examination by Commissioner Jones	592
	Redirect Examination (Surrebuttal) by Ms. Anderl	595
7	Recross Examination by (Surrebuttal) Mr. Trincherro	596

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0364

1 -----
INDEX OF EXHIBITS
2 -----

3	EXHIBIT:	MARKED:	ADMITTED:
4	MRH-10		371
5	MRH-18 - MRH 21		450
6	MRH-16C - MRH-17C		510
7	MRH-53		583
8	MSR-3C		585
9	JJ-12C		585
10	CV-3		588

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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22
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24
25

P R O C E E D I N G S

JUDGE FRIEDLANDER: We'll go back on the record.

I would like to note that we do have a different court reporter today. It may get a little bit difficult if you're talking out of turn, so, please, be sure to indicate who's speaking, especially for the bridge line. I think we only have one witness right now on the bridge line who'll be testifying in the settlement two panel, Ms. Singer Nelson. It shouldn't be too difficult. Please be mindful of the new court reporter.

The other housekeeping matter I wanted to address was that we may be getting into some confidential testimony areas with Mr. Appleby who is the next witness up after the panel is dismissed. So, if you would kindly refrain from citing to any of the confidential testimony or exhibits. If you need to we can definitely go into an in-camera. I'm hoping to avoid that. If you needed to we'll definitely accommodate you. So, just be mindful of the confidential agreements.

With that, I believe we're ready to begin with this panel.

We do have a new witness added to the panel, Mr. Bailey.

I need to swear you in.

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1 MICHAEL HUNSUCKER, CHRISTOPHER VIVEROS, G. BAILEY and
2 DOUGLAS DENNEY, having been duly sworn to tell the truth, the
3 whole truth and nothing but the truth, testified on their oath
4 as follows:

5

6 JUDGE FRIEDLANDER: Thank you. You may be seated.

7 Mr. Shifman, you can proceed.

8 MR. SHIFMAN: Thank you, Judge.

9

DIRECT EXAMINATION

10 BY MR. SHIFMAN:

11 Q Good morning, everybody.

12 Good morning, Mr. Bailey.

13 My name is Ken Shifman. I represent Sprint in this
14 proceeding.

15 Mr. Hunsucker, I do have just a couple more questions
16 for you,

17 A Okay.

18 Q We talked about yesterday that you said that the
19 Integra agreement would be made available to other carriers,
20 CLEC and CRMS carriers, if they wish. Is that right?

21 A I think paragraph 15 says that if on approval by the
22 Commission it'll be made available to requesting carriers.

23 A In the question I have about that is, right after
24 paragraph 15 there's a heading entitled "Cap C Process for
25 Treatment of Agreement." Do you see that?

0367

1 A Yes.

2 Q There it says, "The parties agree that this agreement
3 resolves all contested issues, objections, proposed conditions
4 and other advocacy related specifically to this transaction as
5 between them." If Sprint were to, quote, "choose to request
6 this agreement" would we have to stop all of our advocacy and
7 advocate also this agreement, the merger, is in the public
8 interest? Is that your condition?

9 A I think the condition here would require that if you
10 choose to adopt this prior to a Commission decision, which is
11 what we did with Integra, we negotiated the issues, we came to
12 resolution and in exchange for that they withdrew their
13 participation in the stakes and at the F.C.C. What other state
14 commissions -- once this is approved by the state commission
15 then these terms would be generally available to any requesting
16 carrier.

17 Q Okay.

18 But we would not have to stop advocating against the
19 merger or ask for other conditions as a result of asking for
20 the terms in this Settlement Agreement, would we?

21 A Certainly our preference would be that you would do
22 that if you want to opt into this today, that would be the
23 choice you have. But I think once these are made available via
24 a state commission and other state commissions have required in
25 these orders will be made available to these requesting

0368

1 carriers.

2 Q For example, in Oregon, the Integra agreement, the
3 terms were, in essence, put in the entire stipulation that was
4 presented to the commission there, was it not? The temporary
5 agreement, the terms related to interconnection agreements and
6 wholesale agreements and wholesale agreements, all those terms
7 are set forth in the stipulation that the joint applicants and
8 staff and Integra jointly supported; is that correct?

9 A I think they're two separate settlement agreements in
10 Oregon. I believe that's correct. There's one with Integra
11 and pretty much an identical version. There's some minor
12 changes with the Oregon staff and Public Counsel in Oregon that
13 would allow those to apply to requesting carriers.

14 Q We touched on this. I don't know if we got
15 specifically to this question yesterday. Embarq and
16 CenturyLink merger order at the F.C.C. required both the Embarq
17 ILEC and the CenturyTel ILEC to make extensions to their
18 interconnection agreements available to requesting carriers; is
19 that correct?

20 A That's correct. That's what was in the F.C.C. order.
21 It was both Embarq and CenturyTel.

22 Q It's early in the morning and we covered a lot
23 yesterday.

24 Here, the Integra agreement only requires extensions
25 for the Qwest agreements; is that correct?

0369

1 A Yes. As I explained yesterday, the reason for that is
2 because the Legacy CenturyTel and Legacy Embarq agreements are
3 still extended today under the F.C.C. conditions and we didn't
4 believe there was any need to extend those further, that this
5 was meant to apply only to the Qwest ICH.

6 Q And those agreements are extended pursuant to that
7 F.C.C. order until the summer of 2011, right? June of 2011?

8 A Some of the agreements would be June of 2011. Some of
9 the agreements would be June of 2012. There was a bifurcated
10 approach to the extensions. If it was an expired agreement it
11 was extended for two years. If it was a non-expired agreement
12 it was extended for three years.

13 Q If the merger closes in the first quarter of 2011 --
14 I'm talking about this merger now -- closes in the first
15 quarter of 2011 the extensions available to the Qwest
16 agreements will last until the first quarter of 2014; is that
17 right?

18 A That's correct.

19 Q Last thing I want to do is refer you to an exhibit
20 that's been marked MRH-10, which is the Qwest and CenturyLink
21 responses to Sprint data request number 22.

22 A I do not have that in front of me.

23 MS. ANDERL: If we can take a moment to get that
24 exhibit.

25 JUDGE FRIEDLANDER: Sure.

0370

1 This is Judge Friedlander. Anyone who is on the
2 conference bridge pay close attention: Please don't put us on
3 hold. You will be playing music into the hearing room and I
4 believe that's what someone has now done who probably can't
5 hear us.

6 I'll mute the conference bridge right now because we
7 are having some difficulties.

8 Actually, they may have just been solved.

9 I will repeat what I just said. If you were not hear
10 yesterday when I admonished the parties to not do this, I'll
11 repeat it again: We can't have you putting us on hold if you
12 are on the conference bridge. What happens is, you end up
13 playing some lovely music but it's very distracting. We really
14 need you to not put us on hold because we do have one of our
15 witnesses on this panel who is testifying via the conference
16 bridge and I don't want to start from scratch. Please don't
17 put us on hold. Thanks.

18 BY MR. SHIFMAN:

19 Q Mr. Hunsucker, do you have before you what's been
20 marked as MRH-10 which are both the Qwest and the CenturyLink
21 responses to Sprint NextTel data request number 22?

22 A Yes.

23 Q These responses basically detail how many
24 interconnection agreements CenturyLink and Qwest entities have
25 with various wireline and wireless carriers in the State of

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1 Washington; is that right?

2 A Yes. That's correct.

3 Q For example, number 22 for CenturyLink says that
4 CenturyLink has 27 CMR's and interconnection agreements. That
5 would be wireless interconnection agreements?

6 A Correct.

7 Q And Qwest has 17 wireless interconnection agreements?

8 A Correct.

9 Q Do you have any idea as to why there's more on the
10 CenturyLink side than on the Qwest side?

11 A I have not personally reviewed all of these
12 interconnection agreements by carriers or that the numbers
13 sought. I do not have any explanation as to why CenturyLink is
14 more.

15 Q There's multiple CenturyLink entities in this state,
16 both Embarq, United -- I guess United Telephone is Embarq
17 now -- but Embarq and the various CenturyTel ILEC.

18 A Could be. Again, I don't know.

19 MR. SHIFMAN: I'd like to move into the record MRH-10.

20 JUDGE FRIEDLANDER: Thank you.

21 Are there any objections?

22 MS. ANDERL: No.

23 JUDGE FRIEDLANDER: So admitted. Thank you.

24 (Exhibit MRH-10 was admitted into evidence.)

25 MR. SHIFMAN: That's all the questions I have for

0372

1 Mr. Hunsucker.

2 Now, Mr. Bailey is here so I'll ask him some
3 questions.

4 Q Mr. Bailey, in your testimony I believe you stated
5 that the value of the merger was 22.4 billion dollars when it
6 was announced. Is that correct?

7 A That's correct.

8 Q What is the company's estimate is the value of the
9 merger now, nine months after it was announced?

10 A You know, I don't have the exact number. The way that
11 number was calculated is it was assumed based on a stock price
12 of \$36, approximately, when we announced the transaction.
13 Since we announced the transaction in April of 2010 our stock
14 price is about \$45 a share, so the value goes up by the extent
15 that the increase in the stock prices goes up. It's also
16 reduced by the amount of debt that both companies have paid
17 down since the announcement of the acquisition.

18 Q How many shares outstanding do you have?

19 A About 300 million.

20 Q So different in stock price by 300 million ought to
21 get us to the difference in the value of the deal?

22 A No, because of what I just said about the debt. So
23 you have to subtract the debt, paydowns, and I don't know what
24 Qwest has done since the merger announcement.

25 Q When you announced the merger you stated there would

0373

1 be \$625,000,000 in annual synergies estimated. Was that right?

2 A Estimated. Yes.

3 Q Has the company revised that estimate since it was
4 made?

5 A No, we have not.

6 Q I don't know if you know this but questions were asked
7 in discovery regarding how much of the synergies would apply to
8 the State of Washington. Do you know that?

9 A Well, the way the process works is, we estimate what
10 the synergies are at a total company level, and those are pure
11 estimations that we made based on the experience that we've had
12 in prior acquisitions, for example, the Embarq transaction.
13 But every transaction is a little bit different so the level of
14 synergies are different. I mean, we feel the level of
15 synergies that we've announced in the Qwest transaction are
16 reasonable. They're about seven percent of the operating
17 expenses of Qwest. When you look at that versus what we
18 guesstimated in the Embarq transaction, it was about
19 11 percent. So, as a percentage, these are lower and the
20 reason they're lower is because corporate overheads are a
21 smaller percentage of total operating expenses for a larger
22 company than they are for a smaller company, so your
23 percentages are going to vary, and even when you look at some
24 of the present transactions over the last few years, the
25 average is around 20 percent. So we're definitely comfortable

0374

1 with the level of synergies. It's a process that we go through
2 whereby we have two tracks that we're going through now. So we
3 have now, basically, synergies related to duplicate positions
4 during the company and then we have synergies related to
5 duplicate billing systems. We're in the process of going
6 through and determine what those synergies to see if we can
7 true up the numbers in the future.

8 Q Regarding the Embarq CenturyTel transaction, you
9 stated that you estimated 11 percent. Where do you stand as
10 far as meeting that 11 percent objective?

11 A You know, I don't know. I don't know the answer to
12 that question. We announced, I think, in the third quarter we
13 achieved \$80,000,000,000 of synergies in the third quarter of
14 2010. The synergies are function of -- Embarq had an old
15 billing system called a "CRO" billing system and that billing
16 system was not necessarily conducive to the competitive market
17 because they couldn't change prices on a market-by-market
18 level. What we've done, given that we have such a long term
19 view of the business, we spent \$250,000,000 building a new
20 billing system and we put that billing system in place. I
21 think at the end of 2004 it's an [unintelligible] billing
22 system so it's a very scaleable system. What we're doing now
23 is we're going through the process of converting the Embarq
24 customers from the old Embarq system to the new Ensemble
25 system, which we think is the right thing to do, even from a

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1 company perspective. The Ensemble billing system is real easy
2 to use from a customer standpoint where the old CR system was a
3 code-driven system. So if customer service wanted to add a
4 future to a customer's account they had to memorize a
5 four digit code, where our system is a point-and-click system.
6 We're in the process of transferring those customers over and
7 we're about 50 percent complete. So until we transfer all of
8 the Embarq customers over we will not have full synergies from
9 the transaction because duplicate systems will not be
10 decommissioned.

11 Q You mentioned \$80,000,000 of synergies realized. Was
12 that for just the third quarter or was that for the first three
13 quarters of the year?

14 A That was the third quarter.

15 Q And the transaction was completed in June of 2009; is
16 that right?

17 A Yeah. The process there is, the timing of the
18 synergies is contingent upon the number of customers you are
19 converting. When we announced Embarq we announced a three-year
20 transaction period. We may be a little bit ahead of that in
21 terms of when we finish but not by a lot. When you look at
22 Qwest we announce three to five years. A lot of that --
23 obviously, they have more customers that we would have to
24 convert if we choose to convert them to our Ensemble billing
25 system. It's not really an apples-to-apples comparison when

0376

1 you're looking at the timing of Embarq versus the Qwest
2 transaction.

3 Q Let's get back to the settlement here where the
4 companies have agreed to a condition that they would report
5 synergies on a state-specific basis here in the state of
6 Washington. I'd like to know a couple of questions about that.
7 First of all, are you aware of that condition?

8 A Yes.

9 Q Second, how are the synergies going to be developed
10 for the State? I think yesterday we talked about a bottom-up
11 versus a top-down type way. Hopefully, you can explain how
12 that will be done.

13 A Well, like I said earlier, the way we run our business
14 is we have centralized functions. So, for example, I'm a
15 corporate function and my department is allocated out to all
16 the various operating entities that we operate. Qwest has a
17 similar function in their department. So, the way the
18 synergies work is, when you look and you have two treasurers,
19 as good as we both may be, we don't need two treasurers going
20 forward so one of us goes away. What we do is, we'll
21 reallocate -- or the new expenses of the new company, once the
22 eliminations have taken place, and you can look at the expenses
23 at the state level, kind of a before and after picture to
24 determine what the level of synergies are. But, the focus on
25 synergies in this transaction is a little bit misleading

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1 because when we start talking about synergies, I mean, you've
2 got to look at synergies of this transaction in the context of
3 what's going on in our industry because the reason we're going
4 through this consolidation is because we face various intense
5 competition as an industry. When you take Qwest, for example,
6 at the end of 2001 they had 16-and-a-half million retail lines
7 overall. Today they have eight point seven million, so they've
8 lost 48 to 50 percent of their market share in ten years. I
9 heard someone say yesterday that this transaction is 74 percent
10 of the ILEC lines in the State. That's a little bit misleading
11 in terms of what the competition is here because there's
12 inter-mobile competition in the State, so what that means is,
13 we have, basically, three major competitors, one being
14 wireless, one being land line, us, and the other being the
15 cable company. I think it's important that each one of these
16 three different competitors are strong financially because when
17 you don't have strong inter-mobile competition I think the
18 customers are the ones that actually suffer. So, when you look
19 back over the history of what's happened -- I mean, even over
20 2010, for example, CenturyLink alone is projected to lose
21 somewhere to the tune of \$500,000,000 worth of revenues. When
22 you look at that you say, "Well, how do you keep the company
23 strong for inter-mobile competition as you're losing that level
24 of revenue loss?" What you do is, you manage your expenses.
25 You manage your expenses such that you continue to drive the

0378

1 bottom line positive. That's what's driving companies to merge
2 in this industry is we're losing customers --

3 Q May I interrupt here? My question was about
4 Washington State synergies and how do you calculate that. I
5 appreciate all your knowledge about the telecom industry, and
6 I'm sure everybody is very interested in hearing about it, but
7 we have to focus on the questions and the answers or it's going
8 to take a long time to get through this hearing.

9 Let me just ask you: So the way you do the synergies
10 for Washington State is just a pure allocation of corporate
11 overhead or is there another way that the Washington State
12 synergies are calculated?

13 A Well, if the synergies are -- if someone said in
14 Louisiana, and they no longer have a job, their expenses no
15 longer get allocated to Washington State, it's a matter of
16 allocation.

17 Q Since you agreed to a condition on reporting
18 Washington State synergies have you calculated right now what
19 that amount is for the State of Washington?

20 A There's no way you can know that number right now.
21 First of all, we don't know who -- when you look at me as a
22 treasurer and you look at Qwest's treasurer, one can be making
23 more than the other one, so you don't know what true level of
24 expenses is going to be gone. And then different departments
25 allocate based on different methods. You may have somebody in

0379

1 the accounting group that allocates one way and we allocate
2 another way. We don't know know until all of the expenses are
3 removed from the business and then we look at the actual
4 expenses that end up on the books in the companies in the State
5 of Washington.

6 Q Upon close of the merger you'll begin realizing those
7 synergy savings, at least begin to realize it from day one?

8 A Yeah. We do begin to realize synergy savings day one
9 but they are offset by the integration cost that we have. Like
10 I said earlier, the treasurer, we'll reduce down to one
11 treasurer effective day one. There will be day one synergies.
12 They don't start ramping up in a material way until we start
13 decommissioning those old systems and get those duplicate
14 billing systems out of the way.

15 Q I understand Sprint is going to be getting the Qwest
16 chief financial officer.

17 A Congratulations. You're getting a great guy.

18 MR. SHIFMAN: That's part of the process there.

19 I don't have any other questions.

20 JUDGE FRIEDLANDER: Thank you.

21 I understand, Mr. Trincherro, you will be
22 cross-examining the panel on behalf of the Joint CLEC.

23 How about Mr. Butler? Maybe you can help me out.
24 What about the non-settling parties you represent?

25 MR. BUTLER: I have just a couple questions.

0380

1 JUDGE FRIEDLANDER: I guess we'll start with
2 Mr. Butler.

3 MR. BUTLER: I have a couple of clarification
4 questions, again, about the topic of the applicability of the
5 Integra agreement over CLEC. I guess I'll direct them to
6 Mr. Hunsucker.

7 CROSS-EXAMINATION

8 BY MR. BUTLER:

9 Q Looking at Section 15, the first sentence says, "After
10 fully executed filed with and where necessary approved by a
11 commission, this agreement will be made available to any
12 requesting carrier."

13 Does that mean once it is approved by any state it's
14 then applicable to the CLEC everywhere or does this mean that
15 it has to be approved by each state and is applicable only to
16 the CLEC operating in that state?

17 A It's my opinion it's the latter, is what was intended
18 by this language that if it's not approved here in Washington,
19 then it obviously wouldn't benefit, wouldn't be made available
20 to the CLEC here in Washington.

21 Q Is there any particular procedure or time limit for
22 requesting the applicability of these provisions? Uses the
23 phrase "requesting carrier." Time limit other than the 30 days
24 after closing that refers to the line conditioning.

25 A I don't think there would be any time period, absent

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1 the expiration of a particular condition. I mean, if a
2 condition in here was to last for -- like, extension of ICH for
3 extension of 36 months, you couldn't come in month 37 and ask
4 for a 36-month extension. That term would have expired. It
5 doesn't mean you have to do it day one after the order is
6 approved or day 365 after the order is approved. To the term
7 is applicable for a specific time period then it could be
8 requested and made available.

9 Q Is there a particular procedure for making a request?

10 A There's no particular procedure outlined in here. I
11 think it would be a request to me or someone on my staff at
12 that point saying we want the terms of this agreement.

13 Q My last question relates to Section 14 which says that
14 no later than 30 days after the closing date the parties --
15 which is a defined term to mean just the joint applicants and
16 Integra -- agree to amend its existing Qwest CLEC
17 interconnection agreements by executing the line condition in
18 the amendment.

19 If this were approved and another CLEC wanted to take
20 advantage of the line conditioning amendment would it be able
21 to amend its own Qwest interconnection agreement to include the
22 line conditioning amendment or must it opt into the Integra
23 interconnection agreement?

24 A No. It would be able to amend its own agreement with
25 this specific amendment and exhibit that's attached to this. I

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1 don't know if it's called an exhibit. But it could be made
2 available to you within the context of any CLEC specific
3 agreement with Qwest.

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

5 JUDGE FRIEDLANDER: Thank you.

6 Mr. Trincherro.

7 MR. TRINCHERO: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. TRINCHERO:

10 Q Good morning, panelists.

11 Good morning Mr. Denney. I have just a few questions
12 for you.

13 Yesterday you testified that the Integra settlement
14 with the joint applicants was, of course, in the public
15 interest as far as Integra's interests are concerned. I wanted
16 to explore that with you briefly.

17 Integra is a wholesale customer of the joint
18 applicants; is that correct?

19 A Yes, that's correct. I think what I said from
20 Integra's perspective is, I think what I said yesterday, that
21 the transaction was in the public interest.

22 Q Right, from Integra's perspective?

23 A Right.

24 Q In provisioning services to your end-users you utilize
25 services that you purchase as a wholesale customer from Qwest,

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1 for example?

2 A We use a combination of our own facilities along with
3 typically last mile facilities and qualification facilities
4 purchased from Qwest and other eyelets, as well, but here we're
5 talking about Qwest.

6 Q Of those services that you purchased from Qwest are a
7 number of those services purchased out of your interconnection
8 agreement with Qwest?

9 A Yes.

10 Q Do you also purchase services from Qwest from other
11 types of agreements other than your ICA?

12 A Yes. Right. We would purchase out of commercial
13 agreements, out of various wholesale agreements, out of
14 tariffs, both some intrastate and also interstate special
15 access tariffs.

16 Q Of the services, wholesale services that you purchase
17 from Qwest, would it be fair to say that predominantly you
18 purchase those services out of your interconnection agreement
19 compared to the services you purchase out of other agreements?

20 A I think that's fair. We always try to, wherever
21 possible, to purchase out of interconnection agreements where
22 we have the ability to do so and I think most of the services
23 we purchase would be out of interconnection agreements.

24 Q And in the State of Washington do you know what the
25 general percentage is between what you would purchase out of

0384

1 your interconnection agreement and your other types of
2 agreements?

3 A I don't know specific percentage. If I had to guess I
4 would say typically across the region it would be 80 percent,
5 would be out of at least 80 percent would be out of ICA's out
6 of expenditures.

7 MR. TRINCHERO: Thank you. I have nothing further,
8 Your Honor.

9 JUDGE FRIEDLANDER: Thank you.

10 Mr. Simshaw, do you have any Redirect.

11 MR. SIMSHAW: As with the procedure yesterday,
12 Your Honor, could we defer our Redirect until after the Bench?

13 JUDGE FRIEDLANDER: Certainly. Is that the consensus
14 of the attorneys representing the panel?

15 Mr. Anderl is nodding "Yes."

16 Mr. Gilliam?

17 MR. GILLIAM: Yes, Your Honor.

18 JUDGE FRIEDLANDER: Mr. Butler?

19 MR. BUTLER: Yes.

20 JUDGE FRIEDLANDER: Thank you.

21 We'll take questions from the Bench.

22 Chairman, did you have anything?

23 CHAIRMAN GOLTZ: I don't think I have too many. I
24 apologize if they're somewhat repetitive.

25 Let me start with Mr. Bailey.

0385

1 On the synergy savings -- maybe I missed it -- but I
2 believe it's just a very short part of your testimony with
3 reference to an exhibit that basically summarizes synergy
4 savings, right? There's no worksheet?

5 MR. BAILEY: You know, I think we may have given more
6 information in the data request process than what was in the
7 testimony around synergies.

8 CHAIRMAN GOLTZ: I haven't seen that. I don't know if
9 it's an exhibit or not from anybody. If someone remembers that
10 you can point it out to me later on.

11 But, basically, it was a calculation, it sounds like
12 from your responses to earlier questions this morning, that you
13 basically made some assumptions on how the percentage -- or the
14 total operating expenses of the two companies and made some
15 assumptions about how much of that could be saved.

16 MR. BAILEY: Yes, sir. The way we did it is, we
17 actually went through by major function within the company. So
18 you look at corporate, which would be finance, legal, and say
19 how much can they save. You may break it down and say how much
20 can the IT folks save because they don't have as many systems
21 and they don't need as many people to run those systems, and
22 you go through the major areas of the organization and then add
23 all of them up and that's your estimate.

24 CHAIRMAN GOLTZ: Am I correct that these are
25 essentially operating expenses, the synergy savings that you

0386

1 referred to are savings in operating expenses?

2 MR. BAILEY: Yes, sir. The 575 million are operating
3 expenses. The other 50 million is capital.

4 CHAIRMAN GOLTZ: Of the 575 -- that's the number I was
5 thinking of -- do you know how much of that is, I guess,
6 headquarters related? By "headquarters" I mean both
7 CenturyLink and Qwest headquarters as opposed to out in the
8 field?

9 MR. BAILEY: I know the field operations would have
10 been in the central -- what we call the centralized ops area --
11 at least a lot of that would have been. And, really, we didn't
12 eliminate anybody there other than, like, director level
13 people, the higher level management in that organization. The
14 issue with the field folks is we have just as many lines to
15 service, both after the acquisition as we did before, so you
16 don't see hardly any, if at all, cuts in the folks out in the
17 field level, the technicians and so forth.

18 CHAIRMAN GOLTZ: To oversimplify it, the savings from
19 reduced staffing is going to be primarily the higher-end
20 salaries?

21 MR. BAILEY: Yes, sir. Higher end and corporate
22 people. There will be lower salary folks at the corporate
23 level who will also be duplicate and not be needed as well.

24 CHAIRMAN GOLTZ: We had some questions about, what's
25 Washington's share, quote/unquote. But can I assume that

0387

1 either the synergy savings are evenly distributed throughout
2 the service territory to the extent they relate to the number
3 of access lines or they are central either in the existing
4 corporate headquarters of either company and those expenses
5 would be allocated out on a per axis line basis?

6 MR. BAILEY: Well, most of the expense reductions will
7 be, like I said at the corporate level, either through people
8 or through systems, and those people, on the people side,
9 differing departments are allocated based on different
10 methodologies. Some of it could be a number of access lines.
11 Some of it could be how many customer service calls do we have
12 coming in. Some of it could be how many miles of -- there's
13 all kinds of different allocation methods that each department
14 uses in order to get the cost down --

15 CHAIRMAN GOLTZ: If I want to take your \$575,000,000
16 in synergy savings and make my best estimate as to Washington's
17 is there a method better than simply allocating the number of
18 access lines?

19 MR. BAILEY: You know, I can't really think of a good
20 method to do that at this point because the cost allocation
21 system is so complicated and it's -- there's so many different
22 methods used by different departments. I can't think of a way
23 to really capture it at this point.

24 CHAIRMAN GOLTZ: Is there a better way than allocating
25 access lines?

0388

1 MR. BAILEY: I have to give it a thought. I can't
2 think of anything right now.

3 MS. CAMERON-RULKOWSKI: If I can interrupt.

4 Mr. Fitch related that staff has an exhibit. It's a
5 highly confidential exhibit. It has a somewhat high-level
6 breakdown about synergies. This is -- or savings. This is
7 exhibit RTA-5-HC. Again, it's a highly confidential exhibit.

8 CHAIRMAN GOLTZ: Thank you.

9 So, is your estimate of synergy savings of
10 575 million, that was done prior to the proceedings in any
11 state, correct?

12 MR. BAILEY: Yes, sir. That was done prior to
13 announcing the acquisition in April.

14 CHAIRMAN GOLTZ: Would you suppose that that number
15 has been impacted by the various conditions imposed on the
16 transaction either through agreement or by commission or by the
17 various orders of the various commissions?

18 MR. BAILEY: On the expense side, I don't think so. I
19 mean, really, what we're doing now is try to build the
20 organization and determine who's staying and who's going and
21 what it'll look like and determine which systems. It could
22 affect it because of the capital commitments we've made, but I
23 don't think so.

24 CHAIRMAN GOLTZ: Basically, so, the 575 million was
25 your best estimate at the time of the announcement of the

0389

1 transaction and it continues to be your best estimate today?

2 MR. BAILEY: That's right.

3 CHAIRMAN GOLTZ: Maybe you're not the person to ask
4 this of, this is sort of a theoretical question, I suppose:
5 There's a lot of talk about the synergies and who should take
6 advantage of those synergies. Just sort of trying to approach
7 that, wouldn't you agree that the extent that the synergy
8 savings benefit the merged company that the CLEC ought to also
9 share or benefit from the synergies from the emerged companies?

10 MR. BAILEY: Well, if I may, my take on the synergies
11 is, it kind of goes back to what I was explaining earlier in
12 terms of we're losing revenues because we're losing our
13 customer base. Qwest has lost 800,000 customers in the first
14 nine months of this year. CenturyLink lost 400,000. We're on
15 track to lose roughly 450, 500 million in revenues just on the
16 CenturyLink side. It's a very competitive industry. These
17 synergies are really to maintain the health of the company. I
18 mean, I don't think this industry, I'm pretty sure it wouldn't
19 be consolidating if companies were not looking around and
20 saying there's really nowhere else to cut expenses in our
21 company. Our overheads are getting too high compared to where
22 we need to price our services, so, that's why the companies are
23 coming together. I view synergies of maintaining the financial
24 health of the company versus giving the synergies back to a
25 CLEC or somebody who may assert a speculative harm about the

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1 company.

2 CHAIRMAN GOLTZ: Isn't that the same market forces
3 causing you to lose land lines, isn't that market first
4 impacting the CLEC?

5 MR. BAILEY: I don't know where the CLEC lines are
6 going. Like I said, in the last 10 years I would guess, maybe
7 they could tell us, that their lines have grown in the last
8 10 years, whereas our lines, at least the Qwest lines, have
9 been reduced by 50 percent. And it's even really more market
10 share loss than that because if you think about the number of
11 new households that have probably been built in the last
12 10 years, they've really even lost more than that 48,
13 50 percent market.

14 CHAIRMAN GOLTZ: Mr. Hunsucker, along the same line:
15 If you were asked to approve a transaction that would give the
16 merged companies the benefits of a merged company and, so,
17 shouldn't the CLEC have also the benefits of a merged company,
18 and give us specific example one point of interconnection.

19 MR. HUNSUCKER: I think Mr. Bailey is correct. When
20 we look at these synergies it does allow us to remain
21 financially strong which let's us roll out new product,
22 services, invest in our OSS, continue to make changes, et
23 cetera, that benefit us as well as the CLEC. I think there are
24 benefits, in my mind, that are inuring to the CLEC through that
25 process. Single point of interconnection, it's one of those

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1 issues that, based on how I have been advised by my legal
2 group, there's not a requirement when those are between
3 separate legal entities. At this point, when you look at the
4 Legacy CenturyLink markets, we're pretty rural in this state
5 and a lot of states and we don't have very contiguous
6 properties so we don't have the network in place today for
7 ourselves.

8 CHAIRMAN GOLTZ: But aren't you trying to have it both
9 ways? You want to have one company, have it merge and get
10 advantage of all the synergies from the merged company but
11 still have separate companies that place limits on CLEC and
12 others that may want to have the advantage of a merged company?

13 MR. HUNSUCKER: I think there's real reasons why we
14 have separate companies. I think I'd let Mr. Bailey explain
15 that from a financial perspective and debt covenants of that
16 nature based on those legal entities. It's not a move on the
17 part of our company to try to limit or prohibit CLEC
18 competition. There's reason why we have --

19 CHAIRMAN GOLTZ: It also is better served if you were
20 one company and not a whole bunch of vulcanized companies.

21 MR. HUNSUCKER: I'll refer to Mr. Bailey.

22 MR. BAILEY: One of the reasons we have a lot of
23 separate entities, because, even like Embarq had a bunch of
24 different separate entities when we acquired them, when they
25 were spun out of Sprint back in 2006, so even Sprint on the

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1 properties here, they had separate legal entities. The reason
2 we keep those separate legal entities is because there's debt
3 throughout our capital structure. For example, we have
4 \$4,000,000,000 worth of debt sitting at Embarq Corporation, and
5 Embarq is a subsidiary of CenturyLink, and there's cash flows
6 from the companies under Embarq, and those cash flows support
7 that \$4,000,000,000 worth of debt. On the Qwest side there's
8 \$8,000,000,000 of debt at Qwest Corporation and the cash flows
9 support that debt, and then you have CenturyLink debt of
10 \$3,000,000,000. When you start combining entities you have to
11 make a decision, okay, well, is that cash flow now going to the
12 Embarq, \$4,000,000,000 worth of debt, or is it going to the
13 Qwest Corporation, \$8,000,000,000 worth of debt or is it going
14 to CenturyLink parent? When you look at the debt issues
15 associated with that -- for example, Qwest Corporation has a
16 debt covenant that says their debt to EBITDA which is "earning
17 before interest taxes and depreciation" cannot exceed two point
18 five times. So if you pull cash flows out from them and they
19 trip the debt covenant there's cross defaults in all of our
20 other debt covenants, so you could actually trigger a cross
21 default on all the company's entire debt. There's reasons why
22 we have the structure that we do. We work around that in
23 trying to organize the company the most efficient way because
24 we have to keep a very close eye on our expenses. We have a
25 service company that most of us in the room work for and we

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1 don't duplicate the functions. We centralize it there and then
2 we allocate the cost out. We try to run the business as
3 efficiently as we can while maintaining the integrity of the
4 capital structure.

5 CHAIRMAN GOLTZ: But you have inter-company
6 transactions where there's actually money going back and forth?

7 MR. BAILEY: Yes, sir, we do.

8 CHAIRMAN GOLTZ: In the State of Washington, our tax
9 system, those are all taxed transactions, then.

10 MR. BAILEY: I don't know. We filed inter-company
11 agreements with the Public Service Commission here in
12 Washington. And, really, at the end of the day I think each
13 company files its own separate state income tax return based on
14 what expenses it has.

15 CHAIRMAN GOLTZ: We don't have income tax. We have
16 business and occupation tax and public utilities tax. But I
17 think inter-company transactions are all taxable and that's why
18 it would be more rational for the ratepayers to have one
19 company.

20 MR. BAILEY: I'm not familiar enough with that.

21 CHAIRMAN GOLTZ: Let me ask one other question --
22 another example, I should say, by multiple companies -- you
23 have synergies but there's also inefficiencies but in the staff
24 company settlement, applicant settlement calls for an alternate
25 form of regulation to be filed after several years. It may be

0394

1 one or may be multiple. It just seems to me that there's some
2 regulatory inefficiencies of dealing with multiple alternate
3 forms of regulation coming to us as opposed to one.

4 I guess my question is: How do we account for those
5 inefficiencies in the proposal and evaluate those in judging
6 the public interest in all of this?

7 MR. BAILEY: Those companies and those expenses
8 associated with those tariff filings and things we have to do
9 from regulatory standpoint are there today regardless of
10 whether we merge or not. We'll look at the departments that
11 filed the tariffs and have to do separate things for separate
12 companies and make those areas as efficient as we can, but I
13 don't think that it's going to be a very small number, I would
14 think, in terms of the incremental cost of filing tariffs for
15 two or three or four companies in the State of Washington
16 versus for one company.

17 CHAIRMAN GOLTZ: One last question for Mr. Hunsucker:
18 One of the proposals by Mr. Gates of the CLEC is to have a most
19 favored state provision? Wouldn't that make life easier? If
20 every commission had a most favored state condition then
21 everything would be the same and you'd have the same conditions
22 in all states and it would be a synergy of its own?

23 MR. HUNSUCKER: Yeah. I think that synergy would be
24 very small. But I think from a most favored state perspective,
25 I mean, what that does is it just continues as we've gone

0395

1 through this process and I've been in almost every one of these
2 proceedings as a witness, once you get an order in one state
3 then you go to the next state and you pick off one or two
4 additional terms the CLEC focus on those and the next state is
5 two more, then the next state is two more, then all of a
6 sudden, instead of having 14 or 15 conditions, we're up to 30,
7 and those conditions place some cost upon our company, so I'm
8 not sure the efficiency gain versus the cost --

9 CHAIRMAN GOLTZ: But then there's no incentive on the
10 part of the state to go last, because if you did it first, the
11 very first state had a most favored state provision, then they
12 would get the benefits of all the subsequent proceedings.

13 MR. HUNSUCKER: That would be correct. But, again,
14 some state commissions make decisions based on their specific
15 state laws, their specific state rules and regulations, and
16 then taking that into another state where that particular rule
17 or regulation, from our perspective, doesn't make us
18 comfortable doing it.

19 CHAIRMAN GOLTZ: Any approvals you've received so far
20 have a most favorable state provision?

21 MR. HUNSUCKER: No, they have not. There hasn't been
22 any most favored state provision adopted in any of the states.

23 CHAIRMAN GOLTZ: I have no further questions.

24 JUDGE FRIEDLANDER: Thank you.

25 Commissioner Oshie.

0396

1 COMMISSIONER OSHIE: I have no questions.

2 JUDGE FRIEDLANDER: Thank you.

3 Commissioner Jones.

4 COMMISSIONER JONES: I have questions mainly for
5 Mr. Bailey.

6 Mr. Bailey, isn't one of the reasons for maintaining
7 separate CTEL subsidiaries, at least in our state, the
8 provision that's called the rural exemption?

9 MR. BAILEY: I'm not real familiar with that, but I
10 don't -- I don't know if that would put us in a non-rural
11 exemption status or not. I mean, I'm not real familiar with
12 the rural exceptions. We have competition in those markets and
13 we've never exercised, to my knowledge -- and I can be
14 corrected by some folks, if I need to be -- but I don't think
15 we ever tried to stifle competition by invoking --

16 COMMISSIONER JONES: My question to you is: You're
17 the chief financial witness, correct?

18 MR. BAILEY: That's correct.

19 COMMISSIONER JONES: Let me rephrase this: Aren't
20 there some expense savings from cost and optional savings
21 associated with not being obligated to provide UNE's and the
22 whole host of obligations on an ILEC under 251?

23 MR. BAILEY: Like I said, I'm not for sure, but there
24 would be cost to provision UNE's, but I think we would get
25 revenues for selling those UNE's.

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1 COMMISSIONER JONES: You're telling me you don't know
2 in terms of that cost benefit ratio?

3 MR. BAILEY: Yes.

4 COMMISSIONER JONES: Potential revenues versus the
5 cost of being a fully obligated, all the obligations?

6 MR. BAILEY: Yes, sir. I don't know the answer.

7 COMMISSIONER JONES: Okay. Rating agencies. I'm
8 referring to -- let me ask a couple of financial questions.
9 I've read part of your testimony.

10 How often do you talk with the rating agencies?

11 MR. BAILEY: About once a year.

12 COMMISSIONER JONES: You're familiar with all Fitch,
13 S&P and Moody's and what they stated upon the announcement of
14 the transaction in April of 2010, correct?

15 MR. BAILEY: Yes, sir.

16 COMMISSIONER JONES: Did all three rating agencies put
17 CenturyTel on watch negative?

18 MR. BAILEY: They did.

19 COMMISSIONER JONES: Why did they do that?

20 MR. BAILEY: Well, because Qwest, on a standalone
21 basis, has a higher debt to EBITDA than CenturyLink does so
22 they're not as financially strong as we are. So when you look
23 at that, their debt to EBITDA -- the lower the number is
24 better -- was two point seven times at the end of 2009. Ours
25 was two dot zero at the end of 2009. So when you bring these

0398

1 two companies together, at least for 2009, the combined
2 companies' debt to EBITDA is two point four times. So we're
3 de-levering Qwest as a request of this transaction and that is
4 one of the major benefits of the transaction, especially for
5 the State of Washington.

6 MR. JONES: I'm familiar with that.

7 So you're de-levering Qwest but you're increasing the
8 leverage for CenturyTel, correct?

9 MR. BAILEY: Yes, sir.

10 COMMISSIONER JONES: From, roughly, two point zero to
11 somewhere between two point zero and four point three, correct?

12 MR. BAILEY: No, sir. Without synergies in 2009 we go
13 from two point zero to two point four and if you include
14 synergies in the calculation CenturyLink goes from two point
15 zero to two point two.

16 COMMISSIONER JONES: Are you familiar with -- you must
17 be -- at least S&P is saying that that pro form leverage is not
18 supportive of an investment grade credit profile?

19 MR. BAILEY: That's what they're saying, but they're
20 also saying that we're improving the credit profile of Qwest.
21 So CenturyLink goes down a little, Qwest gets a lot better.

22 COMMISSIONER JONES: Does your company at a senior
23 management level or at the board level have a commitment to
24 maintaining an investment grade credit profile as a result of
25 this transaction?

0399

1 MR. BAILEY: That is our goal. The unfortunate thing
2 is we don't know and can't control what the rating agencies do.
3 You have Moody's out there saying we're going to be investment
4 grade, S&P saying it doesn't look like you're going to be
5 investment grade, and then you have Fitch who says we don't
6 know where they're going to come out. We've always tried to
7 maintain investment grade ratings. Even when debt was cheap
8 and companies were leveraging up, the balance sheet, we didn't do
9 that, and we took a lot of harsh criticisms from our
10 shareholders. But we've always tried to maintain a
11 conservative balance sheet through the history of the company,
12 and we've got the same management that's running the company
13 that's been there for a long time so the philosophy is there.

14 COMMISSIONER JONES: In your testimony you talk about
15 the dividend payout ratio being 50 point four percent. I think
16 that's in your rebuttal testimony. Is that something that
17 hasn't changed as a result of the various state conditions in
18 the proceedings to date that you still intend to pay out
19 roughly that much free cash flow to dividends?

20 MR. BAILEY: Yes, sir. That's still our intension.

21 COMMISSIONER JONES: Is it still your opinion that you
22 have a conservative dividend payout ratio than your peer group
23 like Windstream or other companies?

24 MR. BAILEY: Yes, sir. When you look at, even,
25 Windstream, 55-ish percent, AT&T is around 60, Verizon is

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1 around 70 percent. We'll be about 50 percent before synergies
2 and it's 45 percent after synergies.

3 COMMISSIONER JONES: What's your current dividend
4 yield based on the current stock price?

5 MR. BAILEY: It's probably a little bit over
6 six percent.

7 COMMISSIONER JONES: At a 35 at the time of the
8 transaction what would it be?

9 MR. BAILEY: I don't know. Seven to eight percent
10 somewhere. It's come down.

11 COMMISSIONER JONES: Finally, in your answer to the
12 Chairman's questions, I think on synergies -- and I have
13 reviewed the confidential exhibit to staff, as well -- and I
14 don't intend to get into any confidential information -- but by
15 categories, as you stated in response to the question, IT is a
16 source of corporate overhead that you intend to achieve
17 significant synergy savings, correct?

18 MR. BAILEY: That's correct.

19 COMMISSIONER JONES: What sort of assumptions did you
20 plug into the synergy model for IT corporate overhead related
21 to OSS and when the OSS would be converted, if it would be?

22 MR. BAILEY: I don't remember exactly but -- I don't
23 know the answer to that question. I know on the major billing
24 systems we assumed that we would use the Ensemble billing
25 system and maybe the Lattice System on the enterprise side. I

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1 don't remember.

2 COMMISSIONER JONES: Let me be more specific: Again,
3 you're the chief financial officer responsible for the synergy
4 savings model, correct?

5 MR. BAILEY: No, sir. I'm the treasurer who reports
6 to the chief financial officer.

7 COMMISSIONER JONES: Sorry.

8 But you are familiar with the synergy savings model
9 and all of its assumptions, are you not?

10 MR. BAILEY: I'm familiar with a lot of them but not
11 all of them.

12 COMMISSIONER JONES: Just let me be more specific: I
13 think we'll have a discussion today about the Ease --
14 E-A-S-E -- System that CenturyTel has employed as a C-Link
15 interfacing system, you know, for the CLEC as opposed to the
16 Qwest Legacy system which is called "IMA."

17 My question is: In your assumption of synergy savings
18 did you assume that the Ease system would be used for the CLEC
19 at some point during a one, two, three, four, five-year
20 transition?

21 MR. BAILEY: You know, I apologize. I don't know the
22 answer to that question.

23 COMMISSIONER JONES: That's all I have, Judge.

24 JUDGE FRIEDLANDER: Thank you.

25 Mr. Simshaw, did you have any Redirect?

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1 MR. SIMSHAW: Yes.

2 REDIRECT EXAMINATION

3 BY MR. SIMSHAW:

4 Q Let me start with Mr. Bailey.

5 I think Chairman Goltz was also touching on the area
6 of how state commission actions could impact or whether they
7 could impact synergy as estimates. Not looking for any
8 specific numbers, but just conceptually, if a state commission
9 was to do anything that would tie the hands of the company
10 concerning when it could or could not make various system
11 conversions, would that impact the estimates of synergies?

12 A Yes, it possibly could. And, also, I'll state that
13 even the rating agencies have said that they're looking at the
14 requirements the State Public Service Commissions are putting
15 on this transaction, so they want to take that into
16 consideration when they determine their ratings for the
17 pro forma companies. So if we had very onerous restrictions it
18 could tip a rating agency to go non-investment grade versus
19 investment grade since we're on the bubble.

20 Q In response to a question from Mr. Shifman you were
21 pointing out that there had been a significant increase in
22 CenturyLink stock price since the time that the merger was
23 announced. In your view, does that significant increase in the
24 timing of that increase give any indication as to what the
25 investment community feels about the ability of CenturyLink to

0403

1 pull this deal off?

2 A Yeah. I definitely think it's a vote of confidence in
3 the company. And, also, when we had our shareholder vote back
4 in August, as I recall, of this year, we received over
5 97 percent vote on the CenturyLink shareholders' approving the
6 transaction, again, over a 97 percent vote on the Qwest
7 shareholders to approve the transaction.

8 Q Mr. Hunsucker, I believe you had a discussion
9 yesterday, and it was most likely with Mr. Shifman, concerning
10 the possibility of porting interconnection agreements across
11 companies and I believe Mr. Shifman asked it in the context of,
12 were there any technical limitations that would restrict that.

13 Let me ask it to you differently, setting aside
14 technical aspects: Are there other reasons as to why it would
15 or wouldn't be appropriate to port interconnection agreements
16 across companies?

17 A Well, I think when you look at the actual agreements
18 that are in place state by state there are a fairly large
19 number of state specific requirements that are required by
20 various state commissions to be in those agreements. If you
21 look at the Qwest template that's out there and you go through
22 that there are just a tremendous amount of you have to use this
23 provision in Minnesota based on their rules and regulations,
24 you have to use this provision in another state, et cetera, so
25 when you simply take an agreement and move it from one state to

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1 the other there is still a tremendous amount of work that has
2 to be accomplished to conform that to the rules and regulations
3 of a specific state. We also talked yesterday about the
4 state-specific pricing, the fact that states may determine
5 different ways of recovering for certain elements between
6 recurring and nonrecurring. That language is embedded in those
7 particular agreements, that has to be modified. In effect,
8 you're basically creating a new agreement. We're also sitting
9 here being asking to extend ICA's for three years as they exist
10 today, at the same time we're being asked to port agreements
11 across states. It kind of appears to me that if you want to
12 have a three-year extension of your existing agreement, why do
13 you want to port another agreement from another state? Let's
14 stick with the three-year extension. That's what we're
15 committed to. Those have been in place for a number of years
16 and operating for both companies, apparently, because they're
17 not requesting new agreements, so lets -- we've committed to
18 the three year and that should give them the certainty that
19 they need.

20 Q Mr. Hunsucker, you mentioned that you basically
21 participated in pretty much every one of these State
22 proceedings. On this same subject, have the CLEC in these
23 other proceedings also asked that there be a condition or
24 requirement that they be allowed to port across state lines?

25 A Yes.

0405

1 Q Have there been any rulings in that regard?

2 A In reviewing the orders that I reviewed today, no
3 state commission has required porting agreements between
4 states. And I would say, just, kind of, for the record, we
5 have commission orders in Nebraska. Now we have Utah. We have
6 Colorado and Iowa. So, we have four state commissions who did
7 not require that.

8 Q Let me shift to the considerable discussion on the
9 timing of any conversion of wholesale OSS systems. There's
10 been a lot of discussion about how that does or doesn't relate
11 to the synergy glide path of three to five years.

12 But let me ask you this: In making a determination of
13 when it's prudent or appropriate to convert a wholesale OSS
14 system, what kind of factors would the company be taking into
15 consideration?

16 A Well, there are a number of factors. I think when you
17 look at the specific language that we have put in the Integra
18 agreement, I think it's condition 12, as I recall, there is a
19 very robust transparent process before we can make this OSS
20 conversion. First off, we have agreed to keep the Qwest OSS in
21 place for two years or through July 1, 2013. If this
22 transaction were to close April 1, that's a 27-month commitment
23 on that system. We commit to provide a level of service that
24 is not less than that provided by Qwest pre-merger. We also
25 committed to functionally equivalent support data

0406

1 functionality, performance, electronic flow through and
2 electronic bonding. We're making a commitment. So when we
3 make a comparison of what Ease may or may not do today in
4 relation to Qwest, that's really irrelevant. What we've agreed
5 to do is make sure the functionality Qwest has today that it's
6 not immaterially impacted when we put the new system in place
7 in two years. We have to establish a detailed transition plan.
8 We have to give at least 270 day's notice. We provide a
9 comment period for the CLEC to comment on the plan so if they
10 believe there's problem with the plan they can provide those
11 comments to us. We agree to follow the procedures in the CMP,
12 and in certain cases in this commitment it goes beyond what's
13 in the CMP, the change management process. There is a
14 provision for sufficient user acceptance testing. Those
15 criteria are to be agreed to between the CLEC and the company.
16 It's not something that we can unilaterally decide on. Once we
17 go through user acceptance testing the CLEC can vote on whether
18 they believe we've met those criteria, and it's a majority
19 vote. If the company and CLEC don't agree then either party
20 can come to the Commission to have them resolve whether those
21 criteria have been met. We agreed to do coordinating testing
22 in a stable test environment for 120 days with the CLEC. They
23 can participate with us. We want them to participate with us
24 because we want to make sure that system works when we make
25 that conversion, and then we also agreed to provide training

0407

1 and education with no charge to the CLEC. It is a very robust
2 process. It's not just we're going to decide in two years
3 we're going to make a change and we can suddenly implement
4 that. We want their participation. We believe if we can
5 create internal efficiencies by going to a single system, they
6 get efficiencies as well by not having to interact with the
7 same company in two different ways and two different systems.

8 The other thing I would point out, this language
9 within the Integra settlement is not language that I crafted or
10 someone in wholesale crafted. This was reviewed, amended and
11 agreed to by the chief information officers of both companies
12 as part of the settlement process. This is not wholesale
13 agreeing or putting forth this language. This is, in fact, CIO
14 to CIO reviewed and agreed to language.

15 I think the last point that I would make on this topic
16 is, Qwest has the ability today to retire a system. It's a
17 nine-month process from the time they give notification until
18 they can retire a system and go to a new system. This is a
19 24-month or, a few months longer than that, depending on when
20 the merger closes, so it goes well beyond the certainty and the
21 status quo that CLEC have to date.

22 Q Mr. Hunsucker, when you refer to the IT personnel from
23 both companies agreeing to that language in the Integra
24 agreement, when you refer to both companies you were referring
25 to CenturyLink and Integra, correct, not CenturyLink and Qwest?

0408

1 A No. CenturyLink and Integra, correct.

2 Q I wanted to make sure everybody understood that.

3 Basically what you're saying is that there were CLEC
4 IT people involved in that process?

5 A Yes.

6 Q Mr. Hunsucker, I would, again, assume that with the
7 Integra agreement being a multi-state agreement that this push
8 to extend the freeze on the wholesale OSS system from two to
9 three years has, again, been litigated in each of these state
10 merger review dockets?

11 A Yes, it has. And the four state commissions that have
12 issued orders to date, that would be Iowa, Utah, Nebraska and
13 Colorado, have all adopted two years, or July 1, 2013. I think
14 Iowa and Nebraska is only two years. If we closed April 1, we
15 could implement that one in April of 2013 but the others have
16 two years or July 1.

17 MR. SIMSHAW: Thank you, Your Honor. That's all I
18 have.

19 JUDGE FRIEDLANDER: Thank you.

20 Ms. Anderl, any Redirect?

21 MS. ANDERL: No.

22 JUDGE FRIEDLANDER: Thank you.

23 Mr. Gilliam, did you have any Redirect?

24 MR. GILLIAM: No, Your Honor.

25 JUDGE FRIEDLANDER: I would ask Mr. Butler but there

0409

1 weren't any questions for your witness so it doesn't make
2 sense.

3 With that, I'll go ahead and dismiss the panel.

4 Thank you so much for your testimony.

5 Why don't we take a short mid-morning recess and we'll
6 come back at 11:00. Thank you.

7 (Short break was taken in the proceedings.)

8 JUDGE FRIEDLANDER: We'll go back on the record.

9 Let's talk about how the rest of today's hearing is
10 going to go because I know we have a lot more to cover and some
11 witnesses are flying in from out of town, some will appear via
12 the conference bridge. What I anticipated was we will go ahead
13 and have Sprint call their witness next for the oral rebuttal
14 phase and after that I have a question for -- we have scheduled
15 the surrebuttal panel, the first one, to be the staff public
16 counsel DoD/FEA settlement and we can go through that, I would
17 assume.

18 But, it's my understanding, Mr. Trincherro, your
19 witness, Mr. Gates, is going to be flying in sometime this
20 afternoon. Do we know when he will be available for testimony.

21 MR. TRINCHERO: Your Honor, I believe his flight lands
22 in Seattle at 12:45 this morning. He'll have to rent a car and
23 get here. I'm assuming 2:30 or 3 o'clock.

24 JUDGE FRIEDLANDER: That's fine.

25 So, then, if we are progressed to that point and he's

0410

1 not here we can always take other Sprint witnesses that are in
2 that second bucket, the issues, the second issues section, I
3 guess you could say. So we may be going a little out of order
4 if need be, if Mr. Gates is not here.

5 Are there any other witnesses who the parties intend
6 to call that are not here right now that may have scheduling
7 issues?

8 No one is indicating that there are so I'll assume
9 there aren't.

10 MR. TRINCHERO: Your Honor, we do have our other
11 witnesses standing by for telephonic testimony, if needed by
12 the Bench. We would just request some advance notice so we can
13 make sure they're there.

14 JUDGE FRIEDLANDER: Definitely.

15 What I anticipated, we would go through the panels.
16 We still have, as I said, the oral rebuttal. We have two
17 surrebuttal panels to go through so I think that is plenty of
18 time for Mr. Gates to get here and then we can get into the
19 disputed issues.

20 Ms. Anderl.

21 MS. ANDERL: Yes, Your Honor. I guess what we were
22 anticipating was that if there were questions for the witnesses
23 who filed rebuttal testimony on January 3rd, Mr. Pruitt,
24 Mr. Haas and Mr. Gates, that those witnesses would come up
25 right after Mr. Appleby to stand Cross-Examination or to stand

0411

1 questions on that testimony, and since they are going to,
2 basically, be critical of the wholesale Settlement Agreement it
3 was our hope and anticipation our surrebuttal panel could go
4 after that to address those issues.

5 JUDGE FRIEDLANDER: I understand that. That's fine.
6 What we can do to accommodate that, then, is, I assume, as
7 Mr. Trincherro indicated, that the additional witnesses, not
8 Mr. Gates, but Mr. Pruitt and Mr. Haas, are available by
9 telephone with some reasonable notice.

10 MR. TRINCHERO: Yes, Your Honor.

11 JUDGE FRIEDLANDER: So, we could go ahead and call
12 them after Mr. Appleby's testimony and then we may have to wait
13 for Mr. Gates a little while so we can go into the disputed
14 issues at that point, I assume.

15 MS. ANDERL: I would say that is fine, if Sprint,
16 then, wants to cross some of the bucket two witnesses at that
17 point in time.

18 JUDGE FRIEDLANDER: I don't have a problem with that.

19 MR. TRINCHERO: Your Honor, so I can let Mr. Pruitt
20 and Mr. Haas know what time, approximately, are we assuming
21 that that's right after lunch, perhaps?

22 JUDGE FRIEDLANDER: That will depend on Mr. Shifman
23 and Ms. Endejan and the Cross-Examination. I'm assuming it'll
24 be after lunch. I was planning on, depending on how far we get
25 with Direct and I doubt we'll get into Cross before lunch.

0412

1 But, depending on how quickly that goes, I would say, it's a
2 guess at this point, 2 o'clock.

3 MR. TRINCHERO: But they should be ready at 1 o'clock.

4 JUDGE FRIEDLANDER: Yes. If that's feasible. Is
5 there any scheduling --

6 MR. TRINCHERO: I don't think so but I'll have someone
7 call them.

8 JUDGE FRIEDLANDER: Just let me know and we will try
9 to accommodate that.

10 MR. TRINCHERO: And, just to clarify, we don't have
11 any questions from the Bench, then, for either Mr. Falvey or
12 Dr. Ankum?

13 JUDGE FRIEDLANDER: Yes. That's correct. Thank you.

14 MR. TRINCHERO: Thank you very much.

15 MR. GILLIAM: Integra would like to clarify if there's
16 no further questions for Mr. Denney.

17 JUDGE FRIEDLANDER: I believe there are none. Were
18 you asking him to be excused?

19 MR. GILLIAM: Yes.

20 JUDGE FRIEDLANDER: I have no problem with that.

21 Do any of the parties object to that?

22 Nobody has indicated so Mr. Denney is executed.

23 MR. GILLIAM: Thank you, Your Honor.

24 JUDGE FRIEDLANDER: Thank you.

25 Mr. Shifman, call your next witness.

0413

1 MR. SHIFMAN: I call the panel of one, Jim Appleby.

2

3 JAMES A. APPLEBY, having been duly sworn to tell the
4 truth, the whole truth and nothing but the truth, testified on
5 his oath as follows:

6

7

DIRECT EXAMINATION

8 BY MR. SHIFMAN:

9 Q Please state your full name for the record.

10 A My name is James A. Appleby.

11 Q Whom do you work for?

12 A For Sprint.

13 Q What's your position, Mr. Appleby?

14 A I'm a manager, regulatory policy.

15 Q Mr. Appleby, did you provide two sets of testimony in
16 this case, responsive testimony, filed on September 27, 2010,
17 and then supplemental responsive testimony filed on
18 November 1st, 2010?

19 A Yes.

20 Q And there's both confidential and public versions of
21 both of those testimonies, right?

22 A Yes.

23 Q I understand they've been admitted into the record.

24 Do you have any questions to either of those sets of
25 testimony, Mr. Appleby?

0414

1 A One change to the responsive testimony.

2 JUDGE FRIEDLANDER: Go slowly.

3 Which page on the responsive testimony?

4 MR. APPLEBY: Page 42, line 19, through page 43,
5 line six.

6 JUDGE FRIEDLANDER: That's in the confidential
7 version.

8 It doesn't matter. We have a public version, as you
9 indicated.

10 You said page 42, line 19?

11 MR. APPLEBY: Correct.

12 JUDGE FRIEDLANDER: Through --

13 MR. APPLEBY: Through 43, line six. That all should
14 be stricken. That's the only change I have.

15 BY MR. SHIFMAN:

16 Q Anymore changes, Mr. Appleby?

17 A No. That's the only one.

18 Q Then I believe, Mr. Appleby, you were given the
19 opportunity to provide some oral surrebuttal to the testimony
20 in the settlement agreements that have been submitted. Are you
21 prepared to give that oral surrebuttal right now?

22 A Yes, I am.

23 Q Mr. Appleby, after your written testimony was
24 submitted several parties reached settlement agreements with
25 the merged firm. Do the provisions of these agreements fully

0415

1 address the competitive harms that this merger will create?

2 A No. These agreements collectively do not correct or
3 control the competitive harms this merger will create and they
4 fail to address the well-founded concerns of all the wholesale
5 customers that will be impacted by this merger. The agreements
6 are deficient in three principle ways: First, none of the
7 agreements filed eliminates or even minimizes the competitive
8 advantage the merged firm will enjoy as the result of their
9 ILEC-inflated intra-states which access rates. The merged firm
10 will be the only retail service providers to enjoy cost-based
11 traffic exchange within their combined ILEC service territories
12 for a very long time if these agreements are accepted. In
13 fact, the staff agreement actually exacerbates the competitive
14 harm that the merged firms' intra-state will cause because it
15 perpetuates this anti-competitive situation for at least four
16 more years and likely much longer.

17 The merged firms high access rates were established
18 before they created the ability to sell many other services
19 over their common local network. At that time above cost
20 access rates were needed to support the ILEC financially. This
21 situation is not supported by the current record. In
22 supplemental testimony at pages 15 through 17 I used the merged
23 firms highly confidential data to show the substantial revenue
24 growth that the merged firm has realized by selling more
25 services to its customers. Looking at access line trends is

0416

1 not meaningful when both companies sell services to customers
2 without even requiring local service to be purchased. In my
3 rebuttal testimony, at page 25, I demonstrated that
4 CenturyLink's dividend payout per share in the second quarter
5 of 2010 was \$10.79 per access line per month. Further, as
6 documented in my rebuttal testimony on page 21, CenturyLink has
7 publicly stated it expects to have realized 330 million in
8 synergy savings nationally by the end of 2010 or about
9 eight point five million in Washington related to the Embarq
10 merger, and the merged firm is likely to generate another 57
11 point five million in Washington operating synergy savings over
12 the next three to five years from the Qwest merger. Clearly,
13 the financial situation of the merged firm is strong and
14 getting stronger as the result of the new services they offer
15 and these merger activities. Inflated access rates are simply
16 not needed financially. There is no reason to delay correcting
17 these anti-competitive access rates for the merged firm as
18 proposed by the staff settlement to allow time to gauge future
19 synergy savings. Savings from the Embarq merger have been
20 realized and savings from the Qwest merger will begin
21 immediately as will the greater competitive harm due to the
22 merger that the high access rates cause unless the access rates
23 are rationalized.

24 The Commission must condition merger approval on the
25 reduction in CenturyLink's intra-states which access rates to

0417

1 the Qwest intra-state rate level initially and then all merged
2 firm ILEC rates must go down to the Qwest Interstate rate level
3 over time for the merger to be in the public interest. This
4 does not represent major access charge reform but is simply a
5 condition that will prevent tangible harm to competition in
6 Washington and deliver synergy savings to the consumers of
7 Washington.

8 In responsive testimony on pages eight through 12 I
9 provided a specific example of how the merged firms' ability to
10 market retail services to enterprise customers in the
11 CenturyLink service areas will be greatly enhanced by their
12 ILEC-inflated access rates. The Sprint access conditions are
13 designed to address this merger specific competitive harm.

14 The second deficiency in the agreements that are in
15 place today is that none of the agreements extend the existing
16 interconnection contracts between the competitors and the
17 Legacy CenturyLink ILEC. Maintaining the status quo only for
18 the CenturyLink interconnection contracts will cause
19 competitive harm because this will continue to increase the
20 transaction costs associated with negotiating, maintaining,
21 operating dozens of different ICA's with the merged firm.
22 Instead, the settlement agreements focus only on the Qwest
23 interconnection contracts. The advantages of extending
24 interconnection contracts apply equally to the extension of
25 Legacy Qwest and legacy CenturyLink interconnection contracts.

1 The third, all the settlement agreements are deficient
2 because they do not allow the porting of interconnection
3 contracts between states or between Qwest and CenturyLink
4 entities into a consolidated Qwest, CenturyTel, Embarq
5 interconnection contract. The merged firm has not identified
6 any technical reason why this could not be done. Apparently,
7 they selectively want to achieve synergies when it benefits
8 them and deny them when it would benefit the competitors by
9 reducing transaction costs. Harm to competition will be
10 prevented and consumers will benefit if the merged firms access
11 rates are rationalized and the conditions pertaining to local
12 interconnection contracts are strengthened as Sprint
13 recommends.

14 Q Mr. Appleby, do you believe the agreement between the
15 merged firm, commission staff and public counsel is truly in
16 the public's interest?

17 A No, I do not. Any settlement that does not correct
18 the competitive harms that I have discussed is not in the
19 public's interest. The public will benefit by the reduction of
20 access rates. Competition is enabled by lower access rates and
21 consumers receive better retail service pricing and new
22 innovative service offerings when the rates are lower. State
23 after state across the country, including this Commission, as
24 well as the F.C.C., have recognized the benefits provided to
25 consumers from lower access rates and have ordered access rate

0419

1 reductions.

2 In direct contrast to this trend, the staff Settlement
3 Agreement fails to correct the merged firms' intra-state access
4 rates imbalance in this merger review. It eliminates the
5 opportunity to address Qwest's access rates in the Qwest AFOR
6 review that was slated to begin in the first quarter of 2011
7 and it delays any ability to address the access rates of the
8 CenturyLink and Qwest ILEC to a distant AFOR proceeding.

9 Under the staff agreement, the merged firms may wait
10 up to four years after the close of the merger to file their
11 consolidated AFOR or sometime in 2015. This delay delays the
12 Qwest AFOR filing for four years and the CenturyLink ILEC AFOR
13 filings for one year. If the AFOR review process is completed
14 by the end of 2015 and the staff authorizes a typical
15 three-year access rate transition, the merged firms' ILEC
16 intrastate switched access rates will remain inflated for at
17 least eight more years.

18 Furthermore, the staff's Settlement Agreement
19 contradicts its previously stated position in this case.
20 Earlier in the proceeding the staff stated, quote, "Wholesale
21 arrangements and charges, including access charges, are
22 properly within the contours of the public interest inquiry."
23 The Commission concluded, staff suggested, and rightly so, that
24 mergers impact on access charges and competition is within the
25 purview of our examination. The staff also stated the merger's

0420

1 transaction impact on competition is an important factor, yet
2 the staff Settlement Agreement does more harm than good on the
3 access issue and to competition because it delays any review of
4 the Qwest and CenturyLink access rates for at least four years.

5 To put the staff's recommended delay into financial
6 perspective, on page 32 of my responsive testimony and also in
7 my Exhibit JAA-3 to that testimony, I show the amount of
8 additional revenues that merged firm intrastate access rates
9 collected in 2009 beyond what would have been charged if the
10 rates were set at intrastate levels. This confidential figure
11 is an annual figure. This level of overcharge is significant
12 by itself, but when you multiply that annual overcharge by four
13 or five more years the burden to the competitive community and
14 to consumers is huge.

15 Q Mr. Appleby, does that page in your testimony,
16 page 32, and then also Exhibit JAA-3, also show the difference
17 between the revenue impact on reducing the CenturyLink access
18 rates down to the Qwest access rate level?

19 A Yes. The analysis is bifurcated. It first takes the
20 CenturyLink ILEC rates down to the Qwest intrastate rates and
21 then takes all of the ILEC rates down to the Qwest intrastate
22 level.

23 Q Please continue.

24 A Thank you.

25 Throughout my responsive testimony I explained in

0421

1 detail the impact high access rates will have on competition in
2 a post merger market. The Sprint supplemental responsive
3 testimony utilized statement after statement from the
4 CenturyLink internal documents to confirm the merged firm knows
5 very well the competitive advantage they will enjoy yet nothing
6 in the staff agreement with the merged firm provides any relief
7 to competitors that rely upon the merged firms intrastate
8 access services, and the staff's agreement fails to address the
9 concerns raised by competitors regarding the merged firms'
10 local interconnection contracts.

11 Q The staff agreement also includes service quality
12 standard commitments and retail rate caps. Do you have any
13 comments on those aspects of the agreement?

14 A Yes. Sprint doesn't necessarily oppose such
15 conditions but in a fully competitive market competition is the
16 regulator of rates and service quality. If the Commission
17 eliminates the competitive disadvantage consumers face when
18 paying the high access rates of the merged firms ILEC,
19 competitors will be in a better position to help control retail
20 pricing and service quality in the market.

21 Q Mr. Appleby, do you have any comments about the
22 agreement between the merged firm and Integra?

23 A Sprint is supportive of the local interconnection
24 contract extensions contained in that agreement. Extending the
25 existing contracts between Qwest ILEC and the competitive

0422

1 community will provide significant cost savings and some
2 operational certainty; however, the same benefits would also
3 accrue to the industry if the merged firm and Integra agreement
4 had also extended the local interconnection contracts between
5 the Legacy CenturyLink ILEC and competitive carriers.

6 Integra is not a competitive carrier in Legacy
7 CenturyLink service territories so it would not be important to
8 Integra or the merged firm to agree to extend Legacy
9 CenturyLink ILEC interconnection contracts. But many other
10 competitors, including Sprint, do operate in Legacy CenturyLink
11 areas and have interconnection contracts with the CenturyLink
12 ILEC. For this reason, Sprint believes all local
13 interconnection contracts between the merged firm ILEC and
14 competitors should be extended. I recommended testimony that
15 the interconnection contracts be extended for four years, not
16 three. A four-year extension is more appropriate as it'll give
17 interconnecting parties, like Sprint, additional time to work
18 under the existing ICA's. The Integra settlement is also
19 deficient because it does not require the porting of local
20 interconnection contracts between states or between Qwest and
21 CenturyLink entities into a consolidated Qwest, CenturyTel,
22 Embarq interconnection contract. Since the merged firm begins
23 to realize the synergies from the transaction immediately,
24 interconnecting carriers should also enjoy cost savings
25 quickly. Contract extensions and the ability to consolidate

0423

1 their contracts with all other merged firm ILEC will deliver
2 those savings to the competitive community.

3 In conclusion, the existing settlement agreements do
4 not fully address the competitive harms this merger will
5 create. If this merger is approved it is imperative that
6 Sprint's local interconnection contract conditions and access
7 conditions be included as conditions of that approval.

8 This concludes my surrebuttal. Thank you.

9 JUDGE FRIEDLANDER: Thank you.

10 Are you tendering the witness for Cross?

11 MR. SHIFMAN: I am tendering the witness for Cross.

12 JUDGE FRIEDLANDER: Mr. Simshaw.

13 MR. SIMSHAW: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. SIMSHAW:

16 Q Mr. Appleby, I'd like to visit with you a bit about
17 what you refer to in your testimony as "owner's economics."

18 A Yes, sir.

19 Q In your testimony you gave an example of how that
20 would apply and I was trying to make my way through that and
21 I'd like to with you, as well, so, bear with me. I find it
22 easier to follow these if I put a concrete facts in as much as
23 possible. Let me start outlining the situation.

24 A Okay.

25 Q And you let me know if I miss-characterize or stray

0424

1 from the situation that you were trying to portray.

2 A I'm sorry. Were you speaking of a specific area of my
3 testimony or just the use of that term?

4 Q Well, you use it in several pieces of your testimony.
5 When you give an example, it is at --

6 A What page?

7 Q Begins at page eight.

8 A Okay.

9 Q In my example I'm going to pick a CenturyLink
10 exchange.

11 A Yes, sir.

12 Q I just pick Prosser. I like Prosser. It's famous for
13 its wine and quarterbacks.

14 Prosser is part of United Telephone of the Northwest
15 so I think so far that is the type of area that your example
16 was intending to capture. Right?

17 A True.

18 Q In Prosser today I believe that consistent with your
19 example, both Sprint long distance and Qwest long distance
20 would be purchasing access.

21 A True.

22 Q From the ILEC, which, again, is United Telephone to
23 the Northwest, one of the CenturyLink companies.

24 A True.

25 Q So, today there would be no ownership relationship

0425

1 between the ILEC, which is CenturyLink, and either of those
2 long distance companies, Sprint long distance or Qwest long
3 distance; is that correct?

4 A True.

5 Q Your concern, as I understand it, is that post merger
6 there would be a relationship between the ILEC, CenturyLink,
7 and one of the long distance carriers. Qwest long distance
8 they would have common ownership.

9 A CenturyLink requires a facility based long distance
10 network in which they can now provision services to the
11 enterprise market within CenturyLink service territory.

12 Q And that is the cause of the concerns and the problems
13 that you express in your testimony?

14 A Yes. That is the incremental competitive harm that is
15 caused by this merger. I don't disagree that access rates were
16 a problem prior to this merger but this is the incremental
17 change we're trying to address here.

18 Q Let me step back a few years to 2005, not changing
19 anything else in that factual scenario. In 2005 you would
20 still have United Telephone of the Northwest as the ILEC. You
21 can presume that Sprint long distance was an IXE and that Qwest
22 long distance was an IXE, again, paying access charges to the
23 ILEC.

24 A I would agree with that.

25 Q Would you agree the thing that would have changed in

0426

1 going back and looking at this in 2005 is, who owned the ILEC
2 at that time?

3 A Yes. I agree with that.

4 Q And who did own the ILEC?

5 A Sprint did at that point.

6 Q So, at that point there was a relationship, an
7 ownership relationship, between the ILEC and one of the IXE's,
8 although this time it's with Sprint, right?

9 A Yes. Sprint was vertically integrated. We had a
10 local distance and local presence within the old Sprint local
11 service territories. We would have enjoyed the competitive
12 advantage within that service territory. I don't disagree with
13 that.

14 Q You anticipated my question which would be that at
15 that point in time is these unfair advantages that you're
16 complaining of here today it was actually your company, Sprint,
17 who was benefiting from it.

18 A Right. We're not the only competitor in this market.
19 These things infringe upon AT&T's ability to compete within
20 CenturyLink service territory. They also infringe upon Verizon
21 business opportunities to serve enterprise business customers
22 within CenturyLink service territory post merger.

23 You can't focus on Sprint as a competitor. We are one
24 of the ones that don't own that. The point is, you're now
25 vertically integrated and have the ability to use your owner's

0427

1 economics. The actual cost of the facilities is what you
2 occur, not the bloated access rate you charge everyone else.

3 Q My question is that this vertical integration or
4 affiliation that you seem to think is a problem has been there
5 before but it wasn't a problem then.

6 A Well, I don't disagree. I don't disagree that that
7 particular issue is not a problem in other parts, of the
8 country. For example, Verizon business within the Verizon
9 local service territory has the same owner's economics for the
10 last mile facility in their territory. So, to the extent
11 they're selling non-regulated services within that service
12 territory, they have what is being acquired by CenturyLink.
13 But, the point here is, it's an incremental change related to
14 this merger. It's all related to the merger. If you weren't
15 putting the Qwest long distance network together with the
16 CenturyLink local network you wouldn't enjoy that competitive
17 advantage.

18 Q And, once again, Sprint enjoyed that same advantage up
19 until the point they decided to divest themselves of ILEC
20 operations in Washington, correct?

21 A True.

22 Q Let me ask a question about the access charges, again,
23 in that same scenario. Given that at a point in time both
24 CenturyLink and Sprint would have operated that ILEC, isn't it
25 true that the access charges were actually higher when Sprint

0428

1 operated them than they would be after this merger is approved
2 nder CenturyLink operations?

3 A I think that's true.

4 Q So, to the extent that there was an advantage from
5 this affiliation it was actually a bigger advantage when Sprint
6 owned the properties, was it not?

7 A I think the issue with this proceeding is not what was
8 happening in 2005. I think the issue is what's happening with
9 this merger. Again, we're putting a long distance network
10 together with local service networks that are expansive than
11 what there used to be. We're expanding this opportunity for
12 your company and the only way to correct that is to have
13 cost-based access rates.

14 Q Were they cost based when Sprint operated them?

15 A No, sir, they were not, but that's the history of
16 access charges. They haven't been cost based for a long time.

17 Q I think, based on this discussion, you would agree,
18 would you not, that this affiliation arrangement that you're
19 describing is nothing new in the industry?

20 A No. Those arrangements certainly do exist in other
21 areas of the country. I'm not disagreeing with that. I'm
22 saying it's new to this area. It's new to the CenturyLink
23 service territories in this state and throughout the nation.

24 Q I guess I'm confused. You're saying it's new yet I
25 thought we established the same kind of relationship existed

0429

1 back in 2005.

2 A But it's newly created with this merger. Yesterday
3 versus today.

4 MR. SIMSHAW: I have no further questions.

5 JUDGE FRIEDLANDER: Thank you.

6 Ms. Anderl.

7 MS. ANDERL: No questions, Your Honor.

8 JUDGE FRIEDLANDER: Thank you.

9 Mr. Trincherro, did you have any questions of this
10 witness?

11 MR. TRINCHERO: No, Your Honor.

12 JUDGE FRIEDLANDER: Thank you.

13 Ms. Cameron-Rulkowski.

14 MS. CAMERON-RULKOWSKI: I have one question.

15 CROSS EXAMINATION

16 BY MS. CAMERON-RULKOWSKI:

17 Q Mr. Appleby, you couldn't guarantee a price reduction
18 in long distance rates for Sprint's customers if the
19 CenturyLink access rates were reduced according to your
20 conditions, could you?

21 A Guarantee one, ma'am?

22 Q Correct.

23 A I think in a competitive market the customer does
24 receive the benefits of lower input costs. In a competitive
25 market we don't need regulators to mandate rate changes. The

0430

1 market takes care of those things so I don't need to guarantee
2 it. The market does that.

3 Q Certainly, Mr. Appleby, but I'm not speaking about a
4 theoretical competitive market. I'm asking specifically if
5 CenturyLink access charges were reduced, as Sprint has proposed
6 in its conditions, would Sprint guarantee a price reduction in
7 its interstate long distance rates?

8 A Why do you pick long distance rates? We function and
9 incur access costs for many of our services, not just long
10 distance. Our wireless operations incur it. Our wholesale
11 operations incur it. Why are you picking retail long distance,
12 which is a very small portion of our business right now?

13 Q All right. I'll be happy to expand the inquiry to
14 other retail rates, as well, that would be impacted by the
15 condition.

16 A Again, Sprint does not have to guarantee a price
17 reduction in long distance rates because the market is fully
18 competitive, has been for years, years and years, and nobody
19 disagrees with that. So, no, Sprint would not guarantee a
20 per se rate reduction in one particular retail service that we
21 offer that is associated with our access expense.

22 Q Mr. Appleby, why might that be that you couldn't
23 guarantee a price reduction?

24 A The market does that. I don't have that ability, for
25 one thing. I don't have that to make that commitment. But,

0431

1 again, the market takes care of those things.

2 MS. CAMERON-RULKOWSKI: Thank you.

3 I don't have any further questions.

4 JUDGE FRIEDLANDER: Thank you.

5 Mr. ffitch.

6 MR. FFITCH: No questions, Your Honor.

7 JUDGE FRIEDLANDER: Thank you.

8 Mr. Shifman, do you have any Redirect?

9 MR. SHIFMAN: Should we do it the same way with
10 Commissioner's questions?

11 JUDGE FRIEDLANDER: If you would like.

12 Chairman Goltz.

13 CHAIRMAN GOLTZ: Thank you. Apparently, we aren't
14 giving anybody comfort by going first.

15 So, just a couple of questions, and see if I can
16 summarize what I think is one of your main points.

17 The applicant companies have discussed synergy savings
18 that start relatively soon and expand or increase over the next
19 several years and they also have discussed integration costs
20 that occur up front.

21 MR. APPLEBY: Sure.

22 CHAIRMAN GOLTZ: And you talked about transaction
23 costs. Is it fair parallel to say that when we talk
24 transaction cost to the CLEC that the transaction costs of the
25 CLEC is the equivalent of the integration costs and if they

0432

1 incur those in the same way that the merged companies incur
2 integration costs then they should also have, sort of, parallel
3 realization of synergies?

4 MR. APPLEBY: Exactly. You asked a question
5 earlier -- I don't remember the exact details of it -- but it
6 was related to the multiple legal entities. They're saying
7 that they're going to become one company internal. Anyone that
8 wants to interface with that one company would sure like to
9 have one point of interface or one entity to deal with as
10 opposed to the multitude of legal entities that we have to deal
11 with now. All we're asking for is the ability to consolidate
12 our interaction with that company for local interconnection
13 contracts into one, just like they're doing, they're
14 consolidating, yes.

15 CHAIRMAN GOLTZ: Switching to the access charge
16 issues, wouldn't you agree that in this proceeding we can't
17 really set access charges? We would need another procedure to
18 do that.

19 MR. APPLEBY: Are you asking me legally whether you
20 have that opportunity? I think --

21 CHAIRMAN GOLTZ: If you don't know, that's fine.

22 MR. APPLEBY: I think that to address this merger and
23 the competitive harms this merger is causing I think you do
24 have the ability to change the access rates associated or else
25 you can't approve this merger.

0433

1 CHAIRMAN GOLTZ: I guess what I'm getting to is: You
2 were critical of the staff applicant settlement that would, in
3 effect, defer, or potentially defer, the consideration of
4 access charges until the AFOR procedure which, according to
5 settlement, must be filed between three and four years out. Is
6 your concern, I gather, is the lag time. If that time were
7 shortened, that is to say, a year or two, that resolves some of
8 your concerns, correct?

9 MR. APPLEBY: It helps. But I think the record in
10 place here is sufficient to make a determination that the rates
11 are too high. They are causing competitive harm and they need
12 to be addressed. Now, how quickly they're addressed or do we
13 need to have a second step? Those are potential possibilities.
14 But I think there's definitely competitive harm and some change
15 needs to happen in this proceeding. All proceedings,
16 unfortunately, take a very long time. That's our main concern.
17 If we start something a year-and-a-half from now, is that three
18 years until we get some kind of a change in the rates? And
19 even if you get a ruling often times the ILEC will say, "Well,
20 you can change my rates but let's do it a year-and-a-half from
21 now, that will be the first transaction, and we'll do it over
22 three years," and now we're into five, six or seven-year
23 transition. Even if you get the proceeding started sooner than
24 the three to four years it's still a long time.

25 CHAIRMAN GOLTZ: Let me ask this: Your recommendation

0434

1 is that, as it stands now, if we have the staff settlement and
2 the Integra settlement and all we do is to extend the Integra
3 settlement to the other CLEC and then say "approved" and that's
4 it, you would recommend that we not approve it, right? You
5 recommend "deny?"

6 MR. APPLEBY: I want to make sure I understand your
7 hypothetical. You're saying just the Integra agreement would
8 be approved and the staff agreement would not be approved?

9 CHAIRMAN GOLTZ: Staff settlement would be approved.

10 MR. APPLEBY: Would also be approved?

11 CHAIRMAN GOLTZ: Settlement approved and that's all we
12 do -- assuming either approve the staff settlement and the
13 Integra settlement or we deny it, which of those two do you
14 prefer?

15 MR. APPLEBY: Unfortunately, I think we would suggest
16 that the merger -- we're better off approaching the merger
17 without the settlement agreement related to the staff because
18 it delays the access rate reductions, any consideration of the
19 access rate reductions, beyond what this -- because we would
20 have the opportunity within the Qwest AFOR, for example, to
21 advocate for access reduction.

22 CHAIRMAN GOLTZ: So acceleration of the consideration
23 of access change reductions, to some reasonable point, maybe
24 not next week but not four years from now, if we did that that
25 would tip you in favor of approval, then?

0435

1 MR. APPLEBY: Yes. The faster we get that access the
2 better, absolutely. Again, I think the record is here for a
3 ruling.

4 CHAIRMAN GOLTZ: Thank you.

5 I have no further questions.

6 JUDGE FRIEDLANDER: Thank you.

7 Commissioner Oshie.

8 COMMISSIONER OSHIE: I want to make sure I understand
9 your ultimate remedy, Mr. Appleby, given the exchange with the
10 Chairman.

11 What do you recommend the access charge rates to be
12 dropped to?

13 MR. APPLEBY: Within my surrebuttal we would think
14 that this merger would be within the public interest if the
15 CenturyLink intrastate rates were moved to the Qwest intrastate
16 rates immediately and then the rates of all of the ILEC within
17 the State that are in the merged firm are transitioned down to
18 intrastate levels, the Qwest intrastate level, over time.

19 COMMISSIONER OSHIE: The immediate relief would be the
20 intrastate access charge that are now charged by Qwest; is that
21 right?

22 BY APPLEBY: By CenturyLink.

23 COMMISSIONER OSHIE: By CenturyLink. In other words,
24 you want CenturyLink's rates to reflect Qwest's current rates;
25 is that correct?

0436

1 MR. APPLEBY: Correct. That's the immediate step,
2 yes, sir.

3 COMMISSIONER OSHIE: How far can we go above Qwest
4 rates before you believe that they're not unduly
5 discriminatory?

6 MR. APPLEBY: Well, I think at this point we're
7 already -- let me back up.

8 COMMISSIONER OSHIE: Maybe I can frame it in a way of
9 numbers. This is on yellow paper but it's a number that's
10 floated around forever as to what the actual Qwest rate is. Is
11 that a problem?

12 MR. APPLEBY: Yes.

13 MS. ANDERL: Qwest rate is not confidential. It's
14 just some of the calculations that flow from that are
15 confidential.

16 COMMISSIONER OSHIE: Okay.

17 Mr. Appleby, what is the Qwest rate that you're asking
18 for numerically?

19 MR. APPLEBY: My understanding of the Qwest's
20 intrastate rate right now is that it's about two dot two cents,
21 and if the CenturyLink ILEC rates went down to the two dot
22 two cents immediately that would be a substantial help towards
23 the competitive harms this merger will create.

24 COMMISSIONER OSHIE: What if the rate didn't go down
25 to two cents? What if it went down to three cents? Is that

0437

1 still unduly discriminatory, in your mind?

2 MR. APPLEBY: Yes.

3 COMMISSIONER OSHIE: So any differentiation in the
4 cost that Sprint has to pay and the cost that Qwest now has to
5 pay through its IXE is going to be unduly discriminatory and
6 result in competitive harms. It can be less than a penny per
7 minute and it would still be, in your mind, it would result in
8 competitive harms that you're testifying to?

9 MR. APPLEBY: Yes, but there are lessons, so,
10 therefore, the ability of the competitors to compete in the
11 market is enhanced. But, ultimately, cost based traffic
12 exchange is where we have to go, and Sprint believes traffic
13 exchange on incremental one more minute on an existing network
14 cost standard is somewhere around three zeros and one. So,
15 it's a small number. The margins on switched access services
16 are just huge in comparison to anything that you can find in
17 any industry.

18 COMMISSIONER OSHIE: Understood.

19 I believe your question by Mr. Simshaw that there's a
20 reason for that, isn't there? It's the whole access charge
21 system that's in place?

22 MR. APPLEBY: The system --

23 COMMISSIONER OSHIE: Can you describe what those legs
24 of the stool are that support a company when it reaches out to
25 rural areas to provide service? Aren't they access charges and

0438

1 customer contribution by the way of rates and then any other
2 federal or state support?

3 MR. APPLEBY: The two that you said are absolutely,
4 it's the contribution from the access charges and contribution
5 from universal service programs but it's also the retail
6 services. That's what I was trying to get to in my oral
7 surrebuttal. You have to look at all the services provided
8 over this local network anymore. It's not just local dial tone
9 services and access charges like it used to be. It's broadband
10 services that have [unintelligible] in the 30 plus range.
11 You're going to have IPTV that's offered over these same
12 networks. Yes, they're putting some incremental investment
13 into those other services but they're still piggy-packing off
14 of the Legacy local network. So if you're not looking at the
15 revenue associated with those services it's just not fair.

16 COMMISSIONER OSHIE: Well, that really wasn't my
17 question because I'm not getting at the equities and what we
18 would look at or not look at.

19 Let's go back to the question. If one of the legs of
20 the stool that supports the provision of servicing to rural
21 territories is customer rates, how do we make an adjustment to
22 access charges, at least, arguably, cut revenue stream from the
23 company that's providing that service without dealing with
24 local rates? Isn't that what you're asking us to do here?

25 MS. APPLEBY: No, sir. I'm not asking you to change

0439

1 local rates at all.

2 COMMISSIONER OSHIE: Wouldn't we have to, in order to
3 make -- to continue to provide service that is fair, just,
4 reasonable and sufficient by our law, wouldn't we have to deal
5 with that? We couldn't cut revenue stream out from the company
6 and say, "It's up to you. You're on your own from here on in."

7 MR. APPLEBY: What about all the other revenue streams
8 that they're generating that are also over that same network?

9 COMMISSIONER OSHIE: Isn't that what we'd have to
10 determine, Mr. Appleby? Is there evidence in the record right
11 now as to what they're earning on regulated services?

12 MR. APPLEBY: No. Unfortunately, I don't have that
13 kind of information. What we do have is a trend of average
14 trend per user in the record.

15 COMMISSIONER OSHIE: I wouldn't expect you to have
16 that information.

17 I guess the point is, I think you would agree it's
18 very complex. There's a simple solution here, but I believe
19 it's much more complex to accept your resolution of the issue
20 and without -- to actually deal with the other issues that it
21 raises, such as other contributions to revenue, just as you
22 talked about, customer rates, just as I believe you agree. I
23 think that's the difficulty that I have with accepting
24 verbatim, if you will, what you propose, unless you have a
25 response to that. We have to deal with it in a holistic way

0440

1 and not just in a, sort of, haphazard, "We'll do this here and
2 we'll figure out what we'll do with the rest of it later."

3 MR. APPLEBY: I've put the information on there that's
4 publicly available and available through the confidential
5 documents that have been provided. I think it's sufficient to
6 determine that the financial health of the company post a
7 decision on these conditions that we're requesting, their
8 financial health will be more than sufficient to continue to
9 provide services within Washington. I showed that on a total
10 company basis they distribute more than \$10 per line, per
11 month, to their shareholders, and I assume that has to be
12 profit or why would you distribute it to your customers? \$10
13 per line per month to your shareholders. I think that's a
14 pretty good indication of their strength.

15 COMMISSIONER OSHIE: If we had real issues, and we
16 decide there are issues, basically, with the financial impact
17 of this transaction of which you're describing is your client,
18 would it accept dealing with this in a future proceeding in
19 which we would tee this up as a result of the merger or which
20 we can deal with all of the issues that you've tee'd up and the
21 issues that are really related to it and really cannot be
22 extricated, if you will, from them?

23 MR. APPLEBY: Sprint is supportive of dealing with the
24 access issues at the earliest possible convenience, yes, sir.

25 COMMISSIONER OSHIE: Thank you.

0441

1 JUDGE FRIEDLANDER: Thank you.

2 Commissioner Jones.

3 COMMISSIONER JONES: Just a few. This could be a very
4 long conversation but it won't be. Switch access form is
5 complex, so let me follow up on a few issues.

6 When you say "cost-based service" are you referring to
7 the triple O seven that the F.C.C. has published in the ISP
8 remand order? Is that pretty close to cost-based service based
9 on current networks?

10 MR. APPLEBY: Yes. I'll leave it at that.

11 COMMISSIONER JONES: That's seven-tenths of
12 one percent?

13 MR. APPLEBY: Yes, sir.

14 COMMISSIONER JONES: In response to
15 Commissioner Oshie, in your two-phased proposal you would go to
16 two point two cents in phase one.

17 MR. APPLEBY: Where the CenturyLink ILEC, yes.

18 COMMISSIONER JONES: And then in phase two where would
19 you go for the Qwest inter --

20 MR. APPLEBY: The Qwest interstate, approximately,
21 two zeros five five.

22 COMMISSIONER JONES: That is still not a true cost
23 base, right, in your opinion?

24 MR. APPLEBY: That's right.

25 COMMISSIONER JONES: I imagine that you obtained these

0442

1 issues up before the F.C.C. in filings before the F.C.C.; is
2 that correct?

3 MR. APPLEBY: Absolutely.

4 COMMISSIONER JONES: What about just waiting for the
5 F.C.C. to act instead of this state?

6 MR. APPLEBY: The F.C.C. is not going to act on
7 Washington specific intrastates switch access rates within this
8 merger.

9 COMMISSIONER JONES: If the F.C.C. were to act
10 wouldn't it act on a national basis and wouldn't the
11 application of any access reform, either in a separate MPRM or
12 in a merger proceeding in the State of Washington?

13 MR. APPLEBY: I think that's a jurisdictional question
14 and I don't know the answer.

15 COMMISSIONER JONES: In your proposal you propose
16 30 days to go to Qwest intrastate rates and 120 days to go to
17 Qwest intrastate rates. Based on all other access reform
18 proposals that I have seen, including your previous proposal
19 that you developed, I think, two years ago on file, and the
20 Missoula plan, the national broadband plan, they all apply
21 significantly longer periods of time for a transition.

22 MR. APPLEBY: True.

23 COMMISSIONER JONES: So why and how did you come up
24 with 30 days and 120 days?

25 MR. APPLEBY: That was the initial testimony. And now

0443

1 within oral surrebuttal we're saying immediate on the
2 CenturyLink rates to Qwest intrastate rates, and then over time
3 we're leaving it open for a transition. We understand access
4 rates typically are transitioned over time. So, the initial
5 proposal was aggressive, I agree, but we've changed where we
6 are.

7 COMMISSIONER JONES: Just so I understand it properly,
8 your rationale for going to Qwest interstate rates pretty
9 quickly is the specific harms of this merger?

10 MR. APPLEBY: Exactly.

11 COMMISSIONER JONES: As you analyze them?

12 MR. APPLEBY: Exactly.

13 COMMISSIONER JONES: Also could it be that the network
14 efficiencies combining Qwest long distance with the CenturyTel
15 ILEC operations could achieve certain network efficiencies and
16 other efficiencies that could result in lower cost?

17 MR. APPLEBY: I don't disagree that those efficiencies
18 likely occur, but I would suggest, too, that the efficiencies
19 are more reflective of the access charges of the ILEC is the
20 combination of the ILEC networks, their ability to utilize less
21 switches. For example, if you have contiguous properties side
22 by side in certain areas, maybe you don't need as many switches
23 or as many transport facilities, that's one of the reasons why
24 a single port per Lata is an important thing for competitors to
25 take advantage of this combination of local networks. But the

0444

1 efficiencies associated with the ILEC combined networks is more
2 germane to the access issue as opposed to the combination of
3 the long distance network. We wouldn't suggest that any
4 efficiencies of the long distance network ought to accrue to
5 the access charges.

6 COMMISSIONER JONES: Just so I understand it, on
7 page six of your testimony you talk about accounting rules that
8 require the merged firm to, kind of, as I describe it,
9 internalize these costs to switch access and special access.
10 Just go through that for me so I'm clear and what specific
11 accounting rules are you talking about that would eliminate or
12 internalize these switch access costs?

13 MR. APPLEBY: As a C.P.A. I probably ought to know the
14 exact number, but I don't know that. What I do know is that
15 when Sprint owned the local company the local company would
16 invoice the long distance carrier and, so, you had a revenue on
17 the books and you had an expense on the books. Right? It's an
18 intra-company transaction. And when you produce your books
19 publicly, instead of inflating the revenue amount and the
20 expense amount, accounting rules require you to eliminate both
21 of those in the financials that you publish them to the public.
22 So, that's what I'm talking about.

23 COMMISSIONER JONES: Finally, I think in your
24 testimony you talk about special access services and how the
25 rates are excessive, and I'm familiar with Sprint's argument on

0445

1 this point with Mr. Shifman and others. But you don't make any
2 recommendations on this.

3 MR. APPLEBY: Most of the special access services that
4 we utilize, the TDM-related service that we utilize from the
5 ILEC, are purchased out of the Interstate access, I guess you
6 call them "tariffs," even though they're price flex. It's not
7 really a jurisdictional specific issue to Washington. It's
8 certainly an issue we're talking to the F.C.C. related to the
9 merger there.

10 COMMISSIONER JONES: Your argument is that's an
11 interstate tariff even though it's price flexed, as we know,
12 but you are advocating for changes before the F.C.C. on that, I
13 would imagine?

14 MR. APPLEBY: Absolutely.

15 COMMISSIONER JONES: Thank you.

16 That's all the questions I have.

17 JUDGE FRIEDLANDER: Thank you.

18 Mr. Shifman, do you have any Redirect?

19 MR. SHIFMAN: Just a few minutes.

20 JUDGE FRIEDLANDER: Go ahead.

21 REDIRECT EXAMINATION

22 BY MR. SHIFMAN:

23 Q Mr. Appleby, Commissioner Jones mentioned "special
24 access" and I'm just wondering: Can you just tell the
25 Commission why you brought up special access in your testimony,

0446

1 as I believe the testimony was, that that was one of the
2 benefits of the merger was that they be able to provide more
3 wireless backhaul. Why did you rebut that point in your
4 testimony?

5 A The issue was that they were touting the availability
6 of more backhaul as an advantage to the competitors and my
7 point was that when you put fiber out to these cell sites
8 they're going to be putting ethernet services over those
9 facilities. Ethernet has been de-regulated by the F.C.C., so
10 all of the arrangements are contractual in nature. There's no
11 price controls whatsoever for the competitors. So, Qwest and
12 the CenturyLink ILEC can price those services as they wish in
13 the market. So, if the price, as they wish, with no controls,
14 it's unlikely that the service prices will be helpful to any
15 competitor.

16 Q Mr. Appleby, Mr. Simshaw asked you some questions
17 about Sprint owning the United companies back in 2005 and then
18 divesting in those companies. I asked you about the
19 differences between then and now. I think you touched on this
20 a little bit but can you provide more about what types of
21 revenues possibly were available to the Sprint ILEC then as
22 opposed to the CenturyLink ILEC now in 2011?

23 A Since 2005 the penetration of broadband services by
24 most ILEC -- and I'm not privy to Sprint -- I'm sorry -- to
25 CenturyLink specific penetration rates -- but most ILEC have

0447

1 significantly expanded both the availability of broadband
2 services since 2005 as well as the take rate of the broadband
3 services. So, the opportunity to generate lots of revenue over
4 that network has been expanded by this technology increment
5 that the ILEC has put on. This broadband network will also
6 facilitate the development of IPTV as lots of the rural ILEC
7 are doing this. It's a push of the Legacy CenturyLink dialup
8 and I think it'll expand to Qwest.

9 MR. SHIFMAN: No further questions.

10 JUDGE FRIEDLANDER: Thank you.

11 Mr. Appleby, you're dismissed. Thank you so much for
12 your testimony.

13 We can take a lunch break in a minute.

14 What I need from Mr. Trincherro, you can call, I
15 assume, Mr. Pruitt and Mr. Haas to get them?

16 MR. TRINCHERO: We already did.

17 JUDGE FRIEDLANDER: So they will be available when we
18 come back from lunch.

19 MR. TRINCHERO: Is there one more surrebuttal panel --
20 I thought there was one more surrebuttal panel before we get to
21 them. I thought there was one on the company staff settlement.
22 Is that not right?

23 JUDGE FRIEDLANDER: There are two surrebuttal panels
24 coming up. We had one. They're mimicking the prior two
25 settlement panels, but, from what we discussed earlier with

0448

1 Ms. Anderl, we were going to wait and take those after we heard
2 from your witnesses.

3 MR. TRINCHERO: Both of those?

4 JUDGE FRIEDLANDER: That's my understanding.

5 Ms. Anderl, is that not the case?

6 MS. ANDERL: That is the case.

7 MR. TRINCHERO: Your Honor, I'm wondering why that is.
8 There's a surrebuttal panel for the staff and public counsel
9 settlement that my witnesses did not challenge. They
10 challenged the Integra settlement as not going far enough. So
11 I assumed what we were going to do is get my witnesses to
12 testify before that panel so we could take that other panel
13 first.

14 MS. ANDERL: My understanding was the CLEC were going
15 to do rebuttal. When we had the pre-hearing conference on the
16 30th nobody indicated they were going to oppose the retail
17 settlement. We now have heard CLEC opposition to the retail
18 settlement and there's been quite a significant overlap in
19 terms of the questions for the retail and wholesale panels. We
20 haven't had a chance to discuss it yet. There may just be one
21 surrebuttal panel that comes in and be seated, because it might
22 be silly and redundant, but to put people up multiple times,
23 especially when there's been a lot of cross questions. I mean,
24 when retail panelist are asked, "Why doesn't your settlement
25 include wholesale issues?" it starts to look more like

0449

1 questions for the wholesale witness. So, as I said, we haven't
2 had time to kind of strategically formulate all that. It does
3 seem to make sense to get all of the opposition to all of the
4 settlements out and then get the very last support for the
5 settlements.

6 JUDGE FRIEDLANDER: Right, because they do have the
7 burden of proof.

8 MR. TRINCHERO: That's fine, Your Honor.

9 JUDGE FRIEDLANDER: You have no further opposition?

10 MR. TRINCHERO: No. I was just trying to get
11 clarification.

12 JUDGE FRIEDLANDER: Thank you.

13 When we come back, then, are we taking your witnesses
14 individually or are they going to be a teleconference panel?

15 MR. TRINCHERO: That is up to Your Honor and the
16 Bench.

17 JUDGE FRIEDLANDER: Let's take them together.

18 Mr. Gates, obviously, will not be available at this time.

19 We'll take him after we do some of the bucket two witnesses.

20 MR. TRINCHERO: So, Mr. Haas and Mr. Pruitt will both
21 be on the conference bridge when we return?

22 JUDGE FRIEDLANDER: Sure. That would be a good idea.

23 MR. TRINCHERO: What time?

24 JUDGE FRIEDLANDER: Let's make it 1:15.

25 We're in recess.

0450

1 (Lunch break.)

2 JUDGE FRIEDLANDER: We'll be back on the record.

3 Mr. Shifman, you indicated that you had some exhibits
4 that you would like to be entered into the record.

5 MR. SHIFMAN: Yes. Thank you, Your Honor.

6 Sprint identified on its exhibit list MRH-18 through
7 21. That would be 18, 19, 20 and 21. Those are orders from
8 the F.C.C. or from this Commission. Can we identify them and
9 put them on the exhibit list and move them into the record,
10 please?

11 JUDGE FRIEDLANDER: Are there any objections to the
12 admission of these exhibits into the record?

13 MS. ANDERL: Which ones were they?

14 JUDGE FRIEDLANDER: MRH-18 through 21,
15 Cross-Examination exhibits. I believe it's page six and seven.

16 MS. ANDERL: No objection.

17 JUDGE FRIEDLANDER: I don't see anybody else
18 indicating an objection.

19 So moved.

20 (Exhibits MRH-18 through 21 were admitted.)

21 JUDGE FRIEDLANDER: I believe we have Mr. Haas and
22 Pruitt on the line who are joint CLEC supplemental testimony
23 witnesses.

24 Mr. Trincherro, if you want to call your witnesses?

25 MR. TRINCHERO: Thank you.

0451

1 I would like to call telephonically to the stand Billy
2 H. Pruitt and William A. Haas.

3 JUDGE FRIEDLANDER: Thank you.

4 Mr. Haas and Mr. Pruitt, it's customary for all
5 witnesses to be sworn. Since I can't see you I'll assume
6 you're standing and raising your right hand.

7 MR. PRUITT: Yes.

8 MR. HAAS: Okay.

9

10 BILLY H. PRUITT and WILLIAM A. HAAS, having been sworn
11 to tell the truth, the whole truth and nothing but the truth,
12 testified on their oath as follows:

13

14 JUDGE FRIEDLANDER: Mr. Trincherro, you can proceed.

15 MR. TRINCHERO: Thank you.

16 DIRECT EXAMINATION

17 BY MR. TRINCHERO:

18 Q I'll start with you, Mr. Haas.

19 Did you cause to be filed in this proceeding
20 testimony, dated January 3rd, relating to the settlements in
21 this case that deal with wholesale issues?

22 A I did.

23 Q Mr. Pruitt, did you also cause to be filed in this
24 case testimony, dated January 3rd, that deals with the
25 settlements relating to wholesale issues in this case?

0452

1 A I did.

2 MR. TRINCHERO: Your Honor, I believe that pre-filed
3 testimony and exhibits, those have already been admitted into
4 the record and the joint applicants have waived Cross on those
5 and, so, I would simply now tender these witnesses for
6 questioning from the Bench.

7 JUDGE FRIEDLANDER: Okay. Thank you.

8 I have to assume none of the other parties have
9 questions for Mr. Haas or Mr. Pruitt?

10 I'm getting a shake of the head from everyone so that
11 indicates "No."

12 Chairman Goltz, do you have any questions for either
13 Mr. Pruitt or Mr. Haas?

14 CHAIRMAN GOLTZ: I believe this is for Mr. Pruitt: Am
15 I correct, just as background, that Charter does business in
16 competition with various CenturyLink companies in Washington.
17 Is that correct?

18 MR. PRUITT: That is correct.

19 CHAIRMAN GOLTZ: Do you also do business within the
20 Qwest service territory in Washington?

21 MR. PRUITT: Yes, we do.

22 CHAIRMAN GOLTZ: Is it the majority with the
23 CenturyLink companies?

24 MR. PRUITT: Majority is actually not with the
25 CenturyLink companies. Majority is based on access lines.

0453

1 Majority is actually with Frontier, the old Verizon companies,
2 Qwest is second and Century is third.

3 CHAIRMAN GOLTZ: One of the points you make in your
4 testimony is the need or your desire for a single point of
5 interconnection with the merged companies. Is that correct?

6 MR. PRUITT: That is correct.

7 CHAIRMAN GOLTZ: You're an engineer; is that correct?

8 MR. PRUITT: I am not.

9 CHAIRMAN GOLTZ: What are some of the logistic
10 difficulties, from your perspective, if you know, of single
11 point of interconnection as opposed to multiple points? Is
12 that better directed to someone else?

13 MR. PRUITT: The biggest issue is really the cost
14 associated with establishing interconnection facilities to
15 multiple plays in a multiple lab. The primary issue, from
16 Charter's perspective, is that cost associated with having to
17 do those multiple facilities to multiple plays in a given lab
18 and that's kind of a high level. Hopefully that helps with
19 some portion of your question.

20 CHAIRMAN GOLTZ: What would be those costs going
21 forward with a single point of interconnection for the merged
22 companies as opposed to multiple points?

23 MR. PRUITT: I don't know that we've done any kind of
24 analysis that would have a specific dollar amount associated
25 with that, but, just generally speaking, to the --

0454

1 CHAIRMAN GOLTZ: We missed your last few words.

2 MR. PRUITT: I was saying, the primary issue is
3 related to the excessive cost associated with establishing --

4 JUDGE FRIEDLANDER: Could you please speak up for our
5 court reporter?

6 MR. PRUITT: Yes. I will try to speak louder.

7 As I indicated, the number one issue, really, is the
8 cost associated with establishing multiple interconnection
9 facilities to multiple plants in a given lineup, and to the
10 extent we can minimize those costs by establishing a single
11 polling that works which competitors like to do and that's
12 Charter's preference.

13 CHAIRMAN GOLTZ: Is this an issue -- I think it's in
14 your testimony -- you said you're participating in the Oregon
15 proceeding as well?

16 MR. PRUITT: Yes.

17 CHAIRMAN GOLTZ: Is that an issue in an Oregon
18 proceeding as well?

19 MR. PRUITT: Yes.

20 CHAIRMAN GOLTZ: Has that been resolved there?

21 MR. PRUITT: Not to my knowledge.

22 CHAIRMAN GOLTZ: Thank you.

23 I have nothing further.

24 JUDGE FRIEDLANDER: Thank you.

25 Commissioner Oshie.

0455

1 COMMISSIONER OSHIE: No questions, Judge.

2 JUDGE FRIEDLANDER: Thank you.

3 Commissioner Jones.

4 COMMISSIONER JONES: Good afternoon, Mr. Pruitt. This
5 is Commissioner Jones. Just a few follow-up questions.

6 I think in your testimony you talk about, when you're
7 talking about the single point per lata, this provision will
8 apply only where the merged companies' networks interconnect.
9 Is that correct?

10 MR. PRUITT: That is correct. That is a change we
11 made to our original proposed conditions.

12 COMMISSIONER JONES: Can you just give me a few
13 examples of the CO's in the areas in which you operate, maybe
14 give an example or two, whether it's Kennewick or -- I think
15 you're primarily in eastern Washington, aren't you?

16 Just give me an example or two of where that might
17 apply, if you could.

18 MR. PRUITT: I actually did not do an analysis of
19 which of those exchanges are contiguous with each other.

20 COMMISSIONER JONES: Okay.

21 I think in your testimony you also deal with the rural
22 exemption issue, don't you?

23 MR. PRUITT: Yes, I do.

24 COMMISSIONER JONES: Why is this an important issue
25 for Charter? Perhaps you could give us some real life examples

0456

1 of where CenturyLink has asserted it's rural exemption as a way
2 not to interconnect with you on reasonable terms.

3 MR. PRUITT: I can give a couple of examples.

4 Charter has negotiated interconnection agreements in
5 multiple states with CenturyLink and the typical questions
6 always come up with regard to rural agreements and we end up
7 fighting for issues such as getting TelREC cost-based
8 facilities with TelREC's down, standing part total, elemental
9 long-longs incremental costs. Other issues that we wanted to
10 are rural companies claiming the exemption and us having to
11 point back to multiple ploys per lata requiring us to do a ploy
12 to each individual rural company versus the multiple companies
13 in a lata. Those are just a couple of examples of issues that
14 we deal with with CenturyLink.

15 COMMISSIONER JONES: I'm going to turn to Mr. Haas
16 now.

17 Mr. Haas, again, Commissioner Jones.

18 On pages five and six of your testimony you talk about
19 some of the inferior capabilities of the CenturyLink OSS and
20 how it is inferior to the Qwest OSS. Is that correct?

21 MR. HAAS: Yes.

22 COMMISSIONER JONES: Could you just give us one or
23 two specifics of this inferior functionality, just to bring it
24 down to real life examples here?

25 MR. HAAS: Sure.

0457

1 Let's take customer service records, which we have an
2 excellent interface with Qwest. We get those downloaded into
3 our system via that interface on a regular basis. That
4 information then populates various internal PAETEC systems that
5 either, then, help us create clean orders, creates an account
6 for a particular customer that we then, win, create the correct
7 address and things used for billing purposes. That feature of
8 being able to download those kind of records from the E System
9 do not exist today.

10 Similarly, on the preorder side, we are able to go in
11 to Qwest databases and download information. We then have our
12 systems sync that up with information we get from the luric so
13 we know exactly where we can offer services and which
14 particular types of services to end-user prospects throughout
15 the Qwest exchange based on the information we're able to
16 secure from Qwest and their databases. Again, that
17 functionality does not exist in these today. Then on the
18 simple matter of trying to match an address so that we can
19 properly enter that into an order, again, the functionality of
20 the Qwest OSS allows us to come up with an address but it has
21 various help tools, such as the drop-down menu, that allows us
22 to get the address properly into the system. That
23 functionality does not exist today in these and we have to
24 enter the exact address as it appears in their system. If we
25 do not do that it's going to get a "reject" as opposed to a

0458

1 "valid order."

2 On the trouble-ticket side, the Qwest OSS has the
3 Seamer System, which you may or may not know they're proposing
4 to replace at this time, but, we have an interface with Qwest
5 that we have eliminated lots of manual steps in the process of
6 opening trouble-tickets. Many, many trouble-tickets are
7 processed without manual intervention on our side as well as on
8 Qwest's side as information is entered by the technician it
9 flows into the Qwest system into our system. It updates our
10 trouble-ticket records. We can close trouble-tickets and close
11 a substantial number of them without manual entry on our side
12 of the equation and we have a nice electronic records of all
13 the interaction of the trouble-tickets that we open with Qwest
14 because of the interaction of our system with the Qwest system.
15 That functionality does not exist at all today in the E System.

16 COMMISSIONER JONES: Thank you.

17 So your argument is that competitive harm would be
18 caused as a result of this order, either under a conversion
19 from the Qwest Legacy OSS to the CenturyLink E System in
20 anything shorter than three years?

21 MR. HAAS: Competitive harm will result if we're
22 required to move to a different system that does not have the
23 same level of functionality. There will be a cost no matter
24 when we transition to a different system. Even if the
25 functionality is exactly the same we'll still have to incur

0459

1 costs to re-hone our system to whatever interface that new
2 system would offer to us. But the competitive harm, in terms
3 of not allowing us to be as efficient as we are today will
4 definitely result if the functionality of any new modified OSS
5 system does not allow us to continue to operate in an
6 electronic and efficient format as we do today.

7 COMMISSIONER JONES: I think CenturyLink has pointed
8 out that you have not directly bonded electronically, what is
9 called "E bonding" with the E System and tested it out and,
10 instead, you've used a third party service bureau to do this
11 testing. Is that correct?

12 MR. HAAS: It is correct that PAETEC is not directly E
13 bonded with the E System, and we do use what's called a "third
14 party service bureau" that is E bonded with an E System and
15 that service bureau does submit orders through the E bonded
16 system to the E system on behalf of PAETEC in Embarq exchanges.

17 COMMISSIONER JONES: Your position is that the
18 E bonding through the service bureau would require accurate
19 results as you're assessing the E System versus the existing
20 Qwest IMA system?

21 MR. HAAS: That's correct.

22 COMMISSIONER JONES: Mr. Haas, you object to staff
23 Settlement Agreement, specially provision 23, I think, that
24 deals with wholesale OSS issues. My reading of your objection
25 is fundamentally you like the definition of functional

0460

1 equivalence in the wording of how this conversion process might
2 happen in terms of the goal but, essentially, you would like to
3 have three years instead of two years. Is that an accurate
4 representation?

5 MR. HAAS: I would go a step further. Yes, we would
6 like three years to maintain the current OSS, but even though
7 the staff's settlement uses the "functional equivalent" term, I
8 think the language without further clarification in the staff
9 settlement does not provide our company -- my company -- the
10 comfort it needs, the functional equivalency is what we believe
11 is functionally equivalent. Our concern is, if you look at the
12 advocacy of CenturyLink at the F.C.C. and various state
13 proceedings, what they think is functionally equivalent to the
14 Qwest OSS is significantly different, so I'm afraid without
15 further clarification the functionally equivalency we're
16 talking about includes its functionally equivalent on our side
17 of the transaction for us, that we may end up getting the
18 system that may work very similar on the CenturyLink merged
19 entity side, but what they send us and what we're allowed to do
20 with it, how we're allowed to operate with that in our systems,
21 wouldn't be the same.

22 COMMISSIONER JONES: You also assert third party
23 testing is essential to any OSS conversion process and third
24 party testing is not part of either the Integra settlement or
25 the staff settlement, correct?

0461

1 MR. HAAS: Correct. We do believe third party testing
2 is essential to make sure we have the requisite commercial
3 volumes of testing going on and neither the staff or the
4 Integra settlement address that.

5 COMMISSIONER JONES: That is a deficiency that you
6 proposed to correct.

7 Can you clarify to the Commission how you would
8 propose to do this? For example, in the Staff Settlement
9 Agreement there is a provision for -- and I think in Integra's,
10 as well -- for a consultation on what it would require, there's
11 270 days prior to this Commission, the F.C.C. wire line
12 competition bureau, everybody is notified, and then at some
13 point the testing begins and eventually goes to controlled
14 production testing under certain circumstances.

15 So, based on the 271 process when a third party
16 testing group was involved, when would you recommend that the
17 third party testing group become involved in this process?

18 MR. HAAS: Well, certainly I think the third party
19 testing would be necessary if for a particular system or
20 particular function within a system if there were not enough
21 volumes where the participating CLEC could generate enough
22 volume to warrant an acceptance to say this is adequate. A
23 problem that we have with the proposal on the Integra
24 settlement, and I think is reflected on the staff settlement,
25 is the acceptance testing is going to be subject to a majority

0462

1 rule. The concern my company has is, there could be
2 functionalities that, perhaps, may be only PAETEC uses but
3 other companies could out vote us and say this is perfectly
4 fine because they don't use that functionality with that
5 particular OSS, and my company could be severely harmed, but
6 because we're the only company that's using that particular
7 functionality we would be outvoted. That's a concern with the
8 way the acceptance testing would work under the proposed
9 settlement. But I think third party testing is definitely
10 essential any time it appears that we're not going to have the
11 requisite volumes to test the various aspects of an OSS that is
12 being deployed. I'm not sure, and I don't think anybody can be
13 sure at this time, that we will have enough commercial volumes
14 when we come to make those modifications to the OSS.

15 COMMISSIONER JONES: Mr. Haas, were your concerns
16 adequately addressed in the 271 process in what is called the
17 "ROC Process," "Regional Oversight Committee Process" in which,
18 I think, Liberty Consulting was used to do independent third
19 party testing where problems unique to PAETEC, McLeod,
20 discovered and addressed in that process?

21 MR. HAAS: Well, yes. We were very satisfied with the
22 testing that Liberty Consulting was engaged to do through the
23 ROC process. Unfortunately, my memory is not recalling
24 specific items that were of concern to PAETEC. At that time
25 McLeod was saying that Liberty Consulting uncovered that may

0463

1 have been unique to us. I do know there were problems
2 uncovered that were of concern to us that would not, perhaps,
3 have been uncovered but for the third party testing, but I
4 can't say they were not unique to McLeod to say PAETEC at that
5 time because I think other CLEC had similar concerns that were
6 uncovered during the process.

7 COMMISSIONER JONES: Is it necessary in your view for
8 a third party testing to take two to three years as it did
9 during the 271 process or could it be done in a shorter period
10 of time?

11 MR. HAAS: Well, my sincere hope is it would not take
12 that near amount of time. But it depends on the number of
13 modifications that the merged entity would want to implement.
14 If we're talking a wholesale change of the OSS, it's hard for
15 me to say right now exactly how quickly that could be tested.
16 It's my understanding to date that the E System has not been
17 subjected to a third party testing environment. I don't know
18 if you have to start with the ground with their system, if
19 that's the system they end up adopting, or whether or not there
20 are various testing that have been done that can be accepted by
21 a third party as being validated at some point and move on from
22 there. I don't know yet.

23 COMMISSIONER JONES: My last question on this is: In
24 the staff Settlement Agreement in Section 23 in C sub two -- do
25 you have that in front of you?

0464

1 Just let me summarize it for you. It talks about
2 CenturyLink will allow coordinated testing with the CLEC
3 including a stable testing environment and then it goes on.
4 But then they talk about "controlled production testing" but it
5 says "when applicable."

6 In your view -- I guess my question to you -- if you
7 can answer -- is production testing for PAETEC and, perhaps,
8 other CLEC's absolutely essential if we're talking about a full
9 conversion of the Legacy Qwest OSS system or can it be done
10 without production testing?

11 MR. HAAS: I think I'll have to defer on that to
12 Mr. Gates. I have a reaction that "probably," but I'm not as
13 much as an expert on production testing as I would like to be
14 to give you a definitive answer on that.

15 COMMISSIONER JONES: Judge, those are all the
16 questions I have for both witnesses.

17 JUDGE FRIEDLANDER: Thank you.

18 Mr. Trincherro, did have you any Redirect?

19 MR. TRINCHERO: Yes, Your Honor, I do have some brief
20 Redirect.

21 MS. ANDERL: Your Honor, as a part of the agreement
22 for us waiving Cross-Examination on the pre-filed testimony, my
23 understanding, at least, is that we did reserve the right to
24 ask Your Honor's permission to have some follow-up questions on
25 these witnesses in response to Bench questions and I do have

0465

1 one area that I wanted to ask Mr. Pruitt about.

2 JUDGE FRIEDLANDER: Certainly. Go ahead.

3 MR. TRINCHERO: Your Honor, we don't have an objection
4 so long as that area isn't simply questioning on what was
5 pre-filed. I'll be watching, I guess.

6 JUDGE FRIEDLANDER: Okay.

7 CROSS EXAMINATION

8 BY MS. ANDERL:

9 Q Mr. Pruitt, I'm Lisa Anderl and I represent Qwest.

10 A Good afternoon.

11 Q I have some questions for you about the single point
12 of interconnection issue that the Chairman asked you about.

13 Do you currently operate in the Spokane Lata in the
14 State of Washington?

15 A I do but I do not believe that Charter provides
16 service in Spokane.

17 Q What about in the Spokane Lata?

18 A I don't believe so but I'd be happy to check on that.

19 Q What about in the Seattle Lata?

20 A No, we do not.

21 Q How many are there left?

22 What about the Portland Lata?

23 A I provided a list of the cities and counties in my
24 confidential testimony that we provide service in. I didn't,
25 at that time, match them to Latas, but, like I said, those

0466

1 counties are listed in my confidential testimony.

2 Q Is that the supplemental testimony that you just
3 filed?

4 A Yes.

5 Q Let me look at that, then.

6 A I take that back. I think that's actually in --
7 actually -- let me find it here.

8 Q Mr. Pruitt, let me see if I can do this this way: I
9 have your confidential testimony in front of me.

10 You've indicated on non-confidential basis that
11 Charter competes with Qwest in five counties in Washington.
12 Are those counties in eastern Washington or western Washington?
13 Do you know?

14 A I don't know.

15 Q Is the names of those counties in which you compete
16 with Qwest, is that a confidential piece of information?

17 A We included it as confidential in my testimony, yes.

18 Q I don't see it as confidential in your testimony on
19 the Qwest side. I see it as confidential on the Century side.

20 Do you know what counties you compete with Qwest in in
21 Washington?

22 Mr. Pruitt.

23 A Yes.

24 Even though the Qwest specific information was I
25 simply identified that there were five counties.

0467

1 Q Do you know if they are in eastern or western
2 Washington?

3 A I do not.

4 Q Do you know how many points of interconnection you
5 have with Qwest in the State of Washington?

6 A I do not.

7 Q Do you know how many points of interconnection you
8 have with Frontier in the State of Washington?

9 A I do not. I didn't do a point of interconnection
10 count.

11 Q Do you know how many points of interconnection you
12 have with Century, the Century companies in the State of
13 Washington?

14 A I think we have one point of interconnection with
15 them.

16 Q What about the other CenturyLink companies?

17 A We don't have an interconnection agreement with any
18 CenturyTel -- Legacy CenturyTel company in Washington.

19 MS. ANDERL: Thank you.

20 That's all I have.

21 JUDGE FRIEDLANDER: Thank you.

22 Mr. Trincherro.

23 MR. TRINCHERO: Yes, Your Honor. I do have just one
24 or two.

25 ///

REDIRECT EXAMINATION

1

2 BY MR. TRINCHERO:

3 Q Good afternoon, Mr. Haas.

4 A Good afternoon, Mr. Trincherero.

5 Q We were talking about the term "functionally
6 equivalent" as that appears in the Staff Public Counsel and
7 joint applicants' settlement in condition number 23. In
8 response to Commissioner Jones' questions there you indicated
9 that the manner in which the public advocacy of CenturyLink
10 suggests they interpret functional equivalency is not the same
11 as PAETEC might. I'm wondering if you could give us an example
12 of a functionality that you currently get with the Qwest IMA
13 system that you do not get with the E System that CenturyLink
14 might claim is functionally equivalent. Can you give us an
15 example of that?

16 A Sure.

17 I think the best example that, I guess, I'm most
18 familiar with -- when you say "Qwest IMA" -- I want to
19 clarify -- our interface with them is an XML interface with a
20 Qwest OSS.

21 Q I'm sorry. I misspoke.

22 A No problem.

23 So for orders we had mentioned in our initial comment
24 filed in July last year at the F.C.C. that the E System
25 processed orders, LSR's, in a batch. The joint applicants

0469

1 filed reply comments in early August and said that was false
2 because their E bonding capabilities provide near realtime
3 order processing. We clarified in our October ex-party, in
4 fact, that they were trying to redefine what "realtime" was
5 because E does not do order processing realtime. It is batch
6 order processing for PAETEC, using the third party service
7 bureau, they process orders and return them to us in batches
8 once every 20 minutes. That is contrary to realtime order
9 processing that we get through XML interface with Qwest where
10 "realtime" means it's processed within Qwest system and we get
11 it back momentarily, not in a batch 20 minutes later. So,
12 their advocacy was -- as I read their advocacy at F.C.C. -- the
13 E System was near realtime and comparable to the realtime
14 processing that actually exists in the Qwest system. So I
15 believe their advocacy indicating they believe it's
16 functionally equivalent to have batch processing for orders and
17 that's good enough to equate to realtime order processing and
18 it is not, from our perspective.

19 Q Thank you, Mr. Haas.

20 Mr. Pruitt, just a quick question for you:

21 Commissioner Jones asked you about the single ploy in Charter
22 and Washington, and I think also Chairman Goltz asked you some
23 questions on this.

24 In addition to potential savings of cost directly to
25 Charter, isn't Charter and other CLEC concerned that the joint

0470

1 applicants, if they interconnect the systems of Qwest and
2 CenturyLink in the State, or within a Lata, would enjoy
3 efficiencies in moving their own traffic that you would not
4 enjoy if you had to continue to have separate points of
5 interconnection with a Lata?

6 A Yes. That is correct. Charter, and I think the other
7 CLEC, believe that the first report and order, paragraph 11 in
8 the F.C.C. rules, basically require that any economy activity
9 and scale to be provided CLEC and I think that that's what we
10 would expect to get in this situation if Qwest and CenturyTel
11 were to connect on that.

12 MR. TRINCHERO: Thank you.

13 If I might have a moment, Your Honor.

14 JUDGE FRIEDLANDER: That's fine.

15 MR. TRINCHERO: I have no further Redirect. Thank
16 you.

17 JUDGE FRIEDLANDER: Thank you.

18 Mr. Haas and Mr. Pruitt, I will dismiss you from the
19 virtual stand. I thank you for your testimony.

20 It's my understanding that because Mr. Gates is not
21 here we would go into Sprint T-Mobile's disputed non-settlement
22 issues.

23 Is Sprint prepared to cross-examine?

24 MR. SHIFMAN: Yes.

25 JUDGE FRIEDLANDER: I have a tally of

0471

1 eight witnesses.

2 MS. ENDEJAN. I basically have most of my questions
3 for Mr. Bailey. I have a few questions for Mr. Reynolds and
4 just a few questions for Mr. Jones and Mr. Shifman has a few
5 questions for Mr. Brigham.

6 JUDGE FRIEDLANDER: So, no questions for Mr. Schafer,
7 Mr. Hunsucker.

8 MR. SHIFMAN: I might have a couple of questions for
9 Mr. Hunsucker.

10 JUDGE FRIEDLANDER: What about Ms. Liu?

11 MR. SHIFMAN: I don't think we need to now.

12 JUDGE FRIEDLANDER: That was indicating a "No."
13 Mr. Vasconi?

14 MR. SHIFMAN: No.

15 JUDGE FRIEDLANDER: Well, since most of the questions
16 are for Mr. Bailey -- yes, Ms. Anderl.

17 MS. ANDERL: I was just clarifying that Mr. Schafer,
18 there are no questions for him at all, and if he's not a member
19 of the settlement panel then he would not be cross-examined by
20 Counsel. I didn't know if there were going to be questions for
21 him from the Bench or not but we can pursue that later.

22 JUDGE FRIEDLANDER: Sure.

23 MS. ANDERL: May I have a minute to consult with
24 co-counsel?

25 JUDGE FRIEDLANDER: That's fine.

0472

1 (Discussion between counsel.)

2 JUDGE FRIEDLANDER: We're back on the record.

3 Mr. Bailey has been called by Qwest.

4 I would remind you, Mr. Bailey, you are still under
5 oath.

6 This witness has been tendered for Cross Examination.

7 Who will be conducting Cross-Examination?

8 MS. ENDEJAN: Judy Endejan on behalf of Sprint
9 T-Mobile.

10 CROSS EXAMINATION

11 BY MS. ENDEJAN:

12 Q Good afternoon, Mr. Bailey.

13 A Good afternoon.

14 Q It would be helpful if you had your testimony with
15 you. I want to ask you some questions about that.

16 Let me ask you: Have you read the testimony of Sprint
17 witness Mr. Appleby?

18 A Yes.

19 Q And it would be helpful, and I don't know if Counsel
20 could provide that to you, if you can provide him with a copy
21 of Mr. Appleby's rebuttal testimony of November 1st with the
22 exhibits -- I'm sorry -- not November 1st -- his second set of
23 testimony, the November 1st testimony which has been marked as
24 JAA-6HCT and all of the exhibits.

25 MS. ANDERL: Witness has that.

0473

1 MS. ENDEJAN: Thank you.

2 Q First of all, let me ask you some questions to follow
3 up on the synergy, questions that you had from this morning.
4 Do you recall that?

5 A Yes.

6 Q I believe you have testified that the \$575,000,000
7 synergy rate that you've testified about has not changed from
8 the time that the merger was announced to the present in terms
9 of calculation.

10 A Well, I didn't say it hasn't changed in terms of
11 calculation. Really, what I said was, that we still believe
12 the \$575,000,000 of synergies is the correct number once the
13 transition period of three to five years is complete, yes.

14 Q So, if I understand your testimony, then, is that
15 \$575,000,000 in synergies to be achieved annually or over that
16 five-year period?

17 A The way the process works is, we will achieve
18 synergies throughout the five-year period but we will not reach
19 the full \$575,000,000 until the end of the five-year period.
20 So in the 6th year you will have a full year of synergies of
21 \$575,000,000.

22 Q Thank you for clarifying that.

23 Now, since the merger was announced there have been a
24 number of, I guess, proceedings in other states before other
25 regulatory agencies that have resulted in, I guess, final

0474

1 orders allowing the merger to go forward. Is that not true?

2 A That's true.

3 Q Are you familiar with other conditions that have been
4 required by other Commissions with respect to approving the
5 merger?

6 A No, ma'am, not really.

7 Q Do you know if there's been any financial impact to
8 your synergy calculation as a result of any of the decisions
9 from other state regulatory agencies?

10 A I haven't been made aware of any financial impacts of
11 other Commission decisions. It's not to say they're not out
12 there, it's just that I don't know about them if they are.

13 Q If you could turn to Exhibit JAA-8HC to Mr. Appleby's
14 testimony, I want to ask you some preliminary questions first.

15 Correct me if I'm wrong, I'm assuming in your position
16 as senior vice president and treasurer that you're involved in
17 a lot of the high-level meetings that were reflected in what we
18 have called in this proceeding the Heart/Scott/Radeeno
19 documents. Would that be correct?

20 A Not necessarily. I don't remember what's all in the
21 Heart/Scott/Radeeno. I'm only involved in the financial
22 aspects of the transaction. I'm sure there's other things in
23 there that I would not have participated in.

24 Q But in that role, though, you would have been involved
25 in, sort of, identifying some of the financial risks and

0475

1 assumptions necessary to evaluate the value of the merger,
2 would you not?

3 A Actually, we have a separate department that does that
4 and they report directly to the chief financial officer. I'm
5 not really involved in that process.

6 Q Does the chief financial officer report to you?

7 A No, ma'am, he does not -- just for the record.

8 Q Let me ask you: If you turn to this exhibit
9 JAA-8HC -- and I'm going to do the best I can to try to
10 question you about it without making specific reference to
11 what's contained in it, which can be a challenge. So, if you
12 could turn to that document.

13 A (Witness complies.)

14 MS. ENDEJAN: Let me ask Counsel for CenturyLink, if I
15 read the title of the document if that's going to be considered
16 "confidential?"

17 MS. ANDERL: We gave our copy to the witness so we're
18 getting another copy. Thanks.

19 MR. SIMSHAW: Could I have a reference?

20 MS. ENDEJAN: It's the cover page. It identifies what
21 this document is.

22 THE WITNESS: What's the reference of the exhibit
23 number?

24 MS. ENDEJAN: It would be the first exhibit behind
25 Mr. Appleby's November 1st, 2010, testimony.

0476

1 THE WITNESS: Yeah. I show that to be "JAA-7HC."

2 JUDGE FRIEDLANDER: For clarification, it's actually
3 been marked by the Commission as JAA-8HC, even though --

4 THE WITNESS: I've got it.

5 JUDGE FRIEDLANDER: -- even though Sprint has
6 designated it their own designated of "JAA-7HC."

7 MR. SIMSHAW: Since the witness is looking at the
8 original filed copy, what was the number on the original filed
9 copy?

10 MS. ENDEJAN: The original filed copy was JAA-7HC.

11 THE WITNESS: I've got it.

12 BY MS. ENDEJAN:

13 Q Maybe I can short circuit this: Were you present at
14 the presentation that appears to be embodied or reflected by
15 this exhibit?

16 A Yeah. This document does not look familiar to me.

17 Q Let me ask you to turn to what would be the third page
18 of this exhibit, has a number at the bottom that says "five."
19 Do you see that?

20 A Yes.

21 Q It lists a number of bullet points on this document.

22 A Yes.

23 Q Those bullet points -- I don't think this is
24 confidential -- bullet points relate to the topic of key
25 transaction of risks and concerns. Do you see that?

0477

1 A Yes.

2 Q Do you see that first bullet point?

3 A Yes.

4 Q Now, as you've gone through this regulatory approval
5 process have there been any adjustments made to your synergy
6 analysis to address the concern expressed in that first bullet
7 point?

8 A Like I said earlier, no adjustments have been made to
9 date to the synergy numbers. However, we're not fully through
10 the regulatory process. I guess there could be an issue that
11 would come up that would change our mind, but, to date, no
12 changes have been made.

13 Q Do you reasonably anticipate making such changes?

14 A I don't know. It just depends on the circumstances, I
15 guess.

16 Q But, to be perfectly clear, then, your synergy
17 analysis doesn't reflect any accommodation for the \$80,000,000
18 broadband commitment that the company has made in the
19 Settlement Agreement with the staff, correct?

20 A I think you're mixing the income statement up with the
21 balance sheet there a little bit. The \$575,000,000 is an
22 expense. The broadband commitment is a cash flow balance sheet
23 item.

24 Q So, did you change it to increase the cap "X" amount
25 in the synergies? Isn't their \$50,000,000 cap "X" amount that

0478

1 you calculated in terms of synergies?

2 A Did we change what again?

3 Q Let me rephrase it.

4 In addition to the \$575,000,000, isn't there a
5 \$50,000,000 cap "X" synergy that the companies have identified?

6 A Yes.

7 Q Has that amount been changed to reflect the commitment
8 made by the companies here in Washington for the \$80,000,000
9 broadband commitment?

10 A First of all, even if we were to change that synergy
11 it wouldn't be reflected until we received the Commission and
12 order. So, like I said earlier, I mean, nothing is going to
13 change until we get through all of the regulatory process.

14 Q In terms of calculating synergies, let me ask you
15 this: Did the joint applicants do any analysis with respect to
16 whether they would achieve additional synergies if they
17 collapsed all of the legal entities into one operating entity
18 on a state-by-state basis?

19 A Well, like I testified earlier, you get into potential
20 debt issues there and you could actually end up tripping a debt
21 covenant which given the cross to default provisions of all of
22 the debt, because if you try to bring entities together you
23 could, conceptually, default on \$19,000,000 worth of debt, so
24 it's not worth the risk of trying to bring entities together
25 when you're looking at those type of financial risks for the

0479

1 overall company.

2 Q Thank you, Mr. Bailey, but I don't think you answered
3 my question. My question was: Did the company do any analysis
4 of the financial impact that would be possible by consolidating
5 all of these legal entities into one? Did the company look at
6 that?

7 A Well, once you hit a roadblock like, potentially,
8 defaulting on \$20,000,000 of debt, you don't go further, so the
9 answer is "No."

10 Q Is it your testimony there's a potential debt
11 roadblock for all of the various CenturyLink operating
12 companies across the company that preclude you from even
13 looking at that question?

14 A Like I said, we already looked at it from a debt
15 structure and it just didn't make sense. I'm not sure that I
16 understand your question.

17 Q Let me try to rephrase it.

18 Now, having been, I guess, around the block far too
19 many times, corporations do frequently renegotiate their debt
20 arrangement with bankers, do they not?

21 A They really don't.

22 What kind of debt are you talking about?

23 Q Let me get to the heart of it.

24 You seem to say that the impediment to uniting all of
25 these various companies relates to debt covenants. Did the

0480

1 company look at the question of whether they should work at
2 eliminating the debt covenants in order to achieve greater
3 financial synergies from uniting all of these companies?

4 A Well, the debt covenants are indentured. You have
5 various provisions in debt so there's a bunch of type of debt
6 out there. You have indentures that bonds are issued under and
7 those bonds can be 30-year bonds. We have some that don't
8 mature until 2036. In order for us to change that indenture we
9 would have to pay that debt off in order to get a new indenture
10 so the new bondholders would know what they're buying into when
11 they have the debt.

12 Q Leaving aside the debt indentured question, would
13 there be financial synergies achieved, just from an operational
14 basis, by uniting all of the CenturyLink entities and Qwest
15 into one entity on, say, a per-state basis?

16 A That's a hypothetical that -- I mean, it's hard for me
17 to answer that question because there's no way for us to get
18 there. Like I said, we haven't gone down, or at least to my
19 knowledge, having gone down that path to see what that would be
20 because of all of the other overriding issues that we've
21 identified around our indentures and debt.

22 Q Is it the company's testimony they're going to keep
23 these separate entities until all of these, I guess, bonds
24 mature out into 2036 or does the company plan to, perhaps,
25 consolidate them sooner?

0481

1 A Well, the issue with consolidating sooner, like I
2 said, you would have to pay off the debt and those debts have
3 Macco provisions in them. If you have \$100,000,000 bond due
4 today that carries five percent interest you would have to
5 pay -- and there's 20 years left on that bond -- you would have
6 to pay the \$100,000,000 of principle plus all of the future
7 years of interest expense today in order to call that bond. So
8 it just wouldn't make financial sense. I don't think anybody
9 would, at least in our company, support incurring that type of
10 interest expense all in one year when we had originally
11 anticipated paying that interest expense over 20 years.

12 Q I guess I don't understand.

13 In other words, does the new CenturyLink intend to
14 keep all these separate entities until those financial
15 obligations for each entity are satisfied?

16 A Well, I don't know that we've assessed it. It's hard
17 for me to say how long we're going to do anything. We could
18 change the -- I mean, things change over time. As we sit right
19 now, I can't see any reason for us to incur 20 years or
20 30 years of expenses in one year just so we can consolidate
21 entities.

22 Q I guess one of the whole issues in this merger is, the
23 joint applicants have been touting the benefits of
24 consolidation and joining to minimize expenses and, yet, here
25 the company says, "Oh, but we're going to keep all these

0482

1 separate entities and not consolidate them." I guess I'm
2 confused, from a financial standpoint, why you would, on one
3 hand, say it makes sense to consolidate and, on the other hand,
4 we have to keep them separate.

5 A If you consolidate all of the entities, like you're
6 proposing, \$20,000,000,000 of debt plus all of the future debt
7 is due today versus the expense savings that we're achieving as
8 a result of bringing these two companies together, that type of
9 cost does not have to be incurred by the company in order to
10 achieve the \$575,000,000 worth of synergies.

11 Q When you were looking at this I am assuming that the
12 company did look at the question of whether or not the
13 companies should be consolidated in the course of this merger
14 proceeding.

15 A When you say "consolidated" --

16 Q In other words, taking the three CenturyTel companies
17 and merging them into one for purposes of Washington
18 operations. I'm just using that as an example.

19 A Like I said earlier, you have bonds that at different
20 levels of the organization and the cash flow supports those
21 bonds and there's no reason for us to trip a debt covenant in
22 order to mess that up and have those bonds become due on
23 day one.

24 Q Are you saying that there was never any analysis done
25 of the benefits versus the, I guess, cost benefit analysis of

0483

1 consolidating all of the varying companies in the course of the
2 merger?

3 A Well, like I said, it doesn't make sense to me that we
4 would do that. I'm not aware of any analysis or could have
5 been. I'm not aware of one. Once we get to the point we have
6 a huge issue like I laid out there, you pretty much stop and go
7 on.

8 Q Did any of the persons in CenturyLink look at the
9 regulatory costs or benefits associated with maintaining
10 separate corporate status?

11 A Not that I'm aware of. There could have been. I
12 don't know.

13 Q Did anybody take into account, for instance, universal
14 service funds that might be lost if consolidation occurred?
15 Did anybody look at that?

16 A Like I said, I don't know. You know, the universal
17 service, I'm not real familiar with it. I do know it's based
18 on expenses. You would think universal service fund payments
19 would go down to the extent that companies are receiving
20 federal USF based on an expense-type reimbursement.

21 Q In other words, if the companies were consolidated
22 there would be a risk that overall fewer universal service
23 dollars would flow to the company; is that correct?

24 A I don't know. Because -- I don't know. Like I said
25 earlier, I haven't quantified any -- I'm not aware of any

0484

1 potential savings that would occur. When you look at
2 consolidating, the companies, I'm not sure what functions we're
3 doing today, could go away and how much money that would save
4 us, if any. I don't know.

5 Q Do you know of anyone in your company that might have
6 done such an analysis?

7 A I don't know.

8 Q Were you present in the room this morning when
9 Mr. Appleby testified?

10 A I was.

11 Q Did you hear Mr. Appleby, I guess, describe in
12 response to a question from Chairman Goltz, his understanding
13 of how, I guess, intra-company accounting would occur for
14 access charges?

15 A Yes. I do remember him mentioning that.

16 Q I believe -- and correct me if this is not what you
17 think you heard -- but Mr. Appleby said that from an accounting
18 standpoint, essentially, expenses may be recorded by one branch
19 of the company and revenues reported by another branch of the
20 company and ultimately they would roll up and sort of cancel
21 each other out at the ultimate corporate parent level. Is that
22 your understanding of how the accounting rules would treat
23 intra-company access transactions?

24 A You know, I don't know. That's in -- the controller
25 of our company is the gentleman that would handle all of the

0485

1 FASB rules and the Gap rules. I really don't know.

2 Q Do you any reason to disagree with how Mr. Appleby
3 described that intra- company transaction?

4 A Like I said, I don't know. I can't really express an
5 opinion on what he said.

6 Q Let me turn you to Exhibit 12HC, and also let me ask
7 you -- and this ties to your testimony in which I believe you
8 state that on page 13 of your November 1st, 2010, testimony,
9 which is Exhibit CGB-6HCRT. If you could turn to that.

10 A (Witness complies.)

11 Q On page 13, lines 11 and 12 you state: "Based on the
12 financial benefits of the proposed transaction CenturyLink
13 believes that the Washington no-harm approval standard has been
14 satisfied." Correct?

15 A That's correct.

16 Q In order to make that statement you had to have an
17 understanding of what those financial benefits would be,
18 correct?

19 A Yeah. And the financial benefits there is that, like
20 I testified earlier, we're actually de-levering Qwest in this
21 transaction, and Qwest accounts for 88 percent of the customers
22 that we have in the State of Washington. So, for those
23 88 percent customers they're going from a two point seven
24 leverage down to a two point two leverage and that's not just
25 me talking, that's affirmed by the rating agency who said that

0486

1 the financial characteristics of Qwest will be improved as a
2 result of this transaction.

3 Q Now, that's what you testified today here as being the
4 financial benefits of the transaction.

5 Can you turn to the prior page of your testimony?

6 A (Witness complies.)

7 Q Lines 15 through 18 state: "The financial benefits
8 the proposed transaction, therefore, are centered on creating a
9 combined company with greater scope and scale, strong financial
10 characteristics, low leverage, prudent count ratio,
11 diversification of market and revenue sources and the ability
12 to generate significant free cash flows." Correct?

13 A That's correct.

14 Q I mean, those are all the financial benefits in
15 addition to what you've been talking about, leverage ratios,
16 et cetera?

17 A Well, actually, leverage is included in there. That
18 would be low leverage.

19 Q One of the financial benefits is creating a company
20 with greater scope and scale, correct?

21 A Correct.

22 Q Creating such a company means that CenturyLink and
23 Qwest are uniting their networks, correct?

24 A Define "uniting the networks." I don't know that I
25 understand what you mean by that in the context of the

0487

1 question.

2 Q In order to accomplish a company with greater scope
3 and scale wouldn't you have to basically merge the facilities
4 of the merging companies, isn't that what accomplishes --

5 A For the most part, we have facilities in one area. We
6 serve an area which was designated by the Commission. Qwest
7 serves another area. There's not a lot of overlap, if any, as
8 it relates to the ILEC operations. Had there been an issue
9 there the Department of Justice would not have allowed us to
10 proceed with this transaction.

11 Q Well, I guess that didn't quite answer the question.

12 My question is this -- let me break it down to be real
13 simple.

14 Now, before the merger Qwest traffic couldn't route
15 over CenturyLink networks without paying CenturyLink access
16 charges or whatever charges CenturyLink would access, correct?

17 A You're getting into an area I'm not too familiar with.
18 I do know that Qwest paid access before the merger and I'm
19 almost positive that Qwest will pay access after the merger.
20 So, anybody that terminates a call into our territory I would
21 think would have to pay the tariff taxes rate, regardless
22 whether it's an affiliate or whomever.

23 Q Are you familiar with the term "owner's economics?"

24 A Only to the extent I heard it this morning.

25 Q With all due respect, as senior vice president and

0488

1 treasurer of CenturyLink, is that not a term that has been
2 discussed at high level meetings with respect to the financial
3 benefits of this transaction?

4 A I don't recall that term ever being used.

5 Q Could you turn, please, to Exhibit JAA-16HC? On your
6 filed copy it might be "JAA-15HC."

7 A (Witness complies.)

8 Q Do you have that in front of you?

9 A I have both of them, yes.

10 Q If you could turn to the third page in there is a --
11 first let me ask you: Have you seen this document before?

12 A To be quite honest, I'm not sure we're looking at the
13 same document. I'm on --

14 Q It's a document on the second page begins with the
15 word "segmentation."

16 A Yes.

17 Q If you would turn to the next page.

18 A (Witness complies.)

19 Q Have you seen this document before?

20 A No, I haven't.

21 Q You weren't present at any of the meetings or
22 presentations where, I guess, the topics that are listed in
23 this exhibit were discussed?

24 A You know, I've never seen this document. I don't
25 remember talking about it so I would have to say "No."

0489

1 Q You are familiar with the term "EBITDA," I would
2 assume?

3 A Yes. Now you're talking my language.

4 Q Then there is reference to that term on the third page
5 of this document, correct?

6 A There is, yes.

7 Q You see reference to the term "owner's economics" on
8 this page, as well?

9 A I do see that, yes.

10 Q So, it is possible that the term "owner's economics"
11 may have been discussed in connection with determining EBITDA
12 return?

13 A EBITDA. Yes. It's obviously on the page, yes.

14 Q Is it your testimony, then, that you really don't have
15 an understanding of what "owner's economics" means?

16 A Well, I mean, if you explain it to me we can get the
17 context and then we can move forward, I guess.

18 Q Let me try and break it down, then.

19 I believe you testified that a financial benefit of
20 the company is that you'll have a combined company with greater
21 scope and scale, right?

22 A That's true.

23 Q So that, in other words, means that the combined Qwest
24 and CenturyLink companies will have a larger combined network.
25 Would you agree with that?

0490

1 A No. The way that means from a financial standpoint is
2 that we'll have, for example, greater scope and scale so we'll
3 be able to negotiate better deals with our vendors, and that's
4 why you see a \$50,000,000 cap "X" reduction. You see greater
5 scope and scale as it relates to realization of the synergies.
6 So I don't -- from my standpoint, greater scope and scale is
7 more from a financial perspective versus a network perspective.

8 Q Greater scope, doesn't that mean greater geographic
9 area?

10 A Not necessarily. It just means that we'll be a bigger
11 company, that we can leverage our suppliers and vendors to try
12 to get better prices because we'll be using more of their
13 services.

14 Q Won't the combined company serve a much larger service
15 territory? Isn't that what your other witnesses have testified
16 to?

17 A Well, the combined company will not serve any larger
18 of a territory than they serve today on an individual basis, so
19 we'll bring in what they serve versus what we serve and put
20 them together. So, the combined company will basically serve
21 what each individual company serves today.

22 Q Don't you find that combination to be, basically, a
23 benefit to the company with respect to facilities?

24 A Like I said, I view this transaction from a financial
25 standpoint. My view of the transaction is that we need to

0491

1 realize the synergies, the cause of the issues that the
2 companies are facing in terms of losing revenues. Like I
3 mentioned earlier, CenturyLink losing 450 to 500,000,000
4 revenues in a year you've got to offset that in some way or
5 another. The only way you can do that is if you're in a
6 no-growth industry is to manage your expenses. We're not in
7 the wireless industry. Like I said before, you want a healthy
8 competitor and if we were to go -- we're trying to keep
9 ourselves healthy by doing it on our own. I know there's other
10 companies, I think Charter just came out of bankruptcy in 2009
11 and strengthened their balance sheet. We're trying to
12 strengthen our balance sheet just through driving a good
13 product for our customers and, obviously, at the same time,
14 balancing the needs of our shareholders.

15 Q You've been focusing on the weight of your expenses,
16 among other things, correct?

17 A No. I mean, as we lose revenues we have to keep the
18 business in line, otherwise, you look at some of our
19 competitors, we don't want to be in a situation where we put
20 the company in financial jeopardy because there's no other wire
21 line company there. You take Sprint, for example, Sprint lost
22 \$900,000,000 in the third quarter of this year --

23 MS. ENDEJAN: I don't mean to interrupt, Mr. Bailey,
24 but you're not being responsive to my question and would
25 respectfully ask the Judge to have him limit his speeches to

0492

1 respond to the question.

2 JUDGE FRIEDLANDER: Only respond to the questions
3 asked.

4 Maybe Ms. Endejan can rephrase the question.

5 BY MS. ENDEJAN:

6 Q Let me ask you this: You mentioned that in one of
7 your previous answers that you're looking for a way to cut
8 expenses given the State of the industry today. Would that be
9 a fair statement?

10 A Yeah. What I said was, we have to manage our expenses
11 to our revenues to keep the company financially healthy.

12 Q One of the ways you can manage your expenses would be
13 to cut your local access costs, wouldn't that be true?

14 A I'm not sure where we incur local access costs.

15 Q Well, did you look into that question in terms of
16 before you prepared your testimony?

17 A I don't recall.

18 Q If you could turn to page 14 of your testimony, lines
19 five through eight. That's the November 1st, 2010, testimony.
20 There you said, "CenturyLink also believes the rationale
21 includes the ability to combine complimentary capabilities and
22 assets, including transport and local access to offer a broader
23 range of products and services to our customers." That is your
24 testimony, isn't it?

25 A What I meant by that was, like our DSL customers, the

0493

1 usage on the network is really spiking up and in order for us
2 to continue to provide the service the customer needs we need
3 to be able to get the traffic from the customer out to the
4 internet and we believe that we'll have some efficiencies in
5 terms of the backhaul of the internet traffic as a result of
6 using the Qwest long-haul fiber network, the 180,000 miles of
7 fiber that they have.

8 Q You do view, apparently, according to this testimony,
9 that you will be combining complimentary capabilities and
10 assets. Let me ask you about those assets: One of those
11 assets happens to be the networks of both companies, correct?

12 A Well, like I said -- what I meant by that was, the
13 backhaul of the internet traffic is what I intended when I said
14 that.

15 Q Is that a "Yes" or a "No" to my question?

16 A Repeat the question.

17 Q My question was: The assets that you use in your
18 testimony, does that not include the networks, the actual
19 networks of CenturyLink and Qwest?

20 A Well, networks is such a broad term. I think I just
21 define what I meant by networks and that's their long-haul
22 fiber that they have.

23 Q So your answer, then, is "No," that is not what you
24 meant?

25 A Excuse me?

0494

1 Q I'm saying, the question called for a specific "Yes"
2 or "No" answer.

3 A The unfortunate thing, the question is too broad to
4 answer it like that. I think their long-haul fiber network is
5 a component of the network but it's not all the network.

6 Q Well, let me ask you, then: Does the term "assets"
7 include the entire network of Qwest that you're acquiring?

8 A No. Like I said earlier, what I meant when I had that
9 sentence was I'm referring to a portion of their network and
10 assets which is the long-haul fiber system that they have.

11 Q Can you point to me where you reference "long-haul
12 fiber network" in this testimony?

13 A Well, I didn't reference "long-haul network." I
14 referenced "assets" -- well, I mean, we can read it again.

15 Q So, then, I guess, just to clarify your testimony,
16 given what you just said, you do not consider the, I guess,
17 telecommunications network of Qwest that would be acquired here
18 to be an asset.

19 A Yeah. It's an asset in that it generates EBITDA, and
20 all assets, obviously, have to generate cash flows. So, yeah,
21 it's definitely an asset. But, like I said, the context of
22 this sentence is, I was talking about the back-haul of the DSL
23 traffic.

24 Q But, wouldn't the local access facilities that
25 CenturyLink is acquiring also be considered part of the network

0495

1 which is an asset?

2 A It's absolutely an asset, it's just not part of what I
3 meant by that sentence.

4 Q You also said that you're looking for other potential
5 revenue sources, right?

6 A Where did I say that?

7 Q I believe in your previous testimony in response to
8 one of my questions you were talking about what you're looking
9 for in terms of managing the company, you've got to manage
10 expenses and look for other revenue sources.

11 A I don't remember exactly saying that.

12 Q Would you disagree with me that CenturyLink, once it's
13 combined, will be looking for other revenue sources?

14 A We're always looking for additional ways to drive
15 value to the customers, so, that's really the case, whether or
16 not the merger occurs or not.

17 Q In terms of the merger, however, were you familiar
18 with any financial analysis done by the company in terms of
19 anticipating future revenue sources due to the combination of
20 the merger?

21 A Yeah. I'm not familiar with any, I guess, revenue
22 centers, if you will. I'm more familiar with expense revenues.

23 Q Would it be fair to say that the company has been
24 experiencing revenue declines strictly from voice only
25 companies?

0496

1 A I don't think so. We were experiencing revenue
2 declines throughout the business. It's more than just voice.

3 Q Were you aware of any analysis that might have been
4 done by the company that would have considered the impact of
5 lost access revenues that the company might be experiencing in
6 the future, post merger?

7 A You know, I'm not aware of any, but I do know that our
8 access minutes are declining, so when we give data to the
9 street every year we factor in any revenue losses that we
10 anticipate associated with folks going to our competitors and
11 no longer using our network.

12 Q Could you turn to what has been marked -- it's
13 probably in your book -- JAA-10HC, but on the exhibit list it's
14 JAA-11HC?

15 A (Witness complies.)

16 Q This is a couple of preliminary questions.

17 I believe you testified this morning that you were
18 generally present when dealing with rating agencies and rating
19 agency presentations?

20 A Yes, I am.

21 Q So, therefore, if you look at this exhibit, which is
22 JAA-11HC, would it be safe to say that you've seen this
23 document because it involves such a presentation?

24 A Yeah. I think we have another mix-up here on the
25 attachments.

0497

1 Q It would be Exhibit JAA-10HC in your book and on the
2 Commission's list it would be JAA-11HC.

3 A Okay. I'm there.

4 Q If you could look at that and tell me, in light of our
5 previous discussion, if you've seen this before.

6 A Yes.

7 Q You have seen it before?

8 A Yes.

9 Q If you could turn to the fourth page of the document.
10 Without going into specifics, if you look under the
11 second category on the document -- I'm trying to do this so I
12 don't get into confidential stuff. I'll try to be as
13 descriptive as I can -- does this not reflect, I guess, the
14 company's assumptions regarding impacts to its revenue base
15 from reductions in state and federal USF revenues?

16 A No. All this is saying is, before the transaction on
17 a CenturyLink standalone basis these revenues were "X" percent
18 of the total and after the transaction these revenues are going
19 to "Y" percent. It's just a shift of those revenues relative
20 to the total revenues before and after --

21 Q Would that be the same with the next line down for
22 switched access revenues --

23 A Yes.

24 Q -- going from "X" to "Y?"

25 A Yeah. That's CenturyLink's stand alone service pro

0498

1 forma company.

2 Q In other words, going from "X" to "Y" is what would
3 happen to CenturyLink after the merger?

4 A Yeah. It's not a reduction in revenues. It's just a
5 reduction in the percent of those revenues to the total
6 revenues.

7 Q Are you involved in discussions within the company
8 about identifying future growth opportunities -- revenue growth
9 opportunities?

10 A No. That's more the marketing and, I guess, our
11 strategic planning group.

12 Q As the treasurer of the company does somebody ever
13 report back to the upon the estimated financial impact of
14 future growth areas? Is that something that's important to you
15 to know?

16 A Well, it's important to the extent that we talked to
17 the rating agencies and give them projections on what we think
18 the upcoming years will look like.

19 Q Before you talk to the rating agency you have to have
20 an idea of where potential revenue growth is going to occur,
21 wouldn't you?

22 A Well, it's not just revenue growth. I mean, there
23 really hasn't been any revenue growth in our industry in quite
24 awhile, so it's not -- we have to have an idea of where the
25 revenues are going to be, but doesn't necessarily have to be

0499

1 revenue growth. From a rating agency standpoint, they look at
2 it in total. They're looking at total cash flows.

3 Q In other words, is it your testimony that CenturyLink
4 hasn't experienced revenue growth in the past two to
5 three years?

6 A That's correct, on a consolidated basis.

7 Q Then where do you get --

8 A Let me clarify that.

9 We've experienced revenue growth through acquisitions,
10 not on an organic internal revenue growth basis. But to the
11 extent we purchased, say, for example, Embarq and we picked
12 them up and brought their revenues into our financials then it
13 appears to be revenue growth, but if you compare those
14 companies kind of on a pro forma basis before and after we're
15 actually experiencing revenue declines.

16 Q If you are experiencing revenue decline why are you
17 giving such hefty dividends of \$10 plus to your shareholders?

18 A I don't know where the \$10 comes from. It's typical
19 in an industry where you don't have growth that you have to
20 attract capital and the only way you can attract capital is to
21 pay out to your shareholders in the form of dividends. If we
22 were in a high growth industry we wouldn't necessarily have to
23 pay a dividend. Unfortunately, we're experiencing 450,
24 \$500,000,000 a year revenue reductions so you have to
25 compensate the stockholders for the use of their capital.

0500

1 Q Are you familiar with any plans within the company to
2 expand revenue sources, for instance, by offering more bundled
3 packages, including IPTV?

4 A We have said that we are rolling out IPTV in certain
5 of the Embarq markets, so we'll definitely try to penetrate the
6 market with that service. But revenue in a startup situation
7 like that doesn't always equate to EBITDA because you have a
8 lot of expenses associated with providing that service, so even
9 though you can get a little bit on the top line it doesn't mean
10 it's going to flow down to EBITDA and to the bottom line of the
11 company. So there could be no incremental cash flows to the
12 company.

13 Q As you sit here as treasurer of the company, do you
14 have any knowledge as to whether or not CenturyLink anticipates
15 increasing revenues from sources other than traditional voice
16 service?

17 A Yeah. I mean, we're definitely trying to offer
18 products and services our customers want. To the extent that
19 generates additional revenue, that would definitely be a good
20 thing for our company.

21 Q Do you have an understanding of generally what your
22 customers want?

23 A Well, we hope we do. We've got six point six million
24 customers. I'm not necessarily the person who can tell you
25 where the market is headed. I think as a company we know what

0501

1 they want.

2 Q Well, wouldn't you, being a senior executive in the
3 telecommunications industry, have a fairly good sense of where
4 the market is going?

5 A I think I already, kind of, laid out where I think the
6 market is going. We're experiencing revenue declines and we'll
7 continue to experience those revenue declines in the
8 foreseeable future because we continue to experience
9 access-line losses. At some point you would think the access
10 line losses are going to slow down because the customers are
11 migrating, I guess, from voice over to a data product, so there
12 could be some. Hopefully at some point we'll see a reduction
13 in the revenue loss and the customer loss as a company.

14 Q Let me direct you back to your testimony about
15 financial benefits equating no harm. That was page 13 of your
16 testimony.

17 I want to be clear on your position: Now, is it your
18 position that -- let me lay some foundation here.

19 The financial benefits you referred to on line 11 of
20 page 13, are those the financial benefits that you described on
21 the prior page, page 12?

22 A Which line item?

23 Q Page 13, line 11. You're saying "based on the
24 financial benefits of the proposed transaction." I just want
25 to be clear that those financial benefits are the ones you're

0502

1 talking about on the prior page, page 12, lines 15 through 18.

2 A Yeah -- well, I think the way the testimony reads is
3 that the financial benefits are listed on page 12.

4 Q And those are financial benefits to CenturyLink,
5 correct?

6 A To the combined companies.

7 MS. ENDEJAN: Thank you.

8 I have nothing more.

9 JUDGE FRIEDLANDER: Thank you.

10 As none of the other parties have indicated that they
11 have any Cross-Examination for Mr. Bailey, and is tradition
12 before I release him for Redirect, I'll ask the Bench if they
13 have any questions.

14 CHAIRMAN GOLTZ: Mr. Bailey, one clarification: I
15 think I understand what this meant but, when Ms. Endejan asked
16 you how you could have a dividend of \$10 per share and you said
17 something like, "I don't know where the \$10 comes from," are
18 you saying, "I don't know where you got that figure," or you
19 don't know where the company got the money to pay the
20 dividends?

21 MR. BAILEY: I'll never admit to the last one.

22 Well, the \$10 per share, our dividend is \$2.90 per
23 share --

24 CHAIRMAN GOLTZ: As quarterly?

25 MR. BAILEY: No. Annually.

0503

1 CHAIRMAN GOLTZ: Could someone hand the witness
2 Exhibit JJ-2, which is Mr. Jones' exhibit? It's just an
3 organizational chart. Page three.

4 That's the proposed organizational chart post merger,
5 correct?

6 MR. BAILEY: That's correct.

7 CHAIRMAN GOLTZ: Forgive me if I muddle through this.
8 There's a reason why I took one accounting class in
9 college.

10 In your description of why you couldn't consolidate
11 the companies because of various debt covenants, you envision
12 going forward now, I assume you'll be issuing new debt from
13 time to debt post merger?

14 MR. BAILEY: Yes.

15 CHAIRMAN GOLTZ: What's the entity that will be
16 issuing the debt?

17 MR. BAILEY: Actually, we communicated there will be
18 two entities issuing that debt. So, if you look on the bottom
19 right-hand corner you see "Qwest Corporation," we're basically
20 adopting the same strategy that Qwest has today, so they're
21 refinancing the debt on Qwest Corporation. That's a strong
22 financial company there. That's an investment grade company.
23 As debt comes due we'll refinance it there. Any other debt
24 that comes due that we have to issue new debt to pay off we'll
25 put it up to CenturyLink parent. There will be two entities.

0504

1 CHAIRMAN GOLTZ: So that would trigger the provision
2 in the staff -- the latter, at least -- would trigger the
3 provision in the staff applicant Settlement Agreement that
4 requires Commission approval for that debt issuance?

5 MR. BAILEY: I think that one requires the approval if
6 we put a lien on the assets and we don't have a lien on those
7 assets today. If we were to put a lien on the QC -- or Qwest
8 Corporation -- assets then we would have to come before the
9 Commission.

10 CHAIRMAN GOLTZ: Or a lien on any of the
11 CenturyLink --

12 MR. BAILEY: Yes.

13 CHAIRMAN GOLTZ: You won't be pledging those assets --

14 MR. BAILEY: We hope not to. The only reason we would
15 do that, so, say, we had another credit crisis like we had in
16 September of 2008 when Lehman went bankrupt and no company
17 could borrow money, so if a company were to have a debt
18 maturity due and the bond market is not open to them the only
19 way to get financing would have been to pledge their assets.
20 Unless we're forced to do that, we definitely don't want to do
21 that. Obviously, if something were to happen and we defaulted
22 on the debt then those assets would automatically be
23 transferred to our creditors and that's the last thing we would
24 want to happen.

25 CHAIRMAN GOLTZ: You explained that one of the

0505

1 reasons, at least, that the various smaller companies, subs,
2 couldn't consolidate into one company was because of all the
3 district debt covenants and it sounds like it got too confusing
4 and you gave up.

5 MR. BAILEY: It's not necessarily confusing. It is
6 confusing but it could also be very expensive to change all of
7 the debt covenants that we currently have today.

8 CHAIRMAN GOLTZ: Currently, I gather, the various, am
9 I correct, then, from your prior answer on who will be issuing
10 debt in the future, that it's going to be simpler in the future
11 because you'll have one of two companies issuing debt?

12 MR. BAILEY: Yes, sir.

13 CHAIRMAN GOLTZ: And right now you have multiple
14 companies issuing debt?

15 MR. BAILEY: We don't have multiple companies issuing
16 debt. The issue is, there's debt on there that was issued many
17 years ago. We built this organizational chart through
18 acquisitions, and, like Embarq acquired debt and put it on the
19 company, so, we picked them up, then we picked Qwest up. It's
20 going to be simpler, but, the unfortunate thing is that old
21 Legacy debt is there still.

22 CHAIRMAN GOLTZ: Right now Embarq owes some debt.
23 CenturyTel owes some, et cetera?

24 MR. BAILEY: Yes, sir. Embarq owes about four billion
25 but I don't think CenturyTel or [unintelligible] has any debt.

0506

1 CHAIRMAN GOLTZ: Over time, then, that legacy debt
2 disappears and the new debt will be with CenturyLink or with
3 Qwest?

4 MR. BAILEY: That's right. We would love to be able
5 to clean this up on day one because it would eliminate a lot of
6 confusion in the bond market, because even the bondholders look
7 at this. This is a complicated capital structure and we would
8 love to clean it up but it doesn't make sense.

9 CHAIRMAN GOLTZ: I'm assuming that this debt confusion
10 is not a limit to the consolidated companies filing a joint
11 AFOR petition in the State of Washington?

12 MR. BAILEY: No, sir, not to my knowledge.

13 CHAIRMAN GOLTZ: I have no further questions.

14 Thank you.

15 JUDGE FRIEDLANDER: Thank you.

16 Commissioner Oshie.

17 COMMISSIONER OSHIE: I have no questions.

18 JUDGE FRIEDLANDER: Commissioner Jones has none as
19 well.

20 Do we have any Redirect?

21 MR. SIMSHAW: No, Your Honor.

22 JUDGE FRIEDLANDER: Thank you.

23 Mr. Bailey, you are dismissed.

24 We're at a point we could take a break.

25 Ms. Anderl, did you have anything to add?

0507

1 MS. ANDERL: We were going to ask if we might learn
2 after the break if Mr. Bailey and Mr. Schafer both could be
3 excused from the hearing room.

4 JUDGE FRIEDLANDER: I think that would be
5 appropriate. That's fine.

6 Let's take a ten-minute break. Come back at,
7 approximately, seven after and I'll let you know.

8 Thank you.

9 (Short break was taken in the proceedings.)

10 JUDGE FRIEDLANDER: We will go ahead and go back on
11 the record.

12 I have a couple of housekeeping matters that I think
13 we can address at this time. The first is that I would like to
14 rule on the modified joint motion at this point. I'm going to
15 grant in part and deny it in part, in that we're going to
16 bifurcate the motion because there have been requests to
17 address additional issues that the Commission may not have
18 asked for in briefs. We will have the brief that will contain
19 the Commission designated issues due on January 14th. I know
20 that's coming up very quickly. The other brief, that will
21 contain any additional issues that parties wish to raise shall
22 be limited to 30 pages and that will be due on the 21st. So,
23 that is one matter. The other matter -- yes, Mr. Trincherro.

24 MR. TRINCHERO: Did you say 30 pages?

25 JUDGE FRIEDLANDER: Yes, limited to 30 pages.

0508

1 MR. TRINCHERO: Thank you.

2 JUDGE FRIEDLANDER: The other matter is, as I give
3 it, I take it away. So, unless one of the parties has a
4 compelling argument for closing arguments to be made I'll
5 dispense with those because you'll have two opportunities to
6 brief the issues in this case.

7 Ms. Anderl.

8 MS. ANDERL: A couple of clarifying points,
9 Your Honor. Some of this I'm just going to repeat back what I
10 heard.

11 Briefs on the Commission designated issues due one
12 week from tomorrow --

13 JUDGE FRIEDLANDER: Yes.

14 MS. ANDERL: -- January 14th. Is electronic filing by
15 5:00 p.m. permissible as a modification to the Commission's
16 rule with hard copies by noon the following business day?

17 JUDGE FRIEDLANDER: I don't have a problem with that.
18 The next business day, of course, would be the day after Martin
19 Luther King, Jr., Day, which would be the 18th.

20 MS. ANDERL: Thirty-page briefs addressing any other
21 issues the parties may wish to raise due on the same
22 time-frame, electronic filing by 5:00 p.m. on January 31st?

23 JUDGE FRIEDLANDER: Yes.

24 MS. ANDERL: Is it permissible for the parties to use
25 any of their 30 pages to respond to arguments made in the

0509

1 January 14th briefs?

2 JUDGE FRIEDLANDER: Unless somebody has an objection,
3 I think that's fine. How you want to spend your 30 pages is up
4 to you.

5 4:00 p.m. would probably work better.

6 With that modification, unless anybody did have a
7 compelling reason to do closing arguments, I think we'll
8 dispense with those.

9 With that, Mr. Shifman, I believe, had a request
10 regarding the Cross-Examination of two joint applicant
11 witnesses or -- Ms. Endejan -- either one.

12 MS. ENDEJAN: Sprint T-Mobile will waive further Cross
13 of Mr. Jones and Mr. Reynolds but we would like to move for the
14 admission of two exhibits. I discussed it with Ms. Anderl over
15 the break and she agreed to them. Those exhibits would be
16 MRH-16C, and MRH-17C.

17 JUDGE FRIEDLANDER: Ms. Anderl, did you have any
18 objection to the admission of those exhibits?

19 MS. ANDERL: I don't.

20 If I might have one minute. I did not have a chance
21 to consult with Mr. Simshaw on that.

22 JUDGE FRIEDLANDER: That's fine.

23 (Discussion between counsel.)

24 MR. TRINCHERO: While they're conferring I want to
25 make sure I wrote this down correctly: The brief on

0510

1 January 14th is due by 5:00 p.m. or 4:00 p.m.?

2 JUDGE FRIEDLANDER: 4:00 p.m.

3 MR. TRINCHERO: Is that true for the brief on the
4 31st, as well?

5 JUDGE FRIEDLANDER: Let's try to make it as simple as
6 possible. We'll do 4:00 p.m.

7 I'll be sending around the issues list via email to
8 all the parties on the external mail group. I will make sure
9 that Mr. Gilliam is on that list, as well.

10 To repeat, I'll send around the issues that you'll
11 have to brief either later this evening, depending on when we
12 get out, or tomorrow before noon.

13 MR. TRINCHERO: Thank you, Your Honor.

14 JUDGE FRIEDLANDER: Ms. Anderl, did you have a chance
15 to confer with Mr. Simshaw?

16 MS. ANDERL: I did. We don't object to those.

17 JUDGE FRIEDLANDER: Do any of the parties object to
18 the admission of those exhibits?

19 No one is coming forward so they are admitted.

20 (Exhibits MRH-16C and MRH-17C were admitted.)

21 JUDGE FRIEDLANDER: If I understand correctly,
22 Ms. Endejan, that means you'll be waiving your right to
23 cross-examine Mr. Reynolds and Mr. Jones.

24 MS. ENDEJAN: Correct.

25 JUDGE FRIEDLANDER: And you have no questions for

0511

1 Mr. Schafer.

2 MR. SHIFMAN: Correct.

3 MS. ENDEJAN: Correct.

4 JUDGE FRIEDLANDER: Thank you. Because I believe
5 there was a request by joint applicants that we allow
6 Mr. Bailey and Mr. Schafer to be dismissed or released from the
7 proceedings.

8 Is that correct?

9 MS. ANDERL: That was the request, Your Honor. Thank
10 you.

11 JUDGE FRIEDLANDER: Thank you.

12 MS. ANDERL: I think we might also make that same
13 request now for Mr. Jones, as well, as we were not planning on
14 putting him on the surrebuttal panel. If everyone has had an
15 opportunity to ask him all the questions they want, otherwise,
16 of course, he'll stay -- Mr. John Jones.

17 JUDGE FRIEDLANDER: I believe that the Bench does not
18 have any questions for either of those three individuals so
19 they are dismissed.

20 MS. ANDERL: Thank you very much, Your Honor.

21 JUDGE FRIEDLANDER: Thank you.

22 I believe at this point we have -- yes, Ms. Anderl.

23 MS. ANDERL: There are two other issues. One, I think
24 I'm going to let staff address, and the other is, I just
25 noticed on my BlackBerry that Mr. Trincherro's office filed an

0512

1 Errata to Mr. Pruitt's testimony. I need to have a few minutes
2 to talk with him about whether we have an objection to that or
3 how we want to address that Errata filing -- Mr. Haas'
4 testimony.

5 JUDGE FRIEDLANDER: You indicated that staff has an
6 issue that needs to be addressed. Why don't you two confer
7 while staff raises this issue.

8 Ms. Cameron-Rulkowski.

9 MS. CAMERON-RULKOWSKI: It's just the logistics of
10 revising some of the language in condition 16 to clarify it.
11 I'm trying to get that together but I don't have all the copies
12 yet. I think we have at least the settling parties on board
13 with final language but I would like an opportunity. At some
14 point I'll pass out copies to everybody.

15 JUDGE FRIEDLANDER: That fine. And then, of course,
16 parties will have the opportunity to cross-examine the
17 settlement panel again on that one brief section if there are
18 any questions.

19 MS. CAMERON-RULKOWSKI: Understood.

20 JUDGE FRIEDLANDER: Thank you.

21 Ms. Anderl, do you need a couple more minutes?

22 MS. ANDERL: I'm sorry. I do need a couple more
23 minutes.

24 JUDGE FRIEDLANDER: Let's go off the record for a
25 couple of minutes.

0513

1 (Short break was taken in the proceedings.)

2 JUDGE FRIEDLANDER: Back on the record.

3 Have Ms. Anderl and Mr. Trincherro had a chance to
4 confer this Errata exhibit?

5 MS. ANDERL: We have a preliminary thought on how we
6 want to handle it. He needs to check with this client. We
7 could tell you preliminarily what we're thinking or just wait.

8 JUDGE FRIEDLANDER: Let me know what the plan was
9 depending on your response from the client, Mr. Haas.

10 MR. TRINCHERO: Yes. We filed an Errata today to
11 Mr. Haas' testimony and exhibits that he filed on the 3rd of
12 January. The agreement that we had with the joint applicants
13 was that we were going to file the same thing for Mr. Haas here
14 that we had filed for Mr. Haas in Arizona. I was under the
15 impression at that point the only thing he filed was a one-page
16 chart on E's versus IMA comparison and that's what was
17 attached. I was then informed by Mr. Haas that actually in
18 Arizona it was a multi-page document so we filed, as an Errata,
19 the rest of that. I'm now been informed that in Arizona that
20 additional piece of that exhibit was entered into the record at
21 the hearing over the objections of the joint applicants. So, I
22 think we had a misunderstanding of what was going to come in.
23 I need to confer with my client. Either the joint applicants
24 are going to agree to the rest of that Errata file coming in
25 and we will agree on the 14th when they file their brief they

0514

1 can file a brief statement in response to that exhibit or,
2 after conferring with my client, we may decide it's not worth
3 all that trouble and we'll withdraw. It'll be one of those
4 two.

5 JUDGE FRIEDLANDER: Sounds like you guys will work it
6 out in some fashion.

7 At this point I do see Mr. Gates is in the room. Why
8 don't we take Mr. Gates' testimony and then we will deal with
9 the surrebuttal panel. I believe that's the last of what we
10 need to do today.

11 Mr. Trincherero, call your witness.

12 MR. TRINCHERO: On behalf of the joint CLEC I would
13 like to call Timothy Gates to the stand.

14

15 TIMOTHY J. GATES, having been duly sworn to tell the
16 truth, the whole truth and nothing but the truth, testified on
17 his oath as follows:

18

19 JUDGE FRIEDLANDER: Mr. Trincherero, you may proceed.

20 MR. TRINCHERO: Thank you, Your Honor.

21

DIRECT EXAMINATION

22 BY MR. TRINCHERO:

23 Q Good afternoon, Mr. Gates.

24 A Good afternoon.

25 Q I know it's been a long day.

0515

1 A Very long day so far.

2 Q Mr. Gates, can you give us your full and correct name
3 for the record?

4 A My name is Timothy J. Gates.

5 Q Did you cause to be filed in this proceeding on
6 January 3rd supplemental testimony regarding the stipulations
7 in this proceeding?

8 A Yes, I did.

9 MR. TRINCHERO: Your Honor, once again, I believe all
10 of Mr. Gates' pre-filed testimony and exhibits have already
11 been admitted into the record.

12 JUDGE FRIEDLANDER: That's correct.

13 MR. TRINCHERO: On that basis I tender him for
14 examination by the Bench.

15 JUDGE FRIEDLANDER: Thank you.

16 Chairman Goltz, did you have any questions for
17 Mr. Gates?

18 CHAIRMAN GOLTZ: Thank you for coming.

19 MR. GATES: Absolutely.

20 CHAIRMAN GOLTZ: Mr. Gates, refresh my memory: You've
21 been testifying on behalf of the CLEC in a number of the states
22 in which this transaction was pending and is pending.

23 MR. GATES: Yes, and all of the Qwest state
24 proceedings.

25 CHAIRMAN GOLTZ: That, then, includes Oregon, as well?

0516

1 MR. GATES: Yes.

2 CHAIRMAN GOLTZ: One of the questions I had was: It
3 may have been mooted by your subsequent supplemental testimony,
4 but you use the term, quote, "defined time period" in your
5 testimony.

6 MR. GATES: Yes.

7 CHAIRMAN GOLTZ: I found that a little undefined and
8 confusing. As I recall, it defined up to five or seven years
9 or 42 months. In simple terms, what was that time period?

10 MR. GATES: You're correct. It was difficult and we
11 didn't explain it very well. In retrospect, we should have
12 done something different. But you're absolutely correct, the
13 42 months was basically the minimum time period and that was
14 based on the Bell South merger with AT&T. There were other
15 time periods five to seven years and that was based primarily
16 on the CenturyLink estimate of time for integration and synergy
17 acquisition, the three to five, plus knowing the difficulties
18 that carriers have had, including CenturyLink, in getting
19 things done on a timely basis, we moved them out to five to
20 seven years. But it wasn't consistent. They were different.
21 Some of them were much like the staff and public counsel
22 proposals. Some of them were open-ended depending on when
23 CenturyLink and Qwest accomplished various activities.

24 CHAIRMAN GOLTZ: But I gather, then, in reading your
25 supplemental testimony filed January 3rd where on pages six and

0517

1 seven you list seven conditions that you thought should be
2 added -- that you thought we should add to those conditions in
3 the Integra settlement; is that correct?

4 MR. GATES: Yes. These are amendments to the Integra
5 settlement, yes.

6 CHAIRMAN GOLTZ: In these we don't have to worry about
7 the term "defined time period" any more, do we?

8 MR. GATES: No. We're saying at a minimum,
9 three years.

10 CHAIRMAN GOLTZ: To be clear, then, is it your
11 testimony that if we do not add these seven conditions that you
12 list then your recommendation is that we deny the application?

13 MR. GATES: Yes. Absolutely. Without these
14 amendments the conditions, as proposed, independently of the
15 staff settlement and the Integra settlement, either set
16 individually or taken together, are inadequate to protect the
17 public interest.

18 CHAIRMAN GOLTZ: So the consequences of denial, then,
19 as you understand it, everything goes back to square one and
20 the applicants start over?

21 MR. GATES: That's probably a legal question that I'm
22 not qualified to opine on. But I suspect we would not get to
23 that if this Commission were to say that this is going to be
24 denied, I think -- I suspect the joint applicants might agree
25 to some more conditions. Really, the issue, I'm sure you

0518

1 understand, Mr. Chairman, is what's in the public interest, how
2 do we protect the public interest and whether or not the
3 conditions are sufficient. So, right now, with the joint CLEC
4 they're proposing are just some amendments at the edges to fix
5 the current proposals, and I think this will do it, and I think
6 it is a compromise, a lot of concessions on the part of the
7 joint CLEC, but I think this works.

8 CHAIRMAN GOLTZ: To be fair, the joint CLEC are saying
9 adopt these seven plus a couple others, other witnesses had
10 testified to.

11 MR. GATES: Well, yes. You mean, Mr. Haas and
12 Mr. Pruitt?

13 CHAIRMAN GOLTZ: Yes.

14 MR. GATES: Yes. They're also part of the joint CLEC.
15 They have just focused on certain issues, just as Mr. Denney
16 focused on the APAP and other issues when Integra --

17 CHAIRMAN GOLTZ: Maybe this is beyond what your
18 testimony or what you feel comfortable or qualified to talk
19 about, but if there was denial is there a downside to that in a
20 sense that going through this process and then denying the
21 public would be worse off than if the application had never
22 been made in the first place?

23 MR. GATES: I had an answer in mind until you added
24 that last phrase.

25 I would prefer to have the merger denied rather than

0519

1 to have a merger go forward, be approved and fail, much like we
2 had in the northeast with Frontier and with HawaiianTel in the
3 Hawaiian islands, as Ms. [Unintelligible] said, unmitigated
4 harm and disaster that harmed the industry and consumers and
5 billions of dollars wasted. Had better conditions been in
6 place I think we could have avoided those problems. So, if
7 you're asking me is it better to reject than to accept it with
8 these insufficient conditions, yes. Reject it, deny it and,
9 hopefully, they will come back and be more reasonable and
10 accept a few more conditions. It's not that the joint CLEC are
11 opposing mergers, in general. Mergers can occur and do occur.
12 We need some protections given that these companies are viewed
13 with the public interest given the way the telecommunications
14 works.

15 CHAIRMAN GOLTZ: On page 13 of your supplemental
16 testimony you refer to the synergy time-frame as three to
17 five years.

18 MR. GATES: Yes. I'm citing, of course, to the
19 Qwest --

20 CHAIRMAN GOLTZ: In that three to five-year period is
21 the time, we've heard testimony about this while you were on
22 your airplane, about how, upon closing, synergy savings, sort
23 of, start, but they ramp up and at some point in three to five
24 years, sort of, this synergy, our maximum, and that's where
25 they're defined savings of 575 million would be measured at.

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1 And, so, basically, the synergy start at closing but they
2 aren't fully realized until three to five years out.

3 MR. GATES: That's their best case scenario. I'm not
4 confident they will accomplish it in three to five years. But
5 given what they said and their testimony and the application,
6 that's what they're suggesting.

7 CHAIRMAN GOLTZ: You seem to be saying that it's
8 during that time period, whether three to five years or more,
9 when consumers are most at risk.

10 MR. GATES: Absolutely. That's when the integration
11 activities are occurring. Like the CWA testimony from the
12 folks who are actually doing the integration with Embarq and
13 CenturyTel, they provided graphic evidence of the problems that
14 can occur without proper planning and in North Carolina, Ohio,
15 Las Vegas, et cetera. That's what we're trying to avoid. We
16 don't know if they'll get this done quickly. They're still
17 dealing with the Embarq integration and they won't really start
18 with this one until that one is complete.

19 CHAIRMAN GOLTZ: I guess I'm not quite sure. I see
20 where this synergy time period is three to five years or more,
21 as you would say, but I don't know that necessarily correlates
22 the time when everyone is at risk. For example, the time
23 periods that you have listed, basically, three year time
24 periods on your conditions on pages six and seven, I don't know
25 what the consequences would be if those were two-and-a-half

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1 years or two years. Can you give us some examples? I
2 understand synergies aren't realized right away. That may take
3 more than three years to realize but I don't know that it's not
4 possible for the risk, as you say, to consumers can't end after
5 a certain period of time and have synergy savings continue to
6 accrue. I don't know why the synergy savings are a cause of
7 the risk.

8 MR. GATES: That's a good point. You're focusing on
9 the synergy savings. I would focus on the integration
10 activities. The integration activities result in the synergy
11 savings. I think synergy savings can occur right away, as
12 people are laid off, as they consolidate, customer care centers
13 and various offices and functions within the companies, so
14 those can occur right away without, supposedly, any impacts on
15 consumers. Now, when they start changing systems that's when
16 we can have impacts on the industry on the wholesale providers
17 and, ultimately, on consumers, and that cannot occur in
18 two years -- I mean -- sorry -- from the integration of OSS
19 cannot occur in two years or two-and-a-half years. That's
20 completely improbable.

21 CHAIRMAN GOLTZ: Putting aside specifics, so it may be
22 a better term, rather than using "synergy time-frame" to say
23 "integration time-frame?"

24 MR. GATES: Yes, sir.

25 CHAIRMAN GOLTZ: Isn't it also true that at some point

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1 in the integration that -- I'm trying to picture a graph. The
2 risks to the customer ought to be going down from day one
3 through three years and also the integration activity should
4 be, maybe, a different curve, that might start off pretty low
5 day one, spike up rapidly and go down. Do you see what I'm
6 saying?

7 MR. GATES: Yes.

8 CHAIRMAN GOLTZ: Are you saying we have to wait until
9 the end of those graphs until they go down and we're done with
10 integration and risk and that will be a three-year period or
11 more, or is there some time period, two-and-a-half, three
12 years, well, we have most of the integration done, most of the
13 risk out of the way. It's good enough?

14 MR. GATES: It's so hard to have these general
15 discussions and we're forced to because we don't have specifics
16 from the joint applicants about whether they're going to
17 replace systems, what's going to replace them with, et cetera.
18 We don't know what they're going to do when, and we don't know
19 then the CLEC are going to do in response to that. You recall
20 that after the close of the transaction, then, CenturyLink has
21 to decide, for instance, with OSS -- let's use that as a
22 specific example to make this more concrete -- they have to
23 decide which OSS they're going to use. Then they have to
24 define it and identify the capabilities and then let the
25 industry know. It's only at that point, Mr. Chairman, that the

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1 CLEC can begin to develop and design their own internal back
2 office systems so they can exchange electronically or through
3 graphical user interfaces or even a fax machine, for instance,
4 exchange data with this new company with the new system. We
5 have to wait for CenturyLink to make those decisions, define
6 the new systems and give us the capabilities and the CLEC have
7 to develop their own systems. I think we had testimony from
8 PAETEC about how many years they've spent in developing systems
9 to communicate with Qwest OSS and how much money that cost.
10 That's just one carrier. All of the CLEC have those same
11 issues to one degree or another. That's why I'm saying, once
12 Qwest and CenturyLink make a decision on OSS, then they tell
13 the CLEC, then they have to implement the OSS, then we have to
14 engage in testing through independent third party testing to
15 make sure it works and none of that can be done in a two-year
16 period.

17 CHAIRMAN GOLTZ: All of that can't be done in a
18 two-year period?

19 MR. GATES: Some of it could be done, Mr. Chairman.
20 You're right.

21 I base that on our experience with the Regional
22 Oversight Committee third party testing. I think this would be
23 much quicker, more efficient than that effort because we have
24 that baseline information and experience, but it's still going
25 to take some time.

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1 But getting back to your key point, once they start
2 making changes that's when the risk occurs, that's when
3 companies are affected and consumers are affected. You're
4 right that we'll get to a point, whether it's three or
5 four years, where the impacts will go down, assuming they have
6 incentives to fix the problems, to do remediation, to make sure
7 that service quality remains constant.

8 CHAIRMAN GOLTZ: Somebody testified today, I believe,
9 that it was pointed out in a question to a witness -- and I
10 don't recall this -- it must be somewhere in the record -- that
11 under existing interconnection agreements Qwest could change
12 its OSS upon nine months notice or something like that. Does
13 that ring a bell?

14 MR. GATES: I think under the change management
15 process they can make changes to their OSS and CLEC can request
16 changes to the OSS to meet their needs. Yes, that can happen
17 today. In fact, that is what is happened over the last seven
18 or eight years. Qwest has continually improved, responded to
19 the market, responded to its wholesale customers and CLEC also
20 have developed their systems to be more efficient and
21 interactive with the E bonding that we have between CLEC and
22 Qwest. We don't have that with the CenturyLink CenturyTel
23 companies in other states, not to the extent we have with
24 Qwest.

25 CHAIRMAN GOLTZ: There's always going to be some of

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1 this adjustment going on somewhere in the system, so CLEC are
2 always going to have to be somewhat agile to adapt to those
3 changes.

4 MR. GATES: True. Although the change management
5 process provides a system within which the parties can talk and
6 the engineers can work together and resolve issues. What we
7 have now is a baseline with Qwest OSS. It's not perfect,
8 Your Honor, but we know it, we can work with it. The CLEC also
9 know the CenturyLink systems, from other states, primarily.
10 They're less efficient, less functionality and they're not as
11 easy to work with. So, here we have a baseline. What we're
12 talking about is taking a good system -- I don't think you
13 heard any CLEC say, "Oh, man. Let's dump the Qwest system and
14 let's use the CenturyLink system." There's a reason why no
15 CLEC has come to you and said that because the Qwest system is
16 superior. I'm hoping that CenturyLink will agree and they'll
17 ultimately use the Qwest OSS going forward. We have a baseline
18 now. The problem with this merger is, we're talking about a
19 mass change in systems that can affect every carrier in the
20 market. It's not just an incremental change, which is what we
21 do with the change management process where you go in and you
22 talk about a certain new type of service or order or making
23 something quicker or more efficient. Here we're talking about
24 a mass change-out of an entire system.

25 CHAIRMAN GOLTZ: One final question: You also have

0526

1 the most favorable state condition. You listed that seventh.
2 I'm sensing that since there's only a few states that are yet
3 in this process that that's probably less important to you now
4 than it would have been in the first state.

5 MR. GATES: I think it's -- no. I think it's always
6 been very important, otherwise, we've got all of these
7 different states with different requirements. I think if I
8 were CenturyLink, frankly, I would want that, too, because I
9 don't want to implement -- if I were CenturyLink I don't want
10 to implement seven, eight, nine different plans, systems, in
11 all these different states. I'd rather have one. From a
12 public interest perspective, consumers in Washington deserve
13 everything that consumers in Oregon, Iowa or Minnesota or Utah
14 or Arizona are going to get. There's no reason to have have's
15 and have not's. It's a merger of these two companies. It'll
16 be a national system. There's no reason to have one state have
17 more benefits than another.

18 CHAIRMAN GOLTZ: Isn't one of the issues, for example,
19 and the staff applicants settlement, there's a provision to
20 require the merged companies to file an alternate form of
21 regulation petition within three and four years, and that's a
22 statute that, I think -- it's not ambiguous of other states.
23 It's ours and maybe some other states are similar to that.
24 And, along with that, there's also provisions for a rate cap
25 and so forth. There's a lot of things in there that might be

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1 termed "unique" to the State of Washington. If we adopted that
2 and Oregon had a most favored state provision in their's and
3 they adopt their's after ours, how does that migrate to Oregon?

4 MR. GATES: That's a really good point. The most
5 favored state clause as proposed by the joint CLEC allows the
6 Washington Commission to review the orders from the various
7 states and decide which ones are appropriate for Washington.
8 It doesn't force any particular state to import a finding or
9 condition or commitment that may not be appropriate or it might
10 be inconsistent with the laws in a particular state, for
11 instance.

12 CHAIRMAN GOLTZ: I believe you said there's a model in
13 a different merger, is that right, for that? Is there a model
14 we can look at?

15 MR. GATES: I'm sure there is. I think Louisiana, for
16 instance, instituted a most favored state requirement. I
17 believe I cite that in my testimony.

18 CHAIRMAN GOLTZ: I think we've seen it in energy cases
19 but not telecommunications cases.

20 MR. GATES: Yes.

21 CHAIRMAN GOLTZ: I don't have any other questions.
22 Thank you.

23 JUDGE FRIEDLANDER: Commissioner Oshie.

24 COMMISSIONER OSHIE: Thank you.

25 Mr. Gates, I'm going to follow up on a couple of the

0528

1 questions that the Chairman had asked. I think you covered
2 your testimony very thoroughly. There's a couple of loose
3 ends, perhaps, or, perhaps, tie in, to what, I'm not quite sure
4 I completely understand yet, about your intentions, I guess,
5 the reasoning in some of your testimony.

6 Let's start with your understanding of how -- I'll
7 focus on the OSS system -- your understanding of how the OSS
8 system would work with each of -- in the merged world -- with
9 Qwest and CenturyLink. Let me ask it this way: There would be
10 one system that would operate for both companies that -- in
11 other words, we had a lot of testimony today, at least, in
12 part, and, perhaps, yesterday, as well, that they still plan to
13 operate, at least in Washington, these companies, on separate
14 tracks, so-to-speak. They're not going to be merging their
15 operations. That was a contentious point earlier this
16 afternoon which, although, surprised me, if that's how they're
17 going to do it, then that's how they're going to do it. So, it
18 relates to the OSS and then, well, if they're going to use a
19 OSS system that is common to both companies. Is that your
20 understanding?

21 MR. GATES: That's a good question. I'm at a little
22 bit of a disadvantage because I wasn't here today but I get the
23 gist of what you're saying. I've heard similar things in other
24 states so I can rely on that knowledge. But, I have heard them
25 say, and read their testimony, and to me it seems like they

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1 want to go to one united ordering system. I think they
2 decided, evidently, which one that will be and that's their
3 goal. You mentioned about operating the companies separately.

4 What was the phrase you used?

5 COMMISSIONER OSHIE: I got the impression they wanted
6 to continue operating the companies as individual entities
7 rather than immerse them into one operating unit in the State
8 of Washington.

9 MR. GATES: I understand from a legal perspective, in
10 terms of the corporate organization, it is a holding level
11 transaction. But, given the synergies that they're proposing,
12 I don't see how or why you would want to keep the companies
13 separate. I refer you, Commissioner, to my testimony in my
14 Direct. This map, TJG-12, that shows the contiguous exchanges
15 in Washington, with the yellow -- I know you can't see this but
16 I'd be happy to bring it up, if you'd like to see it.

17 COMMISSIONER OSHIE: It's in your testimony.

18 MR. GATES: It is.

19 The yellow, that's the CenturyLink exchanges and the
20 blue, those are the Qwest exchanges. You can see that they're
21 contiguous in almost every situation. Here's a Qwest exchange
22 up here that's separate and distinct. But in almost every case
23 they are touching, with some obvious differences. So, given
24 that, just from a network perspective, you would want to
25 interconnect that because that's where all the efficiencies

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1 come from, the trunking and transport. That's where you save
2 all the money in telecommunications, it's a decreasing cost
3 industry because of transport. As far as systems, why would
4 anyone operate multiple systems? It would result in additional
5 cost, additional errors and it would hamper the company in
6 making offerings to consumers. When you have different
7 systems -- let me give you an example. MCI years ago in the
8 '80's developed this great billing system and it allowed them
9 to offer friends and family. I don't know if you remember
10 that. You could get people on this circle and people were
11 excited about that because they could do this and save some
12 money. That was money they made because they had a really good
13 billing system. Same thing will happen with Qwest and
14 CenturyLink. They're going to have one very good system, that
15 should be the goal, and then they will leverage that to offer
16 cheaper, better, more efficient services to consumers. That's
17 the goal of integration and achieving synergies. I don't see
18 how they're going to achieve \$600,000,000 in synergies if they
19 continue to operate the companies separately.

20 COMMISSIONER OSHIE: Well, I had the same question,
21 Mr. Gates, but that's my understanding. What I really wanted
22 you to focus on there was the OSS component, without getting
23 into the overall strategy of how they want to operate this new
24 company.

25 Let's go back and start from the beginning.

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1 It's your understanding they would use one common
2 system --

3 MR. GATES: Yes.

4 COMMISSIONER OSHIE: -- to interface with the CLEC to
5 sell wholesale products.

6 MR. GATES: Yes.

7 COMMISSIONER OSHIE: Now, I had a little difficulty
8 when I read your testimony, and even in your responses to the
9 Chairman, as to making the, really, tight tie between the
10 integration schedule, the anticipated integration schedule, and
11 the synergies benefits with the new OSS. So, perhaps, you can
12 go into more detail. I know there's a timeline involved. But
13 your testimony, if I remember, was about the integration
14 timeline, not necessarily the synergies benefit timeline, I
15 think you distinguished that. So, is the three years a hard
16 date or is it really about the development of a new system and
17 its testing and its ability to be used by the CLEC that's
18 functionally equivalent to what's being offered today by Qwest?
19 Is that the real issue? It's not three years. It could be
20 four years. It could be two years. It depends on how quickly
21 they move to develop a new system and make the assumption,
22 then, it's conditioned upon all of the protections that you
23 asked for in your testimony?

24 MR. GATES: Yes. It's the latter, not the former. In
25 other words, we're not too hung-up on the three to five years.

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1 Ideally, if I were to craft this from whole cloth I would have
2 said they have to meet these certain commitments. Once they
3 meet those commitments then, of course, they disappear. But
4 CenturyLink came out and said "three to five years. That's our
5 best guess at the integration time-frame and the time period
6 over which we will achieve these synergies." So we've been
7 locked into that. I've been focusing on at least three years
8 recently in this compromise situation because I know it's going
9 to take CenturyLink some time to pick a system and deploy a
10 system. I know, based on dealing with CLEC clients, that it's
11 going to take the CLEC quite a bit of time to modify, design
12 and develop and deploy their own back-office systems to talk
13 with this new system. Now, will that take them a year? We
14 don't know because we don't know what they're going to deploy.
15 That's why I would hope they would stick with the Qwest system,
16 then we avoid all of these issues, we maintain service quality,
17 we avoid the costs for both companies and all of the CLEC. But
18 you're right. It's not so much two years or two-and-a-half or
19 three or seven, it's whatever time is required to get it done
20 and get it done right such that consumers aren't affected and
21 the industry continues to function efficiently.

22 COMMISSIONER OSHIE: If we did that, if we required
23 that, what would be the trigger, because in your testimony
24 there's a date in which the new system would be identified to
25 the CLEC, and from there you have a period of 270 days, I

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1 believe, in which the CLEC would have an opportunity to examine
2 it and test it and work with it. There's another 30-day
3 period, I think, in there. I can't recall exactly what that
4 was. There's more cushion, so-to-speak. And, so, let's just
5 say that if they identify a new system and they make it
6 available to the CLEC -- I'm trying to remember back in the
7 271 days how long it took to get the current Qwest system up,
8 operated, accepted and trusted by the CLEC. It seems to me it
9 was longer than 270 days.

10 MR. GATES: It was three years, actually, three years,
11 thousands of hours, millions of dollars. We'd hate to throw
12 all that effort away. But, you're right. But we could -- to
13 answer -- go ahead.

14 COMMISSIONER OSHIE: If there's a deadline, and let's
15 say there's a threshold in which they have -- so they've
16 identified a system, they've made it available to the CLEC so
17 the CLEC can become acquainted with it, how much time is
18 needed, I guess -- what you're telling me is that you don't
19 know how much time the CLEC would actually need because there
20 are too many variables, including what kind of system it is.

21 MR. GATES: Yes. And we've been asking and waiting
22 for that information from CenturyLink, really, since the
23 beginning. It's been no secret that OSS has been the trigger
24 for the CLEC since this was first announced based, in
25 significant part, on CLEC experience with CenturyLink companies

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1 in other states. That is the key. But, we have the Qwest OSS
2 today. We know what those functionalities are -- and we're
3 kind of thinking out of the box -- this isn't in my
4 testimony -- but this is one thing this Commission could do.
5 You could use the Qwest OSS as a baseline. You recall during
6 the 271 process we had that master test plan? Some of us still
7 have it. It was like 1,000 pages and identified all the
8 different types of calls, functions, ASR's, LSR's -- all of the
9 local -- hundreds and hundreds of different types of
10 transactions that had to be tested and then stressed at
11 commercial volumes. And then we identified hundreds of
12 problems and then Qwest went back and spent a lot of time
13 fixing those hundreds of problems until it was finally
14 approved. So, we could start with a baseline. We can define
15 Qwest OSS very well. I don't think it would take very long. I
16 think Mr. Haas did a very good job of outlining, "This is Qwest
17 OSS and this is CenturyLink OSS. These are the problems.
18 CenturyLink won't do this. It won't do the pre-order. It
19 won't fill out the order based on the pre-order loop
20 qualification information." So we know those things. You can
21 set a baseline and say, "Okay, CenturyLink, you have to keep
22 Qwest OSS in place and available to wholesale providers" --
23 CLEC -- "unless and until you can prove to the Commission that
24 your new service, your new system meets all of these
25 functionalities we defined. If you can do that in a year,

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1 great. If it takes seven years, that's sad, but if that's what
2 it takes, that's what it takes."

3 COMMISSIONER OSHIE: That would be, I'm assuming, the
4 functional equivalent principle in play?

5 MR. GATES: Yes. I'm a little troubled by the
6 "functional equivalent" phrase because if you were to ask
7 everyone in this room you might come up with a different
8 definition of what that means. But we do have service
9 intervals. We have very specific functionalities we can
10 define. If you want to use that phrase, that's fine and we'll
11 get the engineers and IT guys go back and put it back into
12 technical talk. That's one way to do it.

13 COMMISSIONER OSHIE: Now, the idea of having a third
14 party tester, I guess, for the mediator, if you will, and one
15 with the technical capability, much like Liberty Consulting, I
16 believe, operated during the 271 process, is it really
17 necessary unless problems emerge? Is that something that if
18 this Commission decided that they didn't want to require a
19 third party tester, at least initially, but there would be an
20 opportunity in the future should problems emerge that were
21 irreconcilable, or some other condition like that, that we
22 would have the authority at that point to go ahead and
23 institute a third party to go ahead and work with both Century
24 and Qwest and the CLEC to develop or to refine a system so that
25 it becomes functional in the manner in which Qwest OSS operates

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1 today?

2 MR. GATES: That was a very long complex but
3 insightful question or statement. It's always hard for me to
4 focus on the pieces.

5 First of all, I think there will be problems,
6 unfortunately. Second of all, the settlement, as written
7 today, whether the staff public counsel settlement or the
8 Integra settlement, neither of those settlements have any
9 teeth. There's nothing in them that provides ways to force
10 remediation to fix problems, to provide incentives to be
11 efficient in the first place. That's one thing. Do we want an
12 independent third party tester? Yes. I would recommend that
13 you do that off the bat. Why? Because, let's assume that
14 CenturyLink does develop and deploy some new system and the
15 parties get together and they start exchanging traffic.
16 There's going to be debates as to whether or not it is a
17 commercial volume, whether we sufficiently stressed the systems
18 to make sure they are operational and allow the CLEC to
19 compete. There will be disputes. When there's a problem --
20 you recall during 271 there were hundreds of problems with the
21 systems and Qwest would say, "Well, that's not our problem.
22 That's MCI's problem," or "AT&T isn't talking to our system
23 correctly." So you have Qwest saying it's the CLEC fault. You
24 have the CLEC saying it's Qwest's fault. Let's put an
25 independent mediator, as you suggested, in the middle, let them

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1 resolve those issues, and if they can't, then, of course,
2 hopefully, they would have the opportunity to go to the
3 Commission and resolve it once and for all. There's a benefit
4 to having an independent party in the middle so we don't have
5 this gamesmanship between the companies.

6 COMMISSIONER OSHIE: I don't recall the cost of
7 Liberty. Do you have a memory of how much a third party tester
8 would cost the merged companies?

9 MR. GATES: I don't know if I ever had any visibility
10 to that, although I always wondered, being a consultant myself,
11 what they would pay for that. I think in Maine the Maine
12 Commission might say they were paid too much, whatever it is,
13 because they had a problem up there. I don't know. But, we
14 have the benefit. We have defined third party testing based on
15 our experience. We're not starting from whole cloth. We know
16 what is required. You can put out a request for proposals and
17 get some competitive bids and it won't be near what Liberty
18 charged before because it won't be near the work that was
19 required back in 2000. I think it could be relatively
20 efficient.

21 As far as the cost, I think the cost, whether it's
22 \$200,000 or half a million dollars, or maybe less, that's a
23 very small amount to pay to avoid the conflicts between the
24 companies and get this done quickly and efficiently. I'm sure
25 CenturyLink wants to get this merger done and behind them so

0538

1 they can move forward, and CLEC wants this merger, if it's
2 going to happen, we want it to be efficient and give us some
3 security and continuity and reliability in the industry going
4 forward.

5 I would recommend, Commissioner, get independent third
6 party tester in there right away, get this done quickly and
7 efficiently and let's move on.

8 COMMISSIONER OSHIE: Thank you, Mr. Gates.

9 I have no other questions.

10 JUDGE FRIEDLANDER: Thank you, Commissioner Oshie.
11 Commissioner Jones.

12 COMMISSIONER JONES: Before I forget, maybe on that
13 last question, Ms. Anderl, does Qwest have any idea how much
14 Liberty cost or, if you want to supply for the record? I think
15 Trincherro was involved in those discussions.

16 MS. ANDERL: If we can't provide it today, Your honor,
17 we can provide it in the near future.

18 COMMISSIONER JONES: Okay.

19 My questions will go a little bit, just following on
20 my colleague's, Mr. Gates, so bear with me a little bit if it
21 overlaps a little bit. I'll try not to.

22 In your testimony, both Direct and supplemental, you
23 talk about the complexity of an OSS conversion, and we've been
24 talking about that. I would agree with you on that, in
25 general, but you're representing the joint CLEC as a witness,

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1 correct?

2 MR. GATES: Yes.

3 COMMISSIONER JONES: I think at one part of your
4 testimony you talk about this is not just an issue for CLEC
5 interfaces but it's an enterprise-wide issue, a conversion of a
6 system. I'm trying to get square in my own head what -- in my
7 own brain -- what is an OSS versus what are all of the other
8 computing systems, IT systems in a company that if the joint
9 applicants are sincere about synergy savings, as you said,
10 being efficient, operating one system, at some point they'll
11 have to convert everything related to information technologies,
12 correct?

13 MR. GATES: True. The F.C.C. has defined OSS as
14 pre-ordering, ordering, provisioning, maintenance and repair
15 and billing.

16 Now, in this record we have a flow chart that shows
17 CenturyLinks' OSS -- I think it might be confidential. I'm not
18 certain -- but it shows dozens of different systems, and the
19 problem that the CLEC had with that flow chart, the OSS chart,
20 was that some of them appeared to be retail, some were
21 wholesale, some were called "business," others were -- there
22 were monickers assigned, and I recall we crossed Mr. Hunsucker
23 on it and he couldn't explain it to us either. So the
24 definition of "OSS" is absolutely critical, because of Section
25 271 requirements we don't want Qwest to backslide, and I'm not

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1 certain, maybe it's because CenturyLink is primarily a rural
2 eyelet, I don't think they're certain based on that OSS flow
3 chart, what is technically OSS based on the F.C.C.s definition.
4 That's obviously critical to whether or not they have to
5 provide a functioning, non-discriminatory system that is
6 efficient to CLEC or if it's something they can do on their own
7 and CLEC can buy it or not buy it. That's the key. We're very
8 concerned about the incentives that the ILEC might have to
9 discriminate against the CLEC through the deployment of an OSS
10 that is less efficient.

11 COMMISSIONER JONES: I think your testimony adequately
12 described in your view what the inadequacies of what the
13 E System is versus the Qwest Legacy OSS, what is called the
14 "IMA/XML" system.

15 MR. GATES: Yes.

16 COMMISSIONER JONES: So I'm still a little confused.
17 The reason you mention this in your testimony, you are
18 concerned that some of the OSS conversion processes may relate
19 to other IT systems or conversion processes in the merged
20 company that could, through these linkages somehow come back to
21 the CLEC interfaces and make it more complex. Is that why you
22 raised it?

23 MR. GATES: More complex or more likely to simply
24 fail. We have flow through with the Qwest OSS and the majority
25 of things and we don't with the CenturyLink and the flow

0541

1 through is critical. We also don't want to have CLEC -- we
2 don't want the new system put in place and CenturyLink says,
3 "You want that capability? It'll cost \$300,000. We'll deploy
4 that for you in 18 months." I don't think the CLEC should have
5 to pay for the same functionalities that they have been
6 receiving for years from Qwest. They shouldn't have to pay
7 twice. They shouldn't have to wait. Frankly, Commissioner,
8 the CLEC simply want service quality to remain the same, rates
9 not to go up and the functionality to remain the same as we
10 have with the Qwest OSS. I don't think that is unreasonable
11 for this Commission to require or for CLEC to expect service
12 quality to remain the same post merger.

13 COMMISSIONER JONES: In response to that, as I
14 understand the joint applicants, they're saying, "Trust us.
15 The status quo. We're not going to change the status quo with
16 the E System and with things that we can do for you, so the
17 status quo is okay." Isn't that what they're saying?

18 MR. GATES: They say things like that. They say their
19 service quality is good and they want to take care of wholesale
20 customers, but we know, based on reports of the F.C.C. and the
21 state commissions with other mergers like Embarq and CenturyTel
22 that there have been issues. Service quality has been
23 degraded. We have the JD Power and Associates reports that
24 show that CenturyLink is consistently providing inferior
25 service to that of Qwest. So, I wish -- I know CenturyLink

0542

1 says this all the time, "We're going to provide great service.
2 We're going to maintain the service quality." If that's true,
3 agree to the APAP so that we have some knowledge, some comfort
4 that you have some incentive to maintain service quality.

5 COMMISSIONER JONES: My last point on this is: I
6 think in some point of your testimony you describe an operating
7 system called "synchronos VFO platform;" is that correct?

8 MR. GATES: Yes.

9 COMMISSIONER JONES: Is this the platform that you
10 believe, based on all the other state proceedings and based on
11 this proceeding, do you think the merged companies is heading
12 in that direction of picking an operating platform like that?

13 MR. GATES: I don't know. I don't know what selection
14 they will make. We do know that system has been used in
15 West Virginia and in the northeast and we've had problems. The
16 industry has had problems with that system, that's why I raised
17 it.

18 COMMISSIONER JONES: That was my follow-up question.
19 I don't want to talk about fair point just because I think
20 there's a lot of evidence on that. We don't need to dwell on
21 that. But what have been some of the challenges for CLEC in
22 the West Virginia case in the conversion of the system?

23 MR. GATES: Just the submission of orders, getting
24 them submitted without falling out, without being rejected.
25 That's the key. Literally, circuits going down and being down

0543

1 for days. Circuits do go down from time to time but usually
2 it's for minutes or hours. In West Virginia we had significant
3 outages for a significant amount of time, not only carriers but
4 retail customers, as well. And we know, based on the evidence
5 in this record, that CenturyLink had problems just loading
6 information into devices in North Carolina that resulted in
7 significant outages that still haven't been resolved to this
8 day completely.

9 COMMISSIONER JONES: When do you think the CenturyTel
10 Embarq system integration will be completed, based on what you
11 know, because you talk about that in your testimony and talk
12 about the risk of that integration not being complete before
13 the merged company can, perhaps, start on another very
14 ambiguous OSS integration?

15 MR. GATES: It's a bit of a distraction, isn't it,
16 given the complexity of both?

17 My understanding, based on what CenturyLink has said,
18 it's going to be second or third quarter of 2011 that they will
19 complete that integration. That's their estimate.

20 COMMISSIONER JONES: Is that true nationally or is
21 that true for the State of Washington? I think Ohio and
22 North Carolina, from what I understand, have been completed.
23 Do your comments apply to this state?

24 MR. GATES: I don't know.

25 COMMISSIONER JONES: With Commissioner Oshie you were

0544

1 engaged in a dialogue on third party testing. I guess I have
2 some of the same questions that he did phrased slightly
3 differently, and that is, what I'm trying to drive at is, the
4 271 process, I think, by all accounts, was pretty cumbersome
5 and took a long time. It was quite costly. My underlying
6 question is: Can we do it quicker, not necessarily more
7 cheaply, but in terms of functional equivalence and getting at
8 some of the problems? So do you think that's possible if we
9 can build on the base of what Liberty did in 271 and based on
10 the lessons learned in that proceeding?

11 MR. GATES: I do. I don't think it would be nearly as
12 cumbersome or difficult, although I think the result was worth
13 the effort. I think going forward if the State Commissions, if
14 the Regional Oversight Committee wants to do this on a regional
15 basis, I think it could be done pretty efficiently. We have
16 the baseline. We know what the Qwest OSS is. We can use that
17 as the baseline, compare it to whatever it is that CenturyLink
18 will propose. I'd develop the tests, create the volumes and,
19 hopefully, fix whatever problems that there might be. I do
20 think it wouldn't be a three-year process like we had before
21 but it won't be a one-year process. I think it'll be more than
22 one year. I mean, it'll take us months just to develop the
23 master test plan and agree to something that, perhaps, all of
24 the states could agree to in terms of what is the baseline
25 against which we measure the proposed CenturyLink systems.

0545

1 COMMISSIONER JONES: But you think the trigger for --
2 first of all, in response to Commissioner Oshie's question you
3 said that we should involve third party tester right from the
4 start, right?

5 MR. GATES: Yes.

6 COMMISSIONER JONES: If you look at the staff
7 Settlement Agreement, and I'm looking at that rather than
8 Integra, they do set forth a process in terms of notice,
9 consultation, the 270 days before replacing or integrating
10 Qwest OSS system. Is this a process that you would think would
11 be a good process in terms of notifying the relevant parties
12 involved in the CLEC F.C.C. commission? And I guess what
13 you're saying on the third party testing is, once CenturyLink
14 notifies these parties, including us at the Commission, we
15 should engage a third party contractor, and I'm referring to
16 Section 23, if you have it in front of you, of the Staff
17 Settlement Agreement.

18 MR. GATES: Yes. Thank you.

19 Yes. Once we have the detailed plan, once they've
20 defined the new system that would be the time to bring in a
21 third party tester to develop a master test plan, develop the
22 baseline and start the testing. By the way, I think that's an
23 efficient process because I think what we've seen so far in the
24 various states that CenturyLink says, "The CLEC can come and
25 they can send us traffic. We'll do coordinating testing with

0546

1 them." That sounds all fine and good, but if there are
2 problems, we don't want the finger pointing. We don't want to
3 have to go to the Commission and say, "CenturyLink doesn't
4 agree," or "PAETEC" doesn't agree," or "Level 3 is simply
5 wrong." We need that independent third party tester in there
6 to kind of manage the process and isolate the parties from each
7 other and, if necessary, we can go to the Commission to seek
8 help for a resolution. I think we did that in the 271 process,
9 too. So, yes. Get the detailed plans. Once they made a
10 decision, bring in the third party independent tester and
11 develop the plan, the master test plan, and the results that
12 we're seeking. Then if they can do it in a year, great. If it
13 takes longer, we just need to do it until it's right. That's
14 the whole concept of military testing that we did in the
15 271 process is we just keep testing, stressing it, until it
16 works.

17 COMMISSIONER JONES: But you're not advocating,
18 Mr. Gates, that this would happen on day one after closing.
19 You're still advocating in your number one condition that you
20 submitted this Monday, you're still saying the merged company
21 will use an offer to wholesale customers the Legacy Qwest OSS
22 for at least three years. That's still your position?

23 MR. GATES: It is. But if they got it done in
24 two-and-a-half years and they can show to the Commission and
25 parties that whatever this new system is is working as well as

0547

1 or better than the Qwest OSS then I'm sure the CLEC would say,
2 "Okay. We don't need to wait for three years." On the other
3 hand, if we're three-and-a-half years into it and the system is
4 still failing and not efficiently passing traffic then we just
5 need to continue testing.

6 COMMISSIONER JONES: I'm thinking out loud here, which
7 is always a danger: Based on what you said earlier on the
8 Embarq conversion and the integration, and I think there are
9 some concerns that various parties have raised, and you said
10 that you believe that that will not be finished until the
11 third quarter of this year of 2011. Would it be your advice to
12 this Commission to kind of kick off such a process on a new OSS
13 only after that Embarq integration process is finished so we
14 know or know any difficulties or does it really matter?

15 MR. GATES: I just don't know. Maybe CenturyLink can
16 manage the integration of two companies. But given the
17 magnitude of this endeavor with Qwest, it would be difficult.
18 I don't think I would have an opinion on whether this
19 Commission should delay consideration of any proposals that
20 CenturyLink might have until it finishes the Embarq CenturyLink
21 integration. I don't know if that's necessary. Frankly, I
22 would want to get as much information as you can get as soon as
23 possible to consider it. If they can do them both at the same
24 time, that would be great.

25 COMMISSIONER JONES: But it could stress the IT teams

0548

1 and the engineering teams to be managing the existing
2 CenturyLink business, which is losing business on excess lines,
3 and trying to get new business, as we heard today, we heard
4 Embarq integration in several states and then taking on a new
5 Qwest integration effort, that seems to be a lot of work to do.

6 MR. GATES: It is a lot of work and stressful and
7 they've had real problems just doing the one integration based
8 on the CWA witness testimony. I'm just hoping the Qwest
9 engineers are still involved such that they can assist with any
10 integration activities that occur, because, frankly, the more
11 of those folks we have involved the more efficient it'll be. I
12 think they can help the CenturyLink folks understand the Qwest
13 systems and make sure the functionality of whatever system they
14 put in place are equivalent.

15 COMMISSIONER JONES: A couple more questions.

16 Condition number four on what is called "porting" or
17 "cross state adoption of interconnection agreements," is this
18 mainly a benefit to the CLEC or do you really believe that this
19 could be a benefit to the merged companies as well in having
20 more, kind of, standardized interconnection agreements?

21 MR. GATES: That's a good question. I know Mr. Pruitt
22 addresses that in some detail in his testimony. I think he did
23 a good job on that. I think there are benefits to having --
24 this is very similar to the MFS. Carriers should not be denied
25 access to an agreement simply because it exists in another

0549

1 state. If it's a good agreement and efficient for one carrier
2 in one state, why shouldn't it be available in one state?
3 Absent some indication that it's inefficient or it's cost
4 prohibitive or not technically possible or efficient, I think
5 that makes sense. Am I suggesting one template agreement
6 crossing an entire country? I don't think that's a good idea.
7 Different carriers have different needs. We've seen that in
8 this proceeding, Integra focusing on line conditioning and then
9 we have Charter which is facilities-based, really only needs
10 the local number portability issues to transfer customers. So,
11 no, I don't think I'd go so far to say have one interconnection
12 agreement but we shouldn't deny availability of an agreement.
13 I think the law says we can opt in and I think it would be
14 efficient for carriers. We know how much time and expense it
15 takes to negotiate an interconnection agreement. It can take a
16 year, year-and-a-half, and have to do that with four or five
17 CenturyLink entities and a Qwest entity in one state, that
18 seems pretty inefficient, so I think they're somewhere
19 in-between there, Commissioner, that we can get to that would
20 benefit all the parties.

21 COMMISSIONER JONES: Last question on the rural
22 exemption issue, which is 251F of the Telecom Act, in your
23 commitment you propose condition number seven you object to the
24 Integra settlement because the commitment not to seek an
25 exemption from that settlement applies only to the Qwest

0550

1 service territory, correct, and you advocate that it apply to
2 the CenturyLink service territories, as well?

3 MR. GATES: I'm confused a little bit by the reference
4 to condition seven in my testimony. That's the AMFS, unless
5 I'm looking at the wrong piece of testimony.

6 COMMISSIONER JONES: It's confusing because you
7 submitted --

8 MR. GATES: I know.

9 COMMISSIONER JONES: -- T.G., your initial conditions
10 were, this is in the response to Bench request number five that
11 we received, I think this Monday, didn't we, Judge -- Bench
12 request number five?

13 JUDGE FRIEDLANDER: Yes. That's correct.

14 COMMISSIONER JONES: You had testimony and then you
15 listed 11 proposed conditions and then there were two
16 additional conditions by Pac-West. It's that document.

17 MR. GATES: Could I see that, Counsel?

18 MR. TRINCHERO: Your Honor, if I might have a moment.

19 JUDGE FRIEDLANDER: Sure.

20 MR. TRINCHERO: Thank you, Your Honor.

21 JUDGE FRIEDLANDER: Certainly. Just let us know when
22 you're ready, Mr. Gates.

23 MR. GATES: Okay. I have that in front of me.

24 Your question was about the rural exemption, and
25 whether that should apply or not avoiding the rural exemption,

0551

1 whether that would apply not only in the Qwest region but also
2 in the Century region?

3 COMMISSIONER JONES: Yes.

4 MR. GATES: I think that would be an excellent result.
5 I'm not trying to deny CenturyLink the opportunity to prove any
6 undue economic burden under the act but, clearly, this is the
7 third largest telcom company in the United States, or will be
8 if this is approved, and to hide behind the rural exemption
9 will not result in the development of competition and makes the
10 entire industry more inefficient, especially in areas, as we
11 discussed, when exchanges are contiguous and there's really no
12 reason to rely on the rural exemption.

13 COMMISSIONER JONES: Is this something that has been
14 included in other settlement agreements or in other states as
15 part of these proceedings, to your knowledge?

16 MR. GATES: It's been addressed since the beginning
17 because I've been involved in several cases where CenturyLink
18 has claimed the rural exemption and has limited CLEC ability to
19 interconnect on more efficient terms, so we're all aware that
20 CenturyLink does this in other states and we want to avoid that
21 going forward given the size of the merged company, should it
22 be approved.

23 COMMISSIONER JONES: If the merged company did waive
24 its right to seek the exemption from rural telephone companies
25 under that provision of the Act would that have the affect of

0552

1 eliminating the structural separation of subsidiaries there, I
2 think three or four separate CenturyTel subs operating in the
3 State, would you think that would be a large incentive to
4 eliminate those and move toward more of the merged entity
5 within the State?

6 MR. GATES: I think it would to the extent that
7 they're maintaining those entities for the limited purpose of
8 maintaining a rural exemption, that's not the public interest.
9 Operationally they will benefit from all of the inefficiencies
10 of being interconnected and sharing all that traffic. I think
11 the elimination of the rural exemption would provide that
12 incentive to be more efficient, to combine all of the
13 companies, all the operations, all the systems in the most
14 efficient method possible. So we shouldn't have this corporate
15 legal separation that really doesn't benefit anyone, in my
16 mind.

17 COMMISSIONER JONES: Those are all my questions,
18 Judge.

19 JUDGE FRIEDLANDER: Thank you, Commissioner Jones.

20 Did Mr. Trincherro have any Redirect?

21 MR. TRINCHERO: Yes, Your Honor. Although, I'm
22 curious --

23 MS. ANDERL: We're still planning on oral surrebuttal
24 but we don't have any Cross.

25 MR. TRINCHERO: Then I will proceed. Thank you.

REDIRECT EXAMINATION

1

2 BY MR. TRINCHERO:

3 Q Mr. Gates, you were asked by the Chairman about your
4 most favored states proposal, and I think he asked whether you
5 were aware of a model and I think you used the Louisiana
6 example. Isn't it true, also, that the Oregon commission has
7 used a most favored states condition in prior telecom mergers
8 in that state?

9 A I believe it has, yes.

10 Q You were asked some questions by Commissioner Oshie
11 about the three-year integration synergy period and that
12 timeline. I think -- I just want to make sure that we're not
13 conflicting two things here -- all of that discussion seemed to
14 be focused on OSS, but I want to make sure on the record here
15 that that three-year period also impacts other conditions such
16 as the length of the extension of interconnection with
17 commercial agreements and wholesale agreements. Is that
18 correct?

19 A Yes. Our proposal is that there shouldn't be any
20 distinctions, any discrimination between and among CLEC that
21 the three-year period would apply not only to ICA's but to all
22 of those other commercial wholesale tariff agreements, as well.
23 I think our discussion was general and I was using the OSS as
24 an example. For instance, the staff and public counsel
25 settlement, I think about half of those all refer to either an

0554

1 unlimited time-frame or at least three to five years which I
2 believe is consistent with or meant to be an integration
3 period.

4 Q You also had a discussion with Commissioner Jones
5 about IT systems in merger synergies and I'm not sure whether
6 or not you answered his question directly. You were talking
7 about all the OSS systems that may need to be changed, and I
8 just want to make sure. I believe Commissioner Jones was also
9 asking if there are other non-OSS IT related systems that they
10 may need to change. Is that true?

11 A That is true. Absolutely. That's why I brought up
12 the OSS flow chart because it's not clear to me that
13 CenturyLink understands or has put their arms around what is
14 OSS per the F.C.C. versus the other IT systems.

15 Q You were also having a discussion with
16 Commissioner Jones about ICA porting and what benefits might
17 accrue to CLEC and to the companies. I want to ask you: Is it
18 possible that a CLEC might negotiate and arbitrate an agreement
19 with Qwest, let's say, in another state -- Minnesota -- where
20 that might take quite a bit of time and resources, whereas that
21 same CLEC might opt into an agreement with Qwest and the State
22 of Washington just because it doesn't have as many lines here
23 and so they did it that way with the merger of the companies,
24 would it not be beneficial to be able to take that fully
25 negotiated and arbitrated agreement from Minnesota and bring it

0555

1 to the State of Washington?

2 A Well, it certainly would. That's why I try to point
3 out the costs and resources associated with those negotiations
4 are significant. Sometimes opting into agreements leaves an
5 impression that certain things are acceptable when, in fact,
6 maybe certain things just don't matter. Facilities-based
7 carriers don't care much about UNE's so maybe they don't care
8 about the UNE section in an ICA and people might interpret that
9 in a certain way. But certainly it would be efficient to opt
10 into an agreement that was completely litigated rather than do
11 it in every single state. I've done that. I've done that for
12 carriers before this Commission where we've gone seven or eight
13 states litigating the same issues over and over and over again
14 and it's very inefficient, very expensive, which is why some
15 carriers opt in because they can't afford it.

16 Q Finally, you had discussion with Commissioner Jones
17 about the rural exemption. I think one of his final questions
18 was whether or not if, in fact, this Commission were to impose
19 a condition that the merged company could not, in either
20 CenturyLink or Qwest territory, take advantage of that rural
21 exemption whether that would likely lead to the companies
22 merging all of the separate legal entities. I guess my
23 clarifying question on that is: They wouldn't need to,
24 however, would they?

25 A Well, again, that's a legal question. I don't think

0556

1 they need to merge legally in order to operate as a single
2 unit. Clearly, with exchanging that are contiguous and
3 networks interconnected, regardless of the legal structure,
4 they can still exchange traffic efficiently as if it were one
5 company.

6 MR. TRINCHERO: Thank you.

7 I have nothing further, Your Honor.

8 JUDGE FRIEDLANDER: Thank you.

9 With that, Mr. Gates, I believe that you're dismissed.
10 Thank you for your testimony.

11 MR. GATES: Thank you.

12 JUDGE FRIEDLANDER: Ms. Anderl.

13 MR. ANDERL: I was just going to say it's my
14 understanding that the next and last thing that has to happen
15 is what we decided on is a combined settlement panel in support
16 of all the settlement agreements. If that's what everybody
17 thinks is going to happen I wonder if we might have a few
18 minutes off the record to organize and streamline our
19 presentations in light of everything that's come up to now.

20 JUDGE FRIEDLANDER: That makes sense.

21 Let's take a brief recess for, say, five minutes.

22 MS. ANDERL: Thank you.

23 Depending on the degree of Cross, if people are
24 willing to go late tonight we could get it done.

25 (Short break was taken in the proceedings.)

0557

1 JUDGE FRIEDLANDER: Back on the record.

2 Before we left Ms. Anderl was representing the parties
3 had agreed to a joint surrebuttal panel as opposed to the
4 two separate ones we were going to have.

5 Which witnesses are going to be impaneled for this
6 segment?

7 MS. ANDERL: Your honor, time off the record was well
8 spent because we've now made a couple of stipulations with some
9 of the other parties. The panel will be comprised only of Mike
10 Williams, Chris Viveros and Mike Hunsucker, unless, of course,
11 there are further questions from the Bench for any other
12 witnesses. Mr. Brigham we determined is not going to do any
13 oral surrebuttal and Sprint is going to offer a few exhibits
14 they would have offered on Cross and we're going to say that we
15 don't think that they're relevant but we're not going to object
16 to their admission.

17 JUDGE FRIEDLANDER: Mr. ffitich.

18 MR. FFITCH: I'm grabbing the Mike here for
19 Ms. Cameron-Rulkowski. I know she needs it in a second.

20 Ms. Johnson is available. We're not presenting her on
21 this panel. I believe she's on the bridge, if needed. If we
22 know at this point that there are no questions for her from the
23 Bench or any parties I would ask that she be excused, but she
24 is available. We're happy to have her available even if it's
25 uncertain.

0558

1 JUDGE FRIEDLANDER: Thank you.

2 Are there any parties that wish to cross-examine

3 Ms. Johnson at this time.

4 Everyone is indicating they do not have any questions.

5 Does the Bench have any questions for Ms. Johnson?

6 I don't believe so.

7 If Ms. Johnson would like to be, she is excused.

8 MR. FFITCH: Thank you, Your Honor.

9 JUDGE FRIEDLANDER: Ms. Cameron-Rulkowski.

10 MS. CAMERON-RULKOWSKI: Staff was not going to present

11 Mr. Vasconi for the panel unless the Bench had additional

12 questions for him.

13 JUDGE FRIEDLANDER: I don't believe that we do.

14 MR. FFITCH: Thank you, Your Honor.

15 Also, I have passed out to the Bench and also to the

16 parties' attorneys the revised conditions 16 in red line. A

17 staff witness, probably Mr. Vasconi, would be available to

18 answer any questions on this. I can simply say that it is not

19 meant to substantively revise the parties' understanding and we

20 hope that it makes it a little bit clearer.

21 JUDGE FRIEDLANDER: Thank you.

22 I would assume that the joint applicant witnesses who

23 are being impaneled would also be available for questions

24 should any arise from the parties and the Bench relating to the

25 clarification.

0559

1 MS. ANDERL: That would be Mr. Reynolds and he's
2 available on this particular provision 16.

3 JUDGE FRIEDLANDER: That's fine.

4 Have the parties had a chance to review the
5 modification?

6 MR. TRINCHERO: Can we take one moment off the record?

7 JUDGE FRIEDLANDER: Sure.

8 We'll go off the record for just one moment.

9 (Short break was taken in the proceedings.)

10 JUDGE FRIEDLANDER: Back on the record.

11 I would assume the parties have had a chance to review
12 the modification.

13 Do any of the parties wish to examine either staff
14 public counselor or joint applicant witnesses relating to this
15 modification?

16 MR. TRINCHERO: No, Your Honor.

17 MR. SHIFMAN: No.

18 JUDGE FRIEDLANDER: Thank you.

19 I'm getting indications that none of the parties do
20 and neither do the Bench.

21 We'll proceed with the panel.

22 Ms. Anderl, call your witnesses.

23 MS. ANDERL: Yes, Your Honor. The joint applicants
24 would call, as a panel, Mike Williams, Chris Viveros and
25 Michael Hunsucker.

0560

1 JUDGE FRIEDLANDER: Mr. Hunsucker and Mr. Viveros, you
2 have already taken the oath. I'll remind you that you're still
3 under oath. You don't need to stand and retake it.

4 For Mr. Williams, if you'll raise your right hand.

5
6 MICHAEL WILLIAMS, having been duly sworn to tell the
7 truth, the whole truth and nothing but the truth, testified on
8 his oath as follows:

9
10 JUDGE FRIEDLANDER: You may be seated.

11 Now that we've sworn in the panel maybe you can
12 clarify for me which exhibits it was that you wanted to offer
13 into admission.

14 MR. SHIFMAN: The exhibits we want to offer are
15 designated as MRH-5C, MRH-6C, MRH-7C, MRH-8C and MRH-9. Five
16 through nine.

17 JUDGE FRIEDLANDER: Thank you.

18 Do any of the parties object to the admission of
19 Exhibits MRH-5C, 6C, 7C, 8C and 9C?

20 MS. ANDERL: Your Honor, with the caveat that we
21 believe that these are not issues that would be addressed in
22 this docket, really, in [unintelligible] charges, as our
23 previous position, we don't have a foundational or other
24 admissibility objection.

25 JUDGE FRIEDLANDER: Thank you. I appreciate that.

0561

1 With that, I will -- did you have anything to add,
2 Mr. Shifman?

3 MR. SHIFMAN: They are admitted?

4 JUDGE FRIEDLANDER: I was going to admit them,
5 exactly.

6 MS. ANDERL: Then I understand that Sprint has no
7 Cross for Mr. Brigham.

8 JUDGE FRIEDLANDER: Okay.

9 MR. SHIFMAN: That is correct.

10 JUDGE FRIEDLANDER: Thank you for that clarification.

11 So, now, are we going to get into Direct for the
12 surrebuttal testimony?

13 MS. ANDERL: Yes. The order in which we'll present
14 our panel witnesses are Mike Williams, Chris Viveros and then
15 Mr. Hunsucker.

16 DIRECT EXAMINATION (SURREBUTTAL)

17 BY MS. ANDERL:

18 Q Mr. Williams, would you state your name and business
19 address for the record?

20 A My name is Michael Williams. My business address is
21 1801 California, Denver, Colorado.

22 Q By whom are you employed and in what capacity?

23 A I'm employed by Qwest as a senior director of public
24 policy.

25 Q Mr. Williams, to understand that you're on the panel

0562

1 today in order to provide oral surrebuttal testimony to the
2 January 3rd filing of supplemental testimony by the CLEC
3 witnesses?

4 A Yes. That's correct.

5 Q And your area specifically today is going to be to
6 address the recommendation that the Commission adopt what's
7 been called an "APAP" or an "Additional Performance Assurance
8 Plan?"

9 A Yes.

10 Q Can you please tell us what the joint applicants'
11 position on that APAP recommendation is and why?

12 A Okay. Mr. Gates is the one who is most recently
13 persisting with the proposal to have an additional performance
14 assurance plan. His basis for persisting with that proposal
15 appears, as I reviewed his testimony on page 44, to be based on
16 an incorrect characterization of the performance standard in
17 the Integra settlement, which is condition 2Ai. He incorrectly
18 says that the post merger performance under the Settlement
19 Agreement would be compared with a rolling benchmark that would
20 eventually roll out of the pre-merger period, and, so, he's
21 concerned that eventually the settlement would not be comparing
22 post-merger performance with pre-merger performance and that's
23 simply false. That's not a correct reading of the settlement.
24 In fact, the settlement calls for the 12 months pre-merger to
25 be the fixed benchmark period for comparing post-merger

0563

1 performance. Under the settlement, all post-merger performance
2 would be compared against that fixed period.

3 He also claims on page 42 that the purpose of this
4 additional performance assurance plan is not to increase
5 service quality. This cannot be the case. As I stated in my
6 rebuttal testimony, the APAP would significantly penalize the
7 company for post-merger performance was that was precisely the
8 same. I stated in my testimony to be 13 times what the QPAP
9 would have penalized for that same period, even though, again,
10 we're talking about an analysis that showed -- that used 2009
11 twice -- used 2009 data as the pre-merger period, and, then,
12 just for the purpose of making his point, saying that if the
13 post-merger period were exactly the same data in the same
14 months it would have penalized Qwest 13 times. And my
15 analysis, depending on the nuances, could be as high as
16 20 times, up to \$2,000,000 for precisely the same performance.
17 That's the baseline. If that's what it does with exactly the
18 same performance, what would the company have to do to avoid
19 payments? You'd have to significantly increase your
20 performance in some way. I did a further analysis using that
21 same model and showed even if performance were to increase
22 across the board in every metric, across every CLEC,
23 10 percent, we'd still be paying three times the amount that
24 the QPAP would charge by itself for that period of time. So,
25 it's clearly a plan that is out of line and its fundamental

0564

1 flaws are, really, irreparable. On page 43 Mr. Gates claims
2 that the QPAP does not rectify or, quote, "merger-related
3 harm." I would note that the QPAP itself does produce data
4 that can support a comparison of post and pre-merger
5 performance and this is the basis of the Integra settlement
6 condition, that you can make that comparison.

7 I would also note that, in addition, the Washington
8 QPAP under the recent AFOR, the latest AFOR order, was
9 expanded. This is a unique aspect in Washington related to the
10 QPAP, that it was expanded to cover not only these type
11 products but also UNE's that are ordered in lieu of -- or UNE
12 substitutes -- that's a better word for it -- which include
13 special access order in lieu of UNE, so, we put in place
14 specific contractual agreement for CLEC to adopt that. My team
15 was involved heavily in implementing the metrics and the system
16 connections that would need to get the data in to do that, and
17 that's been done. So, the QPAP does produce data that can
18 allow the kind of visibility and comparison of pre-merger and
19 post-merger performance.

20 In contrast, the APAP has no provisions that
21 explicitly identify whether observed differences in performance
22 actually represent degradation in performance. You can have a
23 difference in perform, not necessarily degradation. There are
24 lot of factors in the world that can affect things going up and
25 down and it doesn't necessarily represent a degradation in

0565

1 performance. The APAP has no provisions to identify whether
2 any differences are company caused. It has no provisions to
3 show, particularly, whether any differences are merger related.
4 It doesn't even use those words in the APAP. So, the very
5 thing that Mr. Gates complains about in the settlement where
6 the settlement calls for this comparison, I described pre and
7 post-merger, and then we look behind the data to do a root
8 cause analysis, if there are problems, and to then put in place
9 plans to rectify those problems. Again, the APAP says nothing
10 about identifying problems. We're focusing on solving
11 problems. The settlement focuses on solving problems, should
12 there be any.

13 In summary, in contrast to Mr. Gates' assertions, the
14 settlement it does include. In fact, it was not only his
15 assertions in testimony but here today he claimed that
16 settlement has no incentive. It has no provisions to encourage
17 or provide assurances that service quality will remain the
18 same. The settlement does include a commitment to keep service
19 quality the same or better and it provides comparisons to that
20 affect, and should there be problems it provides a mechanism to
21 get underneath the data to see if we're dealing with the
22 problem and what to do about it.

23 The QPAP will continue to assure that wholesale
24 service performance levels track retail performance and that's
25 where the competitive market measures are really operating.

0566

1 It's immense pressures will help us ensure that we keep high
2 service quality and then the QPAP, then, ties wholesale service
3 quality to that standard.

4 That would conclude my surrebuttal.

5 MS. ANDERL: Thank you, Mr. Williams.

6 Your Honor, whatever the Bench's preference is, we can
7 give all the oral Direct and then have the witnesses stand for
8 questioning or do it one at a time.

9 JUDGE FRIEDLANDER: Let's go ahead and do the oral
10 direct all at once and then you can proffer them as a panel for
11 Cross.

12 MS. ANDERL: Thanks.

13 Our next witness will be Mr. Viveros.

14 Q Mr. Viveros, you've previously been sworn and
15 identified yourself. I don't think you've yet answered any
16 questions.

17 A Just yours.

18 Q There are a couple of areas that I wanted you to
19 address in oral surrebuttal of the issues raised by the joint
20 CLEC and the first area is the directory listings area. I
21 believe Mr. Pruitt raised those issues specifically and,
22 perhaps, Mr. Gates, as well. I'm wondering if you can please
23 respond to the testimonies of those witnesses with regard to
24 the directory listings issues.

25 A That's correct. I believe they're more explicit in

0567

1 Mr. Gates' supplemental testimony beginning on page 37.
2 Mr. Gates asserts that Qwest has violated the spirit of the
3 settlement agreement based on the introduction of a new charge.
4 In fact, Mr. Gates is incorrect. It's not a new charge. It's
5 an existing charge that Qwest had been unable to bill up
6 until -- actually, the changes went in to allow us to be able
7 to begin collecting the charge January 1st, 2011. We did send
8 out a non-CMP notice in November, as he indicates in his
9 testimony, because, as all parties have agreed, rates are not
10 included within the scope of the CMP. We notified in advance
11 that we would have the capability to begin billing the existing
12 nonrecurring charge. And as is the case with all notifications
13 associated with rates, they're subject to the limitations of
14 existing interconnection agreements. So, should a CLEC not
15 have the rights in its interconnection agreement those charges
16 would not apply. In the case of the joint CLEC, based on
17 looking at the individual Washington ICA's, I believe each of
18 the joint CLEC ICA's contain the terms necessary to allow Qwest
19 to build this existing charge, with the exception of Covad that
20 does not require listing services from Qwest. In fact, one of
21 the most recent agreements, the Charter agreement, arbitrated a
22 portion of this issue and this Commission ruled on that issue
23 in Docket UT-083041, and order number seven at page 51 spoke to
24 the fact that if Charter was interested in supplying Qwest with
25 its privacy listings that it should be expected to pay Qwest

0568

1 tariff rate for those listings just as other CLEC do. In fact,
2 Charter and Qwest, as a result of that order, filed a
3 conforming ICA with the Commission that included language that
4 spoke to the fact that CLEC would pay these additional
5 charges -- or Charter would pay these additional charges. So
6 it was not a new charge whatsoever. It was an existing charge
7 that was common practice that Qwest had the capability to bill
8 to its retail customers, however, because facility-based
9 listings are processed in a different manner we did not have
10 the capability to do that billing prior to the process and
11 systems development that went into effect January 1st, 2011.

12 Q Thank you.

13 Mr. Viveros, there's been some discussion on the
14 record today and relative issues raised by the joint CLEC with
15 regard to the change management process or CMP, and Qwest's
16 current ability to replace or decommission operating support
17 systems or operational support systems. I know there's already
18 been some discussion on the record there. Was there anything
19 that you wanted to add to that discussion or would you simply
20 be available if the bench had additional questions on that
21 issue?

22 MR. SHIFMAN: Your Honor, I'm going to object here
23 because I thought the point of this panel was to provide oral
24 surrebuttal to the testimony that joint CLEC filed on
25 January 3rd not to have yet another round of discussion about

0569

1 things that may have come up today. I think it goes beyond the
2 scope of what this panel was intended to address.

3 JUDGE FRIEDLANDER: Ms. Anderl.

4 MS. ANDERL: Briefly, Your Honor.

5 The CLEC are opposing the settlement with Integra on
6 the basis that the time period limitation that prohibits Qwest
7 from replacing OD, decommissioning its OSS on a two-year period
8 is too short and I believe that it is appropriate oral
9 surrebuttal to describe what the status quo today is, to frame
10 and put in context the CLEC opposition to that term in the
11 Settlement Agreement.

12 JUDGE FRIEDLANDER: Mr. Trincherro, did you have
13 anything to add?

14 MR. TRINCHERO: No, Your Honor.

15 JUDGE FRIEDLANDER: Because this issue was raised in
16 the rebuttal panel -- we had one witness -- because this issue
17 was raised in oral rebuttal I'll allow it. But, keep in mind,
18 Ms. Anderl, that technically this panel is to address the
19 settlement agreements and disputes with them and anything
20 strictly limited to that oral rebuttal so I am going to allow
21 it.

22 Objection overruled.

23 MR. TRINCHERO: Thank you.

24 MR. VIVEROS: I'll be as brief as I can be.

25 Commissioner Jones asked the question of Mr. Gates

0570

1 about the existing abilities within the Qwest CMP to retire or
2 to replace system, and I'm not sure that Mr. Gates' answer was
3 complete. While certainly it's true, as Mr. Gates pointed out,
4 that there have been lots of modifications, both Qwest
5 initiated and CLEC initiated modifications. The existing CMP
6 does allow for Qwest to retire an interface -- and, generally,
7 you would retire an interface to replace it -- in a nine-month
8 period. So certainly the two-year period that is referenced in
9 the Integra settlement is much longer than the existing status
10 quo.

11 BY MS. ANDERL:

12 Q Thank you.

13 Mr. Viveros, the other area I believe you're going to
14 address is third party testing. Is that right?

15 A Yes.

16 Q There were some questions from the bench with regards
17 to cost estimates or costs for the original Section 271 third
18 party testing process. Have you been able to do research and
19 get some preliminary information on that?

20 A Yes, I have. Very preliminary information.
21 Unfortunately, those charges were incurred quite awhile ago.
22 There's been lots of changes in personnel. But, based on
23 people who were involved in the process and are familiar and
24 still recovering some of the pain from that process, the
25 estimate is a ballpark of \$160,000,000. And while I'm on this

0571

1 subject I will clarify that wasn't for Liberty. Liberty had a
2 very limited role in the ROC third party test having to do with
3 performance and ensuring that our bids and the process for
4 collecting service quality data was compliant. That includes
5 costs for MTG, which was the overall coordination consultant,
6 drove the completion of the master test plan Mr. Gates spoke
7 to. KPMG, who was the overall third party tester and Hewlett
8 Packard that built the interfaces to Qwest's interfaces and
9 performed the transactions themselves.

10 Q Mr. Viveros --

11 MR. TRINCHERO: Your Honor, I'm going to move to
12 strike that because it doesn't respond to the question that had
13 been posed by the bench. The question posed by the bench, how
14 much Liberty Consulting cost. I think the figure given was
15 something totally different.

16 JUDGE FRIEDLANDER: Ms. Andrel.

17 MS. ANDERL: Your Honor, the witness can describe more
18 completely what his answer was. I think the question was, what
19 were the costs associated with the third party testing. I
20 don't know. I don't want to put words in his mouth. Perhaps
21 Liberty was being used as a stand-in for the reference to the
22 people who were responsible for the third party test. As
23 Mr. Viveros just explained, there were more entities than just
24 Liberty. If the question is to break it down more granularly
25 we can do that in response to a bench request, but I think the

0572

1 answer that Mr. Viveros gave was certainly responsive to the
2 spirit of the question.

3 JUDGE FRIEDLANDER: Thank you.

4 I think at this point the objection is moot because we
5 are going to have commissioner inquiry. If Commissioner Jones
6 wanted to ask that question he certainly would be able to.

7 I'm going to allow it and overrule the objection.

8 MR. TRINCHERO: Thank you, Your Honor.

9 BY MS. ANDERL:

10 Q Mr. Viveros, just a couple of other questions.

11 Both Mr. Pruitt and Mr. Gates recommend in their
12 surrebuttal testimony filed on Monday that the Commission
13 require third party testing prior to the replacement of any
14 Qwest OSS. Can you describe what the joint applicants'
15 position on that recommendation is and why?

16 A Certainly. We believe that it's completely
17 unnecessary and simply an additional cost imposed upon the
18 joint applicants to perform third party testing.

19 When the third party testing was originally done in
20 conjunction with Qwest 271 relief application the volumes that
21 existed in the CLEC that had already built to Qwest systems was
22 not sufficient to prove that the systems were commercially
23 ready. The circumstances today are very, very different. As
24 is included in Mr. Hunsucker's testimony, the volumes that
25 CenturyLink processes today are on parr with Qwest's volumes,

0573

1 while smaller, there certainly not smaller by a large
2 magnitude. We're talking about an estimate of one million
3 LSR's and ASR's versus one point eight million LSR's and ASR's.
4 Additionally, there were a lot of things that were unknown
5 about the local competitive market when the third party testing
6 was done. Mr. Gates alluded to stress testing and having to
7 stress the system to ensure they were adequate to perform and
8 meet what was an unknown demand of the CLEC community. Those
9 demands are relatively well known today and they are
10 diminishing. So, components of the test are certainly
11 unnecessary. The volumes that are going through the systems
12 today are arguably commercial volumes, which is certainly what
13 the F.C.C. has found to be the most probative evidence of
14 readiness, absent that, there are three additional types of
15 testing that the F.C.C. suggests and was sufficient,
16 carrier-to-carrier testing, independent third party testing or
17 internal box testing. The first one, carrier-to-carrier
18 testing, is exactly what has been negotiated in the settlement
19 agreement. Rather than have an independent, for all intensive
20 purposes, fake CLEC build an interface with, truly, no back
21 offices behind it and submit transactions that are not based on
22 its own business, is not as probative as having actual
23 individual customers who understand what their business needs
24 are, know what processes they're utilizing, know what
25 transactions they're executing, actually test the new

0574

1 interface, if, in fact, there's going to be a new interface.
2 And I believe the details that Mr. Hunsucker will go in to in
3 more detail in the settlement agreements are more than adequate
4 to obviate any need for independent third party testing.

5 Q Thank you, Mr. Viveros. Does that conclude your oral
6 surrebuttal?

7 A Yes, it does.

8 DIRECT EXAMINATION (SURREBUTTAL)

9 BY MR. SIMSHAW:

10 Q Mr. Hunsucker, you understand, do you not, the purpose
11 of your appearance on this panel is to provide oral surrebuttal
12 to the CLEC testimony that was filed on January 3rd in
13 opposition to the Integra settlement as well as the oral
14 testimony of this hearing, Mr. Appleby, also, in opposition to
15 the Integra settlement?

16 A Yes, I do.

17 Q Could you begin by listing the specific areas that
18 you're going to address in this response?

19 A Certainly.

20 The first thing I'd like to address in some additional
21 detail is the OSS service degradation, fears that the CLEC
22 raise. The second area, then, would be to specifically talk
23 about PAETEC'S comments regarding the E System and their
24 characterization of the E System and the functionality that is
25 in the system. I don't profess to be an OSS expert but at a

0575

1 high level I can talk about how carriers interface with us.
2 The last issue that I have would be to address or just provide
3 some background on the North Carolina issue that Mr. Gates
4 raised this afternoon.

5 Q Could you then begin with the OSS item?

6 A Certainly.

7 I know we had a lot of discussion this morning
8 concerning the process that we put into the Settlement
9 Agreement and I'm not going to go through the details of that
10 process again. It's getting late and I know we'd all like to
11 go to dinner at some point this evening. I do want to comment
12 on a couple of specific areas.

13 First, it's my opinion that there really is no linkage
14 between the two-year time-frame or the three-year time-frame
15 asserted by the CLEC to the actual synergy period. The synergy
16 period that we identified of three to five years is when all
17 synergies will be fully realized. As we had discussion today,
18 those can and will start day one at certain level. And, so,
19 what we're trying to do is move through very orderly with the
20 wholesale OSS system via this process that we put in the
21 commitment to have that done within two years or July 1. I
22 know I used the example if we closed April 1st that would be a
23 27-month window. If we close March 1st it would be 28 months.
24 But, at a minimum, it's 24 months.

25 Mr. Viveros talked a lot about third party testing. I

0576

1 won't go into detail there.

2 The other point I want to make, as we talk about the
3 Fairpoint Verizon and some of the other mergers that have
4 occurred in the past, as far as concerns about systems, the
5 merged company will own both systems post closing. We also
6 will have knowledgeable employees from both companies in the
7 wholesale organization. There's been a lot of discussion about
8 structurally how it's going to be organized from a legal
9 standpoint but, specifically within the wholesale organization,
10 we're very keenly aware of the need to retain the Qwest
11 employees who understand their system and are familiar with
12 their system. In fact, when you look at the organizational
13 structure that's been put in place today, the president of
14 wholesale operations is Bill Cheek, who is a CenturyLink
15 employee, his direct reports -- he has five direct reports.
16 One of those is associated with a pay phone operations that
17 Qwest didn't have. If you set that individual aside, who is
18 CenturyLink, the other four, two of those are CenturyLink and
19 two of those are Qwest. I think it's important to note on the
20 Qwest individuals we're talking about a person that will be
21 over wholesale product development and product management, and
22 we also have retained the wholesale operations person from
23 Qwest. Those are two significant Qwest appointees. When you
24 look below those four, and that's as far as we've gone in the
25 organization at this point, there are 21 direct reports to

0577

1 those four individuals. Twelve of those are Qwest and nine of
2 those are CenturyLink. We appreciate the need to keep that
3 knowledge base within our company. If I knew today and testify
4 that we're going to use the Qwest system, a lot of this would
5 be moot. We don't know that today. As I said in other states,
6 one of the things we have to balance is not just the CLEC in
7 Washington but we're going to operate in 30 some states, and I
8 have smaller regional providers that interact today with
9 CenturyLink in Florida, North Carolina. They don't interface
10 with the Qwest system. All they know is the E System. I know
11 it was pointed out, they're not here today telling you they
12 want the E System but, at the same time, if we force the Qwest
13 system on them they have a significant integration cost. So we
14 have to really think about what we're doing to the totality of
15 our customer base across the nation and that's the process that
16 we're following as we make this decision.

17 Specifically on the testimony filed by PAETEC. PAETEC
18 asserts that they do not have realtime processing or interfaces
19 with the CenturyLink system. And, from their standpoint at
20 PAETEC, that's a correct statement. They go through a third
21 party vendor, as Mr. Haas said, the New Star, to interface with
22 us. They interface via file transfer protocol or FTP.
23 CenturyLink also within the fourth quarter of 2010 we deployed
24 UOM, which stands for "Universal Order Module." That is an
25 electronic bondage system. That is a system that any CLEC can

0578

1 move to to get realtime electronic bonding with our company.
2 We haven't put our systems on hold pending this merger. We're
3 continuing to operate separately and enhance our systems. We
4 have had, I think, two discussions with PAETEC concerning UOM
5 and implementing UOM and moving to UOM, and at this point they
6 have declined to move to a realtime electronic bondage system.
7 This is not our decision for how PAETEC interacts with us. It
8 was PAETEC's decision through their third party vendor as to
9 how they choose to interact.

10 Mr. Haas brought up the issue that we do batch
11 processing every 20 minutes with the FTP interface. That's
12 correct. That was an agreed to time-frame between PAETEC and
13 CenturyLink. It's not a time-frame that we pick and said, "You
14 have to do it 20 minutes." Could have been 30 minutes. Could
15 have been ten minutes. That was something that was decided
16 between the parties. The E System, as we look at it today,
17 we're continuing to improve the functionality. We have what we
18 call "development roadmap." I haven't seen the roadmap but
19 we're continuing to deploy functionality today in the system.
20 We will continue to do that as we work through implementation
21 and a decision of going to one system. I think it's been a
22 little miss-characterized as to what functionality CenturyLink
23 has in place today.

24 The last issue is the North Carolina issue. I know
25 Mr. Schafer can provide a lot more detail on that but he's been

0579

1 excused at this point. I guess I get to be the one to talk
2 about it.

3 Mr. Gates categorized it as a significant issue in
4 North Carolina. I think we would take exception to the use of
5 the word "significant." We take all integration issues and all
6 problems that we have very seriously. One thing that I can
7 tell you when we implemented in North Carolina in May of 2010
8 we did have issues with some of the devices that were out there
9 and getting the information loaded properly. The other thing I
10 can tell you, if you look at the five-month period beginning in
11 May 2010 through September 2010, our customer complaints went
12 down 25 percent during that time period over the year before.
13 We're very diligent in ensuring this was not customer
14 impacting, that we were responding to our customers and making
15 sure we got service provision in a timely manner.

16 The other thing that I can tell you today, as we sit
17 here, in September of 2010 that eight of our ten key service
18 metrics that we look at, that Todd looks at from an operational
19 standpoint, those are improved in 2010 over 2009. We view this
20 as a successful integration. Again, we're not trying to hide
21 from the fact that we did have some issues but we have
22 corrected those issues. He told me that as of November of 2010
23 we had 99 percent of those devices corrected and operating
24 properly and we continue to improve and correct that situation.

25 So, with that, that's the end of my surrebuttal.

0580

1 MR. SIMSHAW: Thank you.

2 JUDGE FRIEDLANDER: Thank you.

3 We're going to Cross-Examination. Since I'm not going
4 to allow friendly Cross from staff public counsel, DOD or
5 Integra, let's go with the joint CLEC.

6 Mr. Trincherero:

7 MR. TRINCHERO: Thank you, Your Honor.

8 CROSS EXAMINATION (SURREBUTTAL)

9 BY MR. TRINCHERO:

10 Q Good evening, Mr. Hunsucker.

11 There's always a silver lining. It could be because I
12 have the fewest questions for you.

13 A I'll trust that's the case.

14 Q I just said it could be.

15 Actually, I wanted to, first off, just take up a
16 discussion with you on this newly introduced UOM. How many
17 other CLEC customers have signed up for that UOM product?

18 A At this point in time no customer has moved to UOM but
19 we are having discussions with all of our CLEC customers to see
20 if they're interested in doing that. One thing I can tell you,
21 we have implemented it on the ASR side with inter-exchange
22 carriers for two carriers but not on the LSR side with CLEC.

23 MR. TRINCHERO: Your Honor, if I might have a moment,
24 I'm going to ask Mr. Hunsucker about some cross-examining
25 exhibits.

0581

1 JUDGE FRIEDLANDER: Which cross-examining exhibits
2 would those be?

3 MR. TRINCHERO: Your Honor, I'm getting to that right
4 now.

5 If I could have a moment, Your Honor.

6 JUDGE FRIEDLANDER: Sure. Why don't we go off the
7 record.

8 (Short break was taken in the proceedings.)

9 JUDGE FRIEDLANDER: Back on the record.

10 JUDGE FRIEDLANDER: What exhibit is this?

11 MR. TRINCHERO: Your Honor, the exhibit has been
12 marked as Cross-Examination Exhibit 53MRH.

13 JUDGE FRIEDLANDER: Thank you. That is Exhibit
14 MRH53.

15 MR. TRINCHERO: Thank you.

16 Q Mr. Hunsucker, at the end of your discussion you
17 mentioned the OSS problems in North Carolina. I'm going to
18 have you look quickly at what has been marked as
19 Cross-Examination Exhibit No. 53.

20 Let me know when you've had a chance to familiarize
21 yourself with that.

22 A (Witness reading.)

23 Okay.

24 Q Mr. Hunsucker, this is a CenturyLink response to an
25 Integra data request that asks about integration efforts

0582

1 undertaken in the acquisition of Embarq by CenturyTel. Is that
2 right?

3 A Yes.

4 Q It includes an original response, a supplemental
5 response, from 8/9/10, and a second supplemental response from
6 10/28/10. Is that right?

7 A All that I have here is just the CenturyLink response.
8 I don't see a supplemental response.

9 JUDGE FRIEDLANDER: Just let us know when you're
10 done.

11 MR. HUNSUCKER: Okay.

12 BY MR. TRINCHERO:

13 Q Thank you, Mr. Hunsucker. Sorry about the confusion
14 there on the exhibit.

15 Is this a fair description, in your mind, of the
16 conversion issues that you encountered in North Carolina?

17 A Yes. Based on my knowledge, yes, it's fair.

18 Q And also at the bottom of page three there's a
19 discussion of some issues that were encountered in the states
20 of Tennessee, New Jersey and Nevada.

21 A Yes. The sponsor is John Fells.

22 Q Is he a CenturyLink employee that works with you?

23 A Yes, in the regulatory group.

24 MR. TRINCHERO: Thank you.

25 I would move the admission of Exhibit 53.

0583

1 JUDGE FRIEDLANDER: Any objections?

2 MS. ANDERL: No.

3 JUDGE FRIEDLANDER: Hearing none, so admitted.

4 (Exhibit MRH-53 was admitted.)

5 MR. TRINCHERO: Thank you, Your Honor.

6 I'll turn to Mr. Viveros.

7 If you could hand the exhibit binder to Mr. Viveros.

8 Thank you.

9 Q Mr. Viveros, you talk about commercial volumes. You
10 said that the commercial volumes that CenturyLink is
11 experiencing are similar to those of Qwest. Is that correct?

12 A That's correct.

13 Q I'd like to first have you turn to what has been
14 marked as Exhibit No. 2JJ.

15 JUDGE FRIEDLANDER: Could you state which exhibit
16 you're referring to?

17 MR. TRINCHERO: Cross Exhibit No. 2JJ. It should be a
18 response to an Integra data request number two.

19 JUDGE FRIEDLANDER: Because I have JJ-2 which is
20 something totally different.

21 MS. ANDERL: For the exhibit list, Your Honor, I think
22 it's JJ-9C.

23 JUDGE FRIEDLANDER: Thank you.

24 MR. TRINCHERO: This exhibit contains some
25 confidential information. It is confidential information. I'm

0584

1 going to try not to disclose any numbers.

2 JUDGE FRIEDLANDER: Thank you. That's appreciated.

3 At this late hour, if we had to, I suppose we could go
4 in-camera, but we would like to avoid it.

5 MR. TRINCHERO: I don't think we'll need to.

6 JUDGE FRIEDLANDER: Thank you.

7 BY MR. TRINCHERO:

8 Q Mr. Viveros, let me know when you've had a chance to
9 look at that, especially at the yellow pages at the back of
10 that exhibit.

11 A (Witness reading.)

12 I've reviewed it.

13 Q Thank you, Your Honor.

14 Would it be correct to say that this shows statistics
15 for CenturyLink on a number of CLEC who purchase unbundled
16 network elements, unbundled loops, wholesale platform
17 arrangement, extended links, et cetera?

18 A Yes.

19 MR. TRINCHERO: I'll go off the record for a minute.

20 JUDGE FRIEDLANDER: That's fine.

21 (Short break was taken in the proceedings.)

22 MR. TRINCHERO: Thank you, Your Honor.

23 Having consulted with counsel for Qwest, I think we
24 can short circuit a little bit of this Cross Examination.

25 There were two other exhibits, Cross-Examination Exhibit 12JJ

0585

1 and Cross-Examination Exhibit No. 3C-MSR.

2 JUDGE FRIEDLANDER: Hold on. 12JJ --

3 MS. ANDERL: It's JJ-12C.

4 JUDGE FRIEDLANDER: Got ya. Okay. JJ-12C.

5 You're requesting admission of that.

6 MR. TRINCHERO: Yes.

7 JUDGE FRIEDLANDER: What's the second exhibit?

8 MR. TRINCHERO: MSR3-C.

9 JUDGE FRIEDLANDER: MSR3-C.

10 Are there any objections to the admission of these
11 exhibits?

12 MS. ANDERL: No.

13 JUDGE FRIEDLANDER: Hearing none, these are admitted.

14 (Exhibits MSR-3C and JJ-12C.)

15 MR. TRINCHERO: Thank you, Your Honor.

16 Q Mr. Viveros, keep that binder in front of you. Just
17 one last exhibit.

18 Would you please turn to CV-3?

19 A I don't appear to have a CV-3.

20 MS. ANDERL: The difference is, Your Honor, I think
21 Cross exhibit, when provided by the joint CLEC, was marked as
22 CV-2 but because Mr. Viveros' testimony is one -- it went up a
23 number.

24 JUDGE FRIEDLANDER: Got ya.

25 MR. TRINCHERO: So it is CV-3.

0586

1 Q Do you have that, Mr. Viveros?

2 You were talking about directory listings charges.

3 Do you recognize this white pages directory listing
4 V52 dot zero?

5 A Yes, I do.

6 Q Is this what a wholesale customer would find on the
7 website in looking on the product catalog for charges such as
8 directory listing charges?

9 A No, it would not.

10 Q What would it find?

11 A It would find version 53.

12 Q Prior to the end of December it would have found
13 version 52; is that right?

14 A That's correct.

15 Q At the time that this November notice went out
16 notifying wholesale customers there was going to be a change in
17 the product catalog it was to this version that they were being
18 referred; is that correct?

19 A The notice reference is the existing documentation and
20 does provide the existing, in effect, documentation, yes.

21 Q At page three of eight of that document?

22 A Yes.

23 Q In the table in the middle right there, "rate
24 structure," if you go to the bottom of that says, "FBDL," and
25 the last sentence says, "Nonrecurring charges do not apply to

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1 FBDL." Is that correct?

2 A That's correct. That's one of the two changes that
3 was made between versions 52 and 53. That last sentence was
4 deleted in version 53 given the commencement -- or the ability
5 to commence the non-occurring charge.

6 Q Prior to this notice going out and this change being
7 made and the charges being instituted in the beginning of this
8 year you were not charging that NRC to wholesale customers; is
9 that correct?

10 A That's correct. Qwest was foregoing the ability to
11 charge with solely-based, directory listings, customers based
12 on a lack of billing capability which was implemented
13 January 1st, 2011.

14 Q And now you are charging for that?

15 A Correct, subject to the terms of individual ICA's.

16 MR. TRINCHERO: I'd like to offer that last exhibit,
17 CV-3.

18 JUDGE FRIEDLANDER: Any objections?

19 MS. ANDERL: No, Your Honor. It's not clear to me
20 whether CV-2 has been offered, as well. Conceptually, I think
21 they should both come in.

22 JUDGE FRIEDLANDER: It has not been offered as of
23 yet.

24 MR. TRINCHERO: It has not; however, at the time that
25 we provided the Cross-Examination exhibits, that was before the

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1 Pruitt testimony came in on January 3rd, and I believe attached
2 to the Pruitt testimony is an exhibit that is CV-2. If we
3 moved that in, we have it twice.

4 MS. ANDERL: That's fine.

5 JUDGE FRIEDLANDER: Hearing no objections,
6 Exhibit CV-3 is admitted.

7 MR. TRINCHERO: Thank you, Your Honor.

8 (Exhibit CV-3 was admitted.)

9 BY MR. TRINCHERO:

10 Q Mr. Williams, good evening.

11 A Good evening.

12 Q In your testimony you described one of the problems of
13 the APAP being that it would penalize you for variations in
14 performance that would have nothing to do with the merger. Is
15 that correct?

16 A I don't think I said it that way, but it certainly
17 could. It doesn't do anything to distinguish a merger-related
18 problem from a non-merger-related problem.

19 Q You've been litigating this issue in other states with
20 the joint CLEC, haven't you?

21 A Yes.

22 Q Did you appear at the Utah Commission proceeding?

23 A Yes, I did.

24 Q Were you present when Mr. Denney testified at the Utah
25 Commission?

0589

1 A Yes, I was.

2 Q Are you aware that Mr. Denney attempted to address
3 that concern in the Utah Commission and proposed a,
4 quote/unquote, "fix" for that?

5 MS. ANDERL: Objection, Your Honor. This is outside
6 the scope of this witness' oral surrebuttal and it's further
7 beyond the scope of the stipulation that we reached with regard
8 to the admissibility of APAP information.

9 JUDGE FRIEDLANDER: Mr. Trincherero.

10 MR. TRINCHERO: Well, Your Honor, actually, he opened
11 this up with his surrebuttal testimony in which he said the
12 problem with the APAP is "X" and, so, I'm going to ask him a
13 couple of questions about how that might not be fixed.

14 JUDGE FRIEDLANDER: Can you do that without going into
15 the Utah specific information?

16 MR. TRINCHERO: I suppose I could do that without
17 going into the Utah specific information.

18 JUDGE FRIEDLANDER: Would that answer your objection?

19 MS. ANDERL: I'll withdraw. We'll take it one
20 question at a time.

21 JUDGE FRIEDLANDER: Thank you.

22 BY MR. TRINCHERO:

23 Q So, to get at that problem, Mr. Williams, what if
24 there were a remedy credit whereby for each month one year
25 prior to the merger filing date monthly performance will be

0590

1 compared to the average wholesale performance provided by Qwest
2 to each CLEC for one year prior to the merger filing and if
3 monthly performance would result in a remedy payment calculated
4 using the methodology in the APAP to determine remedy payments
5 then the calculated amount will be a remedied credit for the
6 PID product in this aggregation.

7 A What you just read does not address the problem that
8 you pose to me. The problem you pose to me, which I also
9 accept as a problem, is that the APAP does not identify
10 merger-related harm and that solution you just presented does
11 not even touch that.

12 Q Does it touch, in part, the problem that you had
13 addressed where the APAP would have you paying more than the
14 QPAP would have you pay?

15 A It claims to but it's a false approach to it.

16 MR. TRINCHERO: Very good. Thank you.

17 With that, I have no more questions for this panel.

18 JUDGE FRIEDLANDER: Thank you.

19 Does Sprint have any Cross-Examination questions?

20 MS. ENDEJAN: No, Your Honor.

21 JUDGE FRIEDLANDER: Thank you.

22 None, I take it, for Cbeyond and Level 3?

23 Okay. I don't think I missed anybody.

24 Are there any questions from the bench.

25 CHAIRMAN GOLTZ: Mr. Viveros, you testified, I

0591

1 believe, that under the existing agreements Qwest has the
2 ability to modify and replace the OSS system with nine months
3 notice or something to that affect?

4 MR. VIVEROS: That's correct.

5 CHAIRMAN GOLTZ: How often does that happen?

6 MR. VIVEROS: Complete replacement, not too
7 frequently. We did replace our IMAEDI interface a couple years
8 back with the new XML interface and we did or in the process of
9 replacing our maintenance and repair gui seamer with another
10 gui.

11 CHAIRMAN GOLTZ: Another what?

12 MR. VIVEROS: G-U-I.

13 CHAIRMAN GOLTZ: In the off chance someone actually
14 reads this transcript.

15 Is that is something less than a complete overhaul of
16 OSS.

17 MR. VIVEROS: No. Those were replacements,
18 like-for-like interfaces. One was the ordering, pre-ordering,
19 ordering application to application system. So IMAEDI was how
20 CLEC chose to bond with us rather than using our human to
21 keyboard interface.

22 CHAIRMAN GOLTZ: Was that done throughout Qwest
23 service territory?

24 MR. VIVEROS: Yes, it was.

25 CHAIRMAN GOLTZ: How long did those transitions take?

0592

1 MR. VIVEROS: I'm hesitating only because the
2 migration from EDI to XML was initiated by a CLEC who then
3 opted not to utilize that interface. So there were some starts
4 and stops until someone else became interested in the
5 interface. So, I think it would only be representative to
6 actually look at when did we endeavor it? When did we notice
7 it? When did we actually make it available? We didn't make it
8 available until we knew there was actual interest.

9 CHAIRMAN GOLTZ: I have any further questions.

10 JUDGE FRIEDLANDER: Thank you, Chairman.
11 Commissioner Oshie.

12 COMMISSIONER OSHIE: I have no questions, Your Honor.

13 JUDGE FRIEDLANDER: Thank you.
14 Commissioner Jones.

15 COMMISSIONER JONES: I don't have a question, just a
16 request: Since you brought up my questioning of the
17 independent third party process, could you just provide, for
18 the record, your justification of the number you mentioned,
19 the -- whatever it was.

20 MR. VIVEROS: The hundred and sixty million?

21 COMMISSIONER JONES: Yes.

22 MR. VIVEROS: That was based on that preliminary
23 research I was able to do in the short period of time that
24 elapsed contacting people who were familiar with it.

25 COMMISSIONER JONES: It may be confusing to the

0593

1 parties here in the room so I would like it if you could do
2 that, if you could break it down by year.

3 MR. VIVEROS: I do not have any of those details
4 currently.

5 JUDGE FRIEDLANDER: Would you be able to get a hold of
6 those details within a reasonable amount of time?

7 MR. VIVEROS: I think, given a few days, we could
8 probably determine.

9 JUDGE FRIEDLANDER: Okay. Why don't we do that as a
10 bench request.

11 MS. ANDERL: Bench request number six, Your Honor.

12 JUDGE FRIEDLANDER: Actually, it'll be bench request
13 number seven because I reserved bench request number six, just
14 the number, for lack of a placement of it anywhere else in the
15 exhibit list for the public comment exhibits that have been
16 reserved.

17 MR. VIVEROS: Just to clarify, Commissioner --

18 JUDGE FRIEDLANDER: Sorry. I hate to interrupt,
19 Mr. Viveros.

20 Mr. ffitich, that's because our exhibit numbering
21 system is, for lack of a technical word, "wonkie." When it
22 comes to exhibits that are not sponsored by an actual party
23 they have a different numbering system, and has been the
24 practice with ALD we have been putting them in the bench
25 exhibit category. It's been reserved for B-6. The new bench

0594

1 request will be bench number seven.

2 When did you think you could get that to the
3 Commission?

4 MR. VIVEROS: I believe we should have a respnse by
5 the end of next week.

6 JUDGE FRIEDLANDER: Please go ahead with any questions
7 you have.

8 MR. VIVEROS: As I understood from Mr. Jones' request,
9 he was looking for third party testing costs by year.

10 COMMISSIONER JONES: Correct.

11 MR. VIVEROS: For the entire duration of the process,
12 not just the testing, but beginning with securing the
13 consultants.

14 COMMISSIONER JONES: Correct. The way I foresee this,
15 it would be -- I don't want this to be a great deal of work --
16 and you can caveat it, put caveats if you can't get exactly
17 precise information -- but what I was interested in was year,
18 year incurred, task performed, entity paid and that would be
19 about it. That would include Liberty, KPMG, all the ones you
20 mentioned or if you come up with more.

21 JUDGE FRIEDLANDER: Thank you.

22 With that, is there any Redirect from Ms. Anderl or
23 Mr. Simshaw?

24 MS. ANDERL: One question for Mr. Viveros.

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REDIRECT EXAMINATION (SURREBUTTAL)

2 BY MS. ANDERL:

3 Q Mr. Viveros, Mr. Trincherro admitted a couple of
4 exhibits through you that contained a lot of information with
5 regard to a number of CLEC and a number of orders placed,
6 et cetera. He didn't ask you any questions about those. Do
7 you recall the exhibits I'm talking about?

8 A Yes, I do.

9 Q Relative to that, you used in your testimony a
10 comparison of order volumes between Qwest as one point eight
11 million a year and Century is one million a year. Do you
12 recall that testimony?

13 A Yes, I do.

14 Q Can you just clarify for the record what basis you
15 have for the information you provided with regard to the
16 comparison of order volumes between Qwest and Century?

17 A Certainly.

18 Mr. Hunsucker had referenced an estimate that
19 CenturyLink performed in testimony in another state that they
20 were estimating that by the end of 2010 they would have
21 processed one million ASR's and LSR's based on January through
22 May, 2010, actual volumes. With the assistance of
23 Mr. Hunsucker I contacted the correct CenturyLink person who
24 could clarify what an apples-to-apples comparison would be and
25 requested of my Qwest support team to get the equivalent

0596

1 estimate, and based on January through May of 2010 Qwest
2 volumes our estimate is one point eight million ASR's and
3 LSR's.

4 Q For the full year, 2010?

5 A Yes.

6 MS. ANDERL: Thank you. That was all I had.

7 MR. TRINCHERO: Your Honor, I know you don't allow
8 Recross, typically, however, I want to explore that last
9 answer.

10 JUDGE FRIEDLANDER: Briefly.

11 RE CROSS EXAMINATION (SURREBUTTAL)

12 BY MR. TRINCHERO:

13 Q Mr. Viveros, when you say "apples-to-apples
14 comparison," what types of orders did you have to pull out from
15 the Qwest total in order to make that, quote/unquote,
16 "apples-to-apples comparison?"

17 A I don't believe any orders had to be pulled out. I
18 wanted to verify that, in fact, they were representative of all
19 ASR's and LSR's. I needed to understand whether they were
20 counting versions, whether or not supplemental versions of an
21 LSR were counted or not, whether cancellations were counted. I
22 honestly don't recall what the answers were but I wanted to
23 ensure that, in fact, the estimate was calculated in the same
24 manner.

25 MR. TRINCHERO: Thank you.

0597

1 JUDGE FRIEDLANDER: Thank you.

2 I believe with that we have exhausted all of our
3 witnesses, both literally and figuratively.

4 I want to give you a few housekeeping matters after I
5 dismiss and thank the witnesses who have testified here,
6 Mr. Hunsucker, Mr. Williams and Mr. Viveros. Thank you so
7 much.

8 So, in response to bench request B-7 it'll be due the
9 next Friday, the 14th.

10 I believe I've already spoke to you all about the
11 disposition on the modified joint motion to amend the briefing
12 schedule. If you all have any questions about the deadlines
13 I'll be issuing an order on that tomorrow with the attached
14 issues list.

15 Is there anything further we need to address before
16 adjourning today?

17 MS. ANDERL: Yes, Your Honor. We had one question:
18 Is there a page limit on the first brief?

19 CHAIRMAN GOLTZ: Yes.

20 JUDGE FRIEDLANDER: I don't think so. No, there
21 isn't.

22 MS. ANDERL: I'll assume you'll put it in the notice
23 if there is one.

24 JUDGE FRIEDLANDER: The first brief is the Commission
25 issues. We're more concerned about the brevity of the second

0598

1 brief.

2 Mr. Shifman, you had a procedural question.

3 MR. SHIFMAN: Yeah. Just quickly. To confirm, the
4 second brief you said that we could address additional issues
5 or reply to the initial briefs that are to be submitted on
6 January 14th?

7 JUDGE FRIEDLANDER: Yes. We don't have a problem with
8 that. That's fine.

9 CHAIRMAN GOLTZ: I have one question of counsel for
10 the applicants.

11 We heard today some testimony that end of April or
12 beginning of April for a possible closing date. Is that the
13 estimated or hope for a closing date.

14 MS. ANDERL: I think the hope for closing date is as
15 soon as physically possible after merger approvals. I think we
16 have publicly stated in filings that the goal is the first
17 half. I know that with the acceleration of the regulatory
18 proceedings in many jurisdictions it's starting to look like
19 the first half of the first half could be possible, but I don't
20 think we have a date that we can publicly say is our target
21 because there is too many uncertainties.

22 CHAIRMAN GOLTZ: Do you have any inkling as to the
23 F.C.C. schedule, when you might have something from the F.C.C.?

24 MS. ANDERL: We don't, Your Honor. We know that
25 meetings are ongoing but we do not have a target.

0599

1 CHAIRMAN GOLTZ: What we might do is include it in the
2 briefing issue for the first brief, I ask for any updates on
3 those sorts of approvals and estimates.

4 MS. ANDERL: Certainly. We can supplement bench
5 request No. 1. We've been required to file bench request No. 1
6 every 30 days. I think between now and closing we can
7 supplement it with any new approvals so you could get more of a
8 realtime notification.

9 JUDGE FRIEDLANDER: Ms. Endejan.

10 MS. ENDEJAN: Yes, Your Honor. Will you be posting on
11 the web or circulating the final exhibit list so we can make
12 sure we all have the exhibits known that are admitted and
13 numbered correctly?

14 JUDGE FRIEDLANDER: I can go ahead and circulate that
15 via e-mail. Posting it is pretty formal and it means that it
16 is finalized. I will circulate it via e-mail.

17 MS. ENDEJAN: That's fine. Thank you.

18 JUDGE FRIEDLANDER: Is there anything further?

19 MR. FFITCH: With regard to bench request six on the
20 public comment exhibit, we need some time to prepare that. We
21 need to work with the Commission's public affairs staff to
22 collect all the comments.

23 CHAIRMAN GOLTZ: Can I make a request? Could we have
24 the comments of the Colville tribes separate from the general
25 public exhibit?

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1 MR. FFITCH: That would be fine. Do you want to give
2 that a different bench request number?

3 JUDGE FRIEDLANDER: Let's give that a bench request
4 number eight and that way it'll be segregated from --

5 MR. FFITCH: I was going to ask when you would like to
6 have that submitted. The record does not actually close for
7 public comment -- I believe it's been stated it closes tomorrow
8 so we couldn't start preparing until Monday morning.

9 JUDGE FRIEDLANDER: That's fine.

10 How soon do you project after that you would be able
11 to provide us with that exhibit?

12 Within a week.

13 MR. FFITCH: Within a week. There was a written
14 submission from one of those. There were approximately 80
15 comments, my last count. So those, typically, would be
16 compiled and we would submit those in a disk form?

17 JUDGE FRIEDLANDER: That's fine.

18 MR. FFITCH: How many copies of the disk should we
19 file with the Bench?

20 JUDGE FRIEDLANDER: How many, typically, get filed
21 with the Commission?

22 MR. FFITCH: I'll look into that and communicate
23 directly with Your Honor.

24 JUDGE FRIEDLANDER: That's fine. It's stuff we can
25 work off the record.

0601

1 We will expect that in a week.

2 MR. FFITCH: A week from today?

3 JUDGE FRIEDLANDER: A week from Monday because the
4 record closes tomorrow, at least for public comments.

5 Were there any other procedural matters that we needed
6 to address?

7 Hearing nothing we are adjourned.

8 Thank you.

9 (Conclusion of proceedings.)

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Certificate

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