

02111

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

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

4)
Complainant,) VOLUME 11

5)
vs.) Pages 2111 - 2369

6)
U S WEST COMMUNICATIONS, INC.,)

7)
Respondent.)

8 -----)

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

Complainant,)DOCKET NO. UT-941465

11 vs.)

12 U S WEST COMMUNICATIONS, INC.,)

13 Respondent.)

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15 A hearing in the above matter was held
16 at 8:35 a.m. on June 29, 1995, at 1300 South Evergreen
17 Park Drive Southwest, Olympia, Washington before
18 Chairman SHARON L. NELSON, Commissioners RICHARD
19 HEMSTAD, WILLIAM R. GILLIS and Administrative Law
20 Judge LISA ANDERL.

21

22

23

24 Cheryl Macdonald, CSR

25 Court Reorter

02112

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 TCG SEATTLE,)
4 Complainant,))
5 vs.))
6 GTE NORTHWEST INCORPORATED,))
7 Respondent.))

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

8 GTE NORTHWEST INCORPORATED,))
9 Third Party Complainant ,))
10 vs.))

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

-----))

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

DOCKET NO. UT-950265

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

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1 The parties were present as follows:
 U S WEST COMMUNICATIONS, by EDWARD SHAW,
2 MOLLY HASTINGS, WILLIAM O'JILE, DOUGLAS OWENS,
Attorneys at Law, 1600 7th Avenue, #3206, Seattle,
3 Washington 98191

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

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

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

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

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

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

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

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

22 GTE NORTHWEST, Inc., by RICHARD POTTER,
23 Attorney at Law, 1800 41st Street, Everett, Washington.

24 MFS INTELENET OF WASHINGTON, INC., by
RICHARD M. RINDLER, Attorney at Law, 3000 K Street
25 Northwest, Suite 300, Washington, DC 20007

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

2 JUDGE ANDERL: Let's be on the record. We
3 are convened in Docket UT-941464 et al. Today is June
4 29, 1995, and we're going to be hearing the direct and
5 cross of Dr. Thomas Zepp. He has taken the stand
6 already. We premarked his testimony as Exhibit T-151,
7 his Exhibit TMZ-2 is 152 and his rebuttal testimony is
8 Exhibit T-153.

9 (Marked Exhibits T-151, 152 and T-153.)

10 Whereupon,

11 THOMAS ZEPP,
12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. KENNEDY:

17 Q. Good morning, Dr. Zepp. Could you please
18 state your full name and business address for the
19 record?

20 A. My name is Thomas M. Zepp. My address is
21 Suite 250, Liberty Street Southeast, Salem, Oregon.

22 Q. Did you cause to be prefiled in this
23 proceeding on behalf of intervenor TRACER what has now
24 been marked as Exhibit T-151, your direct testimony?

25 A. Yes.

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1 Q. And Exhibit 152 is your resume attached
2 thereto?

3 A. That is correct.

4 Q. Did you also cause to be filed your
5 rebuttal testimony which has now been marked as
6 Exhibit T-153?

7 A. Yes.

8 Q. Were those exhibitS prepared by you or under
9 your direction and control?

10 A. They were.

11 Q. Do you have any changes to make to that
12 testimony?

13 A. I do. First there's a minor typo at page
14 4, line 17.

15 Q. Of the direct?

16 A. Of the direct. All these changes are in
17 the direct. The word "the" should be deleted. At
18 page 5 -- and I would also request, if I don't catch
19 all of these throughout the rest of the testimony, I
20 note that Mr. Owens has changed his testimony and the
21 interconnection charge should now be zero. Therefore,
22 the number on line 18, which I have as 4.3 cents should
23 be 3.3 cents, or 3.28 cents. And the numbers shown on
24 line 22 which is 4.8 should drop to 3.78 cents, and
25 again if I don't catch all of these throughout the

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1 testimony they should be changed also given the change
2 in his testimony.

3 The next one I have is on page 16.

4 MR. MACIVER: Which page?

5 THE WITNESS: 16.

6 A. On line 4 the expression in parentheses
7 should be ADSRC. As far as I know all the ADSRC's are
8 correct elsewhere.

9 The next one is on page 19. Both on line 8
10 and line 14 the word "noncompensatory" should be
11 nondistributory in both places. Also on page 20, line
12 25, the same change, the word noncompensatory should be
13 noncontributory.

14 JUDGE ANDERL: I'm sorry, where?

15 THE WITNESS: Page 20, line 25. I believe
16 there was a corrected page sent out on this one, but
17 anyway the original one that I have had
18 noncompensatory instead of nondistributory.

19 A. The next change is on page 32, excuse me,
20 page 25, line 10, between the words have and increased
21 insert the words "to be."

22 The next page now is on page 32. Again,
23 this is an attempt to correctly reflect in my
24 testimony the revised testimony of Mr. Owens at pages
25 12 and 13 of his rebuttal. Based upon that change I

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1 compute the number on line 12 which was 1.44 cents per
2 MOU that would now be 1.59 cents per MOU.

3 The next change would be on page 35. This
4 one is a little bit more difficult to revise in that
5 Mr. Purkey has totally revised the imputation method.
6 This analysis shown here was originally based upon a
7 response to AT&T 8 or the data request AT&T 1-8, which
8 was a different imputation method than Mr. Purkey is
9 now sponsoring. He has now revised that yet again.
10 There appears to be an error in Mr. Purkey's DP-2 which
11 his intention was to use a 20 percent unmatched but he
12 used 33 percent, so I have not in this particular
13 revision here revised the percent split.

14 The only revision I have made is the one
15 where I discuss changing PBX usage. I made two
16 revisions here, so I'm showing on line 13 on page 35 I
17 talk about a 29 percent or 50 percent price increase.
18 The 29 percent would be a 31 percent price increase,
19 and also at other places where I mention the 29
20 percent price increase that would be a 31 percent
21 price increase based upon Mr. Purkey's testimony in
22 DP-2, and simply changing the usage to be statewide PBX
23 usage and changing the cost to be PBX cost instead of
24 the weighted average set of costs that had used in
25 that analysis so that number goes up.

02119

1 I have not computed another number because
2 I really don't know what his intention was when he was
3 doing his matched and his unmatched traffic since I
4 couldn't get it to work out based upon what he said he
5 was doing. So I don't know how to revise that number.
6 But with that my testimony is -- that's the best I can
7 do to revise it given the changes in U S WEST
8 testimony.

9 Q. So as revised if I asked you the same
10 questions contained in Exhibits T-151 and T-153 would
11 your answers be the same as contained therein?

12 A. Yes.

13 Q. Dr. Zepp, to the extent you have relied
14 upon and cited in your testimony certain reports,
15 periodicals, Commission orders and other third party
16 source materials, are those materials of the type that
17 you and to the best of your knowledge others in your
18 profession reasonably and customarily rely upon in
19 forming opinions and inferences such as those you have
20 set forth in these exhibits?

21 A. Yes.

22 MR. KENNEDY: Your Honor, I offer Exhibits
23 T-151, Exhibit 152 and T-153 in evidence.

24 JUDGE ANDERL: Thank you, Mr. Kennedy. Is
25 there any objection to those exhibits from any party?

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1 Hearing none Exhibit T-151 and 152 and
2 T-153 will be admitted os identified.

3 MR. KENNEDY: Dr. Zepp is now available for
4 cross.

5 JUDGE ANDERL: Mr. O'Jile.
6 (Admitted Exhibits T-151, 152 and T-153.)

7

8 CROSS-EXAMINATION

9 BY MR. O'JILE:

10 Q. Good morning, Mr. O'Jile.

11 A. Hi, Mr. O'Jile.

12 Q. You state on page 2 of your testimony that
13 TRACER is made up of an association of businesses and
14 hospitals which are large users of telecommunications
15 services. By large users do you mean that these are
16 also large businesses?

17 A. Some of them are. I'm not totally familiar
18 with all the members of TRACER but generally they are
19 large users and have concerns of large end users.

20 Q. And do the members of TRACER of whom you
21 have knowledge, are they generally considered some of
22 the larger businesses also in Washington?

23 A. Of the ones that I know of that are in the
24 group, yes.

25 Q. And TRACER does not include any residential

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1 customers of telephone services, does it?

2 A. That's correct.

3 Q. The types of services that these customers
4 might take from the U S WEST, would they include PBX
5 trunk services?

6 A. Yes.

7 Q. And Centrex services?

8 A. Yes.

9 Q. Private line services?

10 A. Yes.

11 Q. And that would include DS3 service?

12 A. Yes.

13 Q. Would these customers be of the type that
14 would generally purchase U S WEST's intraLATA toll
15 service?

16 A. They would of course purchase it but
17 probably not in large amounts.

18 Q. And that's because customers of this size
19 generally can directly connect with an interexchange
20 carrier and trunk all of their long distance traffic
21 to that interexchange carrier?

22 A. I don't know that. I haven't asked them
23 that. All I know is -- and when I've done work for
24 them they have not been interested in toll. That's
25 never been a major concern of theirs. I don't know

02122

1 why.

2 Q. Now, you've stated that at least in the
3 name TRACER there is the term cost-based in the name
4 of the group and I would take it that that means that
5 this group is interested in seeing lower prices for
6 telecommunications services?

7 A. I don't know what that would have to do
8 with TRACER's name. I think all users of
9 telecommunications services would like to see lower
10 prices.

11 Q. But specifically with TRACER cost-based has
12 made its way into their name and does that indicate to
13 you the desire to see prices for telecommunications
14 services decreased towards their costs ultimately?

15 A. TRACER's intention to the best of my
16 knowledge is that the rates that they pay should
17 reflect cost so in relative terms they pay rates that
18 reflect costs just as others that would pay rates that
19 reflect costs.

20 Q. And those rates -- and if those rates today
21 are above cost, would TRACER like to see those rates
22 decrease closer towards cost?

23 A. Certainly.

24 Q. Are you familiar with Dr. Selwyn's proposal
25 on DS3 pricing?

02123

1 A. Generally. I read it, yes.

2 Q. And do you recall that Dr. Selwyn has
3 proposed a doubling of U S WEST DS3 rates?

4 A. That's my understanding, yes.

5 Q. As a general proposition, Dr. Zepp, would
6 you agree that DS3 service supplied to Boeing is the
7 same DS3 service that would be used by an
8 interexchange carrier?

9 A. I don't know where you're going with this.
10 DS3 service is a DS3 service.

11 Q. Would you -- what would you expect would be
12 the reaction of some of TRACER's members if U S WEST
13 DS3 rates were doubled?

14 A. They would not be happy with that at all.
15 I mean, when a customer buys a DS3 service he is
16 buying the whole DS3. He is not, as a customer buying
17 a DS1 service, buying a DS1 service from U S WEST and
18 then U S WEST takes the risk that all of those
19 channels are going to be sold. When Boeing or another
20 member of a large group buys a DS3 they take the risk
21 that they totally fill that DS3 and therefore they are
22 fully paying for it. There is no unused capacity as
23 far as U S WEST is concerned. U S WEST has sold it
24 all and it's fully compensatory, whereas the DS1, U S
25 WEST is taking that risk and therefore they've got to

02124

1 take that into account when they do the pricing.

2 Q. Would you agree that DS3 customers today
3 have alternatives to U S WEST DS3 service?

4 A. Yes. In some instances.

5 Q. Would you expect a prudent person to accept
6 a doubling of its rates for a service if an
7 alternative service was available at a lower rate? I
8 guess I would put in there assuming same quality of
9 service and provider?

10 A. I have trouble with giving you a straight
11 yes or no answer on that. A prudent business person
12 may want, as many of the TRACER members do buy service,
13 when they have it available, buy service from both U S
14 WEST and other vendors if it's available. So that
15 would also be consideration of the prudence, but all
16 else equal taking that into the account, certainly a
17 doubling of price would not be viewed favorably by a
18 customer and it would certainly give them the incentive
19 to buy more from the other vendor.

20 Q. Would you expect that if the rates for DS3
21 service were doubled that U S WEST's revenues for DS3
22 service would also double?

23 A. I would not.

24 Q. Would it be reasonable to assume that U S
25 WEST's DS3 revenues would remain at the current levels

02125

1 of revenue if DS3 rates were doubled?

2 A. I don't know. I haven't made that study.

3 Q. Dr. Zepp, on page 3 of your testimony you
4 use the term real price competition, and we've heard
5 the use of the term effective competition throughout
6 this proceeding, and I was wondering if you could
7 define what you mean by real price competition as it
8 contrasts or relates to effective competition?

9 A. As I use the term here I mean competitive
10 pressures based on all participating companies that
11 will tend to put pressure on prices to move towards
12 costs.

13 Q. Can there be real price competition in a
14 market that's not yet effectively competitive?

15 A. No.

16 Q. So real price competition is not something
17 that starts on day one as the market is opening up
18 competition?

19 A. That is correct.

20 Q. Is it a goal, a market goal?

21 A. Yes.

22 Q. On page 5 of your testimony, line 7 you
23 state that the entry of competitive LECs cannot
24 reasonably be expected to have any significant impact
25 on U S WEST's revenues or costs in the near term. Two

1 clarifications, if you would. Quantify for me what
2 you mean by a significant impact on revenues or costs.

3 A. Enough of an increase where it would damage
4 your, U S WEST's finances to the point where they
5 needed to refile for rate increases.

6 Q. And then "near term"?

7 A. Yes.

8 Q. Define that for me, how many years you're
9 talking about.

10 A. I believe two years probably. Two or three
11 years.

12 Q. On page 7 you state on line 19 that you
13 believe that the entry of competitors into the local
14 exchange market will advance the four policies that
15 you discuss on the bottom of page 7 going over to page
16 8. Let me ask you about the third one first. Be sure
17 that customers pay only reasonable charges for
18 telecommunications services. Do you characterize the
19 access that LECs and alternative exchange carriers
20 will provide to each other for the termination of
21 calls, do you characterize that as a
22 telecommunications service?

23 MR. KENNEDY: I will object to the extent
24 it calls for a legal conclusion.

25 JUDGE ANDERL: Well, I think this witness

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1 is qualified to express his opinion on that, not a
2 legal conclusion but to the extent that he can say.

3 A. In responding to that of course I don't
4 know legally what you mean by telecommunications
5 service, but it certainly is providing
6 telecommunications.

7 Q. The local switching service that U S WEST
8 provides to interexchange carriers is today tariffed
9 as a telecommunications service, isn't it?

10 A. I assume that it is.

11 Q. Like to now explore your discussion of how
12 entrants of new competitors will preserve affordable
13 universal telecommunications service, and you begin
14 that discussion on page 8 at line 20 of your
15 testimony. Line 24 and 25 --

16 A. Where are you?

17 Q. Page 8, line 24 and 25. Now, you say there
18 that the Commission must insure that interconnection
19 policies will permit competition to operate in a
20 manner that will produce real ratepayer benefits.
21 When you use the term real ratepayer benefits do you
22 mean net benefits for the entire body of ratepayers?

23 A. Yes.

24 Q. So that would mean basically absent of
25 detriment of one class of ratepayers versus another?

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1 In other words -- let me rephrase that. Even in a
2 situation of net ratepayer benefits due to competition,
3 that calculus could include detriment to certain
4 segments of the ratepayer population, couldn't it?

5 A. That's possible, yes.

6 Q. Now, over on page 9 you make a statement
7 that increased -- on lines 18 and 19 that increased
8 economic activity -- or that encouraging competition
9 in the local telecommunications can be expected to
10 increase economic activity in household incomes. Do
11 you see that statement?

12 A. Yes. I made that statement.

13 Q. So is it your testimony that the entrants
14 of competition in the Seattle area to, at least
15 initially, business customers in the Seattle area is
16 going to be expected to have a positive impact on
17 household incomes of folks living in Eastern
18 Washington?

19 A. It would have a positive effect on both
20 eastern and western, certainly. If economic activity
21 improves because corporations in the state of
22 Washington are more competitive worldwide economic
23 activity should improve and economic well-being should
24 improve, all else equal that means we should see an
25 improvement in incomes.

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1 Q. Have you done any study to correlate a
2 direct benefit of the encouragement of competition in
3 local telecommunications markets to an increase in
4 household incomes?

5 A. No.

6 Q. And have you quantify what that increase in
7 household income may be?

8 A. No, I have not done that study. But the
9 testimony here however goes to --

10 Q. Dr. Zepp, there's no question pending.
11 Thank you. Dr. Zepp, would you agree that a local
12 network whether constructed by an alternative carrier
13 or a local exchange carrier is a valuable resource?

14 A. Yes.

15 Q. And the use of that network is not a free
16 good, is it?

17 A. It could be.

18 Q. Could it be if a company wanted to be a
19 for-profit entity in the telecommunications business?

20 A. Yes. If one makes -- as we're doing right
21 now we're paying flat-rated rates. We're paying flat
22 rates for service. We're not paying for usage. It's
23 not a free good but your implication was that somehow
24 or other we have to charge for usage.

25 Q. No.

02130

1 A. You said the usage was a free good and I
2 mean the usage can be, quote, a free good if in fact
3 people make fixed payments for a block of usage, if
4 you will.

5 Q. That wasn't my question. The use of the
6 network is not a free good. People who today are
7 subscribers to residential service, for instance, are
8 paying a fee to use the network, aren't they?

9 A. They are.

10 Q. And is there any class of
11 telecommunications customers that you know of that
12 society has determined should use the public network
13 for free?

14 A. That society has made -- I don't think
15 society is making these determinations.

16 Q. Let me rephrase. Are you aware of any
17 class of customer that this Commission has determined
18 should use the public network of a local exchange
19 carrier or an alternative exchange carrier for free?

20 A. It depends on how you define customer. If
21 you're going to define a carrier as a customer then of
22 course the Commission has already determined that it's
23 appropriate to adopt a bill and keep procedure for
24 carriers. If you conclude carriers as being customers
25 then the remaining customers I'm aware of are paying

02131

1 for the use of that network.

2 Q. So you consider bill and keep to be a free
3 use no compensation use of the network?

4 A. No. Mutual compensation. But U S WEST in
5 effect gets free use, if you want to say that, because
6 they're again providing a cost basis -- each is paying
7 for their own costs so there's no free usage. I
8 thought you were referring to the fact that there had
9 to be a cash compensation and that certainly is the
10 situation where there is no cash compensation.

11 Q. Dr. Zepp, at page 17 of your testimony you
12 state what you term a general principle, competitors
13 should not be required to pay prices that increase its
14 competitor's profits?

15 A. Yes.

16 Q. What is your source of that general
17 principle?

18 A. That's my opinion.

19 Q. That's your opinion, that's your economic
20 opinion?

21 A. Yeah. Originally I believe I saw that same
22 opinion stated by New York Department of Public
23 Service report where they reach the same conclusion to
24 the extent charges were made they should be
25 non-contributory. So it certainly is not a unique

02132

1 opinion.

2 Q. Today under today's regulatory environment
3 in Washington, GTE and U S WEST, for instance, develop
4 their rates for their services by determining a
5 revenue requirement and then spreading those -- that
6 revenue requirement among services; is that correct?

7 A. Yes.

8 Q. And isn't it correct that terms of
9 determining the impact on a revenue requirement either
10 up or down that that analysis is impacted by both a
11 change in costs or a change in revenues or both?

12 A. Yes.

13 Q. So that if revenues decrease and costs
14 increase all other things being equal the revenue
15 requirement will need to increase, correct?

16 A. As you stated, this is a problem, yes.
17 Total regulatory environment everything is a monopoly
18 service.

19 Q. So with that in mind, I would like to
20 discuss your mutual compensation proposal, and I
21 believe it's your analysis that one reason that mutual
22 compensation makes sense is that each telephone
23 company will cover its own costs, correct?

24 A. Yes.

25 Q. Assume for me that a revenue requirement

02133

1 for U S WEST is established based on its current
2 number of access lines and customers. Do you have
3 that in mind?

4 A. Uh-huh.

5 Q. If the number of customers that U S WEST
6 serves decreases and its revenues also decrease
7 because of that all other things being equal it will
8 not have revenues at that time to cover its revenue
9 requirement, correct?

10 A. Well, since you're going through a test
11 year type analysis, I mean, someone would do some kind
12 of a normalized analysis and probably the costs would
13 change to the extent the revenues change, and I don't
14 necessarily understand why there's going to be a
15 problem.

16 Q. Well, let's back up here then. Isn't it
17 correct that in at least the environment that you --
18 and let's for a moment factor out the issue of growth.
19 Let's talk just current numbers of customers. When,
20 under the scenario that you envision, would there be
21 competitive entry such that the number of U S WEST
22 customers and access lines will reduce due to that
23 competitive entry, but the costs, at least as far as
24 the costs for call termination go, for those customers
25 that have left U S WEST will remain with U S WEST,

02134

1 isn't it then correct that all other things being equal
2 that if there was a test year based on that level of
3 performance or that situation that there could be a
4 need for a rate increase in order to cover costs that
5 are now being caused by the alternative carrier?

6 A. Well, first I have a difficult time
7 accepting your hypothetical because you've asked me to
8 assume away growth, and all of the evidence that
9 you've produced at least that I've seen in this case
10 shows that your growth in business lines, for example,
11 is exceeding your growth in residence lines. Those
12 are your high contribution lines, so you've asked me
13 to make an assumption in your hypothetical that I
14 can't agree to.

15 Q. Well, I'm just -- I'm not going to forget
16 about growth, but I want to do it in two different
17 parts for simplicity's sake. So can you accept the
18 fact that we will discuss growth and answer the
19 question.

20 A. You would like to assume a static situation
21 where there is no growth and eliminate some revenues,
22 but not eliminate any costs? I mean, if you're going
23 to do a comparative static analysis why don't you
24 eliminate costs as well as the revenues if you're
25 going to be talking about a revenue requirement type

02135

1 situation.

2 Q. Because under the scenario that you
3 discussed of mutual call termination the costs remain
4 with U S WEST for that call termination.

5 A. If there is growth --

6 Q. Let's --

7 A. I know. If there's growth what you're
8 saying certainly is not true.

9 Q. We're going to talk about growth next.

10 A. And if there is no growth at all, then
11 there may be a short run impact but not a long run
12 impact because ultimately you're going to have some
13 growth.

14 Q. Let's see, where you talk about -- you talk
15 about growth on page 30 and 31. First question I have
16 is on the bottom of page 30 going over to 31 you
17 reference a U S WEST information request response to
18 the staff which you say shows that U S WEST business
19 lines are growing faster than residential lines. In
20 fact, Dr. Zepp, wasn't that data request response to
21 the staff a forecast of business line growth done
22 several years ago?

23 A. That's not my recollection.

24 MR. O'JILE: May I approach the witness,
25 Your Honor?

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1 JUDGE ANDERL: Yes.

2 Q. Dr. Zepp, I'm showing you what I believe is
3 the response you referenced in your testimony; is that
4 correct?

5 A. It is.

6 Q. Can you read the title of the document that
7 you were relying on?

8 A. Construction Budget Summary Annual State
9 Market Forecast, so they are forecasts.

10 Q. And will you agree with me that this
11 forecast was actually completed in 1990?

12 A. There is a 1990 date on this, yes. This
13 apparently -- if this is the most recent document that
14 U S WEST has, I assume it is if it's provided to staff,
15 that it's your forecast.

16 Q. And isn't it correct, Dr. Zepp, that
17 forecasted growth can differ from actual growth?

18 A. That is correct. Value Line, however,
19 certainly thinks your growth is going to continue, as
20 I state in my testimony.

21 Q. Dr. Zepp, thank you. Do you have an
22 opinion, Dr. Zepp, on how much of an alternative
23 carrier's growth -- excuse me -- how far of an
24 alternative carrier's total number of customers will
25 come from growth? Let me rephrase that. That's very

02137

1 poorly phrased.

2 Do you have an opinion, Dr. Zepp, on how
3 many customers or lines alternative carriers will
4 obtain from what would have been growth for U S WEST?

5 A. I do have an opinion on -- it would be a
6 portion of the growth that U S WEST might otherwise
7 have seen.

8 Q. Would you characterize it as a substantial
9 proportion, a moderate proportion? Give me a range
10 here.

11 A. When I was responding to you I was
12 basically thinking back to a TRACER information
13 response to you, at least with respect to TRACER
14 members with respect to new lines they've added some
15 lines from U S WEST and they've added some lines from
16 alternative carriers.

17 Q. And you would expect that --

18 A. I don't know what the percentage would be
19 in the future.

20 Q. Would you expect that that kind of pattern
21 might also occur in other segments of the
22 telecommunications market, namely small business
23 customers?

24 A. I haven't made that study.

25 Q. Now, if we go back to the example of

02138

1 growth, would you agree that part of U S WEST's growth
2 will come in the form of residence lines and part will
3 come in the form of business lines?

4 A. I agree.

5 Q. And that U S WEST will experience growth in
6 Seattle as well as other parts of the state of
7 Washington?

8 A. I would expect that's true, yes.

9 Q. And to the extent that AECs take a share or
10 a good share of U S WEST's growth in Seattle, would
11 you expect that that would be a substantial percentage
12 of U S WEST's growth in access lines statewide or
13 business access lines statewide?

14 A. I don't know how you would want to define
15 substantial. I just haven't made that study. I've
16 indicated to you in my testimony I don't think,
17 certainly with respect to the near term, that the
18 number of new lines that the CLEC's can be expected to
19 add will have a significant impact on your revenue
20 requirement. I've already indicated that.

21 Q. Your concept of mutual traffic exchange does
22 not necessarily rely on the assumption that the traffic
23 will be in balance, does it?

24 A. That's correct.

25 Q. And in fact one could imply from your

02139

1 testimony that you do not believe traffic will
2 necessarily be in balance between U S WEST and AECs,
3 do you?

4 A. In the near term, that's probably true.

5 Q. And again you've stated that the near term
6 could be a period of two to three years?

7 A. Yes.

8 Q. And do you have any evidence that even
9 after true number portability is implemented that that
10 balance of traffic will equalize?

11 A. Certainly the evidence that Mr. Wilson has
12 put into the record, I've seen similar type studies in
13 Oregon where in EAS cases that I've worked on where
14 there tends to be a balance in traffic. What you will
15 tend to have is -- I'm thinking about a case in Forest
16 Grove, Oregon where it was a relatively small entity
17 and it called Portland more per line but then there
18 were calls from less per line that went to Forest
19 Grove but the total number of minutes being exchanged
20 were approximately the same. I mean, EAS studies that
21 I've seen also tend to provide that type of a result,
22 which is consistent with the testimony that Mr. Wilson
23 has put in.

24 Q. Dr. Zepp, do you accept that EAS traffic is
25 relatively more stable -- EAS traffic patterns would be

02140

1 relatively more stable than traffic exchanged between
2 alternative carriers and U S WEST?

3 A. I don't know what you mean by more stable.
4 I just haven't --

5 Q. Well, for instance, if you assume that in
6 Seattle U S WEST will have U S WEST, TCG, ELI, MFS,
7 all of these companies vying for customers, would you
8 expect that the relative number of customers and
9 access lines served by all those providers would
10 change most likely on a daily basis?

11 A. No. I don't know why I would necessarily
12 expect that.

13 Q. Would you expect that they're going to
14 change on a monthly basis?

15 A. They may change. Again, I have not made
16 that study. There would be some change, yes, but I
17 don't know whether the total number would change and
18 whether the relative proportions would change after an
19 initial period. I don't know what would happen there.

20 Q. Is it your opinion that an environment of
21 four competitors vying for the same group of customers
22 that in that environment you could assume equal
23 traffic flow among all four participants in the
24 market?

25 A. To the extent that all the LECs are given

02141

1 incentives to sign up as many customers as they can,
2 it isn't clear to me you would necessarily have any
3 kind of an inherent bias in the types of customers that
4 are being signed up except for the potential for a lack
5 of number portability. But as is pointed out by Mr.
6 Wilson, and I agree with this point, it may well be
7 that a customer puts outbound trunks on one and inbound
8 trunks with U S WEST because they can't have number
9 portability and in that situation if there is a traffic
10 imbalance I'm not necessarily sure that I --

11 Q. If you --

12 A. Can I finish? I'm not necessarily certain
13 that I would say that that is a traffic imbalance.

14 Q. If you assume a market in which there is
15 number portability and the only difference among the
16 providers in the marketplace is that one has
17 substantially more access lines and customers than the
18 other three participant in that market, given that
19 fact can you assume that the traffic flowing between
20 the networks is going to be balanced?

21 A. You said for assuming where you do have
22 number portability?

23 Q. Yes.

24 A. I would go back to the Forest Grove case
25 that I mentioned a minute ago. In that case you had a

02142

1 relatively small exchange where calls per line that
2 are outgoing may be higher into the bigger exchange,
3 if you will, and in the bigger exchange calls per
4 exchange are less but the total number of minutes tend
5 to balance out, and one of the reasons for that is
6 fairly simple. If I'm trying to call you and I get
7 your voice mail then you may call me back and you get
8 my voice mail and I call you back and I get your voice
9 mail and you call me back and I get yours. So we tend
10 to balance in the traffic that way. Voice mail
11 balance.

12 Q. In your experience with EAS routes, has
13 there ever been a situation in EAS that you know of
14 where after the assumptions that led to the EAS route
15 being put into place and the compensation arrangements
16 were put in place that a large customer or a group of
17 customers transferred service from one LEC to the
18 other in the EAS arrangement?

19 A. I'm not familiar with that situation.

20 Q. I was interested in your discussion of
21 restoration services. Page 29 of your testimony. You
22 talk about restoration companies. These are the
23 companies that deal with and help customers who,
24 because of credit problems or other problems can
25 obtain phone service on their own?

02143

1 A. Yes, that's correct.

2 Q. And generally is it your experience that
3 the customers served by these types of companies have
4 run up a balance with the local telephone company and
5 couldn't -- and were either terminated of their
6 service or were denied service because of that?

7 A. I would assume that is the case.

8 Q. Is it your experience that restoration
9 companies charge their customers the tariffed rate for
10 residence service?

11 A. I don't know what they charge. I don't
12 know.

13 Q. You would assume, though, that a
14 restoration company is a for-profit venture?

15 A. I would hope so, yes.

16 Q. In your discussion up above on line 6
17 through 9 of that same page you talked about the sales
18 of exchanges that U S WEST made earlier this year to
19 PTI.

20 A. Yes.

21 Q. And your point there was that there was an
22 obvious -- your point was in rebuttal to the claim of
23 a carrier of last resort obligation or burden,
24 correct?

25 A. Was that a question?

02144

1 Q. Yes, correct.

2 A. It was referring back to whatever the claim
3 is with respect to obligations to lots of customers,
4 yes. Carrier of last resort, whatever you want to
5 call it, yes.

6 Q. To your knowledge, Dr. Zepp, did ELI or TCG
7 or MFS or MCI Metro submit bids to purchase U S WEST's
8 rural exchanges?

9 A. I don't know if they did or didn't. I
10 didn't ask.

11 Q. And are you aware, Dr. Zepp, whether for
12 those particular exchanges that were sold whether U S
13 WEST was able to draw from the federal FCC universal
14 service fund for those exchanges?

15 A. I'm assuming you could not. I don't know.

16 Q. And would you be surprised to know that PTI
17 has stated explicitly that its purchase of these
18 exchanges can be voidable if the FCC turns down PTI's
19 request to draw from that universal service fund for
20 those exchanges that it's purchased from U S WEST?

21 MR. KENNEDY: Is he aware that PTI has
22 stated that?

23 MR. O'JILE: Yes. Is he aware that that's
24 PTI's position.

25 A. I don't know that.

1 Q. On page 34 you discuss imputation. Were
2 you present when Mr. Purkey testified?

3 A. No, I was not.

4 Q. Have you reviewed the transcript of his
5 testimony?

6 A. No.

7 Q. So you are not aware of his testimony that
8 the -- that he used the ADSRC price floor in order to
9 provide what he felt were the most conservative
10 assumptions for imputation purposes?

11 A. Well, I just -- if that's what he said I
12 certainly do not agree with it. I mean, I've already
13 given you my calculation and it's very clear that if
14 you look at Mr. Purkey's analysis and you use PBX
15 usage, you're going to require a 31 percent rate
16 increase, and I just find that totally absurd.

17 Q. Well, let's just focus on cost issue. That
18 was the point of my question. Would you agree that
19 ADSRC costs are higher than TS LRIC costs?

20 A. Yes.

21 Q. So all other things being equal, if you
22 would substitute TS LRIC costs for the ADSRC costs in
23 Mr. Purkey's imputation study that would have the
24 effect of raising the imputed price floor, wouldn't
25 it?

02146

1 A. If you use shared residual -- if the shared
2 residual costs are included in the cost estimate they
3 will raise the cost floor, that is correct -- price
4 floor.

5 Q. So if you use TS LRIC, all other things
6 being equal, that will lower the price floor.

7 A. Yes, but not enough to avoid a rate
8 increase.

9 Q. But at least as far as Mr. Purkey -- I know
10 your reservations with Mr. Purkey's presentation but
11 if you assume for a moment the correctness of Mr.
12 Purkey's analysis, the use of ADSRC costs -- or the
13 replacement of ADSRC costs with total service long-run
14 incremental cost would reduce that price floor even
15 further than that shown by Mr. Purkey?

16 A. I have to respond to that. I cannot accept
17 that his analysis is anywhere near correct or
18 appropriate, but I will certainly agree with you, as I
19 have already agreed, that if you use a higher cost
20 number rather than a lower cost measure that you will
21 get a higher price floor and that still didn't mean
22 the analysis was done correctly.

23 Q. And I asked you -- I didn't ask you to
24 assume that.

25 A. Well, that's what you did. You asked me to

02147

1 assume that that was correct and I can't accept that.

2 Q. I didn't ask you to agree that that was

3 correct. I'm sorry.

4 MR. O'JILE: That's all I have, Your Honor.

5 JUDGE ANDERL: Thank you. Mr. Potter, do

6 you have cross for this witness?

7 MR. POTTER: Few questions, thank you.

8

9 CROSS-EXAMINATION

10 BY MR. POTTER:

11 Q. Good morning.

12 A. Morning, Mr. Potter.

13 Q. On page 1 of your direct testimony you

14 mention your participation in the -- call it the

15 Oregon telecommunications cost and pricing workshops.

16 Does that refer to the workshops in docket UM-351

17 down there?

18 A. Yes, unfortunately.

19 Q. Those workshops did produce an agreed cost

20 methodology that was eventually adopted by the Oregon

21 Commission, though, did it not?

22 A. Yes. That is true. Cost estimates of

23 course are now outdated but they -- took so long to

24 get there.

25 Q. Am I correct that those workshops produced

02148

1 an agreed cross-subsidy test or cross-subsidization
2 test?

3 A. Yes.

4 Q. And can you define or describe what that
5 test is, how it's worded?

6 A. I don't know if I can remember it precisely
7 but the context of it is a service is not cross-
8 subsidized if it's priced above total service long-run
9 incremental cost. That's the cross-subsidy test.

10 Q. I had one more question on those
11 restoration services, which is back on page 29. You
12 have the sentence starting on line 20, "restoration
13 companies use their expertise in risk management."
14 Can you describe to me what their expertise in risk
15 management consists of?

16 A. Apparently that's what they must have if
17 they can stay in business.

18 Q. You don't have any detailed knowledge of
19 their practices. You just assumed since they're in
20 business they must have expertise in risk management?

21 A. My point, Mr. Potter, as I understand it,
22 they are not telecommunications folks. They are
23 basically coming at it from a risk perspective and
24 trying to figure out if this guy is a satisfactory
25 risk to take in terms of taking on the risk of paying

02149

1 his bill for him.

2 Q. And those restoration companies are
3 compensated at a rate much higher than the tariffed
4 rate in exchange for assuming that risk management
5 challenge; is that right?

6 A. I would think so, yes.

7 Q. Just a couple of questions on your mutual
8 traffic exchange or bill and keep situation. Make
9 sure I've got that clear. Let's assume you have a
10 call by a customer of company A to a customer of
11 company B, so in such a call company A would carry
12 that call through its loop plant and then to its
13 switch and then at some point hand it off to company
14 B. It would follow a similar process in reverse to
15 terminate it; is that right?

16 A. Yes.

17 Q. And then under your proposal any costs that
18 company B incurs for its terminating half of the call
19 are recovered through charges to its own customers; is
20 that right?

21 A. Yes, that's correct.

22 Q. And then of course the reverse situation.
23 Then returning the voice message the customer of
24 company B makes a call back to the customer of company
25 A. Would that call use essentially the same

02150

1 facilities that the first call used but just be going
2 in the opposite direction?

3 A. I assume it would be similar facilities,
4 yes.

5 Q. Mr. O'Jile asked you a bit about the TRACER
6 customers being large users, so are they the type of
7 customers that can be expected to have their own PBXs?

8 A. Yes.

9 Q. And type of customers that would be
10 expected to have a fairly technologically up to date
11 equipment in that regard?

12 A. Yes, I would think so.

13 Q. Is it correct that in fact the Boeing
14 Company has its own 5 ESS switch?

15 A. I don't know the details of Boeing's
16 network arrangements for intercom service at all. I
17 don't know.

18 MR. POTTER: That's all my questions.

19 JUDGE ANDERL: Thank you, Mr. Potter. Does
20 any other party have cross for Dr. Zepp? Mr.
21 Trautman.

22

23 CROSS-EXAMINATION

24 BY MR. TRAUTMAN:

25 Q. Mr. O'Jile asked you some questions

02151

1 regarding Dr. Selwyn's recommendations as to the DS3
2 prices. Do you recall that?

3 A. I do.

4 Q. Is it your understanding that Dr. Selwyn
5 recommended the doubling of the DS3 rate on a
6 permanent basis or rather on a temporary basis pending
7 the upcoming rate case?

8 A. I don't recall.

9 Q. Have you read the supplemental testimony of
10 Dr. Selwyn?

11 A. I'm not sure if I have.

12 Q. So you would not know whether in that
13 testimony he in fact recommended a doubling of the DS3
14 rate only on a temporary basis?

15 A. I don't recall.

16 MR. TRAUTMAN: That's all I have.

17 JUDGE ANDERL: Who else had their hand up?

18 Mr. Butler.

19

20 CROSS-EXAMINATION

21 BY MR. BUTLER:

22 Q. Dr. Zepp, you were asked some questions by
23 Mr. O'Jile. In response to one of those questions you
24 acknowledged that U S WEST in your opinion will seek
25 some growth in the future in residence lines. Do

02152

1 residence customers buy other services from U S WEST
2 than basic local exchange service?

3 A. Yes, they do.

4 Q. They buy toll service?

5 A. They do.

6 Q. Buy custom calling service?

7 A. Yes.

8 MR. O'JILE: I guess I would object to this
9 at this point. I'm not sure what the adverse
10 interests to ELI are of a discussion of residential,
11 my discussion with Dr. Zepp of residential growth.
12 It's not apparent to me. They're not even in that
13 market.

14 MR. BUTLER: I'm simply responding to
15 questions asked directly Mr. O'Jile. I'm not asking
16 any independent questions of my own.

17 JUDGE ANDERL: I will allow the questions.

18 Q. You were asked a hypothetical about the
19 cost of terminating calls in situations where a
20 customer leaves U S WEST and goes to an alternative
21 exchange carrier. Do the costs of terminating calls
22 to a customer that no longer is a U S WEST customer
23 remain with U S WEST?

24 A. The volume-sensitive costs do not.

25 Q. You stated that there cannot be real price

02153

1 competition without effective competition. Do you
2 agree that a new entrant in a market might make
3 effective competition but a dominant incumbent might
4 not?

5 A. Absolutely, yes.

6 Q. Would you agree that the new entrant could
7 be expected to engage in price competition with the
8 incumbent by setting a price lower than the price of
9 the incumbent?

10 MR. O'JILE: Your Honor, I would
11 reintroduce my objection at this point. This appears
12 to be friendly cross. Again, I don't see any adverse
13 interest to ELI in this.

14 JUDGE ANDERL: And on this I will sustain
15 the objection to friendly cross.

16 Q. Ask one further question. You were asked
17 about your knowledge of whether ELI, TCG, MFS, MCI
18 Metro submitted bids for the PTI -- for the exchanges
19 that U S WEST sold to PTI. Do you know whether the
20 bidder qualification standards for the sale of those
21 exchanges were such that those entities, ELI, TCG, MFS,
22 MCI Metro would have been qualified to submit bids for
23 those exchanges?

24 A. I have not reviewed those standards.

25 MR. BUTLER: No other questions.

02154

1 JUDGE ANDERL: Any other cross for this
2 witness? Any questions from the commissioners?

3 CHAIRMAN NELSON: I have a couple.

4

5 EXAMINATION

6 BY CHAIRMAN NELSON:

7 Q. Morning.

8 A. Morning, Chairman.

9 Q. On page 4 of your testimony you make your
10 summary recommendations and at line 13 you say bill
11 and keep would be good at least until such time as
12 true number portability is provided. I understand you
13 have a second best recommendation later on, but what
14 would you -- what would happen after local number
15 portability is achieved? What would you recommend
16 after if we actually achieve number portability?

17 A. My belief is that probably bill and keep
18 will probably still be okay but I don't think that
19 once we have true number portability one of my
20 concerns of course is there may be some initial
21 imbalance in traffic, and I would recommend even with
22 that that bill and keep be adopted. With true number
23 portability I see no ex ante reason anyway not to
24 expect a balance in traffic. And certainly in that
25 situation I would agree bill and keep is fine. It's

02155

1 just -- I guess my point of emphasis here was that I
2 would believe bill and keep is appropriate even if we
3 do have traffic imbalance which I guess several of the
4 parties don't think there will be even with a lack of
5 number portability.

6 Q. Thank you. You also mention the statutory
7 ban on mandatory measured service in Washington. When
8 does that law expire? Do you remember?

9 A. I was told by counsel it's about two years.

10 Q. Will business interests once again seek its
11 renewal, do you expect, in two years?

12 A. Yes.

13 Q. Thank you.

14 CHAIRMAN NELSON: That's all I have.

15 COMMISSIONER HEMSTAD: I don't have any
16 questions.

17 COMMISSIONER GILLIS: I don't have any
18 questions.

19 JUDGE ANDERL: Redirect?

20

21 REDIRECT EXAMINATION

22 BY MR. KENNEDY:

23 Q. Dr. Zepp, you were asked on
24 cross-examination by Mr. O'Jile about your reliance on
25 U S WEST's response to WUTC 01-059 regarding some

02156

1 forecasts. Do you recall that?

2 A. I do.

3 Q. You were criticized for relying on U S
4 WEST's own forecasts. Do you recall that?

5 MR. O'JILE: Your Honor, I would object to
6 this. I did not criticize Dr. Zepp. I merely asked
7 him whether he was knowledgeable about whether this was
8 forecasted or actual numbers.

9 JUDGE ANDERL: Mr. Kennedy, if you want to
10 rephrase that.

11 MR. KENNEDY: I will withdraw the last
12 question.

13 Q. Dr. Zepp, have you had an opportunity to
14 review U S WEST's response to Interexchange Access
15 Coalition request No. 03-041?

16 MR. KENNEDY: May I approach the witness?

17 A. I may have seen it. I don't recall.

18 JUDGE ANDERL: Is this something that's
19 already an exhibit, Mr. Kennedy, or not?

20 MR. KENNEDY: No. Unless U S WEST would
21 like to offer it as an exhibit I don't intend to offer
22 it.

23 JUDGE ANDERL: All right.

24 Q. Dr. Zepp, could you take a look at that and
25 if you have not seen it before could you take a few

02157

1 moments to review it.

2 A. I've looked at it.

3 Q. Dr. Zepp, does this provide any further
4 support for your opinion regarding growth that you
5 talked about at pages 30 and 31 of your direct
6 testimony?

7 A. Yes. This indicates that in most years
8 business line growth in percentage terms has exceeded
9 growth by residential lines.

10 Q. Are those forecasts that you're looking at?

11 A. It indicates these are actuals.

12 Q. For what years?

13 A. The period 1989 through 1994.

14 Q. Shows growth in every year?

15 A. It does.

16 Q. Thank you.

17 A. And every year but one business lines grew
18 more rapidly.

19 Q. Thank you.

20 MR. KENNEDY: No further questions.

21 JUDGE ANDERL: Any recross?

22 MR. O'JILE: Yes. Could I have a moment to
23 look at that?

24 JUDGE ANDERL: Yes.

25

1

REXCROSS-EXAMINATION

2 BY MR. O'JILE:

3

Q. Dr. Zepp, returning your attention to the

4 data request response you just discussed with your

5 counsel, am I not correct in stating that while the

6 percentage growth of business lines exceeded the

7 percentage growth of residence lines in all but one

8 year shown that the actual number of residence lines

9 grew probably at a factor of well over two -- two

10 times the business line, residence growth to business

11 growth?

12

A. In that there are more residence lines than

13 business lines it appears that in absolute terms there

14 -- I don't know if in every year it's that way, but it

15 appears that in most years without doing the

16 arithmetic that there have been more residence lines

17 added than business lines.

18

Q. And also would you agree that in at least

19 the last three years the differences in percent growth

20 between residence and business lines in each of those

21 three years has been something less of a half a

22 percent difference?

23

A. Well, in the Seattle area it's been a full

24 percent difference, and it looks like actually in the

25 Seattle area the number of business lines grew about

02159

1 the same as number of residence lines.

2 Q. But for statewide, Dr. Zepp?

3 A. Oh, statewide. Somewhere around a half a
4 percent, yes.

5 Q. Counsel for the staff asked you if you were
6 aware that Dr. Selwyn's proposal was for a temporary
7 doubling of DS3 rates pending the conclusion of U S
8 WEST's rate case. Assuming that that rate case will
9 not conclude for some period of time, would it give
10 TRACER's members much solace that their DS3 rates would
11 only be doubled for a period of six months to a year?

12 A. No. That would be an extremely bad burden
13 to put on someone, particularly if they haven't
14 budgeted for it. If we're talking about jacking rates
15 up for six months and then letting them go back to some
16 level, that certainly appears to be bad policy.

17 Q. And finally with respect to the issue of
18 growth, isn't it correct that if you assume a revenue
19 requirement has been established based on, say,
20 100 access lines and there's growth in the next year so
21 that now the number of access lines for the exchange
22 are 110, but that of that growth, of that growth of
23 ten, five of those lines are now served by alternative
24 carriers. Do you have that in mind?

25 A. There's 10 percent growth but now there's

02160

1 only five percent growth.

2 Q. Well, there's 10 percent growth in total
3 lines for the exchange and five of those those lines
4 are now being served, or half of those lines are now
5 being served by an alternative carrier?

6 A. I have that in mind.

7 Q. Isn't it correct that the revenue
8 requirement established based on 100 lines would not
9 have in it revenues sufficient to cover the costs of
10 terminating traffic for the five lines that are now
11 being served by the alternative carrier?

12 A. I don't know that would necessarily be the
13 case. The volume sensitive costs that we're talking
14 about here are extremely small, and what we're talking
15 about here also is a declining cost industry. All the
16 alternative form of regulation type formulas that I'm
17 familiar with generally assume some productivity gain,
18 so that's another aspect. If you're talking about
19 moving out of a test year period and moving into a
20 future period I mean, to look at how revenues are in
21 the future, you're also going to have to forecast how
22 much costs are expected to decrease in the future, so
23 you're asking for a difficult calculation that can't
24 be done as simply as you would like to do it.

25 Q. So it's possible then that there would not

02161

1 be revenues that would cover those costs that are
2 being imposed for call termination by the alternative
3 carrier. That is certainly possible, even given the
4 issues that you have just discussed?

5 A. I thought I said I don't know that that's
6 necessarily the case.

7 Q. But it's possible?

8 MR. TROTTER: Your Honor, I will object
9 that it's already been answered.

10 JUDGE ANDERL: I'm going to overrule that.
11 I don't think it has been.

12 A. I don't agree that it's within the context
13 of what we're talking about here. Anything of course
14 is -- if you want me to say anything is possible I can
15 say that, but I mean that's not the context of what
16 you're asking me. You're saying if it's reasonable to
17 make this conclusion given the facts and I say no.

18 Q. So you can say with a degree of economic
19 certainty to this Commission that in all cases mutual
20 traffic exchange is not going to impose an imbalance
21 of costs on one provider or the other?

22 MR. KENNEDY: Is there a question mark at
23 the end of that statement?

24 MR. O'JILE: Yes, there is.

25 A. I cannot say that you would not want to

02162

1 revisit the revenue requirement and whether it is or
2 is not being met in all instances. However, I've
3 given you a number of reasons to consider why you
4 don't know that it will necessarily be negative.

5 Q. Thank you, Dr. Zepp.

6 MR. O'JILE: All I have, Your Honor.

7 JUDGE ANDERL: Any other party have recross
8 for this witness?

9 Thank you, Dr. Zepp, for your testimony.
10 You may step down. As previously agreed, the next
11 witness will be staff witness Tom Wilson and let's
12 take our morning recesses.

13 (Recess.)

14 (Marked Exhibits T-154 and T-155.)

15 JUDGE ANDERL: Let's be back on the record.
16 While we were off the record Mr. Wilson took the
17 stand. We premarked his direct testimony as Exhibit
18 T-154, his rebuttal testimony as Exhibit T-155 and
19 noted that there are three confidential pages on
20 T-155. Those pages are 32, 43 and 45. In the public
21 exhibit those pages just have the confidential page
22 numbers deleted.

23 Whereupon,

24 TOM WILSON,

25 having been first duly sworn, was called as a witness

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1 herein and was examined and testified as follows:

2

3

DIRECT EXAMINATION

4 BY MR. SMITH:

5 Q. Would you please state your name and
6 business address for the record.

7 A. Thomas L. Wilson, Jr. Washington Utilities
8 and Transportation Commission, 1300 South Evergreen
9 Park Drive Southwest, Olympia, Washington 98504.

10 Q. And in what capacity are you employed by
11 the Washington Utilities and Transportation
12 Commission?

13 A. I am a utilities rate research specialist
14 3.

15 Q. Do you have a copy of what's been marked as
16 Exhibit T-154?

17 A. Yes.

18 Q. And is that your direct prefiled testimony
19 in this matter?

20 A. Yes.

21 Q. Do you have any corrections, additions or
22 deletions to make?

23 A. I have one correction to make to my direct
24 testimony, Exhibit T-154. If you would turn to page
25 33, at line 9, strike the words if traffic is not in

1 balance and the comma and begin that sentence then with
2 the word "independent."

3 Q. With that deletion, if I were to ask you
4 the questions contained in Exhibit T-154 would your
5 answers be the same?

6 A. Yes.

7 Q. You also have before you a copy of what's
8 been marked as Exhibit T-155?

9 A. Yes.

10 Q. Do you recognize that as your prefiled
11 rebuttal testimony in this matter?

12 A. Yes, I do.

13 Q. Do you have any corrections or additions to
14 make to that testimony?

15 A. Yes, I have a few. Please turn to page 3
16 of the rebuttal testimony, T-155. At line 26 the word
17 megabytes should be megabits, B I T S. Then turning
18 to page 26 I was not aware at the time I filed
19 rebuttal that U S WEST's testimony would change --
20 would remove the residual interconnection charge from
21 local interconnection service charges. Therefore, on
22 page 26 at line 9 I need to correct the figure 4.3043
23 and make that 3.28. This would cause a change in my
24 math discussed in that paragraph and at line 19 the
25 word 17 should be changed to 13. Then I have another

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1 change that's related on page 29. At line 2 again
2 change 4.3 to 3.28. Again, at line 5 change 4.3 to
3 the figure 3.28.

4 Additionally, in reviewing my testimony I
5 discovered I had made a mistake in doing my word
6 problems, and I would delete the remainder of the
7 paragraph there on page 29 beginning at line 10 with
8 the words "even pricing." And delete the remainder of
9 that paragraph so that I don't testify to a mistake
10 that I made hopefully other than admit it.

11 Then on page 30 at line 9 change 4.3 to
12 3.28 and that would conclude any changes I would
13 make to my prefiled testimony.

14 Q. With those corrections and deletions, if I
15 were to ask you the questions contained in Exhibit
16 T-155 would your answers be the same?

17 A. Yes.

18 MR. SMITH: Your Honor, I would move for
19 admission of Exhibits T-154 and T-155.

20 JUDGE ANDERL: Is there any objection to
21 those exhibits? Hearing none they will be admitted as
22 identified.

23 (Admitted Exhibits T-154 and T-155.)

24 MR. SMITH: Mr. Wilson is available for
25 cross-examination.

02166

1 JUDGE ANDERL: Mr. Shaw, go ahead.

2 MR. SHAW: Thank you.

3

4 CROSS-EXAMINATION

5 BY MR. SHAW:

6 Q. Mr. Wilson, on page 2 of your direct
7 testimony at lines 14 you say, "my focus for the last
8 nine years has been promoting competition in the
9 telecommunications industry in Washington. Do you see
10 that statement?

11 A. Yes, I do.

12 Q. And I believe you also in your
13 qualifications mention that you testified on behalf of
14 staff in the competitive -- strike that -- the
15 applications to register as telecommunications company
16 of ELI in what was then known as DDS now known as TCG
17 Seattle?

18 A. Yes.

19 Q. Now, in those cases you did testify on
20 behalf of the staff that intraexchange competition
21 should not be allowed. Is that correct?

22 A. Yes, that's correct. That was my testimony
23 on behalf of the staff. However, while I was being
24 cross-examined from the bench I did admit that that
25 testimony was constrained by legal advice which

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1 subsequently was overturned by the state supreme court
2 and I recommended that personally as an economist I
3 would recommend that intraexchange competition be
4 allowed.

5 Q. Yes, I recall that and I wasn't by this
6 question trying to infer that you arbitrarily changed
7 your mind. What I wanted to explore with you is then,
8 which I recall was about 1992. Is that a good
9 recollection of when those hearings were?

10 A. I will accept that subject to check. It
11 seems to me as though perhaps the hearings may have
12 occurred in the fall of '91 but I'm not --

13 Q. But approximately three years ago.

14 A. Okay.

15 Q. At that time it was the position of the
16 staff in its recommendation to the Commission that
17 local exchange competition should be allowed and in
18 fact the Commission argued that to the courts also, did
19 it not?

20 A. It's my recollection -- could you be
21 specific which court?

22 Q. The King County Superior Court.

23 A. It's my recollection that the assistant
24 attorney general representing the Commission in that
25 matter did argue that position on behalf of the

02168

1 Commission at the King County Superior Court, yes.

2 Q. And at that time, approximately three years
3 ago, if you know, how many states in the country
4 allowed local exchange competition?

5 A. At that time I believe, and my memory may
6 be clouded by the passage by a great deal of time, is
7 that New York was one of the few if not the only other
8 state in the country that had gone ahead with allowing
9 local intraexchange competition. I think that was
10 limited to Centrex at that time, though. Otherwise,
11 Florida was allowing limited intraexchange competition
12 for high speed private line type services offered by
13 competitive access providers in Florida as long as the
14 service did not -- as long as it didn't connect two
15 different customers, as long as it was just within a
16 private network kind of an application. Other than
17 that Washington was moving towards one of the more
18 liberal local entry policies in the nation.

19 Q. Well, three years ago there was no liberal
20 entry policy, was there, as to local exchange
21 competition. The position of the Commission was that
22 as a matter of law and fact there should be no local
23 exchange competition?

24 MR. TROTTER: Your Honor, I would object to
25 the question "as a matter of law there should be"

02169

1 versus "as a matter of law there cannot be." It
2 implies that there was some discretion or under a
3 different circumstance there would be. I think the
4 question before the court is clearly a question of law
5 and not policy.

6 MR. SHAW: That's fine. I'm not trying to
7 mislead anything.

8 Q. Substitute Mr. Trotter's words if you like.
9 It's not important for the purposes of the question.
10 Do you recall the question?

11 A. I'm sorry, I would like to have that
12 restated, please.

13 Q. It was the position of this Commission in
14 the state of Washington three years ago that there
15 could not or should not be local exchange competition,
16 correct?

17 A. Yes.

18 Q. Now, would you agree that the rationale for
19 that position, as expressed by both the local exchange
20 companies that advocated and as generally expressed
21 around the country at that time, was that local
22 competition would create universal service problems
23 given the current method of rate spread required for
24 local exchange service both in the state of Washington
25 and nationally?

1 MR. MACIVER: Your Honor, I am going to
2 again follow through on that objection. The rationale
3 for that position taken three years ago in the ELI
4 case and three years ago the position of the
5 Commission was simply one of interpreting the law.
6 It's not announcing policy or rationale for it, and
7 the attorney general representing the Commission can
8 correct me if I'm wrong, but they were representing a
9 legal position not a policy position three years ago,
10 and these questions are presuming the Commission was,
11 quote, against competition as a matter of policy. And
12 I don't think that's fair to this witness.

13 MR. TROTTER: Your Honor, just if I could
14 comment briefly. That specific question focused on
15 what the local exchange companies were saying not the
16 Commission. That's why I did not object.

17 JUDGE ANDERL: Mr. Shaw, was the
18 question --

19 MR. SHAW: I did reference the local
20 exchange companies and I think the objection is simply
21 argumentative. The question did not state any facts
22 that aren't demonstrably true so I think it's a proper
23 question.

24 JUDGE ANDERL: I will allow the question.
25 Mr. Wilson, do you need it again?

02171

1 THE WITNESS: No, I think I recall the
2 question.

3 A. And I would agree with the first part of
4 your statement, Mr. Shaw, that I think that the local
5 exchange companies who opposed the registration of
6 Electric Lightwave and Digital Direct and several
7 other new entrants over the last several years has
8 been primarily an argument concerning universal
9 service concern, but additionally there were legal
10 arguments, and finally I don't recall specifically the
11 extent to which the local exchange companies opposing
12 ELI's registration opposed it on the basis that -- by
13 arguing something about rate spread between
14 residential and business services, as I think I heard
15 you indicate. I just don't remember that part clearly
16 myself.

17 Q. In fact you agree that generally in
18 Washington residential service is priced substantially
19 lower than business service for essentially the same
20 service and toll and access rates are priced
21 relatively much higher in terms of contribution levels
22 with those major categories of service all designed to
23 produce the revenue requirement of the regulated
24 company?

25 A. I agree that residential service is priced

02172

1 considerably lower than business service in U S WEST's
2 tariff and the other local exchange companies
3 operating in the state's tariff. I haven't done a
4 study myself of what the contribution levels are for
5 toll, although I have heard, as all of us have, that
6 allegedly toll does generate contribution. I don't
7 know if that's a fact myself or not.

8 Q. You dispute that toll is priced
9 substantially above its incremental cost?

10 A. U S WEST intraLATA toll?

11 Q. Toll, period.

12 MS. PROCTOR: Objection, no foundation.

13 MR. SHAW: I don't understand the objection
14 at all. It's a straightforward question.

15 JUDGE ANDERL: I will overrule it.

16 A. Would I agree that toll is priced above
17 cost? Whose toll? What kind of toll?

18 Q. Okay, if that's necessary, the toll that
19 U S WEST provides in the state of Washington, do you
20 think that there's any question at all that that toll
21 is priced substantially above its incremental cost?

22 MS. PROCTOR: I would again object on the
23 grounds that there's no foundation in the record that
24 shows the costs of providing U S WEST toll service in
25 this state.

02173

1 MR. SHAW: There doesn't have to be, Your
2 Honor, I'm asking him whether he disputes it.

3 JUDGE ANDERL: I don't know whether it has
4 to be in the record or not. You're allowed to inquire
5 as to whether this witness knows.

6 A. I don't know the answer to that question.
7 I haven't looked at contribution analysis for U S WEST
8 intraLATA toll.

9 Q. Have you looked at contribution analysis
10 for U S WEST's access charges?

11 A. I've reviewed the cost study and other
12 supporting information provided by U S WEST in this
13 docket, which deals with many aspects of switched
14 access services, yes.

15 Q. And do you agree that access services of
16 U S WEST is priced substantially above its incremental
17 cost?

18 A. Yes.

19 Q. And toll, which is the same thing, together
20 with some additional incremental costs, is priced
21 substantially above access charges, is it not?

22 A. I don't know.

23 Q. You've been auditing and examining the
24 tariffs of U S WEST and the other local exchange
25 companies in this state for at least nine years and

02174

1 you have no opinion on whether access charges and toll
2 are priced substantially above cost?

3 A. As I've learned before, using the term
4 auditing is something that I need to be careful with.
5 I have been generally familiar with those topics, but
6 I have by no means spent sufficient time on looking at
7 access charges and toll rates of the local exchange
8 companies in Washington to be anywhere near able to
9 answer your question. There's so many special topics
10 that the staff confronts daily and over the last nine
11 years that that is one of the areas that I have not
12 spent much time with.

13 Q. So you have no idea whatsoever whether the
14 revenues gained by local exchange companies in
15 Washington from access charges and toll provide
16 substantial contribution to the common costs including
17 the loop costs of those companies?

18 A. I will agree with you with regard to access
19 charges. I don't know with regard to toll.

20 Q. Does this Commission require U S WEST to
21 price its toll charges above imputed access charges
22 together with coverage of its incremental costs for
23 toll?

24 A. I don't know.

25 Q. Do you dispute the fact that for

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1 independent telephone companies, typically the smaller
2 companies in the state, that they have a very heavy
3 reliance on access charges to cover their revenue
4 requirement?

5 A. No. It's my understanding that's
6 conventional wisdom and that's what I base my
7 understanding on.

8 Q. Do you have any reason to dispute that as a
9 fact?

10 A. Not one way or another, no.

11 Q. Then getting back to where I started with
12 this. Do you agree that a primary reason for both
13 regulators and local exchange companies to oppose
14 intraexchange competition is that they're extremely
15 vulnerable to that competition because of the
16 imbalance in their rates established over the years in
17 a monopoly-regulated environment?

18 MR. RINDLER: I will object. What
19 regulators?

20 MR. SHAW: I think the question is clear,
21 Your Honor.

22 MR. MACIVER: I will join in that
23 objection.

24 JUDGE ANDERL: Well, if it's not clear to
25 the witness he can say so but I will overrule the

1 objection.

2 A. Generally speaking, yes, I am aware that
3 there is an argument that an imbalance exists, to the
4 extent that it exists with regard to alleged subsidies
5 stemming from toll service, I don't know. To the
6 extent that there's an imbalance that exists, for
7 example, between rates and costs for residential and
8 business service, I have a lot of questions about
9 whether that's a true statement or not. And I hope
10 that we're going to get a chance to learn in our
11 investigations in the general rate case involving U S
12 WEST further about that question.

13 Q. Well, let's talk about that briefly. Do
14 you agree that technically and conceptually business
15 local exchange service and residential local exchange
16 service are exactly the same thing?

17 MR. SMITH: Your Honor, could I have some
18 clarification about conceptually? I understand
19 technically but I'm not sure what Mr. Shaw means by
20 conceptually.

21 MR. SHAW: I mean by that that an entity
22 subscribes to an access line and can place local and
23 toll calls over that access line and is assigned a
24 telephone number.

25 Q. Do you have the question in mind?

02177

1 A. Yes. Generally I will agree with the
2 notion that a loop is a loop.

3 Q. And would you also agree that business
4 customers are typically located in urban areas and
5 that on average the loop lengths for business service
6 are substantially shorter than that for residential
7 service?

8 A. Again, I've seen information on that from
9 U S WEST and that seems to be true.

10 Q. That's really indisputable. There's just no
11 doubt about that, is there?

12 A. Generally speaking, I think that's probably
13 true.

14 Q. And loops are considered
15 nontraffic-sensitive costs and loops, the expense of
16 loops, varies by their length?

17 A. Yes.

18 Q. In the same geography a longer loop is more
19 expensive than a shorter loop?

20 A. It can be, yes.

21 Q. And would you agree that business rates for
22 U S WEST are currently over twice as much as
23 residential rates, despite the fact that the costs, as
24 you've just agreed, are lower for business service than
25 for residential service?

02178

1 A. Yes.

2 Q. And the reason that business and
3 residential service has been priced that way is on a
4 concept that business service, because it's for
5 profit, should pay substantially more contribution for
6 the support of residential service on a value of
7 service basis. That's been the regulatory rationale
8 in the monopoly years, wouldn't you agree?

9 A. Yes, it has. I'm reconsidering that
10 rationale, though, if we see proper new cost
11 information that may be a concept that's going to be
12 put to the test.

13 Q. I understand that the future will bring
14 change, but that's the way the current rates are set.
15 Wouldn't you agree?

16 A. Yes.

17 Q. And again, toll rates have been charged for
18 on a usage-sensitive basis at high contribution levels
19 in order to provide the same subsidy or support, if
20 you prefer, to the revenue requirement of the company?

21 A. I don't know if toll has a high
22 contribution level or any at all.

23 Q. Would you agree that the position of public
24 counsel back in the ELI and DDS cases was that until
25 the impact on universal service was established a

02179

1 docket on universal service should be undertaken
2 before competitive entry was allowed at the local
3 exchange level?

4 A. Yes.

5 Q. And has the industry generally urged this
6 Commission that rates need to be rebalanced in a
7 growing competitive environment for many years?

8 MR. SMITH: Clarification. What do you
9 mean by the industry?

10 MR. SHAW: Local exchange industry.

11 A. Yes.

12 Q. In fact, it has been urged by the industry,
13 and particularly by U S WEST and the interexchange
14 carriers, that access charge rebalancing needs to be
15 undertaken so that the companies are not so reliant on
16 access charges revenues to meet their revenue
17 requirements?

18 MS. PROCTOR: I would object to the
19 question on the characterization of the interexchange
20 carrier position. I think it's clear the
21 interexchange carrier position is that access charges
22 should come down. I don't think that we have ever
23 taken a position that U S WEST needs to raise any
24 other rates.

25 MR. SHAW: The question did not infer that.

02180

1 MS. PROCTOR: Well, that's fine.

2 A. Yes.

3 Q. And this Commission accepted as modified an
4 industry proposal to institute access charges back in
5 cause No. U-85-23 back at the time of the divestiture,
6 correct?

7 A. The Commission accepted?

8 Q. As modified an industry proposal for the
9 conversion of the revenues from settlements into
10 access charges, and ordered access charge tariffs to
11 be filed by the local exchange companies, correct, in
12 that docket?

13 A. Well, first of all, I need to tell you that
14 it's my understanding there are well over a hundred
15 supplemental orders in U-85-23, and I've only scanned
16 pieces of some of them. I don't know what the
17 Commission said in that. I wasn't involved in that
18 docket, but I would agree that it's my general
19 understanding that the Commission's orders in U-85-23
20 have led to a situation where cross subsidy flows out
21 of access rates.

22 Q. Have you read the 17th and 18th
23 supplemental orders in U-85-23?

24 A. The name the 18th supplemental order sounds
25 familiar to me, but like I say, my understanding is

02181

1 there's over a hundred and I am not intimately
2 familiar with any of them.

3 Q. Directing you to the 18th supplemental
4 order adopted back in the 1984 time frame, would you
5 agree that the Commission established on a more or
6 less revenue neutral basis access charges to replace
7 settlements under the old Bell system independent
8 relationships?

9 A. Not being an expert on those orders I can
10 accept your representation.

11 Q. Well, in your --

12 A. That sounds generally like what I think has
13 happened, yes.

14 Q. In your testimony you make the statement
15 that this case has nothing to do with the regulatory
16 policy established in U-85-23 by the 18th, 19th,
17 supplemental orders?

18 A. If you don't mind I would really like a page
19 reference.

20 Q. Page 13, line 10.

21 A. Okay.

22 Q. Do you see that? When you made that
23 statement you certainly must have had some idea of
24 what you had in mind that U-85-23 did?

25 A. That's right. I have a general

1 understanding.

2 Q. And when you say that this case is not
3 intended to restructure the existing switched access
4 structure governed by docket U-85-23, what precisely
5 did you have in mind?

6 A. What I had in mind there was that the
7 Commission staff and many of the other parties, I
8 believe, are very interested in moving towards pricing
9 issue -- towards resolution of pricing issues and
10 other issues surrounding local interconnection, and we
11 wanted to keep this docket moving quick, and as we all
12 know it has been a very fast moving docket and for
13 that reason, among others, we did not want to try to
14 address U-85-23.

15 It seemed to us -- this is what I had in my
16 mind when I said this -- it seemed to us that U-85-23,
17 indeed as many have said over the years, does need to
18 be revisited but that should be done in a separate
19 proceeding and that that could be a case all to
20 itself. To meld it in with this proceeding probably
21 would have made it unbearably complicated to deal with
22 this case.

23 Q. So in this case involving a U S WEST tariff
24 the staff fully supports the concept that U S WEST's
25 access charge revenues should not be reduced in

02183

1 violation of the public policy concepts of docket
2 U-85-23?

3 A. I don't understand where you have arrived at
4 the conclusion that staff fully supports this notion.
5 I don't recall saying that anywhere in my testimony.

6 Q. Well, I'm asking you if you are saying
7 that. Isn't that the necessary implication of your
8 statement that nothing should be changed in this
9 docket that relates to docket U-85-23?

10 A. Primarily I was referencing the
11 independents.

12 Q. So it is appropriate for the Commission to
13 abandon the concept of docket U-85-23 for U S WEST in
14 this docket but not change in this docket the access
15 charges of the independents? Is that your testimony?

16 A. I think that we can deal with all of these
17 issues within a reasonable time frame, and I'm
18 certainly not saying that we don't need to look at
19 U-85-23. I think that we can address the
20 recommendations provided by staff in this case and
21 proceed with the general rate case and proceed
22 hopefully with a revisit to U-85-23 if it's necessary
23 and proceed with a universal service docket. There
24 may be additional dockets that are going to fall out
25 from this case also. Hopefully we will eventually

02184

1 begin to have sufficient information and objective
2 standards that we will be able to discuss negotiating
3 a new form of regulation for the incumbent LECs
4 including U S WEST, and I see the process in total,
5 going outside the box of this case, as addressing
6 those concerns in a reasonable time frame, and that's
7 our intention.

8 Q. Has U S WEST in one form or another been
9 advocating restructure and reform of universal service
10 support mechanisms in Washington ever since the order
11 in U-85-23?

12 A. I don't know.

13 Q. When you state on page 13, line 12 that
14 this case is not intended to restructure universal
15 service support mechanisms in Washington, specifically
16 what universal service support mechanisms did you have
17 in mind when you made that statement considering that
18 you don't have any opinion on how universal service is
19 supported today?

20 A. I don't know that I said I didn't have any
21 idea. I have general knowledge.

22 Q. You don't have any idea whether toll and
23 access charges support universal service in Washington
24 today, as I believe you testified?

25 A. I believe I told you that I had an

1 understanding about the so-called conventional wisdom.

2 Q. Do you believe that the revenues derived
3 from business customers supports universal service,
4 i.e., residential service in Washington today?

5 MS. PROCTOR: Your Honor, we've been over
6 this ground several times so I would object on the
7 grounds that it's already been asked and answered.

8 MR. SHAW: I still don't think I've gotten
9 a straight answer from the witness on what he means by
10 universal service support mechanisms and that's what I
11 am exploring.

12 JUDGE ANDERL: I will let you explore what
13 the witness means by universal support mechanisms.

14 A. I would like to try to answer that
15 question, too, Mr. Shaw. If I could get to that
16 point. Your last question asked me about the extent
17 to which business services provide universal service
18 support, I believe.

19 Q. Uh-huh.

20 A. And I would agree that I think cost study
21 analysis will reveal that most likely business services
22 are providing ample contribution. However, let's talk
23 about the universal service support mechanism that I
24 talk about on page 13, and what I am talking about
25 there is it's my understanding, not based upon strict

02186

1 review of orders, just by having been on staff for nine
2 years and hearing conventional wisdom discussed, it's
3 my understanding is that there is a universal service
4 support mechanism in place in Washington that came from
5 U-85-23. And it's my understanding that the way that
6 mechanism works generally speaking is that
7 contributions from access flow from urban areas to
8 rural independent areas around the state, and the
9 mechanisms by which those revenues flow -- I'm
10 suggesting we do not want to attempt to rewrite those
11 mechanisms in this case, and I am suggesting that a
12 universal service assurance plan should also be
13 addressed in a different case, not in this one. It
14 makes it too complicated and we just don't have time to
15 do it all in one case.

16 Q. In fact, U S WEST, as the successor to the
17 Bell company in Washington, supports the universal
18 service of other companies by paying them high access
19 charges in its role as designated toll carrier and
20 supports its own universal service obligations by over-
21 charging its carrier customers, its toll customers,
22 and its business customers. Isn't that absolutely
23 positively a true statement?

24 A. Yes --

25 MS. PROCTOR: I would object. There's been

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1 no foundation laid because there have been no facts
2 introduced to establish that the money generated, if
3 any, is used to support universal service. It may
4 simply be used to support return to U S WEST
5 shareholders, so I would object that there's no
6 foundation in the record for that absolutely
7 positively true statement.

8 MR. TROTTER: Your Honor, I join the
9 objection just to the extent that in order to answer
10 that question requires validated cost studies of
11 various types of services including residential and
12 business exchange, and those studies have not been
13 filed in this docket and so we'll object to the
14 question on that basis.

15 JUDGE ANDERL: Well, as I understand the
16 witness has already answered that he didn't know to
17 certain components parts of that question and so I'm
18 going to sustain the objection.

19 Q. The staff served the company with numerous
20 and extensive data requests in this case, did it not?

21 A. We served 125 data requests, if my memory is
22 correct, and that's those two binders and you served 50
23 or 60 and that's those three binders. Does that answer
24 your question, sir?

25 Q. Well, I'm not going to waste time on

02188

1 arguing with that, Mr. Wilson. My question is did the
2 company supply to you cost data for business services
3 and residential services in data requests in this
4 case?

5 A. As I recall, Mr. Farrow and Mr. Owens
6 introduced information about U S WEST's cost estimates
7 for residential and I think business also with their
8 rebuttal testimony and, yes, the Commission staff did,
9 following receipt of that testimony on May 31, issue a
10 data request on June 5 which asked for the supporting
11 documentation behind the executive summary estimates
12 provided, and I don't think we've gotten an answer to
13 that data request yet although I think we asked about
14 that last week.

15 Q. Weren't you informed that you already had
16 all that backup in the context of the rate case and
17 that it was not reasonable to send you another copy?

18 A. I wasn't, no.

19 Q. Looking at that --

20 A. That has been a problem, though, with us
21 being told things are here or there but when we ask a
22 data request in this case we anticipate that that
23 information would be provided in this case so it could
24 be used in this case.

25 Q. Looking at the data that U S WEST provided

02189

1 to you, do you agree that that data shows -- without
2 asking you to agree with the data -- but that that
3 data shows that residential local exchange service is
4 priced below its incremental cost and that business
5 service is priced substantially above its incremental
6 cost?

7 A. If I'm not mistaken, I just told you I
8 haven't been provided that data. Perhaps I could
9 answer your question if I had it.

10 Q. Didn't you also look at this exact same
11 data in the rate rebalancing file that the company had
12 last year?

13 A. Yes, I did, and that was using different
14 kinds of cost studies that I haven't seen in this case
15 and it was also probably about two or three drawers in
16 a large filing cabinet of material, which my
17 consultant in this case never got to see. It's my
18 understanding that residential and business service
19 rates are not at issue in this case.

20 Q. I want to discuss with you on a policy
21 level whether you have a belief that in order to allow
22 an effectively competitive environment U S WEST's
23 business, access and residential rates need to be
24 rebalanced. Do you believe that to be true?

25 A. Yes.

1 Q. And the reason you believe that to be true,
2 I take it, is because those three major categories of
3 rates are significantly out of line with their
4 underlying costs and therefore are not supportable in
5 a competitive environment. Is that a fair statement?

6 A. Yes, but I think you and I may disagree
7 about what we mean about out of line. May I explain?

8 Q. Well, let's break it down. Do you agree
9 that access and toll rate are out of line with their
10 underlying costs in the sense that they are too high
11 with too much contribution?

12 MS. PROCTOR: I would object. The witness
13 has previously testified that he doesn't know about
14 toll and the relationship of toll to costs.

15 MR. SHAW: Well --

16 JUDGE ANDERL: I think that's true. That's
17 what I remember.

18 MR. SHAW: But now he said that he agreed
19 that the rates need to be rebalanced so now I'm trying
20 to find out what he means by that.

21 MS. PROCTOR: Well, as I understood your
22 question, and perhaps I need clarification, I
23 understood you to say residence, business and access
24 rates, those three services. I did not understand you
25 to say toll on that list. Was I mistaken, Mr. Shaw?

02191

1 MR. SHAW: Well, I don't frankly recall.

2 JUDGE ANDERL: I wrote down business,
3 residential and access.

4 Q. I can amend my question to access rates.
5 Do you believe that the access rates are too high in a
6 competitive environment and need to be rebalanced by
7 being reduced?

8 A. Yes.

9 Q. Do you believe that business rates are too
10 high in a competitive environment and need to be
11 rebalanced by being reduced?

12 A. I think that with regard to business rates
13 being too high in a competitive environment, I would
14 say that the reason they're too high is that they're
15 much higher than rates for other services which we've
16 already agreed basically consume the same elements of
17 production. I am not willing to concede that business
18 rates are too high based upon cost study analysis until
19 we've reached agreement through disclosure of
20 sufficient information to develop an objective standard
21 to talk about that.

22 Q. Assuming that the company has approximately
23 the same revenue requirement, will you agree that the
24 lowering of access charges and the lowering of
25 business and exchange rates will require other rates

02192

1 to be raised?

2 A. I don't know.

3 Q. Do you have in mind the assumption I asked
4 you to make that the revenue requirement of the
5 company stays the same?

6 A. Yes, I do.

7 Q. Isn't it inescapable that if the revenue
8 requirement is the same and if access rates are lowered
9 and business rates are lowered some other rates will
10 have to be increased?

11 A. No. You're assuming a static market, and I
12 don't think that comports with reality.

13 Q. So your assertion is that the company can
14 make it up in volume with lowered rates, that lowered
15 rates will increase demand. Is that what you're
16 suggesting?

17 A. I'm not suggesting that you can make up in
18 volume what you lose by selling a penny below cost if
19 that were occurring. But what I'm suggesting is that
20 there are a variety of variables that come into play
21 and we've evidently assumed those away or haven't
22 discussed them. I'm also still hung up on the fact
23 that staff does not in this case have any information
24 to tell you one way or another about the cost
25 structures for business and residential service.

02193

1 Generally speaking the rates are obviously out of line
2 and some rebalancing could occur for that reason alone.

3 Q. Perhaps you're confusing costs with revenue
4 requirement in your answer. Again, assume the revenue
5 requirement of the company stays the same, and I
6 understand that you have reservations in terms of
7 growth and other variables, but assume that with me for
8 the purposes of this discussion. If the major
9 categories of access and business are reduced, all
10 things being equal, some other rates will have to
11 increase, don't you agree?

12 MR. SMITH: Mr. Shaw, does your question
13 assume that the company is not exceeding its
14 authorized rate of return?

15 MR. SHAW: Yes. That's the obvious
16 assumption that the revenue requirement remains the
17 same.

18 MR. SMITH: Well, those are two different
19 things. It wasn't obvious to me.

20 MS. PROCTOR: Your Honor, I would like to
21 object to this line of questions. I assume that we're
22 all going to get to do this in a couple of months in
23 the context of the general rate case and I don't see
24 that this has any relevance at all to Mr. Wilson's
25 testimony in this case.

02194

1 MR. SHAW: Well, I don't understand that at
2 all. Mr. Wilson is objecting to the company's
3 proposals in this case on the basis that we can wait
4 until another case, and obviously the company's
5 position is that we can't wait until another case and
6 so I need to explore with him on why he -- or
7 challenge, in essence, his assertions that there is no
8 problem with universal service.

9 JUDGE ANDERL: I will overrule the
10 objection.

11 Q. Do you recall the question again, Mr.
12 Wilson?

13 A. It would be helpful if you would please
14 restate it.

15 Q. Okay. Again, assume the revenue
16 requirement remains the same, a very simple question.
17 If the company reduces its access charges and reduces
18 its business charges, all things being equal, other
19 rates will have to increase, will they not?

20 MR. MACIVER: Your Honor, might I ask for
21 clarification? Is that question assuming the concern
22 of Mr. Smith that it assumes that U S WEST is not
23 earning above its revenue requirement?

24 MR. SHAW: Your Honor, I object to these
25 constant harassments. It's very clear revenue

1 requirement includes an authorized rate of return.

2 JUDGE ANDERL: That's what I always
3 understood.

4 MR. SHAW: I don't need to state it, repeat
5 it that revenue requirement remains the same, and I do
6 not appreciate and I wish you would instruct counsel
7 to stop making these gratuitous statements. They are
8 not legitimate statements and it's just meant to coach
9 the witness.

10 MR. MACIVER: I may have misunderstood the
11 question.

12 JUDGE ANDERL: As I understand, revenue
13 requirements are escalated using the company's
14 authorized rate of return, and if that's the
15 assumption, which I can't imagine it wouldn't be, then
16 that's the way the question is stated, and I don't
17 mind if counsel asks for clarifications, but to the
18 extent that we go on these extended colloquies I think
19 it distracts the witness. Makes us all forget what
20 the question was and it draws us out unnecessarily, so
21 let's just see if Mr. Wilson can answer the question

22 A. Well, I believe I understand your question,
23 Mr. Shaw, and if we make enough assumptions I think
24 that the answer to your question can be yes. I think
25 that we need to have explicitly stated quite a number

02196

1 of assumptions, which I don't know how useful it will
2 be to go through that process today or how good I will
3 do that. I will tell you, though, we need to think
4 about elasticity of demand, for example, and I don't
5 know that anybody has any good information about that.

6 I would also comment that writing off assets
7 might be one way to deal with things in a competitive
8 market, too, if a company faces competition and their
9 prices are out of line, and their revenue requirement
10 stays the same even when they lose business, but maybe
11 we could get to some point on this issue.

12 Q. Well, let's go to that since you are
13 suggesting that a regulated company subject to rate of
14 return regulation should write off its rate base
15 that's used and useful to provide service in order to
16 solve its under-earnings problem. Is that your
17 recommendation to this Commission?

18 A. Well, I understood your question to imply
19 that -- I believe it implied that revenue requirement
20 had been determined and it was deemed to be fair and
21 reasonable and that a rate case had been done or
22 something like that. I think that in today's
23 environment facing potential competition that
24 regulated utilities may indeed find themselves in a
25 position one day of owning stranded plant and other

02197

1 assets which are not used and useful in the efficient
2 production of their services and they write off those
3 assets in order to continue to try to keep, and that's
4 a real possibility someday.

5 Q. I'm trying to understand the relevance of
6 why you brought this up. Are you saying that U S WEST,
7 rather than insisting on its legal right to an
8 opportunity to earn a reasonable return on its
9 investment, should simply write that investment off
10 even though that investment is used and useful
11 dedicated to the public use in providing basic
12 exchange service in the state of Washington?

13 A. I think we said two different things. I
14 was talking about stranded capacity or uneconomic
15 assets.

16 Q. Do you have any evidence or data that U S
17 WEST has any stranded or unused network capacity
18 today?

19 A. There is evidence in this case that I've
20 seen in discovery, and whether it's found its way into
21 the record entirely, I don't know, but there is
22 evidence to show that there is spare capacity in the
23 network. But, no, I don't have any evidence that
24 there's any stranded capacity due to competition.

25 Q. Let's get down to where the competition is

02198

1 in the city of Seattle. Do you have any evidence that
2 U S WEST has excessive capacity in network plant in the
3 city of Seattle?

4 A. I have toured the Seattle main central
5 office over the last several years and I do see unused
6 floor space in there.

7 Q. I'm talking about outside distribution
8 plant, Mr. Wilson, not real estate?

9 A. I heard you to say network capacity. And
10 we typically include land and buildings in our
11 estimates of providing network capacity. Additionally
12 in the cost studies, the cost studies do assume spare
13 capacity. And it's my understanding that most
14 telecommunications companies do build in spare
15 capacity, but other than the study which Dr. Selwyn
16 referenced you on Monday to outside plant excess
17 capacity, I do not have at my fingertips such evidence.

18 Q. Does U S WEST on a recurring basis have
19 held orders in the city of Seattle?

20 A. I don't know.

21 Q. Would you accept subject to your check with
22 your consumer affairs people that U S WEST in fact
23 does have held orders in the city of Seattle, would
24 your opinion change that U S WEST has excess capacity
25 in the city of Seattle?

02199

1 A. Not necessarily.

2 Q. In order to avoid held orders, do you agree
3 that the company has to carry a considerable inventory
4 of loop plant in the city of Seattle?

5 A. To one extent or another that would be wise
6 planning, yes.

7 Q. Along that line, does U S WEST have the
8 obligation in the Seattle rate base area to accept any
9 and all orders for local exchange service from
10 business and residential customers and not have
11 excessive held orders?

12 A. As a regulated monopoly, I think so, yes.

13 Q. Are you familiar with WAC 480-120-046
14 defining the services that must be offered by a
15 telecommunications company in the state of Washington?

16 A. Not specifically, no.

17 Q. Let me read the first part of it to you and
18 see if it refreshes your memory.

19 A. I have a terrible time being read to and
20 being able to respond to what I've had read to me. I'm
21 sorry.

22 Q. Why don't you read the first paragraph of
23 the second line.

24 A. Certainly. Thank you. WAC 480-120-046
25 service offered.

02200

1 JUDGE ANDERL: Mr. Shaw, did you intend him
2 to read it into the record or to just review it.

3 Q. To go ahead and read it into the record. I
4 think it will be helpful for the understanding of the
5 room.

6 A. Subsection 1. "Classes of service. Each
7 utility shall file with the Commission as a part of
8 its tariff regulations enumerating and comprehensively
9 defining the classes of service available to
10 subscribers. The classes of service are business
11 and residence."

12 Q. Do you consider that that rule applies to
13 U S WEST?

14 A. As a layman that would be my understanding.

15 Q. Has that rule been waived for any of the
16 new local exchange companies that have established
17 service in Seattle?

18 A. I don't recall specifically. It may not
19 have been waived.

20 Q. Then U S WEST is the only utility,
21 telephone utility, doing business in the city of
22 Seattle that has to offer two classes of service,
23 business and residential, and accept all customers for
24 those services, right?

25 A. You're referring to a legal obligation, not

02201

1 an obligation to maximize profit?

2 Q. I'm talking about an obligation imposed by
3 this Commission.

4 MR. TROTTER: Your Honor, I will object to
5 that. The question implies a certain reading of this
6 rule that the tariff must set forth a business
7 class of service and I don't think that's what the
8 rule says. What it says to me is if you have classes
9 of service they are either business -- they are
10 business and residence. You choose between business
11 and residence classes. It doesn't necessarily mean you
12 have to have both classes at all times.

13 MR. SHAW: Well, okay, I will go with that.

14 Q. Is that your reading of the rule, Mr.
15 Wilson, as the staff expert, that it's up to U S WEST
16 whether it wants to offer a business and residential
17 class of service, and if it chooses not to it can offer
18 just a business class of service?

19 A. I don't read the rule as saying that a
20 utility must offer business and residential service.
21 The way I read it is that the utility shall file with
22 the Commission as part of its tariff regulations
23 enumerating and comprehensively defining the classes of
24 service available to subscribers. And then it says --
25 it explains what they mean by the term classes of

02202

1 service and it says those are business and residence.

2 Q. And the staff would support U S WEST
3 withdrawing its residential tariff in the city of
4 Seattle and just offering business service at business
5 service rates?

6 A. Not at this time, no.

7 Q. If there's no requirement of this
8 Commission that U S WEST or any other utility offer
9 business and residential classes of service, wouldn't
10 you agree that it would be fair that U S WEST not be
11 required to do so?

12 A. I do agree that the companies that compete
13 with one another need to be on an even playing field,
14 but that's like saying that the elephant gets to step
15 on the ants and the ants get to step on the elephant.

16 Q. I don't think that my question had anything
17 to do with that. I'm just saying --

18 A. Well, you asked me about fair.

19 Q. -- as a regulated utility, is it fair to
20 require U S WEST to offer two classes of service when
21 the rule doesn't require that?

22 A. I do not agree with discriminatory
23 application of rules if that's what you're asking me.

24 Q. Okay. In fact, it is very clear, isn't it,
25 Mr. Wilson, that the public policy administered by

02203

1 this Commission expects all local exchange companies
2 to date, putting aside the new entrants, to offer a
3 residential class of service and a business class of
4 service with the residential class of service at
5 substantially lower rates than the business class of
6 service, and all local exchange companies in fact have
7 done that for many years in compliance with that
8 policy?

9 A. I'm not as familiar with all the policy,
10 but I will agree that a monopoly will have to price
11 certain services that are the same service -- that they
12 will have to discriminate. That's what business and
13 residential prices are today is discriminatory.

14 Q. Are you finished?

15 A. No. I think that as it stands today that
16 has been an expectation. I think that going into the
17 future, I think that we're all going to have to learn
18 to rethink this, though.

19 Q. And at the policy level, it doesn't have
20 anything to do with being a monopoly. It has
21 everything to do with being a regulated local exchange
22 carrier in the state of Washington, doesn't it?

23 A. I think it has a lot to do with being a
24 monopoly.

25 Q. How does the public policy change when

02204

1 there's multiple vendors as opposed to a sole
2 vendor in terms of wishing to provide affordable
3 service to residential subscribers?

4 A. Are we talking about multiple vendors where
5 one holds 99 percent of the market share?

6 Q. No. We're talking about multiple vendors.
7 How do multiple vendors change the public policy in
8 favor of providing affordable residential telephone
9 service?

10 A. I expect that over time as effective
11 competition develops that the marketplace will lend a
12 hand.

13 Q. You would not expect the marketplace to
14 provide below cost residential service, would you?

15 A. In an effectively competitive market, no.

16 Q. Is U S WEST free to withdraw from service
17 in any geographic areas of the state where it
18 concludes that it does not want to provide service any
19 further?

20 A. As a layman my understanding is yes.

21 Q. U S WEST is free to withdraw from service
22 and instead of selling Benge U S WEST could have just
23 withdrawn its operation in Benge and withdrawn from
24 service?

25 JUDGE ANDERL: Can we get a spelling?

1 MR. SHAW: B E N G E.

2 A. I didn't understand your question the first
3 time through, I guess. I was thinking of the sale of
4 exchanges and I thought U S WEST was generally viewed
5 as free to ask to sell those exchanges. Is U S WEST
6 today free to stop providing service in Benge?

7 Q. Yes.

8 A. I doubt it.

9 Q. Assuming that U S WEST hadn't sold Benge
10 and found Benge to be an incredibly expensive and
11 unprofitable exchange to serve, U S WEST, unlike K Mart
12 or Sears, is not free under the public policy
13 regulation of the state of Washington to just simply
14 withdraw from service, is it?

15 A. Not at this time, I don't think so, but I'm
16 not applying a legal analysis to that.

17 Q. And wouldn't you agree that the plain
18 English meaning of the phrase "carrier of last resort"
19 means that U S WEST is the carrier of last resort for
20 any service territory where it does not have effective
21 competition?

22 A. Not necessarily.

23 Q. Is it the public policy of the state of
24 Washington that there should be at least one company
25 providing service to every citizen in the state?

02206

1 A. Generally speaking, I would agree with
2 that, yes.

3 Q. And you wouldn't expect that any
4 competitors any time soon are going to come to Benge,
5 Washington and compete for those 50 or so customers
6 spread over several hundred square miles, do you?

7 A. I don't know.

8 Q. You don't have any opinion one way or the
9 other whether competition will ever come to Benge
10 Washington?

11 A. I think it depends on a variety of factors
12 including how we treat some of these important issues
13 and how the competitive playing field rules are
14 developed, but I don't know if maybe Bill Gates has
15 some miracle cure for Benge right around the corner or
16 somebody else. You know, I mean, it's an amazing
17 industry.

18 Q. Agree with me subject to your check that
19 U S WEST serves Benge, Washington primarily with a
20 radio system and not wire loops?

21 A. We've picked like the most remote exchange
22 we can think of, haven't we? I think that is on the
23 bottom of Mr. Owens's list in terms of density of
24 lines.

25 Q. Given the fact that there's no bottleneck

02207

1 facilities in terms of copper loop and the fact that
2 anybody presumably can put a radio system in just like
3 U S WEST did and serve those customers, would you
4 expect ELI or TCG or any other of the new entrants to
5 go to Benge and set up a radio system to serve those
6 50 customers?

7 A. No. I readily accept the notion that there
8 will be vestiges of no competition in the future, and
9 I agree that a universal service assurance mechanism
10 should be developed to address those kind of cases in
11 the future, but it needs to be a different mechanism
12 than we have today.

13 Q. Why do you have such a hard time admitting
14 that U S WEST, and if the sale goes through, PTI, will
15 be the carrier of last resort for Benge, Washington?

16 A. I don't know if I'm having a hard time with
17 that. I was having a hard time with getting to the
18 point with some of your questions. I'm sorry. I'm
19 under oath. I have to say this exactly the way you
20 ask them to the best of my ability.

21 Q. I asked, do you recall under the plain
22 English meaning of carrier of last resort, wouldn't
23 you consider U S WEST to be the carrier of last resort
24 in Benge, Washington, and you disagreed with that,
25 correct?

02208

1 A. I thought that you asked -- okay, about
2 carrier of last resort. It may be that some other
3 company may hold that obligation, too. I don't know.

4 Q. Are you saying that there's two telephone
5 companies serving Benge, Washington?

6 A. No. I'm telling you that there's been a
7 standard misperception perhaps that the new LECs don't
8 have that obligation, and in comment that we filed in
9 the Electric Lightwave classification case, sponsored
10 comment which on behalf of staff which indicate that
11 to the best of our knowledge none of the new LECs have
12 been waived from RCW 80.36.090 which I think if I'm
13 citing it correct is so-called obligation to serve
14 statute. So ELI or others might be held to that same
15 test if the Commission decided to, I don't know. It's
16 true, U S WEST is the only LEC in Benge right now, and
17 it could be that they have a carrier of last resort
18 obligation there, but it's just not necessarily going
19 to flow until we establish more information. I don't
20 mean to be argumentative in your question -- answering
21 your questions.

22 Q. Surely not. Let's move to the other end of
23 the spectrum and talk about Seattle. Say we have a
24 low income housing in downtown Seattle that ELI, TCG,
25 MFS and MCI Metro all pass?

02209

1 A. It's a low income apartment, you said?

2 Q. Yes.

3 A. Okay.

4 Q. That U S WEST currently serves. Is U S
5 WEST free to pull its service out of that low income
6 apartment on a business judgment that it is not worth
7 providing service there because of bad debt and high
8 collection problems and low take of any vertical
9 services and require any of the four other carriers to
10 step in and serve that low income apartment?

11 A. I've heard similar lines of questioning for
12 several of the witnesses in this case, and I think a
13 good answer for a witness is that I think we ought to
14 look at this on a case-by-case basis, and that's what
15 we've tried to say in the past.

16 Q. But this is a case that I am presenting to
17 you, is U S WEST -- would the Commission staff support
18 and put on the consent agenda a tariff change by U S
19 WEST to withdraw from service from that low income
20 apartment building under the conditions that I've just
21 described?

22 A. I would want to know if U S WEST was still
23 covering its fixed costs at that location. I would
24 also want to know if U S WEST was applying this
25 standard in a nondiscriminatory fashion. I would want

02210

1 to know what the impact upon the other company that
2 might be compelled to provide service there would be,
3 and so forth.

4 Q. You would agree that public policy of the
5 state of Washington would not tolerate that low income
6 apartment building being without any service?

7 A. In today's environment I think I would
8 agree with you.

9 Q. In any environment, the public policy of
10 the state of Washington will not permit consumers in
11 the middle of the city of Seattle, just because of
12 their income, to be denied telephone service just
13 because no carrier wanted to serve them?

14 A. Well, I think that's happening today, most
15 likely, don't you agree? After all, there are people
16 below the poverty level in Seattle who don't have
17 phone service today because nobody is willing to serve
18 them at a price they can afford.

19 Q. We're not talking about the price. We're
20 talking about offering any service at all. Do you
21 understand that?

22 A. So we've left behind the problem that you
23 were painting a picture of not covering cost?

24 Q. Mr. Wilson, this will go a lot faster if
25 you just listen to the question and answer the

02211

1 question. Now, the question was public policy of the
2 state of Washington, wouldn't you agree, will not
3 tolerate, in a single provider environment or a multi
4 provider environment low income consumers in the
5 middle of the city of Seattle being denied any service
6 at all?

7 A. Probably not.

8 Q. And so there is going to have to be a
9 carrier of last resort for those kind of situations.
10 Don't you agree?

11 A. I don't know.

12 Q. Is it the staff's position that U S WEST
13 and the other LECs in this state have no carrier of
14 last resort obligation?

15 A. As I stated earlier, I believe that all of
16 the LECs in the state including the new ones are
17 subject to the obligation to serve statute.

18 Q. It's your position that that simple citing
19 of that statute makes carrier of last resort
20 considerations irrelevant for public policy of the
21 state of Washington?

22 A. No. I think, though, I think though, that
23 frankly we're talking about a red herring. I think
24 that obligation to serve has been held by the LECs as
25 a banner that says don't allow competition because we

02212

1 have an obligation to serve. I disagree with that. I
2 think that obligation to serve in most cases is an
3 opportunity not a burden.

4 Q. Has U S WEST ever argued to this Commission
5 that there should be no competition because U S WEST
6 has an obligation to serve?

7 A. I don't think that U S WEST has necessarily
8 done that, no.

9 Q. Let's talk about some definitions. Do you
10 agree that the difference between toll and EAS at the
11 intraLATA level at least is simply a matter of how
12 it's charged to the end user?

13 A. In a sense, yes.

14 Q. From a technical standpoint, an interoffice
15 local call is indistinguishable from an interoffice
16 toll call, correct?

17 A. Could you restate that, please.

18 Q. Yes. From a technical perspective an
19 interoffice local call is indistinguishable from an
20 interoffice toll call?

21 A. It was my understanding that U S WEST and
22 GTE provision their EAS traffic over separate trunks.
23 With that distinction I think they're the same.

24 Q. Directing your attention to the question,
25 the difference between a toll and a local call,

02213

1 putting aside EAS, is an interoffice local call
2 technically the same as an interoffice toll call?

3 A. Oh, I'm sorry. Besides possibly traveling
4 on different facilities, I think so.

5 Q. And in the case of EAS, a toll call is
6 converted to a local call simply by changing the rate,
7 correct?

8 A. Yes, and generally changing the carrier can
9 happen, too.

10 Q. Are you familiar with the EASs in the
11 greater Seattle area, the fact that they overlap?
12 That is, a consumer in south Snohomish County can call
13 down into Seattle whereas a Seattle consumer can call
14 down into south King County but the south Snohomish
15 caller cannot call toll free south King County?

16 A. Well, I worked on the US Metrolink case
17 back in the mid to late '80s, and I'm familiar with
18 the overlapping nature of the EAS boundaries in the
19 Seattle Metro area. I haven't looked at them with
20 care in about five years, but I bet you're right.

21 Q. In the case that you just referenced, the
22 Metrolink case, was a situation where a carrier,
23 Metrolink, was providing on a flat rate base a call
24 from south Snohomish County to south King County taking
25 advantage of the overlapping EAS configurations and not

02214

1 paying either GTE or U S WEST any carrier access
2 charges, correct?

3 A. Yes.

4 Q. And the thrust of the case was that if
5 Metrolink was going to provide an interexchange call it
6 had to pay access for the use of the facilities of GTE
7 and U S WEST to complete that call, correct?

8 A. Right.

9 Q. Now, at that time, the staff supported, and
10 the Commission ordered that Metrolink had to pay access
11 charges under the belief that local exchange service
12 was a monopoly, correct?

13 A. No.

14 Q. At the time of the Metrolink staff did not
15 believe that local exchange service was a monopoly?

16 A. We probably did. That isn't why we
17 recommended the way we did in the Metrolink case to
18 the best of my recollection, though. The reason we
19 did that was because of the tariff structure, and the
20 tariff conditions that existed then.

21 Q. Now, in the multi vendor competitive
22 environment, if a new entrant were to define that
23 overlapping EAS area as their local service area under
24 a bill and keep arrangement they would pay no access
25 charges, wouldn't they?

02215

1 A. For EAS traffic?

2 Q. If they define that overlapping area from
3 south Snohomish County to south King County as their
4 local calling area and interconnect with GTE and U S
5 WEST they will pay no access charges, will they, under
6 a bill and keep arrangement such as you recommend?

7 A. It's staff's recommendation, yes, that the
8 new LECs be ordered and U S WEST and other incumbent
9 LECs be ordered to mutually compensate one another on a
10 payment in kind basis including EAS traffic between
11 each other.

12 Q. So ELI or MFS and MCI or TCG would not pay
13 access charges but if Metrolink wanted to return and do
14 business as an interexchange carrier to provide exactly
15 the same service it would pay an access charge to GTE
16 and U S WEST, wouldn't it?

17 A. Yes, probably so, and that seems like quite
18 a contradiction, but the rationale that I have in mind
19 is that staff recommends the Commission view the new
20 LECs as co-carriers and I don't think that the
21 operations proposed to be offered by US Metrolink
22 would so qualify them as co-carriers.

23 Q. Metrolink would have customers that it
24 signs up for its service --

25 A. A toll service. It's a toll substitute

02216

1 that they sold. They did not offer to their customers
2 local exchange services in loops and other network
3 services like the new LECs do.

4 Q. Is interexchange EAS a toll substitute when
5 it replaces a toll route?

6 A. Yes.

7 Q. And it's simply a matter of what the
8 customers charge, right?

9 A. Okay.

10 Q. US Metrolink was operating by charging on a
11 flat rate basis a quarter a call for an interexchange
12 call a form of EAS, wouldn't you agree?

13 A. No.

14 Q. Do you disagree with that because they
15 didn't comply with the EAS rule?

16 A. No, because what they were offering was --
17 you described it very well I think. They were
18 offering calls between areas that do not share EAS
19 with each other. They were offering interexchange
20 service, and you're mixing that with offering EAS
21 pursuant to the underlying topography of LEC,
22 incumbent LEC maps and EAS routes today.

23 Q. EAS by definition is interexchange, is it
24 not?

25 A. Yes, but it isn't overlapping -- bridging,

02217

1 overlapping EAS. That's a different thing in my mind.

2 Q. I understand. But you would agree that we
3 have a situation whereby deeming itself a local
4 exchange company one carrier would pay no access to
5 the interconnecting companies for providing the same
6 service as another company just because they propose
7 to provide it as an interexchange service instead of
8 an EAS service?

9 MR. BUTLER: May I ask a point of
10 clarification. Mr. Shaw is asking the witness to
11 assume that these providers are approaching or
12 operating with different local calling areas than the
13 incumbent local exchange carriers. This is a
14 hypothetical assumption other than what the entrants in
15 this case have concurred in doing?

16 MR. SHAW: I think I already made that
17 clear, that the new entrants have deemed greater
18 Seattle to be their local calling area.

19 MR. BUTLER: That's a presumption that
20 they're having different local calling areas than the
21 incumbent LECs?

22 JUDGE ANDERL: I understood this to be a
23 hypothetical. Before the witness answers, though, let
24 me just say, I apologize for having neglected to
25 mention we do need to break for lunch early today.

02218

1 Mr. Wilson can finish this answer and then we'll do
2 that if that's a good time to break for you, Mr. Shaw.

3 MR. SHAW: Fine.

4 A. I was doing pretty good until I started
5 thinking about lunch. Could you please restate the
6 question?

7 Q. I'm sympathetic. I'm with you. I'm not
8 too sure what question is pending.

9 JUDGE ANDERL: Why don't we just pick this
10 up after lunch.

11 (Lunch recess taken at 11:45 a.m.)

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AFTERNOON SESSION

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1:15 p.m.

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JUDGE ANDERL: Let's be back on the record
4 after our lunch break. Mr. Shaw, go ahead with your
5 cross of Mr. Wilson.

6

MR. SHAW: Thank you, Your Honor.

7

Q. Due to popular demand, Mr. Wilson, we're
8 going to finish this up real quick. Turn to page 20
9 of your rebuttal if you would, please. Do you have
10 that?

11

A. I'm on page 20.

12

Q. At lines 13 and 14 you say "and no
13 competitor should have to pay profits to its
14 competitor." Do you see that statement?

15

A. Yes.

16

Q. Do you have any authority in the economic
17 literature for a flat statement that no competitor
18 should have to pay profits to its competitor?

19

A. No, I don't, but the context of this
20 statement is when we're talking about Electric
21 Lightwave or TCG or MFS or MCI Metro or TelWest paying
22 profits to the bottleneck provider for monopoly
23 elements.

24

Q. Now, when two carriers, no matter how
25 disparate in size, need to interconnect to complete

02220

1 their own customers' calls to the customers of the
2 other company, both of those companies have bottleneck
3 facilities as to each other, don't they?

4 A. They both possess physical facilities which
5 are unique, but in the case of U S WEST and a new LEC,
6 U S WEST has substantial market power over end users
7 where the new LEC does not.

8 Q. The interconnecting carrier has to use the
9 other carrier's facilities to complete its calls,
10 correct?

11 A. Yes, but that by no means implies that the
12 new LEC has market power.

13 Q. That's a totally different question.

14 A. You're right.

15 Q. If the interconnecting carrier has one
16 customer that the other carrier's customers need to
17 call, by definition that carrier has bottleneck
18 facilities as to the other carrier, correct?

19 A. Assuming that the new LEC is the only
20 entity possessing a facility and that's the only
21 facility the customer is using, yes, you're right, but
22 that doesn't imply market power. You're ignoring the
23 stake that the hostage in the example has in the
24 situation.

25 Q. State that again.

02221

1 A. I'm referencing staff's comment filed in
2 the Electric Lightwave competitive classification
3 petition docket which is on appeal to the King County
4 court, and I understand that you're talking about an
5 issue which is under appeal, and that's been our
6 position, so I was referencing our comments.

7 Q. Instead of just reading your comment to me,
8 why don't you listen and answer my question.

9 A. The answer was a yes.

10 Q. Now, the market power issue is your
11 assertion that a dominant interexchange carrier that
12 is interconnecting with another exchange carrier in
13 this situation might have the ability to market away
14 all of the other carrier's customers and therefore
15 would not need to use that carrier if that carrier had
16 no customers, correct?

17 A. No. I was looking at the other side of the
18 coin where the new LEC does not have the ability to
19 hold their end users as hostages and collect ransom
20 for access to them, because we've ignored the stake
21 that the hostage has in the situation. They are not
22 experiencing abusive market power practices from that
23 new LEC. They have a choice. They can go somewhere
24 else, so in a sense, yes, U S WEST could compete those
25 away.

02222

1 Q. A new entrant's customers who have taken a
2 phone number from the new entrant are voluntary
3 customers of that new LEC, are they not?

4 A. I got a little hung up when we talked about
5 the phone numbers, but yes, they have through a free
6 choice, I assume, selected the new LEC for service.

7 Q. And they have free choice between selecting
8 the new LEC or the old LEC, correct?

9 A. I would assume so in most cases, yes.

10 Q. And in no sense are the customers of the
11 new LEC a hostage of the old LEC, are they?

12 A. Nor of the new LEC.

13 Q. Now, the American economy is replete with
14 examples of competitors that buy services from each
15 other. Wouldn't you agree?

16 A. I'm sorry. Could you restate that.

17 Q. Would you agree that the American economy
18 is replete with examples of competitors buying
19 services or facilities from their competitors?

20 A. Yes.

21 Q. And to just take a simple example, Chrysler
22 may buy engines from General Motors because they don't
23 have that type of engine that they want to install in
24 their car and resell their car with a General Motors
25 engine in it?

02223

1 A. I would assume so. I don't know very much
2 about the American auto industry.

3 Q. Let's take something you might know
4 something about. Boeing may in fact buy services or
5 products from Lockheed, one of its competitors, like a
6 tail subassembly for a 747 or whatever?

7 A. My understanding is that of any other
8 layperson. I assume that's the case but I don't know.

9 Q. And we can go on with many examples such as
10 that?

11 A. Probably.

12 Q. And you're not trying to say that when
13 competitors buy services or facilities from each other
14 that there is an economic principle that they cannot
15 charge profits to each other?

16 A. No, I'm not. I was trying to point out
17 that when the bottleneck service provider is offering
18 elements which these new competitors need in order to
19 compete, then I think it's inappropriate for them to
20 be required to pay contribution towards profits which
21 may be used against them then.

22 Q. And you also agree that as to each other
23 they both have bottleneck facilities that each company
24 has to use?

25 A. With the caveats that I've attempted to

02224

1 express, yes.

2 Q. Let me talk about how interconnection
3 between carriers would work in a bill and keep arena.
4 Assume with me that U S WEST has received legal
5 authority to provide interLATA service. Do you have
6 that in mind?

7 A. All right.

8 Q. And U S WEST Washington wishes to provide
9 for its customers interLATA toll service to New York.
10 Do you have that in mind?

11 A. Yes.

12 Q. Since it has no facilities outside of the
13 state of Washington, if you would assume that with me,
14 it would need to interconnect with another carrier to
15 transport and terminate that call in New York,
16 correct?

17 A. On the New York end of the call?

18 Q. And the distance from the Oregon/Washington
19 border to New York.

20 A. So we're assuming that U S WEST doesn't
21 possess an extensive network in its 14 states.

22 Q. Just for simplicity let's just use the
23 state of Washington.

24 A. All right.

25 Q. Now, would it be appropriate for U S WEST

02225

1 to tell that interconnecting carrier -- let's call
2 them AT&T -- that if you terminate all my originating
3 traffic from the state of Washington to New York I'll
4 terminate your calls to Washington?

5 A. I hadn't considered that before in the way
6 that you framed it. It's a hypothetical and on the
7 face of it I can't think of anything that's wrong with
8 that, but maybe you will show me.

9 Q. The logic of your position would be that
10 that should be a bill and keep arrangement without
11 regard to the disparate level of facilities that AT&T
12 would have to devote to that arrangement compared to
13 what U S WEST would devote to that arrangement?

14 A. Are you assuming that my recommendation on
15 behalf of staff that bill and keep be implemented
16 involves free use of -- that the facilities don't have
17 to be paid for? Our recommendation is with regard to
18 usage.

19 Q. Okay. And in my hypothetical U S WEST
20 would turn over the call at some sort of a meet point
21 interconnection at the Oregon/Washington border and
22 AT&T would carry the call on their facilities and
23 terminate it in New York and be responsible for the
24 terminating access charges if they were to turn it
25 over to yet another carrier, and, in return for the

02226

1 free use of AT&T's facilities in termination of that
2 call, U S WEST would terminate for free AT&T's
3 customers' calls to the state of Washington?

4 A. Well, they're not terminating for free.
5 It's payment in kind but -- let me see if I get this.
6 The point is that there's a whole nation of facilities
7 between Washington and New York which AT&T is
8 providing and is that fair when U S WEST is only
9 providing the Washington end of it? So you're saying
10 there's an imbalance on the facilities there.

11 Q. Well, my question is very simple which is
12 does the logic of your position on bill and keep
13 require that bill and keep be applied to the
14 hypothetical I just gave you?

15 A. It's a good question. On the one hand,
16 perhaps it may be, as we've heard here, that in the
17 instance of local interconnection it isn't the case
18 that we've got a lot more facilities as in your
19 example with AT&T, where in local competition maybe
20 the facilities are more balanced. I don't know.

21 Q. Do you understand that the four carriers
22 currently operating in downtown Seattle operate with a
23 switch, one switch and a fiber loop distribution plant
24 concentrated in downtown Seattle that may also
25 encircle Lake Washington?

02227

1 A. With regard to Teleport and Electric
2 Lightwave, yes, that's generally my understanding.
3 The extent of MFS's and MCI Metro's network in Seattle
4 now is something that I don't have very much
5 information about.

6 Q. Let's take the first two.

7 A. Yes.

8 Q. And you agree that U S WEST's network in
9 the greater Seattle free calling area is much more
10 extensive than the network of those two competitors?

11 A. Yes.

12 Q. You understand that there are private
13 networks in the state of Washington -- let's choose
14 one as an example, the Boeing private network with a
15 5E switch and extensive owned and leased facility?

16 A. Yes.

17 Q. That extends from Everett to south King
18 County connecting all their plant and locations?

19 A. I don't have specific knowledge but that
20 sounds about like what I've heard or believe is the
21 case.

22 Q. Now, would it be reasonable in your view
23 for Boeing, based upon the precedent that you're
24 urging the Commission to adopt here, to register as a
25 telecommunications company, file a tariff saying that

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1 they will provide service to nonBoeing-related
2 individuals where facilities permit and demand bill
3 and keep interconnection with U S WEST and GTE?

4 A. I can't answer your question regarding
5 precedent, which to me connoted legal undertones as a
6 lawyer, but I could see where such a circumstance
7 might arise. Whether that would be deemed to be fair,
8 I don't know.

9 Q. And the state of Washington scan network
10 could do the same and the federal government private
11 network could do the same?

12 A. Presumably.

13 Q. One of the over reaching goals of the
14 future of telecommunications is a network of networks.
15 Would you agree?

16 A. That's one of the stated goals. There are
17 others.

18 Q. And so in your view there should be no
19 distinction made between mutual compensation
20 arrangements between private networks and -- private
21 networks that hold themselves out incidentally to
22 serve the public -- and the common carrier networks of
23 traditional carriers like GTE and U S WEST?

24 A. I hope my answers don't serve as precedent
25 should that case come up, but generally I think that's

02229

1 what I said, yes.

2 Q. Is it a necessary corollary of the staff's
3 recommendation that the compensation arrangements
4 between existing LECs and cellular carriers should be
5 changed to a bill and keep arrangement?

6 A. To the extent that the access services that
7 cellular companies purchase from the incumbent LEC are
8 functionally the same as the access services that new
9 LECs would be billing and keeping for, I think that's
10 true.

11 Q. There shouldn't be any distinction made
12 just on the mere difference between wire line and
13 wireless technology, should there, given the future
14 prospects of significant wireless service?

15 A. Generally that's true. I think, though,
16 that is something that we haven't investigated in
17 great depth yet. I would mention that that's one
18 of the advantages that I saw in payment in kind is
19 that it's technologically neutral.

20 Q. So it's staff's position, I take it, that
21 the Commission should prescribe, to the extent of its
22 powers, bill and keep interconnection arrangements
23 between all carriers in the state of Washington,
24 including private networks that are incidental
25 carriers, and wireless carriers. Is that a fair

02230

1 summary of your testimony?

2 A. No. I think a fair summary of my testimony
3 would be within the scope of this proceeding, sir,
4 because that's how it was intended to be taken. It's
5 my understanding, though, that U S WEST does intend to
6 apply its local interconnection service tariff as
7 proposed eventually to incumbent independent
8 historical LECs, cellular providers, PCS providers, et
9 cetera, but not to private networks. And generally I
10 think staff is not uncomfortable with the notion of --
11 that the lines are blurring that distinguish different
12 types of carriers and technology, so it makes sense if
13 something is functionally equivalent to treat it the
14 same.

15 Q. So you're not quarelling at all with the
16 company's public policy concept in this case that
17 there should be an integrated access structure among
18 all interconnecting carriers in the future. Where you
19 do differ is instead of a payment in cash arrangement
20 you wish it to be bill and keep. Does that summarize
21 your testimony?

22 A. We are opposed to discrimination.

23 Q. Page 30 of your direct testimony. On this
24 generic list of prerequisites for local competition
25 that the staff has cited in many recent documents, I

02231

1 want to direct your attention to No. 11, intraLATA
2 equal access. Do you see that at line 15?

3 A. Yes.

4 Q. Now, by intraLATA equal access I presume
5 you mean one plus presubscription intraLATA?

6 A. Yes.

7 Q. Now, isn't it true that whether or not U S
8 WEST offers one plus presubscription to its local
9 exchange customers for intraLATA, any new LEC is
10 totally free to do that on their own, in other words,
11 inform their customers that when they dial one the
12 toll call will be routed, whether it's intraLATA or
13 interLATA, to the carrier of their choice?

14 A. With the assumption that the other ten
15 prerequisites have been dealt with, I will agree with
16 you that they are in more of a free position to do
17 that than they were before, but I would also note that
18 -- and I've tried to get better information about
19 this. I believe that for a new LEC to be able to do
20 that they must also be interconnected with the
21 interexchange carrier.

22 Q. And they are certainly free to do that.
23 U S WEST doesn't have anything to do with a new LEC's
24 interconnection with an interexchange carrier, do
25 they?

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1 A. To the best of my knowledge, no, other than
2 their provisioning of monopoly bottleneck service
3 elements that may be used in that process, but I do
4 not think that U S WEST is including interexchange
5 carriers if that's what you're asking.

6 Q. That isn't what I was asking. If a new LEC
7 has a switch on which all of its local exchange
8 customers home, that new LEC is totally free, just
9 like it was totally free to build its fiberoptic
10 network in the first place, to build transport to the
11 POPs of the interexchange carriers offering service in
12 the city of Seattle, aren't they?

13 A. Setting aside concerns that the staff has
14 about access to monopoly bottleneck elements -- and
15 also I think now we have to set aside a position which
16 U S WEST has adopted with regard to physical
17 colocation -- I don't know that the new LEC can compel
18 an interexchange carrier to interconnect with them.
19 They can build their facility to their POP but I don't
20 know that they can say, Now you have to let us into
21 your facility so that we can actually wire onto them.
22 That's somebody else's property is the way I've heard
23 the argument.

24 Q. I don't understand your answer. U S WEST
25 has nothing at all to do with the arrangements between

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1 a new LEC and an interexchange carrier, correct?

2 A. I understood that, but my point is that U S
3 WEST has a great deal to do with the access
4 environment in Washington, particularly as faced by
5 the interexchange carriers, so we're assuming that U S
6 WEST's situation has not given it any other
7 advantages. I will grant you that you're saying
8 Electric Lightwave built the facilities using their
9 own facilities, but the marketplace is not quite so
10 simple, is my understanding.

11 Q. I will ask the question again and see if
12 you can direct your attention to the question. New
13 entrants and interexchange carriers are totally free
14 to interconnect their networks through any
15 arrangements that they wish to make without involving
16 in any way at all U S WEST. Isn't that true?

17 A. I'm having problem with the totally free
18 part. I think that there are distortions in the
19 market that may condition your phrase totally free,
20 but yes, they are capable of building facilities to
21 meet one another.

22 Q. And if a new entrant has local exchange
23 customers that it wishes to enable to make toll calls,
24 either intra or interLATA, that new entrant can offer
25 one plus dialing to the interexchange carrier of their

02234

1 customer's choice, right?

2 A. Yes. Assuming they're interconnected with
3 the IXC.

4 MR. SHAW: That's all I have.

5 JUDGE ANDERL: Thank you, Mr. Shaw. Mr.
6 Potter, do you have cross for this witness?

7 MR. POTTER: Yes, a few, thank you.

8

9 CROSS-EXAMINATION

10 BY MR. POTTER:

11 Q. Good afternoon.

12 A. Good afternoon, Mr. Potter.

13 Q. If I can find the reference and pick up on
14 this last point. I recall you had a brief
15 Recommendation in your testimony about designated
16 carriers that --

17 A. Yes, I did.

18 Q. I think it was at your direct, page 21.
19 The question was, "Should U S WEST serve as a
20 designated toll carrier for the new LEC?" And if I
21 could boil it down you said yes, they should. And
22 then you have a similar answer for GTE. I wanted to
23 explore what that meant a little bit and now I'm
24 additionally curious in light of your last exchange
25 with Mr. Shaw. Would you agree with me that the

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1 designated toll carrier status that U S WEST has --
2 stick with them for the moment -- means that it
3 receives all the one plus dialed interLATA toll
4 traffic from a local exchange carrier customers within
5 the exchanges for which U S WEST is the designated
6 toll carrier?

7 A. Yes.

8 Q. And then the procedure is that U S WEST
9 itself, if it's talking about its exchanges, or the
10 other independent local exchange companies bill their
11 end users U S WEST toll rates and remit that revenue
12 to U S WEST, correct?

13 A. Yes. And I think there's some transfer of
14 payment for access.

15 Q. That was my last point. In exchange for
16 that between U S WEST and the independents U S WEST
17 pays the independents their tariffed access rates for
18 that toll traffic?

19 A. I think so. As I indicated earlier, I'm
20 not real familiar with U-85-23 or its application, but
21 that's my general understanding, yes, sir.

22 Q. Well, what was your understanding when you
23 answered these questions on page 21 of your direct
24 how the alternative local exchange carriers would fit
25 in with that arrangement?

02236

1 A. I had two things in mind. One was that U S
2 WEST has been named as the designated intraLATA toll
3 carrier under the conditions that you and I just
4 discussed, and the two things that I had in mind to
5 try and make a point of that is, first of all, staff
6 believes it's very important that new LECs be viewed
7 as co-carriers, and we feel that in this case U S WEST
8 should not discriminate between LECs; if they are
9 designated intraLATA toll carrier for independent
10 historical LECs then they should be for new LECs too,
11 and the basis for that statement comes from the
12 Commission fourth supplemental order in docket
13 UT-901029 in the Commission decision. The Commission
14 defined --

15 Q. Excuse me. Which docket?

16 A. 901029. That was the Electric Lightwave
17 registration application case. And in their
18 clarification in that docket the Commission agreed
19 with staff that intraexchange service is any
20 telecommunications service where -- and I'm
21 paraphrasing -- where both ends of the service offered
22 originate and terminate within an exchange, and then
23 it says, "all intraexchange service is subject to the
24 rights of the local exchange company unless the
25 communications are interstate." So it's my

02237

1 understanding that new LECs should be treated as local
2 exchange companies, as co-carriers,
3 nondiscriminatorily, and so that's why I wanted to
4 make the point that if they want to avail themselves
5 of that right, as I see it then U S WEST can't refuse
6 to be a designated intraLATA toll carrier.

7 Q. I see. So the option rests with the new
8 alternative carrier on whether it wants to select U S
9 WEST as its designated intraLATA toll carrier; is that
10 right?

11 A. I think it should, because I think that in
12 the case of any LEC, as GTE has done, if they want to
13 become their own intraLATA toll carrier they can ask
14 the Commission to let them do that, and it's my
15 understanding that Electric Lightwave and Teleport,
16 MCI Metro, MFS and TelWest all have authority to sell
17 interexchange services.

18 Q. Now, in the case of GTE we went through
19 quite a protracted case in order to become our own
20 toll carrier, wouldn't you agree?

21 A. Yes. GTE is a monopoly.

22 Q. So I gather then by that last comment
23 you're not suggesting that the alternative carriers
24 have to go through any such procedure; is that right?

25 A. Not unless there's some rationale for it.

02238

1 Q. So you say they're authorized to be
2 interexchange carriers. By that I assume you mean
3 they're registered as interexchange carriers?

4 A. They're registered as telecommunications
5 companies, is my understanding of the statute.

6 Q. What did you mean when you said they're
7 authorized to be interexchange carriers?

8 A. I meant they're authorized to provide that
9 service.

10 Q. How did they obtain that authorization?

11 A. In the case of Electric Lightwave, Electric
12 Lightwave obtained that authorization through a
13 petition to amend their registration application.
14 In the case of TCG, who has resubmitted a
15 registration application, I believe, that TCG asked
16 for and was granted a full range of authority. In the
17 case of MFS and MCI that's also my understanding. In
18 the case of TelWest they started out as an
19 interexchange carrier when they registered.

20 Q. That's what I thought, through the
21 registration process. Is it your recommendation then
22 that even those companies that have already received
23 authorization to be their own interexchange carrier
24 they should still have the option of compelling either
25 U S WEST or GTE to carry at least their intraLATA toll

02239

1 traffic?

2 A. Yes. I think it's a fine point, though;
3 that again my point was that new LECs should be
4 treated as co-carriers as other LECs, and as I said in
5 my testimony, I think that actually most of the new
6 LECs plan to become their own toll provider or maybe
7 not become toll providers at all and allow some other
8 interexchange carrier to serve. I really don't know
9 exactly. They may offer their customers multiple
10 picks.

11 Q. You would agree, however, that when the
12 designated toll carrier arrangement was ordered by the
13 Commission in the mid 1980s that there were no
14 competitive local exchange companies who had service
15 territories that overlapped other local exchange
16 providers, would you not?

17 A. I believe that's the case.

18 Q. Now, let's pick up on your phrase
19 co-carrier. I did have a couple of questions trying
20 to clarify what you meant by that. Am I correct that
21 in order for a telecommunications provider in
22 Washington to obtain the status of co-carrier it must
23 provide local exchange service?

24 A. If we're using the term co-carrier in the
25 context of the local exchange market, yes. I've seen

02240

1 tariffs where interexchange carriers name other
2 interexchange carriers as co-carriers also, but for
3 purposes of this proceeding, yes.

4 Q. So companies are co-carriers, are they,
5 when they cooperate in order to provide the same type
6 of service? Would that be an accurate
7 characterization?

8 A. No. I had in mind more a definition where
9 the two carriers participate together in the
10 completion of a service.

11 Q. So then back to Mr. Shaw's example of U S
12 WEST handing off a call to New York and maybe it
13 should be to Rochester, New York. Then in that
14 scenario you would consider U S WEST and AT&T to be
15 co-carriers; is that right?

16 A. No, I really didn't.

17 Q. Aren't they cooperating to provide service
18 in that case?

19 A. There you go. I made a definition that's
20 like trying to weave a fishing net. Sometimes you
21 catch minnows and sometimes you catch whales if your
22 definition isn't good, and that one needs more work.

23 Q. This is my concern because as I read your
24 testimony if a carrier somehow assumes the appellation
25 co-carrier then it becomes entitled to a bill and keep

02241

1 arrangement with other carriers; is that correct?

2 A. I think that as the Commission authorizes
3 new local exchange companies to operate that they will
4 have that in mind.

5 Q. They will have which in mind?

6 A. The fact that bill and keep will be the
7 method, mutual compensation for local interconnection
8 usage when it's local interconnection between two
9 local exchange companies and they'll realize that, and
10 I doubt if the Commission is going to right off the
11 bat say that that means that AT&T gets to bill and
12 keep long distance traffic, too.

13 Q. So for the time being anyway you're using
14 co-carrier simply to apply to companies that will
15 exchange local traffic; is that right?

16 A. I like that idea, yeah.

17 Q. Mr. Shaw did cover a number of my points.
18 I had some similar definitional questions. In your
19 rebuttal testimony, page 37 in the Q and A that starts
20 about line 13 you're talking about unbundling monopoly
21 services. Do you have that?

22 A. Yes.

23 Q. You have a sentence starting on line 16,
24 says, "There are no feasible alternatives to monopoly
25 service provided by the incumbent LEC." So do I take

1 it that that your recommendation is that whenever an
2 incumbent LEC's given service is deemed to be a
3 monopoly service then the Commission should require it
4 to be unbundled?

5 A. Yes, if the monopoly service is one of the
6 basic network functions or subelements that I
7 described in my testimony, and it's necessary for a
8 competitor to get that service.

9 Q. Could you refresh my recollection where in
10 your testimony you describe those elements that would
11 qualify for unbundling?

12 A. Yes, just a minute. I think it's later on
13 in my testimony.

14 Q. 39?

15 THE WITNESS: Thank you, yes.

16 A. It's page 39. I start out with a list of
17 basic network functions on page 39 and continue on
18 pages 40 and 41 on subelements.

19 Q. So is it correct you consider all of those
20 elements to be monopoly service then; is that right?

21 A. Yes.

22 Q. Back to your sentence on line 13 at page
23 37. You have the phrase "no feasible alternatives" in
24 there. So do I gather, then, that your test for
25 whether something should be unbundled is, one, whether

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1 it's a monopoly service, and two, whether there are
2 any feasible alternatives. Is that right?

3 A. Also, I tried to make the point that the
4 unbundling has to be -- I think I termed it -- a good
5 business decision for the Commission to require an
6 incumbent LEC to do unbundling. I don't think the
7 Commission should put a small independent LEC out of
8 business trying to accomplish that goal if it's very
9 expensive, et cetera. Something along the lines of
10 what Mr. Smith has put in his testimony, although we
11 may have a little disagreement on a few fine points.

12 Q. With that designation, then your test for
13 whether something should be unbundled would be
14 something like is it a monopoly service, are there
15 feasible alternatives and would it put the LEC out of
16 business to requirement?

17 A. Yeah, and I'm also thinking of a bona fide
18 request being something else that would have happened.

19 Q. I want to explore what you had in mind by
20 feasible alternatives. Do you have any definition of
21 that that would be helpful in applying your concept to
22 a particular situation?

23 A. What I had in mind at that time was Andy
24 Lippman, an attorney for MFS, had sent me a copy of a
25 petition for rulemaking on unbundling that MFS filed

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1 at the FCC, and in it I thought that he did a great
2 job of showing that there are in fact elements of the
3 local network which are monopoly elements, and for
4 which it is not feasible for competitors to acquire
5 those in another way. They have to get it from the
6 local phone company. For example, it isn't feasible
7 for a new entrant to go out and attempt to string
8 poles and wire throughout the city of Seattle when
9 there's already a set there. PCS and wireless are not
10 yet feasible alternatives.

11 Q. Well, I'm sorry, you're defining feasible
12 for me by telling me it means feasible. Could you be
13 any more specific than that?

14 A. I had in mind whether it was physically or
15 economically possible then. I'm sorry, I didn't know
16 that we were going to have a rule about using the term
17 in the definition.

18 Q. Well, it's an important term, wouldn't you
19 agree, because it's crucial to whether local exchange
20 company does or does not have to do something?

21 A. Yes.

22 Q. The physical feasibility aspect of it, you
23 have here in your answer the example about local
24 loops, so is there anything about an alternative local
25 exchange carrier building its own local loops that

1 would involve a physical feasibility issue?

2 A. Right-of-way comes to mind. Pole
3 attachments, building entrances, as well as other
4 local ordinances which may make it difficult for a new
5 entrant to construct their own distribution
6 facilities. For example, I was talking with a city
7 manager in Bellevue and he was telling me about -- I
8 don't know if this is a law yet in Bellevue or not,
9 but he was telling me that there was something called
10 a beautiful cities ordinance. I don't know if it's
11 actually a law yet or not, but the concept was that
12 Bellevue doesn't want utilities adding more poles and
13 wires to the landscape, and they want new facilities
14 to go in underground. To do that requires cutting
15 streets, driveways and so on and is very expensive.

16 Q. Well, I think --

17 A. So I tried to describe to you a situation
18 where it was not economically or practically possible,
19 i.e., not feasible to construct distribution.

20 Q. You gave me feasible in terms of physical
21 and economic feasibility and I was trying to confine
22 our discussion at the moment to physical. You seem
23 to have slipped back over into economic again.

24 A. Sorry, I'm an economist.

25 Q. You're not a physicist. Well, since that

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1 seems to be the focus of your definition let's go over
2 to that economic. How can we tell whether something
3 is economically feasible for -- how can we tell
4 whether it's economically feasible for an alternative
5 carrier to construct or otherwise obtain its own local
6 loops from a source other than -- let's stick with the
7 downtown Seattle and U S WEST?

8 A. Analyze the specific case.

9 Q. What criteria would you use to analyze
10 that?

11 A. I hadn't really gotten that far, but
12 perhaps we could rely upon the statutory descriptions
13 of what constitutes a competitive telecommunications
14 service, and look at RCW 80.36.330 for some guidelines
15 on determining what is competitive and what isn't.

16 Q. Can you be any more specific on how that
17 will help us to determine whether it is economically
18 feasible were an alternative company to construct or
19 obtain its own local loops?

20 A. No. I think that the statutory criteria
21 are quite specific and could be implemented.

22 Q. Let's take downtown Seattle for an example
23 to test this. I believe you -- in answer to a
24 question from Mr. Shaw you agreed that at least to
25 your knowledge Electric Lightwave and TCG had

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1 constructed networks in downtown Seattle; is that
2 correct?

3 A. Yes.

4 Q. Does the fact that they have constructed
5 networks in downtown Seattle indicate to you that at
6 least in downtown Seattle it is feasible for an
7 alternative carrier to obtain local loops from a
8 source other than U S WEST?

9 A. Yes. They've demonstrated that physically
10 a risk taker can do that. I'm very concerned, though,
11 that policy enable them to be sustainable in the long
12 run so that the benefits of competition may accrue to
13 all consumers.

14 MR. POTTER: All my questions. Thank you.

15 JUDGE ANDERL: Thank you, Mr. Potter. Does
16 any other party have cross for this witness? Mr.
17 Finnigan.

18

19 CROSS-EXAMINATION

20 BY MR. FINNIGAN:

21 Q. Good afternoon, Mr. Wilson.

22 A. Hello, Mr. Finnigan.

23 Q. Would you turn to page 28 of your rebuttal
24 testimony, please.

25 A. Yes.

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1 Q. At lines 7 and 8 you have a statement that
2 "Further, as I have already noted, additional high
3 measurement costs are inefficient and unfair." Do you
4 see that testimony?

5 A. Yes.

6 Q. Are you familiar with the data distribution
7 center that's being developed to fulfill the
8 Commission's order in the primary toll carrier cases?

9 A. Generally, yes, I am, and a little bit more
10 so now that I've started working on this case and read
11 some of TT and WITA's testimony.

12 Q. And in addition information was provided to
13 you in response to staff discovery requests concerning
14 the manner in which that system works and the
15 development process. Is that true?

16 A. That's right.

17 Q. And that process uses a CABS record process
18 which is an existing format local exchange companies
19 use; is that correct?

20 A. We're just about to the level of my depth
21 of my understanding. Yes, that I think is right.

22 Q. And do you also understand that the current
23 proposed rate for processing those records is five
24 one-hundredths of a penny per message?

25 A. Yes, and also that that might go down if

1 volume goes up.

2 Q. Thank you. At page 30 of your testimony,
3 rebuttal testimony, starting at line 13 and going over
4 to the next page, you talk about a situation in which
5 customers were whipsawed between PBX and Centrex
6 solutions. Do you see that testimony?

7 A. Yes.

8 Q. Do you have any evidence that any of WITA's
9 members were involved in any such activity that you
10 describe here?

11 A. No, I don't have any evidence like that.

12 Q. I would like to go to some questions that
13 you were asked about by Mr. Shaw on carrier of last
14 resort. Do you have that conversation in mind
15 generally?

16 A. Generally. After nine days of hearing I'm
17 not sure what I still have in my mind.

18 Q. I can understand that. The new entrant,
19 the new LECs that are going through the registration
20 process are generally being granted statewide
21 authority. Is that true?

22 A. Yes.

23 Q. Do you know of anything that would prohibit
24 one of those new LECs from designating the entire
25 state of Washington as their local calling area?

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1 A. No.

2 Q. For those new LECs with statewide
3 authority -- take an example of Louis River Telephone
4 Company. They serve a fairly rural area called the
5 Cougar exchange, which is in the foothills of Mr. St.
6 Helens?

7 A. Is that out by Libby Creek?

8 Q. Not as far as I know, but would you accept
9 that it's a rural exchange in southwest Washington?

10 A. Yes. I don't know anything about it,
11 though.

12 Q. Well, assume that Louis River decided that
13 it wanted to stop serving the Cougar exchange. Do you
14 believe the Commission could require one of the new
15 entrants that has statewide local authority to step in
16 and provide service?

17 A. Yes. Whether that would work out or not, I
18 don't know. It's a rather farfetched example in my
19 mind.

20 Q. And what would be the basis of the
21 Commission's authority to order one of the new
22 entrants to provide service?

23 A. RCW 80.36.090, I think, is the obligation
24 to serve statute, but I'm not an attorney.

25 Q. I'm just asking for your understanding and

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1 that's your understanding?

2 A. Yes.

3 Q. Would you look at page 30 of your direct,
4 if you would, please.

5 A. Okay.

6 Q. Focusing on your list of prerequisites for
7 effective local competition.

8 A. Yes.

9 Q. Do you mean to imply here that -- taking a
10 look at item 8. Do WITA members have any control over
11 number resources?

12 A. If you're asking me is it my understanding
13 that U S WEST is the current CO code administrator,
14 if that's my understanding?

15 Q. No. I'm asking you just the reverse.
16 I'm asking you if WITA members have any control over
17 --

18 A. With regard to CO code administration, I
19 don't believe they do.

20 Q. Are you aware that, looking at item No. 5,
21 control over network databases. Are you aware that
22 WITA members need to purchase access to network
23 databases such as LIDBE and 800 databases?

24 A. I'm not surprised.

25 MR. FINNIGAN: Thank you. That's all my

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1 questions.

2 JUDGE ANDERL: Thank you, Mr. Finnigan.

3 Mr. Kopta, did you have your hand up?

4 MR. KOPTA: Yes. May I approach the

5 witness?

6 JUDGE ANDERL: Yes.

7

8 CROSS-EXAMINATION

9 BY MR. KOPTA:

10 Q. Afternoon, Mr. Wilson.

11 A. Good afternoon, Mr. Kopta.

12 Q. I just placed a document in front of you.

13 Do you recognize this document?

14 A. I've seen it being carried around the
15 building today.

16 Q. Have you reviewed this document?

17 A. I've glanced through the cover letter and I
18 have looked at original sheet 83.4 briefly.

19 Q. Is it your understanding that this is a
20 tariff revision filing by U S WEST for a business
21 exchange service that was recently approved by the
22 Commission, recently being yesterday?

23 MR. SMITH: Can I have clarification what
24 you mean by approved?

25 MR. KOPTA: Well, it was on the

1 Commission's open docket. Specifically on the consent
2 -- item on the consent agenda in docket UT-95067.

3 MR. SHAW: Your Honor, can I get a
4 statement from counsel on what the point of this cross
5 is? I think clearly that staff is not adverse to ELI,
6 and I am not quite sure why we're putting in U S WEST
7 tariffs through the staff witness by ELI on
8 cross-examination. It may not be objectionable, but I
9 think a statement of what he proposes to show by this
10 would determine whether or not it's a proper line of
11 questioning.

12 MR. BUTLER: Unless something has happened
13 that I am not aware of --

14 MR. SHAW: I'm sorry. You're all from the
15 same firm half the time.

16 MR. BUTLER: Not unless something else has
17 happened.

18 MR. SHAW: I stand corrected.

19 JUDGE ANDERL: Okay. Mr. Kopta, can you --

20 MR. KOPTA: Clarification of this is that
21 this is something that I only became aware of, or at
22 least the nature of this particular filing I only
23 became aware of today and this is the only opportunity
24 of which I am aware that it can be placed in the
25 record.

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1 CHAIRMAN NELSON: What is it?

2 JUDGE ANDERL: Tell us what it is.

3 MR. KOPTA: It's U S WEST's tariff filing
4 for custom choice service which is a business exchange
5 service that -- flat-rated exchange service which
6 utilizes central office technology and includes a
7 flat-rated line with standard fees is how it's
8 described.

9 MR. SHAW: Well, Your Honor, to save the
10 record, I just don't see the relevance to it. I don't
11 recall anything in the direct testimony about
12 this. Clearly U S WEST has offered a business service
13 that's bundled with some vertical services and we'll
14 stipulate to that but I don't see the relevance at
15 all.

16 JUDGE ANDERL: I am afraid I am not seeing
17 it yet either.

18 MR. KOPTA: Well, the relevance is that it
19 has a negative impact on rates. In other words, it
20 is a lower priced business service which impacts the
21 current weighted tariff rate used in Mr. Purkey's
22 imputation test.

23 MS. PROCTOR: I think it's also relevant to
24 the testimony that the witness gave this morning
25 comparing business rates, and, as I recall the

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1 question it was something about the fact that business
2 rates were roughly twice residence rates and business
3 rates are making a phenomenal contribution. This new
4 service clearly does not -- isn't priced at that
5 level.

6 JUDGE ANDERL: And so I guess maybe you
7 would rather ask U S WEST witnesses about this but
8 they're not here any more and so you're going to ask
9 Mr. Wilson.

10 MR. KOPTA: Basically.

11 JUDGE ANDERL: I will allow the question.

12 MR. KOPTA: Thank you.

13 A. Help me out. What's the question?

14 Q. I'm formulating it even as we speak.

15 Thanks. Is it your understanding that this tariff
16 revision involves a business exchange service?

17 A. Yes.

18 Q. And that the company being U S WEST
19 estimates the annual revenue impact for the filing as
20 a negative \$297,284?

21 A. Yes.

22 Q. In light of the fact that this is a
23 negative revenue impact, would that mean to you that
24 the service is at a lower rate than other current
25 business services offered by U S WEST?

1 A. Yes.

2 Q. Have you reviewed Exhibit C-76 which is the
3 1995 Washington imputation test price floor analysis
4 prepared by Mr. Purkey on behalf of U S WEST?

5 A. Somewhat, yes.

6 MR. SHAW: I will object again. This is
7 beyond anything in his direct that I am aware of and
8 it does seem to be friendly cross in addition.

9 MR. KOPTA: Well, I am simply laying some
10 foundation, Your Honor, and on pages 29 through 30 of
11 Mr. Wilson's rebuttal testimony he does deal with the
12 issue of imputation, and obviously since Mr. Purkey
13 didn't file this particular exhibit until everyone
14 else filed rebuttal Mr. Wilson had no opportunity to
15 include any analysis of Mr. Purkey's exhibit in his
16 rebuttal testimony.

17 MR. SHAW: I will renew my objection.
18 Obviously TCG is trying to make Mr. Wilson their
19 witness and it's improper cross. He's trying to
20 redirect the witness.

21 JUDGE ANDERL: Well, given the timing and
22 approval of this tariff filing and the stage we are in
23 the hearing I think I will make an allowance here and
24 let Mr. Wilson testify about this. Go ahead, Mr.
25 Kopta.

1 MR. KOPTA: Thank you, Your Honor. May I
2 approach the witness?

3 JUDGE ANDERL: Yes.

4 Q. Mr. Wilson, I've handed you a copy of
5 the page 1 of 4 of Exhibit C-76 and if you will draw
6 your attention to line 21.

7 MR. SHAW: Does he have any more copies of
8 this handy?

9 MR. KOPTA: I assumed since it was your
10 sponsored exhibit that you have a copy.

11 JUDGE ANDERL: That's the DP-2, C-76.

12 MR. KOPTA: If you need a copy I can give
13 you this one.

14 Q. On line 21 of this exhibit, Mr. Wilson, do
15 you have an understanding of the term current weighted
16 tariff rate?

17 A. I believe that means that at line 21 the
18 figure shown is a weighted tariff rate for all
19 business statewide, so it includes a weighted average
20 of flat measured business lines, PBX trunks, digital
21 switched service, public access lines and Centrex
22 NARS.

23 Q. And by current would you understand that to
24 mean that it was current as of the time that Mr.
25 Purkey prepared it?

1 MR. SHAW: Objection. I don't see how the
2 witness could possibly know that.

3 JUDGE ANDERL: I think that will just have
4 to speak for itself. It would be speculative, I
5 think, on Mr. Wilson's part.

6 Q. Assume for me, if you will, that in
7 calculating the current weighted tariffed rate Mr.
8 Purkey used only tariff rates which were in effect at
9 the time that he prepared that particular figure.
10 Would you assume that for me, please?

11 A. All right.

12 Q. Advice No. 2660T, which is the document I
13 handed you previously, was not approved until
14 yesterday which was after Mr. Purkey had testified; is
15 that correct?

16 A. Well, I heard an objection earlier about
17 the term approved, but I know that it was on
18 yesterday's consent agenda and it passed.

19 Q. With that clarification.

20 A. And that was after Mr. Purkey testified,
21 yes.

22 Q. And you earlier stated that this is a lower
23 tariffed rate. Would that also lower the current
24 weighted tariff rate if it were included in that
25 calculation?

1 MR. SHAW: Objection. That totally
2 mischaracterizes the tariff. The tariff is an offer
3 for a flat rate, a business service together with
4 some vertical services. There's no evidence that
5 there is a lowered tariff rate for the business
6 service. I think intuitively the rates are lower than
7 the individually tariffed rates for the vertical
8 services. I object that he is totally
9 mischaracterizing and has failed to lay a foundation
10 on what precisely U S WEST proposed and the Commission
11 accepted.

12 JUDGE ANDERL: Mr. Kopta, I'm not sure you
13 can get there with just that question.

14 MR. KOPTA: Well, unfortunately, all we
15 have here is the filing itself as opposed to any
16 supporting cost data and so we're a little bit
17 hamstrung as far as knowing what is assignable to
18 what. My understanding is simply from looking at this
19 document, and of course it will speak for itself, that
20 it is a lower priced business service. Now, it may be
21 that it also includes some other vertical services.

22 JUDGE ANDERL: Well, to the extent that we
23 don't have that detail and without speaking for Mr.
24 Wilson -- I suspect that you may not be able to get it
25 from him -- I wonder if this is just an argument you

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1 could make on brief with the evidence you already have
2 in. I don't want to spend too much more time on this.

3 MR. KOPTA: That's understandable, Your
4 Honor.

5 MS. PROCTOR: Your Honor, I think the
6 Commission can take official notice of its tariffs,
7 can't it?

8 JUDGE ANDERL: Yes.

9 MS. PROCTOR: So we could just take
10 official notice of this advice letter and then we have
11 the imputation study and to the extent that it
12 contains monthly rates of \$25 and discounts we can
13 compare that.

14 JUDGE ANDERL: Is there any objection to
15 the Commission's taking official notice of that filing
16 which was apparently approved and passed on
17 yesterday's consent agenda?

18 MR. SHAW: I will object whether it comes
19 in as official notice or through this witness, and I
20 object. I don't think there's been any allowance
21 through this witness as to any issue in this case. As
22 far as I can tell what counsel is trying to do is
23 saying that U S WEST unilaterally lowered its business
24 rate. This service was filed yesterday. There's no
25 evidence that there's even any customers, for one

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1 thing. There's no evidence compared to what business
2 rate. It's a new service and it's at a stated rate in
3 the tariff, and I just don't see how it at all
4 affects line 21 on C-76 because there's no evidence
5 that Mr. Purkey included any kind of a line bundled
6 with vertical features as part of his weighted
7 average. It's apples to oranges and it's cluttering
8 the record. I will stipulate that U S WEST will
9 routinely file new tariffs for new services that might
10 have a projected negative revenue impact on it because
11 they're on a promotional basis if that's the point.

12 JUDGE ANDERL: Mr. Kopta, do you need to go
13 any further with this then?

14 MR. KOPTA: Well, no more than simply
15 having the Commission agree to take judicial notice
16 and we can make these arguments on briefs as opposed
17 to here.

18 JUDGE ANDERL: To the extent there would be
19 an objection to the Commission's taking official
20 notice of that it's overruled.

21 MR. KOPTA: Thank you, Your Honor. I have
22 nothing further.

23 JUDGE ANDERL: Mr. Butler.

24

25 CROSS-EXAMINATION

1 BY MR. BUTLER:

2 Q. Mr. Wilson, you were asked a series of
3 questions by Mr. Potter regarding the determination of
4 feasibility of obtaining things such as loops from
5 alternative sources as an incumbent local exchange
6 company and specifically he asked you about whether
7 the fact that some of the new entrants represented in
8 the proceeding today had constructed networks in
9 downtown Seattle and you indicated that it was
10 feasible for them to obtain loops from alternative
11 sources. My question to you is, does the fact that
12 some of those new entrants have constructed networks
13 in downtown Seattle tell you anything about the
14 feasibility, economic or physical, of their gaining
15 entry to buildings, access to conduit or riser cable
16 in the buildings?

17 A. No.

18 JUDGE ANDERL: Ms. Weiske?

19 MS. WEISKE: I had the same question.

20 JUDGE ANDERL: Ms. Proctor?

21 MS. PROCTOR: One question.

22

23 CROSS-EXAMINATION

24 BY MS. PROCTOR:

25 Q. I guess actually it will be two. Mr.

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1 Wilson, does staff have an opinion or position on the
2 stipulation submitted by the interexchange carriers
3 about a week ago?

4 A. Yes.

5 Q. Would you be willing to share that with us?

6 A. That's two.

7 Q. Would you state that position.

8 A. We've reviewed the stipulation and we feel
9 that the stipulation is not disconsonant with the
10 staff's recommendations in this case. I would
11 indicate that the notion of putting contribution into
12 the CCL charge is one that causes us a little bit of
13 concern because the CCL is a cost recovery bucket with
14 a specific definition. And we are not too certain
15 that it's a good idea to mix other -- mix revenues
16 from other buckets in with the CCL bucket. So with
17 that slight reservation in regard to that one
18 stipulation. Otherwise we're not opposed to the
19 stipulation.

20 MS. PROCTOR: Thank you.

21 JUDGE ANDERL: Any other cross for this
22 witness?

23 MR. SHAW: I have one question.

24 JUDGE ANDERL: Mr. Rindler hasn't had a
25 chance to go yet.

1

2

CROSS-EXAMINATION

3 BY MR. RINDLER:

4

Q. Mr. Wilson, I wanted to clarify your

5

discussion with Mr. Shaw of one of the examples,

6

a situation in which U S WEST has been granted the

7

authority to provide interLATA service, was only going

8

to provide it -- was only going to have facilities

9

within the state of Washington and then was going to

10

interconnect with some carrier to reach New York. Do

11

you recall that? Do you recall that discussion?

12

A. Yes, I do.

13

Q. In that circumstance would U S WEST have a

14

choice of carriers to interconnect with?

15

A. I believe so, yes. They would have many

16

choices perhaps.

17

Q. One other aspect of that example. Isn't it

18

true that with respect to toll traffic such as that in

19

Mr. Shaw's hypothesis that the proposal that staff has

20

made and the applicants have made is to pay switched

21

access charges?

22

A. Could you please re-ask that.

23

Q. Is it your understanding that bill and keep

24

as proposed by various parties in this proceeding is

25

limited to the termination of local calls?

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1 A. Yes.

2 MR. RINDLER: Thank you. I have no further
3 questions.

4 JUDGE ANDERL: Mr. Shaw, do you want to go
5 now or wait until after redirect?

6 MR. SHAW: I was way out of line. I lost
7 track of where we are.

8 JUDGE ANDERL: Well, that happens to me
9 sometimes, too.

10 No further cross. Then we'll go to
11 questions from the commissioners.

12

13 EXAMINATION

14 BY CHAIRMAN NELSON:

15 Q. Mr. Wilson, what's your view of where we
16 are with respect to the cost studies?

17 A. I'm glad you asked me that. I wanted to
18 try to describe specifically for you what staff's
19 concern with the cost study is that we've been unable
20 to resolve and I wanted to talk to you also further
21 about Dr. Selwyn's recommendations for some rules on
22 cost studies as well.

23 Q. Well, rather than repeating what might
24 already be in the record, I guess I can be a little
25 more specific. There remains outstanding issues on

1 the assumptions of the studies that have been
2 produced, assumptions underlying the studies that have
3 been produced?

4 A. There are several studies in the record
5 which rely upon, in our view, incorrect suppositions
6 that have not yet been rerun. We have had other
7 studies that are in the record that have been rerun
8 using staff's assumptions on cost of money,
9 depreciation, et cetera, and staff's recommendations
10 incorporate cost information. We rely on cost
11 information that is derived from our assumptions,
12 although I would say that perhaps the biggest problem
13 that I see with the cost study work so far relates to
14 Mr. Farrow's Exhibit 73, and I drew that carefully the
15 other day and I've made a copy of that that we could
16 look at since all he had was a large sheet, and I
17 don't know that's been entered as an exhibit yet, but
18 our concerns with the cost studies have to do with the
19 way the models work and how they calculate shared
20 residual cost, and I would love to talk about that
21 more if you would like.

22 I made a drawing that's exactly the same
23 thing as Mr. Farrow's exhibit and I can show you why
24 the cost studies do not resolve the concern of how
25 excess capacity is addressed and how shared residual

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1 costs are addressed, and so there's a real problem
2 with that in having confidence in the cost studies,
3 and it stems primarily from lack of access to that
4 information to where we can reasonably understand the
5 models.

6 Q. Well, page 15 of your rebuttal testimony,
7 you end up saying that that's where we are. It seems
8 to me we're in kind of a limbo and my question to
9 myself was, What do we do now? I've asked a couple
10 of the other economists if in their view the studies
11 could be produced by the company that would satisfy
12 them within 30 to 90 days I guess we have now. Do you
13 think that's possible for the company to do?

14 A. No, I don't think it's possible for the
15 company to redo the studies in a way that will satisfy
16 the majority of the concerns. The things that I would
17 like to recommend that be done differently would be,
18 number one, full disclosure of information. I don't
19 think you're going to find any economists or others
20 who want to testify about a cost study if they haven't
21 actually seen exactly how it works. And we've asked
22 to have the cost study models provided to us on PC-
23 ready computer disks so that we can see all of the
24 formulas, and those formulas are very important
25 because they specify allocation of joint and common

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1 costs, so we need to have full disclosure. We need to
2 have the actual models. Everybody needs to have it on
3 a disk, the same one.

4 Another thing -- and that could be done
5 right away. As we cross-examined Mr. Farrow the other
6 day he revealed that indeed U S WEST's analysts were
7 able to carry that model around with them on a laptop
8 computer, a notebook size computer, and so that could
9 be accomplished right away.

10 Consistent assumptions need to be employed,
11 and generally speaking U S WEST has been pretty
12 consistent as far as we can tell not having seen the
13 actual formulas in the models, but if we're going to
14 change the assumptions to, for example, use the proper
15 cost of money assumption it's my understanding that
16 possibly that may take a little bit longer for U S
17 WEST to change the models to do that. I've seen
18 indications that it doesn't take very long at all, but
19 I'm being told that it takes quite a long time to go
20 into some of the larger databases and make large
21 changes. I don't know if that's true or not.
22 Depreciation is another area where --

23 Q. And fill. I understand. The record is
24 replete with these complaints back and forth. What
25 I'm trying to get at is what does the Commission do

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1 now? What do we order? What's your final
2 recommendation?

3 A. Well, I would recommend that you order the
4 company to price its services at issue in this case at
5 ASIC using staff's assumptions and we've provided
6 those figures.

7 Q. Those are with the 33 percent discounts,
8 the admittedly arbitrary? Is that your final
9 recommendation?

10 A. The estimates for average service
11 incremental cost or TS LRIC, ASIC, those estimates
12 that come using staff assumptions are basically 33
13 percent lower than estimates using U S WEST's
14 assumption. When you use the right cost of money and
15 the right depreciation it's cheaper to provide the
16 service, it's estimated, so the 33 percent is what I'm
17 referring to there is that's how much our figure is
18 different from theirs, and I don't think that's a bad
19 recommendation given the problems with how shared
20 residual costs are being calculated.

21 Q. So your recommendation is unbundle given
22 whatever permutations we come out with on this record?

23 A. Yes.

24 Q. And then we'll price them at U S WEST ASIC,
25 is that your final recommendation, plus the discounts

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1 that are described somewhere in your rebuttal
2 testimony?

3 A. Right. Additionally I think it would be
4 fair to say that some markup be allowed so they can
5 mask their costs from disclosure. I mean, if we're
6 pricing at ASIC and that's known then we've
7 essentially disclosed their cost structure so there
8 needs to be some difference there.

9 Q. Well, I think I will leave that for now.
10 I'm curious about your recommendation at page 37 with
11 respect to small incumbent LECs. Is it staff's
12 position that because they're small the costs of
13 interconnection might be high?

14 A. If in fact that were found to be true that
15 would be a concern of ours. We would not, I think,
16 recommend that small independent LECs be forced to
17 unbundle if it's not an economic business decision to
18 make them follow. They've told us that it's very,
19 very expensive for them to do tariff writing, to do
20 cost studies and to consider unbundling, that lots of
21 study and work needs to go into it and for them
22 without large staffs that's expensive. And I don't
23 recommend that we cause the rates to go up as a
24 result. Competition should make everyone better off.

25 Q. Well, are we saying that -- are we

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1 prejudging that with competition the consumers in the
2 small LEC service territories aren't going to get the
3 diversity of supply that their city cousins are going
4 to get?

5 A. No, I hope not. I'm just saying that we
6 should really be sensitive to the issue that
7 independent LECs have expressed that it could be very
8 burdensome to them, and we need to look at that on a
9 case by case basis, I believe, but I certainly don't
10 mean to imply that the benefits of competition should
11 not come to rural Washington.

12 Q. So it's legitimate in your mind to have
13 case by case analysis for the small LECs but not for
14 the two largest in the state?

15 A. I think that the two largest companies can
16 bear the burden of unbundling.

17 CHAIRMAN NELSON: I have nothing further at
18 this time.

19

20 EXAMINATION

21 BY COMMISSIONER HEMSTAD:

22 Q. Mr. Wilson, at page 22 of your direct
23 testimony starting at line 9, when you say, "First,
24 the extent to which incumbent LECs such as U S WEST
25 and GTE must allow resale and unbundle links and ports

1 should be explored further by the stakeholders in this
2 proceeding." That's in your initial testimony.
3 Then in your rebuttal at pages 38 -- 37, 38 and 39,
4 you review the recommendations of the parties. Do I
5 take it from this that we should take -- well, is it
6 your testimony at this point that there is a specific
7 list of services -- AT&T references them as basic
8 network functions and others -- that the Commission
9 should now order be unbundled or do you continue to
10 recommend that there be some kind of further
11 exploration by the stakeholders as to what should be
12 unbundled?

13 A. I think that with regard to the link and
14 port unbundling that that should be ordered right
15 away, and I think that it would be a good idea to have
16 a second phase in the proceeding to look at unbundling
17 for the remaining basic network functions.

18 Q. And out of that would come a further order
19 or do you anticipate that that would then be dealt
20 with on a case by case basis?

21 A. I would recommend phase 2, a further order.

22 Q. Do you have an opinion as to whether we
23 have the authority to enter such an order?

24 A. My opinion is that you do.

25 Q. On page 22 of your direct testimony you

1 have an extended footnote with regard to agreement
2 between Ameritech and the Justice Department where
3 apparently unbundling was a trade-off in effect with
4 the opportunity given to Ameritech to pursue or to
5 have access to the interLATA competition. Do you see
6 the issue of unbundling as relating to a possible
7 future AFOR arrangement with U S WEST here?

8 A. Absolutely.

9 Q. Well, how would that then in turn relate to
10 what we would decide in this proceeding?

11 A. The AFOR?

12 Q. Yes.

13 A. Well --

14 Q. The AFOR and unbundling.

15 A. Well, if we tackle unbundling we'll be in
16 good shape with an AFOR, I think. So it would be
17 unbundling first and then talk about AFOR or do it
18 simultaneously.

19 CHAIRMAN NELSON: This is what I was trying
20 to get at too. You just said that perhaps a second
21 phase would be in order?

22 THE WITNESS: Yeah.

23 CHAIRMAN NELSON: And from where I sit
24 even though this has been long and prolonged and so
25 on, given the state of the record, I think that's what

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1 some of the other people had recommended is that if
2 the Commission can establish some principles about
3 cost studies and then so on and ask that you then all
4 go off and reason together -- I think workshop was
5 used -- hopefully not as long as the Oregon one.

6 THE WITNESS: I agree.

7 CHAIRMEN NESLON: But I think Commissioner
8 Hemstad's question is also, in exchange for good
9 unbundling would a quid pro quo sort of negotiation
10 about the successor AFOR be part of that phase? Is
11 that --

12 COMMISSIONER HEMSTAD: Yeah.

13 THE WITNESS: Yes. And so would be
14 addressing costs overall in the general rate case
15 also.

16 CHAIRMEN NELSON: So rather than what you
17 answered to me that the Commission actually establish
18 prices based on ASIC for a certain degree of
19 unbundling in this order that, no, we should not do
20 that. Perhaps establish principles but try to do the
21 numbers later. Is that now your answer?

22 THE WITNESS: Let me try to clarify. The
23 local interconnection services for which there would
24 be charges outside of the bill and keep for usage and
25 the LTR portion of the filing, if we can price things

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1 closer to TS LRIC or based upon TS LRIC that would be
2 great. There's enough record here to do much of that
3 with regard to my recommendation that link and port
4 unbundling be undertaken and that you order the
5 company to do that. I think that what we lack is
6 sufficient information about ASIC for each of those
7 elements at this time. So it would be do this part
8 now, get the cost studies ready, get the pricing
9 ready, proceed with that part and then there would be
10 -- additionally there are more basic network functions
11 and subelements for which we don't have cost support
12 yet. We need to have rules to establish how to
13 analyze those costs and then go about the job of
14 pricing those unbundled elements also in another
15 phase. But link and port seems to be something that
16 could be moved along on the front burner, if you will.

17 Q. Well, let me pursue that so I understand.
18 When you said link and port, how do those terms relate
19 in the general sense to the listing of unbundling
20 services that the various parties are asking for? And
21 among them there does not appear to be any, at least,
22 unanimity of agreement as to what should be unbundled.

23 A. I'm trying to find -- okay. If we look at
24 page 39 of my rebuttal testimony. The first three
25 basic network functions are loop distribution, loop

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1 concentration and loop feeder. That's what I mean by
2 link unbundling, and also take into account my
3 discussion of a network access channel that runs from
4 the protector frame up to the interconnector
5 designated equipment as described in Mr. Cook's
6 testimony. That's the link information.

7 The port unbundling that I had in mind is
8 the local switching and the tandem switching usage for
9 which I am recommending bill and keep. So looking at
10 loop distribution, loop concentration and loop feeder,
11 those are three basic network functions that I think
12 the company should be ordered to unbundle, and I think
13 that it would not take them long to break out of their
14 cost studies the average service incremental cost for
15 those figures and let's get going with that at least
16 on an interim basis.

17 Q. And the remaining items, the other parties
18 have referenced them, you would push forward into some
19 kind of discussions or workshops or further proceeding
20 of some kind?

21 A. Yes. I think that some impetus needs to be
22 added to the process, though, because I've heard U S
23 WEST say again and again to the interexchange carriers
24 and to the new competitors that, well, provide us the
25 list of the things that you want us to unbundle,

1 provide us a list. Well, here's a list and I think we
2 need to get going with that list. We should not have
3 to identify a list still. I think there's been a good
4 list presented to you. MCI's list is longer and for
5 simplicity, really, I chose to list a shorter list.
6 But these other elements need to be unbundled also for
7 effective competition to take hold, I believe. And we
8 don't have enough information to do it yet.

9 Q. But that could be done in a continuation of
10 this proceeding or would that alternatively be done as
11 part of an AFOR proceeding or either?

12 A. As long as we can order some minimum amount
13 of activity out of this proceeding right away I think
14 that will be a good thing to do and then as to putting
15 it in an AFOR or other format, I couldn't really
16 advise you.

17 COMMISSIONER HEMSTAD: That's all I have.

18 JUDGE ANDERL: Commissioner Gillis.

19

20 EXAMINATION

21 BY COMMISSIONER GILLIS:

22 Q. Mr. Wilson, I think I would like to ask you
23 a question I've asked a number of others in different
24 ways over the last couple of weeks. Your position on
25 the need for cost studies is clear from your

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1 testimony, but what I would like to ask you as a
2 professional that's been involved with regulatory
3 economics for some time if you have any suggestions
4 for us on how when we move into a more -- as we move
5 into a more competitive environment at the local
6 level, what strategies we might use to rely less on
7 cost studies?

8 A. Well, the bill and keep proposal mitigates
9 some of that. A well-designed AFOR can allow us to
10 move away from that. Competition will allow us to
11 move away from cost studies to a certain extent, but I
12 think that we are going to have a need for good cost
13 information for some time to come so that we can price
14 bottleneck elements correctly, and I think that we can
15 develop some cost studies that will do that. I don't
16 think we're going to be able to get completely away
17 from cost study work, though.

18 Q. One last question that is a bit of a
19 follow-up to that, I suppose. In the energy industry
20 we're hearing from the companies that they want to
21 essentially, say, alter the practice that they've had
22 for the past few years of a public planning process in
23 a competitive environment because of the concerns of
24 revealing confidential information. Do you see it as
25 not consistent with competition? Do you see a

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1 parallel in the telephone industry as we move into I
2 guess more competitive environment where -- I guess,
3 one, do you see it as a challenge of asking companies
4 and receiving confidential information on business
5 strategies, costs, et cetera, and do you have any
6 suggestions about how we deal with that?

7 A. Certainly confidentiality has been a major
8 impediment to the process. I think, though, that
9 truly a lot of the information that's allegedly
10 confidential is not really all that proprietary. It's
11 not like the formula for Levi's blue or Coke Classic
12 where that's really a trade secret. We're talking
13 about information that in many instances I believe is
14 quite readily available and most of the competitors
15 know what it is.

16 I think that a lot of the sensitivity
17 arises when marketing comes in to play, but I can't
18 see any reason there couldn't be perhaps a workshop,
19 not a long process but a workshop where it was like a
20 safe harbor where people could talk about confidential
21 information and share full disclosure of all the
22 information so that everybody can feel like they've
23 got a good standard to look at, and exclude those who
24 shouldn't know it from knowing it. I would prefer,
25 however, very greatly that that not be such a

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1 litigious process. When we're in litigation we have
2 had a real difficult time here today even getting all
3 the facts out where everybody can discuss and
4 understand them completely.

5 COMMISSIONER GILLIS: Thank you for your
6 thoughts.

7 JUDGE ANDERL: Mr. Smith, what kind of
8 redirect do you have?

9 MR. SMITH: Five minutes.

10 JUDGE ANDERL: Go ahead.

11

12 REDIRECT EXAMINATION

13 BY MR. SMITH:

14 Q. Mr. Wilson, Mr. Shaw had a discussion with
15 you about bill and keep and he gave the example of
16 interexchange call. Do you recall that?

17 A. Yes.

18 Q. Today, EAS arrangements between LECs are on
19 a bill and keep basis, is that correct, at least since
20 the EAS rule?

21 A. Yes. With the exception of the Silverdale
22 exchange, yes, sir.

23 Q. And when we're talking about EAS we're
24 talking about local calls or local calling capability?

25 A. That's right.

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1 Q. And do the incumbent LECs also exchange
2 toll traffic? Do they exchange interexchange traffic?

3 A. Yes.

4 Q. And do they bill and keep for the
5 exchange of that traffic?

6 A. No.

7 MR. SHAW: Objection to the question. The
8 question was do they bill and keep for interexchange
9 traffic. EAS is interexchange traffic.

10 MR. SMITH: I believe he clarified it.

11 JUDGE ANDERL: With that clarification.

12 Q. Do you recall Mr. Shaw also discussing the
13 Metrolink case with you?

14 A. Yes.

15 Q. And did Metrolink provide a local service?

16 A. No.

17 Q. Would a Metrolink customer ever use
18 Metrolink for local calling?

19 A. No.

20 Q. And in that discussion Mr. Shaw gave you a
21 hypothetical of an AEC who provided a local calling
22 area that was similar in scope to one of Metrolink's
23 overlapping EAS situations. Do you recall that?

24 A. Yes.

25 Q. Is it your understanding that so far at

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1 least the AECs have mirrored the local calling,
2 existing local calling capabilities?

3 A. Yes.

4 Q. And as a nonlawyer, is it your
5 understanding that the Commission can prescribe
6 exchange area boundaries?

7 A. Yes.

8 Q. So if a new entrant proposed a local
9 calling area such as that in Mr. Shaw's hypothetical
10 or statewide, as Mr. Finnigan suggested, the
11 Commission would have a chance to look into that.
12 That fair to say?

13 A. Yes, with the caveat that I don't know they
14 could look into it while they're registering the
15 company but subsequently they could file a complaint
16 and look into it.

17 MR. SMITH: That's all I have.

18 JUDGE ANDERL: One more question from the
19 bench.

20 CHAIRMAN NELSON: Mr. Wilson, if you can,
21 can you estimate for me how much money has been spent
22 on this set of hearings?

23 THE WITNESS: I can give you a pretty
24 precise figure as to how much the staff has spent in
25 terms of consulting fees.

1 CHAIRMAN NELSON: That would be good.

2 THE WITNESS: But generally I would believe
3 it's been extremely expensive.

4 CHAIRMAN NELSON: Well, one can assume, I
5 suppose, a number of lawyer hours and so on at least
6 in the hearing room. What has the staff spend on
7 consulting fees?

8 THE WITNESS: I hesitate to answer you
9 because I know that consultants are sensitive about
10 that kind of information.

11 CHAIRMAN NELSON: It's not over either, I
12 suppose, yet. Can you just give me a ballpark?

13 THE WITNESS: I just received the billing
14 statement through the end of May and we had spent
15 about \$40,000 and we're not finished. That was
16 through the end of May and we've done a great deal of
17 work with them since then. Speaking for the team,
18 we've invested humongous amounts of time into it and I
19 know that all of the parties have worked very, very
20 hard on this case. It's been a high priority item for
21 everybody. It's phenomenally expensive.

22 CHAIRMAN NELSON: The reason I was asking
23 was there are pending bills in Congress which would
24 preempt these kinds of proceedings, and I'm wondering
25 what we've invested and I guess it's something I will

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1 just work out in my own head. Thank you anyway.

2 JUDGE ANDERL: Who has recross? Mr. Shaw.

3 MR. SHAW: I do.

4

5 RECROSS-EXAMINATION

6 BY MR. SHAW:

7 Q. Mr. Wilson, Chairman Nelson asked you some
8 questions about cost studies as well as Commissioner
9 Gillis, and without getting into debate with you over
10 who is right on the merits, will you agree with me
11 that the company vigorously disagrees with the staff's
12 assertion that the cost of money, prescribed
13 depreciation lives and projected fill are proper
14 inputs into a properly done forward-looking cost
15 study?

16 A. I will agree with you with regard to cost
17 of money and depreciation. It's my understanding now
18 that objective fill is something that is used by the
19 company in their cost studies in calculating average
20 direct shared residual costs.

21 Q. We'll have to sort that out in the brief
22 from the testimony.

23 A. I don't think you will be able to because
24 that information isn't necessarily in the record.
25 Unless I described shared residual costs more for you

1 now and how the model is calculated.

2 Q. Putting that aside, there's a basic and
3 significant difference of opinion and fact between the
4 staff and the company on those -- on at least those
5 two inputs?

6 A. Oh, yes. For many other reasons because it
7 develops cost estimates that are 33 percent lower.

8 Q. Now, putting those inputs aside, do you
9 agree that the company's incremental cost study
10 methodology up to the ASIC level is appropriate?

11 A. No, because it doesn't properly -- I have
12 no idea how shared residual costs are allocated.

13 Q. I said up to the ASIC level not including
14 any shared residual costs.

15 A. No, because for all I know the studies
16 don't impute to ASIC what they should.

17 Q. Okay. Now, let's turn to that. Your
18 assertion that you need to have on a PC the models
19 that the company used to get to their ASIC costs, do
20 you understand that those models are run by main frame
21 computers and will not fit on a PC and the
22 demonstration you saw on a PC was just part of the
23 output of those main frame computers?

24 A. No, I don't understand that at all because
25 I haven't ever seen the PC-ready disks on a computer

1 where I could analyze them and my consultant could
2 analyze them under conditions which any analyst would
3 need. We have looked at them for several hours at a
4 time peering over the shoulder of an analyst at a
5 notebook sized computer screen on June 1 and 2.

6 Q. Well, we're not going to solve it here --

7 A. You're right.

8 Q. -- but let me represent to you, which we
9 will just have to follow up with you off the record
10 that the total models cannot be supplied on a PC and
11 that will be an action item between the company and
12 the staff. Would you agree with that? We'll need to
13 resolve that?

14 A. Okay.

15 Q. Okay. Now, specifically as to the models,
16 the inputs, do you understand that the company has
17 told the staff that it has contracts with its switch
18 vendors and other telecommunications equipment vendors
19 that allows them to object to any disclosure of the
20 prices that the company pays on the basis that, as a
21 large customer that gets large discounts, those switch
22 vendors do not want their competitors to know the kind
23 of discounts they give to U S WEST?

24 A. I've been told that and I've been told that
25 in Oregon it's been revealed.

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1 Q. Okay. Let me take it the next step. Would
2 you accept subject to your check that we have in
3 writing from one of the parties in this case who also
4 happens to be one of our major equipment vendors that
5 they object to the disclosure of this information to
6 parties other than the staff and public counsel and
7 then only on a very restrictive special proprietary
8 nondisclosure?

9 A. You're asking me to accept something to
10 check?

11 Q. I will ask you to accept from me that
12 that's the case. If that's the case is the staff and
13 public counsel -- you can only speak for the staff.
14 Is the staff willing to hold that vendor information
15 that's not U S WEST's information in that extreme
16 confidence?

17 A. Certainly we're willing to do that. I've
18 been told that what we're talking about is U S WEST in
19 building their cost studies builds them on the basis
20 of the investments made, and --

21 Q. Including the discounts that we receive?

22 A. Yes. So what they do is you start out with
23 a huge database that lists the invoice prices U S
24 WEST paid for all the widgeits that go into providing
25 the services, and those prices incorporate the vendor

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1 discounts, which may be different between LECs, and,
2 for example, AT&T doesn't want to divulge what those
3 discounts are, and I've talked to U S WEST about
4 trying to resolve the matter so that we can look at
5 that information.

6 Q. If we can get the proper nondisclosure
7 agreements between staff and AT&T and what other of
8 our vendors that object to this information seeing the
9 light of day then you understand the company is
10 willing to provide that data, and that is the only
11 data you haven't been able to see to date which is
12 that investment data?

13 A. I can't agree with you that's the only data
14 I haven't been allowed to see but we would certainly
15 look forward to the opportunity to review all of that
16 information. Another way to do it could be to mask or
17 aggregate the information somehow and we had talked
18 about that. I think that the problem can be resolved.

19 Q. What previously other than that vendor
20 investment data do you think that you have not been
21 able to see?

22 A. The algorithms that showed how shared
23 residual costs are allocated.

24 Q. Isn't it true you've seen those, you just
25 disagree with them?

1 A. No, I haven't seen them.

2 Q. Okay. Sounds like we've got a failure of
3 communication here so we'll continue to work with you
4 on making sure you have everything that you need.

5 Let's briefly run through all the cost
6 workshops that you've attended that U S WEST has put
7 on for any parties in this case and the staff. We put
8 on a loopcost analyst workshop in April of 1994 that
9 you attended.

10 MS. PROCTOR: Excuse me, Your Honor, but I
11 think this is beyond the scope of what was asked by
12 anyone.

13 MR. SHAW: Well, I think -- Your Honor, I
14 was going to ask this on cross and I decided I
15 wouldn't take the time but obviously the issue of
16 accurate cost studies is very important to the staff
17 and to the Commission, and I think we're entitled to
18 show that the company has bent over backwards trying
19 to get the staff to agree that it has all the cost
20 data that the company can possibly produce with the
21 exception of the vendor data.

22 MS. PROCTOR: Well, he just stated that it
23 was an item that he left out of his original cross.

24 MR. SHAW: I don't understand why AT&T is
25 objecting to me asking this witness whether he's

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1 attended some cost workshops that the company has put
2 on.

3 JUDGE ANDERL: Well, I think that it is
4 responsive to lines of inquiry directed at Mr. Wilson
5 about what problems staff may or may not have had in
6 getting information from U S WEST and so I will allow
7 the questions but try to do it quickly.

8 MR. SHAW: I will. I don't want to be here
9 any more than anybody else at this point.

10 Q. Mr. Wilson, did you attend a loop cost
11 workshop in April of 1994?

12 A. I've attended loop cost workshops for the
13 last several years. However, the loop cost workshops
14 that I've attended in 1994 dealt with the regional
15 loop cost allocation program, RLCAP. That is not
16 a model that showed up in any of the work in this case
17 until very recently when the company refiled cost --
18 has filed some cost support for the expanded
19 interconnection and entrance facilities, I believe was
20 the first time I've seen RLCAP in this case.

21 Q. Why don't you just confine your answer, so
22 we can get out of here, whether you attended the
23 workshop or not.

24 MR. SMITH: Your Honor, I will object to
25 that. I really think we're just going to get in a

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1 bicker here that's not going to get us any place.

2 JUDGE ANDERL: I think I'm going to change
3 my mind and agree with you. The objections are
4 sustained.

5 MR. SHAW: Could I ask one question on how
6 many workshops the company has put on?

7 MS. PROCTOR: That's in their direct
8 testimony.

9 MR. SHAW: I disagree with that.

10 JUDGE ANDERL: Mr. Wilson, do you know?

11 THE WITNESS: We've attended several
12 workshops. They were last year. My consultant wasn't
13 here then. We've asked data requests for costs
14 support, and I can show you where the material
15 provided in the workshops wasn't provided in response
16 to data requests.

17 JUDGE ANDERL: Can I just interrupt and ask
18 if perhaps the parties can agree that U S WEST has in
19 fact done a lot but staff feels they still haven't
20 gotten everything?

21 THE WITNESS: I would agree to that.

22 JUDGE ANDERL: I don't know what more we're
23 going to get on the record than that.

24 MR. SHAW: Fine. I will move on.

25 Q. You talked with the commissioners about

1 link/port unbundling, Mr. Wilson. Has there been any
2 evidence produced on this record that there is any
3 demand whatsoever for unbundled ports for switching?

4 A. Other than general testimony to the effect
5 that link and port unbundling is desired, possibly
6 not. I would have to review the 10,000 pages of the
7 record.

8 Q. All four of the new entrants in Seattle
9 have self-provided their own switches, correct?

10 A. I don't know how MFS or MCI have acquired
11 switching capability, but the answer is yes with
12 regard to Electric Lightwave and Teleport.

13 MR. SHAW: Thank you, I have nothing
14 further.

15 JUDGE ANDERL: Does anyone else have
16 recross? Mr. Potter.

17 MR. POTTER: I had one question.

18

19 RECCROSS-EXAMINATION

20 BY MR. POTTER:

21 Q. I believe in answer to a question from
22 Commissioner Hemstad about port unbundling you said
23 that would consist of local and tandem switching usage
24 and you were recommending that that be provided on a
25 bill and keep basis. Did I hear that correctly?

02293

1 A. Yes.

2 Q. By an unbundled port -- is an unbundled
3 port a component of the interconnection of local
4 traffic or is it something different that you're
5 recommending bill and keep for?

6 A. Local and EAS.

7 Q. So if there were demand for an unbundled
8 port by an alternative carrier that simply wanted to
9 use the LEC's switching with the unbundled carrier's
10 own loop in order to provide local exchange service,
11 you're not recommending that bill and keep would be
12 appropriate for that situation, are you?

13 A. No, but flat-rated port might be an
14 excellent choice.

15 Q. I just wanted to straighten out what kind
16 of port usage the bill and keep apply to. Thank you.

17 JUDGE ANDERL: Ms. Weiske.

18 MS. WEISKE: Thank you.

19

20 RE-CROSS-EXAMINATION

21 BY MS. WEISKE:

22 Q. Mr. Wilson, in a conversation with Mr. Shaw
23 you indicated one possible way to deal with switched
24 vendor data input might be to aggregate it. Is your
25 position if that data were aggregated that it could be

1 provided to all parties?

2 A. I should think so.

3 Q. You also keep referring to links and ports
4 in terms of your unbundling position. Does that
5 equate to the line side interconnection that's been
6 asked for by some parties?

7 A. I believe so, yes.

8 Q. You also said, I thought in response to
9 Chairman Nelson, that even though your recommendation
10 was to price certain interconnection elements to TS
11 LRIC that you would recommend some sort of
12 contribution add-on to that for masking. I didn't
13 understand what you intended there.

14 A. Well, for example, if you look at my
15 rebuttal testimony where I specify some rates based
16 upon average service incremental cost.

17 Q. I understand, Mr. Wilson --

18 A. I had to make those confidential.

19 Q. Why do you believe that an interconnection
20 rate element could not be priced by this Commission or
21 could not be priced by U S WEST from an order of this
22 Commission at TS LRIC? What's your concern about
23 masking?

24 A. Virtually that U S WEST alleges that TS
25 LRIC is confidential information.

1 Q. As an economist do you believe the
2 appropriate price for those elements should be at TS
3 LRIC?

4 A. Yes, I do.

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

6 JUDGE ANDERL: Mr. Butler.

7

8 RECROSS-EXAMINATION

9 BY MR. BUTLER:

10 Q. Mr. Wilson, do you have an opinion about
11 whether a small LEC would be better off if it
12 permitted a competitor to use some of the LEC
13 facilities on an unbundled basis than if it gave an
14 incentive to a competitor to try to find a way to
15 build its own facilities in the LEC territory because
16 unbundled LEC facilities were not otherwise available?

17 A. I'm going to have to ask you to repeat.

18 Q. Do you have an opinion about whether a
19 small LEC would be better off if it permitted a
20 competitor to use some of the LEC's facilities on an
21 unbundled basis than if it gave an incentive to the
22 competitor to try to find a way to build its own
23 facility in the LEC's territory because the LEC's
24 facilities were not available on an unbundled basis?

25 A. Yes. I think that many of the LECs would

02296

1 be wise to unbundle. It might be better to be a
2 wholesaler than to be completely bypassed.

3 MR. BUTLER: Thank you.

4 JUDGE ANDERL: Any other recross for this
5 witness?

6 Thank you, Mr. Wilson, for your testimony.
7 You may step down. We have one last witness, Mr.
8 Smith for WITA. We'll be on our afternoon break and
9 then back with him on the stand.

10 (Recess.)

11 JUDGE ANDERL: Let's be back on the record.
12 While we were off the record Mr. Smith for WITA took
13 the stand. I also discussed that U S WEST had
14 distributed the revised Exhibit 139 that was already
15 admitted yesterday. If not it's admitted now.

16 Mr. MacIver for MCI had previously
17 distributed the company's response -- MCI's response
18 to bench request No. 1 and I will give that now an
19 exhibit number Exhibit 156. It is entitled the Cost
20 of Basic Universal Service and was referred to on the
21 record by Dr. Cornell as the Hatfield report, and is
22 there any objection to that document being made a part
23 of the record?

24 I hear none. Exhibit 156 will be admitted.
25 And then for Dr. Smith we identified his testimony as

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1 Exhibit T-157, his Exhibit RAS-2 as Exhibit 158 and
2 his rebuttal testimony as Exhibit T-159.

3 (Marked and Admitted 156.)

4 (Marked Exhibits T-157, 158 and T-159.)

5 Whereupon,

6 ROBERT SMITH,

7 having been first duly sworn, was called as a witness
8 herein and was examined and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. FINNIGAN:

12 Q. Mr. Smith, would you please state your name
13 and give us your business address for the record?

14 A. My name is Robert A. Smith, 805 Broadway,
15 Vancouver, Washington.

16 Q. Do you have before you what has been marked
17 as Exhibit T-157?

18 A. I do.

19 Q. Do you have any correction to make to that
20 exhibit?

21 A. Yes, I do. Two on page 15, line 16, my
22 apologies to Mr. Ackley, I misspelled his name.
23 Should read A C K L Y.

24 MR. KOPTA: L E Y.

25 JUDGE ANDERL: A C K L E Y.

1 THE WITNESS: I apologize again.

2 A. And I have another correction on page 25.
3 Line 17 through 19 should be struck. I understand
4 that TelWest is no longer a small company. That's it.

5 Q. Then in looking at Exhibit -- do you have
6 any corrections to make to any other exhibit?

7 A. Should I have?

8 Q. Only if you spot something.

9 A. No, I do not.

10 Q. Were Exhibit T-157, Exhibit 158, and T-158
11 prepared by you or under your direction?

12 A. Yes, they were.

13 Q. And if I were to ask you the questions that
14 appear in Exhibit T-157 and T-158 today, would your
15 answers be the same as you have corrected them this
16 afternoon?

17 A. Yes, they would.

18 MR. FINNIGAN: Mr. Smith -- I will offer
19 Exhibits T-157, Exhibit 158 and Exhibit T-159.

20 JUDGE ANDERL: And I assume your question
21 earlier referred to that exhibit?

22 MR. FINNIGAN: Yes.

23 JUDGE ANDERL: Is there any objection to
24 those three documents being made a part of the record?
25 I hear none.

02299

1 MR. FINNIGAN: Mr. Smith is available for
2 cross-examination.

3 JUDGE ANDERL: The exhibits are admitted.
4 (Admitted Exhibits T-157, 158 and T-159.)

5 JUDGE ANDERL: Mr. Shaw.

6

7 CROSS-EXAMINATION

8 BY MR. SHAW:

9 Q. Mr. Smith, is Sprint United Washington a
10 member of WITA?

11 A. Yes, they are.

12 JUDGE ANDERL: Is there a problem or a
13 question?

14 MS. PROCTOR: I just was assuming that
15 since WITA is local exchange companies and Mr. Shaw is
16 that we would go to staff, but that doesn't matter.

17 MR. MACIVER: It's just a LEC crossing a
18 LEC.

19 JUDGE ANDERL: Their interests aren't
20 entirely consistent, I think, or positions aren't. To
21 be perfectly honest, this is just the order that I
22 have the parties listed in. Mr. Smith, would you like
23 to go?

24 MR. SMITH: Doesn't matter.

25 JUDGE ANDERL: Go ahead, Mr. Shaw.

02300

1 Q. Do you recall the question?

2 A. I recall answering it.

3 Q. Is the president -- and I'm not sure of his
4 title but the senior officer of Sprint United also the
5 current president of WITA?

6 A. No.

7 Q. Who is the current president of WITA?

8 A. It has been a long day. He was the current
9 president up until May. And then he was -- and then I
10 believe Tom Gorman became president.

11 Q. Does your testimony represent the views of
12 all of your membership including Sprint United?

13 A. It represents a consensus but any member of
14 WITA is free to take a differing view on any of the
15 issues.

16 Q. To your knowledge, has Sprint United taken
17 a different view from what you have presented in your
18 testimony?

19 A. With respect to any particular issue or
20 just generally? They generally support the testimony.

21 Q. Do they object to any specific
22 recommendation or position that you have taken on
23 behalf of WITA?

24 A. I'm trying to recall if they've expressed
25 an objection. I do not recall any.

02301

1 Q. Is GTE still a member of WITA?

2 A. Yes, they are.

3 Q. Does General -- to your knowledge, does
4 General support all of your specific recommendations
5 in this case?

6 MR. POTTER: I think we noted for the
7 record that we've made an independent appearance and
8 put on our own witnesses and our testimony will speak
9 for itself as to how it lines up with WITA's
10 testimony.

11 MR. SHAW: I will accept that.

12 JUDGE ANDERL: Thank you.

13 Q. I'm primarily interested, Mr. Smith, in
14 your recommendation that there be a moratorium for
15 five years before the current EAS arrangements between
16 independent LECs and U S WEST be migrated to an
17 integrated access charge regime. Why is five years,
18 which strikes me as a very long time in these rapidly
19 changing times, necessary in order for the independent
20 LECs to adjust to an access charge regime for the
21 exchange of EAS traffic?

22 A. Well, first of all five years may not be
23 necessary for all members of WITA. Five years -- we
24 were thinking of five years as being an optional
25 moratorium period. There are some companies that are

02302

1 prepared to go to that sort of an environment more
2 quickly than others. For example, obviously GTE by
3 their testimony is prepared to do so. My
4 understanding is that Sprint United might be prepared
5 to do it earlier, and I have it on good authority that
6 PTI would, but some of the other companies -- to get
7 to the heart of your question, why we pick five years,
8 I think it's fair to say that the 180 EAS routes that
9 have been converted or are in the process of being
10 considered for conversion have come about as a result
11 of a long laborious process of conducting studies and
12 developing rates and making public interest arguments
13 and so on and conducting public hearings. There are
14 still routes to be converted.

15 So it's taken five years to put this
16 process in place, and I think that in order to assess
17 whether or not in all cases it can be unwound, so to
18 speak, or at least changed materially for some
19 companies would require the same process where they
20 would have to study the information as would you to
21 determine the relative traffic flows, of the potential
22 effects on their rates, and what if any changes beyond
23 that should occur with respect to how EAS is priced or
24 mandatorily priced by the LECs. All those issues need
25 to be considered. Just doesn't happen overnight.

1 Q. But they could be considered and resolved
2 in substantially less than five years, could they not?

3 A. You want me to impeach myself? We think it
4 takes five years; in some cases it could well take
5 five years. Maybe it would get done faster but until
6 we get on with it we won't know that. We have used
7 all of the five years to get where we are today
8 without any real time to spare. Perhaps one solution
9 would be for the Commission to consider ordering a
10 revised compensation mechanism that is a mutual
11 compensation mechanism for the 206 area code to start
12 with. That seems to be where all the action is. And
13 perhaps consider the 360, change to the 360 during the
14 moratorium period.

15 Q. How many companies, historic LECs, have
16 intercompany EAS in the greater Seattle area? Is it
17 correct that it's just U S WEST, your company and
18 General?

19 A. That is with EAS to Seattle?

20 Q. Yes.

21 A. I believe that's correct.

22 Q. Did I read your testimony correctly -- and
23 I am not finding the exact page so I need a little
24 help here -- that your recommendation is not only for
25 a five-year moratorium but that it would take another

02304

1 five years on top of that to accomplish, at least for
2 some WITA companies, a --

3 A. My recollection is that we suggested a
4 transition period, and I thought it was three years,
5 but subject to check. It could well be that for some
6 companies they could start the transition earlier
7 before the end of five-year moratorium.

8 Q. In any case there's no need for a five-year
9 moratorium. It could be started immediately working
10 on the changes, correct?

11 A. That's what we anticipate would occur
12 during the five-year moratorium was an evaluation of
13 the effects and a determination by the companies on
14 what to recommend to the Commission.

15 Q. Is there any technical reason based upon
16 the way the network is interconnected today that
17 existing LECs or historic LECs could not compete with
18 each other?

19 A. I don't believe so.

20 Q. In fact I think there's been previous
21 testimony -- in fact there's at least one known
22 example where it's already happening as between
23 Whidbey and General?

24 A. I don't know if it's already happening. I
25 know that it's been approved.

02305

1 MR. SHAW: That's all I have.

2

3 CROSS-EXAMINATION

4 BY MR. SMITH:

5 Q. On page 3 of your direct testimony -- Mr.
6 Shaw was just asking you about the five-year
7 moratorium for the WITA companies -- you also talk
8 about a transition period which would follow the
9 five-year moratorium. How long would the -- I take it
10 the transition period would also vary company to
11 company?

12 A. Correct.

13 Q. And so, do you have any outside limits as
14 to how long that transition period would be?

15 A. No. I think that's really up to the
16 Commission to determine, and the purpose of the
17 transition period in my view would be to, among other
18 things, migrate to whatever revised rates were
19 necessary or if in the process of evaluating the EAS
20 route and the cost changes that might occur, the
21 Commission decided to revise the existing EAS
22 configuration that would have to be taken into
23 account, but it was primarily a transition period to
24 mitigate rate shock.

25 Q. When you say there that this period of time

02306

1 is needed to reflect the environment in which these
2 EAS routes were created, is that what you just
3 testified to? Is that what you were talking about
4 there?

5 A. That was part of it as well. If you were
6 referring to possibly direct trunking between two
7 independents as opposed to utilizing the U S WEST
8 tandem, that sort of thing. Those things would take
9 time to put in place.

10 Q. Was WITA involved in the implementation --
11 or promulgation of the Commission's EAS rule? Did
12 they take a part in that process?

13 A. Very definitely. I did for one and our
14 executive vice-president Terry Vann was another and
15 there may have been other participant on and off, but
16 I think I had the good fortune of attending most all
17 of those.

18 Q. And that rule basically provides for a bill
19 and keep sort of recovery mechanism. Is that fair to
20 say?

21 A. I think that's fair to say. It was a
22 compromise. I think there was an effort on the part
23 of all parties to try to expedite it. The Commission
24 was very clear that they wanted it to move forward.
25 They were also responding to the legislature. It's my

02307

1 recollection the legislature wanted a report from the
2 Commission on the status of EAS and a recommendation,
3 so it was an attempt to do that.

4 Q. And do you recall what WITA's position was
5 on the revenue recovery mechanism under that rule?

6 A. Well, my recollection is that it be revenue
7 neutral, and that it recover the lost access charges
8 and the direct costs associated with providing the
9 route. With respect to your question on the bill and
10 keep, I think there's there is a caveat to that. I
11 think for all companies that that may not be true. I
12 think there are occasions where the costs were such
13 that the Commission made a determination to increase
14 their access charges to cover some of the costs. Now,
15 if you want to call that bill and keep I guess you can
16 but to me it is a departure from it.

17 Q. But what was WITA's position on bill and
18 keep in the implementation of that rule?

19 A. It wasn't our preferred approach but we
20 accepted it, anticipating that as we made our filings
21 if the rate -- the rates were so significant as to
22 make it impractical that the Commission would hold
23 open the option of seeking a remedy for that.

24 Q. What was WITA's preferred approach?

25 A. Well, our preferred approach would have

02308

1 been to assess access charges.

2 Q. You would agree, would you not, that if
3 this five-year moratorium and whatever additional
4 transition period were to be put into effect that the
5 incumbent LECs would be treated differently than the
6 ALECs as far as the interexchange of local traffic?

7 A. On an interim basis but I wouldn't
8 necessarily agree that that would have to be the case.
9 I think that to the extent you have ALECs that have
10 not sought and received competitive classification
11 that beginning in 1996 they can study routes and
12 propose the EAS routes to the Commission as well.
13 Those that have received competitive status some
14 likely wouldn't want to be bound by that rule.
15 They're free to establish their calling areas and
16 structure them in any manner they see appropriate
17 based on their business customers' needs.

18 Q. So that for any EAS routes involving ALECs
19 coming out of the 1996 study period, the compensation
20 arrangement for those would be bill and keep, is that
21 what I understood you to say?

22 A. What I said was that if there is a
23 certified ALEC that has not been deemed to be
24 competitive that it's my belief -- and this is a lay
25 opinion -- that they're subject to the current rules

02309

1 and the current rules call for an investigation in the
2 study of all routes. Again, beginning in 1996 they
3 can propose to the Commission to establish whatever
4 EAS routes they deemed appropriate based on the rule.

5 Q. And in that scenario some of their local
6 calling would be on a bill and keep scenario and some
7 would be on a mutual compensation?

8 A. You're misunderstanding me, I think.

9 Q. Go ahead.

10 A. It's in the limited circumstance where you
11 have an ALEC that has not sought a classification as a
12 competitive carrier and is subject to the rules, in my
13 opinion. They have no EAS routes today. They would
14 have to petition the Commission, as part of the rule
15 file their studies and propose to the Commission EAS
16 routes that they wish to establish. Under the rule
17 the Commission then would rule on those proposals as
18 they do the current incumbent and I'm assuming under
19 the current rules unless they amend them that would be
20 bill and keep.

21 Q. What distinction would it mean -- what's
22 the difference of the ALEC as classified as
23 competitive or not?

24 A. Then I don't think that they're subject to
25 the same sort of regulation that we are. The rules

02310

1 probably do not apply to them. In fact it's my
2 opinion it doesn't.

3 Q. It would require some sort of waiver, would
4 it not?

5 A. Not for a competitive carrier. They don't
6 have to file mandatory flat rates and mandatory EAS
7 and they don't have areas prescribed for them by the
8 Commission. They can structure whatever calling area
9 they want and price it any way they want.

10 Q. Well, the Commission has the authority to
11 prescribe exchange boundaries, doesn't it?

12 A. The Commission could disagree with the
13 calling area that a competitive carrier is proposing
14 to implement, yes. I'm not sure why they would want
15 to do that.

16 Q. If an ALEC local calling area mirrored an
17 existing exchange including EAS routes, under U S
18 WEST's proposal traffic passing between the incumbent
19 and the ALEC over the EAS route would be under a
20 mutual compensation basis. Is that --

21 A. Well, if I'm not mistaken what you just
22 described is that an ALEC had drawn their exchange
23 line in such a fashion that it included an existing
24 EAS route. That wouldn't be EAS traffic.

25 Q. But traffic that passed on what would be an

02311

1 EAS route for the incumbent LEC would be -- the
2 arrangement there would be mutual compensation; is
3 that correct?

4 A. Well, the proposal is that there would be
5 mutual compensation for both local and EAS.

6 Q. And if that same ALEC applied for an EAS
7 route in the 1996 study period and was not classified
8 as competitive, if that's important, that route would
9 be -- arrangement there would be bill and keep?

10 A. If the Commission approves the route and
11 the rate structure.

12 MR. SMITH: Thank you. That's all I have.

13 JUDGE ANDERL: Mr. Kopta.

14 MR. KOPTA: Thank you, Your Honor.

15

16 CROSS-EXAMINATION

17 BY MR. KOPTA:

18 Q. Afternoon, Mr. Smith.

19 A. Good afternoon.

20 Q. I understand that it's WITA's position to
21 advocate mutual compensation for interconnection among
22 local exchange carriers; is that correct?

23 A. That's what the testimony says, yes.

24 Q. And is it also WITA's position that a
25 carrier's interconnection rate would be the same

02312

1 regardless of which carrier is interconnecting with
2 that carrier -- whether it's U S WEST or an
3 alternative carrier?

4 A. That's true. We would tariff.

5 Q. I also understand from your testimony that
6 you have no position on the reasonableness of U S
7 WEST's rates in this proceeding; is that correct?

8 A. That's true. WITA does not have a
9 consensus position on that.

10 Q. Clarify something for me, if you would, on
11 page 27 of your testimony, direct testimony the first
12 two lines. You state there, I believe, "I have also
13 suggested that U S WEST interconnection rates be
14 accepted on an interim basis." Are you referring
15 specifically to the rates that U S WEST has put forth
16 in this case, the 3.28 cents per minute?

17 A. You have to excuse me. I don't want it out
18 of context. I may have to read it for a second.

19 Now, would you repeat the question, please.
20 I apologize.

21 Q. Sure, no problem. Is it WITA's position
22 that the U S WEST interconnection rates currently
23 proposed at 3.28 cents per minute be accepted on an
24 interim basis?

25 A. That's correct.

02313

1 Q. So even though --

2 A. Subject to check. I don't know if that's

3 --

4 Q. Well, it's kind of subject to check for all

5 of us. So you don't have a position on the

6 reasonableness but you're advocating that the

7 Commission adopt those rates on an interim basis?

8 A. That's right and what I was getting at

9 there is that without question if we include more

10 traffic in the current access rate development process

11 there will be an effect to those rates, presumably a

12 downward effect, and we haven't established just how

13 we're going to integrate those yet. That was the

14 purpose in the testimony there.

15 Q. So it would be fair to say that whatever

16 rates it is that the Commission decides to accept if

17 it accepts mutual compensation on an exchange of money

18 basis that those rates be implemented on an interim

19 basis; is that correct?

20 A. Our recommendation is that U S WEST be

21 accepted on an interim basis and a docket established

22 to determine how they should be calculated for all the

23 rest of us as well as that.

24 Q. Is it WITA's position that it's appropriate

25 to include an interim universal service charge in

02314

1 those rates?

2 A. In the context that U S WEST is proposing
3 it, yes. And that would not include EAS, for example.

4 Q. Does WITA have a position about when it
5 would apply if it doesn't apply to the EAS?

6 A. Well, it applies for interexchange local
7 traffic. I believe that's the way that U S WEST
8 framed it. Maybe I've got that wrong.

9 Q. I'm simply asking for what WITA's position.
10 Since you excepted EAS I just wanted to make sure that
11 there weren't any other exceptions that you had.

12 A. Not that come to mind.

13 Q. Does WITA have a position on the
14 reasonableness of the rates that GTE has proposed in
15 this docket?

16 A. No.

17 Q. Would you also advocate that GTE's rates be
18 adopted only on an interim basis?

19 A. I believe WITA advocated that.

20 Q. Do you now as you sit here?

21 A. I'm not aware of companies that are
22 currently -- let me think about this a second. I am
23 not prepared to advocate that. It may have been an
24 oversight but I'm not prepared to --

25 Q. Do WITA members intend to revise their

02315

1 tariffs in light of the Commission's order in this
2 proceeding?

3 A. Assuming that the Commission ordered mutual
4 compensation?

5 Q. Whatever the Commission orders, will WITA
6 members revise their tariffs to adopt whatever
7 solution is proposed or accepted, ordered by the
8 Commission?

9 MR. FINNIGAN: I'm going to object. It
10 calls for a legal conclusion as to what the extent of
11 the Commission's jurisdiction over WITA members other
12 than GTE in this particular docket.

13 MR. KOPTA: I'm not asking whether they
14 would be obligated to. I'm simply asking if it's
15 their position if they intend to follow whatever the
16 Commission does whether it's voluntary or whether it's
17 on a required basis.

18 JUDGE ANDERL: I will allow the question.

19 A. To the extent that our tariffs are
20 implicated in some fashion by their order we would
21 evaluate that and take the appropriate action. I
22 can't guess at what's going on in the Commission's
23 order and how that might affect our tariffs. I'm
24 sorry. I'm just not understanding it.

25 Q. Let me put it more concretely. If a

1 competitive local exchange carrier after the
2 Commission's order in this docket were to approach a
3 WITA member for interconnection, would WITA offer that
4 -- would the WITA member offer that interconnection on
5 the same basis and under the same terms and conditions
6 that the Commission establishes in this docket?

7 A. Including unbundling?

8 Q. Whatever those terms and conditions are.

9 A. I can't say that they would. Each company
10 is free to react to that particular scenario in the
11 way they deem appropriate. There is a possibility
12 that WITA members won't agree.

13 Q. Sure, I understand that. I'm simply
14 exploring what your position is as it relates to this
15 particular docket. That's all.

16 On page 14 of your testimony, your direct
17 testimony, and also on page 5 of your rebuttal
18 testimony you discuss the data distribution center.
19 Do you recall that testimony?

20 A. Yes, I do.

21 Q. Would you explain to me how that system
22 operates?

23 A. Well, I've made it -- may have taken a lot
24 of steps to make sure that I didn't get totally
25 immersed in the minutiae of that particular docket,

02317

1 because I do have a number of expert opinions on
2 precisely how it operates, but I will give you my lay
3 opinion. An access record is created for the call in
4 question and as a part of that record it has a to and
5 from number and that information is sent to a
6 distribution center that sorts it out and sends it to
7 the terminating carrier. Maybe that's an
8 oversimplification but it's essentially how it works.

9 Q. Any more complicated than that and you
10 might lose me as well. Is it your understanding that
11 these records are sent to the data distribution center
12 on a periodic basis, i.e., monthly?

13 A. I think that may vary by company and the
14 volume of traffic, but at a minimum monthly.

15 Q. And what company is it that operates the
16 data distribution center?

17 A. Well, it's currently not operating but it's
18 planned to be operated by U S WEST.

19 Q. Do those records contain any proprietary
20 information?

21 A. Some carriers would assert that they do and
22 that information is intended to be protected.

23 Q. You say that system is not operational at
24 the moment?

25 A. Well, it's not -- it's scheduled to go into

02318

1 full operation later in the fall. The exact date
2 escapes me and keeps changing anyway, but my
3 understanding is that it is set to go in the fall.

4 Q. And are there costs estimates of
5 incremental use of the system?

6 A. I believe there's something in my testimony
7 to that effect, around five-tenths of a cent or
8 something. I don't have the specific reference but
9 there is -- if that's the cost you're alluding to.

10 Q. Are there any other costs in collecting the
11 information that is reported to the data distribution
12 center by the individual local exchange companies?

13 A. There's the normal costs that we experience
14 today in collecting similar information. I haven't
15 quantified that.

16 Q. So it is the information collected in the
17 ordinary course of business and it's simply an
18 additional step to transfer that information to the
19 data distribution center?

20 A. In a sense. It does require collecting
21 information not previously collected but it is similar
22 to information that we're collecting today.

23 Q. And you haven't collected the additional
24 cost for making that adjustment?

25 A. I haven't personally. I am assuming that

02319

1 the people that are involved in the process and the
2 affected companies are aware of what if any cost
3 increases that has caused. I haven't heard anyone
4 express a concern.

5 Q. But you don't have that figure?

6 A. No. We were ordered to do it. It did
7 not seem like a worthwhile endeavor to capture.

8 Q. I wanted to follow up a little bit on the
9 questions Mr. Smith asked you and ask them perhaps a
10 little bit differently so that I can understand it.
11 If a competitive local exchange carrier were to
12 interconnect with U S WEST and the ultimate
13 destination of that call is in a WITA member's
14 territory that is part of an EAS between U S WEST and
15 that WITA member --

16 Do you have that in mind?

17 A. I see where you're going, yes.

18 Q. -- is it WITA's position that the
19 competitive carrier would owe access charges to the
20 WITA member?

21 A. Correct.

22 Q. And if the competitive carrier were to
23 self-provision that call so that it started in U S
24 WEST territory, ended in the WITA member's territory
25 within that EAS boundary, is it WITA's position that

02320

1 that would be a toll call to which the competitive
2 local exchange carrier would be required to pay the
3 universal service surcharge?

4 A. Yes.

5 Q. And under your five-year moratorium that
6 situation would be kept in place for five years?

7 A. Well, that situation wouldn't be changed
8 with or without a moratorium as long as it's a toll
9 call. The only way it would change is if at some
10 point in time you were unable to distinguish -- in
11 other words, the tariffs were structured in such a way
12 that all minutes were billed at the same time. The
13 issue of universal surcharge notwithstanding because
14 we will have to do something about that.

15 Q. Am I correct in believing that EAS is
16 established to allow a community of interest to have
17 local calling in circumstances in which that community
18 of interest is not within a particular exchange
19 boundary?

20 A. That's one of the criteria.

21 Q. And so if a customer in a WITA territory
22 that is part of an EAS wanted to take service from a
23 competitive local exchange carrier, under your
24 position that customer would be required to pay more
25 for his calling than if he stayed with the WITA

02321

1 member; is that right?

2 A. I don't know that that's the case. As I
3 indicated earlier in my testimony in response to a
4 similar question, the EAS rates were established to
5 cover the cost of foregone access, so they're embedded
6 in the rates that the customer is paying today, and
7 how you choose to rate your service for that
8 particular call is really your business. It may not
9 cost the customer more. It may cost them less.

10 Q. But at any rate, the competitive local
11 exchange carrier would need to absorb the access
12 charges or the interim universal service charge to
13 complete that call?

14 A. That would be part of the cost to the
15 carrier. That still doesn't necessarily mean that the
16 total cost of that transaction is higher than it would
17 otherwise be.

18 Q. But it could be?

19 A. It could be a lot less, too.

20 MR. KOPTA: That's all my questions. Thank
21 you.

22 JUDGE ANDERL: Thank you. Mr. Butler.

23

24 CROSS-EXAMINATION

25 BY MR. BUTLER:

02322

1 Q. Mr. Smith, are any of the competitive local
2 exchange carriers that are appearing in this
3 proceeding today members of WITA?

4 A. I doubt it unless they're an associate
5 member and I would have to check that.

6 Q. Do you know whether any of the competitive
7 local exchange carriers that are represented here
8 today have asked to join WITA and been refused?

9 MR. FINNIGAN: I will object on the grounds
10 of relevancy to this proceeding.

11 JUDGE ANDERL: Overruled.

12 MR. BUTLER: I'm trying to establish just
13 what interests WITA represents.

14 JUDGE ANDERL: I overruled the objection.

15 Mr. Smith, do you want --

16 THE WITNESS: You want me to testify to
17 hearsay?

18 JUDGE ANDERL: Just what you know.

19 A. They haven't asked me but I have heard that
20 ELI has approached WITA and asked for membership.

21 Q. And do you know whether they have been
22 accepted or refused?

23 A. I don't know if that particular decision
24 has been made. You might ask them.

25 Q. Do you know whether WITA has a policy or

02323

1 made a decision whether they would accept generally
2 any of the new entrants to local exchange carriers?

3 A. Competitive carriers?

4 Q. Yes.

5 A. I believe the current bylaws would preclude
6 that subject to -- I have my attorney here. You can
7 ask him later if you would like but that's my
8 understanding.

9 Q. Are you considering a name change for WITA
10 to add another "I" so it's the Washington Independent
11 Incumbent Telephone Association?

12 MR. FINNIGAN: Objection, argumentative.

13 JUDGE ANDERL: That wasn't a real question.

14 A. We're reevaluating our charter.

15 Q. Am I correct that with some limited
16 exceptions today, EAS traffic is exchanged between
17 incumbent local exchange carriers on a bill and keep
18 basis but that that compensation system has not always
19 been in place in this state?

20 A. That's true with the caveat that I
21 expressed when I responded to Mr. Smith.

22 Q. Previous to the implementation of the bill
23 and keep compensation arrangement for exchange of EAS
24 traffic, under any of the compensation agreements or
25 arrangements that were in place that you are aware of,

02324

1 did any money ever transfer from U S WEST to a WITA
2 member?

3 A. Absolutely.

4 Q. Can you tell me what that WITA member is?

5 A. Well, PTI for one.

6 Q. And can you describe for me what the
7 compensation arrangement was?

8 A. I will speak to the one that occurred
9 that exists, at least it existed to the best of my
10 recollection up until this year and may be still in
11 existence. Kitsap County. There's a three-way
12 compensation agreement between U S WEST, United --
13 that is Sprint United -- and PTI which both PTI and
14 Sprint received monies from U S WEST.

15 Q. Did money go to U S WEST?

16 A. Was that your question?

17 Q. Yes.

18 A. I misunderstood it then. I thought you
19 said from U S WEST.

20 Q. No.

21 A. I believe that it's possible. My
22 recollection is that there were some 50/50 agreements
23 where we actually paid U S WEST.

24 Q. Would you agree that in -- allowing for the
25 possibility of an exception -- that in most cases the

02325

1 money flowed the other direction from U S WEST to an
2 independent company?

3 A. Well, it did if I was doing my job
4 correctly.

5 Q. Can you tell me whether any of the
6 compensation arrangements that you're aware of the
7 compensation was based upon the minutes of use?

8 A. Yes. Indirectly. There was at least one
9 form of agreement that employed separations principles
10 which allocated cost based on the EAS minutes.

11 Q. Were minutes of use accounted for on a real
12 time basis and the compensation based directly therein
13 such as is being proposed for a compensation
14 arrangement here?

15 A. It was a different world back then. I
16 don't think that occurred to anyone.

17 Q. So a proposal being made by U S WEST and
18 GTE for a form of mutual compensation for exchange of
19 local and EAS traffic, this is a compensation scheme
20 that hasn't been seen before in this state; is that
21 correct?

22 A. I believe that's probably correct. I don't
23 think that this environment has been seen before in
24 the state of Washington.

25 Q. You express some opinions about operation

02326

1 of the Commission's EAS rules and local calling areas
2 that would be faced by the new entrant. Am I correct
3 that you were expressing a lay opinion and not a legal
4 opinion or were you relaying a legal opinion given to
5 you by one of your counsel?

6 A. No. It's purely a lay opinion. I notice
7 counsel didn't object, though.

8 Q. I want to try to understand a little more
9 about your proposal for a moratorium and how it would
10 work with respect to the compensation between a WITA
11 member and a new entrant. If I understood your
12 answers to Mr. Kopta, if ELI were to move into Gig
13 Harbor -- first of all, is Gig Harbor a PTI territory?

14 A. Yes, it is.

15 Q. So if ELI were to move into Gig Harbor and
16 one of ELI's customers were to call a PTI customer in
17 Gig Harbor it is your understanding or position that
18 that call would be a toll call; is that correct?

19 A. No. That's not what I said.

20 Q. That would be a local call, correct?

21 A. Correct.

22 Q. How would -- under your proposal for a
23 moratorium, how would ELI and PTI compensate one
24 another, if at all, for the exchange of that traffic?

25 A. On a mutual compensation basis.

02327

1 Q. During the moratorium period?

2 A. Moratorium had to do with EAS. We've just
3 established that's not an EAS call.

4 Q. So if tomorrow ELI were to be in Gig Harbor
5 and one of ELI's customers were to send a call to a
6 PTI customer in Gig Harbor, what charges would apply
7 for terminating that traffic to the PTI customer?

8 A. Interconnect, interconnection charges and
9 currently that would be our switch access rates.

10 Q. So you would charge switched access rates
11 for that local call. If one of the PTI customers
12 located in Gig Harbor called another PTI customer in
13 Gig Harbor that would simply be covered by the flat
14 rate charged to the PTI customer, right?

15 A. Unless the Commission deemed that a
16 different structure should be put in place we would
17 have no choice.

18 Q. If this ELI customer in Gig Harbor were to
19 call a U S WEST customer in Seattle, obviously it's
20 your understanding that under the U S WEST proposal
21 that there would be the measured compensation -- or
22 Tacoma, make it realistic, Tacoma -- that the measured
23 charges U S WEST proposed would apply to that call,
24 correct?

25 A. That's their position, yes. That's my

02328

1 understanding.

2 Q. But a PTI Gig Harbor customer calling
3 Tacoma, would there be any cash compensation exchanged
4 between PTI and U S WEST for that call?

5 A. Under what I just proposed that PTI is
6 willing to do there would be.

7 Q. During the moratorium period?

8 A. I'm not proposing the moratorium period be
9 mandatory for all carriers and I indicated earlier
10 that PTI is one of the carriers that's willing to move
11 to that sort of an environment more quickly.

12 Q. So there would be no moratorium period for
13 PTI?

14 A. That's what I'm suggesting, as well as GTE,
15 and I will let United speak for themselves but they're
16 obviously involved. I said earlier that the
17 Commission could implement mutual compensation in the
18 206 area code first because that's where all the
19 activity seems to be and then evaluate that and
20 determine if and when to implement it elsewhere, the
21 360.

22 Q. So if I understand correctly, your proposal
23 now is that there be a moratorium period for WITA
24 members outside the 206 area code and no moratorium
25 for those located inside?

1 A. I'm suggesting to the Commission that
2 that's one potential impasse we seem to be at.

3 Q. That your recommendation?

4 A. That's my recommendation, which is
5 consistent with what I have said. Each company --
6 there may be other companies that wish to move forward
7 faster.

8 Q. Let me ask you. I'm still just trying to
9 get my hands around what your proposal is on this
10 moratorium. For WITA members outside the 206 area
11 code there would be some moratorium period followed by
12 a transition opportunity?

13 A. Yes, and that may vary by company but not
14 to exceed five years.

15 Q. And the reason for your recommendation of a
16 moratorium is in part because those WITA members had
17 engineered their networks for exchange of EAS traffic
18 on the assumption that bill and keep would be the
19 operating form of compensation; is that correct?

20 A. In part. There are a number of other
21 considerations when you're engineering the network and
22 you're trying to expedite this process.

23 Q. That was my question, whether in part that
24 was the issue. Would it be fair to say, then, that in
25 your opinion the movement to a measured form of

02330

1 compensation could cause some WITA members to have to
2 re-engineer their networks?

3 A. I don't think it can specifically cause it.
4 It may cause them to reassess how it's currently
5 configured.

6 Q. And the reason that they would reassess how
7 it's currently configured is that those networks would
8 not be most efficiently designed in an environment
9 that would require the measurement and compensation?

10 A. It's not so much the measurement aspect of
11 it as they may find a more efficient way in terms of
12 direct trunking as opposed to using a U S WEST tandem
13 and back hauling the traffic to a neighboring
14 exchange.

15 Q. So you would agree with me?

16 A. They may want to use one of the fiber rings
17 that are available.

18 Q. You would agree with me then that the form
19 of compensation for the exchange of EAS traffic could
20 have an impact on the way that a particular provider's
21 network is engineered and designed; is that correct?

22 A. I think that's my testimony, yes.

23 Q. Am I also correct that one of the reasons
24 that you had recommended a moratorium for certain WITA
25 members is that the movement from bill and keep to a

02331

1 measurement -- a measured form of compensation for the
2 exchange of traffic could in some circumstances have
3 impact on the rates that some of those WITA members'
4 ratepayers would have to pay?

5 A. I think that's a --

6 Q. Specifically you have indicated a concern
7 that some ratepayers of some WITA members might see
8 rate increases, some perhaps fairly considerable; is
9 that correct?

10 A. Potentially.

11 Q. Are you familiar with U S WEST's estimate
12 in its general rate case that it expects to experience
13 net payments to independent companies on the order of
14 6.8 million dollars annually if its measurement
15 proposal is put in place?

16 A. I understand that's their calculation but I
17 have not been able to evaluate the underlying
18 assumptions. I don't think that -- at least we don't
19 have the traffic data available to determine whether
20 that's accurate or whether it goes the other way.

21 Q. Would you expect that there would be net
22 payments by U S WEST to independents if that
23 measurement -- measured form of compensation were put
24 in place?

25 A. I would expect that if the traffic levels

02332

1 were roughly even, given the difference -- even if the
2 rates are recast to reflect additional demand, given
3 that U S WEST access rates are typically lower than
4 most of the other smaller LECs, that there is -- that
5 potentially, at least, some of the LECs could be net
6 recipient and thus may be able to lower their rates.

7 Q. In looking at it in the converse, then,
8 would you agree that the net payments by U S WEST to
9 independents would, at least ultimately, have to be
10 picked up by U S WEST ratepayers?

11 A. As opposed to their shareholders I guess
12 that would be their preference, yes.

13 Q. Tends to generally be the case in my
14 experience.

15 A. For all of us.

16 Q. You would agree then, would you not, that
17 movement to a measured form of compensation for the
18 exchange of EAS traffic could result then in higher
19 costs having to be paid by U S WEST ratepayers than
20 would exist under a current bill and keep arrangement?

21 A. For some of their customers, perhaps.
22 There may be similar customers under bill and keep
23 that are paying and not making any calls to the areas
24 that you're referring to today.

25 Q. Would you agree that under the current bill

02333

1 and keep arrangement no money changes hands between
2 U S WEST and the independents for the exchange of EAS
3 traffic?

4 A. Yes. And with the caveat that I gave to
5 Mr. Smith. There is the exception where the
6 Commission in order to mitigate high rates for some of
7 the independents on the EAS routes specifically have
8 increased their access charges.

9 Q. With that exception. I would like to know
10 if you can express WITA's position about the terms of
11 physical interconnection. We heard testimony from U S
12 WEST witness Owens earlier in this proceeding that U S
13 WEST did not intend to seek a change in the point of
14 interconnection between incumbent local exchange
15 companies and U S WEST, in other words a change in
16 the meet point, but that for future interconnection
17 arrangements it would be the U S WEST position that
18 interconnection should occur between a WITA member and
19 U S WEST on the same -- in the same way and on the
20 same terms as interconnection between U S WEST and one
21 of the new entrants, in other words, at either U S
22 WEST or the other provider's central office and not at
23 a meet point. Does WITA have a position about that
24 proposal from U S WEST?

25 A. It's not a specific question that was

02334

1 addressed in my preparation for this testimony so I
2 can't express a position for WITA on it.

3 Q. Can you express a position from WITA about
4 where new entrants and WITA members would
5 interconnect? Would it be at meet points or would it
6 have to be on some virtual colocation basis?

7 A. No, I can't.

8 Q. Can you confirm that directory listings,
9 directory assistance and certain local operator
10 functions are provided by U S WEST to at least some
11 WITA members pursuant to contract?

12 A. That's true.

13 Q. Finally, again, without rendering a legal
14 opinion, would it be your understanding that the
15 Commission, if it deemed necessary in this proceeding,
16 could order that the new entrants conform their local
17 calling areas, including EAS routes, with the existing
18 calling areas' EAS routes of incumbent providers?

19 A. Well, I've been advised that the Commission
20 can determine exchange boundaries so I guess given
21 that advice it's probably the case.

22 Q. And the effect of that then would bring
23 them under the same forms of inter carrier
24 compensation that would otherwise apply between the
25 incumbent and U S WEST; is that correct?

02335

1 A. Not necessarily. I thought we were talking
2 about exchange boundaries. I don't believe that EAS
3 applies to competitive carriers.

4 Q. Would you accept that the Commission might
5 have the power to order that it would apply if it
6 deemed necessary?

7 A. Well, I would have accepted the Commission
8 has a lot of power.

9 Q. Would it include that power?

10 A. I can't tell you without giving you a legal
11 opinion.

12 Q. Would it be your position -- again not as a
13 legal opinion -- that if the Commission were to issue
14 such an order in this proceeding that that would be an
15 opinion which you would recommend be followed by WITA
16 members?

17 MR. FINNIGAN: Could you define at least
18 for me what opinion you're talking about because I've
19 lost track.

20 Q. That the new entrant in this proceeding
21 conform their local calling areas to those of the
22 incumbent and that the inter carrier compensation
23 rules that applied to the incumbent would apply to the
24 new entrant as well.

25 A. For local calling areas that's true.

02336

1 Q. Including EAS?

2 A. Well, that's a different hypothesis. Let's
3 see if I've got it correct. The Commission would
4 order that, and let's use ELI as an example.
5 Everybody else has. ELI is going to adopt U S WEST
6 exchange boundaries and further adopt their EAS
7 routes.

8 Q. Correct.

9 A. And the Commission orders that that is the
10 case, and now --

11 Q. If it deems necessary that it issue that
12 kind of order, yes, that's all I'm asking.

13 A. And orders that it do so at the rates that
14 were established when those routes were established or
15 orders some other mechanism for rating.

16 Q. Whatever decision it makes with respect to
17 compensation for the exchange of EAS traffic. So that
18 in other words what would be an EAS call between an
19 incumbent independent company and, say, U S WEST would
20 also -- would also be an EAS call, i.e., not a toll
21 call, if you were dealing with a customer from a
22 new entrant?

23 A. Okay. And the question is if the
24 Commission ordered that would we abide by that, their
25 order?

02337

1 Q. Yes, would that be your recommendation?

2 A. Well, my recommendation would not be
3 necessary. We unanimously follow Commission orders in
4 spite of my recommendations.

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

6 JUDGE ANDERL: Mr. Rindler, I had you down
7 for an estimate. Do you have some questions?

8 MR. RINDLER: Most of them have been
9 answered.

10

11 CROSS-EXAMINATION

12 BY MR. RINDLER:

13 Q. Mr. Smith, I'm Mr. Rindler representing MFS
14 Intelenet, Inc.

15 A. Good afternoon.

16 Q. On page 19 of your testimony you say that
17 "the proposal we're making should apply to existing or
18 planned EAS routes." What do you mean by planned EAS
19 routes?

20 A. Well, specifically there is, as I indicated
21 in response to an earlier question, there are routes
22 that have yet to be converted under the rule that were
23 contemplated by the rule. Specifically we have a
24 route that we will file shortly for, Chewelah to
25 Colville. So that's what I mean by planned.

02338

1 Q. You mentioned in response to another
2 question that a competitive local exchange carrier
3 could file with respect to some precis that's going to
4 occur in 1996?

5 A. I think what I actually said was that some
6 carrier that was not classified as a competitive
7 carrier under the Commission's rules may actually be
8 obligated to file the studies in 1996 of their
9 particular routes for the Commission to consider for
10 EAS.

11 Q. So there's a possibility that there will be
12 additional EAS routes?

13 A. Very definitely. I mean, the Commission's
14 rule is still in force and in 1996 all incumbents LECs
15 are required to study all routes and go through the
16 process envisioned by the rule again.

17 Q. And what compensation arrangement would you
18 propose for those routes?

19 A. Well, we have no choice in what to propose.
20 The rules specifically delineate, some companies are
21 to file their routes --

22 Q. That is?

23 A. -- on a flat rate unlimited calling basis.

24 Q. I may have misspoke when I said rates. I'm
25 talking about the interconnection charges.

02339

1 A. The Commission's rule is silent with
2 respect to interconnection charge.

3 Q. What would you propose under this
4 arrangement?

5 A. It doesn't matter what I propose. The rule
6 is what it is.

7 Q. You just told me the rule is silent.

8 A. I would propose that we follow the rule.
9 Maybe I'm not understanding your question. I'm not
10 trying to be difficult.

11 Q. Let me try to be clearer. I thought you
12 were proposing a five-year moratorium with respect to
13 certain existing EAS routes?

14 A. Yes.

15 Q. Would that five-year moratorium apply to
16 new EAS routes?

17 A. For those companies that require time
18 period, yes, and another thing I think that would
19 happen, and you raise a very important point, I think
20 the rule will have to be revisited in light of --
21 potentially in light of what the Commission might
22 order in this docket.

23 Q. Do I understand then that it's conceivable
24 that there may be EAS routes between an existing
25 incumbent carrier -- two existing incumbent carriers

02340

1 that under this proposal would be bill and keep?

2 A. Until it changed by the --

3 Q. Until it changed and a competitive local
4 exchange carrier, another local exchange carrier who
5 has to propose this EAS arrangement under the rule,
6 would be compensated on a minute of use basis?

7 A. No. I will try this one more time. A
8 competitive carrier is not bound by this rule and can
9 structure their calling areas in any way they desire
10 subject to the Commission's approval. But you keep
11 saying competitive carrier. Did you mean --

12 Q. No. I said another local exchange carrier
13 to drop out the competitive specifically.

14 A. Oh, okay. An alternative exchange carrier
15 that is -- okay. They would be subject to the rule.
16 And if the Commission doesn't change the rule they
17 would file their proposed rate structure based on the
18 requirements of the rule. And that currently would be
19 bill and keep.

20 Q. One other question from a different area.
21 Do I understand your testimony to be that U S WEST
22 should be allowed to charge for interconnection based
23 on its alleged cost but new entrants should not be
24 allowed to charge rates that reflect their cost if
25 those costs are higher than U S WEST?

02341

1 A. Well, let me explain that further.

2 Q. Could you first tell me whether that's your
3 testimony.

4 A. That's the import of my testimony, but
5 there's -- I want to put it in context. I think a
6 carrier is free to file tariffs with the Commission.
7 The assumption was that they would not want to engage
8 in that particular exercise if they can file
9 interconnection rates with the Commission and the
10 Commission approves them. The Commission is free to
11 order a different set of rates than is in place. This
12 would expedite that.

13 Q. I'm sorry. Expedite what?

14 A. Well, absent that sort of a filing, we're
15 recommending that U S WEST rates could be used as a
16 cap, yes.

17 Q. Thank you.

18 MR. RINDLER: No further questions.

19 JUDGE ANDERL: Mr. MacIver.

20

21 CROSS-EXAMINATION

22 BY MR. MACIVER:

23 Q. Mr. Smith, you weren't here, I don't think,
24 during appearances so I think you know who I am at
25 least but my name is Clyde MacIver and I am going to

02342

1 ask you a few questions on behalf of MCI Metro and
2 MCI Telecommunications. I don't want to belabor too
3 much this EAS because you've been asked a lot of
4 questions about it, but so far no one has talked about
5 the reason for EAS routes and I want to see for the
6 record what you understand those reasons to be. Is it
7 not true that EAS routes are established for the
8 benefit of the users and the public and not for
9 telephone companies? And by that I mean isn't it the
10 purpose and the policy underlying EAS routes to
11 recognize a community of interest between calling
12 areas?

13 MR. FINNIGAN: I will object. The
14 Commission's rules will speak for itself.

15 MR. MACIVER: I'm asking for this witness's
16 understanding of those rules.

17 Q. Do you agree that the purpose of the EAS
18 rules are primarily to represent community of interest
19 between calling areas?

20 JUDGE ANDERL: I will allow the question,
21 but let's move through this part of it quickly, Mr.
22 MacIver.

23 MR. MACIVER: Yes.

24 A. I believe that's an important
25 consideration.

02343

1 Q. And when the community of interest meets
2 certain criteria designated by the rules it is the
3 public policy to substitute local calling rates for
4 toll rates. Isn't that the essence of an EAS rule and
5 route?

6 A. That is another true aspect of the rule,
7 yes.

8 Q. And the fact that a customer on an EAS
9 route might be a customer of an incumbent or a new
10 entrant doesn't change that customer's calling
11 patterns, does it?

12 A. I think that the point I made and the one
13 you seem to be alluding to is that there are a number
14 of customers in these EAS calling areas that weren't
15 exactly overwhelmed with the idea of having to
16 mandatorily pay for unlimited calling for an area they
17 didn't want to call. A competitive carrier can tailor
18 the calling area to the specific customer's needs.

19 Q. Mr. Smith, I wish you would answer my
20 question.

21 MR. FINNIGAN: Excuse me. I would like Mr.
22 Smith to be able to finish his response.

23 MR. MACIVER: I'm sorry, I thought you had.

24 THE WITNESS: I lost the train of thought
25 so I guess I had.

02344

1 Q. My question to you was assuming the
2 Commission established an EAS route in response to a
3 decision that a community of interest between these
4 calling areas justified it. My question to you is
5 that a customer, an end user's calling patterns along
6 that route are going to remain the same, are they not,
7 whether or not they are a customer of an incumbent
8 or a customer of a new entrant?

9 A. I would say that may depend on how you
10 tailor the particular package for them.

11 Q. On page 24 of your testimony you stated
12 that to the extent that the new entrants are able to
13 deploy newer technology than the existing company the
14 service should be available on a mutually unbundled
15 basis. Do you recall that?

16 A. Yes, I do.

17 Q. The incumbent would be able to deploy the
18 same new technology themselves, would they not?

19 A. Subject to certain constraints, yes.

20 Q. If the new entrant were to install a new
21 digital switch, would it be in -- in its route, would
22 it be your position that the incumbent could buy its
23 capacity?

24 A. Potentially, yes.

25 Q. Could they buy all of it?

02345

1 A. All of the capacity of the?

2 Q. Of the new switch.

3 A. Well, I think if that were to occur they
4 might as well just buy a switch.

5 Q. Would you answer my question. Would it be
6 your position that the incumbent could buy up the
7 capacity of a new entrant's switch?

8 MR. FINNIGAN: Excuse me. I will object.
9 Would you define for us which incumbent you're
10 referring to?

11 MR. MACIVER: This is a hypothetical. Any
12 incumbent.

13 MR. FINNIGAN: Would you give us the range
14 of size of the incumbent you're talking about and
15 range of size of switch.

16 Q. Let's assume the incumbent can afford to do
17 it and it's the size of a switch that it could afford
18 to buy. Is it your position that under this mutual
19 unbundling that the incumbent could buy the capacity
20 of that switch?

21 A. I guess I hadn't really thought about that.
22 To the extent that you're willing to sell all the
23 capacity in the switch to the incumbent and the
24 incumbent has the resources, I don't see why not, and
25 the reverse could be true.

02346

1 Q. Would the incumbent be willing to make
2 long-term commitments under contract for the unbundled
3 loop elements of the new entrant?

4 MR. FINNIGAN: Objection.

5 A. We're still in the hypothetical here?

6 Q. Yes, we are.

7 MR. FINNIGAN: This hypothetical has no
8 basis in fact that I can determine on this record and
9 unless Mr. MacIver can give us some definitions as to
10 what he's talking about, I don't think we're adding
11 much to the record.

12 Q. The basis is your testimony on page 24 that
13 to the extent that the new entrants are able to deploy
14 newer technology than the existing company the service
15 should be available on an unbundled basis. I'm asking
16 if you were acquiring that service on an unbundled
17 basis from the new entrant, would the incumbent be
18 willing to make long-term commitments under contracts?

19 A. I think it's too far --

20 JUDGE ANDERL: Excuse me. I was going to
21 ask if it was the incumbent WITA member?

22 MR. MACIVER: Yes.

23 JUDGE ANDERL: I still don't know that --
24 well, I guess the witness can say whether he can
25 answer that.

02347

1 MR. POTTER: I will observe that it's a
2 hypothetical. It's a hypothetical company. I don't
3 know how the witness could possibly know what a
4 hypothetical company could do.

5 JUDGE ANDERL: Perhaps on that basis I will
6 sustain the objection.

7 Q. What company are you with, sir?

8 A. PTI.

9 Q. Would PTI be willing?

10 A. We might be. I don't know. It depends on
11 the particular circumstances. One thing we might be
12 willing to do is rather than route EAS traffic through
13 a U S WEST tandem is to buy capacity on ELI's fiber
14 and direct connect.

15 Q. At page 7 of your direct testimony you
16 propose that the Commission address universal service
17 issues in a separate docket.

18 A. I'm sorry, the page again?

19 Q. Page 7. You suggest that universal service
20 issues be resolved in a separate docket?

21 A. Yes, I did.

22 Q. And at page 15 of your direct testimony you
23 propose that number portability issues be resolved in
24 the marketplace; is that correct?

25 MR. FINNIGAN: Page what?

1 MR. MACIVER: 15.

2 A. Right.

3 Q. And at page 13 of your direct testimony you
4 propose that a separate docket be opened to establish
5 the mechanism on which mutual compensation should be
6 based; is that correct?

7 A. That's correct.

8 Q. And finally at page 19, as we have been
9 discussing, you propose a five-year moratorium on bill
10 and keep for EAS routes with an indefinite, I guess
11 into eternity, transition period following that.

12 MR. FINNIGAN: I'm going to object. This
13 is not this witness's testimony. As he stated in
14 response to getting close to enumerable questions on
15 EAS earlier, he discussed that the transition period
16 would be short, not whatever Mr. MacIver has used.

17 Q. I'm referring you to both your prefiled
18 testimony and you show me where in that testimony you
19 put a limit on this transition period, please.

20 A. Let me clarify it for you.

21 Q. I'm asking you now to refer to your
22 testimony that you filed. Is there any limit
23 suggested in the prefiled testimony you filed in this
24 case?

25 MR. FINNIGAN: Your Honor, I'm going to

02349

1 object to the form of the question as argumentative.
2 Mr. Smith testified in response to cross-examination
3 earlier this afternoon as to what his opinion was in
4 terms of the moratorium and the transition period.

5 Q. Are you amending your prefiled testimony
6 then?

7 JUDGE ANDERL: I will sustain the
8 objection. Mr. MacIver, can you restate your
9 question.

10 Q. Are you amending your prefiled testimony
11 and are now suggesting a limit to the transition
12 period?

13 A. I don't think it constitutes an amendment.
14 I said that the transition period may vary by company.
15 The Commission is going to be the determining body on
16 how long the transition period is. For some companies
17 it may require no transition. Some companies, they
18 may feel that it should not be changed to
19 indefinitely.

20 Q. To eternity, like I said to begin with?

21 A. That's your word.

22 Q. Yes, it is. They're one and the same in
23 your testimony, aren't they?

24 A. Eternity is not in my testimony.

25 Q. Isn't it the effect of what you are

02350

1 recommending here is to delay consideration of the
2 critical issues essential for competitive entry and
3 thereby delay competitive entry?

4 A. I can tell you that that was not a thought
5 that was ever in my mind, and I can't speak for
6 everyone else of WITA, but that certainly was not
7 the plan that I had.

8 MR. MACIVER: No further questions.

9 JUDGE ANDERL: Ms. Proctor, did you have
10 some questions?

11 MS. PROCTOR: Just a few.

12

13 CROSS-EXAMINATION

14 BY MS. PROCTOR:

15 Q. Mr. Smith, just to clarify the position, I
16 believe you told Mr. Butler that your position would
17 be that in PTI territory at least interconnection
18 would be at switched access rates; is that correct?

19 A. They would be at switched access rates,
20 yes.

21 Q. And what is PTI's current switched access
22 rate?

23 A. I don't have that number in mind. I'm
24 anticipating that if it were to be applied to this I
25 think it would be revised and recalculated on a

02351

1 revenue neutral basis.

2 Q. The current rate is somewhere around seven
3 or eight cents a minute for an access minute?

4 A. That doesn't sound right. Are you
5 including the WECA common line rate in that as well?
6 We've been down this road before, haven't we?

7 Q. I was going to say, you know, once I get
8 off the average that you're way ahead of me on that.
9 I was just looking for a ballpark.

10 A. My recollection is -- depending on what the
11 transport, my recollection is it's more in the range
12 of three to five cents.

13 Q. GTE's rate is around five cents.

14 A. It's on file. We can run down together and
15 look at it.

16 Q. It certainly isn't necessary, I don't want
17 to belabor that. So for PTI at least you would be
18 contemplating relooking at your switched access rates
19 and making a filing. Is that correct?

20 A. Yes, that would be my recommendation to the
21 company.

22 Q. Would you be recommending inclusion of a
23 universal service charge like U S WEST did?

24 A. I haven't discussed that with our people
25 at this point but with respect to the exchange of the

02352

1 -- interexchange of local traffic within our service
2 areas, we would have to deal in some fashion with the
3 universal service question.

4 Q. Well, could we turn -- that's a nice segue.
5 Could we just look briefly at your testimony on page
6 8. You recommended or stated that WITA expects to
7 submit a petition to the Commission on or before June
8 30. We have all been having just a good time up here
9 that we haven't been keeping track, but I know that
10 June 30 is just around the corner and I wasn't sure
11 whether that petition was still on track or had
12 already been filed.

13 A. It was filed right on time.

14 JUDGE ANDERL: Would that be tomorrow?

15 CHAIRMAN NELSON: It's been filed.

16 MR. FINNIGAN: For counsel's benefit it was
17 filed last Friday.

18 THE WITNESS: Well, that's on time. It's
19 not late.

20 Q. I didn't know of the filing and so I
21 wondered if it had been indeed filed and if we were on
22 track with that.

23 A. Yes.

24 Q. You were then talking about developing a
25 plan to submit somewhere in the September time frame.

02353

1 Were you contemplating having workshops in order to
2 prepare that plan?

3 A. I think that would be the most productive
4 way to approach it in the fashion that we have in
5 Oregon and we've done it for other complicated dockets
6 in Washington that we have workshops.

7 Q. And the workshops of course would not just
8 be WITA members, would it?

9 A. Well, I would hope not.

10 Q. I mean, you referred to Oregon and in that
11 case I think virtually everyone in the room is
12 participating in that docket?

13 A. Right. In Oregon it was done in the
14 context of a contested docket or at least a docket,
15 and I think I hold open the possibility that the
16 Commission might want to do that same thing here. But
17 my anticipation is that could occur after we filed the
18 proposal or if there's some interest in conducting
19 workshops prior to that I think WECA could accommodate
20 that.

21 Q. So you would be open to considering having
22 a workshop to develop a proposal?

23 A. Sure. I would be. I would talk with WITA.
24 I'm sure they would be.

25 Q. On the unbundling -- and I believe you

02354

1 address that on page 23 of your testimony at line
2 12 on page 23. Do you have that in front of you?

3 A. Yes.

4 Q. You refer to the level of unbundling
5 suggested by U S WEST, and just so I'm clear, what
6 level of unbundling do you understand has been
7 suggested by U S WEST in this docket?

8 A. I will be honest with you. Enough time has
9 passed now where I no longer know what's being
10 proposed in the level of unbundling.

11 Q. That's perfectly understandable. On line
12 16 you state that "given the cost and expense that is
13 expected to accompany unbundling." Did WITA do any
14 investigation among its members of cost estimates of
15 whatever level of unbundling you might have understood
16 was proposed?

17 A. Well, I think that also goes to what goes
18 along with unbundling, that is, the TS LRIC study,
19 and some WITA members have some experience with this
20 and -- with the cost associated with that, and in
21 particular PTI is in the process of soliciting
22 proposals or bids to assist us in putting together TS
23 LRIC models and administering those, and it's been our
24 experience that it can range anywhere anywhere from
25 several hundred thousand -- 300,000 -- to plus or

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1 minus depending on what the particular consultant is
2 able to do for you. So even for PTI that -- assuming
3 that we have the resources and the economists on staff
4 that is a number that gets -- focuses attention in the
5 budgeting process, and for smaller companies obviously
6 that may be a number that they can't live with, and
7 that doesn't even count what it costs to actually put
8 that sort of a tariff together.

9 Q. So was the primary concern performing cost
10 studies rather than the physical act of unbundling?

11 A. Well, unbundling carries with it a tariff
12 filing requirement and there are some costs associated
13 with that, and we don't all have a lot of experience
14 in that particular area. I'm not aware of it
15 happening before.

16 Q. Was any of that concern directed to the
17 filing of restructured tariffs for the local transport
18 portion of switched access?

19 A. I hadn't thought of that specifically
20 because, as you know, PTI is committed to make that
21 type of filing. For some of the smaller compensation
22 it would probably be a consideration.

23 Q. You've also referred to making a bona fide
24 request. Are you able to express a position for WITA
25 on whether if the Commission instead of a moratorium

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1 were to establish a procedure whereby a potential new
2 entrant could request unbundling and a company could
3 seek a waiver if it were too costly, that that might
4 be an acceptable alternative?

5 A. I'm having a problem tying the moratorium
6 into unbundling. Moratorium was for mutual
7 compensation for EAS.

8 Q. Oh, I'm sorry. So there is no moratorium
9 on unbundling for the WITA companies?

10 A. I don't recall requesting one in my
11 testimony.

12 Q. Okay.

13 A. I'm just suggesting that the Commission may
14 not want to do that because it may not be
15 cost-effective for some of the smaller companies.

16 Q. I'm a little confused, Mr. Smith. On
17 page 23 at line 17 and 18 you state "WITA believes
18 that there should be a minimum of a five-year
19 moratorium on unbundling for small companies."

20 A. I stand corrected. For small companies.
21 Is that what you just said?

22 Q. Well, I was just reading.

23 JUDGE ANDERL: Small companies.

24 Q. Who is a small company?

25 A. PTI isn't very big compared to some of the

02357

1 other companies in this room.

2 Q. So my question to you was rather than a
3 moratorium would these small companies including PTI
4 consider a process whereby the process for them rather
5 than ordering unbundling would be that a potential new
6 entrant could make a request and there might be a
7 waiver process to accommodate concerns about costs.

8 A. Should have just asked that question the
9 first time you asked it and I might have kept myself
10 out of trouble. I haven't asked WITA that question
11 and so I can't answer.

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

13 JUDGE ANDERL: Any other party have cross
14 for this witness?

15 Do the commissioners have questions?

16 CHAIRMAN NELSON: Yes, a few.

17

18 EXAMINATION

19 BY CHAIRMAN NELSON:

20 Q. Mr. Smith, a page 11 of your direct
21 testimony, you have a wonderful description of changes
22 occurring in the larger market discussing, for
23 example, the distinction between toll and local
24 service blurring, a little discussion of what's going
25 on with cellular. And at the bottom you say, "It's

02358

1 unlikely that some of these new carriers especially
2 the wireless portion of the market will define toll
3 and local service in the same way as LECs have
4 traditionally done." Would you agree with me that
5 our pricing policies are heavily tied to the past of
6 the wire line telephone industry?

7 A. Absolutely.

8 Q. And these pricing policies evolved over
9 historic time compromises made between companies and
10 even with regulators in the room?

11 A. I would agree with that too.

12 Q. And so your recommendation, though, is to
13 -- at another point in your testimony you say a minute
14 of use is a minute of use and that should be the way
15 we price and compensate each other I think is the gist
16 of your testimony?

17 A. I think we have to get to that point at
18 sometime.

19 Q. Well, why did you pick minutes of use as
20 being a measure? Reference is also made in your
21 testimony to EAS, and I think we find that customers
22 really like flat rates. Why couldn't we go the other
23 direction?

24 A. I am not precluding any company, including
25 my own, from proposing a flat-rated port charge if

02359

1 they think that that is a more efficient way to price
2 it. And depending on the volumes that carriers might
3 want to deliver, that may be appropriate to
4 track.

5 Q. I'm trying to think if there are ways to
6 encourage respect price innovation. And many of the
7 other parties in this proceeding have been concerned
8 about all consumers reaping the benefits of
9 competition coming to the local exchange industry and
10 are worried about that. And it's sort of interesting.
11 Electricity's deregulation and competition started a
12 couple of years ago and we've seen there the market
13 evolve really much faster in terms of prices to
14 consumers, especially large consumers, at this point
15 falling very fast. And sort of -- and new sorts of
16 pricing arrangements emerging. Peak capacities is a
17 big, big driver of cost in the electric power industry
18 so I'm just wondering if we get wedded to minutes of
19 use how can we ensure competitive pricing to our end
20 users in the future?

21 A. Actually I started out with Pacific Power
22 and Light so I remember what a kilowatt is and I
23 wasn't aware that they had abandoned kilowatts, but I
24 suppose if we're going to draw an analogy maybe one we
25 can draw is that where you probably are seeing the

02360

1 radical price changes are in the generation area. I
2 am curious -- in fact I thought there might be a
3 future for me in this -- as to how they're resolving
4 the shared use of the local distribution and what
5 pricing policies it will put in place for that, but I
6 think pricing it on minutes or capacity is consistent
7 with what you're seeing, and what I would see
8 happening in the electric and what I see happening is
9 that the price per minute would dramatically drop, and
10 especially if you're assessing in all minutes. We're
11 only identifying a small portion of the minutes that
12 are on the network today in our denominator for our
13 rate calculation.

14 Q. Let's take video band and channel. Are we
15 going to want to price that on a per minute of use to
16 the end user?

17 A. You got me on that but probably have to
18 lease bandwidth or something but it's not going to
19 be on minutes. Hopefully it will come up -- as this
20 evolves we'll come up with other methods to determine
21 how to price our service. Right now minutes happens
22 to be the thing that we can identify and measure.

23 Q. On page 25 of your direct testimony you
24 talk about the heritage of the new entrant. And I
25 think --

02361

1 (Discussion off the record.)

2 CHAIRMAN NELSON: Oh, we did?

3 THE WITNESS: You can still ask me if you
4 want to.

5 Q. I do want to ask you. You're talking about
6 mutuality I think in sort of relative bargaining power
7 and advantage of a firm like AT&T versus a firm like
8 Cowiche. And deleted testimony referring to a firm
9 called TelWest which is not one of the new entrant but
10 is operating in the state, as we all know, and has
11 recently been purchased or has had a substantial
12 investment infusion by Craig McCaw. I guess what I'm
13 trying to get at is, is it the financial backing or is
14 it the managerial talent that you think would be most
15 important in negotiations?

16 A. Only as much as I under-capitalized myself.
17 I guess I think the latter is very important. However
18 they may go together. You don't create venture
19 capital with poor management, so I think you need them
20 both.

21 Q. And isn't it true that some of the WITA
22 companies are entering new markets?

23 A. They are. Direct broadcast satellite for
24 one example.

25 Q. And I think Ellensburg is entering PCS, has

02362

1 a part of a partnership.; is that right?

2 A. That's true. That's my understanding.

3 Q. So the notion that just because one is
4 small doesn't mean that one is unsophisticated, does
5 it?

6 A. Definitely not.

7 CHAIRMAN NELSON: Thank you. That's all I
8 have.

9 JUDGE ANDERL: Mr. Hemstad.

10 COMMISSIONER HEMSTAD: I don't have any
11 questions.

12 JUDGE ANDERL: Commissioner Gillis.

13 COMMISSIONER GILLIS: I just want to make
14 sure I heard you right on something. Did you say the
15 minimum price of a TS LRIC is 300,000?

16 THE WITNESS: To get us set up to run TS
17 LRIC studies, to use their models, to be trained on
18 their models. That was one bid. Obviously I picked
19 the highest one I can remember.

20 COMMISSIONER GILLIS: Thanks.

21 JUDGE ANDERL: Redirect?

22 MR. FINNIGAN: Just a couple of questions.

23

24 REDIRECT EXAMINATION

25 BY MR. FINNIGAN:

02363

1 Q. Mr. Smith, in response to a question by Mr.
2 Kopta, you indicated that you thought the price per
3 message for the DDC was five-tenths of a cent. Would
4 your memory be refreshed if I told you that the record
5 shows that it is five one hundredths?

6 A. .005. I've always had trouble with that.

7 Q. Mr. MacIver inferred that your
8 recommendations for other dockets was done to delay
9 entry. Is it true that WECA has opened up a docket on
10 number portability?

11 A. That's true.

12 Q. And has it also -- has a proceeding going
13 on interconnection issues generally?

14 A. True.

15 Q. And the purpose of those dockets is to
16 resolve those issues more expeditiously than they
17 might otherwise be resolved?

18 A. That's the objective, yes. And I might
19 point out that the number portability committee is
20 chaired by Sherman Ackley.

21 MR. FINNIGAN: Thank you. That's all the
22 redirect.

23 JUDGE ANDERL: Just so the record is clear,
24 I think the witness said .005 and I don't think that's
25 right.

02364

1 MR. FINNIGAN: Three zeroes. Decimal point
2 zero, zero, zero five in dollars. Five one-hundredths
3 of a penny.

4 JUDGE ANDERL: Recross.

5

6 REXCROSS-EXAMINATION

7 BY MR. SHAW:

8 Q. The arrangement between PTI, U S WEST and
9 United in the Kitsap Peninsula that you mentioned,
10 has that also been testified to at the Silverdale
11 exception?

12 A. That's the first time I heard Silverdale
13 mentioned and I wasn't sure if it was in that context
14 or not but it is the arrangement between Silverdale,
15 Poulsbo and Kingston.

16 MR. SHAW: Thank you.

17 JUDGE ANDERL: Any other cross for this
18 witness?

19 Thank you, Mr. Smith, for your testimony.
20 You may step down. Let's be off the record while we
21 discuss post hearing process.

22 (Recess.)

23 JUDGE ANDERL: While we were off the record
24 we discussed the briefs. I have described an outline
25 for the briefs. It is mandatory that the

1 parties follow the format set forth therein. It is
2 Roman numerals I through VIII. Please also include a
3 table of contents. The parties have agreed that the
4 60-page limit on briefs contained in the Commission
5 rule is going to be enough for them and so that's the
6 page limit that will apply. The briefs are due on
7 August 9, 1995.

8 MS. PROCTOR: That's date of receipt,
9 right?

10 JUDGE ANDERL: Right. Yeah, filed with
11 the Commission. I am assuming that the attorneys who
12 are not here have made arrangements to find out about
13 this brief outline. I would ask --

14 MS. PROCTOR: I have committed to contact
15 the interexchange carrier attorneys, both for IAC and
16 Sprint.

17 JUDGE ANDERL: Thank you, Ms. Proctor.
18 I don't know if the others know about this. I believe
19 I mentioned that we were planning on formulating a
20 brief outline, so I expect everybody, including those
21 people who are not here, to get a copy of this. I
22 will have copies in my office. I would be happy to
23 send anyone who doesn't get one a copy of it.

24 I just want to say so it's clear we talked
25 about off the record under Roman IV C the

1 unbundling/resale section. We do specifically want
2 the parties to address which policy the new entrants
3 and any of the other parties would favor, either the
4 discrete unbundling basic network functions or the
5 bona fide request approach or the something else,
6 including but not limited to those two.

7 Someone asked for clarification on Roman
8 VI, implementation procedure and timeline. I guess
9 the best way that I can explain that is what I said
10 off the record, just what is this going to look like
11 in real life. Should the Commission order additional
12 proceedings what should the Commission order, when, et
13 cetera.

14 Roman VII, the complaints, is just a place
15 for the parties who are parties to the three complaint
16 dockets to discuss any issues that may have been
17 raised in the complaint that aren't otherwise covered
18 by the outline, and on Roman VIII, which is entitled
19 Other Issues, including dispute resolution, that is
20 kind of a grab bag section. You can put in any other
21 issue that we may have left out, but some parties did
22 specifically raise the issue of dispute resolution,
23 how disputes between carriers would be resolved,
24 whether they would go to arbitration, whether they
25 would go to an administrative law judge, whether they

02367

1 would go to Commission staff, and so that's just
2 an opportunity for that particular point to be
3 addressed.

4 Is there anything that we talked about off
5 the record that I haven't covered?

6 MR. SHAW: Your Honor, did you omit the
7 10-page allowance for Roman VII? You haven't
8 mentioned that.

9 JUDGE ANDERL: No. And I wasn't sure
10 whether the parties still needed that given. I
11 thought everyone said 60 pages was enough. Do you
12 want extra?

13 MR. SHAW: No. I just wanted to understand
14 what the rules are.

15 JUDGE ANDERL: If nobody needs it then it's
16 60 pages for everyone. Really, on top of that, I
17 would encourage people who don't address all the
18 issues not to use all the pages.

19 MR. KOPTA: Good luck.

20 JUDGE ANDERL: What else? Did I leave
21 anything else out?

22 MS. PROCTOR: Should we -- for example,
23 local transport restructure will undoubtedly not be
24 addressed by a number of the parties. Should they
25 just omit it or say "no position," "no discussion" or

02368

1 something like that?

2 JUDGE ANDERL: The latter. I like that.

3 You should all have eight Roman numerals. That clear?

4 I have a couple of late-filed exhibits.

5 MR. SHAW: I owe you two and just in the
6 press of the hearing we haven't got them yet. We'll
7 get them tomorrow hopefully.

8 JUDGE ANDERL: Those would be admitted on
9 receipt unless within five days I get some sort of a
10 fax or mailed objection by some party.

11 MS. PROCTOR: What are they?

12 JUDGE ANDERL: Let me tell you off the
13 record what they are.

14 (Discussion off the record.)

15 JUDGE ANDERL: While we were off the record
16 I explained to the parties what the two exhibits were
17 that I was waiting for, and I also covered with the
18 parties the exhibits that we had identified but not
19 yet admitted as far as that goes. Mr. Shaw withdrew
20 the Exhibit 81 and also 92. Both deemed withdrawn.
21 Anything else on the record?

22 MR. FINNIGAN: Was it 92 or 94?

23 JUDGE ANDERL: It was 92. It was the 1994
24 annual report.

25 Thank you all again. Let's be off the

02369

1 record.

2 (Hearing adjourned at 5:46 p.m.)

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