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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the Petition of )  
4 U S WEST COMMUNICATIONS, INC., ) Docket No. UT-000883  
5 for Competitive Classification ) Volume 5  
6 of Business Services in 31 ) Pages 80 - 250  
Specified Wire Centers. )  
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8 A hearing in the above matter was held on  
9 October 30, 2000, at 9:41 a.m., at 1300 South Evergreen  
10 Park Drive Southwest, Olympia, Washington, before  
11 Administrative Law Judge KAREN CAILLE, Chairwoman  
12 MARILYN SHOWALTER, Commissioners WILLIAM GILLIS,  
13 RICHARD HEMSTAD.

14

15 The parties were present as follows:

16 THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION, by SALLY G. JOHNSTON, Assistant Attorney  
17 General, 1400 South Evergreen Park Drive Southwest,  
Post Office Box 40128, Olympia, Washington 98504.

18 PUBLIC COUNSEL, by ROBERT W. CROMWELL, JR,  
Assistant Attorney General, 900 Fourth Avenue, Suite  
19 2000, Seattle, Washington 98164-1012

20 QWEST CORPORATION, by DOUGLAS N. OWENS,  
Attorney at Law, 1325 Fourth Avenue, Suite 940,  
21 Seattle, Washington 98101.

22 QWEST CORPORATION, by LISA A. ANDERL, Senior  
Attorney, 1600 Seventh Avenue, Suite 3206, Seattle,  
23 Washington 98191.

24 TRACER, by LISA F. RACKNER, Attorney at Law,  
Ater Wynne, 222 Southwest Columbia, Suite 1800,  
25 Portland, Oregon 97201.

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1           ADVANCED TELECOM GROUP, WORLDCOM, METRONET  
2 SERVICES CORPORATION, by BROOKS E. HARLOW, Attorney at  
3 Law, Miller Nash, 601 Union Street, Suite 4400,  
4 Seattle, Washington 98101-2352

5           ELECTRIC LIGHTWAVE, INC., MCLEOD USA  
6 TELECOMMUNICATIONS SERVICES, INC., GLOBAL CROSSING  
7 TELEMAGEMENT AND LOCAL SERVICES, INC., FOCAL  
8 COMMUNICATIONS OF WASHINGTON, XO WASHINGTON, INC.,  
9 f/k/a/ NEXTLINK WASHINGTON, INC., by GREGORY J. KOPTA,  
10 Attorney at Law, Davis Wright Tremaine, 1501 Fourth  
11 Avenue, Suite 2600, Seattle, Washington 98101-1688.

12           ESCHELON, by DENNIS AHLERS, Senior Attorney,  
13 730 Second Avenue, Suite 1200, Minneapolis, Minnesota,  
14 55402 (via telephone bridge.)

15           AT&T, by STEVEN H. WEIGLER, Senior Attorney,  
16 1875 Lawrence Street, Suite 1524, Denver, Colorado  
17 80202.

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25 Kathryn T. Wilson, CCR  
Court Reporter

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P R O C E E D I N G S

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JUDGE CAILLE: Good morning. This is the first day of evidentiary hearings in the matter of the petition of U S West Communications, Inc., Qwest, for competitive classification of business services in specified wire centers. This is Docket UT-000883. We are convened in a hearing room in the Commission's headquarters. Today is October the 30th, and it is approximately 9:40. I'm the presiding administrative law judge, Karen Caille, and we will soon be joined by the Commissioners.

12

Before going on the record this morning, we had some substitutions of exhibits as well as some additional exhibits. So Mr. Harlow, since we began with you off the record, let's begin with you on the record.

17

MR. HARLOW: Thank you, Your Honor, and good morning. The Company requested that certain of the exhibits that we distributed and marked last week be redacted so as to eliminate material pertaining to states other than Washington, and we agreed to do that with three exhibits and have distributed replacement exhibits for three of them, and those are Exhibits 17-C, which bears the Bates number stamp USW 070857 in the bottom right-hand corner. The next one was Exhibit

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1 19-C, which bears the Bates stamp USW 070817 on the  
2 first page, and the final one is Exhibit 20-C, which  
3 bears the Bates stamp number USW 070850 on the bottom  
4 right-hand corner of the first page. Thank you, Your  
5 Honor.

6 JUDGE CAILLE: Thank you, and I haven't  
7 forgotten about appearances. Let's just get through  
8 the exhibits. Mr. Kopta?

9 MR. KOPTA: Thank you, Your Honor. We  
10 identified four additional exhibits for  
11 cross-examination that were data request responses to  
12 data requests that we propounded to Qwest that were not  
13 due until after the prehearing conference when we  
14 initially designated exhibits, and those four exhibits  
15 are joint CLEC 02-018, and that has been marked for  
16 identification as Exhibit 68. Then joint CLEC 02-013,  
17 02-014 and 02-015 have been marked for identification  
18 as Exhibits 160, 161 and 162 respectively.

19 JUDGE CAILLE: Thank you. Ms. Rackner?

20 MS. RACKNER: Yes. We designated two  
21 additional exhibits. The first is a PEI study, which  
22 was Attachment 7 to Quest's February 24th, 1999,  
23 additional comments, which it filed in UT-990022, and  
24 it was designated Exhibit No. 69. The second was the  
25 CLEC annual report 2000 by the New Paradigm Group.

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1 It's excerpts from that report and was designated  
2 Exhibit 70.

3 JUDGE CAILLE: Thank you. I believe there  
4 was going to be a stipulation as to certain exhibits;  
5 is that correct? Could you state on the record, Ms.  
6 Johnston, what has been stipulated to?

7 MS. JOHNSTON: Qwest has no objection to  
8 admission into the record of Staff's cross-examination  
9 exhibits for Ms. Jensen. That's Qwest response to  
10 Public Counsel Data Request No. 02-061, Qwest response  
11 to Public Counsel Data Request No. 003-069, Qwest  
12 response to ATG/MetroNet Data Request No. 03-043.

13 JUDGE CAILLE: Do they have exhibit numbers?

14 MR. HARLOW: Is that 65 through 67-C?

15 MS. JOHNSTON: 65, 66, 67-C, and Staff's  
16 cross-examination exhibits for Mr. Teitzel, Exhibit  
17 124, 125, 126-C, 127-C, and 128; Staff's  
18 cross-examination exhibits for Mr. Hooks, 157-C, 158-C,  
19 159-C, and the remainder of Commission staff's exhibits  
20 will be taken up later today, hopefully, those being  
21 Exhibit 296 through 305.

22 MR. OWENS: That's correct, Your Honor.

23 JUDGE CAILLE: Thank you. Has anything else  
24 been stipulated to?

25 MR. HARLOW: We might as well address the



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1 MetroNet/ATG exhibits. I understand that Qwest will  
2 not object to 13, 14, 15. We are going to reserve 16-C  
3 for discussion in connection with Mr. Teitzel's cross,  
4 and I believe there are no objections to 17-C, 18-C,  
5 19-C, 20-C, 21-C, 22, 23, 24, 25, and 26.

6 MR. OWENS: That's correct, Your Honor.

7 JUDGE CAILLE: Thank you. Do we have anyone  
8 else that needs to be on the record?

9 MR. CROMWELL: I believe that Qwest has  
10 stipulated to the admission of its data request  
11 responses, which Public Counsel has identified as  
12 exhibits in this proceeding beginning at Exhibit 27,  
13 28-C, 29-C, 30-C, down through 45, 46 through 62, 63  
14 and 64. Going to the next set for Mr. Teitzel  
15 beginning at Exhibit 109, 110, 111, 112 through 122.  
16 Exhibit 123 is one we have created for  
17 cross-examination of Mr. Teitzel. I do not know  
18 whether Qwest has a position regarding that exhibit.

19 MR. OWENS: Except for the fact that 63 is a  
20 C, I don't disagree with anything that counsel has  
21 said, and as far as 123-C, I think we shall simply  
22 await a foundation being laid through testimony.

23 MR. CROMWELL: That's fine. Going on to  
24 Exhibit 204, the next Public Counsel identified  
25 exhibits through 207, 208 down through 220.

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1 MR. OWENS: Those are exhibits through  
2 Dr. Blackmon.

3 JUDGE CAILLE: Why don't we wait then. I  
4 really want to get the Commissioners on the bench. I  
5 know they are anxious to start.

6 MR. CROMWELL: Then I would move the  
7 admission of those exhibits at this time.

8 JUDGE CAILLE: Those have been stipulated to  
9 and those are admitted. Mr. Kopta?

10 MR. KOPTA: Thank you, Your Honor. It's our  
11 understanding as part of Quest's stipulation that  
12 responses to its data requests are not going to be  
13 exhibits to which Qwest will have an objection. All of  
14 the exhibits that we designated for cross are responses  
15 to our data requests from Qwest, and those are in  
16 numerical order Exhibit 68, Exhibits 129 through 137,  
17 and Exhibits 160 through 162.

18 MS. ANDERL: No objection, Your Honor.

19 MR. KOPTA: So we would move for their  
20 admission.

21 JUDGE CAILLE: Those are admitted into the  
22 record.

23 MR. HARLOW: Your Honor, do I need to say the  
24 words, "I move" as well, or did the stipulation cover  
25 that?

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1 JUDGE CAILLE: I want to make clear that the  
2 exhibits that were addressed by Mr. Harlow and by  
3 Ms. Johnston are admitted into the record as well. Are  
4 we ready for appearances? Let's start with the  
5 Company.

6 MS. ANDERL: Thank you, Your Honor. Lisa  
7 Anderl, in-house counsel representing Qwest  
8 Corporation.

9 MR. OWENS: Your Honor, Douglas N. Owens,  
10 attorney at law, outside counsel for Qwest.

11 MR. KOPTA: Gregory J. Kopta of the law firm  
12 Davis Wright Tremaine, LLP, on behalf of XO Washington,  
13 formerly Nextlink Washington; Electric Lightwave;  
14 McLeodUSA; Focal, and Global Crossing.

15 MR. WEIGLER: Steven Weigler representing  
16 AT&T, internal counsel.

17 MR. HARLOW: Good morning, Your Honor.  
18 Brooks Harlow with Miller Nash. I'd also like to  
19 introduce the gentleman sitting behind me, David Rice.  
20 David is an attorney in our office and will be  
21 assisting me this week. We are representing ATG and  
22 MetroNet.

23 MS. RACKNER: Good morning. Lisa Rackner  
24 with the law firm of Ater Wynne representing TRACER.

25 MR. CROMWELL: Robert Cromwell on behalf of

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1 Public Counsel.

2 MS. JOHNSTON: Sally G. Johnston, assistant  
3 attorney general, on behalf of Commission staff.

4 JUDGE CAILLE: Thank you. The bridge line?

5 MR. AHLERS: Dennis Ahlers, senior attorney  
6 with Eschelon Telecom.

7 JUDGE CAILLE: Mr. Ahlers, will you be just  
8 be listening in, or are you going to have any questions  
9 for the witnesses?

10 MR. AHLERS: I doubt that I would have any  
11 questions. I'll just be listening in from time to  
12 time.

13 JUDGE CAILLE: Let the record reflect there  
14 are no other appearances. At this point, Ms. Jensen,  
15 if you will stand and raise your right hand, I will  
16 swear you in.

17 (Witness sworn.)

18 JUDGE CAILLE: I will get the commissioners  
19 and be back in a moment. We are off the record.

20 (Discussion off the record.)

21 JUDGE CAILLE: I'd like to welcome the  
22 Commissioners to the bench. If you would just go  
23 around the room and introduce yourselves, there may be  
24 an unfamiliar face or two to the commissioners. So we  
25 will begin with Ms. Anderl.

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1 MS. ANDERL: Lisa Anderl representing Qwest  
2 Corporation.

3 MR. OWENS: Douglas N. Owens representing  
4 Qwest.

5 MR. KOPTA: Gregory Kopta on behalf of XO  
6 Washington, formerly Nexlink Washington, ELI, McLeod  
7 USA, Global Crossing, Focal.

8 MR. WEIGLER: Good morning. Steven Weigler,  
9 senior attorney with AT&T.

10 MR. HARLOW: Brooks Harlow, and assisting me  
11 today is an attorney in my office sitting right behind  
12 me, David Rice. We are representing ATG and MetroNet.

13 MS. RACKNER: Lisa Rackner with the law firm  
14 of Ater Wynne representing TRACER.

15 MR. CROMWELL: Robert Cromwell on behalf of  
16 Public Counsel.

17 MS. JOHNSTON: Sally Johnston, assistant  
18 attorney general, appearing on behalf of Commission  
19 staff.

20 JUDGE CAILLE: Thank you. Ms. Jensen has  
21 been sworn, and Mr. Owens?

22

23

DIRECT EXAMINATION

24 BY MR. OWENS:

25 Q. Good morning, Ms. Jensen. Please state your

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1 name and address for the record.

2 A. Theresa Jensen, 1600 Seventh Avenue, Room  
3 3206, Seattle, Washington, 98191.

4 Q. By whom are you employed?

5 A. Qwest.

6 Q. Are you the same Theresa A. Jensen who has  
7 caused to be prefiled in this case testimony that has  
8 been marked for identification at Exhibit 1-T and  
9 rebuttal testimony that has been marked for  
10 identification as Exhibit 7-T and associated exhibits  
11 that have been marked for identification respectfully  
12 as 2-C, 3-C, 4-C, 5-C, 6, 8-C, 9, 10-C, 11, and 12-C?

13 A. Yes.

14 Q. Do you have any additions, changes, or  
15 corrections to make to any of your testimony or  
16 exhibits?

17 A. Not of substance.

18 Q. If I were to ask you the questions that are  
19 printed in Exhibit 1-T and 7-T, would your answers be  
20 as set forth therein?

21 A. Yes, they would.

22 Q. Were the exhibits prepared by you or under  
23 you supervision or direction?

24 A. Yes, they were.

25 Q. Are they true and correct to the best of your

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1 knowledge?

2 A. Yes, they are.

3 MR. OWENS: Qwest offers Exhibit 1-T, 2-C,  
4 3-C, 4-C, 5-C, 6, 7-T, 8-C, 9, 10-C, 11, and 12-C into  
5 evidence.

6 JUDGE CAILLE: Is there any objection? Then  
7 those exhibits are admitted into the record.

8 MR. OWENS: Ms. Jensen is available for  
9 cross-examination.

10 JUDGE CAILLE: Mr. Harlow?

11

12 CROSS-EXAMINATION

13 BY MR. HARLOW:

14 Q. Good morning, Ms. Jensen. The focus of this  
15 competitive classification petition is resale services;  
16 is that correct? You are not seeking to have any  
17 wholesale services classified as competitive?

18 A. That's correct. I thought you said something  
19 different.

20 Q. Seeking to classify retail services, such as  
21 your 1-FB service?

22 A. That is correct.

23 Q. Also Centrex services sold at retail; is that  
24 correct?

25 A. That's correct.

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1 Q. Wholesale services such as unbundled network  
2 elements are not the subject of this petition; is that  
3 correct?

4 A. That's correct.

5 Q. Likewise, this petition relates only to state  
6 tariff services; is that correct?

7 A. That's correct, and selective market.

8 Q. So for example, your high-speed megabit  
9 service, your DSL service is not to be affected by this  
10 petition; is that correct?

11 A. That's correct.

12 Q. Is it the intent of this petition to try to  
13 benefit the retail side of your business?

14 A. The intent of this petition is to establish  
15 competitive parity for retail side of the business in  
16 those markets where we are facing competition.

17 Q. I believe that would be then a qualified yes;  
18 is that correct?

19 A. I think it's different than your suggestion,  
20 but I'll take it as a qualified yes.

21 Q. Just to clarify, I would assume that the goal  
22 of this petition is to retain revenues for the retail  
23 side of Qwest business; is that correct?

24 A. That would be a part of it, yes.

25 Q. Would you agree that the focus of the



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1 competitive classification statute is also the retail  
2 side of your business?

3 MR. OWENS: Your Honor, this is really  
4 getting into a legal question. I don't believe we  
5 offered Ms. Jensen as a legal expert.

6 MR. HARLOW: I'll rephrase the question.

7 Q. (By Mr. Harlow) Would it be your  
8 understanding that the focus of the competitive  
9 classification statute itself is on the retail side of  
10 your business?

11 A. I don't believe it's limited to retail only.

12 Q. Would it be your understanding that the focus  
13 of the competitive classification statute would be the  
14 customer perspective and whether from the customer  
15 perspective there are reasonably available alternatives  
16 to your services that you seek to have competitively  
17 classified?

18 A. I would agree to that with the qualification  
19 that the customer would be either what we would  
20 typically refer to as a retail end-user, or it could be  
21 a carrier.

22 Q. Thank you for the qualification. Ms. Jensen,  
23 you talk a lot about CLECs reselling your Qwest  
24 services. Do you recall that testimony?

25 A. Yes.

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1 Q. Do you have off the top of your head any  
2 knowledge as to which of your services is most  
3 frequently resold by CLECs?

4 A. Not as to which services most frequently  
5 resold. I'm aware through the discovery process of  
6 which services are resold by CLECs.

7 Q. I'm referring to the Qwest retail service.  
8 Just say, for example, Centrex Plus. Is that service  
9 commonly resold?

10 A. It is one of the services that is resold. I  
11 have not analyzed information with respect to whether  
12 one service is more frequently resold than another  
13 service, and that's what I understand your question to  
14 be asking.

15 Q. I think you understand it correctly. Do you  
16 know if Centrex Prime is resold?

17 A. I don't know one way or the other. I know  
18 it's available for resale.

19 Q. Do you know if the attachments to your  
20 petition listing resale and the number of resold lines,  
21 do you know if any of those lines are Centrex Prime  
22 lines?

23 A. I didn't specifically look as to what form of  
24 Centrex they were. I know that those lines include  
25 Centrex services, but I do not know what type of

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1 Centrex service it might be, whether it's Centrex 21,  
2 Centrex Prime, or Centrex Plus.

3 Q. Just for example, I'm looking at Attachment H  
4 to the petition, and one of the column headings, Column  
5 K, says, "total resold business lines." Do you have  
6 that in mind or in front of you?

7 A. Yes.

8 Q. Does total resold business lines, would that  
9 include Centrex lines of various varieties?

10 A. Yes.

11 Q. Would that also include potentially public  
12 access lines?

13 A. It does not include public coin lines, if  
14 that's what you mean by public access lines.

15 Q. There are two kinds of public access lines.  
16 There is coin lines or smart PAL and the basic. Do you  
17 know if it includes either of those two lines?

18 A. I know that it specifically includes coin  
19 lines.

20 Q. Do you know as to basic PAL?

21 A. As purchased by other providers, I'm not  
22 sure. I need to get back to you on that. I can check  
23 on that.

24 Q. I believe you indicated a minute ago you  
25 don't know if it includes any Centrex Prime lines or

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1 not.

2 A. I know it includes Centrex, which would  
3 include the various Centrex offerings that we have. I  
4 don't know of any existing providers reselling Centrex  
5 Prime at this point in time. I did not look into that.

6 Q. Do you know of any existing providers  
7 reselling Centrex 21?

8 A. I don't know that either.

9 Q. Do you know if you have any providers  
10 reselling 1-FB about service?

11 A. Again, there was a discovery response where  
12 we identified what services are being resold by  
13 competitive local exchange companies. I would need to  
14 refer to that to respond to your question.

15 Q. Does that discovery response break it out by  
16 product or service?

17 A. Yes, it does, with the exception of Centrex.  
18 It's grouped for the variety of services. All of those  
19 services are available for resale. What I don't know  
20 is if any carrier has actually utilized them in that  
21 fashion.

22 Q. I'm not clear that I'm understanding what you  
23 said about Centrex. Are all the Centrex services  
24 lumped together in that data response?

25 A. Yes, they are.

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1 Q. Do you have any information that breaks out  
2 Centrex Plus, Centrex 21, or Centrex Prime?

3 A. For that particular response, we were not  
4 asked that question so we haven't done that research.  
5 We could get that information. We do have that  
6 available.

7 MR. HARLOW: I'd like to make that Record  
8 Requisition No. 1.

9 JUDGE CAILLE: Mr. Harlow, would you please  
10 repeat exactly what you are asking for?

11 MR. HARLOW: I'm asking for a breakout of  
12 Centrex lines resold, a breakout among Centrex 21,  
13 Centrex Plus and Centrex Prime.

14 Q. (By Mr. Harlow) Can you do that by the 31  
15 wire centers or just on a statewide basis?

16 A. We just have the information on a statewide  
17 basis.

18 Q. That would be acceptable.

19 JUDGE CAILLE: That will be Record Request  
20 No. 1.

21 Q. (By Mr. Harlow) Let me ask you a little bit  
22 about Centrex Prime pricing. Can you describe  
23 generally how Centrex Prime is priced?

24 A. If I might refer to the exhibit, which I  
25 believe you have furnished -- do you know the exhibit

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1 number?

2 Q. I think it's 18-C.

3 A. If you look at Attachment B to 18-C, which is  
4 probably easier to find if you start at the back -- I  
5 believe it's three pages in from the back of the  
6 exhibit. What this shows is the rate for both the line  
7 and the features. This is not a fixed rate. It  
8 varies by customer. It is customer specific, and it's  
9 also specific to the costs that the Company incurs in  
10 serving the customer, but as a general parameter, these  
11 prices were furnished as what typically happens. You  
12 would actually have to look at each contract on a  
13 case-by-case basis to confirm the pricing, but in terms  
14 of standardized pricing, for the total service, which  
15 is a set of standard features in the basic station  
16 line, you can see the various rates for one to 20  
17 lines, 21 to 50, 51 to 100, and 101 to 300, and then  
18 there is a distance parameter that is density based for  
19 over 300 station lines, and again, this combines both  
20 the station line and the features.

21 Q. Without identifying any confidential  
22 information identified on the page that you are looking  
23 at -- I'm looking at the second page of Attachment B.  
24 Is that the one you are referring to as well?

25 A. My second page is blank, but yes, it is. I'm

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1 sorry. It is Attachment B, the second page is what I  
2 was referring to.

3 Q. We are looking at a table that's headed,  
4 "basic station line and standard features," and there  
5 are four columns. The first one is the number of  
6 station lines, and then the next three are  
7 month-to-month, 12 to 36 months, and 36 to 60 months?

8 A. Yes.

9 Q. And I assume that reference is whether the  
10 customer has a contract, and if so, how long the  
11 contract is?

12 A. These are illustrative rates, but yes.

13 Q. I believe you indicated using a different  
14 term, but I want to know if you will accept my term,  
15 that the station line or the loop, if you will, is  
16 bundled with the switching features; is that correct?

17 A. That's correct.

18 Q. So if you were to compare it to Centrex Plus  
19 pricing, in other words, for pricing purposes, you  
20 would bundle together the NAC and the feature package?

21 A. That's correct.

22 Q. The pricing is based on the number of lines  
23 at a location; is that correct?

24 A. That's correct.

25 Q. This exhibit is confidential. Anywhere are

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1 prices for Centrex Prime set forth?

2 A. No, they are not.

3 Q. Your tariff is a two-page description of some  
4 basic terms and conditions; is that correct?

5 A. That's correct.

6 Q. Apparently, it's also possible to bundle in  
7 and buy as a package with basic lines an ISDN  
8 capability; is that correct?

9 A. That's correct.

10 Q. So when you file contracts with the  
11 Commission, I assume that those contracts include,  
12 potentially, station lines, voice lines, as well as I  
13 ISDN lines; is that correct?

14 A. Some of them do, yes.

15 Q. And the published data on these contracts  
16 includes a total price as well as the number of lines;  
17 is that correct?

18 A. I believe that's partially what's included,  
19 yes.

20 Q. Is there any way for a reseller to look at  
21 that price and know what's included in that overall  
22 package price, whether it's ISDN features, how much  
23 access to the network there is, or NARS, whether there  
24 are ISDN capabilities on some or all of the lines based  
25 on the available data?



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1       A.     I think generally if the contract includes  
2 ISDN services, that is identified in the information  
3 that's publicly available.  It also is, as you may  
4 notice, one other providers file contracts.  The  
5 information that Qwest provides is similar to what  
6 those providers provide.

7       Q.     I kind of skipped a point, which I think we  
8 ought to get for the record, which is I assume that  
9 your ICB contracts for Centrex prime are filed as  
10 confidential contracts.

11      A.     The information that's allowed by law to be  
12 confidential, yes.

13      Q.     I believe it's your testimony that CLECs have  
14 focused their competitive efforts on certain customers  
15 or segments of the basic exchange market?

16      A.     I don't believe that's Qwest's testimony.  I  
17 believe that there is testimony to that effect in this  
18 record.

19      Q.     As you stated on Page 16 of your rebuttal  
20 testimony --

21             JUDGE CAILLE:  Mr. Harlow, could you please  
22 state the exhibit number?

23             THE WITNESS:  7-T.  I'm sorry, what was the  
24 page again?

25      Q.     (By Mr. Harlow)  Page 16, Lines 17 to 18, you

00105

1 state that CLECs target and win the most profitable  
2 lines; do you see that?

3 A. Yes.

4 Q. Then on Page 17 at Lines 15 through 17, you  
5 state that alternative providers will continue to  
6 selectively serve customers in these markets where it  
7 is profitable to do so. Do you see that testimony?

8 A. Yes, I do. I do not consider their selection  
9 is based on market segmentation, which I believe was  
10 your question.

11 Q. Why don't you explain then what you mean by  
12 this testimony in terms of selectively serving  
13 customers? How do you believe that CLECs selectively  
14 serve customers?

15 A. As I say on Page 17 of my rebuttal testimony,  
16 I believe they select which customers they choose to  
17 serve in these markets based on how profitable that  
18 customer may be to their business, and by that, I  
19 believe that they look, the local exchange providers  
20 look at the full spectrum of services that they can  
21 sell to that customer, which would include  
22 long-distance, local exchange services, discretionary  
23 services, and attempt to gain the customer's business  
24 in total, not on a product-by-product basis.

25 Q. Do you believe these same customers are the

00106

1 most profitable customers to Qwest?

2 A. Yes, I do.

3 Q. Would you agree that CLECs ought to be in  
4 business to make a profit?

5 A. Yes, I do.

6 Q. Do you know if any CLECs are making a profit  
7 currently, the ones that are operating in Qwest markets  
8 in Washington?

9 A. I believe some have reported they are, yes.

10 Q. What percent of them would you say are making  
11 a profit?

12 A. I haven't done an analysis to that effect.

13 Q. Would you agree that a lot of them are  
14 continuing to lose money?

15 A. I haven't done an analysis to that effect.

16 Q. I didn't ask you if you did an analysis.

17 Are you aware that many CLECs are continuing to report  
18 losses?

19 A. No, I'm not aware of that. I have not looked  
20 into that.

21 Q. You only have looked at the profitable ones?

22 A. What I'm aware of is that many of these CLECs  
23 are part of well-founded profitable companies that have  
24 been in place for many years.

25 Q. Are you referring to companies like AT&T and

00107

1 WorldCom?

2 A. Yes.

3 Q. Do you know whether AT&T and WorldCom's CLEC  
4 division, are you aware if those aspects of those  
5 companies' businesses are making profits or not?

6 A. No, I'm not, other than what's in the reports  
7 that we filed.

8 Q. Do you believe that CLECs would pursue the  
9 segments of the market that they are ignoring if they  
10 could make profits in those segments?

11 A. I think that decision would be based on the  
12 degree of profit they could make in those segments, not  
13 simply whether it was profitable to serve them or not.  
14 I also believe they would consider the relationship of  
15 the customer to their overall strategy.

16 Q. If you would turn, please, to Page 7 of your  
17 rebuttal testimony, Exhibit 7-RT. At the bottom of the  
18 page, you state that Qwest is producing over 17,377  
19 unbundled loops; do you see that?

20 A. Yes.

21 Q. That's across Washington?

22 A. Yes.

23 Q. So that includes wire centers that are not  
24 the subject of your petition?

25 A. That's correct.

00108

1 Q. Assume hypothetically that Qwest were granted  
2 the flexibility it seeks in this docket and it would  
3 reduce -- let's assume also hypothetically that Qwest  
4 decided to try to win back the customers that are  
5 reflected by these unbundled loops. Hypothetically  
6 then, Qwest might reduce the rate by \$10 a line to try  
7 to compete for those customers. Is that a possibility,  
8 at least?

9 A. That Qwest would reduce its business rates to  
10 regain lost customers, yes.

11 Q. Would you agree then that the effect of  
12 reducing the rate to the 17,377 lines would be a  
13 revenue reduction to Qwest of approximately \$170,000  
14 per month?

15 A. If the reduction were \$10 dollars under your  
16 hypothetical, yes.

17 Q. And that annualizes out to about two million  
18 dollars a year; is that correct?

19 A. Correct.

20 Q. Can you tell me roughly what percent of your  
21 total regulated revenue two million dollars would  
22 reflect?

23 A. It's changing all the time.

24 Q. Hopefully going up.

25 A. Unfortunately, not in all areas. Your

00109

1 question was percent of revenue?

2 Q. Percent of regulated revenues.

3 A. Intrastate?

4 Q. Intrastate.

5 A. It would be less than two percent.

6 Q. If you would take a look, please, at Pages 10  
7 to 11 of your rebuttal, Exhibit 7-RT. I just want to  
8 clarify your agreement to the proposed Staff  
9 conditions. Would it be your understanding of the  
10 Staff conditions that they would preclude Qwest from  
11 grandfathering any of the services that were granted  
12 competitive classification?

13 A. I believe it would as long as there were  
14 existing customers and it was within the parameters  
15 specified by these qualifications, the time parameters.

16 Q. In other words, just to clarify, you believe  
17 you would not be able to grandfather these services.

18 A. As long as we had existing customers, yes.

19 CHAIRWOMAN SHOWALTER: I don't know what you  
20 mean by "grandfathering" in this context. Could you  
21 explain what you mean by this?

22 MR. HARLOW: Maybe I should ask the witness  
23 to do it rather than me testifying. I think we have  
24 the same understanding.

25 THE WITNESS: I would be glad to.

00110

1 Q. (By Mr. Harlow) If you would explain your  
2 understanding of my question.

3 A. I understood Mr. Harlow's question to be,  
4 would we discontinue offering a service that we offer  
5 today under these conditions. Would these conditions  
6 allow us to do that, and my response is that if we had  
7 existing customers for this service, we would continue  
8 to offer the service. Now, that can lead into several  
9 other questions, but in essence, grandfathering  
10 traditionally is where you no longer offer a given  
11 service to new customers, and then there can be  
12 questions about existing customers and how they might  
13 obtain the service.

14 CHAIRWOMAN SHOWALTER: Maybe I misunderstood  
15 what Mr. Harlow said. I thought he was asking if it  
16 would preclude grandfathering.

17 MR. HARLOW: Yes. The hypothetical was that  
18 if the Commission grants the petition subject to  
19 Dr. Blackmon's recommended conditions whether or not  
20 the Company would then be precluded from attempting to  
21 grandfather those services.

22 THE WITNESS: If you look at the first  
23 condition on Page 9, we understood the first condition  
24 to require Qwest to agree not to revise the terms under  
25 which it offers services within these wire centers in

00111

1 any way, including any reduction in its obligation to  
2 serve.

3 I think I would you would have to look at the  
4 specifics of a grandfathering arrangement, but we would  
5 understand if there were existing customers for a  
6 service within these wire centers, then there may be  
7 some restrictions as to grandparenting. Now, whether  
8 Qwest was obligated to offer this service to new  
9 customers who currently don't subscribe to it, I think  
10 you would have to look at it on a case-by-case basis.

11 MR. HARLOW: I think given the chairwoman's  
12 questions as well as your last answer, maybe we ought  
13 to walk through some of the typical approaches we've  
14 seen that have come under grandfathering.

15 Q. (By Mr. Harlow) First of all, would you view  
16 the condition as precluding you from placing a cap on  
17 the growth of existing customers of the classified  
18 service?

19 A. I'm going to answer these in a general sense  
20 because you would have to look at the set of facts  
21 associated with any petition Qwest might bring forward,  
22 but I believe the first condition would disallow Qwest  
23 during this interim period from putting a cap on  
24 services to existing customers.

25 Q. Would you view the condition as prohibiting



00112

1 Qwest from withdrawing the service as to new customers?

2 A. That's a more difficult question, Mr. Harlow,  
3 because I think it would depend on whether there was  
4 demand for that service or not. If there were  
5 customers that wanted that service, then I think it  
6 would preclude Qwest from withdrawing that service to  
7 new customers, but if, in fact, there is a new service  
8 such as Centrex Prime, which is sufficient, and that's  
9 where customers' choice rests, not with the product  
10 that Qwest might choose to withdraw, then I'm not  
11 certain that this would preclude it. I think that  
12 that's a decision the parties would have to make if a  
13 filing of that nature were proposed.

14 Q. Can you explain why there would be any need  
15 to withdraw a service if there were no demand for it by  
16 new customers?

17 A. Well, I think there is a cost to retaining a  
18 service that there is no demand for within the business  
19 from a standpoint that it still occupies space on our  
20 billing systems. It still requires training, or  
21 employees still need to know of its availability even  
22 if there isn't demand because you don't know what's  
23 going to happen. It's still a product in our product  
24 line.

25 I think the response, Mr. Harlow, is if we

00113

1 attempted to withdraw something, and there was an  
2 objection to the withdrawal of that service, then I  
3 think you would have to look at the first condition on  
4 Page 9, and we probably wouldn't be satisfying it under  
5 that circumstance, but if there was no opposition to  
6 our withdrawing a service, then I don't believe the  
7 first condition would preclude it.

8 Q. What about imposing a provision that a  
9 service could not be moved to different locations?  
10 Would that be something you would think violate the  
11 recommended condition of the Staff?

12 A. I think that touches upon, again, the first  
13 condition about the reduction and obligation to serve.  
14 I think what we are committing by agreeing to the first  
15 condition is that we will not revise the terms under  
16 which we offer service in these wire centers in any  
17 way, including any reduction in our obligation to  
18 serve.

19 Q. Would you consider a prohibition on  
20 supersedure of a service from one customer to another  
21 to be violative of this proposed condition?

22 A. Just in case folks don't know what a  
23 supersedure is in this sense, it would be a  
24 reassignment of services from one customer to another  
25 customer. I don't see any reason why Qwest wouldn't

00114

1 allow for that to happen or where this condition would  
2 be -- Qwest simply would not do that for a customer.  
3 I'm not aware of any circumstance where Qwest has not  
4 allowed one customer to pick up the business of another  
5 customer under a supersedure.

6 Q. Would it be fair to say there are some  
7 details in this recommended condition that there is  
8 still some lack of clarity on exactly what it means?

9 A. No, I don't think that's what I'm saying at  
10 all, Mr. Harlow. What I'm saying is that for the most  
11 part, you would have to look at a specific filing to  
12 determine whether it fell under the first condition or  
13 not. I think Quest's commitment is very black and  
14 white with respect to agreeing to the first condition,  
15 and that is that we will not revise the terms under  
16 which we offer service in these wire centers, and we  
17 will not reduce the obligation that we serve those  
18 customers in those wire centers as we do today, as the  
19 tariff defines today.

20 Q. If the service is competitively classified,  
21 how do you envision that the Commission could enforce  
22 this condition and determine whether it would be  
23 complied with or not, and how could CLECs participate  
24 in that process?

25 A. I think for the Commission, if Qwest were to

00115

1 propose a filing that the Commission staff or the  
2 Commission itself felt was in conflict with this first  
3 condition, they could reject the price list and are  
4 free to do so. If the Commission didn't see that  
5 conflict and a CLEC perhaps felt there was some  
6 conflict, they could file a complaint with the  
7 Commission.

8 Q. Would you also view it as appropriate for a  
9 CLEC to come down on a Wednesday meeting and recommend  
10 rejection of a price list on that basis?

11 A. Yes, thank you. I think the Commission is  
12 very open in its forum for any filing on its agenda.

13 Q. Mr. Wood also recommended some conditions,  
14 and it's my understanding that Qwest has not accepted  
15 those; is that correct?

16 A. Could you refresh for me what his offer was?

17 Q. He's got an awful lot of them. I think the  
18 main one I have in mind is his proposal that Qwest be  
19 required, if competitive classification is granted, to  
20 offer the same price throughout a wire center that it  
21 offers to its favored customers, the ones it's trying  
22 to keep or regain.

23 A. Your question is would Qwest accept that?

24 Q. Is that a condition acceptable to Qwest?

25 A. No, it is not.

00116

1 Q. What do you view that Qwest can do under the  
2 Staff proposed conditions that it can't accomplish  
3 under Mr. Wood's proposed conditions?

4 A. Mr. Wood infers that today we offer the same  
5 price to all customers for the same service within a  
6 given wire center. On a general basis, we do offer the  
7 same price within a given geographic area, but we also  
8 have the flexibility the contracts afford us to do  
9 individual case base pricing where we look at a  
10 customer-specific cost.

11 In that case, they are not buying the same  
12 service, though it may look the same in definition, but  
13 their costs are specific to a given customer, and  
14 therefore, they have pricing that's specific to that  
15 customer based on the package of services they  
16 purchase, their distance, and the density of services.

17 Q. So you are saying that Qwest does have the  
18 capability to offer ICB contracts based on costs today?

19 A. Yes, we do. We simply have a different  
20 interval than competitive providers doing the same  
21 thing.

22 Q. What's the interval on contracts?

23 A. It's 30 days for Qwest.

24 Q. If you would turn, please, to Exhibit 13,  
25 Ms. Jensen. Would you accept subject to check that

00117

1 this is excerpts from the current interconnection  
2 agreement between Qwest and the Advanced Telcom Group;  
3 would you accept that?

4 A. Yes.

5 Q. If you would turn, please, to the second page  
6 of the exhibit, which is Page No. 10, directing your  
7 attention specifically to Section 26.15.3.

8 MR. OWENS: Is that Page 110, Counsel?

9 MR. HARLOW: Yes.

10 CHAIRWOMAN SHOWALTER: I'm going to interject  
11 here. This is the second time that exhibits aren't  
12 paginated through. The reason we have a rule that all  
13 exhibits be paginated 1 through the end is so that we  
14 can all turn quickly to the exhibit and also, just as  
15 important, so the record reflects the page that we are  
16 all looking at, and that's the reason for the rule.

17 MR. HARLOW: Your point is an excellent one.  
18 My excuse is simply the crunch of time. I apologize.

19 Q. (By Mr. Harlow) Directing your attention to  
20 the language, quote, "Each party shall keep all of the  
21 other parties' proprietary information confidential and  
22 shall use the other parties' proprietary information  
23 only in connection with this agreement. Neither party  
24 shall use the other party's proprietary information for  
25 any other purpose except upon such terms and conditions

00118

1 as may be agreed upon between the parties in writing.

2 Do you see that language?

3 A. Yes, I do.

4 Q. To your knowledge, has ATG agreed that any of  
5 its proprietary information could be used for any  
6 purpose other than set forth in Section 26.15.3?

7 A. I would not be aware if they've agreed or  
8 disagreed.

9 Q. So the answer would be, no, you don't have  
10 any knowledge on that?

11 A. I don't know that they have or haven't.

12 Q. If you would turn, please, to Exhibit 14,  
13 Section 28.3 on the second page, and do you see that  
14 language is very similar to Exhibit 13, 26.15.3?

15 A. Yes.

16 Q. Would you also accept subject to check that  
17 that language is very similar to if not identical to  
18 the language in your SGAT?

19 A. Subject to check.

20 Q. Exhibit 14 is an agreement between MetroNet  
21 and Qwest. Do you know if MetroNet has granted its  
22 permission in writing for Qwest to use any proprietary  
23 information in connection with a competitive  
24 classification filing?

25 A. I don't know one way or the other.

00119

1 Q. Is this language that we've discussed in this  
2 pertaining to your SGAT substantially the same as or  
3 similar to a confidentiality provision in most of, if  
4 not all of, your interconnection agreements with CLECs?

5 A. I don't know. I'm assuming it's probable it  
6 would be.

7 Q. If you would turn to Exhibit 15 -- first of  
8 all, can you identify what this document is?

9 A. Yes. It is a corporate policy document  
10 concerning the confidentiality of customer and carrier  
11 communications. It was put together for employees.

12 Q. Is it intended to comply with the  
13 Telecommunications Act?

14 A. Yes, it is.

15 Q. Is it intended to comply with state law?

16 A. Yes.

17 Q. Is it intended to comply with Quest's  
18 interconnection agreements with CLECs?

19 A. Yes, it is.

20 Q. I'd like you to turn to Page 3 of 6 in the  
21 bottom left-hand corner. Near the bottom of the page,  
22 it states the permitted uses of carrier information.

23 A. Yes, it does.

24 Q. The last bullet point says, "to plan public  
25 policy initiatives and regulatory strategy." Do you



00120

1 see that language?

2 A. Yes, I do.

3 Q. Would use of carrier information in this  
4 proceeding come under that language in Exhibit 15-C?

5 A. Yes, it would. If you look above the bold  
6 print, "use of carrier information for U S West retail  
7 sales/ marketing purposes," the statement above that  
8 identifies that information that is not carrier  
9 specific -- in other words, that is aggregated  
10 information -- is not carrier proprietary information.

11 However, it may be protected as such to U S  
12 West, so the information that you referenced in Exhibit  
13 12, Attachment H, is not carrier specific. It is  
14 masked. U S West chose to continue to protect it under  
15 the confidential designation because we felt that there  
16 may be some concern about the nature of this  
17 information, even in it's masked form.

18 Q. Can you tell me where in Exhibit 13 or 14  
19 Qwest is permitted to use aggregated or masked  
20 information for its own regulatory purposes?

21 A. I believe the language that you referenced in  
22 both Exhibit 13 and 14 is specific to the carrier.  
23 This information is not specific to the carrier in that  
24 in no way does it identify who the carrier is or what  
25 services they are purchasing as it relates to resale.

00121

1 Q. But you can't point to any specific language  
2 in the agreements?

3 A. The agreement addresses what cannot be used.

4 Q. Ms. Jensen, if you would turn, please, to  
5 Exhibit 17-C. Just to clarify what this exhibit shows,  
6 first of all, the reference to the State of Washington  
7 I think is self-explanatory. In the third column  
8 headed "current number of lines retail/resale," do the  
9 two numbers there reflect those lines, the number on  
10 the left being retail Centrex Plus lines, and the  
11 number on the right being wholesale; is that correct?

12 A. I'm sorry. I'm lost, Counselor. What  
13 exhibit are you on?

14 Q. Exhibit 17-C?

15 A. Current number of lines retail/resale?

16 Q. Yes. Are you with me now?

17 A. Yes.

18 Q. The number on the left reflects the number of  
19 retail lines, and the number on the right reflects the  
20 number of resold lines?

21 A. That's correct.

22 Q. Can you make a comparison between those  
23 numbers without having to clear the room?

24 A. They are fairly similar, yes.

25 Q. Can we read the note in the second column to

00122

1 the left without having to clear the room?

2 A. I'm fine with that, yes. Would you like me  
3 to read it?

4 Q. I'll ask the question. Qwest is continuing  
5 to contemplate grandfathering of Centrex Plus; isn't  
6 that correct?

7 A. Yes.

8 MR. HARLOW: Your Honor, this might be  
9 getting close to a good time for a morning break.

10 JUDGE CAILLE: Let's take 15 minutes. We'll  
11 come back at 11:00.

12 (Recess.)

13 Q. (By Mr. Harlow) Ms. Jensen, will you turn to  
14 Exhibit 19-C.

15 MR. HARLOW: Your Honor, we have the page  
16 number issue, although there are number stamps on the  
17 bottom right-hand corner.

18 JUDGE CAILLE: The Bates stamps?

19 MR. HARLOW: Yes.

20 Q. (By Mr. Harlow) The third page of that  
21 exhibit is numbered 819. It's actually numbered Page 3  
22 as well. Ms. Jensen, what does that exhibit show?

23 A. It shows several things. I'll just kind of  
24 read across the top. It shows various initiatives  
25 which are, in essence, objectives or goals of product

00123

1 management as it relates to the service, and then in  
2 essence, a timetable of various activities that occur  
3 in conjunction with that initiative.

4 Q. This is specific to Centrex Plus service; is  
5 that correct?

6 A. That's correct.

7 Q. Does Qwest prepare similar initiative tables  
8 for other products and services?

9 A. Yes.

10 Q. Just taking a look at this, for Washington,  
11 it appears to me as though some of these changes have  
12 already been accomplished; is that correct?

13 A. I think most of them; that's correct.

14 Q. Is there any reason that the redaction -- we  
15 should continue to maintain the confidential  
16 designation on this exhibit?

17 A. I'm checking; just a moment. It appears all  
18 but one change has occurred in a quick review, so no, I  
19 don't see where there is.

20 MR. HARLOW: May we redesignate this as  
21 Exhibit 19?

22 MR. OWENS: Yes.

23 MR. HARLOW: So long we are on that, the same  
24 question with regard to Exhibit 20-C.

25 JUDGE CAILLE: Excuse me. Just so we are

00124

1 clear, Mr. Harlow, this morning you passed out -- could  
2 you just explain for the benefit of the commissioners.

3 MR. HARLOW: This morning, we passed out the  
4 replacement Exhibit 19-C, and the witness and the  
5 counsel have agreed that the replacement exhibit can  
6 simply be numbered 19 and no longer be designated as  
7 confidential.

8 JUDGE CAILLE: So this 19, the confidential  
9 versions have been redacted from it; is that correct?

10 MR. HARLOW: We haven't determined whether  
11 the other information was confidential but simply the  
12 other information related to other states, and that's  
13 why it was redacted, not because of reasons of  
14 confidentiality.

15 JUDGE CAILLE: So this should not be on  
16 yellow paper.

17 MR. HARLOW: We can either prepare  
18 replacements or just reflect it for the record.

19 MR. OWENS: I think it should be replaced on  
20 white paper, Your Honor.

21 JUDGE CAILLE: I agree.

22 MR. HARLOW: We will do that before the  
23 conclusion of the hearings, Your Honor.

24 Q. (By Mr. Harlow) Same question with regard to  
25 Exhibit 20-C, do we need to retain the confidential

00125

1 designation on that exhibit?

2 A. Yes, we do.

3 Q. Is that because there is something initiative  
4 in there that hasn't been accomplished?

5 A. That's correct, and it may not be understood  
6 if public.

7 Q. Is the confidential information contained on  
8 Page 2 of Exhibit 20-C?

9 A. Yes, it is.

10 Q. Is that the one and only line that contains  
11 the letters "WA" in the state column?

12 A. Yes, it is.

13 Q. Returning then to Exhibit 19-C, Page 3, would  
14 you please describe for the record what the chip-in  
15 charge is?

16 A. Mr. Harlow, I really don't remember what the  
17 chip-in charge is. I would have to refer to the  
18 tariff.

19 Q. Do you recall what the CLEC community's  
20 reaction to that charge was?

21 A. No, I don't.

22 Q. On the bottom line that says "WA," it says  
23 increased prices.

24 A. Yes.

25 Q. Is that something that's already been

00126

1 accomplished?

2 A. No, it has not.

3 Q. So that's something that's still in the  
4 contemplation police station of the Company for Centrex  
5 Plus?

6 A. Yes. I would say it's more of a rate  
7 rebalancing. If you look at the end of that line  
8 whether it says, "need offsets," there is some prices  
9 that we would like to increase and there is some prices  
10 that we would like to decrease.

11 Q. With competitive classification, would you  
12 need to have offsets to increase Centrex Plus prices?

13 A. Yes, we would.

14 Q. Why would that be?

15 A. Under the conditions proposed by  
16 Mr. Blackmon, should those conditions be upheld by the  
17 commissioners, then we would, in essence, be agreeing  
18 to not increase prices until 271 approval; however,  
19 that would not preclude a revenue-neutral filing.

20 Q. With an unconditional grant of a petition,  
21 however, you would not need the offsets; is that  
22 correct?

23 A. I believe that Qwest would still consider  
24 reductions as well as increases. So I don't think I  
25 could say we wouldn't need offsets from a

00127

1 revenue-neutral perspective, but we may choose to  
2 decrease rates.

3 Q. In other words, it would no longer be a  
4 regulatory requirement.

5 A. Under whatever agreements we have in place  
6 today, the answer the yes.

7 Q. If you would turn, please, to Page 7 of your  
8 rebuttal, Exhibit 7-RT. We looked at this testimony  
9 earlier. It's your discussion at the bottom of the  
10 page regarding the unbundled loops that Qwest is  
11 currently providing. Do you have that testimony in  
12 mind?

13 A. Yes.

14 Q. What are the current rates for most of these  
15 loops, the monthly recurring charge?

16 A. For the unbundled loops?

17 Q. Yes.

18 A. I believe we have a five-zone structure in  
19 place for unbundled loops.

20 Q. Has that structure gone into effect, to your  
21 knowledge?

22 A. I believe it has, but I may not be current on  
23 the Commission's order on that subject.

24 Q. Let me rephrase the question then. The rates  
25 you are talking about, the five-zone rates, those are



00128

1 the rates developed in Docket UT-960369; is that  
2 correct?

3 A. That's correct.

4 Q. And I'll refer to those in the shorthand as  
5 the 369 rates. Prior to the 369 rates, can you tell me  
6 at what prices were or are most of these unbundled  
7 loops provided?

8 A. I believe it's specified in each  
9 interconnection agreement, and there is more than one  
10 rate. The Commission also found a statewide average  
11 rate that I don't believe was ever implemented, and  
12 then the deaveraged rates, which may or may not have  
13 been implemented.

14 Q. Have most CLECs adopted existing arbitrated  
15 rates for unbundled loops?

16 A. I believe so, but typically, I don't follow  
17 the details of the wholesale activities.

18 Q. Does the rate \$11.33 strike a familiar chord?

19 A. That's one of the rates that's in place, yes.

20 Q. Do you know which rate that is?

21 A. What do you know by "which rate"?

22 Q. With which CLEC was that rate established?

23 A. I don't recall which specific CLEC.

24 Q. Can you recall any other rates?

25 A. Yes. I believe there is a lower late that

00129

1 was established in the eight- or nine-dollar range, If  
2 memory serves me right.

3 Q. Can you recall any higher rates than \$11.33?

4 A. There may have been. The timing of these was  
5 back in '96 when those initial rates, I think, were  
6 initially set, and I haven't looked at them for awhile.

7 Q. Would you accept subject to check that most  
8 of these UNI loops prior to the 369 rates are or were  
9 being provided at or below \$11.33?

10 A. Yes.

11 Q. You mentioned the statewide average rate, and  
12 that rate is \$18.16; is that correct?

13 A. That is the cost findings of the Commission,  
14 correct.

15 Q. Isn't that the price finding of the  
16 Commission?

17 A. I'd have to go back and look at the orders.  
18 I believe it is.

19 Q. Then you mentioned the five zones. Do you  
20 recall what those five zone rates are?

21 A. In a range, I believe at the low end it  
22 starts at \$7.00, and at the high end, I think it was  
23 around \$26, if memory serves me right.

24 Q. Would you agree that the five zones are  
25 intended to result in average revenue to Qwest of

00130

1 \$18.16 per UNI loop per month?

2 A. I really have not gone into the details of  
3 that. I would be willing to agree to it subject to  
4 check, the Commission's clarification in its own order.

5 Q. If your check turns out, then I assume that  
6 means the average price to CLECs under the 369 rates  
7 under the five zones is intended to average out to  
8 \$18.16?

9 A. I think from your question that would be  
10 clearly the average price being the statewide average  
11 price. From a price-only perspective, in terms of the  
12 actual loops they are purchasing, I don't believe that  
13 would be the result.

14 Q. How much experience does Qwest have with the  
15 demand for unbundled loops at the new 369 prices?

16 A. I'm a bit confused. I thought you suggested  
17 that the new prices were not implemented.

18 Q. I think you are not certain whether they have  
19 been or not.

20 A. Maybe you could tell me, and then I could  
21 better answer your question.

22 Q. I don't think they have.

23 A. If they haven't, I would say we have no  
24 experience.

25 Q. If they have, you have limited experience;

00131

1 would that be fair to say?

2 A. That would be fair to say.

3 Q. So there is no actual experience in  
4 Washington with what the growth and demand will be for  
5 unbundled loops at the new rate; is that correct?

6 A. I think there has been significant growth at  
7 the current rates, and under the new rates, I would  
8 expect there to be even greater growth.

9 Q. Would you agree the new rates on average are  
10 going to be higher than the old rates?

11 MR. OWENS: I'm going to object to the form  
12 of the question, Your Honor. The witness has already  
13 testified that there is a difference in how you  
14 determine such an average, whether it's based on  
15 assuming that loops are purchased uniformly in all the  
16 zones or whether it's based on actual patterns of  
17 purchases at the various prices. I don't think  
18 Counsel's question clarifies how he expects her to  
19 answer that.

20 JUDGE CAILLE: Mr. Harlow, could you please  
21 rephrase your question more specifically?

22 MR. HARLOW: I will try to, Your Honor.

23 Q. (By Mr. Harlow) Assuming that the zone rate  
24 achieved the average of \$18.16, would you agree that  
25 the unbundled loop rates in Washington going forward

00132

1 will be higher than those that were in effect at the  
2 time the looped takes, if you will, as set forth on  
3 Page 7 of your rebuttal testimony?

4 A. I believe that the new rates will be both  
5 higher and lower depending on which wire center you are  
6 looking at, but the wire centers in this petition, I  
7 believe, fall within various zones, many in the lowest  
8 rate and others potentially in the highest rate. So I  
9 don't think it will be both.

10 Q. Turning to Page 4 of your rebuttal testimony,  
11 Exhibit 7-T, at Lines 2 and 3 you stated, quote,  
12 "Alternative providers currently serve small business  
13 customers in select markets." What did you mean by  
14 "select markets"?

15 A. There is a discovery response with respect to  
16 that question. Specifically, what I am saying there is  
17 that current providers select or choose which small  
18 business customers they would like to serve, and by  
19 that, I'm referring to facility-based providers. There  
20 are also a number of providers that target small  
21 business customers as provided through evidence in this  
22 case.

23 Q. So would a select market then be a small  
24 business customer that can be served by facility-based  
25 providers?

00133

1       A.     A select market might be, for instance, an  
2 aerospace market where a provider might choose to serve  
3 Boeing and then satellite locations of Boeing in  
4 various geographic areas that are small in size. I'm  
5 aware of contracts that local exchange carriers have  
6 negotiated with customers where they require the  
7 customer to spend a certain amount of funds each year  
8 in order to get a certain price or a certain discount.

9             As a part of that, they might serve small  
10 locations of a larger location, such as a bank might  
11 include their branches. The aerospace industry might  
12 include other satellite locations, maybe even supplier  
13 arrangements that they have with lines to those  
14 suppliers.

15       Q.     I can't repeat this as well as the court  
16 report could, but I think I heard a couple of elements  
17 I want to follow up on. One of them is  
18 facilities-based competitors and the other is select  
19 geographic areas. Again, referring to your term  
20 "select market," does that have a geographic component  
21 to it then?

22       A.     It simply has a component that's specific to  
23 the provider. Their selection may differ from carrier  
24 to carrier. What they have identified is when they  
25 will serve a small business customer, and that's how I

00134

1 would quantify "select." It may vary carrier by  
2 carrier depending on their business strategy.

3 Q. Referring to the maps that are attached to  
4 Exhibit K to the Company's petition, which are facility  
5 maps of Qwest competitors -- do you recall those?

6 A. Yes.

7 Q. -- would you agree that Qwest is facing more  
8 vigorous competition adjacent to those facilities than  
9 elsewhere in the wire centers where there are no such  
10 facilities?

11 A. Not of late. I would say initially when  
12 competitors entered the market, they tended to target  
13 locations nearest to their facilities. What we are  
14 finding as more providers have entered the market that  
15 competition is very diverse and widespread, and it  
16 differs in form, so that many customers are now being  
17 targeted as opposed to very specific customers, but it  
18 depends on the CLEC or the reseller, and it depends on  
19 the geographic location.

20 Q. Has you anyone in the Company made any effort  
21 to quantify the level of competition within wire  
22 centers by comparing the level of competition along  
23 those competitors' facilities as opposed to elsewhere  
24 within the wire center?

25 A. We would have no way of doing that because we

00135

1 do not have the competitive data.

2 Q. In your last answer to my last question, you  
3 said initially, the CLECs were targeting along their  
4 facilities and now they are not. On what do you base  
5 that answer if you can't quantify?

6 A. Our experience in dealing with the customers  
7 in the various wire centers.

8 Q. Are you referring to competitive loss  
9 experience?

10 A. What I'm talking about is our day-to-day  
11 interaction with those customers. Not specifically  
12 competitive losses, but customers that share with us  
13 that they have been approached by alternative  
14 providers.

15 Q. Do you keep records of those approaches and  
16 where the customers are located?

17 A. No, we don't.

18 Q. So this is purely anecdotal evidence?

19 A. It is evidence from our sales representatives  
20 that deal with those customers on a regular basis and  
21 employees that are out in the market place.

22 Q. Turn back a page, please, to Page 3 of your  
23 Exhibit 7-T. Starting on Line 1, you say, "These same  
24 providers" -- referring to CLECs, I believe -- "are  
25 capable of serving all existing customers in these



00136

1 areas should they choose to do so. The reality is they  
2 have not chosen to do so." What did you mean in that  
3 testimony by "these areas"?

4 A. What I'm referencing at Line 2 was the 31  
5 wire centers included in this petition.

6 Q. So "these areas" refers to the 31 wire  
7 centers?

8 A. Yes.

9 Q. You are saying that the competitors have  
10 chosen not to provide service in the 31 wire centers?

11 A. What I'm saying is that the providers are  
12 capable of serving all customers in these wire centers.

13 Q. What customers have they not chosen to serve  
14 in those wire centers, in your view?

15 A. It is not my testimony that they have not  
16 chosen to -- my testimony is that they haven't chosen  
17 to serve all of the customers in the wire center as a  
18 business decision.

19 Q. My question for you is which customers have  
20 they chosen not to serve within these 31 wire centers?

21 A. It varies by carrier in terms of which  
22 customers they don't choose. My testimony is they  
23 would tend not to serve the less profitable customers  
24 in these wire centers.

25 Q. So you define the market then that served and

00137

1 unserved as being the more profitable versus the less  
2 profitable; is that a fair summary?

3 A. I don't think there is a black-and-white  
4 description, and that's why I'm struggling with your  
5 question. In terms of these market areas, we have  
6 defined them as the wire center boundaries. Within  
7 those wire center boundaries, there are customers who  
8 have been approached by alternative providers and are  
9 currently served by alternative providers in whole or  
10 in part.

11 There are other customers who have approached  
12 alternative providers for service and have not been  
13 able to get service because those providers have  
14 required them to order certain quantity before they are  
15 willing to serve them.

16 Q. Let's turn to Page 17 of your rebuttal  
17 testimony, Exhibit 17-T. This theme seems to come up  
18 again in Lines 15 through 17 where you say, "In other  
19 words, alternative providers will continue to  
20 selectively serve customers in these markets where it  
21 is profitable to do so while denying service to less  
22 profitable customers in these same areas." Do you have  
23 that testimony in mind?

24 A. Yes.

25 Q. Again, I ask you, is this the only

00138

1 distinction you can make within a wire center, the  
2 distinction between the profitable versus less  
3 profitable customers?

4 MR. OWENS: This question is identical to the  
5 one that was asked a minute ago.

6 MR. HARLOW: It's asked with reference to  
7 another section of her testimony. It should be  
8 allowed, Your Honor.

9 JUDGE CAILLE: All right, Ms. Jensen, if you  
10 will please respond.

11 THE WITNESS: Could you help me understand,  
12 Counsel, the distinction from what perspective?  
13 Whether they help alternatives or not?

14 Q. (By Mr. Harlow) Your testimony seems to  
15 reflect that within the 31 wire centers, there are  
16 customers that are served by CLECs and customers that  
17 are not; is that correct?

18 A. That's correct.

19 Q. How do we identify which are the served  
20 customers and which are the unserved customers?

21 A. I would identify them as those customers the  
22 CLECs either choose to serve or choose not to serve,  
23 and that's the sole basis of my testimony.

24 Q. So we could say they are the served and  
25 unserved within wire centers?

00139

1           A.       Served by CLECs versus unserved by CLECs as a  
2 matter of choice by the CLEC.

3           Q.       Is your goal of competitive classification to  
4 be able to reduce prices to the served CLEC customers?

5           A.       Our goal of competitive classification is to  
6 be able to compete on a parity basis for any customer  
7 served within the wire center and to do so on the same  
8 terms and conditions that other providers are permitted  
9 to offer service.

10          Q.       I think we've read that in your testimony,  
11 but my question was, whether or not one of the ways to  
12 achieve that goal will be to target price reductions  
13 within the wire center to the served customers.

14          A.       That may be one of our strategies. I believe  
15 our overall strategy is to retain customers that we  
16 would otherwise lose not being allowed to compete on a  
17 parity basis, which may largely encompass current  
18 customers.

19          Q.       Let's talk a minute about the unserved  
20 customers, the ones you characterize in your rebuttal  
21 as "less profitable." Do you have any way to know  
22 whether those customers will be profitable for CLECs to  
23 serve at all under the new 369 loop prices?

24          A.       I think whether a customer is profitable to  
25 serve to the CLEC is controlled by the CLEC in the

00140

1 prices that they choose to charge to that customer. I  
2 believe that if a CLEC looks at a customer for their  
3 full spectrum of services, they make decisions as to  
4 which customers they are going to target first. I'm  
5 not sure that any customer -- I think for the CLEC, the  
6 behavior indicates there is a preference to serve  
7 certain customers or types of customers prior to  
8 servicing other customers. I believe at some point,  
9 the CLECs will serve many more customers than they  
10 serve today.

11 Q. Would you accept subject to check that the 31  
12 wire centers in your petition cover all five of the 369  
13 loop zones? In other words -- can I phrase it  
14 differently? You are staring at me -- that at least  
15 one wire center, and in many cases more than one wire  
16 center, of the 31 is in all five of the zones?

17 A. I think your question is do these wire  
18 centers fall within one of the five different zones  
19 that the Commission has identified in the docket 369?

20 Q. I think so.

21 A. And I believe that may very well be the case.  
22 I know for instance, in Spokane, I believe the wire  
23 centers in Spokane encompass at least three different  
24 zones of the five-zone pricing structure.

25 Q. So CLECs to compete using unbundled Qwest

00141

1 loops may have to pay as high as \$26 for a UNI loop in  
2 order to serve customers where they don't have  
3 facilities in those zones.

4 A. If they choose to serve those customers over  
5 a UNI loop.

6 Q. If they don't choose to serve those customers  
7 owner a UNI loop, I presume they would have to provide  
8 facilities to those customers; is that correct?

9 A. I don't believe it's correct. I think there  
10 are many options available to an alternative provider,  
11 one of which is using their own facilities. There are  
12 a number of carriers that are in the business of simply  
13 selling to other carriers the use of their facility,  
14 such as the Click Network in Tacoma. There are  
15 carriers within Seattle and Spokane that sell to other  
16 carrier that are facility based only but not in the  
17 retail business itself, and an alternative provider can  
18 also utilize resale.

19 Q. Qwest has a ubiquitous network; would you  
20 agree?

21 A. Yes.

22 Q. By ubiquitous, that means if we look at the  
23 maps, Exhibit K, where you see lines running down  
24 certain streets representing the competitive  
25 facilities, if we were to be able to produce a

00142

1 comparable map for Qwest, you would see a line running  
2 down essentially every street, would you not?

3 A. Not necessarily every street. I think where  
4 there are existing homes, there is a high probability  
5 you would see a line.

6 Q. In some cases, you might see lines on the  
7 street and in the alley as well, might you not?

8 A. It depends on the area. We have facilities  
9 to customers, but there are locations where Qwest does  
10 not have facilities in place, and we continue to build  
11 on a regular basis.

12 Q. I assume we are talking about areas where  
13 there is new construction going on.

14 A. Many are existing areas as well where we do  
15 not have sufficient facilities to meet the demand.

16 Q. You say you don't have sufficient facilities,  
17 but you do have facilities; is that correct?

18 A. We have facilities, but the changes occurring  
19 in the industry are fairly dynamic, and where customers  
20 typically order one to two lines, we have customers now  
21 that order five and six lines.

22 Q. Ms. Jensen, is there any business location  
23 you can think of in these 31 wire centers where there  
24 is an existing building and Qwest does not have a  
25 facility within easy reach of that business?

00143

1 Basically, they can put in a drop. Putting aside for  
2 the moment the question of shortages of loops.

3 A. Well, we do have situations where we have  
4 business customers request service and we don't have  
5 facilities, but to save you some time, if your issue is  
6 do we generally have ubiquitous facilities in the  
7 network, yes, we do.

8 Q. The facilities of the competitors, I assume,  
9 as best you can determine, are reflected in Exhibit K.

10 A. I believe Exhibit K is very outdated. I  
11 believe there are facilities that extend beyond that  
12 today, and they would need to answer that question.

13 Q. Is any one or any collection of carriers of  
14 CLECs, to your knowledge, anywhere close to being  
15 ubiquitous in the same sense that Qwest is?

16 A. I believe there are some that may through the  
17 purchase of cable systems, yes.

18 Q. Are any of them there yet today?

19 A. Yes.

20 Q. Who do you have in mind? Are you  
21 contemplating AT&T?

22 A. Yes, I am.

23 Q. Do you know what percentage of AT&T's  
24 facilities in these 31 wire centers has been overbuilt  
25 to provide voice and data services?



00144

1       A.     Specifically, I don't know what percent. I  
2 know they have a very aggressive plan in place and have  
3 made several commitments to the cities and counties to  
4 do so, yes.

5       Q.     Do you know how much it's going to cost AT&T  
6 to complete their overbuild of those facilities?

7       A.     No, I don't.

8       Q.     Is it possible then that that cost could be a  
9 barrier to entry, Ms. Jensen?

10      A.     I don't believe it is a barrier to entry in  
11 that they've already committed to do so.

12      Q.     Now that we've completely gotten off track, I  
13 will try to bring us back. What we were talking about  
14 were the costs to CLECs to provide service to the  
15 unserved using UNI loops. We got sidetracked when you  
16 indicated there were other options. Realistically, in  
17 order to provide the same geographic reach as Qwest, is  
18 there any currently existing option for CLECs to  
19 provide that same ubiquitous reach without having to  
20 purchase UNI loops?

21      A.     I believe there is, and in essence, it goes  
22 back to the other options that are available to them.  
23 They are not obligated to purchase UNI loops.

24      Q.     We talked about cable, and you indicated you  
25 didn't know the geographic scope of current cable

00145

1 capabilities. What other options might there be other  
2 than UNI loops that's currently in existence?

3 A. As I previously responded, they have the  
4 opportunity to resell existing Qwest services, to buy  
5 UNI loops, to build their own facilities and deploy  
6 those facilities, to use facilities of other providers  
7 as well as new technology, such as fixed wireless  
8 service. In Docket 990022, the Commission found that  
9 there was no barrier to existing businesses to reach  
10 new locations.

11 Q. One of the things you mention in your  
12 prefiled testimony -- I think this is direct. I don't  
13 have a cite, but I'm sure you will recall mentioning  
14 wireless options; do you recall that?

15 A. Yes.

16 Q. Has Qwest undertaken any study of the  
17 geographic reach of the wireless options your  
18 discussed?

19 A. We have considered using those for our own  
20 deployment of services, yes, and, in fact, are in some  
21 locations.

22 Q. My question was Qwest had undertaken any  
23 study of the existing geographic reach of those  
24 wireless options?

25 A. Yes. They vary by supply and technology.

00146

1 Q. Have you determined any of them to have  
2 ubiquitous reach?

3 A. I don't think we use them for ubiquitous  
4 reach purposes.

5 Q. I'm talking about competitive wireless  
6 providers that you referred to in your testimony.

7 A. Could you point me to what page you are  
8 looking at, please?

9 Q. I believe it's Page 4 of your direct, which  
10 is Exhibit 1-T. It's Page 4 of your rebuttal, and  
11 that's Exhibit 7-T. At Line 13, you start out,  
12 "Carriers use radio spectrum technology to wirelessly  
13 link customer locations to their high-speed networks  
14 bypassing the network of the local exchange company."  
15 That's the testimony I had in mind.

16 A. Yes.

17 Q. Have you undertaken any study to determine  
18 the routes or the maps or the geographic area served by  
19 this technology that you are referring to here?

20 A. It's fairly modular technology in that it can  
21 be used on a building- or customer-specific location  
22 basis. So it's not a ubiquitously deployed technology.  
23 It's a technology that is specific to a given  
24 application.

25 What I'm referring to here is technology that

00147

1 is used to complete a facility from a carrier's network  
2 to the customer's location, and there is typically  
3 equipment deployed at the customer's location. So it's  
4 not predeployed. It's deployed based on a competitive  
5 bid to that customer.

6 Q. Does Qwest know where this equipment is  
7 deployed?

8 A. We know that it's through public trades.  
9 It's widely deployed in Seattle, in Bellevue, and  
10 increasingly in other areas.

11 Q. Do you know if it's anywhere close to  
12 ubiquitous?

13 A. Again, it's specific to a customer  
14 application. It's not designed to be a ubiquitous  
15 network. However, it interconnects with a ubiquitous  
16 network.

17 Q. It interconnects using things like unbundled  
18 network elements, including loops?

19 A. It interconnects in whatever form the  
20 provider chooses. It can interconnect to satellite  
21 technology, to microwave technology, or to land-line  
22 technology.

23 Q. I think I may have seen some of these  
24 facilities that you are referring to, typically  
25 characterized by a small dish-type antenna on top of a

00148

1 building in downtown Seattle?

2 A. That can be one form, yes.

3 Q. In order to provision service in this manner,  
4 the competitor would have to origin an antenna; is that  
5 correct?

6 A. There are various types of technology  
7 available. That is one, yes.

8 Q. And they would have to secure space on the  
9 building roof top; is that correct?

10 A. That could be correct. It doesn't have to be  
11 on a roof top, to my knowledge.

12 Q. Somewhere on the building, perhaps?

13 A. Yes.

14 Q. They would have to provision radio equipment;  
15 is that correct?

16 A. Again, it depends upon the technology. That  
17 is one form.

18 Q. Assuming it's a radio technology.

19 A. Correct.

20 Q. They would have to provision the switching  
21 equipment, I assume, as well?

22 A. I don't know that they need to utilize  
23 switching equipment.

24 Q. Whatever equipment they have to provision  
25 would require investment of capital; is that correct?

00149

1           A.     I would assume so.  There may be lease  
2 arrangements available to them.

3           Q.     Without going to the level of the barrier to  
4 entry, would you agree that an investment of capital is  
5 at some level a barrier to entry?

6           MR. OWENS:  I'm going to object.  That  
7 question is internally contradictory.

8           MR. HARLOW:  I don't think it was, Your  
9 Honor.

10          JUDGE CAILLE:  Could you explain?

11          MR. OWENS:  He prefaced the question by  
12 saying, Without going to the level of a barrier to  
13 entry, would you agree...  That was the preface, and  
14 then he said, Would you agree that the requirement to  
15 invest capital could be a barrier to entry.

16          JUDGE CAILLE:  Perhaps if you could rephrase  
17 the question, Mr. Harlow.

18          Q.     (By Mr. Harlow)  Let me explain a little bit.  
19 There are low barriers to entry and high barriers to  
20 entry.  Do you understand that?

21          A.     Yes.

22          Q.     I'm not asking you to opine whether  
23 investment of capital to position radio equipment to  
24 serve customer is a low versus a high barrier to entry,  
25 but would you agree that that investment is a barrier

00150

1 to entry for competitors?

2 A. I don't believe it is because the technology  
3 is very successful. There may be some carriers who  
4 view the need to invest as a barrier to entry, but  
5 there is quite a bit of investment going on in these 31  
6 geographic areas as well as other areas of the state.  
7 So I didn't think it would differ by carrier whether  
8 the need to invest was considered a barrier to them or  
9 not.

10 Q. Do you see these antennas about in Seattle  
11 and surrounding areas?

12 A. I'm aware, again, through the trade press  
13 that they have been largely successful. I'm also aware  
14 of Quest's own use of this technology. I haven't  
15 specifically gone out and looked for them. I'm aware  
16 that they exist.

17 Q. When Qwest uses the technology, does it  
18 typically use it for customers that have higher demands  
19 for either bandwidth or circuits?

20 MR. OWENS: Higher than what?

21 MR. HARLOW: Higher than average.

22 THE WITNESS: I don't believe so. We  
23 typically look at it as a low-cost efficient  
24 provisioning tool in high-cost areas. We look at it as  
25 an option.

00151

1 Q. (By Mr. Harlow) If you have a customer,  
2 let's say, a florist shop up near Lake Union in  
3 Seattle, would you expect that a customer like that  
4 would have an antenna placed on their building and all  
5 the equipment put in place to serve them?

6 A. I think it would depend on the -- for Qwest,  
7 it would depend on the specifics of the network serving  
8 that customer in that location and what available  
9 capacity existed on that network.

10 Q. If you had a loop available there, would you  
11 view that you would probably prefer to serve them with  
12 the loop?

13 A. If there were a loop there, we would use the  
14 loop we had in place rather than a new investment.

15 Q. Is that because it would be cheaper to use  
16 the loop than it would be to install the radio  
17 equipment?

18 A. It would be because we would use the capacity  
19 already available to that customer location.

20 Q. Are you not going to impute the UNI loop rate  
21 to your operation and have to determine whether it's  
22 cheaper to use the loop versus put all the radio  
23 equipment in?

24 A. Again, we are going to use existing capacity  
25 as opposed to deploying new capacity. That wouldn't be



00152

1 necessary in that instance, the instance that you  
2 described.

3 Q. Are you saying the existing capacity doesn't  
4 cost Qwest anything?

5 A. I'm saying it's available for use.

6 Q. Is it available at a cost, or is it available  
7 for free?

8 A. The cost to deploy that investment has  
9 already been incurred, whether there is an active  
10 customer utilizing that circuit or not.

11 Q. At the bottom of Page 4, and I think this  
12 extends to the top of Page 5 of your rebuttal  
13 testimony, Exhibit 7-T, you talk about 650 Tacoma  
14 residence and businesses that have signed up for the  
15 Click Network.

16 A. Yes.

17 Q. What's your understanding of the nature of  
18 services that Click is providing to these Tacoma  
19 residences and businesses?

20 A. Click currently is providing cable services  
21 to those residence and business customers. However,  
22 they are at the same time marketing to alternative  
23 providers or CLECs collection to sell telecommunication  
24 services to customers served by their cable network,  
25 and there are, in fact, at least two providers that are

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1 actively utilizing the Click Network.

2 Q. In your testimony at the bottom of Page 4,  
3 you say customers can connect their computer modem  
4 directly to an Internet service provider; do you recall  
5 that?

6 A. Yes.

7 Q. So that is the current capability, to provide  
8 modem service?

9 A. Current capability of Click?

10 Q. Yes.

11 A. Click is currently marketing its service as a  
12 data service as well as a carrier service. In essence,  
13 a bandwidth service to other providers.

14 Q. The equivalent service to the retail customer  
15 would be Quest's megabit service?

16 A. To the computer modem service, yes.

17 Q. That service is not one that is the subject  
18 of this petition; is that correct?

19 A. That's correct.

20 MR. HARLOW: Your Honor, this would be a good  
21 time for a break. I believe I'm done, but I might like  
22 to review my notes over the lunch hour to confirm that.

23 MR. CROMWELL: Your Honor, I would also like  
24 to interject a procedural question you may wish to  
25 consider over the lunch hour. Mr. Harlow made a

00154

1 records requisition request, and it occurred to me  
2 while we were in hearing that under WAC 480-09-480 sub  
3 6, small Roman five, responses to requisition requests  
4 as well as bench requests are not due for 10 working  
5 days until after the transcript has been provided. Off  
6 record, madam court reporter indicated that we would be  
7 likely to receive it on the 6th. That would make  
8 Quest's due date for bench requests and records  
9 requisition requests the dates that our brief is due,  
10 which would obviously impair the usefulness to any of  
11 us of the results of bench requests or records  
12 requisition requests. I wanted you to consider  
13 accelerating the response time, and perhaps Qwest would  
14 consider that over the lunch hour as well.

15 JUDGE CAILLE: We will consider that. I  
16 would like to give the parties a heads-up in that there  
17 might be a change in that due date of briefs from the  
18 20th to the Friday before, but that's just a heads-up  
19 because we may need that time to read the briefs and  
20 begin working, and that would give us a weekend and  
21 three days before the holidays. Otherwise, it looks  
22 like we wouldn't get to look to it until after the  
23 Thanksgiving holiday.

24 MR. HARLOW: Can we discuss that off the  
25 record?

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JUDGE CAILLE: Sure.  
(Lunch recess taken at 11:55 a.m.)

00156

1

AFTERNOON SESSION

2

(1:35 p.m.)

3

JUDGE CAILLE: We are back from our noon recess and about to resume cross-examination of Ms. Jensen, but before we do, Ms. Rackner, I believe you have another exhibit that you wanted to have marked.

8

MS. RACKNER: Yes. I've handed out a response to a WUTC data request that I've written 71 in the corner. Do counsel all have copies of the data request? I gave the same one to Ms. Jensen.

12

JUDGE CAILLE: So that will be marked as 71.

13

MS. RACKNER: It's my understanding that counsel for Qwest has no objections to the admission of 69, 70, or 71. In addition, I would like 70 marked as confidential.

17

MR. OWENS: It hasn't been provided on yellow

18

paper. JUDGE CAILLE: Ms. Rackner, you will have to

20

provide that on yellow paper. MS. RACKNER: We don't need it for this witness, and perhaps we should set it aside for now and deal with it through another witness.

24

MR. HARLOW: Which one is 70?

25

MS. RACKNER: It's the New Paradigm study.

00157

1 MR. CROMWELL: Your Honor, the reason why we  
2 are recommending the confidential designation isn't  
3 because it's a Qwest document but rather because it  
4 does identify specific companies with specific  
5 information, and in an excess of caution, we thought  
6 that the competitors who are thereby identified might  
7 protest. If you are willing to have it in the open  
8 record, I don't think we would object to that, but I  
9 think in terms of being respectful to those parties who  
10 are not present who might feel sensitive about their  
11 identification in that document, that's why we made  
12 that recommendation.

13 JUDGE CAILLE: I think that was a good  
14 caution to take, Counsel.

15 THE WITNESS: Anyone can buy that document.

16 MR. OWENS: The authors say it's already been  
17 released.

18 JUDGE CAILLE: Are we talking about 70 or 71?

19 MR. OWENS: 70.

20 CHAIRWOMAN SHOWALTER: Did this come from the  
21 Internet?

22 MS. RACKNER: I received it from my expert.  
23 I don't know.

24 CHAIRWOMAN SHOWALTER: Just as a general  
25 matter, I think we should everything is an open record,

00158

1 unless someone wants to assert confidentiality. We  
2 have a procedure for that, but it looks as if it could  
3 be a private Internet site.

4 MS. RACKNER: I don't think so. I think  
5 Mr. Cromwell is correct. We were trying to be  
6 sensitive to other parties.

7 CHAIRWOMAN SHOWALTER: I think the way to  
8 handle this is that the party asserting its  
9 confidentiality should be there to assert it, which I  
10 think maybe means you may have to do some consulting  
11 with somebody before the point, but I would not, unless  
12 you have a grounds, to assert a confidentiality at this  
13 point.

14 MR. WEIGLER: It looks like there is two  
15 different documents, and I don't have any problems with  
16 the first document, CLEC Report 2000, being open. The  
17 second document, it says Chapter 8, markets served by  
18 CLECs, and it doesn't look like that came off the  
19 Internet. It looks like two separate documents, and I  
20 might have some concerns about that second document,  
21 not knowing where it came from, and that AT&T is in it.

22 CHAIRWOMAN SHOWALTER: We have had some  
23 rulings in the past and discussion of confidential  
24 documents, and we don't want to get in the position of  
25 making it confidential unless -- we don't want the

00159

1 benefit of the doubt in favor of there being  
2 confidential documents. There has to be, under the  
3 law, they are public documents, unless someone asserts  
4 they are confidential, and there are grounds under our  
5 rules and the state law. If something is going to come  
6 in as confidential, someone needs to be asserting that  
7 it should be so and telling us why.

8 MR. WEIGLER: AT&T information is located in  
9 the second document, and I'm not sure where it came  
10 from, and it's not published on the Internet. So  
11 having gotten it today, I just don't know. I don't  
12 have enough information to assert the confidentiality  
13 because I just saw it for the first time. With that in  
14 mind, I don't ever a problem with the first document  
15 being entered into the record. It came off the  
16 Internet. I have concerns about the second one,  
17 because there is AT&T information there, and I don't  
18 know where it came from.

19 MS. RACKNER: I think Mr. Weigler's point is  
20 well taken. I obviously acquired this document within  
21 the last few hours, and I would like to clear it up.  
22 I'm going to withdraw it on behalf of my client until  
23 I'm able to answer those questions and be able to come  
24 to you and represent how the parties as a group feel  
25 about this particular document.



00160

1 JUDGE CAILLE: Thank you.

2 MR. OWENS: I'd just point out, Your Honor, I  
3 realize counsel is withdrawing it, but it appears to be  
4 a publication by the same author that published what  
5 Qwest attached as Attachment E to the petition but for  
6 the year 2000, and it appears to be similar but not  
7 exactly the same material in terms of designation of  
8 carriers with various types of networks operating in  
9 various cities.

10 MS. RACKNER: That's correct. That's exactly  
11 what it was, and I had initially thought that it was  
12 the same year, and it was just another excerpt from  
13 that same report that Qwest had attached.

14 MR. OWENS: We didn't have any objection to  
15 it. We didn't submit Attachment E as confidential  
16 because I believe that it isn't.

17 CHAIRWOMAN SHOWALTER: It sounds you will be  
18 returning to us, potentially, with a document and an  
19 explanation.

20 MS. RACKNER: Yes.

21 JUDGE CAILLE: Why don't we resume the  
22 cross-examination. Mr. Harlow, do you have anything  
23 further?

24 MR. HARLOW: No, Your Honor. Thank you.

25 JUDGE CAILLE: Ms. Rackner, were you going

00161

1 next?

2 MS. RACKNER: Yes, I am. Thank you very

3 much.

4

5 CROSS-EXAMINATION

6 BY MS. RACKNER:

7 Q. Good afternoon, Ms. Jensen. I take it you  
8 have your testimony and all the exhibits in front of  
9 you?

10 A. Yes, I do.

11 Q. I'm actually going to be having you refer to  
12 them, and I'm going to remind myself to go very slowly,  
13 but just stop me if you haven't gotten to the spot yet.

14 Throughout your testimony, you use the term  
15 "competitive loss." I'd like you to define that for  
16 me, what you mean by competitive loss?

17 A. Competitive loss, as I use the term, refers  
18 to customers that were previously buying services from  
19 Qwest that are now buying them from other local  
20 exchange companies.

21 Q. So when you use the term "competitive loss,"  
22 however, aren't you also referring to new customers of  
23 CLECs who are not previously customers of U S West?

24 A. It could include new customers. It could  
25 also include current customers who have moved some of

00162

1 their lines or perhaps additional lines that are new  
2 that were never purchased from Qwest.

3 Q. So when you use the term "competitive loss,"  
4 you are including CLEC customers that were never  
5 originally Qwest customers. Is that what I heard you  
6 say?

7 A. I would include them. I don't know that  
8 there exists CLEC customers that were never Qwest  
9 customers, but if they are, they would be included in  
10 that term, yes.

11 Q. Would you agree that the situation when there  
12 is a new business that starts up and contacts a CLEC to  
13 provide service for it that that would be a customer of  
14 a CLEC that was never a Qwest customer to begin with?

15 A. Yes.

16 Q. Are you including those customers in your  
17 definition of competitive loss?

18 A. It depends. As a general response, yes, in  
19 terms of competitive loss. I would have to look at my  
20 specific use of that in my testimony, but in general, I  
21 would say yes, I would include those as competitive  
22 loss. They are an opportunity that Qwest lost.

23 Q. So if I'm understanding you correctly, and I  
24 guess we can talk generally, that any share of the  
25 market which is less than 100, Qwest would designate as

00163

1 a competitive loss.

2 A. Yes.

3 Q. I'd like you to turn to your rebuttal  
4 testimony at Page 3. At the top of the page, and I  
5 believe Mr. Harlow directed you to this statement as  
6 well, you make a statement that providers are capable  
7 of serving all existing customers in the areas since  
8 they choose to do so; is that correct?

9 A. Yes, they are capable of serving all existing  
10 customers should they choose to.

11 Q. In your opinion, is the capability to serve  
12 all of the customers in the wire centers that are at  
13 issue in your petition, is that a necessary predicate  
14 for a finding of effective competition under the  
15 statute?

16 A. I would need to refer to the statute, but I  
17 believe that it states finding of comparable service.  
18 I don't believe it requires the competitors to be  
19 capable of serving all customers. I don't have the  
20 statute with me, but I'd be glad to reference it  
21 specifically if someone would furnish me a copy.

22 MR. CROMWELL: May I approach the witness,  
23 Your Honor? Does anybody else need a copy?

24 JUDGE CAILLE: Mr. Cromwell, I believe  
25 Commissioner Hemstad needs a copy and Commissioner

00164

1 Gillis.

2 Q. (By Ms. Rackner) Ms. Jensen, you've got the  
3 statute in front of you?

4 A. Yes, thank you.

5 Q. Do you want to take a minute to read through  
6 it?

7 MR. OWENS: Your Honor, this is not the  
8 statute under which this case has been brought. We  
9 brought this case under 80.36.330, not 320.

10 JUDGE CAILLE: That's true.

11 MS. RACKNER: I have a copy of the correct  
12 statute. I just didn't have many copies.

13 MR. OWENS: May I approach the witness?

14 JUDGE CAILLE: Yes.

15 Q. (By Ms. Rackner) Ms. Jensen, I apologize. I  
16 think I forgot the exact question I asked you. I will  
17 ask again. In your opinion, is it a finding that the  
18 competitor have the ability or are capable of serving  
19 all the customers in the relevant wire centers a  
20 necessary predicate for finding of effective  
21 competition under the statute?

22 MR. OWENS: This sounds like the witness is  
23 being asked for a legal opinion.

24 MS. RACKNER: If I may, throughout her  
25 testimony, Ms. Jensen has opined what she thinks is

00165

1 necessary for a finding of effective competition under  
2 the statute, and she has certainly given her opinion  
3 throughout her testimony that Qwest has fulfilled the  
4 requirements of the statute. I'm simply trying to  
5 clarify in a little more detail what she means when she  
6 finds that.

7 JUDGE CAILLE: We know that Ms. Jensen is a  
8 regulatory expert, and even though this isn't a legal  
9 opinion, we would like her to answer the question, so  
10 the objection is overruled.

11 THE WITNESS: What the statute requires, and  
12 I'm looking at 80.36.330, under 1, effective  
13 competition means that customers of the service have  
14 reasonably available alternatives and that this service  
15 is not provided to significant captive customer base.

16 The statute then goes on to define factors  
17 that the Commission shall consider. Included in that  
18 is the ability of alternative providers under C to make  
19 functionally equivalent or substitute services readily  
20 available at competitive rates, terms, and conditions.  
21 It does not require that those providers have service  
22 to all customers, but that they are capable and have  
23 the ability to make those services available, and my  
24 testimony is that they do.

25 Q. So I think your answer to my question is yes,

00166

1 that in your opinion, the capability of serving all of  
2 the customers in the wire centers at issue is a  
3 necessary predicate for the fulfillment of the statute.

4 A. I think I just stated what I believe the  
5 statute requires.

6 Q. Did you not understand my last question?

7 A. Well, I don't think it was a full question,  
8 so I didn't answer yes or no. What I qualified is what  
9 the statute requires, that competitors can make  
10 reasonably available alternatives, and that alternative  
11 providers have the ability to make functionally  
12 equivalent or substitute services and that I believe my  
13 testimony is that they do offer reasonably available  
14 alternatives and can make functionally equivalent or  
15 substitute services readily available should they  
16 choose to do so, and that's my definition of "they are  
17 capable of serving customers," because they have  
18 demonstrated both in these markets.

19 Q. So you said that the competitors are capable  
20 of serving everyone in the market. That's in your  
21 testimony; is that correct?

22 A. Yes.

23 Q. In your opinion, is that fact sufficient to  
24 fulfill the requirements of the statute?

25 A. The fact that they are capable of serving?

00167

1 Q. Yes.

2 A. I think the demonstration that Qwest has  
3 provided demonstrates that they are capable. I think  
4 the statement simply that they are capable is  
5 insufficient. I think the factual support that Qwest  
6 has provided demonstrates their capability.

7 Q. It seems like we are not understanding each  
8 other. What I'm asking you is whether a showing that  
9 the competitors are capable of serving all of the  
10 customers in the effective wire centers is sufficient,  
11 in your mind, to fulfill the requirements of the  
12 statute?

13 A. I believe it's one of the criteria of the  
14 statute, yes.

15 Q. So would you agree with me that the mere fact  
16 that competitors might be capable of serving all the  
17 customers is not sufficient to fulfill the statute?

18 A. I think the statute speaks for itself in  
19 terms of what is required, and I believe it leaves to  
20 the Commission's discretion what factors they might  
21 choose to include, as well as those that are identified  
22 in the statute, one of which is reasonably available  
23 alternatives.

24 Q. So let me give you a hypothetical. Then  
25 let's talk about reasonably available alternatives.



00168

1 Let's say that I could prove to you that competitors  
2 are fully capable of serving all of the business  
3 customers in the effective wire centers, but that for  
4 some reason, and the reason, I think, would be  
5 irrelevant and might have hypothetical, they choose not  
6 to do so. If that were the case, would the statutory  
7 requirements for effective competition be fulfilled?

8 A. I believe that this Commission has already  
9 ruled on that issue in a prior proceeding, and I  
10 believe that conclusion is different than the  
11 requirement that they are able to provide alternatives.  
12 I think what you are comparing is a conclusion to a  
13 criteria.

14 Q. I'm giving you a hypothetical.

15 A. I understand.

16 Q. So would you like me to restate the  
17 hypothetical?

18 A. I think I understood your hypothetical.

19 Q. Well, I guess I'd like a yes or a no answer,  
20 and then I'd be happy to allow you to explain. Can you  
21 give me a yes or no answer to my question?

22 A. I think I did, but why don't you reask your  
23 question.

24 Q. I didn't hear one. My question is, and  
25 again, this is a hypothetical. If I could show you

00169

1 that competitors are capable of serving all of the  
2 customers in the effective wire centers, but if I could  
3 also show that you for some reason the competitors  
4 chose not to serve the customers in the effective wire  
5 centers, would the statutory requirements for effective  
6 competition be fulfilled, in your mind?

7 A. I believe that for that element, yes, they  
8 would.

9 Q. So simply the capability of serving all those  
10 customers, in your mind, that would be enough to  
11 fulfill the statute.

12 A. As I mentioned, the statute has several  
13 criteria. That is one of the criteria, and I believe a  
14 demonstration that companies can provide reasonably  
15 available alternatives and that they can make  
16 functionally equivalent or substitute services readily  
17 available satisfies that criteria. There is other  
18 criteria in the statute as well.

19 Q. In your mind, in addition to the capability  
20 of serving all the customers then, what would be the  
21 additional showing that, again, in your mind, Qwest  
22 would need to make to show there was effective  
23 competition?

24 A. I would defer to the statute, which very  
25 specifically directs the Commission to consider the

00170

1 number and size of alternative providers, the extent to  
2 which services are available in the relevant market  
3 from alternative providers, the ability which addresses  
4 the capability requirement of alternative providers to  
5 make service readily available, functionally equivalent  
6 or substitute services, and there is also a fairly  
7 general provision that talks about other indicators of  
8 market power, which can include market share, growth  
9 and market share, ease of entry, and affiliation.

10 Q. I think you've agreed that capability simply  
11 isn't enough.

12 A. I think it's one of the factors. I think the  
13 statute speaks for itself.

14 Q. I'd like you to turn to two different  
15 exhibits. They are responses to Data Requests No. 36  
16 and 40. Do you have those. One refers to the other.  
17 That's why I'd like you to take a look at two. 36 is  
18 Public Counsel's.

19 MS. JOHNSTON: I'm just try to clarify, your  
20 reference to 36 is, in fact, Exhibit 36 and not the  
21 response.

22 MS. RACKNER: I'm sorry. I will not be  
23 referring to any numbers other than the exhibit numbers  
24 if I can avoid it, and since these are all exhibits, we  
25 will just try to ignore whatever numbers are appended

00171

1 to them.

2 Q. (By Ms. Rackner) 36, Public Counsel  
3 requested that Qwest identify the location of customers  
4 within Quest's wire center, which Ms. Jensen or Qwest  
5 contends are currently capable of being served by the  
6 entrance switch identified in A, and in response, Qwest  
7 responded that Qwest does not have maps that identify  
8 the location of customers within Qwest wire centers.  
9 Do you see that question and response?

10 A. Yes.

11 Q. 40 is simply another request for locations of  
12 customers with some differences and then also a  
13 response to please refer to the response, which we've  
14 got in 36.

15 A. Yes.

16 Q. I'd also like to refer you to Exhibit 69,  
17 which is not in your notebook, but it's the exhibit  
18 that has a picture of a ram on the front. It was one  
19 that we supplied to you this morning.

20 A. Yes.

21 Q. I'll represent to you that this was  
22 Attachment 7 to Qwest's additional comments which it  
23 filed in support of its petition for deregulation of  
24 the high-cap circuits, and the docket number that it  
25 was filed under was UT-990022. Does this document look

00172

1 familiar to you?

2 A. Yes.

3 Q. I want to direct you to Page 7 of that  
4 document. It talks about the process which was  
5 followed for the preparation of this document, and in  
6 Paragraph No. 1, there is an Item 1. It says, U S West  
7 geographic databases of high-cap service locations and  
8 high-cap fiber optic cable routes were provided to  
9 power engineers?

10 A. Yes.

11 Q. Could you please describe to me what U S West  
12 geographic databases are, exactly?

13 A. It's a database of each high-cap circuit that  
14 includes a point of termination and a point of  
15 origination.

16 Q. Would the point of termination indicate a  
17 customer?

18 A. It would indicate the end of a circuit which  
19 typically may be at a customer location or some other  
20 location.

21 Q. In terms of the way in which the location of  
22 those circuits were used for the preparation of this  
23 document, weren't they used to show where high-cap  
24 customers existed?

25 A. They are very specific to the circuit, so

00173

1 they show a point where the circuit originates and a  
2 point where the circuit terminates. Typically, those  
3 are customer circuits. They may or may not be the  
4 business location of a customer. It depends on where  
5 the customer is ordering that circuit. It could be  
6 from a customer's premise to, for instance an IXE, an  
7 interexchange carrier. It could be a point of  
8 termination or origination.

9 Q. Most commonly though, wouldn't these  
10 locations indicate where the location of those business  
11 customers are?

12 A. For high-cap services, I think you'd have a  
13 real mix in that many of those services are used for  
14 carriers as well as for carriers to what I think you  
15 would refer to as retail customers, and there would be  
16 some in here that would be solely a retail customer  
17 application. So there is quite a mix in a high-cap.

18 Q. Does Qwest have a geographic database that  
19 covers wire centers other than those that were at issue  
20 in the high-cap case?

21 A. We have a variety of databases that cover our  
22 network. So for instance, we would have a database  
23 where assignments would be made to a given line. We  
24 would have a maintenance database. We have a variety  
25 of databases that are used for very specific purposes,

00174

1 and therefore, contain very specific information. Our  
2 billing system would certainly identify a customer of  
3 record, a bill name of record and a service address as  
4 well as a billing address.

5 Q. So when Qwest said that it didn't have any  
6 maps that identified the location of customers, it  
7 meant that there were no maps. I take it Qwest wasn't  
8 suggesting that it didn't have any other documents  
9 which would help Public Counsel identify where  
10 customers lay within the wire centers at issue in the  
11 case.

12 A. Maybe I can help a bit. Typically, our  
13 records that would have a business address would be  
14 associated with telecommunications equipment, for  
15 instance, a line card in a central office or a facility  
16 from that central office to a customer's location.  
17 That record wouldn't traditionally identify that ABC  
18 was the company that that circuit was provisioned to.  
19 That would actually be in a different system. So  
20 probably the only place that you could take a customer  
21 name and tie it to a service address would be in our  
22 billing system or in our service order system, the  
23 system that identifies the specifics to a customer,  
24 which is associated with a telephone number as opposed  
25 to an address. So the linkage of identifying addresses

00175

1 in tying it to business customers is kind of -- you  
2 have to go through several systems to try to make that  
3 connection to actually find out what business is at  
4 what address.

5 Q. Again, I want to direct your attention back  
6 to Exhibit 69, which refers to U S West geographic  
7 databases of high-cap service locations. What I'd like  
8 to know is whether U S West geographic database of  
9 high-cap service locations includes the wire centers  
10 that are at issue in this case but were not at issue in  
11 the high-cap case, so those additional 21 or 22 wire  
12 centers.

13 A. The database that is referenced in this study  
14 is a database, was circuit information. I'm not sure  
15 that a customer is even identified in that database.  
16 It's our telephone equipment that is identified with a  
17 circuit identification, so it would tell you, again,  
18 the originating point of a circuit, the distance of a  
19 circuit, what type of functionality is included on that  
20 circuit from point A to point B, if there is  
21 enhancements to the circuit where physically that is  
22 located, where the circuit terminates, and what type of  
23 technical circuit it is.

24 Q. My question to you was, does the database  
25 cover geographic location outside the areas that were



00176

1 at issue in the high-cap case but which fall into the  
2 geographic areas that are at issue in this case, so  
3 again, it would be that additional 22 wire centers.

4 A. If they are high-cap circuits within those  
5 wire centers, then the answer would be yes.

6 MS. RACKNER: I'd like to make a records  
7 requisition then for the geographic database.

8 JUDGE CAILLE: Will you be able to provide  
9 that?

10 MS. ANDERL: We need to object to that.  
11 High-cap circuits are not at issue in this docket, and  
12 I think Ms. Jensen can probably explain the details of  
13 the technical difficulty of providing access to the  
14 database. It's not a relevant request.

15 MS. RACKNER: The problem in this case is  
16 that below the level of the wire center, Qwest has not  
17 given the intervenors any information about the  
18 locations of the customers within each wire center, and  
19 it's our opinion that the location of those  
20 high-capacity circuits would at least give us something  
21 to start with, and my expert tells me it would be very  
22 helpful.

23 MS. ANDERL: And again, I would just say that  
24 in addition to the relevancy objection, because I think  
25 counsel's representation that it would be helpful is

00177

1 not determinative of whether it would be, the timing is  
2 difficult at best in terms of -- even if we are  
3 technically able to produce a response to a request  
4 such as this, which I don't believe we would be able  
5 to, the difficulty is simply in getting it to counsel  
6 in a timely manner and having an opportunity for  
7 inclusion of that information into the record.  
8 Clearly, this is something that could have been  
9 requested in discovery. The document that is being  
10 crossed off of now has been part of the public record  
11 for almost two years.

12 MS. RACKNER: First of all, I think there is  
13 some misunderstanding here, because my understanding of  
14 the high-cap case -- although, I was not involved --  
15 was that this geographic database and the PII study was  
16 used as a proxy for customer location, and conclusions  
17 were made by the Commission, I believe, that customers  
18 were within, for instance, certain distances from the  
19 circuits themselves. So I think that this information,  
20 at least, can be used as a proxy for a location, and  
21 Public Counsel did believe in asking for the location  
22 of customers that would be asking for information like  
23 the geographic database.

24 THE WITNESS: Your Honor, if I may. This  
25 information in this study is not contained in Quest's

00178

1 database. This information was an analysis of every  
2 circuit in Qwest's database and the information  
3 specific to that circuit that an outside firm then  
4 spent literally months pulling together the information  
5 that shows the distance of those circuits from the  
6 serving wire center. That information cannot be pulled  
7 from Qwest's database. It requires an analysis to  
8 occur looking at every physical circuit. For high-cap  
9 facilities, that was fairly simple because there is a  
10 limited, though thousands of circuits, there is a  
11 limited number. If the request is for our business  
12 customer access lines, we have over 500 thousand.

13           We don't have a database that can simply  
14 issue every address for every telephone line that we  
15 service. I think it would be easier to walk the  
16 streets, which is, in fact, what this firm did as well  
17 to look at locations of various companies within the  
18 area. They physically walked every street in the  
19 downtown corridor to look at where the networks of  
20 other providers were, and then they looked at every  
21 physical circuit identified in our system to complete  
22 this analysis. Our systems cannot produce this.

23           So I don't have a system, other than our  
24 billing system, that could give you every service  
25 address we serve, and you would be talking about over

00179

1 500 thousand records of addresses with no meaningful  
2 context. You would have to compare them to the  
3 location of the central office.

4 (Discussion off the record.)

5 JUDGE CAILLE: The objection will be  
6 sustained.

7 MS. ANDERL: Just for recordkeeping purposes,  
8 do we just hold that record requisition number?

9 JUDGE CAILLE: I think for recordkeeping  
10 purposes, we do. The reason we are sustaining the  
11 objection is because of the late request and the  
12 difficulty at this point in time for them to provide  
13 that information, and it sounds like it's not really  
14 profitable. We do note that you asked for maps in your  
15 request, but I don't know if that translates into  
16 databases.

17 MS. RACKNER: May I point out by way of  
18 exception to the sustaining of the objection that we  
19 did not ask for maps. We asked for documents which  
20 would show the locations. We had in mind maps and any  
21 other document which would show the location of  
22 customers. What Qwest did was it responded there were  
23 no maps, and perhaps naively, we understood that to  
24 mean there were no documents at all that would fulfill  
25 our request.

00180

1 JUDGE CAILLE: The data request that I'm  
2 looking at is PC 02-035, and it said, "Please designate  
3 the customer locations on a map or maps for the  
4 relevant wire center area with respect to wire center  
5 boundary and identified entrance switch."

6 MS. RACKNER: But immediately above that, we  
7 asked them to identify the location of customers within  
8 Qwest wire centers.

9 JUDGE CAILLE: The ruling stands.

10 Q. (By Ms. Rackner) Ms. Jensen, you sponsored  
11 Attachment G, I believe, to the petition, which  
12 contains a lot of information, including numbers of  
13 switches for wire center. You don't have to go to  
14 that. I'm not going to ask you questions about that  
15 particular document. I just want you to identify that  
16 is correct that there is a column which identifies the  
17 number of switches per wire center.

18 A. That is correct.

19 Q. In Exhibit 52-C, that was a Staff request for  
20 the underlying work papers.

21 A. Yes.

22 Q. In response to the document request, in 52-C,  
23 Qwest provided a list of wire centers which show the  
24 actual equipment type of the switches contained in each  
25 wire center; is that correct?

00181

1 A. That is correct.

2 Q. What I'd like to do is ask you about some of  
3 those switches.

4 JUDGE CAILLE: Ms. Rackner, just for  
5 clarification, 52-C is Exhibit 117-C. Rather than  
6 putting these in over and over again, we have sort of  
7 cross-referenced them, so you should find that exhibit  
8 at 117-C.

9 MS. RACKNER: Okay.

10 Q. (By Ms. Rackner) This is a designated  
11 confidential exhibit. It's U S West confidential. May  
12 I ask but the equipment type listed in Column 3 without  
13 clearing the room?

14 A. I believe this is confidential information.

15 Q. Right, and I guess I was asking whether I can  
16 ask what each of the designations of equipment type,  
17 what type of equipment it actually corresponds to  
18 without clearing the room. I won't identify  
19 information in any other way from the document.

20 MR. OWENS: Counsel, are you simply asking  
21 that the witness interpret the abbreviations under  
22 equipment type without associating it with a specific  
23 location?

24 MS. RACKNER: That's correct.

25 MR. OWENS: We don't have any objection to

00182

1 that.

2 Q. (By Ms. Rackner) I'm going to start at the  
3 top, and I will try not to repeat myself. The first  
4 item under equipment type, and I'm standing on the  
5 first page of the document. It's Page 1. It's just  
6 been covered up by something that says Attachment A on  
7 my copy. It says DS, and my understanding is that  
8 that's a generic digital switch designation; is that  
9 correct?

10 A. Actually, I'd be glad to furnish you with  
11 what each of these equipment types are, assuming that  
12 is available. I don't know at this point in time if DS  
13 is digital switch or data switch. I would have to go  
14 back to the source to confirm that.

15 Q. Is the data from the LERG? Is that the  
16 source?

17 A. I believe it's a combination of that and  
18 other sources.

19 Q. I can either go through and ask you about  
20 other switches as well, because my interest is beyond a  
21 description but also would like to get into some  
22 discussion of the capabilities of each of these  
23 switches. If it's preferable from your point of view,  
24 I would be happy to look over any materials you give  
25 me. I'd like to reserve the opportunity to ask

00183

1 questions.

2       A.     I think perhaps Mr. Hooks might be in a  
3 better position to responds to your questions specific  
4 to these equipment types. I certainly have a general  
5 understanding of DMS versus 5-E, but I'm not an  
6 engineer, and perhaps he could do better with respect  
7 to specifics.

8       Certainly, we did include in our petition an  
9 attachment that talks about the different features and  
10 functionalities by technology, which is at you  
11 Attachment C to the original petition, Exhibit 12, I  
12 believe it is.

13       Q.     Yes, and I am familiar with Attachment C, but  
14 I was going to ask additional questions. I'm happy to  
15 defer these questions to Mr. Hooks.

16       A.     But we can certainly provide you with a key  
17 to these switch types as well.

18       Q.     But then I would like to clarify. I take it  
19 then that in coming to the opinion that you have come  
20 to that the CLECs can serve all the customers in the 31  
21 wire centers that you made that statement without a  
22 specific understanding of the types of CLEC switches  
23 that are in those wire centers and what their  
24 capabilities are.

25       A.     You can't assume that all. I made that



00184

1 statement based on Attachment B, which holds out the  
2 services -- Attachment B to Exhibit 12, which is the  
3 original petition where we looked at each tariff of a  
4 number of providers. We didn't list every provider  
5 here, but we provided an appropriate sampling to show  
6 the services they hold themselves out to offer, and  
7 then we did a second look by technology because they  
8 may not offer every feature that a switch type makes  
9 available, just as Qwest may not offer every feature a  
10 switch type makes available.

11 So we also looked at features and functions  
12 available by switch technology that any provider can  
13 purchase from a technical perspective and functional  
14 perspective as well as their tariffs or price lists in  
15 terms of what they hold themselves out to offer.

16 Q. I understand the features and functions are  
17 listed in Attachment C, but there is no information  
18 about the number of access lines that can be served by  
19 these switches in Attachment C, is there?

20 A. Every switch has a unique design and  
21 parameters with respect to the number of lines that can  
22 be served, particularly with a 5-ESS, which is modular  
23 technology.

24 Q. Is the answer no?

25 A. I don't remember the question. What I'm

00185

1 suggesting is that these technologies are the same  
2 technologies employed by Qwest, and if you reach the  
3 capacity of the given switch, you simply buy another  
4 switch.

5 Q. So I think that the answer is yes, that is  
6 correct there is no information in Attachment B  
7 specifically stating the capacity in terms of access  
8 lines, for instance, of the individual switches.

9 A. Is that your question?

10 Q. Yes.

11 A. Is there capacity identified for each of  
12 these switch types? On these documents, there is not.  
13 There is on the manufacturer's document. It would  
14 identify how many lines could be served by a given  
15 switch vehicle.

16 Q. Did Qwest offer the manufacturer's document  
17 anywhere in this case?

18 A. We did give the source where that can be  
19 obtained. It's on the Internet.

20 Q. Can you direct me where in your papers that  
21 you state where it can be obtained?

22 A. If you will give me a minute. I believe in  
23 our original petition, we identified the sources of  
24 information, and we utilized a number of different  
25 sources. I don't think we give the Internet site, but

00186

1 the information we obtained for Attachment C is  
2 available via the Internet.

3 Q. I'm sorry. Show me where in your petition  
4 are the attachments that would direct me toward an  
5 Internet site, if not give me the actual location.

6 A. It does not reference the Internet, but it  
7 identifies what the basis of Attachment C is, Exhibit  
8 12, Footnote 4.

9 Q. I don't see any discussion of a source. I  
10 just see some information about the switches; is that  
11 correct?

12 A. Yes, and I thought we listed the source in  
13 the footnote. What I'm sharing with you is we were  
14 able to pull this up on the Internet by switch  
15 manufacturer.

16 Q. Perhaps you are suggesting that Mr. Hooks  
17 would have more of that underlying information about  
18 the various capabilities of these switches.

19 A. In terms of capacity, I don't know that he's  
20 got it at his fingertips, but you might direct your  
21 questions to him.

22 Q. I don't know that you need to turn there. I  
23 just have a quick question regarding Exhibit 12,  
24 Attachment K. I understand these maps to be maps of  
25 fiber routes, competitor fiber routes in five wire

00187

1 centers; is that correct?

2 A. That's correct. They are based on 1998  
3 information, I believe.

4 Q. Does Qwest have similar maps of competitors'  
5 fiber routes for any additional wire centers.

6 A. No, we have not. We obtained these through  
7 hiring a third party to physically walk the routes that  
8 are easily identifiable on the streets.

9 Q. That was in the context of a high-capacity  
10 case; is that correct?

11 A. Actually, it was done for another purpose.  
12 It was available for the high capacity case.

13 Q. And they were actually offered in the high  
14 capacity case; is that correct?

15 A. Yes, they were.

16 Q. Do you know why Qwest did not have these  
17 types of maps prepared for the remainder of the 31 wire  
18 centers for which it is asking price flexibility?

19 A. In this petition?

20 Q. Yes.

21 A. Yes. First of all, it's very costly to  
22 produce these maps, and they are outdated as soon as  
23 they are produced. So we have not asked or  
24 commissioned for further studies to occur. The basis  
25 of our petition is what the providers themselves hold

00188

1 themselves out to offer. It is not based on their  
2 deployment of facilities. It's based on the services  
3 they offer that are equivalent to the services that  
4 Qwest is requesting competitive classification for in  
5 this proceeding.

6 Q. So do I understand you to be saying that from  
7 Qwest's perspective, the existence and extent of  
8 competitor fiber wasn't really relevant to this case?

9 A. What I'm saying is that was one  
10 consideration, and that is why it's included in this  
11 attachment in terms of what information we had  
12 available. It's not the only consideration.

13 Q. I'd like to ask you just a couple questions  
14 about Attachment M to Exhibit 12. These pages are not  
15 numbered, but just glancing at it, my understand is  
16 that the wire centers are listed in alphabetical order,  
17 and that might help us locate the first one as we go  
18 through, so that Auburn is first.

19 In Attachment M, Qwest uses the term "total  
20 competitive presence" or "competitive presence"; is  
21 that correct?

22 A. That's correct.

23 Q. Could you define for me what goes into  
24 calculating competitive presence?

25 A. I believe this information is a summary of

00189

1 Attachment H to this same exhibit, and what we have  
2 done is not counted a single provider twice. So when  
3 we are talking about total competitive presence, there  
4 would be nine individual, separate providers in Auburn  
5 that would make up this competitive presence. Some of  
6 them would be collocated solely. Others may be  
7 collocated as well as have a competitive switch. Some  
8 may be porting numbers and not collocated; although,  
9 that's unlikely, and some might be resellers.

10 So what we have attempted to do through the  
11 combination of Attachment M and Attachment H, I  
12 believe, is to give the Commission a complete picture  
13 of what's occurring in that wire center that represents  
14 a variety of approaches used by alternative providers.

15 Q. And I'd like to ask you some questions.  
16 Let's start with Auburn just because it's first. The  
17 map indicates that there are four collocators. There  
18 is no indication of what kind of equipment is  
19 collocated though, is there?

20 A. Not on this exhibit, no.

21 Q. There are zero competitive switches?

22 A. That is correct.

23 Q. Five porters; does that include interim and  
24 permanent local number portability?

25 A. That would be both, yes.

00190

1 Q. And resellers.

2 A. Yes. This is based on the June '99 view,  
3 which was subsequently updated.

4 Q. Then you've adjusted that number so there is  
5 no overlaps and come up with total competitive  
6 presence; is that correct?

7 A. That is correct.

8 Q. Could I direct you to Spokane/Moran, and in  
9 the Spokane/Moran wire center, we've got zero  
10 collocators, zero competitive switches, two porters,  
11 and two resellers for a competitive presence of three;  
12 is that correct?

13 A. That is correct.

14 Q. Can you tell me, in Spokane/Moran, it looks  
15 like there is not a whole lot going on there, but the  
16 two wire centers above Spokane/Moran appear to be a lot  
17 denser. Do you know what wire centers appear to be  
18 adjacent there?

19 A. If you look at the map, one is Spokane/  
20 Keystone. If you flip back a page, the wire center to  
21 the right is Spokane/Keystone, and I believe -- I will  
22 have to look at the maps a bit. I believe it's  
23 Spokane/Fairfax to the left. What you see in Moran at  
24 the top of the exchange map there is that these are  
25 grids of the streets or roads in Spokane. As you can

00191

1 see, there is a small portion of what is probably the  
2 commercial district area that feeds into the  
3 Spokane/Moran wire center boundary or that would be  
4 served from our switch located there. It could  
5 certainly also be served from switches located in other  
6 wire centers.

7 Q. To the extent that there are competitors in  
8 and around Spokane/Moran, in your opinion, would they  
9 be focusing their efforts on the outlying areas of  
10 Spokane/Moran or in the little bit of area there which  
11 is denser and closer to wire centers immediately above  
12 it?

13 A. I suspect that for business services, it's in  
14 those denser areas, and you wouldn't find much business  
15 in the outlying areas, other than perhaps someone who  
16 is operating a business out of their home.

17 Q. Qwest hasn't provided any information about  
18 the locations of businesses, whether they exist or  
19 don't exist, in the rest of that wire center, has it?

20 A. We provided the number of business lines  
21 served in Spokane/Moran in Exhibit H.

22 Q. But again, I'm looking at a wire center, and  
23 I'm interested for information below the wire center  
24 level, and I'm asking you whether Qwest has supplied  
25 any information on which this Commission can conclude



00192

1 that there aren't businesses in these outlying areas in  
2 Spokane/Moran?

3 A. I'm not saying there aren't. I'm saying that  
4 the commercial area tends to be in the dense area,  
5 which would typically be where your businesses are  
6 located. That doesn't mean there aren't businesses  
7 located in these other areas, but as you can see from  
8 this map, it's very rural in nature.

9 Q. Let me turn your attention then to the next  
10 map, which is Spokane/Riverside, and again, it appears  
11 to me that you've got a situation, you've got eight  
12 competitive switches -- by the way, do you have any  
13 information to show where those switches are located?

14 A. The competitive switches?

15 Q. Yes.

16 A. I think the exhibit that you referred me to  
17 has an address on it. Exhibit 52-C has various  
18 addresses. You would have to match the address to a  
19 map.

20 Q. Thank you, and I appreciate that. You told  
21 me in response to my question about Spokane/Moran where  
22 you suppose the competitors that are located in that  
23 area, where do you suppose they are concentrating that  
24 effort, and you suggested it was probably that denser  
25 downtown area. I guess I would ask you the same

00193

1 question with respect to Spokane/Riverside. To the  
2 extent that there appear to be a number of competitors  
3 located in this wire center, do you have an opinion as  
4 to where they would be concentrating their efforts?

5 A. No, I really don't. It's clear in looking at  
6 these wire center maps that it would be easy for a  
7 provider to locate in one of these wire centers and  
8 serve multiple wire centers from that location because  
9 the density is fairly concentrated on the maps, and  
10 what I'm relaying is that I believe these are the  
11 commercial areas which typically follow this is where  
12 the business customers are located. Obviously, you can  
13 have a hospital or an Air Force base or even, for  
14 instance, a Hewlett-Packard plant that may not be  
15 located in these dense areas, but a carrier is more --  
16 if you look at where their networks are deployed, which  
17 is in Attachment M, they tend to be in these same dense  
18 areas because that's where the concentration of  
19 business customers is.

20 Q. Wouldn't you agree for a CLEC that has fiber  
21 in, let's say, a dense commercial area -- that's where  
22 they do tend to have them as you just said. You said  
23 it would be easier, but would you agree with me that it  
24 would also be less expensive for them to provide  
25 services to customers right on their fiber backbone?

00194

1       A.     If they chose to only use their own  
2 facilities, yes, but remember, they can also use Qwest  
3 facilities or the facilities of other carriers.

4       Q.     By that, you mean either resale or unbundled  
5 loops?

6       A.     Yes, or services from another provider. For  
7 instance, Avista fiber is in Spokane and sells network  
8 services.

9       Q.     Since I mentioned resellers, in response to  
10 data requests, Qwest has stated that it believes that  
11 resale is a viable, a potent form of competition. Is  
12 that correct, or would you like me to direct you to the  
13 data request?

14      A.     Well, both, but I believe that's correct.

15      Q.     I guess I want to avoid people having to open  
16 up these notebooks more than necessary, and I'm not  
17 going to ask you any more questions specifically about  
18 that statement, but I would ask if in your opinion,  
19 resale by itself, simply by itself, will not constrain  
20 prices?

21      A.     Resale will not constrain prices.

22      Q.     Do you agree or disagree?

23      A.     I disagree. I'm trying to think of your  
24 sentence in proper structure. Resellers typically are  
25 not in the business to compete against what I would

00195

1 call a POTS, or "plain old telephone service" business  
2 line. Resellers typically, and I've looked at a number  
3 of their proposals to customers. They are typically  
4 pursuing a customer for their long-distance business,  
5 not for their local basic exchange business, but they  
6 are selling a package to that customer. So they  
7 aggregate toll minutes and are able to generate profits  
8 from their toll services from those customers, and they  
9 sell to them a package of services which includes their  
10 local service, but rarely do you see them solely go  
11 after a local service. They are going after the  
12 customers' total packages of services, which includes  
13 premise equipment, local service, long-distance  
14 service, interexchange service, voice-messaging  
15 service. So the reseller is competing against the  
16 package price as opposed to individual product element  
17 prices, and for that reason, those are revenues that  
18 Qwest, in many cases, previously had that are no longer  
19 available to it from a variety of all those services,  
20 including directory assistance, for example.

21 Q. Let's back up a little bit. Let me ask you  
22 to consider local exchange solely right now, local  
23 business services. I take it, have you read Don Wood's  
24 testimony?

25 A. Yes, I have.

00196

1 Q. He pulls you through the hypothetical where  
2 he shows that because resellers are buying on an  
3 avoided cost discount, that assuming that the resellers  
4 retailing costs are similar to Qwest's retailing costs  
5 that in order to cover its costs, the reseller is  
6 always going to have to sell at the same price as  
7 Qwest. Do you have in mind that hypothetical?

8 A. Yes, I do.

9 Q. I understand you are saying, Well, I disagree  
10 because if they are selling packages then they can  
11 somehow take a loss on the local and kind of cover it  
12 with their revenues from long-distance, and I take it  
13 that's what you were talking about a minute ago.

14 A. That's a good example, yes.

15 Q. So let me ask you then, let's set aside  
16 covering your losses someplace else. If the reseller  
17 doesn't want to take a loss on the local service at the  
18 outset, it would have to price the same as Qwest; is  
19 that not correct?

20 A. I'm not sure that it is, and the reason that  
21 I hesitate is that Qwest's prices for its service are  
22 based on a number of considerations; for example, it's  
23 obligation to serve residence customers. So Qwest's  
24 business rates are not established on the sole basis of  
25 the business customer. Qwest business rates are set

00197

1 based as a component of an overall allowable rate of  
2 return in the state. So our price that we charge our  
3 business customers is not necessarily the price of what  
4 a reseller would face because our prices are based on  
5 other factors, not solely costs.

6 Q. I don't have the Telecommunications Act in  
7 front of me, but if I understand the avoided-cost  
8 discount and the way unbundled loops are sold -- excuse  
9 me. I'm sorry -- and the way services are sold for  
10 resale, the competitors buy the service for resale less  
11 Qwest's retailing cost; is that correct?

12 A. That is correct.

13 Q. So if the reseller incurs, and again, I was  
14 trying to avoid you going to Dr. Wood's testimony, but  
15 let's do it. If Qwest retails a service for \$100, and  
16 if the avoided-cost discount is \$15, it will then make  
17 that service available for a CLEC to buy at a wholesale  
18 rate at \$85; correct?

19 A. Correct.

20 Q. If the CLEC incurs retailing costs that are  
21 similar to the costs that are determined by this  
22 Commission to have been Qwest's cost, in order to cover  
23 its costs, the CLEC will need to sell the service for  
24 \$100 as well; is that correct?

25 A. That is correct.

00198

1 Q. If Qwest is given pricing flexibility and  
2 decides for whatever reasons that it wants to raise the  
3 price of that service to \$200, then it will be sold for  
4 \$170 to the CLEC; right?

5 A. Yes.

6 Q. If the CLEC has similar retailing costs as  
7 Qwest, it will have to charge \$200 as well; is that  
8 correct?

9 MR. OWENS: I'm going to object to that  
10 question because it assumes facts not in evidence. The  
11 witness has not been asked what Qwest's actual  
12 retailing costs would be under that scenario.

13 JUDGE CAILLE: This is a hypothetical.

14 MR. OWENS: I realize that, but the question  
15 is ambiguous as to whether Qwest's retailing costs  
16 under that hypothetical would be 15 percent of \$200 or  
17 whether they would be the same 15 percent of \$100 that  
18 they were before the hypothetical 100 percent price  
19 increase.

20 THE WITNESS: Actually, I think counsel just  
21 gave my answer.

22 MR. OWENS: I was objecting that the question  
23 was ambiguous when she's asked about Qwest's retail  
24 costs. She's not being told what retail cost counsel  
25 is asking her to assume.

00199

1 JUDGE CAILLE: That's true, Counsel. You  
2 need to put those assumptions in your hypothetical.

3 Q. (By Ms. Rackner) We can go at it either way.  
4 Let's take for a minute that the retailing costs stay  
5 the same for Qwest. So let's say the retailing costs,  
6 even though the CLEC was able to buy -- I'm getting my  
7 math a little off. Let's say that even though the CLEC  
8 bought for \$170, it's retailing costs and Qwest's  
9 retailing costs stayed the same as when the service was  
10 priced at \$100.

11 A. Okay.

12 Q. I suppose that in that event, the CLEC in  
13 order to cover its costs would only need to charge \$185  
14 as opposed to the \$200 charged by Qwest; is that  
15 correct?

16 A. That is correct.

17 Q. But the point is that if the CLEC only wanted  
18 to cover its costs that the service would still cost  
19 the customer close to twice what it cost before Qwest  
20 was given pricing flexibility.

21 A. If Qwest were to double its rate?

22 Q. That's correct.

23 A. It would cost twice the old rate; that's  
24 correct.

25 Q. The lowest a competitor would be able to



00200

1 charge and still cover its costs would be pretty close  
2 to that doubling of the original price; is that  
3 correct?

4 A. I don't think so, because a competitor can  
5 also buy UNI's or the UNI platform, so I think that if  
6 Qwest were to double the price of a \$100 service, that  
7 reseller would need to look at the price of unbundled  
8 services as well as the ability to buy that same  
9 service from other carriers and resell it.

10 Q. Isn't that the reason why resale by itself  
11 has a pretty difficult time concerning prices?

12 A. I'm sorry. I don't draw the same conclusion  
13 you do. I think that --

14 Q. But you did say that the competitor would  
15 need to turn to --

16 MR. OWENS: Excuse me, Your Honor. I'm going  
17 to object. The witness was cut off in the middle of  
18 her answer. She had not finished her answer. Counsel  
19 interrupted her.

20 JUDGE CAILLE: I would like everyone to allow  
21 each person to finish their answer, and I know you were  
22 interrupting as well, Mr. Owens, when you interrupted  
23 her, so it's a domino effect, and the court reporter  
24 really cannot get this down if we have three people  
25 talking at once. So please try to let the witnesses

00201

1 complete their answer, and please try not to object  
2 over one another.

3 MS. RACKNER: I want to apologize to Ms.  
4 Jensen because I did interrupt you. I did think you  
5 were close to the end of your sentence, so I do  
6 apologize. I think I was sensing that I was close to  
7 the end of my questions. Actually, I do have a few  
8 more.

9 Q. (By Ms. Rackner) I have a very simple  
10 question about billed telephone numbers. Some of your  
11 exhibits refer to BTN's, and if you need to go to the  
12 exhibit, just let me know, but without going to that, I  
13 take it that refers to billed telephone number?

14 A. BTN is billed telephone number, yes.

15 Q. Could a BTN represent one customer with a  
16 number of access lines?

17 A. It could, yes.

18 Q. Is there always one BTN per customer, or  
19 could there be more than one BTN?

20 A. There can be more than one BTN per customer.

21 Q. On Page 11 of your direct testimony -- could  
22 you follow me there?

23 A. Sure.

24 Q. -- you state that Attachment F and several  
25 other exhibits demonstrate that there is no barrier to

00202

1 entry. I'd like you to define, if you will, what you  
2 mean by the term "barrier to entry"?

3 A. As I understand it or as I use the term, what  
4 I'm addressing is there an obstacle to a provider  
5 offering service within any given geographic area.

6 Q. Would you agree that a factor which delays  
7 entry could also constitute a barrier to entry?

8 A. Not necessarily.

9 Q. When you say "an obstacle," I guess what I'm  
10 getting at is at some point in your testimony, it  
11 appears that you have equated the fact of entry with  
12 the lack of a barrier to entry, and what I'm trying to  
13 determine is whether in your mind, a competitor may  
14 enter a market but do so at some kind of heightened  
15 cost or be delayed somehow in that entry by some  
16 factor, and in your mind, could such factors constitute  
17 barrier to entry?

18 MR. OWENS: Your Honor, is there a specific  
19 reference in the testimony? Counsel said that this was  
20 referring to a part of the testimony.

21 MS. RACKNER: Yes. Page 11 of the direct  
22 testimony, Line 6.

23 THE WITNESS: I would add to my reference  
24 here Attachment F, which identifies the number of  
25 providers at that point in time that it entered the

00203

1 market, which if memory serves me right, I think was  
2 32. We now have well over 120 local exchange companies  
3 in the State of Washington. Exhibit TAJ 2-C, which is  
4 Exhibit 2 and Exhibit 3, and then I would add to that  
5 Exhibit 11, which is in the CLEC's own words that the  
6 ease to enter this market has been established, and  
7 they do not find any barrier to entry.

8 I think under the umbrella of the  
9 Telecommunications Act as well as the policies of this  
10 Commission, Washington is one of the leading states  
11 with respect to the number of providers registered and  
12 authorized to offer service, and I don't believe a  
13 company would go to the expense of filing price lists  
14 as they do, over 120 companies offering service in this  
15 area, advertising door-to-door solicitation if they  
16 believed that there was a barrier to entry in the State  
17 of Washington. I think from the last four years, it's  
18 been fairly evident there is no barriers here; in fact,  
19 it's welcomed in this state.

20 Q. Ms. Jensen, do you recall what my question  
21 was?

22 A. I think you asked me if there was any  
23 barriers to entry.

24 Q. Actually, I didn't, so let me restate it  
25 again. I asked you whether in your mind a barrier to

00204

1 entry could constitute a factor which impeded entry but  
2 did not prevent it all together.

3 A. And I think I said it depends.

4 Q. Is that a yes, it possibly could?

5 A. I don't believe there are any obstacles or  
6 barriers to entry in this market. If you have a  
7 specific hypothetical you'd like to raise, but I don't  
8 think there are any impediments to entry in the State  
9 of Washington.

10 Q. I'm asking you about what your definition of  
11 a barrier to entry, because I believe that you have  
12 stated and I understand that you stated there are no  
13 barriers to entry. I'm asking you to take a step back  
14 and help us to understand what you mean when you say  
15 there are no barrier to entry by telling us whether you  
16 can agree with me that a factor which impedes entry,  
17 for instance, makes it more expensive than the expense  
18 the ILEC faces, could that also constitute a barrier to  
19 entry?

20 A. I think it depends on the provider. I don't  
21 think that it necessarily would for many providers.  
22 For other providers, it may. I think in the case where  
23 investment potentially could be viewed as a potential  
24 risk, and therefore, a barrier has been overcome by the  
25 ability of any provider to test market through resale.

00205

1 Q. In coming to your understanding of barriers  
2 to entry, did you consult before Dr. Taylor?

3 A. No, I did not

4 Q. Did you use any consultants at all in coming  
5 to your understanding of barrier to entry?

6 A. Actually, I relied upon the Commission's  
7 decision in Docket 990022. If you will give me a  
8 moment, I can share with you what they said about  
9 barrier to entry. At page 14 of their decision in the  
10 8th Supplemental Order in Docket UT-990022, the  
11 Commission states: Other measures of market power such  
12 as ease of entry are also favorable to U S West's  
13 petition. The data show that competitive investment is  
14 taking place, and in Seattle alone, some 300 building  
15 have CLEC alternatives. The market to the services at  
16 issue here appears to be growing rapidly, and there is  
17 reason to believe that entry continues to occur. There  
18 is no indication that U S West has an unfair monopoly  
19 advantage over its competitors, either in securing a  
20 larger share of this new business or in gaining access  
21 to new buildings or right-of-ways. In fact, undisputed  
22 evidence shows that competitors are gaining access to  
23 numerous buildings and to rights-of-way within the  
24 competitive zones delineated by U S West's amended  
25 petition.

00206

1           Again, I would refer to Exhibit 11.

2           Q.     I heard the Commission's conclusions in the  
3 high-cap case, and I guess that's what you just stated.  
4 I did not here a definition for barrier to entry. I  
5 guess I would ask you how many wire centers were at  
6 issue in the high-cap case; were there five?

7           A.     I don't recall. I would have to look into  
8 the order.

9           Q.     Did you understand the Commission in the  
10 language that you just stated to be commenting on all  
11 31 wire centers that are at issue in this petition?

12          A.     No. I believe their response was specific to  
13 the services at issue in 990022. However, I believe  
14 that the evidence that Qwest has put forward goes  
15 beyond what was presented in 990022 with respect to  
16 this subject.

17          Q.     Ms. Jensen, do you know when Qwest first  
18 considered filing the petition in this case?

19          A.     Oh, yes.

20          Q.     Can you tell me when that was? I'm just  
21 looking for the date, please.

22          A.     I don't remember the specific date, but it  
23 was prior to our merger with Qwest.

24                 MS. RACKNER: Your Honor, would this be an  
25 appropriate time for a break? I think I'm finished,

00207

1 and it would give me an opportunity to check on my  
2 notes.

3 JUDGE CAILLE: Certainly. Let's take a  
4 15-minute afternoon break.

5 (Recess.)

6 MS. RACKNER: I have nothing.

7 JUDGE CAILLE: Does Staff have cross?

8 MS. JOHNSTON: No, Your Honor.

9 JUDGE CAILLE: Then that must mean XO.

10 MR. KOPTA: I don't have any questions for  
11 this witness. Thank you.

12 JUDGE CAILLE: Commissioners?

13

14 CROSS-EXAMINATION

15 BY CHAIRWOMAN SHOWALTER:

16 Q. I would like to start with kind of a  
17 spectrum. As I see it in this case, there are at this  
18 point, four possible positions being offered. Qwest  
19 has presented its petition for competitive  
20 classification in the 31 wire centers, and that is one  
21 end. That whole petition on all grounds is opposed by  
22 several of the parties, and in between is Dr. Blackmon,  
23 who has two positions, and one I'll call the narrow  
24 one, to grant competitive classification in the four  
25 exchanges or DS-1 or higher or more, and the other



00208

1 is -- I wouldn't say it's a recommendation but it's a  
2 possibility that he has put forward, which is the  
3 conditions in the other 31 zones, in the other 22, I  
4 guess, wire centers.

5 I will say that what interests me generally  
6 is trying to pin down what information we have on which  
7 wire centers that sheds light on these different  
8 possibilities, but I want to begin with the narrowest  
9 one, which is the Staff position on the competitive  
10 classification for DS-1 or higher. On that, first I  
11 understand Qwest to concur in that part of the  
12 recommendation as far as that goes. Am I correct on  
13 that?

14 A. Yes.

15 Q. Can you explain to me, if the Commission did  
16 that and no more, what would the Commission be doing  
17 relative to its earlier order in 990022?

18 A. If I understand your question correctly, and  
19 it's late in the day for me as well --

20 MS. JOHNSTON: Excuse me. I loath to  
21 interrupt, but you misstated Staff's recommendation in  
22 this case, and I thought before we got started that I  
23 would correct that misimpression.

24 You correctly characterized the quote,  
25 unquote narrower four exchange grants of competitive

00209

1 classification, but the second half of that is  
2 incorrect. Staff is not recommending that competitive  
3 classification be granted for small business users or  
4 large in the remaining exchanges, even with conditions.  
5 The conditions only apply if approved and approved by  
6 the Commission, those conditions would only apply to  
7 the four recommended exchanges.

8 CHAIRWOMAN SHOWALTER: I did misstate. We'll  
9 still call that the broader one. I think I correctly  
10 stated it's not an affirmative recommendation of Staff.  
11 It was a possibility laid out, but not for all wire  
12 centers, only for the four exchanges.

13 MS. JOHNSTON: Yes, thank you.

14 CHAIRWOMAN SHOWALTER: Thanks for the  
15 correction.

16 Q. (By Chairwoman Showalter) Back to what I'll  
17 still call the narrow version, which is the DS-1 or  
18 larger. What is that adding to the previous  
19 competitive classification order?

20 A. I think it's a couple of things. First of  
21 all, the 990022 document was for what I would call  
22 broadband services or high-capacity circuit at 1.544  
23 megabits and greater. What this would overlay then is  
24 the package of local services under the narrow  
25 recommendation with a requirement that the customer,

00210

1 that those services be provisioned over a DS-1 or a  
2 1.544 facility or greater.

3           So that the 99 case, if I can refer to it as  
4 that, was limited to the circuit itself. Under the  
5 narrow recommendation, it would be applicable to the  
6 services that Qwest is petitioning competitive  
7 classification for with a criteria that they would, in  
8 essence, have to ride over a DS-1 or greater facility.  
9 So it would be adding services to our ability to  
10 compete on a parity basis.

11           The other distinction is that it includes  
12 geographic areas that were not included in that  
13 petition.

14       Q.    So is it correct to say it would expand the  
15 number of services, or it's services oriented instead  
16 of technically oriented?

17       A.    I think both is a fair assessment. It  
18 expands them, but it's limited in the sense of what you  
19 might think of as a transport facility that it writes  
20 over, the type of circuit that its provisioned over.

21       Q.    On the technical side of things, the type of  
22 service that it's provided on, is that technical scope  
23 the same as or narrower, broader, or different than our  
24 previous classification?

25       A.    It's the same as, but in this particular

00211

1 case, the customer would have to buy more. There is an  
2 added component beyond the services here in that -- and  
3 I'll try to think of a simple way to describe it.  
4 Basically, a DS-1 facility connects directly with the  
5 central office switch that provides the feature  
6 functionality at issue in this case. I think you  
7 participated in a number or sat on the proceedings on  
8 the generic docket. It's the port to the switch  
9 capability that would also be required, so there is an  
10 interface to the switch in addition to the lines and  
11 features themselves that the customer would have to  
12 purchase in order to get these services over a DS-1 or  
13 greater facility. So there is an added component, but  
14 the facility itself is identical.

15 Q. So same types of lines but new services, and  
16 in the same geographical areas plus more geographical  
17 areas; is that correct?

18 A. Correct.

19 Q. Describe for me the new geographical areas.

20 A. Vancouver was not included in total, and then  
21 within Bellevue in the 99 case -- I'll refer to it as  
22 the 99 case -- it was not all wire centers in the City  
23 of Bellevue. In this petition, as I understand it, it  
24 would be all the wire centers, which would be Sherwood  
25 and Glen Court.

00212

1           In Spokane, because of the nature of that  
2 petition, it wasn't all of the wire centers again, and  
3 in fact, there was a portion of a wire center approved  
4 in, I believe, the Spokane/Fairfax exchange. I'd have  
5 to go back and look at the document. Again, it would  
6 encompass more wire centers in Spokane and the full  
7 wire center as opposed to just a portion of one. In  
8 Seattle, that would be true as well. There is more  
9 wire centers included, and I think I've covered them  
10 all.

11       Q.     So how many wire centers are in the Vancouver  
12 area that is in the narrow recommendation?

13       A.     I'm going to cheat a bit in the sense of the  
14 lateness of the day and look at my -- Attachment "I"  
15 lists all of the wire centers, so in Vancouver, there  
16 are two, Orchards and Oxford.

17       Q.     So the addition of Vancouver is new in that  
18 that's two wire centers. There are two new wire  
19 centers in Bellevue. This is one or one and a half in  
20 Spokane?

21       A.     In Bellevue, there is just one new wire  
22 center. In Spokane, if you will give me a moment -- I  
23 believe in Spokane, there is eight wire centers in  
24 Spokane, and I believe in the 990022 case, there were  
25 two wire centers and a portion of a third.

00213

1 Q. So it's an addition of five and two-thirds  
2 wire centers?

3 A. Right.

4 Q. In Seattle, what was the addition?

5 A. I'm going to approximate, and I'd be glad to  
6 confirm this, but I think about eight new wire centers  
7 in Seattle that differ from the 99 case.

8 Q. Then so I understand your position, I  
9 understood your testimony to say that with respect to  
10 the broader possibility of Staff's conditions that you  
11 would concur or would agree to those conditions with  
12 the exception that while you would agree with the  
13 cutoff date of the 271 acceptance by the FCC, at the  
14 same time, you would urge that the conditions would  
15 expire on our recommendation to the FCC of 271; is that  
16 correct?

17 A. That's correct. Primarily because we expect  
18 the FCC is going to have a number of 271 applications  
19 before it, and so this Commission could feasibly reach  
20 a conclusion that recommended 271 approval, and it may  
21 be several months before the FCC can get to the matter  
22 of the petition for the State of Washington. So while  
23 we are agreeing to Mr. Blackmon's petition, we petition  
24 the Commission to consider its recommendation for  
25 approval at an earlier point in time.

00214

1 Q. My understanding is that the FCC has 90 days  
2 to act on that application once its filed by the  
3 petitioner.

4 A. That's correct, but I think observation is  
5 there is a lot of back and forth that occurs with  
6 respect to supplemental filings associated with the  
7 petition itself.

8 Q. Then beyond the exchange areas in which the  
9 Staff is outlining these possible conditions, is Qwest  
10 continuing to request classification of all 31 wire  
11 centers?

12 A. Yes, we are. We have experienced competitive  
13 activity in all 31, and by that, significant in  
14 measurable activity, so we still would very much  
15 petition the Commission for the requested relief in all  
16 31 wire centers. However, we are willing to agree to  
17 the criteria proposed by Staff.

18 Q. In all 31.

19 A. Actually, in the four exchanges that Staff  
20 has proposed. What we would then attempt to do is  
21 continue to update the information as new information  
22 becomes available and approach the Commission again for  
23 the other centers, because as our petition  
24 demonstrates, just in the period we looked at, which  
25 was an 18-month period, every time you look at it, the

00215

1 competitive activity has grown.

2           So maybe I can summarize that we very much  
3 would ask the Commission to not adopt the narrow  
4 version of Staff's recommendation. If the Commission  
5 shares the concerns raised by Staff, we would request  
6 approval of the four exchanges which make up about 23  
7 wire centers, the 31 included in this petition,  
8 contingent upon the conditions outlined. We very much  
9 believe that those conditions exist in all 31 wire  
10 centers and will continue to pursue that through  
11 subsequent proceedings should the Commission not grant  
12 all 31.

13       Q.     Of the Staff's suggested conditions, which I  
14 think you've set them out somewhere in your testimony.

15       A.     In my rebuttal testimony, yes.

16       Q.     Maybe you can point me to the page.

17           MR. WEIGLER: It's Page 9, Your Honor.

18       Q.     Page 9 of Exhibit 7. Do you see these  
19 conditions as doing anything one way or the other about  
20 effective competition? In other words, do these  
21 conditions themselves create or encourage or maintain  
22 effective competition, or does it change the status quo  
23 of competition?

24       A.     I think that it discourages the market  
25 control of competition. One of the conditions, and



00216

1 that is the condition to maintain prices at the current  
2 level or below in that -- or it could. I should  
3 qualify that it could. From the issues raised by  
4 Dr. Taylor in his testimony that I believe at this  
5 point of competition in the business marketplace that  
6 most providers price their service based on Qwest's  
7 price, and that will continue under a price that in  
8 essence is somewhat offset through the regulatory  
9 process.

10 Now, I believe the freedom to lower that  
11 price within this marketplace will certainly drive  
12 behaviors that hopefully will make the marketplace more  
13 competitive and I believe will make the marketplace  
14 more competitive, but it's still not fully controlled  
15 or regulated by the market with that criteria in place.

16 Q. Do you agree that we need to find under the  
17 statute that there is effective competition before we  
18 classify an area or service as competitive, regardless  
19 of what conditions we put on it?

20 A. Yes.

21 Q. In other words, we can't get to effective  
22 competition by imposing conditions. We need to find  
23 them first and then fashion the appropriate order.

24 A. Yes. Perhaps I should have qualified my  
25 response to competition driven by the marketplace. I

00217

1 wasn't responding in light of the statute itself.

2 Q. I guess my question was, we have to deal with  
3 a statute, and the statute says that if we find there  
4 is effective competition, then we may classify a  
5 service as competitive.

6 A. Yes.

7 Q. But my question to you is, do you agree that  
8 we can't incorporate new or prospective conditions in  
9 order to make that finding? We need to make the  
10 finding and then fashion an appropriate order so we  
11 need to deal with whatever evidence we have in this  
12 proceeding in terms of making such a finding.

13 A. Correct, yes. I agree.

14 Q. On Page 7 of your rebuttal testimony, there  
15 was discussion about the deaveraged wholesale rates  
16 that apply in the different wire centers, and I think  
17 you said that all five prices are reflected somewhere  
18 in your petition for wire centers; is that correct?

19 A. If those rates were implemented at this time,  
20 the wire centers fall in the five different zones if we  
21 call them that, yes.

22 Q. Would it be possible without too much trouble  
23 to list the 31 wire centers and what zone they fall  
24 into?

25 A. I could certainly do that, and it's not

00218

1 difficult at all. I don't think I could do it off the  
2 top of my head.

3 Q. I just thought it would be useful to see  
4 where these wire centers fall with respect to that.

5 A. Sure, we could provide that.

6 Q. Is that a records requisition?

7 JUDGE CAILLE: That would be Bench Request  
8 No. 1.

9 Q. (By Chairwoman Showalter) Then I'm  
10 interested in general as to where the most specific  
11 information is as to what is occurring in these  
12 different wire centers, and we have lots of evidence  
13 that's been filed, but I wondered if you might tell me,  
14 do you think that Attachment H to the petition is  
15 probably what I'm after?

16 A. Yes.

17 Q. Is that a breakout by wire center, by CLEC,  
18 by service, essentially?

19 A. Yes. It's not complete, obviously. It  
20 represents the information available to Qwest. What I  
21 found most compelling by Attachment H, particularly  
22 since this is an area that I'm traditionally not  
23 focused on in my daily activities, was the extent of  
24 the diversity of the number of alternative providers in  
25 a given wire center and the various options that each

00219

1 of those providers use; in some cases, the combination  
2 of those options.

3           In other cases, I guess I was a bit surprised  
4 by the fact that there weren't all combinations  
5 exercised. In other words, while there was a lot of  
6 number porting activity in a given wire center, those  
7 same carriers were not necessarily using unbundled  
8 loops, but there were a number of other carriers that  
9 were. Also, to see the resale activity that was  
10 occurring both at the residence and business level  
11 within a given wire center. So there was some  
12 interesting conclusions that I felt fell out of  
13 Attachment H with respect to the extent of activity in  
14 even what I would typically refer to as small wire  
15 centers now. This is only the information as it  
16 relates to the carrier services that we offer, and it  
17 certainly doesn't show what carriers themselves offer  
18 without those services.

19       Q.     So in that sense, it's conservative.

20       A.     Very conservative, yes.

21       Q.     Am I right that from Attachment H, there  
22 isn't any way to tell how many customers are reflected  
23 here. We are just looking at lines.

24       A.     That's correct. We don't know if it's one  
25 customer or many customers. With telephone numbers,

00220

1 you don't know if it's one per customer, or if they use  
2 a service known as direct-inward dialing, it could be  
3 many per single customer, and there is no way of  
4 knowing that here.

5 Q. Is that because there is no way of knowing  
6 it, or it's just not shown here? For example, when a  
7 single customer with many lines decides to leave Qwest  
8 and go to a competitor, do you know that?

9 A. To a limited scope. If the customer shares  
10 with us that they are leaving Qwest to go with another  
11 provider, then we do make a note of that, and we retain  
12 the information on what we call our disconnect records  
13 that the customer has left us for another provider.

14 If the customer doesn't tell us that, then  
15 no, we don't know. When we look at this information,  
16 it's from our billing records to the CLEC. So we don't  
17 know if this is one location, multiple locations. All  
18 we know is the ported numbers that we are billing them  
19 for.

20 Q. So this information in Attachment H is not  
21 the tracking information of why customers may have  
22 disconnected their phones.

23 A. That's correct.

24 Q. So if a customer went out of business, went  
25 bankrupt, they might disconnect their phones, or

00221

1 another customer might want to transfer business from  
2 Qwest to someone else.

3 A. That's correct. In my rebuttal testimony  
4 though, we did actually respond to discovery requests  
5 where he looked at customers who did advise us when  
6 they left Qwest for another provider, and that data  
7 indicated that the majority of those customers were  
8 small business customers who left Qwest to go to  
9 another provider, and there were fewer large business  
10 customers that actually went to another provider, but I  
11 would share with you that that data is narrow in that  
12 it's only when the customer chooses to share with us  
13 that they are disconnecting for that reason.

14 Q. Was that information relayed by wire center  
15 or anything that's relevant to these requests in these  
16 wire centers?

17 A. No. That's an excellent point. It's  
18 recorded by the customer's bill telephone number, which  
19 we could look at the data and tie it back to a wire  
20 center. We have not done that. I think there were  
21 roughly, if memory serves me right, about 20 thousand  
22 orders where we have that information.

23 Q. Then there was a discussion of the factors in  
24 the statute, and I think you were looking at the  
25 statute, and I was at the same time. I thought I heard

00222

1 you say to Ms. Rackner that if you were focusing only  
2 on factor C, that is, subsection 1-C of RCW 80.36.330,  
3 that you feel confident that the Commission could find  
4 in these 31 wire centers the fulfillment of factor C  
5 because of the presence of the CLECs as outlined in  
6 Exhibit H, essentially, and probably elsewhere.

7 A. Yes, from several perspectives. One, I think  
8 H shows that Qwest unbundled services and resold  
9 services are widely available to a variety of providers  
10 in these markets, --

11 Q. I'm going to stop you, but are available to  
12 customers. That seems to go to Factor B, and I want to  
13 distinguish between B and C, because C seems to focus  
14 on the ability of the providers there, and I think it  
15 was your testimony that because the competitors are  
16 present, they have the ability to serve, but as you  
17 went on in your testimony to say, sometimes they choose  
18 not to. So it seemed to me that you were making the  
19 case that Factor C here is met, but I actually want to  
20 go on and ask you about B.

21 A. And C, yes, I believe it is met, but I rely  
22 on several attachments to Exhibit 12 to demonstrate  
23 that.

24 Q. We're talking about C.

25 A. Yes.

00223

1 Q. Let's assume for the moment that C is met,  
2 that there is an ability, whatever that means. I think  
3 you could argue about what it means. It could mean  
4 physical ability or financial ability or other kinds of  
5 ability, but in your testimony, you said that the CLECs  
6 are choosing not to serve some customers, and it seems  
7 to me that gets to B; that is, are services available  
8 from alternative providers if the providers are  
9 choosing not to make them available?

10 A. They are available. The extent to which the  
11 services are available, and it's kind much a Catch 22,  
12 I agree, is that the services are available. What you  
13 have are, in some cases from some providers but not all  
14 providers, marketing practices or business decisions  
15 where there are restrictions placed on that  
16 availability. We don't find that ubiquitous across  
17 alternative providers. Not all providers use that  
18 practice, but some facility based providers do.

19 So for instance, much like Staff discusses in  
20 their testimony where they did an informal survey and  
21 called a number of companies, they ran into  
22 circumstances where some companies were either not  
23 willing to give them a price quote or not willing to  
24 serve a certain number of lines. If they took that  
25 same survey to all of the companies registered to



00224

1 provide service in this state at this point in time,  
2 they would find companies that were willing to serve  
3 them, I believe.

4 Q. So if I am a small business, and I call up a  
5 given CLEC and say, "I would like your service," but  
6 they say, "Well, sorry. We don't serve your street or  
7 we don't serve someone as small as you, or whatever  
8 their reason, wouldn't you agree that that service from  
9 that CLEC is not available to me?

10 A. I would agree with that from that provider.

11 Q. But you went on to say that you think if I  
12 persisted and called every CLEC in my wire center or  
13 maybe my exchange, that I would in the areas that you  
14 have petitioned for, I would find someone who could  
15 serve me other than Qwest.

16 A. Yes.

17 Q. What is your evidence for that?

18 A. I probably get at least three calls a day  
19 from Qwest sales representatives who run into  
20 competitors at their customers' business locations, and  
21 I'll share. I mean, they are interesting. Some less  
22 today but probably three years ago, I would get a lot  
23 of calls that could they do that? Can they offer  
24 service to our customers? Of course they can, but it  
25 took our employees a while to understand that this

00225

1 market was open and that competition was allowed.

2           Today, I continue to receive calls about  
3 competitive activity from all different size customers.  
4 Some of them are resellers; some are facility-based  
5 providers where our folks don't believe they can draft  
6 a response that compete with the type of packages that  
7 are available by other providers in the market. So  
8 there is an amount of activity in the marketplace. Are  
9 there customers that aren't aware that they have  
10 choice? I think we found through this docket, yes,  
11 there are. Are there other customers that are aware  
12 they have choice? Yes, they are, and I think there is  
13 an education process that still needs to occur with  
14 respect to customers knowing who they can call as well  
15 as customers that are being proactively solicited by  
16 these other providers.

17           What I hear from customers directly as well  
18 as from employees in terms of what's happening, and the  
19 request to do something to provide the freedom that our  
20 employees feel they need to be able to compete on a  
21 parity basis.

22       Q.     I appreciate the anecdotal evidence. What  
23 I'm looking for is where in the exhibits or testimony  
24 can I find that if I am an informed, eager business in  
25 each of these wire centers, how can I know or how can

00226

1 the Commission know that this hypothetical business can  
2 get alternative service? I'm aware of the wire center  
3 information. I'm aware of the advertising. I think  
4 that you have granted that despite the advertising,  
5 CLECs are choosing not to serve some segments, so what  
6 I would I want to find out is where is the evidence  
7 that there are alternatives for those who want it?

8 A. I think I understand your question. The  
9 difficulty in the evidence that we presented is that  
10 the providers that we highlighted in this petition,  
11 which were those registered at that point in time back  
12 in June of 2000, hold themselves out to offer service  
13 in Washington. They don't specify that they don't  
14 serve certain areas of Washington or certain size  
15 customers. In fact, I believe there is a statute that  
16 requires them to serve a customer, and it's reasonably  
17 entitled to serve them. So what we have provided is a  
18 listing of who those carriers are, a sampling of  
19 certain carriers and the services that they hold  
20 themselves out to offer coupled with the statute.

21 What I haven't done is collected actual bids,  
22 though I do have some bids that I would be glad to  
23 share with you that alternative providers have  
24 presented to various size customers in these wire  
25 centers. We did not include that as evidence in this

00227

1 case. We relied upon their tariffs that hold  
2 themselves out to offer these services across the  
3 state.

4 Q. So is it fair to say that your position is  
5 that various CLECs have held themselves out to offer  
6 the service, and in your view, there is a statute that  
7 says they are required to at least where it's  
8 reasonable, and therefore, the service is available. I  
9 think it gets to the distinction maybe between should  
10 and is. It sounds to me as if you are saying it should  
11 be, but the question is, is it? Or do you think they  
12 are legally; therefore, it is?

13 A. I guess what's troubling to me is that it is  
14 available when the carrier chooses to make it  
15 available. It's a business decision. It's not a  
16 limitation, and I understand your dilemma in terms of  
17 applying the statute, and that is that these carriers  
18 hold themselves out to make service available. They do  
19 make it available to customers of all sizes in these  
20 wire centers, but yet, a customer can call, as was  
21 relayed by Staff in their testimony, and a carrier can  
22 decline -- well, I shouldn't say "can." A carrier  
23 chooses to decline their order for service.

24 Q. If there were evidence that there were six or  
25 seven or 10 or 12 competitors in an area, and one or

00228

1 two or three or four declined to serve a customer, yet  
2 there is somebody else willing to step in, or two or  
3 three or four willing to step in, then it seems to me  
4 that from the customer's point of view there are  
5 alternatives. I'd like to be pointed to the evidence  
6 in the record that gets at that. Certainly, there are  
7 industries that are very competitive with lots of  
8 customers and lots of providers, and not every provider  
9 is going to provide to every customer, but there are  
10 enough out there to make it competitive, and can you  
11 show me where in the evidence in these different wire  
12 centers we are at that stage, or is it one step back,  
13 which is there is the potential or the ability to have  
14 competitors, but those competitors are not, in fact,  
15 serving very robustly, anyway, the customers?

16 A. I think Attachment H addresses both B and C.  
17 What Attachment H shows specific to your question about  
18 B, the extent that services are available, is that, for  
19 instance, in the Bellevue wire center, which is on the  
20 first page of Attachment H, there are 19 different  
21 providers. There is one provider, Provider B, that has  
22 two unbundled loops provisioned in that wire center,  
23 and that could be a small business customer. That  
24 could be a large business customer. There is another  
25 provider that has 18. There are close to -- well,

00229

1 actually, there is over 4,000 ported numbers in that  
2 wire center that are provided by eight different local  
3 exchange companies, and there are 3,600 plus resold  
4 lines provided by seven different providers.

5           So while I can't tell you specifically which  
6 customers are served within that wire center and which  
7 customers are not given that choice, what I believe  
8 this data demonstrates is that services are available  
9 to a variety of customers, and if you assume that each  
10 of these were one customer or multiple customers, the  
11 degree of the number of services provided varies  
12 greatly from one provider to another, which says to me  
13 that there are small customers that are served as well  
14 as potentially large customers that are served.

15           If I couple that with the information that  
16 I've summarized in my rebuttal testimony about the  
17 number of customers that have told Qwest that they have  
18 left us for another provider, we have measured that by  
19 large and small customers. I cannot tell that you 100  
20 percent of the customers in a given wire center have --  
21 I cannot demonstrate that they have that choice because  
22 I haven't done an analysis and called every provider to  
23 see whether they would serve them or not. What I can  
24 tell you is that those -- and that's why I think you  
25 have to weigh each of the criteria, that those

00230

1 providers are capable of serving every customer, and so  
2 I do think there is a balance there.

3 I also think that, quite honestly, there is a  
4 challenge there in that I don't believe that there are  
5 any obstacles from those customers being served, other  
6 than that the carrier is refusing to serve them. I'm  
7 not sure that is allowed under the current state law,  
8 that that customer can be denied that service, but  
9 that's what is happening in some selected instances is  
10 that the customer is being denied service. So I think  
11 the judgment that the Commission obviously has to weigh  
12 is the fact that some customers are receiving service,  
13 and other customers with the same makeup in terms of  
14 size or profitability may be denied service by the same  
15 carrier, but not necessarily by all carriers.

16 Q. You said you can't demonstrate that 100  
17 percent of customers can take advantage of an  
18 alternative or can get an alternative to Qwest.

19 A. I probably misstated that. I think 100  
20 percent can take advantage of that. I can't state that  
21 100 percent will be served by every alternative  
22 provider in that market.

23 Q. So you think that 100 percent -- let's just  
24 stick to the Bellevue wire center here. You think that  
25 100 percent of customers in that wire center could get

00231

1 service from at least one alternative provider?

2 A. I believe there is a provider that is willing  
3 to serve any customer that comes to them, yes.

4 Q. In other words, you think that one of these  
5 19 would serve?

6 A. That customer, yes.

7 Q. What is your evidence for that?

8 A. We have seen one line of a customer that  
9 might have multiple lines leave for another provider in  
10 a given wire center, and we've seen the whole account  
11 leave Qwest and go to another provider. You really  
12 have to look at a customer-by-customer basis. In other  
13 words, there are some customers that take 100 percent  
14 of their business and choose to go to an alternative  
15 provider, whether they are six lines, personal friend,  
16 experience, where they have left Qwest and gone to  
17 another provider, or they've taken a portion of their  
18 lines or maybe one line and gone to another provider.  
19 So there is all different behaviors occurring in the  
20 marketplace.

21 Q. I think the last question is focusing again  
22 on the statute. We've been talking about the factors,  
23 but do you agree that the ultimate judgment we have to  
24 make is whether there is effective competition in terms  
25 of what that means, that the two phrases there that



00232

1 customers of the service have reasonably available  
2 alternatives and that the service is not provided to a  
3 significant captive customer base?

4 A. Yes.

5 Q. Would you agree that that's focused on  
6 customers, not competitors?

7 A. Yes, I do. I believe that the criteria A  
8 through D are factors Commission shall consider, but  
9 that the effective competition measure is the  
10 requirement of the statute.

11 CHAIRWOMAN SHOWALTER: I have no further  
12 questions. Thanks.

13

14 CROSS-EXAMINATION

15 BY COMMISSIONER HEMSTAD:

16 Q. Some of the things I was going to pursue were  
17 asked by Chairwoman Showalter. I hope what I have left  
18 isn't excessively repetitive. First, I'm still not  
19 entirely clear of the relationship between the  
20 so-called narrow proposal of the Staff and then the  
21 proposal with conditions. The narrow proposal would  
22 deal with DS-1s or higher, would expand the services  
23 and the geography that we had addressed in 990022, as I  
24 understand your statement. Then with regard to the  
25 conditions proposal, does that encompass the same

00233

1 services and geography?

2 A. Yes, it would. The difference between the  
3 narrow proposal and the conditioned proposal is that  
4 the latter, the conditioned proposal, would, in  
5 essence, provide competitive parity for all customers  
6 within the wire center for Qwest.

7 Q. Both the large customers and the small  
8 customers?

9 A. Yes.

10 Q. So that's the difference is that it  
11 encompasses your entire proposal except in the more  
12 narrow geography.

13 A. Yes.

14 Q. Back to this issue of the conduct of the  
15 CLECs, I'm looking at your testimony on Page 17 of the  
16 rebuttal, Line 18, you say, "Clearly, such behavior  
17 reflects an inappropriately narrow interpretation of  
18 RCW 80.36.300 (5), and is there conduct of selectively  
19 serving customers. Is it your understanding that that  
20 kind of a decision to offer services to some, not to  
21 others, if they have the capability, isn't is unlawful?

22 A. I believe not under 80.36.300. I'd have to  
23 find statutes, but basically, the statute provides  
24 telecommunications carriers, including Qwest, to  
25 provide service upon demand, and that is qualified to

00234

1 customers that are reasonably entitled thereto to that  
2 service. I believe that what customers have shared  
3 with me is in conflict with that statute, that state  
4 statute; that those customers are, in fact, entitled to  
5 receive the service they are requesting.

6 Q. If the prospective customer is one where the  
7 CLEC would, in providing the service, be able to make a  
8 profit, you would show them irrational economic  
9 behavior to proceed to provide that service.

10 A. One would hope so. I cannot explain to you  
11 why a CLEC would not take advantage of that  
12 opportunity.

13 Q. You are not suggesting they are acting  
14 irrationally, are you?

15 A. I don't know why they would turn a customer  
16 away.

17 Q. They might decline to offer the service  
18 because they can't offer it profitably.

19 A. That may be their reason. My response is  
20 that they have a number of options available. At a  
21 minimum, reselling Qwest service at a discount is an  
22 option that they can utilize. Their own facilities is  
23 another option, or the unbundled elements is another  
24 option, so --

25 Q. I guess what I'm trying to get to, is it your

00235

1 position they have a duty to provide service even if  
2 they have to offer it at a loss?

3 A. I believe they have a duty, as I understand  
4 the statute and being a layperson's interpretation, is  
5 if the customer is reasonably entitled to that service,  
6 they have an obligation to provide it. I think that's  
7 probably an issue that could be widely debated in terms  
8 of what does that mean. Qwest certainly provides  
9 service to customers where it does not make a profit  
10 today.

11 Q. I understand. The ILEC is in a different  
12 position than the CLEC in that regard, or is it your  
13 position that in that sense, they have to be treated  
14 symmetrically?

15 A. It's my position that the policy set forth in  
16 the statute is in the statute referenced here at Page  
17 17 as well as in the statute I'm referencing is to  
18 promote diversity of supply, and that as a part of  
19 that, the statute I'm referencing says every  
20 telecommunications company shall furnish service upon  
21 demand where the customer is reasonably entitled to  
22 such service. So I don't think there is a  
23 quantification there on a singular customer basis as to  
24 whether that customer is profitable or not.

25 Q. I won't pursue that any further. If I

00236

1 understand clearly your position, assume for the  
2 purpose of this question that a measurable group of  
3 business customers cannot receive service from CLECs  
4 because they won't provide it, even though they are  
5 capable of providing it. Is it your view that the  
6 statutory requirement of effective competition has been  
7 met?

8       A. Under your assumption, I would have a  
9 difficult time agreeing that that standard has been  
10 met. I don't believe that is the case in the market.  
11 If I felt that customers as a whole did not have  
12 competitive choice, then I would not bring this  
13 petition before this Commission.

14             In my rebuttal testimony, I was responding to  
15 the comments made by the other parties to this  
16 proceeding. There are some alternative providers that  
17 turned customers away. There are many that would not  
18 turn a customer away. I think that activity is  
19 changing on a regular basis. I think there are some  
20 providers that enter the market with a very narrow and  
21 specific strategy to establish with key customers, and  
22 they weren't necessarily ready to pick up other  
23 customers or smaller customers. There is evidence in  
24 this proceeding that there are alternative providers  
25 that are targeting the small business marketplace,

00237

1 specifically. They view that as a niche and probably  
2 would consider not serving a large business customer,  
3 and then there are other providers that target the  
4 total marketplace.

5           So you really have to look at each provider's  
6 strategy, their business strategy, which Staff, I  
7 believe, has provided to the Commission only as a  
8 confidential attachment in documents that were not  
9 stamped confidential that were available through the  
10 record. There are a number of providers that show as  
11 much as 25 percent of their current market share is  
12 small business customers. So I think you have a real  
13 diversity of mix as to how various providers are  
14 approaching the markets. As long as you have a good  
15 representation of multiple provider types in a given  
16 wire center, then I believe that customers have choice  
17 and that the evidence we provided demonstrates that  
18 those providers are serving multiple customers of  
19 various sizes. There are other providers that continue  
20 to and may continue to not serve customers that come to  
21 them with requests, but I don't believe that's  
22 universal.

23           COMMISSIONER HEMSTAD: Thank you. That's all  
24 I have.

25           COMMISSIONER GILLIS: I don't have any

00238

1 additional questions.

2 CHAIRWOMAN SHOWALTER: I have just one more.

3

4 FURTHER CROSS-EXAMINATION

5 BY CHAIRWOMAN SHOWALTER:

6 Q. The recommendation seems to be in terms of  
7 exchanges versus wire centers. I'm just wondering, is  
8 there a practical difficulty with classifying a service  
9 as competitive in a wire center versus an exchange?

10 A. A wire center is a narrower definition. It  
11 would involve fewer customers than an exchange. I  
12 think the recommendation at an exchange level was due  
13 to the inability to obtain competitive information on  
14 any other level on a wire center level other than what  
15 Qwest has provided.

16 Q. But I think that's what's confusing me.  
17 Attachment H is by wire center; right?

18 A. Yes.

19 Q. It's Staff's evidence that it's only at the  
20 exchange level; is that right?

21 A. Yes. So our request is at a wire center  
22 level. I believe Staff's recommendation, while it may  
23 address the four changes, is still limited to only the  
24 wire centers petitioned by Qwest. For example, in the  
25 Seattle exchange, there are additional wire centers

00239

1 that are not included in Qwest's petition. I don't  
2 believe Staff is including those in its recommendation.

3 CHAIRWOMAN SHOWALTER: Thanks.

4 JUDGE CAILLE: Any follow-up cross from the  
5 commissioners?

6

7 FURTHER CROSS-EXAMINATION

8 BY MR. HARLOW:

9 Q. In questioning by either the chairwoman or  
10 Commissioner Hemstad, you indicated that you were aware  
11 of a competitive provider that would basically serve  
12 anyone; do you recall that?

13 A. I believe there are a number of providers,  
14 yes, that would serve any customer that requested  
15 service.

16 Q. It sounded to me as though you have a  
17 specific provider or providers in mind.

18 A. Yes.

19 Q. Are these providers resellers?

20 A. Many of them, yes.

21 Q. Have you done any survey or analysis of what  
22 prices those companies would charge to serve any  
23 customer in your wire centers?

24 A. We have sample prices. Some of them  
25 obviously have tariffs on file with the Commission, but



00240

1 we also have competitive bids that those providers have  
2 furnished customers.

3 Q. Do you have no correlation between those  
4 prices and which customer or customers within a wire  
5 center those would apply to?

6 A. I don't understand your question, Counsel.

7 Q. You are not able to state whether a given  
8 price would be available throughout a wire center to  
9 all business customers.

10 A. If a provider were charging its tariffed --  
11 or I should say price list of rates. I don't think  
12 there is any tariff rates. If they are charging from  
13 their price list, that would be the price available to  
14 the customer, but in some cases, they may offer the  
15 customer a custom price; in which case, it could differ  
16 by customer.

17 Q. Is it your understanding that all or  
18 virtually all CLECs have competitive classification and  
19 have pricing flexibility?

20 A. In this state, yes. However, at this time --

21 Q. I think that answers the question.

22 MR. HARLOW: Thank you, no further questions.

23 JUDGE CAILLE: Anyone else? Redirect?

24 MR. OWENS: Thank you, Your Honor.

25

00241

1

REDIRECT EXAMINATION

2 BY MR. OWENS:

3

Q. Ms. Jensen, you were just cut off in an attempt to complete your answer to the question of whether you were aware do CLECs have pricing flexibility. What did you intend to say?

7

A. What I was going to finish with is at this point in time, if a CLEC offers a price other than what's in their price list, then I believe they are obligated to file that contract with the Commission, which is a price list contract. There are a handful of CLECs that use contracts based on my review of the Commission's open meeting agenda that do, in fact, file contracts, but the majority of the registered providers are offering service under the price list.

16

Q. You had some discussion both with the chairwoman and with Commissioner Hemstad about the extent to which there is some alternative provider willing to serve each and every customer in the subject wire centers. As you understand the statute, in order for Qwest not to have a significant captive customer base, is it necessary that there actually be a provider willing to serve each and every customer in the wire center?

25

A. I don't believe the statute requires that.

00242

1 Q. In the first round of cross by counsel for  
2 MetroNet, you were shown Exhibit 13 and 14 consisting  
3 of excerpts of the interconnection agreements with ATG  
4 and MetroNet; do you recall that?

5 A. Yes.

6 Q. You were asked whether or not in each case  
7 the CLECs had consented to the use of their proprietary  
8 information by Qwest in pursuing competitive  
9 classification; do you recall that?

10 A. Yes.

11 Q. With regard to MetroNet, is any of the  
12 information that Qwest used in preparing the exhibits  
13 that you are responsible for the result of any services  
14 purchased by MetroNet under that contract?

15 A. I don't believe so. I think that there may  
16 be some question as to whether MetroNet has started to  
17 purchase service under this agreement.

18 Q. Is there anything in Exhibit 13, which was  
19 the agreement with ATG, that addresses Qwest's use of  
20 proprietary information in a regulatory proceeding?

21 A. Yes. At Page 111 of Exhibit 13, which in the  
22 exhibit itself is the third page, at 26155, the last  
23 statement says, "This shall not be construed to  
24 restrict either parties ability to convey such  
25 information in regulatory or legal proceedings." That

00243

1 reference is to proprietary information.

2 Q. You were asked to accept subject to check  
3 that most unbundled network element loops are now  
4 provided at prices at or below \$11.33; do you recall  
5 that?

6 A. Yes.

7 Q. Have you had occasion to check that?

8 A. Yes.

9 Q. What is the result of your check?

10 A. Actually, there is a higher rate that is  
11 utilized, and if memory serves me right, it's over \$13.

12 Q. So are you saying that most loops are  
13 provided at or below this rate that's around the \$13 at  
14 this time?

15 A. I believe the loops are provided at a  
16 combination of rate, either the \$11 plus cents rate or  
17 \$13 plus cents rate.

18 Q. You were asked whether, assuming that the  
19 zone rates, the unbundled zone rates were to achieve  
20 the average of approximately \$18, whether you would  
21 agree that that would represent an increase in the  
22 input costs to the CLECs; do you recall that question?

23 A. Yes.

24 Q. Do you have any view as to whether or not an  
25 average of \$18 is what will turn out, given purchases

00244

1 in those zones as you expect they will occur?

2 A. I don't believe the average will be \$18.

3 What I was trying to respond to was the question, but I  
4 think that a CLEC will utilize UNI loops or unbundled  
5 loops that are low in price, and where a loop is high  
6 price, they will look at other options, and therefore,  
7 the resulting average of loops actually purchased will  
8 be significantly less than the average of \$18.

9 Q. You were also asked by counsel for MetroNet  
10 what customers did the CLECs choose not to serve; do  
11 you recall that?

12 A. Yes.

13 Q. Is that something that you know anything more  
14 about than the CLECs?

15 A. No. I think they probably know more about  
16 that than I do.

17 Q. You were asked about the deployment of fixed  
18 wireless technology and whether Qwest had done any  
19 studies of routes. Can you tell the Commission  
20 anything about how quick it is for a provider to deploy  
21 fixed wireless technology at any particular location?

22 A. It's my understanding that the deployment of  
23 fixed wireless technology is a matter of days. It's  
24 fairly simply deployed.

25 Q. You were asked whether the necessity of a

00245

1 carrier if it chose to use fixed wireless technology to  
2 invest in radio equipment would be a barrier to entry;  
3 do you recall that?

4 A. I'm sorry. Could you repeat your question?

5 Q. You were asked whether if a carrier chose to  
6 use the fixed wireless technology the necessity to  
7 invest in radio equipment would be a barrier to entry;  
8 do you recall that?

9 A. Yes.

10 Q. Is there any more barrier to entry in that  
11 kind of an investment than there is to acquiring the  
12 capability to produce any product?

13 A. No, I don't believe so.

14 Q. You were asked by counsel for TRACER and  
15 Public Counsel about Mr. Wood's hypothetical on resale  
16 where you would assume a \$100 retail price, \$15 voided  
17 cost discount, and then a hypothetical 100-percent  
18 price increase by Qwest; do you recall that?

19 A. Yes.

20 Q. Under that hypothetical, is there any reason  
21 to believe that the actual retailing costs that either  
22 Qwest or a reseller would incur would also increase by  
23 100 percent?

24 A. Oh, no. If I understand your question  
25 correctly, the cost to market their service should be

00246

1 the same, perhaps even lower, if Qwest were to increase  
2 its price by 100 percent. It may not take them as long  
3 to convince a customer to leave Qwest.

4 Q. So if Qwest were selling the service at \$200,  
5 and the reseller were selling it at \$185, the exact  
6 same service with everything the same between the two,  
7 would there be any reason to think that Qwest could in  
8 the long-term maintain a \$200 price?

9 A. No, I don't believe so. If all things were  
10 considered equal and another provider were to sell  
11 their service under the hypothetical at \$185, Qwest  
12 would be forced to lower its price if it wanted to  
13 retain or attract business.

14 Q. Would that reduction in Qwest's price also  
15 translate into a reduction in the price that the  
16 reseller would pay of the retail price minus the  
17 15-percent hypothetical discount?

18 A. Under the hypothetical, the discount would be  
19 applied to the rate that Qwest reduced its price to,  
20 and it would tend to be a continuous cycle.

21 Q. You were also asked a Record Requisition No.  
22 1 to produce a breakdown of lines resold by Centrex 21,  
23 Centrex Prime, and Centrex Plus, and without disclosing  
24 the results, can you indicate whether or not you've  
25 obtained that information?

00247

1 A. Yes, we have.

2 Q. Is that information proprietary?

3 A. Yes, it is.

4 MR. OWENS: Qwest proposes to prepare a  
5 written response and submit it as a response to the  
6 record requisition within the next day or so.

7 JUDGE CAILLE: Thank you.

8 MR. HARLOW: That's fine with us, Your  
9 Honor.

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

11 JUDGE CAILLE: Any recross?

12 MR. HARLOW: Just one question, Your Honor.

13

14 FURTHER CROSS-EXAMINATION

15 BY MR. HARLOW:

16 Q. You referred to a quote, "higher rate than  
17 11.33" as being, quote, "over \$13"; do you recall that?

18 A. Yes.

19 Q. Would you accept subject to check that that  
20 rate is \$13.37?

21 A. Yes, I would.

22 MR. HARLOW: Thank you.

23 MR. CROMWELL: Your Honor, just as a matter  
24 of record, Mr. Owens referred to counsel for TRACER and  
25 Public Counsel. For the record, Ms. Rackner represents



00248

1 TRACER. I represent Public Counsel. We are not  
2 cocounsel in this case. We are jointly promulgating  
3 the testimony of the witness, and for the convenience  
4 of the Commission and to expedite these proceedings,  
5 we've agreed to split our cross so that we are each  
6 crossing witnesses. We have always maintained the  
7 right to cross-examine witnesses independently of  
8 whether we are sharing witnesses or not. That's a  
9 long-standing position of Public Counsel, and I just  
10 wanted to clarify for Mr. Owens that Ms. Rackner is not  
11 representing Public Counsel in this proceeding.

12 JUDGE CAILLE: We have a few housekeeping  
13 things to take care of, but the one thing I do want to  
14 mention is that we will begin with Mr. Hooks tomorrow  
15 morning.

16 CHAIRWOMAN SHOWALTER: I just want to  
17 interject. On Bench Request No. 1, it would be helpful  
18 if the information were cross-tabulated both ways; that  
19 is, the list of wire centers and what zones they are in  
20 and then a zone 1, 2, 3, et cetera, and what wire  
21 centers fall into that.

22 MR. OWENS: We will be glad to provide, that,  
23 Madam Chairwoman.

24 JUDGE CAILLE: Thank you, Ms. Jensen. You  
25 are excused. I started to say we would begin with

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1 Mr. Hooks tomorrow morning, if that will be all right  
2 with Qwest and the other parties.

3 MS. ANDERL: If it's not an inconvenience, we  
4 had asked for a date and time certain for Mr. Hooks.  
5 We were hopeful we would be through Mr. Teitzel by now,  
6 but that's not the case.

7 JUDGE CAILLE: I think the safest thing would  
8 be to begin with Mr. Hooks tomorrow morning.

9 MS. ANDERL: Thank you.

10 JUDGE CAILLE: I just want to check with  
11 counsel about some of the exhibits that were used  
12 during cross-examination. I'm not sure whether these  
13 are still going to be offered, Mr. Harlow, 17-C, 19-C,  
14 and 20-C.

15 MR. OWENS: I think he already offered those,  
16 I think he used the phrase, did he have to use the  
17 magic words.

18 MR. HARLOW: I'm showing 13 through 15  
19 admitted and 17 through 26 all admitted by stipulation,  
20 and 16-C is reserved for discussion at the time of  
21 Mr. Teitzel's testimony.

22 JUDGE CAILLE: Thank you. I know that X0's  
23 are all admitted. Ms. Rackner, did you list 69, 70,  
24 and 71-C?

25 MS. RACKNER: Yes.

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1 MR. KOPTA: I thought 70 was something that  
2 was held for consideration.

3 MS. RACKNER: Yes, that's correct.

4 JUDGE CAILLE: 70 will be held. I just  
5 wanted to mention to everyone there is going to be a  
6 brief open meeting, special open meeting tomorrow at  
7 1:30. I believe it's to deal with some numbering  
8 issues, and I'm hoping it should not take long. So you  
9 will probably have a longer lunch than usual. I think  
10 that is it for right now. Does anyone have anything?

11 MR. HARLOW: Maybe we should take this up  
12 with the commissioners, but I did want to revisit the  
13 question of the briefing deadline.

14 JUDGE CAILLE: That's something I need to  
15 check on.

16 MS. JOHNSTON: Your Honor, I also would like  
17 to bring up the issue of the responses to Staff Data  
18 Request No. 3, Commission staff would like to have  
19 those part of the record.

20 JUDGE CAILLE: Off the record.

21

22 (Hearing adjourned at 4:50 p.m.)

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