

00436

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3

4 In the Matter of the Petition) Docket No. UT-000883
of) Volume VII
5 US WEST COMMUNICATIONS, INC.) Pages 436-517 and
6) 573-642
for Competitive Classification)
7 of Business Services in)
Specified Wire Centers.)
8 _____)

9

10 A hearing in the above matter was
11 held on November 1, 2000, at 9:33 a.m., at 1300
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge KAREN CAILLE,
14 Chairwoman MARILYN SHOWALTER, Commissioner Richard
15 Hemstad, and Commissioner William R. Gillis.

16 The parties were present as
17 follows:

18 QWEST CORPORATION, by Douglas N.
19 Owens, Attorney at Law, 1325 Fourth Avenue, Suite
20 940, Seattle, Washington, 98101, and Lisa A. Anderl,
Attorney at Law, 1600 Seventh Avenue, Room 3206,
Seattle, Washington 98191.

21 XO WASHINGTON, INC., ELECTRIC
22 LIGHTWAVE, INC., McLEOD USA TELECOMMUNICATIONS
SERVICES, INC., FOCAL COMMUNICATIONS OF WASHINGTON,
23 GLOBAL CROSSING TELEMAGEMENT, and GLOBAL CROSSING
LOCAL SERVICES, INC., by Gregory J. Kopta, Attorney
24 at Law, Davis, Wright, Tremaine, LLP, 2600 Century
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98101.
25 Barbara L. Nelson, CSR
Court Reporter

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1 TRACER, by Lisa F. Rackner,
Attorney at Law, Ater Wynne, 222 S.W. Columbia, Suite
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3 THE COMMISSION, by Sally G.
Johnston, Assistant Attorney General, 1400 Evergreen
4 Park Drive, S.W., P.O. Box 40128, Olympia, Washington
98504-0128.

5 PUBLIC COUNSEL, by Simon ffitch,
6 Assistant Attorney General, 900 Fourth Avenue, Suite
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7 METRONET, ATG and WORLDCOM, by
8 Brooks Harlow, Attorney at Law, Miller Nash, 601
Union Street, Suite 4400, Seattle, Washington, 98101.

9 ESCHELON TELECOM OF WASHINGTON, by
10 Dennis Ahlers, Attorney at Law, 730 Second Avenue,
Suite 1200, Minneapolis, Minnesota 55402 (Via
11 Teleconference Bridge.)

12 AT&T, by Steven H. Weigler,
Attorney at law, 1875 Lawrence Street, Room 1524,
13 Denver, Colorado 80202.

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1 JUDGE CAILLE: Let's go on the record.
2 Good morning. This is the third day of evidentiary
3 hearings. Today is November the 1st, in Docket
4 UT-000883. It is a petition by Qwest for competitive
5 classification of business services in specified wire
6 centers. The parties have all entered their
7 appearance. Mr. ffitch, have you formally entered an
8 appearance in this? I know you filed an appearance,
9 but you haven't placed your appearance on the record
10 yet.
11 MR. FFITCH: Not during this hearing, Your
12 Honor.

13 JUDGE CAILLE: All right. If you would do
14 that, and the rest of the parties who are present
15 here have entered their appearances.

16 MR. FFITCH: Thank you, Your Honor. Good
17 morning. Simon ffitch, Assistant Attorney General,
18 appearing on behalf of the Public Counsel section.

19 JUDGE CAILLE: Thank you.

20 MR. FFITCH: I will be taking over the
21 Public Counsel chair for Mr. Cromwell, who will not
22 be appearing again.

23 JUDGE CAILLE: Thank you.

24 MR. FFITCH: He will be -- I mean, for
25 purposes of this hearing. He will eventually return

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1 and, I hope, write the brief.

2 JUDGE CAILLE: I hope so. All right. We
3 are now in questions by the Commissioners, and I
4 believe Chairwoman Showalter is in the process of
5 questioning Mr. Teitzel.

6 CHAIRWOMAN SHOWALTER: Right.

7

8 E X A M I N A T I O N (CONTINUING)

9 BY CHAIRWOMAN SHOWALTER:

10 Q. I don't know if we were going to pick up
11 exactly where we left off, but could you turn to page
12 nine of your direct testimony? That's Exhibit 76.

13 A. I have that page.

14 Q. At lines four to seven, you say competitors
15 tend to base their prices at levels competitive with
16 the ILEC's statewide average rates, and that when
17 Qwest is afforded pricing freedom in competitive
18 areas, alternative providers will be forced to
19 reevaluate their prices and possibly reset them.

20 If there is genuine robust competition
21 already present, why would the competitors not be
22 also competing with one another? In other words, it
23 seems to me you're saying, and it may be true, that
24 competitors are taking a signal from the ILEC's
25 price. Is that what you mean?

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1 A. That's correct. I believe the context of
2 my statement here is that competitors tend to view
3 Qwest pricing, as the incumbent provider, as a
4 benchmark. And our research would show that
5 competitors tend to price below that, typically in
6 the range of 15 percent, sometimes more, sometimes a
7 little less, but in that range.

8 Q. But if there were the possibility that the
9 competitors could profitably compete at an even lower
10 price, why wouldn't at least one or two have bolted
11 from the crowd or from taking that signal and taken
12 their prices down a notch further in order to get the
13 business even from other competitors?

14 A. Your Honor, I didn't mean to imply that
15 competitors would all offer the same general price in

16 the marketplace. The prices do definitely vary. As
17 we've looked at the tariffs attached to our petition,
18 I think a review of that would show that the
19 competitors' price points do vary in the marketplace.
20 Some are more of a -- offer more of a deep discount
21 or a lower price than others in the market. So I
22 believe that --

23 Q. Isn't the implication of your statement
24 here that if Qwest is allowed to, say, lower a price
25 for a given service, that will prompt the competitors

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1 to lower their prices even further; is that correct?

2 A. That's correct. I believe, using an
3 example, let's say Seattle Main, one of our most
4 densely concentrated business wire centers in the
5 state, if we were to offer a revised price in that
6 wire center or made a unique package in that wire
7 center, I believe competitors would view that as,
8 again, a benchmark, and that wire center would
9 respond and adjust their pricing accordingly.

10 Q. Well, then, again, I guess I'll ask the
11 question. Why do you think they haven't already --
12 or at least one or two haven't already lowered their
13 prices?

14 A. I apologize. I'm not being explicit or
15 clear enough. I believe they have. They are
16 lowering their prices. They're not all offering
17 precisely the same price in the market. There's a
18 range of prices, some lower, some higher. But I
19 would maintain they do look to Qwest as a benchmark
20 in determining what that appropriate price should be
21 in the market.

22 Q. Okay. I guess I just wonder if the
23 implication of that answer isn't that, in fact, Qwest
24 really still is, you know, the big heavy in the
25 market, and whether that means that there isn't

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1 sufficient competition out there to be operating
2 independently of Qwest and Qwest's prices?

3 A. Qwest being the incumbent, it certainly
4 would be probably the predominant provider in most
5 markets still, although that is changing. But,
6 again, I would maintain that there are a variety of
7 prices in the marketplace now by facility-based
8 providers, by resellers, other competitors that vary
9 widely, so I would maintain that they are competing
10 with one another.

11 Q. Okay. Then, on the next page, 10, there's
12 discussion of pricing your competitive services if
13 you are classified as competitive, and on lines 12
14 through 15, you say, Qwest relies on the cost studies
15 previously filed for each component of its business.
16 And rates for these services will continue to be
17 priced above cost. Is that embedded or TELRIC costs?

18 A. Our costs for pricing, that Qwest typically

19 uses, would be total service long-run incremental
20 cost, or TSLRIC.

21 Q. Right, okay. Thanks. I have another
22 question in your rebuttal testimony, Exhibit 78, page
23 three.

24 A. I have that page.

25 Q. And you're discussing here our grant of

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1 competitive classification to IP voice, and at lines
2 10 and 11 and 12, you quote us as saying all services
3 are fully available from alternative providers in the
4 relevant market.

5 I'm just not certain what your implication
6 here is. It seems to me that in allowing a
7 competitor to be classified as competitive, we cite
8 Qwest as being a competitor. And you're not
9 implying, are you, that because we have found that
10 competition exists from Qwest to a new entrant, that
11 there's somehow a symmetry that there is competition
12 from the new entrant to Qwest, are you, or that this
13 statement is a statement that competition exists for
14 purposes of Qwest being classified?

15 A. I can maybe help there. That was not the
16 intent or the implication of the statement.

17 Q. Okay.

18 A. Clearly, IP would be a competitor of Qwest,
19 but I believe the Commission viewed the market and,
20 as I read the statement, said alternative providers,
21 being plural, so I'm assuming that that statement
22 meant that there were more than one provider,
23 specifically more than just Qwest, in at least some
24 of the markets that IP is kind of entering.

25 Q. Well, do you think that our test, when

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1 we're looking at a new entrant such as IP voice, is
2 the same as when we're looking at Qwest? That is,
3 not that the test may be the same, but are the --
4 does it make a difference that Qwest is one of the
5 competitors in the case of the new entrant, but
6 obviously Qwest is not one of the competitors when
7 we're considering classifying Qwest, so we're looking
8 at the group of CLECs.

9 A. I think I see your point. Clearly, by IP
10 entering the market, explicitly in competition with
11 Qwest, by definition, they're a competitor. They
12 have a major competitor to compete with.

13 Q. Right.

14 A. So I can certainly see the full logic in
15 allowing them full classification as a competitor.

16 Q. Okay.

17 A. Qwest's position, obviously, in this case
18 is that IP has now entered the market, but they're
19 only one of many that are now in the marketplace. So
20 I think, looking at the market from Qwest's
21 perspective, in the wire centers for which we have

22 petitioned for competitive classification, the range
23 of competition that exists today we believe does
24 support a finding that our services are competitive
25 in that market, in those markets.

00447

1 Q. But I take it you're asserting that
2 independent of the fact of our having found that, for
3 purposes of the IP voice, there is competition?

4 A. Yes.

5 Q. I mean -- okay.

6 A. Yes, I believe IP voice is just another
7 competitor in an already competitive market.

8 Q. All right. If you could turn to Exhibit
9 122, it's about the fifth page in. It's the first
10 confidential -- or it's the only confidential page.
11 Oh, I'm sorry, it's 123-C.

12 A. Just to clarify, Your Honor, did you say
13 123?

14 Q. Right, 123-C.

15 A. Okay. I've got a one-page exhibit.

16 Q. Yes, it's one page.

17 A. I have that.

18 Q. This gets back to our discussion yesterday
19 of what we can tell about customers from billed
20 telephone numbers or business lines or revenue. And
21 I'm wondering if you can just help me. Looking at
22 this exhibit, can you tell me what lines give the
23 most information about lost customers? Would that be
24 the BTN line, or that's dollars per BTN, so --

25 A. The BTN line would be a rough approximation

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1 of the customer. So for example, for January, it
2 shows a number there for SBG BTN losses.

3 Q. Right.

4 A. That's a rough approximation of customer
5 losses, because, as we discussed yesterday, you could
6 have potentially multiple lines at a location or at a
7 customer location --

8 Q. Right.

9 A. -- billed to a single BTN.

10 Q. All right. So I'm looking at the top line,
11 and I'm looking at those numbers, and let's, for
12 purposes of discussion, say they're equivalent to
13 customers.

14 A. Sure.

15 Q. First of all, what's the scope of this
16 piece of paper? What jurisdictions does this cover?

17 A. This would cover the losses that have been
18 tracked in Washington State.

19 Q. Okay.

20 A. In five months of the year 2000. So the
21 data here would show January through April for small
22 business, and they have an additional month displayed
23 for BNGS, so it would be through May, in that event.

24 Q. Okay.

25 A. I should emphasize this was an exhibit that

00449

1 was not created by Qwest.

2 Q. Right.

3 A. But it was based on information supplied by
4 Qwest.

5 Q. And do you have -- either can you state on
6 the record or do you have anywhere in this record the
7 total number of BTNs in the state, so that I can
8 compare a loss to the total?

9 A. I believe in Ms. Jensen's testimony. Let
10 me turn there quickly. The data I would reference
11 here is not specifically BTNs, but it does show
12 telephone numbers or lines in service by wire center.

13 Q. Where were you? I'm sorry.

14 A. I'm sorry, it's Exhibit 12-G. It's been
15 updated as Confidential Exhibit TAJ-2-C in Ms.
16 Jensen's direct testimony.

17 Q. Is this Attachment G of the petition?

18 A. It's Attachment G of the petition. It's
19 also a confidential exhibit in Ms. Jensen's
20 testimony.

21 Q. Okay.

22 A. But I would encourage you to review Ms.
23 Jensen's revised exhibit, because it does show
24 updated data as of June 2000.

25 Q. But show me where on 12-G I can get the

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1 total number?

2 A. The total number of Qwest business lines in
3 each wire center and in Qwest's petition are shown in
4 approximately the middle of the page. It says Sum
5 (N). Now, I should emphasize, this is business
6 lines, not BTNs, but it does give you a sense of
7 distribution of business lines for each of the wire
8 centers in this petition.

9 Q. All right. Is it Sum (L plus M)? No, that
10 wouldn't be it. I wonder if we're looking at the
11 same thing. I'm looking at -- oh, wait a minute.

12 A. It's Confidential Exhibit TAJ-2-C to Ms.
13 Jensen's direct testimony.

14 Q. I think I got the wrong book.

15 A. Correct me, Mr. Owens, if I'm wrong, but is
16 that Exhibit 12-G?

17 MR. OWENS: Attachment G, Exhibit 12.

18 Q. Okay. I have Attachment G to Exhibit 12,
19 and tell me again what column I'm looking at?

20 A. Sure.

21 Q. What does it say at the top?

22 A. It's the column that says Sum (N), and
23 below that, the header is Qwest Business Lines.

24 Q. I just don't have one, is my problem. Does
25 the witness have Exhibit 12-G? Because I have

00451

1 something that says Sum (L plus M) and Sum (G plus
2 H). Maybe Counsel could show the witness Attachment
3 G.

4 A. I believe I can help. In Ms. Jensen's
5 original direct testimony, you would have seen data
6 that would be current through 2/1 of 2000. That was
7 updated. There was an update to that file in this
8 docket, and that's the document I'm looking at.

9 Q. Well, my question is the same. Can you
10 point me to anything in this record that I can look
11 at in my notebooks here that gets at -- well, my
12 question was the BTNs in this state, for sake of
13 comparison, to Exhibit 123?

14 A. I don't believe we have a count of BTNs in
15 this exact fashion.

16 Q. All right.

17 A. The closest data I can give you would be
18 the count of Qwest business lines by wire center that
19 would be on this document.

20 Q. But when you say this document, what
21 document are you referring to? Is it in our record?

22 A. I believe it is. This was filed as an
23 update or an amendment to Ms. Jensen's direct
24 testimony. And it's labeled in the upper right-hand
25 corner as Confidential Exhibit TAJ-2-C.

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1 CHAIRWOMAN SHOWALTER: Okay. That is
2 Exhibit 2-C. All right.

3 MR. OWENS: Yes.

4 Q. Now I'm looking at Exhibit 2-C, and the one
5 -- you're saying the column that says Sum (N) shows
6 business lines?

7 A. That's correct.

8 Q. But it doesn't show BTNs, so I can't make a
9 comparison?

10 A. Not a direct comparison. I would offer,
11 Your Honor, if that would be helpful to you, we could
12 certainly pull that data and supply it as a
13 late-filed exhibit.

14 Q. And it may be included in the bench request
15 of yesterday. I don't know.

16 MR. OWENS: Yesterday was line loss, I
17 believe, by wire center. We sent those out to be
18 copied, so I don't have our copies here to look at to
19 see whether they include the BTN or not. We can
20 certainly provide you BTNs. Do you want them
21 categorized by the BGS and LBG divisions?

22 CHAIRWOMAN SHOWALTER: Yes. I mean, I
23 think the -- I'm mainly looking at various ways to
24 get at the question of whether there is or isn't
25 effective competition, and one of the ways that's

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1 been suggested here is to look at loss of business by
2 Qwest. But the most helpful thing, I think, would be
3 by wire center, by BTN, compared to total BTN.

4 That's at least one type of measure we could look at.

5 MR. OWENS: We will be happy to provide
6 that. Do you want them subdivided further by small
7 business and BGS, as Mr. Teitzel has indicated?

8 CHAIRWOMAN SHOWALTER: Yes.

9 MR. OWENS: Okay. That would be Bench
10 Request 3.

11 JUDGE CAILLE: That's correct.

12 Q. All right. Finally, in Exhibit 126-C, Tab
13 2, and I know that some people don't have tabs, but
14 Tab 2 is the study that begins with a title Segment
15 Based Analysis of Opportunities and Strategy, dated
16 October 7, 1999.

17 A. I have that page.

18 Q. All right. And if you could turn to page
19 38, there were some questions on this earlier. And
20 it has a title at the top that says, We are not
21 capturing the growth in the market.

22 A. I have that, Your Honor.

23 Q. First of all, what is the scope of this
24 page? Is it Qwest's territory or Washington State or
25 what?

00454

1 A. Yes, this is a document put together, I
2 believe, by our small business organization, and it
3 did look at the market wholistically for US West's
4 then service territory. It was not specific to
5 Washington.

6 Q. Okay, all right. And then what is the
7 unit? When there's a 15 percent growth, is that in
8 dollars, is it revenue?

9 A. My understanding is that this is total
10 spending on telecommunications services by customers
11 classified in those various segments that are shown
12 along the horizontal axis. So my understanding is
13 it's total annual spending on telecommunications.

14 Q. All right. And the darker boxes are
15 labeled as revenue?

16 A. Correct. I think the light box is an
17 indication of how much customers' spending growth is
18 changing over time. In this case, increasing. The
19 darker box would reflect, by segment, how much US
20 West or Qwest revenue was changing over time,
21 proportionately.

22 Q. And do you have any information like this
23 that's broken down at either the state or the
24 exchange or the wire center level?

25 A. To my knowledge, there has not been a study

00455

1 like this done on that granular level. It's been
2 more of a broad look at market segments across the
3 region.

4 CHAIRWOMAN SHOWALTER: Okay. I think
5 that's all the questions I have. Thanks.

6 THE WITNESS: Thank you.

7

8

E X A M I N A T I O N

9 BY COMMISSIONER HEMSTAD:

10 Q. I wanted to briefly explore your comments
11 in the comparative issues dealing with the banded
12 rate classification as against competitive
13 classification. I'm looking at page 10 of your
14 direct testimony. And it starts with a question at
15 the bottom of page nine, Isn't Qwest currently able
16 to introduce price changes on 10 days' notice through
17 rate banded tariffs? And your answer is, Yes.
18 However, rate banded tariffs do not provide
19 competitive parity. They still require a price floor
20 and a price ceiling. Competitors can then price
21 their services within the range of the band and below
22 the Qwest price floor. To change the price band
23 requires 30 days' notice. Qwest should be allowed to
24 compete on a parity basis with its competitors.
25 Well, there are several piece parts here.

00456

1 First, with regard to the price floor, it's true,
2 isn't it, whether US West were to use a banded rate
3 policy or its services are classified as competitive,
4 you still have to price above cost, don't you?
5 A. By statute, that's true.
6 Q. All right. So in that sense, there's no
7 difference between the rate band arrangement and the
8 competitive classification, is there?
9 A. Your Honor, I believe there would be,
10 because a competitor of Qwest could choose to enter a
11 market, let's say that market's Spokane, and offer a
12 particular price. If Qwest were to respond to that
13 price, we could certainly view that if we were to
14 have rate banded flexibility, but that price and for
15 the service, it might be a business access line,
16 would change on a statewide basis, not just for
17 Spokane. So that's a concern.
18 Q. So in that sense, rate banded you'd have to
19 do system-wide?
20 A. That would be correct.
21 Q. But you couldn't price below cost in either
22 event?
23 A. We could not, that's correct.
24 Q. On the upside, with regard to the price
25 ceiling, I assume if you're concerned it is about

00457

1 competitive entry and the loss of market share, as
2 your last discussion with Chairwoman Showalter was
3 exploring, you wouldn't be particularly concerned
4 about raising prices, would you?
5 A. I don't think -- specifically, in this
6 case, we have agreed with Dr. Blackmon's suggestion
7 that prices be capped or held constant. If the
8 Commission determines that competitive zones should
9 be granted in this docket. So in this case, we're

10 making a commitment that, in any event, we would not
11 increase price, per his terms.

12 Q. And then I suppose the other difference --
13 well, on page six of your direct testimony, at line
14 two, and this was pursued with you earlier, Qwest
15 doesn't have the ability to pick and choose its
16 customers and the service area. If the service is
17 classified as competitive, then the company can pick
18 and choose. Isn't that at least part of the issue
19 and the difference between competitive classification
20 and rate banded?

21 A. If I could respond by saying this. Under
22 the competitive zone or competitive classification
23 petition, Qwest could modify its products at a wire
24 center level and offer a price or a package to all
25 similar customers within that wire center.

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1 So for example, if we were to reduce our
2 single business line price in a wire center by --
3 I'll throw out a hypothetical -- \$2 per month, any
4 customer in that wire center subscribing to that
5 single business line would get that price. So to
6 that extent, we could not pick and choose which
7 customer might get that price within a wire center.
8 All customers would be eligible for it in a wire
9 center.

10 Q. Well, is that a practical constraint or a
11 legal constraint?

12 A. I'm not certain it's a legal constraint.
13 It would be a constraint by way of the way Qwest has
14 chosen to define the competitive zone, if you will,
15 at the wire center level.

16 Q. But my point is that the statutory
17 requirements of no undue preference or undue
18 discrimination, then, would not apply?

19 A. Your Honor, I'm not an attorney, but I'd
20 offer my opinion. I believe the law would say that
21 any similarly situated customer would -- in a defined
22 area, would need to receive a comparable price. In
23 this case, we would maintain that customers in a
24 defined competitive zone or wire center, who were
25 subscribing to the same service, would be similarly

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1 situated, and I believe it's nondiscriminatory that a
2 price would be available in that wire center, but may
3 not be available in the neighboring wire center.

4 Q. All right. So I guess the principal
5 difference, then, between rate banding and
6 competitive classification is that, under rate
7 banded, you would have to apply your pricing on a
8 statewide basis, and here you would be doing that on
9 a wire center basis?

10 A. That's a major difference; that's correct.

11 Q. The 30-day requirement for changing the
12 rate banded really isn't a significant problem, is

13 it? You couldn't change it on the downside, so the
14 only impact of a 30-day requirement to change the
15 rate band would be to raise it on the upper?

16 A. Were Qwest to pursue rate banding as a
17 competitive response, if you will, in the market, I
18 would not believe it would be an undue burden to
19 request modification on that band on a 30-day notice.

20 Q. But I said the only reason you'd do that
21 would be you're raising the price on the upper end?

22 A. If the price floor were to find its TSLRIC,
23 the only case that would drive a change in the floor
24 would be if the TSLRIC were to change.

25 Q. I see. If your costs were falling?

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1 A. Yeah, if the cost remained constant, the
2 only filing requirement would be to change the upper
3 end of that band. I would agree with that.

4 COMMISSIONER HEMSTAD: That's all I have.

5 THE WITNESS: Thank you.

6

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

8 BY COMMISSIONER GILLIS:

9 Q. Good morning. I just had a couple of
10 questions. You were asked -- you responded to a
11 number of clarifications on Exhibit 114-C, and I
12 still am not sure I completely understand your
13 numbers. So I want to ask you a clarifying question
14 on that.

15 A. I have that exhibit.

16 Q. Are these numbers in the summary sheets for
17 billed telephone numbers net of winbacks or are these
18 the reported billed telephone number losses in
19 aggregate?

20 A. I did not assemble this exhibit. My
21 understanding is that this is not net of winback.
22 This would be just total losses reported or a gross
23 number.

24 Q. The initial response indicates there's an
25 Attachment B that has winback numbers. Do you know,

00461

1 is Attachment B somewhere in filed exhibits or --
2 it's not in this exhibit, so --

3 A. I have a copy of Attachment B that was
4 supplied in our response of WUTC 01-001, and I
5 believe this is one, is it not, Mr. Owens, that we
6 agreed to augment yesterday?

7 MR. OWENS: I won't testify, but I think we
8 identified Attachments C and D as containing
9 information that was pertinent to the Chairwoman's
10 inquiry, and we are in the process of gathering those
11 and copying them. In response to Commissioner
12 Gillis' question, I'm not aware that Attachment B was
13 introduced in evidence by anyone.

14 COMMISSIONER GILLIS: I see.

15 MR. OWENS: But we'd be happy to provide

16 that as a further supplement to Bench Request Two, if
17 you would like that?

18 COMMISSIONER GILLIS: I'd appreciate that.
19 Thank you.

20 Q. The other question I had on those numbers
21 is -- well, first, my understanding is that it's not
22 unusual for large business customers to give part of
23 their account to a competitor and potentially keep
24 part of their account with the incumbent. Is that a
25 correct understanding of reality?

00462

1 A. I would agree with that statement, and also
2 say that we see that happening with small business
3 customers, as well. In some cases, they will give,
4 if you will, an additional line to a competitor to
5 sample the competitor's service, the quality, see if
6 the prices are as advertised. It also provides a
7 form of redundancy to the customer. Should something
8 happen to Qwest's network, they would have service
9 from another provider. So we see that happening in
10 all business segments.

11 Q. How would that be reflected on these
12 numbers, or would it? Specifically, two companies,
13 Company A, one, the entire account is given to the
14 competitor?

15 A. Sure.

16 Q. And Company B, half the account is given to
17 the competitor. Does it show up as one billed
18 telephone number in either case?

19 A. If only part of the account is given to a
20 competitor, it would not be tracked in this report as
21 a BTN loss. The BTN is still the customer of record
22 with Qwest. We do have line loss data we've also
23 supplied that would capture all lines, whether they
24 be entire customer leaving or only a partial account
25 leaving.

00463

1 Q. So these summaries would pertain to billed
2 telephone numbers where the entire account was
3 shifted to a competitor?

4 A. That's very correct.

5 Q. Thank you. That helps. The other area I
6 wanted to explore with you was yesterday you had --
7 you had mentioned several times, I believe, that your
8 perspective is that 100 percent of the customers in
9 the 31 wire centers have choice; is that a correct
10 understanding?

11 A. That's correct.

12 Q. And one of the reasons that you offered was
13 that in these -- with the qualification that there is
14 a switch in the wire center, that customers would
15 have access to a competitive choice through unbundled
16 network elements. Is that correct, also?

17 A. That's also correct.

18 Q. Could we look at Exhibit H? I mean, as our

19 Exhibit 12, Attachment H, it's the petition.

20 A. I have that.

21 Q. I'm looking at the fourth column, and I'm
22 -- I would infer from that that the vast majority of
23 the competitors in the state of -- at least in these
24 31 wire centers, particularly outside of Seattle,
25 rely almost exclusively on their own facilities or

00464

1 resales. Would you agree with that characterization?
2 In other words, there's a lot of empty sales in the
3 fourth column.

4 A. Just to clarify, to make sure my columns
5 are corresponding, the fourth column is unbundled
6 loops; is that --

7 Q. Right, right.

8 A. And Your Honor, just to clarify it, are you
9 asking, again, for communities outside of Seattle
10 proper?

11 Q. Yeah, primarily outside of Seattle, and the
12 trend seems to be somewhat true in Seattle, but
13 certainly outside of Seattle proper. In other words,
14 that there -- given the number of competitors listed
15 in each wire center, there's generally only one or
16 two that indicate that they use unbundled network
17 loops. The vast majority rely exclusively on either
18 facilities or resale of both?

19 A. I'd say, in terms of quantity, there
20 certainly are fewer unbundled loops shown on this
21 report than there would be resale or other forms of
22 competition.

23 Q. And I'd like to ask you -- I'm not
24 suggesting you have privy to the competitor's
25 business plans, but just as somebody who is an expert

00465

1 in his field and knowledgeable in the industry, do
2 you have a hypothesis of why competitors are not
3 relying on unbundled network elements to deliver
4 service?

5 A. I would offer my hypothesis, and this may
6 be characterized more as an opinion, but competitors
7 are aware, I believe, that there have been questions
8 about UNE pricing. Until very recently, competitors
9 had to buy disparate unbundled elements and
10 reassemble them themselves to construct a service
11 that would be comparable to a Qwest service.

12 Those things have changed recently with the
13 UNE-P order, which requires Qwest essentially
14 rebundle the unbundled elements and turn over the
15 finished service to a competitor. I think also the
16 Commission's recent decision on UNE pricing, which
17 establishes pricing in five zones, has changed the
18 dynamics.

19 So there's been a lot of change and
20 question about UNEs that I think has now been
21 resolved. My understanding is, of the prices that

22 are now in effect, at least many wire centers are
23 becoming very attractive as an alternative to resale.
24 And quite frankly, if UNE loops were viewed
25 in the past relative to resale of Centrex Plus, for

00466

1 example, I think the prices were quite different. So
2 I think the competitor needed to consider how they
3 wanted to serve the market and make decisions around
4 that. I think, quite frankly, resale has been a very
5 attractive vehicle to enter a market. I believe
6 that's changing with the recent UNE orders.

7 Q. Would a shorthand way of saying that be
8 that the competitors have found it more economic to,
9 given the choices of resale, facility-based, or UNEs,
10 to at least, as evidenced currently, that you're
11 suggesting the future might change, but currently
12 it's not more economic to rely on either resale or
13 facility-based?

14 A. I think that's fair, and I could maybe
15 augment my answer just a bit, if I could. We have
16 seen public documents from McLeod, who's also a major
17 reseller in states other than Washington, and their
18 stated business model, and I believe this is correct
19 in many cases, is to enter a market with resale as a
20 vehicle, to fairly, efficiently, and at a fairly low
21 cost attain and obtain the customer base and then
22 blind rate that base as rapidly as possible, once
23 there's a critical mass developed, to facility-based
24 options, whether it be their own facilities or UNEs.
25 So I think that's at play here, too. The

00467

1 market is evolutionary. Competitors are here, they
2 have entered. I believe that's part of the business
3 model, as stated by McLeod, to move in that direction
4 as soon as that critical mass is established.

5 Q. Does Qwest compete both on price and
6 service quality?

7 A. Yes.

8 Q. Do competitors compete both on price and
9 service quality?

10 A. Yes.

11 Q. With respect to resale of unbundled network
12 elements, does a competitor that emphasizes the
13 service quality competitive niche face a challenge in
14 using facilities that are owned by an underlying
15 carrier? And I'm not asking you to answer this with
16 the assumption that I'm talking about Qwest being an
17 underlying carrier, but do they have more control
18 over the service quality if they rely on their own
19 facilities versus resale or use of UNEs?

20 A. I would agree with you. I think if a
21 competitor had their own facilities, their own
22 switching equipment, they have direct control over
23 that, whereas it is more indirect, I would agree, if
24 they were using another carrier's services.

25 Q. If the carrier -- a competitive carrier

00468

1 were in the business of building a marketplace in
2 Spokane, for example, and they saw their niche
3 primarily as not price, but service quality, would
4 there be reasons, in your opinion, that they might be
5 hesitant to use UNEs or resale to reach a customer,
6 because of concerns about what that would mean for
7 their underlying service quality? Again, I'm not
8 necessarily referring to Qwest as the underlying
9 carrier.

10 A. It's a difficult question, because service
11 quality is certainly a consideration of a competitor
12 in entering a market, but in this market, in this
13 state, it certainly is not the only consideration.
14 If, hypothetically, it were the only consideration, I
15 would agree with you that the competitor would not
16 have as much direct control if they were to buy -- I
17 would say Qwest facilities as they would if they were
18 to offer their own facilities.

19 Having said that, I believe Qwest has made
20 some commitments around the merger to continually
21 improve the service quality, and I believe our
22 service quality is very good and it's among the best
23 in the business and will continue to improve. So I'm
24 not sure the service quality should be a major
25 consideration relative to the type of service that an

00469

1 end user customer would receive around voice quality,
2 timeliness, and those sorts of things.

3 Q. I wasn't so much asking the question in
4 terms of Qwest as the underlying carrier, but
5 conceptually. And what I'm interested in your
6 opinion about is that -- well, first of all, as a
7 business, whether it would be -- even speaking as
8 Qwest, in offering your service, wouldn't you be
9 hesitant to implement any business strategy that
10 would potentially end up undermining your reputation
11 for service quality?

12 A. My response, I won't use the name Qwest in
13 answering this, but if a competitor were to buy a
14 service from another provider, either on an unbundled
15 basis or on a resold basis, and that provider's
16 quality were not up to par, I would say that would
17 generate some concerns.

18 Q. Your entire business would be at stake
19 because you're building on a service quality niche,
20 and if the service quality deteriorated for any
21 customer, it's going to get back to your existing
22 customers. I mean, would you agree with that? That
23 would be my assumption of one reason why you'd be
24 very concerned about that.

25 A. I think service quality is a concern. It's

00470

1 one of many concerns that a provider would be
2 thinking about as they enter a marketplace.

3 Q. All right.

4 A. I think there may be some trade-offs in the
5 business model of a competitor. They may decide that
6 ultimately they would have more control and be able
7 to offer the best quality in the marketplace with
8 their own facilities, bar none, but they may choose,
9 as they enter the marketplace, to maybe roll out
10 services that may have some marginally lower quality
11 to gain base, customer base, economically and
12 efficiently, which they could then migrate to their
13 own facilities when that base was created.

14 Q. Just tying it back to your original
15 statement that I'm exploring with you, is your
16 statement was that you believe 100 percent of
17 customers in the wire center have access to choice.
18 And what I would like to ask you directly is given --
19 is one, the observation that, at least at the moment,
20 a majority of the competitors, particularly outside
21 of the Seattle market, don't use UNEs, for whatever
22 reason, and what appears to be just a perception that
23 many competitors rely on service quality, rather than
24 price, to get new customers.

25 I'm not sure about your statement that one

00471

1 of the ways that all competitors have choice is
2 because they have access to UNEs. I mean, it seems
3 to me that our discussion this morning, at least with
4 you, would suggest that there are business reasons
5 why an aggressive competitor building a market,
6 particularly on service quality, would not want to
7 use UNEs and would not choose to serve a customer
8 within the wire center, just simply because they're
9 trying to control as many variables as they possibly
10 can.

11 A. If I could respond by saying I believe that
12 UNEs, loops, if you will, unbundled loops provided by
13 Qwest have excellent quality. I honestly don't
14 believe that quality of service, if it were being
15 resale or other use of Qwest services, is a major
16 issue. I think customers will receive high-quality
17 services from competitors using Qwest services, and
18 are.

19 Again, I think service quality is a
20 consideration in entering a market, and probably a
21 large consideration, as is price, as is innovation,
22 as is packaging. I think there are many
23 considerations competitors think about when they
24 enter a marketplace.

25 COMMISSIONER GILLIS: Thank you. That's

00472

1 all I have.

2 THE WITNESS: You're welcome.

3 JUDGE CAILLE: Is there any follow-up cross

4 to the Commissioners' questions?

5 MR. HARLOW: Yes, Your Honor. It'll just
6 take a moment to shuffle some stuff around.

7

8 R E C R O S S - E X A M I N A T I O N

9 BY MR. HARLOW:

10 Q. Good morning, again, Mr. Teitzel. It's
11 been a long couple of days.

12 A. Good morning, Mr. Harlow.

13 Q. Okay. Referring to Exhibits 114 and 123-C,
14 and while you're looking at those, I want to ask a
15 threshold question, which is the -- with regard to
16 the change in definition of small business from up to
17 20 lines to up to five lines, do you recall that
18 change in definition?

19 A. I do.

20 Q. About when did that change in definition
21 begin to really take hold?

22 A. The definition evolution was beginning
23 approximately at the date of the merger in
24 Washington.

25 Q. Now, Exhibits 114-C and 123-C both refer to

00473

1 the SBG, or Small Business Group of Qwest, and I
2 assume that that group was defined previously by the
3 20 lines and fewer, and now, going forward, will be
4 defined by the five lines and fewer definition?

5 A. That's fair.

6 Q. Okay. But the data collected that led to
7 Exhibits 114 and 123 has been collected for quite
8 some time; is that correct?

9 A. That's correct.

10 Q. And indeed, 114 ends right about the time
11 of the merger. Is it fair to assume that the data
12 reflected by Exhibits 114 and 123 are based on the
13 old definition?

14 A. That's fair to assume.

15 Q. So in other words, the small business
16 losses reflected up there would be reflecting
17 customers of up to 20 lines in size?

18 A. They would be losses tracked by our Small
19 Business Group, which would then have been operated
20 under those conditions and definitions.

21 Q. Okay. Do you recall Chairwoman Showalter's
22 cross, a brief Q and A regarding a cost floor that
23 Qwest will use to ensure that services, if classified
24 as competitive, will be above cost?

25 A. I do.

00474

1 Q. And your response was that, for purposes of
2 cost, you'd be using TSLRIC, or total service
3 long-run incremental cost; is that correct?

4 A. That's correct. That's the price floor
5 called out by statute.

6 Q. What statute are you referring to?

7 A. Give me a moment, please, and I'll find the
8 cite.
9 Q. Certainly.
10 A. I believe that statute is Revised Code of
11 Washington 86.36.330.
12 MR. OWENS: Do you mean 80.36? You said
13 86.
14 THE WITNESS: My testimony says 86.36.330.
15 It's possible that there's a typographical error in
16 that.
17 MR. OWENS: Does Counsel wish to approach
18 the witness with the statute, just so we can get this
19 clear on the record, or do you want to leave the
20 witness' answer like that? Well, I guess we can take
21 judicial notice that this Commission doesn't have any
22 jurisdiction of matters under Title 86.
23 Q. Would you accept, subject to check, that
24 the reference should be 80.36.330?
25 A. I'd accept that, subject to check. And if

00475

1 I incorrectly typed that, I apologize to the
2 Commission.
3 Q. And do you have a subsection of that
4 section in mind?
5 A. Yes, it's Subsection Three, and the correct
6 cite is 80.36.330, and the cite would be that prices
7 or rates charged for competitive telecommunications
8 services shall cover their cost. And then the cite
9 goes on to talk about how the Commission should view
10 cost in administering that requirement.
11 Q. And in fact, it states that the Commission
12 shall determine the proper cost standards; isn't that
13 correct?
14 A. It does.
15 Q. There's no reference to TSLRIC in that
16 subsection, is there?
17 A. There is not.
18 Q. If TSLRIC were to be used as the cost
19 floor, that would mean, would it not, that UNE rates
20 would not be imputed to the cost of the Qwest
21 service; is that correct?
22 A. I don't believe I testified as to UNE rates
23 in this citation.
24 Q. Well, I'm just asking the methodology. I'm
25 not asking about specific rates.

00476

1 A. If TSLRIC were to be considered the floor
2 by the Commission and the appropriate floor, UNE
3 rates would not be considered. That would be true.
4 Q. And it would be correct in this state,
5 would it not, that UNE rates would always be above
6 TSLRIC?
7 A. That is a true statement.
8 Q. Referring to Exhibit 126-C, this was Tab 2,
9 page 38, that Chairwoman Showalter was asking you

10 about, and I don't know if you need to have it in
11 front of you. The question and answer was that the
12 -- that particular page of that exhibit shows total
13 communications spending.

14 A. That's correct.

15 Q. And so I would assume that that would
16 include spending on interLATA toll?

17 A. I don't know that to be a fact. I believe
18 -- and I did not create this document. My
19 understanding of the document is this is the
20 addressable market for, at the time, US West's
21 addressable market. So I believe it would have
22 excluded interLATA, but I can't testify for a fact.
23 That's my belief.

24 Q. Okay. Commissioner Gillis asked you some
25 questions about Exhibit 114-C, and as part of that

00477

1 exchange, Bench Request Number Two was modified to
2 include Attachment B. Do you happen to have
3 Attachment B available to you?

4 A. I believe I do. Just give me a moment. I
5 do.

6 Q. It's correct, is it not, that Attachment B,
7 in showing winbacks, shows data specific to a program
8 of -- or an offering of Qwest that was called the
9 winback program or offering?

10 A. It does show a program that is in place in
11 the state that was implemented by Qwest, and I
12 believe it's entitled the Competitive Response
13 Program.

14 Q. And therefore, Attachment B will not show
15 all of the customers that have left CLECs to come to,
16 presumably, back to Qwest, although they might be
17 coming back, coming from another prior competitor; is
18 that correct?

19 A. If I could respond by stating what
20 Attachment B shows, that may be helpful.

21 Q. That might be a helpful start.

22 A. Okay. Attachment B is a two-part
23 attachment. It shows customers, as identified by
24 BTN, who have returned to Qwest both in the small
25 business and in the BNGS markets since the program

00478

1 was initiated.

2 Q. And it's specific to that program?

3 A. Specific to that program, that's correct.

4 Q. Right. But the question I'm trying to get,
5 and I apologize if I'm not being clear in the way I'm
6 asking it, the question I'm getting at is that Qwest
7 has other competitive wins, if you will, from CLECs
8 that are not going to be reflected on Attachment B?

9 A. I'm sorry, I was not being clear in my
10 answer. My understanding is that our market units
11 track customers returning from a competitor as a
12 winback, quote, unquote, if you will, whether or not

13 any incentive is offered to the customer. So if they
14 can identify the customer as having returned from a
15 competitor, it is counted as a winback, if you will.

16 Q. And I believe you've indicated in response
17 to data requests that Qwest had difficulty in
18 tracking winbacks accurately; is that correct?

19 A. I don't recall that response. I think I
20 testified that we cannot accurately track each and
21 every customer that leaves Qwest for a competitor
22 unless a competitor -- unless the customer
23 specifically tells us that they're leaving for a
24 competitor.

25 Q. And it would follow from that that you

00479

1 couldn't accurately track the winbacks; is that
2 correct? Because you can't track the loss, you can't
3 accurately track the winback?

4 A. We can track the customers that we have
5 identified as having left Qwest for a competitor. If
6 a customer were to leave Qwest for a competitor and
7 not tell us that information and subsequently come
8 back to Qwest, we would have no way of knowing that
9 they had been with a competitor. So in that case, we
10 would not know that.

11 Q. So it would be fair to say that Attachment
12 B to exhibit -- to Bench Request Number Two, rather,
13 will understate the number of competitive gains of
14 Qwest from CLECs?

15 A. If there were customers that had left Qwest
16 for a CLEC and not told us that that was the reason,
17 and they subsequently came back to Qwest, that would
18 not be reflected here. I'd agree with that.

19 MR. HARLOW: Thank you. No further
20 questions.

21 JUDGE CAILLE: Any other cross for this
22 witness? Then redirect.

23 MS. RACKNER: No, I'm sorry. I do. I did
24 not shake my head vigorously enough.

25

00480

1 R E C R O S S - E X A M I N A T I O N

2 BY MS. RACKNER:

3 Q. Mr. Teitzel, I just want to bring us back
4 to the subject of BTNs, because I'm still not sure
5 that I completely understand exactly what a BTN is.
6 I know that earlier you stated that there could be
7 several lines per BTN; is that correct?

8 A. That's correct.

9 Q. But isn't it also true that a particular
10 customer could have more than one BTN?

11 A. That is possible. That's correct.

12 Q. So to the extent -- let me back up a little
13 bit. You also said that Qwest, in tracking BTN
14 losses, was using those numbers to approximate
15 customers lost; is that correct?

16 A. I believe I testified that BTNs did not
17 exactly equate to a customer, but they're a rough
18 approximation of customers; that's correct.
19 Q. But a customer couldn't have fewer than one
20 BTN; correct?
21 A. No, they could not.
22 Q. But a customer could have more than one?
23 A. That's correct.
24 MS. RACKNER: Thank you. That's all.
25 THE WITNESS: You're welcome.

00481

1 JUDGE CAILLE: Mr. ffitch.
2 MR. FFITCH: Yeah, thank you. I just have
3 one or two questions.
4
5 R E C R O S S - E X A M I N A T I O N
6 BY MR. FFITCH:
7 Q. Good morning.
8 A. Good morning, sir.
9 Q. Mr. Teitzel, I'm not Robert Cromwell.
10 A. I can tell.
11 Q. You may have noticed a difference. I just
12 wanted to follow up, really, on one point.
13 Commissioner Hemstad had asked, and I'm paraphrasing
14 here, why Qwest would want to put pricing flexibility
15 if there is viable effective competition. Do you
16 recall that?
17 A. I do.
18 Q. And again, paraphrasing, I think your
19 answer was that Qwest, in fact, here would agree to a
20 cap on upward flexibility along the lines proposed by
21 Staff; correct?
22 A. Yes, we did.
23 Q. All right. Well, this is where I guess I
24 get confused, and I wanted to clarify that point. As
25 I read Mr. Blackmon's testimony, Staff has

00482

1 recommended a grant of competitive classification for
2 the wire centers in Seattle, Bellevue, and Spokane
3 and Vancouver for all customers served by a DS1 or
4 larger circuit, and that recommendation carries no
5 conditions with regard to competitive classification.
6 It's simply a recommendation that the grant be
7 allowed. Is that your understanding?
8 A. I believe for services of DS1 and larger,
9 that is correct. So there would not be a specific
10 price cap in that subset of services.
11 Q. All right. And the only cap, really, in
12 Staff's recommendation, relates to small business
13 customers below the DS1 level; isn't that correct?
14 A. That's my understanding.
15 MR. FFITCH: Thanks. That's all I have,
16 Your Honor.
17 THE WITNESS: Thank you.
18 JUDGE CAILLE: Any redirect?

19 MR. OWENS: Some, Your Honor.
20 JUDGE CAILLE: Could you tell me how much
21 time you think you'll need?
22 MR. OWENS: Probably 10 or 15 minutes.
23 CHAIRWOMAN SHOWALTER: Anybody need a
24 break?
25 COMMISSIONER HEMSTAD: Let's finish this.

00483

1 JUDGE CAILLE: Okay. Please proceed.
2 MR. OWENS: Thank you.
3
4 R E D I R E C T E X A M I N A T I O N
5 BY MR. OWENS:
6 Q. Counsel for MetroNet, in follow-up cross,
7 asked you whether or not you would agree that UNE
8 rates in this state would always be above TSLRIC, and
9 I believe you said yes. Did you mean to convey the
10 impression that you thought TSLRIC had a standard
11 that applies to UNES?
12 A. I did not. My understanding of UNE pricing
13 is it is based on total element long-run incremental
14 cost. My understanding of cost is that total element
15 long-run incremental cost is always higher than
16 TSLRIC.
17 Q. But as far as you know, does TSLRIC apply
18 to elements?
19 A. No, it does not.
20 Q. With regard to questions by Commissioner
21 Gillis about the extent to which competitors are
22 actually using unbundled network elements, are you
23 aware of whether or not the information in Attachment
24 H has been provided to the Staff in an unmasked
25 format at their request?

00484

1 A. To clarify, are you asking about Attachment
2 H to the petition?
3 Q. To the petition, yes.
4 A. My understanding is that it has been
5 provided on an unmasked basis, because the Commission
6 is not bound by the CPNI rules that US West, or now
7 Qwest, is.
8 Q. So using that information, could the
9 Commission determine which facilities-based CLECs are
10 using UNES?
11 A. Yes.
12 Q. Do you believe Qwest desires to be the
13 carrier of choice for customer carrier providers of
14 service?
15 A. I believe that Qwest is certainly a
16 provider of choice for providing unbundled services.
17 Whether it will remain that being the case in the
18 future is undetermined.
19 Q. Does Qwest have an organization within
20 itself whose business is to provide wholesale
21 services?

22 A. It certainly does.
23 Q. Exhibit 114-C, would the losses shown on
24 these exhibits include lines that were never
25 originally sold by Qwest? That is, that were sold

00485

1 for the first time by a CLEC?
2 A. No, it would not. These only include
3 losses that were previously Qwest customers who have
4 then migrated to a competitor.
5 Q. If a customer buys part of its service from
6 Qwest in comparable units from a CLEC, does that have
7 any impact on the customer's ability to perceive
8 price changes, Qwest versus the CLEC?
9 A. It certainly would, because they would be
10 receiving bills from both Qwest and the CLEC.
11 Q. So would those changes be more easily or
12 less easily discernible, then, for a customer who
13 only purchased services from either the CLEC in its
14 entirety or Qwest in its entirety?
15 A. I believe it would be more easily
16 discernible by the customer.
17 Q. Yesterday, Counsel for MetroNet asked you
18 whether Qwest conducted market research to determine
19 the services that CLECs provide, and I think you
20 indicated that Qwest itself hadn't done that. Did
21 Qwest have occasion to purchase any research on that
22 subject?
23 A. Qwest did purchase the 1999 CLEC Report. I
24 have a copy of that report on the stand with me
25 today.

00486

1 Q. I believe Counsel for MetroNet also asked
2 you whether or not Qwest had hired an independent
3 firm to pose as a customer for service and seek to
4 obtain service from CLECs. Does Qwest have any
5 reason why it would not ask a third party to
6 misrepresent itself in that fashion?
7 A. Yes. Qwest itself would not have an
8 employee of Qwest call a competitor and pose as a
9 customer. It's not ethical. Nor would Qwest
10 contract with another firm to have them pose as a
11 customer. If we contract with another firm to do
12 that sort of research, they're required to identify
13 themselves as acting on behalf of Qwest.
14 Q. Direct your attention to Exhibit 16-C.
15 A. I have that.
16 Q. And page two of the exhibit, the second
17 paragraph under the heading Methodology. And would
18 you read to yourself the last sentence of that
19 paragraph?
20 A. I have read that.
21 Q. And when was the first time you saw this
22 document?
23 A. I saw this document for the first time late
24 last Thursday, when it was delivered to my office.

25 Q. And after having seen the document, did you

00487

1 do anything to ascertain the facts as to the meaning
2 of the wording in the sentence that I asked you to
3 read?

4 A. If I could respond by saying I have not
5 independently attempted to verify whether or not the
6 range of confidence is accurate or not.

7 Q. And I'm sorry, I was talking about the last
8 sentence in the first paragraph under the heading of
9 Methodology.

10 A. I'm sorry, I was reading the wrong
11 sentence. Yes, I participated in the conference call
12 with one of the managers who had knowledge of this
13 research.

14 Q. And based on that conference call, do you
15 know whether or not the company policy with regard to
16 the use of proprietary CLEC information was complied
17 with in connection with the production of this
18 report?

19 MR. HARLOW: Objection. Hearsay, Your
20 Honor.

21 MR. OWENS: Well, Your Honor, this
22 Commission is not bound by, as Counsel argued in
23 opposition to our objection, the Rules of Evidence
24 that are applicable in Superior Court. Counsel has
25 successfully had this evidence introduced in an

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1 attempt to make some suggestions about potential
2 anticompetitive activities by my client. I believe
3 we're entitled to put the facts, as we're able to
4 ascertain them, on the record.

5 I suppose we could bring the witness down
6 here and prolong the hearing and have rebuttal from
7 the manager in question, but I don't believe that's a
8 valid objection.

9 JUDGE CAILLE: Anything further, Mr.
10 Harlow?

11 MR. HARLOW: If the witness were here, then
12 I could cross the witness. This witness doesn't have
13 any knowledge. I realize the Commission has
14 discretion here, but I think, under these
15 circumstances, to explain away the company's own
16 documents through rank hearsay puts us at a
17 disadvantage.

18 JUDGE CAILLE: All right. The objection is
19 overruled.

20 THE WITNESS: My understanding is that this
21 research document was put together on the basis of
22 publicly-available information, and to the extent any
23 wholesale information was used to corroborate
24 information here, it was done under clear compliance
25 with CPNI guidelines. Any data that was used was

00489

1 masked appropriately. My understanding is that the
2 researchers complied completely with proper research
3 techniques here.

4 Q. Counsel for MetroNet asked you whether or
5 not, in the situation where a reseller would seek a
6 price quote for a Centrex Prime contract, it would
7 disclose its customer location, number of lines and
8 so forth, and I believe you indicated that that kind
9 of information would be necessary to obtain a price
10 quote. After having obtained the price quote, could
11 Qwest use that information for marketing to that same
12 customer?

13 A. No.

14 Q. Counsel for MetroNet asked you, with regard
15 to Exhibit 98-C and Exhibit 19, as to why wasn't an
16 exhibit or a document comparable to Exhibit 19
17 produced in response to 98-C. Have you had a chance
18 to review the question in 98-C?

19 A. Yes, I have.

20 Q. Do you have any view as to whether or not
21 what's been admitted as Exhibit 19 responds to this
22 request?

23 A. I believe the response that was provided by
24 the manager cited here, who does report to me, was
25 directly responsive to the request. And I believe

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1 the reading of the request would not apply to the
2 data that we discussed on Exhibit 19. I think this
3 is a complete response.

4 Q. You were asked a number of questions about
5 what's been admitted as Exhibit 126-C and the various
6 customer categories that are depicted in that exhibit
7 for various purposes. Are you aware of any
8 restriction in either Qwest's tariffs or the
9 competing providers' price lists that have been
10 included as attachments to the petition against the
11 use of any product by one of these or more than one
12 of these categories of customers based on such a
13 categorization?

14 A. No, I'm not.

15 Q. So if Qwest were provided pricing
16 flexibility and it attempted to raise prices to a
17 customer for, let's say, the use of a 1FB in one of
18 these categories, are you aware of any reason why,
19 assuming that the service was physically available,
20 that customer couldn't buy the 1FB from a competitor?

21 A. No, a customer certainly could do that.

22 Q. You were asked about Exhibit 123-C by
23 Counsel for MetroNet -- or excuse me, I believe this
24 was a Public Counsel question -- and whether you
25 agreed that the large business customer revenue per

00491

1 line was greater than the small business, or SBC
2 customer revenue per line, and I believe you agreed
3 that it was. In giving that answer, were you

4 focusing on revenue per line or revenue per BTN?

5 A. My response was based on revenue per BTN.
6 However, this exhibit also does show revenue per line
7 a bit further down, and I would augment my response
8 by saying that, in January, it's clear that the BNGS
9 BTN, excuse me, revenue per line number is larger
10 than is the SBG number, but that tends to vary across
11 time. For example, in February, the numbers are
12 virtually the same. In March, in fact, the BNGS line
13 -- revenue per line number is lower than the SBG
14 revenue per line number, so it tends to vary.

15 Q. You discussed yesterday with Chairwoman
16 Showalter matters that the company has agreed to
17 provide a supplement by way of adding Attachment C, D
18 to WUTC Request 1-01, as Bench Request Two. Are you
19 aware of whether there is actually in existence a
20 summary that gathers the information in those two
21 attachments and puts it in a form that shows by SBG
22 and BGS categories and by year the same information
23 for the wire centers at issue in this case?

24 A. I'm aware of that. In fact, I do have a
25 copy of that document.

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1 Q. And was that, as far as you know, part of
2 the response to 1-001?

3 A. As I testified yesterday, I believed it was
4 included in the range of responses to 01-001, but it
5 appears to have not been filed. But it does exist
6 and we certainly can supply it. It is nothing more
7 than a summary for the specific 31 wire centers at
8 issue in this petition that summarizes the data on
9 Exhibits C and D.

10 Q. Attachments C and D are for all the wire
11 centers in the state?

12 A. Yes, they are.

13 MR. OWENS: We would offer to supplement
14 the response to the bench request with that document,
15 as well.

16 JUDGE CAILLE: Thank you. And we're
17 calling that document a summary?

18 MR. OWENS: It's just entitled '98-'99
19 Competitive Loss Summary By Wire Centers/CLLI.

20 JUDGE CAILLE: Thank you. So that will
21 supplement Bench Request Two.

22 MR. OWENS: Yes.

23 JUDGE CAILLE: Thank you.

24 MR. OWENS: You're welcome. That's all I
25 have, Your Honor.

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1 THE WITNESS: Thank you.

2 JUDGE CAILLE: Any re-cross?

3 MR. HARLOW: Nothing further, Your Honor.

4 JUDGE CAILLE: All right. Thank you, Mr.
5 Teitzel. You're excused.

6 THE WITNESS: Thank you very much.

7 JUDGE CAILLE: And we will take our morning
8 break and return at 11:15. Thank you.
9 (Recess taken.)

10 Whereupon,

11 DR. SARAH J. GOODFRIEND,
12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 JUDGE CAILLE: Ms. Rackner, are you doing
16 this cross?

17 MS. RACKNER: Yes.

18 JUDGE CAILLE: I mean, this direct?

19 MS. RACKNER: Direct. Yes, I am.

20

21 D I R E C T E X A M I N A T I O N

22 BY MS. RACKNER:

23 Q. Good morning, Ms. Goodfriend. Would you
24 please state your name and your address for the
25 record?

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1 A. My name is Sarah Jeanette Goodfriend. My
2 address is 701 Brazos, Suite 310, in Austin, Texas.

3 Q. How are you employed?

4 A. I'm self-employed as an economist in
5 private practice.

6 Q. Are you the same Sarah Goodfriend who
7 caused to be filed revised direct testimony, dated
8 October 3rd, with exhibits, and rebuttal testimony,
9 dated October 6th, with exhibits?

10 A. Yes, I am.

11 Q. Do you have any corrections to any of
12 those?

13 A. Yes, I do.

14 MS. RACKNER: And for the Commission's and
15 the attorneys' convenience, I've given everyone an
16 errata sheet with several of the changes. Would you
17 like Ms. Goodfriend to read them into the record, as
18 well?

19 JUDGE CAILLE: I don't think that's
20 necessary.

21 Q. Ms. Goodfriend, do you have an additional
22 change to your testimony, which doesn't appear on the
23 errata sheet?

24 A. Yes, I do.

25 Q. Could you please state what it is?

00495

1 A. On page 42, Footnote 39.

2 MR. OWENS: Which exhibit?

3 THE WITNESS: I'm checking to see which
4 one.

5 MR. OWENS: There aren't 40 pages in it.

6 THE WITNESS: It's page 42, Footnote 39 of
7 my direct testimony, it's Exhibit 166-T. The last
8 line of Footnote 39, the word "change" should be
9 changed to "charge."

10 Q. Thank you. Are those all the changes you
11 have to your testimony and exhibits?
12 A. Yes, they are.
13 Q. And with those changes, is the information
14 contained in the testimony and exhibits true and
15 correct?
16 A. Yes, it is.
17 Q. And if I asked you the same questions which
18 are asked to you in your testimony, would you give
19 the same answers as appear there today?
20 A. Yes, I would.
21 MS. RACKNER: Thank you. The witness is
22 available for cross-examination.
23 JUDGE CAILLE: Are you going to offer those
24 exhibits?
25 MS. RACKNER: I'm sorry. I was thinking

00496

1 they were already in. Yes, we would offer exhibits
2 166-T, the revised direct testimony of Sarah
3 Goodfriend, 167, 168-T, the rebuttal testimony, 169,
4 170, and 171.
5 JUDGE CAILLE: Is there any objection?
6 MR. OWENS: Yes, Your Honor. Qwest objects
7 to a portion of 168-T and all of 169. The portion
8 that we object to begins on page nine of 168-T, line
9 11, the sentence that starts "Evidence which," and
10 continues over onto page 10, line 14.
11 THE WITNESS: Excuse me, is this direct or
12 rebuttal?
13 MR. OWENS: 168-T, the rebuttal.
14 JUDGE CAILLE: And what is the line? I'm
15 sorry, Mr. Owens.
16 MR. OWENS: Sorry, Your Honor. Beginning
17 at page nine, line 11, the sentence starts, "Evidence
18 which," and then continuing to the bottom of that
19 page and through the top of the next page, page 10,
20 through line 14. And to the Exhibit 169, which was
21 referred to in here as SJG-4.
22 JUDGE CAILLE: And what is your objection?
23 MR. OWENS: That it's not proper rebuttal,
24 Your Honor. The sentence beginning at line 11 of
25 page nine appears to establish some kind of pretext

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1 for admission of this material as rebuttal of Dr.
2 Blackmon, but it clearly isn't rebuttal, because it
3 says that it supports Dr. Blackmon.
4 Then, in the remaining material, it's clear
5 what the real reason for introducing this evidence
6 is, which is to buttress the direct case. And the
7 witness is candid enough to admit that the material
8 she's attempting to introduce was not produced until
9 after the filing deadline for direct testimony. It
10 does not appear proper to use rebuttal as a backdoor
11 way to reopen the direct case when Qwest has no
12 opportunity now to respond to this material.

13 It's clear that the question and answer at
14 the bottom of page nine reinforce the statement that
15 the material is in alignment with Dr. Blackmon and in
16 no way contests, disputes, qualifies or rebuts his
17 testimony. I don't believe it's proper rebuttal.

18 JUDGE CAILLE: Ms. Rackner.

19 MS. RACKNER: Well, Your Honor, we
20 disagree. We believe that it is proper rebuttal
21 testimony. First of all, as to the timeliness, it is
22 true that this document was prepared after the
23 deadline for direct testimony, and therefore could
24 not have been available. And it is true that it
25 does, to a certain extent, support Dr. Goodfriend's

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1 direct testimony, but Dr. Goodfriend, in her rebuttal
2 testimony, is responding to Dr. Blackmon's testimony.
3 And while, to a certain extent, it does support Dr.
4 Blackmon's testimony, it goes into detail, which Dr.
5 Blackmon's testimony doesn't, in terms of describing
6 the limits of UNE loops and resale as entry
7 strategies, goes into far more detail, so it does --
8 it does address some of the limitations of Dr.
9 Blackmon's analysis on the limitations that are
10 forced onto the CLECs. So we do think that it's
11 proper.

12 MR. HARLOW: Your Honor, if I may.
13 Ordinarily, I wouldn't address an objection that's
14 directed to another party's testimony, but since --
15 given the nature of the objection, I anticipate the
16 same objection for Mr. Wood, and I would like to
17 weigh in on this, if I may, not as to the specifics,
18 but as to procedural issue.

19 JUDGE CAILLE: Go ahead.

20 MR. HARLOW: Thank you. The prehearing
21 conference order and the notice of prehearing
22 conference for the October 25th prehearing required
23 that parties file their objections and motions to
24 strike by noon of Tuesday, October the 24th, and I
25 think it's directly contrary to that notice, as well

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1 as to fair play, to ambush the parties at the hearing
2 with this motion. This should have been filed, as we
3 filed ours, by noon of last Tuesday.

4 JUDGE CAILLE: Anything further?

5 MS. RACKNER: I would agree. I would just
6 like to say that this is the first time that I've
7 heard this objection. This is also my first time in
8 a case in this forum, and while raising such an
9 objection at hearing would not have been proper in
10 Oregon, where I'm used to practicing, I did not know
11 whether it was considered proper here, but it
12 certainly limits our ability to respond.

13 JUDGE CAILLE: Anything further, Mr. Owens?

14 MR. OWENS: Well, Your Honor, we, in a
15 prior dispute over admissibility of evidence, had

16 attempted to confer in advance, and we were faced
17 with a hearing room brief. It doesn't seem to me
18 that this technical objection to our objection, which
19 isn't even raised by a party to whom the objection is
20 directed, warrants your not considering the merits of
21 our issue, which is that we're not permitted to
22 respond to this evidence by the stratagem of
23 backdooring a reopening of the direct case through
24 rebuttal.

25 CHAIRWOMAN SHOWALTER: Why didn't you raise

00500

1 it at an earlier point? How long have you had this
2 exhibit?

3 MR. OWENS: Well, we've had it since
4 October 6th, I would assume.

5 MR. HARLOW: Your Honor, the notice
6 addressed objections to prefiled testimony and
7 exhibits only, and objections to cross exhibits could
8 not have been raised on Tuesday, the 24th, because
9 the exhibits weren't distributed and identified until
10 the 25th.

11 CHAIRWOMAN SHOWALTER: I'm just trying to
12 figure out the implications of your last statement.
13 Does that mean that this --

14 MR. HARLOW: The point being I believe this
15 Commission clearly directed that objections to
16 prefiled testimony, such as Ms. Goodfriend's, and
17 later, tomorrow, presumably, Mr. Wood's, needed to be
18 raised on the 24th, and that was the procedure we
19 followed, as I think was quite clearly set forth in
20 the notice of that prehearing conference, and that's
21 the procedure that Qwest should have followed here.
22 Their motion's untimely.

23 JUDGE CAILLE: The objection is overruled
24 and -- the objection is overruled --

25 CHAIRWOMAN SHOWALTER: The objection is

00501

1 overruled for timing.

2 JUDGE CAILLE: Yes, because of timing. We
3 did request in the prehearing conference order that
4 all prefiled testimony and exhibits, any objections
5 that needed to be made should be made at that time,
6 so the objection is overruled.

7 MS. RACKNER: Thank you.

8 JUDGE CAILLE: Then we're waiting for
9 admission of the exhibits; correct?

10 MS. RACKNER: Correct.

11 JUDGE CAILLE: I'm sorry. Exhibits 166-T,
12 167, 168-T, 169, 170 and 171 are admitted into
13 evidence in the record.

14 MS. RACKNER: Thank you, Your Honor.

15 JUDGE CAILLE: And Ms. Goodfriend is -- Dr.
16 Goodfriend is available for cross-examination, and I
17 believe Mr. Owens or -- yes, Qwest.

18 MR. OWENS: Thank you, Your Honor. As a

19 preliminary matter, Qwest had identified
20 cross-examination Exhibits 172 through 183, and I
21 understand, from preliminary discussion with Counsel
22 for Public Counsel and Tracer, that there will be no
23 objection to the admission of 172 through 182, and
24 I'll ask a few foundational questions on 183.
25 JUDGE CAILLE: All right. Then exhibits

00502

1 172 through 182 are admitted into the record.
2
3 C R O S S - E X A M I N A T I O N
4 BY MR. OWENS:
5 Q. Dr. Goodfriend, in your direct testimony,
6 at pages 10 and 11, you have a table, this will be
7 Exhibit 166-T, a table showing city of Seattle
8 business licenses by zip code; correct?
9 A. Yes.
10 Q. And could you accept, subject to check,
11 that if you were to take the Qwest Dex Seattle Phone
12 Directory Yellow Pages map of the city of Seattle,
13 the zip codes depicted on Exhibit 183, and highlight
14 in yellow the zip codes with businesses that number
15 greater than 459, you would achieve the results shown
16 on Exhibit 183?
17 A. Excuse me. Is that -- when you say greater
18 than 159, are you referring to the active BLS figure?
19 Q. Greater than 459, as shown on your table on
20 page 10 and 11.
21 A. Certainly.
22 Q. And could you further accept, subject to
23 check, that if you added up all the business licenses
24 in those zip codes, you would come to a total which
25 is 92.5 percent of the total business licenses listed

00503

1 in the table?
2 A. Yes.
3 Q. Now, directing your attention to Exhibit
4 169, what does it mean to say that Mr. Spiridellis is
5 a principal in Banc of America Securities, L.L.C.?
6 A. I would assume it means that he has
7 possibly an equity interest in the firm.
8 Q. Does it also sometimes happen that research
9 analysts for firms such as Banc of America
10 Securities, L.L.C., are involved in bringing
11 financing business for companies that they cover into
12 their firms?
13 A. Are you referring to, for example, IPO type
14 of arrangements that have fees associated with them?
15 Q. That could be one.
16 A. They certainly, in some cases, do that. In
17 other cases, there are financial analysts that are in
18 the business of providing only opinions.
19 Q. Before using information provided by an
20 analyst, do you think it would be reasonable to
21 inquire whether that analyst had a financial interest

22 in any of the companies that he's reporting on?
23 A. My purpose in using this document --
24 Q. Okay. Can you answer that yes or no?
25 A. It would depend on my use of the document.

00504

1 Q. Before treating statements that are made in
2 here as fact, do you think it would be reasonable to
3 find out whether the analyst had a financial interest
4 in a company he's reporting on?
5 A. Facts that are subject to check through
6 other means, the answer would certainly be no.
7 Opinions I take simply as his opinion.
8 CHAIRWOMAN SHOWALTER: Dr. Goodfriend, can
9 you please bring the microphone closer or also maybe
10 speak up a little bit?
11 THE WITNESS: Sorry.
12 CHAIRWOMAN SHOWALTER: Thanks.
13 Q. Did you independently verify any of the
14 facts in Exhibit 169?
15 A. Yes, sir.
16 Q. Which ones?
17 A. There's some rules of thumb that I state in
18 my testimony having to do with the profitability of
19 serving various businesses. Let me see if I can give
20 you a direct cite for that.
21 Q. I'm talking about the material you cite in
22 your testimony beginning at page nine, line 11,
23 through page 10, line 14.
24 A. Yes, I did attempt, with respect to Focal,
25 as an example, to try to discern whether his

00505

1 characterization was reasonable and accurate.
2 Q. What specifically did you do to do that?
3 A. I looked at the CLEC 2000 Report.
4 Q. Is that it?
5 A. Yes, sir.
6 Q. It's true, isn't it, that Banc of America
7 Securities, L.L.C., is a purchaser and market maker
8 in a \$275 million note reissuance by Focal as of an
9 agreement of January 12th, 2000?
10 A. Subject to check, I accept that. I'm
11 aware, when I read financial material, that the
12 writer may have a personal interest in their opinion,
13 a personal financial interest.
14 CHAIRWOMAN SHOWALTER: Dr. Goodfriend, you
15 need to speak up.
16 THE WITNESS: I'm sorry.
17 Q. At page 29 of your Exhibit 168-T, you
18 state, beginning at line 11, that it's not clear that
19 the reported collocation numbers are adjusted for
20 demands for collocation associated with the provision
21 of DSL using unbundled loops, and secondly, that
22 collocation pre-dates the federal introduction of
23 local exchange competition with the
24 Telecommunications Act of 1996.

25

Would it make a difference to your

00506

1 conclusions if all of the collocations in the Qwest
2 wire centers at issue in this case were post-Telecom
3 Act of 1996?

4 A. Can I ask you first, I think you referred
5 me to my rebuttal testimony, 168, and I believe your
6 question pertains to my direct.

7 Q. Oh, 166, I'm sorry. I did give the
8 incorrect exhibit number.

9 A. May I have the lines again, please?

10 Q. Certainly. Page 29, beginning at line 11,
11 through line 15.

12 A. May I have the question again, please?

13 Q. Would it make a difference to your
14 conclusion if all of the Qwest collocations in the
15 offices at issue in this case were
16 post-Telecommunications Act of 1996?

17 A. No, it would not.

18 Q. Now, you address, at page 16 of your direct
19 testimony, Exhibit 166-T, why analysis should begin
20 with each Qwest product narrowly defined and examine
21 substitution possibilities.

22 MS. RACKNER: Mr. Owens, I'm sorry to
23 interrupt, but before you start reading, could you
24 allow Counsel to get to the number and page that you
25 just quoted?

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1 CHAIRWOMAN SHOWALTER: That would help all
2 of us.

3 MR. OWENS: Thank you.

4 MS. RACKNER: Could you repeat the number
5 and page?

6 MR. OWENS: Exhibit 166-T, page 16.

7 MS. RACKNER: Thank you. Line, please?

8 MR. OWENS: Line 12.

9 THE WITNESS: Could I have the question
10 again, please?

11 Q. I was just making a preliminary statement.
12 I hadn't asked a question yet.

13 A. Okay.

14 Q. And you suggest, in connection with
15 defining Qwest's products narrowly, that this should
16 be done in connection with customer categorizations
17 similar to those in Exhibit 126-C; is that right?
18 That's the six categories of retail transportation.
19 I think you make reference to it in one of your
20 footnotes. I think it's Footnote 11 on page 19 of
21 Exhibit 166-T.

22 A. No, that's not my testimony.

23 Q. All right. At page 22 of Exhibit 166-T,
24 beginning at line five, you characterize the sale of
25 market extension line service as one in which Qwest

00508

1 is likely to have a product monopoly for certain
2 buyers; correct?

3 A. This is an example I use for illustrative
4 purposes. To that extent, yes.

5 Q. Do you dispute Qwest's evidence that Focal
6 offers a service entitled inbound foreign exchange
7 service, as shown in Attachment D of the petition,
8 Exhibit 12?

9 MS. RACKNER: I don't believe the witness
10 has a copy of the petition in front of her. Could
11 you supply her one?

12 THE WITNESS: This might speed things
13 along. I was under the assumption, when I looked at
14 that petition, that the one firm that provided that
15 service was Winstar, rather than Focal.

16 Q. So to the extent the record shows that
17 Focal provides a service entitled inbound FEX, you
18 weren't aware of that in your testimony?

19 A. I think you referred me to Attachment D,
20 and I was hoping to speed us along by making a
21 recollection.

22 MS. RACKNER: May I approach the witness?

23 JUDGE CAILLE: Yes.

24 MS. RACKNER: Thank you.

25 THE WITNESS: Yes, I see that Focal offers

00509

1 a service called inbound foreign exchange, virtual
2 inbound foreign exchange.

3 Q. Would you understand that that is
4 functionally equivalent to market expansion line?

5 A. From the construction of the document, I
6 understand that to be true in Qwest's analysis, as an
7 assumption in Qwest's analysis.

8 Q. Do you have any information that indicates
9 that it's not a substitute for market expansion line?

10 A. If I can refer you to my analysis in market
11 expansion line, which begins at page 26 of 166-T. As
12 you see there, I characterize market extension line
13 as a super FX line product.

14 Q. Well, my question was do you have any
15 information that inbound foreign exchange is not
16 functionally equivalent to market extension?

17 A. Functional equivalent, could you define
18 your use of that term?

19 Q. Allows the customer the same capabilities?

20 A. In the eyes of the customer, yes, I have a
21 basis here for determining that it's not functional
22 equivalent.

23 Q. What is that?

24 A. The market expansion line service that's
25 offered by Qwest by virtue of its ubiquitous network,

00510

1 a customer contemplating a need for that kind of
2 service between any two or more locations in
3 Washington would have the opportunity to purchase

4 that service. Those would be customers located in
5 the wire centers at issue or customers outside the
6 wire centers, for that matter, wanting to use that
7 service by testing the ability to locate within the
8 wire center.

9 I have no reason to believe that, at this
10 time, Focal or Winstar have the ubiquity to provide
11 functional equivalence, although it may exist for
12 certain customers.

13 Q. Isn't it true that market expansion line is
14 a function of a switch, like call forwarding?

15 A. All products are functions of equipment in
16 some sense.

17 MR. OWENS: Well, Your Honor, could I have
18 a yes or no? This is cross-examination. I didn't
19 get a yes or no to that question.

20 JUDGE CAILLE: If the witness will please
21 answer with a yes or no, if you can, and then you can
22 follow up with an explanation.

23 THE WITNESS: Could I have the question
24 again, please?

25 Q. Isn't it true that market expansion line is

00511

1 a function of a switch, like call forwarding?

2 A. Yes, and it exhibits switch functionality
3 and also involves the use of the trunking network.

4 Q. I forgot to ask you a question. Back on
5 pages 10 and 11 of Exhibit 166-T, could you accept,
6 subject to check, that 46 percent of the valid zip
7 codes would be those that contained the businesses
8 greater than 459?

9 MS. RACKNER: I'm sorry, Your Honor.
10 Again, Mr. Owens is asking Dr. Goodfriend questions
11 before she even gets to the page. I'm wondering if
12 you could instruct him to pause till she gives him
13 some signal that she's gotten to the place in the
14 record.

15 MR. OWENS: I thought I did.

16 MS. RACKNER: I don't think so.

17 JUDGE CAILLE: Yes, if you'll just pause
18 between the cite and then before beginning your
19 questions, Mr. Owens, that would help us all.

20 MR. OWENS: Thank you.

21 JUDGE CAILLE: Could you repeat the
22 question for us?

23 Q. Yes, can you accept, subject to check, that
24 of the zip codes with greater than 459 business
25 licenses, that would comprise 46 percent of the valid

00512

1 zip codes?

2 A. Yes.

3 Q. Isn't it true that, of the price lists of
4 competitors that Qwest introduced, there aren't any
5 restrictions on purchasing their products according
6 to the classifications of customers in Exhibit 126-C,

7 that is, the six categories that you show in your
8 footnote 11 on Exhibit 166?
9 A. Are you asking me specifically with regard
10 to the price list that Qwest has already promulgated?
11 Q. The price lists of the competitors, yes.
12 A. I haven't reviewed the competitors' price
13 lists, other than its representation here at
14 Attachment D.
15 Q. It's true, isn't it, that Qwest's evidence
16 shows the existence of competitors for products
17 categorized as PBX trunks, 1FB and Centrex?
18 A. Are you speaking of Attachment D again?
19 Q. Yes.
20 MR. FFITCH: Your Honor, may I approach the
21 witness, just to make sure she has a copy of the
22 petition and the attachments for these kinds of
23 questions? I think we --
24 THE WITNESS: Yes. I'm not certain that a
25 PBX product is listed in Attachment D.

00513

1 MS. RACKNER: Perhaps Mr. Owens could
2 direct the witness to where in the exhibit he's
3 referring, where it refers to PBX products.
4 CHAIRWOMAN SHOWALTER: For the record,
5 we're on Exhibit 12. Maybe we could say 12-D, just
6 to make the record clearer.
7 MS. RACKNER: Yes, we are on 12-D, but it's
8 quite thick.
9 Q. You understand local trunk services and DID
10 trunk services to be used for connecting PBXes to the
11 network?
12 A. Yes, they're part of the PBX product.
13 Q. So with that clarification, did Qwest show
14 competitors for those services?
15 A. For those --
16 Q. Local trunk services and DID trunk services
17 in Exhibit D, or Attachment D?
18 A. Yes, in creating a PBX with a customer,
19 self-supplied PBX, those would be competitors, PBX
20 switch.
21 Q. Directing your attention now to Exhibit
22 176.
23 A. I need another book.
24 Q. Do you have that?
25 A. I'm sorry.

00514

1 Q. Do you have the exhibit now?
2 A. Yes.
3 Q. You answered that -- or Tracer answered
4 that you did not have the requested information for
5 Tracer members. Now, let me ask this in a couple of
6 steps. Did that mean that you don't know what
7 members of Tracer you would consider to be very large
8 firms?
9 A. No.

10 Q. So you do know which members of Tracer
11 would be very large firms?
12 A. Yes.
13 Q. And which would be?
14 A. My understanding is that virtually all, if
15 not all of Tracer members, are very large firms.
16 Q. All right. Then the part that you didn't
17 know was the number of access lines and other
18 services that are provided by CLECs and the number of
19 access lines and other services that are provided by
20 Qwest for each wire center that is the subject of
21 this proceeding; is that correct?
22 A. I have a general knowledge of it, but not
23 down to the level of the number of access lines.
24 Q. Now, looking at Exhibit 180, you answer
25 Qwest -- do you have that exhibit?

00515

1 A. Yes, I do.
2 Q. Do you have that -- you've answered that
3 question by stating that Qwest is the only carrier
4 used by Tracer members to provide local business
5 service in the Qwest territories covered by the
6 petition in this docket, except -- dot, dot, dot --
7 highly confidential.
8 So does that mean that you did know there
9 are some services provided to Tracer members by
10 companies other than Qwest in the territories covered
11 by the petition?
12 A. I'm aware of one situation in which a
13 Tracer member is purchasing from a CLEC or CAP, yes.
14 Q. Going back to 176, did you ask Tracer
15 members for information that would allow an answer to
16 be made to this request specifying access lines and
17 other services?
18 A. Based on my conversations with them, I did
19 not ask for this information.
20 Q. Did you ask any Tracer members whether they
21 self-provision any services that would allow them to
22 connect multiple locations in the serving areas
23 covered by this petition?
24 A. Yes, sir.
25 Q. And did they say that they do any of that?

00516

1 A. I'm aware there is use of internal private
2 networks in at least one case of a Tracer member.
3 Q. Directing your attention now to page 25 of
4 Exhibit 166-T.
5 JUDGE CAILLE: I'm sorry, I missed that
6 reference, Mr. Owens.
7 MR. OWENS: Page 25 of 166-T.
8 JUDGE CAILLE: Thank you.
9 Q. And at page 12 -- or line 12, I'm sorry,
10 you discuss a hypothetical situation where a company
11 may utilize a large portion of the capacity of an
12 individual voice switch. You haven't presented any

13 evidence of any specifics pertinent to that statement
14 in this case; correct?

15 A. Other than this sentence, no.

16 Q. I mean, you don't have any specific
17 instance that that's happened in the wire centers
18 that are involved in this case?

19 A. I understand that that condition
20 characterizes one Tracer member. I can't recall if
21 that condition is within one of the wire centers in
22 the petition or not.

23 JUDGE CAILLE: Excuse me, Mr. Owens. Would
24 this be a convenient time for us to take our lunch
25 recess?

00517

1 MR. OWENS: Yes, certainly, Your Honor.

2 JUDGE CAILLE: I do want to remind everyone
3 that we have a public meeting at 1:30.

4 MR. HARLOW: Would you like us to return at
5 1:30?

6 JUDGE CAILLE: I assume most of you will be
7 here. Yes, thank you.

8 (Lunch recess taken.)

9 (At this time, a public hearing was
10 commenced, Volume 8, pages 518-572.)

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