

1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3   In the Matter of the                    )  
4   Investigation into                    )  
5   U S WEST COMMUNICATIONS, INC.'s   ) Docket No. UT-003022  
6    ) Volume XLVIII  
7   Compliance with Section 271 of   ) Pages 6950 to 7146  
8   the Telecommunications Act of    )  
9   1996                                    )  
10  -----)  
11  In the Matter of                    )  
12  U S WEST COMMUNICATIONS, INC.'s   ) Docket No. UT-003040  
13  Statement of Generally                ) Volume XLVIII  
14  Available Terms Pursuant to        ) Pages 6950 to 7146  
15  Section 252(f) of the                )  
16  Telecommunications Act of 1996    )  
17  \_\_\_\_\_)

13                   A hearing in the above matters was held on  
14   April 23, 2002, at 9:30 a.m., at 1300 South Evergreen  
15   Park Drive Southwest, Room 206, Olympia, Washington,  
16   before Administrative Law Judge ANN RENDAHL and  
17   Chairwoman MARILYN SHOWALTER and Commissioner RICHARD  
18   HEMSTAD and Commissioner PATRICK J. OSHIE.

19                   The parties were present as follows:  
20                   QWEST CORPORATION, by CHARLES W. STEESE,  
21   Attorney at Law, Steese and Associates, P.C., 6400 South  
22   Fiddlers Green Circle, Suite 1710, Denver, Colorado  
23   80111, Telephone (720) 200-0677, Fax (720) 200-0679,  
24   E-mail csteese@steeselaw.com; and by LISA ANDERL and  
25   ADAM SHERR, Attorneys at Law, 1600 Seventh Avenue, Suite  
3206, Seattle, Washington 98191, Telephone (206)  
345-1574, Fax (206) 343-4040, E-mail landerl@qwest.com.

Joan E. Kinn, CCR, RPR  
Court Reporter

6951

1                   AT&T, by MARY B. TRIBBY, Attorney at Law,  
2                   1875 Lawrence Street, Suite 1500, Denver, Colorado  
3                   80202, Telephone (303) 298-6508, Fax (303) 298-6301,  
4                   E-mail mtribby@lga.att.com.

5                   WORLDCOM, INC., by MICHEL SINGER-NELSON,  
6                   Attorney at Law, 707 - 17th Street, Suite 4200, Denver,  
7                   Colorado 80202, Telephone (303) 390-6106, Fax (303)  
8                   390-6333, E-mail michel.singer\_nelson@wcom.com.

9                   TIME WARNER TELECOM and ELECTRIC LIGHTWAVE,  
10                  INC., by GREGORY J. KOPTA, Attorney at Law, Davis,  
11                  Wright, Tremaine, LLP, 1501 Fourth Avenue, Suite 2600,  
12                  Seattle, Washington 98101, Telephone (206) 628-7692, Fax  
13                  (206) 628-7699, E-mail gregkopta@dwt.com.

14                  COVAD COMMUNICATIONS COMPANY, by MEGAN  
15                  DOBERNECK, Attorney at Law, 7901 Lowry Boulevard,  
16                  Denver, Colorado 80230, Telephone (720) 208-3636, Fax  
17                  (720) 208-3256, E-mail mdoberne@covad.com.

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

6952

1 -----

2 INDEX OF EXAMINATION

3 -----

4 WITNESS: PAGE:

5

6 MICHAEL G. WILLIAMS

7 Cross-Examination by Ms. Doberneck 6953

8 Cross-Examination by Mr. Kopta 6973

9 Examination by Chairwoman Showalter 6993

10 Examination by Judge Rendahl 6995

11 Redirect Examination by Mr. Steese 7003

12 Recross-Examination by Mr. Kopta 7027

13 Recross-Examination by Ms. Tribby 7030

14

15 JOHN FINNEGAN

16 Statement by Mr. Finnegan 7036

17 Cross-Examination by Mr. Steese 7070

18 Examination by Chairwoman Showalter 7103

19 Redirect Examiantion by Ms. Tribby 7113

20

21 MEGAN DOBERNECK

22 Statement by Ms. Doberneck 7122

23 Cross-Examination by Mr. Steese 7135

24 Examination by Chairwoman Showalter 7145

25

6953

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

2                               JUDGE RENDAHL: We're back in hearing this  
3 morning, Tuesday, April 23rd, and we're continuing with  
4 the cross-examination of Qwest's witness, Mr. Williams.  
5 Ms. Doberneck from Covad is going to now have her turn.

6                               MS. DOBERNECK: Thank you.

7                               JUDGE RENDAHL: Go ahead.

8

9 Whereupon,

10                              MICHAEL G. WILLIAMS,  
11 having been previously duly sworn, was called as a  
12 witness herein and was examined and testified as  
13 follows:

14

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

16 BY MS. DOBERNECK:

17               Q.     Mr. Williams, I have a few clarifying  
18 questions to start off with this morning. It's my  
19 understanding that you're here as a witness representing  
20 Qwest in connection with the performance data and not  
21 the Liberty data reconciliation.

22               A.     Correct.

23               Q.     Okay. Did you have much, if any, involvement  
24 in connection with the Liberty data reconciliation?

25               A.     Yes, in as much as I direct the policy and

6954

1 the PID development, I was among the employees that they  
2 interviewed, for example, when there was an issue that  
3 they wanted to deal with.

4 Q. Okay. So sort of a subject matter expert  
5 when how do we apply the PIDs, what is the PID  
6 definition, things like that?

7 A. Yes, basically.

8 Q. Okay, thank you. Now one other clarifying or  
9 maybe a few clarifying questions. In your testimony,  
10 which is Exhibit 1337, at page 73, you discuss line  
11 sharing in connection with checklist item 2. In the  
12 blue chart, however, it's included under checklist item  
13 4, and I would like you to clarify where Qwest believes  
14 line sharing should be considered, under checklist item  
15 2 or checklist item 4?

16 A. There is some overlap between the checklist  
17 items where checklist 2 deals with unbundled net --  
18 access to unbundled network elements and checklist 4  
19 deals with unbundled loops, and loops are an unbundled  
20 network element, so you could report it in either place.  
21 We discussed it in originally in relation to 2 in our  
22 results, because it wasn't a classical defined loop in  
23 the sense that a CLEC would be purchasing a whole loop.  
24 It's instead a portion of the loop, if you will, and so  
25 that was where we put it originally in our reporting.

6955

1 But since it is riding on a loop, it is an unbundled  
2 element that's a portion of a loop, we discussed it  
3 under checklist 4. It could go either place as long as  
4 we cover the item.

5 Q. Okay. Does it, and I'm just trying to  
6 understand for purposes of reading Qwest results, does  
7 it make a difference if we're talking about like the OP  
8 measures, would that be more likely where we would  
9 consider line sharing under checklist item 4? I'm just  
10 trying to figure out, you know, when we're talking about  
11 checklist compliance, I want to make sure that if we  
12 have disputes down the road that we're arguing on the  
13 same checklist item.

14 A. It's not necessarily divided out by the OP  
15 measurements. You have -- we have, for example, UNE-P  
16 the combination under checklist 2, and it has, of  
17 course, significant measurements under the OP ordering  
18 and provisioning measurements, so it's not divided that  
19 way. Again, it could be reported on either place. The  
20 results contribute to our satisfying checklist 2, and we  
21 have talked about them under 4 for line sharing under  
22 checklist 4. There's not -- it doesn't really matter.  
23 You're going to have to deal with both.

24 Q. Okay.

25 A. So we do.

6956

1 Q. Okay. Now you have also been an active  
2 participant in the ROC TAG, have you not?

3 A. Yes.

4 Q. And do you recall that in early March, I  
5 recall specifically March 5th, that Covad requested or  
6 put an item on the ROC TAG agenda to discuss what the  
7 appropriate measures should be for OP-4 for conditioned  
8 loops?

9 A. Yes.

10 Q. And do you recall that Covad's request was  
11 based on the fact that according to the reported results  
12 that the interval for conditioned loops was around six  
13 days?

14 A. Yes, I recall that.

15 Q. Okay. Now following Covad's request that the  
16 interval for conditioned loops be reduced, Qwest  
17 disclosed that there was a problem in its reporting of  
18 certain categories of unbundled loops; is that right?

19 A. Well, specifically conditioned loops.

20 Q. And would that also -- did the issue with  
21 conditioned loops also impact Qwest's reporting for  
22 2-wire non-loaded and ISDN loops?

23 A. Only indirectly perhaps. The conditioned  
24 loop was a brand new category that just barely appeared  
25 in the reports. It used to be reported with the other

6957

1 loops, and so the non-loaded 2-wire and the ISDN, to the  
2 extent they required conditioning, they were reported  
3 under their respective categories. That was what the  
4 PID called for at that time. But more recently within  
5 just a couple of months prior to the March time frame,  
6 we endeavored to break out the conditioned loops  
7 separate because they -- when they require conditioning,  
8 they have a different standard interval that is  
9 significantly different. Instead of a 5 or a 6 day  
10 interval, we're talking more like a 15 day interval, and  
11 so we broke that out.

12           And in pulling them out then in the initial  
13 development, the first reporting had some problems in  
14 it, and that's what was discovered. We -- the 6 day  
15 interval was a result of our capturing not only loops  
16 that received conditioning, but loops that the CLEC had  
17 said they flagged for conditioning, saying that they  
18 understood that that loop might require conditioning,  
19 but when it was actually provisioned, it didn't. And so  
20 you ended up pulling into the new category too many  
21 loops, including some that did not require conditioning.  
22 And so that pulled the interval down artificially for  
23 the conditioned loop category.

24           So we, in fact, it was Covad's observation  
25 there that pointed that out to us, and we have since



6958

1 pulled the results, because they don't represent just  
2 conditioned loops. We're now working to rectify that  
3 problem, but to that extent, to the extent a non-loaded  
4 2-wire or an ISDN capable loop was in that mix, then it  
5 might have been affected. I don't know to what degree,  
6 maybe not at all, but it could have been affected.

7 JUDGE RENDAHL: Mr. Williams, could you in  
8 your responses just slow down a little. That would be  
9 helpful. Thank you.

10 BY MS. DOBERNECK:

11 Q. So I want to make sure we're on the same page  
12 before we proceed. What happened is because a CLEC can  
13 in effect preapprove conditioning when it submits the  
14 LSR, that LSRs that were submitted, if the preapproval  
15 was checked, they were reported in the conditioned loop  
16 sub measure; is that right?

17 A. Yes, incorrectly so.

18 Q. And the reason it was incorrect is because a  
19 loop would be reported in the conditioned loop sub  
20 measure even if conditioned -- could have been reported  
21 in the conditioned loop sub measure even if no  
22 conditioning had taken place?

23 A. Correct.

24 Q. So that would impact, wouldn't it, how Qwest  
25 reported its results then for the 2-wire non-loaded

6959

1 loops, the ISDN loops, and the conditioned loops, right?

2 A. It may have. I don't know to what degree.

3 It depends on what extent those loops were flagged and  
4 incorrectly pulled in.

5 Q. Well, can you tell us where Qwest is as far  
6 as correcting that data so that we have the correctly  
7 reported data once Qwest fixes the problem?

8 A. We had hoped to have it fixed by now. There  
9 has been one additional complication, and so it will be  
10 in the next report. We have just put on the Web the  
11 March results, so this will be in the next report, the  
12 April results and the months reported therein.

13 Q. So with the April results that come out --  
14 let me clarify. The issue with the preapproval of  
15 conditioning, that goes back to September of 2001,  
16 because that's when Qwest started disaggregating by the  
17 conditioned loop sub measure, right?

18 A. Back to when again?

19 Q. September of 2001, that was the first month  
20 when Qwest started reporting conditions.

21 A. That may be right. I don't recall the exact  
22 month.

23 Q. So with the correction in Qwest's data that  
24 we hope to see next month for next month's results, will  
25 that correct the data going back to September of 2001?

6960

1           A.     I believe it will. To the extent we can go  
2 back, it -- I believe we can at least get it back to  
3 December. It depends on the data fields that we rely on  
4 and whether those were available to make this further  
5 refinement to capture only those that actually got  
6 conditioning. But we will endeavor to go back as far as  
7 we can to report, and we will, in fact, as we are  
8 reaching the end of the test and so forth in our 271  
9 filings, we will possibly even report these before the  
10 April results.

11          Q.     Would it be fair to say then that this  
12 Exhibit 1338, which is I believe the most recent set of  
13 results that are in the record in Washington, may not be  
14 accurate to the extent they include then reported  
15 results for 2-wire non-loaded ISDN and conditioned  
16 loops?

17          A.     No, that's not correct, because this is only  
18 dealing with the conditioned loops, and we have  
19 successfully not reported conditioned loops in the  
20 non-conditioned categories. That we have not had a  
21 problem with. The problem was what we pulled in to the  
22 conditioned loop category.

23          Q.     Is it your testimony then here today that all  
24 of the loops -- let me make sure I'm clear.

25                    To the extent that there is a order for a

6961

1 2-wire non-loaded loop, that it is contained in the  
2 2-wire non-loaded loop sub measure rather than the  
3 conditioned loop sub measure?

4 A. Yes.

5 Q. So if it is in that sub measure, the 2-wire  
6 non-loaded, then for each order reported in 2-wire  
7 non-loaded that those results are correct?

8 A. Yes.

9 Q. But when we look at the conditioned loop sub  
10 measure, those results may not be correct, because we  
11 have pulled into that sub measure loops that didn't  
12 require conditioning?

13 A. Well, in our -- in our most current reports,  
14 we have pulled those results out of the reports, so you  
15 won't be able to look at them. They won't be there,  
16 because they're not correct.

17 Q. When you say our most recent, can you give us  
18 a month, because we have a lot of reported results in  
19 the record here.

20 A. Well, for sure the report that has just been  
21 posted, the March results which we passed out yesterday,  
22 and I also believe in this -- in the report that is  
23 Exhibit 1338, I would need to double check that, but I  
24 believe we also pulled them from that report because we  
25 had not repaired that problem as of the time this was

6962

1 published.

2 JUDGE RENDAHL: The most recent results have  
3 been marked as Exhibit 1355.

4 THE WITNESS: 1355?

5 JUDGE RENDAHL: The most recent March  
6 reports, so to the extent you're referring to most  
7 recent results, it should be 1355.

8 THE WITNESS: Okay, 1355.

9 A. And so I know they're not in 1355, and let me  
10 do a quick check, I don't believe they are in 1338  
11 either.

12 BY MS. DOBERNECK:

13 Q. If you look at page 165 of 1338, and I  
14 believe that's correct, I do see conditioned loop  
15 reporting.

16 A. Okay.

17 JUDGE RENDAHL: What page was that?

18 MS. DOBERNECK: 165.

19 THE WITNESS: Okay, thank you.

20 MS. DOBERNECK: Sure.

21 A. Right, those would not -- they have been  
22 superseded by this issue in our -- they are what I'm  
23 representing them to be, namely they -- they include the  
24 loops that were approved by the CLEC for conditioning as  
25 well as those -- including those that received

6963

1 conditioning, so there is a mix in those results.

2 They're not incorrect as to reporting that group, but

3 that's what they report.

4 BY MS. DOBERNECK:

5 Q. I confess you have lost me with your answer.

6 A. Okay.

7 Q. If you could just repeat that for me.

8 A. Okay.

9 Q. And if you could use the exhibit numbers when  
10 you're --

11 A. Okay. Exhibit Number 1338.

12 Q. Yes.

13 A. On page 165 that you refer me to reports the  
14 conditioned loop category, and I would note that we have  
15 pulled those, because they don't represent what the PID  
16 is saying we intended to include, but they do cover all  
17 loops that were preapproved by the CLEC for  
18 conditioning, whether they received conditioning or not.

19 Q. Got you, okay, I understand what you're  
20 saying.

21 CHAIRWOMAN SHOWALTER: I'm sorry to interject  
22 here, but would you mind just telling us on Exhibit 1355  
23 what the comparable page is and what it does and doesn't  
24 have in relation to page 165 of 1330 --

25 THE WITNESS: Basically it is that --

6964

1 CHAIRWOMAN SHOWALTER: -- 8.

2 THE WITNESS: -- you won't find this page in  
3 1355. It's not there, because we have pulled that  
4 knowing that it wasn't what the PID intended for this  
5 category.

6 CHAIRWOMAN SHOWALTER: All right, thank you.

7 BY MS. DOBERNECK:

8 Q. So in essence we will wait until next  
9 month's, and then we will -- we should have the correct  
10 breakout by 2-wire, by ISDN, by conditioned loop, and  
11 what our intervals actually are?

12 A. Well, okay, the -- only the conditioned loop  
13 is what we're waiting for, and that will come out at  
14 least by next report or sooner. The other categories  
15 continue to be an accurate reflection of our  
16 performance.

17 Q. To the extent conditioning was not  
18 preapproved on the LSR?

19 A. Right.

20 Q. Thank you.

21 Yesterday in going over the blue chart, you  
22 did mention, I believe you did, or it's certainly in  
23 your pre-filed testimony, so I apologize, I may have  
24 mixed the two, a discussion about no trouble found and  
25 how Qwest also for certain of the maintenance and repair

6965

1 measures reports it two ways, one way with no trouble  
2 found in the reported results and also no trouble found  
3 are the reported M&R results without the no trouble  
4 found tickets, right?

5 A. Yes.

6 Q. Now can you tell the Commission where we  
7 stand as far as those maintenance and repair measures,  
8 that Qwest is doing those sort of dual reporting, where  
9 we stand as far as what the PIDs say?

10 A. The PID does not exclude no trouble found in  
11 those cases of OP-5, which is new service trouble, MR-7,  
12 which is repeat reports of repair, and MR-8, the trouble  
13 report. So the asterisked version of those is not  
14 defined in the PID, but we provide that as additional  
15 information.

16 Q. And when you're talking about additional  
17 information, it's the kind of thing you would use in  
18 connection with the blue chart to say whether something  
19 supports checklist compliance or not?

20 A. Yes, we refer to that from time to time.

21 Q. Okay. Now in Exhibit 1337, which is your  
22 testimony, and I'm flipping to page -- the discussion  
23 that starts at page 75, and I'm looking at that  
24 paragraph that starts at the bottom of the page, and you  
25 discuss, you know, whether repair on a line shared loop



6966

1 is for an out of service condition as opposed to a  
2 service impacting condition; do you see that?

3 A. Yes.

4 Q. Now can you tell me under the PIDs how an out  
5 of service condition is defined for a line shared loop?

6 A. The PIDs don't get into that. That's an  
7 operational kind of a dimension which is defined in  
8 Qwest's processes and procedures, not in the PID.

9 Q. Well, what is the definition then?

10 A. Of service affecting?

11 Q. Out of service --

12 A. Out of service?

13 Q. -- for a line shared loop.

14 A. Well, now you said service affecting for, I  
15 thought you said that, for --

16 Q. I apologize.

17 A. For out of --

18 Q. I meant out of service.

19 A. For out of service --

20 Q. I'm sorry.

21 JUDGE RENDAHL: Mr. Williams, hang on just a  
22 second, make sure that you wait for Ms. Doberneck to  
23 finish her question.

24 THE WITNESS: Okay.

25 JUDGE RENDAHL: And, Ms. Doberneck, please

6967

1 wait for his response.

2 MS. DOBERNECK: My apologies.

3 JUDGE RENDAHL: Go ahead.

4 BY MS. DOBERNECK:

5 Q. I'm focusing, just to start over, I'm  
6 focusing on out of service and how it is defined.

7 A. Okay. In the 4.0 version, and for that  
8 matter the 3.0 version of the PID, which I believe was  
9 -- I'm trying to find it.

10 MR. STEESE: Exhibit 1359.

11 THE WITNESS: Thank you.

12 JUDGE RENDAHL: That's PID version 4.0.

13 A. Yes, my copy is page 50, I think that's about  
14 correct, but it would be the MR-3 measurement. Toward  
15 the top in the description, the first bullet under the  
16 opening sentence or two of the description says:

17 Includes all trouble reports closed  
18 during the reporting period which  
19 involve a specified service that is out  
20 of service (i.e., unable to place or  
21 receive calls) subject to exclusions  
22 specified below.

23 And so the out of service according to that  
24 is defined as unable to place or receive calls.  
25 Typically looks at the line, that's the common

6968

1 historical definition. A common interpretation of that  
2 is to say, if you don't have dial tone, then you can't  
3 replace -- place, or receive a call. So for line  
4 sharing where there isn't a dial tone concept,  
5 nevertheless there is the underlying line, the  
6 traditional treatment has been including for both retail  
7 or wholesale that line sharing troubles were typically a  
8 service affecting trouble, not an out of service  
9 trouble.

10 In response to recent inquiries about this,  
11 we have recently made a process change in our procedures  
12 to say that notwithstanding the fact that a retail  
13 customer who has the equivalent of line sharing on their  
14 line and reports that as a problem but still has dial  
15 tone would have that line sharing trouble treated as  
16 service affecting only, not out of service,  
17 notwithstanding that, we will treat all wholesale line  
18 sharing troubles as out of service. I'm not sure the  
19 exact effective date, it may have been March going  
20 forward or soon thereafter, so that you will start to  
21 see in the PID results that volumes in MR-4, which  
22 reports both out of service and service affecting  
23 troubles within -- that are cleared within 48 hours, you  
24 will see the volumes decline in MR-4 and -- well,  
25 actually, they will stay about the same, but the

6969

1 difference between MR-4 and MR-3, MR-3 being out of  
2 service, MR-4 including both out of service and service  
3 affecting, you subtract the two out, and you can see  
4 what's left, and that would be the service affecting.  
5 That difference will decline now, because we will be  
6 treating the CLEC version of line sharing trouble with a  
7 higher priority equivalent to out of service. You will  
8 also see MR-6 results, which is born out in Exhibit  
9 1355, will start to improve.

10 BY MS. DOBERNECK:

11 Q. And you said that process change was  
12 implemented in March?

13 A. I think so. If not, then right at the  
14 beginning of April.

15 Q. And just to be clear, before that time,  
16 typically then line shared loops wouldn't have been  
17 treated as an out of service condition, because you  
18 didn't have that -- because you didn't have an  
19 equivalent of no dial tone when you're talking about the  
20 data portion of the line?

21 A. Technically that -- you would think that  
22 would be true, but in practice, there were, what, 20% or  
23 30% of the cases that did have out of service  
24 classification, because the technician or our screeners  
25 were somehow aware that the line also was having

6970

1 trouble. Because if the line is not working, then  
2 you're also going to have a line sharing problem. And  
3 so they were aware, and therefore it got coded as out of  
4 service. So there is an incidence of that prior to this  
5 process change, but now we will classify them all as out  
6 of service and treat them with that priority.

7 Q. Would it be fair to say though that prior to  
8 the process change, there was discretion in how the  
9 individual at Qwest determined whether it was out of  
10 service or not?

11 A. Some discretion. But based on their  
12 knowledge of whether the line was unable to place or  
13 receive calls, that was the key. If it didn't, that  
14 that was the criteria.

15 Q. At page 76 of Exhibit 1337, starting on page  
16 36, you discussed that --

17 JUDGE RENDAHL: I'm sorry, could you repeat  
18 that?

19 MS. DOBERNECK: The page?

20 JUDGE RENDAHL: The reference and the page.

21 MS. DOBERNECK: It's page 76 of Exhibit 1337.

22 BY MS. DOBERNECK:

23 Q. And you talk about the fact that, and I'm  
24 looking at the paragraph at the bottom --

25 MR. STEESE: I'm sorry, the bottom of what

6971

1 page, Ms. Doberneck?

2 MS. DOBERNECK: 76.

3 MR. STEESE: Thank you.

4 JUDGE RENDAHL: And could you bring your  
5 microphone a little bit closer.

6 MS. DOBERNECK: I'm sorry.

7 BY MS. DOBERNECK:

8 Q. You state that a better comparable is  
9 probably Qwest retail DSL. When you're talking about  
10 this better comparable, can you identify all the  
11 measurements that you think that comparable should be  
12 the Qwest retail DSL service rather than the res and bus  
13 POTS, which is what it currently is now?

14 A. I haven't given thought to that beyond saying  
15 that -- that I believe the other measurements that --  
16 appropriate comparable is as the parties have agreed.  
17 In res and bus POTS is also as the parties agreed. I  
18 thought in this case for as a I recall it was MR-7, I  
19 may be wrong, or excuse me, MR-6, the average time to  
20 restore, and under the conditions that we were operating  
21 under it might have been Qwest DSL. However, now with  
22 the process change, it may be fine again to have res and  
23 bus POTS as the comparable, because out of service is  
24 out of service, and it will be more of an apples to  
25 apples comparison again with that process change.

6972

1 Q. So would it be fair to say then that in  
2 places in your testimony where you discuss Qwest's  
3 reported repair and maintenance performance for line  
4 sharing that we can disregard it now that there's been  
5 that process change, and res and bus POTS will be an  
6 appropriate parity comparison?

7 A. Well, it's -- you need to think about both.  
8 Up until this point during the period of time where  
9 there was a mixture of service affecting and out of  
10 service and because line sharing naturally had a much  
11 higher percentage of service affecting treatment, which  
12 was a lower priority by nature and was more in line with  
13 the way retail line sharing or the equivalent would be  
14 treated, that's appropriate up to through March  
15 basically, and that's the period -- in fact, my  
16 testimony covered through February. So my testimony is  
17 still appropriate for the period that it covered, but  
18 going forward as we now will see the difference between  
19 MR-3 and MR-4 declining and disappearing, then going  
20 forward the established retail comparative is  
21 appropriate.

22 Q. Okay.

23 A. And we continue to stand by that even -- even  
24 in the past, because that's the one we agreed to.

25 Q. Okay, well, you answered a question I had not

6973

1 even asked, which was did we agree to res and bus POTS.

2 A. Yes, we did.

3 MS. DOBERNECK: I have no further questions.

4 Thank you very much, Mr. Williams.

5 JUDGE RENDAHL: Thank you, Ms. Doberneck.

6 Mr. Kopta, do you have any questions for

7 Mr. Williams?

8 MR. KOPTA: Yes, Your Honor, I have a few,  
9 and I will be focusing my questions on Exhibit 1338,  
10 specifically page 134.

11 MS. DOBERNECK: I'm sorry, could you repeat  
12 the page.

13 MR. KOPTA: 134.

14 MS. DOBERNECK: Thank you.

15

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

17 BY MR. KOPTA:

18 Q. Good morning, Mr. Williams.

19 A. Good morning.

20 Q. I want to talk with you about DS1 capable  
21 loops, and the page reference in the exhibit that I have  
22 given you has results for DS1 capable loop installation  
23 for zone 1. And as a background, is zone 1 equivalent  
24 to what Qwest used to call a high density?

25 A. Yes.



6974

1 Q. And zone 2 then would be low density in terms  
2 of population density?

3 A. Now that -- as soon as you say population  
4 density, I need to be careful, because the reason we  
5 changed was that over time it became clear that the  
6 density factor was not population, and perhaps it was  
7 somewhat incidental. It was really a function of the  
8 areas in which Qwest was able to hold itself out to  
9 offer shorter intervals versus the less urban areas,  
10 some correlation to density, but not strictly so,  
11 because there are some lower density areas that Qwest  
12 was able to offer lower intervals that were  
13 characterized as low density. But because those  
14 distinctions were not really designed into the way that  
15 those distinctions were created, we in the ROC  
16 collaborative moved away from then density and simply  
17 called them zone 1 and zone 2, but they tend to be more  
18 urban in zone 1 and a little less urban in zone 2.

19 Q. So at least, I don't know if you're familiar  
20 with the state of Washington, but at least with respect  
21 to zone 1, we would be talking about provisioning in  
22 cities like Seattle or Spokane or Vancouver?

23 A. I would expect that would be -- at least the  
24 core areas would tend to be zone 1, if not all of it.

25 Q. Okay. And you referenced the ability to

6975

1 provide certain intervals in different areas, and are  
2 you aware that Qwest in conjunction with its merger with  
3 U S West agreed to an interval for DS1 capable loops of  
4 five days and what would be the equivalent of zone 1 for  
5 up to eight lines?

6 A. That sounds correct to me.

7 Q. Okay. And if I look at the second chart on  
8 page 134, which is the installation interval average  
9 days, and if I'm looking at the CLEC result column,  
10 which is the actually the fourth column over but the  
11 third column of numbers, am I correct that those are the  
12 average number of days that Qwest is taking to install  
13 DS1 capable loops?

14 A. Yes, that's what it is. It includes more  
15 than one to eight lines. It includes intervals,  
16 standard intervals of five days, six days, and seven  
17 days.

18 Q. Right. But at least on average, the number  
19 of days that Qwest is taking substantially exceeds the  
20 amount that Qwest agreed to in the merger docket; is  
21 that a fair characterization?

22 A. That average is more than five, six, or seven  
23 days, yes.

24 Q. And in Exhibit C to the SGAT, Qwest has a  
25 nine day interval for DS1 loops. Is that consistent

6976

1 with your understanding?

2 A. I don't recall.

3 MR. STEESE: Objection, which version of the  
4 SGAT are you speaking to, Mr. Kopta?

5 MR. KOPTA: I don't believe it has -- well,  
6 the most recent one.

7 THE WITNESS: I'm not familiar with recent,  
8 you know, recent or even some older versions of the  
9 SGAT. It's been a while since I have studied those  
10 details.

11 JUDGE RENDAHL: Mr. Williams, would you  
12 accept that subject to check?

13 THE WITNESS: Yes.

14 MR. KOPTA: Thank you, Your Honor.

15 CHAIRWOMAN SHOWALTER: I'm a just a little  
16 unclear now, the most recent one means whatever is in  
17 effect today or proposed today; what does that mean?

18 MR. STEESE: As Your Honor knows, the reason  
19 I asked that question, we file compliance SGATs, and I  
20 just wanted to make sure that I understood exactly the  
21 focus of the question was all. Is he focusing on two  
22 months ago, is he focusing on the one we filed for this  
23 week's compliance filing. I just wasn't sure.

24 JUDGE RENDAHL: There was one recently filed  
25 Friday. There is one that we will be addressing in

6977

1 hearing starting Wednesday. So I guess you could take  
2 your pick.

3 MR. KOPTA: Well, at this point, Exhibit C  
4 has not changed within the last six months that I'm  
5 aware of, and so it would be any of those would have the  
6 same interval of nine days in it that I'm aware of.

7 JUDGE RENDAHL: So why don't we make the  
8 subject to check the version filed on Friday.

9 MR. KOPTA: That would be fine.

10 CHAIRWOMAN SHOWALTER: What date is that,  
11 just for the record?

12 JUDGE RENDAHL: That's April 19th, 2002,  
13 thank you.

14 BY MR. KOPTA:

15 Q. Am I correct, Mr. Williams, that the  
16 intervals that we have just been discussing are not  
17 incorporated in any of the charts that are here on page  
18 134?

19 A. They're certainly not spelled out here or in  
20 the PIDs.

21 Q. Okay. And maybe I should ask the question  
22 more directly. In the first chart, you have  
23 installation commitments met, and I'm trying to  
24 understand what a commitment is. Is a commitment what  
25 Qwest has agreed to, for example, provide the interval

6978

1 in the merger docket, would that be a commitment, or is  
2 a commitment something else?

3 A. A commitment is the due date that we agree to  
4 provide, and the PID does talk about that in terms of  
5 that date being the original due date unless later  
6 requested to be different by the customer, in which case  
7 then it becomes the applicable due date taking into  
8 account the customer change, not taking into account  
9 Qwest changes for our reasons, but at least going by the  
10 original due date or the customer changed date and using  
11 that as the criteria, that if we completed the service  
12 on or before that date, then we met the commitment.

13 Q. So this is a date then that Qwest would  
14 establish at the time that the order is placed or when  
15 it's giving a firm order confirmation or FOC in terms of  
16 when it will actually provision the circuit?

17 A. Basically that's the most common situation.  
18 There could be some exceptions, but that's the general  
19 rule.

20 Q. Okay. And while I'm trying to understand the  
21 relationship between these top two charts, I wanted to  
22 ask you, there seems to be a discrepancy between the  
23 number of orders. And again, I'm hoping I'm  
24 interpreting the charts correctly, but the CLEC  
25 denominator category, which is the third line down in

6979

1 the -- or the third column in both charts, I believe  
2 would correlate to the number of orders that are placed;  
3 is that correct, is my understanding correct?

4 A. Yes.

5 Q. So if we look at the February '02, which is  
6 the last entry for each column, I see 79 orders under  
7 installation commitments met but 95 orders under  
8 installation intervals, and could you explain to me why  
9 those numbers are different?

10 A. Yes. The two measurements, commitments met  
11 and installation intervals, have slightly different  
12 purposes, and so they have somewhat different  
13 exclusions. When you're measuring commitments met in  
14 the first table, OP-3-D, you would exclude customer  
15 caused misses, because Qwest should not be held  
16 responsible for a customer caused miss, and so those  
17 orders are excluded. Whereas in OP-4-B, you -- oh, and  
18 let me clarify one other thing for the first table. You  
19 might include customer requests for longer than standard  
20 intervals and simply report whether you met that due  
21 date. But in OP-4, you would exclude that, because a  
22 customer request for a longer interval is affecting the  
23 interval in a manner that is not reflecting Qwest  
24 performance, so you then exclude customer requests  
25 longer than standard in OP-4.

6980

1                   But with respect to the customer caused  
2 misses in OP-4 that were excluded from the first table,  
3 you include them in the -- in OP-4 in the operation of  
4 the applicable due date or the related logic, such that  
5 if the customer requests a later date, if that's the  
6 issue, the applicable due date takes that into account  
7 with both measures. But beyond the applicable due date,  
8 if there is further customer delay, we take out the  
9 interval of customer delay, subtract out that delay  
10 interval in OP-4, but continue to count the order  
11 showing which portion of the interval Qwest was  
12 responsible for and which portion of that interval did  
13 we achieve.

14                   So you would tend in this case to see that  
15 there were some customer delays that would have excluded  
16 the orders from OP-3 but kept them in OP-4 and adjusted  
17 out the time interval, so the volumes of OP-4 in that  
18 third column are greater than the volumes of OP-3.

19                   JUDGE RENDAHL: Mr. Williams, just to  
20 interject, Mr. Kopta, when you're talking about  
21 exclusions for these various measures, you're talking  
22 about what's established in the PID definitions in PID  
23 version 4.0, which is our Exhibit 1359?

24                   THE WITNESS: Yes.

25                   JUDGE RENDAHL: And there's a section that

6981

1 talks -- that describes the measure and then talks about  
2 what the exclusions are?

3 THE WITNESS: Yes.

4 JUDGE RENDAHL: Okay, thank you.

5 THE WITNESS: There are also some notes that  
6 get into some of the detail that I just mentioned.

7 JUDGE RENDAHL: Okay, thank you.

8 BY MR. KOPTA:

9 Q. So if I wanted to know the total number of  
10 DS1 unbundled -- DS1 capable loops that Qwest is  
11 provisioning in any one month, would that be provided in  
12 the installation interval table, or are there still some  
13 exclusions from that table as well?

14 A. There are some exclusions. Let me just refer  
15 to is it Exhibit 1359?

16 JUDGE RENDAHL: Yes.

17 A. I should mark this as well. Well, it's the  
18 one that I mentioned predominantly, orders with customer  
19 requested original due dates greater than the current  
20 standard interval. That's the primary one. There are  
21 some --

22 JUDGE RENDAHL: Which page are you referring  
23 to?

24 THE WITNESS: Oh, I'm sorry, page 31 if  
25 you're paginated the same as me. It's the -- well,



6982

1 that's the OP-4 PID, and the actual exclusion is listed  
2 on page 32.

3 JUDGE RENDAHL: Thank you.

4 A. There are some other exclusions that  
5 variously apply, so this measurement does not have the  
6 purpose of reporting line gain or growth in lines. So,  
7 you know, if someone was trying to do that, they would  
8 have to consider some additional factors. But for  
9 purposes of measuring Qwest's performance in installing  
10 service, that's the main exclusion that applies is  
11 orders with requested original due dates greater than  
12 the current standard interval.

13 BY MR. KOPTA:

14 Q. Okay. And while we're talking about  
15 exclusions, I'm focusing now on the second chart, which  
16 is the installation interval, number of days, at least  
17 with respect to the CLEC numbers on the left part of the  
18 chart, those numbers also don't include canceled orders,  
19 orders that are not completed for whatever reason?

20 A. Correct.

21 Q. Okay. And those orders include both new DS1  
22 loops as well as conversions of DS1 loops from special  
23 access to UNE loop, existing loop that's just converted  
24 from a tariff service to a UNE loop?

25 A. Yes.

6983

1 Q. And on the Qwest side when you're looking --  
2 when you're calculating Qwest results, are those numbers  
3 calculated the same as or using the same standards as  
4 the CLEC results, the PID definitions, everything that  
5 we were just talking about, all the exclusions; is  
6 everything calculated the same?

7 A. Yes, the PID calculations, the exclusions are  
8 applied the same way.

9 Q. Okay.

10 A. To the retail side.

11 Q. And the retail numbers, or at least what are  
12 the Qwest numbers, it says Qwest in the chart as opposed  
13 to retail, those include DS1 circuits that are provided  
14 out of the special access tariff, correct?

15 A. That is among the number. There are others  
16 too.

17 Q. Okay. So DS1 circuits that are provided to  
18 CLECs and IXCs out of the FCC's special access tariff  
19 are included in the Qwest numbers?

20 A. Yes, in the retail side, yes.

21 Q. And any of these circuits that are provided  
22 to Qwest's long distance affiliate would be included in  
23 these numbers?

24 A. Yes, I believe so, if they're -- yeah.

25 Q. And private line circuits that Qwest provides

6984

1 to end user customers are also included in the Qwest  
2 numbers?

3 A. Right.

4 Q. But they're all -- all of these results are  
5 aggregated together into the numbers that we see on this  
6 chart; is that accurate?

7 A. On the retail side, that's correct. We don't  
8 have the capability to separate them.

9 Q. You don't have the capability to separate  
10 them?

11 A. Right.

12 Q. You mean electronically? Certainly you could  
13 go order by order and do it manually.

14 A. Well, I suppose there might be a manual way,  
15 but the process for gathering this is looking at the  
16 facility, DS1 facility. It doesn't distinguish the use  
17 of the facility and how it's tariffed.

18 Q. So this is -- this goes through one of or  
19 it's measured out of Qwest's systems that don't look at  
20 where the facility comes from, it's just the system that  
21 it's recorded in. Is that kind of an  
22 oversimplification?

23 A. Perhaps an oversimplification, but it's -- we  
24 are looking at a data set that does not distinguish  
25 other than that it's on the what we were broadly

6985

1 classifying as the retail side. The distinction between  
2 a DS1 resale, which would not be included in this  
3 number, which can be separated, because we can tell if  
4 it's being sold to a CLEC versus whether it's being sold  
5 to someone other than a CLEC, that's how we distinguish  
6 wholesale, DS1 resale, and of course DS1 capable loops,  
7 those are distinguished by who is buying it. But beyond  
8 that, the rest is one big lump, if you will, one bucket  
9 of DS1 circuits that constitutes the rest of the  
10 universe against which the wholesale is being compared.

11 Q. Well, now you just confused me, because you  
12 provide special access circuits to CLECs, don't you?

13 A. Yes, I suppose, as an interexchange carrier I  
14 suppose in that example.

15 Q. But I thought you just said that the way you  
16 separate out the two different types is the circuits  
17 that are provided to CLECs are culled and -- either  
18 resale or UNE loops, and everything else is on the  
19 retail side. So how do you not distinguish between  
20 special access circuits that are provisioned to a CLEC  
21 from a UNE loop that's provisioned to a CLEC?

22 A. Well, in the case of wholesale, which is the  
23 whole purpose of the 271 performance measurements, we  
24 identify the product, because that's -- that's relevant  
25 to 271. We identify a DS1 capable loop in the page

6986

1 you're referring to here, in the page 134, and for the  
2 other side, DS1 resale, which is checklist 14, we  
3 identify that a CLEC is buying a resale DS1 loop. And  
4 so we report the results for those, and the retail  
5 comparative for both of those is the same bucket that I  
6 mentioned for the rest of the universe. And so we don't  
7 distinguish on the -- we have no need to distinguish on  
8 the retail side and currently don't have the capability  
9 to distinguish and don't need to for the retail  
10 comparison as between special access versus private line  
11 or some other category of DS1 such as frame relay, for  
12 example.

13 Q. Well, so what you're saying then is when you  
14 are measuring these different facilities, that you're  
15 not just doing it, you're not separating out the  
16 different results by who obtains the circuit, you're  
17 using some other method to do that; is that accurate?

18 A. The question wasn't very precise in terms of  
19 that and something else.

20 Q. Okay. Well, my understanding from what you  
21 had said earlier was that the way that you distinguished  
22 between UNE loops and other types of DS1 circuits was by  
23 who was obtaining the circuit. But just in your last  
24 response, you seemed to indicate that there was some  
25 other method for distinguishing between the two based on

6987

1 the product. So what I'm trying to understand is, if  
2 you are measuring by facilities, how do you know which  
3 facilities are DS1 loops or DS1 loop or private line  
4 resale and which facilities are special access circuits  
5 that are --

6 A. Okay.

7 Q. -- all of which may be provided to the same  
8 CLEC?

9 A. Perhaps I could be more clear. The focus is  
10 what do we need to measure for 271. We select the  
11 wholesale services on -- and in relation to DS1, that's  
12 the DS1 resale and the DS1 capable loop, according to  
13 the product that the CLEC buys. So that's where I was  
14 answering the product question, is how do we get on the  
15 wholesale side. The rest on the retail side we don't  
16 need to distinguish. There's no call for it, the PID  
17 doesn't call for it, 271 requirements don't call for it,  
18 so we identify them simply by the facility. We say is  
19 it a DS1 facility, then we measure it. And so that's  
20 what I meant. Depends on which side you're talking  
21 about, wholesale versus retail. On the retail side,  
22 we're simply looking at the facility. On the wholesale  
23 side, we're pulling out those by product that are either  
24 DS1 capable loop or DS1 resale.

25 Q. Okay. Well, again, let me try and clarify

6988

1 this a little bit. Does Qwest measure all DS1  
2 facilities and then from that pool extract by product a  
3 DS1 loop or DS1 resale?

4 A. Measuring all DS1 facilities, that's where  
5 I'm stumbling. I'm not sure that's the way we have  
6 looked at it. We measure -- we pull into our  
7 measurement for the wholesale product those orders that  
8 fit that description. That's one process. Separately  
9 we pull into the retail side those that are DS1  
10 facilities, but not, of course, the CLEC products of DS1  
11 capable loop and DS1 resale, for example.

12 Q. I'm just trying to understand how you  
13 distinguish between the two. If you're using a product  
14 screen on one hand and a facility screen on the other  
15 hand, it just seems to me you would have some overlap  
16 unless you have entirely discreet systems that you're  
17 using to measure each type of product or facility.

18 A. There is no overlap, because we only put an  
19 order in one or the other place. It's either a  
20 specified CLEC product, or it's on the retail side.

21 Q. So is this something that is coded into a  
22 Qwest systems when the order is placed, the type of  
23 product or that it's a CLEC service that's either a UNE  
24 or resale so that that's the way that you use to screen  
25 these?

6989

1           A.     Well, at the front end, there is information.  
2     At the measurement level, we don't pull all the  
3     information in all of our systems, because that's an  
4     unnecessary, horrendous, redundant task.  But at the  
5     measurement side, we do exactly as I just said in my  
6     previous answer.  There is information, additional  
7     information out there, but we don't need it all to  
8     satisfy the 271 requirements, so we don't pull all of  
9     that.  We pull that which we need to identify the  
10    product on the wholesale side or to identify the rest on  
11    the retail side.

12          Q.     Okay, well, let me --

13                 JUDGE RENDAHL:  Mr. Kopta, before you go much  
14    farther, about how much more do you estimate you have?

15                 MR. KOPTA:  I have another couple of  
16    questions.

17                 JUDGE RENDAHL:  Okay, we'll do that, and then  
18    we'll take our morning break.

19    BY MR. KOPTA:

20          Q.     Well, let me just tell you what the concern  
21    that I have is, and tell me if you agree that this is a  
22    possibility.  When by lumping all of the different other  
23    facilities on the retail side, including DS1 circuits  
24    provided to carriers and DS1 circuits provided to end  
25    users or Qwest affiliates, there is a possibility that



6990

1 Qwest is providing longer intervals to carriers and  
2 substantially shorter intervals to end user customers or  
3 its own affiliate and that the average then doesn't  
4 reflect that. So that, for example, to use a numeric  
5 example, if you've got a 9 day or approximately 9, 9 1/2  
6 in the last month day interval for DS1 loops, is it  
7 possible that you could have a 15 day interval for  
8 special access circuits but a 5 day interval for end  
9 user DS1 private line circuits but that the average  
10 works out to be this 11.66 on the Qwest side?

11 MR. STEESE: I'm going to object to vague and  
12 ambiguous and lack of foundation for any assumption that  
13 there is shorter intervals on the retail side and longer  
14 intervals for CLECs. I think some foundation here is  
15 probably necessary.

16 JUDGE RENDAHL: Because it's a hypothetical  
17 question and also because I think Mr. Kopta laid some  
18 foundation as to what goes into the determination of the  
19 Qwest -- on the Qwest side, I think that it's an  
20 acceptable question.

21 A. Let me just clarify here, because I don't see  
22 this as a question between what CLECs are receiving and  
23 what retail is receiving.

24 JUDGE RENDAHL: Mr. Kopta, why don't you  
25 repeat your question.

6991

1 MR. KOPTA: Sure.

2 BY MR. KOPTA:

3 Q. The question is, just boiled down to its  
4 essence, is it possible that within the Qwest results  
5 that are on this chart that the special access circuits  
6 provided to carriers have, for example, a 15 day average  
7 interval, but the private line circuits provided to end  
8 user customers and Qwest's affiliate have a 5 day  
9 average interval, but that when all of them are combined  
10 and averaged together, you come up with a number that's  
11 in this chart, 11.66 for February of 2002?

12 A. I think that is virtually impossible.  
13 Anything is possible, I suppose, but I think under the  
14 conditions that special access is something that is 97%  
15 of the terminations that are purchased on the federal  
16 side in terms of interexchanged interstate type access,  
17 the fact that private line and special access are an  
18 extremely competitive realm, it seems absurd to think  
19 that someone could get away with that kind of treatment.  
20 I just don't see it practically possible in that sense  
21 that that could happen.

22 Q. So you don't see that it's possible that  
23 Qwest could be favoring its end users and its affiliate  
24 over unaffiliated competitors?

25 A. Again, I think anything is possible, but I

6992

1 don't think we could sustain that if we were trying to  
2 do that because of the competitive realities with  
3 respect to those kind of services. Those have long been  
4 recognized as functionally equivalent, and in many  
5 places competitive, some places deregulated because of  
6 that, just it's not a sustainable strategy.

7 Q. But at least other than your opinion, there's  
8 nothing in this chart that would indicate that that's  
9 not happening?

10 A. It's totally an issue outside of 271, and so  
11 this is not designed to do that.

12 JUDGE RENDAHL: I don't think you responded  
13 to the question, Mr. Williams. Can you listen to  
14 Mr. Kopta's question, and answer the question.

15 BY MR. KOPTA:

16 Q. The question is, other than your opinion as  
17 to whether it's possible or not given market conditions,  
18 there is nothing in this chart that would indicate that  
19 that is not, in fact, happening?

20 A. Correct, this chart can not and would not  
21 indicate that. It's not a 271 issue.

22 MR. KOPTA: Well, we can debate whether or  
23 not it's a 271 issue, but those are all of my questions,  
24 thank you.

25 JUDGE RENDAHL: Thank you, Mr. Kopta.

6993

1                   Okay, we will be on our morning break until  
2 10 to 11:00. We will be off the record.

3                   (Recess taken.)

4

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

6 BY CHAIRWOMAN SHOWALTER:

7           Q.     I only have one very small follow-up  
8 question, and it relates to Exhibit 1337 in your  
9 testimony on page 76, and in the bottom paragraph, lines  
10 13 through 20, I had thought you were going to say when  
11 you said that a, on line 16, a better comparable is  
12 therefore probably Qwest retail DSL service, but to my  
13 lay way of thinking, that would be better because DSL is  
14 like line sharing but Qwest alone using both the voice  
15 and the DSL portions, and so therefore DSL would be the  
16 most comparable thing to the line sharing situation.  
17 And I understand you have all agreed that the POTS  
18 standard is the one you will use. That's fine with me,  
19 I just want to understand the rationale for why the POTS  
20 standard is more appropriate than -- to look at as a  
21 comparable than the DSL.

22           A.     Okay. Because the DSL on the retail side is  
23 only a portion of the service, whereas on the wholesale  
24 side the DSL or the line sharing is the service, it  
25 became more apparent that we should treat it like a

6994

1 stand alone service. And so we originally proposed the  
2 parity with residence and business, but then the process  
3 was out of line with that a little bit where we weren't  
4 treating DSL, and I'm saying the actual repair process  
5 in the field was still at that time treating line  
6 sharing as service affecting only by and large. There  
7 were some exceptions, but. And so we only recently  
8 brought that up to speed to treat it like a stand alone  
9 service and call it out of service when it's not working  
10 even though the Qwest DSL will still be considered  
11 service affecting only if it's the only thing not  
12 working, so we had to kind of align that. And now I  
13 think we're in alignment again where it's treated as a  
14 stand alone service on the CLEC side, and the retail  
15 comparative is using the equivalent, if you will, of a  
16 stand alone service, namely res and bus repair.

17 CHAIRWOMAN SHOWALTER: Okay, thank you.

18 JUDGE RENDAHL: Commissioner Hemstad.

19 COMMISSIONER HEMSTAD: I don't have any  
20 questions.

21 COMMISSIONER OSHIE: No questions.

22 JUDGE RENDAHL: Okay, I have a few questions,  
23 Mr. Williams.

24

25

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

2    BY JUDGE RENDAHL:

3            Q.    First, on your blue chart, what we have been  
4    calling your blue chart, Exhibit 1342, the gray box in  
5    your legend indicates that that service or the  
6    performance reported as gray offers no support to a  
7    checklist item. Wouldn't it be another way of saying  
8    that is it supports not approving that checklist item?

9            A.    No, and it goes back to what the FCC has said  
10   about that very kind of situation. You don't disapprove  
11   a checklist item on the basis of one isolated  
12   measurement even if that measurement is entirely failing  
13   all the time. It depends on the measurement. So you  
14   look behind the measurement, and you look across the  
15   checklist item and go from there. So, again, the FCC if  
16   you meet the standard, inquiry over. If you don't meet  
17   the standard, the inquiry is not over, you just look  
18   farther and determine is it competitively significant,  
19   is it material, is it -- how do the other measurements  
20   look in context across the checklist item. And so no  
21   one measurement would or should immediately trigger a  
22   disapproval. I suppose in a certain case, that could  
23   happen, but in all the orders the FCC has issued so far,  
24   they have never commented even negligibly on one item in  
25   saying that might disapprove the application.

6996

1 Q. Okay, thank you.

2 If you will look at your newest set of data,  
3 Exhibit 1355, you were -- during cross-examination by  
4 AT&T last night, Ms. Tribby was running through a number  
5 of different measures or performance reporting. If you  
6 look at page 79 of Exhibit 1355 and compare that with  
7 page 78 and 79 of 1338, that refers to the billing  
8 question.

9 MR. STEESE: What page is it, 1338, Your  
10 Honor?

11 JUDGE RENDAHL: Pages 78 and 79 of 1338.

12 MR. STEESE: Thank you.

13 JUDGE RENDAHL: And 79 of 1355.

14 BY JUDGE RENDAHL:

15 Q. You were talking with Ms. Tribby about a fix  
16 that was being done to the billing system. And if you  
17 look at Exhibit 1355, there's only data reported from  
18 December 2001 for this billing measure, BI-4A. And if  
19 you look at the comparable page in the previous set of  
20 measure of performance results, 1338, there is a 12  
21 month set of reports. Does this change reflect the fix  
22 that was done, or is there some other reason why there's  
23 not 12 months of data reported?

24 A. There would be another reason. The fix is  
25 demonstrated in the fact that the results are improving

6997

1 and -- but separate from that, there were at the same  
2 time in parallel some test issues going on, and I think  
3 it was even mentioned by either Ms. Tribby or  
4 Ms. Doberneck or both that we have had some issues with  
5 billing in the test. And we have been -- and some of  
6 that included measurement issues. And I believe what  
7 you're seeing here in March is a measurement correction  
8 of BI-4A, which rendered -- which was only able to be  
9 done retroactively back to December. And we pulled the  
10 results from November and prior, because they could not  
11 reflect the results of that correction. So this is a  
12 measurement correction issue, which incidentally shows,  
13 when it's more accurate, shows better performance than  
14 previously, but also reflects the fix that you mentioned  
15 separately.

16 Q. Okay, thank you, that clarifies that.

17 In your discussion with Ms. Doberneck this  
18 morning about the line sharing, about line sharing and  
19 whether performance results on line sharing should be  
20 reported in checklist under checklist item 2,  
21 performance measures, or checklist item 4 measures; do  
22 you remember that discussion?

23 A. Yes.

24 Q. And I guess I was a little unclear. Are the  
25 results for line sharing measured under both 2 and 4,



6998

1 and if so, where would we find it?

2 A. In our reports, I believe, if I'm remembering  
3 correctly, you will see it under checklist 2. 4, isn't  
4 it, I'm sorry.

5 Q. And it will be -- will it be under the  
6 ordering and provisioning measures as well as the  
7 maintenance and repair? I mean will it be across the  
8 board in all of those measurements for checklist 2, or  
9 are there particular measures that we need to look at?

10 A. First, we report it only in one place.

11 Q. Okay.

12 A. At least for a given measurement. The  
13 ordering and provisioning measurements and the repair  
14 measurements for line sharing are under checklist 4.  
15 And to the extent, as with many other products, the --  
16 this product feeds into other measurements like preorder  
17 measurements, like the FOC timeliness, PO-5, those kinds  
18 of preorder measurements are found in checklist 2. So  
19 you will see the product influence in both places, but  
20 any given measurement is only reported in one or the  
21 other place.

22 Q. Okay, thank you.

23 To follow up with a question by Mr. Kopta, he  
24 was asking you, I don't know if you recall the questions  
25 he was asking you about the installation commitments met

6999

1 for DS1 capable loops in Exhibit 1338, and he was asking  
2 you about how commitment is defined; do you recall that?

3 A. Yes.

4 Q. Just to clarify, because I'm not sure I was  
5 clear on that, Mr. Kopta also mentioned that there's a  
6 Qwest agreed to interval under the merger agreement, and  
7 there's an interval set in the SGAT. Would, for  
8 example, the SGAT interval be reflected in the PID  
9 definition, or am I totally confused here?

10 A. It's a common question. All of the intervals  
11 that we agree to provide are captured by the PID as  
12 defined therein. Typically what happens is that the  
13 governing interval is the interval in the CLEC's  
14 interconnection agreement, and if they are pulling from  
15 an SGAT, if that's where they're getting their terms and  
16 conditions, then that's typically what you would find.  
17 They might have an older agreement or something that has  
18 a different interval that they haven't yet brought in  
19 the SGAT terms to their agreement. Perhaps their  
20 agreements are consistent. I'm not familiar with each  
21 agreement, but you might see the merger agreement type  
22 intervals in their agreement. But whatever the  
23 commitment is based on, whether -- it's typically again  
24 driven by the interconnection agreement, those are  
25 driven by whatever governing documents are in effect,

7000

1 whether it's an SGAT or a merger agreement, but whatever  
2 that interval was and however that due date was set is  
3 the due date captured by OP-3 and OP-4.

4           And that's, in fact, why these measurements  
5 were defined the way they were, so that you would  
6 capture what we're actually doing on whatever basis,  
7 whether compliant with contracts or not, but we, of  
8 course, endeavor to comply, but on whatever basis. And  
9 if we -- when we set that due date, OP-3 will measure  
10 how well we meet that due date. If we -- and then OP-4  
11 will measure the resulting interval. And if we are  
12 setting due dates for OP-3 that are outside of some  
13 agreement or longer, OP-4 will capture that effect and  
14 show the longer interval.

15           And that's why it's defined to do that. The  
16 two are a check and a balance on each other so that we  
17 need to carefully line up. And we go to some extent,  
18 some extreme effort which I am intimately involved in,  
19 to be sure that the intervals we offer are consistent  
20 both with -- between retail and wholesale so that we  
21 don't offer discriminatory intervals, but also so that  
22 we are in compliance with the applicable rules,  
23 contracts, or agreements.

24           Q.     Thank you.

25           A.     Sort of mixed.

7001

1 Q. That clarifies.

2 You have filed with your testimony that you  
3 filed in March and also that that you filed in April  
4 some exhibits that the Commission requested that you  
5 file indicating where Qwest missed certain performance  
6 measures for the month for the reporting time period,  
7 and just to confirm, those would be in Exhibits 1332  
8 through 1336 and also 1345 to 1349.

9 A. That sounds correct, yes.

10 Q. Okay, those are matrix of missed PIDs, that's  
11 how you described it?

12 A. Yes.

13 Q. So if we look at those exhibits where Qwest  
14 reported that it failed to meet the standards and we  
15 compare those with your blue chart, we should be able to  
16 get a picture of where Qwest failed and how Qwest  
17 interprets that failure?

18 A. That combined with also the accompanying  
19 testimony or petition that we may -- that we filed with  
20 the matrices that you mentioned. The blue charts will  
21 show according to the criteria that we mentioned how  
22 many misses in the last four months. The matrices that  
23 you mentioned, for example Exhibits 1335 through 1449,  
24 they treat variously whether it was more than one month  
25 miss or whether it was one particular month. And the

7002

1 one particular month one will usually be dark blue on  
2 the blue charts except when that happens to be the most  
3 recent month of data. So with those caveats, yes, you  
4 will see in the combination of all of that our best  
5 effort to explain what's going on.

6 Q. Okay. And then one last question, and this  
7 goes, sort of takes a longer range view. If during the  
8 OSS test, if KPMG closes as closed or unresolved an  
9 exception on a particular performance measure, then what  
10 the Commission has to rely on would be the actual  
11 results of commercial performance to determine whether  
12 the Commission believes Qwest meets that checklist item;  
13 is that correct?

14 A. That would be a major factor. You would also  
15 be able to look behind the report and see what the issue  
16 was and -- in terms of the test item itself. But yes, a  
17 lot of times when that's happening, closed unresolved,  
18 we're looking, in fact, at commercial data to show that  
19 the issue is resolved. Test data, in other words, we  
20 reached a point where it was determined we're not going  
21 to do another test, we'll rely on commercial results to  
22 show the resolution. So yes, that's the major way.

23 JUDGE RENDAHL: Okay, thank you, that's what  
24 I have.

25 Mr. Steese, now you have redirect.

7003

1

2

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

3

BY MR. STEESE:

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q. Mr. Williams, I'm going to go in reverse chronological order in terms of the questioning that you received, and I'm going to start with the question asked by Judge Rendahl. She asked about the gray boxes on the chart, and you responded. Are you aware of any situation where a Bell operating company has consistently missed a number of performance measures relating to a product or even group of products, yet the FCC approved the 271 application nonetheless?

A. Yes.

Q. Can you please explain.

A. I will struggle with some details, but I know in the case of some loop performance, the FCC found that there were some continuing call it a gap between what might have been expected versus the performance of the RBOC and under the circumstances, looking again at the whole picture, looking at the totality across that checklist item, still determined that the RBOC would satisfy the checklist. I remember one instance where they said, now this is minimally acceptable, and there will be monitoring, and if things get worse, they might, you know, exercise their prerogatives, but nevertheless

7004

1 they approved the item nonetheless.

2 Q. And this was Verizon Pennsylvania for high  
3 capacity loops specifically, correct?

4 A. That helps me, yes, that's what I recall.  
5 And that, by the way, represents multiple, what on my  
6 blue charts would be multiple gray squares across the  
7 entire, you know, product. Whereas here we're talking  
8 about one in the entire report for Washington.

9 Q. Let's now turn to the questions from  
10 Mr. Kopta. Mr. Kopta really asked two questions or two  
11 principal areas, and I want to focus on each one  
12 individually. First of all, he talked about the merger  
13 agreement and the intervals set forth therein. Do you  
14 have a copy of the merger agreement?

15 A. Yes, actually Appendix B of that.

16 MR. STEESE: And we apologize to the  
17 Commission, this came up at the last moment, and we each  
18 have one, but it was not marked as an exhibit, so we did  
19 not know it was going to come up before Mr. Kopta raised  
20 it as a question, so how would you like to -- and I have  
21 a copy.

22 JUDGE RENDAHL: Do you have copies?

23 MR. STEESE: We ran and got two at the break.

24 JUDGE RENDAHL: Let's be off the record for a  
25 moment.

7005

1 (Discussion off the record.)

2 JUDGE RENDAHL: If you can bring your mike or  
3 share Mr. Williams' mike, then that would be helpful.

4 MR. STEESE: Sure.

5 BY MR. STEESE:

6 Q. First of all, focusing on page 6 of that  
7 agreement, the interval for DS1 capable loops is one to  
8 eight lines for high density zones, correct?

9 A. For five business days, yes.

10 Q. And is there a direct correlation between  
11 high density zones and zone 1 in the performance data?

12 A. Yes.

13 Q. And the limitation, focusing on page 4 of the  
14 agreement, says that these intervals apply "where  
15 facilities are available", correct?

16 A. Yes, in the paragraph A, Roman Numeral III.A  
17 on that page, toward the end of the paragraph.

18 Q. Does that limitation where facilities are  
19 available apply to the PIDs?

20 A. In OP-3 and 4, there's no distinction. OP-6  
21 makes a distinction but still reports it if there's a  
22 delay, but OP-3 and 4, specifically 4 where Mr. Kopta  
23 reported to the interval, that would include facility  
24 available and facility not available in the interval  
25 reported.



7006

1 Q. And so basically the data that you're seeing,  
2 the average nine day interval, would have instances  
3 where the facilities were readily available and those  
4 where they did not all average together, right?

5 A. Correct, as well as if you look in the case  
6 of February, you know, the percent of missed  
7 commitments, we're not going to perfectly meet our  
8 commitments, and I think 10% or 12%, we might miss that  
9 12%, factors in to a longer interval in OP-4, along with  
10 the cases where we are meeting the commitment but there  
11 is no facility available and so it's a longer interval.

12 Q. To the extent that the CLEC orders a DS1  
13 capable loop and asks for the five day interval set  
14 forth in the merger agreement, the unmarked document --

15 MR. STEESE: Would you like to mark this as  
16 an exhibit?

17 JUDGE RENDAHL: I think this is an addendum  
18 to a Commission order, and so I don't -- I think it's  
19 something we have access to.

20 MR. STEESE: Perfect.

21 JUDGE RENDAHL: We can recognize.

22 MR. STEESE: Perfect.

23 BY MR. STEESE:

24 Q. Then we would measure, we Qwest, would  
25 measure our performance based on that five day interval,

7007

1 correct?

2 A. Right, we would be setting the due date  
3 according to that requirement and measuring according to  
4 that.

5 Q. Now if you look at page 134 of Exhibit 1338,  
6 Qwest's performance data that Mr. Kopta focused on.

7 A. 134?

8 Q. Correct, 134. If you look at the fourth  
9 column, CLEC result in the last four months, the average  
10 installation interval for CLECs for DS1 capable loops is  
11 between nine and ten days, correct?

12 A. Correct.

13 Q. If you look at the retail comparative, it's  
14 between 11 and 14 days, correct?

15 A. Yes, that's correct.

16 Q. So the intervals the CLECs are getting are  
17 actually shorter than Qwest retail receives?

18 A. Yes, and meets the standard the parties have  
19 agreed upon.

20 Q. Now the next area of questioning raised by  
21 Mr. Kopta had to do with what is contained in that  
22 retail comparative. Does the PID define what's  
23 contained within that retail comparative in measure  
24 OP-4-D on page 134?

25 A. Only insofar as saying retail DS1.

7008

1 Q. And what is contained within retail DS1?

2 A. That's all of the DS1s on -- that aren't  
3 wholesale products such as the DS1 capable and the  
4 resale DS1.

5 Q. So DS1 special access circuits would be  
6 contained there?

7 A. Right, because those are not the wholesale  
8 product defined in the PID.

9 Q. And that would be the case irrespective of  
10 who ordered the special access circuit, correct?

11 A. Correct.

12 Q. It could be an end user customer?

13 A. Right.

14 Q. It could be a CLEC?

15 A. It could be a CLEC.

16 Q. It could be an interexchange carrier?

17 A. Yes.

18 Q. Now Mr. Kopta then went on to say, how do I  
19 know that Qwest isn't discriminating and giving the  
20 CLECs longer intervals in this retail comparative and  
21 our own retail customers, Boeing, short intervals. Are  
22 you aware of any ongoing effort by Qwest to discriminate  
23 between intervals received by end user customers versus  
24 CLECs?

25 A. There is none.

7009

1 Q. Are you aware that the opposite is true, that  
2 the CLECs and our end user customers get the same  
3 interval?

4 A. Yes, we have an intensive effort to continue  
5 to ensure that's the case.

6 Q. So the hypothetical raised is not in any way  
7 a Qwest policy or practice?

8 A. That's correct.

9 Q. I'm going to move on now to Ms. Doberneck's  
10 cross-examination and first focus on conditioned loops.  
11 I hope it's acceptable for me to summarize, because I  
12 think it makes the questions easier. Ms. Doberneck's  
13 general questions were, how do I know I can trust the  
14 data in the ISDN capable loops and the 2-wire non-loaded  
15 loops if the conditioned loop category is taking some of  
16 the orders that should be in the other category. Why  
17 don't we turn to Exhibit 1338, page 165, it's my 165,  
18 earlier she was referring I think to 167, so I'm  
19 wondering if my page number is slightly off.

20 A. No, 165 appears to be correct.

21 Q. What does the data in the state of Washington  
22 show for conditioned loops; what is the range of  
23 commitments met in zone 1? Roughly, don't do the point  
24 something.

25 A. Okay.

7010

1 Q. Just rough range.

2 A. And just to be clear, it's the conditioned  
3 loops that were both actually conditioned as well as  
4 those approved for conditioning that may not have had  
5 the actual conditioning activity, but that combination  
6 ranges from almost 4 days to 4.4 days.

7 Q. And what about on the commitments met?

8 A. Commitments met, very high, all above, well,  
9 90%, almost 92% to 96.4%.

10 Q. What about in zone 2?

11 A. In zone 2, above 94% in all cases.

12 Q. And what about in zone 2 for the average  
13 installation interval?

14 A. The interval there ranges from 4.8 to 5.4  
15 days.

16 Q. Now --

17 A. Business days.

18 Q. Excuse me. Now I want you to assume that  
19 100% of these conditioned loops, things we put in the  
20 conditioning bucket, did not require conditioning at  
21 all, 100%, being conservative, and we put all of these  
22 into the 2-wire non-loaded category, what is the  
23 benchmark for commitments met for 2-wire non-loaded  
24 loops?

25 A. 90%.

7011

1 Q. Is this data above 90% in every circumstance?

2 A. Yes.

3 Q. Let's assume that again 100% of these loops

4 fall into situations where they're not conditioned.

5 What is the benchmark for 2-wire non-loaded loops on the

6 average installation interval?

7 A. Six days.

8 Q. Is this data below six days in every

9 circumstance?

10 A. Yes.

11 Q. So again being conservative, what does this

12 data show as it relates to Qwest's provisioning of loops

13 for CLECs?

14 A. This shows that we are meeting the standards,

15 whether you look at them in two places as we have in the

16 Exhibit 1338, namely under the individual loop place

17 where those loops that did not require or have approved

18 conditioning, or those loops that did have approved

19 conditioning or actually required conditioning. We're

20 meeting the standards no matter which way you look at

21 it.

22 Q. Now let's get off of the conservative example

23 and talk about what the average installation interval is

24 for a conditioned loop. What is that interval if you

25 actually are physically performing conditioning?

7012

1 A. What's the standard?

2 Q. Correct.

3 A. 15, or excuse me, 16 1/2 days.

4 Q. The benchmark is 16 1/2 days?

5 A. Right.

6 Q. But the interval in the standard interval  
7 guide would be what?

8 A. 15 days.

9 Q. And so there would be some relatively long  
10 intervals, at least in all likelihood a few, built into  
11 these performance measures, correct?

12 A. That's correct.

13 Q. So realistically, would the data be better or  
14 worse if the conditioned, the actual loops that required  
15 conditioning, were extracted from this data?

16 A. If you were only measuring those that  
17 actually required conditioning work, the intervals would  
18 be longer than what is shown here.

19 Q. And if you --

20 A. But if you took it out, what's left here  
21 would be even less.

22 Q. Let's move now to what I call the star  
23 matrix, MR-7\*, MR-8\*, and OP-5\*. Ms. Doberneck asked  
24 whether or not the ROC TAG has specifically approved  
25 those measures, correct?

7013

1 A. Right.

2 Q. Have they approved those measures?

3 A. No.

4 Q. Has the FCC specifically asked Bell operating  
5 companies such as Qwest for explanations as to why  
6 parity standards aren't met?

7 A. Yes.

8 Q. Have they specifically asked for information  
9 when a CLEC is the party contributing to the parity  
10 standard not being met?

11 MS. DOBERNECK: I'm going to object, there's  
12 no evidence in the record here that CLECs are  
13 contributing to a parity standard not being met, so if  
14 you can lay a foundation, I will withdraw my objection.  
15 But in the absence of evidence, I don't think there's a  
16 foundation to request that kind of information here when  
17 we don't know that any CLEC is contributing to the  
18 failure to meet the parity standard.

19 MR. STEESE: I can lay a little bit more  
20 foundation, that's fine.

21 JUDGE RENDAHL: To the extent this is, you  
22 know, relevant to the cross that Ms. Doberneck made,  
23 yes, I think you need to make some foundation.

24 MR. STEESE: That's fine.

25 BY MR. STEESE:



7014

1 Q. What has Qwest found with respect to MR-7,  
2 OP-5, and MR-8 with respect to the kinds of troubles  
3 that CLECs routinely report?

4 A. We have found that there are varying degrees  
5 of trouble reports that have no trouble actually  
6 associated with the report, even after waiting 30 days  
7 and watching to see if there was a subsequent report  
8 that might have shown that the first determination of no  
9 trouble was false, so that you're pretty certain that  
10 there really was no trouble on that line. We have had  
11 that happen. It happens on both the retail side and the  
12 wholesale side, but we have found that it can affect the  
13 results, and it can happen more on the CLEC side than on  
14 the wholesale side. And for some CLECs, it can happen  
15 very significantly. We have seen it as high as 30% and  
16 40% in individual cases.

17 Q. So there are some CLECs that have a very high  
18 incident rate of repair tickets or trouble tickets  
19 issued and there's no trouble found?

20 A. That has happened, not very many, but it has  
21 happened.

22 Q. Meaning not very many CLECs?

23 A. CLECs, correct.

24 Q. Now what has the FCC asked Bell operating  
25 companies such as Qwest to tell them when a CLEC

7015

1 contributes to a failure to meet a performance measure?

2 A. They have asked us to provide additional  
3 information. They expect that you can see that in their  
4 orders, but I have been in ex parte meetings with the  
5 staff, and they have specifically told me that if we're  
6 going to make such a claim that we need to provide  
7 additional information to substantiate that.

8 Q. Are the star measures Qwest's attempt to do  
9 just that?

10 A. Yes.

11 Q. And the blue chart that the Commission is  
12 looking at, when they look at OP-5, MR-7, and MR-8, are  
13 the boxes or the color of the boxes based on the ROC  
14 agreed to measures or the star measures?

15 A. They're based on the ROC agreed to measures,  
16 and we only use the star measures in characterizing our  
17 comments.

18 Q. Let's move now to line sharing repair.  
19 Ms. Doberneck asked some questions about the priority  
20 that a repair ticket would have for line sharing. Do  
21 you recall that line of questioning?

22 A. Basically, yes.

23 Q. If a customer, whether it be a CLEC or an end  
24 user customer, calls up and says out of service, and  
25 they're, in fact, out of service, no dial tone, what is

7016

1 the objective for clearing that trouble ticket?

2 A. For POTS and residence type services, 24  
3 hours, within 24 hours.

4 Q. If the trouble is called in and there's  
5 static on the line, something like that, they can still  
6 make calls, it's simply service affecting, what is the  
7 objective?

8 A. Within 48 hours.

9 Q. To the extent that historically before this  
10 fix, the March/April time frame that you talked about,  
11 and -- was the case, and a CLEC called up with trouble  
12 on the line shared loop, generally what category did  
13 those repairs go into?

14 A. Service affecting.

15 Q. And as a result, what did that do to the data  
16 in MR-6, the mean time to restore line shared loops?

17 A. It tended to increase the interval, not  
18 double, but it tended to increase it, because they  
19 didn't have as high a priority of restoration as the out  
20 of service would have, which is the same as the retail  
21 treatment of a line share or a DSL problem.

22 Q. Now let's turn to the actual physical data,  
23 which is Exhibit 1338, page 176.

24 A. Okay.

25 Q. Under the final box, MR-6-C at the bottom, do

7017

1 you see that?

2 A. Yes.

3 Q. What is the range of how quickly Qwest  
4 actually restored the service even though a number of  
5 line sharing tickets had a lower priority for clearing  
6 over the last four months?

7 A. 6 hours to 12.3 hours.

8 Q. That's 12.5 hours, right?

9 A. Or 12 hours and 30 minutes, put it that way.

10 JUDGE RENDAHL: Which page?

11 MR. STEESE: 176.

12 JUDGE RENDAHL: Thank you.

13 BY MR. STEESE:

14 Q. And so even though the CLEC repair had a  
15 lower priority in the queue because of how the service  
16 was designated, they still are getting things cleared  
17 fairly promptly; would you agree with that?

18 A. Yes.

19 Q. I'm going to turn to Ms. Tribby's  
20 cross-examination from yesterday now.

21 MS. DOBERNECK: Mr. Steese, I'm sorry, you  
22 were talking about MR-6-C in your last question to  
23 Mr. Williams?

24 MR. STEESE: Yes.

25 MS. DOBERNECK: Thank you.

7018

1 BY MR. STEESE:

2 Q. Let's turn to Exhibit 1338 at page, one  
3 moment, 68. This has to do with jeopardy notifications  
4 for unbundled loops. And maybe I was confused by the  
5 questioning yesterday, which is possible, but I thought  
6 Ms. Tribby suggested that the performance for CLECs was  
7 worse. Is it worse for CLECs or better for CLECs in  
8 these measures?

9 A. On page 68, these, the good arrow being up,  
10 this is one case where a longer interval is better. The  
11 more notice you give them of the jeopardy, the better it  
12 is, and the CLECs are consistently getting long or  
13 better, longer interval.

14 Q. When you look at a jeopardy notification, if  
15 you look at -- now let's turn the page to page 70,  
16 focusing on UNE-P. And if you look at PO-8-D, the other  
17 measure that Ms. Tribby focused on, there are two to  
18 five jeopardy notices that were issued during that  
19 month. Is that a good thing that there's a small number  
20 or a bad thing, and please explain?

21 A. It depends on the number of commitments met.  
22 If you're meeting your commitments at a very high level,  
23 which we are in the case of UNE-P, you wouldn't have to  
24 notify much, and so you would want to see low volumes.  
25 It's only if you're missing a lot of commitments, and

7019

1 then you would expect to see more notifications.

2 Q. So this particular measure, PO-8-D and for  
3 that matter PO-9-D, anything having to do with jeopardy  
4 notifications, have to be looked at not only  
5 individually but collectively with the percentage of  
6 commitments met that Qwest is meeting for that  
7 particular service?

8 A. Right, that provides the total context.

9 Q. Let's turn now to PO-15, which is the very  
10 next page, page 72. Do you recall Ms. Tribby's  
11 questions about PO-15?

12 A. Yes, generally.

13 Q. Can you just generally explain why it is that  
14 to look at the CLEC line on that chart and compare it to  
15 the retail line on that chart does not provide a good  
16 comparative?

17 A. Yes. First, the parties did agree that this  
18 is a diagnostic measurement. We would put out the  
19 retail number mainly not for an absolute comparison but  
20 to look at trends and that kind of a thing. But you can  
21 not draw an appropriate conclusion from the point for  
22 point comparison. The reason is this measurement was  
23 not designed for that. It almost can not be designed  
24 for that. The parties were unable to conclude after  
25 quite some discussion whether there -- whether there was

7020

1 a place that you could draw the line and say it's good  
2 or bad to have due date changes. It -- to some degree,  
3 due date changes are good in the sense that they reflect  
4 communication. And if the date needs to change, it  
5 makes sense to make the change and not hide that fact  
6 and not communicate it.

7           So there was this discussion about what's a  
8 good level, and we couldn't come to any appropriate  
9 level, and really the measurement can't go much farther  
10 than it already has in just giving an indication of  
11 where things are. And maybe I would suggest looking  
12 more at the trend, but even the trend, you have to look  
13 behind it to understand why it is what it is. And the  
14 trend here in the case of CLECs is going down with the  
15 recent uptake in February, but.

16       Q.     Let's ask a couple more precise questions  
17 then. Let's assume for the -- strike that.

18           On the retail line, are all types of orders,  
19 whether they be POTS orders or complex orders, built  
20 into that line?

21       A.     Yes, on wholesale and retail. This is  
22 broader than most of the measurements in terms of  
23 including all kinds of activities of not just inward  
24 activity as the OP measures, for example, focus on.

25       Q.     And in complex orders like loops, like

7021

1 interconnection trunks, is there a higher percentage of  
2 orders changed than for simple orders like POTS?

3 A. Yes.

4 Q. So the product mix would have to be the same  
5 to have a good comparative between the wholesale and --  
6 between CLECs and Qwest retail, correct?

7 A. Right, in order for it to -- in order for you  
8 to make any kind of comparison.

9 Q. If you look at the Qwest product mix on the  
10 retail side, what is the vast percentage of orders that  
11 Qwest still gets?

12 A. A tremendous number of POTS volume.

13 JUDGE RENDAHL: Mr. Steese, about how much  
14 longer do you have?

15 MR. STEESE: Two minutes, three at the most.

16 JUDGE RENDAHL: Okay.

17 BY MR. STEESE:

18 Q. I would like to turn, Judge Rendahl did this  
19 for me a little bit already, to Exhibit 1355, which is  
20 the new performance data, very briefly. And I will ask  
21 a foundational question while that is being pulled. Do  
22 you remember Ms. Tribby's questions about billing issues  
23 here?

24 A. Yes.

25 Q. And if you look at it's my page 78 of 1355



7022

1 concerning BI-3A, is the retail parity trend that you  
2 discussed with Ms. Tribby continuing in the month of  
3 March?

4 A. 78, okay, in other words, yes, the fact that  
5 we're satisfying the standard is now not only January  
6 and February but also now confirmed to continue in  
7 March.

8 Q. And what about with respect to BI-4A on page  
9 79, billing completeness, what does that show?

10 A. The same. And in addition of where  
11 previously it only showed February, now it shows  
12 January, February, and March after incorporating the  
13 correction to the measurement that the test prompted.

14 Q. When you look at trends, improving trends  
15 such as you see here with billing, is that something the  
16 FCC focuses on?

17 A. Yes.

18 Q. What do they say about that?

19 A. An improving trend is -- well, first of all,  
20 commercial is probative. That's what we have here is  
21 commercial data, but the improving trends are an  
22 important factor.

23 MR. STEESE: If I can just look at my notes  
24 very quickly.

25 BY MR. STEESE:

7023

1 Q. Just one other area of questioning, very  
2 brief. Are you familiar with the products that are  
3 being tested in the OSS test by KPMG?

4 A. Yes.

5 Q. That are actually sample orders are being  
6 submitted?

7 A. Basically, yeah.

8 Q. Is KPMG testing interconnection trunks,  
9 actually submitting orders for interconnection trunks?

10 MS. TRIBBY: Mr. Steese, are you talking  
11 about in the retest that's currently occurring or in the  
12 test overall?

13 MR. STEESE: Overall.

14 MS. TRIBBY: Thank you.

15 A. Overall we have seen that.

16 BY MR. STEESE:

17 Q. They submit orders and you provision  
18 interconnection trunks?

19 A. No, not there, I'm thinking --

20 Q. What about collocation?

21 A. No.

22 Q. What about UDIT?

23 A. No.

24 Q. What about 911 trunks?

25 A. No.

7024

1 Q. What about turning up NXXs?

2 A. No.

3 Q. What about resold PBX?

4 MS. TRIBBY: Mr. Steese, I'm going to  
5 interject again, are you asking if these orders are  
6 being provisioned or if they're being tested?

7 MR. STEESE: Ordered and provisioned as a  
8 part of the test.

9 MS. TRIBBY: Ordered and provisioned?

10 MR. STEESE: Through the pseudo CLEC.

11 MS. TRIBBY: Ordered and provisioned, not  
12 ordered or provisioned, correct?

13 MR. STEESE: I don't understand the  
14 distinction. Maybe you could --

15 MS. TRIBBY: I think what you're getting to  
16 is whether they're being provisioned, I think the orders  
17 that you're asking about, Mr. Williams can correct me if  
18 he knows --

19 JUDGE RENDAHL: Ms. Tribby, you need to  
20 direct your comments to the Bench.

21 MS. TRIBBY: I apologize.

22 JUDGE RENDAHL: And Mr. Steese as well.

23 CHAIRWOMAN SHOWALTER: What's the question?

24 JUDGE RENDAHL: Is there a question pending?

25 MS. TRIBBY: I think the record is going to

7025

1 be confusing, so I'm asking what Mr. Steese is asking  
2 Mr. Williams. There's a difference between in the ROC  
3 test which orders are being ordered and tested and which  
4 orders are actually being provisioned, so I wanted to be  
5 sure the record was clear with respect to what he was  
6 asking and what was being answered.

7 MR. STEESE: My focus is on provisioning, I  
8 will be that precise. I did not realize the  
9 distinction, I apologize.

10 JUDGE RENDAHL: Which orders are being  
11 actually provisioned.

12 MR. STEESE: Provisioned as part of the ROC  
13 OSS test.

14 JUDGE RENDAHL: Okay.

15 MR. STEESE: Yes, Your Honor.

16 BY MR. STEESE:

17 Q. What about resold PBX?

18 A. I don't think so. That one I'm not -- I  
19 don't think so.

20 Q. What about resold DSL?

21 A. No.

22 Q. What about resold DS0?

23 A. No.

24 Q. What about resold DS1?

25 A. I think so, but I can't -- that one I'm not

7026

1 sure on. Some of the DS1 I thought were, but we  
2 established a certain list of products that required  
3 statistically significant volumes, and I'm a little  
4 fuzzy on where that list ended, but.

5 Q. To the extent that KPMG is not testing a  
6 particular product and this Commission wants to know how  
7 Qwest is able to perform in provisioning each of those  
8 individual items or turning it up in the case of NXXs,  
9 where do they need to look?

10 A. The commercial results.

11 Q. And to the extent that the volumes are low  
12 here in the state of Washington, where else could they  
13 look?

14 A. They could look in our regional results,  
15 which is not unlike what the FCC has done in other RBOCs  
16 where they have looked at an anchor state when the  
17 current applicant state was small.

18 MR. STEESE: That's all that I have.

19 JUDGE RENDAHL: Okay, thank you.

20 We have ten minutes left before we take a  
21 lunch break. Is it possible to complete recross in that  
22 time? I guess I will ask if you have any recross.

23 MS. TRIBBY: I have no recross, Your Honor.

24 MR. KOPTA: I have a little.

25 JUDGE RENDAHL: Ms. Doberneck.

7027

1 MS. DOBERNECK: No recross.

2 JUDGE RENDAHL: Okay, why don't you go ahead,  
3 Mr. Kopta, and then we'll break at noon for lunch.

4 MR. KOPTA: Thank you, Your Honor.

5

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

7 BY MR. KOPTA:

8 Q. Mr. Williams, you had a discussion on a  
9 couple of points that I want to follow up on with  
10 Mr. Steese. The first is the lack of facilities  
11 limitation on the merger interval, and if I could draw  
12 your attention to Exhibit 1338, the performance results,  
13 and again on page 134. And in this case I'm looking at  
14 the last chart on that page, which is delayed days for  
15 facility reasons. Can you see where I'm looking?

16 A. Yes.

17 Q. And for February, do I interpret this  
18 correctly that the blank means that there were no delays  
19 for facility reasons in the month of February for DS1  
20 capable loops?

21 A. Yes. That's not to say that there wasn't a  
22 longer interval applied to the due date appropriately in  
23 OP-3 and 4, because the standard intervals of five, six,  
24 and seven days only apply where facilities are  
25 available. So that's not to say there wasn't a longer

7028

1 interval that was standard or appropriate to apply.  
2 It's just saying there were no delays beyond whatever  
3 interval for facility reasons.

4 Q. And have you reviewed the 95 orders from  
5 February of 2002 for DS1 capable loops?

6 A. Have I what?

7 Q. Have you personally reviewed each of the  
8 orders?

9 A. No, I haven't.

10 Q. Have you reviewed any of the orders?

11 A. No.

12 Q. So you don't know from your personal  
13 knowledge why there were any issues in terms of lack of  
14 facilities affecting the interval that was -- or the  
15 commitment that Qwest made for those loops?

16 A. No.

17 Q. And also you had a discussion with Mr. Steese  
18 about Qwest's policies and practices with respect to  
19 intervals for retail customers or what Qwest considers  
20 to be retail customers. And again, I will ask you the  
21 same questions, have you reviewed any of the 523 orders,  
22 for example, in February of 2002 for the retail DS1  
23 services that are in this chart on page 134?

24 A. No, I have not reviewed individual orders.

25 Q. So you don't know from your personal

7029

1 knowledge whether in practice Qwest is providing  
2 different intervals to its end user customers than it is  
3 to its carrier customers?

4 A. I know the basis upon which those intervals  
5 are set, the interval guidelines that are given to our  
6 people. I am part of the review process for that going  
7 forward, and someone would have to be violating practice  
8 to offer a more favorable interval to say a retail  
9 private line customer and a less favorable interval to a  
10 special access customer.

11 Q. But at least at this point, you don't know  
12 based on these orders whether that, in fact, is  
13 happening?

14 A. No, I haven't looked at those orders.

15 Q. And are you saying that all retail customers  
16 for DS1 circuits regardless of how they are provisioned  
17 or the number of that they are provisioned have the same  
18 interval?

19 A. Once again, please, I missed the front part.

20 Q. Yes. Are you saying that all DS1 circuits  
21 provided to what you consider to be retail customers  
22 regardless of what tariff or contract they're provided  
23 out of have the same interval?

24 A. I would be surprised if they were all exactly  
25 the same. There are different conditions, line



7030

1 quantities and so forth. So I would be surprised if  
2 they were the same. But they are by policy established  
3 on the same basis in terms of similarly situated  
4 customers.

5 Mr. KOPTA: Okay, thank you, that's all I  
6 have.

7 MS. TRIBBY: Your Honor, I apologize, I do  
8 have just a few questions if I could.

9 JUDGE RENDAHL: Can you finish in five  
10 minutes?

11 MS. TRIBBY: You bet.

12 JUDGE RENDAHL: Okay, let's do it.

13

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

15 BY MS. TRIBBY:

16 Q. Mr. Williams, Mr. Qwest, I'm sorry,  
17 Mr. Steese was asking you about the number of due date  
18 changes per order; do you recall that?

19 A. Yes.

20 Q. And you indicated that for the retail orders  
21 it includes all order types, not just inward orders,  
22 complex orders, and that many of those orders are POTS  
23 on the retail side; do you recall that?

24 A. Yes.

25 Q. What's the basis for your understanding

7031

1 sitting here today that many of the orders included in  
2 the PO-15 measures are POTS orders?

3 A. Just from my knowledge of the business in  
4 seeing the reports of the numbers of retail comparisons.  
5 For example, I see both wholesale and retail results,  
6 and I see in that 50 some thousand retail order number,  
7 it's I just see a very high number of residence and  
8 business services. That's the largest volume of  
9 services we have in the company, continues to be a large  
10 number.

11 Q. There's no information in the record before  
12 this Commission today to give a breakdown of what kind  
13 of orders are included in PO-15, is there?

14 A. Not specifically, but there is evidence that  
15 supports my assertion that there would be a high number  
16 of -- a high percentage or high proportion of PO-15  
17 being POTS.

18 Q. In fact, on the CLEC side of the data, all  
19 orders would be included as well, including design  
20 services and complex order types also, correct?

21 A. Yes, and we measure both on collecting the  
22 same kinds of orders.

23 Q. Would you turn with me to the description of  
24 PO-15, the number of due date changes per order.

25 MS. TRIBBY: And I apologize, Your Honor, I'm

7032

1 not sure what the exhibit number is for the working PID  
2 version 4.0.

3 JUDGE RENDAHL: It's 1359.

4 MS. TRIBBY: Thank you.

5 JUDGE RENDAHL: And do you have a page  
6 number?

7 MS. TRIBBY: Yes, it's page 24.

8 JUDGE RENDAHL: Thank you.

9 BY MS. TRIBBY:

10 Q. Are you there, Mr. Williams?

11 A. Yes.

12 Q. As I read the description, it says, includes  
13 all inward orders. Is it your testimony here today that  
14 orders beyond inward orders are also included in the due  
15 date change PID despite what the PID description says?

16 A. Yes, and I may need to check, because I don't  
17 have with me -- I thought I recalled a PID clarification  
18 on that point that was brought forward, but I'm -- it's  
19 not in 4.0. And I need to also clarify on that point  
20 that a point release of the PID is not the only one in  
21 effect. In between point releases, the TAG approves,  
22 reviews and approves PID changes coming from the test,  
23 coming from the audit, and I think there is a change,  
24 but my recollection is fuzzy on this.

25 And the reason I say that is that when this

7033

1 PID was designed originally, it was triggered by PO-15,  
2 or excuse me, PO-5, which is the FOC measurement, and  
3 the concern was that that measurement had some  
4 limitations in capturing the frequency with which Qwest  
5 changed due dates. And so PO-15 was designed to capture  
6 that, and PO-5 is not limited to inward. And PO-15, as  
7 I seem to recall a recent change, also is not. I will  
8 have to check that though, I'm a bit fuzzy on that. My  
9 understanding is though that the results do contain all.

10 Q. Mr. Steese asked you at the end of his  
11 examination about which orders are actually being  
12 provisioned in the KPMG ROC test; do you recall that?

13 A. Oh, yes.

14 Q. Are you familiar enough with the ROC test to  
15 testify with certainty about the products he asked you  
16 about and whether those are actually being provisioned  
17 or not in the ROC test?

18 A. To a high level. I don't have -- I would  
19 have to look at the list, but I'm reasonably certain my  
20 answers were correct. I don't -- except for where I  
21 indicated like on the PBX trunks and the resale DS1.

22 MS. TRIBBY: Thank you, that's all I have.

23 JUDGE RENDAHL: Okay, with that, I think  
24 we're ready to take our lunch break. We will be off the  
25 record until 1:30.

7034

1 (Luncheon recess taken at 12:00 p.m.)

2

3 A F T E R N O O N S E S S I O N

4 (1:55 p.m.)

5

6 JUDGE RENDAHL: We're back after our lunch  
7 break and after some discussion of scheduling for the  
8 upcoming release of the OSS final test report.

9 Mr. Steese has a brief statement.

10 MR. STEESE: Very brief, thank you, Your  
11 Honor. First, Mr. Kopta asked whether or not DS1  
12 capable loops, one to eight lines, had a five or nine  
13 day interval in the current SGAT, that filed very  
14 recently, and it does have a five day interval that  
15 matches the merger agreement, if you will.

16 JUDGE RENDAHL: And that is Exhibit C to the  
17 SGAT?

18 MR. STEESE: That is correct.

19 JUDGE RENDAHL: And that was filed on April  
20 19th, last Friday?

21 MR. STEESE: The SGAT was. I don't know if  
22 all of the exhibits were. I looked at an exhibit dated  
23 April 5 of 2002.

24 JUDGE RENDAHL: Okay.

25 MR. STEESE: And it already had the five day

7035

1 interval contained therein.

2 JUDGE RENDAHL: Okay, thank you very much.

3 MR. STEESE: Secondly, Ms. Tribby was  
4 asking questions about PO-15 of Mr. Williams and whether  
5 or not it contained all orders, including non-inward  
6 line activity, or was it just limited to inward line  
7 activity. Mr. Williams did some checking over the lunch  
8 hour and had his comment inversed. In reality, it used  
9 to be all orders, and the PID change from last fall had  
10 to do with limiting it to inward line activity as  
11 reported in Exhibit 1359. So, in fact, the data that's  
12 being reported is just inward line activity, to clarify  
13 for Ms. Tribby. And if you want Mr. Williams to clarify  
14 that point, he certainly is sitting right behind me, and  
15 you can do that.

16 JUDGE RENDAHL: Ms. Tribby, do you find that  
17 necessary?

18 MS. TRIBBY: No, thank you.

19 JUDGE RENDAHL: Okay, then I think we've got  
20 it in the record.

21 Okay, Mr. Finnegan, are you ready?

22 MR. FINNEGAN: Yeah.

23 JUDGE RENDAHL: Okay, why don't you come and  
24 sit up here, and we will get you ready to go. Let's be  
25 off the record for a moment.

7036

1 (Discussion off the record.)

2 JUDGE RENDAHL: Mr. Finnegan has now taken  
3 the stand.

4 Would you please state your full name and  
5 address for the court reporter.

6 MR. FINNEGAN: My name is John Finnegan, F as  
7 in Frank, I-N-N-E-G-A-N. My address is 1875 Lawrence  
8 Street, Denver, Colorado 80202.

9 JUDGE RENDAHL: Thank you. Would you raise  
10 your right hand, please.

11

12 Whereupon,

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

16

17 JUDGE RENDAHL: Thank you, please go ahead  
18 and make your statement.

19 MR. FINNEGAN: Thank you.

20 JUDGE RENDAHL: And please remember to speak  
21 right into the microphone. That will be very helpful  
22 for everyone.

23 MR. FINNEGAN: Okay. Just to give a little  
24 background about myself, I have been --

25 JUDGE RENDAHL: And is it on? It needs to be

7037

1 up. Thank you.

2 MR. FINNEGAN: Just to give you a little  
3 background about myself, I have been working with AT&T  
4 for 19 years. The last few years have been spent  
5 primarily on issues of performance measurements, the  
6 operational support systems test, and the performance  
7 assurance plan. I think I'm one of the few people that  
8 have been working on performance measurements and PIDs  
9 longer than Mr. Williams of Qwest and bring some  
10 knowledge of the performance measurements, how they were  
11 developed, and how they fit into the overall scheme of  
12 the OSS test, commercial results, and the performance  
13 assurance plan.

14 This was stated in AT&T's comments, and I  
15 believe it still holds true, that the ideal state we  
16 want to be in with the data is that the data can speak  
17 for itself, the data is accurate, the data is reliable,  
18 we understand what the data is representing. There may  
19 be some disagreement on what the data means, but as far  
20 as the accuracy, reliability, and understandability of  
21 the data, there should be no debate. We're getting  
22 close to having the data be able to speak for itself,  
23 but we're not quite there yet, and I will get into some  
24 reasons why the data still is unable to speak for  
25 itself.



7038

1                   When we talk about data, one of the first  
2 things we have to keep in mind are the performance  
3 indicator definitions or the PIDs. These are the  
4 performance measurements. They were collaboratively  
5 developed over a period of several months, if not years.  
6 They are continually being revised. These were  
7 developed with input certainly from Qwest, from CLECs,  
8 and from other regulators. We have generally agreed  
9 that the PIDs are the standards. These are the  
10 reference, these are the yard stick against which we are  
11 going to measure Qwest performance. And when I say the  
12 standard, that's what we look to, everything is compared  
13 against the PIDs to see if the performance is meeting  
14 the requirements of the PID and if the performance  
15 results are being reported in a manner that is PID  
16 compliant.

17                   Now once we developed the PIDs, the OSS test  
18 came about. And there was an understanding that through  
19 the OSS test that there was going to be an independent  
20 assessment of whether Qwest's operational support  
21 systems were good enough. Now the way we were going to  
22 determine whether those systems were good enough is  
23 primarily we're going to run them through their paces,  
24 keep measurements on how they did in processing  
25 transactions, and then compare them against the

7039

1 standards identified in the PIDs. We also understood  
2 that we're going to reach a point we are today where  
3 Qwest is going to be asking this Commission and other  
4 commissions to pass judgment on their compliance with  
5 the individual checklist items, and they're going to  
6 demonstrate or attempt to demonstrate that compliance  
7 through providing the performance measurements. That's  
8 where we're at.

9           We knew early on that the performance  
10 measurements can be very complex. There's a lot that  
11 goes into it. It's a simple concept of how we measure  
12 things, and generally what we're measuring is how long  
13 does it take to do something, how often does something  
14 break or how often does something not perform as it  
15 should, if something breaks, how long does it take to  
16 fix. In concept, easy to do. In practice, it can be a  
17 lot more difficult. You have to understand exactly when  
18 you start the clock on an interval measurement. You  
19 have to understand exactly when you stop the clock. If  
20 you're going to exclude certain types of orders, you  
21 have to understand exactly under what conditions you're  
22 going to exclude those orders. If you're going to  
23 exclude some interval from an overall interval of time,  
24 you have to understand exactly when you're going to do  
25 that and under what conditions.

7040

1                   To ensure that Qwest was accurately  
2 reflecting what was collaboratively developed through  
3 the PID process, it was decided in the OSS test there  
4 would be a third party auditor that would audit Qwest's  
5 process to make sure that they were indeed collecting,  
6 reporting, and analyzing data in a PID compliant  
7 fashion. The way the third party auditor was to do that  
8 was to take Qwest raw data, and assuming, and that's a  
9 key term, assuming that raw data was accurate, could  
10 Qwest produce from that raw input data PID compliant  
11 results. And to provide a really simple example, it's  
12 saying if you had the number two and the number three  
13 and your task was to add them together, could Qwest's  
14 process add two and three and get five.

15                   What Liberty found as a third party auditor  
16 was, and again this is an oversimplification, but  
17 sometimes when Qwest added 2 and 3 together they got  
18 negative 1 or 7 or 12 or G, that Qwest was not  
19 appropriately taking that raw input data and converting  
20 it into PID compliant performance results. I believe  
21 Mr. Stright in his final report, Exhibit 1372, said  
22 there were roughly 70 observations and exceptions they  
23 opened and closed as a result of this performance  
24 measurement audit.

25                   JUDGE RENDAHL: I'm sorry, I think when you

7041

1 had asked when we were off the record what was the final  
2 report, I thought you were referring to the data  
3 reconciliation report, not the performance measurement  
4 audit. There's a different number for the performance  
5 measurement audit.

6 MR. FINNEGAN: Well, actually, I was  
7 referring to the report that came out on Friday.

8 JUDGE RENDAHL: Oh, okay.

9 MR. FINNEGAN: Is that still right?

10 JUDGE RENDAHL: That's still the right  
11 number. I'm sorry, I just misunderstood. Please go  
12 ahead.

13 MR. FINNEGAN: Mr. Stright indicated that  
14 there were 70 observations and exceptions created.  
15 These were problems that were identified by Liberty.  
16 And to Qwest's credit, they fixed those problems to the  
17 satisfaction of the vendor. Well, that was one part of  
18 the process.

19 And I had highlighted before the term, but  
20 assuming the raw data were accurate, Liberty really  
21 didn't have an ability or the task was not set up so  
22 they could test how accurate the raw data were. They  
23 were not there watching Qwest produce that raw data.  
24 They were not there as the technicians were populating  
25 fields on an electronic screen that said when they

7042

1 closed the trouble ticket. The operating assumption  
2 they used was the data was good, and if this data was  
3 good, can they produce it into PID compliant data.

4           There was, however, a mechanism to test the  
5 accuracy of the input data. That was also through the  
6 OSS test. In the OSS test, the third party tester,  
7 KPMG, and the pseudo CLEC, Hewlett Packard, were going  
8 to be setting up effectively a phony CLEC where they  
9 were developing interfaces, they were working with Qwest  
10 as a CLEC, Qwest believed them to be a CLEC, Qwest  
11 should have been treating them as any other CLEC. Once  
12 this got set up, the pseudo CLEC, Hewlett Packard, was  
13 sending orders in, sending trouble tickets in, calling  
14 the help desk, asking for help, doing all the activities  
15 and transactions that a normal CLEC would do. As they  
16 were doing these transactions, Hewlett Packard and KPMG  
17 were keeping a score card. For every single order they  
18 sent in, they kept an order history. We sent the order  
19 in on such and such a date, this was the order number,  
20 this is what we ordered, here's when we got our response  
21 back from Qwest, all the way through the life cycle of  
22 the order until they got a notice from Qwest that said  
23 they had completed the service and it was installed  
24 appropriately.

25           From this score card that Hewlett Packard and

7043

1 KPMG were keeping, they were able to independently  
2 produce for the pseudo CLEC the performance results or  
3 the PID results for probably 20 or 30 separate  
4 measurements. Qwest as part of its normal process makes  
5 available to individual CLECs their individual CLEC  
6 performance data. So Qwest was looking at the same  
7 transactions for the pseudo CLEC as was KPMG and Hewlett  
8 Packard. You had two reports for the same period of  
9 time for the same activities, a KPMG produced report on  
10 the one hand, a Qwest produced report on the other hand.  
11 KPMG was tasked with comparing those reports to see if  
12 they were different, to see if Qwest might have been  
13 doing some things that were not PID compliant with  
14 respect to how they were treating orders. And let me  
15 give you some examples.

16           Things like if an order is missed whose fault  
17 it is have a very critical impact on the performance  
18 measurements. It was agreed if an order is missed and  
19 it's a CLEC's fault, Qwest should legitimately be able  
20 to exclude that from their commitments met measurement.  
21 In the parlance of the PID, that would be the OP-3  
22 measurement. The concern the CLECs had was by coding a  
23 missed commitment as a customer caused miss, that's  
24 essentially a performance measurement get out of jail  
25 free card. It's not a ding against Qwest performance if

7044

1 it's coded as a customer caused miss. So we were  
2 concerned that Qwest may be taking liberties with or  
3 inappropriately coding orders with customer caused, or  
4 excuse me, with Qwest reasons for missing the order as a  
5 customer caused miss.

6           The comparison of the KPMG results to the  
7 Qwest results would help get at that. By comparing the  
8 denominators in the measurements, they should be roughly  
9 the same. Not perfect, they shouldn't perfectly align,  
10 but they should be very close. And if they're not  
11 close, and for instance, for example, Qwest is  
12 inappropriately coding orders as a customer caused miss  
13 when KPMG knows there was no reason for the customer to  
14 have caused that miss, they can identify the difference,  
15 investigate the difference, and see what the cause of  
16 the problem was.

17           KPMG started the production of this data to  
18 do the analysis probably sometime in October, November,  
19 December, January of last year and the beginning of this  
20 year. One of the issues was prior to that in the  
21 summer, spring and summer of 2001, AT&T and Qwest had  
22 started their own business-to-business what's called  
23 data reconciliation. We did a mini version of what KPMG  
24 was going to do where we took our data as we saw it, and  
25 we compared it to Qwest data for the same AT&T

7045

1 transactions, and we were starting to find some  
2 differences.

3           About that time in the summer, Qwest started  
4 providing performance data in states like Nebraska to  
5 say, here's our performance results, we believe we are  
6 meeting the checklist requirement, so why don't you give  
7 us preliminary approval for checklist item 4, to bring  
8 one as an example. We provided some testimony and  
9 essentially in written form shared what I have just  
10 shared with you. The data was not in the position to  
11 speak for itself. There was a time even back then  
12 Liberty had not finished its initial process audit, and  
13 KPMG had not gone through its data reconciliation effort  
14 on the pseudo CLEC data. So we said, from a data  
15 perspective, the data issue is not ripe for  
16 consideration yet, let the ROC processes go through  
17 their paces, and there will come a time when the data  
18 can speak for itself, but it was not in the summer of  
19 2001. And we also said, and by the way, we have done  
20 some preliminary data reconciliation, and our data  
21 doesn't look anything like Qwest data.

22           Qwest as a result of some of that testimony,  
23 in my opinion as a result of some of that testimony,  
24 went back to the ROC and created a change request where,  
25 again this is my opinion, Qwest wanted to settle the



7046

1 issue of what's called the dueling data, where the CLEC  
2 says, we have looked at Qwest data, and we don't think  
3 it's accurate because we have another view of the data.  
4 The change request I like to call the put up or shut up  
5 change request. The request put an invitation out to  
6 all of the CLECs and said, we want to have a third party  
7 independently check your data against our data to  
8 forever answer this dueling data issue, and speak now or  
9 forever hold your peace.

10                 Three CLECs participated in that process,  
11 AT&T, Covad, and WorldCom. And originally we were  
12 planning on following the process that AT&T and Qwest  
13 had used through that business-to-business data  
14 reconciliation. That was we look at the data side by  
15 side, identify the differences, try and figure out why  
16 the differences are there, and then provide that  
17 analysis to Liberty and say, for instance, we think  
18 Qwest is inappropriately including canceled orders in a  
19 measurement, Liberty, can you verify if that exists.  
20 That was the initial thought of how we were going to  
21 proceed.

22                 Once the process started, the schedule for  
23 completion of the process became very aggressive. It  
24 was a six week, eight week process from end to end to do  
25 all three CLECs worth of data reconciliation.

7047

1 Originally the process was set up where the CLEC was  
2 supposed to say, here's some data and here's the reasons  
3 we think it's suspect. Because of the schedule issues,  
4 that really became impossible. In retrospect, what the  
5 CLECs were being asked to do was identify the problems  
6 in a couple of weeks that it took Liberty almost eight  
7 months to identify. So where once we were attempting to  
8 point them in a more narrowly focused direction, that  
9 became logistically impossible because of the schedule  
10 issues.

11 So the intent of or the way the process  
12 actually worked is we would provide summary spreadsheet  
13 information on all of the orders that we were being  
14 asked to look at, would have this order history type of  
15 information, the score card, and then we provided stacks  
16 and stacks of printouts from our provisioning centers  
17 that had the backup information to support it.

18 MR. STEESE: At this point, if I could  
19 register a mild objection, I suppose I'm confused. I  
20 thought the point of this was to summarize testimony,  
21 and Mr. Finnegan has gone on now for 20 minutes and has  
22 described not one thing described anywhere in his  
23 testimony. So I'm confused and would ask for some  
24 clarification about the intention of witness summaries.

25 JUDGE RENDAHL: My understanding was that

7048

1 this was a chance for the witness to give  
2 summary/overview to -- I guess I didn't understand it  
3 entirely as a summary of testimony, and my impression  
4 was that the parties had done this in other states. So  
5 I guess to the extent this is different than what's been  
6 done in other states, you know.

7 MR. STEESE: If Your Honor's thoughts were  
8 different, I suppose that I thought it was going to be a  
9 bit more focused on the testimony, but that's fine.

10 CHAIRWOMAN SHOWALTER: But in general,  
11 shouldn't it be that the witness should not be  
12 introducing significantly new substantive material,  
13 because that's what's supposed to have been covered in  
14 the testimony?

15 MR. STEESE: And that's certainly what I  
16 thought. I have tried to extend some latitude. And to  
17 be candid, in the other states, there was no pre-filing  
18 requirement. I'm not hearing anything that unique, but  
19 it seems to be going on for a fairly long period of time  
20 without tracking any aspect of the testimony or  
21 comments, whatever you want to call it.

22 JUDGE RENDAHL: Ms. Tribby.

23 MS. TRIBBY: Your Honor, I think what  
24 Mr. Finnegan is attempting to do is to sort of provide  
25 background to the Commission about what's been going on

7049

1 in the data reconciliation process since we have not  
2 been before you before. He certainly does talk in his  
3 testimony about the Liberty process and the KPMG  
4 process. He's certainly going into some more detail for  
5 your background. But if you would like him to move on,  
6 he certainly could do that.

7 JUDGE RENDAHL: I guess I would ask,  
8 Mr. Finnegan, are you getting close to the end of the  
9 background and more into the summary of testimony realm?

10 MR. FINNEGAN: Yes, although I viewed this  
11 somewhat as a summary of the testimony. Because in the  
12 comments, there was reference to the Liberty audit,  
13 there was reference to the KPMG audit, so I think I am  
14 tracking. I'm getting close to the end, but I did think  
15 I was tracking with what was in the pre-filed comments.

16 JUDGE RENDAHL: Okay. Well, I think this is  
17 a bit more detail on some of the issues than was in the  
18 pre-filed, but let's keep going and see if you can hit  
19 your testimony.

20 MR. FINNEGAN: Okay.

21 And one of the other points I want to make is  
22 some of these exhibits, for instance the Exhibit 1372,  
23 that was introduced Friday, and we haven't really had an  
24 opportunity to respond to it. I may be referring to  
25 some of that as well.

7050

1 JUDGE RENDAHL: That's fine.

2 MR. FINNEGAN: And I should say our goal with  
3 the entire data process is that we relied upon the Qwest  
4 data. AT&T's intention is not to provide our own data  
5 in this forum or any other forum. Our intention was  
6 that through the processes that I have described we can  
7 get to rely on Qwest data.

8 What KPMG has found, and I reference this in  
9 the pre-filed comments, in KPMG's comparison of the  
10 pseudo CLEC data to Qwest's view of the pseudo CLEC  
11 data, they found several discrepancies in how they were  
12 recording. They identified these discrepancies in  
13 observations 3089 and 3099. Qwest responded, indicated  
14 that some of the problems were due to human error, had  
15 indicated that as of early January they had put in place  
16 some training programs to address some of the  
17 deficiencies that were causing the human error, changed  
18 some of their processes, and invited KPMG to look at  
19 their February results that should have benefited from  
20 the additional training they provided in January.

21 KPMG did just that and as a result of the  
22 data they reviewed found even more problems than before  
23 the recalculation of the data. KPMG escalated the  
24 severity of the findings from observations. Where there  
25 once were two observations, they escalated it to one

7051

1 exception, that exception being 3120. They found three  
2 problems, three types of problems. One was Qwest was  
3 making inappropriate exclusions. A second was Qwest was  
4 inaccurately reporting dates and times. And the third  
5 was Qwest was missing data for the pseudo CLEC that KPMG  
6 had collected. Qwest responded to that exception on  
7 April 11th and pretty much agreed with a lot of the KPMG  
8 findings.

9           What KPMG had found during the retest of the  
10 data and looking at the fresh pseudo CLEC data, 283 out  
11 of 575 orders were improperly excluded. That's about  
12 49%. So KPMG found and Qwest admitted to after the  
13 finding that there were inappropriate exclusions for  
14 approximately 49% of the pseudo CLEC orders. What KPMG  
15 also found were there were application date problems.  
16 The application date in the parlance of the PID is when  
17 you start the clock. KPMG found application date  
18 problems on 345 of the 745 orders that were subject to  
19 the examination. 46% of the orders had this type of  
20 problem. 8 1/2% of the orders KPMG found where the  
21 intervals didn't match. The duration of the order that  
22 KPMG had collected was not the same as what Qwest had  
23 collected. This was 63 out of the 745 orders. KPMG  
24 also found that there were 116 orders that the pseudo  
25 CLEC had sent that Qwest had absolutely no record of as

7052

1 being the pseudo CLEC order.

2 JUDGE RENDAHL: Mr. Finnegan, I have a  
3 question for you about is this exception 3120, has it  
4 been marked as an exhibit?

5 MR. FINNEGAN: I believe it has. 3120 has  
6 been marked as an exhibit. I do not believe the latest  
7 version of the exhibit or exception 3120 information has  
8 been marked as an exhibit.

9 JUDGE RENDAHL: Let's be off the record for a  
10 moment.

11 (Discussion off the record.)

12 JUDGE RENDAHL: While we were off the record,  
13 Ms. Tribby clarified that this information is included  
14 in Exhibit 1361, which is Exception 3120 and Qwest's  
15 response.

16 Go ahead, Mr. Finnegan.

17 MR. FINNEGAN: In Qwest's response, they did  
18 indicate that there were -- for a few of the orders that  
19 KPMG had found discrepant were likely the result of a  
20 misunderstanding on the part of KPMG, but for the bulk  
21 of the problems that KPMG identified, Qwest agreed there  
22 were problems with how they were reporting the data and  
23 agreed to implement a fix.

24 The primary problem got to be how Qwest  
25 counted days. Originally the PID was set up where

7053

1 Saturday and Sunday were not considered business days.  
2 That was understood, that was included in the PID, the  
3 expectation was Qwest's process was set up so it would  
4 not count business days as, or excuse me, Saturday and  
5 Sunday business days as days for counting intervals.  
6 What KPMG found out, in fact, was Qwest was counting  
7 business days, and in the counting of the Saturday and  
8 Sunday as business days, it was taking what had been a  
9 request for a standard interval due date and making the  
10 request for longer than the standard interval due date.  
11 That caused it inappropriately to be considered a  
12 request from the CLEC longer than the standard interval,  
13 and Qwest excluded it per the exclusion that was allowed  
14 in the OP-4 measurement. Qwest has admitted to that and  
15 is taking steps to correct it. That also got into the  
16 problem of how long the orders were on the interval, and  
17 it also was related to the application date, that  
18 Saturday-Sunday problem caused the application date.

19           On the missing orders, Qwest admitted to a  
20 programming problem that was classifying the wholesale  
21 or pseudo CLEC order as a retail order instead of a CLEC  
22 order. Qwest said they were going to undertake a fix to  
23 correct that.

24           So even at this late date, even now, there  
25 has been the Liberty process audit, there has been the



7054

1 Liberty data reconciliation, and there has been the OSS  
2 test, there is still what KPMG was considering  
3 outstanding data integrity issues. These data integrity  
4 issues are the cause of the final final report for the  
5 OSS test being delayed. And hopefully Qwest will get  
6 those fixed upon the retest, but there's no guarantee  
7 that that's going to happen.

8           What does that mean for us here today? What  
9 it means is we're not yet at the point where we can  
10 count on the Qwest data. If there are still questions  
11 of how does Qwest exclude things, and the KPMG finding  
12 was they were excluding about half the orders  
13 inappropriately, if there's still questions of can Qwest  
14 count how many days it takes to complete an order, and  
15 that remains an issue, it's premature at this point for  
16 the Commission to be basing go or no go or compliant or  
17 noncompliant decisions on data that still has not been  
18 declared ready for prime time.

19           Changing subjects a bit, on the Liberty  
20 audit, one of the concerns we had and frankly was  
21 disappointing was for the Liberty data reconciliation,  
22 Liberty identified problems, Qwest in most of the cases  
23 would admit to the problems, but Liberty didn't always  
24 do what we thought they should have done to do a good  
25 job to verify, as I believe Mr. Stright characterized

7055

1 it, verify the effectiveness of the fix or effectiveness  
2 of the change.

3 MR. STEESE: At this point, I'm going to  
4 register another objection, this time a bit more strong.  
5 AT&T filed comments to this effect well before its  
6 written comments were due, and all it says in its  
7 pre-filed testimony is wait Commission, wait, wait until  
8 the KPMG problem is finished, wait until the Liberty  
9 audit is finished, and they didn't put in their  
10 pre-filing requirements or in their pre-filing at all  
11 complaints about Liberty's process. And it's  
12 frustrating at this point to hear Mr. Finnegan summarize  
13 his testimony, and I realize he made mention of  
14 observation 3089 and 3099, but that's all it was, and  
15 we're sitting here now 33 minutes into his summary, and  
16 frankly he hasn't said one thing in his comments. This  
17 is inappropriate, and there should be some standard that  
18 will allow Qwest to prepare for what he's going to be  
19 testifying to without hearing it for the first time on  
20 the stand.

21 MS. TRIBBY: Your Honor, if I may respond,  
22 Mr. Williams filed 140 pages of testimony in this case.  
23 Mr. Finnegan filed 20 pages. Attached to his testimony  
24 every step of the way and submitted as exhibits in this  
25 case are AT&T's redlined comments to every single

7056

1 Liberty report. Mr. Finnegan is now taking you through  
2 some of the criticisms that were in the redlined  
3 comments to the Liberty reports. We certainly didn't  
4 feel the need to both attach the redlined reports and  
5 repeat every criticism in his testimony. So to claim  
6 that Qwest doesn't have notice when every single report  
7 and every single criticism, except for the criticism of  
8 those that came out on Friday, have been before this  
9 Commission and the parties for months is disingenuous.

10 JUDGE RENDAHL: Well, to the extent that  
11 AT&T's comments were attached to the testimony, which I  
12 note that they were, then I think there is sufficient  
13 notice to Qwest. The reason why I asked about the  
14 information in observation and exception -- the  
15 exception 3120 is it did seem to be new, although I  
16 think it is helpful to this Commission to go over  
17 information that is in the record.

18 So to the extent, Mr. Steese, that you need  
19 to take some time to go over that with Mr. Finnegan,  
20 you're welcome to do that. But I think in terms of the  
21 Liberty audit and comments by AT&T on the Liberty audit,  
22 I think that's sufficiently in the record.

23 Mr. Finnegan.

24 MR. FINNEGAN: Moving on to observation 1028,  
25 this was an observation for maintenance and repair

7057

1 measurements, and one of the characteristics of the  
2 maintenance and repair measurement is if Qwest shows up  
3 at a customer's location and that customer is not there,  
4 Qwest is allowed appropriately to exclude what is called  
5 no access time from their interval of how long it took  
6 them to fix a problem. What Liberty found in  
7 observation 1028 was Qwest was not doing a proper job of  
8 recording that no access time. In some cases they were  
9 recording time that was too long, in some cases they  
10 were recording time that was too short. Qwest  
11 acknowledged the problem and had indicated that it was  
12 taking some steps to improve its training, to improve  
13 its documentation such that the problem wouldn't happen  
14 again. Liberty failed to verify the effectiveness of  
15 that fix and instead closed the observation based on  
16 Qwest's assertions that it was going to improve the  
17 process.

18           In my opinion, Liberty could have easily  
19 taken a few steps to verify the effectiveness of the  
20 fix. They had a very narrow focus on what the problem  
21 was, they could have pulled a sample of orders a month  
22 or so after the fix had been instituted, they could have  
23 gone right to where the spots were where they found the  
24 problem before to see if the problem didn't exist. For  
25 some reason, Liberty failed to do that, and we think

7058

1 that was a shortcoming.

2 Observation 1031, Mr. Stright had mentioned  
3 this as the most important observation, and I would  
4 agree with him. This dealt with the improper or  
5 inappropriate assignment of miscodes to an order. What  
6 Liberty found was Qwest was inappropriately attributing  
7 a miss to a CLEC when it really should have been a Qwest  
8 caused miss. Now let me put things in perspective.

9 In the data that was reviewed in Colorado and  
10 Arizona for interconnection trunks, Liberty found about  
11 8% of the time Qwest was improperly assigning the  
12 miscode to the CLEC. What that means is Qwest was  
13 excluding that order. It was a miss, but they were  
14 excluding it as a customer caused miss. If they had  
15 appropriately coded it as a Qwest caused miss, their  
16 commitments met results or their commitments met  
17 performance would go down about 8%. So they were  
18 overinflating their commitments met performance by 8%.

19 There was some further evaluation, and this  
20 was in a Qwest response, they did some further  
21 evaluation and found for AT&T interconnection trunk  
22 orders in Washington, Oregon, Utah, and I believe  
23 Minnesota, they found this problem existed 9% of the  
24 time. So again, for six states they found what is a  
25 significant error in how they were excluding orders, and

7059

1 this would have had a significant impact on their  
2 commitments met results.

3           This was the data that was available to  
4 Liberty, and Liberty could look at this data and see the  
5 8% to 9% errors on how the function codes or malfunction  
6 codes were applied. Qwest's response was, ignore that  
7 data, we just were really, really unlucky in those  
8 states, everywhere else the rate of this problem is 0%  
9 or 0.1%, 0.3%. Qwest's analysis that was not verified  
10 by Liberty, but Qwest's analysis was this problem only  
11 showed up for AT&T in these six states and nowhere else  
12 should it show up. As an auditor, that should have sent  
13 red flags up all over the place. To have that much bad  
14 luck on over 100 orders where you're finding an 8% to 9%  
15 defect rate and then everywhere else is being purported  
16 to be 0% or .1% on interconnection trunks, that's  
17 something that should have been investigated but was not  
18 investigated.

19           The problem was one of human error. Qwest  
20 said they were going to institute training, they were  
21 going to improve their processes, and that should fix  
22 it. Liberty accepted that explanation at face value and  
23 did not verify the effectiveness of the fix. There was  
24 some computer programming changes that Qwest had made,  
25 but those programming changes would be ineffective if

7060

1 the Qwest representatives were still making that human  
2 error of assigning the wrong codes in there.

3           Liberty could have easily verified that.  
4 They could have, again, they knew exactly what the  
5 problem was, where it could be found, they knew what  
6 data bases to look at, they could just do a quick sort  
7 that says, Qwest, give me a listing of all of the orders  
8 for interconnection trunk where there was a customer  
9 caused miss assigned, and then give me the what was  
10 called the TIRKS, T-I-R-K-S, data base information to  
11 see if it's a facility problem. Might be 10, 20, 30  
12 orders, not a lot of extensive analysis, it's what  
13 should have been done to do a thorough job. Liberty  
14 failed to do it.

15           JUDGE RENDAHL: Mr. Finnegan, about how much  
16 longer do you have?

17           MR. FINNEGAN: Ten minutes.

18           JUDGE RENDAHL: Okay.

19           MR. FINNEGAN: Just talk about one more  
20 observation, then I will move off the observations.  
21 Observation 1032 was an inappropriate exclusion of  
22 longer than standard interval orders. This was another  
23 case where Qwest said they were going to institute some  
24 training, they had talked to the affected Qwest  
25 employees and have done some coaching and training.

7061

1 Again, this was something Liberty could have verified,  
2 they knew where to look, they could have found the spot  
3 to look. Turns out the longer than standard interval  
4 problem was one that KPMG later found and identified in  
5 3120. So it shows it was worth looking, and perhaps the  
6 training that Qwest had undertaken had not effectively  
7 remedied the problem.

8 I'm going to switch gears now and go to  
9 AT&T's Exhibit 1429, and this I will call, to borrow a  
10 term from Paul Harvey, the rest of the story on Qwest's  
11 data. What I have done is taken Qwest's what are called  
12 blue charts and put some revisions to it, and AT&T's  
13 revisions are shown in red to identify them as  
14 different.

15 On this first page, other than the note in  
16 the upper left-hand corner to indicate that they are  
17 AT&T's revisions, the only change is down at the bottom  
18 left-hand corner. You can see I added the  
19 classification A. For some of the results where they  
20 pass in what Qwest categorized as clearly satisfies  
21 checklist item, there was some of them where there were  
22 very low volumes. And what I should say about the  
23 statistics that were involved here, and Mr. Williams  
24 talked about it briefly yesterday, there are a  
25 statistical test, and to put it into lay person's terms,



7062

1 the statistics gives the benefit of the doubt to Qwest.

2 In comparing Qwest performance to the CLEC  
3 performance, the CLEC performance has to be worse than  
4 Qwest's performance before the statistics would trigger  
5 and say that performance is so far from Qwest's  
6 performance that we can rule out random variation or bad  
7 luck, so to speak, and we're going to conclude they're  
8 different processes. That difference or how far away  
9 from the Qwest performance has the CLEC performance to  
10 be before discrimination is declared is somewhat  
11 dependent upon the sample size or the number of CLEC  
12 orders.

13 And to give you hopefully a simple example,  
14 if I'm a baseball player and I'm up at bat 3 times and I  
15 get 1 hit, my batting average is 333. And if you ask  
16 someone, is he a 333 hitter, you say, well, I don't  
17 know, he's only been up 3 times, there is not a lot of  
18 evidence to conclude that he's a 333 hitter. But if I  
19 had been up 999 times and I got 333 hits, you're going  
20 to have a lot more evidence to say, based on that large  
21 sample size, I can conclude he's a 333 hitter.

22 Generically, the larger the sample size, the  
23 easier it is for Qwest to fail a test. The sample size  
24 that we're seeing in the state of Washington are  
25 generally fairly low, and Qwest performance has to be

7063

1 pretty bad before it fails a performance measurement in  
2 a given month. If Qwest fails two or three performance  
3 measurements in a given month, again their performance  
4 has to be pretty bad, and it has to be pretty bad over a  
5 long period of time. So when you look at the  
6 classifications that say Qwest can have two misses out  
7 of four over a four month period and that still supports  
8 satisfying the checklist, I would take exception to that  
9 characterization. Given that the statistics build in  
10 the benefit of the doubt, one miss out of four is  
11 something that would not be good performance.

12           Moving on to page 2 of Exhibit 1429, of the  
13 things I have done is where there's no activity for a  
14 particular service, Qwest often takes credit, in my  
15 opinion undue credit, for successful performance just  
16 because the box happens to be empty. In this OP-6-B  
17 measurement that you can see in the upper right-hand  
18 corner, I have changed the color of the box to gray.  
19 That's not to say Qwest --

20           COMMISSIONER HEMSTAD: What page are you on?

21           MR. FINNEGAN: Page 2.

22           That's not to say that Qwest fails the test,  
23 but this is a measure that says, when you miss a  
24 commitment, how long does it take for you to eventually  
25 install that order. So it's a measurement, so to speak,

7064

1 of Qwest's ability to rebound from a miss, and you want  
2 them to install that as quickly as possible. For this  
3 performance measurement, there's not a lot of  
4 installations in a given month. Qwest doesn't miss a  
5 lot, and in this case they didn't have any miss for  
6 facility reasons, so there was no data in there. Yes,  
7 it's good that they didn't miss a facility, but there's  
8 no activity to measure if they did miss the commitment,  
9 how long did they take to install it. Rather than pat  
10 themselves on the back and take credit when credit was  
11 not due, I think it's more appropriate to indicate that  
12 there was no activity there.

13           Moving on to page 6 of Exhibit 1429, I want  
14 to note here down at the bottom of the page we're  
15 talking about jeopardy notifications. And jeopardy is  
16 if Qwest finds they're going to miss a commitment or  
17 they believe they're going to miss a commitment, they  
18 should notify the CLEC. As you can see, I have made  
19 notations in the boxes with Xs to indicate that's low  
20 volume.

21           If you look at Exhibit 1339 on page 68, this  
22 is the regional results for PO-8. You can see --

23           JUDGE RENDAHL: What page is that, please?

24           MR. FINNEGAN: 68.

25           JUDGE RENDAHL: Thank you.

7065

1 MR. STEESE: Of 1355 or 1338?

2 JUDGE RENDAHL: 1339.

3 MR. STEESE: Oh, thank you.

4 MR. FINNEGAN: I think a good thing to do  
5 when you're analyzing the data is when you're going  
6 through AT&T's charts where there's indications, a more  
7 thorough indication of where there's low volume, if  
8 there's low volume, it's generally a good idea to look  
9 at the regional results where there should be more  
10 volume, and you can get a better idea of what Qwest's  
11 performance is. On this PO-8 where there's low volume  
12 for POTS in Washington, low volume for UNE-P in  
13 Washington, low volume for LIS trunks in Washington,  
14 when you for instance move to page 68 where there's  
15 higher volumes, you can see positive modified Z score  
16 and positive parity score, which in Qwest's  
17 characterization would indicate statistically  
18 significant differences between the CLEC results and the  
19 Qwest results and what I call discrimination. I would  
20 say if it's a positive parity score, it's a prima facie  
21 indication of discrimination. But I just wanted to make  
22 that point that where there is low volume, it's  
23 generally a good idea to look at the regional results to  
24 see if the regional results will be more informative  
25 with the higher volumes.

7066

1                   Moving on to page 7 of Exhibit 1429, this is  
2 the flow through measurement. And flow through is  
3 another way of saying, can the order be processed  
4 without manual handling. As we heard from some of the  
5 discussions from Mr. Stright, when humans are involved,  
6 you should expect errors. That's just the nature of the  
7 beast. Humans are going to make errors. So the ideal  
8 state for processing of orders is to minimize human  
9 intervention. If someone is retyping something, they're  
10 going to make a mistake. So the ideal state is to  
11 minimize human error in the processing of orders.

12                   The flow through results here, if you look at  
13 the top of the page, show there's quite a bit of human  
14 intervention, and there's quite a high opportunity for  
15 human error as they're processing that order. In  
16 contrast, Qwest's rate of human intervention in the  
17 processing of orders is much lower for retail orders.  
18 Qwest's systems are set up such that the order taker  
19 that enters the order is generally the last person to  
20 touch the order until it gets to the provisioning state.  
21 In contrast, the CLEC's order may be touched by multiple  
22 folks and multiple chances for human error. In the flow  
23 through results where Qwest had indicated one month of  
24 data, I put in the four months of data, and as you can  
25 see, they're not always meeting the benchmark or the

7067

1 performance objective. What that means is there's more  
2 of an opportunity for problems with the CLEC orders.

3           Moving on to page 9 of Exhibit 1429, these  
4 are the billing results. And you can see even in  
5 Qwest's own admission there's medium blue and light blue  
6 indications in the boxes where Qwest is recognizing that  
7 problems have existed. These problems that Mr. Williams  
8 has pointed out in his testimony Qwest believes they  
9 have fixed. The problems primarily got into the area of  
10 table updates. When Qwest bills CLECs for services,  
11 they have to start with the right tariff rate, and there  
12 are state specific rates for these tariffed items. And  
13 for each of the universal service ordering codes or  
14 USOCs, Qwest has to make sure each USOC has the right  
15 retail rate. Once they have that, there is also a  
16 second series of tables that has the appropriate  
17 discount, and the discount would be CLEC specific, it  
18 would be based on the interconnection agreement for the  
19 particular CLEC. So in order to render an accurate  
20 bill, Qwest has to start with the right data in the  
21 retail rate table and apply the right discount in the  
22 resale discount table. Less complicated process for  
23 unbundled networks elements, they have to have a table  
24 that's CLEC specific but make sure they're being charged  
25 the right element.

7068

1                   What was found during the OSS test was Qwest  
2 was not maintaining those tables. They had the wrong  
3 tariff rates in there, they had the wrong discounts,  
4 they had the wrong UNE rates. After this was identified  
5 through the test, Qwest had undertaken an effort to try  
6 and get their tables up to snuff. And apparently they  
7 have done that to the satisfaction of the vendor. The  
8 problem is this is not a once and done activity. This  
9 is something that takes a lot of hard work on an ongoing  
10 basis to make sure those tables stay current. The  
11 interconnection agreements get renegotiated, tariff  
12 rates get changed, services get added, services get  
13 deleted, CLECs add services to their contracts, so this  
14 is a dynamic process. The Qwest retail results are not  
15 at the point yet where they demonstrate sustained  
16 ability to keep these tables up to date.

17                   JUDGE RENDAHL: Mr. Finnegan, in the  
18 interests of our time this afternoon, I'm going to have  
19 to give you one more minute to finish up.

20                   MR. FINNEGAN: All right, I will do that  
21 then.

22                   Moving on to page 10, I think this provides  
23 perhaps the textbook example why the Qwest data may not  
24 be ready for prime time. This is dealing with UNE-P.  
25 The last week or so, there was the discussion of how

7069

1 Qwest was counting, and it got into this whether  
2 Saturday should or should not be counted. It was agreed  
3 at the TAG that for the purposes of UNE-P or unbundled  
4 network element platform, Saturdays should be counted.  
5 What that is going to entail is Qwest is going to have  
6 to go back and recalculate their UNE-P data for  
7 provisioning from I guess March backwards. So the data,  
8 my understanding, the data that is in Exhibit 1338 and  
9 1339 for UNE-P will either -- has yet to be recalculated  
10 to a PID compliant fashion or is in this latest report  
11 that I have yet to see. So the UNE-P data that you have  
12 been looking at, don't spend too much time on it,  
13 because Qwest has just changed it, and it's going to, in  
14 my view on an overall basis without having seen the  
15 results, make Qwest's performance look worse and put  
16 them in statistical noncompliance.

17           So in summary, we're getting close, KPMG is  
18 getting close to being finished, no one has spent too  
19 much time on the data because you're probably going to  
20 have to relook at it again once Qwest does some of their  
21 recalculations.

22           JUDGE RENDAHL: Thank you, and I'm sorry to  
23 cut you off, but we have really gone over, and we're  
24 going to have problems if we don't get going.

25           Your turn to cross, Mr. Qwest.



7070

1                   MR. STEESE: Mr. AT&T, I have a few  
2 questions.

3                   JUDGE RENDAHL: Let's go off the record for a  
4 moment.

5                   (Discussion off the record.)

6                   (Recess taken.)

7                   JUDGE RENDAHL: Thank you for being patient,  
8 Mr. Steese, let's get going with your cross-examination.

9

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

11 BY MR. STEESE:

12           Q.     Good morning, Mr. Finnegan, I guess  
13 afternoon.

14                   JUDGE RENDAHL: Depends what time zone you're  
15 in.

16                   MR. STEESE: Yes.

17 BY MR. STEESE:

18           Q.     I do have several questions for you here  
19 today, and I would like to start with what Liberty  
20 characterized as making programming fixes. You're  
21 familiar, having participated in the performance  
22 measurement audit and in data reconciliation, to how  
23 programming fixes are implemented at Qwest and how Qwest  
24 restates data, correct?

25           A.     Yes.

7071

1 Q. And when you look at observation 3120 as it  
2 relates to the weekend issue that you discussed, that is  
3 a programming error at least as reported by Qwest to  
4 date, correct?

5 A. That's correct.

6 Q. And so when you look at this particular  
7 issue, this is something that Qwest should be able to  
8 correct in terms of programming, restate data, and  
9 restate it back for some period of time, correct?

10 A. I'm thinking through my last question. On  
11 its face, it's a programming error, but in light of what  
12 Liberty was talking about, the population of the L field  
13 for longer than standard interval, there could be some  
14 element of human involvement.

15 Q. You're looking at all aspects of 3120, I'm  
16 trying to be fairly focused on the weekend issue that  
17 you talked about. That longer than standard interval  
18 question populating the L field as reported in Liberty  
19 observation 1032 doesn't have anything to do with the  
20 weekend question and restating data, does it?

21 A. It may or may not. If the Qwest  
22 representative is improperly counting Saturday as a due  
23 date, they could populate L in the appropriate field for  
24 longer than standard interval. I don't know from the  
25 information available in exception 3120 if those orders

7072

1 are falling out because there was human error in adding  
2 the Saturday, so to speak, through the population of the  
3 L field that caused it to drop out, or was it some  
4 systematic fix. It appeared from the exception that  
5 Saturday was being counted, and it should not be  
6 counted. I'm unclear from the information available  
7 whether that is the case because of human error or  
8 systematic. I understand Qwest is representing it as a  
9 systematic fix. It could make sense that it's a  
10 systematic fix, but I would not be comfortable saying  
11 that that is the only potential source of the error.

12 Q. This weekend issue affected three products,  
13 residential resale without a dispatch, business resale  
14 without a dispatch, and UNE-P without a dispatch,  
15 correct?

16 A. That would be my speculation, but the way the  
17 exception is written up, it's not service specific. It  
18 doesn't indicate at least in the information available  
19 to the CLECs what the services were.

20 Q. Why is this your speculation then that it  
21 affects just those products?

22 A. There was a discussion on the technical  
23 advisory group or TAG conference call either last  
24 Thursday or the Thursday before on a Saturday issue.  
25 However, on that same conference call or one of those

7073

1 two conference calls, I asked KPMG the question, what  
2 services and products would be the subject of the  
3 retest, and they declined to identify that because of  
4 line miss issues.

5 Q. But at least during the course of that call,  
6 the three products discussed, or calls I suppose, the  
7 three products discussed were UNE-P without a dispatch,  
8 res resale without a dispatch, and business resale  
9 without a dispatch, correct?

10 A. Correct, and the retail equivalents of bus  
11 and res.

12 Q. And so when you talk about these orders and  
13 that 49% of KPMG's orders were incorrectly tracked by  
14 Qwest, it was a certain percentage of orders relating to  
15 specific products, correct, not every order submitted by  
16 KPMG in the test?

17 A. I don't know. Again, I could speculate it  
18 would point to those products we just discussed, but I  
19 don't know that for a fact.

20 Q. Have you -- you are aware that Qwest has  
21 marked as Exhibit 1355 performance data through the  
22 month of March 2002, correct?

23 A. I am aware of it. I have not reviewed it.

24 Q. Are you aware whether or not Qwest has  
25 restated its OP-4-C results, which is res resale without

7074

1 a dispatch, the same products I mentioned before, to in  
2 its view correct for this issue?

3 A. I don't know if Qwest has or has not. I know  
4 they had promised to do so. I don't know if they have  
5 or have not.

6 Q. You say they promised to do so, what had they  
7 promised to do?

8 A. That they would go back and for the UNE-P  
9 results from February, perhaps March, backwards to  
10 January of 2002 artificially add Saturday to the  
11 interval of the UNE-P orders for installations without a  
12 dispatch and artificially add to the installation  
13 interval Saturdays for bus resale and bus retail back  
14 until January of 2002.

15 Q. And when you said they promised to do this,  
16 did they say they would have it done in a certain  
17 report?

18 A. They may have. I don't recall exactly when  
19 that was supposed to occur.

20 Q. When you were talking about Liberty  
21 observation 1031, you said that Qwest was wrong 8% of  
22 the time to the CLEC; do you recall that?

23 A. I recall saying it was 8% of the time for the  
24 AT&T orders that were examined.

25 Q. So this was just the AT&T orders, correct?

7075

1 A. That was my understanding.

2 Q. And, in fact, just the AT&T interconnection  
3 trunk orders, correct?

4 A. That was my understanding.

5 Q. This did not affect the AT&T unbundled loop  
6 orders, did it?

7 A. Not that I'm aware of.

8 Q. And you're aware that Liberty went in and  
9 actually reconciled not only AT&T interconnection trunk  
10 data but also WorldCom interconnection trunk data for  
11 the states of Colorado and Arizona, true?

12 A. Yes, that's true. However, my understanding  
13 is WorldCom was not able to provide a whole lot of  
14 information on their interconnection trunks, and the  
15 reconciliation that Liberty was able to do with the  
16 WorldCom data was quite limited.

17 Q. Two more questions on that then. Liberty --  
18 neither Liberty nor WorldCom identified any 1031 issue  
19 on the interconnection trunks, true?

20 A. That's true, but because of the condition of  
21 the WorldCom data, WorldCom may not have been in a  
22 position to identify such a problem. And if WorldCom  
23 was not able to identify it, that would not have given  
24 Liberty the opportunity to use that data to identify it  
25 either.

7076

1 Q. In response to observation 1031, however,  
2 Qwest stated that it had performed an analysis of all  
3 the WorldCom orders for the state of Colorado for  
4 interconnection trunks and did not find a single  
5 interconnection trunk order that had a 1031 issue; isn't  
6 that true?

7 A. I believe that was Qwest's assertion.

8 Q. And then when you look at the difference in  
9 completion dates and how Qwest tracks completion date  
10 for interconnection trunks versus AT&T, that difference  
11 alone caused a large percentage of interconnection trunk  
12 orders for AT&T to be included, excluded, excuse me,  
13 from the measure; isn't that true?

14 A. That's true.

15 Q. You said that Liberty did not go in and  
16 validate Qwest's data to ensure that 1031 only affected  
17 less than 1% of the overall orders for interconnection  
18 trunks; do you recall that?

19 A. Yes.

20 Q. What do you base that on?

21 A. I base that on the disposition report and the  
22 observations that or the sequence of observation  
23 comments and response comments associated with  
24 observation 1031.

25 Q. Do you know for a fact whether or not Liberty

7077

1 went in and evaluated every aspect of Qwest's analysis  
2 on the percentage of orders affected by 1031?

3 A. I don't know for a fact, and I don't recall  
4 Mr. Stright saying they did that either.

5 Q. But you're not sure whether they did that or  
6 not?

7 A. I don't believe they did, and based on  
8 Mr. Stright's testimony, I don't believe they did  
9 either.

10 Q. But you don't know that one way or the other  
11 for sure, it's your speculation based on your reading of  
12 the observation report; isn't that true?

13 A. Yes, and also the testimony of Mr. Stright.

14 Q. Did Mr. Stright say he didn't do that work?

15 A. I don't recall him saying he did or he  
16 didn't.

17 Q. Moving on to Exhibit 1429, the AT&T revisions  
18 to the Qwest blue chart, the general thrust of your  
19 comments I interpret to mean volume, the volume of  
20 orders Qwest provisions or repairs for a certain matrix  
21 matter in determining whether or not Qwest should meet  
22 the 271 standard; is that fair?

23 A. Yes.

24 Q. And so when you're looking at your revisions,  
25 the principal difference is looking at how many orders



7078

1 does Qwest actually provide in each one of the boxes  
2 that represents a particular measure?

3 A. Yes, and also indicating the actual number of  
4 misses.

5 Q. Fair enough. And when you look at the blue  
6 chart, isn't it true that it's your opinion that the  
7 Commission here should focus on those specific types of  
8 products that have high order volume because obviously  
9 those are the products that matter the most to the CLEC  
10 or CLECs operating in the state of Washington?

11 A. Certainly, yes, the Commission should examine  
12 the products that have a high volume in the state of  
13 Washington. But as I understand it, Qwest's obligation  
14 extends even to products that may not have a high  
15 volume. On an overall basis, what could be a quite  
16 important product for one CLEC and is relatively low  
17 volume could be a no big deal product for another CLEC.

18 Q. Let me ask it a different way. In the state  
19 of Nebraska, you testified that the Nebraska Commission  
20 should focus in principally on those specific products  
21 with high volume, didn't you?

22 A. I don't believe it was exactly that. In  
23 Nebraska and I believe North Dakota, I would point out  
24 to the commission where the most volume appeared in that  
25 particular state and highlighted that. I don't think I

7079

1 said they should place any more attention on it than any  
2 of the others. My recollection was I said, if you want  
3 to get a understanding of where the CLEC activity is in  
4 this particular state, here are the products you should  
5 look to.

6 Q. Well, let's do that here. Let's do that for  
7 the state of Washington. Do you know off the top which  
8 particular products have high volume here in the state  
9 of Washington?

10 A. As a matter of fact, I do.

11 Q. And which are they?

12 A. Based on the last month of reported results,  
13 local number portability activity is the highest amount.  
14 There were approximately 10,000 numbers ported in the  
15 last month of reported activity. The second highest is  
16 analog unbundled loops. That was about 2,700 orders  
17 completed in the last month of reported activity. The  
18 third highest is the unbundled network element platform  
19 or plain old telephone service. That was about 1,050  
20 orders. The fourth was residential resale at 690 orders  
21 completed. And the fifth was line sharing with 284  
22 orders completed. And it drops off significantly after  
23 that.

24 Q. So the five services with the highest volume  
25 are number portability, analog loops, number port,

7080

1 excuse me, UNE-P, residential resale, and line sharing?

2 A. Correct.

3 Q. Let's look at your Exhibit 1429, page 10,  
4 beginning with page 10, UNE-P. This was the third most  
5 prevalent service. And if you look at the top row, if  
6 you will, that represents UNE-P POTS, the particular  
7 service you're discussing, correct?

8 A. Correct.

9 Q. And if you look at the provisioning side, by  
10 your own chart there's only one box that's not dark  
11 blue, correct, the OP-4 that you have discussed much  
12 both with respect to observation 3120 and also here as  
13 well, correct?

14 A. That's correct.

15 Q. And if you look at repair, there are four  
16 boxes which are not dark blue, correct?

17 A. Correct.

18 Q. And if you look at the first MR-4 dispatch  
19 outside of MSAs, you say one miss, correct?

20 A. Correct.

21 Q. And you would agree 11 of 12 months are at  
22 parity for that particular measure?

23 A. I don't recall the actual 12 months.

24 Q. If you look to the box, upper right-hand  
25 corner, you annotate those boxes if they are incorrect

7081

1 or you disagree, correct?

2 A. Oh, I missed that, yes, 11 of 12 months would  
3 be at parity.

4 Q. Now let's look at MR-7, dispatch outside of  
5 MSAs, one miss in the last four months, correct?

6 A. Correct.

7 Q. And 10 of 12 months at parity?

8 A. Correct.

9 Q. Then you look at MR-7, no dispatch, where you  
10 say three misses, correct?

11 A. Correct.

12 Q. And in this situation, that particular box  
13 would be dark blue but for the fact that there are a  
14 high percentage of orders, excuse me, repairs submitted  
15 where no troubles are found, correct?

16 A. I wouldn't agree with that.

17 Q. Why not?

18 A. What Qwest has done previously is for that  
19 MR-7 asterisk measure, it's usually a month behind in  
20 its comparison to the MR-7 prime measurement, so to  
21 speak. What Qwest is assuming is where in MR-7 there  
22 were three misses out of the four months, effectively  
23 Qwest only reports three of the four months because  
24 they're waiting to see if there are additional troubles  
25 that show up. But my recollection has been where MR-7

7082

1 might have, for instance, December, January, February,  
2 and March, the MR-7 prime would have December, January,  
3 and February, and Qwest assumes if it missed an MR-7 in  
4 the fourth month, it will make it for MR-7 prime in the  
5 fourth month.

6 Q. Well, let's look at Exhibit 1355. Do you  
7 have that in front of you?

8 A. No.

9 MR. STEESE: I'm just going to bring the one  
10 page, if that's okay.

11 JUDGE RENDAHL: You may approach the witness.

12 BY MR. STEESE:

13 Q. So you're basically saying the February 2002  
14 data on the MR-7\*, it's not clear whether it came into  
15 parity. Does this particular report show that, in fact,  
16 that is exactly what occurred?

17 JUDGE RENDAHL: Mr. Steese, can you --

18 CHAIRWOMAN SHOWALTER: What page is this  
19 again?

20 MR. STEESE: Oh, I apologize, can you say the  
21 page, it's 100 isn't it?

22 THE WITNESS: Well, before I do, this is for  
23 UNE-P Centrex.

24 MR. STEESE: Oh, I apologize.

25 JUDGE RENDAHL: Let's be off the record for a

7083

1 moment.

2 (Discussion off the record.)

3 JUDGE RENDAHL: And so the record is clear,  
4 we're looking at page 89 of Exhibit 1355.

5 BY MR. STEESE:

6 Q. Thank you for that correction, by the way,  
7 Mr. Finnegan.

8 It shows that the February 2002 MR-7 data  
9 comes into parity where no troubles found are excluded,  
10 correct?

11 A. Yes, it does.

12 Q. And so that particular box would be dark blue  
13 if no troubles found were excluded, true?

14 A. Well, I don't know if I agree. I'm looking  
15 -- this is the April 20th, 2000 report.

16 JUDGE RENDAHL: 2002.

17 A. 2002 report, and to take the April 20th,  
18 2002, report to go back to the March 30th, 2002, report,  
19 you've got a whole fresh set of data. So rather than  
20 take fresh data, go back and fix the older data, I would  
21 just take a whole new look at the box.

22 JUDGE RENDAHL: Now which box are we looking  
23 at on this page?

24 MR. STEESE: MR-7, no dispatch. Do you mind  
25 if I stand?

7084

1 JUDGE RENDAHL: So that's the top box?

2 MR. STEESE: Do you mind if I stand here?

3 JUDGE RENDAHL: I have no problem as long as  
4 you use the microphone.

5 CHAIRWOMAN SHOWALTER: No, I think we're  
6 talking about the repair, bottom half of the page,  
7 aren't we?

8 MR. STEESE: It's MR-7 at the very top of  
9 page 89.

10 JUDGE RENDAHL: So MR-7-C, repair repeat  
11 report rate, no dispatches.

12 MR. STEESE: Correct.

13 BY MR. STEESE:

14 Q. And if you look at December, the last four  
15 months, let's start with November because we don't have  
16 -- let's start with November. November shows parity for  
17 this particular measure, correct?

18 A. Correct.

19 Q. January shows disparity until you exclude no  
20 troubles found, then it shows parity, correct?

21 A. Correct.

22 JUDGE RENDAHL: And how are we to, I'm sorry  
23 to interrupt, but how are we to determine you've  
24 excluded no troubles found? I don't see any -- I mean  
25 I'm just not understanding that part.

7085

1                   MR. STEESE: MR-7\*, when you see the star  
2 after it, at the bottom of page 88 shows MR-7 no  
3 dispatch. The very next page, the very next table on  
4 page 89 shows MR-7\*, and the star measures exclude no  
5 troubles found.

6                   JUDGE RENDAHL: Okay.

7                   MR. STEESE: That's the definition.

8                   JUDGE RENDAHL: Thank you.

9 BY MR. STEESE:

10            Q.     When you look at February, it shows initially  
11 disparity coming into parity when no troubles found are  
12 excluded, correct?

13            A.     That's correct, but --

14            Q.     And then last, March shows even without no  
15 troubles found parity, correct?

16            A.     That's correct. But one point I want to make  
17 is this issue of excluding no troubles found from this  
18 measurement had been a discussion at the TAG. AT&T had  
19 opposed this MR-7\* and MR-8\* as being an inappropriate  
20 measure. The issue went to impasse at the steering  
21 committee. The steering committee agreed with AT&T that  
22 it should not be reported and it's inappropriate to  
23 report it that way. So I don't see MR-7\* as mitigating  
24 what are disparate findings for MR-7. In fact, for MR-7  
25 for no dispatch is -- with the most recent data, there



7086

1 still would have been three misses out of four months.

2 CHAIRWOMAN SHOWALTER: Well, that argument  
3 aside, I have a question of the -- that goes to the  
4 earlier questioning of Mr. Steese, which talked about in  
5 March there was parity under the MR-7-C\*. But I don't  
6 see any data at all, so that's why I'm confused.

7 MR. STEESE: Under MR-7, the original measure  
8 without the star.

9 CHAIRWOMAN SHOWALTER: I see.

10 MR. STEESE: We tracked those measures, as  
11 Mr. Williams said, one month in arrears. So you look at  
12 the most current month, see if there's disparity, and if  
13 there is disparity, you have to wait 30 days. Here  
14 there's obviously parity even without having to exclude  
15 no troubles found.

16 CHAIRWOMAN SHOWALTER: All right.

17 BY MR. STEESE:

18 Q. I realize you disagree with the adding of the  
19 star, Mr. Finnegan, but assuming you did add the star as  
20 Texaco likes to do, then in that particular  
21 circumstance, then it would be dark blue, correct?

22 A. I have forgotten, were they all negative  
23 parity scores?

24 Q. You can look at it again, but I will  
25 represent that that is, in fact, what it was. So the

7087

1 answer is, it would be dark blue, correct?

2 A. It would be dark blue.

3 Q. Then looking at MR-9, you show two misses,  
4 this was 10 of 12 months at parity, correct, MR-9, no  
5 dispatch, for UNE-P?

6 A. Correct.

7 Q. Now let's look to page 11. Page 11 is  
8 unbundled analog loops, the second highest volume  
9 product in the state of Washington. And you look, and  
10 by your own chart, all boxes are blue, dark blue,  
11 correct?

12 A. Except for OP-6-B, zone 2, which is a no  
13 activity.

14 Q. Fair enough. Then if you look at the repair  
15 of analog loops on page 12, by your own admission, all  
16 dark blue, no equivocation?

17 A. Correct.

18 Q. Then let's turn to page 17, which is number  
19 portability, and the high volume aspect of number  
20 portability has to do with actually turning the numbers  
21 up. It has nothing to do with repair, correct?

22 A. Correct.

23 Q. And here you see by your own admission  
24 provisioning of number portability dark blue across the  
25 board, correct?

7088

1 A. Correct.

2 Q. Then when you turn to page 19 of -- and I  
3 missed one product, I will get back to it, I missed line  
4 sharing, I apologize -- to page 19, residential resale,  
5 here you show one box not dark blue on the provisioning  
6 side, that's OP-4, correct, for no dispatch?

7 A. That's correct, and that's a pretty important  
8 box in the scheme of things.

9 Q. This is some of the data that's supposed to  
10 be restated, correct?

11 A. I don't believe residence no dispatch was to  
12 be restated. I believe residence resale and residence  
13 retail no dispatch already had Saturday in the count.

14 Q. Well, I would like you to look at Exhibit  
15 1355, page 215. With respect to OP-4-C, what does that  
16 particular document show?

17 MS. TRIBBY: I'm sorry, what page?

18 MR. STEESE: 215.

19 MS. TRIBBY: Thank you.

20 A. It shows a lot; is there anything in  
21 particular?

22 BY MR. STEESE:

23 Q. Over the last four months for OP-4-C, does it  
24 show Qwest in parity all four months, three months, two  
25 months, what does it show?

7089

1           A.     It shows negative parity scores in the last  
2 four months.

3           Q.     Then if you turn to page 20, residential --

4                   CHAIRWOMAN SHOWALTER:  Excuse me, isn't it  
5 the last five months?

6                   MR. STEESE:  I was only focusing on the last  
7 four months.

8                   CHAIRWOMAN SHOWALTER:  Okay, sorry.

9 BY MR. STEESE:

10          Q.     Focusing in on residential resale repair, by  
11 your own admission, all dark blue?

12                   JUDGE RENDAHL:  And that's page?

13                   MR. STEESE:  Page 20 of 1429.

14                   JUDGE RENDAHL:  Page 20 of 1429, okay.

15                   MR. STEESE:  Correct.

16 BY MR. STEESE:

17          Q.     Now I'm going to turn forward very briefly  
18 since I missed line sharing to page 11, provisioning of  
19 line shared orders.

20                   JUDGE RENDAHL:  And what page is that on?

21                   MR. STEESE:  Page 11 of Exhibit 1429.

22                   JUDGE RENDAHL:  Thank you.

23 BY MR. STEESE:

24          Q.     By your own admission, all provisioning  
25 aspects of line sharing dark blue, correct?

7090

1 A. Correct.

2 Q. Then turning to repair data for line sharing,  
3 there are four boxes not dark blue, true?

4 A. Correct.

5 Q. And the -- just give me one moment.

6 The first box, dispatch outside MSAs,  
7 clearing out of service troubles within 24 hours, you  
8 made that box gray simply because of volume, true?

9 A. That's correct.

10 CHAIRWOMAN SHOWALTER: Mr. Steese, where are  
11 you looking right now?

12 MR. STEESE: Page 12 of Exhibit 1429.

13 CHAIRWOMAN SHOWALTER: Okay.

14 BY MR. STEESE:

15 Q. Let me ask that question one more time.

16 For MR-3, dispatch outside of MSAs, you made  
17 that box gray simply because of volume, correct?

18 A. Correct.

19 Q. There's nothing there that Qwest did  
20 inappropriately or missed, it's just that it was a low  
21 volume and you didn't think it showed enough information  
22 to be dark blue?

23 A. That's correct.

24 Q. And in that kind of situation, what you  
25 encourage the Commission to do is look at regional

7091

1 results, correct?

2 A. That's what I do.

3 Q. And looking at regional results, that would  
4 show dark blue, correct?

5 JUDGE RENDAHL: Sorry, can you repeat that?

6 Q. Looking at the regional results, that would  
7 show dark blue, correct?

8 A. Are you referring to Exhibit 1343?

9 Q. Is that the regional blue chart? I would  
10 have to look it up.

11 A. Yes.

12 Q. Yes, I am.

13 A. That's the regional blue chart, and what was  
14 your question?

15 Q. That particular box would be dark blue for  
16 regional results?

17 A. What box was it again, I'm sorry?

18 Q. MR-3, dispatch outside MSAs.

19 A. Yes, but should be noted that regional  
20 results also show for no dispatch a few more light blue  
21 boxes.

22 Q. Then looking at Exhibit 145, excuse me, 1429,  
23 again page 12, there is at least one box, it looks as  
24 though it's pointing to MR-7, dispatch without --  
25 outside of MSAs, that in Qwest's view, that would be

7092

1 dark blue if no trouble found were excluded, correct?

2 A. That's what Qwest's annotation says.

3 Q. And when you look at MR-7 for line sharing,  
4 while Qwest is showing it here, that particular measure  
5 remains diagnostic, does it not?

6 A. I don't recall exactly. Subject to check, I  
7 will accept your characterization.

8 Q. And with respect to MR-6, no dispatch for  
9 line sharing, that is the issue that Mr. Williams and  
10 Ms. Doberneck had a substantial discussion about earlier  
11 today on line sharing?

12 A. I don't recall; I was thinking about my own  
13 testimony at that time.

14 Q. Fair enough.

15 So when you look at the five principal  
16 products that have substantial volume here in the state  
17 of Washington, there is a vast percentage of the boxes  
18 populated with dark blue even by AT&T's own  
19 acknowledgment, correct?

20 A. That would be correct. And as I noted for  
21 UNE-P and potentially for some of the resale, there may  
22 be some recapture of the data that causes some of those  
23 shades of blue to change.

24 Q. Now let's focus in for a moment on again  
25 Exhibit 1429, shifting gears to page 7, flow through

7093

1 rates. Are you there?

2 A. Yes, I am.

3 Q. And here you use four months of data, don't  
4 you?

5 A. Yes.

6 Q. In reality, the PID has only had a  
7 performance expectation since January of this year;  
8 isn't that true?

9 A. I don't recall exactly when the benchmark was  
10 put in place. I do know the issue had been discussed  
11 for quite some time. That's the reason I included the  
12 four months in there.

13 Q. Would you agree to work under the presumption  
14 subject to check that the performance objectives  
15 identified in the far right-hand column became effective  
16 January 2002?

17 A. Yes.

18 Q. And so if that's the case, really there would  
19 not be four misses, but only two misses?

20 A. Well, there would be one miss for two of the  
21 four boxes.

22 Q. And when you look at everything you have done  
23 on this chart, any situation where there's low volumes,  
24 you have always put an X or a slash, correct, or at  
25 least tried to?



7094

1 A. That's correct.

2 Q. Is there a reason why under the IMA EDI  
3 interface for resale you didn't put that double slash  
4 since there's only two orders?

5 A. That was probably an oversight.

6 Q. Fair enough.

7 And so when you look at resale under the IMA  
8 EDI interface, the volumes are incredibly small for that  
9 particular box; is that true? And if you want to, focus  
10 in on Exhibit 1338, I believe it is, yes.

11 A. Do you recall the specific page?

12 Q. If you give me one moment, I will be there.

13 A. I will race you.

14 JUDGE RENDAHL: Let's be off the record for a  
15 moment.

16 (Discussion off the record.)

17 JUDGE RENDAHL: We're looking at page 52 of  
18 Exhibit 1338.

19 BY MR. STEESE:

20 Q. And looking at the results for resale with  
21 the EDI interface, that should be a double slash because  
22 of the low volumes, true?

23 A. In one month there's ten, and that would be a  
24 single slash.

25 Q. Isn't it the average of all four months, and

7095

1 the average of all four months here would be about nine  
2 orders?

3 A. Well, I don't know how Qwest did it. I just  
4 looked at it month by month. So if there was any month  
5 with less than 10, or more than 10 in this case, but  
6 less than 30, it got a single slash.

7 Q. So it should at least have a single slash by  
8 the way you focused?

9 A. Yes.

10 Q. And here again, looking at the regional data,  
11 regional data would show all of this, and this is  
12 Exhibit, I apologize, 1343, has all dark blue, correct?

13 A. This was for EDI flow through eligible for  
14 resale?

15 Q. Correct.

16 A. I would have marked it dark blue with one  
17 miss.

18 JUDGE RENDAHL: Dark blue with one?

19 A. Miss, noted that it had, Qwest had missed the  
20 benchmark in November of 2001.

21 Q. Again, before there was a performance  
22 objective, subject to check, correct?

23 A. Correct.

24 Q. Now let's look at your Exhibit 1429 one more  
25 time, and I'm just going to look at page 2 as an

7096

1 example. First of all, page 2 under OP-6-B, which is  
2 delays for facility reasons, are shown no activity, but  
3 then it shows gray. Why did you mark it gray; is that  
4 just an oversight? Should that just be a slash?

5 A. That should have been a slash.

6 Q. Or a dash, whatever you call it?

7 A. Dash, yes.

8 Q. But when you look at OP-6-A and B, the best  
9 possible service Qwest can provide is to have no  
10 activity, no orders delayed for any reason, correct?

11 A. The best possible performance would be to not  
12 have any missed commitments.

13 Q. And so you're hoping to find low volumes in  
14 OP-6-A and B for every single product; isn't that true?

15 A. Generally speaking, but it could be low  
16 volumes. It could be two orders in there, and there may  
17 only be two orders in the entire month, and Qwest missed  
18 both orders. That would be bad. It's a combination of  
19 Qwest not missing any orders. Ideally Qwest would not  
20 miss any orders, and there would not be any populated  
21 there. And it could be that they're not missing orders  
22 because there's very low volumes.

23 Q. I understand that, but you never hope for a  
24 situation that there's high volumes of delayed orders,  
25 true?

7097

1 A. Correct.

2 Q. And when you look through your charts, and  
3 I'm just flipping through very quickly, there are a lot  
4 of slashes and Xs in OP-6-A and B for virtually every  
5 product; isn't that true?

6 A. For a lot of the boxes, yes.

7 Q. Why don't you focus in on page 19, for  
8 example. Lots of no activity, fair?

9 A. That's correct. But that's also, if you  
10 slide over to look at the OP-3 and OP-4, there's no  
11 activity or one order in four months or less than ten  
12 orders in any given month. It could be more so a  
13 function of the low order activity than the quality of  
14 Qwest's provisioning.

15 Q. Well, you have a lot of dashes even where  
16 there's boxes under OP-3 and 4 that have dark blue,  
17 business resale, Qwest DSL, PBX.

18 A. That's correct. The performance measure is  
19 not measuring commitments met. It's saying when you do  
20 miss a commitment, how quickly do you recover.

21 Q. One other point that you have said in your at  
22 least written testimony was you thought this Commission  
23 should wait until KPMG and Liberty are finished with  
24 their work before they make any findings on performance,  
25 correct?

7098

1 A. That's correct.

2 Q. And while you might disagree with certain  
3 aspects of Liberty's report, they have concluded their  
4 work, right?

5 A. Unfortunately, yes.

6 Q. And so when you're looking at the data  
7 reconciliation effort by Liberty, the caveat of waiting,  
8 you don't need to wait for it to complete any longer?

9 A. Well, there's somewhat of a corollary there.  
10 As part of the KPMG exception 3120, Liberty has been  
11 tasked with re-auditing some of the fixes that Qwest  
12 made as a result of exception 3120. So I guess  
13 technically you could say they are finished with the  
14 CLEC data reconciliation work, but Liberty still has  
15 work to perform in analyzing the effectiveness of the  
16 fixes that Qwest has made to at least the OP-4  
17 performance measurement.

18 Q. And when you look, I don't know if you were  
19 in your chair still when Chairwoman Showalter was  
20 speaking about scheduling or not, but you are aware that  
21 this Commission has a hearing scheduled for early June,  
22 is it, early June to discuss OSS testing?

23 A. I recall that.

24 Q. And observation, excuse me, exception 3120  
25 and any issues found by KPMG will have full opportunity

7099

1 for you and other CLECs as well as Qwest to present  
2 their views on what the OSS test results show?

3 A. I certainly hope so.

4 Q. And when you look then to the extent that  
5 this Commission made a preliminary finding contingent  
6 upon passage of the OSS test, the opportunity for  
7 discussion of the OSS test, which encompasses 3120,  
8 certainly is still there for you and this Commission?

9 A. That certainly is, but personally I don't  
10 like preliminary findings, because it takes a lot of  
11 work to develop those preliminary findings, and it may  
12 have to be revised once the conditions that caused it to  
13 be preliminary are finally met. I would just as soon  
14 wait until everything is available and make my final  
15 findings rather than preliminary findings. There's  
16 really from my view no advantage to reaching preliminary  
17 findings.

18 Q. When you look at our principal complaint with  
19 Liberty Consulting, your principal complaint is you wish  
20 that they would have gone in and done more verification  
21 of whether Qwest's fixes worked as effectively as you  
22 hoped, correct?

23 A. I would say that's fair.

24 Q. Isn't it true that in Liberty's performance  
25 measurement audit, they specifically find that there

7100

1 should be an ongoing audit of Qwest's performance  
2 measures, at least those that have a high degree of  
3 human input into them?

4 A. They did make some recommendations of ongoing  
5 audits, yes.

6 Q. And the specific audit requirement or  
7 proposal, whatever you want to call it, found its way  
8 into the performance assurance plan where there's a two  
9 year audit requirement, ongoing audit requirement; isn't  
10 that true?

11 A. That's true, but one point I think needs to  
12 be made is in Liberty's audit recommendations, they  
13 assumed that the performance measurements had reached,  
14 so to speak, a steady state where they had been deemed  
15 to be reliable and accurate, and that off of that  
16 accurate and reliable base, in combination with some  
17 effective Qwest quality control processes, they could  
18 maintain that, and on an ongoing basis there would be  
19 some auditing. I don't think we have reached the point  
20 where the Qwest measurements are yet at steady state in  
21 terms of their accuracy and reliability. There's still  
22 some changes, as we have talked about, ongoing with the  
23 Qwest performance measurements. Hopefully the changes  
24 will stop soon, but they haven't.

25 Q. That really wasn't my question. My question

7101

1 was that the performance assurance plan contains an  
2 opportunity, in fact a requirement, that Qwest undergo  
3 ongoing audits, correct?

4 A. In Washington I know there's an order out. I  
5 haven't read through the order. I know we would have  
6 liked to have the ongoing audits, but I can't speak with  
7 any knowledge of what actually was in the order in  
8 Washington on ongoing audits.

9 Q. Well, Mr. Antonuk recommended it, and no one  
10 objected to it, did they?

11 A. There were certainly discussions on the scope  
12 of the audit, the technicalities how it was performed.  
13 There were some disputed issues on the audit. I know  
14 Mr. Antonuk generally recommended an audit should be  
15 done. I don't know what final form it took in the  
16 Washington order.

17 Q. And in addition, in the PAP there is an  
18 opportunity for the CLEC to initiate audits if they  
19 think performance data Qwest is reporting is unreliable  
20 or they simply want to challenge some aspect of Qwest's  
21 data; isn't that true?

22 A. Again, I don't know. I know that had been in  
23 the Qwest proposal. It's something we would certainly  
24 welcome. I don't know what ended up in the final  
25 Washington order.



7102

1 Q. And so when you look at today, while I  
2 understand that you would have liked Liberty to do more,  
3 the opportunity for continual evaluation of Qwest's  
4 performance data clearly exists, not only for you, but  
5 for all CLECs, and, in fact, for an independent auditor,  
6 correct?

7 A. Well, potentially based on some of the  
8 caveats I have already expressed, but I think the more  
9 critical element is that data is going to be used June,  
10 July to make some fairly important decisions, and we  
11 want to make sure that data is accurate and reliable in  
12 June and July and not six months or a year down the  
13 road.

14 Q. And, in fact, Liberty specifically recommends  
15 at least in two of their observations that I can recall  
16 off the top that had human error associated with them  
17 that there should be ongoing monitoring during the  
18 regular audit of the work implemented by Qwest to make  
19 sure it was as effective as it should have been, true?

20 A. I believe they did. That was one of our  
21 criticisms, they could have settled the issue then and  
22 there rather than defer it to the six month audit or  
23 yearly audit.

24 Q. But if they deferred it then and there, you  
25 would have still said regular routine checking of these

7103

1 particular things, wouldn't you?

2 A. Yes, but they hadn't settled the issue.

3 MR. STEESE: Can you give me just one moment?

4 JUDGE RENDAHL: Sure, yes.

5 Okay, let's take a five minute break to give

6 Mr. Steese an opportunity to review his issues and

7 figure out where we go from here, so let's be off the

8 record for five minutes.

9 (Recess taken.)

10

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

12 BY CHAIRWOMAN SHOWALTER:

13 Q. Sometimes we get so deep into the twigs and  
14 the trees that I forget what forest I'm in, but I think  
15 there are two forests. One is the actual commercial  
16 data, performance data, and the reconciliation of it,  
17 and the other forest that I have in my mind is the OSS  
18 pseudo CLEC testing. And I want to make sure I get  
19 these two concepts correct so that my questions make  
20 sense. But am I correct that what KPMG is doing is in  
21 the second forest; is that correct?

22 A. That's correct, they're in the pseudo CLEC  
23 forest.

24 Q. So if there appears to be no problem in this  
25 actual commercial data, the blue charts plus the data

7104

1 behind it, that's great. Is that we don't need to look,  
2 in your view, do we even need to look at the comparable  
3 KPMG information?

4 A. You don't need to look at it per se. What  
5 you do need to recognize is the KPMG effort is in a  
6 sense validating the commercial data.

7 Q. Okay, all right. But where there is either a  
8 problem in the actual data or maybe not very much data  
9 or something where we're not certain, then the KPMG  
10 information takes on a little more meaning; is that  
11 correct?

12 A. That's correct. And to elaborate, Mr. Steese  
13 was mentioning with Mr. Williams some products that  
14 weren't tested in the OSS test where they weren't  
15 physically provisioned. What KPMG did instead in a lot  
16 of cases is looked at the Qwest capabilities. So where  
17 there may not be evidence of commercial usage on some  
18 low volume service, there was still an evaluation in the  
19 OSS test that could substitute for that commercial  
20 experience. So while there may not be any commercial  
21 data, KPMG would have done a process evaluation of  
22 Qwest's capabilities, and that could substitute for an  
23 absence of commercial data.

24 Q. All right. So am I correct that some of the  
25 difference between AT&T and Qwest is over how meaningful

7105

1 the actual data is with -- or how problematic it is and  
2 therefore how much we should look to the KPMG data when  
3 the final report is in in terms of making a judgment  
4 about that whatever topic we're talking about; is that  
5 right?

6 A. Not quite right. I think what's happening --  
7 the issue is the reliability of the data, the accuracy  
8 of the data. And AT&T's argument is there are some  
9 things that turned up in the test that called into  
10 question the accuracy of the data. The OSS test is  
11 going to drive Qwest to fix its commercial data, so it's  
12 not going to be a case where there's lots of commercial  
13 observation where we're arguing don't look at the  
14 commercial data, look at the KPMG data. We're saying  
15 let the OSS test drive Qwest to fix its commercial data,  
16 improve the accuracy and reliability of its commercial  
17 data, and then look at that verified data or that  
18 accurate data to base your decision.

19 Q. All right. But I take it that if something  
20 is dark blue by your measure on the commercial data,  
21 that do you agree that we actually need go no further,  
22 it just might be useful or informative to also look at  
23 the KPMG data, but that we would have a sufficient basis  
24 I guess for finding Qwest had passed the test on a  
25 checklist item if all of it were dark blue?

7106

1 A. In part.

2 Q. By your -- under the way you would color it.

3 A. Right, in part. Let's say there's a dark  
4 blue box for service and KPMG hasn't found any problem  
5 with the quality of that data, then the Qwest data in  
6 terms of performance data is probably all you need to  
7 look at, and you don't need to look at the equivalent  
8 KPMG data. There are going to be other elements of the  
9 OSS test that aren't covered by the performance data  
10 that are also supposed to be relevant or will be  
11 relevant. But in terms of the data itself, the  
12 commercial data you would look to first, and if it's  
13 deemed accurate and reliable data and the accurate and  
14 reliable data show that Qwest is doing well, that's what  
15 you can look at.

16 Q. All right. Now turning to your Exhibit 1429,  
17 Mr. Steese asked you a general question at the beginning  
18 in which he said, isn't it your position that volume  
19 matters. Well, and what I took it to mean at that point  
20 of the questioning is that you are concerned where there  
21 are low volumes. If there are low volumes and the  
22 numbers aren't as good as you would want them to be,  
23 that is a concern to you; is that right?

24 A. Yes, and it gets into somewhat of an  
25 evidentiary issue too, that where there are low volumes

7107

1 in state specific Washington results, that may not be  
2 enough evidence to demonstrate compliance with a  
3 particular checklist item, and you should look at either  
4 the regional results or the OSS test to try and fill in  
5 the gaps that that low volume has created.

6 Q. All right. Now all of that preceding was  
7 really foundation, my own personal foundation to ask the  
8 question I wanted to ask, but I wasn't sure if my  
9 premises were right. And that is I had understood  
10 Mr. Williams to say that in the low volume data in say  
11 Exhibit 1335 or the prior version that where there were  
12 very low volumes, you could get relatively negative data  
13 and yet still the parity measure would come out  
14 negative, which in effect he says good, because of the,  
15 (a) the way the statistics are calculated, but more  
16 importantly, (b) the way the parties agreed to calculate  
17 them. And so at that point in the proceedings when I  
18 was listening to Mr. Williams, it appeared to me that as  
19 long as the parity values are negative, that even if the  
20 volumes are low, the PID test is met because that's what  
21 the parties -- how the parties agreed they would be met.  
22 Am I correct or not?

23 A. I think you're -- you are correct. The --  
24 let's take an example. It's a commitments met measure,  
25 and there's two orders, and they make one, so their

7108

1 commitments met is 50%. That may be compared to a  
2 retail result where there's hundreds or thousands of  
3 data points. What the statistical test does is say is  
4 there -- starts with the premise that there is parity,  
5 and is says, is there enough evidence to conclude parity  
6 doesn't exist. And the 50% commitments met, they're  
7 going to say, that's not a high enough sample size to  
8 conclude parity doesn't exist, so we're going to stick  
9 with our hypothesis of parity.

10 Q. Okay, that was very helpful, but that  
11 statistical way of reasoning is, I gather, what the  
12 parties agreed to. Am I right on that point?

13 A. Yes.

14 Q. All right. So then getting to your light,  
15 your medium blues and your light blues, what should I  
16 do? Should I look back at Exhibit 1355 and see if there  
17 are negative parity values, and if there are, fine, the  
18 test has been met so far in the way the parties agreed  
19 to do it, or do I get worried and say, well, you know,  
20 only two out of four orders were met on this measure,  
21 and that should be a concern, at least AT&T colored this  
22 light blue or medium blue, and therefore what?  
23 Therefore think more about it, therefore wait for KPMG,  
24 therefore do what? Why, I guess the first question is  
25 why shouldn't I just be satisfied to look back at the

7109

1 parity values and see that they're negative, and so the  
2 way the parties organized this test, it tells me not to  
3 worry?

4 A. Maybe to break it down, what I would suggest  
5 on the low volumes is yes, that's what we agreed to, and  
6 it may be a statistical pass, and it may be because  
7 there's low volumes that made it harder for Qwest to  
8 fail a test. What I'm suggesting is, in that situation,  
9 you also have the regional results to look at, which  
10 will presumably have higher volumes, and you will also  
11 have the KPMG results to look at. That will help you  
12 make a more informed decision than making a decision on  
13 two orders say in a four month period. Maybe  
14 oversimplifying it, but I would be more comfortable  
15 making the decision with the available -- the  
16 information that's available in the record such as the  
17 regional results and such as the KPMG report I'm sure  
18 will be introduced in the record somehow rather than  
19 just on these very low volumes, basing it just on the  
20 low volumes.

21 Q. So is it correct that even though AT&T agreed  
22 to this process for the way to reflect parity values, it  
23 nonetheless thinks that we should look at a broader  
24 picture than what is represented by the Exhibit 1355; is  
25 that what you're saying?



7110

1           A.     Yes, and we're not saying they failed or they  
2     don't demonstrate checklist compliance.  What we're  
3     saying is there's really not a lot of information to go  
4     by here, and you should do yourself a favor and look at  
5     the other available information just to give you more  
6     potentially better information to make the decision.

7           Q.     All right.  Well, actually, that was going to  
8     be my next question.  Are you saying that this is only  
9     part of the picture, wait until you have all of the  
10    picture, or are you saying there is -- there are  
11    measures in here that standing alone or without more  
12    actually show that Qwest should fail a checklist item?

13          A.     I don't think there's very many cases of  
14    that.

15          Q.     Okay.  That was my one train of thought; I  
16    have forgotten the other one.  Well, actually, I realize  
17    I did verge on the other one.  In general, are you  
18    suggesting that we just not make a judgment on these  
19    items until we have had our June -- until after we have  
20    had our June 5th, 6th, 7th hearing on the OSS test; is  
21    that really what you're saying?

22          A.     Maybe more conditional.  It's let's not look  
23    too hard and too long at the performance data at least  
24    until KPMG has cleared up some of its data integrity  
25    concerns.  And depending upon how this retest works out,

7111

1 that could be in time for the June hearing; it may not  
2 be.

3 Q. But then I get back into this question of the  
4 two different forests, because it seemed to be the  
5 characterization understood by the parties, because I  
6 just asked you, and Mr. Steese gave an opening argument  
7 on this, that the FCC is saying look first to the  
8 commercial forest, which is all -- we're not going to  
9 get more of this commercial forest, we're just going to  
10 get a fuller picture of the KPMG forest.

11 A. And I agree you should always look first to  
12 the commercial data. But what KPMG is saying is the  
13 commercial data is suspect because of the way, on UNE-P  
14 for example, because of the way they're doing  
15 exclusions, because of the way they're counting  
16 Saturdays. What Qwest is depicting as their commercial  
17 data is not an accurate depiction of what is actually  
18 happening. That was their finding in the test. They're  
19 doing some retest, and in fixing what KPMG saw through  
20 the pseudo CLEC transactions, it will presumably fix it  
21 for all of the retail results, and as Mr. Steese and  
22 Mr. Williams talked about, that caused Qwest to go back  
23 and recalculate their commercial data.

24 Q. Okay.

25 A. So the commercial data we looked at in

7112

1 Exhibit 1338 and 1339 is already obsolete. They have  
2 recalculated the data in their Exhibit 1355. So if you  
3 spend any time looking at UNE-P data for OP-4 in 1338  
4 and 1339, you have wasted your time, because they have  
5 recalculated it.

6 Q. And --

7 A. And the commercial data is going to be  
8 different.

9 Q. And we will have some kind of replacement for  
10 1355 I take it probably before June is up?

11 A. Yes.

12 Q. So that -- so really what you're saying is  
13 that both these tracts, these forests I'm talking about,  
14 are dynamic, and there's some relationship between the  
15 two?

16 A. That's correct.

17 Q. And so the commercial data will be recast as  
18 various fixes are put in place?

19 A. That's correct.

20 Q. So it gets updated, and in the meantime, the  
21 other body of evidence, the KPMG evidence, also has yet  
22 to be finalized?

23 A. That's correct.

24 CHAIRWOMAN SHOWALTER: All right, thank you,  
25 that's all I need to know, thanks.

7113

1 COMMISSIONER OSHIE: No questions.

2 JUDGE RENDAHL: I have no questions.

3 Ms. Tribby.

4 MS. TRIBBY: Thank you, I think I have a  
5 couple additional ones now.

6

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

8 BY MS. TRIBBY:

9 Q. Let me make sure I understand the discussion  
10 that you were just having with the Chairwoman. Her  
11 first question was, if the blue charts, yours  
12 particularly, or Qwest's, show that Qwest is performing  
13 okay, then can the inquiry stop, as I understood the  
14 question. And in response to that, are you indicating  
15 that you can't stop there because of the current quality  
16 of the data or that that is an appropriate place to stop  
17 at this point?

18 A. The question I was answering or what I  
19 understood it to be, and I will use an example, let's  
20 say we're looking at LNP data commercially, and the LNP  
21 data looks good, and KPMG has uncovered no data  
22 integrity problems with how Qwest is recording LNP data,  
23 there's no need for the Commission to look at the pseudo  
24 CLEC LNP data, that small subset of transactions. When  
25 there is a large number of commercial transactions out

7114

1 there, that the commercial data would be sufficient to  
2 demonstrate the state of Qwest's performance and that  
3 you need not look at LNP data that the pseudo CLEC may  
4 have obtained through the OSS test.

5           And that doesn't mean KPMG might not have  
6 uncovered some other LNP related issues with how Qwest  
7 does their documentation or how Qwest informs a CLEC of  
8 how to do LNP issue, and there may be an OSS related LNP  
9 evaluation as a part of the investigation into the OSS  
10 results. But from a pure data perspective, if the  
11 commercial data is accurate and reliable, there's  
12 sufficient quantities of it, there's no need to look at  
13 the KPMG data for the same transactions.

14       Q.    Is your answer different then if the data has  
15 been found to be unreliable and/or there are  
16 insufficient commercial volumes in Washington?

17       A.    Yes, if the data is found to be unreliable,  
18 what I was suggesting was wait until KPMG has finished  
19 its investigation and Qwest has taken the necessary  
20 steps to fix the commercial data and that KPMG has had  
21 the opportunity to evaluate and confirm the fix produced  
22 an effective result.

23       Q.    Let me ask you a couple of questions about  
24 another set of questions that the Chairwoman asked you.  
25 She talked about what the parties had agreed to with

7115

1 respect to parity; do you recall that?

2 A. Yes.

3 Q. Isn't it a fact that what AT&T and other  
4 CLECs and Qwest agreed to was the statistical  
5 methodology to be applied to the PID reporting process;  
6 is that accurate?

7 A. That's accurate.

8 Q. Did the parties agree that every time the  
9 data, regardless of the volume of the data, shows a  
10 negative modified Z score that that means Qwest passes  
11 on that checklist?

12 A. No.

13 Q. So that piece of it has not been agreed to.  
14 When you're talking about what the parties have agreed  
15 to, it's simply the statistical methodology that will be  
16 applied across the board?

17 A. Yes, and in statistical terms, what we agreed  
18 to was when there was a positive parity score, there was  
19 a statistically significant difference; when there was a  
20 negative Z score, there was not a statistically  
21 significant difference. Where we diverged is where it  
22 was a positive parity score, we called it  
23 discrimination, and Qwest would not agree that that was  
24 discrimination. Where it was a negative parity score,  
25 Qwest would call that parity, and we would not agree it

7116

1 was parity. It was just acknowledgment of when there  
2 existed a statistically significant difference or not.

3 Q. So the parties have not agreed on the  
4 outcome, but they have agreed on the methodology; is  
5 that fair?

6 A. Yes.

7 Q. And were you here last night when I went  
8 through with Mr. Williams some of his performance  
9 results, some of Qwest's performance results, to show  
10 that where there are low volumes, for example, or low  
11 volumes for CLECs and high volumes for retail, that even  
12 though there is a negative modified Z score, the  
13 treatment between a CLEC and a retail customer may vary  
14 by up to 20% or more in a particular month?

15 A. Yes, that's correct, I recall that.

16 Q. Given that that's the case, would you  
17 encourage the Commission where there are low volumes,  
18 even if the statistical or parity scores may be  
19 negative, to look beyond that to some other sources of  
20 information?

21 A. Yes, and I think in some respects but from  
22 different perspectives, both AT&T and CLECs suggest the  
23 same path. What Qwest says in some cases where you fail  
24 the test, there is a statistically significant  
25 difference, Qwest says you need to go beyond that, and

7117

1 you need to examine if the difference is materially  
2 significant or competitively significant. It may be  
3 agreed that it's statistically significant, but Qwest  
4 applies an additional level of characterization of,  
5 okay, it's statistically significant, is it also  
6 materially significant or competitively significant.  
7 Qwest makes the argument that for some measures, while  
8 the difference may be statistically significant, it may  
9 not be materially significant or competitively  
10 significant, so they attempt to mitigate the impact of  
11 the failure of the test, the test that the parties had  
12 agreed to.

13 In a certain respect, AT&T does the same  
14 thing. On these low volume tests, you may pass it  
15 statistically, but the difference, as Ms. Tribby was  
16 identifying, could be fairly significant, could be a  
17 materially significant difference or a competitively  
18 significant difference.

19 So from different perspectives, the message  
20 from the parties is the same, it just depends on whether  
21 you pass or fail the test, one party or another is  
22 saying look beyond the data.

23 Q. I just want to make sure the record is clear.  
24 You were talking about data and distinguishing between  
25 1355, the new data, and Exhibit 1338, the old data, and



7118

1 saying, for example, the UNE-P data in 1338 may have  
2 been superseded by 1355; do you recall that?

3 A. Yes.

4 Q. Now I understood your testimony when  
5 Mr. Steese was questioning you to say you hadn't yet had  
6 a chance to look at 1355. Has something changed between  
7 then and now so that you know that the data in 1355 has  
8 been updated, or is that speculation on your part at  
9 this point?

10 A. I don't even think I speculated. I  
11 understood Qwest to indicate they were going to recast  
12 the data, and I don't know if it ended up in the 1355  
13 exhibit.

14 Q. So you're not testifying one way or the other  
15 whether the data in 1355 has been recast at this point?

16 A. Right. And one thing that surprised me when  
17 I was looking at the business resale results, that  
18 looked like it had changed, and I'm a little puzzled as  
19 to why it had changed. I thought that was one of the  
20 ones that wasn't supposed to change. So that's what I  
21 will be focusing on once I do get the opportunity to  
22 look at 1355.

23 Q. Just a couple of questions to follow up on  
24 some of Mr. Steese's questions, he was asking you about  
25 observation or exception 1031; do you recall that?

7119

1 A. Yes.

2 Q. And he was asking you whether Liberty  
3 verified Qwest's assertions regarding 1031 problems; do  
4 you recall that?

5 A. Yes.

6 Q. And your testimony was that you had no  
7 indication either in writing or through Mr. Stright's  
8 testimony that he had done that verification; do you  
9 recall that?

10 A. Yes, I do.

11 Q. Is it -- has it been your experience that  
12 when Liberty was able to verify a fix, they have  
13 described that verification process in their reports or  
14 their disposition reports?

15 A. Yes, that's generally been their practice.  
16 In some of the exceptions, they do everything I would  
17 consider to have needed to be done to verify the fix,  
18 and they indicate so in their disposition report or the  
19 comments associated with the observation.

20 Q. And is it your testimony that you haven't  
21 seen any testimony or heard any testimony to indicate  
22 that that kind of verification was done for 1031?

23 A. That's correct.

24 Q. Mr. Steese was asking you about flow through  
25 rates, and he was asking why would you focus on the

7120

1 latest four months of data when there's only been a  
2 benchmark in place since January; do you recall that?

3 A. Yes.

4 Q. Would it have been the case that Qwest still  
5 had performance obligations and expectations with  
6 respect to flow through rates prior to the time that  
7 there was an actual benchmark put in place?

8 A. Certainly had obligations, or I should say  
9 certainly had expectations of having high flow through  
10 rates.

11 Q. And just one final clarification for the  
12 record, Mr. Steese was asking you to look at the  
13 regional charts in this case, Exhibit 1343; do you  
14 recall that, the regional blue charts?

15 A. Oh.

16 Q. And he was asking you, if certain things were  
17 true, then wouldn't the performance be shown as blue; do  
18 you recall that?

19 A. Yes, generally.

20 Q. And for some of those questions, you weren't  
21 referring back to data, you were simply looking at the  
22 regional charts when you were answering those questions  
23 about whether something should or should not be blue,  
24 correct?

25 A. That's correct, I was just reading from

7121

1 Qwest's charts.

2 MS. TRIBBY: Thank you, that's all I have.

3 JUDGE RENDAHL: Okay, Mr. Steese, do you have  
4 any recross?

5 MR. STEESE: I will waive recross.

6 JUDGE RENDAHL: Thank you.

7 Okay, Mr. Finnegan, you are excused.

8 Let's be off the record for a minute while we  
9 bring Ms. Doberneck up to the stand.

10 (Discussion off the record.)

11 JUDGE RENDAHL: Ms. Doberneck, I'm not sure  
12 we need to have you spell your name, because you're in  
13 the record numerous places, but would you please state  
14 your name and your capacity as a witness.

15 MS. DOBERNECK: Certainly, Megan Doberneck as  
16 a witness on behalf of Covad Communications Company,  
17 7901 Lowry Boulevard, Denver, Colorado 80230, and my  
18 last name is spelled D-O-B-E-R-N-E-C-K.

19 JUDGE RENDAHL: Thank you, could you please  
20 raise your right hand. Bet you thought you would never  
21 be doing this.

22

23 Whereupon,

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

7122

1 herein and was examined and testified as follows:

2

3 JUDGE RENDAHL: Okay, please go ahead and  
4 make your brief statement.

5 MS. DOBERNECK: I will, thank you, and I  
6 greatly appreciate the indulgence of the parties and the  
7 Commission in allowing me to represent Covad as a  
8 witness on data and data reconciliation.

9 We have talked a lot about forests, trees,  
10 what does all this data mean. I find it helpful to look  
11 at what does it really mean to a company that's actually  
12 in Washington and trying to compete here. Covad is the  
13 only nationwide provider of DSL at this point. There is  
14 no other company that has a nationwide footprint.  
15 Currently within the Qwest region, we do business in 7  
16 of the 14 Qwest states, including Washington, which is  
17 our highest volume state in this region. The DSL  
18 service that we do provide is purely a local  
19 telecommunications service. In that regard in the Qwest  
20 region, we are 100% dependent on Qwest in order to  
21 provide service over the last mile, that stretch of  
22 copper that runs from the central office to our end user  
23 customers.

24 We provide DSL service to residential users,  
25 small businesses, telecommuting employees, as well as

7123

1 major enterprises, sometimes alone as Covad, sometimes  
2 partnering with another company such as AT&T, for  
3 example, and provide the data service to a client of  
4 AT&T's. We provide our business in one of two ways, and  
5 that really drives the kind of data and performance that  
6 we look at. Covad utilizes unbundled loops to provide  
7 business to our business customers, not provide  
8 business, excuse me, provide DSL service to our business  
9 customers. We utilize line shared loops to provide  
10 service to residential customers and in certain  
11 circumstances to say telecommuting employees and those  
12 employees that work at home.

13           As I mentioned, we are a pure local  
14 telecommunications provider. We have no interest in the  
15 long distance business. I say it's slim to none and  
16 slim just left town that Covad will ever be a long  
17 distance voice provider. This is our business. The  
18 heart of our business is right here in the local market,  
19 and that's all we care about, and that's why we're  
20 participating in these 271 proceedings is to make sure  
21 before Qwest receives approval from this Commission and  
22 the FCC to provide long distance service in this state  
23 that we have the -- we have the right environment to  
24 allow us to continue to be a vibrant competitor.

25           Now I recognize some this gets a little into

7124

1 the legal stuff, but I figure Mr. Williams did it, so as  
2 a witness, I can too. How do we look at this, what are  
3 we looking at from sort of a legal perspective. Qwest  
4 is right, Mr. Williams is right, that if there is a  
5 single miss on a particular performance measure, it may  
6 not take Qwest out of checklist compliance. That is not  
7 to say, however, that if Qwest does miss on a single  
8 performance measure that that would not be sufficient if  
9 you look at sort of the circumstances under which you  
10 have that kind of miss that Qwest may not be in  
11 checklist compliance. And I think this is particularly  
12 important to keep in mind when you do look at the  
13 performance data, and it's important because we as CLECs  
14 who participate, who provide business in the local  
15 market, really all have very different business  
16 strategies for getting into business in this market. We  
17 have different modes of market entry. We provide  
18 different services.

19 I'm sure you have seen the ads that WorldCom  
20 has out, the neighborhood, and my understanding that  
21 that's a bundled product, you can get local and long  
22 distance service from WorldCom, and my understanding is  
23 the local component is via UNE-P. AT&T has its  
24 broadband unit which provides local telephone service.  
25 So for companies like that, LNP is very important. You

7125

1 have to allow customers to move their phone numbers in a  
2 timely fashion.

3           For Covad, phone numbers don't factor into  
4 our business, we don't do any phone numbers, so LNP  
5 doesn't matter. UNE-P does not matter. What matters to  
6 us are those UNEs that we order and over which we  
7 provide service. So from our perspective and where it  
8 really impacts our ability to do business is how is  
9 Qwest provisioning service for line shared loops, 2-wire  
10 non-loaded loops, ISDN loops, and now 4-wire non-loaded  
11 loops, which is a new product we have rolled out. So  
12 it's important to keep in mind that the aggregate  
13 matters, yes, the big picture matters, yes, but the  
14 devil is in the details when you're trying to determine  
15 whether the local market is sufficiently open to  
16 competition that Qwest has satisfied all its obligations  
17 under the checklist.

18           That gets me on to the sort of other issue,  
19 and this responds somewhat to what I believe Mr. Stright  
20 said, which is, you know, when they got to this  
21 reconciliation, I think he said something like, well,  
22 you know, we've got a forest, but, you know, in a lot of  
23 respects, you know, we're really kind of ignoring the  
24 forest, and what we're really dealing with in this  
25 reconciliation is the grass, you know, we're talking



7126

1 about some limited products and limited time periods.  
2 And getting back to my earlier point about how we differ  
3 as companies doing business, this is not grass to Covad.  
4 This is our forest. These are all our trees, and I take  
5 some offense at the suggestion that those products that  
6 Covad cares about don't -- aren't significant for the  
7 overall perspective, because they are very significant  
8 for us.

9           Looking specifically at the Liberty data  
10 reconciliation report, and you have heard a lot about --  
11 from a lot of people sort of the bottom -- the bottom  
12 line here is we had the performance measure audit, and,  
13 I think as Mr. Finnegan described it, the machinery  
14 said, okay, when two and three are fed into it, Qwest  
15 will come out with five, we want to know if the two was  
16 really a two and the three was really a three, and  
17 that's why we had this reconciliation project.

18           Now Mr. Stright in his opening comments said  
19 that there's this burden of proof issue that certain  
20 CLECs have raised, and it's those CLECs are just wrong.  
21 And certainly Covad was one that raised that issue, and  
22 I want to be clear how Covad sees it. And it is that it  
23 appears to us that in proceeding, Liberty assumed there  
24 was a rebuttable presumption, if you will, that the data  
25 was correct, and then a CLEC had to come and say that,

7127

1 well, in fact, no, it wasn't correct. But I think the  
2 FCC has been pretty clear that Qwest bears the burden of  
3 proof in connection with its application. You know, the  
4 FCC says Qwest bears the prima facie burdon, that Qwest  
5 bears the burdon of proving checklist compliance even if  
6 no other party files any objection of any sort. And so  
7 I think while where problems were discovered and Liberty  
8 did certainly investigate those problems, there's a  
9 whole nother step that we saw needed to be done, which  
10 was to say, Qwest, you need to show us for all of these  
11 orders that you have actually treated these orders  
12 correctly. So I wanted to clarify what at least for  
13 Covad the burden of proof issue was.

14           Now the big issue is, okay, Liberty  
15 determined that there were some problems, and then  
16 Liberty took the steps it believed were sufficient to  
17 ensure that those problems were corrected. And I think  
18 much like what you heard Mr. Finnegan say earlier and  
19 similar to what Mr. Finnegan said, Covad likewise  
20 believes that Liberty didn't go far enough. And for us,  
21 there's two things that Liberty should have done.  
22 Liberty should have checked the code fixes after, with  
23 current data, after those code fixes were in place. Now  
24 I listened to Mr. Stright testify, and I think it was  
25 unclear, and I think with Liberty's response to the

7128

1 records requisition about to determine whether the code  
2 fixes were actually checked with current commercial data  
3 after they were implemented, that will either resolve  
4 our concern because Liberty will be able to demonstrate  
5 to a reasonable degree of certainty for Covad that that  
6 happened, but if not, I think that that step needs to  
7 take place. And I think Mr. -- as Mr. Stright agreed  
8 with me when we -- when I cross-examined him, which is  
9 there is a possibility a code fix can fix one thing but  
10 cause another problem, and that's my concern. I just  
11 simply want to get to a point where we have sufficient  
12 indicia of reliability that we can at least feel  
13 somewhat or feel more comfortable with the Qwest data.

14           The training issue, I think we also need some  
15 sort of evidence that this training really did have the  
16 effect that Qwest represented and hoped that it will  
17 have, that people -- that its employees will now  
18 correctly process the orders. And as Mr. Stright  
19 admitted, this is a more difficult issue. It's more  
20 difficult to determine effectiveness. And for Covad at  
21 least, because of that human component and because  
22 Liberty certainly did recognize in its report that human  
23 error, whether innocent or intentional, is a fact of  
24 life here, that we need sufficient evidence that where  
25 we have -- where we know there were issues, that they

7129

1 have been identified and, in fact, corrected.

2           Now sort of the million dollar question, what  
3 do we really want? I certainly don't want to extend  
4 this process unduly. I do think we need evidence, and  
5 what I would suggest and something I think would be  
6 possible, reasonably likely and reasonably possible to  
7 do contemporaneous with the issuance of the final final  
8 report, is a sampling. Take a sampling of the Covad  
9 orders for a couple of weeks. You know, that may be a  
10 week or two in March, a week or two in April, take 25%  
11 of the orders in the product categories where issues or  
12 deficiencies were identified by Liberty, and let's have  
13 some sort of sampling in that manner to try and confirm  
14 that these fixes have actually been implemented, that  
15 the training has actually stuck. And with that,  
16 frankly, assuming it all came out with a -- Qwest came  
17 out with a clean bill of health, Covad would consider  
18 those issues resolved and completed to our satisfaction.  
19 I think that the proposal we have is consistent also  
20 with the way we have proceeded in the OSS testing. As  
21 you know, the OSS testing is military style. Qwest is  
22 tested, if they pass, great, if they don't pass, it's  
23 corrected, and then we do retesting, and I think it's a  
24 similar approach and a similar philosophy to what we  
25 have included elsewhere.

7130

1           The issues we see, turning now to the actual  
2 commercial data, the Qwest performance data, the what I  
3 call the PID reports, 1338 and 1355, we continue to have  
4 concerns about how accurate and reliable those PID  
5 reports are, and there's a couple of reasons why.

6           The first, for example, if you look at  
7 1448-C, just to use an example, Qwest provided these  
8 Covad specific PID reports. It's just the Covad orders  
9 for just those products and those measures that apply to  
10 Covad. Well, we got PID reports for three states in  
11 which we do no business. So just sort of a generalized  
12 kind of reporting problem like that causes me concern.  
13 If we don't do business in the state, how can there be  
14 preorder and fairly significant preorder activity as  
15 reported by Qwest itself.

16           The sort of unbundled/condition loop issue,  
17 well, we talked about that for a fair amount this  
18 morning with Mr. Williams, and he indicated that it only  
19 applied or really only affected the conditioned loops.  
20 And I don't know that, that very well may be correct  
21 that the loops that are reported for 2-wire non-loaded  
22 and ISDN loaded, I'm sorry, ISDN loops, that that report  
23 is correct and accurate, but we have a fundamental  
24 underlying reporting issue in which loops that should be  
25 reported in those categories are not, and they are being

7131

1 reported in the wrong category. And currently we have  
2 no information, we have no evidence necessarily one way  
3 or another as to what Qwest's actual accurate and  
4 correct performance is for those particular product  
5 types. Clearly this matters a lot to Covad. Those are  
6 the three -- those are three of our unbundled loop types  
7 over which we provide service in this state, so it  
8 directly impacts Covad and our ability to provide  
9 service and to measure Qwest and to make sure that those  
10 are accurate.

11 Now as I mentioned, I'm not saying maybe  
12 Mr. Williams was correct in which he's like, well, if  
13 you look at the conditioned loop for OP-3 and OP-4,  
14 we're meeting all the other product intervals and  
15 product categories, but we don't know that. Qwest has  
16 represented that they will correct that information, and  
17 for those categories of loops, I think we need to wait  
18 until Qwest corrects that information to determine are  
19 they really in checklist compliance, are they really  
20 meeting the agreed upon performance measures for those  
21 product types.

22 Finally, oh, sorry, not finally,  
23 penultimately, but I have cut out a lot, PO-15, change  
24 orders or number of due date changes during the  
25 provisioning process. During Workshop IV, which dealt

7132

1 with among other things checklist item 4, unbundled  
2 loops, Covad raised a lot of issue with what we called  
3 fake FOCs, fake firm order confirmations that we  
4 received from Qwest. When we place an order with Qwest,  
5 we get a FOC in return. That FOC says, dear Covad, we  
6 got your order, we're proceeding to provision it, and by  
7 the way, it will be delivered on May 20th. When we  
8 receive that, we pass it on to our end user and say, you  
9 need to be home on May 20th, because Qwest is going to  
10 deliver you with loop. When we receive subsequent FOCs  
11 from Qwest, it creates a horrible problem for us in  
12 terms of managing our end users. Because then we go  
13 back to our end user and say, guess what, you already  
14 planned to take that May 20th day off, forget it, it's  
15 actually going to be May 18th. Well, that's a good  
16 thing, but it still creates a big problem. If it's May  
17 25th, it creates an even bigger problem.

18           And when you look at PO-15, while it is a  
19 diagnostic measure currently, it is one of those types  
20 of measures where when the difference in performance for  
21 Qwest versus its CLEC customers is significant, and it's  
22 competitively significant, and it is one of the key  
23 drivers of our business, and when we get multiple FOCs  
24 from Qwest on a particular order, it creates an enormous  
25 amount of difficulty in managing end user expectations

7133

1 and just frankly kills time and resources for Covad to  
2 ensure that our end user customer will be available on  
3 the day in which Qwest has changed it to. Because if  
4 they aren't and Qwest no access, I'm sorry, Qwest  
5 reports back to Covad there's no access, the order is  
6 excluded from the performance measures, and the loop  
7 delivery just gets pushed out even further.

8           Finally, line sharing maintenance and repair.  
9 I will tell you, I am not a fan of the Qwest blue  
10 charts. Personally I find them somewhat confusing, and  
11 it's difficult for me to really get a clear picture,  
12 particularly when everything is not dark blue, as to  
13 what the performance actually is. If you look at  
14 Exhibit 1355, and I think the range of pages is 172 to  
15 177, you will see that in maintenance and repair for  
16 line shared loops, which is approximately 50% of our  
17 business in the state of Washington, that for a number  
18 of those measures, and specifically MR-4-C, MR-6-C,  
19 MR-7-A, MR-7-B, MR-7-C, and MR-8, Qwest has not met the  
20 agreed upon standard. In other words, I would say Qwest  
21 has discriminated against Covad in repairing its line  
22 shared loops.

23           Now Qwest also for these measures has the  
24 asterisk, the, well, let's ignore that no trouble found.  
25 Well, first, I still think that there's no basis for



7134

1 that currently for -- with the exception, I believe, of  
2 MR-7, no trouble found is a part of those measurements,  
3 and that's what we need to look at. More importantly  
4 and with respect to Covad specifically, I don't -- even  
5 if you want to look at the asterisked measurements, they  
6 don't apply to Covad. Under our interconnection  
7 agreement with Qwest, we are contractually obligated to  
8 undertake trouble isolation and trouble testing before  
9 submitting a trouble ticket to Qwest. And it's in  
10 recognition of, you know, there's two different networks  
11 at issue, we want to know where that trouble is. Covad  
12 has complied with its obligations to provide that  
13 information.

14 Certainly Qwest has not indicated to us that  
15 there is a problem with the trouble tickets that we open  
16 or specifically no trouble found because Covad didn't  
17 provide adequate information. So as an initial matter,  
18 I think the asterisked measurements are not permitted  
19 under the PIDs, and more importantly and more  
20 personally, it doesn't apply to Covad, because we have a  
21 contractual obligation to which we adhere to, and that  
22 no trouble found I think is just, to use a legal term, a  
23 red herring.

24 With that, I am done.

25 JUDGE RENDAHL: Thank you, Ms. Doberneck.

7135

1 Mr. Steese.

2 MR. STEESE: We're going to get this done  
3 today.

4 JUDGE RENDAHL: Great.

5

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

7 BY MR. STEESE:

8 Q. Ms. Doberneck, let's assume the following  
9 facts. Qwest provides its contract and says, we're  
10 doing really well. Would you think that's good enough,  
11 or do you think we actually have to provide performance  
12 data showing we're performing up to par?

13 A. Okay, Qwest provides its contract?

14 Q. All we have is a contract saying, we're going  
15 to do X; is that paper promise good enough for you?

16 A. I would say given our experience, for  
17 example, under our service level agreement, performance  
18 data, well, it validates that whether you live up to  
19 your representation or not.

20 Q. So you would say no?

21 A. Yes, no.

22 Q. The paper promise is not good enough?

23 A. Sorry.

24 Q. Correct?

25 A. For that, for performance, sure, for

7136

1 performance measurements and things like that, yes, the  
2 paper contract is not enough, and we would request data.

3 Q. And what you're saying with respect to the  
4 star measures, trust us, Qwest, I mean Covad, we're  
5 different, we really live by our contractual  
6 obligations, so the star measures, they're a red  
7 herring; that's what you're saying, isn't it?

8 A. I would say yes if for no other reason than  
9 having spoken with the folks in our testing and  
10 acceptance center, they have informed me that Qwest has  
11 never asked us or indicated that we are not adhering to  
12 our contractual obligation to provide all the trouble  
13 isolation information that Qwest would like when we open  
14 a trouble ticket.

15 Q. And so Covad's people say, we don't think  
16 this is a problem, so we should say, good enough, would  
17 you think that's good enough if that's what Qwest did?  
18 Answer no.

19 A. I'm sorry, let me be clear. Can you just  
20 repeat your question?

21 Q. Don't you demand that Qwest provide  
22 performance data showing how it's doing, performance  
23 data is what's required for us to show we're meeting our  
24 obligations?

25 A. Yes, you are the vendor, yes.

7137

1 Q. And here all the star data is intended to do  
2 is show that, in fact, there are times when the CLECs  
3 submit trouble reports and no troubles are found.  
4 That's the only intention?

5 A. Yes, that is the intention of the asterisked  
6 maintenance and repair measures.

7 Q. And when you look at the state of Washington,  
8 aren't you a vast percentage of the line shared loops in  
9 the state of Washington?

10 A. Yes, we are.

11 Q. And so to the extent that those asterisked  
12 measures actually show a large percentage of time no  
13 troubles found, I'm not saying it's intentional on  
14 Covad's part, but certainly there are times Covad  
15 reports trouble when no trouble exists on the Qwest  
16 network?

17 A. I would certainly say that we get reports  
18 back from Qwest stating that there is no trouble found.  
19 I would also say that if you look at the repair repeat  
20 rate, it can be rather high, which suggests to me that  
21 no trouble found was perhaps not an accurate report back  
22 to Covad.

23 Q. So looking at, and I apologize, let me look  
24 quickly, maybe it does exist in 1338. It does, page  
25 173.

7138

1 CHAIRWOMAN SHOWALTER: Of 1338?

2 MR. STEESE: Yes.

3 A. 173?

4 BY MR. STEESE:

5 Q. Excuse me, 177. I'm just going to focus on  
6 the last three months with actual star data, so let's  
7 start in November. There were eight repeat troubles  
8 reported. Once no troubles found are excluded, it goes  
9 to five, correct?

10 A. You're on page 177?

11 Q. Yes.

12 A. And you're looking at November?

13 Q. Correct. If you look in the numerator  
14 column.

15 A. Okay.

16 Q. It identifies the number of repeat troubles  
17 reported by the CLEC for line sharing with no dispatch.

18 A. Okay.

19 Q. And you see eight, correct?

20 A. I see five in the numerator column for MR-7-C  
21 for what I have as 1338.

22 MR. STEESE: Let's make, Judge, is it okay if  
23 I compare pages here to make sure we're on the same  
24 page?

25 JUDGE RENDAHL: Let's be off the record for a

7139

1 moment.

2 (Discussion off the record.)

3 JUDGE RENDAHL: I think we now are referring  
4 to the correct chart.

5 BY MR. STEESE:

6 Q. So if you're looking at November of 2001.

7 JUDGE RENDAHL: Can you reflect which chart  
8 we're looking at just so for the record we've clarified  
9 it.

10 Q. At Exhibit 1338, MR-7-C with no dispatch and  
11 no asterisk.

12 A. Yes.

13 Q. There were eight trouble reports issued,  
14 repeat troubles, excuse me. But after the no troubles  
15 found are corrected, it goes down to five, correct?

16 A. That is what the chart says when I go from  
17 7-C to 7-C\*.

18 Q. And in December, it goes from three to two,  
19 correct?

20 A. Yes.

21 Q. And in January, it goes from 15 down to 4?

22 A. Yes.

23 Q. So there are, I realize those numbers are  
24 relatively small, but they're small on both sides, both  
25 in the non-asterisk measure and the asterisk measure,

7140

1 correct?

2 A. Yes.

3 Q. So while it might not be a frequent  
4 occurrence that Covad issues no trouble found  
5 situations, there are certainly instances when that  
6 happens?

7 A. Yes, there are instances where that happens,  
8 but I mean I think it's also important to look at the  
9 percentages, because the denominator also goes down when  
10 we exclude the no trouble found. So, for example,  
11 January goes from 33% to 22%, and 22% for repeat  
12 troubles is still a pretty high percentage for a repeat  
13 trouble rate.

14 Q. Let's move on to -- well, let me ask one more  
15 point. Repeat troubles today is still a diagnostic  
16 measure, no standard associated with it; isn't that  
17 true?

18 A. Yes, I believe Mr. Finnegan can probably  
19 correct me, we -- when the issue went to impasse I  
20 believe with the steering committee for MR-7, the issue  
21 was to move it from diagnostic to parity with Qwest's  
22 retail DSL. Where Qwest differed from the CLECs was  
23 whether no trouble found should be included or not. I  
24 believe the steering committee decided that the parties  
25 should remain diagnostic for 60 or 90 days, I'm not sure

7141

1 what the number was, at which point we will revisit the  
2 issue and presumably have a decision as to with or  
3 without no trouble found for the retail standard with  
4 Qwest's DSL.

5 Q. Is it fair to say that Covad's principal  
6 concern then based on what I'm hearing you say is that  
7 Qwest perform to an acceptable level of quality?

8 A. Absolutely.

9 Q. And if we perform at an acceptable level of  
10 quality, then Covad's concerns are taken care of?

11 A. Well, I would say, you know, never say never,  
12 but with respect, you know, all frivolity aside, with  
13 respect to the performance data and assuming our  
14 concerns about accuracy of that data would be assuaged,  
15 that would -- that would resolve our disagreements with  
16 Qwest over this particular component of the checklist  
17 compliance, absolutely.

18 Q. And Covad agrees that to the extent Qwest  
19 meets the agreed upon benchmarks or performance  
20 standards, that that is performing at an acceptable  
21 level of quality, correct?

22 A. You know, for the benchmarks, absolutely.  
23 And to be perfectly honest, with the parity stuff, I  
24 hadn't really -- I would have said yes until I heard  
25 Mr. Finnegan speak, and he raised an issue I had never



7142

1 thought about. But certainly up to today, you know,  
2 particularly on the maintenance and repair issues, yes,  
3 if Qwest met the parity standards, that we would have  
4 considered that satisfactory. Although as you know,  
5 sort of primary provisioning measures that we care most  
6 about are benchmarks and -- but for those I would agree  
7 if you meet the benchmarks currently with the way Qwest  
8 is performing that that would be satisfactory, yes.

9 Q. Then just to make sure I understand, with  
10 respect to the Bench requests, I forgot the Bench  
11 request number, I thought it was 7, but maybe it was  
12 not.

13 JUDGE RENDAHL: The Record Requisition Number  
14 7.

15 Q. Correct, of Mr. Stright, to the extent that  
16 Mr. Stright confirms what I thought he testified to, but  
17 maybe he did not.

18 A. Reasonable minds can differ.

19 Q. That's true. That with respect to  
20 observations 1026, 1027, 1029, and 1030 that Liberty  
21 went in, verified the code fix, and verified with data  
22 after the code fix that Qwest's processes were actually  
23 working correctly and the data has been rectified and  
24 recast, that that issue goes away in your mind?

25 A. Yes, for those observations, that issue would

7143

1 go away for us, yes.

2 Q. Just a couple more brief points. What you  
3 call fake FOCs, I want to make sure that we're on the  
4 same page. Qwest returns a firm order confirmation or  
5 FOC that tells Covad, and other CLECs for that matter,  
6 the due date that they can expect to get whatever they  
7 have ordered, correct?

8 A. Yes.

9 Q. And looking back at the October to December  
10 2000, I mean that intentionally, 2000 time frame, this  
11 was Covad's principal concern with Qwest; is that fair?

12 A. It was certainly one of our primary concerns,  
13 yes.

14 Q. And Qwest underwent a number of process  
15 changes to improve upon that issue, true?

16 A. I believe so. Certainly that was what was  
17 represented, and I don't have a reason to disbelieve  
18 that, no.

19 Q. And one thing that the performance measures  
20 require Qwest to do is to measure its commitments met  
21 against the initial firm order confirmation due date,  
22 correct?

23 A. Against the?

24 Q. Original due date in the first --

25 A. Okay, so we're talking about PO-5?

7144

1                   JUDGE RENDAHL: Please don't talk over one  
2 another if you can avoid it.

3                   Mr. STEESE: I apologize, Your Honor, that  
4 was my mistake. I thought my question was confusing,  
5 and I tried to restate right when she started to speak.

6 BY MR. STEESE:

7           Q.       When you look at the firm order confirmation  
8 that's returned, Qwest's commitment met in OP-3 is based  
9 upon the date in that first firm order confirmation that  
10 Covad thinks is very important; isn't that true?

11          A.       You know, I am not certain, but subject to  
12 check, I will agree with you.

13          Q.       We could look at OP-3 and 4 and look at that,  
14 for example, but assuming that's correct, Qwest has had  
15 those measures audited, correct?

16          A.       Yes.

17          Q.       And we have had those measures reconciled,  
18 true?

19          A.       We have undergone the process, true.

20          Q.       And, in fact, line sharing and 2-wire  
21 non-loaded loops are both products that KPMG is going  
22 through the full provisioning process during the course  
23 of the OSS test?

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

25          Q.       You don't know even on line sharing?

7145

1 A. I don't.

2 Q. Assuming that KPMG is going through  
3 provisioning of actual line shared loops for the -- KPMG  
4 isn't, Qwest is doing it on behalf of the pseudo CLEC,  
5 and KPMG is monitoring that activity. Then KPMG is also  
6 going to have an opportunity to determine whether or not  
7 Qwest is tracking its performance data accurately as it  
8 relates to performance based on that initial FOC?

9 A. I'm assuming that is correct.

10 MR. STEESE: That is all the questions that I  
11 have.

12 JUDGE RENDAHL: Thank you for your brevity,  
13 Mr. Steese.

14 Okay, any questions for Ms. Doberneck?

15 CHAIRWOMAN SHOWALTER: Just one.

16

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

18 BY CHAIRWOMAN SHOWALTER:

19 Q. You did not get to have yourself introduced  
20 because you have no attorney, but what is your  
21 educational background?

22 A. Sure. I graduated from the University of  
23 California at Berkeley with a major in political science  
24 and a minor in English in 1990, and I received my JD  
25 from Columbia University in 1994. I was in private

7146

1 practice until January of 2001. And on January 29th,  
2 2001, I commenced my employment with Covad.

3 CHAIRWOMAN SHOWALTER: Thank you, I have no  
4 further questions.

5 COMMISSIONER OSHIE: No questions.

6 JUDGE RENDAHL: And I have no questions.

7 Ms. Tribby, are you acting in defense of  
8 Ms. Doberneck?

9 MS. TRIBBY: Yes, and I wanted to object, but  
10 I just didn't find a spot, and I have no redirect.

11 JUDGE RENDAHL: You have no redirect. In  
12 that case, I think amazingly you all did an incredible  
13 job in finishing within our time frame. So at this  
14 point, we are finished with the performance and data  
15 reconciliation portion of this hearing, and we will  
16 conclude for the day.

17 We're off the record, thank you.

18 (Hearing adjourned at 5:35 p.m.)

19

20

21

22

23

24

25