

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	DOCKET NO. UT-950200
4)	
	Complainant,)	VOLUME 24
5)	
	vs.)	Pages 2806 - 3062
6)	
	U S WEST COMMUNICATIONS, INC.,)	
7)	
	Respondent.)	
8	-----)	

9 A hearing in the above matter was held at
10 8:35 a.m. on January 18, 1996, at 1300 South Evergreen
11 Park Drive Southwest, Olympia, Washington before
12 Commissioners RICHARD HEMSTAD, WILLIAM R. GILLIS and
13 Administrative Law Judge C. ROBERT WALLIS.

14

15 The parties were present as follows:

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19 SHERILYNN PETERSON, Attorney at Law, 411 - 108th
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21 WASHINGTON UTILITIES AND TRANSPORTATION
22 COMMISSION STAFF, by STEVEN W. SMITH and GREGORY
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25 Cheryl Macdonald, Court Reporter

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WITNESSES:

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EXAM

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EXHIBITS:

MARKED

ADMITTED

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490T, 491,
492T, 493T

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34T, 35-40
494, 495T, 496-499

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502T, 503

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

2 JUDGE WALLIS: Let's be on record, please.
3 This is the Thursday January 18, 1996 session in the
4 matter of docket UT-950200 regarding U S WEST
5 Communications. The order of the day will begin with
6 the examination of Don Wood presented by MCI. I'm
7 going to ask Mr. Wood to rise, please.

8 Whereupon,

9 DON WOOD,

10 having been first duly sworn, was called as a witness
11 herein and was examined and testified as follows:

12 JUDGE WALLIS: In conjunction with Mr.
13 Wood's appearance we have marked his direct testimony
14 as Exhibit 490T for identification. His resume DJW-1
15 is marked is 491 for identification. His rebuttal
16 testimony as 492T for identification, and his
17 supplemental testimony as 493T.

18 (Marked Exhibits 490T, 491, 492T and 493T.)

19 DIRECT EXAMINATION

20 BY MR. NICHOLS:

21 Q. Good morning, Mr. Wood.

22 A. Good morning.

23 Q. Would you mind stating your name and
24 business address for the record?

25 A. My name is Don J. Wood. My business address

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1 is 914 Stream Valley Trail, Alpharetta, Georgia, 30202.

2 Q. Mr. Wood, do you have before you what's
3 been marked for identification purposes as Exhibit
4 490T?

5 A. Yes, I do.

6 Q. Is that the direct testimony of Don J. Wood
7 which you caused to have prefiled in this proceeding?

8 A. Yes, it is.

9 Q. And was that document prepared by you or
10 under your control and direction?

11 A. Yes, it was.

12 Q. And if I were to ask you the questions
13 contained in 490T, would the responses that appear
14 there be the same today?

15 A. Yes, they would.

16 Q. Are the answers that you give in 490T true
17 and correct to the best of your information and
18 belief?

19 A. Yes, I believe they are.

20 Q. Mr. Wood, I call your attention to what's
21 been marked for identification purposes as Exhibit
22 491. Do you have that in front of you?

23 A. Yes, I do.

24 Q. Is that your resume which you have caused
25 to be filed as an attachment to your direct testimony?

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1 A. Yes, it is.

2 Q. Does that accurately reflect the matters
3 which are addressed therein?

4 A. It's certainly accurate up until the day it
5 was filed. Of course there would be some additions
6 after that, but yes, it is accurate up to that point.

7 Q. Call your attention to what's been marked
8 for identification purposes as Exhibit 492T. Is that
9 your rebuttal testimony that you caused to be filed in
10 this proceeding?

11 A. Yes, it is.

12 Q. Was it prepared by you or under your
13 control or direction?

14 A. Yes,

15 Q. If I were to ask you the questions
16 contained in that document would your answers be the
17 same as contained therein?

18 A. Yes, they would.

19 Q. Are those answers true and correct to the
20 best of your belief and information?

21 A. Yes, I believe they are.

22 Q. Finally, I call your attention to what's
23 been marked as Exhibit 493T. Is that your rebuttal
24 testimony that you caused to be prefiled to be filed in
25 this case?

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1 A. That is my supplemental testimony.

2 Q. Sorry, supplemental testimony.

3 A. Yes, sir, it is.

4 Q. Was that prepared by you or under your
5 control and direction?

6 A. Yes, it was.

7 Q. If I were to ask you the questions
8 contained in that document would your responses be the
9 same as are contained therein?

10 A. Yes, they would.

11 Q. Are the answers true and correct to the
12 best of your information and belief?

13 A. Yes, I believe they are.

14 MR. NICHOLS: Judge, I move for the
15 admission of Exhibits 490T, 491, 492T and 493T.

16 JUDGE WALLIS: Is there objection?

17 MR. OWENS: No, Your Honor.

18 JUDGE WALLIS: Let the record show that
19 there is no objection and the exhibits are received.

20 (Admitted Exhibits 490T, 491, 492T and 493T.)

21 MR. NICHOLS: Mr. Wood is ready for
22 cross-examination.

23 JUDGE WALLIS: Mr. Owens.

24 MR. OWENS: Thank you, Your Honor.

25

1 CROSS-EXAMINATION

2 BY MR. OWENS:

3 Q. Morning, Mr. Wood. I'm Doug Owens
4 representing U S WEST.

5 A. Morning, Mr. Owens, nice to see you again.

6 Q. Nice to see you. Like to direct your
7 attention to your direct testimony Exhibit 490T on
8 page 39 where you talk about the company's proposal
9 for switched access charges that are differentiated by
10 geographic zones. And you characterize the effect of
11 this of what you call a preemptive strike by the
12 company to prevent entry by potential competitors into
13 the markets for the switching components of access
14 service. I would like to ask you, it's correct, isn't
15 it, that both of the zone rates that you're talking
16 about contain significant contribution above what you
17 call incremental cost?

18 A. Yes, they do.

19 Q. And that is that the one rate with the 10
20 percent discount also contains significant
21 contribution; is that correct?

22 A. Yes, it does, although of course 10 percent
23 less than a higher zone.

24 Q. Is it correct that a competitor who wanted
25 to enter the market for the business of providing

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1 switched access to interexchange carriers would not
2 necessarily have to charge those carriers a carrier
3 common line charge the way U S WEST does.

4 MR. NICHOLS: Excuse me, Mr. Wood, would
5 you mind placing that a little closer to you and a
6 little bit to your left so that when you turn and
7 speak into the microphone. I know it's a little
8 early.

9 THE WITNESS: Certainly. I apologize.

10 JUDGE WALLIS: Let's be off the record.

11 (Discussion off the record.)

12 A. I'm sorry, can you --

13 Q. It's correct, isn't it, that a competitor
14 who wanted to enter the market to provide a switched
15 access service in Washington to interexchange carriers
16 would not necessarily have to charge those carriers a
17 carrier common line charge such as U S WEST charges?

18 A. Well, I agree that a new competitor and U S
19 WEST both have the option of charging a CCLC or not
20 charging a CCLC.

21 Q. At least to the extent that U S WEST's
22 charges are subject to the prior orders of this
23 Commission that prescribe a carrier common line
24 charge, that wouldn't apply to a competitor. Would
25 you agree with that?

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1 A. I don't want to quibble over what may not
2 be an important point, but certainly if U S wanted to
3 reduce or eliminate the CCLC it could do so.

4 Q. It would be subject to the approval of this
5 Commission whether it could do so?

6 A. Absolutely, yes, I agree.

7 Q. So a competitor could without the hindrance
8 of any decision by this Commission elect not to charge
9 a carrier common line charge?

10 A. Yes, that's correct. As any of those
11 competitors entering the market would have to fully
12 recover their costs that would include either the cost
13 of building a ubiquitous network or the cost of
14 interconnecting with U S WEST's network. So there are
15 going to be costs that they have to pay that have to be
16 recovered, and if that competitor is interconnecting
17 with your network while they may be providing some
18 switching functions they may also be purchasing others
19 from you unless they had duplicated your network and
20 would under the current structure be paying a CCLC and
21 a RIC. So if that were the case and that were the cost
22 structure they face, then yes, they would have to pass
23 those charges along.

24 Q. Under the existing environment they would
25 not have to charge their customers a RIC for the

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1 services they provide; is that correct?

2 A. There's no regulatory requirement that they
3 do so, I agree with you there. Where we may have a
4 disagreement is in the realities of the marketplace
5 and recovering the costs that they may incur if
6 they're going to offer a service to end users, or at
7 least the end user of some of these services, a toll
8 provider would be interested in purchasing.

9 Q. And it's correct, isn't it, that they could
10 decide not to, for example, offer service to high cost
11 rural areas?

12 A. They could certainly -- well, I guess
13 there's two questions there, high cost areas and rural
14 areas and whether there may be some correlation.
15 There may not always be such a correlation. Yes, a
16 new entrant would have some opportunity to enter first
17 in lower cost areas and perhaps serve higher cost
18 areas at a later time or not to serve those areas.

19 Q. Is it correct that you haven't provided any
20 quantitative evidence in your testimony that the
21 simple existence of a 10 percent zone discount from a
22 switched access charge that contains what you
23 characterize as excessive contribution by itself would
24 prevent an equally efficient competitor from being
25 able to enter any particular market in Washington?

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1 A. What my testimony does here is responds
2 to --

3 Q. Can you answer yes or no whether you
4 provide quantitative analysis?

5 A. I have not done that. My testimony which I
6 had hoped was clear is to respond to Ms. Wilcox's
7 testimony in which she very clearly states that the
8 zone pricing proposal is not cost based but is a
9 strategic response, and I am certainly recommending,
10 as strongly as I possibly can to this Commission, that
11 that noncost-based price deaveraging is not good
12 public policy.

13 Q. Does MCI ever lower its prices to meet a
14 competitive offering by another provider of
15 telecommunications service?

16 A. Certainly.

17 Q. Directing your attention to page 10 of your
18 rebuttal testimony where you discuss U S WEST's
19 proposals with regard to imputation. Isn't it true
20 that approximately ten years ago MCI agreed in a
21 written settlement with U S WEST not to advocate
22 imputation on service by service basis?

23 A. I would have no idea.

24 Q. Is it your testimony that a
25 facilities-based carrier, a competitor to U S WEST,

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1 will always do business by purchasing U S WEST
2 transport service?

3 A. I think what I've stated as clearly as I
4 could is that it will purchase that service when it's
5 required to do so for either technical or economic
6 reasons, yes, it will purchase that service.

7 Q. Well, my question was always. So by
8 qualifying your answer in a fashion you did, am I and
9 are the commissioners to understand that it will not
10 always purchase U S WEST transport service?

11 A. There may be alternatives available. My
12 difference here that I'm describing where you've
13 pointed me to in my testimony with Mr. Purkey's
14 discussion is that the mere existence of providers in
15 certain geographic areas to certain toll providers of
16 alternatives for transport services is far and away a
17 different situation than those type of transport --
18 the option to purchase transport from another provider
19 than U S WEST being available to all providers
20 throughout the state.

21 And in fact Mr. Purkey has responded in his
22 testimony that he doesn't and in his deposition that
23 he doesn't mean to suggest that those options are
24 available to all carriers in all parts of the state,
25 and in fact he defends his imputation standard as

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1 saying, well, they don't really have to be readily
2 available. If those options are available to a single
3 provider anywhere in the state it's not an essential
4 function, and then he goes a step further and says,
5 well, they don't really have to be available at all.
6 Even if they might sort of conceptually be available
7 it's not an essential function, and that is where I
8 very strenuously disagree with Mr. Purkey on his
9 assertion that transport would not be an essential
10 function.

11 Q. Isn't it true that it will not always be
12 necessary for a competitive provider to purchase U S
13 WEST transport service?

14 A. That's correct. I think I just agreed with
15 that.

16 Q. And it's true, isn't it, that there isn't
17 anything about transport service that allows U S WEST
18 to provide that service at a lower incremental cost
19 than a competitor?

20 A. I guess we really -- while I am inclined to
21 agree with you I think we really don't know the answer
22 to that question yet. I think we're going to find out
23 if the right conditions are in place. As we move
24 forward and competition begins to develop I think
25 the marketplace will tell us whether or not that's

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1 true.

2 Q. Let me get to a more basic level. U S WEST
3 doesn't manufacture the equipment used in providing
4 transport; is that correct?

5 A. That's right.

6 Q. So both U S WEST and a competitor have to
7 go out on the market and buy the cable and the
8 electronics and the other equipment that are
9 physically used to provide that service; is that
10 correct?

11 A. That's right.

12 Q. And as far as you know the prices that are
13 available to the competitors are roughly equal to the
14 prices that U S WEST has to pay; is that correct?

15 A. That may or may not be true. I think I'm
16 very clearer recently that U S WEST is very careful in
17 protecting from disclosure the discounts that it
18 receives, so I really can't speak to whether other
19 providers receive the same vendor discounts.

20 Q. Well, there are other providers who are at
21 least U S WEST's equal in size in purchasing power.
22 Would that be a fair statement?

23 A. That's true.

24 Q. And so to the extent discounts are a
25 function of size and purchasing power, you have no

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1 reason to believe that equivalent discounts are not
2 available to other providers of equal or greater size
3 in purchasing power, do you?

4 A. No. What I'm saying is I have no way to
5 know whether those are true or not. The question of
6 course is not whether other providers can purchase
7 those facilities. The question is whether other
8 providers can or even should attempt to duplicate U S
9 WEST's ubiquitous network.

10 Q. I was asking you about incremental cost.

11 A. And I was I hope responding in terms of
12 incremental cost.

13 Q. Is it fair to say that you have no reason
14 to believe that the incremental cost to a competitor
15 of providing transport is greater than it is for U S
16 WEST?

17 A. Well, when we say providing transport I
18 think we need to be clear. If we're talking about a
19 transport facility from point A to point B then I
20 think that's a very different issue than transport
21 services in the aggregate throughout the state. In
22 the first case I would be at least somewhat inclined to
23 agree with you. In the latter case I would have to
24 strenuously disagree.

25 Q. Isn't it true that MCI itself has deployed

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1 its own transport facilities in the state of
2 Washington?

3 A. I have no direct knowledge but I expect
4 that it probably has. That's not to say, and let me
5 be clear because I don't want to mislead you, that U S
6 WEST has to deploy facilities so that it can avoid
7 purchasing the transport function from U S WEST
8 throughout the state. It does not have to do so. In
9 fact, as I point out in my testimony, we don't really
10 need to quibble about whether a given function is
11 essential or not or universally available or not.
12 There are very good reasons --

13 MR. OWENS: Your Honor, I just asked the
14 witness a simple question as to whether it wasn't true
15 that MCI had deployed transport facilities in the state
16 and it seems to me we're getting very far afield of
17 that simple question.

18 JUDGE WALLIS: To my understanding he's
19 explaining his response to your question.

20 MR. OWENS: With all respect it didn't
21 seem to call for an explanation, but whatever you
22 decide, Your Honor.

23 THE WITNESS: Thank you. I will keep as
24 focused as I can.

25 A. There are very good reasons, as I

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1 explained, for providers of intraLATA toll service in
2 competition with U S WEST not to purchase these
3 functions including transport from U S WEST if they
4 can possibly avoid doing so. They're putting control
5 of the pricing quality of their service in the hands
6 of a competitor. They're giving U S WEST knowledge
7 about their operations.

8 There are a number of reasons why they
9 would avoid doing so if they could possibly do it.
10 The fact that other providers of toll service are
11 purchasing these functions is absolutely prime facie
12 evidence to me that these functions are essential or
13 they wouldn't be doing it.

14 Q. So let me get it straight. MCI, as far as
15 you know, has deployed transport facilities in
16 Washington that are substitutable for the transport
17 services of U S WEST; is that correct?

18 A. No, sir, and that's where I want to make
19 sure that we have an understanding. I agree that they
20 have deployed facilities. In those specific locations
21 those facilities are substitutes for U S WEST provided
22 transport facilities. That is not the same, as I
23 understood the way you phrased your question, to
24 suggest that the facilities that have been put in place
25 in those specific areas are substitutable for transport

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1 services offered by U S WEST in some general way.
2 That's simply not the case. MCI is certainly
3 purchasing transport service from U S WEST and will
4 continue to do so as far as I can tell into the
5 foreseeable future.

6 Q. And so presumably MCI made some kind of
7 economic decision to make that investment in those
8 locations where it deployed those transport facilities
9 that you've indicated are substitutes in those
10 locations for U S WEST transport service; is that
11 correct?

12 A. Any carrier investing in facilities such as
13 transport but not limited to transport is making
14 exactly that economic decision. They're balancing
15 their reasons to build or to purchase. Now, as I've
16 suggested, having the rates priced as close to
17 incremental cost as possible will send the right
18 signals to those new entrants to make the right
19 investment decisions of whether they should purchase
20 or whether they should build.

21 Q. Now, does MCI interconnect with Electric
22 Lightwave in Washington as far as you know?

23 A. I don't know.

24 Q. Electric Lightwave is among the providers
25 of local exchange including switched access service in

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1 Washington; is that correct?

2 A. I will accept your representation. I am
3 not familiar -- I am familiar with ELI in their
4 presence here but I am not familiar with specifically
5 what they're offering in Washington.

6 Q. So when you state in your testimony that
7 local switching is an element that currently does not
8 face competitive entry, had you investigated what
9 carriers are actually in business providing services
10 in competition with U S WEST in Washington?

11 A. I'm sorry. Where is the reference?

12 Q. That's again at page 39, actually the
13 bottom of page 38 going on to 39 of your direct
14 testimony.

15 A. The sentence, that carries over from 38 to
16 39 responds to -- in fact I don't need to make a
17 decision or provide evidence on whether local
18 switching is competitive or not because U S WEST has
19 done that and that's where that sentence starts. As
20 the testimony in docket 941464 makes clear. And in
21 that docket Ms. Wilcox was very clear in suggesting
22 that the residual interconnection charged was being
23 proposed as a charge that would be associated with
24 local switching because that is in fact -- it's an
25 inartful way to put it -- where the competitive

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1 pressures were not as opposed to transport which was
2 beginning to face competitive pressures.

3 Q. Could you answer the question I asked,
4 which is did you in making that statement investigate
5 what services were being provided in Washington by
6 competitors to U S WEST?

7 A. No.

8 Q. Would the same be true with regard to your
9 statement on tandem switching in that sentence?

10 A. Yes. The same statement would be true and
11 the same explanation would hold that it would not be
12 rational for U S WEST to place a pure contribution
13 element on to a rate element that it thought would
14 face competitive entry in the future.

15 Q. So you're not aware that, for example,
16 Electric Lightwave advertises in Washington a tandem
17 switching service; is that correct?

18 A. I am not aware. It may very well do so. I
19 don't think that changes the conclusion that I've
20 drawn here.

21 Q. Now, you've focused in your testimony about
22 imputation on what you characterize as -- and this is
23 back at page 10 of the rebuttal -- what you
24 characterize as an ill-defined and overly narrow
25 definition of essential components, and you indicate

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1 that this simply ignores relevant costs that would
2 otherwise properly be included. Is it true that the
3 other side of the coin also applies in that if costs
4 which do not actually represent essential facilities
5 are included in an imputation test the result is
6 simply the construction of a price umbrella under
7 which competitors can price and extract super
8 competitive profits?

9 A. I apologize. There's kind of a multiple
10 part question. I can give you a better response if
11 it's in pieces.

12 Q. I will rephrase it. At page 10 it's true
13 you criticize the company's proposals with regard to
14 imputation; is that right?

15 A. That's right. And you combined two reasons
16 that I have separated here. One is that the
17 definition of essential facilities is overly broad in
18 its language but overly narrow in its application, and
19 a second criticism is that a proposal to ignore
20 relevant costs that the company incurs is not an
21 appropriate adjustment to an imputation standard.

22 Q. But isn't it true --

23 A. Those are two separate issues.

24 Q. Isn't it true that if the Commission adopts
25 an imputation test that includes as part of the cost

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1 that the company's rates must equal or exceed costs
2 which are not truly essential that the effect of that
3 is simply to create a price umbrella under which
4 competitors can price and enjoy super competitive
5 profits?

6 A. We would have to define price umbrella and
7 we'll have to define super competitive profits. I
8 will answer as directly as I can without doing that,
9 and that is I will certainly agree that it is not
10 appropriate to include in an imputation test
11 nonessential functions at their tariffed rate rather
12 than at a proper calculation of their incremental cost,
13 and to do so would not be efficient, would not serve
14 the ratepayers, would not serve the marketplace. I
15 would be remiss if I did not add on that I strenuously
16 disagree with Mr. Purkey's recommendation on how to
17 define what those essential services or functions are,
18 and I strenuously disagree with his conclusions of the
19 application of his recommendation.

20 Q. I understand you disagree, but you didn't,
21 I don't think, completely answer my question so let me
22 ask you, you said it's inefficient to include costs
23 that do not represent essential components in the
24 imputation test, and is that because the effect is to
25 allow the competitors to price above their true

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1 incremental cost and still obtain business from an
2 incumbent?

3 A. Well, I have to change one word in your
4 question and that's when you said costs I think you
5 meant prices for nonessential components.

6 Q. Let me rephrase the question.

7 A. I think that's an important distinction.

8 Q. Let me rephrase the question. Is it
9 correct that the reason you said that the inclusion of
10 the tariffed price for a service that does not
11 represent an essential function in an imputation test
12 results in inefficiency is that it allows competitors
13 to price their services above their true incremental
14 cost yet below the imputed price of the incumbent and
15 obtain business thereby?

16 A. I don't agree with exactly what you stated.
17 I agree that that is a scenario which should be
18 avoided. It should be avoided because what it
19 effectively does is it creates some measure of rate
20 cost differential that would be exempt, if you will,
21 from competitive market forces. In other words, as
22 I've described elsewhere one of the primary benefits
23 of a competitive marketplace is that it seeks to drive
24 these noneconomic costs, if you will, out of the rate
25 structure, and any time you isolate a component of

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1 those costs then you hamstring, if you will, effective
2 competitive market forces and prevent them from doing
3 that. That's a problem in the scenario that you
4 describe, if I understand you correctly. It's also a
5 problem any time you price access or other
6 interconnection type services at a level above TS
7 LRIC. You're effectively doing the same thing in
8 either scenario.

9 Q. So would the effect then of what you stated
10 is the exemption of certain services from the effect
11 of competition be that the competitors would price
12 below the level set for the incumbent by the
13 imputation test and obtain business? That's the first
14 step?

15 A. I think your question over-simplifies a
16 little bit. What I can agree to readily is that if
17 there are functions that are not essential and there's
18 an imputation test that requires those functions be
19 included at their tariffed rates rather than their
20 costs that that would create a pricing inefficiency.

21 Q. Well, I'm asking you about the effect of
22 the pricing inefficiency. Would the effect of the
23 pricing inefficiency be, other things being equal,
24 that the units of service that the incumbent sells at
25 the higher price decline and competitors are able to

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1 set their prices below the imputed floor and obtain
2 that business?

3 A. The answer is yes, comma, but the degree to
4 which that would occur depends on the differential, but
5 I don't think this is a fundamental point of
6 disagreement. I disagree that it applies in
7 Washington but conceptually I don't disagree with this
8 discussion.

9 Q. And then a further effect, I take it, and
10 the reason you consider this to be an inefficiency is
11 that the consumers of the service that the two
12 companies, let's say, are in rivalry to provide will
13 not receive the benefit of competition that would
14 otherwise drive prices closer to incremental cost?

15 A. Well, they will certainly receive some
16 benefits of competition, but one of the benefits of
17 driving prices toward incremental cost would at least
18 be limited in that regard in the same way that it's
19 limited any time access is priced above TS LRIC.

20 Q. It's true, isn't it, that U S WEST
21 competitors are building their own loops today?

22 A. I'm sorry. In Washington?

23 Q. Yes.

24 A. And by loops you mean feeder and
25 distribution components?

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1 Q. Yes.

2 A. Or some components of loops?

3 Q. Yes.

4 A. It's my understanding that there's some
5 investment being made. I can't tell you who is making
6 it and which components of the loop they're investing
7 in.

8 Q. And an equally efficient competitor to U S
9 WEST in the local exchange market would be able to
10 build its own loops, wouldn't it?

11 A. No, I disagree.

12 Q. What would stop an equally efficient
13 competitor from building its own loops?

14 A. Well, we're merging two fundamentally
15 different concepts here. An equally efficient
16 competitor is a competitor that can come in and invest
17 in those portions of the network sufficient to do so,
18 purchase those from an incumbent if it's not efficient
19 to build those facilities, and will cause the rest of
20 the cost structure, the shared and common costs that
21 have been so much a discussion in this case, if those
22 are equally efficient then that competitor can compete
23 in the market at the market price. That's not to say
24 that an equally efficient carrier can or even should
25 go out and duplicate U S WEST's existing network, every

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1 loop every location. That's a fundamentally different
2 concept. If the components of a local network are
3 unbundled appropriately and priced appropriately then
4 I think the market will tell us over time where it's
5 efficient for other competitors to build and where
6 it's efficient for other competitors to purchase usage
7 on U S WEST's network. But until that takes place
8 it's premature for any of us to sit here and say,
9 well, all of these components of the network ought to
10 be duplicated or could be duplicated, but the ability
11 to do so is really not relevant to the question of how
12 you define an equally efficient carrier. That's
13 really a different concept.

14 Q. Well, I'm not sure you answered my
15 question. The question was, isn't it true, aside from
16 whether you think it's a good idea or not, that it's
17 certainly possible for an equally efficient competitor
18 to build its own loops?

19 A. It is technically possible. It may not be
20 economically feasible, and it may be very bad public
21 policy. The most direct answer that I can give to
22 your question on whether someone should be out there
23 building the loops is that we don't know yet whether
24 that investment is prudent or efficient or not.
25 That's a separate question from how could -- under

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1 what circumstances could a quote-unquote equally
2 efficient competitor compete, because the definition
3 of an equally efficient competitor doesn't include any
4 consideration of whether they ought to be going out
5 and duplicating the existing ubiquitous network.

6 Q. Now, at page 7 of your direct testimony you
7 discuss two disputes with regard to pricing of
8 services by LECs, and you characterize this beginning
9 at line 4 that the LECs have attempted to calculate,
10 and you put it in quotes, the incremental cost and
11 therefore the price service -- excuse me -- the price
12 floor of competitive services using methodologies that
13 exclude as many costs as possible, and potential
14 competitors in turn have sought to have requirements
15 put into place that require LECs to include all
16 appropriate costs in their studies. And now the
17 existence of a dispute doesn't necessarily make one
18 side right and one side wrong, does it?

19 A. If we divorce that question from this
20 particular substance, yes, I agree.

21 Q. And U S WEST doesn't exclude all costs from
22 its cost studies, does it?

23 A. No, and I am not suggesting here that it
24 does. If you look back a couple of paragraphs, the
25 purpose of this discussion is to put some historical

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1 groundwork in place for the disputes that have been
2 taking place really since divestiture on costing
3 issues, and it describes that early on ten years ago we
4 had fully distributed cost studies being used fairly
5 pervasively to set prices.

6 There were then arguments made by the Bell
7 operating companies that incremental cost pricing,
8 however that should be defined, is the appropriate
9 basis for competitive services, and those fights early
10 on -- and Dr. Emmerson and I took part in quite a few
11 of them -- were based on attempts by the LECs to do
12 one of two things, either to exclude service specific
13 fixed costs or to conduct short run incremental cost
14 studies rather than long run. Both of those
15 methodologies would exclude relevant costs that should
16 be included in the TS LRIC for a service, and I go on
17 to contrast that with we've seem to come full circle
18 in a way.

19 Now, in a sense Dr. Emmerson and I are on
20 different sides of the table because now he is
21 supporting, at least to some degree, that U S WEST
22 arguments that, well, maybe fully distributed costing
23 wasn't such a bad idea, and in fact the ADSRC studies
24 are partially distributed cost studies that go back to
25 add essentially excessive costs in.

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1 The purpose of this discussion is to
2 describe the history of these arguments. We seem to
3 have come, like I said, full circle.

4 Q. Isn't it true that U S WEST prices its
5 services that are subject to competition above
6 incremental cost as you define that term except for
7 residential basic service and in directory assistance?

8 A. I can only tell you what the directions in
9 the cost study documentation have been to your product
10 managers which is to do so. I will accept your
11 directory assistance exception. I think the best
12 information indicates, at least in the aggregate, that
13 that would not apply to local service, that in fact it
14 is above the proper pressure of incremental cost, at
15 least on a statewide basis.

16 Q. What information do you rely on for that
17 statement?

18 A. I am somewhat hamstrung by the fact that I
19 haven't been here the entire time, but I have read the
20 transcript of the proceeding up until now, and it's my
21 understanding that there are certainly areas in the
22 state where residential local exchange rates may not
23 be fully compensatory but on a statewide basis they
24 may very well be.

25 Q. Your testimony is you believe that U S WEST

02837

1 has agreed to that statement?

2 A. My testimony is that I've seen that
3 evidence produced in the record by reading the
4 transcript. It would certainly not be inconsistent
5 with studies that I've done in other states where I
6 have specifically looked at both on a statewide basis
7 when you look at the relevant revenues and the
8 relevant costs where residential local exchange is
9 above cost.

10 MR. OWENS: Your Honor, I asked him whether
11 it's his testimony that U S WEST has agreed to that
12 statement and now we're getting into a different
13 question as to what investigation he's done in other
14 states and who knows what other companies. It seems
15 to me that isn't responsive.

16 JUDGE WALLIS: I am going to suggest to the
17 witness that you really focus on the question that's
18 being asked and start off by responding to the
19 question. If it asks for a yes or no answer then
20 answer yes or no, and if it calls for a short answer
21 make the short answer, and then if you need to explain
22 that answer go ahead and give the explanation.

23 THE WITNESS: I will try to do that.

24 Q. So my question to you again is, is it your
25 testimony that from reviewing the transcript you

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1 believe that U S WEST has agreed that residence rates
2 in aggregate on a statewide basis are in excess of
3 incremental cost as you define that term?

4 A. No. I'm not suggesting that you've agreed
5 to that.

6 Q. And are you aware of Exhibit 485C?

7 A. You will have to refresh my memory on what
8 that is.

9 Q. The exhibit that was produced in response
10 to the bench request that compares revenues with TSIC
11 or total service incremental cost for the
12 preponderance of U S WEST services in Washington?

13 A. I have read the portion of the transcript
14 where the request was made. I have not seen the
15 exhibit.

16 Q. So whatever statement you made about the
17 relationship of revenues to incremental cost would not
18 include any review of that exhibit; is that correct?

19 A. That is correct. It would have included a
20 review of the arguments made by all parties. Having
21 reviewed Mr. Farrow's argument about what he did and
22 did not propose to include in that type of analysis I
23 would disagree with his procedure.

24 Q. Well, you state in your testimony that
25 conceptually the company's calculation of TSIC is

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1 consistent with your definition of total service
2 long-run incremental cost; is that correct?

3 A. That's correct, and includes the two
4 important components of TS LRIC, the costs that vary
5 with each unit of service in the long run and service
6 specific fixed costs.

7 Q. And is it the fact that Mr. Farrow's study
8 attributes the entirety of the loop cost to residence
9 basic exchange service that you disagree with?

10 A. I disagree fundamentally with the argument,
11 and as I said in my testimony this is an argument
12 that's been presented by Mr. Dunkel, and I must agree
13 in part and respectfully disagree in part in Mr.
14 Dunkel's testimony as it relates to Farrow's process.
15 Certainly the loop is not incremental only to local
16 exchange service in the sense that it's not avoidable.
17 If U S WEST seeks to serve to offer only toll service,
18 for example, a loop is still required or only access
19 service. Now, there are very good reasons why local
20 exchange service, or at least some network access rate
21 elements should exist that fully recovers those costs.

22 My second area of concern with Mr. Farrow's
23 analysis is that he may have excluded, at least from
24 the transcript it appears he excluded, relevant
25 revenues. In other words, he included only the rates

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1 associated with the access line rather than vertical
2 services and related revenues to match with those
3 costs. If he did so that would also be a shortcoming
4 of his analysis.

5 Q. Addressing your first point, do I
6 understand then correctly that you believe that there
7 should be some allocation of the loop cost to switched
8 access?

9 A. No, absolutely not. Let me put this as
10 very directly and simply as possible. When we're
11 talking about costs and any cost information that's
12 going to be used for pricing, when we're using words
13 like calculate as the operative verb then we're still
14 making sense. As soon as we begin to use words like
15 attribute or allocate, or I think Mr. Farrow's new verb
16 of choice is "slot," then we are not talking about an
17 incremental cost process, we're not talking about
18 calculating costs. We are talking about something
19 else entirely.

20 As I described in my testimony, I believe
21 the second piece of Mr. Dunkel's analysis where he
22 attempts to do an allocation falls in the same trap
23 that Mr. Farrow has fallen into with ADSRC and that is
24 arbitrarily assigning or slotting costs to a service
25 that are not caused by that service, and that is a

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1 fundamental mistake in the costing process.

2 Q. Well, let me try to explore that then. A
3 loop is a physical facility that runs from the central
4 office out to the customer location, correct?

5 A. Yes, it is.

6 Q. And it's possible to construct an
7 incremental cost calculation, to use your term, that
8 accounts for the forward looking cost of that facility
9 using least cost currently available technology,
10 correct?

11 A. Yes, it is.

12 Q. Once you have that number, let's say that
13 number is \$100, how do you then come up with what you,
14 I believe, indicated was the incremental cost that is
15 relevant to access as opposed to whatever part is
16 relevant to basic exchange service?

17 A. Well, I guess that's the -- you don't do
18 so, and that is the fundamental disagreement that I
19 have with the company, and at least the part of Mr.
20 Dunkel's testimony with which I agree, and that is if
21 you -- what you have described is a very valid process
22 for calculating the cost of a local loop. That is not
23 the same as calculating the cost of basic local
24 exchange service. There's a fundamental difference.
25 I agree with your process for calculating the cost of

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1 a loop. In fact, I think that's how it should be
2 done. Then when we back up and we do a service
3 specific cost study and you want to determine the --
4 apply the principle of cost causation that Mr. Farrow
5 and Dr. Emmerson agree should be applied, the question
6 you ask as the cost analyst is which costs can be
7 avoided if this service is not offered. If U S WEST
8 were today to stop offering local exchange service but
9 continue to offer the other services that it offers
10 the cost of the loop is not avoidable in that
11 scenario. You still require a loop to provide toll,
12 still require a loop to provide access and as far as I
13 know any other service that you offer with perhaps but
14 not necessarily the exception of Yellow Pages. So the
15 loop costs are not appropriately included in the
16 direct cost of local exchange service any more than
17 they are appropriately included in the direct cost of
18 any of those services. They are in fact a shared cost
19 of all of those services and should not be allocated
20 to any one of them.

21 Q. So if I understand you correctly then you
22 would exclude from the calculation of access, TS LRIC
23 and local exchange TS LRIC, the entirety of loop
24 costs; is that correct?

25 A. That's correct. From a costing perspective

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1 if you want to calculate the costs that are caused by
2 each one of those services and therefore belong in
3 those TS LRICs, the loop cost would not appear.

4 Q. And so how does MCI or how do you recommend
5 that a company like U S WEST recover those loop costs?

6 A. Well, that's a separate question. That's a
7 pricing question rather than a costing question, and
8 that's a fundamental distinction. And what I
9 responded to you previously is that there are good
10 reasons when you look at an environment where you want
11 local competition to develop to create a rate element
12 or a rate structure that does fully recover those loop
13 costs, and while I don't agree that they are
14 incremental costs caused by local service, if you have
15 -- I think it's certainly worthwhile to look at
16 existing local service rates and existing loop costs
17 and see what kind of match you have and see whether
18 you have a situation that we've heard about
19 historically but not seen demonstrated that there's a
20 huge disparity of whether that disparity might be more
21 manageable.

22 And I think when you look at the
23 independent cost information that's been provided in
24 this proceeding you find that there are some
25 geographic areas of the state where existing rates are

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1 not fully compensatory, and you find some geographic
2 areas where they are. In those areas where they are
3 not there are essentially two pricing approaches
4 available to you to address that issue. One is, I
5 believe it was described by Mr. Mayo previously, is to
6 target -- for those portions of the state and only
7 those portions where existing local exchange rates are
8 not fully compensatory then you look at -- and let me
9 throw in a parenthetical, which I hope would be
10 obvious, is that there are interstate revenues that
11 would be applied including the subscriber line charge,
12 but including those in this revenues analysis -- but
13 when you do that if there are geographic areas that
14 are not compensatory then you have the choice of
15 increasing those rates so that they do cover those
16 costs and targeting a specific subsidy to those
17 ratepayers that would otherwise drop off the network.
18 Or you have a second option which is to identify
19 specifically what those areas are, the number of
20 access lines involved, and the total dollars on an
21 annual basis that that shortfall represents, and
22 address the recovery of that shortfall through some
23 other funding mechanism.

24 I've seen a lot of proposals in different
25 states. It certainly should be competitively neutral

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1 but beyond that there are a number of options
2 available for doing that.

3 Q. I'm not sure you answered my question, and
4 let me see if I can ask it in perhaps a more granular
5 way. Again, using the hypothetical that we have, \$100
6 of properly defined loop costs that you indicate are
7 not incremental to any service provided but still have
8 to be recovered by the company in order to stay in
9 business. Do you have that hypothetical?

10 A. Sure.

11 Q. Let's add to the hypothetical then that the
12 incremental costs of basic exchange service excluding
13 the loop cost that you've indicated you believe are
14 shared would be \$3?

15 A. Now, I guess I need to ask, are these
16 monthly costs?

17 Q. Yes.

18 A. The \$100 sounds awfully excessive but if
19 it's a hypothetical I guess we can use it. For a
20 monthly cost I have not even seen in very rural
21 locations any monthly costs associated with a loop that
22 approached \$100.

23 Q. All right. Let's make it \$10 then.

24 A. All right.

25 Q. You've indicated in other testimony that

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1 you believe that access should be priced at TS LRIC;
2 is that correct?

3 A. That's right, for the reasons that we've
4 already discussed today.

5 Q. And so therefore, would it be correct that
6 none of those loop costs, in your opinion, that are
7 shared should be charged to interexchange carriers?

8 A. That's right. The access rates paid by
9 interexchange carriers, any forms of network
10 interconnection -- and what I'm talking about here are
11 the rates specifically that are purchased by a service
12 provider that in turn offers what we've been calling a
13 downstream service and access and toll are one example
14 of that relationship. Those rates should fully
15 compensate U S WEST for the use of its network
16 including a fair return of cost and a fair return on
17 capital. Now a properly conducted TS LRIC study
18 includes those elements, so a rate set at TS LRIC
19 would fully compensate the company for all costs, and
20 this is the key word -- for all costs caused by the
21 purchase of that service by that service provider.

22 Q. I'm trying to get straight, again the focus
23 of these questions is how the company would recover
24 what you've characterized as the shared costing of the
25 loop, and I want to get clear that it would not look

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1 to any charges to interexchange carriers for switched
2 access to recover those costs; is that correct?

3 A. That's correct.

4 Q. And you've indicated that it is not proper
5 to consider those costs incremental to basic exchange
6 and so at least as a first principle, I take it, it
7 follows from that that you would not include any
8 charges for those costs to basic exchange ratepayers
9 for their access to the network; is that correct?

10 A. No, I disagree. When we are studying the
11 cost of basic local exchange service from a cost
12 perspective it is incorrect to include costs that are
13 not available if that service is not being offered,
14 which includes loop costs. Those are costs that are
15 not avoidable and therefore not part of the cost of
16 the basic local exchange service. Now, there's a
17 separate pricing issue on recovery of loop costs and
18 what we find is there are obviously any number of
19 solutions to recovery of that.

20 What you want, at least what I would
21 propose to the Commission and the company and all
22 ratepayers in the state would want, is a pricing
23 structure that distorts other competitive markets as
24 little as possible. If you want to recover a cost of
25 conceptually something called network access, which is

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1 what the loop is, you can call that local exchange or
2 you can call it network access.

3 Now, when you look at existing local
4 exchange rates what you find is that in many areas of
5 the state those rates that are currently being paid
6 that are presumably affordable for most ratepayers and
7 result in the 97 point whatever percent of penetration
8 rate that we have in the state, that given that rate
9 structure the vast majority of these costs are being
10 recovered. And what I've addressed are potential
11 solutions to the specific area that now needs to be
12 addressed which is what about those areas of the state
13 where those costs are not being fully recovered, what
14 do you do. Do you target subsidies specific to
15 individual ratepayers or do you hold existing rates at
16 their current levels and look at some competitively
17 neutral mechanism for recovering those costs. Either
18 one of those would be a mechanism that would preserve
19 universal service, permit U S WEST to recover the
20 costs that it has incurred to provide the local loop
21 or its nontraffic sensitive costs and would have as
22 little effect as possible in distorting the pricing in
23 the competitive markets throughout the state.

24 Any solution that meets those three primary
25 criteria I would consider to be an acceptable solution

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1 worth pursuing. There may be others that meet those
2 criteria. Those are two that I've seen offered.

3 Q. Well, then, from that answer do I
4 understand correctly that you believe that the company
5 should look essentially to the purchasers of network
6 access, meaning the end user customer customer in that
7 regard, for recovery of these shared costs through the
8 aggregate of the charges that they pay?

9 A. Well, as you've just made your statement
10 that's going to be true whether we allocate all of the
11 loop to access or to toll or where we put it.
12 Ultimately those end users are going to recover, allow
13 -- pay rates that will allow U S WEST to recover the
14 cost of that loop in the aggregate of the rates that
15 they pay. It's going to be somewhere. If we dish it
16 off into other services it's not going to change the
17 fact that it's still -- ultimately it's the end user
18 who's going to provide the funds to recover those
19 costs.

20 Now, there are ways that you spread that
21 around that cause distortive effects and there are
22 ways that don't. What I am suggesting is that the
23 Commission consider ways that don't.

24 Q. Let me modify the question. It's your
25 testimony, then, that the company should look to the

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1 purchasers of network access as end users and the
2 rates that they pay for that network access to recover
3 these shared costs?

4 A. It's my testimony that that's being done
5 today for at least a large number of ratepayers in the
6 state. It's being done in a way that results in rates
7 that are affordable and that lead to a very high
8 penetration rate. The problem then, given that rate
9 structure, is how you address the exceptions to that
10 rule.

11 Q. I take it -- strike that. At page 9 of
12 your direct you describe what you characterize as an
13 admission by Mr. Farrow that certain costs in the
14 company's cost studies are not incremental to the
15 service being studied and would that essentially refer
16 to the shared residual?

17 A. Yes it would.

18 Q. And you've reviewed the supplemental
19 testimony that Mr. Farrow filed in December, haven't
20 you?

21 A. I have seen it, yes.

22 Q. And that testimony separates the shared
23 residual and shows average service incremental cost
24 for the company's services, doesn't it?

25 A. I believe it does. If you've got an

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1 exhibit you can point to, I don't have any
2 supplemental in my notebook.

3 Q. That's all right.

4 A. Certainly -- his Exhibit 8 that I was
5 referring to in this testimony reports only ADSRC.
6 That would provide no information useful for pricing.
7 I will accept your representation that a subsequent
8 exhibit is based on ASIC subject to my reservations
9 that I've stated and that I've agreed with that, other
10 witnesses have stated that there are problems with how
11 U S WEST applies the ASIC methodology, but at least
12 conceptually if he's reporting ASIC we've made a step
13 in the right direction. He's conceptually reporting
14 the correct number.

15 Q. So keeping that assumption in mind, and
16 focusing only on the difference between ASIC and ADSRC
17 conceptually, for the purpose of determining whether
18 there's a cross subsidy involved in the pricing of a
19 particular service, would you agree that if the
20 service is priced above ASIC, as you would use the
21 cross subsidy term it would find there not to be a
22 cross subsidy?

23 A. If the ASIC has been properly performed,
24 yes, I agree. That is the appropriate test for a
25 cross subsidy --

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1 Q. You would agree that at least as the
2 company has calculated it ADSRC is above ASIC?

3 A. I cannot imagine a scenario in which ADSRC
4 would be below ASIC. I've seen it to be significantly
5 above and I've seen it to be slightly above but it's
6 always above.

7 Q. So would it then be fair that if the
8 service is priced at or above ADSRC it would also not
9 have a cross subsidy?

10 A. By definition. My disagreement with Mr.
11 Farrow is whether having ADSRC as some benchmark
12 number that's purportedly been beneficial in making
13 pricing decision would add any value. Not only do I
14 disagree that ADSRC provides you any additional
15 information, I think reporting it is actually very
16 dangerous because it leads the Commission and the
17 company, as Dr. Emmerson has stated very directly, to
18 make very poor pricing decisions.

19 Q. When you discuss at page 9 of your direct
20 testimony the appropriate methodology to be used in
21 calculating incremental costs, and don't you
22 acknowledge that there are costs that are incremental
23 to the decision to offer a combination of services?

24 A. Yes, I do. That is not part of TS LRIC,
25 but, yes, there are certainly costs that are -- in

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1 fact that's how you put costs in these various
2 baskets. If costs are caused by the decision to
3 offer a service then they are incremental to that
4 service. If they are caused by a decision to offer a
5 group of services -- well, let me back up. If they
6 are incremental to the service, to each individual
7 service, then they're part of the TS LRIC of that
8 service and for each service you study, and what's
9 left over are shared and common costs.

10 If you then look at service groups you can
11 identify which costs are incremental which are caused
12 by that service group and which are incremental to
13 that service group. You've got to call that something
14 other than total service LRIC. You can call it total
15 group LRIC if you like and what's left over are common
16 costs. If you define the group in the scope of your
17 study as all service offered by the company, all of
18 your economic costs are incremental to the group being
19 studied and there is no residual. There is nothing
20 left over.

21 Q. Now, did you examine Mr. Farrow's
22 supplemental testimony where he sets out in a
23 graphical form the families of services that use
24 specific functions?

25 A. I have seen -- and again I don't have that

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1 in front of me and it might help if I do. What I've
2 seen is a diagram which purports to use which cost
3 models are used for each service. I have not seen
4 anything which shows which services are in fact in
5 each group or each family, and in fact Mr. Farrow has
6 been fairly straightforward in his deposition here and
7 in other cases where he says that it's either
8 difficult or impossible to do that.

9 Q. So in giving that answer, did you examine
10 or have you examined the graph in Mr. Farrow's
11 supplemental testimony?

12 A. Well, I certainly didn't examine it before
13 I wrote my direct.

14 Q. I'm talking about the answer you just gave
15 on the stand today. Had you examined it?

16 A. Yes, but I don't have it in front of me. I
17 have seen this exhibit in other states, by the way,
18 that Mr. Farrow and Dr. Emmerson and I were just in
19 Iowa last week discussing these same issues, and this
20 same exhibit, as far as I understand it, was
21 discussed.

22 Q. Directing your attention to page 10 of your
23 direct you discuss beginning at line 2, "without the
24 bundling requirement and use and user restrictions in
25 the LEC tariffs individual rate elements will meet the

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1 definition of a service." Should the Commission
2 understand from that that you advocate the elimination
3 of use and user restrictions in the LEC tariffs?

4 A. I do in almost every case where I see them,
5 and there may be exceptions, but then the vast majority
6 of cases of use and user restrictions I've seen, yes,
7 I do advocate their elimination, but that is in no way
8 a part of this testimony. This response in the
9 testimony describes the challenge that a cost analyst
10 faces when he's attempting to properly conduct a TS
11 LRIC, and the first thing that has to be done, the
12 first absolutely essential step, is to identify the
13 increment that's going to be studied. That of course
14 is where an ADSRC falls short.

15 And what I describe here is that, well,
16 when we say service, a service is a tariffed bundle of
17 rate elements, and of course if those rate elements
18 were offered on an unbundled basis without use and user
19 restrictions the individual rate elements would then
20 in fact meet the definition of a service and that would
21 change somewhat the scope of the cost study and the
22 scope of the increment that the analysts face, but the
23 suggestion here is not in terms of which use and user
24 restrictions should be eliminated. It's to point out
25 that there's a potential for an error to be made by a

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1 cost analyst in identifying the increment to be studied
2 and in fact U S WEST has made that mistake throughout
3 its cost studies.

4 Q. Page 27 of your direct you state that
5 there is an ideal case from the point of view of the
6 LEC and a worst case scenario from the point of view
7 of ratepayers where the LECs priced for potentially
8 competitive services down to a level approaching the
9 economic price floor and priced monopoly services
10 according to a higher price floor that may approach
11 the level of fully distributed costs. So I just
12 wanted to ask you a couple of questions about that.

13 A. Sure.

14 Q. If you assume, let's say, that there was
15 now another divestiture where all of the competitive
16 services were provided by one local exchange company
17 and all of what you call monopoly services were
18 provided by another company. Do you have that
19 hypothetical in mind?

20 A. Yes. I'm not recommending divestiture, but
21 yes, I understand.

22 Q. I'm just trying to understand the
23 significance of what you're saying. Under that
24 scenario would there be under the monopoly company the
25 pricing that you described here of pricing on a fully

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1 distributed cost basis?

2 A. Should there be pricing on a fully
3 distributed cost basis?

4 Q. Let's take would there be first.

5 A. There would be if it weren't constrained by
6 regulators because given the definition of your
7 hypothetical there would be no competitive market
8 forces so, yes, the monopoly company would recover
9 essentially monopoly profits including a full
10 distribution of all of its costs, prudent or imprudent.

11 Q. When you say monopoly profits are you
12 including in that simply the traditional regulatory
13 concept of recovery of prudently incurred expenses and
14 a fair return on prudent investment that's used and
15 useful?

16 A. No. By definition these are profits that
17 would be in excess of that.

18 Q. Why do you assume that? Let me ask you
19 this. Do you assume that this monopoly company would
20 still be subject to regulation?

21 A. Well, but that's the piece of the
22 hypothetical that wasn't there, and my response was if
23 it is then it would not be earning monopoly profits
24 presumably, and if it were, hopefully it wouldn't. I
25 may not have said that correctly. It matters whether

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1 there's an assumption here of regulation.

2 Q. As far as you know even without a
3 divestiture U S WEST is still a fully regulated
4 company as to access services?

5 A. I believe that you are fully regulated in
6 regards to your earnings at this point, yes, although
7 that hasn't always been true, as I understand.

8 Q. You're referring to the alternative form of
9 regulation?

10 A. That's right.

11 Q. Isn't it true that that was an
12 earnings-based alternative form of regulation?

13 A. It's my understanding that that was an
14 earnings based plan, that's correct.

15 Q. Have you done some analysis of U S WEST
16 prices relative to the calculated ADSRC, the numbers
17 that have appeared in Mr. Farrow's exhibits?

18 A. Have I compared prices with ADSRC across
19 the board?

20 Q. Yes.

21 A. The answer is I've begun that complete
22 process in Wyoming. I have not done it in Washington.

23 Q. Do you have any evidence to indicate that
24 U S WEST does not apply its target price floor concept
25 to all of its services?

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1 A. Oh, certainly. Very much so. In the
2 summary pages of your cost studies -- and again I have
3 looked at the cost studies that have been provided for
4 each service offered by U S WEST in Wyoming. I've
5 looked at a large number of them in other states. The
6 summary pages give two things essentially. They give
7 a cost summary at the ASIC and ADSRC level, which of
8 course the ASIC piece was missing from Mr. Farrow's
9 original Exhibit 8, but the other thing they do is
10 they give instructions to the product manager
11 regarding pricing, and there are explicit instructions
12 in those studies that says ADSRC is the target level
13 for pricing, but if you face a competitive environment
14 and would like to do so or feel the need to do so you
15 may go below ADSRC as long as you price above ASIC.
16 Those are explicit instructions.

17 So that creates, if you will, the worst
18 case scenario that I was talking about, where the
19 product manager sees an opportunity in a market that
20 doesn't face much competition to price at higher
21 levels they can do so. When the necessity arises
22 through some competitive threat or perceived
23 competitive threat to go below that target price floor
24 those product managers immediately have the right to
25 do that, the opportunity to do that. So, yes, there

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1 are two mutually inconsistent price floors, quote
2 unquote, price floors being used by U S WEST in its
3 pricing today.

4 Q. As far as you know in Wyoming is U S WEST
5 still a fully regulated company?

6 A. I believe they are, yes. In fact I believe
7 a rate case proceeding was just completed.

8 Q. And so it's subject to an overall revenue
9 requirement in that state?

10 A. That's right.

11 Q. Now, is the interexchange market
12 competitive?

13 A. You will have to be a little more specific.
14 The interstate interexchange market, yes, by all
15 outward appearances and by any analysis I've seen is
16 in fact effectively competitive.

17 Q. And are MCI's prices all at or above TS
18 LRIC in that market?

19 A. All at or above?

20 Q. Yes.

21 A. I would think in -- well, there's a problem
22 in making that analysis, and it's a problem that's
23 being -- we're applying a static concept to a dynamic
24 marketplace. TS LRIC is not a static amount. We can
25 calculate it at a point in time, and in fact under an

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1 ideal case it may in fact be accurate, the
2 calculation, at that point in time but the calculation
3 won't be accurate essentially the minute before or the
4 minute after. So when we're talking about a case
5 where a competitive market forces is pushing rates
6 toward TS LRIC we are talking about an ongoing process,
7 an ongoing pressure that encourages those competitors
8 to reduce their costs whenever possible which creates
9 immediately a new cost target.

10 You will see price reactions to that. Then
11 you will see another move that changes the price
12 target again and another move, so it's a fully dynamic
13 process. At any given time you will have rates for an
14 interexchange carrier that are very near, you will
15 have some that are slightly above, you may have some
16 that are slightly below. At least incremental costs on
17 a short run basis you will see some above and below.

18 Q. Well, I'm not sure that I got an answer to
19 my question which is, TS LRIC, which would be the long
20 run concept, correct?

21 A. Yes.

22 Q. And you said at least on a short run basis
23 you would have some above and some below. Does that
24 also apply to the TS LRIC as you've defined it?

25 A. Yes. Let me state that more clearly.

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1 Certainly on a short run basis you would expect to
2 find some above and some below. As a practical
3 matter, the long run calculation of costs you're going
4 to see some slightly above, some slightly below, and
5 some close to dead on.

6 Q. Would you agree that in a competitive
7 market prices can be maintained above TS LRIC but they
8 can't be maintained there indefinitely?

9 A. See, the problem I have with your
10 discussion is that TS LRIC is not some static amount,
11 so when we're talking about a price relationship to TS
12 LRIC over time that relationship is going to change by
13 definition because TS LRIC is going to change over
14 time by definition. You will have -- let me see if I
15 can state what I think you're asking as accurately as I
16 can. There are certainly occasions where there are
17 factors other than costs that will affect pricing. A
18 carrier provider of any service may develop some set of
19 features and functions that are very appealing to end
20 users, and that carrier will have some ability for some
21 period of time to have a different price cost
22 relationship than other carriers in that same market,
23 but again, these are all transient characteristics.
24 Other carriers will adopt those types of features and
25 functions and that price cost relationship will again

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1 change.

2 Q. Page 30 of your direct testimony you talk
3 about at the top that the company has not included
4 research and development costs in its calculation of
5 TSIC. Now, are you using research and development in
6 the accounting sense?

7 A. No. What I'm referring to here, to be
8 perfectly clear, is a statement by Mr. Farrow in his
9 deposition. As I understand the question put to him
10 and his response, the question was if there are
11 research and development costs that are identifiable
12 as being caused by a specific service have those costs
13 been included in the ASIC for that service, and his
14 response was that that was not always the case. If
15 his response is correct and there's no -- there's
16 frankly no way to know from the documentation that's
17 been provided in the cost studies, but if his
18 statement is in fact true then that is an error in the
19 cost study.

20 Q. As you understand the TS LRIC method, does
21 it assume the use of the forward looking least cost
22 technology currently available?

23 A. Yes, it is.

24 Q. And it does not include the historic
25 decisions of the company; is that correct?

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1 A. That's right. Embedded costs are not a
2 part of this analysis.

3 Q. You also criticize the company's cost
4 studies on the basis -- at the same page that it's
5 unclear, according to you, whether these forward
6 looking least cost technologies have been
7 appropriately included in U S WEST's cost studies.
8 I'm just trying to understand what kind of proof it is
9 that you would expect. Is it correct that you expect
10 some kind of global negative proof that there is no
11 more cost-effective and forward looking technology
12 available than what the company has included in its
13 cost studies?

14 A. I think really what I would expect to find
15 is a reference in the cost study documentation that
16 describes the analysis that was performed by the cost
17 analyst which absolutely must be performed by the cost
18 analyst to determine that the investment that they
19 were assuming in their cost study was in fact
20 associated with a least cost technology. Now, my
21 statement in my testimony is that it's not clear that
22 that's true. It's not clear for two reasons.

23 The first is that demonstration in that
24 analysis is not part of your cost study documentation.
25 It's unclear for the second reason, which is Mr.

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1 Farrow states that, well, he doesn't know and it's the
2 response that I saw here, whether or not the analysis
3 is in fact being done and in fact he suggested in his
4 deposition response, the way I read it, that not only
5 was the analysis not being done in some cases but that
6 a general assumption was being made by the cost
7 analyst that, quote, the current technology is the
8 least cost technology. I would certainly warn against
9 making that type of supposition, and I remain very
10 concerned that the analysis isn't being done if in
11 fact that's the case.

12 Q. Didn't Mr. Farrow testify in his deposition
13 that it was the technology the company was deploying
14 through its engineering decisions that was used?

15 A. You will have to point me to that
16 reference.

17 Q. You don't recall?

18 A. I recall very clearly a Q and A that says
19 the analysis is not being done and when the analysis
20 isn't done they're assuming current technology. Now,
21 that would be inconsistent with the type of response
22 that you're describing. If it's in there it's an
23 inconsistency in his testimony, but if you represent
24 to me it's in there in the deposition somewhere, I
25 will accept that. I still remain concerned about the

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1 issue that I've described here at this page.

2 Q. Are you saying that the statement that it
3 is current technology doesn't mean that it's
4 sufficiently forward looking technology? Is that the
5 basis of your criticism?

6 A. No. The basis of my criticism is twofold.
7 There is no demonstration that you find in the
8 documentation conducted by other companies of a least
9 cost technology calculation, and secondly, Mr.
10 Farrow's statement is very direct. He says that in
11 some cases an assumption is made that, quote, the
12 current technology is the least cost technology, and if
13 that assumption is made without the benefit of an
14 analysis that I think is absolutely critical, that led
15 me to the conclusion that it is unclear that in fact
16 what is being included in the studies is the least
17 cost method and I think that's a very reasonable
18 conclusion.

19 Q. Well, if the company is doing its
20 engineering to provide its network, would you expect
21 that they would be doing that on a least cost basis?

22 A. I would certainly hope that they would be,
23 yes.

24 Q. And so if the cost study reflects the
25 choices that were made in that regard, would that not

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1 also then carry that least cost approach through?

2 A. Not necessarily, and again that's my
3 concern. And let me describe a little bit the process
4 that I went through when I was a cost analyst at
5 Bellsouth. I had to meet with the engineering people
6 and ask a question beyond what is the current
7 technology. I had to ask what is the planned
8 technology that is available in the marketplace that
9 will be used to replace this existing capacity because
10 that's the relevant cost question to ask. That
11 information can be obtained from an engineering
12 organization if, but only if, the cost analyst asks the
13 right question. It's not clear to me from either the
14 cost documentation or Mr. Farrow's response that that
15 question is being asked and that led me to the
16 conclusion that it is certainly at a minimum not clear
17 that the company is approaching this process
18 correctly.

19 Q. Well, have you identified a lower cost
20 technology than the company was using in its cost
21 studies?

22 A. I haven't attempted to do through the cost
23 studies to identify a lower cost technology. Well,
24 let me say that in Washington I have not attempted to
25 do that. We have begun that analysis in Wyoming.

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1 Q. Let me ask you this. You indicated that
2 you felt that one would need to ask about planned
3 technology. Is there a difference between planned
4 technology and currently available technology?

5 A. No, but there is a difference between
6 planned and currently available and currently deployed
7 technology, and that's the distinction that I've been
8 trying to draw here.

9 MR. OWENS: May I have a minute, Your
10 Honor?

11 Q. I have provided you with Mr. Farrow's
12 deposition and the data requests that I believe the
13 staff was asking about in connection with request 177.
14 And isn't it true that Mr. Farrow testified in that
15 deposition, and the response to the data request was
16 that company did use the least cost technology in the
17 cost studies and that the assumption was that that
18 that was -- that the current technology was least
19 cost?

20 MR. SMITH: Counsel, can I have a page
21 reference, please.

22 MR. OWENS: He's got it.

23 THE WITNESS: I've got a copy of the
24 deposition if it's easier for you to have your copy.

25 JUDGE WALLIS: What page is being referred

1 to?

2 THE WITNESS: Page 23 of Mr. Farrow. I
3 don't have a copy of the data request.

4 JUDGE WALLIS: Is the witness ready?

5 THE WITNESS: Yes.

6 Q. Wasn't Mr. Farrow being asked at that
7 location, page 23, how does the response to the data
8 request demonstrate the least cost provisioning in
9 channel performance on analog lines?

10 A. Yes, that's the question.

11 Q. And isn't it true that his testimony was
12 that you would have to have channel performance on
13 analog lines. It isn't a question of not having it or
14 having it?

15 A. His response here is that the assumption
16 here is that the current technology is the least cost
17 technology if I'm looking at the right Q and A.

18 Q. And that's responding to a specific data
19 request about the channel performance on analog lines;
20 is that correct?

21 A. That is right. And I would point out that
22 my cite in my testimony goes beyond page 23. It's 23
23 through 26 and also page 99, and I believe there are
24 relevant discussions on each of those pages that led
25 me to at least articulate the concern that it's not

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1 clear that least cost technology is being assumed in
2 the study.

3 Q. Well, isn't it true that the discussion
4 after page 23 up to page 26 relates to the terminal
5 loops case and Mr. Farrow indicated he hadn't reviewed
6 those studies?

7 A. Look on page 26. There's a channel
8 performance specific question and it goes directly to
9 one of the concerns that I raised about the inadequacy
10 of the documentation in which he was asked how would
11 we determine that by looking at the study, and his
12 response was, "I don't think you could." I agree with
13 him in that regard.

14 That discussion continues on over to page
15 27 of the question about is there any way for staff to
16 independently verify, and Mr. Farrow says, "Well, you
17 would have to go to the engineering group." Just
18 above that is, "Well, this methodology is what our
19 engineers are using today," which may or may not be
20 what the engineers are planning to deploy over the
21 forward looking planning period.

22 And then I would refer you to page 99 in
23 which case Mr. Farrow once again says that -- let me
24 read the question. "With respect to your channel
25 performance cost study, if I understood your previous

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1 testimony today, you indicated that you simply assumed
2 that the current technology represented the least cost
3 method in providing channel performance; is that
4 correct? There's no independent demonstration?" And
5 his response was, "There's none in the study."

6 So again I think I've cited Mr. Farrow very
7 fairly. I think his responses and the documentation
8 of the cost study lead one to the very reasonable
9 conclusion that there has been no demonstration that
10 the least cost forward looking technology is in the
11 studies and that remains a concern.

12 Q. Would you know if some new technology
13 existed other than what the company used in the costing
14 of the channel performance that Mr. Farrow was being
15 asked about?

16 A. Well, there are possible analog and digital
17 technologies for this specific issue. My concern that
18 I raise in my testimony is not directed to channel
19 performance. It's directed to the process used by U S
20 WEST cost analysts to analyze and then insure that
21 forward looking least cost technologies are in fact
22 the technologies that are assumed in the cost studies.
23 That's a general concern. Mr. Farrow goes beyond in
24 the cites that we've covered on these pages, the
25 specific channel performance study, and describes a

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1 general process.

2 It is certainly true if you look at the
3 documentation for cost studies far beyond channel
4 performance that the demonstration of least cost
5 technology and the use of that technology in the study
6 does not appear.

7 So my concerns are much more general than
8 this particular analysis. I think Mr. Farrow's
9 responses were more general than this particular
10 analysis, so whether or not there is a different least
11 cost technology for channel performance really seems
12 moot to the concern that I've raised as far as the
13 process that U S WEST uses to conduct its studies.

14 Q. So is the answer that you don't know that
15 there is a lower cost technology available or planned
16 for channel performance than what the company now
17 uses?

18 A. Well, I hoped I had indicated that there is
19 at least an alternative to the analog technology that
20 is assumed, which is a digital technology, which may
21 be lower cost. The problem is that based on this
22 process we don't know.

23 Q. Are you saying that digital channel
24 performance is usable on analog lines, analog
25 circuits?

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1 A. No, sir.

2 Q. And so if the circuit is an analog circuit
3 you would use analog channel performance, correct?

4 A. That's correct.

5 Q. And so are you saying there's some new
6 technology for analog channel performance that the
7 company doesn't use?

8 A. No, sir. I'm saying very clearly in my
9 testimony that it is not clear from the documentation
10 and from Mr. Farrow's deposition that least cost --
11 that there is a process that's being used by U S WEST
12 to insure that the least cost technology in general is
13 being used in its cost studies. That's the limited
14 extent of my testimony, and I think it remains a very
15 valid concern.

16 Q. At page 7 of your rebuttal you talk about --
17 I'm sorry, I have the wrong reference here. Let me
18 withdraw that and ask a different question. In your
19 supplemental testimony you discuss the Hatfield model
20 and you give your understanding of that updated results
21 of that model. Have you reviewed that model, and are
22 you now testifying from your knowledge of that model?

23 A. I have reviewed the model and I have
24 reviewed the results of the model in other
25 proceedings. I am certainly not going to attempt to

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1 make Mr. Mercer's testimony for him. I'm not the best
2 person to respond to those questions but I have seen
3 the model. I have seen it being used and I think it
4 fills a very important information gap that's existed
5 up until this time and that is an independent source
6 of cost information to be compared and contrasted at
7 times with the company provided information.

8 Q. And you use at that page --

9 A. I'm sorry, which page are we on?

10 Q. Page 4 at line 9 you talk about based on
11 your experience in the review of incremental cost
12 studies, and you state that you're convinced that this
13 independent cost study represents a valuable source of
14 information. Does that mean you agree with Dr.
15 Mercer's characterization of that study as a TS LRIC
16 study?

17 A. I certainly have seen applications of the
18 model. Let me state this very carefully and
19 correctly. It is possible to conduct a TS LRIC study
20 according to my definitions with this model. I
21 suppose it is possible to do something else with the
22 same -- you can misuse anything, I guess, but I'm not
23 suggesting anything on this page in any way one way
24 or the other. What I am suggesting here is this is an
25 independent source of information which fills a huge

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1 information gap that's been missing because it's been
2 very difficult in reviewing LEC provided cost studies
3 to in a sense conduct a sanity test on the results to
4 find out if they are reasonable.

5 Q. Let me ask this. Do the costs results that
6 Dr. Mercer produced with that model in its
7 supplemental testimony meet your definition of TS LRIC
8 costs for Washington?

9 A. I don't know why they wouldn't, but I would
10 have to do a much more thorough analysis of the
11 process that he used to be able to give you a
12 definitive answer to that question. I am not the best
13 person to cross-examine on his methodology.

14 Q. Well, I'm just trying to understand what
15 your apparent endorsement at page 9 is intended to
16 convey.

17 A. Well, it's intended, I hoped very clearly,
18 to convey that this is a very valuable source of
19 independent information that has heretofore been
20 lacking.

21 Q. I guess the important point is how is the
22 Commission to understand this? Are they to understand
23 this as far as your endorsement is concerned that this
24 information represents TS LRIC costs of U S WEST
25 service in Washington?

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1 A. I will state it as directly as I possibly
2 can. This model can be used to produce TS LRIC costs.
3 I have no reason to believe it was not in this
4 proceeding. I can't tell you that I have conducted
5 the analysis necessary to insure that that was in fact
6 the case. I would also point out that I have
7 testified a number of times that while the U S WEST
8 provided cost information certainly suffers from
9 shortcomings that makes it inconsistent with my
10 measure of TS LRIC, it may nevertheless have some
11 value as a benchmark. In other words, while you may
12 have an ASIC for access that suffers from some
13 identified shortcomings it's nevertheless a reasonable
14 target to start moving rates toward that reported cost
15 whether or not it's perfect. I would certainly
16 suggest that the results of this model, whether or not
17 the answer to your question is yes or no, still have
18 value in that same regard, and that is that they are
19 independently provided information that has been
20 missing up until this point that would be compared
21 with U S WEST provided information. Whether or not
22 either study is perfect there is still absolutely
23 value in having this independently provided
24 information.

25 Q. It's important, I think you stated in your

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1 direct testimony, that there be consistent approaches
2 to the work of studying TS LRIC costs; is that right?

3 A. Consistency is a very important --
4 consistency among studies is very important in the TS
5 LRIC process.

6 Q. And you were very emphatic in your
7 denunciation of the company's studies to the extent
8 they incorporated costs that were not incremental to
9 the decision to provide a particular service; is that
10 correct?

11 A. To the extent that those cost studies
12 included costs that were not incremental to that
13 service then I agree the word emphatic is not too
14 strong to describe my disagreement.

15 Q. Isn't it true that the Hatfield model also
16 includes costs that are not incremental to the
17 provision of a particular service?

18 A. That's right, although what's about being
19 studied here is not so much a service -- and this goes
20 back to a discussion that we were having before
21 about loop and NTS component of a service. So, again,
22 it is possible to study functions of a network and if
23 the scope of the study -- and this goes back to the
24 very heart of my disagreement with the U S WEST
25 process. You have to identify first and foremost as

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1 an analyst the scope of your study.

2 MR. OWENS: Your Honor, I asked him about
3 the Hatfield model, not about the U S WEST studies.

4 JUDGE WALLIS: I am going to ask the
5 witness to try to confine your responses to the
6 questions.

7 THE WITNESS: Okay.

8 A. Let me see how to respond without doing
9 that. The Hatfield model is a study of some
10 identified functions within the U S WEST network that
11 is separate and distinct from a study of any given U S
12 WEST service, and appropriately so. So your question
13 was predicated on an assumption that a study of
14 specific functions, which may or may not be
15 incremental to any given service, is equivalent or
16 that it's somehow flawed if it includes costs --

17 MR. OWENS: Your Honor, I didn't ask him to
18 assume any assumptions in my question. I simply asked
19 him whether the Hatfield model included costs that are
20 not incremental to the provision of a particular
21 service.

22 JUDGE WALLIS: I'm again going to ask the
23 witness to please confine your responses to the
24 questions that are asked.

25 THE WITNESS: Okay. I certainly don't want

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1 to mislead the Commission or Mr. Owens in my responses
2 and I will keep them as concise as I can.

3 Unfortunately, the way he's crafted this question puts
4 me in somewhat of a quandary as to how to avoid
5 misleading the Commission or him.

6 A. Most direct answer I can give you is that
7 your question assumes something that the Hatfield
8 model does not purport to do and that is to study the
9 cost of a given service. It is studying the cost of
10 some very specific network function. It does that
11 correctly and it is not a shortcoming of the study if
12 those network functions that it's studying are or are
13 not incremental to any given service. That is an
14 apples and oranges type of comparison that was
15 unfortunately loaded into the question.

16 Q. Page 2 of your rebuttal you apparently
17 quote Mr. Farrow as stating that U S WEST may not have
18 included all appropriate service specific fixed costs
19 in his studies, that U S WEST may not have used the
20 forward looking least cost technologies in its study
21 and that a risk component has not been included in the
22 annual cost factors for competitive services. Where
23 was it that Mr. Farrow stated that U S WEST may not
24 have included all appropriate service specific fixed
25 costs?

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1 A. I'm sorry. Do you have a line and
2 page because I don't recall quoting Mr. Farrow at any
3 point on this page.

4 Q. Beginning on line 17.

5 A. Yes. This is not a quote of Mr. Farrow.
6 This is my summary of Mr. Farrow's testimony.

7 Q. So that's your conclusion?

8 A. That is my conclusion. It refers back to
9 previous testimony which cites Mr. Farrow's
10 deposition. This goes back to a topic that we
11 discussed previously in which he indicated that
12 research and development costs which were caused by the
13 decision to offer the service in question and which
14 constitutes service specific fixed costs in that regard
15 may not have been included in the cost study. So the
16 lines you're referring to here are a summary of some
17 previous testimony to which I cited directly to Mr.
18 Farrow's deposition.

19 JUDGE WALLIS: We're going to need to take a
20 morning recess.

21 MR. OWENS: I just have a few more
22 questions but we can do it after the recess.

23 JUDGE WALLIS: Let's take until 10:30,
24 please.

25 (Recess.)

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1 JUDGE WALLIS: Let's be back on the record,
2 please, following our morning recess.

3 Q. Mr. Wood, I believe just before the recess
4 did you not state that Mr. Farrow had testified in his
5 deposition that "research and development that in fact
6 was necessary for the company to provide service was
7 not included in the company's cost studies."

8 A. That's right, and the cite is to page 20
9 and 21 of his deposition.

10 Q. Isn't it true that at page 20 Mr. Farrow
11 was asked whether it was necessary for U S WEST to
12 incur R and D costs in order to provide services such
13 as SONET or voice recognition and he said he wasn't
14 really familiar with the research and development that
15 was done for those?

16 A. That is one Q and A that appears on this
17 page. That is not the Q and A I was referring to when
18 I cited his testimony.

19 Q. Where was it that he specifically stated
20 that there was in fact research and development that
21 was necessary to provide any particular service?

22 A. Well, if you look at the Q and A above the
23 one that you just cited and the one below, the one
24 below is a more conceptual question, can you explain
25 which R and D cost wouldn't be considered service

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1 specific fixed costs, and then -- well, I will read
2 his response. He says, "In a forward looking cost
3 study and in doing the cost study for the service if
4 there are some costs for engineering signaling then
5 those costs would be included but in a forward looking
6 cost study research and development are generally not
7 included."

8 And I disagree with that statement. I
9 believe it is fact equally and conceptually incorrect,
10 but the Q and A I want beginning at page 20 describes
11 two services in particular. The question refers to
12 the data request on explaining how the company
13 reflects R and D costs and cost studies, and refers
14 specifically to R and D costs associated with SONET or
15 SS7 R and D costs and that question appears to refer
16 directly to R and D costs that are associated with
17 those services.

18 And then he responds that the costs are not
19 included, again because these are forward looking
20 studies and our services are based upon equipment
21 prices and he goes on to give an explanation that I
22 believe is both incorrect and irrelevant to the
23 question as posed, which is whether or not these costs
24 were concluded and should they have been been. So I
25 think he's responded very directly that the costs

02883

1 exist and provided at least his rationale for why they
2 were excluded from the studies although I disagree with
3 his rationale.

4 Q. Well, that's your conclusion. He is never
5 asked specifically whether the costs exist, is he?

6 A. Well, let's be very clear. The question is
7 in particular, "Please provide specific reference to
8 the location in each study in which R and D costs
9 associated with SONET and separately SS7 R and D costs
10 are included. Please indicate in which cost studies
11 the cost of voice recognition R and D costs are
12 included." And his response was, "The costs are
13 not included," which certainly seems to agree with the
14 premise of the question that these costs exist, and
15 then he goes on to provide a rationale not advocating
16 that the costs do not exist, but that if the costs do
17 exist his rationale for not including them, and it is
18 that rationale in that answer and it's the first full
19 answer on page 21 with which I disagree.

20 Q. Isn't his statement, "Now, if the equipment
21 price includes some manufacture, research and
22 development then indeed those costs do include that
23 but they would not include any research and
24 development done by U S WEST"?

25 A. That's right, and it's research and

02884

1 development done by U S WEST that's in dispute here,
2 at least in my mind.

3 Q. But it's your conclusion that by that
4 statement he has somehow acknowledged that for those
5 specific services concerning which he was examined
6 that there was necessary research and development, is
7 that correct, by U S WEST?

8 A. Well, he stated two things. On page 21 he
9 describes conceptually why whether or not the costs do
10 exist he would exclude them. His response on page 20
11 is that the costs are not included, not the costs may
12 not exist. So I think the language is clear. Whether
13 or not Mr. Farrow has agreed that the costs exist he's
14 described a process used by U S WEST with which I
15 disagree and that's what I've intended to articulate in
16 my testimony.

17 Q. And just so the record is clear, other than
18 what we've been discussing you don't have any
19 reference in his deposition where you contend he
20 stated affirmatively that such costs did exist; is
21 that correct?

22 A. That's correct.

23 Q. Thank you.

24 MR. OWENS: That's all I have.

25 JUDGE WALLIS: Commission staff.

02885

1 MR. SMITH: No questions.

2 JUDGE WALLIS: Public counsel.

3 MR. TROTTER: No.

4 JUDGE WALLIS: Others?

5 JUDGE WALLIS: Commissioner Gillis.

6 COMMISSIONER GILLIS: No.

7

8 EXAMINATION

9 BY COMMISSIONER HEMSTAD:

10 Q. I hope this isn't excessively redundant. I
11 was interested in your discussion with Mr. Owens
12 concerning where the loop costs go?

13 A. Yes, sir.

14 Q. And Dr. Emmerson's testimony as I
15 understood it would say that all of the loop costs
16 should be assigned to the -- I say assigned. I don't
17 want to -- I guess it's bad manners to use verbs that
18 suggest allocate, but are attributable to the basic
19 exchange cost and you would put none of that there?

20 A. Well, I think you put your finger on the
21 problem actually as you phrased the question. If
22 you're talking about those costs you really have to be
23 using words like allocate or assign in order to put
24 them somewhere. And I probably confused this issue
25 more than I helped it, but that is a cost issue that

02886

1 is separate and distinct I think from the pricing
2 issue of how the costs should be recovered. You have
3 in place local rates that are what they are today in a
4 very high penetration rate. My perception is that
5 there's not an enormous amount of pressure to reduce
6 those rates significantly. If that is the case then
7 whether or not the costs are allocated you have a
8 pricing structure that by and large, except for some
9 exceptions in some less dense areas of the state,
10 you've got a pricing structure that is fully
11 recovering those costs today, and with which the rates
12 being what they are leads you to a very high
13 penetration rate. In my interpretation that would be
14 a very successful meaning of the universal service
15 objection, so what I would propose you do is accept
16 those rates, recognize that they are recovering in most
17 places the residential loop costs whether or not that
18 cost should be assigned there or anywhere, and focus
19 your policy decisions on those areas of the state where
20 existing local rates are not fully compensatory, and
21 either do one of two things. One is to target --
22 increase the rates above cost and target the subsidies.
23 The second choice, which I tend to prefer personally,
24 is to leave costs where they are. Don't increase
25 residential rates for anyone, look at specifically that

02887

1 geographic area of the state, and find a funding
2 mechanism that's competitively neutral but that comes
3 from the industry that addresses specifically that
4 shortfall. So you deal -- the pricing issue is
5 separate from the costing issue and the pricing
6 currently today leads me to believe that it's got a
7 manageable problem to deal with and that is some
8 specific areas of the state where you're going to need
9 to collect a shortfall. I hope that helps. I
10 understand your dilemma.

11 Q. I continue to be struck by the remarkable
12 difference in the view of the world as to what is the
13 cost attributable to the local service, basic exchange
14 service, between the company and at least some of the
15 other parties. Could you at least succinctly describe
16 why the cost difference is so great?

17 A. Well, I guess part of the difference is
18 historical. There has been an argument for more years
19 than I've been in this industry, but certainly the
20 entire time that I have, that the local exchange
21 companies have put forth that local exchange service
22 was not by any quantified amount but by some general
23 conceptual amount priced well below cost, and then the
24 argument was often made that if there were actions
25 taken either by the Commission or from outside

02888

1 competitors or something in the LEC's operating
2 environment that caused some of its revenues to be at
3 risk, the only option available would then be some
4 local rate increase or the logical quote-unquote
5 course of action would be some local rate increase.
6 And I think we carried that historical baggage with us
7 to a point. But I think you've got information from
8 the company and information from an independent model
9 that you can look at and get a handle on what those
10 loop costs likely are and then ask yourself the
11 question if U S WEST stopped offering local service
12 but continued offering all of its other services would
13 it still incur those loop costs. Does it need a loop
14 to offer services other than local. If the answer to
15 that question is yes then it's a mistake to put those
16 loop costs as part of the costs of local service. And
17 it is through that process that I reach my
18 disagreement with the company and in a sense my
19 disagreement with Dr. Emmerson.

20 Q. Assuming a continuation of the price level
21 for local service, that is something like it currently
22 is, would MCI find that an attractive market to seek
23 to enter for residential services?

24 A. I honestly can't tell you what the analysis
25 that my client is doing regarding existing rates and

02889

1 whether they would want to enter. Obviously the level
2 of rates are going to impact the analysis that they've
3 performed.

4 Q. Do you have as a professional economist a
5 judgment generally as to whether that's an attractive
6 market?

7 A. I honestly can't give you one,
8 Commissioner, because there's two pieces of this
9 information that will affect the attractiveness of
10 that local market. One is the existing level of local
11 rates and the other is the charges that are associated
12 with interconnection to the local market in order to
13 do that. So there's two pieces of this puzzle that
14 have yet to shake out, if you will, that will impact
15 their addition, and I will give the best answer I can
16 and that I can't predict what the outcome of their
17 analysis would be based on both of those pieces of the
18 puzzle. I would like to tell you yes or no, existing
19 rates would cause them to come in or not come in, but I
20 honestly don't have that information.

21 COMMISSIONER HEMSTAD: That's all I have.

22 MR. NICHOLS: Just a few questions.

23

24 REDIRECT EXAMINATION

25 BY MR. NICHOLS:

02890

1 Q. Mr. Wood, you were asked a series of
2 questions by counsel for U S WEST with regard to
3 imputation. Do you have those in mind?

4 A. Yes.

5 Q. Have you had the opportunity to review any
6 orders of this Commission on the matter of appropriate
7 imputation methodology?

8 A. Yes, I have. In fact I cite a number of
9 those orders in my testimony.

10 Q. Is the presentation that you make or the
11 criticism of U S WEST's imputation proposal in this
12 docket in your mind consistent with the Commission's
13 approach to the appropriate imputation?

14 A. Well, if I understand your question
15 correctly, my criticism is consistent. The company's
16 proposals are not consistent. What I have tried to
17 describe is that there is in fact an imputation
18 standard that is fundamentally conceptually sound
19 that's in place today. What Mr. Purkey is describing
20 are a series of exceptions to the existing standard
21 that he would like to see put into place. Each of
22 those exceptions that he's arguing for would in fact
23 reduce the ability of the existing imputation standard
24 to do what it's put in place to do and that is to
25 prevent price squeezes, so, yes, I agree with what's

02891

1 in place. No, I do not agree that with the
2 exception the company is proposing to that existing --

3 Q. You were asked a large number of questions
4 with regard to loop costing and related pricing; is
5 that correct?

6 A. Yes.

7 Q. I don't want to go over every piece of
8 those, but let me ask a few questions in follow-up to
9 several that you were asked because you were also asked
10 questions with regard to access charge pricing?

11 A. That's right.

12 Q. So my question is, how does your approach
13 to pricing to recover the cost of the loop apply to
14 the current level of access charge pricing in this
15 state?

16 A. Well, these are obviously two interrelated
17 concepts, and you need to deal with both of them. The
18 current situation in Washington is actually -- see how
19 to describe it exactly. It simplifies this problem
20 somewhat in that there is a set of prices in place
21 that have led to a 97 plus percentage penetration rate,
22 which compared to some of the percentages in other
23 states, I would review that as a very successful
24 implementation of a universal service objective at
25 existing rates, and we have a scenario in which by and

02892

1 large at least the analysis that I've seen that was
2 properly conducted or appears conceptually to have been
3 properly conducted leads to the conclusion that at
4 least on a statewide basis the relevant revenues when
5 matched with the residential costs exceed those costs.

6 Now, there are certainly, and I will be the
7 first to admit, areas in the state where that may not
8 be true. As I was discussing with the commissioner
9 those are the areas that really should be the target of
10 the public policy efforts to address that issue. But
11 once those loop costs are being fully recovered through
12 existing local service rates, plus for those specific
13 areas whatever mechanism the Commission deems
14 appropriate to address those specific areas, then those
15 costs have been fully recovered. You don't need to
16 recover them from other services, and that gives you
17 the opportunity to put in the better structure. In
18 other words, if you don't allocate those costs and use
19 this existing structure then you have fully recovered
20 the costs, you have met all three objectives. As I
21 described to Mr. Owens, you have preserved universal
22 service, you have permitted U S WEST to fully recover
23 the cost and you have not distorted the pricing
24 unnecessarily in other markets.

25 In contrast if you tried to allocate those

02893

1 loop costs you wouldn't meet all three. You may meet
2 the first two but you would be distorting -- you would
3 have distortive effects where you allocate some of
4 those costs in access and toll into that competitive
5 market. So you have an opportunity here in the state
6 to take the better of those options and implement it
7 in a relatively painless way and that is to address
8 those specific areas in the state where existing local
9 rates are not fully compensatory.

10 Q. The current level of access charges do make
11 a significant contribution to recovery of common costs
12 or shared costs of the company?

13 A. The existing level of access charges
14 certainly provide a very large contribution to
15 something.

16 Q. Is it your position that access charge
17 rates should immediately be changed to cover only the
18 ASIC costs or the long-run incremental costs?

19 A. I'm not suggesting any type of flash cut
20 proposal. What I am suggesting is an opportunity for
21 the Commission here is to put U S WEST on notice in a
22 sense, if you will, that the objective of rate -- we
23 talk about the broad objective of regulation being a
24 substitute for competition. Obviously, the closer you
25 can come to a competitive market outcome in your

02894

1 regulation the better ratepayers will fare. it is a
2 worthwhile objective to move toward a scenario in
3 which monopoly functions that are interconnection
4 functions that are used to provide what we've been
5 calling downstream services are priced at TS LRIC and
6 where competitive services are priced in excess of TS
7 LRIC or U S WEST's ASIC on a going forward basis.
8 Now, you don't have to get -- that's the best outcome
9 for ratepayers hands down. Little dispute about that.
10 You don't have to get there tomorrow, but you can
11 begin to get there today and set some target in the
12 future that essentially -- come to the conclusion that
13 ratepayers deserve no less than the outcome that they
14 would get under that structure and begin to move
15 toward it and set -- if you might want to go so far as
16 to set a date certain to get to that objective. That
17 is an absolutely worthwhile endeavor in this
18 proceeding. Doesn't require a flash cut to get there.
19 It does require in a sense a statement of intention to
20 get there.

21 Q. Are there economic and/or other benefits to
22 a significant reduction in access charges as a step
23 along toward the goal that you enunciated?

24 A. Absolutely. We talk about -- a lot of the
25 witnesses that appear talk about various benefits of

02895

1 competition. One of the most significant, in fact
2 what may be the most significant, is that competitive
3 market forces on a daily basis on an ongoing basis
4 review cost structures far more effectively than any
5 regulator with infinite resources could do, where
6 those costs are not economic and not minimized it does
7 not permit recovery of those costs. When you take an
8 essential function like access that's used to provide
9 then service in a downstream market and you price it
10 above TS LRIC you're building into that cost structure
11 in the retail market some recovery of U S WEST's
12 existing shared and common costs. Those costs may or
13 may not be costs that would be recovered by the
14 company if it were only operating in an effectively
15 competitive market. In fact, you may want to
16 assume so, and I think it's very reasonable to assume
17 that some of those costs would not be recovered. But
18 if you build them into the access rate you are
19 effectively insulating that section of cost -- section
20 is not the right word -- all of those costs which may
21 or may not be economic from any of those competitive
22 pressures in the retail market, and you will create an
23 artificially high price floor that no market forces in
24 the world, however effectively competitive the toll
25 market becomes, can drive those costs out of the

02896

1 structure.

2 To do that and to maintain that would be in
3 my opinion a disservice to ratepayers. It would take
4 away one of the primary and perhaps the most
5 significant bit of competition.

6 Q. Does that discussion apply to both of the
7 two major components of shared costs as described by
8 Mr. Farrow?

9 A. Well, Mr. Farrow in response to some
10 cross-examination described two primary components of
11 shared cost. He referred to spare capacity, which is
12 actually a broad category, and he referred to
13 administrative costs. Now, both of those costs are,
14 number, one, largely under the control of U S WEST.
15 Certainly the second category is. The first category
16 is to a significant degree. So those are costs that
17 should have a market test applied to them, if you will.
18 Is U S WEST making the right decision? Are they
19 keeping those costs as low as they possibly can? We
20 won't know until the market has the opportunity to tell
21 us whether they have, and if you build those into
22 access pricing and therefore toll pricing we're never
23 going to find out.

24 MR. NICHOLS: I have no further questions.

25 MR. OWENS: Few questions.

02897

1

2

RECROSS-EXAMINATION

3 BY MR. OWENS:

4

Q. Is it correct from your question of

5

Commissioner Hemstad and on redirect it is, but I

6

would like you to confirm it, that if it were the case

7

that all contribution were driven out immediately from

8

switched access, that is, a price of switched access

9

were set at TS LRIC and no other changes were made the

10

company would not have sufficient revenues to equal

11

its regulated revenue requirement?

12

A. I haven't said that. It's clearly true.

13

The advantage of going to that structure over time is

14

that we will find that there may be costs that are in

15

the regulated revenue requirement that would not be

16

recovered by a firm operating only in competitive

17

markets, and the only way we're going to find out a

18

difference is to begin the movement toward that rate

19

structure.

20

Q. Now, is it the case that you believe that

21

at the point where -- the end point where the rates

22

would reach that relationship, that is, there would be

23

zero contribution in switched access, that U S WEST

24

would in fact be operating under effective competition

25

in all markets?

02898

1 A. No, it doesn't include that assumption.
2 What it does include is an assumption that if you're
3 going to have -- and we're talking about switched
4 access specifically here but my recommendation goes to
5 services of any kind more generally. But if you go to
6 that end point you will create a scenario in which all
7 carriers have joint common costs to recover. Carriers
8 that are offering service -- purchasing access and
9 offering services in downstream markets will fully
10 compensate U S WEST for the use of its network and U S
11 WEST and competitors will in their retail pricing
12 recover their joint and common costs. If either U S
13 WEST or new entrants have joint and common costs that
14 are higher than the market will bear they will either
15 act to reduce those costs or they will no longer be
16 able to participate in that market. That is how
17 competitive markets work.

18 Q. And would these joint and common costs
19 include costs that U S WEST would have occurred in
20 meeting its public utility obligation to serve?

21 A. You will have to describe to me what costs
22 would be created by that obligation to serve. There
23 are certainly advantages and disadvantages to being a
24 ubiquitous provider. In my mind the advantages far
25 outweigh the disadvantages, but if there are specific

02899

1 costs that you have in mind, I haven't seen a U S WEST
2 cost study that quantifies those, but if you have
3 specific costs in mind I can address that. I don't
4 know what they would be.

5 Q. Well, let me ask you this. Would you agree
6 that for every dollar of joint and common costs that
7 is not recovered through contribution in switched
8 access it has to be recovered in some other service or
9 else it's lost?

10 A. Or else it's lost, that's right.

11 Q. And would you expect that the retail
12 service that you mentioned, the only one or the
13 significant ones would be network access and toll?

14 A. I'm sorry. I didn't follow your question.

15 Q. You said the only other place where U S
16 WEST could recover the joint and common costs would be
17 in its retail service; is that right, if it's not
18 recovering them in access?

19 A. Well, you made a leap in logic that I'm not
20 sure I agree with and that is you said that if they're
21 not recovered in a specific rate or in some specific
22 rate they're either recovered or lost and I agreed with
23 that. Now we've gone to a different assumption, I
24 think, which is assuming that for any foreseeable future
25 all of these costs will be recovered, competitive

02900

1 markets --

2 Q. That wasn't my assumption and I would ask
3 that you not make assumptions about what's in the
4 question. The question was, the primary retail
5 services in which U S WEST could look to recover its
6 joint and common costs, if it's not recovering them in
7 access would be its what we've called network access,
8 that is, end user access to the network and toll
9 basically?

10 A. Yeah, we're using broad categories but I
11 think that's right.

12 Q. Would you expect, at least for the
13 foreseeable future, that U S WEST's prices for that
14 end user network access will continue to be regulated
15 by the Commission?

16 A. I think they should be.

17 Q. And U S WEST's ability to recover in its
18 other retail broad category of toll will certainly be
19 subject to the availability of competitive
20 alternatives for that service; is that correct?

21 A. I disagree. U S WEST's ability to recover
22 those costs depends in large part on its ability to
23 reduce and manage those costs. We're building up --
24 and I don't want to add assumptions to your questions,
25 but I think they're absolutely inherent here, that

02901

1 there's a given cost structure and we create a rate
2 from a given cost structure. A competitive market
3 gives you a rate and you as a provider of service will
4 make every effort possible to match your cost
5 structure to what the market will allow you to
6 recover. That's going to mean from time to time
7 making investments in new technologies that replace
8 existing technology that's not fully depreciated.
9 It's going to mean from time to time reducing work
10 force, it's going to mean from time to time minimizing
11 any other costs that you can find. All companies in
12 that retail market will be doing the same thing. It's
13 inaccurate to say that U S WEST's hands are somehow
14 tied and that it's in this zero sum gain box, if you
15 will, if it can't increase other rates. I think if it
16 is allowed to increase other rates we've done a
17 terrible disservice to ratepayers. We've once again
18 taken these competitive market forces and diverted
19 them away from U S WEST's joint and common cost
20 structure, and the objective of competition, the
21 objective certainly of regulation to substitute for
22 competition, is to allow those forces to address those
23 costs and if we create a price structure that takes
24 away U S WEST's incentive to reduce its costs we
25 haven't done anything for ratepayers here. So I

02902

1 absolutely disagree with that conclusion.

2 Q. So just so the record is clear after that
3 long statement, it's your testimony that U S WEST,
4 notwithstanding the existence of competitors for its
5 other major retail market, which would be toll, could
6 recover its joint and common costs in that service?

7 A. If, but only if, it's an equally efficient
8 provider. And this comes back to a previous
9 discussion we had, and this is in fact the correct
10 definition of equally efficient provider, and if you
11 are you will be able to recover your joint and common
12 costs just as your competitors will be able to recover
13 theirs in the market price for those services.

14 Q. Now, will U S WEST competitors be subjected
15 to a legal requirement to build to serve customers
16 where they do not have facilities and which they in
17 their own business judgment would not consider
18 economic customers to serve?

19 A. No, but it's a disservice if I don't
20 explain that "no."

21 Q. I didn't ask for an explanation.

22 A. Then the answer is no, but in order to
23 prevent misleading you and the Commission there should
24 be an explanation at some point.

25 Q. And as far as you know, will U S WEST as a

02903

1 public utility be subject to a requirement such as I
2 mentioned?

3 A. I expect that it will.

4 Q. In terms of its cost structure if in its
5 business judgment if it were given free choice it
6 would not build to serve because it did not foresee
7 sufficient revenues to justify that, would that be an
8 example of, if it in fact did build to serve, an
9 uneconomic cost structure?

10 A. No, sir. And your hypothetical that you're
11 building is inconsistent with my recommendation.

12 Q. You said in response to a question on
13 redirect that you had reviewed orders of the
14 Commission and that your recommendation on imputation
15 was consistent with those and that the company's
16 wasn't. Do those orders indicate that any particular
17 service such as transport is for all time an essential
18 service?

19 A. No, they don't, nor am I suggesting a test
20 that suggests that any function is for all time an
21 essential service, but I have to disagree with Mr.
22 Purkey's assertion that any function that could
23 conceivably be available in any one location to any
24 one provider somewhere in the state that the existence
25 of that scenario automatically makes the function

02904

1 nonessential, I disagree.

2 Q. You indicated also in redirect that the
3 objective or an objective of your recommendation was
4 to put U S WEST on notice that it should be engaging
5 in reducing its costs over time. Is it your testimony
6 that U S WEST can simply engage in reducing its costs
7 without regard to things like meeting Commission
8 requirements for held orders and other regulatory
9 requirements governing its level of service?

10 A. No, sir, I disagree for two reasons. I
11 certainly don't recommend that U S WEST ignore any
12 regulatory requirement by this Commission or any
13 other. I also disagree with your use of the word
14 simply. It's never simple. Operating in a
15 competitive market is tough, it's hard work and the
16 ability to find the places where you can reduce those
17 costs is tough. It's hard work. I'm not suggesting
18 that it wouldn't be. What I am suggesting is that
19 there are some very qualified people in U S WEST to
20 manage the people that I believe are up to the
21 challenge and we will only find out if that's true if
22 these forces are allowed to operate on those costs.

23 Q. And the U S WEST competitors won't be
24 subjected to the requirement to meet, for example,
25 Commission requirements on held orders or out of

02905

1 service repair. Would that be fair?

2 A. Well, that's two questions. Would they be
3 held to them and would it be fair if they weren't.

4 Q. I'm sorry. Is it a fair statement that
5 they won't be held to those requirements?

6 A. I don't know if the Commission will or
7 won't hold other local service providers to those
8 standards. There are distinctions between U S WEST and
9 those other service providers beyond that one.
10 Certainly there are huge advantages for U S WEST being
11 the ubiquitous provider and the incumbent provider that
12 don't accrue to those entrants. If you're going to
13 compare U S WEST to the new entrant's provision we're
14 going to have to go beyond merely that piece of the
15 analysis that you're asking.

16 MR. OWENS: Thank you. That's all I have
17 on recross.

18 JUDGE WALLIS: Mr. Nichols.

19 MR. NICHOLS: No further questions.

20 JUDGE WALLIS: Anything further? Let the
21 record show that there is no response. Mr. Wood,
22 thank you for appearing. You're excused from the
23 stand. Let's be off the record momentarily while Mr.
24 Scott steps forward.

25 (Recess.)

02906

1 JUDGE WALLIS: Let's be back on the record,
2 please. At this point we're returning to the
3 company's case and the company has called John T.
4 Scott to the stand.

5 Whereupon,

6 JOHN SCOTT,
7 having been first duly sworn, was called as a witness
8 herein and was examined and testified as follows:

9 JUDGE WALLIS: There are several exhibits
10 with reference to Mr. Scott's testimony. The witness
11 is adopting the testimony of -- prefiled testimony of
12 former witness Leslie Brigham and the number 34T has
13 been assigned to Brigham's direct testimony, 35 to
14 RHB-1, 36 to RHB-2, 37 to RHB-3, 38 to RHB-4, 39 to
15 RHB-5 and 40 to RHB-6.

16 (Marked Exhibits 34T, 35-40.)

17 JUDGE WALLIS: The company has today
18 distributed an errata sheet with reference to Exhibit
19 No. 40 for identification and that sheet is designated
20 494 for identification. Mr. Scott's rebuttal
21 testimony is 495T. His attachment JTS-1 is 496.
22 JTS-2 is 497. JTS-3 is 498. JTS-4 is 499.

23 Public counsel has distributed a copy of
24 his deposition of July 7, I believe, 1995. That is
25 marked as 500 for identification, and a Wall Street

02907

1 Journal article distributed on behalf of AARP is
2 501 for identification.

3 (Marked Exhibits 494, 495T, 496-499.)

4

5 DIRECT EXAMINATION

6 BY MR. SHAW:

7 Q. Mr. Scott, could you state and spell your
8 name for the record, please.

9 A. Yes. My name is John T. Scott. Last name
10 is S C O T T.

11 Q. State your address and occupation, please.

12 A. My address is room 4400, 1801 California
13 Street, Denver, Colorado. I'm employed as a director
14 of product and market issues with U S WEST
15 Communications.

16 Q. Directing your attention to what's been
17 marked 34T, your direct testimony and the supporting
18 exhibits 35 through 40, were those prepared by you
19 or under your direction?

20 A. Yes. And I adopted the testimony, that's
21 correct.

22 Q. And with the corrections in Exhibit 494 to
23 Exhibit 40, they're true and correct to the best of
24 your knowledge and belief?

25 A. Yes, they are.

02908

1 Q. Directing your attention to your rebuttal
2 testimony 495T and its supporting exhibits, 496
3 through 499, were those prepared by you or under your
4 direction?

5 A. Yes, they were.

6 Q. And are they true and correct to the best
7 of your knowledge and belief?

8 A. Yes, they are.

9 MR. SHAW: Your Honor, I would move the
10 admission of the witness's direct testimony, rebuttal
11 testimony, and the supporting exhibits and offer him
12 for cross-examination.

13 JUDGE WALLIS: Is there objection to the
14 exhibits? Let the record show that there is no
15 objection and Exhibits 34T through 40 and 494 through
16 499 are received in evidence.

17 (Admitted Exhibits 34T, 35-40, 494, 495T,
18 496-499.)

19

20 CROSS-EXAMINATION

21 BY MR. TRAUTMAN:

22 Q. Good morning, Mr. Scott.

23 A. Good morning.

24 Q. I would like to start by discussing the
25 company's testimony on telecommunications competition

02909

1 in Washington, and Mr. Purkey in his testimony, on his
2 direct testimony, states that it is extremely
3 difficult to win customers back once they have gone to
4 competitors, and that's in his direct testimony on
5 page 10?

6 A. Yes.

7 Q. I take it you would agree with that
8 statement?

9 A. Yes, I do.

10 Q. And would you agree that one reason is that
11 once a customer finds a service that fits his
12 requirements that he or she would typically not be
13 inclined to try something else?

14 A. My interpretation of the way that Mr.
15 Purkey used that statement is that -- and I believe
16 the statement was once you lose the customer it's
17 expensive to get them back -- is that when there are
18 choices and a customer determines to go with another
19 provider of the service, for instance, in the toll
20 area we see the heated competition between the AT&T,
21 Sprint and MCI, that it's very expensive from a
22 marketing perspective to win that customer back. It
23 doesn't preclude the company from doing that, but it's
24 very expensive from a marketing perspective once
25 they've chosen another provider.

02910

1 Q. Would you agree that once a customer has
2 found a provider that fits his requirements that he
3 would typically not be inclined to try a different one?

4 A. I don't know. It depends on what the
5 incentive is that the other company offers, and the
6 example would be if another provider incents that
7 customer enough, whether it be monetary or some other
8 perspective, then I think what I've seen in the toll
9 area customers switch quite a bit. If they're incented
10 to the degree that's required to have them switch.

11 Q. Would you agree that a customer develops an
12 ongoing customer loyalty to their service provider?

13 A. Yes, they do, as long as the provider of
14 that service continues to meet that customer's needs.

15 Q. And would you also agree that the existing
16 service provider would gain insights into the
17 customer's use of the service, including, for example,
18 calling patterns that might provide that existing
19 provider a marketing advantage?

20 A. Yes. Certainly customers that a company
21 has, the company that currently has that customer
22 would be able to hopefully determine need of that
23 customer that they could continue to meet.

24 Q. And you stated that it would be difficult
25 from a marketing perspective to get a customer that

02911

1 was -- get back a customer that was using another
2 provider?

3 A. Difficult and/or expensive. It may not be
4 difficult in one respect if you spend enough money.

5 Q. How many years has U S WEST been providing
6 telephone service in Washington?

7 A. Oh, gosh. I don't know specifically but I
8 could say probably 100 plus years.

9 Q. And can you tell us how much of the state
10 the company currently serves in terms of percent of
11 the total compilation?

12 A. No. I don't actually have the current
13 percentage.

14 Q. As far as local telephone service would you
15 agree that it is a very high percentage?

16 A. Yes, I would agree with that.

17 Q. And this would also be a high percentage in
18 terms of geographic area in Washington?

19 A. Yes.

20 Q. How many customers, if you know, does the
21 company currently serve in its residence plus business
22 local access lines?

23 A. Oh, I don't have that number at my
24 fingertips. I've seen it through the case as far as
25 the number of access lines but I don't have it on the

02912

1 tip of my tongue.

2 Q. Would it be fair to say that at the present
3 time U S WEST serves nearly 100 percent of the local
4 telephone customers within the Washington service
5 territory?

6 MR. SHAW: Object to the form of the
7 question. Is that U S WEST service territory or the
8 state as a whole? It's misleading to the witness.

9 Q. You can answer both. The state as a whole.

10 A. I'm sorry. My answer would be in those
11 areas that U S WEST serves that U S WEST would serve
12 predominantly the 100 percent or close to it the number
13 of customers in those areas that we serve.

14 Q. In the areas that you serve?

15 A. Yes. I'm sorry, I just don't want to leave
16 the question open-ended. I can't recall if you said
17 residential or total because I would make my answer to
18 be directed more towards the residential side.

19 Q. Now, if U S WEST starts out with all of the
20 local telephone subscribers in its service territory,
21 and as you've just explained it's very difficult to
22 win customers away from a competitor for the several
23 reasons that you set forth, won't new entrants have a
24 very difficult time in winning customers away from the
25 company?

02913

1 A. No, I don't agree with for several reasons.
2 If you would like me to then continue my answer,
3 several things. With the emerging competition that we
4 are seeing happening in the marketplace there are
5 emerging some studies that are being done around
6 customer's willingness to switch provider's service and
7 what those studies are showing that for telephone
8 service is that customers would be willing to switch
9 telephone service given a choice. So, one reason for
10 my answer in disagreeing with you is the fact that we
11 do see studies that are indicating that customers would
12 switch, and the second reason that I would add is that
13 from experience what we've seen has been very
14 instrumental to U S WEST and others is that given a
15 choice of a telephone provider for a local exchange
16 service that customers do choose, and I will point to
17 the experience that we've had in Great Britain where we
18 bargained with a cable company there to offer local
19 exchange service and within a very short time 25
20 percent of the customers left British Telecom to go to
21 an alternative provider. So we see that customers do
22 switch.

23 Q. So is it your testimony now that the
24 factors that you previously identified being customer
25 loyalty, knowledge of calling patterns, expensive

02914

1 marketing, is it your testimony that those factors now
2 would not make it difficult for new entrants to win
3 customers from the company?

4 A. It's a marketing game, and those factors
5 are very important and they would be very important
6 from the perspective of trying to retain customers.
7 However, given a choice customers do choose other
8 services.

9 Q. But they would not be important, I take it,
10 in terms of other companies trying to win customers
11 from U S WEST?

12 A. Oh, yes, they would be equally as
13 important, if not equally more important for other
14 companies to try and gain that additional information
15 to try and determine how they can win that customer.

16 Q. I believe in the testimony of Mr. Brigham
17 that you've adopted?

18 A. Yes.

19 Q. On pages 14 and 25 you refer to the city of
20 Rochester, New York in opening up to local competition
21 and on those two pages you state that AT&T and Time
22 Warner will be competitors for local service?

23 A. Yes, I do state that.

24 Q. And will be major competitors for service
25 in that area. And I believe that competition has now

02915

1 been ongoing for about a year. Would you accept that?

2 A. In that area in Rochester I think that's
3 probably about right, yes.

4 Q. Would you accept subject to check that
5 Rochester, which is now Frontier Telephone, that their
6 share of the local market is currently over 95
7 percent?

8 MR. SHAW: I will object to the request to
9 check it. I don't know what documentation that
10 counsel is referring to. That's not something we can
11 check. We have no access to market share numbers of
12 Rochester Telephone Company which is in fact a
13 competitor of ours in Washington with their recent
14 purchase of ETI.

15 MR. SMITH: I am referring to a New York
16 Times article from October 23 of '95. I could provide
17 the witness a copy if you would like.

18 MR. SHAW: Well, I will still object to the
19 subject to check. There's no foundation laid to that
20 article.

21 Q. Do you have that article?

22 A. Yes, I do.

23 Q. And referring to the second page, and this
24 is an article from October 23, 1995 from the New York
25 Times. Do you see in the second column of the second

02916

1 page of the article that states that Rochester
2 Telephone, which recently changed its name to the
3 Frontier Corporation, still serves more than 95
4 percent of the city's 350,000 residential customers?

5 A. Yes, I do see that in this article.

6 Q. Do you have any evidence to indicate that
7 that number is incorrect?

8 A. No. Other than -- this is the first time
9 I've seen this article. I have no evidence that it
10 would be incorrect. I would just point out that in
11 looking at this from my perspective from a marketing
12 perspective that are a number of other factors that I
13 would want to find out.

14 Q. But you've testified about the competition
15 in Rochester in your direct testimony?

16 A. Yes, the fact that there is local exchange
17 competition.

18 Q. Do you not have any knowledge, though, of
19 what the market share is of competitors?

20 A. I don't have any additional information,
21 no.

22 Q. Would you accept subject to check that
23 AT&T's percentage of the Rochester market is barely 2
24 percent, and that's stated on the third page of the
25 article?

02917

1 A. Yeah. If it's in the article then the
2 article speaks for itself. I don't have any
3 information in addition to this with me today.

4 Q. And you don't have any evidence to indicate
5 that that's the incorrect number?

6 A. Not with me today, no, I don't.

7 Q. And although you testified again about the
8 Rochester market you don't know -- you're stating that
9 you don't know what the market shares of the various
10 competitors are. Is that what you're stating?

11 A. Currently, no. It's very difficult
12 sometimes to determine market share in general, and as
13 I stated before, although this article does indicate
14 this 95 percent share, I think that when looking at it
15 from what I will call a competitive marketing
16 perspective that there's a number of factors that one
17 would want to look at, meaning the prices, the amount
18 of effort that the other competitors are expending to
19 get those customers, and so taken on the surface I
20 think you need to go beyond that to know what impact
21 is occurring in that specific market.

22 Q. But you haven't done that because you
23 indicate you don't know what the market shares are; is
24 that correct?

25 A. No. I'm not aware of what the exact market

02918

1 share is.

2 Q. Do you understand the distinction between a
3 legal barrier to entry and an economic barrier to
4 entry?

5 A. Well, from answering that, not being an
6 attorney or not from a legal perspective. I can give
7 you my thoughts, is that a legal barrier would be one
8 by law or by regulatory constraint or court, whatever
9 it might be, that would prevent something from
10 happening, be it entry into a marketplace as an
11 example. From my perspective an economic barrier
12 would be one that we have outlined in this case that we
13 believe when a price such as residence basic service
14 is priced well below cost that you establish a
15 situation that is an economic barrier to encouraging
16 other providers of that service of entering into
17 the marketplace.

18 Q. Turning to your rebuttal testimony on page
19 4, lines 21 to 23 you state, "With no barriers to
20 entry the Washington telecommunications market is one
21 of the most competitive in the U.S." Do you see
22 that?

23 A. Yes, I do.

24 Q. Are you referring there to an absence of
25 legal barriers to entry or are you stating that there

02919

1 are no economic barriers to entry as well?

2 A. I'm referring to it from no legal barriers
3 to bring --

4 Q. Would the presence of high fixed cost
5 create an economic barrier to entry?

6 MR. SHAW: Whose high fixed costs? The
7 question is unclear.

8 Q. If there were high fixed costs for a new
9 competitor to enter a market would that create an
10 economic barrier to entry into the market?

11 A. Not necessarily. It depends.

12 Q. Would the presence of an extensive,
13 ubiquitously deployed network of switches, transport
14 links and distribution facilities owned by the
15 incumbent local telephone company create an economic
16 barrier to entry by another company?

17 A. Once again, it depends. My answer would be
18 no, it wouldn't necessarily, and I think that on the up
19 front it may seem that it would, but what we are seeing
20 happening is that there are companies that are
21 determining that the market for service is large
22 enough that may not be an economic barrier for them to
23 enter.

24 Q. So your answer would be no to that?

25 A. Correct.

02920

1 Q. Would the presence of long established
2 business relationships with nearly 100 percent of the
3 state's business and residential telephone subscribers
4 by the incumbent telephone company within its service
5 territory create an economic barrier to entry?

6 A. Well, in the state of Washington apparently
7 not because on the business side there are the
8 proliferation of several CAPs, competitive access
9 providers, that is my understanding have a number of
10 customers and are doing very well and have reached --
11 have obtained a large number of customers in the
12 state.

13 Q. And on the residential side it would create
14 no barrier to entry. Would it create an economic
15 hardship? Would it make it more difficult for entry?

16 A. Well, clearly the intensity of it is going
17 to be a challenge for a new entrant to have to
18 overcome.

19 Q. And would that also be true with the case
20 of the high fixed costs of a new entrant?

21 A. It may or may not be in the sense that if
22 you look at the fact that cable television passes over
23 90 percent of the homes in the state of Washington
24 that you have an alternate infrastructure that is
25 reasonably close to being in place to offer an

02921

1 alternative choice for customers.

2 Q. Would the absence of full number
3 portability constitute either an economic barrier or a
4 hardship to entry?

5 MR. SHAW: Object to the form of the
6 question. It's unclear on what counsel means by full
7 number portable, geographic and customer or what?

8 Q. Would the absence of geographic number
9 portability constitute an economic barrier to entry?

10 A. An economic barrier, I really don't know.
11 I know obviously that I'm not an expert on number
12 portability. I know that most states, including this
13 one, are heading in the direction of making that
14 possible for companies to have number portability.

15 Q. If you're not sure about economic, would it
16 create a barrier other than a legal barrier to entry?

17 A. Would geographic number portability create
18 a legal barrier?

19 Q. No, a barrier other than a legal. You said
20 you didn't know whether you would call it economic so
21 I will rephrase it as a barrier that is not a legal
22 barrier to entry but nevertheless a barrier to entry.

23 A. I'm not sure how to answer your question. I
24 just know that number portability is certainly an
25 interconnection issue that's being worked out among new

02922

1 providers of services so that they can have that, and
2 obviously they need it and want it and I believe that U
3 S WEST is accommodating that to the best that we can.

4 Q. Does the company support the Commission's
5 efforts to introduce competition into the local
6 exchange markets?

7 A. Yes.

8 MR. SHAW: Will counsel indicate what
9 efforts he has in mind when he asked that question.

10 MR. TRAUTMAN: I believe he answered
11 the question.

12 Q. What benefits does the company believe that
13 competition will produce for consumers?

14 A. In general, competition provides choices to
15 customers and by providing customers choices they in a
16 very, very broad respect benefit. Whether that is
17 through prices or types of services they want or
18 quality they are various ways that customers can
19 benefit from choices.

20 Q. I believe on page 18 of your rebuttal
21 testimony, looking at lines 22 to 24, you testify that
22 U S WEST desires to retain all of our customers as
23 these competitive forces develop, U S WEST is
24 responding to the market before we lose customers. Do
25 you see that?

02923

1 A. Yes, I do.

2 Q. Now, if the company is allowed to, as you
3 say, respond to the market before we lose customers in
4 ways that will allow it to retain virtually 100 percent
5 of the total market that it currently serves, can you
6 explain given that how competition can be expected to
7 grow?

8 A. First I don't think my testimony says 100
9 percent. I think in reality any company knows that as
10 competition enters the marketplace that they're going
11 to lose customers. In fact we've lost customers on
12 the business side.

13 Q. I believe your testimony says all. Does
14 all mean 100 percent or does it not mean all?

15 A. It means all and as a company operating in
16 a competitive environment the statement is supposed to
17 portray the fact that you don't want to lose any
18 customers. You will but the desire is that you don't
19 want to lose any customers. A loss of one customer is
20 a loss and you may not get that customer back. So
21 what the company wants to do is be able to compete on
22 fair terms as new entrants into the marketplace.

23 Q. On page 8 to 10 of your rebuttal testimony
24 you speak about wireless services and the competitive
25 threat that they pose to the company. Do you see that

02924

1 testimony?

2 A. Yes, I do.

3 Q. Can you estimate the share of local
4 telephone traffic in Washington that cellular
5 companies supply today?

6 A. The share of local service, no, I don't
7 have that number. I don't know.

8 Q. Would you agree subject to check that it
9 would be a very low percentage?

10 MR. SHAW: Your Honor, it's impossible for
11 us to check what percent of residential or local
12 service AT&T cellular provides. We just don't have
13 that.

14 Q. So are you stating you you have no
15 knowledge?

16 A. We were asked that, I believe, through a
17 data request too and we were not able to determine
18 that number.

19 Q. You stated that they pose a threat to the
20 company but you're stating also that you have no idea
21 what the percent of traffic is that they carry. Is
22 that what you are stating?

23 A. Currently the testimony is written from the
24 fact that there is well documented articles in the
25 industry about the potential market share loss that

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1 telephone companies have at risk as PCS services are
2 turned up across the country.

3 Q. Can you tell us the percentage of the
4 company's local calls in Washington that are
5 terminated through cellular telephones?

6 A. I don't have that information with me, no.

7 Q. Can you tell us what fractions of calls
8 that originate on cellular telephones are also
9 terminated on another cellular telephone?

10 A. No, I don't have that information with me.

11 Q. So would you know whether the great
12 majority of calls that originate on cellular phones in
13 Washington would terminate through the facilities of
14 U S WEST or another wire line carrier?

15 A. I don't have any numbers. I would
16 speculate that today probably a large majority of the
17 wireless calls are still terminated on the wire line
18 network.

19 Q. Now you also cite PCS as a competitive
20 threat to the company; is that correct?

21 A. Yes, that's correct.

22 Q. And looking to lines 23 and 24 on page 8 of
23 your rebuttal testimony where you state that informed
24 industry experts expect that basic exchange cellular
25 and PCS pricing will not be too different in the

02926

1 relatively near future. Specifically what experts are
2 you referring to?

3 A. I have and, I believe some of the
4 information was provided through data requests, that
5 there have been various articles in either the Wall
6 Street Journal or industry publications indicating
7 target prices for PCS service, and also I know as just
8 last week the Wall Street Journal had an article about
9 how cellular prices are continuing to decline, and so
10 there are various sources, either trade publications
11 or the Wall Street Journal.

12 Q. How many years away is the relatively near
13 future?

14 A. Several studies that I've seen is that PCS
15 services, we will start to see them this year in 1996.
16 1997, to a certain extent more, and then by 1998 we
17 should see widespread deployment of PCS service.

18 Q. Do the experts in the articles to which you
19 have referred refer to Washington state?

20 A. No. The articles were referring to the
21 industry in general.

22 Q. At lines 17 to 18 of your rebuttal you
23 state that customers have been willing to pay more for
24 cellular because the mobility advantages is worth
25 something. Do you see that?

02927

1 A. Yes.

2 Q. Wouldn't PCS also provide mobility so it
3 also would be likely to be priced higher than
4 nonmovable services to reflect that advantage?

5 A. Well, not necessarily because I think what
6 we're seeing is what happens in a lot of marketplaces.
7 As new technology comes out like cellular it's worth a
8 premium because it's something new. Customers have
9 the ability to take their phone with them. But as the
10 technology is in the marketplace for a while it becomes
11 more of an accepted way of making phone calls and that
12 customers no longer expect to pay that much more and it
13 becomes more routine and common place.

14 MR. TRAUTMAN: I have nothing further.

15 JUDGE WALLIS: Mr. Trotter.

16 MR. TROTTER: Thank you.

17

18 CROSS-EXAMINATION

19 BY MR. TROTTER:

20 Q. Mr. Scott, do you have before you Exhibit
21 500 which was your deposition?

22 A. Yes, I do. If you're going to be referring
23 to it, I want to make sure what copy, as far as the
24 pagination mine is not the condensed version. Do I
25 need to get a copy of the condensed version?

02928

1 Q. No, they should be the same. Do you
2 recognize that as the deposition of you that was taken
3 in this proceeding?

4 A. Yes, it is.

5 MR. TROTTER: Your Honor, move for the
6 admission of Exhibit 500.

7 MR. SHAW: Objection, as previously argued.

8 MR. TROTTER: We did review -- re-review
9 his deposition again and we believe it's all pertinent
10 and would substantially reduce our cross so we move
11 the full exhibit.

12 MR. SHAW: Same objection.

13 JUDGE WALLIS: Is your question and answer
14 portion of the deposition substantially all of the
15 deposition?

16 MR. TROTTER: Yes.

17 JUDGE WALLIS: Very well. The objection is
18 overruled and the exhibit is received.

19 (Admitted Exhibit 500.)

20 Q. Mr. Scott, both in your direct and your
21 rebuttal you refer to cable companies and you also in
22 response today mentioned that; is that right?

23 A. Yes, that's correct.

24 Q. And in your work papers for your rebuttal
25 in support of your rebuttal testimony you provided

02929

1 reference and also text of certain articles upon which
2 you are relying; is that right?

3 A. Yes, that's correct.

4 Q. One of those was a Fortune magazine article
5 from September 18 of last year; is that right?

6 A. Yes. I don't know if I had that one with
7 me, but I do recall it, yes.

8 Q. I would just ask you to accept that in that
9 article in discussing cable and telephony it
10 identified a potential problem on page 182 of bad
11 signals from one house -- let me quote this -- "bad
12 signals from one house can sully phone calls from
13 others further upstream." Would you accept that?

14 A. Yes, that's fine.

15 Q. Would you also accept that that article
16 referred to a research paper prepared for Cable Labs
17 which is, according to the article, the industry's
18 research arm. Do you recall that?

19 A. Yes.

20 Q. And the article quoted from that report as
21 follows on page 186 of the article. This is referring
22 to cable systems. "The drop plant poses all the
23 uncontrollable elements that cause nightmares for
24 cable operators: Cables with poor shielding,
25 difficulty in accessing connections, known illegal

02930

1 extensions, unterminated connections, poor connectors
2 and splitters, improper installations and micro
3 reflections." Do you recall that?

4 A. Actually I don't specifically recall that
5 but obviously it's from the article.

6 Q. I would represent to you that the next
7 sentence, which is not a quote from the report but is
8 from the article. "Even someone using a vacuum cleaner
9 might foul the waters." Do you recall that statement?

10 A. No.

11 Q. Would you accept it subject to your check?

12 A. Yes.

13 Q. Would you also accept that the author of
14 that report or the preparer of the report, who was
15 from Rogers Cable Systems, stated his company has no
16 plans to roll out phone service any time soon?

17 A. Yes. And one of the challenge of getting a
18 grasp about what's going to happen in the future is
19 sorting through the many articles and different views
20 about what's going to happen and at the same time that
21 that says that there's plenty of others that have a
22 different view.

23 Q. On page 3 of your direct testimony, point
24 No. 2 there on line 12 you indicate that "competition
25 will soon enter the residence basic exchange market.

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1 To promote competitive fairness and to avoid charges
2 of anticompetitive pricing rates for residence basic
3 exchange service must be increased to cover the
4 incremental cost or ADSRC of providing the service."

5 A. Yes, I see that in my testimony.

6 Q. I will represent to you in Mr. Farrow's
7 direct testimony, page 11 he says when the market for
8 a service is competitive it may be in the best
9 interests of U S WEST and its ratepayers to price a
10 particular service below the ADSRC but above ASIC?

11 A. Yes, I heard some discussion around that
12 issue this week.

13 Q. With that, according to your testimony would
14 pricing below ADSRC be anticompetitive?

15 A. Would pricing basic residence exchange
16 service below ADSRC -- are you saying does my
17 statement still hold up based upon the additional
18 information you gave me?

19 Q. Yes.

20 A. Yes. I believe it does and the reason
21 being that while I am aware of Mr. Farrow's statement
22 and the discussion around that, at least when I look
23 at it from not being a cost person, but when I look at
24 the issues that if a service is priced below ADSRC but
25 above ASIC then other services will have to make that

02932

1 up, and so when we're dealing with a service like
2 residence basic exchange, my testimony, as it states,
3 I believe ADSRC is what is the appropriate price floor,
4 that that should be the target.

5 Q. And if it is priced below ADSRC then it
6 would be an anticompetitive price?

7 A. Well, I'm not an attorney and my statement
8 was meant on a very general basis that there is --
9 there can be a concern that in general that if a
10 product was priced below cost that a competitor might
11 have a concern that there would be some unfairness in
12 the marketplace, and that it is a good public policy
13 reason that we strive for in getting prices above
14 costs, so my statement stands as being not an attorney,
15 not a legal interpretation but a general statement.

16 Q. You're in the marketing end, right?

17 A. Yes, that's correct.

18 Q. And that's all I'm asking.

19 A. That's correct.

20 Q. So it's your testimony, then, that pricing
21 below ADSRC and above ASIC is not anticompetitive but
22 it may raise concerns from your competitors that it is
23 anticompetitive?

24 A. My testimony is it may or may not be but
25 that it's flat. From a marketing perspective it's an

02933

1 issue that you should be aware of, that one would want
2 to be aware of. I'm sorry, I think I misunderstood
3 your question.

4 Q. Let me try it again. Just focusing on your
5 testimony where you are saying to avoid charges of
6 anticompetitive pricing, and you did not in that
7 testimony say it would be anticompetitive but you said
8 to avoid charges that it would be, and so let me ask
9 you specifically, would pricing below ADSRC and above
10 ASIC be anticompetitive from your viewpoint as a market
11 person?

12 A. No, I don't believe so.

13 Q. Turning to your rebuttal testimony, page 3.
14 And here at the bottom and for the next few pages
15 you're responding to Mr. Dunkel's testimony on
16 competitive issues; is that right?

17 A. Yes, that's correct.

18 Q. And is the testimony -- do you recall that
19 Mr. Dunkel on page 1 appear of his direct testimony
20 said, "I am simply asking this Commission not to
21 accept as fact U S WEST's version of what the future
22 holds as presented in its testimony. It is very
23 possible that in the future U S WEST will have a far
24 more powerful monopoly than it has today." Do you
25 recall that?

02934

1 A. I do.

2 Q. Is that the testimony that you're seeking
3 to respond to here in part?

4 A. In part, yes.

5 MR. TROTTER: Those are all my questions.
6 Thank you.

7 JUDGE WALLIS: AT&T and MCI both had
8 indicated that you have some questions and it's just
9 about noon. My tendency would be to break at this
10 point and then return.

11 MS. PROCTOR: Fine.

12 MR. BUTLER: Your Honor, I had a couple of
13 questions, too.

14 JUDGE WALLIS: Very well. Let's take our
15 noon recess at this time.

16 (Lunch recess taken at 12:00 noon.)

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1 AFTERNOON SESSION

2 1:25 p.m.

3 JUDGE WALLIS: Let's be back on the record,
4 please, for our afternoon session. Ms. Proctor.

5 MS. PROCTOR: Thank you.

6

7 CROSS-EXAMINATION

8 BY MR. PROCTOR:

9 Q. Good afternoon, Mr. Scott.

10 A. Good afternoon.

11 Q. I'm Susan Proctor from AT&T. This morning
12 you testified in response to questions from Mr.

13 Trautman that you had seen studies indicating that
14 customers were willing to switch providers. Do you
15 recall that testimony?

16 A. Yes, I do.

17 Q. And those studies that you were referring
18 to, what types of services were being studied, toll
19 services?

20 A. The studies that I was referring to were
21 specifically, if I recall, for telephone service being
22 basic exchange service, what would be the likelihood
23 of a customer switching to an alternate providers of
24 telephone service.

25 Q. And by telephone service you mean?

02936

1 A. Basic exchange.

2 Q. You didn't conduct those studies yourself,
3 did you?

4 A. No, I did not.

5 Q. Nor were they conducted under your
6 supervision or direction?

7 A. No.

8 Q. You also refer to events in the United
9 Kingdom and I believe you indicated that something
10 like 25 percent of the customers left British Telecom.
11 Do you recall that testimony?

12 A. Yes, in those areas where they had a choice
13 of an alternate provider.

14 Q. So the percentage calculation is, if we
15 were to translate it into a local scenario, would be
16 like saying 25 percent of those in Seattle who had
17 another local provider available to them chose that
18 local provider?

19 A. That's correct.

20 Q. And do you know over how long a period of
21 time that occurred?

22 A. I think that the level of 25 percent was
23 achieved fairly quickly, and I would say within two
24 years is my recollection.

25 Q. And if you looked at that document would it

02937

1 surprise you to learn that it was actually over 12
2 years?

3 A. Well, what I'm referring to, I know there
4 are several operations in the United kingdom, and the
5 one that I'm specifically referring to was actually a
6 joint venture of U S WEST with Telewest and my
7 recollection was that in that joint venture in the
8 city that we partnered with a cable there to offer
9 telephone service that it was within two or three
10 years that the 25 percent occurred. There may be some
11 other area that had a different experience.

12 Q. Do you have that source document with you?

13 A. No, I don't believe I do. I'm trying to
14 recall if some information was provided through data
15 requests. I have the information in my office. I
16 don't think I have it with me.

17 Q. Thank you. You also in responding to
18 questions concerning AT&T's entry into Rochester
19 responded to questions that you had information but
20 not with you today, so you had some information
21 available to you that you referred to in your
22 testimony concerning event in Rochester?

23 A. Let me clarify. Maybe I should ask you to
24 restate your question. I mean, my testimony referred
25 to just the event that AT&T had entered the market

02938

1 reselling service in Rochester, and I certainly have
2 the information from industry services that indicate
3 that. Maybe I'm not being responsive to your
4 question.

5 Q. I think your explanation has been helpful.
6 So what you had available to you were what would be
7 available to the public generally, newspaper accounts
8 or --

9 A. Telecommunications reports, certainly.

10 Q. Thank you. Mr. Scott, you haven't
11 conducted any independent surveys of the toll market
12 in Washington, have you?

13 A. No. I certainly have not.

14 Q. Nor have you conducted any market studies
15 for the basic local market in Washington, have you?

16 A. No, I have not.

17 Q. In your rebuttal testimony on page 2, in
18 describing your current responsibilities, on line 3
19 you state that you provide regulatory and strategic
20 support and coordination to insure implementation of
21 products and services. Could you just give us a
22 little more idea of what exactly you do?

23 A. Right, I would be glad to. In my capacity
24 at U S WEST I work on several different issues and
25 several different products: One of the issues that I

02939

1 work on is competition, which is a large part of my
2 testimony in this rate case. In addition to
3 competition I also work on certain products, and I
4 participate in product team meetings. Those products
5 they vary. Recently I've been working on optional
6 custom calling sort of features. I worked considerably
7 on CLASS features in years past, so I participate on
8 those product teams, provided support to them,
9 strategic support, and represent their issues in
10 regulatory forums such as this.

11 Q. When you say optional calling plans, those
12 are for toll services?

13 A. Maybe you misunderstood me. I meant custom
14 calling services like call waiting and call
15 forwarding, features for residential basic exchange.

16 Q. And when you say you provide strategic
17 support, what is it that you do?

18 A. I would characterize that as -- let me give
19 you an example is that I am, as I mentioned, over the
20 years have been a member of various product teams
21 within U S WEST. One of those product teams was for
22 CLASS services when they were rolled out, so, for
23 instance I would participate in their meetings and
24 then in discussing product plans and introductions
25 into new markets I would just offer my opinion or

02940

1 strategic direction from the work that I do from a
2 regulatory perspective.

3 Q. Would you then be participating in
4 discussions -- assuming that the local market
5 continues to develop here in Washington would you be
6 participating with those product teams, for example,
7 in determining how to respond to offerings by new
8 entrants?

9 A. That's possibly so. I say that because I
10 would probably be one of several people that would be
11 involved in that, and my involvement would be to
12 probably a lesser degree than others. There are
13 product marketing people today that will be involved
14 in issues like that as far as I think you turned in a
15 response plan to competitive entrants. I guess to be
16 directly responsive I would have limited involvement
17 in that but I might be involved to a certain small
18 degree.

19 Q. Now, in your direct testimony -- and
20 actually probably be simplest, we could just refer to
21 your table of contents there. And under section Roman
22 numeral IV you refer to your analysis of the
23 competitors. Do you have that in front of you?

24 A. Yes, I do.

25 Q. And basically the competitors that you

02941

1 discuss for about 30 pages of your testimony are the
2 interexchange carriers, the competitive access
3 providers, the cable TV providers and the wireless
4 providers, and then finally I guess the competitive
5 partnerships. Is that a fair characterization of the
6 competitors that you have analyzed or discussed in
7 your testimony?

8 A. Yes, it would be. Those are the broad
9 categories of competitors that I've looked at.

10 Q. And that's where U S WEST sees the primary
11 type of competition as developing; is that correct?

12 A. Yes, that's correct.

13 Q. Then would it be fair to say that U S WEST
14 does not view resale of local services as a
15 competitive threat?

16 A. No. That would not be fair to say. I
17 would say that resale obviously is a competitive
18 threat and I know that that is happening already today
19 in certain marketplaces for basic local exchange, so I
20 did not include that in my analysis.

21 Q. I'm a little unclear. You see it as a
22 competitive threat but you didn't include it in your
23 analysis, is that what you said?

24 A. It's clearly a threat in the sense that
25 when a competitor enters the marketplace if they were

02942

1 to choose to enter the local marketplace by reselling
2 the incumbent's service then it is a competitive
3 threat. I'm not disagreeing that it's not. In this
4 analysis I just looked at four major categories of
5 alternate providers of service. Any one of those
6 within that could participate in a resale sort of
7 strategy to gain market share.

8 Q. Of course that would assume that resale of
9 local services were permitted?

10 A. That's correct.

11 Q. And currently it's U S WEST's position that
12 resale of local service should only occur if its
13 proposal for rebalancing of rates is granted; isn't
14 that correct?

15 A. I don't know that that's an accurate
16 characterization of our resale policy or not.

17 Q. You stated in your rebuttal testimony at
18 page 16, lines 8 through 10 that U S WEST has already
19 lost a significant share of the intraLATA toll market
20 to interexchange carriers such as AT&T, MCI and
21 Sprint. Do you have that in front of you?

22 A. Yes, I do.

23 Q. Now, I believe you testified that you've
24 done no analysis of the toll market; is that correct?

25 A. I have not because I've relied on the

02943

1 analysis that others have done.

2 Q. And when you were referring to this
3 significant share loss in the intraLATA toll market, I
4 take it you were relying upon Mr. Purkey's analysis?

5 A. Yes, exactly. He has some confidential
6 information in his testimony that goes to that very
7 issue.

8 Q. And that information was available to you
9 as well?

10 A. Yes.

11 Q. And I take it his analysis was of the 10
12 XXX dial around traffic?

13 A. My recollection of his testimony is that
14 was a large part of his analysis. I don't know if it
15 was the complete analysis but certainly it was a piece
16 of it.

17 Q. And again you had that same information
18 concerning the 10 XXX dial around traffic available to
19 you as well?

20 A. The information was available to me. What
21 I do when I construct testimony of this nature I
22 typically rely on the testimony of other witnesses, so
23 I had Mr. Purkey's testimony available to me if that's
24 what your question was.

25 Q. And since that's an exhibit to his

02944

1 testimony you had that information as well available
2 to you?

3 A. Yes.

4 Q. Now, a few minutes ago you mentioned that
5 you work with the marketing teams on developing
6 responses to new entrants. The information that Mr.
7 Purkey had would be quite valuable to the marketing
8 people in attempting to determine how to respond to
9 new entry, wouldn't it?

10 A. I believe I understand your question. The
11 information that Mr. Purkey had being available to our
12 marketing people that work on long distance?

13 Q. Yes.

14 A. I would assume that probably would be very
15 helpful.

16 Q. And it's information that you have seen as
17 well; isn't that correct?

18 A. Well, as I mentioned I work from the
19 testimony of our other witnesses typically in a case
20 like this is how I operate, and I work with Mr. Purkey
21 in many other cases, and so I have the testimony
22 available to me, and as I do my research or put my
23 testimony together then I have access to the
24 information that I need to help support statements in
25 my testimony.

02945

1 Q. So the answer to my question is yes?

2 A. Would be yes.

3 Q. Do you know what type of traffic other than
4 the fact that it's 10 XXX traffic who generates that
5 traffic?

6 A. The end user that generates the traffic?
7 I'm not sure I understand your question.

8 Q. The numbers in Mr. Purkey's testimony refer
9 to 10 XXX dial around, and I assume that it's the
10 traffic carried by some competitors, some companies
11 other than U S WEST. Would that be your
12 understanding?

13 A. That would be my understanding. I mean,
14 the questions would probably be best directed to Mr.
15 Purkey. The main purposes of my testimony were to use
16 his testimony to support some of my conclusions that
17 there's competition in the marketplace.

18 Q. So you didn't delve into any detail into
19 those numbers?

20 A. No, I did not.

21 Q. I think you attached an article to your
22 testimony. It's the newspaper article talking about
23 AT&T's scorched earth attack on the Bell operating
24 companies, and in particular I was interested in the
25 concern that AT&T supposedly was purchasing 100

02946

1 switches throughout the country. Do you recall that
2 portion of the newspaper article?

3 A. Yes, I have it before me.

4 Q. Would you agree that U S WEST has more than
5 100 switches in the state of Washington alone?

6 A. I really don't know how many switches we
7 have in Washington.

8 Q. Would you accept subject to check?

9 A. Yes, I would.

10 Q. Thank you very much. Finally, in your
11 direct testimony on page 60 at lines 12 through 19,
12 you state that "it is simply not possible to design
13 rates that will recover the entire revenue
14 requirement." Do you have that testimony in front of
15 you?

16 A. Yes, I'm there.

17 Q. And in fact U S WEST has identified a
18 significantly larger revenue requirement than it has
19 filed for in this case; isn't that correct?

20 A. Yes, that's correct.

21 Q. Did you participate in the decision to file
22 for less than the entire revenue requirement in this
23 case?

24 A. No, I did not.

25 Q. Have you been advised of the reasons or how

02947

1 the company decided to request only 200 million
2 instead of \$300 million in rate increases?

3 A. Only in a very general perspective, not in
4 the details behind those decisions.

5 Q. Your testimony there indicates that the
6 inability to recover the entire revenue requirement is
7 attributable to the competitive marketplace; is that
8 correct?

9 A. Yes, that is correct.

10 Q. And would it be your view that in the
11 future with more competition U S WEST would be even
12 less able to recover its revenue requirement?

13 A. It's very possible, yes.

14 MS. PROCTOR: Thank you. No further
15 questions. I'm sorry. I did have one other one.

16 Q. Mr. Waggoner made me promise I would ask
17 this one. You were talking about PCS providers. Did
18 you happen to have this nice little glossy brochure
19 available to you from the Sprint spectrum service plan
20 in Washington D. C.?

21 A. I have a lot of information but what I'm
22 seeing here is, no, I don't believe that I did.

23 Q. Nice colors. Have you made any
24 investigation of the pricing of PCS services?

25 A. To the extent that I've done research

02948

1 from industry publications about what has been
2 characterized as or industry experts predict that the
3 price will be, I have done that, yes.

4 Q. Well, I'm looking at what Sprint appears to
5 be offering at the moment, which for 15 minutes of,
6 quote, free air time you can pay \$15. Is that the
7 kind of prices that you recall seeing?

8 A. No. The ones I've seen is that when PCS
9 would be what I would say widely deployed within the
10 next three years that industry experts predict around a
11 \$30 per month price for it. I don't think that that
12 fits with that.

13 Q. But again, you haven't looked into the
14 actual offering now?

15 A. Well, PCS isn't available very many places
16 yet so there isn't a lot of realtime experience about
17 what the price would be today.

18 Q. And again, would it be fair to say that you
19 have not made any examination of those offerings that
20 are available today as far as the pricing?

21 A. Well, I'm only aware of one other than
22 trials and so I haven't and so what I have looked at
23 is what people predict it will be when it's widely
24 available.

25 MS. PROCTOR: Thank you.

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1 JUDGE WALLIS: Mr. Nichols.

2 MR. NICHOLS: I have no questions.

3 JUDGE WALLIS: Mr. Butler.

4

5 CROSS-EXAMINATION

6 BY MR. BUTLER:

7 Q. Mr. Scott, I just have a few questions
8 about your Exhibit 494 and 493. 494 was the
9 correction sheet?

10 A. Yes.

11 Q. Included some changes to Exhibit 493.

12 MR. TROTTER: No.

13 JUDGE WALLIS: Exhibit 40.

14 Q. Exhibit 40, excuse me. Can you tell me
15 what the basis for the correction was?

16 A. Actually, no, I can't. I think your
17 question would best be directed to Mr. Rees when he
18 testifies. I had an exhibit with these numbers, and
19 then through the data request process someone in your
20 group it was discovered there was some mistakes into
21 it. The sum total stayed the same but the year one
22 and two changed and so I was provided updated
23 information and I don't know why the numbers were
24 changed from the original ones.

25 Q. So you are just simply reflecting changes

02950

1 that Mr. Rees is responsible for?

2 A. Absolutely.

3 Q. And I will ask him those questions again?

4 A. That would be appropriate.

5 MR. BUTLER: I have no other questions for
6 you.

7

8 CROSS-EXAMINATION

9 BY MS. LEHTONEN:

10 Q. Good afternoon, I'm Lesla Lehtonen from
11 Sprint.

12 A. Good afternoon.

13 Q. I wanted to follow up a couple of questions
14 from AT&T. I believe when Ms. Proctor asked you a
15 question regarding 10 XXX dial around that at least
16 from what I could tell the answer wasn't clear, and
17 that was whether you had some idea what the market
18 shares, the individual interexchange carriers were for
19 the total 10 XXX market.

20 A. No, I don't. Maybe I misunderstood the
21 question. I think the testimony that I referred to in
22 Mr. Purkey's testimony is a look at the total market
23 share or loss in the marketplace, and I don't believe
24 that it's by individual carriers. I think it's a
25 total look but that's in Mr. Purkey's testimony.

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1 Q. And then when you say you used Mr. Purkey's
2 testimony, did you also use the document or look at
3 the documents that he used to back up his testimony?

4 A. No, I essentially did not. I used his
5 testimony and exhibits to give me the supporting
6 material I need to make my what I would characterize
7 general assessment of the marketplace.

8 Q. Did you use data requests? You mentioned
9 those earlier.

10 A. Right, predominantly mine. I don't recall
11 any from Mr. Purkey that I used in putting together my
12 testimony or in preparing for this case.

13 MS. LEHTONEN: No further questions.

14 JUDGE WALLIS: Mr. Roseman.

15

16 CROSS-EXAMINATION

17 BY MR. ROSEMAN:

18 Q. Mr. Scott, I'm Ron Roseman representing
19 AARP.

20 A. Good afternoon.

21 Q. Good afternoon to you. I take it that your
22 testimony is that there is competition in
23 telecommunications within the state of Washington?

24 A. Yes, that's correct.

25 Q. Are you familiar with the regulatory

02952

1 flexibility act in the state of Washington?

2 A. I believe so, yes. You're referring to the
3 competitive classification procedure that's here, yes,
4 I am generally familiar with that, yes.

5 Q. That's correct. That's a procedure that
6 one can classify a service as competitive and then
7 take it out of the realm of regulation?

8 A. My understanding -- and I glanced at the
9 statute -- is that, yes, you can petition the
10 Commission to have a service classified as competitive
11 and then I believe what that allows -- I'm not sure
12 that it's completely out of the realm of regulation --
13 is price list a product, so it prevents some downward
14 movement in price of that product.

15 Q. And the statute defines effective
16 competition that the product or service must be
17 effectively competitive?

18 A. Yes. My recollection is there is a
19 definition of what they consider to be effective
20 competition.

21 Q. Are any of the areas that you've discussed
22 in your testimony, would any of them be, in your mind,
23 classified as effectively competitive within the state
24 of Washington?

25 MR. SHAW: Object to the extent it calls

02953

1 for a legal conclusion, but I don't object to the
2 witness giving his lay answer.

3 JUDGE WALLIS: With that understanding the
4 witness may respond.

5 A. With that understanding, under the statute
6 I have a different view of what's effectively
7 competitive, perhaps, than what the statute outlines.
8 I do know that at the current time I believe we have
9 few products that have been classified under that
10 statute as effectively competitive. However, in
11 response to the answer is that I do believe that a
12 number of products or some of the products that are
13 part of this filing are certainly in the realm of what
14 would be effective competition today, for instance,
15 the business marketplace.

16 Q. And are you planning on -- is the company
17 planning on having the business market declared
18 effectively competitive pursuant to the act?

19 A. To my knowledge we don't have any plans
20 with this case under way right now to do that, no.

21 Q. I want to refer you to your rebuttal
22 testimony, you've already had a question on this
23 regarding this sentence. It's on page 4, lines 21
24 through 23 where you say with no barriers to entry the
25 Washington telecommunications market is one of the

02954

1 most competitive in the United States. Do you see
2 that?

3 A. Yes, I am with you.

4 Q. I will ask you to look at Exhibit 308 that
5 was already introduced into evidence, and I provided
6 you a copy. It's the Smith Barney report on large
7 telcos competitive vulnerability analysis?

8 A. Yes, I have that before me.

9 Q. Will you look at the last page where they
10 look at the relative competitive vulnerability of all
11 the companies, all the Bell companies?

12 A. Yes.

13 Q. And will you tell me where U S WEST ranks?

14 A. I will. This is the first time I saw this
15 when you handed it out to me, and I did do a quick
16 perusal of it to try and understand what this chart
17 was showing. What it appears to be doing is
18 attempting to weight, based on several different
19 factors, the competitive vulnerability, I guess, if I
20 can read that correctly in there, of the RBOCs, and
21 according to their rating system, which I will be
22 honest I'm not familiar with the details of how they
23 did this, they show U S WEST as being the least, in
24 their terms or in their study, vulnerable to
25 competition, I guess. Like I said I haven't studied

02955

1 this in detail. This is the first time I've seen it.
2 I do have some concerns about this. Part of it is that
3 it appears to be an aggregate vulnerability study for U
4 S WEST, and clearly states like Washington are not
5 comparable to Wyoming in terms of what would be
6 considered competitive vulnerability.

7 Q. I would like to refer you to your direct
8 testimony on page 8, line 32 through 35, and I will
9 kind of read what it says, and you can follow. It
10 says, "following a Washington Supreme Court order in
11 March 1994 the market for basic exchange services in
12 Washington is now clearly open to competition." You
13 don't mean that there is competition in that market,
14 do you?

15 A. Well, in which marketplace?

16 Q. In the residential basic exchange market.

17 A. Well, my testimony is that it's open to
18 competition in that there are no barriers for cable
19 companies or PCS providers, or whoever it might be, to
20 offer basic exchange service to Washington customers.

21 Q. Do you know of a single competitor seeking
22 to do business in Washington that has announced plans
23 to enter that residential market in urban areas?

24 A. I have to answer your question in two
25 parts. First, no, I don't know a specific Washington

02956

1 plan for the competitors. I do know general plans of
2 competitors that have been -- such as PCS providers in
3 the state of Washington, which was one of the highest
4 bidders for the licenses in the recent auction, the
5 amount of money that was spent to obtain those. So
6 from those actions I think one can reasonably deduce
7 that they're poised to enter at some point in time the
8 residential local exchange marketplace.

9 MR. ROSEMAN: That's all my questions.

10 JUDGE WALLIS: Commissioners.

11

12 EXAMINATION

13 BY COMMISSIONER HEMSTAD:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. I believe you testified on cross that given
17 a choice your view is a U S WEST customer would be
18 willing to switch.

19 A. It was customers in general, the study that
20 I've seen was not a U S WEST study. It was basically
21 a national study about customer preferences for phone
22 service.

23 Q. I was going to ask you, U S WEST has not
24 done a specific study of that?

25 A. Not in the state of Washington, no. I'm

02957

1 referring to some general studies for the country.

2 Q. Well, from your own knowledge in the general
3 experience of U S WEST in its operations with one of
4 its subsidiaries in England that you referenced, what
5 are the reasons that people give for switching?

6 A. That's a good question, and what I'm
7 familiar with in England where they did switch was
8 that customers had several complaints about British
9 Telecom that they weren't happy with. One of them was
10 some service order problems, one of them was billing
11 problems. At that time when we first entered the
12 England marketplace, just to give you an example,
13 British Telecom provided an aggregate bill with no
14 detail, and so an alternate provider came in offering
15 new choices, something that the customers didn't have
16 before, which was an itemized bill which believe it or
17 not was new to these customers, and so that's an
18 example where the customers were excited about some new
19 choices that they didn't have before, and I'm trying to
20 recall. I believe the pricing -- I can't exactly
21 recall where the pricing fell but my recollection from
22 the initial market was that it was a better service
23 with more options for the customer and so there was a
24 quick sense to switch over to the new provider.

25 Q. So in that context service or service

02958

1 quality would have been the primary incentive
2 apparently?

3 A. I don't think it was the primary but it was
4 one of the reasons.

5 Q. Was price a significant factor?

6 A. That's what I'm trying to recall is I don't
7 think there was a large difference in price.

8 Q. The burden of your testimony is that there
9 is effective competition today for many of the
10 services that U S WEST provides?

11 A. Yes. My testimony absolutely is that there
12 is competition for a number of the services we
13 currently provide and then on top of that is that
14 there is emerging competition for the remainder of the
15 services mainly residential basic exchange.

16 Q. Has the company done any studies of its
17 expectation of loss of market share over any period of
18 time?

19 A. We are starting to do that, yes. We are
20 trying to start to put together some various scenarios
21 about in the future what kind of market share loss we
22 might experience, and what I've seen so far, which
23 some of the preliminary looks, it falls very similar
24 to what you would read in a lot of publications, and
25 what I have found in most of the publications are

02959

1 consultant type reports. Those include things like
2 Inside Research and Probe Research and Technology's
3 Futures is you will see anything from a 20 to a 40
4 percent market share loss within the next five, six
5 years is what I can deduce the industry is
6 determining, and some of our internal initial looks
7 are -- they fall within that sort of range, too, and
8 that's factoring in the fact that within five to six
9 years PCS's will be widely available along with cable
10 as far as an alternative offering for customers.

11 Q. Do you have any responsibility for service
12 quality?

13 A. I have had some limited responsibility, and
14 my rebuttal testimony I did address on a very general
15 basis some re-engineering issues. To me the nature of
16 this case as it's developed, and I would be happy to
17 answer your questions but I do understand there was a
18 panel of service quality, and that kind of developed
19 after I filed my rebuttal testimony.

20 Q. And your testimony may have been passed by
21 in view of that, but on page 21 of your rebuttal, you
22 state, "U S WEST is on target for a completion of
23 re-engineering in 1997" at line 13. But then on page
24 28 at line 21 you say, "U S WEST has revised its
25 engineering schedule and implementation plans to

02960

1 minimize transitional impacts," et cetera. Is your
2 reference to being on schedule, does that take into
3 account your statement of the revision of the
4 engineering schedule?

5 A. Let me read this real quick because I think
6 they're saying the same thing because I think the
7 first one is that we're on target for completion in
8 1997 and then back here, and maybe it's poorly worded,
9 is that while this first phase of re-engineering is
10 scheduled for completion in 1997, I mean, I think
11 they're saying the same thing is that it was revised
12 to a 1997 time frame. So the 1997 time frame is still
13 a valid statement.

14 COMMISSIONER HEMSTAD: That's all I have.

15

16 EXAMINATION

17 BY COMMISSIONER GILLIS:

18 Q. I'm looking at Exhibit RHB-2. I didn't
19 get the exhibit number for that. It's the colored
20 map.

21 JUDGE WALLIS: Exhibit 36.

22 Q. On that map you have color coded
23 categories, for example, red is the top 30 percent of
24 revenue. Is that U S WEST business revenues or
25 business revenues for the whole state?

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1 A. That's U S WEST business revenue, that's
2 correct.

3 Q. And the bottom 5 percent would be the
4 bottom 5 percent of U S WEST business revenues?

5 A. Yes.

6 Q. And that map includes the whole state so
7 there's a lot of service territory that's actually
8 independent company service territory?

9 A. Some of that would be, certainly.

10 Q. A significant part of it would be, wouldn't
11 it?

12 A. Yes. I don't have a map that has the
13 independents on it, but that would be correct.

14 Q. It would look different, the map would look
15 very different?

16 A. The bottom part likely would. I think the
17 intent or the powerful part of the map I think is to
18 show the the concentration of the top business revenue
19 within some certain small areas like the Seattle
20 marketplace.

21 Q. Do profit centers always follow revenue
22 centers? In other words, if you were to color code
23 the same way, top 30 percent of U S WEST business
24 profits, would it look exactly the same or similar to
25 the top -- the geographic area where it shows top 30

02962

1 percent of U S WEST business revenues?

2 A. I haven't seen anything like that. I would
3 speculate that it probably would but I haven't seen
4 anything like that.

5 Q. What I'm wondering, your statement in the
6 yellow says map shows in red that one tenth of one
7 percent -- I think that's what it is -- of land area
8 that provides 30 percent of business revenue.
9 Just stop you there. Do you know when you say one
10 tenth of one percent of land area provides business
11 revenue, is that one tenth of one percent of the state
12 or is that one tenth of one percent of U S WEST's
13 current service territory?

14 A. I would have to check how the people that
15 constructed this. I would guess the state but I can
16 check that out for you.

17 Q. If that were true, it would be a
18 significantly larger number?

19 A. Well, it might be somewhat larger, but I
20 think still, looking at where the red areas are, and
21 even the next level down which would pick up the top
22 60 percent or so, you're still somewhat confining it
23 in the area that -- and the reason to put this in
24 there is to show how competitors first enter the
25 marketplace, that it's easy for them to concentrate on

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1 these areas where there are a lot of businesses which
2 produce a lot of revenue and it makes it easier for
3 them to target that to get an operation to compete
4 with us. That's really the purpose of me including
5 this in my testimony.

6 Q. Next line, it says, "profits from a few high
7 density areas support low rates across the rest of the
8 state." Is the assertion then that the areas in blue,
9 for example, are not producing a profit? The map says
10 something else, but is the assertion that they're not
11 producing a profit?

12 A. Some might be and some might not be. It's
13 obviously the map was to show kind of to put the case
14 in context as far as what's happening as competitors get
15 into the marketplace and it would generalize some of
16 those terms.

17 Q. As a marketer, I know an axiom in retail
18 marketing anyway is that competition is actually good.
19 McDonald's follows Burger King or vice versa and
20 Wal-Mart follows Target and K Mart because it creates
21 more demand. Is there a similar axiom in
22 telecommunications that competition may actually be
23 good in the sense that it creates more demand?

24 A. Yes. I think that there would be, yes. I
25 think that very typically you're right on with that,

02964

1 that as competition enters you actually create
2 situations where you increase the demand for the
3 services just because there's more available to people
4 which generates more choices and more opportunities or
5 more ideas and therefore there could be more demand.

6 Q. So the size of the pie could increase.

7 A. The size of the total pie could, but the
8 relative size of the participants could certainly
9 change quite a bit based upon who is the most
10 effective competitor.

11 Q. One example that I'm kind of interested in,
12 I'm not real familiar with the cable modem technology.
13 I've just read something about it but my understanding
14 is that it would bring broadband transmission into the
15 home but the outbound transmission would be across
16 copper at regular speeds, at least the initial
17 versions of that. In that case it seems like an
18 example -- would that be an example anyway would that
19 potentially increase revenue sources for the incumbent
20 telephone company or the telephone company serving the
21 home to the extent that it gives a customer another
22 reason to use the phone system to bring in broadband
23 but then they're going to have to send out the
24 outbound across the --

25 A. I know I've been reading a lot about the

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1 cable modems too and the fact that quite a few cable
2 companies are ordering them by the thousands. But my
3 understanding is I think that that outbound is
4 initially and what the objective is of the cable
5 companies is to have the two-way, which would be both
6 ways, that your voice would travel back across in the
7 same medium, and aside from the cable modem phenomenon
8 that we've been seeing, especially what I've read is
9 that TCI is very actively equipping their lines for two
10 way interaction, and the most recent thing I read was
11 in Connecticut they have over half of their cable lines
12 are equipped for two way, that they're looking at
13 rolling their whole package of telephone service out
14 this year. It's really there. It's happening and very
15 quickly. One of the challenges of this is keeping up
16 to date with what people are doing and where the
17 technology is headed.

18 COMMISSIONER GILLIS: Thank you.

19

20 EXAMINATION

21 BY COMMISSIONER HEMSTAD:

22 Q. You describe your position as director of
23 product and market issues. Maybe this was asked but I
24 might have missed it, you say a director. What does
25 that encompass?

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1 A. Oh, okay. I will be happy to explain that.
2 I'm in a group and there are several of us that work
3 on related issues, and, for instance, within the case
4 that's before you you will see following me will be
5 Mr. Jenson and Ms. Wilcox and Mr. Purkey. We
6 essentially work in the same group and so we have
7 different responsibilities. Ms. Wilcox works on
8 switched access service and Mr. Jenson has some
9 business services, and Mr. Purkey will discuss long
10 distance and imputation, so we work on various issues
11 and products within our group.

12 Q. What is your specific area?

13 A. What I work on is the main focus right now
14 is competition. I study competition and put together
15 testimony that was similar to this that was filed here
16 as far as the changing environment that we're
17 operating in, and in addition I do work on other
18 products and services depending on work loads and
19 what's going on.

20 Q. Well, in response to a question from
21 Commissioner Gillis you stated what I think is widely
22 accepted that a competitive environment will increase
23 demand. Has the company done any studies with the
24 rate restructuring here of what additional overall
25 revenue per business unit or residential unit will be

02967

1 generated in this new environment?

2 A. The additional that would be generated?

3 Q. Yes.

4 A. Commissioner, I can't answer that. I don't
5 have the information but I believe that if you ask the
6 witnesses to follow, in particular Ms. Allwin for the
7 residential basic exchange, she filed testimony on the
8 business and residential basic exchange and I think
9 she might be able to be responsive to your question.

10 MR. SHAW: Couple of questions.

11

12 REDIRECT EXAMINATION

13 BY MR. SHAW:

14 Q. Mr. Scott, you were directed to a New York
15 Times article by Mr. Trautman, staff counsel. Do you
16 recall that cross?

17 A. Yes, I have that article.

18 Q. And you were asked to agree that the
19 article states that Rochester, now known as
20 Frontier Corporation, still serves more than 95
21 percent of the city's residential customers. Do you
22 recall that?

23 A. Yes, I do.

24 Q. And you were asked to agree that the
25 article quotes Mr. Allen, chairman of the board of

02968

1 AT&T, as noting in an industry conference that AT&T
2 has grabbed barely 2 percent of the Rochester market.

3 Do you see that statement?

4 A. Yes, I do.

5 Q. In analyzing raw market share numbers, is
6 it important to know whether AT&T's 2 percent share is
7 of the total market or of the business market and is
8 it important to know whether Frontier Corporation has
9 retained 95 percent of the business market in
10 Rochester?

11 A. Yes. It would be most or in fact critical
12 to understand that, have a total picture of the
13 market.

14 Q. Is that the point of your Exhibit 36 that
15 you were discussing with Commissioner Gillis, that a
16 small market share loss of a business market can have
17 a substantial impact on a competitor?

18 A. Yes, it is.

19 Q. Is it telling to you in response to some
20 questions from Mr. Roseman that no competitor has
21 entered the residential market considering the current
22 rates that U S WEST charges for residential telephone
23 service?

24 A. Yes, it is.

25 Q. You discussed with Commissioner Gillis the

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1 British experience, and I believe with other cross
2 examiners, was it a marketing tool, an advantage of
3 U S WEST venture there, that they were offering cable
4 and telephone service together?

5 A. Yes.

6 Q. In competition with British Telecom who
7 offered only telephone service?

8 A. That's correct.

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

10 JUDGE WALLIS: Any follow-up questions?

11 Mr. Trautman.

12

13 RE-CROSS-EXAMINATION

14 BY MR. TRAUTMAN:

15 Q. Again, in response to a question by
16 Mr. Shaw, you did agree, did you not, that the article
17 to which he referred and to which I referred did state
18 is that "Rochester Telephone still serves more than 95
19 percent of the city's 350,000 residential customers"?

20 A. Yes, that's correct. That's what the
21 article states, refers to residential customers,
22 right.

23 Q. And as to AT&T the 2 percent, you did state
24 that you had no knowledge of the market share in that
25 area; is that correct?

02970

1 A. And neither does the article. It doesn't
2 state.

3 Q. You have no knowledge?

4 A. No, I don't.

5 MR. TRAUTMAN: Thank you.

6 JUDGE WALLIS: Is there anything further of
7 the witness.

8 MS. PROCTOR: Just a couple of questions.

9

10 CROSS-EXAMINATION

11 BY MS. PROCTOR:

12 Q. Following up on that, you referred to
13 AT&T's entry into the Rochester market. Were you
14 aware that AT&T's entry was solely into the
15 residential market?

16 A. I wasn't aware of that.

17 Q. Thank you. In response to Commissioner
18 Hemstad's questions you referred to some studies on
19 loss of market share that U S WEST was beginning to
20 do. What markets were being studied?

21 A. I would characterize them as preliminary
22 looks that I've seen have been on the residential
23 side.

24 Q. And you're again talking about basic local
25 exchange service?

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1 A. Yes, I am.

2 Q. And were those studies being conducted by
3 independent consultants to U S WEST?

4 A. Not to my knowledge. The ones that I have
5 seen -- and they're very rudimentary, were being done
6 by people in our marketing department.

7 Q. Were these studies based upon customer
8 surveys?

9 A. I don't know how they put studies together.

10 Q. Do you know whether they presumed the
11 existence of resale of basic local service?

12 A. No, I do not.

13 MS. PROCTOR: Thank you. Nothing further.

14 JUDGE WALLIS: Is there anything further of
15 the witness? It appears that there is not. Mr.
16 Scott, thank you for appearing today. You're excused
17 from the stand at this time. Let's be off the record
18 while Mr. Jenson steps forward.

19 (Recess.)

20 JUDGE WALLIS: Let's be back on the record,
21 please, following a brief recess. The company has
22 called to the stand at this time its witness Merlin R.
23 Jenson.

24 Whereupon,

25 MERLIN JENSON,

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1 having been first duly sworn, was called as a witness
2 herein and was examined and testified as follows:

3 JUDGE WALLIS: In conjunction with the
4 testimony of this witness there has previously been
5 marked for identification the direct testimony of the
6 witness as Exhibit 82T. In addition, the company
7 distributed supplemental testimony and a document MRJ-
8 1 basic rate service offering which I understand
9 relates to a top that has been excluded and the
10 company will not offer those documents; is that
11 correct?

12 MS. HASTINGS: Yes, that's correct.

13 JUDGE WALLIS: So I will move to the
14 rebuttal testimony and mark the rebuttal testimony of
15 the witness as Exhibit 502T for identification, the
16 errata sheet as 503 for identification, a document
17 designated response TRA 01-021 as 504, TRA 01-025 as
18 505 for identification, TRA 01-103, 506 for
19 identification, and TRA 01-108 is 507 for
20 identification.

21 In addition a package, the first page of
22 which is designated tariff pages WNU 31 section 9 is
23 508 for identification.

24 (Marked Exhibits 502T, 503, 504, 505, 506,
25 507 and 508.)

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1

2

DIRECT EXAMINATION

3 BY MS. HASTINGS:

4 Q. Good afternoon, Mr. Jenson. Could you
5 please provide your name and spell it and your
6 address, for the record.

7 A. My name is Merlin R. Jenson. J E N S O N.
8 I reside or I work at room 4400, 1801 California
9 Street, Denver, Colorado, 80202.

10 Q. Thank you. And are you the same Merlin R.
11 Jenson who prepared or caused to have prepared at your
12 direction your direct testimony which has been marked
13 as Exhibit 82T, your rebuttal testimony, which has been
14 marked as Exhibit 502 T, and an errata to your
15 testimonies which has been marked as Exhibit 503?

16 A. I am.

17 Q. And to the best of your knowledge is your
18 testimony and the errata sheet true and correct?

19 A. Yes.

20 MS. HASTINGS: Your Honor, I would move for
21 the admission of Exhibits 82T, 502T and 503 and I
22 would make Mr. Jenson available for cross-examination.

23 JUDGE WALLIS: Is there objection to the
24 exhibits.

25 MR. SMITH: No.

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1 JUDGE WALLIS: Let the record show that
2 there is no response and Exhibits 82T, 502T and 503
3 are received.

4 (Admitted Exhibits 82T, 502T and 503.)

5

6 CROSS-EXAMINATION

7 BY MR. SMITH:

8 Q. Good afternoon, Mr. Jenson.

9 A. Good afternoon.

10 Q. On page 3, line 31 and 32 of your rebuttal
11 testimony you discuss PBX trunks and simple business
12 lines, and you say that cost differences justify a
13 price differential. Do you see that?

14 A. I do.

15 Q. Regarding that cost difference, have you
16 reviewed the cost studies sponsored by Mr. Farrow in
17 this case?

18 A. Yes.

19 Q. And would you agree that the ASIC
20 difference between the two services is relatively
21 small?

22 A. Would you like to qualify what relatively
23 means?

24 Q. Well, they're confidential numbers so I
25 can't.

02975

1 A. Then I would say no, I don't agree with
2 that.

3 Q. Is it correct that you say at lines 29
4 through 30 of the same page that there is also a cost
5 difference due to the length of the loop?

6 A. Yes.

7 Q. But the company is not proposing a price
8 differential based on loop length; is that correct?

9 A. The price differential relates to several
10 factors one of which is the cost difference between
11 the services.

12 Q. But back to my question, the company is not
13 proposing a price difference based on loop length, is
14 it?

15 A. Well, I have to include that in the package
16 of the costs.

17 Q. Isn't your -- well, strike that. We'll get
18 back to that.

19 Q. Page 4 of the same testimony, beginning on
20 line 32 you say that "PBX trunks have functionality
21 not available to 1FBs and those differences are that
22 customers can order in only, out only and direct
23 inward dialing; is that correct?

24 A. Also they can order two-way.

25 Q. Is it your testimony that when the term

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1 functionality -- that the term functionality refers to
2 different ways the service can be configured?

3 A. Yes, as well as I should say that
4 functionality referred basically to in only, out only
5 or the two-way. Then the capability of the direct in
6 dialing is also a part of that functionality.

7 Q. Turning to page 5, beginning on line 28
8 where you discuss the statewide average business line
9 proposal you state two concerns there. The first is
10 the fact that the DSS and NAR trunks do not include a
11 loop, and the second is that the Commission should not
12 interfere with letting competitive forces influence
13 prices. Is that a fair summary of your testimony at
14 the bottom of page 5 and continuing on the top of page
15 6?

16 A. It is.

17 Q. I don't want to suggest any oversight on
18 your part by this question, but the rebuttal cases
19 were filed at the same time, and is it your
20 understanding that staff has recognized in its rebuttal
21 testimony your concern regarding the NAR and DSS
22 trunks?

23 A. I don't recall that.

24 Q. In your testimony you also discuss the
25 alignment of usage between NARs, DSS, PBX trunks,

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1 using the formula from the Centrex Plus case, and on
2 page 12, lines 19 and 20 you say that, "In speaking
3 about usage alignment only I did not intend to imply
4 that the loop portion of the services would no longer
5 be aligned." Could you please explain what you meant
6 then in your direct testimony, page 9, lines 19
7 through 20 where you said, "USWC will no longer use
8 the formula described in the Centrex plus docket but
9 plans to establish the same rate for usage and apply
10 it to all three services."

11 MS. HASTINGS: Excuse me a minute. Could
12 you give us our page reference? Is that 9 in the
13 direct testimony?

14 MR. SMITH: Yes. 12 in the rebuttal.
15 Lines 19 and 20 in each.

16 A. What I meant in that statement was that we
17 still intend to align the loop portions of the analog
18 services. The formula that was approved in the
19 Centrex plus case related to analog services which
20 have a physical loop or pair of wires, and so that
21 formula related to those types of services. What I am
22 discussing in this filing is the alignment of usage
23 those components that don't have a loop, and I
24 mentioned there this service called DSS service, which
25 really back in 1990 when we were developing that

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1 formula it was a brand-new service, and now that it's
2 become a more widely purchased service there was a
3 concern on the part of the company that the usage part
4 of the service DSS be aligned, and so when I talk about
5 alignment of usage I'm not trying to say no longer are
6 we going to align those analog loops. We still will do
7 that. In other words, the private line NAC will still
8 be imputed into the Centrex plus station line and will
9 still be imputed into the prices for PBX trunks so the
10 loops are still lined up. What I am proposing now is
11 that we simply set the price of these three services
12 that have the same usage component at the same price so
13 that we've got alignment both of the loops and of the
14 usage components.

15 Q. Let me ask you this. Does the company plan
16 to accomplish this alignment through the formula from
17 the Centrex plus case or some other way?

18 A. No. My testimony is that -- our main
19 concern is that we are above any cost floors or any
20 price floors and that we simply set the rate so that
21 it's the same for all three services, then the
22 alignment is achieved.

23 Q. But you will discontinue the use of the
24 formula from the Centrex case?

25 A. Just for the usage piece. We will still

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1 use any of those components as far as the loop
2 alignment.

3 Q. Page 17 of your rebuttal testimony, lines
4 19 and 20 you refer to various automated interfaces
5 proposed by AT&T. Can you identify the automated
6 interfaces to which you are referring in that portion
7 of your testimony?

8 A. My reference there really is taken from Mr.
9 Kargoll's testimony. He's the one that outlines what
10 he felt were the automated interfaces. They are
11 service ordering, trouble reporting and resolution,
12 directory listing updates, notification of unplanned
13 network outages, on line access to local usage data.

14 Q. And turning to trouble reporting and
15 resolution, can you describe the process or trouble
16 reporting and resolution that is now in place for U S
17 WEST?

18 A. I am sorry. I have never worked in that
19 particular department so I couldn't give you any
20 detail on that.

21 Q. Could you say whether under an automated
22 interface arrangement whether the company's labor
23 expenses associated with trouble reporting function
24 would be reduced or eliminated?

25 A. No, it wouldn't be eliminated, no. I think

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1 they're simply asking some way to get electronically
2 into our procedures, and then in a sense take over the
3 procedure and operate it. I believe that was what
4 they were seeking.

5 Q. And to the extent they took over the repair
6 function, U S WEST would save labor expenses, would it
7 not?

8 MS. HASTINGS: I think that's assuming
9 facts not in evidence. I don't know that we know at
10 this time -- who they are or what they plan to do. I
11 think Mr. Jenson indicated that they have asked for
12 these interfaces and beyond that he doesn't have any
13 additional testimony.

14 MR. SMITH: Well, I was following up on his
15 answer.

16 Q. But let me ask you this. Assuming
17 hypothetically that AT&T were to take over the trouble
18 reporting and resolution function that was performed
19 presently by U S WEST on a retail basis. Wouldn't the
20 company U S WEST save labor expenses in that case?

21 A. Well, with that assumption, yes, but I
22 find it difficult to see how to operate if a company
23 came in and took over. I mean, I think all they're
24 trying to do is get access to the repair system -- I
25 think we would want repair our own system if we found

02981

1 the repair problem was in our facility.

2 Q. Page 17 of your rebuttal you state at about
3 line 23 that "in the interstate toll market AT&T was
4 not required to offer wholesale rates to competitive
5 interexchange carriers when the FCC opened up the
6 interLATA market to competition." And you go on to
7 say that there were no special wholesale rates or rate
8 structure for resellers. Do you see that?

9 A. Yes.

10 Q. To your knowledge, over the past several
11 years, has AT&T included discounts for high volume
12 toll users in its tariffs?

13 A. Yes, they have, but that doesn't mean it's
14 a wholesale rate.

15 Q. Even if low volume and high volume
16 customers took service under the same retail tariff,
17 the high volume customers would pay lower effective
18 per minute rates than the low volume customers; isn't
19 that correct?

20 A. Yes.

21 MR. SMITH: Thank you. That's all I have.

22 JUDGE WALLIS: Mr. Trotter.

23

24 CROSS-EXAMINATION

25 BY MR. TROTTER:

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1 Q. Just a couple of questions, Mr. Jenson.
2 Like to refer you to your response to our data request
3 934. Do you have that in front of you? I will just
4 provide it to the witness. Refer you to attachment B
5 to that response. I believe the response asked you to
6 indicate Centrex plus rates for a customer with a
7 thousand lines under a five year contract with 100
8 NARs, network access register, billed at the one
9 quarter mile rate. Do you recall that?

10 A. Yes, I see that.

11 Q. And your answer was the total monthly bill
12 would be \$13,311.20?

13 A. Correct.

14 Q. And does that work out to about \$13.31 per
15 Centrex plus line?

16 A. Yes.

17 Q. And that service would include a large
18 number of features on those lines within that price
19 structure; is that right?

20 A. Correct.

21 Q. Call waiting, call forwarding, that sort of
22 function?

23 A. Yes.

24 Q. Do you know approximately how many features
25 would be included?

02983

1 A. In most states I believe the feature
2 package was 27 features.

3 Q. And Centrex plus is a business service; is
4 that right?

5 A. Yes.

6 Q. Couple of questions about DID relating --
7 direct inward dialing relating to E 911. Do you have
8 that subject in mind or those acronyms in mine?

9 A. Yes.

10 Q. What does E911 -- it's either PS or DS --
11 PS/ALI?

12 A. I can't recall what those letters stand
13 for. I'm sorry.

14 Q. Do you know what they -- the function that
15 they represent?

16 A. No. I don't recall. There was an
17 interrogatory on this but frankly I'm at a loss
18 otherwise.

19 Q. Let me refer you to your response to our
20 request 938 and see if that refreshes your
21 recollection and also maybe we could refer you to the
22 tariff which apparently is in section 9 of WNU-31
23 private switch automatic location identification.

24 A. Thank you.

25 Q. Am I correct if a customer who is served by

02984

1 DID makes an E911 call, does that mean that the number
2 of the station from which the call is placed will be
3 transmitted back to the telephone network and
4 therefore be available to the E911 operator?

5 A. Generally that's what happens. I think
6 this particular service PS/AL -- whatever you
7 mentioned there, I think that's a service that allows
8 the individual PBX stations to be identified some way
9 by the customer. Normally what would happen without
10 that is only the location of the PBX would be sent
11 back, and so if there were a multi floor building the
12 fire department or whatever might not know exactly
13 which floor to go to.

14 Q. So the normal situation is that the
15 particular station number would not be sent to the 911
16 operator but the PBX number would, but if you
17 subscribe to the PS/ALI service the specific station
18 would be related back?

19 A. Yes, but there would have to be some
20 instruction given as to where that station was
21 located.

22 Q. And that instruction would be given by the
23 customer when they ordered the service?

24 A. That's correct.

25 MR. TROTTER: Those are all my questions.

02985

1 Thank you.

2 JUDGE WALLIS: Ms. Proctor?

3 MS. PROCTOR: Mr. Butler was following in
4 the same area so that would make sense.

5 JUDGE WALLIS: Very well. Mr. Butler.

6

7 CROSS-EXAMINATION

8 BY MR. BUTLER:

9 Q. Mr. Jenson, just to be clear about what it
10 is that you're testifying here to here today, you're
11 here as a pricing witness and not a cost witness; is
12 that correct?

13 A. Yes.

14 Q. And so you would defer to Mr. Farrow with
15 respect to estimates of the costs of the various
16 services that the company provides; is that correct?

17 A. That's right.

18 Q. Do you have before you what's been marked
19 for identification as Exhibits 504, 505, 506 and 507?

20 A. I do.

21 Q. Can you identify Exhibit 504 as the U S
22 WEST response to TRACER request 01-021?

23 A. Yes.

24 Q. And is that true and correct to the best of
25 your knowledge?

02986

1 A. Yes.

2 Q. Can you identify Exhibit 505 as U S WEST
3 response to TRACER request 01-025?

4 A. Yes.

5 Q. And is that true and correct to the best of
6 your knowledge?

7 A. Yes.

8 MR. TROTTER: For clarification, was the
9 attachment included?

10 MR. BUTLER: No.

11 Q. Excluding the attachments. Can you
12 identify Exhibit 506 as the U S WEST response to
13 TRACER request 01-103?

14 A. Yes.

15 Q. And is that true and correct to the best of
16 your knowledge?

17 A. Yes.

18 Q. And can you identify Exhibit 507 as the
19 company's response to TRACER request 01-108?

20 A. Yes.

21 Q. Is that true and correct to the best of
22 your knowledge?

23 A. Yes, it is.

24 MR. BUTLER: I move the admission of
25 Exhibits 504, 505, 506 and 507.

02987

1 JUDGE WALLIS: Is there objection?

2 MS. HASTINGS: No.

3 JUDGE WALLIS: Exhibits are received.

4 (Admitted Exhibits 504, 505, 506 and 507.)

5 Q. Mr. Jenson, you had a discussion with Mr.
6 Smith with respect to the relationship of a PBX, NAR
7 or network access register, and DSS or digital
8 switched service prices, and you testified both in
9 your prefiled written testimony and in response to Mr.
10 Smith that you believed that the usage among those
11 services should be aligned; is that correct?

12 A. Yes, the price of these.

13 Q. The price of the usage. And you believe
14 that those three services are competitive alternatives
15 to one another; is that correct?

16 A. Yes.

17 Q. You had a discussion with Mr. Smith about
18 the formula by which you would derive the NAR price in
19 relation to the PBX price. Do you recall that?

20 A. I do.

21 Q. And you had some discussion about the
22 formula that was used in the Centrex plus case. Do
23 you recall that?

24 A. Yes.

25 Q. Would you agree that that formula provided

02988

1 that you would take the --

2 MS. HASTINGS: Excuse me. Which formula?

3 When you say that formula you mean --

4 MR. BUTLER: The formula for deriving the
5 NAR price that was contained in the Centrex plus case
6 that he referred to.

7 Q. That that formula called for you to take
8 the complex business line rate including hunting and
9 touch tone and subtract from that what was the term
10 loop cost and what was referred to as an NTS-COE rate,
11 and that would yield the NAR price?

12 A. I do.

13 Q. And can you explain what differences, if
14 any, you would use today to derive the NAR price from
15 the PBX rate if one is approved or is this the formula
16 that you would use?

17 A. No. I'm saying that for the setting a
18 price for usage I would not use that formula.

19 Q. What formula would you use?

20 A. I wouldn't use a formula now. What I would
21 do is to identify the cost of usage. So much usage
22 over the network is the same. It doesn't matter
23 whether the customer has purchased PBX trunks or DSS
24 trunks or NARs. Makes no difference. It's the amount
25 of usage over the network that generates the costs.

02989

1 The fact that we're now trying to align three services
2 instead of two, which there were only two services
3 align in the Centrex Plus case. We now have a third
4 service called DSS, and the formula is not applicable
5 to DSS because it doesn't have a loop in the sense of
6 analog services. When you buy DSS you buy a T1 or a
7 DS1 facility, and you channelize that and you produce
8 24 virtual circuits over that facility, so it's not
9 comparable to take one of those 24 virtual circuits
10 and compare it to a physical loop on an analog
11 service. So the formula no longer works when you
12 bring in DSS yet the company was very concerned that
13 we align the usage because it's the same for all
14 three. So I'm saying we'll identify the cost,
15 identify any appropriate cost floors and we'll set the
16 price higher than those, equal to or higher than
17 those.

18 Q. Will the price be the same for all three
19 services?

20 A. Yes.

21 Q. And when you say the price will be the same
22 for all three services you're referring to the
23 price for the usage on all three services?

24 A. The price of the usage would be the same.

25 Q. In your opinion, are the current complex

02990

1 business rate, NAR rate and the DSS trunk rate in
2 proper relationship to one another?

3 A. Would you please repeat that?

4 Q. In your opinion are the current complex
5 business rate, NAR rate and DSS rate in proper
6 relationship to one another?

7 A. No.

8 Q. And in what respects are they out of
9 appropriate balance, in your opinion?

10 A. In the Centrex Plus case we aligned the
11 usage on the PBX trunk and the NAR. DSS trunks were
12 not even a part of that. What we're trying to do is
13 get all three of them aligned together.

14 Q. Do I understand your testimony to be that
15 the current prices, the relationship between the
16 complex business rate and the NAR rate are appropriate
17 but DSS is out of step?

18 A. I believe that's right. There could have
19 been some activity in the state that I am not aware
20 of, but I believe the current price was derived from
21 the formula that you talked about in the beginning of
22 this discussion so that then the NAR and the complex
23 line would be in alignment.

24 Q. Do you have an opinion about whether the
25 DSS rate, the current DSS rate, is too high or too low

02991

1 relative to the current complex business rate and NAR
2 rate?

3 A. Well, that's difficult to say for this
4 reason. As you know in this case I have not proposed
5 a price for the usage for this element. I think it
6 would be inappropriate to do that until the Commission
7 has ruled on the interconnection issues that are
8 before it, because those issues may have some impact
9 on the appropriate price for the usage.

10 Q. Are you aware that the Commission has
11 issued an order in the interconnection case?

12 A. I am.

13 Q. In your opinion, does that permit you to
14 make the recommendation that you indicated in your
15 prefiled written testimony that you could not make
16 pending such a decision?

17 A. Well, that decision is not final, and so
18 until we have a final resolution of those issues, no.

19 Q. When you say the decision is not final, are
20 you referring to a final decision from the Commission
21 or a decision that it would be final only after the
22 culmination of all court appeals that might be taken?

23 A. Yes, I was referring to the latter.

24 Q. So, in your opinion, you are not in a
25 position to make a recommendation with respect to the

02992

1 appropriate levels of prices for PBX service, NARs and
2 DSS until the completion of all court appeals in the
3 interconnection case?

4 A. Well, I wouldn't make it as cut and dried,
5 I guess, as you implied there, but I think we can make
6 a better decision when we have the interconnection
7 issues resolved. My concern with trying to set
8 something before that is that we may -- I might
9 propose a certain price right now, interconnection
10 comes along and makes that totally inappropriate. We
11 have given incorrect price signals to those who want
12 to use these different services. All I'm saying is I
13 can do a better job once I know what the
14 interconnection issues are, the answers are to those
15 issues.

16 Q. Stepping back a little bit, you indicated
17 that you thought you had to set the price for usage
18 for a PBX, for NARs, and for DSS service at the same
19 level because customers could choose between any of
20 those three services; is that correct?

21 A. Yes.

22 Q. Would you agree that a customer with a key
23 system or a hybrid key system would also be a
24 candidate to order U S WEST Centrex Plus service?

25 A. Yes.

02993

1 Q. Can you explain why you have not included a
2 proposal to align usage for complex business service
3 or business service other than PBX, if that's the
4 case?

5 A. The three services that I am proposing to
6 align are services that customers use to aggregate
7 service. In other words, they may have a hundred
8 stations at their business location, and they only buy
9 10 PBX trunks or 10 NARs or possibly one DSS service,
10 so these are services that aggregate usage over our
11 facilities as opposed to a simple business line or a
12 1FB where you don't have that aggregation occurring.

13 Q. What about a customer with a key system or
14 a hybrid key system? Isn't it true that that customer
15 could aggregate traffic over a number of lines?

16 A. They could do that, yes.

17 Q. You indicate in your testimony, your direct
18 testimony -- let me get the specific reference. Let
19 me refer you specifically to page 6, lines 9 through
20 12, that the business rate restructure being proposed
21 by U S WEST in this case was designed to align pricing
22 with costs to prepare for competition, and you also
23 state that with competitive entry on the immediate
24 horizon it is no longer possible to sustain pricing
25 concepts developed in a monopoly environment. Do you

02994

1 believe that new entrants will not compete for PBX
2 customers?

3 A. I believe they will compete for PBX
4 customers.

5 Q. Do you believe they will compete with equal
6 vigor for PBX customers to the way in which they will
7 compete for nonPBX customers?

8 A. I think they will aggressively compete for
9 all business customers.

10 Q. And the company's proposal in this case is
11 to reduce the price for nonPBX business customers to
12 prepare for competition; is that correct?

13 A. The company's intention here is to
14 rebalance the rates. In the monopoly environment some
15 classes of customers' rates were set, in my opinion,
16 high because then those contributions or those
17 revenues in excess of the costs could be used then to
18 keep other rates low. Our intention here is to
19 rebalance all of the rates so that when you get into a
20 competitive market there is not some inappropriate
21 window where customers can or competitors can come in
22 and arbitrage those services.

23 Q. Do you believe that competitors will not
24 come in and try to arbitrage, in your term, PBX, DSS
25 and NAR services?

02995

1 A. I don't believe they will have as much
2 opportunity if the prices can be set appropriately.

3 Q. Do you believe that the price for PBX is
4 set well above its economic costs?

5 A. Yes.

6 Q. Do you believe then that that would provide
7 an opportunity for competitors to come in and compete
8 for that service?

9 A. Surely it will. A lFB services are also
10 above cost.

11 Q. And again you have not proposed a change or
12 to lower the price for PBX service in this case,
13 correct?

14 A. I am not the witness on the lFB totally.
15 There may be some customers that would get reductions
16 and some that would get increases in regard to that
17 particular service.

18 Q. Let me switch topics and ask you about
19 direct inward dialing. Would you agree that direct
20 inward dialing service or DID allows a caller to
21 directly call a station located behind a PBX without
22 going through an attendant?

23 A. Yes.

24 Q. And you are proposing in this case to
25 increase the rates for DID terminations; is that

02996

1 correct?

2 A. For the in only DID termination.

3 Q. And that changes from \$33 a month to \$40 a
4 month?

5 A. That's correct, and that's the same as the
6 out only or two-way are currently.

7 Q. Can someone call a Centrex Plus directly
8 without going through an attendant?

9 A. Yes.

10 Q. Is there a separate charge for that
11 billing?

12 A. No, it's inherent in the service.

13 Q. At page 13 of your rebuttal testimony,
14 Exhibit 502T, at lines through 22 through 24?

15 A. And the line?

16 Q. Lines 22 through 24.

17 A. Yes.

18 Q. You state that "DID is one service that U S
19 WEST's experience shows can bear a greater proportion
20 of the common costs of the firm and should be priced
21 at \$40 because customers have shown a willingness to
22 pay that price in other states." Do you see that?

23 A. That's correct.

24 Q. You also state at lines 25 through 26 on
25 that same page that customers also have competitive

02997

1 alternatives through PBXs to direct calls to end user
2 stations. Could you tell me what alternatives you're
3 referring to that would enable a PBX customer to
4 direct a call to an end user without going through an
5 attendant?

6 A. Sure. I think all of us have called
7 businesses where you dial a number and then it says if
8 you want to talk to a certain person please dial the
9 four digit extension or the two digit extension of
10 that customer and so you dial a couple of more digits
11 and the PBX automatically transfers you to the end
12 user station. There is no attendant involved. It's
13 totally automated.

14 Q. And that's the alternative you're referring
15 to?

16 A. Yes.

17 Q. In your opinion if that alternative is
18 comparable in terms of cost and quality of service,
19 can you explain why customers would be willing to pay
20 the higher prices for the DID service?

21 A. I guess I can't make those decisions for
22 customers. All I know is that in other states where
23 we charge \$40 we have not seen any repression of the
24 service. Customers are willing to pay that. Whether
25 it's a quality issue or what, I guess I don't know

02998

1 specifically why.

2 Q. Let me switch slightly, still on the
3 subject of DID but move into the area that Mr. Trotter
4 was asking you about, and that has to do with respect
5 to compatibility of PBXs with enhanced 911 service.
6 Do you have that in mind?

7 A. Yes.

8 Q. Would you agree that a PBX generally uses
9 what is called dual tone multi frequency signaling,
10 that is, touch tone type signaling?

11 A. Yes.

12 Q. And that is to be distinguished from multi
13 frequency or MF signaling which is a form of analog
14 interoffice signaling; isn't that correct?

15 A. I guess those two -- I'm not that much of a
16 technician to really differentiate those two. I know
17 what touch tone is. I suppose with the multi
18 frequency you're implying that if you have a rotary
19 dial it sends some kind of a signal.

20 Q. No. Multi frequency signaling I was
21 referring to as an interoffice, that is, between
22 central office form of signaling. Do you know?

23 A. No, I don't.

24 Q. Would you also agree that a PBX generally
25 uses a four digit station over?

02999

1 A. That's probably the case. I'm more
2 familiar with Centrex which generally in my own
3 situation I have the five digits dialing.

4 Q. Would you agree that in order to provide
5 station identification for enhanced 911 purposes a PBX
6 owner must have a PBX or some piece of auxiliary
7 equipment that was capable of transmitting a seven
8 digit station over in a number form that was
9 compatible with the U S WEST numbering plan using a
10 multi frequency signaling to the U S WEST control
11 point?

12 A. I don't know.

13 Q. Are you familiar with the way in which
14 enhanced 911 services are provided and station
15 identification for PBXs are provided?

16 A. Not specifically.

17 MR. BUTLER: Maybe this would be quicker if
18 -- I would like to ask that the Commission take
19 official notice of the company's tariff provisions
20 with respect to its private switch automatic location
21 identification service.

22 MS. HASTINGS: That's fine. We are happy
23 to have the Commission take official notice of that
24 tariff. I'm not certain that Mr. Jenson is a person
25 who can speak authoritatively about it, however.

03000

1 MR. BUTLER: I was proposing to do that
2 instead of asking questions that he didn't have the
3 basis for answering.

4 Q. Understanding that you don't purport to be
5 the expert with all the details of 911 service or the
6 company's PS/ALI service, you would agree that in
7 order to provide station identification necessary for
8 E911 compatibility a PBX owner would have to buy the
9 company's PS/ALI service; is that correct?

10 A. That's correct. Let me be sure that I'm
11 correct. If they want that identification to go to
12 each of the end user stations they would have to do
13 that. As we mentioned earlier, if they were satisfied
14 that just a location of the PBX was satisfactory,
15 their location was small enough that basically you
16 would know the problem when you got there, they
17 wouldn't need to do that.

18 Q. Right. But in order to provide automatic
19 location identification for stations that were located
20 remotely from the location of the PBX they would have
21 to subscribe to the PS/ALI service and do whatever
22 other steps were necessary in order to provide
23 identification for a specific station as well as
24 create, maintain and transmit records of the actual
25 physical location associated with the station over; is

03001

1 that correct?

2 A. That's my understanding.

3 Q. Would you agree that in order for a 911
4 call taker to be able to call back the station from
5 which an emergency call was placed without going
6 through an attendant or without knowing a specific
7 extension number that the PBX owner would have to have
8 DID service for those stations?

9 A. Yes.

10 MR. BUTLER: I have no further questions
11 for you.

12 JUDGE WALLIS: Ms. Proctor.

13

14 CROSS-EXAMINATION

15 BY MS. PROCTOR:

16 Q. Good afternoon, Mr. Jenson.

17 A. Good afternoon to you.

18 Q. I'm Susan Proctor from AT&T.

19 A. Nice to meet you.

20 Q. You state that you're a member of several
21 product teams in your direct testimony, and you're
22 another one of these directors of product issues; is
23 that correct?

24 A. I guess that's as good of a definition as
25 any that I've heard. I work in regard to regulatory

03002

1 strategy surrounding the products of those teams that
2 I am a member of.

3 Q. And which product teams are you a member
4 of?

5 A. Well, let's see if I can remember them.
6 PBX trunks, network access registers, ISDN, DSS, DID.

7 Q. Would it be fair to characterize those as
8 business services?

9 A. Generally, yes.

10 Q. And what do you do for those product teams?

11 A. The product team itself generally develops
12 a product, gets it ready to go, and then I will be
13 called into the meetings and just ask for my opinion
14 in regard to the regulatory issues and strategies that
15 we might use in order to try to get the product
16 implemented.

17 Q. And what about once, because all of these
18 products that you've listed -- let's just leave ISDN
19 aside. All of these products are currently in the
20 marketplace, are they not?

21 A. I believe they are.

22 Q. So would you be involved on a continuing
23 basis as U S WEST modifies, updates these services?

24 A. Yes, but not very directly. These product
25 teams are meeting -- let's say they meet sometimes

03003

1 once a week, sometimes they meet once a month
2 depending on the particular status of the product.
3 Because I'm on several committees I don't have time to
4 sit through all of those so I only get called in from
5 time to time.

6 Q. And would you also be involved with these
7 product teams in attempting to formulate strategies to
8 respond to competitive entry?

9 A. Generally that's the product manager's
10 call. Several of the rest of us are on the committee
11 simply to help out in different ways, but, no, I
12 wouldn't say that I would be intimately involved in
13 trying to respond to competitive entry of other
14 companies.

15 Q. When you say not intimately involved I
16 understand you might not have ultimate responsibility
17 because that would rest with the product manager, but
18 the product manager would probably look to you for
19 advice and counsel, as it were, in how to proceed in
20 the regulatory environment?

21 A. Or probably just to be sure that he has the
22 particular rates of a jurisdiction in mind in relation
23 to where he or she feels that the price ought to be
24 set.

25 Q. Now, you also stated in your testimony that

03004

1 you were responsible to represent U S WEST
2 Communications on resale issues, and that was your
3 testimony filed in February of last year. What resale
4 issues did you have in mind at that time a year ago
5 ago?

6 A. My original involvement in resale was
7 dealing with services that we had in place such as a
8 Centrex NAR or a PBX trunk were the two products that
9 I generally represented on resale because resellers
10 were buying those and are buying them today, shared
11 taken providers and resellers of Centrex Plus, and so
12 I was involved from a regulatory standpoint in pricing
13 those or at least to be representing those before the
14 commissions.

15 Q. I notice in your testimony that at one time
16 you were in the carrier marketing group. Is that the
17 group that is responsible for carrier access services?

18 A. They are.

19 Q. And I believe in one of the data requests
20 U S WEST characterized the purchase of carrier access
21 as purchased by a reseller. Would you agree with that
22 characterization?

23 A. Yes, I suppose I could agree with that.

24 Q. So that would make an interexchange carrier
25 such as AT&T a reseller?

03005

1 A. Well, I don't know. I don't classify that
2 the same, I suppose, as I do resale of PBX trunk
3 services.

4 Q. So, again, in your testimony you had more
5 in mind when you were talking about resale in your
6 original direct testimony the actual resellers of
7 Centrex and PBX trunks; is that correct?

8 A. Well, I'm saying that's what I represented
9 and I have represented before. At one point in time I
10 was going to take over the general resale portion of
11 witnessing for the company. However, we've had a
12 couple of us involved in resale.

13 Q. Probably several reorganizations in the
14 last year?

15 A. That's correct.

16 Q. In your rebuttal testimony you do address
17 the resale discussion by Dr. Kargoll; is that correct?

18 A. I do.

19 Q. And you state in your rebuttal testimony at
20 page 14, line 17 that U S WEST does not oppose resale
21 if prices are properly set, and by that document that
22 U S WEST rates would have to be rebalanced?

23 A. Yes.

24 Q. And under the company proposal that would
25 be approximately another three years?

03006

1 A. I think there are -- I am aware of at least
2 two phases of getting the rates rebalanced. I don't
3 recall the number of years it took to get all of those
4 basic exchange rates completed.

5 Q. But that's what you had in mind by the
6 rebalancing would be the completion of the phase-in of
7 the new rates for basic local exchange?

8 A. Yes.

9 Q. And we can look to Ms. Owen's testimony to
10 determine how many years that is?

11 A. Correct.

12 Q. Now, also on page 14 you state that you do
13 oppose the elimination of resale restrictions; isn't
14 that correct?

15 A. Do you have a line reference?

16 Q. It would be line 26.

17 A. What I do state is that the resale
18 restrictions should be maintained until the Commission
19 has rebalanced our rates.

20 Q. And in fact you suggest adding several more
21 resale restrictions on page 15?

22 A. Yes, I do.

23 Q. And one of those of course is the entry of
24 U S WEST into the interLATA marketplace?

25 A. Correct.

03007

1 Q. Could you please turn to the bottom of page
2 17. Beginning at line 31, would it be fair to say
3 that you urged the Commission to focus on incenting
4 facilities-based competition and that resellers should
5 purchase unbundled loops?

6 A. Yes.

7 Q. You're aware, Mr. Jenson, that U S WEST has
8 currently about \$5 billion of plant in service?

9 A. I don't know the number.

10 Q. Would you be willing to assume that that's
11 in the neighborhood?

12 MS. HASTINGS: I don't know what state
13 we're talking about here in all of U S WEST territory.

14 MS. PROCTOR: We're talking about
15 Washington.

16 A. Subject to check, that's fine.

17 Q. Thank you. And are you aware that Mr.
18 Okamoto has testified in this case that U S WEST's
19 current annual capital investment in Washington is
20 about \$300 million. Are you aware of that testimony?

21 A. No, I'm not.

22 Q. Again, would you be willing to accept that
23 subject to check?

24 A. Surely.

25 Q. And that the rate of that annual investment

03008

1 it would take about another 10 to 15 years to
2 duplicate -- for a competitor to duplicate U S WEST's
3 facilities ubiquitously, wouldn't it?

4 A. At \$300 million a year that's right.

5 Q. So we expect that facilities-based
6 competition might be some time in the developing?

7 A. Yes.

8 Q. Were you aware of the difference between
9 reselling of an unbundled loop and resale of bundled
10 services?

11 A. Did you ask am I aware of a difference?

12 Q. Yes.

13 A. I can see a difference.

14 Q. And would it be fair to say that if AT&T
15 were asking to resell U S WEST's basic residential
16 local exchange service that that would be -- would
17 that be consistent with your understanding with resale
18 of a bundled service?

19 A. It would.

20 Q. On page 18 of your testimony between lines
21 9 and 12 you state that "it is U S WEST's belief that
22 large carriers such as AT&T will use resold U S WEST
23 services, get started and then abandon those
24 facilities upon construction of their own leaving
25 huge amounts of stranded U S WEST investment." Is

03009

1 that your testimony?

2 A. That is correct.

3 Q. And you're aware of the fact that AT&T has
4 been reselling its services for a number of years, its
5 long distance services?

6 A. Oh, yes.

7 Q. And you're also aware that MCI and Sprint
8 purchased AT&T's services in the early '80s?

9 A. Yes.

10 Q. And that MCI and Sprint resold those
11 services extensively?

12 A. Yes.

13 Q. And you're also aware that MCI and Sprint
14 then built out their networks and moved their traffic
15 to their own networks?

16 A. That's my understanding.

17 Q. And are you aware of any huge amounts of
18 stranded investment for AT&T?

19 A. I have no knowledge of AT&T's internal
20 financial situation.

21 Q. You mentioned just briefly earlier the
22 interfaces that Dr. Kargoll identified in his
23 testimony. And I think you discuss that on page 16
24 beginning at line 17.

25 A. That's right.

03010

1 Q. Now, if AT&T were to request pursuant to
2 the bona fide request procedure the ability to resell
3 residential local exchange service in Washington, do
4 you have that in mind? Let's treat that as a
5 hypothetical?

6 A. Residential resale.

7 Q. Right, of basic local exchange.

8 A. Right.

9 Q. It would be important to AT&T to be able to
10 keep track of the service order for its customer,
11 would it not?

12 A. I'm not sure that it needs to keep track of
13 the service order.

14 Q. And why do you say that you're not sure
15 that it needs to be tracked?

16 A. It would seem to me that the main piece of
17 information that AT&T would want to know is if an
18 order was going to be completed on some given date.

19 Q. So if AT&T placed an order for a
20 residential line in Olympia it would need to know from
21 U S WEST when it could tell its customer that that
22 line would be available, wouldn't it?

23 A. Yes.

24 Q. And let's assume that U S WEST advised AT&T
25 that the service would be available in three days. Do

03011

1 you have that in mind?

2 A. I do.

3 Q. Would it be important for AT&T to know
4 whether U S WEST were going to make that installation
5 commitment?

6 A. Yes.

7 Q. And would it also be important for AT&T to
8 know of any delays in that installation order?

9 A. Yes.

10 Q. Similarly, if AT&T is reselling to a
11 residential customer in Olympia and that customer
12 contacts AT&T concerning trouble, as you stated
13 earlier, that would be a matter that U S WEST would
14 want to handle since it's U S WEST's own facilities.
15 Did I understand your testimony correctly?

16 A. Yes, you did.

17 Q. But it would be important to AT&T to
18 advise the customer of when the matter was going to be
19 corrected and how, wouldn't it?

20 A. I would think so.

21 Q. Now, you mentioned in your testimony that
22 the companies should work together on these issues; is
23 that correct?

24 A. Yes, I did.

25 Q. Who are the people at U S WEST that AT&T

03012

1 would go to to discuss this issue of interfaces for
2 resale?

3 A. I'm sure it would be somebody in our
4 network operations.

5 Q. Network operations. Is that where the
6 carrier marketing group is located?

7 A. No, they're not.

8 Q. And where is the carrier marketing group
9 located?

10 A. I think they're their own division of the
11 company. They fall under the general marketing
12 umbrella, I think.

13 Q. At this point in time, so far as you know,
14 Mr. Jenson, has U S WEST identified any group of
15 individuals that would be responsible for addressing
16 issues such as the interfaces for local resellers?

17 A. Not that I am aware of but there is an
18 account rep for the AT&T account, and I suppose that
19 would be the first place to start, and those people, I
20 think Marge Gorce -- you're probably familiar with
21 Marge -- would be a good place to start for those
22 kinds of discussions.

23 Q. The carrier marketing group is responsible
24 for dealing with interexchange carriers, aren't they?

25 A. Yes.

03013

1 Q. And that relationship is considerably
2 different than the relationship with AT&T were it in a
3 position to resell local exchange service?

4 A. Right. I believe you would have a
5 different interface on the resell of local services.

6 Q. Would it be fair to say that a reseller
7 such as AT&T would be extremely concerned about
8 service quality issues?

9 A. Yes.

10 Q. They would be extremely concerned about how
11 long it would take to install service to a customer?

12 A. That's right.

13 Q. And they would be extremely concerned about
14 how long it takes to repair a customer's service?

15 A. Yes.

16 Q. And they would be extremely concerned about
17 any need for repair?

18 A. I agree with those statements.

19 Q. And they would be extremely concerned about
20 the quality of service in the sense of a customer
21 representative and how responsive a customer
22 representative might be to a customer of AT&T's?

23 A. Well, surely.

24 Q. Because in fact AT&T's brand name would be
25 on the line so to speak in reselling U S WEST service?

03014

1 A. Yes.

2 Q. And would it be fair to say that AT&T would
3 probably be extremely vocal with U S WEST on service
4 quality issues if it were reselling local service?

5 A. Well, I would hope that seeing AT&T as a
6 valued customer that we would be responsive to those
7 issues.

8 Q. And finally also on page 18, in discussing
9 the development of wholesale rates you state that the
10 Commission must first determine that there is a demand
11 for such a service and then order U S WEST to offer
12 it. Do I understand that you're testifying that U S
13 WEST would only provide a wholesale discount and
14 resell basic local service after this Commission
15 ordered U S WEST to do so?

16 A. Well, I'm not -- I don't understand the
17 legal implications of this, but it's my belief that
18 the Commission in requiring U S WEST to offer a new
19 service that they would have to determine that demand
20 before they could order us to do it because it would
21 be a new service.

22 Q. So there would have to be a proceeding in
23 which we would have to do something similar to what
24 we're doing here in order to determine the demand for
25 resale of basic local exchange service, is that your

03015

1 understanding?

2 A. That's my understanding. Again, I wouldn't
3 say that I'm an expert at the law, what's really
4 required there, but that's my understanding.

5 Q. And you are in the regulatory group?

6 A. Yes.

7 Q. So you're generally responsible for
8 advising some of the product groups on how to get
9 their product into the market and of course part of
10 that entry requires getting Commission approval for
11 new services; is that correct?

12 A. Yes.

13 Q. And it would be your understanding that
14 first there would have to be an order from this
15 Commission approving the resale of local service?

16 A. Yes.

17 Q. And that in addition there would have to be
18 approval by this Commission of the appropriate
19 wholesale rate, is that your understanding?

20 A. It's my understanding that once the
21 Commission had determined there was demand, and so
22 there was a need for the product then U S WEST would
23 set a price, and of course that price would then have
24 to be approved by the Commission.

25 Q. And are you aware that AT&T has requested

03016

1 that the Commission establish such a wholesale rate in
2 this proceeding?

3 A. I am aware that Mr. Kargoll suggested there
4 be a wholesale rate at 35 percent. I think it was
5 modified to 33 percent --

6 Q. That's correct.

7 A. -- below the existing retail price.

8 Q. So you're aware that AT&T has requested
9 that the Commission approve that as the wholesale rate
10 and that they do so in this proceeding?

11 A. Yes.

12 Q. Are you saying that before the Commission
13 can make such a determination there has to be a
14 determination of whether there's a demand --

15 A. Yes.

16 Q. -- for local resale service?

17 A. Yes, that's what I'm saying.

18 MS. PROCTOR: Thank you. Nothing further.

19 JUDGE WALLIS: Let's be off the record for
20 a moment, please.

21 (Discussion off the record.)

22 JUDGE WALLIS: Let's be back on the record.

23 We are continuing the examination of Mr. Jenson
24 because Commissioner Hemstad has an obligation and may
25 be required to leave before he would otherwise be able

03017

1 to ask some questions. We've asked the parties and
2 received permission for Commissioner Hemstad to ask his
3 question or questions now. Commissioner Hemstad.

4

5

EXAMINATION

6 BY COMMISSIONER HEMSTAD:

7 Q. Good afternoon.

8 A. Good afternoon, Commissioner.

9 Q. I listened to your response to questions
10 and also as it relates to your testimony on the bottom
11 of page 12 of your rebuttal and page 13, and it deals
12 with the relationship of matters to which you are
13 testifying in the interconnection docket. And I don't
14 really understand the consequence. While the
15 interconnection appeal is being pursued what will be
16 the -- what is the company proposing would be the
17 pricing apparently for usage rates then?

18 A. Well, all of these are existing services
19 today, Commissioner, and so we would propose just to
20 leave them where they are until we have the outcome of
21 the interconnection issues. Now, as I understand it,
22 we've been instructed to refile a tariff on different
23 basis than we had originally proposed and to do that
24 sometime in July, so I don't know what the outcome of
25 all that is going to be, but I think we're trying to

03018

1 move forward aggressively, and as soon as we know and
2 have a good feeling about that interconnection, where
3 it is, then I think we can make a more appropriate
4 recommendation for a price on the usage.

5 Q. What would the consequence of that be,
6 to defer or delay your attempts to ultimately align
7 these prices?

8 A. Well, as I mentioned, we're trying to move
9 forward as fast as we can since the Commission
10 rejected what we had filed for those and we were told
11 to do it a different way. I guess I haven't been
12 intimately involved in that but company is in the
13 process of figuring out what new way they're going to
14 file those and propose those, so we're still in that
15 process right now, and with those being filed, I think
16 it was sometime in July, then we should be able to
17 move forward once there's a decision on that if that
18 new filing meets the approval of the Commission.

19 Q. But the potential delay in obtaining a
20 final decision on appeal from the interconnection
21 order could conceivably be two years.

22 A. Conceivably, but I think that it will, at
23 least I'm hopeful that the Commission is going to
24 respond favorably to this next filing and they will
25 have something that we can build, because those rates

03019

1 will have an impact on these other services if
2 different competitors are buying those. In order to
3 be fair to them we need to establish a rate that's
4 consistent for usage across all of those products.

5 COMMISSIONER HEMSTAD: That's all I have.

6 JUDGE WALLIS: Mr. Harlow.

7 MR. HARLOW: Thank you, Your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. HARLOW:

11 Q. Good afternoon, Mr. Jenson. We met before.
12 My name is Brooks Harlow and you may recall that I
13 represent Metronet Services Corporation. Do you have
14 before you what's been marked as Exhibit 508?

15 A. Yes.

16 Q. And can you identify that as the NAC
17 pricing that is the Centrex Plus network access
18 channel pricing that the company filed looks like in
19 August of 1990? There's a mistake on the year on
20 this, isn't there? Do you know when this was filed?

21 A. No. In fact when I saw September 7 of 1994
22 I wasn't quite sure what action had happened because
23 we originally had filed that case in December of '91.

24 Q. I believe the order wasn't issued until
25 later in the fall of 1994, fourth supplemental order

03020

1 that's referred to?

2 A. Yes, I believe that's correct. It was late
3 '94 when the Commission order came out.

4 Q. So does it appear to you this was probably
5 filed in the fall of 1995 not 1994?

6 A. I don't know. I haven't seen it before.

7 Q. Would you be willing to accept subject to
8 check that the NAC rates shown on these tariff pages
9 are the current Centrex Plus NAC rates?

10 A. Yes.

11 Q. And for the record, please describe what
12 the NAC portion of the Centrex Plus service is.

13 A. The NAC is a connection from a customer
14 premise to the mainframe in the central office.

15 Q. Would it be fair to say it's basically a
16 loop?

17 A. A loop, yes.

18 Q. As I understand it from your testimony U S
19 WEST is proposing to increase the rate by \$2 to match
20 the proposed private line rate increase; is that
21 correct?

22 A. Yes. It's back to one of the earlier
23 discussions we had about keeping the loops aligned on
24 the analog services, so since the private line service
25 is going up \$2 then we need to increase the Centrex

03021

1 Plus portion that's the same by \$2. That's really the
2 only reason.

3 Q. I wasn't asking the reason. I just wanted
4 to confirm that that's what the proposal is. Now, I
5 confess I was not able to find in my copy of the
6 tariff filing the proposed Centrex Plus NAC rates. I
7 looked for a section 9. I looked for these section
8 numbers and couldn't find them. Has this been moved
9 to the private line tariff? Is that the reason I can't
10 find them in the WNU-31 filing?

11 A. I am not aware that it's been moved out of
12 section 9.

13 Q. Perhaps we can go through it. Are you
14 familiar with the proposed rate increases?

15 A. I am aware that we proposed to increase the
16 \$9 rate to \$11.

17 Q. And is there an exception for that in the
18 51 station lines and over? Is that being left at \$9?

19 A. On the month to month rate it would be \$9
20 but if the customer contracted for several periods of
21 months then there would be a lower rate if they had
22 those quantities.

23 Q. Well, the reason I'm asking is that I noted
24 in the feature rates, and I did find the proposed
25 revised rates for the features in the price list

03022

1 filing. I didn't see any change in the month to month
2 feature rate, so are you basically leaving the month
3 to month, 51 station lines and over, NAC and features
4 the same? Is that what's being proposed in this
5 filing?

6 A. We're proposing -- I'm not sure. I don't
7 have the tariff filing before me but because the NAC
8 and the private line tariff is going up \$2 we're
9 proposing to increase the NACs in the private line --
10 I mean in the Centrex Plus service the same amount,
11 and offset that by a reduction in the features.

12 Q. Let's turn to original sheet 14.2, which is
13 the second page of Exhibit 508. Are you with me?

14 A. Yes.

15 Q. I would assume that the company is
16 proposing to increase the 1 to 20 and the 21 to 50
17 term contract rates by \$2 in each of those six
18 categories?

19 A. Yes.

20 Q. What about the 51 station lines and over?
21 Do you know if the company is proposing to change, for
22 example, the first quarter mile which is currently
23 priced at \$3.54 for a 12 to 35 month contract?

24 A. No. I believe those are remaining the
25 same, the substance sensitive NACs.

03023

1 Q. So if the company's approval is approved
2 then the 1 to 20 line rate for a 12 month contract
3 would be \$11 but the 51 line 12 month rate would
4 remain at \$3.54?

5 A. Yes.

6 Q. And this pricing structure that we're
7 looking at right now was proposed in docket No.
8 UT-911488, consolidated; is that correct?

9 A. I don't recall the docket number, Counsel.

10 Q. It was proposed in what we call the Centrex
11 Plus case?

12 A. Yes, that's right.

13 Q. Do you recall that there was considerable
14 dispute following the Commission's initial order on
15 the merits about whether the company's filings
16 complied with the order on the merits which was the
17 fourth supplemental order?

18 A. Could you expand on that.

19 Q. Well, fourth supplemental order was entered
20 in the fall of 1990. Just a minute I'm going to check
21 the dates so I get this right. The fourth
22 supplemental order was served on November 18, 1993,
23 would you accept that subject to check?

24 A. Yes.

25 Q. And on December 2, 1994, more than a year

03024

1 later, the sixth supplemental order was entered in
2 that docket entitled Commission order accepting
3 filings, would you accept that subject to filing?

4 A. I will.

5 Q. Do you recall that the company was directed
6 to enter into negotiations with the parties and try to
7 resolve objections to the company's initial compliance
8 filing?

9 MS. HASTINGS: I'm going to object to the
10 characterization that the company was ordered to enter
11 into negotiations.

12 MR. HARLOW: Well, that's my recollection.
13 The Commission issued a letter as the parties tried to
14 resolve a dispute about the compliance filings.

15 JUDGE WALLIS: As thus clarified, the
16 witness may respond.

17 Q. Do you recall that?

18 A. I will accept that, yes. I was not a part
19 of any of what you're referring to that the company
20 needed to do.

21 Q. Were you on the product team that helped
22 developed Centrex Plus?

23 A. Yes.

24 Q. Did you continue to work on development of
25 the product in compliance with the Commission's

03025

1 orders?

2 A. As I said I wasn't involved in the actual
3 breakout. The memory that I have is that there was an
4 issue around -- we originally proposed the station line
5 to include the features, and as I recall the issue was
6 that the staff interpreted that as something that ought
7 to be a separate component.

8 Q. And as a result of that the company broke
9 out separate prices putting the feature prices in the
10 price list and the NAC prices in what's now before us
11 as Exhibit 508?

12 A. I believe that is correct.

13 Q. Do you recall the thrust of Metronet's
14 objections to the company's compliance filings in that
15 docket?

16 MS. HASTINGS: Your Honor, I'm going to
17 object at this time. In addition to being beyond the
18 scope of the direct testimony of Mr. Jenson, I think
19 that we can rely on Mr. Harlow's reference to RCW
20 80.04.200 the other day in his conversations and
21 objections to Mr. Shaw's direct materials with Mr.
22 Emmerson, I believe it was. Metronet has the issue of
23 the Commission's sixth supplemental order in the
24 Centrex Plus case on appeal, and I believe that Mr.
25 Harlow shared with us the other day what the RCW says

03026

1 about that, and I just think that it's not necessary
2 to relitigate that issue here given the fact that it's
3 so terribly beyond the scope of Mr. Jenson's
4 testimony.

5 JUDGE WALLIS: I was just wondering, number
6 one, what you would say regarding the scope of the
7 testimony and, number two, where you are going with
8 this.

9 MR. HARLOW: Well, I'm a little bit
10 surprised, first of all, that Ms. Hastings would rely
11 on my objection because that objection was overruled.
12 Where I'm going with this, Your Honor, is the
13 Commission's sixth supplemental order, I want to get
14 it in the record, and I might as well read it now in
15 response to the objection. The Commission stated in
16 the sixth supplemental order in docket UT-911488 et
17 al., "The Commission expects that the company filings
18 in the future will move further toward the ultimate
19 goals of the November 1993 order than do the current
20 filings. U S WEST, Commission staff and other persons
21 affected by the filings will participate in those
22 proceedings, offering new principles and policies,
23 representing their positions and providing cost data or
24 other bases for rate differentials which will allow the
25 rates and prices for these services to move closer to

03027

1 perfection."

2 And if you look at the rate differentials
3 in Exhibit 508 you will see that a customer with 51
4 lines or more at a single location can acquire a rate
5 of \$3.54 for a NAC but a customer such as a reseller,
6 which has its lines scattered all over tarnation,
7 because those are located in multiple geographic
8 locations, would pay typically the 1 to 20 station
9 line rate, which will be \$11 if the company's proposal
10 is approved and that substantial rate differential as
11 far as I am aware that is no cost justification
12 whatsoever. It's a pricing decision and I intend to
13 show through my cross-examination of Mr. Jenson that
14 the company has done nothing pursuant to that
15 directive in the sixth supplemental order to move
16 closer to the goal of, quote, perfection, in other
17 words, to eliminate the discriminatory aspects of the
18 Centrex Plus filing and to reduce the bundling of the
19 Centrex Plus elements.

20 JUDGE WALLIS: Isn't the point that you're
21 making really a legal point rather than an evidentiary
22 point? I'm wondering where you're going to take this
23 in terms of your examination of the witness that would
24 produce evidence.

25 MR. HARLOW: At this point I'm about

03028

1 two-thirds done. It takes minimal evidentiary support.
2 I didn't get to the second point which is the scope of
3 the direct. Mr. Jenson's testimony, he stated that he
4 has -- his responsibility is to testify in support of
5 changes to the Centrex Plus filing. He is basically
6 the Centrex witness. He was the Centrex witness in the
7 Centrex Plus case. And I think the scope of our
8 cross-examination, given that all of the company's
9 rates are at issue in a general rate case, I think the
10 scope of our cross-examination legitimately should not
11 only cover what was included in the testimony but what
12 was omitted in the testimony since there's nothing in
13 the testimony to establish that the Centrex Plus rates
14 as they are proposed, to the extent they proposed to
15 retain these discriminatory aspects, are fair, just,
16 reasonable and in the public interest. Again, I would
17 probably say I am probably two-thirds through my
18 examination at this point.

19 JUDGE WALLIS: Ms. Hastings.

20 MS. HASTINGS: Well, first of all, Mr.
21 Harlow has done a significant amount of testifying
22 here. I don't know that there's any evidence in the
23 record that all resellers are spread all over
24 tarnation I think was his expression. In fact I think
25 if we were to get into that issue we could discuss

03029

1 just the opposite.

2 I think Mr. Jenson's testimony is very
3 clear. He has identified that to align certain
4 services he is proposing to raise Centrex Plus to meet
5 the alignment which is also required by the
6 Commission's fourth and sixth supplemental orders.
7 That's all his testimony does and I think that the
8 Centrex product is not here to be looked at in any
9 other way, shape or form, and if Mr. Harlow would like
10 to ask questions about that particular increase of \$2
11 to align the service I think his cross should be
12 limited to that.

13 JUDGE WALLIS: I do think it's appropriate
14 for examination into the rationale for the development
15 of the tariff. I don't think it's necessary to have
16 the witness testify to legal conclusions or to matters
17 such as that. I do feel it is within the scope of the
18 witness's testimony and the purpose for the witness's
19 testimony.

20 MR. HARLOW: Thank you, Your Honor.

21 Q. Mr. Jenson, do you have in mind that portion
22 of the order that I just read into the record, the
23 sixth supplemental order from the Centrex case?

24 A. Yes.

25 Q. Does the company's proposed NAC tariff in

03030

1 this docket continue to require customers to buy the
2 competitively classified features in order to obtain
3 the NAC services under the pricing that's in Exhibit
4 508?

5 A. Yes.

6 Q. Is there anything further that the company
7 has done -- strike that. Has there been any further
8 unbundling of the Centrex Plus service elements since
9 the sixth supplemental order was issued in the Centrex
10 Plus docket?

11 A. No. In fact what has been done here is to
12 keep the total rate for Centrex customers -- Centrex
13 Plus customers the same. I'm increasing the NAC \$2,
14 I'm decreasing the features by \$2. The Centrex Plus
15 customer is unaffected by this filing.

16 Q. Has there been any cost study performed by
17 the company to support the rate differentials for the
18 NAC that are contained in Exhibit 508?

19 A. I believe that Mr. Farrow filed costs in
20 regard to the private line services in this case.

21 Q. And does that cost study support a price
22 differential of between \$2 and \$3 for the 51 line at
23 a single location customer versus a 20 line at a
24 location customer?

25 A. Well, the distance sensitive NACs for

03031

1 distances over 51 are unchanged. It's only the
2 statewide average rates for locations from 1 to 50
3 that's being changed and there is support for that.

4 Q. I'm not focusing on the change. I'm
5 focusing on the differential that occurs for a
6 customer with 51 lines at a location versus 20 lines
7 at a location, assuming both of those customers are
8 the same distance from the central office?

9 A. There's no cost support for the
10 differential just for the rates that are being
11 changed.

12 Q. And in fact I believe you testified in the
13 Centrex Plus docket that this differential was purely
14 a pricing decision by U S WEST?

15 A. I don't recall that.

16 Q. Do you recall Mr. Mason testifying in the
17 Centrex Plus docket that this pricing differential
18 based on the number of lines at a given location was
19 in part designed to reduce what he called arbitrage by
20 resellers?

21 A. I don't recall Mr. Mason saying that, but
22 I believe that the subject of arbitrage was
23 undoubtedly discussed in that proceeding.

24 Q. Would you agree that that was one of the
25 bases for developing the differential that's contained

03032

1 in Exhibit 508?

2 JUDGE WALLIS: I'm wondering, Mr. Harlow,
3 if we aren't drifting into relitigating that --

4 MR. HARLOW: That's my last question on
5 this line.

6 A. I said I'm sure the subject of arbitrage
7 was discussed in the proceeding. I don't recall
8 specifically any other thing about that.

9 Q. Now, in this proceeding the company is
10 proposing to increase the joint user fee or JUF from
11 the current rate of \$2.50 to \$5 by the end of 1997; is
12 that correct?

13 MS. HASTINGS: Excuse me. Could you point
14 to where Mr. Jenson has identified that in his
15 testimony?

16 MR. HARLOW: I don't know that any U S WEST
17 has identified that in their testimony, but this is
18 the resale/Centrex witness and so I'm not aware of any
19 other witness who would be able to answer these
20 questions.

21 MS. HASTINGS: I am not aware that Mr.
22 Jenson has identified that in his direct testimony or
23 has offered any evidence in support of a question of
24 that nature.

25 MR. HARLOW: Let me withdraw the question

03033

1 for the time being.

2 Q. Mr. Jenson, has any U S WEST witness
3 submitted any testimony regarding proposed changes to
4 the JUF?

5 A. I don't know. I have not.

6 MR. HARLOW: I am not aware of any witness.
7 If the company wishes to withdraw that proposed rate
8 increase I guess I will forego this line of
9 questioning, but this is the closest witness we could
10 find that might be able to testify on the JUF
11 proposal.

12 JUDGE WALLIS: Is this the appropriate
13 witness to inquire into regarding that proposal?

14 MS. HASTINGS: To my knowledge the correct
15 witness is Mary Owen. That's a listing service and I
16 believe she has those in her testimony.

17 JUDGE WALLIS: Would that satisfy?

18 MR. HARLOW: Does she get to come?

19 MS. HASTINGS: Yes, she is.

20 MR. HARLOW: Yes.

21 Q. Are you familiar with whether or not the
22 JUF is applied to resellers of Centrex service?

23 MS. HASTINGS: I think we just established
24 that Ms. Owen is the person to talk to.

25 MR. HARLOW: I think we're more in the

03034

1 resale area now than in the listing area.

2 MS. HASTINGS: Mr. Jenson has no testimony
3 in his direct regarding any company resale proposals.
4 His testimony says nothing about that. Company is
5 making no proposals for resale.

6 MR. HARLOW: It's my last question in this
7 area if he can answer it. I'm not sure if he can.

8 JUDGE WALLIS: Let's find out if he can
9 answer it.

10 A. It's not an area that I am prepared to
11 discuss.

12 MR. HARLOW: I would offer Exhibit 508 at
13 this time.

14 MS. HASTINGS: Can we get a clarification?
15 Are we offering 508 as proof of U S WEST's existing
16 tariff current in effect or as its proposed tariff in
17 this proceeding?

18 MR. HARLOW: Well, the witness testified
19 this is equivalent to the current rates so the
20 testimony stands.

21 JUDGE WALLIS: That's my recollection.
22 With that understanding is there any objection to 508?
23 Let the record show that there is no objection and 508
24 is received.

25 (Admitted Exhibit 508.)

03035

1 MR. HARLOW: Nothing further.

2 JUDGE WALLIS: Commissioner Gillis.

3

4 EXAMINATION

5 BY COMMISSIONER GILLIS:

6 Q. Mr. Jenson, I would like to return to page
7 6 of your direct testimony. You make a statement on
8 line 10 in referring to what you view are the benefits
9 of the changes in business line pricing that it
10 eliminates an old structure that was aimed at
11 providing subsidies from metropolitan customers to
12 rural customers. How do you know metropolitan
13 customers are subsidizing rural customers under the
14 current pricing structure?

15 A. It's been a number of years since I
16 testified on basic exchange, but my recollection is
17 that in more dense areas there's less cost of getting
18 the service to customers and not only that but
19 generally you have more businesses in the more
20 metropolitan dense areas who are more profitable
21 customers, and I am well aware that the rates in the
22 rural area are below cost in most cases, particularly
23 if there are long, long loops. I recall being out in
24 some of those small counties in Idaho and where the
25 loop was many miles long, and they just didn't cover

03036

1 their cost.

2 Q. Well, in Washington where we're at now are
3 you basing that on study or are you basing that on
4 assumption that statement?

5 A. I'm basing it on assumptions that I made. I
6 don't have a study.

7 Q. Do you intend to say that all rural
8 customers are not covering the costs of serving them?

9 A. Well, I'm sure there are some exceptions.
10 Might even be a business out in the rural area that
11 would be an exception to that, but generally speaking I
12 believe this is correct.

13 Q. So how are you defining rural? Let me ask
14 it this way. What are you changing in your current
15 pricing structure that addresses that issue?

16 A. This comment or this statement is related
17 to the change in business line pricing. My part of
18 that was talking about introducing a PBX trunk
19 service, and simple business or 1FB service in
20 contrast to the current simple complex line structure,
21 and that's what I was addressing in talking about the
22 need for us to move to a new structure that's more
23 related to costs than the past structures.

24 Q. I wanted to also return to page 13 of your
25 rebuttal testimony. This is the same statement that

03037

1 Mr. Butler was asking you about earlier today on the
2 DID services beginning on line 22 is that "DID is one
3 service that U S WEST experience shows can bear a
4 greater proportion of the common cost of the firm and
5 should be priced at \$40 because customers have shown a
6 willingness to pay that price in other states." Do you
7 think there may be more customers that would be willing
8 to pay a price for that service that is lower than \$40?

9 A. I'm sure, supply and demand, yes, I think
10 it would change on the demand side if the price was
11 altered.

12 Q. So there's some customers that aren't
13 willing to pay \$40?

14 A. That could be.

15 Q. Is what you mean by that statement then
16 that under the current market conditions the company
17 is able to attract enough customers that are willing
18 to pay \$40 that is more profitable for the company
19 than to charge a lower cost?

20 A. Yes. In other words, where we have raised
21 these rates in other states, and we have not seen any
22 repression in demand because of the increased price
23 and therefore that would optimize the revenues from
24 this product.

25 Q. But in a case if U S WEST should face

03038

1 effective competition for DID service then that might
2 change; is that right?

3 A. Yes. I agree, that could happen.

4 Q. You would want to charge a lower price
5 perhaps to meet the competition?

6 A. That's true.

7 Q. So is the pricing lesson we should take away
8 from that is that U S WEST should seek to recover its
9 common costs from services that are in geographic --
10 from services or geographic regions where you aren't
11 presently facing competition?

12 A. No, I wouldn't conclude that. There are a
13 number of services that we provide that have margins
14 that are significant. Another good example are toll
15 services. A further one would be vertical services,
16 custom calling, call waiting. Those kinds of services
17 do have sizable margins on them as well and that has
18 nothing to do with location or competition or anything
19 else. There are certain services that customers
20 desire and they're willing to pay a higher price and
21 by allowing those customers to have those services at
22 the proposed prices it does provide more contribution
23 and allows us to help keep the other basic services
24 lower.

25 Q. If you're truly facing effective

03039

1 competition for those services you just mentioned why
2 don't competitors come in and charge a lower price and
3 take a part of the margin but get more of the
4 customers? What's the reason they don't do that?

5 A. Well, I believe they will. Now that the
6 Commission has allowed entry of other local providers
7 it won't surprise me that soon one of them puts in its
8 own switch. I think ELI has a switch here and they
9 will begin to provide these vertical services and
10 other things out of their own switch.

11 Q. In which case you would want to meet that
12 price with lower prices?

13 A. And when that does happen, yes, they will
14 probably affect a lot of the margins that we have on
15 services today.

16 Q. So to come back to my question, you have
17 the challenge of where you're going to recover your
18 common costs, and from everything you've just said it
19 still seems to me that the pricing rule that you're
20 going by is that the place to recover those common
21 costs are on services -- we haven't talked about
22 geographic areas, so let's stick with services -- that
23 you aren't currently facing competition or at least
24 market conditions are such that the competition isn't
25 effective enough to cause you to drop the price?

03040

1 A. Well, no. It seems to me on that basis we
2 would probably want to put a high margin on
3 residential service right now if that were correct.

4 Q. Is that your suggestion?

5 A. No, that's not my suggestion. I'm just
6 saying that I guess I don't totally agree with your
7 premise because I would have to say there's no more
8 competition on residential services than some of these
9 others we've talked about, so if that were the case
10 and it was -- if the margin was determined solely on
11 whether competition existed or not, 1FR would be a
12 very good candidate for a high margin service.

13 COMMISSIONER GILLIS: Thank you.

14

15 REDIRECT EXAMINATION

16 BY MS. HASTINGS:

17 Q. Mr. Jenson, in response to questions from
18 Commissioner Gillis, in your testimony on page 13 of
19 your rebuttal dealing with DID, I was understanding
20 your testimony to be that it is because customers do
21 have some competitive alternatives through the PBX that
22 the company realizes that this is a market price that
23 it can reach and that is one of the reasons why it's
24 proposing to raise the rate because it believes it is a
25 sustainable rate in a competitive environment. Is that

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1 a fair characterization of your testimony?

2 MR. TROTTER: Your Honor, I will object to
3 the question. That's about as leading as it gets by
4 definition. I object.

5 Q. I will just ask you, are there competitive
6 alternatives for DID that you're aware of, Mr. Jenson?

7 A. Yes. I think I discussed the competitive
8 alternative with counsel Butler. I believe that's
9 where it was, and we talked about another service that
10 is an alternative, and of course even using an
11 attendant is an alternative. Some companies want an
12 attendant. They want a live operator to receive that
13 call and then direct it so they give that personal
14 attention. So that's one. I talked with Mr. Butler
15 about an automated way to do this in addition to DID
16 being an automatic way so there are at least three
17 alternatives to get a call directed to an end user
18 station.

19 Q. Thank you. In your discussion with Mr.
20 Smith you were talking about automated interfaces, and
21 I believe Mr. Smith asked you whether or not if there
22 were some automated interfaces for trouble repair that
23 the company would be able to, I believe, save some
24 labor expenses because that trouble repair would be
25 handled by the reseller. I hope I characterized his

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1 question correctly. Do you know for a fact that the
2 company would save labor expenses if it automated
3 access to its trouble repair system?

4 A. No, I don't know. It might cost us more to
5 put in the automated interfaces than what's there now,
6 so my only position there is that whatever interfaces
7 there are, whether it reduces costs or raises costs to
8 U S WEST, those would be reflected in the prices that
9 were paid by the company that's interconnecting or
10 using those interfaces.

11 Q. Ms. Proctor asked you a number of questions
12 about reselling services, and I think she indicated
13 that AT&T has been reselling long distance services
14 for a number of years. Do you remember that question
15 or line of questioning?

16 A. Yes.

17 Q. And are you aware of any AT&T service that
18 AT&T has resold that was below its cost?

19 A. No, I am not.

20 Q. And I think Ms. Proctor also asked you a
21 number of questions regarding facilities, and were you
22 aware if there were any stranded facilities that AT&T
23 had as a result of MCI and Sprint eventually placing
24 their own facilities, and I think you indicated you
25 were not aware of any. Did I understand that

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1 correctly?

2 A. Yes, you did.

3 Q. If you know, what were the nature of the
4 types of facilities that AT&T might have used to
5 provide long distance services?

6 A. Well, I recall that most of their services
7 across the country use either microwaves or some kind
8 of a cable, fiberoptic cable or coaxial cable of some
9 kind. I guess I see that as a totally different
10 situation than the investment that U S WEST has. Our
11 investment is tied up in loops that go to end users,
12 and so I just don't see any comparison in the stranded
13 investment, comparison between U S WEST's investments
14 in those loops and AT&T's.

15 Q. And also I think Ms. Proctor asked you a
16 question about who AT&T could contact at U S WEST if
17 they wanted to discuss resell opportunities or
18 interface resell opportunity, and I think you
19 indicated to her that the network organization might
20 be one such organization. Are there other
21 organizations within U S WEST that you can think of
22 that would be a good first point of contact for Ms.
23 Proctor?

24 A. Yes. We have an organization called --
25 well, it used to be called the vendor service center.

03044

1 I think the name today is interconnect services. This
2 is a safe harbor. It's a focal point for
3 interconnectors to interface with the company. That's
4 where they place their orders to protect the
5 proprietary data in regard to quantities, et cetera,
6 so that would probably be the logical first place to
7 go along with their interaction with their account
8 managers.

9 Q. The vendors' service centers are now called
10 interconnect services. Is that where the company has
11 its safe harbor from an FCC perspective, if you know?

12 A. Yes, it is.

13 Q. Do you believe that it would cost -- I
14 think Ms. Proctor also asked you a number of questions
15 about the amount of investment that U S WEST has in
16 the state of Washington and Mr. Okamoto's reference to
17 the amount of money the company invests annually in
18 the state of Washington. Do you recall those
19 questions?

20 A. Yes, I do.

21 Q. Do you believe that it would cost a new
22 entrant the same amount as U S WEST has spent over the
23 years to build its ubiquitous network when today's
24 technology is so different than the network that U S
25 WEST has built?

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1 A. Well, first of all, I don't believe that a
2 new entrant would be ubiquitous in its deployment. It
3 would be very selective in the locations that it
4 placed its investment. Much of that investment we're
5 talking about has been in place for many, many years.
6 Costs have dropped significantly, and so I don't
7 believe it would cost a new entrant anywhere near the
8 amount of money that Ms. Proctor indicated that U S
9 WEST had in place.

10 Q. And if you know, does direct inward dial
11 service consume large amounts of telephone numbers
12 further exhausting the supply of available numbers in
13 Western Washington?

14 A. Yes, it does. In fact we just had a split
15 in the code here, and even with that split as recent
16 as it was it only gave U S WEST relief for no more
17 than four years. We're very concerned about
18 conserving those numbers. We are going to have
19 another split coming up right away in area code 206.

20 Q. Finally, Mr. Jenson, on page 18 of your
21 testimony Ms. Proctor had talked to you a little bit
22 about demands for services and what the Commission
23 might order the company to do. What did you intend to
24 convey with your testimony there when you said that --
25 since it would be -- since it would be a new service

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1 for the Commission must first determine that there is
2 a demand and then order U S WEST to offer it?

3 A. I think I tried to imply that I'm not
4 legally astute on all of the issues here, but a public
5 utility as we are considered in those statutes we do
6 need to offer service on demand, but beyond that I
7 don't know any specifics about the law and how it
8 happens and whether it's appropriate even to discuss
9 that in this proceeding.

10 MS. HASTINGS: Thank you. That's all.

11 JUDGE WALLIS: Follow-up questions.

12

13 RE-CROSS-EXAMINATION

14 BY MS. PROCTOR:

15 Q. Mr. Jenson, how long have you known about
16 the interconnect services group?

17 A. Well, back when I was employed in the
18 carrier services division which would have been around
19 1988.

20 Q. Were they at that time called the vendor
21 services center?

22 A. They were.

23 Q. But I was asking about the interconnect
24 services group.

25 A. They're the same group. It's just a

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1 different name.

2 Q. Do you know when they were renamed?

3 A. No, but I believe it's within the last 12
4 months.

5 Q. Do you know whether it was before or after
6 July of 1995?

7 A. No, I don't.

8 Q. You said that it used to be the vendor
9 services center. What did the vendor service center
10 do, just very generally?

11 A. They are the interface for competitive
12 companies that want to buy services. They're the safe
13 harbor as so-called by the FCC to protect the
14 proprietary data of companies that are competing with
15 U S WEST.

16 Q. Is the carrier marketing group in the
17 vendor services center?

18 A. No, they're not.

19 Q. Would you agree that the interexchange
20 carriers are attempting to compete with U S WEST in
21 the intraLATA toll market?

22 A. Yes.

23 Q. Is there a difference between these --
24 well, let me back up. What are these other
25 competitive companies that need a safe harbor?

03048

1 A. What are they?

2 Q. Yes.

3 A. Private pay phone companies, enhanced
4 service providers.

5 Q. So is it your understanding that the
6 company, if this Commission were to order U S WEST to
7 provide local -- provide resale of basic local
8 exchange service at a discount that those potential
9 resellers would be dealing with the interconnect
10 services group?

11 A. I would think that's where they would go.
12 I guess, frankly, I don't know for sure if that's the
13 location but I would think that that would be
14 appropriate.

15 Q. And if U S WEST is not successful in
16 obtaining a stay of the Commission's order and does
17 indeed have to file a tariff for unbundled loops,
18 would it be your understanding that a potential
19 competitor who would want to purchase unbundled loops
20 would also deal with the interconnect service group or
21 would it be some other group, if you know?

22 A. Well, I don't know for sure.

23 Q. That's fine.

24 MS. PROCTOR: Thank you. Nothing further.

25 MR. BUTLER: I just have a few questions

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1 about the subject of number exhaust that resulted in
2 the recent area code split in Washington.

3

4 RE CROSS-EXAMINATION

5 BY MR. BUTLER:

6 Q. Would you agree, Mr. Jenson, that there are
7 approximately 10,000 seven digit numbers available
8 within each central office code?

9 A. Yes.

10 Q. Would you also agree that the number
11 exhaust problem that led to the area code split here
12 was primarily a function of the demand for central
13 office codes not necessarily for individual numbers
14 within each central office code?

15 A. Would you rephrase that, please.

16 Q. Would you agree that the number exhaust
17 problem which led to the requirement for adding an
18 additional area code in Washington, the split of area
19 codes, was primarily a function of the demand for
20 additional central office codes as opposed to the
21 demand for individual numbers within central office
22 codes?

23 A. Yes.

24 MR. BUTLER: Thank you. No further
25 questions.

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2

RECROSS-EXAMINATION

3 BY MR. HARLOW:

4 Q. Mr. Jenson, returning to the subject of the
5 interconnect services group. It's my understanding
6 that the independent pay phone providers are now
7 served by the interconnect services group; is that
8 correct?

9 A. I believe that is.

10 MR. HARLOW: Thank you. No further
11 questions.

12 JUDGE WALLIS: Is there anything further?
13 Mr. Jenson, thank you for appearing today. You're
14 excused from the stand. Let's be off the record while
15 Mr. Lanksbury steps forward.

16 (Recess.)

17 JUDGE WALLIS: Let's be back on the record,
18 please. The company intends to call witness Lanksbury
19 as its next witness in this proceeding. We have been
20 advised that the company intends to engage in
21 additional direct examination of the witness and it
22 has distributed some documents to be used as exhibits
23 in conjunction with that examination. Mr. Harlow has
24 indicated his intention to object to the additional
25 direct testimony, and we're on the record now to hear

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1 the objection and the response. Mr. Harlow.

2 MR. HARLOW: I will be very brief on the
3 objection to the additional direct testimony. The
4 bench has requested numerous times during this
5 proceeding that any direct live surrebuttal, whatever
6 you're calling it today, if the company intend to
7 offer it that they notify the interested parties well
8 enough in advance that they can prepare for that.
9 Indeed the bench also directed that the questions be
10 provided if they have been drafted or prepared.

11 Likewise, numerous times the company has
12 failed to follow the bench's directions and it's
13 obviously quite prejudicial to parties dealing with
14 technical testimony involving numbers and number
15 crunching to have to deal with this kind of last
16 minute testimony and that's precisely why the
17 Commission's rules require prefiling. Company's
18 continuous justification for that is that, well, we're
19 responding to testimony filed in December. Well,
20 that's legitimate. Where has the company been for the
21 last month plus? This testimony that they're
22 responding to has been out there for a long time in
23 the company's hands and to introduce it at 5:00 at
24 night, as the witness is getting on the stand, is
25 simply unacceptable and violating the Commission's

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1 rules as well as the directions of the bench in this
2 case.

3 JUDGE WALLIS: Ms. Peterson.

4 MS. PETERSON: Thank you, Your Honor. With
5 respect to Ms. Murray's December '95 testimony it was
6 submitted apparently in the guise of stating that it
7 was pertaining to cost studies and what the Commission
8 should do in the future on costs, I believe, in
9 response to the Commission's order, but in fact the
10 bulk of it relates to further information that was put
11 into the record by the pay phone association on the
12 pay phone analysis, specifically Mr. Lanksbury's
13 October 1995 testimony and exhibits.

14 With that December '95 rebuttal Ms. Murray
15 included three new exhibits. One was a total rerun of
16 her imputation analysis from before. It's a little
17 hard to imagine why the pay phone association is
18 surprised that we would be responding to that. In any
19 event, I had understood that Mr. Harlow had been told
20 that there would be oral testimony, and we thought
21 that he did understand that.

22 Obviously, the company has a right to rebut
23 the extensive information that has been put into the
24 record by Ms. Murray on the pay phone issues in
25 December 1995. I believe that putting the Lanksbury

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1 testimony over for a day or so will certainly cure any
2 difficulties that Mr. Harlow has here. I suppose
3 another option here would be to strike Ms. Murray's
4 December 1995 testimony and if the Commission were to
5 do that then we would not have supplemental oral
6 rebuttal.

7 JUDGE WALLIS: You anticipated one of my
8 questions, and that is if you contend that the
9 material submitted by Ms. Murray in December is not
10 responsive to the Commission's request why are you not
11 moving to exclude it?

12 MS. PETERSON: In part, at least a number
13 of pages does purport to be responsive to the
14 Commission's request. It overlaps extensively and
15 it's a little bit difficult, I think, to disengage the
16 pieces. We obviously do move to strike to the extent
17 that there's any suggestion that we would not be able
18 to respond to it.

19 JUDGE WALLIS: Do other counsel wish to
20 offer comment? Let the record show that there is no
21 response. Mr. Harlow.

22 MR. HARLOW: Brief response. It's a little
23 bit late to strike the Murray testimony, not that that
24 would have been appropriate, but oral surrebuttal has
25 already been allowed on behalf of two witnesses to

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1 that testimony and is in the record. You can't unring
2 that bell. As far as us being surprised about Mr.
3 Lanksbury's attempt to do direct, I am not surprised
4 at all. In fact I bet one of my colleagues the other
5 day that U S WEST would try this. Our objection is
6 that we're not prepared and the reason is that the
7 company didn't follow the Commission's directives to
8 give advance notice.

9 JUDGE WALLIS: I understand that there is
10 some disagreement or inconsistent recollection as to
11 whether notice was provided. I do believe under the
12 state administrative procedure act that the company
13 does have the right to submit a response to original
14 evidence that's presented by other parties and that
15 the Commission's letter did call for that kind of
16 evidence.

17 I don't think that it is an absolute right,
18 and I think that it is proper to condition it upon
19 notice such as we have requested. In retrospect, I
20 think the failure is mine for not assuring that the
21 notice was made clearly on the record or in writing
22 with a copy to the Commission so that we could verify
23 recollections and assure that parties would have full
24 opportunity to prepare and ultimately so that the
25 Commission has a complete record. That's what we're

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1 after here. That's what the Commission wants is a
2 complete record, a complete, rational record without
3 surprises sprung on folks with a reasonable time under
4 the circumstances to understand what's going to be
5 happening and how to deal with it.

6 I believe that in this circumstance it is
7 an acceptable alternative to allow counsel to discuss
8 the nature of the questions, to have Ms. Murray
9 present. We understand that her schedule had been for
10 her to be here this evening but that she, because of
11 weather, was delayed in transit. We understand that
12 she is scheduled to appear tomorrow, that she will be
13 here to assist counsel in cross-examination of Mr.
14 Lanksbury, so I do believe that it's appropriate as an
15 alternative to the first best solution to have folks
16 come back tomorrow for the examination of Mr.
17 Lanksbury. So is there anything further on that
18 topic?

19 MR. HARLOW: Not on the subject of the
20 direct, no.

21 JUDGE WALLIS: Very well. I would like to
22 engage, inasmuch as we do have a little bit of time
23 now, engage in a discussion off the record of the
24 exhibits for Ms. Wilcox that have been predistributed
25 so that we can be prepared.

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1 MR. HARLOW: Your Honor, I did have a
2 separate objection on somewhat different grounds to
3 Exhibit 517. I didn't intend to encompass that. I
4 thought we were just discussing the direct.

5 JUDGE WALLIS: This is the revised pay
6 phone price floor analysis which replaces -- or
7 supplemental, revises 511C?

8 MR. HARLOW: Yes.

9 JUDGE WALLIS: Is the company prepared to
10 argue the admissibility of the document now?

11 MR. HARLOW: 517C.

12 JUDGE WALLIS: My preference would be to
13 have as much administrative discussion take place
14 now as possible so that we can concentrate on hearing
15 testimony tomorrow.

16 MR. HARLOW: I'm ready to proceed, Your
17 Honor.

18 JUDGE WALLIS: Ms. Peterson, are you?

19 MS. PETERSON: Okay.

20 MR. HARLOW: I will simply incorporate by
21 reference my objection to the direct. Same grounds
22 apply to the revised last minute exhibit, bolstered
23 in this case by the fact that the document is dated at
24 the top 15 January 1996 and also at the bottom it was
25 faxed to somebody on January 15. Indeed, either on

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1 that date or on the preceding Friday I asked Mr.
2 Owens, counsel for U S WEST, specifically whether they
3 would be preparing a revised LDL-12. He said, well, I
4 don't know at that time. I said, well, obviously I
5 want you to let me know if that's the case. That was
6 either the day before or the day of the 15th and I
7 didn't receive it until this morning.

8 In addition I was not provided with the
9 backup work papers to this document, and there is a
10 substantial change. If you take a look at Exhibit
11 517, line 26, the middle column, millenium, it shows
12 the total local call volumes and you compare that to
13 Exhibit 511, which this is the revision of, you would
14 see that there is a substantial difference on that same
15 line in that same column. There's a substantial
16 juggling of numbers going on here. I'm at a loss to
17 explain it. And I'm basically going to have to do my
18 discovery on cross of Mr. Lanksbury and there won't be
19 any time to do any follow-up to find out how this
20 number is derived, but if you take a look at that it
21 shows a substantially increased call volume.

22 Indeed I brought some calculations, and
23 since we have data, if you look at Exhibit 518 --
24 these are various numbers but they're all
25 confidential. If you look at Exhibit 518, the third

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1 page at the bottom left the actual call volumes are
2 shown for the last half of 1994, 1995. Now, the card
3 and coin column is what it's called there but that
4 corresponds to the millenium column, and you will
5 see --

6 Counsel, is it all right if I give the
7 differences between those numbers without giving the
8 numbers themselves?

9 MS. PETERSON: That's fine.

10 MR. HARLOW: You will see that the increase
11 from the first half of '95 calls to what is shown in
12 Exhibit 518 to what's supposedly to the actual or 11
13 months of 1995 is nearly 200 calls per month on
14 average, and I've done some calculations and in order
15 for that increase to have occurred U S WEST's call
16 volumes at millennium pay phones must have increased
17 by a factor of more than two from the first six months
18 of 1995 to the next five months of 1995. It's nothing
19 short of a fantastic increase in call volumes, and so
20 it makes a big difference in the overall revenue data
21 for these phones and their increase is so fantastic --
22 I'm sure Mr. Lanksbury will testify that it's true, but
23 absent some written discovery we have no way really to
24 to try to test and figure out why this substantial
25 changes has occurred.

1 Our experience has been in this case that
2 every time we get a new imputation analysis from Mr.
3 Lanksbury upon discovery in examination it proves to
4 be wrong. Well, here we are on the day of the hearing
5 and we've got yet another imputation analysis, and I
6 suspect that upon discovery we might well find out
7 that this one is wrong, too, but because this was
8 saved until the night of cross-examination we will be
9 denied that opportunity, and that's simply unfair and
10 leaves the record in a misleading fashion as to this
11 imputation analysis.

12 MS. PETERSON: Your Honor, I object to the
13 gratuitous characterization of Mr. Lanksbury's
14 imputation analysis as being wrong. After looking at
15 papers there's no basis for that. We provided this to
16 Mr. Harlow yesterday, and I believe at that time we
17 did not even expect Mr. Lanksbury to be on the stand
18 until Monday and we certainly felt there was plenty of
19 time for review of this document. In fact, it's
20 obvious Mr. Harlow has done quite a lot of review of
21 this document in calculations, and I think most of
22 what he is saying is perfect cross-examination
23 material for Mr. Lanksbury but certainly not grounds
24 to preclude the exhibit, especially since in Ms.
25 Murray's December '95 testimony spends pages and pages

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1 taking issue with assumptions for call volumes made by
2 U S WEST, and this is directly responsive to her
3 criticisms by providing actual volumes through November
4 of '95.

5 JUDGE WALLIS: Do you have work papers or
6 backup materials available in Olympia?

7 MS. PETERSON: I don't, Your Honor. I can
8 check with the witness, however.

9 JUDGE WALLIS: Would you do that, please.

10 MS. PETERSON: Your Honor, he's checking to
11 see if he has it with him. If he does not he can
12 probably get it faxed to him first thing in the
13 morning.

14 JUDGE WALLIS: Very well.

15 MR. HARLOW: The only response I have is if
16 Mr. Lanksbury doesn't keep getting his imputation
17 analysis wrong why is this the third version of the
18 same thing that we've seen?

19 JUDGE WALLIS: I would prefer to elevate
20 our discussions above ad hominem comments as a general
21 rule, and what I see as being feasible is putting Ms.
22 Murray on the stand first thing as has been scheduled
23 tomorrow morning, then allowing counsel to work with
24 his witness to explore matters and to discuss with the
25 company's witness and his counsel and hopefully we'll

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1 be in a situation where we don't have to do all our
2 discovery on cross. I have a fairly strong preference
3 that to the extent possible that be done before the
4 witnesses get on the stand. So, why don't we leave it
5 at that, that following Ms. Murray's appearance we'll
6 be able to get the witnesses and counsel working
7 together to share information and it may well be we'll
8 be able to take up cross of Mr. Lanksbury tomorrow.

9 MR. HARLOW: Maybe we'll settle the case,
10 too.

11 JUDGE WALLIS: That's a wonderful
12 suggestion, and I certainly would encourage the
13 parties to pursue it.

14 MR. HARLOW: But we will certainly ask and
15 we'll certainly pursue the discussion regarding the
16 substance of the changes in the testimony.

17 MS. PETERSON: Your Honor, Mr. Lanksbury
18 has advised me that he does have backup papers and
19 will provide copies of those to Mr. Harlow.

20 MR. SHAW: If Mr. Harlow would stay around
21 we can give you the documents so we don't have to fax
22 them to your office.

23 MR. HARLOW: No, I won't be in my office.
24 I'm spending the night here.

25 JUDGE WALLIS: Anything further for us to

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1 do on the record this evening? Let the record show
2 that there is no response and let's be off the record
3 for discussion of exhibits and of scheduling.

4 (Hearing adjourned at 5:35 p.m.)

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