

03933

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UT-950200
4)
Complainant,) VOLUME 29
5)
vs.) Pages 3933 - 4191
6)
U S WEST COMMUNICATIONS, INC.,)
7)
Respondent.)
8 -----)

9 A hearing in the above matter was held at
10 8:30 a.m. on January 30, 1996, at 1300 South Evergreen
11 Park Drive Southwest, Olympia, Washington before
12 Chairman SHARON L. NELSON, Commissioners RICHARD
13 HEMSTAD, WILLIAM R. GILLIS and Administrative Law
14 Judge C. ROBERT WALLIS.

15

16 The parties were present as follows:

17 U S WEST COMMUNICATIONS, by EDWARD SHAW,
DOUGLAS OWENS, MOLLY HASTINGS, Attorneys at Law, 1600
18 Bell Plaza, Seattle, Washington 98191 and JAMES VAN
NOSTRAND, Attorney at Law, 411 108th Avenue Northeast,
19 Bellevue, Washington 98004.

20 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION STAFF, by STEVEN W. SMITH and GREGORY
21 TRAUTMAN, Assistant Attorneys General, 1400 South
Evergreen Park Drive Southwest, Olympia, Washington
22 98504.

23 FOR THE PUBLIC, DONALD TROTTER, Assistant
Attorney General, and JAMES CUNNINGHAM, Special
24 Assistant Attorney General, 900 Fourth Avenue, Suite
2000, Seattle, Washington 98164.
25 Cheryl Macdonald, Court Reporter

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APPEARANCES (CONT.)

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

TRACER, by ARTHUR A. BUTLER, Attorney at
Law, 601 Union Street, Suite 5450, Seattle, Washington
98101-2327.

MCI, by ROBERT NICHOLS, Attorney at law,
2060 Broadway, Suite 200, Boulder, Colorado 80302.

DEPARTMENT OF INFORMATION SERVICES, by
ROSELYN MARCUS, Assistant Attorney General, 1125
Washington Street Southeast, PO Box 40100, Olympia,
Washington 98504.

AMERICAN ASSOCIATION OF RETIRED PERSONS, by
RONALD L. ROSEMAN, Attorney at Law, 2011 14th Avenue
East, Seattle, Washington 98112.

03935

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I N D E X

2

	WITNESSES:	D	C	RD	RC	EXAM
3	TWITCHELL		3948			
	FOLSOM	3991	3993	4014		
4	MERCER	4030	4042	4101	4102	4093
	COPELAND	4108	4122			4131
5	PARKER	4137	4139			

6

	EXHIBITS:	MARKED	ADMITTED
7	740, 741	3943	3943
	345		3944
8	682		3947
	321		3947
9	733		3949
	745T, 746-756	3991	3993
10	757	3991	4008
	734, 735		4015
11	760T, 761T,	4030	4041
	762-764, 765T,		
12	766, 767		
	768	4030	4088
13	769-771	4108	4121
	772T, 773C,	4137	4139
14	777T		
	778	4137	
15	779	4149	

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1 PROCEEDINGS

2 JUDGE WALLIS: Let's be on the record,
3 please, for our January 30, 1996 session in docket
4 UT-950200, U S WEST Communications. We'll begin this
5 morning with a couple of administrative matters. First
6 our schedule today, hopefully we'll wrap it up with the
7 conclusion of the evidentiary proceeding. We will
8 begin with the conclusion of the examination of Mr.
9 Twitchell. Then we've had a request to take Ms.
10 Folsom, and I know that among the remaining witnesses
11 AT&T is anxious to get their folks on and off the stand
12 and on an airplane and back home, so we will deal with
13 that when AT&T arrives. I understand that there is
14 some subject to check matters that need to be stated
15 for the record at this time. Mr. Smith.

16 MR. SMITH: Thank you, Your Honor. Page
17 3,598 of the record, company asked Mr. Spinks to accept
18 subject to check that the staff requested and received
19 all of the relevant current cost data about Centrex
20 including the features and the NARs and the NACs. We
21 have checked that and have found no cost information
22 regarding the Centrex NARs, so having checked that we
23 would I guess retract our check as to the NARs. As to
24 the rest of the check we do accept it.

25 JUDGE WALLIS: Very well. Is any response

03937

1 necessary?

2 MR. SHAW: Your Honor, we have supplied a
3 number of data request responses to the staff of the
4 Commission and we're double-checking those. We haven't
5 completed that. We would expect this morning Ms.
6 Jenson to be able to confirm whether or not that
7 information was made available to the staff.

8 JUDGE WALLIS: Thank you, Mr. Shaw.

9 Incorporation of interconnect record.
10 Mr. Smith.

11 MR. SMITH: Yes, Your Honor. The staff
12 would request that the following portions of docket
13 UT-941464 be incorporated into this docket as requested
14 by the Commission in the interconnect order. We would
15 request Exhibit T154, pages 1 through 10 and 14 through
16 20; Exhibit T114, pages 27 through 49; Exhibit C115;
17 Exhibit T116; Exhibit T107, pages 2 through 5 and 32
18 through 38; Exhibit C108; Exhibit T155, pages 49
19 through 52; Exhibit T20, page 5; Exhibit T136 pages 44
20 and 45; and transcript pages 1358 through 1400 and 1547
21 through 1645. And I understand that Ms. Wilcox's
22 cross-examination from that docket has already been
23 incorporated at the request of AT&T as well as the
24 portions requested by the company.

25 JUDGE WALLIS: Very well. Is there any

03938

1 comment or response on that?

2 MR. SHAW: Yes, Your Honor. I have not had
3 a chance to review these. This is the first time I've
4 heard them and I need in fact to talk to Mr. Smith and
5 make sure I got the list that he read off. I don't
6 know what these exhibits are. I don't know whether I
7 have any objection, and I don't know whether the
8 inclusion of these might suggest further things that
9 the company might want included, so I would ask for
10 some time to review that. We do not have our complete
11 interconnect file here. We didn't have two trucks to
12 haul all that down.

13 JUDGE WALLIS: I think there may be copies
14 in the record center downstairs.

15 MR. SHAW: Uh-huh. So we'll just need to
16 make an intelligent response to review the substance
17 of those exhibits.

18 JUDGE WALLIS: Very well. If you need time
19 beyond the conclusion of the proceeding today, you
20 just state that on the record before we end and let us
21 know by what time you will be responding, and that
22 would be sufficient.

23 MR. SHAW: Thank you.

24 MR. SMITH: Your Honor, seems to me this is
25 something that's not subject to an objection. The

03939

1 parties can submit what they wish and if the company
2 requires something further I think that's appropriate
3 and I would not object, but I think that's the way it
4 should be handled.

5 JUDGE WALLIS: Very well.

6 MR. SHAW: I would just respond to that, on
7 that logic we would just incorporate the entire record
8 of the interconnection docket. I think that there
9 should be some nexus of relevancy established. I
10 think just the mere request that something be
11 incorporated would be unexamined, if you will.

12 JUDGE WALLIS: My suggestion at this point
13 would be that the company take a look at the portions
14 that are cited and see what kind of response they wish
15 to make.

16 MR. NICHOLS: Your Honor, for MCI, we
17 haven't had a chance to look at those. We think that
18 that probably takes care of the matters that we would
19 like to have, but I will be trying to get back to you
20 right away about that.

21 JUDGE WALLIS: Thank you, Mr. Nichols.
22 Again, if folks are unable to respond by the
23 conclusion of today's session I need to know by the
24 conclusion of today's session when you will respond.

25 MR. TROTTER: Your Honor, I have two items.

03940

1 JUDGE WALLIS: Mr. Trotter.

2 MR. TROTTER: Lest I forget, I produced on
3 the credenza there copies of the ratepayer letters
4 that have been received by the Commission and public
5 counsel, and I provided the black notebook there on top
6 I provided to the company today which are the most
7 recent copies of letters provided to us. And so we
8 would ask that that be marked for identification, and
9 we would offer it at this time if there's no objection
10 to that procedure.

11 MR. SHAW: Your Honor, I have the standing
12 objection to this procedure. I know for a long time
13 the Commission has been proceeding in this fashion.
14 The problem it presents for the company if these
15 letters are offered for the truth of anything
16 contained in them, it's a substantial amount of
17 unsworn testimony with no opportunity of
18 cross-examination, and I object to their inclusion in
19 the record.

20 JUDGE WALLIS: Excuse me, Mr. Shaw. Could
21 you grab the microphone.

22 MR. SHAW: And I object to their inclusion
23 in the record on that ground. If it makes it clear
24 that they're received in the record only as evidence
25 that X number of people wrote the Commission about the

03941

1 rate case then I would have no objection, but if
2 there's going to be any reliance on the content of
3 these letters by the Commission in making their
4 decision the company has been deprived of its right to
5 a hearing and an opportunity of cross-examination.

6 MR. TROTTER: We would offer them for
7 illustrative purposes, which I think is the
8 traditional basis for their inclusion.

9 JUDGE WALLIS: To illustrate the sentiment
10 of those who are writing?

11 MR. TROTTER: Yes.

12 MR. SHAW: Well, my objection would remain.
13 If it goes to the Commission relying on the content of
14 the letters. We have of course public hearings where
15 the company does have the opportunity to cross-examine
16 members of the public. This mode deprives the company
17 of any opportunity to do that and so, despite the
18 Commission's longstanding practice, I do believe it's
19 objectionable to receive such unsworn, uncrossed
20 testimony into the record. The company does have
21 a summary of the letters summarizing what they say and
22 if the Commission is going to allow all these raw
23 letters in the company should at least have the
24 opportunity to produce its summary and input in the
25 record on the same basis of a summary of what they say.

03942

1 MR. TROTTER: I have no objection if the
2 company wishes to offer its summary. Obviously, the
3 documents speak for themselves. On the other hand,
4 there's an awful lot of them.

5 JUDGE WALLIS: Very well. I will assign
6 Exhibit No. 740 to the compendium of copies of letters
7 from members of the public on the basis that they are
8 received for illustrative purposes to indicate the
9 sentiment of those who are writing. They will be
10 received. The sentiment of the public is a matter of
11 which the -- for which the Commission is concerned.
12 As Mr. Shaw indicated, it has held public hearings in
13 a number of locations throughout the state for the
14 purpose of receiving public testimony, and I do
15 believe it's appropriate to receive those documents for
16 that purpose. If the company desires to submit its
17 summary of those documents it may do so, and we will
18 reserve Exhibit No. 741 for a document to that effect.
19 Is that something the company would intend to produce
20 today or at a later time, Mr. Shaw?

21 MR. SHAW: We have it compiled for the bulk
22 of the letters. We have not incorporated the later
23 ones that Mr. Trotter has just supplied, so we will
24 need a couple of days to supply that late filed
25 exhibit to update it to include all the letters.

03943

1 JUDGE WALLIS: By Friday, would that be
2 sufficient?

3 MR. SHAW: That should be sufficient.

4 (Marked and admitted Exhibits 740 and 741.)

5 MR. TROTTER: Your Honor, I would note that
6 I did discuss this with the company earlier, and they
7 indicate that there are some duplicates contained in
8 the, I think we're up to nine volumes, and I just want
9 to note that we readily admit that there is a
10 likelihood that there could be duplicates in there.
11 Our staffing limitations with no legal secretary who
12 burned out about July 18 on this case, we just simply
13 cannot assure that there are no duplicates in the
14 several thousand pages there, so I will certainly
15 agree that there probably are duplicates. We've done
16 the best we could given the severe staffing
17 limitations we're dealing with. Thank you.

18 JUDGE WALLIS: Thank you, Mr. Trotter. You
19 said you had two matters.

20 MR. TROTTER: The other matter is I do have
21 the Farrow deposition pages that can be deleted, and
22 that would be transcript page 29, line 2 through 30,
23 line 13, on page 36, line 21 through page 37, line 11,
24 we would not offer those.

25 JUDGE WALLIS: That's Exhibit 345.

03944

1 MR. TROTTER: I believe so, yes.

2 JUDGE WALLIS: Does the company have a
3 response?

4 MR. OWENS: Wait a second.

5 JUDGE WALLIS: Off the record for a moment.
6 (Discussion off the record.)

7 MR. OWENS: That really doesn't meet our
8 objection. The fact that two isolated passages dealing
9 with issues that the Commission has severed from the
10 case are proposed for exclusion really doesn't meet the
11 substance of our objection which is essentially the
12 wholesale inclusion of a deposition in the record
13 without complying with the rule, and I've already
14 stated the objection so I won't repeat it.

15 JUDGE WALLIS: Very well. I do have the
16 objection and the response in mind, and with those
17 factors in mind I believe Exhibit 345 should be
18 received, and it is received with the deletions as
19 specified by Mr. Trotter.

20 (Admitted Exhibit 345.)

21 JUDGE WALLIS: Is there anything else from
22 parties? Mr. Trautman?

23 MR. TRAUTMAN: One small administrative
24 matter. On the revenue requirement brief we redid the
25 outline and under G on compensation issues, one, wages

03945

1 and salaries, we added our essay No. 12 and that
2 should be essay staff adjustment No. 12.

3 JUDGE WALLIS: Very well. Are there any
4 further corrections or suggested changes to the
5 outlines?

6 MR. SHAW: We haven't had a chance to go
7 over this, Your Honor. I don't think so but I would
8 like, particularly our revenue requirements people to
9 take a look at it to make sure we have all of the
10 adjustments in the right place.

11 JUDGE WALLIS: Yes. Mr. Trotter indicated
12 he wanted his experts to take a look at it, too, and I
13 would like to get closure on that by the end of the
14 day today if that's possible. Again, if it's not
15 possible let me know before the end of the day and let
16 me know what your timing would be for completing that.

17 I did want to address a couple of the
18 exhibits as to which ruling has been reserved. This
19 relates to portions of Mr. Easton's testimony, and Mr.
20 Spinks and to the exhibits 268 and 321, a portion, and
21 certainly as to the latter two, there is an
22 interesting opportunity for the Commission to make
23 what I believe is a discretionary ruling. In the
24 process inquiry that concluded this past year after
25 looking at process matters including evidence for the

1 course of a couple of years the Commission along with
2 counsel, many of whom or several of whom are present
3 in this room, indicated that it would be helpful to
4 counsel to be more strict on evidentiary rulings than
5 the Commission traditionally has been, recognizing
6 that matter which is perhaps irrelevant or perhaps
7 faulty from some evidentiary standpoint nonetheless
8 requires time on cross-examination and effort of
9 counsel and witnesses for responses and argument.

10 So the sense was be tighter on evidentiary
11 rulings, be firm and that will produce a better record
12 for the Commission to consider. The process of this
13 particular proceeding may be just a little bit
14 different from the standard segmented hearings that
15 we're all familiar with for hearing rate cases. In a
16 segmented hearing there is the opportunity to digest,
17 to accommodate, to adjust one's own case to the
18 information that is received from others. In this
19 particular proceeding there was a limited opportunity
20 to do that with the pre-filing of evidence, but there
21 was not the opportunity following cross-examination
22 that might have been available in a segmented hearing.

23 Another matter that is apparent also in
24 looking at the hearing is that in the administration
25 of the hearing, the witness's schedules really had a

03947

1 bearing on how information was presented. It tended
2 to to break up all of the parties' case just because
3 witnesses were only available at certain times or on
4 certain days, and the Commission thus has a kind of a
5 piecemeal record to deal with, but the Commission's
6 purpose in this inquiry is really to find the truth.
7 There is a balance between information and closure
8 between the effort and the enlightenment that the
9 effort produces or has the opportunity to produce.
10 And weighing all of the affected interests, I believe
11 that the objection should be denied and that the
12 portions of the Easton materials and the Spinks
13 materials and Exhibits 682 and 321 should be received
14 in evidence.

15 (Admitted Exhibits 682 and 321).

16 JUDGE WALLIS: Is there anything further
17 administratively before we take up with the
18 examination of Mr. Twitchell?

19 MR. SHAW: I would just like to comment on
20 your discussion about the experiment that we've had in
21 a case of this complexity with the moving data, trying
22 the nontraditional approach of the simultaneous filing
23 of testimony and the simultaneous cross-examination.
24 I'm not sure where I personally come out on it whether
25 it's a plus or a minus, but we appreciate the

03948

1 willingness to experiment with it anyway. It has made
2 it fairly chaotic. I do agree with that.

3 JUDGE WALLIS: It is of course
4 unprecedented in terms of the complexity and the sheer
5 volume of material that the Commission is considering
6 in this proceeding.

7 Very well. Are we ready to begin? Let's
8 be off the record.

9 (Discussion off the record.)

10 JUDGE WALLIS: Let's be back on record,
11 please. At this time let's resume the
12 cross-examination of Commission staff witness Maurice
13 L. Twitchell, and I will merely note for the record,
14 Mr. Twitchell, you have been sworn and you may resume
15 your examination at this time. Mr. Owens.

16 MR. OWENS: Thank you, Your Honor.
17 Whereupon,

18 MAURICE TWITCHELL,
19 having been previously duly sworn, was called as a
20 witness herein and was examined and testified
21 further as follows:

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23 CROSS-EXAMINATION

24 BY MR. OWENS:

25 Q. Good morning, Mr. Twitchell.

03949

1 A. Good morning, Mr. Owens.

2 Q. I wanted to revisit briefly our discussion
3 we had yesterday about RSA 16 and the normalization of
4 taxes associated with the pension asset. It's
5 correct, isn't it, that Exhibit 733 is the
6 Commission's order that deals with the disposition of
7 those normalized taxes?

8 A. Yes.

9 Q. And specifically at page 10 of that order
10 would you agree that the Commission essentially agreed
11 with the staff's interpretation of WAC 480-120-031,
12 paragraph 3 subparagraph K but indicated the specific
13 treatment of the deferred taxes should be handled in
14 the company's remaining 1993 and 1994 sharing filings
15 and general rate case proceedings?

16 A. Yes the order reads the Commission believes
17 the more appropriate proceeding would be the company
18 remaining 1993, 1994 sharing filings and general rate
19 case proceedings.

20 Q. And you would agree with me --

21 MR. OWENS: First of all I guess we should
22 offer Exhibit 733.

23 JUDGE WALLIS: Being no objection 733 is
24 received.

25 (Admitted Exhibit 733.)

03950

1 Q. You would agree with me, would you not,
2 that in fact in the company's 1994 sharing case the
3 entire \$22.1 million of deferred taxes was flowed
4 through?

5 A. Yes. I will agree with you that the 1994
6 sharing dollars handled the flow through of these tax
7 items. I need to state, though, that in the 1994
8 sharing arrangement there were many things the staff
9 wanted to take exception with but in order to take
10 exception with we would have had to litigate it and
11 since we were in the middle of this rate case we chose
12 to recommend approval of the 1994 sharing and address
13 those issues in this case.

14 Q. Now, we were discussing yesterday RMA 9, the
15 adjustment you've made for the tax effects of sharing;
16 is that correct? Do you recall that?

17 A. Yes, I do.

18 Q. And you had referred in addition to some
19 exhibits -- I think it was 161 and 162 -- to an
20 exhibit that had been introduced in Ms. Wright's
21 rebuttal as an explanation of the system X tax
22 calculations.

23 A. I'm confused. You're referring to RMA 9 and
24 referring to that as a sharing adjustment but I
25 understand your questions have to do with system X

03951

1 deferred taxes which is RSA 16.

2 Q. You're right. I'm sorry. That was an
3 incorrect reference.

4 JUDGE WALLIS: Mr. Owens, could you move
5 that microphone closer to you.

6 Q. You're right. That's an incorrect
7 reference on my part. It is RSA 16. I'm trying to
8 get the exhibit reference.

9 I guess I need to correct the exhibit
10 references that I just mentioned. 166 and 167 I
11 believe were the ones that you had referred to and the
12 one we were looking for yesterday but didn't have is
13 158?

14 A. That's correct.

15 Q. Do you have that handy?

16 A. Yes, I do.

17 Q. And I believe you indicated that you had
18 read this Exhibit 158?

19 A. Yes, I had.

20 Q. Maybe we can go through it and identify any
21 areas that you believe are unclear. Is the exhibit
22 correct in stating that the A 61 report is the
23 Washington Utility and Transportation Commission's
24 required item 14 report?

25 A. Yes. That's in the cited paragraph first

03952

1 sentence on the first page. It says, "The A 61 report
2 is this Commission's required item 14 report," and that
3 is an actual factual statement.

4 Q. And is it also correct where it states in
5 the next sentence that "the A61 report requires the
6 company to display the total federal income tax
7 expense, subordinate detail and computations for each
8 regulatory segment, part 32, part 64, part 36 and WUTC
9 as if it were calculated independently and
10 consistently for each segment"?

11 A. That's what it says.

12 Q. But is that true? Do you agree with that?

13 A. Do I agree that that's what it says or is
14 it true that's what the item 14 report actually does
15 say?

16 Q. Let me ask you, is it true that that's what
17 the item 14 report requires?

18 A. That is what has been required for the item
19 14 to be able to accomplish. I'm not sure that the
20 item 14 has always been able to accomplish that fact.

21 Q. Even though as far as you know the company
22 has done its best to accomplish that?

23 A. I don't feel the company has done its best
24 to accomplish that.

25 Q. What specifically do you think the company

03953

1 should have done that it didn't do to accomplish that?

2 A. When I received this explanation of the
3 system X deferred taxes and on cross I referred to the
4 problems I have with this, on the third page it says
5 this caused a huge distortion of the estimated part 64
6 subordinate detail. It was approximately 50 times
7 larger than normal. This explanation left me very
8 uncomfortable with what was happening with the item 14.
9 Because of that I then sent a data request to the
10 company which is Exhibit 166 in this case which reads,
11 "Please provide additional information for data request
12 39 concerning deferred taxes. Referring to the
13 Commission report A61 for November 1993 please explain
14 159 other net income adjustment excluding fixed charge
15 in column G of \$22,097,111. This line shows an
16 increase of \$19,333,477. Also explain line 164 system
17 X deferred tax difference. Provide the ratemaking
18 adjustment that would correct this entry on your books.
19 Provide all work papers and calculations used to make
20 this adjustment."

21 I sent this data request out because of
22 Exhibit 138 -- 158 which I received. In response the
23 company sent me the response to data request 39, which
24 is Exhibit 167. The request on the company's response
25 reads, "Please provide a federal income tax calculation

03954

1 showing per books revenues, expenses schedule M items.
2 Also provide the calculation for deferred taxes that
3 will support this adjustment. Provide an explanation
4 of the changes that caused this adjustment. Provide
5 this using the A61 format with additional calculations
6 to support the schedule M items." That is not the
7 request that I made per Exhibit 166. This is what the
8 company gave me.

9 In response the explanation does not have
10 the journal entries, does not have the proforma
11 adjustment to correct it. In fact, when crossing Ms.
12 Wright concerning this very data request when we asked
13 her questions concerning this her comment was -- give
14 me just a minute. In quoting this data request
15 response Mr. Trautman asked the question, "`In strict
16 algorithmic sense the amounts on lines 168 through
17 169 are independent of the amounts in lines 154
18 through 163. Conceptually there should be percent
19 consistency. Line 164 is a balancing amount to
20 reconcile the algorithmic independence and conceptual
21 consistencies.' Do you see that?" Marjorie Wright
22 says "Yes, I do. Do you want me to tell you what that
23 means in real English?" Obviously she didn't know
24 what she meant from the answer she gave me. You asked
25 me if I read it and understood it?

03955

1 Q. That's your conclusion. Didn't she offer
2 to tell Mr. Trautman what it meant and didn't he
3 refuse her in that context that you didn't read, Mr.
4 Twitchell?

5 A. I can't answer that question because I did
6 read it.

7 Q. Isn't Mr. Trautman's response to her offer,
8 "Do you want me to tell you that in real plain
9 English," quote, No, that's fine, unquote?

10 A. The company had been asked in written --

11 Q. Can you answer yes or no, sir?

12 MR. TRAUTMAN: Your Honor, can the witness
13 please answer.

14 JUDGE WALLIS: I would like the witness to
15 start off by answering yes or no.

16 THE WITNESS: May I have the question read
17 back, please.

18 (Record read as requested.)

19 A. That's exactly what the transcript shows.
20 The company had every right to come back on redirect
21 and ask her to give that explanation.

22 Q. And so that's the basis for your testimony,
23 what you've stated so far?

24 A. The basis of my testimony, if you will read
25 my testimony at the beginning, the question is asked

03956

1 did you have trouble collecting information in this
2 case. I did not want to whine about the difficulty in
3 the case, and I said as I get to each adjustment I
4 will explain the complications we ran into trying to
5 find factual data to make adjustments in this case.
6 This record is very clear that this issue was
7 addressed time and time again trying to get to the
8 bottom of what happened with this system X deferred
9 taxes. Not only did we go to the company, not only
10 did we ask for data requests, on rebuttal testimony,
11 the company gave the explanation in Exhibit 158. We
12 then followed it up with a further data request in
13 166. The company followed it up with a response to
14 that data request in 167, and the record is not clear.
15 You're now telling me that on January 10, 1966 you
16 offered to finally give us the answer so that we could
17 correct this. I don't think the company has met the
18 burden of proof in this issue and several other issues
19 in this case.

20 Q. Is what you've stated the entire basis of
21 your testimony as you've elaborated it?

22 A. No, it isn't.

23 Q. Well, then please state the entire basis so
24 we can get to the bottom of it?

25 A. I will read my testimony from beginning to

03957

1 end.

2 Q. All right. Without having you do that, is
3 there anything not in your testimony and not answers
4 that you've just given that you rely on for your
5 conclusions?

6 A. I'm sure there are items that were not
7 included in my testimony. If you ask me to identify
8 those right now I am not prepared to do that, but I
9 have tried to be fair, honest and above board in my
10 evaluation of this case.

11 Q. So is the answer you can't think of
12 anything other than what you've just stated and what's
13 in your testimony?

14 A. If you will take a look at my testimony,
15 all data requests that aren't part of this record, you
16 will take the responses of those data requests
17 concerning taxes, you will take into consideration the
18 work that Mr. Tom Schooley did in 1994 in trying to
19 determine the calculation of federal income tax for
20 this company and the discussions I've had with him and
21 the reams and reams of paper that we've looked at in
22 trying to get to the bottom of this, those are all the
23 things I took into consideration in determining what
24 to do with this calculation.

25 Q. Anything besides what you've just stated?

03958

1 A. I'm sure there is but I can't think of
2 anything, so now my answer is I can't think of
3 anything else.

4 Q. Now, in response to your request for an
5 explanation of the exchanges that caused this
6 adjustment in Exhibit 167, is it your testimony the
7 company did not explain the changes that caused the
8 adjustment?

9 A. It's my testimony that not only did the
10 company not explain the data request they didn't even
11 quote the data request I gave them and their answer
12 did not answer the data request. It answered
13 something else.

14 Q. Wasn't it true that Exhibit 167 is a
15 supplement to an earlier data request 39?

16 A. Yes. That's exactly what Exhibit 166 says
17 it is. It says, "Please provide additional
18 information for DR 39 concerning deferred taxes."

19 Q. Are you saying the company incorrectly
20 quoted the original request 39?

21 A. I'm saying that this --

22 Q. Answer yes or no.

23 A. The answer is they didn't misquote the
24 original data request, but they're answering the data
25 request which was the supplemental, and so they

03959

1 misquoted the supplemental data request in their
2 answer to the supplemental data request 39.

3 Q. How many times did the company meet with
4 you to discuss this issue?

5 A. I would like to answer that in response to
6 staff rather than me. During 1994 Mr. Schooley met
7 with the company at least three times that I know of.
8 I met with them two or three times and discussed this
9 with them. During the proceeds of this case I met
10 with them two or three times, and asked data request
11 39. After I wrote my testimony concerning this issue
12 in August 11, the company then put out a letter in
13 September stating the problems with this, and that
14 they were going to correct it because of a problem
15 that occurred in September of 1993 which they had not
16 been aware of until such time as my testimony came
17 out.

18 I had asked in great detail trying to
19 comprehend this and was not able to from my
20 investigation of the case get to the bottom of this.
21 In my testimony I expressed that very clearly. Ms.
22 Wright in her testimony came back and criticized that
23 it's my responsibility to understand these things, and
24 because I didn't understand them that's not a
25 legitimate cause for not making the adjustment

03960

1 correct.

2 MR. OWENS: Your Honor, this is going well
3 beyond the answer. I asked him how many times the
4 company met with him and he's now discussing Ms.
5 Wright's testimony.

6 MR. TRAUTMAN: Your Honor, I believe the
7 witness needs to complete his answer.

8 MR. OWENS: I don't believe the answer is
9 responsive at this point, Your Honor.

10 JUDGE WALLIS: I agree with Mr. Owens. At
11 this point I think that the answer is no longer
12 responsive to the question.

13 MR. OWENS: Thank you, Your Honor.

14 Q. Directing your attention, Mr. Twitchell, to
15 the second sentence of the last page of Exhibit 166.
16 Do you agree with me that it asks for an explanation
17 of line 159 other net income adjustment excluding
18 fixed charge in column G on the Commission report A61
19 for November 1993, correct?

20 A. That wasn't a direct quote, but I guess I
21 can agree that's basically what it says.

22 Q. Directing your attention to Exhibit 167,
23 the material beginning under Response Supplemental
24 Response dated September 22, 1995, doesn't that explain
25 what the total amount for line 159 is?

03961

1 A. No.

2 Q. It doesn't?

3 A. No, it does not.

4 Q. And doesn't it drive the very total that
5 you asked about in the third paragraph in the last
6 sentence, the 22,097,111, doesn't it explain the
7 components of that number?

8 A. No.

9 Q. Doesn't it tell you in the fourth paragraph
10 the primary cause of the large amount assign to column
11 D as being associated with part X nonreg results OMPS
12 BEN 112 page 2?

13 A. That's what it says, but that doesn't
14 explain anything, and then it goes on to say, "This is
15 supported from the memo of Cheryl Rubin of August 23
16 which came out after my testimony criticizing the way
17 this was handled, and that memo admits there was a
18 problem in this procedure that has now been corrected
19 but I have not received the restating or proforma
20 adjustment to correct this problem.

21 Q. Is it possible that there isn't a restating
22 or proforma adjustment required?

23 A. No.

24 Q. Directing your attention to the fourth
25 sentence of Exhibit 166, the last page, does that

03962

1 sentence require an explanation of line 164?

2 A. Yes, it does and beginning with the third
3 paragraph up from the bottom of the first page of
4 Exhibit 167, does that discuss and explain what lines
5 164 is?

6 A. No, it does not. It tells me how I
7 mathematically get there. It doesn't tell me how the
8 numbers are derived and why they're correct. If I
9 assume the numbers on the page are correct then it
10 gives me an explanation of how it came back, but the
11 problem in this process of deferred taxes is that I
12 can never get the detail behind the numbers.

13 Q. Directing your attention now to Exhibit
14 158. Does this explain that the income taxes expense
15 associated with the part 64 segment is the result of a
16 total tax expense allocation process beginning at the
17 fourth paragraph?

18 A. That's what it says.

19 Q. Do you understand that concept?

20 A. Yes, I do.

21 Q. What does it mean to you?

22 A. It means that part 64 is the way the
23 company -- part 64 is the FCC code of regulation that
24 describes the way nonregulated items are separated
25 from regulated items, and therefore it says the income

03963

1 tax expense associated with those nonregulated items
2 is the result of the total tax expense allocation
3 process caused by that part 64.

4 Q. The next sentence says the total part 32
5 tax expense is allocated on the relative part 32 and
6 part 64 income, correct?

7 A. That's what the sentence says.

8 Q. Do you understand that concept?

9 A. Yes, I do.

10 Q. What does that mean to you?

11 A. Part 32 is the uniform system of accounts
12 by which the company keeps their records. It is the
13 method the company has keeping their books at the
14 corporate level. Part 64 is the FCC procedure for
15 removing nonregulated items from the uniform system of
16 accounts part 32 that is then taken out of the
17 accounting so you end up with amounts on the books
18 that are then ready to be separated according to part
19 36 for jurisdictional separations.

20 Q. Specifically when the sentence tells you
21 that total part 32 tax expense is allocated on the
22 relative part 32 and part 64 income, do you understand
23 that that means that some proportion is applied that
24 reflects the relative shares of part 32 and part 64
25 income to the total part -- excuse me -- part 32 tax

03964

1 expense?

2 A. I didn't follow that statement. I got lost
3 somewhere. I'm sorry, you will have to break it down.

4 Q. When the sentence says, "The total part 32
5 tax expense is allocated on the relative part 32 and
6 part 64 income," does that mean to you that
7 proportions are developed for the relative part 32 and
8 part 64 income and those proportions are applied to
9 the part 32 tax expense?

10 A. That's hard to say yes to but yes.

11 Q. Good, we finally agree on one thing anyway.
12 And then the paragraph goes on to say, "subordinate
13 detail is then inferred or backed into based on the
14 allocation of the total expense to comply with the
15 Commission reporting requirements." And do you
16 understand the Commission reporting requirements to
17 refer to the A61 report?

18 A. Yes, I do.

19 Q. And the subordinate detail would be the
20 detail necessary to portray each regulatory segment as
21 if it were an independent operation for tax
22 calculation purposes?

23 A. I'm sorry, I lost that again. Will you
24 rephrase that.

25 Q. The subordinate detail that's described in

03965

1 this sentence, would that be the detail that's
2 necessary to portray each regulatory segment as if it
3 were an independent operation for tax purposes?

4 A. No. And I think that's the crux of the
5 problem we have in this case. If you take a look at
6 the A61 report, which is provided to this Commission,
7 the federal income tax portion is not broken down to
8 the Commission level and then separated out. It's
9 left blank, and so at this point they say they are
10 backing into a number which tells me that it's a plug.
11 There's no calculation whatsoever. They wanted the
12 results to come out so they plugged the number.
13 That's why I asked the data request to give me more
14 information supporting this number and completing the
15 A61 report for the tax calculation.

16 Q. The tax calculation appears at line 172 FIT
17 current period, doesn't it?

18 A. Line 172 current period of what?

19 Q. Of the A61 report which is -- I think it's
20 MLT-7.

21 A. Pardon? What was it?

22 Q. MLT-7?

23 A. MLT-7 takes it to the Commission basis. It
24 doesn't take it to the reports that show it for
25 regulatory purposes and that's where the -- excuse me,

03966

1 your answer is yes, but it does not take it to the
2 calculation of federal income taxes for the intrastate
3 Washington results 6 operations. In order to follow
4 that through I have to take it to intrastate, follow
5 it back to the Commission basis, the nonregulated, the
6 corporate books so I can verify that the numbers are
7 correct.

8 Q. So I think from your answer you indicated
9 you believed that line 164 is in the nature of a plug;
10 is that correct?

11 A. That's what the explanation says it is. It
12 says it's backed into.

13 Q. And then further the explanation in Exhibit
14 158 explains why the plug is unusually large for this
15 particular period of time, is that correct, beginning
16 at the bottom paragraph on page 2?

17 A. Yes, it does, continuing on over to the
18 next page. This is the exact reason why I asked for
19 the data request supplemental 39.

20 Q. Well, do you understand what's stated at
21 the bottom of page 2 of Exhibit 158 and continuing
22 over on to the top of page 3?

23 A. No, I do not. That's why I requested data
24 request 39 supplemental so I could get the company to
25 provide me the work papers that would support it and

03967

1 give me the necessary information to make this
2 adjustment the way it should be made.

3 Q. Let me see what you don't understand. Do
4 you understand that the company made an unusual
5 accounting entry in September of 1993?

6 A. Yes. I know they made an unusual entry.

7 Q. And do you understand that that reflected a
8 nine month cumulative depreciation re prescription
9 entry?

10 A. I know that's what it says.

11 Q. Well, do you have some reason to believe
12 that that's not correct?

13 A. It has no meaning to me. That's why I
14 asked a data request to give me the journal entries
15 and the information necessary to make the adjustment.

16 Q. Where in data request 39 supplemental did
17 you ask for journal entries?

18 A. "Provide all work papers and calculations
19 used to make this adjustment".

20 Q. By "this adjustment" you're talking about
21 the 19,407,000, is that right, on column D, line 159?

22 A. Of Exhibit MLT-7, is that what you're
23 asking?

24 Q. But actually what your request says,
25 "provide the ratemaking adjustment that would correct

03968

1 this entry on your books." Correct?

2 A. That's correct.

3 Q. If --

4 A. The reason why it asked for that because it
5 said it was an extraordinary item that was overstated
6 50 times larger than normal. That is usually a fine
7 indication that a restating actual or proforma
8 adjustment is necessary.

9 Q. You say usually but that would not always be
10 the case; is that correct?

11 A. I've never ran into one where it wasn't the
12 case.

13 Q. Well, if the item in question was in the
14 nature of a plug and if there were an offsetting plug
15 would it necessarily follow that there might not be a
16 necessity for a ratemaking adjustment?

17 A. Not under the burden of proof of the
18 procedure in this case where the company has the
19 responsibility to provide proof for what they've done.

20 Q. Well, I just would like you to answer yes
21 or no without regard to your conclusions about the
22 burden of proof as to whether or not if the item was
23 in the nature of a plug and there were an offsetting
24 plug the fact that the particular plug is 50 times
25 greater than normal would not necessarily require a

03969

1 ratemaking adjustment. Isn't that true?

2 A. I'm sorry, I didn't know what your question
3 was until you got to the end so I can't answer.

4 Q. Let me repeat it then. If an item is in
5 the nature of the plug and there is an offsetting plug
6 the fact that the plug in question is 50 times greater
7 than normal does not necessarily mean that a
8 ratemaking adjustment is required; is that correct?

9 A. No, it's not. It's simply very similar to
10 balancing your checkbook. If you're off a penny you
11 don't take a penny out of your pocket and balance it
12 because that penny might have offsetting balances that
13 you could be off millions of dollars. You have to
14 know what's going on. You just can't assume and plug
15 the number and think you're right.

16 Q. I asked you to assume for the purpose of my
17 question that there is an offsetting plug. I believe
18 in your answer you assumed that there was not, so can
19 you answer my question that is, if an item is in the
20 nature of a plug and there is an offsetting plug, does
21 the fact that the item in question is 50 times greater
22 than normal necessarily require a ratemaking
23 adjustment?

24 A. Yes.

25 Q. If the two plugs are equal value and offset

03970

1 each other, isn't their effect neutralized?

2 A. If you assume that there's nothing else
3 involved. I can't make that assumption. When I see a
4 plug number it's my responsibility to understand. I
5 cannot accept a plug number as being correct.

6 Q. Let's move to a different series of
7 questions. It's correct, isn't it, that was discussed
8 yesterday if you just look at the total operating
9 revenue and total operating expenses in column D that
10 the operation showed a loss before taxes?

11 A. It's true that the expenses are larger than
12 the revenues.

13 Q. And so that being the case, if you removed
14 that operation from the unseparated total, would you
15 expect the bottom line taxes to be less or greater?

16 A. I can't answer that question. You haven't
17 given me enough information.

18 Q. If you have an unseparated operation that's
19 producing taxable income and you have a portion of
20 that operation, which is operating at a loss and you
21 separate the portion that's operating at a loss, would
22 you expect taxable income of the remainder to be
23 higher?

24 A. No. You can't expect anything. You have
25 to look at the total calculation.

03971

1 Q. What facts could make taxable income lower
2 under the hypothetical that I asked you?

3 A. Schedule M items.

4 Q. Is it correct that schedule M applies to
5 deferred tax?

6 A. No. That's part of it not all of it.

7 Q. Directing your attention to the calculation
8 of current FIT, if you remove an operation that is
9 operating at a loss from an unseparated operation that
10 is producing positive taxable income, would you expect
11 your current federal income taxes to increase?

12 A. Not necessarily.

13 Q. And what would cause that not to happen?

14 A. Schedule M items.

15 Q. And.

16 In what specific way?

17 A. Schedule M items adds some of the things
18 back in, subtracts other things, for calculating the
19 current taxes. You could very easily -- you remove
20 your booked depreciation and add tax depreciation.
21 You add -- it includes AFUDC. It includes interest
22 expense. It includes all things for calculating
23 federal income taxes that are handled differently for
24 tax purposes than they're handled for operating
25 expenses and revenues.

03972

1 Q. Would it be a fair statement that the
2 effect of your adjustment is to show federal income
3 taxes as lower after removing an operation that
4 produces a loss from an unseparated total that
5 produces positive taxes?

6 A. I'm going to have to write that down. I
7 didn't follow it. Will you help me out?

8 Q. Would it be fair to say that the effect of
9 your adjustment is to show federal income taxes in
10 total as being lower after removing an operation, the
11 unregulated operation, which is operating at a loss
12 before taxes?

13 A. I don't know. This gets right down to the
14 crux of the problem. I'm not picking up the
15 adjustments on the preempted deregulated amount. I'm
16 picking out the amount of the system X deferred taxes
17 that are shown in the regulated results of operations,
18 and if I remove those I don't know if I've removed
19 them properly or improperly or what it is. I don't
20 know because the company was not able to clarify
21 what's going on here.

22 Q. Like to talk now about adjustment RMA 9, and
23 maybe it would help if we refer to your Exhibit MLT-29?

24 A. I have it.

25 Q. Page 4. And your bench request testimony

03973

1 at page 6. And just as kind of a preliminary matter,
2 you were referring to excess earnings which you state
3 at page 6 were used to increase the accumulated
4 depreciation reserve in the sharing years 1990, 1991,
5 1992 and 1993. In fact as you show on page 4 of
6 MLT-29 there were no sharing revenues used to increase
7 the reserve in 1992; is that correct?

8 A. That's correct. I used all four years
9 because of the exhibit showed all four years.

10 Q. That's fine. And would you agree with me,
11 Mr. Twitchell, that the Commission issued orders in
12 1991 for 1990, 1992 for 1991 and 1995 for 1993 for the
13 sharing?

14 A. I will accept that subject to check. I do
15 know that the order on the 1993, yes, it came out in
16 1995.

17 Q. And in fact it came out after the company's
18 direct case was filed in this proceeding; is that
19 correct?

20 A. That's correct.

21 Q. And so I think there's a passage in your
22 direct testimony which refers to the fact no order on
23 '93 sharing and you would have to modify that,
24 correct?

25 A. Would you point that out?

03974

1 Q. I knew you were going to ask me to do that.

2 A. Maybe I could help you. Be on page 24 most
3 likely.

4 Q. It's actually page 26.

5 A. Thank you.

6 Q. And --

7 A. I'm sorry, I haven't answered the question
8 yes. The question was my testimony states what?

9 Q. It states, "The company per this exhibit
10 did not give effect to the 1993 sharing agreement
11 because an order has not been signed." At least that
12 part of the sentence would have to be identified,
13 correct as you sit here today?

14 A. Yes. It wouldn't be modified as of the
15 date this was presented but now the order has come
16 out, yes.

17 Q. Now the way you get back on page 6 of
18 Exhibit -- of the bench request 321 testimony, the way
19 you get the \$50,634,616 is that you add the numbers
20 across line 8 on Exhibit MLT-29, page 4; is that
21 correct?

22 A. Yes. If you total them out on line 8
23 across you get the 50 points, \$6 million.

24 Q. And mathematically as the Commission will
25 see by the legend on that line, would you agree with

03975

1 me that that is derived by adding together the
2 ratepayer share and the company matching share for
3 each of the years in which there was an amount applied
4 to increasing depreciation reserve?

5 A. Absolutely. That's in agreement with the
6 AFOR settlement.

7 Q. Now, on the next page of MLT-29 you depict
8 a company column and a 1993 sharing column and then a
9 staff column, and I take it the number, the 50.6
10 million which you show as the net rate base reduction
11 ties to your statement on page 6 where you say at line
12 13, "this is the amount by which the rate base should
13 be reduced"; is that correct?

14 A. That's what my testimony says, yes, that's
15 correct.

16 Q. Now, would you agree with me, Mr.
17 Twitchell, that in none of the three orders that
18 resulted in the direction to the company to deal with
19 sharing dollars by way of increasing the depreciation
20 reserve did the Commission make any finding or direct
21 any particular treatment that would relate to rate
22 base specifically?

23 A. Yes, it did. It said it would go into the
24 accumulated depreciation reserve which is the rate
25 base.

03976

1 Q. Well, can you answer my question? Did the
2 Commission make a finding saying rate base shall be
3 reduced by any specific amount of money?

4 A. Yes, it did.

5 Q. Show me where on any of the three orders
6 that appears, please. Let's just take, for example,
7 Exhibit 734. That's the order distributing the 1990
8 excess revenue?

9 A. If you look at the summary on page 2, "The
10 Commission after considering all the comments filed in
11 this proceeding orders distribution of \$21.68 million,
12 the undisputed amount of ratepayers' share of 1990
13 excess revenues in the following manner, 1.8 million
14 be applied to E911 service improvements. 5.0 million
15 to depreciation account 3100" -- I think it is -- "and
16 14.88 million in negative surcharges applied equally
17 to business and residential exchange access lines, and
18 the carrier common line charge."

19 It then goes on further to say on page
20 10, increase the depreciation reserve, "the Commission
21 agrees with public counsel that any increase in the
22 depreciation reserve," and so it talks about
23 adjustments to the rate base.

24 Q. The Commission didn't in that discussion or
25 in the ordering paragraph use the phrase rate base,

03977

1 did it?

2 A. In the order it says on page 13.2 that "5.0
3 million be applied to account 3100 to increase the
4 depreciation reserve for account 2211." It does not
5 use the term rate base but accumulated depreciation is
6 a component of the rate base, so I would have to say
7 the rate base is discussed there.

8 Q. But that's your conclusion, that's not a
9 term the Commission used in that order; is that
10 correct?

11 A. It's not my conclusion it's not a term that
12 the Commission used, but anybody that knows anything
13 about ratemaking knows that the rate base is made up
14 of several components accumulated depreciation being
15 one of them.

16 Q. That's right. But the Commission did not
17 direct that the rate base as a whole be decreased by
18 any particular amount of money in this order; is that
19 correct?

20 A. Yes, it did. I just read it to you. It
21 said the depreciation reserve should be recorded for
22 that and if you go to the AFOR that's exactly what it
23 says. The third option is that you take the company's
24 share and the ratepayer's share of excess earnings and
25 apply it to accumulated depreciation reserve.

03978

1 Q. As you just stated there are several
2 components to the rate base. Isn't that true?

3 A. Absolutely.

4 Q. So if the effect of changing one component
5 is to cause an offsetting change in another component
6 it's not necessarily the case that the change in the
7 rate base viewed as a whole would equal the change in
8 the first component; is that correct?

9 A. I'm sorry, I got to write that one down.
10 Do you want to give it to me again?

11 Q. Certainly. If a change in one component to
12 the rate base would cause an offsetting change in
13 another components it's not necessarily true that the
14 effect viewed on the rate base as a whole would equal
15 the change to only the first component; is that
16 correct?

17 A. Can I put it in English and see if I get it
18 right? I'm sorry, I didn't mean English but
19 accounting terms. You're saying if the accumulated
20 depreciation is increased and you normalize the tax
21 effect of it and show the effect on end of period
22 taxes that the effects on the rate base will be
23 different.

24 Q. It will be different numerically than
25 simply the dollar change to the depreciation?

03979

1 A. Absolutely.

2 Q. And would you also agree with me that the
3 Commission's order that distributed the 1991 sharing
4 was similar in that it did not specifically direct a
5 dollar change to rate base specifically identified as
6 such?

7 A. It didn't but it only referred to one of
8 the component of the rate base which was the
9 depreciation reserve. The deferred taxes were never
10 discussed.

11 Q. Would the same be true of the order that
12 distributed the 1993 sharing dollars?

13 A. Yes.

14 Q. Referring back to your page 4 of Exhibit
15 MLT-29 under the column estimated 1993 sharing, the
16 component that is part of your 50.6 million that's
17 attributable to 1993 sharing is the 17 million 927 in
18 that column?

19 A. That's correct.

20 Q. Wouldn't it be correct that the associated
21 deferred tax effect of that is the number immediately
22 below the 6 million 195?

23 A. To say yes to that assumes that the
24 calculation is correct, but yes, the number below that
25 is labeled end of period accumulated deferred tax of 6

03980

1 million 195. If that's appropriate or not is not
2 necessarily stated on this page.

3 Q. I'm just trying to see if we can eliminate
4 the areas of dispute between the company and the
5 staff. One area at least of apparent difference is
6 that you have used the 1993 sharing and the company
7 hasn't reflected that at all either with or without
8 the effect on end of period deferred taxes; is that
9 correct?

10 A. That's correct. The company has not in this
11 adjustment for this rate case increased the accumulated
12 depreciation reserve by the 17,927,000 generated from
13 the 1993 sharing agreement.

14 Q. And it's correct, isn't it, I think as we
15 indicated earlier, that the order quantifying that
16 sharing came out after the company filed its direct
17 case?

18 A. I believe it came out in January of 1995
19 which would be -- I'm not sure of the exact date of
20 that. Yes, it came out after the testimony in
21 February.

22 Q. So just so the record is clear, if the
23 company were to agree that the '93 sharing should be
24 included but that it should be treated consistently
25 with what the company has proposed for the other

03981

1 sharing, would we not only add the 17 million 927 to
2 the increased to the depreciation reserve but also add
3 the 6 million 195 to the effect on deferred taxes?

4 A. Let me see if I understand the question.
5 You're saying the company only used \$32 million of
6 sharing adjustment to the accumulated depreciation and
7 then they only took the deferred taxes on that 32
8 million. If the company in their adjustment were now
9 to pick up the additional \$17 million of excess
10 earnings and accumulated depreciation to be consistent
11 with the way their revised calculation of this
12 adjustment is to include end of period deferred taxes
13 would you then have to pick up the 6 million 195, the
14 answer to that is yes but there's a lot of problems
15 with that yes.

16 Q. Now, let's talk a little bit about
17 conceptually what's going on with this adjustment.
18 It's correct, isn't it, that the existence of
19 depreciation reserve deficiency means that at
20 some time or times in the past the rates that
21 ratepayers paid weren't sufficient to cover the full
22 cost of the service including the consumption of
23 capital?

24 A. You're going to have to ask me that again.
25 I'm sorry.

03982

1 Q. The existence of a depreciation reserve
2 deficiency means, doesn't it, that at some time or
3 times in the past the rates that ratepayers paid were
4 not sufficient to cover the full cost of the service
5 including consumption of capital?

6 A. No. That's beyond the scope of my
7 testimony. Tom Spinks is the depreciation expert but
8 it's my understanding that obsolescence comes into
9 depreciation and causes problems as well as
10 inappropriate depreciation rates at any given time.

11 Q. I'm not trying to suggest any intent on the
12 part of anyone. You would agree with me that
13 estimating depreciation is something that has to be
14 done because we can't know at any given time what
15 actual depreciation is?

16 A. It's an art, that's right. You have to
17 look at -- in fact, that's why we have the three-way
18 meeting where every three years we take a look at
19 depreciation expense and the reserves and try and
20 bring things into line to what's known as of today.

21 Q. And so if we had had perfect foresight in
22 the past and had matched capital consumption exactly
23 with depreciation expense there would be a zero
24 depreciation reserve deficiency; is that correct?

25 A. I can't agree with that statement. I don't

03983

1 think that consumption of the asset is always the
2 issue in evaluating depreciation. You have to look at
3 salvage value, you have to look at obsolescence, you
4 have to look at many things other than the use of the
5 asset.

6 Q. Let me broaden my question. When I say
7 consumption value I mean its loss of economic value
8 from any source while it's being used to provide
9 service whether it's from obsolescence, wear and tear,
10 changes in the art or any source.

11 A. I don't know. I really don't. You're
12 beyond the scope of my expertise. I tried to answer
13 to the best of my knowledge.

14 Q. Then would it be fair to say that you don't
15 know that, that you don't know whether there are in
16 fact costs that the company has incurred in the past
17 for providing service that it hasn't been remunerated
18 for which reside in the depreciation reserve
19 deficiency?

20 A. I can't accept that. It reminds me of the
21 adjustment where the company came to this Commission
22 and said we didn't make our authorized rate of return,
23 therefore, we didn't recoup our depreciation expense
24 in prior years, therefore, we're going to keep that in
25 a side record and bring it back as an expense going

03984

1 into the future so we're made whole. That isn't the
2 way ratemaking works. There's a risk for
3 stockholders. There's a risk for the company that
4 they won't always make the rate of return or above it
5 and there's all kind of factors that go into the risk
6 of a business and that is calculated in the authorized
7 rate of return which the company is given the
8 opportunity to make.

9 Q. So you're saying you do know for a fact
10 that the depreciation reserve deficiency does not
11 represent cost of unrecovered capital consumed in
12 providing service in the past?

13 A. I'm saying there's so many factors in it I
14 can't assume that that's what happened.

15 Q. Well, then, do you know what the
16 depreciation reserve deficiency represents at all?

17 A. I know the depreciation reserve deficiency
18 is calculated from the accrual of depreciation expense
19 and the theoretical depreciation expense and the
20 difference between the two of them.

21 Q. Do you know what the basis of the
22 theoretical depreciation expense is?

23 A. No, I didn't make the calculation.

24 Q. So it could represent the expense that
25 would have been necessary to provide full recovery or

03985

1 an opportunity for full recovery in the past; is that
2 correct?

3 A. It could but it could represent many other
4 things also. It could be as simple as applying the
5 different type of depreciation that has been applied
6 in the past such as ELG where before you used straight
7 line, so there's all kind of different factors that can
8 cause the accumulated depreciation deficiency.

9 Q. It's correct, isn't it, that the tax timing
10 difference that generates deferred taxes is a product
11 of the fact that regulatory lives for depreciation are
12 longer than tax lives?

13 A. That's one of the factors, yes.

14 Q. And what happens as regulatory depreciation
15 catches up with tax depreciation as far as the
16 deferred taxes are concerned?

17 A. In theory, if you take accelerated
18 depreciation on a plan for tax purposes and
19 straight line for book depreciation purposes, it
20 decreases the taxes on the books of the company in the
21 beginning years of the plant and increases the taxes
22 at the end. The problem is you don't look at it on an
23 item by item of plant. It's an ongoing basis and as
24 long as the company is a going concern, which you have
25 to assume for accounting purposes, then the taxes

03986

1 associated with accelerated depreciation for tax
2 purposes will continue to reduce the taxes greater
3 than the straight line.

4 Q. But on an individual asset basis as
5 regulatory depreciation catches up with tax
6 depreciation, aren't the deferred taxes generated in
7 the early years of the asset's life written back to
8 the income statement?

9 A. Yes. I believe that's what I said.

10 Q. Is booking increased depreciation to reduce
11 a reserve deficiency one way in which regulatory
12 depreciation can catch up with tax depreciation?

13 A. Yes. If you increase book depreciation
14 then you have to adjust the deferred taxes associated
15 with it because of the difference in tax depreciation
16 and booked depreciation. Does that help you?

17 Q. Yes. Now, in your direct testimony,
18 Exhibit 699T, you criticized the company for not
19 adjusting current or deferred FIT associated with this
20 adjustment. Isn't it true that the settlement
21 agreement which --

22 A. I'm sorry. You referred to Exhibit 699T.
23 Can you give me a someplace?

24 Q. Sure. Page 27, I'm sorry.

25 A. Was that my testimony of 8-11?

03987

1 Q. That was your first testimony?

2 A. Page what again?

3 Q. 27.

4 A. Okay. What line?

5 Q. Line 1.

6 A. Yes, that's what I say. The company has
7 not made an adjustment to the above the line current
8 or deferred tax expense which would have been to the
9 ratepayers' advantage.

10 Q. And the settlement agreement is Exhibit
11 735, isn't it?

12 A. Yes, it is.

13 Q. And at page 11 of that agreement in
14 paragraph 18B dealing with revenue sharing bookings,
15 doesn't the agreement say, "An adjustment shall also
16 be made to remove the impact of the disposition of
17 excess revenues related to the performance of a
18 previous measurement period?"

19 A. Did you read, "An adjustment shall also be
20 made to remove the impact of the disposition of excess
21 revenues related to the performance of a previous
22 measurement period"?

23 Q. Yes.

24 A. That's what it says.

25 Q. And isn't it true that in each of the years

03988

1 following the application of the sharing dollars to
2 increase the depreciation reserve the company manually
3 removed the associated depreciation expense per that
4 agreement so that it would not reduce the following
5 year's sharing?

6 A. By manually if you mean in the sharing
7 adjustment did you make an adjustment to reduce --
8 excuse me. If in that statement if you mean that in
9 each year of the sharing agreement you made an
10 adjustment which showed the effect of increasing
11 accumulated depreciation on the results of operations
12 that's correct, and in those adjustments the company
13 did not reflect an adjustment to the deferred taxes.

14 Q. Well, my question was as to the
15 depreciation expense, isn't it true that the company
16 backed out manually the increase in depreciation
17 expense so that it would not reduce the following
18 year's sharing pursuant to this agreement?

19 A. I haven't seen an adjustment where they did
20 that.

21 Q. When the company makes its sharing filings
22 does it include documentation showing the off book
23 entries?

24 A. I haven't been the one to audit the sharing
25 adjustments in the past. I did look at the '93 and

03989

1 '94. I looked at the for booked numbers and each of
2 the adjustments you made for deriving the excess
3 revenues. I do not recall an adjustment to the books
4 that removed depreciation expense. I only remember an
5 adjustment that increased the accumulated depreciation
6 in the rate base.

7 Q. If the company made an off book
8 depreciation expense entry, would that essentially be
9 the same as treating it below the line?

10 A. Are you saying that if the company did not
11 on their books of the company increase depreciation
12 expense and therefore did not reduce that depreciation
13 expense but instead placed that adjustment off book
14 then it would be true that that increase and decrease
15 to the depreciation expense would not show up on the
16 books of the company and would not need an adjustment
17 in the sharing adjustment for the depreciation
18 expense, and if it's off book then the increase in
19 depreciation expense would not be shown in the
20 accumulated depreciation. So, therefore, you would
21 have to make an adjustment in your sharing to show the
22 increase in the accumulated depreciation. Does that
23 answer your question?

24 Q. Could you accept subject to check that that
25 is what the company did as shown by its off book

03990

1 reports?

2 A. I will accept that subject to check if you
3 will show me the off book reports that I can check it
4 to.

5 MR. TRAUTMAN: Your Honor --

6 A. Actually, I don't have any problem. If
7 that's what you did I will accept that.

8 MR. TRAUTMAN: Can I ask how much more
9 counsel has for this witness?

10 JUDGE WALLIS: I was just about to ask
11 that.

12 MR. OWENS: About 15 minutes.

13 JUDGE WALLIS: I think we probably should
14 look at a morning recess at this point, and I
15 understand that there may be a scheduling concern as
16 well. Let's go off the record and discuss that.

17 (Recess.)

18 JUDGE WALLIS: Let's be back on the record,
19 please, following our morning recess. In order to
20 accommodate one of the witnesses we are now switching
21 from the examination of Mr. Twitchell and Commission
22 staff is calling Kathleen M. Folsom to the stand.

23 Whereupon,

24 KATHLEEN FOLSOM,

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

03991

1 herein and was examined and testified as follows:

2 JUDGE WALLIS: In conjunction with Ms.
3 Folsom's appearance we are marking her direct prefiled
4 testimony as Exhibit 745T for identification. An
5 errata sheet distributed today is marked as 746 for
6 identification. Her attachment KMF-1 U S WEST rate of
7 return is marked as 747 for identification. KMF-2 is
8 marked as 748 for identification. KMF-3 is marked as
9 749. KMF-4 is marked as 750. KMF-5 is marked as 751
10 for identification. KMF-6 is 752. KMF-7 is 753.
11 KMF-8 is 754. KMF-9 is 755 and KMF-10 interest
12 coverage ratio is marked as 756 for identification.

13 In addition, the company has predistributed
14 a document purporting to be a letter and attachment
15 dated November 29, 1995 and designated reports of
16 securities issuance by U S WEST Communications Inc.
17 that is marked as 757 for identification. Mr. Smith.

18 (Marked Exhibits 745T, 746 - 757.)

19 MR. SMITH: Staff appreciates the
20 indulgence of the Commission and the other parties in
21 taking Ms. Folsom out of order.

22

23 DIRECT EXAMINATION

24 BY MR. SMITH:

25 Q. Will you please state your name and

03992

1 business address.

2 A. My name is Kathleen M. Folsom F O L S O M.
3 My business address is 1300 South Evergreen Park Drive
4 Southwest, Post Office Box 47250, Olympia, Washington
5 98504.

6 Q. Where are you employed and in what
7 capacity?

8 A. I'm employed by the Washington Utilities
9 and Transportation Commission as a utilities rate
10 research specialist.

11 Q. Do you have before you what's been marked
12 for identification as Exhibit 745T?

13 A. Yes, I do.

14 Q. And is that your prefiled direct testimony
15 in this proceeding?

16 A. Yes, it is.

17 Q. And you also have before you what's been
18 marked for identification as Exhibit 746?

19 A. Yes, I do.

20 Q. And does that constitute the errata sheet
21 for your direct testimony?

22 A. Yes.

23 Q. If I were to ask you today the questions
24 contained in Exhibit 745T, would you give the same
25 answers as are contained in that exhibit?

03993

1 A. Yes.

2 Q. Do you also have before you what have been
3 marked for a identification as Exhibits 747 through
4 756?

5 A. Yes, I do.

6 Q. And are those the exhibits referred to in
7 your direct testimony?

8 A. Yes, they are.

9 Q. Were they prepared by you or under your
10 direction and control?

11 A. Yes.

12 MR. SMITH: Your Honor, offer for admission
13 Exhibits 745T and 746 through 756.

14 JUDGE WALLIS: Is there objection?

15 MR. VAN NOSTRAND: No objection.

16 JUDGE WALLIS: The exhibits are received.

17 (Admitted Exhibit 745T, 746 - 756.)

18 MR. SMITH: Ms. Folsom is available for
19 cross-examination.

20 MR. VAN NOSTRAND: Thank you.

21

22 CROSS-EXAMINATION

23 BY MR. VAN NOSTRAND:

24 Q. Good morning, Ms. Folsom.

25 A. Good morning.

03994

1 Q. I'm James Van Nostrand representing the
2 company. If we could just start off briefly with your
3 testimony on the capital structure. You recommend a
4 55 percent equity ratio as compared to the 56.6 equity
5 ratio recommended by Mr. Cummings?

6 A. Yes.

7 Q. Do you agree that the 56.6 percent equity
8 ratio proposed by Mr. Cummings represent the actual
9 capital structure of the company as of June 1995?

10 A. The per books actual, yes.

11 Q. Your testimony on pages 19 and 20 cites
12 Commission decisions where the Commission determined
13 that a particular utility's capital structure is
14 unreasonable and uneconomical. Do you recall that
15 from your testimony?

16 A. I cite testimony that refers to a previous
17 order where the Commission utilized a hypothetical
18 capital structure for ratemaking purposes.

19 Q. Is it your testimony that U S WEST
20 Communications capital structure is unreasonable?

21 A. It's my testimony that -- it's my
22 recommendation that the Commission should impute a
23 capital structure that more appropriately balances
24 safety and economy, and I go on, if you give me just a
25 moment I can refer to it. From page 18 on I discuss

03995

1 what considerations are involved in determining what
2 that reasonable capital structure would be.

3 Q. Do you demonstrate anywhere in your
4 testimony that U S WEST Communications' capital
5 structure is unreasonable?

6 A. I think that my discussion of what would be
7 a reasonable capital structure more than demonstrates
8 that as well as the indications of the more risky
9 nature of the parent company as well as my comparable
10 group all of which are capitalized with significantly
11 less equity than U S WEST Communications.

12 Q. You would agree, wouldn't you, that the
13 Commission has expressed a preference for using an
14 actual capital structure versus a hypothetical one?

15 A. No.

16 Q. I would cite you to the GTE Northwest order
17 in which I believe you testified where the Commission
18 states in its third supplemental order, "the
19 Commission believes that in general an actual capital
20 structure is preferable to a hypothetical one." Do
21 you recall that from the Commission's order in that
22 case?

23 A. Yes, I do, but I think the appropriate
24 phrase in that was in general. I think there's been
25 many instances when the Commission has imputed a

03996

1 different capital structure than what the actual per
2 books capital structure is.

3 Q. Does the 55 percent equity ratio you're
4 proposing represent your own judgment or opinion on
5 what U S WEST C's capital should be?

6 A. The 55 percent equity represents in my mind
7 what an appropriate capitalization would be that
8 balances safety and economy. For use in ratemaking
9 purposes.

10 Q. And is that 55 percent equity ratio what
11 you would describe as reasonable and economical?

12 A. I would describe it as a balance of safety
13 and economic.

14 Q. Could a 56.6 equity ratio, such as that
15 proposed by Mr. Cummings, also be considered
16 reasonable and economical?

17 A. Were you done? Could you repeat that?

18 Q. Sure. Could the 56.6 equity ratio
19 testified to by Mr. Cummings in which represents the
20 company's actual capital structure, could that also be
21 considered reasonable and economical?

22 A. No, I don't think so. Not in the context
23 of the amount of risk that U S WEST Communications
24 faces. All you have to do is look at how much equity
25 U S WEST Inc. has in its capital structure as well as

03997

1 the RBOCs and the independents, and they have
2 significantly less, and I would say that their markets
3 are riskier.

4 Q. Is it your testimony that any equity ratio
5 over 55 percent is unreasonable and uneconomical?

6 A. It's my testimony that for U S WEST
7 Communications an equity ratio of greater than 55
8 percent would be uneconomical and wouldn't
9 appropriately balance safety and economy.

10 Q. Is it your testimony that if you have what
11 you believe is a better capital structure the
12 Commission may substitute your capital structure for
13 the company's actual capital structure?

14 A. Could you repeat the first part of that.

15 Q. Is it your testimony that if you have what
16 you believe is a better capital structure the
17 Commission may substitute your capital structure for
18 the company's actual capital structure?

19 A. It's my recommendation that the
20 Commission utilize the capital structure that I've
21 recommended in place of the actual capital structure
22 of U S WEST Communications.

23 Q. And is that true even if your capital
24 structure is perceived as marginally better than the
25 company's actual capital structure?

03998

1 A. Given the cost of equity, what you consider
2 marginal I think is still meaningful. Equity on a
3 pre-tax basis is about two times the cost of debt, the
4 cost of equity.

5 Q. Does USWC have any preferred stock in
6 its capital structure?

7 A. No, it does not.

8 Q. Would you say that preferred stock
9 financing is typical for telecommunications companies?

10 A. I would say it's becoming more typical. U
11 S WEST Inc. just recently had a large preferred stock
12 issuance.

13 Q. If we could look at your Exhibit 749 which
14 is your KMF-3. Doesn't that exhibit show that seven
15 of the 12 companies listed have no preferred stock in
16 their capital structures?

17 A. That's what it shows for the 1994 time
18 frame, but it's changed slightly. As I've just
19 indicated, U S WEST had a large issue and several of
20 the GTE operating companies, which are on the same
21 level as U S WEST Communications, have also issued
22 preferred stock, including GTE Northwest.

23 Q. And those companies are both listed on that
24 exhibit as already having preferred stock in their
25 capital structure; isn't that right?

03999

1 A. The holding company is.

2 Q. Doesn't that exhibit also show that
3 preferred stock represents only about 0.29 percent of
4 the capital structure for the companies shown?

5 A. On average, is that what you're asking?

6 Q. Yes.

7 A. Yes.

8 Q. Doesn't this show that preferred stock
9 financing is not typical for telecommunications
10 companies?

11 A. I guess it depends on how you define
12 typical. It shows that there is some preferred stock
13 financing, and I think in my testimony I indicated
14 that the markets are becoming a lot more robust.
15 There's a lot more issuances going on and it made
16 sense going into the future, I think, for U S WEST
17 Communications to issue a percentage of preferred
18 stock.

19 Q. Would these rent developments in the market
20 be such that the percentage of preferred stock in the
21 capital structure for the companies shown on Exhibit
22 749 would approach the 4.9 percent preferred equity
23 that you're assuming for U S WEST Communications?

24 A. Well, I'm just -- the one issue that I'm
25 aware of is U S WEST Inc.'s issuance and it was about

04000

1 600 million, if I remember right, and that's a
2 significant percentage. I think it was 3 percent of
3 its capital or somewhere in there.

4 Q. Are you aware of any issuances for any of
5 the other companies shown on that exhibit?

6 A. I know that GTE Corp, several of its
7 subsidiaries have had issuances over the last year.
8 There may be others. I don't know.

9 Q. Isn't the practical effect of you
10 substituting preferred stock into the company's
11 capital structure is to reduce the return available to
12 common equity holders?

13 A. The practical effect is associated with
14 more economical equity into the capital structure and
15 come up with an appropriate capital structure that,
16 again, balances the safety and economy.

17 Q. In practical terms, though, it does amount
18 to a disallowance of the company's actual capital
19 costs, doesn't it?

20 A. It results in a reduction of the percentage
21 of equity, yes.

22 Q. Have you calculated the revenue requirement
23 impact of your recommendation on capital structure?

24 A. I calculated it but I don't recall it
25 offhand right now.

04001

1 Q. Is it your testimony that it was imprudent
2 for the company not to have issued preferred stock and
3 include it in its capital structure?

4 A. If you could give me just a minute. I
5 didn't look at a prudency test. I didn't think that
6 was necessary. Again, I went back to looking at a
7 capital structure that would balance safety with
8 economy and the fact that the Commission has used a
9 capital structure that is different from actual for
10 ratemaking purposes.

11 Q. Is your testimony on pages 21 to 23, does
12 that constitute the extent of your analysis on the
13 inclusion of preferred stock in the company's capital
14 structure?

15 A. Those would be the pages where I discuss
16 preferred stock in my testimony. There's also an
17 exhibit as well.

18 Q. That would be Exhibit 6 which is now 752.

19 A. Yes. And as well as a calculation of -- it
20 goes to the calculation of the coverage ratios as
21 well, and that's Exhibit 756.

22 Q. Is it your testimony that it was
23 unreasonable for the company not to have preferred
24 stock in its capital structure?

25 A. It's my testimony that the company can have

04002

1 a more balance and economical capital structure with
2 less equity in that capital structure and one of the
3 ways to accomplish that would be to impute a level of
4 preferred stock and leave the level of debt where it
5 was at.

6 Q. Do you demonstrate anywhere in your
7 testimony that it was unreasonable for the company not
8 to have included preferred stock in its capital
9 structure?

10 A. My testimony demonstrates, I think, that
11 the company could be capitalized with less equity
12 vis-a-vis they are experiencing less risk than the
13 parent as well as the comparable group, and that was
14 the determinant in my decision to reduce their equity
15 and then I indicate one of the ways to do that would
16 be to include preferred stock and why.

17 Q. I would like to look for a moment at your
18 overall return on equity recommendations, primarily
19 your Exhibit 753, which is your KMF-7. And this is a
20 summary of the DCF model estimates which form the
21 basis for your estimate of the cost of equity for
22 USWC; is that correct?

23 A. Could you give me the exhibit number again?

24 Q. Yeah, KMF-7 which is now 753.

25 A. Yes.

04003

1 Q. And from this data you developed a
2 recommended cost of equity range of 11.2 to 11.9 for
3 USWC; is that right?

4 A. Yes.

5 Q. Would you please explain what factors led
6 you to pick that range from this -- from the data on
7 this Exhibit 753?

8 A. Yes. Generally, as I think I've indicated
9 before, both U S WEST Inc. as well as the companies in
10 the sample group I believe are riskier than U S WEST
11 Communications, and all of these companies have
12 capitalization which has significantly less equity in
13 their capital structure than U S WEST Communications,
14 so in my judgment I took out what would be the higher
15 end of the range and then to be fair I also took out
16 the low point, and most of the results cluster between
17 11.2 and 11.9.

18 Q. And in fact of the 11 figures included on
19 that page six are within that range and five are
20 outside of that range; is that correct?

21 A. Excuse me. How many did you say?

22 Q. Will you accept subject to check that six
23 within the range of 11.2 to 11.9 and five are outside
24 the range?

25 A. Yes.

04004

1 Q. And the average for the regional holding
2 companies according to that exhibit is 11.7 percent;
3 is that right?

4 A. Right.

5 Q. And the average for the independents is
6 11.9?

7 A. Yes.

8 Q. And taking those two together your exhibit
9 shows that the average is 11.8, right?

10 A. Yes.

11 Q. Isn't it fair to say that the range of 11.2
12 to 11.9 is mostly below the average shown on that
13 exhibit?

14 A. It's below the average, yes.

15 Q. Just a couple of quick questions on
16 flotation costs. If you need a specific reference I
17 guess it would be on page 17. I don't know that you
18 need to look at your testimony. Is your testimony
19 generally that underwriting discount or commissions
20 associated with issuing securities are not actual
21 expenses incurred by the company?

22 A. With issuing equity securities, yes.

23 Q. They're not actual expenses incurred by the
24 company?

25 A. They're just the difference between the

04005

1 price that the underwriter receives from the public
2 and the price that the company receives from the
3 underwriter. Essentially the investor pays those
4 fees.

5 Q. Could you refer to what's been marked for
6 identification as Exhibit 7 appear?

7 A. I have it.

8 Q. Do you recognize that as a report of a
9 securities issuance by U S WEST dated November 29,
10 1995?

11 A. Yes.

12 Q. And I note from the exhibit that was
13 directed to your attention, did you actually review
14 this document when it came in?

15 A. I review these regularly when they're
16 filed.

17 Q. Looking at this document, can you tell me
18 the principal amount of the issuance discussed?

19 A. It indicates 250 million.

20 Q. And the net proceeds realized?

21 A. Given that this is a debenture, the company
22 in this case would pay the underwriting Commission.
23 There's a contractual obligation so the net proceeds
24 are less than the 250 million. It's 98.875 percent of
25 face value is the price to investor. If you did a

04006

1 yield to maturity the rate to the company would be
2 slightly higher than the 7.2 percent coupon rate.

3 Q. And then apart from the discount, which I
4 think you mentioned the 98.875 percent, there were
5 also miscellaneous expenses of incurred 55,000
6 deducted?

7 A. Yeah, total, yes.

8 Q. So the total net proceeds realized were
9 \$244,845,000?

10 A. That's what it shows, yes.

11 Q. And this produces an all end cost of 7.37
12 percent; is that right?

13 A. That's how it's recorded.

14 Q. As compared to the 7.2 percent coupon rate;
15 is that right?

16 A. Yes.

17 Q. For ratemaking purposes what would be the
18 embedded cost of debt reflected for this issue?

19 A. For ratemaking purposes you would include
20 the all end cost.

21 Q. Of 7.37 percent?

22 A. Yes. Or there may actually -- let me back
23 up. There may be a question on whether the fees and/or
24 the underwriting spread was appropriate, but assuming
25 that.

04007

1 Q. Just a couple of real brief questions on
2 the CAPM analysis. If you have available your
3 response to data request 46.

4 A. If you give me a minute. Yes.

5 Q. What was the market risk premium you used
6 in your CAPM analysis?

7 A. 7.6. I used Mr. Cummings's market risk
8 data in my analysis.

9 Q. And that would be the Ibbotson 1994 year
10 book?

11 A. Yes.

12 Q. The arithmetic mean data?

13 A. Yes. But again I think I discuss CAPM
14 pretty thoroughly and the problematic nature of CAPM
15 and that I merely used it as a very rough check of my
16 results. I would expect my results to be less than
17 what the CAPM produced.

18 Q. Will you accept subject to check that 68
19 years of historical data are used in that source in
20 the years 1926 through 1993?

21 A. Yes.

22 MR. VAN NOSTRAND: I have no further
23 questions. Thank you very much, Ms. Folsom.

24 JUDGE WALLIS: Are there any other
25 questions from counsel?

04008

1 MR. CUNNINGHAM: I have a few.

2 MR. VAN NOSTRAND: Move admission of 757.

3 JUDGE WALLIS: Is there objection?

4 MR. SMITH: No objection.

5 JUDGE WALLIS: 757 is received.

6 (Admitted Exhibit 757.)

7 JUDGE WALLIS: Mr. Cunningham.

8 MR. CUNNINGHAM: Thank you.

9

10 CROSS-EXAMINATION

11 BY MR. CUNNINGHAM:

12 Q. Ms. Folsom, in Mr. Cummings' deposition
13 there was a reference from time to time about the
14 long-range plan, long-range financing plan, and as I
15 recall that was not available for distribution, but it
16 was available for inspection by the staff. Did you
17 take advantage of the opportunity to look at the long
18 range plan?

19 A. To the extent that the company had the data
20 available. I don't believe I saw the whole plan, no.

21 Q. Let's look at historical period 1995 and
22 let me ask you your recollection with respect to
23 what's now in the record as Exhibit 757. Do you
24 recall whether there was anything in the long-range
25 plan that contemplated 250 million in debenture

04009

1 short-term -- excuse me, unsecured debentures?

2 A. No, I don't recall that. I do recall
3 references to increased equity, however.

4 Q. Can you be specific as to the contemplated
5 increased equity in 1995 that you found in the plan?

6 A. I don't recall. I think it was on maybe a
7 percentage basis, but I do know that the company just
8 reported that they did have an equity infusion in
9 December of 1995, so I know that's an actual issuance.

10 Q. Did they report that in the same fashion as
11 reflected in Exhibit 757?

12 A. I believe they did.

13 Q. Can you tell us what the amount was of that
14 equity infusion?

15 MR. VAN NOSTRAND: Your Honor, I've been
16 informed by the company that that document to which
17 Mr. Cunningham is referring is confidential, and I
18 would object to the extent these numbers are being
19 released in the hearing room.

20 MR. CUNNINGHAM: Your Honor, I can't
21 believe that historical infusions of equity can
22 possibly be confidential.

23 MR. VAN NOSTRAND: The long-range capital
24 plan is and that's what this subject is going to.
25 If we're talking about historical that's one thing.

04010

1 If we're going to talk about long-range capital plans
2 that's quite another.

3 MR. CUNNINGHAM: We're talking about 1995,
4 Your Honor.

5 JUDGE WALLIS: Mr. Van Nostrand.

6 MR. VAN NOSTRAND: As long as the witness
7 is aware of the confidential nature of the data and
8 aware of the boundaries related to it. If it's
9 historical that's fine.

10 MR. CUNNINGHAM: That's what the question
11 calls for.

12 JUDGE WALLIS: Very well.

13 A. You wanted to know --

14 Q. I wanted to know the amount of the equity
15 infusion in 1995.

16 A. I believe that it was done in December.
17 This is an actual issuance, it's not the projected,
18 and I think it was 56 million. It just was reported to
19 me, I believe.

20 Q. Can you tell us -- and we're again talking
21 historical data, the 1995 long-range plan to which
22 Mr. Cummings referred in his deposition. Can you tell
23 us what the prediction was, what the expectation was,
24 for equity infusion in 1995, if you recall?

25 A. I can't -- I wouldn't give you a dollar

04011

1 amount but I believe that it was higher just in
2 general terms.

3 Q. But you don't recall how much higher?

4 A. No.

5 Q. In general terms, again without getting
6 into specifics, can you tell us whether there was an
7 expectation or is an expectation from your examination
8 of the long-range plan whether there will be equity
9 infusions in 1996?

10 A. Yes.

11 Q. Again, without getting into amounts, can
12 you tell us whether or not they were more substantial
13 than the \$56 million that was reflected in 1995?

14 MR. VAN NOSTRAND: Objection, Your Honor.
15 This is going beyond the scope of historical and now
16 we're into guessing games about the future. It's a
17 confidential document.

18 MR. CUNNINGHAM: Your Honor, it calls for
19 -- it doesn't call for a specific amount. I think the
20 question is legitimate whether there is an expectation
21 from this person's evaluation of the long-range plan
22 that there will be equity infusions in 1996.

23 MR. VAN NOSTRAND: She's answered that
24 question.

25 JUDGE WALLIS: It appears to me that there

04012

1 are countervailing interests here. That it is in fact
2 a legitimate question; the other is that it does peg
3 itself to a number which I believe the company has
4 demonstrated is a legitimate interest that it has. I
5 wonder if the question could be rephrased so that it's
6 not posed with reference to a number.

7 MR. CUNNINGHAM: It would be totally
8 meaningless. I could ask her if it would be a
9 substantial number but that doesn't amount to much.
10 Your Honor, I wonder if this information could be
11 provided under seal to the company. I suspect that
12 this is information that is valuable to the
13 Commission.

14 JUDGE WALLIS: Mr. Van Nostrand.

15 MR. CUNNINGHAM: We were not permitted to
16 examine these documents but the staff was, and I think
17 it is a legitimate inquiry as to how this company is
18 capitalizing and from whence it gets its capital.

19 JUDGE WALLIS: We have a couple of options
20 at this point. One would be to clear the hearing room
21 except for those persons who have confidentiality
22 agreements on file and hear in a closed session, and
23 the other would be for the company to provide the
24 documentation.

25 MR. CUNNINGHAM: Your Honor, I don't want

04013

1 to cause a major flap here. It's my understanding,
2 and the witness has so testified, that it is
3 contemplated there will be equity infusions in 1996.
4 I will let the record go at that. Will that suffice,
5 Counsel?

6 MR. VAN NOSTRAND: If the record stands the
7 way it is?

8 MR. CUNNINGHAM: Well I'm asking.

9 MR. VAN NOSTRAND: She's already testified
10 to that.

11 MR. CUNNINGHAM: Fine. So we know some
12 amount but we're not specific as to the amount. Okay.

13 Q. Let me ask you, Ms. Folsom, whether it was
14 contemplated in your observation of 1996 long-range
15 plan whether there were plans for issuance of
16 additional debt?

17 A. I don't recall specifically for 1996.

18 Q. With respect to 1995 the company's capital
19 structure was modified between October of 1994 and
20 June of 1995 by the issuance of -- by the inclusion of
21 some long-term debt in the capital structure. Can you
22 tell us whether or not in your observation that was
23 included within the long-range plan?

24 A. We're talking 1995, the historical?

25 Q. Yes. What brought the capital structure,

04014

1 the debt component of the capital structure from where
2 it was in Mr. Cummings's original testimony and where
3 it was in his rebuttal testimony?

4 A. I believe it talked about reducing
5 short-term debt by taking out long-term debt. I don't
6 remember the specifics of 1995 if it said the amount
7 that they did issue is what they were going to issue
8 but in general terms I think it talked about the --

9 MR. CUNNINGHAM: Thank you very much.

10 That's all.

11 JUDGE WALLIS: Questions from the
12 commissioners.

13 CHAIRMAN NELSON: Pass.

14 COMMISSIONER HEMSTAD: No.

15 COMMISSIONER GILLIS: No.

16 JUDGE WALLIS: Redirect?

17

18 REDIRECT EXAMINATION

19 BY MR. SMITH:

20 Q. Ms. Folsom, Mr. Van Nostrand talked to you
21 about your CAPM analysis. You indicated that you used
22 CAPM as a rough check of your results. Do you recall
23 that testimony?

24 A. Yes, I do.

25 Q. Did you average your CAPM results with your

04015

1 DCF results in your analysis?

2 A. No, I did not.

3 MR. SMITH: That's all I have.

4 JUDGE WALLIS: Anything further?

5 MR. VAN NOSTRAND: No, Your Honor.

6 JUDGE WALLIS: It appears that there is
7 not. Ms. Folsom, thank you for appearing today.
8 You're excused from the stand. Let's be off the
9 record.

10 (Recess.)

11 JUDGE WALLIS: Let's be back on record,
12 please. Counsel and Mr. Twitchell, we appreciate your
13 indulgence regarding concerns of another witness and
14 you may resume the examination at this time.

15 MR. OWENS: Thank you, Your Honor. Before
16 I forget I would like to offer Exhibits 734 and 735.

17 JUDGE WALLIS: Is there objection? Let the
18 record show there is no objection and the documents
19 are received.

20 (Admitted Exhibits 734 and 735.)

21 MR. OWENS: Thank you, Your Honor.

22

23 CROSS-EXAMINATION

24 BY MR. OWENS:

25 Q. Mr. Twitchell, before the break we were

04016

1 discussing the MLT-29 page 4 numbers, and I think we
2 had reached the point where you agreed that if we were
3 to have the company numbers adjusted to treat the '93
4 sharing as part of the rate base adjustment in the
5 case and to treat it consistently with what the
6 company has proposed for the sharings for 1990 and
7 1991 that we would use the deferred tax number that's
8 on page 4 of MLT-29 on the line 10 deferred tax
9 underestimated 1993 sharing. Do you recall?

10 A. I can recall that but I think you mean line
11 11.

12 Q. Okay. The increment would be the number on
13 line 10 underestimated 1993 sharing that --

14 A. The deferred tax would be in the income
15 statement on line 10. That's the only reason why I
16 have a problem with that, but you're right, the
17 increment would be the amount in the rate base.
18 Assuming the company's logic is correct then it would
19 be the 19,599,000 reduction to rate base.

20 Q. That would be --

21 A. I'm sorry, that would be an increase to
22 rate base.

23 Q. Yes. Deferred tax reduction. And that
24 would be the sum of the 13 million 404 under the total
25 RMA No. 9 column plus the 6 million 195?

04017

1 A. That's correct.

2 Q. Okay, good. Now, would you agree with me
3 that if we were to take the numbers on the line
4 company match, which you agreed with me earlier were
5 a part of the total 50.6 million that you identified
6 earlier that we could sum those up, and could you
7 accept subject to check that the sum of those would be
8 29 million -- excuse me, 20,972,000?

9 A. I will accept that subject to check.

10 Q. And that would be greater, wouldn't it,
11 mathematically, than the reduction in the end of
12 period deferred taxes that would represent the
13 accumulation of the consistent treatment that we
14 discussed in the prior question?

15 A. Are you asking me that \$20 million is more
16 than 19 million?

17 Q. 19.6, yes.

18 A. I would have to say yes to that.

19 Q. It's correct, isn't it, that under the AFOR
20 it was essentially an election by the company to agree
21 to put its sharing dollars into the amounts to reduce
22 the depreciation reserve. That is, there was another
23 election open that the ratepayer share could simply
24 have been refunded and the company would have kept its
25 share; is that correct?

04018

1 A. Yes. That was not only the company's
2 election but it was also the staff's recommendation in
3 '93.

4 Q. But either would have been a permissible
5 outcome under the AFOR; is that correct?

6 A. What would have been a permissible outcome.

7 Q. That is, either having the company keep its
8 share of the sharing dollars and refund to the
9 ratepayers the ratepayers' share or doing what was
10 done, which was combining the two shares for an
11 increase to the depreciation reserve?

12 A. That was the option, yes. That was the
13 option that was accepted, and that's true. They could
14 have gone either way.

15 Q. Now, in your bench request testimony,
16 Exhibit 321 at page 6 you discuss -- you state
17 beginning at line 14 what you consider to be perhaps a
18 hypothetical where the end of period deferred taxes do
19 have to be adjusted to recognize the change in the
20 reserve, and you state, "In order for the U S WEST
21 customers to receive the benefit of this \$50,634,616
22 in excess earnings in the sharing years using the
23 company's argument the gross revenues would need to be
24 reduced by \$85,791,781 while federal income tax would
25 be reduced by \$35,157,165, and then that same number,

04019

1 the 85.8 million you indicate, would have the effect
2 of increasing the accumulated depreciation reserve by
3 that amount; is that correct?

4 A. That's what my testimony says.

5 Q. Would you agree with me that that number,
6 the 85,791,781, is greater than the accumulation of
7 all the amounts the Commission ordered to be used to
8 increase the depreciation reserve in the orders that
9 it's issued on that subject?

10 A. Yes. And the reason for that is that the
11 effect of the deferred taxes and the impact on the
12 income statement was not taken into consideration for
13 calculating the excess earnings.

14 Q. Well, that's your conclusion; is that
15 correct?

16 A. That's my conclusion.

17 Q. You're not purporting to say that you know
18 what the Commission had in mind when it wrote those
19 orders, are you?

20 A. I'm not purporting to know what the
21 Commission had in mind but I know that the orders --
22 the staff nor the company addressed the issue of
23 deferred taxes when they calculated the depreciation
24 reserve that should be included for sharing purposes.

25 Q. Would you say that ratepayers enjoy a

04020

1 benefit from having the company's share of sharing
2 dollars go to reducing the depreciation reserve
3 deficiency?

4 A. Over the life of the plant, yes, they
5 receive a benefit but it's into the future instead of
6 receiving it today. I'm not sure that if you don't
7 put the \$50 million as a reduction in rate base that
8 the customers would feel that that was really a
9 benefit to them because they would be losing dollars
10 they could have today and supposedly receiving them
11 over as many as maybe 20 years.

12 Q. Well, you haven't prepared any time value
13 of money analysis, have you?

14 A. The only time value of money analysis that
15 I've had that if you put the \$50 million in the rate
16 base then the ratepayers don't have to pay a return on
17 the \$50 million that's included in the depreciation
18 reserve. Therefore, the ratepayers are felt held
19 harmless by not receiving those monies up front.

20 Q. But you haven't done any quantitative
21 analysis assessing the time value of money
22 associated to some appropriate discount rate, have
23 you?

24 A. No, I haven't, but that's the whole theory
25 of accumulated deferred taxes being included in the

04021

1 rate base. You include them in the rate base or even
2 the depreciation reserve so that the ratepayer does
3 not have to pay a return on dollars that are already
4 included as an expense on the income statement, and so
5 your time value of money calculation is in the
6 calculation of rate of return items and -- I mean rate
7 base items and the rate of return on that.

8 Q. So it's your testimony the staff witness in
9 this case has included some element in her development
10 of the cost of capital associated to the time value of
11 money for deferred taxes in the rate base?

12 A. I didn't understand the question.

13 Q. Is it your testimony that the staff's cost
14 of capital witness in this case has included an
15 element in her determination of U S WEST cost of
16 capital associated with deferred taxes in the rate
17 base?

18 A. By applying -- yes. By applying the
19 authorized rate of return to the rate base you do take
20 into consideration the time value of money of all
21 plant that has been depreciated in prior years so the
22 ratepayer won't continue to make a return on that into
23 the future.

24 Q. But you're not suggesting there was some
25 separate analysis in determination of cost of capital

04022

1 designed to ascertain that time value of money?

2 A. That's considered in the regulatory formula
3 so, yes, it is there.

4 Q. You're saying that you believe there's a
5 separate determination using some appropriate discount
6 rate of the time value of money associated with
7 deferred taxes in the staff's cost of capital
8 presentation?

9 A. I'm saying yes, and the overall rate of
10 return is the value used by applying that to the rate
11 base.

12 Q. I said a separate determination. You keep
13 coming back to the overall rate of return. I'm simply
14 asking you whether you know there was a separate
15 analysis of the time value of money associated with
16 deferred taxes in the staff's cost of capital
17 presentation?

18 A. I'm saying yes. The company -- the cost of
19 money person comes up with the authorized rate of
20 return which is then multiplied times the rate base to
21 get NOI, and since deferred taxes are included in
22 the rate base the reason why they're there is because
23 the ratepayer has already paid them and to give him
24 the time value of money it reduces the rate base.
25 Therefore, the customer is held harmless because he

04023

1 receives the time value as money for putting up the
2 revenues in advance.

3 Q. Well, in this case to the extent the
4 depreciation reserve deficiency represents costs that
5 the company has not recovered for prior services, have
6 you constructed any time value of money analysis
7 related to those delayed cost recovers?

8 A. Yes. It's automatically done. By
9 including the accumulated depreciation increase in the
10 rate base you reduce the rate base on which the
11 company is able to make a return on into the future.
12 The reason why you do that is so the ratepayer is held
13 harmless and receives the time value of money on that
14 increased depreciation expense.

15 Q. I was talking about the reserve deficiency.
16 To the extent the reserve deficiency represents a
17 delay in the recovery of cost, have you done any time
18 value of money analysis to indicate what the time
19 value of the delayed collection to the company is of
20 those costs?

21 A. Yes. It is automatically taken into
22 consideration by the mere fact that the company has
23 not been able to book depreciation expense. It does
24 not hit accumulated depreciation. Therefore, the
25 plant is larger; therefore, the company receives a

04024

1 return on stockholders' investment and gets the
2 opportunity to make a return on that investment. This
3 gets to the very point of why we do an
4 investor-supplied working capital calculation.

5 Q. So you're treating the authorized rate of
6 return as the appropriate discount rate for purposes
7 of that time value of money analysis; is that correct?

8 A. In regulatory theory that's what it's for.
9 The company is given the opportunity to make a return
10 which the Commission finds to be appropriate, and
11 anything that is reduced from that is reduced from the
12 rate base as accumulated depreciation because the
13 ratepayers should not be required to pay a return on
14 plan they've already covered the cost of through
15 depreciation expense and in the regulatory theory that
16 time value of money is found to be the authorized rate
17 of return. Now, that's an opportunity. That's not a
18 guarantee.

19 Q. But that theory doesn't take into account,
20 does it, the possibility that if the company had in a
21 timely fashion recovered the investment it could have
22 put that investment or that capital to use in another
23 activity that would generate a higher return?

24 A. No, because the answer to that is no, it
25 doesn't take into consideration that maybe the company

04025

1 could have taken that capital, invested elsewhere.
2 The only formula we have in ratemaking is that the
3 company is allowed a return on their investment. If
4 they pull the investment out of the state and put it
5 somewhere else so they can make a higher return, as
6 regulators we're not concerned about that. We're very
7 concerned that the quality of service in this state is
8 high, that there's adequate plant, that customers
9 receive service when it's required and the company is
10 compensated for all their costs plus return on the
11 investment, and if the company want to invest the
12 money elsewhere and make more money we would rather
13 they wouldn't do that at the expense of the service in
14 this state.

15 Q. Directing your attention now to adjustment
16 PFA 10 and your testimony at Exhibit 699T, page 49.

17 A. What was the page on my exhibit?

18 Q. Page 49. Beginning at line 8 you describe
19 the company's adjustment entitled PFA 9 Restructuring
20 Adjustment. Is it your understanding the company
21 withdrew that adjustment in Ms. Wright's testimony
22 that was delivered in hearing here?

23 A. It's my understanding that she withdrew
24 part of that adjustment. It was my understanding that
25 she wanted to withdraw the adjustment associated with

04026

1 restructuring in PFA 9 but PFA 10 is part of the
2 restructuring costs so she only withdrew part of it.

3 Q. Well, that's your conclusion that it's part
4 of restructuring costs, and we'll get to that in a
5 minute. I'm just asking you --

6 A. I don't agree with that statement.

7 Q. I'm just asking you if it's your
8 understanding in referring to this transcript
9 reference whether the company withdrew the adjustment
10 you're discussing here.

11 A. And I'm saying they withdrew part of the
12 adjustment because their recommendation for
13 withdrawing the adjustment PFA 10 OPEB curtailment
14 loss was based on restructuring, so they didn't remove
15 all the dollars in the restructuring adjustment. They
16 only removed one portion of it.

17 Q. Let's see if we can simplify this. The
18 company created two adjustments in its original
19 presentation PFA 9 and PTA 10; is that right?

20 A. That's correct.

21 Q. And the company withdrew the entirety of
22 PFA 9 and recommended that the test year booked
23 expenses whatever they were be used rather than having
24 any proforma of any description; isn't that correct?

25 A. That's exactly what the company did.

04027

1 Q. Now, referring to PFA 10, do you dispute
2 that the employees whose departures are the basis of
3 this calculation in fact left the company during the
4 test year?

5 A. I have no dispute with the calculation of
6 this adjustment, and the basis of the calculation was
7 restructuring is how I understand it.

8 Q. We'll get to that in a minute. Do you
9 dispute that FAS 106 requires the company to incur the
10 cost that the company calculated in this adjustment
11 when employees leave?

12 A. I don't have any dispute with the way the
13 company calculated this.

14 Q. Now, are you the witness that is going to
15 stand cross for the staff on restructuring or was that
16 another witness?

17 A. That was another witness.

18 MR. OWENS: Thank you. That's all I have.

19 JUDGE WALLIS: Do other counsel have
20 questions? It appears not. Commissioners.

21 CHAIRMAN NELSON: No.

22 COMMISSIONER HEMSTAD: No.

23 COMMISSIONER GILLIS: No.

24 JUDGE WALLIS: Mr. Trautman.

25 MR. TRAUTMAN: No.

04028

1 JUDGE WALLIS: In conjunction with this
2 witness's appearance we have received as Exhibit 734
3 the fifth supplemental order in U-89-2698T. The
4 Commission understands that there is a file regarding
5 that docket and the associated U-89-3245 docket that
6 contains a Commission request for comments and parties'
7 response to those comments, and in particular -- well,
8 let me ask the parties' reaction to the Commission
9 taking official notice of the supporting comments and
10 responses when considering that exhibit.

11 MR. OWENS: Well, it seems to me, Your
12 Honor, that I guess the Commission can consider things
13 that are in its files. We offered this exhibit for a
14 limited purpose of establishing for the record what
15 the Commission in fact directed with regard to the
16 treatment of the sharing dollars, the company's
17 portion and the ratepayers' portion. If the
18 Commission wants to take official notice of other
19 matters in the file, I guess we don't have a problem
20 with it.

21 MR. TROTTER: We don't object either. I
22 would note it is docket U-89-2698F. It's an old
23 convention no longer used. That's fine with us. If we
24 could have an identification of specific documents at
25 some point.

04029

1 MR. OWENS: I would echo that.

2 MR. TRAUTMAN: Staff would have no
3 objection either.

4 JUDGE WALLIS: The two documents that
5 appear to have relevance at this point are the
6 Commission staff additional comments in response to
7 the June 6, '91 letter to parties. That's under both
8 docket numbers and comments of U S WEST Communications
9 Inc. on the staff report, and that was filed under
10 U-89-3245P only. If there are additional documents
11 that we desire to take notice of, we will advise the
12 parties.

13 At this point it appears that there is
14 nothing further for Mr. Twitchell. Mr. Twitchell, you
15 may be excused from the stand at this point. Let's be
16 off the record momentarily.

17 (Recess.)

18 JUDGE WALLIS: Let's be back on the record,
19 please, following a brief recess. AT&T is calling to
20 the stand at this time Dr. Robert A. Mercer. Swear.
21 Whereupon,

22 ROBERT A. MERCER, PhD,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25 JUDGE WALLIS: In conjunction with the

04030

1 appearance of Dr. Mercer, a number of documents have
2 been prefiled and predistributed. Dr. Mercer's direct
3 testimony is Exhibit 760T for identification. His
4 supplemental testimony is marked as 761T for
5 identification. His attachments RAM-S1 is marked as
6 762. RAM-S2 is marked as 763 and RAM-S3 cost summary
7 is marked as 764 for identification.

8 In addition, prefiled surrebuttal testimony
9 is marked as 765T for identification. Attachment 1A
10 is marked as 766 and 1B is marked as 767 for
11 identification.

12 Finally the company has distributed a
13 document the first page of which purports to be a
14 letter on AT&T letterhead addressed to Ms. Catherine
15 Hapka of U S WEST under date of January 25, 1996.

16 (Marked Exhibits 760T, 761T, 762, 763, 764,
17 765T, 766, 767 and 768.)

18

19 DIRECT EXAMINATION

20 BY MS. PROCTOR:

21 Q. Would you please state your name and give
22 your business address for the record.

23 A. Yes. My name is Robert A. Mercer.
24 My business address is Hatfield Associates, 737 29th
25 Street, Suite 200, Boulder, Colorado 80303.

04031

1 Q. And you're appearing here today on behalf
2 of AT&T; is that correct?

3 A. It's correct, yes.

4 Q. Did you cause to have prepared and prefiled
5 in this docket what have been marked as Exhibits 760T,
6 your direct testimony, 761T, supplemental testimony
7 with attached exhibits 762, 763 and 764 and
8 surrebuttal testimony marked as 765T with attachments
9 which have been marked as Exhibits 766 and 767?

10 A. Yes.

11 Q. And is that testimony true and correct to
12 the best of your information and belief?

13 A. Yes.

14 MS. PROCTOR: Your Honor, I would move the
15 admission of Exhibits 760T through 767.

16 JUDGE WALLIS: Is there objection?

17 MR. OWENS: Yes, Your Honor. U S WEST
18 objects to 761T through 767. The basis of the
19 objection is that this amounts to essentially new
20 evidence that was introduced after the discovery
21 cutoff. We've had no opportunity to conduct discovery
22 of information that's being introduced against us on
23 the cost of basic service that's substantially
24 different from the original testimony that this witness
25 prefiled in Exhibit 760T, substantially different and

04032

1 more adverse to U S WEST.

2 In addition, even though one part of the
3 surrebuttal was handed out last week, we've only this
4 minute as the witness took the stand been given the
5 attachment showing the numerical calculations, such as
6 they are, that underlie the output results in the
7 surrebuttal testimony. We submit that this is really
8 beyond the scope of the Commission's request for
9 information on costs to have a brand-new cost study
10 first introduced in December, December 20th, and then
11 substantially revised on the eve of the hearing
12 without any opportunity for discovery, and also beyond
13 the cutoff for motions to strike.

14 We simply submit it effectively denies my
15 client its opportunity to reasonably and seasonably
16 know the claims of its opponents and to have an
17 opportunity to meet them, and therefore it would
18 impair my client's right to a fair hearing to accept
19 this evidence at this time.

20 MS. PROCTOR: If I might respond, Your
21 Honor.

22 JUDGE WALLIS: Just one moment, if you
23 please. Ms. Proctor, thank you for waiting.

24 MS. PROCTOR: Yes. As to Exhibits 761
25 through 764, the supplemental testimony and supporting

04033

1 documentation, that was filed in December pursuant to
2 the Commission's order permitting parties and requiring
3 U S WEST to provide information and testimony
4 concerning the cost studies in this case. To the
5 extent that that testimony has been on file for
6 something over six weeks, certainly U S WEST has had
7 the opportunity should it have desired to do so to have
8 sought leave of the Commission to conduct additional
9 discovery about that testimony. U S WEST also had
10 certainly ample opportunity to file a motion to strike
11 at some time before AT&T had gone to the time and
12 expense of flying Dr. Mercer out here, so I certainly
13 think that the request at this time to strike that
14 testimony is not at all timely.

15 Furthermore, U S WEST has already had the
16 opportunity and has taken that opportunity to put Mr.
17 Copeland on the stand, and Mr. Copeland was able to
18 address in extensive detail not only the subject
19 matter of the supplemental testimony but because Mr.
20 Copeland has had the opportunity to meet with one of
21 Dr. Mercer's associates was able in an informal
22 meeting to have a number of his questions answered
23 concerning the study.

24 As far as the surrebuttal testimony,
25 Exhibit 765 through 767, that testimony was submitted

04034

1 as we had proposed to do in response to Mr. Copeland's
2 testimony. Certainly U S WEST at that time took the
3 position that that was entirely appropriate on the
4 part of AT&T, that U S WEST was not attempting to deny
5 AT&T its ability to respond to Mr. Copeland's
6 testimony, so I am a little surprised that at this
7 point U S WEST now wants to deny AT&T its ability to
8 respond to Mr. Copeland's testimony.

9 As for attachments 1A and 1B I cannot
10 explain how they were not available. My understanding
11 was that they were filed along with the testimony last
12 week. They certainly do not contain anything new or
13 different than the same attachments to the
14 supplemental testimony. They do reflect the
15 correction and the changes that Dr. Mercer explains in
16 his surrebuttal testimony, so the format is exactly
17 the same. The numbers have obviously changed as he
18 describes in his surrebuttal testimony.

19 JUDGE WALLIS: Do other parties wish to
20 comment? Mr. Owens.

21 MR. OWENS: Brief response, Your Honor.
22 First with regard to the claim by AT&T that U S WEST
23 had an opportunity to conduct discovery, as I pointed
24 out, there is and has been a discovery cutoff, and I
25 certainly don't know that U S WEST would have been

04035

1 granted any such right. We simply attempted to abide
2 by the rulings that we were aware of that regulated
3 the course of discovery in this case.

4 Similarly, counsel says we could have filed
5 a motion to strike but the Commission has issued a
6 ruling cutting off motions to strike that was prior to
7 the introduction or the submission of this testimony,
8 so counsel raises a procedural paradox in her
9 argument.

10 The statement that Mr. Copeland has had --
11 has testified that he's had an opportunity to meet
12 with associates of Dr. Mercer is simply not true at
13 least as it relates to the supplemental testimony. At
14 the time and up until Mr. Copeland testified he had
15 not had such a meeting, and he will testify to that
16 fact when he takes the stand. I recognize counsel's
17 point that Mr. Copeland was permitted to testify in
18 response to the supplemental testimony and U S WEST
19 recognizes that should the Commission agree with the
20 motion or the objection that we're making here that
21 the testimony of Mr. Copeland that responds to that
22 should also be deleted from the record. It's again a
23 procedural artifact of the fact that this case is not
24 being presented in the traditional way to which both
25 the bench and counsel for U S WEST has alluded earlier

04036

1 today. And so we do agree that if you grant our
2 objection that the responsive testimony should also be
3 deleted.

4 JUDGE WALLIS: Ms. Proctor, what's your
5 response to that?

6 MS. PROCTOR: To his entire argument?

7 JUDGE WALLIS: To the offer to withdraw the
8 testimony of Mr. Copeland that was offered in response
9 to the December filing, supplemental testimony.

10 MS. PROCTOR: I guess I'm not clear.
11 Certainly our position is that the supplemental
12 testimony was filed in accordance with the Commission
13 rules and there's no grounds for striking that
14 testimony. As far as the surrebuttal, that portion of
15 the surrebuttal that's directed to Mr. Copeland, if
16 they want to withdraw Mr. Copeland's testimony we can
17 certainly withdraw that testimony. However, we would
18 still be filing the correction piece which I had
19 indicated would need to be filed much in the way of an
20 errata sheet. So that portion of the surrebuttal that
21 deals with the correction as well as the two attachment
22 sheets would be filed in the nature of errata. I'm not
23 quite clear what Mr. Owens is suggesting. I did not
24 hear Mr. Owens suggesting that the supplemental
25 testimony would stay in the record.

04038

1 have one last shot?

2 MR. OWENS: Certainly. The gravamen of the
3 objection is unfair surprise. I don't believe it's
4 fair to say that granting or sustaining this objection
5 requires the striking of all supplemental testimony.
6 U S WEST's supplemental testimony, we believe, was
7 responsive to the request for additional explanatory
8 information on the costs that U S WEST had already
9 submitted and supported proposed rates. U S WEST
10 didn't make a wholesale modification to its cost
11 studies without documentation and drop them on the
12 parties in the middle of December, and that's what
13 we're complaining about in the supplemental testimony
14 of AT&T.

15 MS. PROCTOR: I'm sorry, but this is really
16 beyond the pale.

17 JUDGE WALLIS: I will ask counsel to avoid
18 -- I know that you're very concerned about what's
19 going on, that it's important to you, but I would ask
20 that you not cast aspersions on each other's motives
21 or proceed in that manner, so go ahead, Ms. Proctor.

22 MS. PROCTOR: Certainly.

23 MR. OWENS: If anybody interpreted that as
24 an aspersion, I didn't intend it. I am simply
25 attempting to discuss the basis of our objection.

04039

1 MS. PROCTOR: I think, Your Honor, that
2 this case has been characterized by material being
3 provided with parties having very short times in which
4 to respond to that material. U S WEST filed a large
5 volume of material in December and public counsel's
6 witness, Mr. Dunkel, responded as did MCI's witness as
7 did AT&T all addressing the issue of the cost studies,
8 in a way in which we all intended to respond to the
9 Commission's request and to provide information that
10 we all found to be helpful to the Commission in its
11 inquiry.

12 As far as elements of surprise, U S WEST
13 was providing a new access proposal several days
14 before we were to cross-examine their witness and we
15 went ahead and cross-examined, so I think that for U S
16 WEST to try and exclude this information which we
17 believe will be very valuable and of assistance to the
18 Commission in its inquiry is a detriment to the public
19 interest.

20 JUDGE WALLIS: One concern raised was that
21 evidence was presented after the discovery cutoff.
22 It is true that the cutoff for formal discovery had
23 previously been established, but it's also true that
24 there was no request to pursue discovery. I don't
25 believe it's accurate to say that there was no

04040

1 opportunity to conduct discovery to new and adverse
2 information. I think that instead it involved a
3 choice at the time not to pursue formal discovery.
4 Informal discovery, of course, is also available.

5 There was a concern that the attachments to
6 the surrebuttal testimony were not provided, but in
7 looking at the surrebuttal testimony the text refers
8 to attachments, and whether -- I will assume that the
9 failure of the predistributed document to contain the
10 attachment is an oversight of the sort that has
11 happened in this complex and multi, multi-documented
12 proceeding, but someone reading it could see the
13 references clearly to attachments and ask to have them
14 provided.

15 The company, as counsel notes, did have the
16 opportunity through its witness Copeland to present
17 additional information and to respond to the December
18 filing. The company has the opportunity to present
19 witness Copeland again today and, I understand,
20 intends to do that. I just don't believe that the
21 objection at this point is properly made. I think
22 that consistent with the rulings that were made
23 earlier today that in light of the nature of the
24 proceeding and the Commission's desire to have both a
25 full record and a fair record that the objection

04041

1 should be overruled. So consequently I will receive
2 Exhibits 760T through 767.

3 (Admitted Exhibits 760T, 761T, 762-764,
4 765T, 766, 767.)

5 MS. PROCTOR: Thank you, Your Honor. Dr.
6 Mercer is available for cross-examination.

7 JUDGE WALLIS: Very well. Pursuant to our
8 earlier discussions we will be in recess now and we'll
9 resume at 1:30.

10 (Lunch recess taken at 12:15 p.m.)

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AFTERNOON SESSION

2

1:30 p.m.

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JUDGE WALLIS: Let's be back on record

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following our noon recess. I would call the witness

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who is now available for cross-examination. Mr.

6

Owens.

7

MR. OWENS: Thank, you Your Honor.

8

9

CROSS-EXAMINATION

10 BY MR. OWENS:

11

Q. Good afternoon, Dr. Mercer. I'm Doug Owens

12

for U S WEST. Like to ask you a few questions about

13

your analysis. As I understand it one of the inputs

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to your calculation is the depreciation; is that

15

right?

16

A. Yes.

17

Q. And you used a composite depreciation life

18

of 18 years; is that correct?

19

A. We did.

20

Q. And depreciation is a significant part of

21

the cost calculation, would you agree with that?

22

A. Yes, it has a significant effect.

23

Q. And of course, it's mathematically true

24

that the longer the life, other things being equal,

25

the smaller amount of annual depreciation expense that

04043

1 would be included in your model; is that correct?

2 A. Yes, it is.

3 Q. Is it correct that --

4 JUDGE WALLIS: Let's be off the record for
5 a minute.

6 (Discussion off the record.)

7 Q. U S WEST has provided AT&T with its
8 estimate of its economic depreciation lives in this
9 case, did it not?

10 A. I'm not sure if it did or not.

11 Q. You indicated in your testimony that you
12 used an 18-year composite life because it was
13 consistent with FCC prescribed lives is one reason; is
14 that right?

15 A. That's one reason, yes. I also as I
16 understand from my colleague that was a number that
17 was suggested by the staff as well.

18 Q. Do you know whether or not AT&T uses any of
19 the same types of equipment that you modeled for U S
20 WEST Communications?

21 A. They've generally used obviously switching
22 and transmission, they would tend to use it in
23 different kinds of switches and probably different
24 circuit capacities and the like, and of course there's
25 no loop plant in the AT&T network.

04044

1 Q. For similar types of equipment, is it
2 correct that the AT&T depreciation lives would be
3 considerably shorter than what you used as components
4 to your 18-year composite life?

5 A. I have no knowledge of AT&T's depreciation.

6 Q. Is it correct that the depreciation lives
7 you used are considerably longer than what U S WEST
8 uses for financial reporting?

9 A. Again, I have to plead ignorance. I'm not
10 sure what U S WEST uses for its reporting.

11 Q. Are you familiar with the depreciation
12 lives of any other competitors or potential
13 competitors to U S WEST Communications besides AT&T?

14 A. No, I'm not.

15 Q. Are you familiar with a paper by Timothy
16 Tardiff of National Economic Research Associates
17 reviewing your model dated March 10, 1995?

18 A. I may know it by title. Is that the paper
19 that Dr. Emmerson referred to in his testimony?

20 Q. It's called evaluation of MCI's universal
21 service funding proposal and it was prepared for
22 Pacific Bell?

23 A. I don't think I know it by that title. I
24 am aware that in Dr. Emmerson's paper he referred to
25 some other paper by NERA. That might be it. I'm not

04045

1 sure.

2 Q. But you've never read this narrative paper?

3 A. I have not.

4 Q. Another factor you used in your study was
5 to adopt ratios of investment to expense from U S
6 WEST's ARMIS reports for network operations; is that
7 correct?

8 A. Yes, that's correct.

9 Q. And those ratios based on the ARMIS reports
10 would reflect the relationship between U S WEST
11 Communications's existing investment and the expenses
12 associated with service provided with that investment;
13 is that right?

14 A. Yes. In fact, I noted in my testimony that
15 it would be desirable to use a forward looking expense
16 estimate but to our knowledge nobody has built such a
17 fundamental long-range or forward looking expense
18 model so we did use -- the ARMIS report data does have
19 that potential drawback. In fact, I might have gone on
20 and commented in the testimony, certainly it's my
21 belief that in such a cost declining industry as we're
22 in today that if you did some forward looking expense
23 it would reflect a lower set of ratios perhaps than we
24 used.

25 Q. But it could reflect higher?

04046

1 A. It could, but I don't know why it would. I
2 would think it would tend to go the other way.

3 Q. Well, you could agree, then, at a minimum,
4 though, that as capital becomes more or less
5 productive the ratio of the expense to the capital
6 will change?

7 A. I'm sorry, would you define what you mean
8 by becomes more or less productive?

9 Q. Producing more or less service per dollar
10 of investment?

11 A. I wouldn't think that necessarily the
12 expense to investment would change in that case. The
13 amount of investment required under your hypothetical
14 that there was a change in productivity, I would think
15 that might affect the amount of investment you need
16 for a unit of service, but I'm not sure why that would
17 be reflected in the expense to investment ratio,
18 because the expense reflects more employee
19 productivity than any productivity of the equipment.

20 Q. Mathematically you're assuming using your
21 forward looking analysis a lower level of investment
22 than the company now employs; is that correct?

23 A. That's difficult to determine, because we
24 built a TS LRIC study of what it would take to provide
25 service. When I look at the company's current

04047

1 investment in facilities I'm not quite sure what I'm
2 looking at because there's quite a set of additional
3 services that our TS LRIC model is not addressing, so
4 I can't agree a priori that it is true that the
5 investments that we see in our model look lower than
6 the aggregate plant of U S WEST, but I don't know what
7 that aggregate plant is used for. It's obviously used
8 for many more services than just the one we modeled.

9 Q. You indicated I think a minute ago that your
10 premise was that the industry was a cost declining
11 industry. If you were to able to model what it costs
12 to produce basic service using today's investment and
13 compare that with what you used as your forward looking
14 technology, would you expect that the investment would
15 be lower using your forward looking technology?

16 A. Actually, I'm not sure that I would expect
17 that necessarily, because there has been a tremendous
18 amount of network upgrades being done by U S WEST and
19 other telephone companies in digital switching and
20 fiberoptics transmission systems, in more mechanized
21 operations systems. That task may not be completed
22 but it's clearly well under way, so I don't know where
23 we are on the curve of that exactly, and I don't think
24 it's a given that it would necessarily lead to a lower
25 result.

04048

1 I also commented on a study like this, of
2 course, it's not what I heard characterized once as
3 wild-eyed technology. It's best available technology
4 which means it's technology proven in use kind of
5 applications today. The fact that it's proven means
6 that telephone companies are employing that kind of
7 technology and have proven that it's effective so it
8 says to me there's quite a bit of this technology
9 deployed. I know a great deal of modernization
10 happened and that may or may not lead to further
11 improvements.

12 My comment about the cost declining
13 industry was more a reflection of again the use of
14 increasing numbers of computer systems and the fact
15 that I know the exchange industry has laid off
16 considerable numbers of people over the last few
17 years.

18 Q. Your model computes these network
19 operations costs in a fashion that I believe you
20 testified is a function of the number of lines
21 installed; is that correct?

22 A. It computes the per line by looking at the
23 numbers of lines. It takes the total networks
24 operations expense, which is one category of expense
25 that does not appear to be attributable to individual

04049

1 components of investment and so it takes that one
2 total expense and divides it by the number of access
3 lines to give a per line number.

4 Q. Now, do you have studies that you rely on
5 for that answer that the total network operations
6 expense does not appear to be a function of the amount
7 of investment installed?

8 A. Not studies per se. It more reflects when
9 we've looked at the various ARMIS accounts there are
10 some that are clearly identified with particular parts
11 of the network. There are some that, again, don't
12 appear to be attributable because it's things like
13 network engineering, which is not specific to a
14 particular piece of the loop. It's network
15 administration, functions like that. Almost by title
16 it appeared to us that as we looked at that that those
17 would not be related to any particular category of
18 investment but more general in application.

19 There is a mixture of quite a few different
20 subaccounts within that account. I'm not sure -- you
21 know, I haven't rattled off many examples but there's
22 several and my conclusion was that they looked line
23 related more than the size, the overall size of the
24 network.

25 Q. You gave testimony in the state of

04050

1 Pennsylvania that's similar to what you're giving in
2 this state; is that right?

3 A. Yes, that's correct.

4 Q. And you stated in that testimony that
5 network operations are assumed to vary directly with
6 the number of lines provisioned; is that right?

7 That's at page 19.

8 A. If I could make sure I draw the right
9 legal distinction. I have not yet testified in
10 Pennsylvania. We filed written testimony. I'm only
11 drawing the distinction in case it matters, but in the
12 written testimony we indicated that the -- that it
13 varied with the number of lines and we calculated it
14 by dividing by the number of lines to come up with a
15 per line expense.

16 Q. But your testimony was that you used the
17 word assumed rather than appeared to vary in that
18 state; is that right?

19 A. Yes, but if I use -- take subject to proof
20 that I used those words. They don't have any
21 particular significance to me. The difference was not
22 -- didn't reflect any great difference -- any opinion
23 that there's a difference between assumption --

24 Q. Mathematically the way your model works you
25 divide the network operations costs into two groups,

04051

1 local and nonlocal; is that right?

2 A. Yes, that's correct.

3 Q. And then you take the local piece and you
4 divide that piece by the number of lines to come up
5 with your per line network operations cost; is that
6 right?

7 A. Yes, that's correct.

8 Q. Now, when you separate the local from the
9 nonlocal, is that based on some minutes of use
10 measurement?

11 A. Yes, it is, and I need to make a
12 correction. I think as I commented in my -- perhaps
13 in my surrebuttal testimony is that for now we
14 actually have not -- so far the allocation of network
15 operations is entirely -- does not have that division
16 in it. We believe that's an appropriate correction to
17 examine and divide -- and to separate that by minutes
18 of use but we're not currently doing that.

19 Q. Another major factor in your study is the
20 investment in the loop plant; is that correct?

21 A. Yes, it is.

22 Q. And the loop plant as measured by you
23 reflects the prices of equipment that supposedly would
24 be available for purchase to U S WEST Communications;
25 is that right?

04052

1 A. Yes, that's correct.

2 Q. And you indicate in your testimony that the
3 prices you used were obtained on the basis, I believe,
4 of private discussions with LEC personnel involved in
5 the procurement process and manufacturers; is that
6 right?

7 A. Yes, it is, and also at least one or two
8 publications -- I'm sorry, you're talking loop plant.
9 Your categorization is correct.

10 Q. Who specifically did you talk to at what
11 company?

12 A. This is actually over the history of our
13 company. We can't really reconstruct at this point
14 the specific personnel that we've talked to over the
15 years. I mean, this was not any particular survey.
16 It wasn't any necessarily recent work. It was the
17 best result we could obtain from talking to industry
18 sources. And I might comment, that's why we point out
19 in the testimony that it is possible, of course, that
20 numbers for any particular company might differ
21 somewhat from the numbers we used, and have always
22 invited company both in Pennsylvania and here and
23 would anticipate doing that in other states for the
24 telephone company to present figures if we somehow
25 have made an error. We don't believe we have. We

04053

1 think we have accurate numbers that reflect at least
2 large exchange carriers. We would anticipate that
3 people may want to put corrections like that on the
4 record, and as I indicated in my surrebuttal testimony
5 I guess we were surprised that U S WEST did not take
6 the opportunity to do that or perhaps that says that
7 we hit them right on. I'm not sure.

8 Q. So you know you swore to tell the whole
9 truth. As you're sitting here today you can't
10 remember the name of a single person, a single company
11 that gave you information that you rely on for that
12 answer?

13 MS. PROCTOR: Excuse me, Your Honor. I
14 object to the form of the question.

15 MR. OWENS:. I think there's an insinuation
16 in here that somehow the witness is not telling the
17 truth.

18 JUDGE WALLIS: Could the question be
19 rephrased.

20 Q. Can you tell us the same of one single
21 person at one single company that gave you price
22 information that you rely on for your study?

23 A. Not one specific person, no.

24 Q. It's true, isn't it, that in the
25 telecommunications equipment manufacturing industry

04054

1 list prices and discounts off list prices are items of
2 significant competitive importance?

3 A. Yes, I would think so. I'm not in that
4 business but it is a competitive business so I would
5 assume that those things, yes, are quite important.

6 Q. Are you aware of whether or not any
7 equipment manufacturers in that industry by contract
8 require large customers such as local exchange
9 companies not to divulge publicly prices that they pay
10 for communications equipment that they buy from those
11 vendors?

12 A. I have no knowledge of such contracts. I
13 have never examined those. I must say I would find it
14 a little hard to imagine that a company, for instance,
15 as big as U S WEST is driven by its vendor to not be
16 able to say anything under protective order any other
17 way. It strains my credibility but I have not
18 examined contracts so I don't know if that kind of
19 language is specifically in the contract or not.

20 Q. And in fact are you aware whether your own
21 client AT&T requires that kind of confidentiality from
22 U S WEST as its customer for the purchase of network
23 equipment?

24 A. My client AT&T, at least a part of AT&T I
25 deal with doesn't sell equipment to the telephone

04055

1 companies. AT&T is a big company, and I am not -- I
2 don't deal very much with the network systems people
3 so I can't really answer that question.

4 MR. OWENS: May I approach the witness,
5 Your Honor?

6 JUDGE WALLIS: (Nodding head).

7 MS. PROCTOR: Excuse me, Counsel. If you
8 have another copy I might look at what you're sharing
9 with the witness.

10 MR. OWENS: I will hand it to you. I only
11 have one. I thought perhaps he would know the answer
12 to the question.

13 A. I'm sorry. Excuse me. I was so fascinated
14 by it.

15 MR. OWENS: Counsel wants a copy.

16 Q. Have I handed you a document that appears
17 to be a letter from approximately June of 1995 from
18 AT&T network systems to U S WEST Communications
19 concerning the release by U S WEST Communications of
20 AT&T Network Systems' proprietary information in this
21 case to Electric Lightwave?

22 A. I don't think it says Electric Lightwave.

23 Q. Or TRACER. Beg your pardon, TRACER, but is
24 that what the letter is about?

25 A. Release to TRACER, that's correct.

04056

1 Q. And does AT&T Network Systems indicate that
2 except for one category of older switches which AT&T
3 believes is already public that AT&T objects to the
4 release of that information?

5 A. It does. Specifically the first paragraph
6 of the letter asks or says that it should not be
7 released to TRACER. The second paragraph goes on and
8 says AT&T for regulatory purposes has agreed to the
9 release of its proprietary information to public
10 service commissions, their counsel and staff subject
11 to highly restricted nondisclosure provisions, which
12 is exactly the kind of thing I would expect. I can't
13 imagine that U S WEST would be able to tell its client
14 -- or, sorry, its vendor that it could not release any
15 information to anybody, and this indeed seems to say
16 that that information could be released to Commission
17 or staff under the right kind of order.

18 Q. Now, your study produces a number that is
19 total switched -- excuse me. Total per line per month
20 is what appears on attachment 1A and 1B?

21 A. In which exhibit, please?

22 Q. It would be Exhibit 766 and 767. And that
23 number that that's the total of it's intended to
24 represent a TS LRIC of basic service; is that right?

25 A. Yes, it is.

04057

1 Q. Basic exchange service. And that is a
2 number that's not differentiated between residence and
3 business lines; is that correct?

4 A. That's correct.

5 Q. So it would not be inconsistent with the
6 numbers, either the totals or the numbers in each of
7 the population density groups, for residence lines to
8 be higher in cost than the average as long as there
9 were business lines that were lower; is that right?

10 A. It would not be inconsistent with that.
11 The model as we've developed it does not try -- in
12 fact, I'm not sure there's a database that would allow
13 you to say that business lines on the average are
14 closer to a central office or further from a central
15 office. Your question is, is it possible that
16 residence is higher and business is lower within a
17 density zone I would agree it's possible. We have no
18 knowledge of that.

19 Q. Now, you used in your model for the cost of
20 switching expense something other than the switching
21 expense shown in U S WEST's ARMIS reports; is that
22 right?

23 A. Yes, that's correct.

24 Q. And that was a cost study for another
25 telephone company; is that right?

04058

1 A. That's correct.

2 Q. And who did that study?

3 A. It was done, I assume, by NYNEX or the new
4 England Tel part of NYNEX. It appeared in a New
5 Hampshire study that I believe was a NYNEX study.

6 Q. You say you assume and you believe. Do you
7 know?

8 A. I was going to say I can be more strong
9 than that. It was a NYNEX cost study that was
10 submitted in a New Hampshire proceeding.

11 Q. Now, you say the reason that you used that
12 was because U S WEST Communications may have older
13 type switches was one reason; is that right?

14 A. Or newer type -- could you refer to where I
15 say that? I would have thought that was the other way
16 around.

17 Q. Page 17 of your supplemental testimony and
18 I think you -- I think that's the place.

19 A. Okay, yes. I see that.

20 Q. So do you know whether U S WEST
21 Communications has these older switches in the state
22 of Washington?

23 A. No. I don't know in a statistical way
24 beyond the database or the things like the local
25 exchange routing guide that talks about type of

04059

1 switching and the like. I don't have a specific
2 knowledge of statistics that would suggest this.

3 Q. Doesn't the ARMIS report state the type of
4 switches and the number of switches U S WEST has?

5 A. It does, and as I say, I have not made a
6 systematic study of that. Again, we're certainly more
7 than receptive to a demonstration that this or other
8 areas may, if we don't have numbers correct for U S
9 WEST, that they -- this kind of cost study has quite
10 well or quite clear factors that it's using and it's
11 quite readily to make substitutions if substitutions
12 are appropriate.

13 Q. Now, you testify in your surrebuttal
14 testimony at page 7 that neither Hatfield nor any of
15 its clients, in this case AT&T, are interested in
16 distorting this information. And this is in reference
17 to Mr. Copeland's testimony describing tendency of
18 changes you dispute that you made to the BCM which he
19 characterized as being purely designed to lower the
20 monthly cost of service output from the model.

21 Referring you to what's been marked as
22 Exhibit 786, like to ask you to accept subject to check
23 that this is a letter written to U S WEST by a
24 vice-president of AT&T, in this case your client. If
25 you take a minute to look at it, can you agree with

04060

1 me --

2 A. I'm sorry, I don't have that exhibit in
3 front of me. Where were you?

4 Q. I was asking you first to accept subject to
5 check that it is a letter written to U S WEST
6 Communications on or about January 25 of this year by
7 vice-president of AT&T.

8 MS. PROCTOR: Excuse me, Your Honor. Are
9 we now using subject to check instead of appropriate
10 foundations and authentication because that appears
11 what he is asking Dr. Mercer to do. We have another
12 AT&T witness --

13 MR. OWENS: I suppose I can subpoena Mary
14 Beth Vitale. You're saying there's another witness
15 who can authenticate the letter?

16 MS. PROCTOR: No. I'm not saying there's
17 another witness who can authenticate the letter. I
18 will be happy to stipulate that this is a letter
19 written by Mary Beth Vitale. I know that neither Dr.
20 Mercer nor Ms. Parker have seen this document before,
21 but I happen to know that it was written by Ms. Vitale
22 if that's the issue, but I certainly don't think it's
23 appropriate to ask Dr. Mercer to accept a document
24 subject to check when what you really should be doing
25 is authentication.

04061

1 JUDGE WALLIS: I will take that as an
2 acknowledgement and stipulation that it in fact is
3 what it represents to be.

4 MR. OWENS: Thank you, and thank you,
5 Counsel. The purpose is not to ask about the truth of
6 the matters asserted other than to inquire of the
7 witness the significance of the document.

8 Q. Can you make a minute and just look at the
9 document. I recognize you haven't seen it before but
10 it is important that you understand what it is.

11 MS. PROCTOR: Can I ask for some
12 clarification of where we're going with this?

13 MR. OWENS: I'm trying to impeach the
14 testimony that I just referred to at page 7 of the
15 surrebuttal testimony.

16 MS. PROCTOR: His testimony that "neither
17 Hatfield nor any of its clients, in this case AT&T,
18 are interested in distorting information," that's the
19 testimony you're trying to impeach?

20 MR. OWENS: Yes.

21 A. Did you want me to try and read the
22 attachments and everything?

23 Q. Well, let me first ask you. Do you
24 recognize this as a letter in which AT&T requests the
25 opportunity to purchase at wholesale a large number of

04062

1 services that U S WEST Communications currently
2 provides at retail in the state of Washington?

3 A. I'm not sure how many services are
4 involved. The letter literally says purchase
5 residential and business local exchange services.

6 Q. If you can look at the attachment.

7 MS. PROCTOR: Your Honor, I am going to
8 object to this. This attachment is nine or ten pages
9 long. It's fairly detailed information. The witness
10 has never seen this document before, and I am somewhat
11 at a loss to understand how we are going to impeach
12 Dr. Mercer's testimony about the calculation of cost
13 studies with a letter from a marketing vice-president
14 asking for the ability of one business to purchase
15 services from another business.

16 JUDGE WALLIS: Let's give Mr. Owens some
17 latitude to develop this line of questioning and we'll
18 see where it takes him.

19 MR. OWENS: Thank you, Your Honor.

20 Q. Beginning at page 4 of the attachment and
21 continuing on for the next four pages, can you see
22 that there is a list of specific services and features
23 that's requested to be made available on a wholesale
24 basis?

25 A. Yes, I can see that.

04063

1 Q. And on page 5, can you see that under the
2 paragraph entitled wholesale pricing that the request
3 is, or actually it's a statement that AT&T expects
4 prices to be established at total service long-run
5 incremental costs and that appropriate tariffs be
6 developed?

7 A. Yes, I do see that line.

8 Q. And are you aware that AT&T is litigating
9 in this docket the issue of whether U S WEST should be
10 required to make services available for resale?

11 A. I'm not sure it was AT&T. I knew that
12 resale is an issue in the docket, yeah.

13 Q. To the extent, then, that the objectives
14 outlined in this letter were to be implemented by
15 either regulatory action or some other action, would
16 you agree with me that reductions in the amounts
17 calculated as total service long-run incremental cost
18 for these various services would translate into
19 reductions into AT&T's input costs as a reseller?

20 A. I can't agree with that because I don't
21 know enough about the way tariff prices are set. The
22 fact that you do a TS LRIC cost study, how that would
23 translate into a tariff price is beyond what I am
24 testifying about and really beyond my expertise. I
25 can't answer that question the way you asked.

04064

1 Q. Perhaps you've read more into the question
2 than was there. I'm just asking you with regard to
3 the statement of AT&T's expectation at page 5 that
4 prices be established at total service long-run
5 incremental costs, wouldn't you agree with me that
6 dollar for dollar reductions in the amounts calculated
7 that represent that phrase would translate into
8 reduction in AT&T's input costs if this expectation
9 were implemented?

10 A. If the expectation were implemented I
11 understand your point if that was indeed the way it
12 materialized.

13 Q. So the answer is yes?

14 A. Yes.

15 Q. Now another adjustment --

16 A. Is that the last question? I mean, I would
17 like to go back again and say that there are in my
18 mind very big separations between saying the costs
19 might be lowered and the statement I made in my
20 testimony was "neither Hatfield nor any of its
21 clients, in this case AT&T, would be interested
22 in distorting this information." I'm not sure why
23 anybody's cause would be served by distorting
24 information in the fashion that was implied.

25 Q. Your model makes a change to the factor for

04065

1 fill in the distribution plant compared to what the
2 BCM model produced; is that correct?

3 A. It does in the low density areas. It uses
4 the same number in the high density areas

5 Q. We could look at attachment 2A to your
6 supplemental testimony to see the figures on cable
7 size that were used in the model; is that right?

8 A. Yes, that's correct. I'm sorry, did you
9 change from discussing fill to discussing cable size?

10 Q. Well, I'm going to see if you can agree
11 with me that they're related in some way. But that's
12 where that information appears?

13 A. Yes, it is.

14 Q. And you would agree with me that the
15 smallest size copper distribution cable that you show
16 is 50 pairs?

17 A. Yes, that's correct.

18 Q. And you didn't modify the size cable in
19 making your fill adjustment; is that correct?

20 A. We did not. We considered doing that
21 because we are aware there are smaller cable sizes
22 that are available. 50 pair in fact is not the
23 smallest distribution cable, as I understand it. We
24 stayed with the 50 in anticipation perhaps of where
25 you may be leading, which is a combination of fill

04066

1 factor and cable size that we've used the right
2 combination, and so there are smaller cable sizes but
3 we did not change the BCM value there. We didn't go
4 to a smaller size, that's correct.

5 Q. So mathematically then does your
6 computation of a higher fill than the BCM produced
7 result in an assumption that more pairs in that
8 smallest size cable will be in use in the lower
9 density or least density census block groups?

10 A. On the average it does have that effect. I
11 think if I think through this it doesn't necessarily
12 imply that because with a smaller -- sorry -- with a
13 higher cable -- let's see. With a smaller fill factor
14 that U S WEST used you may have a lower -- I'm sorry,
15 may have a larger cable. I'm sorry. Would you ask
16 your question again? I'm trying to do a calculation I
17 can't do in real time, sorry.

18 Q. Mathematically, does your adjustment of the
19 fill factor result in an assumption that more pairs
20 out of that smallest size 50 pair cable will be used
21 to serve customers in the lowest density groups than
22 U S WEST assumed?

23 A. It would appear to, yes.

24 Q. And you haven't made any assumptions or
25 produced any evidence that in fact customers in those

04067

1 least density census block groups will be more
2 intensive relative consumers of additional lines; is
3 that correct?

4 A. I have not assumed -- I have not assumed
5 that there would be more intensive users of lines,
6 that's correct.

7 Q. Another assumption inherent in your
8 modeling is that you can always build optimal size
9 plant to serve these least dense census block groups;
10 is that correct?

11 A. I guess I'm not sure what you mean by
12 optimal. It's the nature of a TS LRIC study that it's
13 going to use an efficient network. If I were an
14 economist I would describe that in terms of moving
15 towards optimal production, so I mean, generally TS
16 LRIC studies try to build an optimal network model.

17 Q. In rural areas, isn't it true that because
18 of modularity of plant you can't always size the plant
19 optimally?

20 A. In general it's the case that equipment
21 units, if switching or transmission or loop, come in
22 in breakage units you have to buy a certain amount of
23 capacity to serve, and the BCM model does that. I
24 mean, if necessary it would add additional cables of
25 this minimum size that's shown here, so there is

04068

1 always a possibility that you can't take advantage of
2 every possible pair.

3 Our use of 50 percent, we felt that if you
4 look at all of the causes for cable fill to be lower
5 than 100 percent one of those is certainly breakage,
6 but it seemed to us and still seemed to us inordinate
7 to imagine that you can only achieve a 25 percent
8 fill, so we thought that the number 50 percent was a
9 much more reasonable way to take into account the
10 various factors like growth and like breakage that in
11 fact that a telephone company has to contend with when
12 engineering its network.

13 Q. Isn't it true that digital line carrier is
14 not modularized in the benchmark cost model and
15 instead it is per line at optimal fill?

16 A. I don't have knowledge of that. I thought
17 that we were -- the BCM, as I understood it, works off
18 of two existing carrier systems that were taken from
19 real world examples and therefore it would have been
20 bought in unit of capacity as well, but I must say I'm
21 not positive of that being the case, but the BCM
22 generally has reflected real cable sizes. It's tried
23 to reflect real aerial versus underground. It's tried
24 to reflect, you know, the equipment that's available,
25 so I guess I would be surprised if somehow you weren't

04069

1 modularizing that capacity as well. The BCM
2 designers, I might point out, assumed it was
3 appropriate to have a higher fill factor in the feeder
4 plant because if you look on the figures -- perhaps
5 it's not on this same page -- the feeder fill is
6 higher, and I assume that that reflected the expertise
7 of the people that developed the BCM.

8 Q. Isn't it true that you in actually building
9 a network, especially in rural areas, cannot always
10 use digital loop carrier on an economic basis?

11 A. It may be. You would have to assess each
12 individual circumstance. BCM has in it a criteria of
13 looking at how far away the model areas being studied
14 are from the central office and makes a determination
15 of three different situations, one being the use of
16 wire pairs all the way to the central office, one
17 being the use of one carrier system and the other
18 being another carrier system so there's three
19 alternatives that the BCM model considers.

20 I had no cause to think that the BCM
21 developers did not make that algorithm correctly, so I
22 guess in a back door way, no, I have no reason to
23 think you can't use carrier system efficiently or if
24 so I would have thought that would have been reflected
25 in the BCM.

04070

1 Q. Well, does your adaptation use carrier for
2 all circumstances?

3 A. No. It uses the BCM algorithm which does
4 not always have carrier systems in it. We didn't
5 change that aspect of BCM. The basic change that we
6 made to BCM were the input fill factors and the cost
7 of digital carrier system. We did not change the
8 selection between carrier systems or wire pairs.

9 Q. I looked in your exhibits and your
10 testimony and I haven't been able to find where you
11 discuss land and buildings. Have you discussed those
12 in terms of, for example, buildings that would house
13 the company's switches and buildings that would house
14 the employees who take orders?

15 A. If you look at -- if you look at attachment
16 2B, Exhibit 764, of the supplemental testimony, it
17 mentions a wire center multiplier there. That wire
18 center multiplier is intended to account for the cost
19 of building an equipment that goes along with the
20 switching system, and as far as employees, as
21 elsewhere in this testimony, we have included a factor
22 for sort of general purpose investment, computers and
23 the like. I believe that probably includes at least
24 furniture. I assume it includes buildings. I'm not
25 positive of that without checking so it would appear

04071

1 in there if it appears and/or it would appear in our
2 inclusion of some amount of what U S WEST calls
3 overhead cost, but we describe quite clearly in my
4 testimony how we have included a piece of overhead
5 cost believing that it reflects the cost of local
6 exchange service and really is associated with local
7 exchange service, not -- it's not truly an overhead
8 cost, so I think that we have covered all of the major
9 land and buildings.

10 Q. Let me ask you about that in pieces here.
11 First answer you gave referred to attachment 2B where
12 you said the wire center multiplier 1.25 represented
13 that item. Where did that come from?

14 A. It's in the attachment about two lines from
15 the bottom.

16 Q. Forgive me. I meant where did the factor
17 come from? Where did you derive it?

18 A. That factor again derived from our
19 background in the industry. We have along the way
20 acquired certain information about the typical cost of
21 a telephone company building, and the one and a
22 quarter factor we developed as a reasonable
23 representation of the cost of the building it takes to
24 house a certain size switch.

25 Q. And this is a function of the price of a

04072

1 switch; is that correct?

2 A. It is because we were trying to reflect the
3 fact that a larger switch would presumably have more
4 building and facilities associated with it. I might
5 go on and say it could be again an area that you might
6 look at to see if that in fact has accurately
7 captured. I have not seen any evidence put on the
8 record here or elsewhere that would suggest that that
9 is not yielding an appropriate number, and if I am
10 speaking correctly -- I believe I am -- BCM does not
11 put in a separate building factor for its switching
12 system.

13 Q. Well, did AT&T ask U S WEST in any data
14 request as far as you know what its investment in
15 buildings to house its switching was?

16 A. Not to my knowledge.

17 Q. Did AT&T ask U S WEST what U S WEST
18 believed the forward looking cost for constructing a
19 switch building and buying the land for it would be?

20 A. Again, not to my knowledge.

21 Q. Now, you say this came from your background
22 in the industry. Have you written a paper or authored
23 a study putting this background in writing?

24 A. Only in this testimony and in effect where
25 we're trying to document. I have not separately

04073

1 written a study on this or any other aspect
2 necessarily of cost of the network.

3 Q. So would it be fair to say that there's no
4 documentary evidence supporting the notion that this
5 factor accurately reflects Washington land costs or
6 Washington building costs?

7 A. I am not aware of any documentary evidence
8 that has -- if you mean something that's been
9 published. Again, in developing this factor our
10 experience was that this gives a reasonable
11 representation of what we understood to be building
12 numbers, building costs, excuse me.

13 Q. But the answer is there's nothing, no
14 document, that shows that this reflect Washington
15 costs; is that correct?

16 MS. PROCTOR: Objection, asked and
17 answered.

18 MR. OWENS: Well, I think it was an
19 argumentative answer.

20 A. I wasn't attempting to --

21 JUDGE WALLIS: The witness may respond.

22 A. I wasn't attempting to argue. I think I
23 said there was no documentation or study that I knew
24 of but that we had verified that this number seemed to
25 give a good representation of a building. I'm sorry

04074

1 if that was taken as an argument.

2 Q. Have you studied any building costs in the
3 state of Washington to develop your experience in the
4 industry?

5 A. No, I haven't.

6 Q. Have you studied any land costs in
7 Washington to develop your experience in the industry?

8 A. No. Again, in several of these areas as
9 we've discussed before I would have imagined that
10 those numbers would be better provided by U S WEST
11 than any study that we could have done.

12 Q. And are land costs and buildings costs
13 costs that exhibit variability from one region of the
14 country to another?

15 A. I would think they would, yes.

16 Q. Now, in addition to housing the switch,
17 does the switch building have to hold anything else?

18 A. Yes, it does. There are main frames.
19 There's often various elements of equipment. There's
20 battery power supplies and the like.

21 Q. And so is it your testimony that all of
22 those costs are included in the wire center multiplier
23 of 1.25?

24 A. Yes, that's correct, except, well, I should
25 say subject to the fact that we also have in there the

04075

1 general support category of investment that appears
2 elsewhere. If we look for instance at -- you could
3 either look in this testimony, look at attachment 3A,
4 Exhibit 764. There is also the second line of those
5 attachments either in 764 or in the surrebuttal
6 testimony also has a capital cost associated with
7 general support.

8 Q. What specifically is included in capital
9 costs general support?

10 A. It is at least equipment that employees
11 use, for instance, desks, furniture, its computers.
12 I'm not certain whether it includes buildings. As I
13 said before I'm not certain if it includes buildings
14 costs.

15 Q. How is it developed, that factor?

16 A. How did we develop or how is it developed?
17 It's an ARMIS number again.

18 Q. So it would represent embedded costs; is
19 that correct?

20 A. Yes, like all ARMIS data.

21 Q. So it would not represent the forward
22 looking cost of support equipment, support buildings,
23 backup power to the extent it's in there; is that
24 correct?

25 A. It has the same problem that ARMIS data has

04076

1 generally. It represents the industry as it has
2 recently been. Inasmuch as, for instance, that
3 switches are built that are more compact or automated
4 main frames are built that take up less space, we
5 don't have yet a way of reflecting that kind of
6 change.

7 Q. So is the answer to my question yes, it
8 represents embedded costs rather than forward looking
9 costs of the support investment, including backup
10 power, space for main frames and things of that
11 nature?

12 A. I believe I answered yes.

13 Q. Can you tell me where in your cost
14 development we would find the cost for the company's
15 vehicles?

16 A. That also I believe is in general support.

17 Q. But do you know for sure?

18 A. I am not 100 percent but I am quite sure
19 that that was in the list of things that I saw in that
20 category of expenses -- sorry -- that category of
21 telephone company year.

22 Q. And that again would be on an embedded
23 basis, not a forward looking basis?

24 A. Yes.

25 Q. Where in your cost development is there the

04077

1 reflection of the construction costs? If we were to
2 assume on a forward looking basis the investment in
3 new technology, new facilities, is there any
4 development in your costs for construction to put that
5 in place?

6 A. The installation costs are included in the
7 BCM model, and therefore that takes care of the
8 interoffice part of the network. With respect to
9 switching costs and interoffice costs we again have an
10 installation multiplier that we believe was reasonable
11 based on our experience.

12 Q. What about the loop?

13 A. I said the loop is part of BCM and
14 installation is part of the loop.

15 Q. Now, you used in your overhead calculation
16 airlines and auto manufacturing. And that produced a
17 lower number than you would have obtained if you had
18 used the U S WEST's own overhead; is that correct?

19 A. No. We had no number to use directly from
20 U S WEST. As we said originally, it's purely an
21 estimate. Many economists would argue that there
22 should be no overhead included at all in this number
23 because it runs the danger of not being a TS LRIC
24 cost. We felt that you had to include some fraction
25 of those things called overhead because the company

04078

1 size clearly is impacted by whether or not it's
2 providing basic exchange service, at no time did we
3 have a factor from U S WEST. We took a number that
4 was 10 percent in our original studies in July of 1994
5 when we were doing this work on a national level. We
6 subsequently challenged ourselves about where that
7 number came from and looked at these other industries
8 because we had no relevant statements from any local
9 exchange carrier as to what fraction of their, quote,
10 overhead costs were actually attributable to local
11 exchange service.

12 Q. What specifically is it about airlines and
13 auto manufacturing that you believe makes them similar
14 to the business of providing basic exchange telephone
15 service for this purpose?

16 A. There's only the basis that they're
17 technology companies. They typically are in sort of a
18 -- they're in a distributed business where they have
19 facilities located in various places. We continue to
20 look for other examples, have not yet found, for
21 instance, anywhere in the utility industry a similar
22 statement as to what if any expenses should be
23 included.

24 I might comment that we don't think that
25 overhead factor makes a tremendous difference. Well,

04079

1 within the realm that we're looking at. The
2 differences, for instance, between 10 percent and 6
3 percent is somewhat less than a dollar a month on that
4 basic exchange service cost, so it's perhaps not
5 something that we're going to resolve. I think that
6 there needs to be some attention paid to what those
7 overhead costs represent and where -- and how to
8 allocate those to basic exchange service if they're
9 truly a TS LRIC cost.

10 Q. Isn't it true that neither the automobile
11 manufacturing business nor the airline business is of
12 the type where there is a continuous daily
13 relationship with all the customers of that business?

14 A. I'm sorry, will you say that again.

15 Q. Yes. An auto manufacturer doesn't maintain
16 a continuous daily relationship with everybody who
17 buys a car, does it?

18 A. No. It does with several tens of thousands
19 of suppliers -- I mean of dealers, and certainly the
20 airline industry does have a very strong continuing
21 relationship with its customers.

22 Q. Once an airline passenger gets off the
23 plane there's no assurance that that person will in
24 fact take another flight, is there?

25 A. Another flight, not necessarily that they

04080

1 will take another flight but they often do. I guess
2 I'm not sure -- I may not be catching the gist of your
3 question probably.

4 Q. Well, none of them is required to serve as
5 a public utility all those who come forward and ask
6 for service, is it?

7 A. Actually, at least in the case of the
8 airline industry I believe they have common carrier
9 responsibility that they can't indiscriminately refuse
10 service to people.

11 Q. Well, at least the automobile manufacturing
12 industry doesn't have that characteristic; is that
13 correct?

14 A. Yes, that would seem to be.

15 Q. The automobile industry has its investment
16 concentrated in manufacturing plants in specific
17 locations; is that correct?

18 A. That's certainly a major part of it. They
19 have to spend quite a bit of effort, I believe also,
20 however, on their dealer relationships and their
21 distribution mechanisms, so it's not -- certainly there
22 are some capital intensive plants. I'm not sure that's
23 a majority of the business.

24 Q. The telephone business has its plant
25 distributed over a wide area; isn't that correct?

04081

1 A. Yes.

2 Q. And similarly the airline industry has its
3 plant subsequent trade in certain locations as
4 distinguished from having it distributed over a wide
5 area?

6 A. There's certainly not an airport on every
7 street of town but there's a lot of airports. It's a
8 distributed business but not distributed like the
9 telephone company, I think that's fair to say.

10 Q. Is it correct that there are differences in
11 the design of the distribution plant in U S WEST'S
12 network between that which is deployed in urban areas
13 and that which is deployed in rural areas?

14 A. Can you be more specific of what you mean
15 by difference of design.

16 Q. Are you familiar with the design of the
17 distribution plan that U S WEST uses in the state of
18 Washington?

19 A. In general, yes, in that as far as I know,
20 and I don't believe this was ever contested by U S
21 WEST, that it follows generally that the distribution
22 network designs, for instance, are contained in Notes
23 on the Network, and for that matter in the BCM model.
24 Since U S WEST was one of the major developers of BCM,
25 I assume that it accurately reflects the U S WEST

04082

1 network.

2 Q. The BCM was developed to analyze the
3 question of how the high cost census block groups can
4 be identified, wasn't it?

5 A. Yes.

6 Q. So are you aware of whether or not the
7 developers of the BCM considered it important to
8 accurately model the distribution design in the more
9 dense census block groups?

10 A. As far as I know, because the BCM model
11 includes dense areas, has results for dense areas,
12 that model accurately models the dense area. It
13 sounds like you're asking me was BCM careless when it
14 came to the dense areas. If it was it's a surprise to
15 me because it seems that what I've read about the
16 design of a distribution network, there is little
17 about a city, you know an urban area offhand.
18 Certainly the mix of facilities may be different. The
19 model reflects that. It allows for different kinds of
20 distribution network. Certainly there may be conduit,
21 for instance, in a city street. The conduit is taken
22 into account in the BCM model. I believed and do
23 believe that the BCM model was an attempt to
24 accurately model the entire network. If it wasn't I
25 must say I don't understand the purpose of the

04083

1 developers in saying let's do something that's good
2 for universal service in a rural area but let's be
3 wrong or careless about an urban area. That would
4 surprise me a lot.

5 Q. Are you aware of how much code is involved
6 in the model?

7 A. Only by counting spreadsheets that you can
8 see. I don't know the code that underlies the
9 spreadsheets, but I believe that the workbook for BCM
10 is quite extensive and we've added a number of
11 additional spreadsheets in reflecting our part of the
12 model, so I've always marveled at things like Excel.
13 I assume there's a huge amount of code underlying
14 those spreadsheets.

15 Q. Are you aware of whether or not the BCM
16 model uses the maximum capability of the Excel
17 spreadsheet in terms of available RAM configurations
18 for personal computers?

19 A. For us to run the -- I have to answer
20 directly, no, I am not aware if it uses all the RAM.
21 I do know the following. For us to run BCM we had to
22 purchase a special computer, high end PC with a great
23 deal of memory and high processing cycles, and at that
24 when we do runs we hang a sign on the computer that
25 says don't anybody get within 10 feet of this computer

04084

1 because it will sometimes run for a half an hour or
2 more to do a particular calculation, so it's straining
3 the resources of the PC enough.

4 Also, if I understand right now -- I don't
5 know what's happened with this, perhaps Mr. Copeland
6 knows -- I believe one of the developing partners was
7 looking to migrate the BCM to a main frame computer so
8 that it could do runs more quickly. I don't know if
9 that's materialized or not.

10 Q. To the extent that the program would have
11 the characteristic of exhausting the available
12 capacity of currently market available PCs, is it
13 possible that what you've characterized as
14 carelessness on the part of the developers could
15 simply be a decision to emphasize one area among
16 several given limited computing resources?

17 A. It could be in their application of the
18 model that that's the case. I mean, once you
19 establish a spreadsheet model, if you believe you have
20 an accurate model of the network, yes, one user of
21 that model may choose to emphasize a particular area,
22 for instance, the rural areas. That's not what we
23 did. We used the BCM model which was put forth as a
24 reasonable proxy model for a local exchange network,
25 and we have run it in both rural and urban areas, so I

04085

1 think the answer is yeah, they may choose not to do the
2 runs uniformly but that doesn't translate to me in
3 saying they chose to be careless about the
4 development.

5 Q. Do you know of your own knowledge that the
6 modeling of the distribution network for urban areas
7 accurately reflects the design of U S WEST's urban
8 area networks?

9 A. It does, yes, to the extent that I have no
10 reason to believe that U S WEST is different than
11 other telephone companies, and we believe the BCM
12 gives an accurate representation very similar to what
13 we modeled based on our knowledge of the local
14 exchange network before the BCM was available.

15 Q. Now, in your surrebuttal testimony you've
16 responded to Mr. Copeland's statement with regard to
17 the number of business lines that you've included in
18 your calculation of the per line costs by reiterating
19 that the numbers came from the ARMIS reports that you
20 used; is that right?

21 A. Could you point me to it, please.

22 Q. Page 12?

23 A. Yes, that's correct. I'm sorry. Now --
24 yes, correct, I found the place but your question was
25 did we take those numbers from ARMIS?

04086

1 Q. Well, you respond to Mr. Copeland's
2 testimony at page 12 indicating that you took the
3 numbers that you used from the U S WEST ARMIS reports;
4 is that right?

5 A. We took the total report from ARMIS. We
6 did not have the numbers by density zone.

7 Q. And there's a change between the number in
8 your supplemental testimony of 608,000, and you state
9 at page 12 that your model currently estimates the
10 total number of business lines is 613,688. How is it
11 that there's a different number there than what you've
12 indicated as the 611,000 in the ARMIS report?

13 A. It goes on. If you look starting at line
14 21 of the same page it says, "Our model does not
15 perfectly reproduce the ARMIS results because it uses
16 a rounded residential line multiplier for each
17 population density zone to determine the number of
18 business lines." Those multipliers were chosen to
19 give the right approximate number but we didn't go
20 back and add decimal places to it to make that last
21 four-tenths of a percent correction.

22 Q. And so you just picked multipliers that
23 differ among the density groups to generate the
24 business lines for each group; is that correct?

25 A. Yes. We had to slide factors. In doing

04087

1 that there's been quite a bit of discussion in this
2 proceeding and elsewhere to the effect that the
3 business lines are heavily concentrated in urban areas
4 and more dense population zones and our multipliers
5 reflect those differences.

6 I've also done a calculation, however, that
7 said what would happen if those business lines were
8 taken back out since one of the statements that Mr.
9 Copeland made was that we had put those in in order to
10 shift the cost into the high -- I'm sorry -- to shift
11 the population into the high density zones where the
12 costs are lower and therefore distorted the cost
13 result. So we tried to remove the business lines from
14 that calculation, and it makes approximately 26 cents a
15 month difference. It's a very small effect.

16 Q. You also indicate that the -- well, you
17 actually just state that Mr. Copeland claimed you used
18 the wrong number of business lines, and Mr. Copeland
19 indicated that the 475,000 number was associated with
20 reports to this Commission; is that right?

21 A. You mean 475,000 lines. I said that Mr.
22 Copeland's oral testimony was that there were 475,000
23 lines not 608,000, which was the number that was
24 showing at the time, and we said we do not understand
25 that discrepancy because the 608,000 was chosen to

04088

1 approximately represent the ARMIS numbers.

2 Q. Your study is careful to limit the service
3 that you're trying to develop a cost for to be only
4 basic exchange service; is that right?

5 A. It's careful it does that. That's what its
6 purpose is, yes.

7 Q. So would it be correct that if there were
8 WATS lines or Centrex lines included in the number of
9 business lines that that would affect the accuracy of
10 your calculation?

11 A. It might to some extent. Again, remember
12 this number is representing business multiline
13 residence by the way so it represents all of those
14 things and I think those are small corrections.
15 Given, given that we know what happens if we take the
16 business lines, remove that effect supposedly of
17 moving them to high density zones it makes very little
18 difference in the results.

19 MR. OWENS: I would offer Exhibit 768 and
20 that's all the cross-examination I have for Dr.
21 Mercer.

22 JUDGE WALLIS: Is there objection?

23 MS. PROCTOR: No objection.

24 JUDGE WALLIS: 768 is received.

25 (Admitted Exhibit 768.)

04089

1 JUDGE WALLIS: Are there other questions
2 from counsel?

3 MR. TROTTER: Yes, I have a few.

4

5 CROSS-EXAMINATION

6 BY MR. TROTTER:

7 Q. Dr. Mercer, you responded that there was a
8 26 cent difference if you removed business line data
9 from Exhibit 766 and 767; is that right?

10 A. If I remove the distorting effects. We
11 have not done a run where we take the business lines
12 out altogether, but what we did examine was Mr.
13 Copeland's contention that by including the business
14 lines what we were trying to do was exaggerate the
15 population in the high density zones where the costs
16 are lower so that we were distorting the statewide
17 average cost, and so what I did was I said suppose
18 that weren't in there, take out the effect and just
19 look at the residential lines over that, and that's
20 the 26 cent difference. So I don't want to be
21 misleading. We're not sure what happens if you take
22 the business lines out altogether.

23 Q. And 26 cents, did it increase it or
24 decrease it?

25 A. It increased it by 26 cents.

04090

1 Q. Turning to your Exhibit 766 and 767, you
2 show total costs of exchange service in attachment
3 -- in Exhibit 766 it's 13.86 and in 767 it's 13.88; is
4 that correct?

5 A. That's correct.

6 Q. And if one was to determine whether whether
7 U S WEST's current rates were being subsidized or not,
8 would you compare that cost with the revenues that are
9 generated from a residential line?

10 A. Yes. I assume that is a relevant
11 comparison to make. In fact, since we have built in
12 business lines as well, I would assume you could
13 compare to the average revenue of a business and
14 residential line in some way because we see -- as I
15 say our model actually has both in it.

16 Q. And would you look at the all revenues
17 associated with the line or just the LFR rate or LFB
18 rate?

19 A. Well, you would certainly at least put in
20 the subscriber line charge, I would assume, and if I
21 go beyond that I'm getting in danger of areas such as
22 imputation and the like that I am not familiar with,
23 but at least that certainly is a big additional factor
24 is the carrier line charge.

25 Q. So you would at least do that but you're

04091

1 not testifying to anything more at this point?

2 A. That's correct.

3 Q. Turn to your Exhibit 763 where you have a
4 discussion earlier about your loop plant inputs and
5 assumptions, and I want to talk about the cable fill
6 factors in the first series of columns there. And you
7 show your fill factors in various density areas and
8 then you show a distribution modified in the BCM
9 default factor. Do you see that?

10 A. Yes.

11 Q. In response to a question by Mr. Owens I
12 think you referred to a U S WEST fill factor. Were
13 you referring to the BCM default in that answer?

14 A. I was. Yes, I apologize for that.

15 Q. Did you compare the fill factors that
16 you've used in either of the BCM default or
17 distribution modified with the one that U S WEST used
18 in its model that Mr. Farrow is sponsoring in this
19 docket?

20 A. No. I haven't compared with the U S WEST
21 cost studies.

22 Q. Would it be fair to say that a normal
23 residential single family subdivision would fall
24 somewhere in the middle categories of your cable fill
25 factor density list there?

04092

1 A. Yes. I would expect that to be the case.
2 If I had to pick one of those numbers it would be --
3 well, if I had to pick one -- I would choose two. If
4 I had to pick one it would be the 650 to 850 or 850
5 to 2550.

6 Q. And the BCM, the default figure would be
7 for fill would be .55 or .65?

8 A. That's right.

9 Q. Turning back to Exhibit 766 and 767. Do
10 your figures there under the total of the 13 dollars
11 and change on both exhibits for a total, do those
12 include or exclude EAS costs?

13 A. Well, they certainly include the -- they
14 include the interoffice cost. They should include the
15 EAS. Stop and think about this. We have, you know,
16 the local usage which, to my knowledge, is not broken
17 out into EAS and local, so I believe that the answer
18 is, yeah, they would do that. The interoffice network
19 is modeled to include the facilities necessary to tie
20 the switches together locally including EAS, but I
21 believe that yes they should be covering the EAS
22 costs.

23 Q. Turn to page 24 of your direct testimony
24 and there -- Exhibit 760T?

25 A. Page 24 of my direct, did you say?

04093

1 Q. Yes.

2 A. I don't have an exhibit there. I'm sorry,
3 you said in exhibit, excuse me. I'm there.

4 Q. You indicate line 12, "no cable company in
5 Washington or elsewhere in the U S currently provides
6 anything other than limited local exchange service on
7 other than a trial basis." Do you see that?

8 A. Yes, I do.

9 Q. Are you aware of any cable company in
10 Washington that currently provides limited local
11 exchange service on a trial basis or otherwise?

12 A. I am not aware of any that do.

13 MR. TROTTER: Those are all my questions.
14 Thank you.

15 JUDGE WALLIS: Mr. Roseman, did you have
16 some questions? Other counsel? Commissioners.

17 CHAIRMAN NELSON: Just one.

18

19 EXAMINATION

20 BY CHAIRMAN NELSON:

21 Q. Dr. Mercer, at page 22 of your direct, line
22 21 you talk about the 150 buildings being served by
23 CAPs. I just wondered what the public available
24 source of that estimate is. What's your source
25 document on that?

04094

1 A. I frankly don't remember right offhand. I
2 will certainly try to determine that. This direct was
3 filed a long time ago, and I'm not sure where that
4 came from. I'm sorry.

5 Q. Maybe somebody can refresh your recollection
6 or something. I'm just curious. The Commission used
7 to do inventories of this sort of thing and I'm just
8 wondering where you got it?

9 A. I know where I got it. There is a firm.
10 We did this once in Chicago and once here. There is a
11 firm that studies, inasmuch as it can collect the
12 data, where CAP circuits run and purports to reflect
13 the number of buildings that are served by CAPs. We
14 used that data source. I don't have any of that
15 information currently with me about the actual
16 calculation of that number, but we employed that firm
17 to do that study for us.

18 Q. Hatfield does employ that firm?

19 A. We did in this case. We don't have an
20 ongoing relationship but we used them in this case.

21 Q. Well, maybe just as a bench request you
22 could follow up and tell me the firm's name?

23 A. I will do that.

24

25

EXAMINATION

04095

1 BY COMMISSIONER HEMSTAD:

2 Q. Dr. Mercer, at various points in your
3 testimony you in discussing the BCM model, the
4 benchmark model, was apparently developed jointly by
5 MCI, Sprint, NYNEX and U S WEST. Could you give me
6 some more background as to why it was developed and
7 how it's been used by those companies?

8 A. Hatfield Associates had been engaged by MCI
9 in the summer of 199 -- earlier than that. Results
10 reported in the summer of 1994 to produce a nationwide
11 estimate of the universal service subsidy that would
12 be required, we did that modeling effort. MCI
13 subsequently -- there's a gap in my knowledge of what
14 happened in the second half of 1994 but MCI became
15 aware of the fact that U S WEST was interested in a
16 similar ability to estimate the universal service
17 subsidy, and if I am remembering correctly, and I
18 believe I am, in very early 1995 U S WEST had
19 solicited another partner, which was NYNEX, and Sprint
20 and MCI joined in that effort. There is a hole that
21 perhaps Mr. Copeland can fill in of what happened
22 between our summer study and that study.

23 As I understood at that time U S WEST's
24 interest was to understand the relative cost of
25 different telephone companies as far as the potential

04096

1 for future national universal service subsidy, and
2 develop the model with that goal in mind of
3 identifying these high cost areas.

4 The model development then proceeded
5 throughout 1995 until it was filed with the Commission
6 later in 1995, so I am leaving several holes in that,
7 I realize, because our firm was not directly involved
8 in that development. We attended an initial meeting
9 and then after that it was in the hands of those
10 developers for quite some period of time and then
11 later on when we saw the power of the model we said
12 they could represent a substantial improvement to the
13 loop part of our model.

14 Q. Has it been used for any purposes by those
15 participants other than for a universal service
16 analysis?

17 A. Yes. In the state of Pennsylvania they
18 have a universal service inquiry under way, and both
19 MCI utilizing our services and Sprint on their own
20 representing the United Telephone companies which have
21 a fair presence in Pennsylvania have filed the --
22 well, we filed our modified Hatfield model and Sprint
23 filed the BCM model. The proceeding at this stage is
24 not trying to establish the fund but to determine
25 what's the right cost model to use, so two of the four

04097

1 parties in effect have filed BCM in Pennsylvania as
2 cost models that can be used for universal service
3 purposes.

4 Q. To your knowledge, does U S WEST use it in
5 any environment?

6 A. Not to my knowledge.

7 Q. Your direct testimony, as I understood
8 reading that testimony you came up with a single
9 statewide cost, but then in your supplemental and
10 rebuttal you end up with six different categories,
11 zones of costs, and that was a result of the applying
12 the BCM analysis?

13 A. It was, yes.

14 Q. Well, is it your view that cost for a local
15 loop is, applying the model, the total cost for that
16 loop. It is not a shared cost; is that right?

17 A. The BCM and the Hatfield model right now
18 model the entire loop and considered to be part of
19 basic exchange service. In my supplemental testimony,
20 and again in the surrebuttal testimony, we identified
21 a statewide average stand alone loop piece of that
22 because we understand there is a substantial sort of
23 pricing issue of what do you do with a loop, but the
24 view of the model and my own personal view is that the
25 loop really is part of basic exchange service.

04098

1 Q. And in your surrebuttal in the last page,
2 page 15, you come up with that average statewide costs
3 of \$13.88 for the cost of local telephone service and
4 \$8.96 for the unbundled loop cost. Without repeating
5 all of your testimony, could you in a generalized form
6 or conceptually describe how the \$13.88 figure, how it
7 differs structurally from the staff position that had
8 costs of a local loop of something under \$10?

9 A. I am not familiar enough with the staff
10 study to be able to answer that, I'm sorry.

11 Q. How about in turn with the company's
12 conclusions as to the cost of the local loop?

13 A. I guess I know that we're -- that this
14 estimate is below the company's estimate. The company
15 again has not -- to my knowledge has not used BCM in
16 their estimate but I have not examined their cost
17 study in detail.

18 Q. The company's testimony is to the effect
19 that the state should be divided into two zones, A and
20 B, with one being the higher cost and one being the
21 lower cost. Do you have any opinion as to whether it
22 is appropriate to divide the state into more than one
23 cost area inasmuch as your own study uses six different
24 zones?

25 A. If those distinctions were made based on

04099

1 costs like we have done in this study, I can
2 understand the legitimacy of making that confined of
3 division. I think, if I understand this issue -- I
4 listened to a little of the testimony of this hearing
5 over the bridge, and if I understand the issue it's
6 whether that distinction is cost based or not, but
7 certainly our study suggests there are cost-based
8 differences between different areas of the state, and
9 at least it would seem to be reasonable that those
10 might be reflected, as long as that's a cost-based
11 difference.

12 COMMISSIONER HEMSTAD: That's all I have.

13 COMMISSIONER GILLIS: Couple of questions.

14

15 EXAMINATION

16 BY COMMISSIONER GILLIS:

17 Q. Do you have a -- is there a connection
18 between the reliability of the cost estimate from the
19 model and the number of zones or the size of the zone
20 that the estimates are being developed for?

21 A. I think that there is at least a weak one.
22 It's a fascinating question that we've wrestled with.
23 One of the things the model -- and our, as you know,
24 direct testimony was filed before BCM was available to
25 us, and one of the sort of self-criticisms that we

04100

1 made of the model was that it didn't reflect density
2 concentrations within the areas we were considering
3 and therefore didn't recognize network efficiencies
4 that might be present as a result of those. Clearly,
5 when you go to the census block group level you're now
6 talking about areas that are a few square miles that
7 typically have 600 homes in them, and so I think
8 you're doing a much better job of saying, you know, if
9 you really even in what may otherwise be a low density
10 wire center it may have concentrations and the census
11 block group data will tend to pick those up.

12 I think if you divided more finely than
13 that based on some data you would always say there's
14 going to be a tiny cluster of homes even with a
15 census block group. So you could go to finer levels.
16 By the time you go to census block group and you're
17 making an estimate on that level you're down to a
18 pretty fine division, and I am not sure there's any
19 data that would allow you to go further in any case.
20 It's fortuitous that the Census Bureau releases this
21 kind of data. It's extremely valuable data, and I am
22 not sure how you would replicate it to go any further
23 than that.

24 Q. Have you done reliability tests of
25 comparing your estimates from your model to I guess

04101

1 audit or accounting cost estimates for different
2 locales?

3 A. No.

4 COMMISSIONER GILLIS: Thank you.

5 JUDGE WALLIS: Ms. Proctor.

6

7 REDIRECT EXAMINATION

8 BY MS. PROCTOR:

9 Q. Dr. Mercer, you've testified that the
10 expense factors included in your model rely upon ARMIS
11 data. Is it fair to say that the impact of that would
12 be to overestimate the cost of local service?

13 MR. OWENS: Objection, this is very leading
14 on redirect.

15 MS. PROCTOR: I can rephrase the question.

16 Q. Dr. Mercer, what is the impact of using
17 ARMIS data for estimating the expense portion of the
18 cost of providing local exchange service?

19 A. I testified that I believe that the effect
20 is to overestimate expenses because this is a cost
21 declining industry, and so it continues to be my
22 opinion that that would be the effect is that it
23 overestimates expenses by using historical data.

24 Q. And what is the impact of including
25 overhead in the estimate of the cost of providing

04102

1 basic exchange service?

2 A. It increases the cost above what it would
3 be if there were no overhead included.

4 MS. PROCTOR: Thank you. Nothing else.

5 JUDGE WALLIS: Mr. Owens.

6 MR. OWENS: Thank you, Your Honor.

7

8 RECROSS-EXAMINATION

9 BY MR. OWENS:

10 Q. On that last point, Dr. Mercer, is it your
11 testimony that the cost of land is a declining cost
12 over time?

13 A. No, that wasn't my testimony. I was
14 thinking of operations expenses meaning people. I
15 think land is an investment not an expense. I thought
16 the question pertain to expenses.

17 Q. And how about the cost of constructing a
18 building? Would you say that's a declining cost over
19 time?

20 A. Not necessarily. I guess I think building
21 prices have probably stabilized somewhat but I
22 wouldn't expect that to be -- again, I believe that
23 the building costs are treated as an investment
24 ordinarily, though, and I could be corrected on that
25 but I don't believe that's an expense.

04103

1 Q. Well, I thought you testified in response
2 to earlier cross that some of the support costs were
3 generated in the area of buildings for administrative
4 personnel and for main frame housing and so forth
5 through the use of the ARMIS data; is that correct?

6 A. The testimony certainly that has, for
7 instance, wire center multiplier of 1.25, that's
8 showing up in the investment side of our -- of the
9 equation, and also the general support category -- get
10 this straight. There's two. There's overhead and
11 there's general support. You're asking about general
12 support. That was treated as an investment and was
13 capitalized -- not capitalized but it's capital
14 carrying costs but it was an investment. But the
15 general investment category was overhead, as we
16 understand overhead means primarily employee-related
17 things like computers and the like, so the building --
18 as near as I thought I answered before, the building
19 would appear in one of two categories, either general
20 support investment or wire center investment so it
21 would all be investment not on the expense side.

22 Q. But did you use ARMIS data for those
23 investment cost levels?

24 A. We used -- for the general support we did.
25 For the switching center the multiplier was not based

04104

1 on ARMIS.

2 Q. With regard to some questions asked to you
3 by public counsel, I may have misheard you, and this
4 is more in the nature of clarifying than anything
5 else, Counsel asked you whether you would compare your
6 average cost per line of \$13.85 or \$13.38 with the
7 total revenues from the line, and I believe you at one
8 point said, well, you would at least include the
9 subscriber line charge and then I thought you said the
10 carrier line charge, and did you mean the carrier
11 common line charge?

12 A. No. I meant the subscriber line charge.
13 If I misspoke I misspoke but I meant the subscriber
14 line charge of \$3.50 is what you're referring to.

15 Q. Now, Counsel also asked you whether a
16 normal residence subdivision would appear more likely
17 in one or another of your census block groups, and you
18 identified two of them and identified the fill factor
19 I believe. It's correct, isn't it that U S WEST does
20 have customers in all of the density groups in
21 Washington that you studied?

22 A. Well, the low end of the lowest density is
23 zero so it might not. But generally it does have
24 peoples in all of those density zones, yes.

25 Q. Now, public counsel also asked you whether

04105

1 your totals included or excluded extended area
2 service, and you said you believed they included
3 extended area service costs, and I think you stated
4 that that was because you had done the interoffice
5 calculation; is that right?

6 A. Yes, and also I mean, the switching that we
7 looked at has a usage that would include any usage for
8 EAS and I'm not aware of any data source that we have
9 that differentiates between local and EAS, so the more
10 I thought through the things that would be impacted by
11 EAS would be switching and interoffice and we've
12 treated those for it to provide the local service.

13 Q. Are you aware of this Commission's
14 requirements with regard to the extensiveness of EAS
15 coverage?

16 A. I am not -- I know what EAS means generally
17 but I mean in the state of Washington if you asked is
18 some given area EAS or not, I don't know that.

19 Q. Well, in your interoffice work did you
20 model specifically areas that it had EAS homed on
21 specific wire centers?

22 A. Yes. We modeled interoffice part of our
23 network for the whole state of Washington. We use the
24 existing tandem locations. We use obviously the
25 existing wire center locations and we connected them

04106

1 with sufficient interoffice facilities to carry the
2 traffic that the -- you know, that the dial equipment
3 minutes suggested were the right number for local
4 traffic, so we believe that we built an interoffice
5 network that serves the entire state of Washington
6 with the right amount of traffic.

7 Q. When you say the entire state of
8 Washington, does that include other companies besides
9 U S WEST Communications?

10 A. No. Thank for the correction. I meant U S
11 WEST. We've only studied U S WEST in Washington so
12 far. The nice part about BCM of course as it does in
13 principle allow us to apply the same model methodology
14 and the database also includes all of the independent
15 companies, so it could readily be extended to the
16 other part of the state as well.

17 MR. OWENS: Thank you. That's all.

18 JUDGE WALLIS: Any followup? Let the record
19 show that there is no response. Dr. Mercer, thank you
20 for appearing today. You're excused from the stand at
21 this time. Let's be off the record for a scheduling
22 discussion.

23 (Discussion off the record.)

24 JUDGE WALLIS: Let's be back on record,
25 please, following a recess. The company has at this

04107

1 time recalled Mr. Copeland to the stand. Mr.
2 Copeland, I merely remind you that you are under oath
3 from your previous appearance in this docket.

4 Whereupon,

5 PETER COPELAND,
6 having been previously duly sworn, was recalled as a
7 witness herein and was examined and testified as
8 follows:

9 JUDGE WALLIS: The company has presented
10 three documents for introduction during the
11 examination of Mr. Copeland. I am marking as Exhibit
12 769 for identification a two page document the first
13 page of which -- excuse me, a three page document the
14 first page of which purports to be a letter on U S
15 WEST letterhead dated January 26, 1996 addressed to
16 William F. Kaitin, acting secretary, Federal
17 Communications Commission.

18 Marking as Exhibit 770 for identification a
19 two page document designated 3.5 line slash trunk
20 prices, 1993-1998. And marking as Exhibit 771 for
21 identification a single page document purporting to be
22 a letter on letterhead telecommunications industry's
23 analysis project dated January 4, 1996 addressed to
24 Steve McLelland, Secretary, Washington Utilities and
25 Transportation Commission.

04108

1 (Marked Exhibits 769-771.)

2 MR. OWENS: Your Honor, just for
3 clarification, Exhibit 771 is not really in the nature
4 of the rejoinder testimony of Mr. Copeland. It's to
5 deal with a subject to check that related to Mr.
6 Copeland's prior testimony.

7 JUDGE WALLIS: Thank you.

8 MR. SMITH: I will be objecting if it's
9 offered for anything other than to show what the check
10 was.

11 MR. OWENS: Well, that's all.

12

13 DIRECT EXAMINATION

14 BY MR. OWENS:

15 Q. Mr. Copeland, do you have before you what's
16 been marked as Exhibit 769? That's the January 26,
17 1996 letter to Mr. Kaitin of the FCC?

18 A. Yes, I do.

19 Q. Can you just state what that is, please.

20 A. This letter is documentation of a contact
21 the joint sponsors of the benchmark cost model made
22 with FCC staff on January 25, and it includes as an
23 attachment the handout that was given to the FCC staff
24 at that time for that discussion, which was a
25 discussion of possible enhancements to the benchmark

04109

1 cost model based on the comment and reply comment in
2 the FCC docket.

3 Q. What's the significance of the letter and
4 the attachments as far as this case and the
5 surrebuttal testimony of Dr. Mercer are concerned?

6 A. The significance of this letter and the
7 meeting is to demonstrate that the benchmark cost
8 model was seen as a work in progress among the joint
9 sponsors, and in our first run through of the model we
10 didn't feel -- we thought we did a good job but we
11 didn't feel we did a perfect job and that's why we
12 submitted it for comment in the docket. We looked for
13 comments from different parties on how it could be
14 improved, and we expected that they would come forth
15 with comment, which they did, on areas that they
16 thought the benchmark cost model could be improved in,
17 and this is a list of changes that the sponsors feel
18 that either should be made or would be desirable to
19 make or that the joint sponsors will not make, and it
20 lists them with their degree of difficulty
21 essentially.

22 Q. So is there anything in the letter that
23 represents a commitment on the part of the sponsors to
24 actually make some changes in the BCM?

25 A. In the documentation of the attachment we

04110

1 say there's a number of changes that we will
2 definitely do. There's a number that are desirable
3 but are difficult that we will attempt to make if we
4 find support for those and if they do not take
5 exorbitant computer resources to input into the
6 model. So there's a number of considerations on those
7 that are difficult, because of the memory constraints
8 of trying to keep the model available on a personal
9 computer so that it can be fully available to everyone
10 who wishes to examine it.

11 Q. And to the extent that these changes would
12 be made, would they tend to affect the results of the
13 use of the model as Dr. Mercer used it to study
14 Washington?

15 A. Well, definitely all the changes would
16 affect the way Dr. Mercer used the model. Some of
17 them are to bring in some of the costs that were not
18 included originally, and they will have varying
19 impacts based on density groups. There's impacts in
20 some of the rural areas where we're trying to get more
21 closer definition or probability of where the
22 households are located in larger very rural census
23 block groups, and there's also changes listed here
24 where we might recognize different distribution plant,
25 architectures in different density zones.

04111

1 Q. Dr. Mercer submitted testimony in
2 surrebuttal responding to your earlier testimony about
3 whether or not the Hatfield study had been submitted
4 to the FCC. Do you know whether any part of the
5 Hatfield work was submitted?

6 A. In the notice of inquiry on universal
7 service MCI submitted a white paper defining and
8 funding basic universal service which draws on the
9 model, the original Hatfield model for its numbers and
10 quantification of the universal service problem or
11 universal service cost, and I was under the impression
12 that the actual Hatfield documentation which had been
13 out in circulation that summer was attached to that.
14 Apparently it was just the white paper that was
15 submitted to the FCC in October of 1994 without the
16 actual model documentation.

17 Q. Do you have before you what's been marked
18 as Exhibit 770?

19 A. Yes, I do.

20 Q. And can you state what that is, please.

21 A. This paper is a document that I received
22 through a contact in Sprint but he received it from
23 Hatfield and Associates, which was given to him as the
24 the document for the switching costs that are in the
25 Hatfield model, and these are supposed to be the

04112

1 underlying costs for the two larger size switches that
2 are used in the Hatfield model.

3 Q. Now, you were in the hearing room on the
4 argument to the objection of certain of Dr. Mercer's
5 exhibits, were you not?

6 A. Yes, I was.

7 Q. Did you hear reference to your own prior
8 testimony as to it discussing a meeting with an
9 associate of Dr. Mercer?

10 A. Yes.

11 Q. Have you checked the transcript as to
12 whether you discussed that meeting in your prior
13 testimony?

14 A. I did examine the transcript, and I saw no
15 discussion of that meeting in my testimony.

16 Q. Did such a meeting occur?

17 A. Yes. On January 10, the joint sponsors had
18 a meeting and it was attended by Dick Chandler from
19 Hatfield Associates.

20 Q. And is he the associate that Dr. Mercer
21 refers to in his surrebuttal testimony as explaining
22 the model in its calculations to you?

23 A. I assume it is, because I haven't met with
24 any other members of Hatfield Associates.

25 Q. And would you state what it was that Mr.

04113

1 Chandler told you at that meeting or any other time
2 about the calculations and the workings of the
3 modified Hatfield model?

4 A. Mr. Chandler discussed two pieces of the
5 Hatfield model. The first was switching, and he said
6 he derived the cost per line, I think one is \$241
7 and another is \$104 per line for the smaller size
8 switches, the medium and small switch. He developed
9 from some company literature, and he said he would
10 supply that, and this apparently was the documentation
11 that he supplied to support those.

12 Mr. Chandler stated that the \$75 per line
13 switch cost was developed internally at Hatfield
14 Associates given some of their assumptions on switching
15 costs and technology. Another item that Dick Chandler
16 discussed was business lines. I asked him how he
17 developed the ratios to place the business lines into
18 the different density groups, and he stated
19 it was a SWAG.

20 Q. Does that acronym stand for something?

21 A. I'm sure it does but I'm not sure what it
22 is.

23 Q. Looking at what's been marked as Exhibit
24 770 for identification, are you able to discern from
25 that the investment associated with switching for

04114

1 either of the size switches that you understand this
2 is supposed to represent?

3 A. I have not been able to determine how these
4 numbers were used to develop the numbers that appear
5 in the attachments to Dr. Mercer's testimony.

6 Q. Have you received any additional
7 documentation to enable you to determine whether any
8 of the outputs or described calculations are accurate
9 or inaccurate?

10 A. No, I have not received any documentation
11 on the interoffice piece. No documentation other than
12 these two pieces of paper on the switching, nor on
13 business lines.

14 Q. At page 9 of the surrebuttal Dr. Mercer
15 talks about indicating that you had referred to using
16 the BCM to estimate a nationwide cost and he
17 contrasted that from the purpose and the use to which
18 he had put the model. As far as you know has Dr.
19 Mercer used exclusively state specific information in
20 his use of the model?

21 A. It doesn't appear that Dr. Mercer used
22 all state specific numbers. He used the values for the
23 cable prices that represent nationwide prices in the
24 BCM for his fiber and copper cable prices, and he used
25 some sort of data for his digital line carrier

04115

1 equipment prices, and I haven't heard that they are
2 specific to Washington.

3 Q. Have you any information on whether or not
4 those digital line carrier costs are accurate or
5 inaccurate for U S WEST in Washington?

6 A. I haven't been able to get U S WEST prices
7 for these items because they're proprietary, and I
8 have been dealing mostly with list price data to the
9 extent I could get that because a lot of that is
10 considered proprietary as well.

11 Q. Dr. Mercer stated that Sprint had
12 introduced -- strike that. Dr. Mercer indicated that
13 he believed the modeling that his application of the
14 BCM did for urban distribution systems accurately
15 replicate U S WEST's designs in Washington. Do you
16 recall that?

17 A. Yes, I do.

18 Q. Do you have any information on the extent
19 to which the model does that and if so what is that
20 and why is the model designed that way?

21 A. The model was designed with a single or was
22 implemented with a single design for distribution
23 plant, and that design was that there would be four
24 legs of plant to service a census block group. We did
25 this for simplification purposes because at this point

04116

1 we were running up against the memory constraint of
2 Excel and the constraint of just PC in general had
3 no more ability to have programs that could handle any
4 additional "if" statements in our model. It's where
5 we could look to a variety of tables to handle
6 different distribution areas. If you use the four leg
7 per CBG assumption in the dense area, you will
8 essentially have to determine or assume that there
9 will be drop going over multiple layers or multiple
10 streets to reach households, because you will be
11 dealing with approximately in the denser areas 40 or
12 50 lots along a side of CBG, and if you only have four
13 distribution legs serving that, you will be hanging --
14 you can't reach the households without hanging the
15 drop wires over households or under households, around
16 households, to reach those. And since the purpose of
17 the model was to find the high cost census block
18 groups we determined that this simplification did not
19 cause any problems for the purpose in which the model
20 was intended to be used.

21 Q. As Dr. Mercer has used it, would the
22 assumption of four distribution legs per census block
23 group in an urban area overstate, understate or be
24 neutral with respect to the cost output of the model?

25 A. The use of four distribution legs in an

04117

1 urban area would tend to understate the costs there
2 because associated with each distribution leg is the
3 cost of placing it in the ground, so you have
4 trenching costs. In these urban areas you will have
5 asphalt cuts and restores, you will have boring costs,
6 backhoe, hand dig, so there will be a number of costs
7 associated with that. Those type of costs are
8 reflected in the model currently but only for the four
9 distribution legs that are included in the model.

10 Q. And with respect to the testimony that Dr.
11 Mercer gave about the declining cost characteristics
12 of the industry, do you know whether or not the costs
13 such as you've just described tend to decline over
14 time?

15 A. I haven't seen any decline in labor costs
16 or the costs to dig up streets or to bore under
17 driveways and such or to move around other utilities.
18 I don't think that is an area that we will see
19 declining costs in the future, unless there's a real
20 economic turnaround where wages go way down.

21 Q. Is there any impact on whether costs
22 decline of the expectations of consumers about the
23 type of service that they want to buy from the
24 company?

25 A. Increasingly we find more people that are

04118

1 interested in second lines for fax machines, home
2 computers connecting to different information
3 providers, so it seems to be a trend now where many,
4 many more people than in the past have asked for
5 additional lines for multiple purposes, and it's
6 mostly technology driven but to get access to the
7 information services that exist or fax machines, more
8 people ask for more lines now.

9 Q. And I believe Dr. Mercer also talked about
10 the ability to decrease employee head count as a way
11 to enjoy declining costs. Do you know of any limits,
12 practical limits, on the ability of the company to do
13 that indefinitely?

14 A. Well, surely there are practical limits,
15 and I think we've seen some of the results of some of
16 U S WEST's earlier attempts to cut people who put in
17 plant, maintain plant before some of the systems that
18 they might need to be able to do that are in place,
19 and I think there will be a constant balance between
20 service quality and cuts you can make in personnel to
21 maintain the network and keep it at the level people
22 desire and need to perform their communications
23 business.

24 Q. Thank you. Finally, you were asked to
25 accept subject to check during your prior testimony

04119

1 that Carol Weinhaus of the telecommunications
2 industry's analysis project had stated that your
3 rebuttal testimony misrepresented the project and the
4 research results of the project entitled Loop Dreams.
5 Do you have what's been marked as Exhibit 771?

6 A. Yes, I do.

7 Q. And first of all, were you copied on this
8 letter to the Commission?

9 A. No, I wasn't.

10 Q. And was this provided to you as a result of
11 the staff facilitating your checking the matter you
12 were asked to subject to check?

13 A. Yes. Today I received a copy.

14 Q. Do you recognize the signature of Ms.
15 Weinhaus?

16 A. Yes. That's Ms. Weinhaus's signature.

17 Q. Do you have any observation about the
18 statement in this letter?

19 MR. SMITH: Your Honor, I'm going to object
20 to this question. Mr. Copeland is here to respond to
21 the surrebuttal of Mr. -- of Dr. Mercer. As Mr. Owens
22 indicated, this document goes beyond that and is not
23 in response to that. I have no objection to putting
24 the document in to show what we provided Mr. Copeland
25 to check, but beyond that it's just another chance for

04120

1 re-redirect examination of this witness several days
2 after he testified.

3 MR. OWENS: Well, Your Honor, it seems to
4 me that the witness was asked to accept subject to
5 check something that may have been subject to a best
6 evidence objection. We're attempting to put into the
7 record what it is that he was asked to check, and to
8 simply make an observation about, and since he hadn't
9 been shown the document at the time he was asked to
10 accept something subject to check it seems to me that
11 it is appropriate for him to be able to respond to the
12 claim that he misrepresented something.

13 MR. SMITH: Well, Your Honor, that document
14 was available that day as I indicated to Mr. Shaw.
15 Moreover, I don't even recall what day Mr. Copeland
16 testified right now, but I think we may be beyond the
17 time period when you can retract a subject to check.

18 JUDGE WALLIS: Well, I think under the
19 circumstances --

20 MR. OWENS: How could -- we dispute that it
21 was made available at any time before today in terms
22 of the time when we could have checked it.

23 MR. SMITH: Well, the record will reflect
24 in response, Mr. Shaw asked me how Mr. Copeland could
25 check it and I said I had a letter here if they wanted

04121

1 to look at it.

2 JUDGE WALLIS: Under the circumstances I
3 think the objection is well taken. And I would
4 sustain it.

5 MR. OWENS: We would offer 769 and 770.

6 JUDGE WALLIS: Is there objection?

7 MR. OWENS: No.

8 JUDGE WALLIS: There being no objection 769
9 and 770 are received.

10 (Admitted Exhibits 769 and 770.)

11 MR. OWENS: We will offer 771 as well.

12 MR. SMITH: No objection.

13 JUDGE WALLIS: 771 is received.

14 (Admitted Exhibit 771.)

15 MR. OWENS: Nothing further on rejoinder
16 for Mr. Copeland.

17 JUDGE WALLIS: Ms. Proctor.

18 MR. TROTTER: I would be glad to throw in a
19 question if we're waiting.

20 JUDGE WALLIS: Mr. Trotter.

21 MR. TROTTER: Mr. Copeland, I scratched
22 down your answer and I may not get it exactly right
23 but you said we know the results of earlier attempts
24 to cut employees before systems are in place. Do you
25 recall that?

04122

1 THE WITNESS: Yes, I do.

2 MR. TROTTER: What were you referring to
3 specifically in that answer?

4 THE WITNESS: I had no specifics. Just in
5 general I remember when we first announced cuts
6 several years ago and started and remembered that they
7 backed off on employee cuts.

8 MR. TROTTER: So what results of earlier
9 attempts to cut employees, what results, in quotes,
10 did you have in mind? Did you have service
11 degradation? Did you have that in mind or what?

12 THE WITNESS: Well, I think installation
13 intervals, that sort of thing.

14 MR. TROTTER: Installation intervals
15 increased when that occurred?

16 THE WITNESS: Well, I think it was just
17 general from what I've seen that there was problems
18 with getting service out in a timely manner.

19 MR. TROTTER: Did you have anything else in
20 mind?

21 THE WITNESS: No.

22 MR. TROTTER: Thank you.

23

24 CROSS-EXAMINATION

25 BY MS. PROCTOR:

04123

1 Q. Mr. Copeland, are you aware that the
2 investment designs used by U S WEST in its cost models
3 are not necessarily Washington specific?

4 MR. OWENS: Is she asking about models by
5 other witnesses not the benchmark cost model?

6 MS. PROCTOR: I'm asking him --

7 MR. OWENS: I'm going to object to the form
8 of the question as being vague.

9 JUDGE WALLIS: Ms. Proctor.

10 MS. PROCTOR: Well, I am sure I can make it
11 more specific.

12 Q. Are you aware that the investment designs
13 utilized by the hundred or so cost model developers at
14 U S WEST the results of which were included in Mr.
15 Farrow's testimony that those cost models do not
16 necessarily use Washington specific designs?

17 A. I am not aware. I am aware of generally
18 five groups that they use but I am not sure -- I am
19 not aware of how they're used in any particular state
20 study.

21 Q. You've also testified concerning the
22 benchmark cost model, and the design assumptions, the
23 network design assumptions included in that model. If
24 you were looking at an area where as, I believe you
25 also testified, the demand for second lines had

04124

1 increased, what happens as a result of additional
2 lines being added in a particular census block group?

3 A. Do you mean as the model currently stands?

4 Q. Yes.

5 A. The way the model currently operates, it
6 designs a single line per household, and input changes
7 would have to be done in household numbers to try to
8 replicate that. One of the enhancements that we
9 listed in the exhibit that was the ex parte filing was
10 to put in a place holder or put in a place to
11 establish a number of lines per household that would
12 be included in a universal service definition. That
13 could a fractional number or a whole number, but right
14 now the model is designed as using a household count as
15 each household would equal one line of service.

16 Q. And if you increased the number of lines in
17 an area, does that increase the density in that
18 particular census block group?

19 A. It would increase the number of lines per
20 square mile. It wouldn't increase the number of
21 households per square mile.

22 Q. And what happens to costs as density
23 increases?

24 A. Well, density is one of the drivers that
25 would make costs go down on a per unit basis. Overall

04125

1 costs would increase.

2 Q. Now, the benchmark cost model was proposed
3 by the developers and I think you stated that you
4 thought you had done a good job but not a perfect job.
5 Did I correctly understand your testimony?

6 A. Yes.

7 Q. Would it be fair to say that that might be
8 true of any individual or group of individuals
9 preparing a cost model, that they would look back at
10 their product and say we did a good job but not a
11 perfect job?

12 A. I don't know if I could generalize given
13 the question.

14 Q. In the case of the benchmark cost model, do
15 you feel that the enhancements will allow the model to
16 better serve the purpose for which it is intended?

17 A. Yes.

18 Q. Now, I think I understood you to say with
19 respect to the costs for the digital loop carrier that
20 you had been unable to obtain the actual price that
21 U S WEST paid. Did I correctly understand your
22 testimony?

23 A. I have not obtained the actual prices that
24 U S WEST pays.

25 Q. Now, you seem to distinguish between not

04126

1 being able to and not having done so. Is it simply a
2 question you didn't have time to ask for them?

3 A. I would have to receive those under a
4 proprietary agreement with our suppliers, and for my
5 use I wanted only publicly available data, so unless
6 they were willing to release it to me without those
7 constraints I didn't want the data.

8 Q. And did I understand that this information
9 is only available from the suppliers?

10 A. Well, I went through our organization that
11 provisions equipment for U S WEST Communications, and
12 they worked with the suppliers in trying to obtain
13 data that could be released publicly, and in the case
14 of Nortel I talked directly to some of the people at
15 Nortel. Joe Jackson is the person I spoke with there.

16 Q. But you're not suggesting that this
17 information isn't available within U S WEST?

18 A. No. It would be proprietary, though.

19 Q. And finally on Exhibit 770 where I guess
20 it's safe to say everyone is ignoring the copyright
21 prohibition against reproduction, this came to you
22 from Mr. Dunbar at Sprint; is that correct?

23 A. Yes, it did.

24 Q. And that's the same Mr. Dunbar who
25 testified in Pennsylvania concerning the use of the

04127

1 benchmark cost model in a universal service proceeding
2 in Pennsylvania; is that correct?

3 A. I believe it is.

4 Q. And his representation was that this had
5 come in turn from Mr. Chandler of Hatfield and
6 Associates?

7 A. Yes. And there's the Hatfield fax across
8 the top or the bottom.

9 Q. The originally guilty culprits. Did I also
10 understand your testimony that you've been unable to
11 compare these numbers to the prices that U S WEST
12 actually pays for this equipment?

13 A. The numbers in here I was trying to
14 determine how they were used by Hatfield and Associates
15 to develop the switching numbers that were filed in the
16 supplemental testimony, and I was saying I was unable
17 to determine how these numbers were used to derive the
18 numbers that are shown in Dr. Mercer's testimony, and I
19 think it's attachment 2 or 3. I can't remember exactly
20 which one has the switching information in it.

21 Q. So you made no effort to compare these
22 numbers to the prices actually paid by U S WEST for
23 this type of equipment; is that correct?

24 A. Given this information I can't tell what's
25 included in each of these. I don't know what each

04128

1 represents, so I have no way of comparing, and I also
2 do not have U S WEST switching prices so there's two
3 reasons that I cannot compare them.

4 Q. So other than questioning the numbers used
5 by Dr. Mercer you're unable to provide us with any
6 more precise numbers at this time; is that correct?

7 A. The numbers I can provide are currently in
8 the BCM and I have no more precise publicly available
9 numbers than that to use for switching.

10 Q. And finally, I think you stated that it
11 looked like some of the numbers that Dr. Mercer was
12 using, for example, for the values for cable
13 represented nationwide numbers. Is that what you
14 testified?

15 A. It looked to me that they were -- it was my
16 understanding that they were the original input prices
17 to the BCM, that those were not modified and the
18 original input prices to the BCM are national type
19 numbers.

20 Q. Do you have any reason to believe that U S
21 WEST has to pay more than nationwide averages for its
22 material or supplies?

23 A. No, I have no reason to believe that.

24 MS. PROCTOR: Thank you. No further
25 questions.

04129

1 JUDGE WALLIS: Mr. Nichols.

2

3 CROSS-EXAMINATION

4 BY MR. NICHOLS:

5 Q. I have just a couple of question areas, Mr.
6 Copeland. Back to your testimony this morning earlier
7 that you indicated that the BCM model is not perfect,
8 and it should be considered as a work in progress. Do
9 you recall that?

10 A. Yes, I do.

11 Q. And you referred to Exhibit 769 which
12 contains a list of changes which may -- that the joint
13 sponsors may or may not be able to be made; is that
14 correct?

15 A. That's correct.

16 Q. To your knowledge, the joint sponsors,
17 including U S WEST, have not withdrawn the BCM model
18 from the FCC until these changes have been made, have
19 they?

20 A. No. We feel it's the best available proxy
21 model for targeting high cost areas at the moment.

22 Q. So you're not suggesting that the BCM model
23 is not any longer reliable merely because some
24 additional changes haven't been made yet?

25 A. Oh, no.

04130

1 Q. Further, you testified with regard to the
2 lack of Washington specific network designs. I
3 assume, Mr. Copeland, that you're familiar with the
4 general description in the industry of network design
5 principles contained in documents, publications like
6 the Notes on the Network, are you not?

7 A. I'm not familiar with that particular
8 document. I'm familiar with Bellcore standards and
9 those sort of items.

10 Q. You're not familiar with the publication
11 Notes on the Network?

12 A. No, I am not.

13 Q. But you are familiar with general Bellcore
14 design principles for network design?

15 A. Yes.

16 Q. Have you reviewed the actual Washington
17 state network design of U S WEST?

18 A. No, I haven't.

19 Q. So you have no way of determining whether
20 or not the actual network design in Washington state
21 varies from the Bellcore design principles or not, do
22 you?

23 A. No, I don't.

24 MR. NICHOLS: I have no further questions.

25 JUDGE WALLIS: Other questions from

04131

1 counsel? Commissioners?

2 CHAIRMAN NELSON: No.

3 COMMISSIONER HEMSTAD: No.

4 JUDGE WALLIS: Commissioner Gillis.

5

6 EXAMINATION

7 BY COMMISSIONER GILLIS:

8 Q. I have one. I've been interested that most
9 of the witnesses, including yourself, have confidently
10 stated that the higher density areas have lower costs
11 in provisioning of the local loop. And that's not I
12 guess particularly intuitive to me. Are there
13 engineering accounting studies that compare the cost
14 of loop costs in different density areas or is that
15 more an assumption based on an illogical assumption
16 that you have more lines to spread the fixed cost so
17 it would be lower?

18 A. My statement to the higher density areas
19 have lower cost are based on engineering principles
20 that are involved with the shorter distances and
21 larger cable sizes and capability of doing higher
22 fills in these areas. They do -- to some extent when
23 you have very, very high densities that you might
24 experience in a New York city, there you might find --
25 and this would be also based on just engineering and

04132

1 more discussions with NYNEX -- run into problems that
2 the ultra high densities areas might cause costs to
3 then go up again, and those are caused by areas where
4 you totally fill your conduit, and essentially you
5 have added costs of removing that, putting in fiber in
6 the shorter areas because you don't have any conduit
7 space to put in copper which might be more
8 cost-effective in the shorter spaces but there's no
9 room for it. So there's things that might drive up
10 your costs in very, very dense urban areas, but our
11 model, the BCM, does not have a higher cutoff where we
12 would recognize those very high density areas
13 separately from our highest density which is still just
14 moving into sort of multi tenant type situations.

15 Q. Does your model recognize the differences
16 in the cost of land capital owned buildings and
17 different locations to the extent that they exist?

18 A. No. We recognize the differences in
19 putting the plant in the ground in urban areas where
20 you will have more street cuts and boring under
21 driveways and work around other utilities than you
22 would in a rural area where you might be able to do
23 more plowing.

24 Q. What about purchasing right-of-way?

25 A. We did not include costs of purchasing

04133

1 right-of-way in the model.

2 Q. That's why it's not intuitive to me and
3 that's why I would like some help on that. To the
4 extent that building capital right-of-way may be less
5 expensive in less dense areas there can be some
6 offsetting effects that might suggest that it might or
7 might not be relating to density?

8 A. Some of the placement costs we can reflect
9 we have not been able to do right of way. We try to
10 reflect some of the other costs but you can't include
11 everything. We're trying to include as many as we can
12 to accurately reflect, but we're trying to target more
13 to finding those high cost geographic areas and not so
14 much we want to have -- try to develop a very good
15 overall view but we feel we're still in urban areas a
16 bit short of that right now.

17 Q. Would it be true that -- as I hear what
18 you're saying there's engineering principles that
19 you're costing on that involve the type of cuts you
20 need to make, et cetera, the difficulty of reaching a
21 given locale from the central office, but you could
22 have an equivalent situation in say downtown Seattle
23 or in a fairly densely populated area out in say the
24 middle of the state which is highly rural, but would
25 your model distinguish between the two or would it

04134

1 treat them, in an engineering sense it could be kind of
2 similar or would it treat it as approximately the same
3 cost?

4 A. Well, if your densities were similar and
5 your terrain characteristics were similar the model
6 would treat them similarly. But if there was
7 different terrain indicators that would help
8 differentiate between the two.

9 Q. But that wouldn't account for -- just an
10 assumption -- that potentially the cost of capital,
11 the cost of labor, buildings, property in that
12 isolated area would be less than in downtown Seattle?

13 A. No. The model wouldn't be able to account
14 for those differences.

15 Q. But those would attribute to the cost?

16 A. Yes, they would.

17 JUDGE WALLIS: Further questions?

18 MR. OWENS: No further questions.

19 JUDGE WALLIS: Anything further for the
20 witness? It appears that there is not. Mr. Copeland,
21 nice to see you again. Thanks for coming back.

22 THE WITNESS: Thanks for inviting me.

23 JUDGE WALLIS: You're excused from the
24 stand at this time. Let's be off the record
25 momentarily while Ms. Parker steps forward.

04135

1 (Recess.)

2 JUDGE WALLIS: Let's be back on the record,
3 please.

4 Whereupon,

5 PATRICIA PARKER,

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

8 JUDGE WALLIS: AT&T at this time has called
9 to the stand Patricia A. Parker. In conjunction with
10 Ms. Parker's appearance today we have her prefiled
11 testimony which is marked as Exhibit 772T for
12 identification. That has an attachment PAP-A switch
13 access proposed price which is designated 773C. Ms.
14 Parker's rebuttal testimony is marked as 774T for
15 identification.

16 MR. TROTTER: Excuse me. That testimony I
17 believe has already been marked 128T.

18 MS. PROCTOR: Right. It would have been
19 marked in the service quality portion. I apologize.

20 JUDGE WALLIS: That explains it.

21 MR. TROTTER: And her exhibit was 129C
22 according to my notes.

23 JUDGE WALLIS: Ms. Parker's rebuttal has
24 been marked as 128T and has been received in evidence,
25 and PAP-A has been marked as Exhibit C129, but it has

04136

1 not been received. So it appears that PAP-2 and 3 have
2 not been marked and those would be marked respectively
3 as 775C and 776C for identification.

4 In addition, U S WEST has distributed a
5 document in conjunction with the examination of this
6 witness --

7 MS. PROCTOR: I'm sorry, Your Honor.
8 There's supplemental testimony.

9 JUDGE WALLIS: Let's be off the record.
10 (Discussion off the record.)

11 JUDGE WALLIS: Let us be back on the
12 record, please. The documents that have been
13 distributed for this witness are as follows: First of
14 all, her direct testimony is marked as 772T for
15 identification. There was an attachment to that PAP-A
16 which is marked as 773C for identification. Her
17 rebuttal testimony has been marked as 128T and has
18 been received in evidence including confidential pages
19 which are by convention marked as 128TC.

20 Her attachments to the rebuttal testimony
21 were collectively marked as 129C for identification.
22 And those are individually identified as PAP-2 and
23 PAP-3 her supplemental testimony is marked as Exhibit
24 777T for identification. And the company has
25 distributed a document designated data request No. 1

04137

1 in Oregon proceeding OUM 351. That's marked as 778
2 for identification. And the witness has been sworn.

3 (Marked Exhibits 772T, 773C, 777T and 778.)

4

5 DIRECT EXAMINATION

6 BY MS. PROCTOR:

7 Q. Thank you. Will you please state your name
8 and address for the record?

9 A. Patricia A. Parker, 1875 Lawrence, Denver,
10 Colorado.

11 Q. And did you cause to have prepared and
12 prefiled in this docket what has been marked as your
13 direct testimony, Exhibit 772T for identification
14 with the attached exhibit switched access proposed
15 pricing which has been marked as 773C?

16 A. Yes.

17 Q. Did you also cause to have prepared and
18 prefiled in this docket supplemental testimony which
19 has been marked as Exhibit 777T?

20 A. Yes.

21 Q. And finally, did you cause to have prepared
22 and prefiled as part of your rebuttal testimony two
23 exhibits which have been collectively marked as
24 Exhibit 129C?

25 A. Yes.

04138

1 Q. And are those -- is that testimony and are
2 those exhibits true and correct to the best of your
3 knowledge?

4 A. Yes.

5 MS. PROCTOR: Your Honor, I would move the
6 admission of Exhibits 772T, 773C, 129C and 777T.

7 JUDGE WALLIS: Is there objection?

8 MS. HASTINGS: No.

9 JUDGE WALLIS: Ms. Hastings?

10 MS. HASTINGS: No.

11 JUDGE WALLIS: The exhibits are received.

12 MS. PROCTOR: Your Honor, it's my
13 understanding that Exhibit 128T with the confidential
14 pages 128TC had already been received into evidence; is
15 that correct?

16 JUDGE WALLIS: Yes.

17 Q. Ms. Parker, there are references in your
18 direct and rebuttal testimony to integrated service
19 digital network, ISDN. Is it your intention that
20 those references be deleted from your testimony at
21 this time?

22 A. Yes.

23 MS. PROCTOR: Your Honor, the witness is
24 available for cross-examination.

25 JUDGE WALLIS: Thank you. Ms. Hastings.

04139

1 MS. HASTINGS: Thank you.

2 (Admitted Exhibits 772T, 773C, 777T, 129C.)

3

4 CROSS-EXAMINATION

5 BY MS. HASTINGS:

6 Q. Good afternoon, Ms. Parker. I notice on
7 page 1 of your direct testimony that you supervise the
8 analyses of access policies and cost methodologies.
9 Do you supervise people in that job responsibility
10 that you've got described there?

11 A. Yes. Up until around I think December 15
12 and now I'm matrix managing them.

13 Q. Do you supervise different groups of people
14 with respect to your responsibilities for access
15 policies and with respect to your responsibility for
16 cost methodologies?

17 A. No. They're basically the same team within
18 a state.

19 Q. Thank you. And about how many people did
20 you supervise up until you went to this matrix
21 reporting structure?

22 A. Roughly two, I think. Two. That's it.

23 Q. Two full-time people?

24 A. Uh-huh.

25 Q. Thank you. Do you supervise Darlene

04140

1 Hannon?

2 A. Yes, I do.

3 Q. Or did you supervise her up until that
4 period of time?

5 A. Yes, I did.

6 Q. And do you still supervise Darlene Hannon
7 in some direct or matrix fashion?

8 A. Yes. Depending on the case, yes.

9 Q. Now, with respect to your statement there
10 that you supervise the analysis of access policies,
11 exactly what does that mean that you do?

12 A. It's basically reviewing the various access
13 suppliers' proposals on pricing. For example, in the
14 case of the U S WEST zone density plan we review it
15 whether or not it's cost-based, and to the extent that
16 it isn't or that it is anticompetitive then it is our
17 job to either relay that back to the supplier and
18 request them not to file it or if it does get filed to
19 oppose something in that nature. Likewise, in the
20 case of a particular structure like local transport
21 restructure, if it is -- follows a certain parameter
22 then and if the supplier needs AT&T support in trying
23 to get it implemented we try to do that also.

24 So from an access perspective we look at
25 from a cost side, a pricing side and then decide

04141

1 whether or not it's an appropriate pricing plan for
2 access charges.

3 Q. And when you indicate that you analyze
4 various access suppliers, how many suppliers did you
5 have in mind?

6 A. It's every incumbent supplier within the
7 U S WEST 14 region.

8 Q. What do you mean by incumbent supplier?

9 A. U S WEST, GTE and then the smaller
10 suppliers, independent telephone companies.

11 Q. Are you responsible for purchasing access
12 from other suppliers besides incumbent suppliers as
13 you refer to them?

14 A. No.

15 Q. So it's not in your job responsibility to
16 look at purchasing AT&T's access requirements from a
17 company such as ELI?

18 A. No.

19 Q. Or TCG?

20 A. No.

21 Q. And does anyone at AT&T have that in their
22 job description, to your knowledge?

23 A. I would assume so, yes.

24 Q. And when you say you supervise cost
25 methodologies for the local exchange companies, what

04142

1 all does that entail?

2 A. Basically there's probably, if I had to
3 classify it, I would classify it between two types of
4 different cost methodologies. One would be a TS LRIC
5 type approach. The other part would be a part 32/64
6 -- 36/69 procedure. I can never remember that other
7 number, and those types of procedures are usually
8 looked at, are done by smaller access suppliers, and
9 under that contents we try to make sure that there's
10 no overrecovery between intrastate and interstate
11 because of the separations factors.

12 Q. And so in that regard do you look at cost
13 methodologies beyond the switched access services?

14 A. Yes.

15 Q. And what other services do you look at in
16 your job responsibility?

17 A. Well, to the extent that you use a part
18 36/69 procedure and depending on the factors used, we
19 generally like to insure that access is not in some
20 cases is not paying 100 percent of the entire revenue
21 requirement between interstate and intrastate. To
22 that extent that happens then there will be some
23 revenue requirement that would naturally fall out of
24 that access calculation to be recovered from some
25 other services such as local CLASS. In some cases it

04143

1 may be toll.

2 Q. And you indicate that you supervise this
3 work in seven states including Washington. Do you do
4 this type of work for the state of Wyoming?

5 A. Yes. And that list is no longer applicable
6 in this testimony. I'm not state specific any more as
7 of December.

8 Q. So you do more than seven dates, is that
9 what you're saying?

10 A. I think it's going to be a more look at a
11 case load, a number of cases. It's not going to be
12 state specific.

13 Q. But in the past you've done this type of
14 work for the state of Wyoming, looked at Wyoming type
15 data?

16 A. Yes.

17 Q. And for the state of Oregon?

18 A. Yes.

19 Q. I wanted to direct your attention, if I
20 could, to your testimony, your supplemental testimony
21 where you talked about -- at page 3 you talk about you
22 have examples of other states that have been able to
23 resolve issues involving proper cost studies. Do you
24 see that testimony?

25 A. Yes.

04144

1 Q. And I was looking at your testimony there
2 that you have some examples, and one example you cite
3 is the Oregon Commission in docket UM 351 where you say
4 the parties have agreed to a set of principles for
5 governing the methodology for preparing TS LRIC
6 studies. Now, is it your testimony there to suggest
7 that all of the issues associated with the TS LRIC
8 costing telecommunications services have been resolved
9 in Oregon?

10 A. When I wrote that section of the testimony
11 what I was thinking of is the cost report that was
12 signed by all parties in UM 351 and adopted by the
13 Commission on July 15, 1993. Inherent in those volume
14 1 and 2 were a lot of principles, and there were some
15 unresolved issues also, so I was thinking more of those
16 two documents.

17 Q. And so my question really was, did you
18 intend to imply that all of the issues have been
19 resolved?

20 A. At that point in time, no, not all the
21 issues have been resolved. Like, for instance, the
22 U S WEST models were not set and ready to run on SS7
23 type technology, so they had to be modified, so it was
24 more of -- what I consider more technical limitations
25 but the actual what I would say the basic principles I

04145

1 think were agreed on.

2 Q. It's true, is it not, that that cost report
3 that you described that was issued in July of '93
4 identified issues in that docket that were resolved,
5 issues that could be resolved in the near term and
6 issues that could be resolved in the long-term; is
7 that correct?

8 A. Yes.

9 Q. And it's true, is it not, that that cost
10 docket also sort of broke those issues out into
11 building block issues that could be resolved and then
12 cost method issues that could be resolved; is that
13 correct?

14 A. Yes.

15 Q. And it's true, is it not, that some of the
16 issues that were not resolved in that docket and were
17 determined to be resolved in the long-term were issues
18 with respect to switch features?

19 A. I can't remember that. Unless you had that
20 document.

21 Q. I would be happy to --

22 MS. HASTINGS: May I approach the witness?

23 JUDGE WALLIS: Yes.

24 Q. If I could, without belaboring the record,
25 perhaps the easiest way, Ms. Parker, would be for you

04146

1 to identify under the issue of building blocks how
2 many items there are there and perhaps how many have
3 been reserved for long-term resolution.

4 MS. PROCTOR: Your Honor, I am going to
5 object to this line of questioning. We all know that
6 UM 351 has been going on for a very long time, and I
7 don't think anyone wants to relitigate it here, and I
8 would like to know where we're going with these
9 questions because it seems to be well beyond the
10 purview of this docket.

11 MS. HASTINGS: Ms. Parker has represented
12 in her testimony that the Oregon Commission and the
13 parties involved there have resolved issues concerning
14 what constitutes a proper cost study, and if Ms.
15 Parker would like to retract her testimony and say
16 that in fact there's a lot of issues that haven't been
17 resolved down there, I would be happy to agree to that
18 retraction.

19 MS. PROCTOR: Your Honor, I would have to
20 object to that characterization. Her testimony said
21 the parties agreed to a set of principles governing
22 the methodology. And that's exactly what is in that
23 cost report.

24 MS. HASTINGS: I think the question says do
25 you have examples of how other states have been able

04147

1 to resolve the issues concerning proper cost studies
2 and her response is yes, I do.

3 JUDGE WALLIS: Let's stop the discussion at
4 this point and say that it appears that at least thus
5 far the questions are within the scope of the direct
6 examination and are permissible.

7 Q. And I think my question, Ms. Parker, was of
8 the building blocks you identified there,
9 approximately how many are they issue-wise and how
10 many are to be resolved in the long-term?

11 A. One of the categories is called building
12 block issues and that's -- there's 16 issues that were
13 listed. Of that outstanding were switch features, SS7
14 and other new technologies, which I believe that has
15 been resolved by U S WEST in their cost model.

16 Q. Let me just -- I don't want you to belabor
17 the record. If you could just give me a percent that
18 would be fine, or say eight out of 16 that would be
19 fine. If you want to read them all that's fine also.

20 A. This list is old (indicating) and some of
21 these I think have been litigated in other cases and
22 resolved.

23 Q. I understand.

24 A. So do I get to pick the ones I think have
25 been resolved?

04148

1 Q. No. I want you to tell me how many were
2 resolved at that time.

3 MR. TROTTER: Your Honor, might I suggest
4 the traditional subject to check process? This could
5 take hours.

6 MS. HASTINGS: Thank you. That's fine.

7 JUDGE WALLIS: Ms. Hastings, do you want to
8 approach it that way?

9 MS. HASTINGS: Yes, if they can confirm
10 that later, and I will give her a chance to approach
11 us later. They have their own materials.

12 MS. PROCTOR: What are we accepting subject
13 to check?

14 MS. HASTINGS: That the July cost report
15 left a lot of issues unresolved with respect to the
16 cost docket that was in UM 351 in Oregon. Thank you.

17 MS. PROCTOR: Well, excuse me, but a lot is
18 obviously subject to interpretation, and I am not
19 willing to accept that subject to check.

20 MS. HASTINGS: Well, what I would be happy
21 to do is make this particular page an exhibit and file
22 it as a late-filed exhibit if you would prefer. I
23 don't have it available to do it today but I would be
24 happy to do that.

25 MS. PROCTOR: That's fine.

04149

1 JUDGE WALLIS: Very well.

2 MS. HASTINGS: Be happy to do that.

3 JUDGE WALLIS: We'll assign Exhibit No. 779
4 to that document.

5 (Marked Exhibit 779.)

6 Q. And also, Ms. Parker, along that line, it's
7 true, is it not, that the costs that were looked at
8 there were building block costs?

9 A. Yes, that's correct.

10 Q. So the costs of the telecommunications
11 service specifically was not looked at?

12 A. That's correct.

13 Q. And it's true, is it not, that the costs
14 that were looked at were the volume-sensitive and
15 volume insensitive costs for those building blocks?

16 A. That is correct.

17 Q. Thank you. I wanted to look also a little
18 bit at your supplemental testimony. On page 1
19 starting at line 14 you indicate that there's a
20 fundamental problem with U S WEST cost studies that
21 must be provided to -- excuse me -- must be corrected
22 to provide reliable cost estimates, and you indicate
23 at the top of the next page that accessibility is not
24 a part of U S WEST's existing process. Do you see
25 that statement?

04150

1 A. Yes, I do.

2 Q. Now, I just want to ask you a question. Do
3 you know who James Agan is?

4 A. If it's the Jim Agan I know he's been with
5 the company for quite some time.

6 Q. With AT&T?

7 A. No, I'm sorry, I thought it was U S WEST
8 employee.

9 Q. Do you know who Rick Bailey is?

10 A. I know who Rick Bailey is.

11 Q. Do you know who Richard Chandler is?

12 A. I know who Rich Chandler is.

13 Q. Do you know Douglas DeVito?

14 A. Yes.

15 Q. Do you know who Julie Dodds is? You
16 don't know that name?

17 A. It doesn't sound familiar.

18 Q. Do you know who Ron Gaman is?

19 A. I know who Ron Gaman is.

20 Q. I think you said Darlene Hannon works for
21 you?

22 A. Yes.

23 Q. Do you know who Michael Hurst is?

24 A. Yes, I do.

25 Q. Do you know who Robert Kargoll is?

04151

1 A. Yes, I do.

2 Q. Do you know Matthew Kimichik?

3 A. No, I don't.

4 Q. Do you know Greg Kopta?

5 A. Yes.

6 Q. I go on. Do you know John Mayo?

7 A. Yes.

8 Q. Robert Mercer?

9 A. Yes.

10 Q. Vicki Seeger?

11 A. Yes.

12 Q. John Sumter?

13 A. Yes.

14 Q. Diane Toomey?

15 A. Yes.

16 Q. Daniel Waggoner?

17 A. Yes.

18 Q. Lori Wethers?

19 A. Yes.

20 Q. And Barry Zahn?

21 A. Yes.

22 Q. And I will represent to you that these are
23 people who have signed the confidential agreements in
24 this docket for -- on behalf of AT&T. Will you accept
25 that representation?

04152

1 A. I guess so, yes.

2 Q. Can you tell me how many of those people I
3 named have had access to or looked at the cost studies
4 that U S WEST has provided in this docket?

5 A. Can you name them again?

6 Q. No, I don't want to belabor the record. I
7 will represent to you that you read off about 22 names.
8 Excluding your own.

9 A. I know I've looked at them.

10 Q. What about Ms. Proctor? Has she looked at
11 them?

12 A. Yes.

13 JUDGE WALLIS: We do want to make sure that
14 the witness's testimony is her own.

15 Q. And I would like to ask you a little bit
16 about the cost studies that you looked at. It's true,
17 is it not, that in mid August or so U S WEST provided
18 you and Ms. Proctor a number of executive cost study
19 summaries for studies associated with the Washington
20 rate case. Is that not true?

21 MS. PROCTOR: I think we would have to
22 check.

23 MS. HASTINGS: I will be happy to provide
24 the witness with a copy of a transmittal letter. I'm
25 sorry, I don't have an additional copy but is it true

04153

1 that that letter is dated August 16, 1995 and is
2 addressed to you and Ms. Proctor and signed by Robin
3 Terry?

4 A. Yes.

5 Q. And is it not true that attached to that
6 letter -- well, let me ask you this. Isn't it true
7 that the letter refers to attachments?

8 A. Yes.

9 Q. Is it not true that attached to that letter
10 is a long list of Washington cost studies for which
11 AT&T Communications sought review and in fact
12 reviewed?

13 A. I'm trying to recreate August of last year,
14 and I think the reason why I'm having a hard time is
15 because I think the interconnection docket was going
16 on at the same time, so I can only say that it appears
17 that we reviewed them. There's dates on here.

18 Q. Now, let me ask you this question. With
19 respect to these cost studies that were viewed by
20 AT&T, did someone other than yourself view them?

21 A. I know I looked at a variety of them. I
22 didn't look at them all. I believe some of the
23 Deloitte & Touche people looked at some of them,
24 and --

25 Q. Who are the Deloitte & Touche people?

04154

1 A. You named some people on that list that
2 work for an outside consulting firm. And then I
3 believe Michael Hurst also may have looked at them.

4 Q. Would Julie Dodds have been one of the
5 Deloitte & Touche people you're talking about?

6 A. I don't know.

7 Q. And is Michael Hurst one of the Deloitte &
8 Touche people you're talking about?

9 A. No, he's not.

10 Q. Thank you. And these various cost studies
11 you looked at, for instance, or AT&T viewed the 1995
12 Washington call answer with queuing nonrecurring cost
13 study; is that correct?

14 MS. PROCTOR: Ms. Hastings, if you're
15 referring to a document might I also have a copy of
16 it?

17 A. We may have. The way the process works,
18 I'm not quite sure whether we actually viewed them.
19 In other words, the way the process actually works is
20 the data is voluminous and then I set up an
21 appointment to go over to U S WEST premises and then I
22 look at a variety of data and then I say I don't
23 really need all this and thank you and then I don't
24 have it copied, but I don't know whether or not an
25 actual cost study -- I don't remember it.

04155

1 Q. Well, let me ask you this question. Could
2 you share with me what your request -- I presume that
3 the request to provide this information was made by
4 you or Ms. Proctor since the response went back to you
5 and Ms. Proctor; is that correct? Someone from AT&T,
6 presumably you or Ms. Proctor, had requested these
7 various cost studies; is that correct?

8 A. Yes, and there are some cost studies that
9 would be interested in looking at like the EICT.

10 Q. Thank you. That was going to lead me to my
11 next question. What was your interest in looking at
12 the 1995 Washington call answer with queuing
13 nonrecurring cost study as it relates to this docket?

14 MS. PROCTOR: Your Honor, I think the
15 testimony indicates that what we have before us is a
16 document prepared by U S WEST stating that AT&T
17 reviewed cost studies on a certain date that Ms.
18 Proctor has just testified she's unable to recall
19 whether or not she actually looked at these cost
20 studies. Certainly cost studies were provided to
21 AT&T. Ms. Parker and several other people, as she has
22 testified, have looked at them. I'm not quite clear
23 where this testimony is going. Seems to me that
24 perhaps we can short-circuit this some. Certainly we
25 looked at cost studies.

04156

1 MS. HASTINGS: Well, I appreciate that AT&T
2 has looked at cost studies. We would agree with them
3 that they've looked at cost studies. Ms. Parker has
4 testified that our cost studies aren't very
5 accessible. I was just trying to demonstrate and ask
6 Ms. Parker's assistance in doing that that in fact a
7 lot of information has been made available, and I
8 would like to understand how that information that was
9 made available has been useful for AT&T in
10 establishing their testimony in this record, and I
11 think I'm entitled to that.

12 MS. PROCTOR: Your Honor, it sounds to me
13 like the problem is with the word accessible. I think
14 the witness would not dispute that, although in this
15 case copies of the cost studies were provided after
16 her direct testimony were filed, so we might dispute
17 whether they were indeed accessible in a timely manner
18 but I think the bottom line is that when she was
19 referring to accessible she means something different
20 than what Ms. Hastings is getting at, so I think
21 perhaps if we dealt with the witness's intention in
22 referring to accessibility we might be able to cut
23 through some of this.

24 MS. HASTINGS: Well, I don't appreciate Ms.
25 Proctor's testifying on behalf of Ms. Parker. I would

04157

1 object to that last testimony on her behalf.

2 JUDGE WALLIS: Very well. Let's let this
3 questioning continue. I do believe that it's still
4 within the scope of the direct. Counsel, I believe,
5 does deserve some latitude in approaching
6 cross-examination and I think we're still within that
7 latitude.

8 MS. HASTINGS: Thank you.

9 Q. To Ms. Proctor's last statement, however,
10 it's true, is it not, that the letter from Ms. Terry
11 to you and Ms. Proctor is dated August 16 of 1995?

12 A. That's correct.

13 Q. And it's true, is it not, that your
14 supplemental testimony in which your discussion of
15 accessibility is actually dated December 15, 1995?

16 A. Yes, it is. And I would like to clarify
17 that, and I probably didn't say it quite -- or didn't
18 use the term correctly. What I was trying to describe
19 is to try to look at the cost studies and go from
20 spreadsheet to spreadsheet. In some cases there are
21 no algorithms. In other cases there is acronyms that
22 need to be spelled out. In some cases there's no
23 description of the technology used. In other words,
24 what I was trying to say in my testimony is that you
25 cannot recreate the U S WEST cost model. Now, I

04158

1 recognize that there are some inputs that you need to
2 keep proprietary, and that's fine, but there are other
3 areas where it's just impossible, in my view, to
4 figure out the cost studies.

5 Now, that's not necessarily true for all
6 cost studies. Now, for instance, the expanded
7 interconnection termination cost study, that shows a
8 variety of equipment used and you could virtually kind
9 of tell what you could or what you didn't need or what
10 you would want out of that study, and that's why I
11 addressed that in my testimony that it should be
12 unbundled, but there are other studies that are -- I
13 mean, the backup data simply is not there, and so it
14 is hard to see the studies and see how they flow, the
15 process flows. So that's what I was trying to explain
16 in my testimony relative to accessibility.

17 Q. Now, in that regard, Ms. Parker, the last
18 sentence of Ms. Terry's letter to you and Ms. Proctor
19 says, "If you wish to review the work papers
20 associated with these cost studies please contact
21 JoAnn Ward," and it gives a telephone number. What
22 arrangements did you make to contact Ms. Ward
23 regarding these cost studies -- regarding the work
24 papers, excuse me?

25 A. I may have contacted her. I don't

04159

1 remember. I mean, that was in August, but I looked at
2 the cost studies. I know that there were certain
3 things that your company will not provide. One of
4 them is and I think clearly has been raised by
5 numerous people in this docket, is the fill factors
6 used in the cost study. I have asked several times
7 your company what were the fill factors used in the
8 switching model and all I get back is there's a lot of
9 equipment. So it's that type of documentation that is
10 not shown.

11 Q. Now, in that regard, Ms. Parker, you
12 indicated that you have responsibilities or at
13 some time in the recent past you had responsibilities
14 in Wyoming and Oregon; is that correct?

15 A. Yes.

16 Q. And you're aware or are you aware, I should
17 ask you, whether or not U S WEST sat down with AT&T
18 people with respect to Wyoming cost information and
19 provided them the RLCAP and switching cost model
20 documentation?

21 MS. PROCTOR: Your Honor, I'm going to
22 object to the relevance of this question. Clearly
23 what has or has not happened in connection with
24 Wyoming is not at issue here and is not the subject of
25 Ms. Parker's testimony in Washington.

04160

1 MR. TROTTER: I'll join that objection. My
2 recollection of Dr. Emmerson, who was a U S WEST
3 witness, that he acknowledged there were some
4 documentation problems with the studies and so I don't
5 even know -- this witness is confirming that and I
6 just don't know whether -- seems to me the company has
7 already admitted the underlying point of the
8 testimony.

9 MS. HASTINGS: That's not my point, but
10 thank you, Mr. Trotter.

11 MR. TROTTER: Well, there's an objection.

12 MS. HASTINGS: Do I get to respond to it?

13 JUDGE WALLIS: Ms. Hastings.

14 MS. HASTINGS: Thank you. Well, again, I
15 think that the cost models are the same throughout the
16 various states and the issue is not whether the
17 documentation is accurate or not. The issue is whether
18 there has been information accessible, and I was
19 attempting to identify whether or not that information
20 is accessible.

21 JUDGE WALLIS: The witness, to my
22 recollection, has testified at some length regarding
23 her access to the documentation and the context in
24 which she made that statement. I'm not sure how far
25 we are getting by pursuing that line.

04161

1 MS. HASTINGS: Thank you.

2 Q. Ms. Parker, in desiring access to U S WEST
3 cost studies models, does AT&T desire to know what the
4 company's units are?

5 A. Do you mean the demand used in the cost
6 study?

7 Q. Yes.

8 A. Well, in order to look at the cost study
9 and to divide the total investment you need the total
10 demand, so, yes.

11 Q. And are you also interested in looking at
12 the demographics that exist in those cost models?

13 A. If you can point to a study that might
14 include the demographics or maybe you and I -- or
15 explain what you mean by demographics.

16 Q. Is AT&T interested in looking at the prices
17 that U S WEST pays for its equipment?

18 A. No. I mean, not to the extent that you
19 have a proprietary agreement with a vendor. We're
20 looking at the algorithms. We like to look at the
21 algorithms, understand the algorithms, insure that
22 there is not too much investment loaded into the
23 studies that would drive the costs up, but vendor
24 specific information, no.

25 Q. I wanted to ask you a few questions about

04162

1 the revised demand data for switched access that Dr.
2 Wilcox provided. If I look at your direct testimony,
3 I think you start out by indicating that the materials
4 that Dr. Wilcox provided are incorrect because the
5 company used the wrong model to develop the demand
6 data and then I believe you also indicated that it
7 would result in some sort of a price increase for AT&T.
8 Have I properly characterized your testimony?

9 MS. PROCTOR: Could you be so good as to
10 provide a page reference, please, Ms. Hastings.

11 MS. HASTINGS: Yes.

12 Q. About page 8. I think that Ms. Parker
13 indicates that on line 16 that AT&T might actually
14 experience a price increase and then at lines 21 and 22
15 she says that U S WEST estimates the price impacts
16 using forecasted demands based on the least cost model.

17 Is that correct?

18 A. That's correct.

19 MS. PROCTOR: Thought they were saying that
20 the model was wrong.

21 Q. Well, let me ask you that question. Have
22 you asked the company to prepare demand datas using
23 something other than the least cost model?

24 A. Yes. And we requested them to prepare the
25 local transport restructure using a historical demand

04163

1 look as opposed to the least cost model.

2 Q. And you have had the opportunity, have you
3 not, to look at the revised updated switch access
4 demand data supplied by Dr. Wilcox; is that correct?

5 A. That's correct.

6 Q. And is it your opinion now that you've had
7 a chance to look at that updated data that it provides
8 an accurate portrayal of U S WEST test year switched
9 access revenues under the current rates?

10 A. Yes. Based on review of that data I
11 believe using the historical demand is much, much more
12 accurate than using the least cost model that was
13 originally filed. So I think it's appropriate to use
14 that historical demand.

15 Q. And so you're familiar with the empirical
16 at least cost model that's now being used by Dr.
17 Wilcox in her organization; is that correct?

18 A. It's not an empirical least cost model.

19 Q. I'm sorry, LTR model?

20 A. Yes.

21 Q. And in your professional judgment does this
22 new method used by U S WEST give a reasonable and
23 accurate portrayal of the revenues that would be
24 generated by the restructure transport rates?

25 A. Yes.

04164

1 Q. And is this new method based on the
2 existing network?

3 A. It's based on what is being currently
4 purchased today.

5 Q. And so am I to understand that based on the
6 materials that Dr. Wilcox has supplied to you the
7 concerns that you have identified on page 8 of your
8 direct testimony have been taken care of?

9 A. That's correct.

10 Q. I wanted to refer you to what was
11 previously marked as Exhibit 370. Are you aware of
12 that exhibit? It's an AT&T supplemental responses to
13 U S WEST first set of data requests. Do you have a
14 copy of it?

15 A. No, I don't.

16 Q. Maybe we can get you one. And at the same
17 time, if you could just keep that in mind, if you
18 could look at page 19 of your direct testimony, you
19 indicate that --

20 A. I'm sorry.

21 MS. PROCTOR: The witness has indicated she
22 doesn't have Exhibit 370.

23 MS. HASTINGS: I'm sorry, I thought she was
24 handed a copy.

25 JUDGE WALLIS: The witness does have the

04165

1 document.

2 A. I was just trying to read it.

3 Q. I'm sorry, go ahead.

4 A. And the reference in the testimony?

5 Q. If you just keep the Exhibit 370 in mind,
6 on page 19 of your direct testimony on about lines 3
7 and 4 you indicate that "IXCs and our customers must
8 use U S WEST transport on the vast majority of routes
9 in the state of Washington." What did you mean by the
10 vast majority of routes?

11 A. When I wrote that, AT&T purchases 100
12 percent of their transport from U S WEST when it's in
13 the U S WEST territory. What I was referring to there
14 is that there may be some other IXCs out there that
15 may be using someone else, so the vast majority, I
16 probably should have said the majority or all for
17 AT&T. That's why I wrote vast majority.

18 Q. So is it your testimony that AT&T has no or
19 none of its own facilities to provide transport in the
20 state of Washington?

21 A. Or access transport, that's correct.

22 Q. Does AT&T have facilities that runs between
23 Seattle and Auburn?

24 A. I wouldn't know.

25 Q. Do they have facility that run between

04166

1 Seattle and Tacoma?

2 A. I wouldn't know. I suspect if there is
3 it's our network between our offices, our POPs.

4 Q. Do you know if AT&T has to lease the run
5 between Tacoma and Olympia?

6 A. Nope.

7 Q. Let me ask you this question. If an AT&T
8 customer in Denver needs to connect with an ELI
9 customer in Seattle, Washington, what arrangements
10 does AT&T have with ELI to complete that call?

11 A. I would presume that we would buy feature
12 group D trunks from them like we buy feature group D
13 trunks from you or like in the sale of exchanges when
14 you sold the exchanges we didn't stop buying feature
15 group D trunks from PTI. We continue to buy those
16 types of trunking arrangements, access arrangements to
17 get to the customer to originate and terminate.

18 Q. And so it's your testimony that AT&T
19 provides -- self-provisions none of its own transport
20 in the state of Washington?

21 A. Access transport, no, we do not.

22 Q. And my question was do you provide any of
23 your own facilities to transport calls in the state of
24 Washington not just access any facilities?

25 A. I don't know.

04167

1 Q. By definition, TS LRIC includes no common
2 overheads; isn't that correct?

3 A. That's correct.

4 Q. And you're recommending in a number of
5 places that, as are Dr. Mayo and Dr. Kargoll, that the
6 number of U S WEST services be priced to AT&T and
7 others at TS LRIC; is that correct?

8 A. That's correct.

9 Q. You would agree with me, wouldn't you, that
10 a multi-product firm such as you U S WEST or AT&T
11 would be unable to survive as a a viable firm if it
12 was required to provide all of its services at TS
13 LRIC?

14 A. I think probably I'm not going to try to
15 reiterate or compete with Dr. Mayo or Dr. Kargoll's
16 discussion of that. My discussion in my testimony was
17 clearly the discussion of a wholesale product, access
18 and the various other retail products that are
19 impacted by those basic network functions.

20 Q. My question is whether or not a company
21 would be able to remain viable in the marketplace if
22 it priced all of its services at TS LRIC?

23 A. I believe Dr. Mayo in his discussion said
24 that was -- could be done.

25 Q. That could be done, thank you.

04168

1 MS. HASTINGS: May I approach the witness?

2 JUDGE WALLIS: For?

3 MS. HASTINGS: I have a document to show
4 her.

5 JUDGE WALLIS: Thank you.

6 MS. PROCTOR: Do you have another copy of
7 the document.

8 MS. HASTINGS: No, I'm sorry. I meant to
9 copy them at lunch and it slipped my mind.

10 Q. If I could ask you to identify the
11 document, if you would, please.

12 A. Certainly. It's United States Court of
13 Appeals for the Ninth Circuit Court, numbers --

14 Q. I'm sorry, go ahead.

15 A. Would you like me to read the numbers in?

16 Q. Well, let me do this. Maybe I can do it a
17 lot more quickly with all due respect. This is an
18 opening brief of AT&T in the ninth circuit court of
19 appeals, is that correct, dated August of this last
20 year?

21 A. August 17, 1995.

22 Q. Thank you. And I've referred you I think
23 to bottom of page 27 and the top of page 28 of that
24 brief; is that correct?

25 A. That's correct.

04169

1 Q. And I was wondering if you could please
2 read for me AT&T's argument in that proceeding
3 involving a CLASS service if I'm not mistaken?

4 A. And you want me to start on paragraph 5?

5 Q. I think it's the last two lines of page 27
6 and the top of page 28.

7 MS. PROCTOR: Your Honor, I'm going to
8 object to this form of cross-examination. This is not
9 a document that the witness has ever seen before or
10 authored, and I don't quite understand the point of
11 asking her to read something into the record from a
12 document that is a brief in a proceeding in virtually
13 another world.

14 JUDGE WALLIS: Ms. Hastings.

15 MS. HASTINGS: Well, Your Honor, the
16 document is being used to attempt to impeach Ms.
17 Parker's latest statements that a company could remain
18 viable. AT&T has specifically indicated that they
19 can't in this document. I suppose we could ask the
20 Commission to take judicial notice of the brief that
21 was filed in the ninth circuit and use the language
22 from the AT&T brief in our brief if appropriate. It
23 would be helpful. It's a very short paragraph and I
24 didn't think it would clutter the record to include
25 it.

04170

1 JUDGE WALLIS: The witness may read the
2 passage in. I would ask that the proceeding be
3 identified.

4 MS. HASTINGS: Thank you.

5 Q. I'm sorry, I didn't mean to interrupt you.
6 Go ahead. Like you to identify on the title page
7 there the proceeding.

8 A. The people of the state of California, et
9 al., petitioners, vs. the Federal Communication
10 Commission and the United States of America,
11 respondents, Petition for Review of Decision of the
12 Federal Communications Commission Joint Brief of
13 Petitioners AT&T Corp and the Competitive
14 Telecommunications Association.

15 Q. And if you could read the paragraph,
16 please.

17 A. "In particular a decade of FCC decisions
18 recognize that telecommunications services may be
19 priced to exceed their marginal or incremental costs
20 and must in aggregate recover their fully distributed
21 or average costs. The reality is that because fixed
22 costs of a telecommunications facilities are high and
23 the marginal costs are very low prices for
24 telecommunications services must exceed marginal costs
25 (and make a contribution to fixed costs) for carriers

04171

1 to remain financially viable. Because the extent to
2 which individual services can be priced above marginal
3 costs varies in accordance with market demand, the FCC
4 rules allow carriers to price individual services in
5 accord with either their fully distributed average
6 cost or market demand.

7 "Subject to the regulations designed to
8 assure the overall return are not excessive and the
9 individual rates are just and reasonable and not
10 discriminatory, these rules" --

11 Q. Thank you, that's fine. I wanted to ask
12 you a couple of more questions in your supplemental
13 testimony about -- and actually throughout your
14 document about your use of the term TS LRIC. When you
15 use the word TS LRIC, are you talking about service
16 specific TS LRIC or are you talking about
17 group-related TS LRIC?

18 A. I think there's probably -- you have
19 clearly a TS LRIC for what I call a basic network
20 function, and then you may have a group of functions
21 that make up a service that may share some type of
22 what I would call volume insensitive costs. Under
23 that case the sum of those parts would be the TS LRIC
24 for that group.

25 Q. So, is it correct or fair to assume that

04172

1 when you use the word TS LRIC you are referring both
2 to service specific costs and group costs?

3 A. Yeah, I guess you could say service
4 specific. In some cases it's even smaller than
5 service specific. It may be down to a piece of
6 equipment, so you're talking some granularity there.

7 Q. But you used the term TS LRIC generically
8 to cover both service specific costs and group costs?

9 A. No. It would be the TS LRIC for group. I
10 don't want to confuse it that there's TS LRIC -- can I
11 say this -- that there's volume insensitive costs that
12 are group-related but the group hasn't been
13 identified.

14 Q. Well, what term do you give to those
15 group-related costs?

16 A. I would say they're group-related volume
17 insensitive shared costs and under that paradigm you
18 would show those group-related shared costs as a lump
19 sum and hopefully the volume sensitive or the service
20 specific services plus that volume sensitive or volume
21 insensitive share. The revenues recover those two
22 categories from the group.

23 Q. So when you use the word TS LRIC in your
24 testimony, what do you mean?

25 A. I guess I would have to say service

04173

1 specific and then some shared if the costs are shared.

2 Q. So you mean it -- I don't mean to belabor
3 it but you mean it to cover both service specific and
4 group costs?

5 A. Group shared related, yes.

6 Q. And then referring you to Exhibit 370, the
7 response to -- do you have that in front of you?
8 That's the one we passed out a little earlier, the
9 response to the second data request?

10 A. Yes.

11 Q. Would you agree with me that a price
12 squeeze is measured by looking at the costs the
13 company is experiencing and comparing those costs to
14 the price the company needs to pay for a particular
15 input?

16 A. Are you talking about a predatory price
17 squeeze or --

18 Q. Well, I'm talking about the kind of price
19 squeeze that you identify in your testimony.

20 MS. PROCTOR: Can we have a reference,
21 please.

22 MS. HASTINGS: Page 19.

23 Q. Ms. Parker at page 19 talks about the fatal
24 flaws which include TS LRIC into U S WEST price
25 floors. Implies there that somehow U S WEST's studies

04174

1 have put them in a price squeeze. I'm just asking you
2 the question will you agree with me --

3 MS. PROCTOR: Excuse me, but I asked for a
4 reference to where she talks about price squeeze. I
5 don't see anything on page 19 where she says anything
6 anything about price squeeze. If you want to ask her
7 whether she's implying a price squeeze, that's a
8 different question.

9 Q. Let me ask the question again. Would you
10 agree with me that a price squeeze is measured by
11 looking at the costs a company is experiencing and
12 then comparing those costs with the price that company
13 needs to pay for for a particular input from another
14 provider, you determine if you're in a price squeeze
15 by doing that?

16 A. Repeat that again, please.

17 Q. I'm asking you if the test for determining
18 whether you would be in a price squeeze is looking at
19 the costs that a company is experiencing and comparing
20 those costs with the price that company needs to pay
21 for particular input from another provider?

22 A. I'm going to be very careful with this
23 because of the use of the term cost and price in the
24 same question. A price squeeze would occur to the
25 extent that the monopoly building blocks are used. If

04175

1 the prices of those building blocks -- in the case of
2 toll it would be access charges -- were not included
3 along with what I would call the other costs or
4 service specific costs associated with toll, so you
5 have essentially really two costs. One is the price
6 imputation portion and the other the price or the
7 other cost is the actual cost that would be incurred
8 in the provision of that service.

9 Q. How does AT&T know in any situation whether
10 it's in a price squeeze?

11 A. Well, I can give you an example that's a
12 live example in Colorado.

13 Q. Well, I would like to know how you know.
14 What tests do you use to determine whether or not AT&T
15 is in a price squeeze?

16 A. I am assuming our marketing people know
17 when they cannot stay at a particular price any more
18 because they have other inputs that they have to
19 cover.

20 Q. Looking at AT&T response to data request
21 No. 2, you indicate that AT&T doesn't do long-run
22 incremental costs for its services and so it doesn't
23 know its cost from that perspective and that they
24 don't establish price floors for its services. The
25 market does. What I am trying to understand is how if

04176

1 you don't know what the costs are how you can know for
2 certain you're in a price squeeze in any situation.

3 A. I think there's a couple of ways that you
4 can tell, and I agree in some cases you can't.
5 Obviously probably if the market drives the price down
6 you have a choice. You can either cut costs or you
7 cannot reduce your rates -- I mean or prices. That's
8 one way. I think probably you can also tell by just
9 virtue of looking at the underlying wholesale inputs
10 to see whether or not predatory price squeeze is going
11 on.

12 I will give you an example. Let's assume
13 that the cost of access is nine cents for a
14 conversation minute in the U S WEST territory. Now --
15 or ten cents a minute. Doesn't really matter. And if
16 U S WEST were to drop its price to three cents a
17 minute we would know that there is probably a price
18 squeeze currently occurring.

19 Q. But you don't study your costs so you don't
20 really know what your costs are; is that correct?

21 MS. PROCTOR: Excuse me. I believe that
22 the answer says that AT&T has not studied the TS LRIC
23 of its services. It doesn't say that AT&T does not
24 study its costs.

25 Q. It says that AT&T does not establish price

04177

1 floors for its services. You don't know what your
2 price floors are; is that correct?

3 A. I am not involved in the product management
4 side of the house or marketing. I can just tell you
5 from an access perspective that on a unit cost basis
6 or even on a total you can tell whether or not there
7 is probably a price squeeze going on.

8 Q. Thank you. I wanted to revisit the infamous
9 docket UM 351 and talk to you just a little bit more
10 about the cost information. You had indicated I think
11 earlier in your testimony -- I don't want to rehash
12 everything we've hashed over, but the data in some
13 respect is not accessible, and I was wondering if I
14 could refer you to Exhibit 778 at this time that's been
15 marked.

16 MS. PROCTOR: Your Honor, I would note for
17 the record that this document is incomplete. There
18 was a motion to compel. There were responses provided
19 by AT&T in resolution of these documents, and that is
20 included in a transcript of the hearing from UM 351.

21 JUDGE WALLIS: Very well.

22 MS. HASTINGS: That's an accurate
23 representation.

24 Q. Do you have those documents in front of
25 you? I'm sorry, I thought you did.

04178

1 MS. PROCTOR: By these documents --

2 MS. HASTINGS: Responses to the data
3 requests.

4 MS. PROCTOR: But not the transcript.

5 MS. HASTINGS: No, but not the transcript.

6 Q. I would just ask you if you could on data
7 request No. 1 just read me what the data request says.
8 Let me back up. Ms. Parker, you were involved in UM
9 351, were you not?

10 A. Yes, I was.

11 Q. And you testified in that docket, did you
12 not?

13 A. Yes.

14 Q. And I realize you didn't prepare these,
15 these were prepared by legal counsel, were they not?

16 A. Yes, they were.

17 Q. But you are familiar with the contents of
18 them, are you not?

19 A. Um --

20 MS. PROCTOR: I'm going to object, Your
21 Honor. Obviously the documents have in them whatever
22 they have in them. I don't know what it would serve
23 the record by reading them.

24 JUDGE WALLIS: At this point counsel is
25 asking whether the witness is familiar with the

04179

1 contents. Let's take this step by step. The witness
2 may respond.

3 A. I'm familiar with the questions. I
4 couldn't respond even if I -- I just wouldn't be the
5 right person to respond.

6 Q. But the first data request asks AT&T to
7 provide a list of all facilities, products and
8 services that AT&T prices at or less than TS LRIC; is
9 that correct?

10 A. That's correct.

11 Q. And it's true, is it not, that AT&T
12 responded in that data request in part that they
13 objected on the grounds to provide that information
14 because the information sought is confidential,
15 proprietary, trade secret information of AT&T that
16 cannot adequately, excuse me, cannot be adequately
17 protected by a confidentiality agreement when produced
18 to a competitor?

19 A. That's correct.

20 Q. Thank you. Were you here earlier in the
21 day when Mr. Owens shared a letter with Dr. Mercer
22 that had been written by Mary Beth Vitale?

23 A. Yes.

24 Q. And Catherine Hapka at U S WEST?

25 A. Yes.

04180

1 Q. Have you had a chance to review that
2 letter?

3 A. Briefly.

4 Q. Study it overnight, sure. We don't want
5 you to study it overnight so you can go home. I would
6 like to ask you, would it be a fair characterization
7 of that letter to say that it was a request of AT&T to
8 U S WEST that they provide a fairly long laundry list
9 of its services to AT&T on a resale basis at a
10 wholesale rate?

11 A. That letter, based on my interpretation is
12 just what I would call a business to business
13 communicate, and it appears to initiate the beginnings
14 of a discussion on whether or not some of these
15 services are available for resale.

16 Q. But it included a fairly long laundry list
17 of services; is that correct?

18 MS. PROCTOR: I would object to the
19 characterization as a laundry list.

20 JUDGE WALLIS: I believe counsel is asking
21 whether the witness agrees with the characterization
22 and I think the witness may respond.

23 A. Actually, I didn't think it was that long
24 of a list.

25 Q. Would it be fair to say that if AT&T were

04181

1 to be successful in its communicate with U S WEST and
2 U S WEST were willing or able to provide these services
3 that have been asked for -- looking down there's a list
4 of 15 that I can see off the top of my head -- on a
5 resale basis, whether that be wholesale or some other
6 basis, that would it be fair to say that AT&T would be
7 a competitor of U S WEST for local exchange services in
8 the state of Washington?

9 A. To the extent that they would resell the
10 services of U S WEST and brand them, name brand them,
11 I guess that would be considered competition. In
12 fact, there's resale of services even on a total
13 basis. It's a pretty successful business these days.

14 Q. And so the answer to my question is yes
15 they would be a competitor of U S WEST?

16 A. Yes. They would be a competitor and a
17 supplier.

18 Q. So it's possible that U S WEST would have
19 concerns about producing highly confidential and trade
20 secret information to a competitor?

21 A. Well, yes, and I think that's where the
22 protective agreements come in.

23 Q. And just quickly on that list that's
24 identified in the Mary Beth Vitale letter, there's a
25 request that among the services that would be offered

04182

1 would be inside wiring installation repair. If you
2 don't have that in front of you would you accept my
3 representation that that's included?

4 A. I don't have it in front of me and if
5 that's on the list --

6 Q. Do you know whether or not AT&T would
7 propose to contact all the electrical contractors in
8 the state of Washington and ask them to provide inside
9 wiring services at cost also?

10 A. I'm not involved in this. I am not in any
11 marketing team. I'm not in any product managing team
12 or anything like that. I don't know what that even
13 represents.

14 Q. But you are recommending that U S WEST
15 provide its services to AT&T at TS LRIC; is that
16 correct?

17 A. In the access, yes, I have recommended that
18 the access building blocks be offered at TS LRIC.

19 Q. Do you know whether or not AT&T is planning
20 on contacting -- let me back up for a minute there.
21 One of the other services that Ms. Vitale indicates
22 that they would like U S WEST to provide at these
23 wholesale costs would be voice messaging. Do you know
24 whether AT&T is planning on contacting all of the voice
25 messaging providers in the state of Washington and

04183

1 asking them to provide their services at their TS LRIC
2 cost?

3 A. Actually, it's not only voice messaging
4 that we're asking. As you saw my direct testimony
5 we're also asking for CLASS services at wholesale
6 to be used in a provision of our toll, so there are a
7 variety of services that we have requested U S WEST to
8 provide even before this letter that occurred on
9 Friday, so that shouldn't be a surprise to anyone.

10 Q. But my question I think was a little bit
11 different. My question was whether or not AT&T has
12 any plans to contact all of the other voice message
13 providers in the state of Washington and expect that
14 they would offer their services at their TS LRIC
15 costs?

16 A. I don't know. I am really not involved
17 with that type of project. I can't answer it.

18 Q. And you mentioned that you were aware of
19 the request of AT&T to U S WEST to provide the CLASS
20 service on wholesale rate and U S WEST declined that
21 offer; is that correct?

22 A. Yes, and that was an outcropping of an AIN
23 procedure that occurred on the federal side. That was
24 about a year ago or 18 months ago. It has to do with
25 passing some of the calling party number.

04184

1 Q. And caller ID is a CLASS service, is it
2 not?

3 A. That's correct.

4 Q. And caller ID was the subject of the AT&T
5 brief in the ninth circuit where AT&T indicated that a
6 company couldn't remain viable if it priced at its TS
7 LRIC costs; is that correct?

8 A. I wouldn't interpret that document that
9 way.

10 Q. Fine. The document can speak for itself.

11 MS. PROCTOR: Well, the document is not in
12 the record.

13 MS. HASTINGS: Thank you, Ms. Parker.

14 JUDGE WALLIS: Does that conclude your
15 examination?

16 MS. HASTINGS: I'm sorry, yes, thank you.

17 JUDGE WALLIS: Mr. Trotter.

18 MR. TROTTER: Thank you.

19

20 CROSS-EXAMINATION

21 BY MR. TROTTER:

22 Q. There was a question that was lingering
23 from Dr. Kargoll's testimony with respect to Exhibit
24 482C in which the company, AT&T, provided some ARPM
25 data. Are you generally familiar with that exhibit?

04185

1 A. Yes, I am.

2 Q. And the question that was lingering was
3 whether that data included just True Savings program
4 customers or all customers and can you clarify that,
5 please?

6 A. Yes, I can. The response wasn't very
7 clear, and the response should read, I think it's,
8 "However, AT&T has done a comparison of the average
9 revenue per minute (ARPM) for 1990 through the first
10 quarter of 1995 for the Washington intrastate business
11 residence operator handled and credit card calls."

12 Q. That's fine. And you were reading from
13 your response to data request 42 of public counsel?

14 A. Yes. And then the next sentence should
15 say, "True Discount plans are also included."

16 Q. Turn to your rebuttal testimony, page 6.

17 JUDGE WALLIS: Mr. Trotter, could you pull
18 the mike just a little bit closer.

19 MR. TROTTER: Yes, thank you.

20 Q. And here you talk about your unbundled loop
21 proposal and you first refer to Mr. Spinks's Exhibit
22 TLS-2 which is Exhibit 605C in this docket; is that
23 right?

24 A. That's correct.

25 Q. And then on lines 8 through 10 you indicate

04186

1 that the ASIC for the elements comprising the
2 unbundled loop and using Commission prescribed
3 depreciation lives and cost of money is a proprietary
4 figure which is in Exhibit 128TC; is that right?

5 A. That's correct.

6 Q. And am I correct that -- well, and then
7 that is the unseparated cost of the loop; is that
8 right?

9 A. That's correct.

10 Q. Then you go on line 12 and following you
11 indicate that certain other items needed to be added
12 to this loop cost, and then the total cost would be
13 compared to the rates for basic local service; is that
14 right?

15 A. That's correct.

16 Q. You indicate then that from this
17 differential an equally efficient competitor must
18 recover its costs; is that right?

19 A. That's correct.

20 Q. Now, if AT&T buys an unbundled loop, does
21 it anticipate on average that it will also sell that
22 customer toll, switched access, toll termination and
23 other services?

24 A. Yes.

25 Q. Turn to your Exhibit 129C, and the first

04187

1 page after the title page is PAP-2. Do you have that?

2 A. Yes, I do.

3 Q. And there you have a column USWC price to
4 end user and then in the right-hand column AEC price
5 to end user?

6 A. Yes.

7 Q. And if we look at the rates section, I
8 don't think those are -- at least as to the published
9 rates those aren't proprietary; is that right?

10 A. That's correct.

11 Q. But in any event you show the local rate
12 and then the subscriber line charge for the U S WEST
13 price to end user; is that right?

14 A. That's correct. And it should be noted
15 that I did not include any EAS revenues in there.

16 Q. Nor did you include any toll or other
17 service revenues; is that right?

18 A. No. I only used the revenues that I
19 believe are consistently probably used for local.

20 Q. Turn to your rebuttal testimony, page 11.
21 On line 19 you note that in Mr. Spinks's exhibit 605C,
22 staff calculates the TS LRIC of local service to be --
23 and then you show a proprietary figure; is that right?

24 A. That's correct.

25 Q. Am I correct that the figure that you took

04188

1 is on Mr. Spinks' exhibit under column designated ASIC
2 per data request 54?

3 A. That's correct.

4 Q. You did not use what he denominated as his
5 local exchange cost in that exhibit; is that right,
6 which was in column 6?

7 A. Can you show me that, please.

8 Q. (Indicating) You can confirm that?

9 A. Yes.

10 Q. And his column 6 local exchange cost per DR
11 54 was a lower figure than what you show?

12 A. That's correct.

13 Q. Turn to your direct testimony, page 16.
14 And again at the top of the page you're talking about
15 prices for the loop and for loop unbundling, and you
16 propose that the interstate SLC or subscriber line
17 charge should be subtracted; is that right?

18 A. Yes. To the extent that U S WEST is
19 proposing that they will charge the ALEC at the
20 interstate SLC, to the extent that they do not, like
21 some other LECs are proposing, then that would be not
22 necessary.

23 Q. Do you recognize that part of the cost of
24 the loop is being covered by this other charge, the
25 subscriber line charge?

04189

1 A. Yes, I do. At least for a joint -- to the
2 extent that you classify this loop as a private line,
3 an analog voice private line, then the interstate SLC
4 would not apply.

5 Q. But in your answer you were assuming I was
6 referring to the common line that's provided to
7 residential and business exchange ratepayers?

8 A. To the extent, yes.

9 MR. TROTTER: Those are all my questions.
10 Thank you.

11 JUDGE WALLIS: Other questions from
12 counsel? Commissioners?

13 CHAIRMAN NELSON: Not now.

14 COMMISSIONER HEMSTAD: No.

15 COMMISSIONER GILLIS: No.

16 JUDGE WALLIS: Ms. Proctor.

17 MS. PROCTOR: No. No questions. Thank
18 you.

19 JUDGE WALLIS: Is there anything further
20 for the witness?

21 MS. HASTINGS: But I wanted to, I'm sorry,
22 move to admit Exhibit 778.

23 JUDGE WALLIS: Is there objection?

24 MS. PROCTOR: Yes, Your Honor. I would
25 object to it. It is an incomplete document. There

04190

1 are responses set forth in the transcript of that
2 proceeding.

3 JUDGE WALLIS: What's the purpose for which
4 this document is offered?

5 MS. HASTINGS: Well, I think it's relevant
6 for the Commission to realize that Ms. Parker has
7 indicated that U S WEST cost studies are not
8 accessible, and has admitted in fact that they contain
9 proprietary information and I think it's important for
10 the company to be able to point out to the Commission
11 that AT&T believes with respect to its data that it
12 should not be reduced to a competitor, and there ought
13 to be some equal basis on which data is looked at by
14 the Commission.

15 MS. PROCTOR: Your Honor, the primary
16 reason that this request was objected to was on the
17 ground of relevance that AT&T's costs are not relevant
18 to a proceeding where we're trying to set the prices
19 of services for U S WEST. In the transcript the very
20 issue of proprietary nature and/or response were set
21 forth, so I think that to the extent that counsel is
22 attempting to introduce this for the truth of the
23 matter asserted it is not a complete representation.
24 The transcript contains further information.

25 JUDGE WALLIS: Is this any different from

04191

1 the exchange that took place in the opening phases of
2 this proceeding?

3 MS. PROCTOR: It would be our view that
4 it's exactly the same issue.

5 JUDGE WALLIS: On that basis it would
6 strike me that AT&T has made its position on this
7 matter abundantly clear, and this exhibit would
8 therefore really be repetitive of that position.

9 MS. HASTINGS: That's fine.

10 JUDGE WALLIS: So on that basis the exhibit
11 is rejected.

12 Is there anything further before we close
13 tonight? Let the record show that there is no
14 response. Tomorrow we are taking up at 10:00
15 in the morning or as soon thereafter as the room is
16 available following the Commission open meeting and
17 possible other meeting, and at that time we will take
18 up with Mr. Zepp and Mr. Kouchi. At the conclusion of
19 the testimony we will be engaging in a brief
20 administrative session to make sure that we have
21 crossed all our I's and dotted our T's and wrapped up
22 all of our loose ends or whatever. So let's
23 consequently be off the record and we will resume
24 tomorrow.

25 (Hearing adjourned at 6:15 p.m.)