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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UT-950200
4)
Complainant,) VOLUME 30
5)
vs.) Pages 4192 - 4294
6)
U S WEST COMMUNICATIONS, INC.,)
7)
Respondent.)
8 -----)

9 A hearing in the above matter was held at
10 10:16 a.m. on January 31, 1996, at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington
12 before Chairman SHARON L. NELSON, Commissioners
13 RICHARD HEMSTAD, WILLIAM R. GILLIS and Administrative
14 Law Judge C. ROBERT WALLIS.

15

16 The parties were present as follows:

17 U S WEST COMMUNICATIONS, by EDWARD SHAW
and MOLLY HASTINGS, Attorneys at Law, 1600 Bell Plaza,
18 Seattle, Washington 98191.

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

22 FOR THE PUBLIC, DONALD TROTTER, Assistant
Attorney General, 900 Fourth Avenue, Suite 2000,
23 Seattle, Washington 98164.

24 Cheryl Macdonald, CSR

25 Court Reporter

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APPEARANCES (CONT.)

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

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.

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1 I N D E X

2

3 WITNESSES:	D	C	RD	RC	EXAM
4 ZEPP	4196	4202	4257	4259	4254
5 KOUCHI	4265	4266	4284	4286	

5

6

7 EXHIBITS:	MARKED	ADMITTED
7 780T	4196	4202
7 781	4196	4202
8 782C	4196	4202
7 783C	4196	4202
9 784C	4196	4202
7 785C	4196	4202
10 786C	4196	4202
7 787	4196	4202
11 788T	4196	4202
7 789C	4196	4202
12 790T	4196	4202
7 791	4196	4202
13 792C	4196	4202
7 793C	4196	4202
14 794T	4196	4202
7 795	4196	4202
15 796	4196	4202
7 797T	4265	4266
16 798	4265	4266
7 799	4265	4266
17 800	4265	4266
7 801	4288	4288
18 802	4289	4289

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

2 JUDGE WALLIS: Let's be on the record,
3 please, for our January 31, 1996 session in the matter
4 of docket No. UT-950200 U S WEST Communications. We
5 begin this morning's session with TRACER and DIS
6 calling witness Thomas M. Zepp to the stand.

7 Whereupon,

8 THOMAS ZEPP,

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

11 JUDGE WALLIS: In conjunction with Mr.
12 Zepp's appearance the following documents have been
13 predistributed. The original direct testimony is
14 marked as 780T for identification and the attachments
15 as follows. TZ-1 is marked as 781. TZ-2 is 782C. TZ3
16 as 783C; TZ-4 as 784C; TZ-5 as 785C and TZ-6 as 786C.
17 The original attachment TZ-7 is not being offered.
18 Attachment TZ-8 is marked as 787 for identification.
19 Supplemental testimony is marked as 788T. TZ-9 is
20 marked as 789C. The rebuttal testimony testimony is
21 marked as 790T. Attachment TZ-10 is marked as 791 for
22 identification. TZ-11 as 792C; TZ-12 as 793C. TZ-13,
23 the second supplemental testimony is marked as 794T.
24 Attachment TZ-14 is marked as 795 for identification,
25 and the errata sheet distributed this morning is 796

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1 for identification.

2 I will note that the errata sheet contains
3 corrections to the testimony of the witness and also
4 to TZ-12 which has just been marked as 793C. There
5 are also attached in this distribution three revised
6 pages to those exhibits, to the exhibit of the
7 witness, and those pages will be substituted for the
8 original pages in the exhibit. Mr. Butler.

9 (Marked Exhibits 780T through 796.)

10

11 DIRECT EXAMINATION

12 BY MR. BUTLER:

13 Q. Dr. Zepp, would you please state your name
14 and address for the record?

15 A. My name is Thomas M. Zepp. My address is
16 1500 Liberty Street Southeast in Salem, Oregon 97302.

17 Q. Have you caused to be prefiled in this
18 proceeding written direct testimony identified as
19 Exhibit 780T and associated Exhibits 781, 782C through
20 786C and 787; supplemental testimony designated
21 Exhibit 788T and associated exhibits 789C; rebuttal
22 testimony designated Exhibit 790T and associated
23 exhibits 791, 792C through 793C; second supplemental
24 testimony regarding cost study issues designated
25 Exhibit 794T and associated Exhibit 795?

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1 A. Yes, I prepared those.

2 Q. And have you caused to be distributed an
3 errata sheet containing corrections and changes to the
4 above mentioned exhibits?

5 A. Yes. As I understand it that's been marked
6 as 796.

7 Q. In addition to the changes indicated on
8 Exhibit 796, the errata sheet, do you have any other
9 changes or corrections to any of the above mentioned
10 testimony or exhibits?

11 A. Not that I noticed.

12 Q. Were the above mentioned exhibits prepared
13 by you or under your direction or control?

14 A. Yes.

15 Q. And are they correct to the best of your
16 knowledge and belief?

17 A. Yes.

18 Q. If I were to ask you today the questions
19 contained in the prefiled testimony Exhibit 780T,
20 788T, 790T and 794T, would your answers be the same
21 as written therein?

22 A. Yes.

23 MR. BUTLER: I move the admission of
24 Exhibits 780T through 796.

25 JUDGE WALLIS: Is there objection?

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1 MR. SHAW: Your Honor, I have a concern
2 with one of the exhibits. May I voir dire?

3 JUDGE WALLIS: Yes.

4

5 VOIR DIRE EXAMINATION

6 BY MR. SHAW:

7 Q. Dr. Zepp, direct your attention to page 46
8 of your direct testimony where you urge the Commission
9 to take note of the New England Telephone cost study
10 for New Hampshire for two reasons, A and B. Do you
11 see that?

12 A. I do.

13 Q. And then your exhibit TZ-8 which has been
14 marked for identification as 787 is portions of what
15 purports are a New Hampshire incremental cost study;
16 is that correct?

17 A. Yes.

18 Q. Now, the first reason you state that the
19 Commission should find this relevant is that none of
20 the cost estimates for any of NET's services are
21 claimed to be confidential. "By contrast, when I have
22 signed a confidential agreement with USWC, I am not
23 allowed to examine similar data for USWC cost studies
24 because USWC states such data are vendor proprietary."
25 Could you point to me anywhere in TZ-8 that there is

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1 prices for equipment paid by the New England Telephone
2 Company disclosed in your exhibit?

3 A. Mr. Shaw, I guess the final cost estimates
4 are all that were included in this excerpt from the
5 study, but the entire study, of course, does have
6 those prices revealed.

7 Q. In the exhibit that you're offering here
8 there is no public disclosure of the prices charged by
9 the vendors of the New England Telephone company, is
10 there?

11 A. Not in these eight pages, no.

12 Q. Your second reason why the Commission
13 should find this relevant is that it demonstrates, if
14 I can paraphrase, a more simple cost study. Is that a
15 fair paraphrase of why you think that this is
16 relevant?

17 A. Yes.

18 MR. SHAW: Your Honor, I'm going to object
19 to TZ-8 on the basis it does not demonstrate reason A
20 cited by the witness in his testimony and in fact
21 there is no reason to believe of the extensive
22 testimony in this case that the vendors, AT&T in
23 particular, who is obviously a vendor to any of the
24 old Bell system companies, allows its prices to be
25 disclosed on the public record anywhere, and certainly

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1 on the face of Exhibit 8 there is no indication that
2 that is the case, and also object to it on the basis
3 that it purports to contain numbers of what a cost of
4 a loop is. There's been absolutely no -- there is
5 absolutely no foundation in any of the testimony,
6 particularly on page 46, that any of these numbers
7 have any relevancy to Washington at all. It's just a
8 partial excerpt. There is no way for the company to
9 cross or to explore what the differences are and so at
10 the very minimum the numbers of Exhibit 8 should be
11 struck from the exhibit.

12 There can be an argument, I suppose, that
13 the methodology is something the Commission should
14 consider, so if the numbers are struck from Exhibit 8
15 that would satisfy my objection, but it does not
16 demonstrate reason A and so I would request that that
17 portion of page 46 be struck, and the only relevancy
18 is a demonstration of a simpler methodology or alleged
19 simpler methodology but the numbers are very
20 prejudicial to U S WEST and deprive it of its right of
21 cross-examination and ability to meet the evidence.

22 JUDGE WALLIS: Mr. Butler.

23 MR. BUTLER: It seems to me that the
24 objections which Mr. Shaw has raised go to the weight
25 to be given to the evidence not to the admissibility.

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1 Through the voir dire Dr. Zepp has already testified
2 that the underlying prices that support the final cost
3 estimates that are included in the excerpt which is
4 Exhibit TZ-8 are themselves public and not
5 confidential. Again, that simply goes to the weight.
6 Mr. Shaw certainly has an opportunity to inquire
7 further of Dr. Zepp should he so choose as to the
8 extent to which any of these numbers may reflect
9 actual costs in the state of Washington.

10 JUDGE WALLIS: Are you offering this
11 document for the truth of the numbers that are
12 represented in it and the applicability of those
13 numbers to Washington state?

14 MR. BUTLER: No. I think the point of the
15 offer here is to demonstrate that cost estimates can
16 be made available on a nonconfidential basis and a
17 cost study methodology utilized which is much simpler,
18 more accessible, more transparent than are the cost
19 studies used by U S WEST and offered in this
20 proceeding, and to also demonstrate that in fact such
21 cost studies are available and being utilized
22 elsewhere in the country.

23 JUDGE WALLIS: Do any of the other parties
24 wish to comment? It doesn't appear to me, Mr. Shaw,
25 that the cost study information in Exhibit 787 is

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1 being offered for the truth or applicability of the
2 numbers, and I think your interests therefore are
3 protected and I would therefore deny the objection.

4 MR. BUTLER: Again, I had moved for the
5 admission of the exhibits.

6 JUDGE WALLIS: The exhibits of the witness
7 780T through 785 as marked are received.

8 (Admitted Exhibits 780T through 796.)

9 MR. BUTLER: Dr. Zepp is available for
10 cross-examination.

11 JUDGE WALLIS: Mr. Shaw.

12 MR. SHAW: Thank you.

13

14 CROSS-EXAMINATION

15 BY MR. SHAW:

16 Q. Good morning, Dr. Zepp. You represent
17 TRACER and DIS in this proceeding; is that correct?

18 A. That is correct.

19 Q. And TRACER is an acronym as you relate in
20 your testimony that stands for the Washington
21 Telecommunications Ratepayers Association for Cost
22 Based and Equitable Rates; is that correct?

23 A. Yes.

24 Q. Now, the Washington Telecommunications
25 Ratepayers Association is an association restricted to

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1 very large businesses in the state of Washington, is
2 it not?

3 A. I believe all the members are businesses of
4 one type or another.

5 Q. They're all large businesses, are they not?

6 A. I don't know what you mean by large. I
7 think there is one group of hospitals in there. I'm
8 not sure how large the hospitals themselves are.

9 Q. All members of TRACER have private
10 networks, PBX or switch-based private networks, do
11 they not?

12 A. I don't know that, Mr. Shaw. They may take
13 Centrex service, for example.

14 Q. You have represented TRACER in these
15 proceedings, these type of proceedings, in Washington
16 for how many years?

17 A. Quite a few years now, yes.

18 Q. Can you be a little more specific than
19 that?

20 A. Basically my understanding what they take
21 in terms of services --

22 Q. Excuse me. The question I believe is how
23 many years have you represented TRACER in these kinds
24 of proceedings?

25 A. Oh, I'm sorry. I can't remember the year

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1 but it must have been mid '80s or somewhere in there.

2 Q. You've actually been TRACER's witness in
3 these types of proceedings since its creation, have
4 you not?

5 A. No. TRACER has had other witnesses on
6 different matters. Dr. Selwyn I can recall was a
7 witness in a case and Charlie Kinn was a witness for
8 TRACER recently. I have done work for TRACER on many
9 occasions, but I have not been the only witness.

10 Q. I don't recall asking you whether you've
11 been the exclusive witness for TRACER. What I asked
12 you was you have been a witness advocating TRACER's
13 positions in proceedings such as this since its
14 creation, have you not?

15 A. Yes.

16 Q. And as such you're intimately familiar with
17 the membership of TRACER and their operations, are you
18 not?

19 A. Just to the extent that I indicated to you
20 a minute ago.

21 Q. Boeing is a member of TRACER?

22 A. Yes.

23 Q. And it has a large private network in the
24 state of Washington with a 5E switch, a very large
25 switch normally used by telephone companies as its

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1 PBX?

2 A. That's my understanding, yes.

3 Q. And it has an extensive private network
4 made up of very large capacity digital private line
5 connecting its many centers of operation in the Puget
6 Sound area?

7 A. Yes.

8 Q. And in fact it has private networks that
9 connect its out of state operations with its Puget
10 Sound operation?

11 A. I don't know that but I will accept that
12 subject to your representation.

13 Q. Is Weyerhaeuser a member of TRACER?

14 A. Yes.

15 Q. Weyerhaeuser has its own private network,
16 owns in part its own facilities and provides its own
17 switch services within that private network?

18 A. I believe so.

19 Q. Paccar is a member of TRACER, is it not?

20 A. Yes.

21 Q. Does it have a PBX-based private network?

22 A. I believe so, yes.

23 Q. Is Seafirst a member of TRACER?

24 A. Yes.

25 Q. And it has its own PBX-based extensive

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1 private network connecting its many sites around the
2 state?

3 A. I don't know if that's PBX or a Centrex
4 network. I don't know, Mr. Shaw.

5 Q. Other banks are members of TRACER?

6 A. I am not sure at this time how many banks
7 are in TRACER.

8 Q. You've worked for TRACER since the early
9 '80s and you're unaware of what their membership is?

10 A. Yes, at this time.

11 Q. And that's never been of a concern to you
12 what their -- who their membership is and what their
13 interest in telecommunications services offered by
14 telecommunications companies are?

15 A. I have a general understanding of the
16 membership of TRACER. Some members of TRACER have
17 joined recently, and I guess there are some that have
18 left. I don't know the exact membership at this
19 particular time. I am aware of the ones that you
20 indicated.

21 Q. Now, when you file testimony in proceedings
22 such as this representing the interests of TRACER, how
23 do you receive your input to craft your testimony?

24 A. Generally with discussion with Mr. Kennedy
25 or Mr. Butler.

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1 Q. And not with the representatives of the
2 TRACER members themselves?

3 A. Occasionally I discuss issues with members
4 of TRACER directly.

5 Q. And which corporate members of TRACER did
6 you discuss your testimony with in this case?

7 A. I believe I discussed it with -- I don't
8 know in this particular case who I've talked to. I
9 know I did talk to Jerry Bishel who is now I believe
10 with Weyerhaeuser and Kim Ambler from Boeing. I may
11 have also discussed it with someone from Paccar but
12 I'm not sure if that was this case or the prior case.

13 Q. Mr. Ambler is an employee of the Boeing
14 Company?

15 A. Yes.

16 Q. And he also works full-time on the affairs
17 of TRACER?

18 A. I don't know that to be the case.

19 Q. Is he a loaned executive by Boeing to the
20 TRACER organization?

21 A. I don't know.

22 Q. You have no idea what Mr. Ambler's role is
23 in the TRACER organization?

24 A. I know he is a member -- he is the member
25 from Boeing that I see with respect to TRACER but I

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1 don't know his position.

2 Q. And he also functions as a representative
3 of TRACER, does he not?

4 A. I don't know that.

5 Q. Now, we've discussed some of the more
6 prominent members of TRACER. Can you name any member
7 of TRACER over the years that you would consider to be
8 a small business?

9 A. I indicated to you before some of the
10 hospitals may be considered a smaller business but
11 they certainly are not a 1FB type customer.

12 Q. Do any of the members of TRACER take 1FB
13 service, to your knowledge?

14 A. I would assume they do along with other
15 services.

16 Q. You do not know that they do?

17 A. I do not know.

18 Q. But you do know that the members of TRACER
19 take from U S WEST Centrex services as well as
20 dedicated private line services which they incorporate
21 into their private networks; is that correct?

22 A. Yes.

23 Q. Let's talk about DIS for a moment. That's
24 Department of Information Services?

25 A. Yes.

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1 Q. Is that the telecommunications arm and
2 purchasing arm of the state of Washington?

3 A. Yes.

4 Q. As such it operates a very extensive
5 private switch network to serve the many agencies and
6 arms of the government in the state of Washington?

7 A. It does.

8 Q. For instance, then, this Commission
9 receives its telephone service from DIS?

10 A. I believe in part it does.

11 Q. In toto for any on net calling DIS provides
12 that service; is that correct?

13 A. I don't know that.

14 Q. Do you know anything about how the DIS
15 network is configured and provisioned?

16 A. I have some understanding from my
17 discussion with various people at DIS, but I don't
18 have a thorough understanding of how they have their
19 network constructed.

20 Q. Very large consumer of telecommunications
21 services represented by DIS, the state of Washington
22 owns its own telecommunications facilities both
23 switching and transmission, does it not?

24 A. I don't know that, Mr. Shaw. I don't know
25 if they own transmission facilities or whether they

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1 lease them from you. I don't know.

2 Q. Is there any doubt in your mind that the
3 state of Washington has access to any of the
4 right-of-way necessary to construct its own
5 transmission facilities?

6 A. I just don't know.

7 Q. How about Weyerhaeuser? Is Weyerhaeuser a
8 major property owner in the state of Washington?

9 A. Yes.

10 Q. How about Boeing? Does Boeing have access
11 to right-of-way necessary to construct its own
12 transmission facilities to go with its 5E switch?

13 A. I don't know whether they lease facilities
14 from you or what they do.

15 Q. There are turnkey providers of private
16 networks that offer to construct -- engineer, design
17 and construct a private network and turn it over to a
18 large consumer such as TRACER members or DIS, are
19 there not?

20 A. Yes.

21 Q. And in fact they operate in the state of
22 Washington and have provided private networks in the
23 state of Washington for such large consumers?

24 A. I would expect so, yes.

25 Q. Are you familiar with the federal

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1 government's FTS 2000 procurement package wherein it
2 has let for bid to large telecommunications companies
3 to provide its private network services consumed by
4 the federal government?

5 A. No.

6 Q. All of the members of TRACER and DIS are
7 free to issue and in fact do issue RFPs or requests
8 for proposals asking for bids from various providers
9 of telecommunications services for the components of
10 their private networks, do they not?

11 A. I guess with respect to some of the
12 components of the network. Certainly not with respect
13 to access of the public switched network. They're
14 going to have to go through you but I would imagine
15 some components of the network.

16 Q. Conceptually a private network can provide
17 100 percent of the service between the entities served
18 by that private network, but when any person or entity
19 on that private network wants to communicate to
20 somebody not on the network or anybody not on the
21 network wants to communicate with somebody on that
22 private network, it's necessary to interconnect that
23 private network with the public switched network?

24 A. Yes. They're subject to the monopoly power
25 of U S WEST in that instance.

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1 Q. Let's examine that. The public switched
2 network is made up, would you agree, of all the
3 networks of all of the telecommunications companies
4 doing business in the state of Washington, just
5 looking at the public switched network in Washington?

6 A. Yes.

7 Q. And so the networks of ELI, MCI, TCG, AT&T,
8 Sprint are all part of the public switched network?

9 A. Yes.

10 Q. And therefore, any private network, for
11 instance in the city of Seattle, can gain access to
12 the public switched network by doing business with any
13 provider of any portion of the public switched
14 network, can it not?

15 A. To the extent that an entity in Seattle
16 wants to make a call from any location to any other
17 location they are ultimately going to have go through
18 the largest provider, which is U S WEST, or maybe in
19 some instances GTE.

20 Q. Let's examine that. Let's take the
21 extensive Boeing network. Now, if the Boeing Company
22 desired, which I presume it would, to connect its
23 large private network with the public switched network
24 it could connect through large DS3 or larger pipes
25 from its switch to the switch of ELI and ELI in turn

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1 could dump that traffic off on U S WEST to the extent
2 that anybody in the Boeing Company wanted to call a
3 subscriber of U S WEST, could it not?

4 A. Certainly.

5 Q. And for any interLATA call or long distance
6 call ELI could direct trunk all of Boeing's traffic to
7 the interexchange carrier of Boeing's choice, could it
8 not?

9 A. If it has the facilities, yes.

10 Q. And so Boeing's network can connect with
11 the public switched network through any number of
12 providers in the state of Washington, could it not?

13 A. Yes, but ultimately, as I said earlier, the
14 extent to which U S WEST has a substantial number of
15 those subscribers, U S WEST would ultimately be a
16 party.

17 Q. Do you understand that this Commission has
18 ordered local interconnection at no charge between
19 competing providers of local exchange service?

20 A. I wouldn't agree with that
21 characterization. I would say if it's payment in kind
22 or bill and keep it's certainly an appropriate
23 mechanism for interconnection.

24 Q. You will agree that ELI or any other
25 carrier, GTE or any other local carrier in the state

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1 of Washington, can under the orders of this Commission
2 interconnect for the exchange of local traffic at no
3 charge; isn't that correct?

4 A. I would agree that it's payment in kind or
5 bill and keep. I won't agree that there's no charge.

6 Q. There is no money or consideration changing
7 hands at all between GTE and U S WEST or ELI and U S
8 WEST for the interconnection; isn't that correct?

9 A. I don't agree with that. There is a
10 consideration. The consideration, as I indicated to
11 you, is a payment in kind or mutual exchange, however
12 you want to say it, but that U S WEST gains something
13 as well as the other entity gains something from the
14 interconnection.

15 Q. There is no rate or charge or money
16 changing hands, is there?

17 A. I would agree that there is no change of
18 money, yes.

19 Q. Or rates or charges?

20 A. Yes, I would agree to that.

21 Q. And when the Boeing Company would
22 interconnect, in my hypothetical, its private network
23 with ELI, for example, there is no compensation or
24 money being paid by ELI to U S WEST for the
25 interexchange traffic that the Boeing Company might

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1 deliver to ELI, is there?

2 MR. BUTLER: I object. This question has
3 been asked and answered.

4 MR. SHAW: No. We're talking interexchange
5 now, not local connection.

6 JUDGE WALLIS: The witness may respond.

7 MR. BUTLER: Could I ask for clarification
8 when he says interexchange whether he's including
9 EAS or whether he's only talking about what would
10 otherwise be a toll interexchange.

11 Q. Talking toll interexchange service at this
12 juncture. Do you understand that?

13 A. I'm sorry, Mr. Shaw, could you repeat the
14 question.

15 Q. Yes. If the Boeing Company connects, in my
16 hypothetical, its network with ELI's network and
17 delivers its toll-rated interexchange traffic to
18 ELI, ELI will pay U S WEST no compensation in rates or
19 charges for any traffic not ultimately switched to a
20 U S WEST end user customer, will it?

21 A. I don't know why U S WEST is involved in
22 that transaction at all.

23 Q. Now, these private networks
24 self-provisioned by DIS and the members of TRACER,
25 they use them for both ordinary switched voice traffic

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1 and data traffic, correct?

2 A. Yes.

3 Q. And the predominant use is actually voice
4 traffic, is it not?

5 A. I don't know that.

6 Q. You've never studied that or looked at that
7 at all?

8 A. If it's a digital circuit it can carry data
9 or it can carry voice. I don't know what is on that
10 circuit.

11 Q. Now, you would agree that the Boeing
12 private network has been much in the news of late as
13 being a key component of the successful manufacture,
14 design and manufacturer of the triple seven new
15 aircraft on a paperless basis. Are you familiar with
16 that?

17 A. I missed the first part of the question.

18 Q. The Boeing private network has been
19 identified as a key component in the success of the
20 design and manufacture of the new triple seven as a
21 paperless airplane, has it not?

22 A. I haven't seen that news release. I would
23 suspect that that's correct.

24 Q. You understand that the Boeing Company was
25 able to design, using advanced computer technology and

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1 its private network, the triple seven in a totally new
2 way without resort to paper blueprint type traditional
3 manufacturing methods?

4 A. I understand a substantial portion of the
5 design was done on computers. I don't know that all
6 paper has been eliminated. I'm not privy to that kind
7 of information.

8 Q. I wasn't suggesting that all paper could
9 be eliminated from anything, certainly not these
10 proceedings, but you would agree that the ability to
11 remotely design on computers and transmit to
12 manufacturing sites through high capacity private
13 networks was a big breakthrough in the manufacturing
14 process for Boeing in the triple seven project?

15 A. Well, yes. I think it would certainly
16 benefit society in general, yes.

17 Q. And those private networks for a large
18 sophisticated company like Boeing or Weyerhaeuser or
19 an agency like DIS are very valuable assets to them
20 and increasingly valuable assets to them?

21 A. They are valuable to them and also to
22 society in general, yes, I agree.

23 Q. They allow higher levels of productivity.
24 They allow lower expense to the large entity
25 purchasing such a private network, and last but not

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1 least they allow those large entities to avoid the
2 high contribution levels of a service -- of the
3 switched voice services provided by traditional local
4 telephone companies, do they not?

5 A. No, I don't agree.

6 Q. Now, but for a private network a company
7 like Boeing with 100,000 employees in round numbers
8 and many sites would have to buy many, many, many 1FB
9 lines, would they not?

10 A. Yes. That would be one option. I don't
11 know what the other options would be.

12 Q. If there were not private networks that
13 would be their only option, would it not?

14 A. I don't know that.

15 Q. Can you think of any?

16 A. Some other telecommunications company could
17 provide service, I would imagine, if it wasn't you.

18 Q. Assuming that there are no private
19 networks, in order to allow its employees to
20 communicate with each other the Boeing Company or the
21 state of Washington would have to buy many, many 1FB
22 type services from some provider, would it not?

23 A. I don't know what some other provider would
24 provide. That's, of course, one of the benefits of
25 competition that someone may come up with something

04219

1 else. I don't know.

2 Q. You understand that in the question I'm
3 asking you to assume away the existence of private
4 networks, and so that if a large entity wants to
5 communicate through telecommunications the only other
6 option in the science of telecommunications would be
7 some sort of a switched lFB type service, would it
8 not, from whatever provider?

9 MR. BUTLER: Can I ask Mr. Shaw to clarify
10 his question whether he's including in the term
11 private networks services such as Centrex type
12 services.

13 MR. SHAW: Yes.

14 A. If I understand your question correctly,
15 Mr. Shaw, basically you've said you have to assume
16 that nothing but lFBs are available and if only lFBs
17 are available then I guess you would have to buy lFBs.

18 Q. You cannot think of any other way short of
19 a private network to avoid paying some
20 telecommunications company its prices for lFB service,
21 can you?

22 A. I just -- I thought I understood your
23 hypothetical, and that is that there is nothing but
24 lFBs then you would have to pay for lFBs.

25 Q. A considerable benefit to any entity that's

04220

1 large enough to justify a private network is to avoid
2 having to pay the relatively expensive 1FB prices
3 charged by all existing local exchange
4 telecommunications companies, is it not?

5 MR. BUTLER: Object to the form of the
6 question. It's ambiguous in terms of the use of the
7 word relative to. It doesn't define what relative to
8 refers to.

9 MR. SHAW: I don't understand the
10 objection. I will just ask the question again.

11 Q. One of the significant benefits to any
12 entity large enough to justify its own private network
13 is to avoid paying the relatively expensive,
14 relatively high, 1FB type charges of any existing
15 telecommunications company, is it not?

16 MR. BUTLER: Again, my objection is to the
17 use of the term "relatively expensive" without a
18 reference to what it's being compared to. Comparing
19 it relative to PBX service or to Centrex service or to
20 complex line service? There's no point of reference
21 in the question.

22 JUDGE WALLIS: Mr. Shaw, is the point of
23 reference in your question the comparison between the
24 alternatives?

25 MR. SHAW: Between a private network and

04221

1 lFBs, yes.

2 JUDGE WALLIS: Thus understood I think the
3 question is permissible.

4 Q. Do you have the question in mind?

5 A. I assumed when you said relative you
6 meant the price was high relative to cost. In that
7 instance, to the extent that we're talking about
8 private network maybe being -- the cost would be the
9 cost to the person with the private network would be
10 more in line with the incremental cost of the service.
11 lFBs are priced relatively high, yes.

12 Q. We can agree that lFBs by all providers are
13 priced relatively high compared to their incremental
14 cost?

15 A. And complex lines are priced even higher
16 relative to their cost, yes.

17 Q. And we can agree that pricing philosophy
18 has long existed in telecommunications in order to
19 extract more contribution from business customers on
20 the rationale that business customers, because they in
21 effect resell those services, derive greater value
22 from their switched telephone service than, say, does
23 a residential customer. Hasn't that been the
24 traditional philosophy of telephone rate regulation?

25 A. I don't believe so. I believe it's just

04222

1 been that traditionally business customers have been
2 charged more for a number of reasons. I don't know
3 whether it was the ability to resell. I've heard all
4 kinds of arguments, everything from they can write it
5 off as a business expense. I've heard that one
6 before, which isn't of course always true. I've seen
7 a lot of arguments put forward as to why business
8 customers should pay rates that produce a higher
9 contribution.

10 Q. And it all boils down to essentially an
11 assertion that the value of the service, that
12 telephone service, even to the smallest business, is a
13 critical input to the success of that business. It's
14 very valuable to that business. It allows that
15 business to make a profit at whatever product or
16 service it sells and therefore it's appropriate to
17 charge business customers more than residential
18 customers for essentially the same thing. Would you
19 agree that that's been the traditional approach?

20 A. Mr. Shaw, I don't know the history. The
21 fact are that in relative terms business customers are
22 charged more for whatever reason. I don't want to
23 speculate as to what the history behind that was.

24 Q. Well, you were an employee of the Oregon
25 Public Service Commission, were you not, for a number

04223

1 of years?

2 A. Yes.

3 Q. And Oregon, like every other regulatory
4 jurisdiction in the country, has always required the
5 regulated telephone companies to charge substantially
6 more for business service than residential service,
7 has it not?

8 A. Yes.

9 Q. And certainly as an employee of that
10 Commission you knew what the rationale for that public
11 policy determination was?

12 A. No, I never heard it. I mean, I worked on
13 energy cases and with energy cases there were lots of
14 different rationales as to why business customers were
15 charged more than residential customers, and
16 ultimately energy customers now, of course, their
17 prices are pretty much aligned with cost. That's
18 occurred in the energy industry. I really have not
19 heard the rationale because I wasn't working on
20 telecommunications. I was a rate of return analyst
21 primarily with the Oregon Commission.

22 Q. Well, in this case you understand that the
23 staff, public counsel witness and even in your own
24 testimony advocate a ratio of business rates to
25 residential rates for essentially the same thing,

04224

1 local exchange service --

2 MR. TROTTER: I will object to the
3 question, Your Honor. We have not testified that they
4 are essentially the same thing. Mr. Shaw can cite no
5 testimony of ours for that proposition so I will
6 object to the form of the question.

7 MR. SHAW: I hadn't even finished the
8 question so I would appreciate counsel not jumping in
9 before I'm done.

10 MR. TROTTER: I'm sorry. I thought he was
11 done.

12 Q. I'll start over. You're aware in this
13 case, Mr. Zepp, that staff witness, public counsel's
14 witness and even yourself have recommended a ratio of
15 business rates to residential rates of over two to
16 one; is that correct?

17 A. I will say yes, and in explanation, to a
18 large extent my recommendations have stemmed upon
19 understanding that there isn't sufficient revenue
20 requirement available, a reduction in revenue
21 requirement available to reduce business rates more
22 than I recommended. I do think it's appropriate when
23 there's a negative revenue requirement to bring
24 business rates down closer to its cost.

25 Q. Now, in making their recommendations, do

04225

1 you understand the staff and public counsel position
2 to be that business service derives much greater
3 benefit and value from its telephone service than does
4 residential customers and therefore should pay
5 substantially more, over two times as much?

6 A. I don't recall seeing that in staff's
7 testimony. And I'm sorry, I didn't spend that much
8 time reading Mr. Dunkel's testimony, which was rather
9 extensive. It may be in his testimony at some place
10 but I just don't know if it is or not.

11 Q. Can you think of any other rationale for
12 maintaining a ratio of business rates to residential
13 rates of over two to one than a value of service
14 rationale?

15 MR. BUTLER: Objection. The question has
16 been asked and answered.

17 MR. SHAW: No, I don't believe it has.

18 MR. BUTLER: He already testified that
19 available revenue requirement reductions limited the
20 recommendations that he made.

21 MR. SHAW: Well, Your Honor, I would object
22 counsel jumping in like that.

23 JUDGE WALLIS: I don't believe that the
24 question has been asked and answered and on that basis
25 I deny the objection.

04226

1 Q. Do you have the question in mind?

2 A. I'm sorry, Mr. Shaw. I lost it.

3 Q. Can you think of any other rationale for
4 maintaining a ratio of business rates to residential
5 of over two to one than a value of service rationale?

6 A. Yes. And the rationale is that there are
7 rates in existence right now and that I believe
8 firmly, and I believe staff believes also, that it's
9 appropriate to come forward with a redesign of those
10 rates so that at least we go to one statewide rate for
11 business and one statewide rate for residence.

12 Q. Mr. Zepp, that doesn't have anything to do
13 with my question. My question was --

14 MR. BUTLER: If he could be permitted to
15 finish perhaps he would see the relationship.

16 JUDGE WALLIS: Just a minute. Let's have
17 one at a time. Mr. Butler, you're saying that
18 Mr. Shaw has interrupted the answer.

19 MR. BUTLER: Yes.

20 JUDGE WALLIS: Mr. Shaw, I think you were
21 in effect raising an objection that the witness was
22 not explaining his answer but answering a question
23 that had not been asked.

24 MR. SHAW: Precisely.

25 JUDGE WALLIS: And I do believe that's

04227

1 correct. I think that the question didn't call for
2 that kind of a response, Mr. Butler.

3 MR. BUTLER: Well, I respectfully disagree.
4 It called for precisely that response.

5 MR. SHAW: Well, Your Honor, it simply
6 didn't. That's a different issue entirely of when the
7 witness launches into repeating his testimony about
8 the need to rebalance rates more towards cost. We can
9 get into that, but the question was directed and was
10 limited to the rationale in his own testimony for
11 maintaining the high ratio of business rates to
12 residential rates.

13 MR. BUTLER: And as he testified, there are
14 practical limitations on how much movement can be
15 made. They're set by revenue requirement limitations
16 and by what he has testified to as a need to
17 restructure business and residential rates.

18 JUDGE WALLIS: All right. After listening
19 to counsel, I do think that the answer is within the
20 the ballpark and I will allow the witness to continue.
21 Do you recall where you were, Dr. Zepp?

22 THE WITNESS: No, sir.

23 JUDGE WALLIS: Can the reporter pick it up.

24 (Record read as requested.)

25 A. And the balance of my answer, Mr. Shaw, was

04228

1 I have not seen, at least in my testimony, and I don't
2 believe in staff's testimony, any mention of value of
3 service.

4 Q. Let's talk about the question of whether
5 residential rates and business -- strike that --
6 whether residential service and business service are
7 the same. Would you agree that the service that is
8 offered to residential and business customers known as
9 local exchange service is identical in all respects as
10 a service, not the cost but the service?

11 A. I don't know how to respond to that,
12 Mr. Shaw. If you will be more specific about what you
13 want to say is identical. I mean, in each instance
14 loops are used. In each instance there is use of the
15 public switch, I agree to those points. I don't know
16 what else you would like me to say.

17 Q. In each instance the service provided is
18 access to the same local calling area?

19 A. Yes. I would agree with that.

20 Q. And in each instance the service allows the
21 customer to call toll-rated interexchange at the very
22 same rates?

23 A. If there was no toll blocking I would
24 agree with that, yes.

25 Q. MTS rates?

04229

1 A. That is an option. They may sign up for
2 other plans, I don't know.

3 Q. Can you think of any difference between
4 business service and residential service, as a
5 service, not the costs?

6 A. As it's provided generally. It may be
7 different. It may be DSS service or Centrex service.

8 Q. I'm talking about basic local exchange
9 service.

10 A. 1FBs?

11 Q. Yes, 1FBs and 1FRs.

12 A. No.

13 Q. Business customer gets a free Yellow Page
14 listing, would you agree that is a difference?

15 A. That may be a difference. I'm not that
16 familiar.

17 Q. Would that be the only difference?

18 A. I don't know. There may be other
19 differences that I am not aware of.

20 Q. Are you aware that U S WEST allows and
21 indeed promotes business subscribers to take service
22 at residential rates, for instance, in their homes?
23 The only thing that they don't get for the residential
24 rate is a free Yellow Page listing?

25 A. I don't know that.

04230

1 Q. Are you aware of the company's work from
2 home and telecommuting promotion to promote --

3 A. No, I'm not.

4 Q. Turning to the costs, do you agree that on
5 average the costs of so-called business service basic
6 exchange service are lower than the average
7 residential service, still as a function of the length
8 of the loop typically used for a business-rated
9 service over a residential-rated service?

10 A. Generally, that's the case, yes.

11 Q. And your Exhibit 9A where you add on
12 service specific usage costs between a 1FB and a 1FR
13 indicates that the incremental cost of usage of a 1FB
14 over a 1FR is very small?

15 A. It is.

16 Q. Is it your position, Dr. Zepp, that in its
17 service territory U S WEST must provide the components
18 of the private networks of your clients if they are
19 unable to receive a bid from any other provider or
20 that they don't like the prices of any other provider?

21 A. I guess that's a legal question. My
22 understanding is U S WEST should provide that service.

23 Q. Is it your understanding that U S WEST must
24 provide that service if your clients don't like the
25 bids estimated by any other provider?

04231

1 A. That's my understanding.

2 Q. Do you agree that large customers such as
3 your clients overwhelmingly use the interstate tariffs
4 for DS1 and DS3 type services when they buy those
5 services from U S WEST on the basis that more than 10
6 percent of their traffic is interstate and therefore
7 they qualify to buy from the interstate tariff for all
8 of their needs?

9 A. I don't know that. I would imagine that
10 they would, given that as an option they would take
11 the lower of the two tariffs, to the extent that they
12 could.

13 Q. Do you agree that in U S WEST's entire
14 operations its revenues from DS1 and DS3 large
15 capacity private lines is very small, on the order of
16 8 million plus, 7 million plus, for DS1s and a little
17 over a million for DS3. You would accept that subject
18 to check, and reference you to 485C, the exhibit that
19 sets out the existing revenues from the various
20 service of the companies?

21 A. Does that include DS1s that are both
22 private lines as well as special access?

23 Q. Yes.

24 A. Just one minute. I guess I don't have
25 those numbers conveniently available. I will accept

04232

1 that subject to check.

2 Q. Would you agree that in the total scope of
3 U S WEST's interstate operations that that's a very
4 small number?

5 A. Yes, I would agree to that.

6 Q. Would you know what the interstate tariff
7 revenues are for companies such as your client located
8 in Washington for DS1 and DS3?

9 A. No, I don't.

10 Q. Do you agree that Centrex is a service that
11 is competitive with switched-based private networks,
12 PBX-based private networks such as the Boeing
13 companies or the DISs?

14 A. Yes, I agree.

15 Q. Would you agree in that case that U S WEST
16 should be free to raise or lower its prices for
17 Centrex as it sees fit limited only by the requirement
18 that it not price below cost?

19 A. I would agree you should have downward
20 pricing flexibility, yes.

21 Q. And upward pricing flexibility, correct?

22 MR. BUTLER: Can I ask a clarification if
23 Mr. Shaw is including in his question the portions of
24 the Centrex service that relate to the network access
25 or whether he's referring to what will be, I guess you

04233

1 could call, the features and intercom portions.

2 Q. We could define it the portion that's
3 competitive with PBX-based private systems, that's
4 fine.

5 A. Well, certainly I would not agree with the
6 monopoly component of it, the NAR piece. The other
7 piece certainly should be open to contracts and other
8 things, and that may be higher or lower.

9 Q. In fact U S WEST is free to entirely
10 withdraw from offering that service, is it not?

11 MR. BUTLER: Could I ask if he's simply
12 asking for Dr. Zepp's understanding and not asking for
13 a legal conclusion.

14 MR. SHAW: That's correct.

15 Q. I understand you're not a lawyer.

16 A. Yeah, I don't know.

17 Q. Wouldn't that be reasonable from your view
18 as an economist that any provider in a competitive
19 market that is providing a service in competition with
20 other services should be free to exit that market.
21 That's what competition is all about, isn't it?

22 A. I guess I would have to agree, yes.

23 Q. Dr. Zepp, you don't have any evidence of
24 your own to support an assertion that the company's
25 currently prescribed depreciation rates are the

04234

1 forward looking depreciation rates that should be used
2 in any TS LRIC cost study, do you?

3 A. I have not done any own depreciation study
4 in this case.

5 Q. And you have no evidence to suggest that
6 the currently prescribed depreciation rates of U S
7 WEST are appropriate today, do you?

8 A. Well, I guess speaking for TRACER I would
9 have to say that I believe TRACER did sponsor a
10 witness in the depreciation proceeding so TRACER
11 certainly has taken a position on that.

12 Q. But you yourself on this record have
13 offered no evidence of the appropriate level of
14 depreciation rates to be used in TS LRIC cost studies
15 other than to assert that the most recently prescribed
16 rates should be used?

17 A. Yes. I would agree to that.

18 Q. Would you agree, again looking at your
19 exhibit that's now 9A or your revised exhibit that you
20 handed out with your errata, that the revenues
21 actually paid out of the pocket of a residential
22 subscriber monthly to retain his local 1FR service
23 does not exceed the costs as you have alleged them to
24 be here?

25 A. On average, yes.

04235

1 Q. Do you agree with the assertion made in
2 this case that the cost of the loop should be
3 allocated between all the services that use that loop?

4 A. My testimony, I think, on that point,
5 Mr. Shaw, is that the method I show here in Exhibit 9A
6 is my preferred way of looking at it. The other way
7 of looking at it -- another way to do it is to use the
8 allocations. I generally would not recommend that. I
9 would recommend this other approach.

10 Q. As an economist do you support the notion
11 that the cost of the local loop should be allocated to
12 all services that can be said to use that local loop?

13 A. As an economist I prefer to look at all
14 revenues versus just the cost estimate, so I have not
15 objected to that approach that staff has taken, for
16 example, but I would not recommend it as compared to
17 this approach.

18 Q. Well, let me ask you again. In performing
19 the TS LRIC study for residential service or business
20 basic service would you -- if you were doing your own
21 TS LRIC study, would you allocate away from either
22 1FR service or 1FB service any portion of the cost of
23 the loop to other services that could be said to have
24 used that loop?

25 A. As I've indicated to you, I have not done

04236

1 that.

2 Q. Would you do that?

3 A. I did not do that.

4 Q. Would you do that? As an economist would
5 you consider that to be a correct TS LRIC cost study
6 methodology?

7 A. One might do it in the circumstance when
8 one has to look at a jurisdictional consideration of
9 revenues versus costs. As I've indicated to you, I
10 don't think that's the best way to approach the
11 problem.

12 Q. Would you agree that LFB is a service in
13 the plain English meaning of that term and in the use
14 of that term in telecommunications?

15 A. Yes.

16 Q. Do you agree that an appropriate thing for
17 an economist to do would be to study the TS LRIC costs
18 of that service, the service to be the cost object?

19 A. Mr. Shaw, in my testimony I've indicated to
20 you that there are three ways we can approach this
21 problem.

22 Q. Well, I'm asking you --

23 A. I'm trying to give you an answer.

24 Q. Answer my question first.

25 A. As an economist, if you want to approach

04237

1 the problem --

2 JUDGE WALLIS: Mr. Zepp. Let me recall,
3 it's been so long since the question was posed, does
4 the question call for a yes or no answer?

5 MR. SHAW: I'm sorry, were you addressing
6 that to me?

7 JUDGE WALLIS: Yes.

8 MR. SHAW: I didn't hear your question,
9 Judge.

10 JUDGE WALLIS: Does the question call for a
11 yes or no answer?

12 MR. SHAW: I believe it does.

13 JUDGE WALLIS: Do you recall the question?

14 THE WITNESS: I guess I don't.

15 A. Do you want to recap?

16 Q. We did agree that you do consider 1FB to be
17 a service, correct?

18 A. I do.

19 Q. And I asked you as an economist, would it
20 be an appropriate thing for an economist to do to
21 study the TS LRIC costs of 1FB as a service?

22 A. It would be a task, I've indicated in my
23 testimony, that I don't think would produce
24 particularly useful cost estimates, because in that
25 instance, as I indicated in my testimony, the loop

04238

1 would have to be considered a shared cost and
2 therefore it wouldn't be part of that quote-quote TS
3 LRIC estimate, so I don't think that that's a
4 particularly useful exercise. If you were just to
5 look at 1FB you would say the loop is a shared cost so
6 it would not go into TS LRIC, so I don't think it's
7 useful.

8 Q. So as an economist you do consider the loop
9 to be a shared cost of all services that could be said
10 to use that loop?

11 A. Yes.

12 Q. And if you were going to do a TS LRIC cost
13 study of a service such as a 1FB, you would allocate
14 that loop among any service that uses that service, if
15 you were going to do that study?

16 A. If I were going to do that study I would
17 either approach it one of two ways, either look at all
18 of the revenues or I would have to consider that cost
19 to be a shared cost and not included then in the TS
20 LRIC estimate. I would prefer to look at the TS LRIC
21 of the service and all the access services that are
22 being provided, look at all those revenues, as I have
23 done in my exhibit.

24 Q. So in your exhibit you have counted all the
25 revenues that you consider to be derived from the

04239

1 use of the loop no matter which customer paid those
2 revenues and you have counted all those revenues
3 towards an analysis of whether the cost of one
4 service, a lFB, is covered, correct?

5 A. Well, certainly. We're looking at a
6 statewide average cost here also, Mr. Shaw. So if you
7 are going to look at statewide average cost you have
8 to look at statewide average revenues.

9 Q. I'm asking you what you did and you agree
10 that that's what you did?

11 A. That is what I did.

12 Q. You did not count the revenues from
13 vertical services, for example? Do you agree that
14 vertical services use the loop?

15 A. Well, I would agree they do. I did not
16 include them in here and there certainly is a
17 legitimate argument why one might want to include
18 those. I did not.

19 Q. Can you think of any service that U S WEST
20 or any other telecommunications company offers other
21 than directory -- printed directory services that do
22 not in one way or the other use the loop?

23 MR. BUTLER: Could I ask for a
24 clarification if Mr. Shaw is confining the question to
25 switched services as opposed to dedicated?

04240

1 MR. SHAW: Well, no. I'm not confining it
2 to switched services.

3 MR. BUTLER: The question, if I understand
4 it, the question is whether there are any services,
5 switched or dedicated, offered by U S WEST that do not
6 use the switched loop.

7 MR. SHAW: No. Thank you for all your
8 help, Counsel, but I did not use the word switched.
9 I used the word loop.

10 Q. Do you understand the question?

11 A. Well, there are high capacity services that
12 would use T1s. You would consider those loops, also.

13 Q. Let's define loop. Do you agree that the
14 company's plant is made up of switches on the one hand
15 and interoffice and distribution plant on the other
16 hand all used together to provide telecommunications
17 services from point A to point B both on a switched
18 and a dedicated basis?

19 A. I don't agree that you use the switch to
20 provide dedicated services.

21 Q. A dedicated private line for special access
22 service consists of a loop from a customer premise to
23 the central office and a loop from the central office
24 to the other customer premise that the customer wishes
25 to connect with, right?

04241

1 A. I would agree with that.

2 Q. Whether it's digital or analog that's
3 exactly what it is. It's two loops back to back, is
4 it not?

5 A. It is.

6 Q. And that is part of the loop plant
7 inventory of the company, is it not?

8 A. It is.

9 Q. And a loop can be used on a dedicated basis
10 one month and on a switch basis the next month?

11 A. Yes.

12 Q. There are services called virtual private
13 line; where switched loops are used to provide private
14 line dedicated services it's a function of the rates
15 charge to the customer, is it not?

16 A. Yes.

17 Q. And for instance, in the case of an
18 Internet access service a customer could nail up his
19 switched loop that is flat-rated and turn it into a
20 dedicated loop by his own action, could he not?

21 A. He would hold the circuit open, yes.

22 Q. Yes. Now, to return to my question, can
23 you think of any service, other than printed telephone
24 directories, offered by any telecommunications company
25 that does not use in one form or another its loop

04242

1 plant?

2 A. Some of the services that you provide that
3 possibly could be done with customer premise equipment
4 would not necessarily need the loop. Speed calling
5 comes to mind.

6 Q. Any others?

7 A. I'm sure there are. Nothing else comes to
8 mind, Mr. Shaw.

9 Q. Nothing else comes to my mind either.
10 There are no others, are there?

11 A. I can't think of any at the moment.

12 Q. On your rationale for any given service
13 that uses the loop all revenues from all services of
14 the company other than directory and speed calling
15 could potentially be counted towards covering the cost
16 of that service?

17 A. No. I specifically do not include toll.
18 All I'm looking at here, Mr. Shaw, is access. I am
19 looking at the cost of access and the price of access.
20 I am not looking at all of those other services you're
21 talking about, which I would think would be costed and
22 compared to revenues as a separate matter. Toll would
23 be one particular one that I would not include.

24 Q. You imputed from toll \$2.99 in revenues?

25 A. Yes.

04243

1 Q. In your column on lFR in Exhibit 9A?

2 A. That's what it would cost to get there. It
3 would not be toll revenue.

4 Q. Let's take another example, the pay phone
5 example. You would agree that a public pay phone
6 offers the consuming public access to local calls,
7 toll calls, or operator-assisted calls, intrastate
8 calls, interstate calls?

9 MR. BUTLER: I object to the question as
10 beyond the scope of his testimony. He has not
11 addressed pay phone issues.

12 MR. SHAW: Well, he certainly in his
13 Exhibit 9A advocated allocating revenues from other
14 services to cover costs of separate services so I
15 think it's a totally appropriate line of cross.

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

18 JUDGE WALLIS: Counsel may on that basis
19 inquire into this area.

20 Q. I will just restate it. In the case of pay
21 phone, would you agree that a public pay phone service
22 operated by a telephone company enables members of the
23 consuming public access to place a local call, a toll
24 call, an intrastate call, an interstate call, an
25 operator-assisted call in all those categories?

04244

1 A. Yes.

2 Q. And then on your rationale in deciding
3 whether or not the costs of that pay phone service
4 are covered, you would consider some portion of the
5 revenues from interstate access and intrastate access,
6 including the carrier common line, the local switching
7 and an imputation from toll, you would have to make
8 the same analysis, would you not?

9 A. I would but I would not include the toll.
10 I would just include in my analysis what it takes to
11 have access to whomever the toll provider is.

12 Q. Directing you to page 3 of your direct
13 testimony. You talk about, around line 2, about U S
14 WEST prices should be set to allow the company an
15 opportunity to earn a fair rate of return, et cetera.
16 Would you agree that the company's rates must be set
17 to allow it an opportunity to recover on a timely
18 basis the capital it invests for the public use?

19 A. Generally, yes.

20 Q. And when you mention public policy goals at
21 line 4, that the prices should be set to achieve
22 public policy goals, you would agree that the
23 preeminent public policy goal in the state of
24 Washington is the preservation of universal service?

25 A. I do.

04245

1 Q. Would you agree that universal service is
2 universally defined as access, particularly by
3 residential subscribers, to local service at
4 affordable rates?

5 A. I don't know if I exactly agree with that
6 definition, Mr. Shaw. I would like to say it's just
7 basically that the penetration rate is high, household
8 penetration rate, which may be similar to what you've
9 said.

10 Q. Would you agree that that concept includes
11 access at affordable rates?

12 A. Well, I assume they must be affordable
13 rates if the penetration rate is high.

14 Q. Your statement on page 3 recognizes that
15 the company, in your opinion, has an absolute right
16 for an opportunity, a realistic opportunity, to earn
17 its revenue requirement, correct?

18 A. I agree. You should be able to earn your
19 revenue requirement on your monopoly services,
20 certainly.

21 Q. On all services that are regulated by the
22 state, correct?

23 A. As long as it's regulated, yes.

24 MR. SHAW: That's all I have, thank you.

25 JUDGE WALLIS: Mr. Trotter.

04246

1

2

CROSS-EXAMINATION

3 BY MR. TROTTER:

4 Q. Dr. Zepp, first of all, with respect to
5 differences between residence and business customers,
6 isn't it true that the calling patterns of residence
7 and business customers differ as to day versus night
8 usage?

9 A. Generally that's correct.

10 Q. Isn't it true that residence and business
11 customers have different repair response times from
12 the company?

13 A. That's my understanding, yes.

14 Q. Isn't it true that business customers can,
15 to the extent they're a business, can deduct telephone
16 service that is used for their business on federal
17 income tax?

18 A. That's true if they need the deduction.
19 However, if they don't make enough money to need the
20 deduction they can't. It just is one more cost.

21 Q. You were asked several questions regarding
22 certain clients of TRACER in regards to PBX and other
23 aspects of private networks. Is PBX usage by large
24 customers a recent phenomenon or has this been going
25 on for several years?

04247

1 A. Change in usage or just the fact that they
2 use them?

3 Q. The fact that they use them.

4 A. Oh, no. They've been using PBXs for many
5 years. There now may be different generations PBXs
6 but they have been using PBXs for many years.

7 Q. You were asked some questions as to your
8 opinion whether the loop was a shared cost. Could you
9 return to your Exhibit 789C.

10 A. That was TZ-9?

11 Q. Yeah.

12 A. I have it.

13 Q. And am I correct that under shared group
14 costs, which is the first category of costs, you show
15 the NAC and you show a cost there which we can't read
16 into the record. Is that the loop cost?

17 A. That is the loop cost provided by U S WEST
18 based upon prescribed depreciation rates and a 10.53
19 percent cost of money, so that's what it represents.
20 It may indeed be a lower cost than that, but that is
21 the cost provided by the company.

22 Q. And this is the unseparated cost?

23 A. That is correct.

24 Q. And to the extent that it is inappropriate
25 to include shared cost in a TS LRIC study you would

04248

1 take that cost away; is that correct?

2 A. Yes. As I indicated to Mr. Shaw, I would
3 not include that if I were just simply looking at
4 local, only local access.

5 Q. Now, I noticed on this exhibit that you
6 have several notes. Just take the very top line note
7 A and I didn't see a reference at the bottom to that
8 note A. Am I missing a page?

9 MR. BUTLER: Refer to the original exhibit.
10 This was a replacement.

11 A. I just changed the one page, Mr. Trotter.
12 And then the additional note is at the bottom.

13 Q. That's fine. I saw that. Thank you. Turn
14 to page 10 of your rebuttal which is Exhibit 790T.
15 Here you're talking about PBX trunks, correct?

16 A. I am.

17 Q. And you agree, do you not, that usage on
18 the averages PBX trunks is considerably higher than
19 the average usage on a 1FB line?

20 A. Yes, I would.

21 Q. And then down on line 12 you indicate that
22 in your view group costs for PBX customers are
23 expected to be the same or smaller than loop costs for
24 other business customers. Do you see that?

25 A. I do.

04249

1 Q. Isn't it true that both you and U S WEST
2 use surrogates for the PBX loop lengths and costs;
3 that is to say, you didn't have an individual study of
4 PBX loop lengths and PBX loop costs. Is that correct?

5 A. It is my understanding that the sample we
6 relied upon was not limited to PBXs. It included
7 other business lines as well.

8 Q. Over on the next page of your rebuttal you
9 refer to other issues including DID or direct inward
10 dialing; is that right?

11 A. Yes.

12 Q. And I believe in your direct or on page 11
13 down on line 15 you refer to public policy benefits
14 with respect to E911 of having low DID prices. Do you
15 see that?

16 A. Yes.

17 Q. And you covered those issues in your
18 direct, as you state there?

19 A. I believe I did, yes.

20 Q. Now, even without DID a customer from a
21 location with a PBX can call 911 asking for help but
22 DID makes it easier for the operator to call back to
23 that location; is that right?

24 A. It's my understanding unless there is DID
25 the operator would not be able to call back. The

04250

1 operator would have the phone number on the screen and
2 indeed could call back if it has DID but otherwise --

3 Q. Call back to the location, not necessarily
4 that same extension but to the location of the PBX?

5 A. Well, this particular problem that's being
6 reported by someone on 911 may be on an off-premise
7 location that goes through the PBX so it may not be
8 possible to have that information.

9 Q. The operator can call back to the
10 location of the PBX; is that correct?

11 A. To the PBX, yes.

12 Q. And there are other services available that
13 a customer could get that would allow the operator
14 to call back to the specific extension served by the
15 PBX?

16 A. Not to my knowledge. You can have the
17 location -- if it's a PS/ALI you could have the
18 location but you wouldn't necessarily be able to call
19 back. My understanding of E911 is it actually shows
20 up on the screen so the operator has that available
21 and in a time of emergency, it's extremely important
22 if they get disconnected for the operator to be able
23 to call back to that particular phone and you need DID
24 to do that.

25 Q. Let me ask you that. Is it your testimony

04251

1 that the use of PS/ALI in connection with DID does not
2 permit the E911 operator to call back to the extension
3 that dialed 911? Is that your testimony?

4 A. No. PS/ALI establishes, as I understand
5 it, the location but you have to have DID in order to
6 be able to call back.

7 Q. So let me ask it another way. If a
8 customer has DID and this PS/ALI then the 911 operator
9 can reach the extension that called 911 in the first
10 place?

11 A. Yes.

12 Q. Turn to your last supplemental testimony,
13 Exhibit 794T, page 15. And you talk about fill
14 factors on lines 7 through 14. Do you see that?

15 A. I do.

16 Q. You indicate that U S WEST's TS LRIC
17 does not use objective fill for distribution; is that
18 right?

19 A. That's my understanding now.

20 Q. Did your analysis, which you show in your
21 exhibit, and I believe it was predominantly Exhibit
22 789C, reflect fill -- reflect objective fill at the
23 distribution level?

24 A. No. As I indicated, these are -- the
25 numbers shown for the NAC costs is not based on

04252

1 objective fill and, therefore, as I understand it,
2 these cost estimates are too high. They would be
3 lower had U S WEST used objective fill.

4 Q. Why didn't you use objective fill for the
5 distribution plant?

6 A. I don't know how to make the conversion. I
7 didn't have that data available.

8 Q. Turn to Exhibit 795, TZ-14, and in your
9 responsibilities beginning on line 13?

10 A. What page?

11 Q. Page 2, sorry. We're talking about
12 business loops beginning on line 13 and you indicate
13 that a cost should be computed as a both 100 percent
14 copper circuit and a fiber/copper circuit and the
15 lowest cost should be adopted. Do you see that?

16 A. Yes.

17 Q. Why don't you make the same recommendation
18 for residential loops?

19 A. I would not object to that being done and
20 see which is the least costly of the two. My
21 anticipation is that the residential loop is longer
22 and therefore it -- probably the least cost method
23 would be a pair gain system.

24 Q. But to the extent that -- well, let me put
25 it to you this way. Would it be more appropriate to

04253

1 at least apply the analysis to both -- that you're
2 proposing here for business loops to be also applied
3 to residential loops and the lower cost technology
4 used?

5 A. The lowest cost technology should always be
6 used for the TS LRIC estimate.

7 Q. You were asked some questions regarding
8 customer's usage of interstate rates for DS1 and DS3,
9 and I believe a question was asked regarding whether
10 10 percent of the usage was interstate. Do you recall
11 that?

12 A. I don't believe that was the question
13 Mr. Shaw asked but if indeed -- go ahead.

14 Q. Let me ask it this way. Isn't it correct
15 that under current policies if a customer can assert
16 or demonstrate that 10 percent of its usage on a DS1
17 or DS3 circuit is interstate that it can have all of
18 its usage on that circuit rated at the interstate
19 rate?

20 A. Yes.

21 Q. And so to the extent, I take it, a customer
22 that has 10 percent interstate and 90 percent
23 intrastate, the intrastate revenue -- the revenue
24 that might theoretically be attributed to intrastate
25 does not get ascribed to the intrastate revenue

04254

1 accounts, does it?

2 A. My understanding if it's an interstate
3 circuit the revenues would be assigned, all revenues
4 would be assigned to the interstate jurisdiction, but
5 recall, Mr. Trotter, when I was discussing that with
6 Mr. Shaw I don't know that the interstate rates are
7 lower or higher than the state rates.

8 MR. TROTTER: Those are all my questions.
9 Thank you.

10 JUDGE WALLIS: Mrs. Roseman.

11 MR. ROSEMAN: No.

12 JUDGE WALLIS: Commissioners?

13

14 EXAMINATION

15 BY CHAIRMAN NELSON:

16 Q. I have one. Mr. Trotter asked you a few
17 questions about the general characteristics of the
18 residence versus the business subscriber. In this
19 case during the public hearings we heard for the first
20 time in my memory from work at home people who
21 actually have a little association, and I believe that
22 the Commission in the last year or two has approved a
23 promotion that U S WEST is providing to work at home
24 subscribers. Do you have any knowledge of that
25 promotion?

04255

1 A. Well, I'm not familiar with the promotion,
2 Commissioner.

3 Q. Well, as a follow-up, these generalizations
4 about typical usage, the company's goal for response
5 time for repair business versus residence customers,
6 deductibility and all that, seems to me all these
7 generalizations are getting more and more flimsy.
8 That it's very hard to characterize how users may be
9 using their phone lines whether at home or at work.
10 Would you agree with that?

11 A. I do. And another complication, if you
12 will, is that we don't know to which U S WEST switch
13 these folks are connected. It may well be that a
14 residential customer is hooked up to basically a
15 residential switch that peaks in the evening, so if
16 they're working at home they're not adding anything to
17 peak usage, and that's another complication yet that
18 these switches would peak at different times of the
19 day depending on the general type of traffic that's
20 available, that's being put on them.

21 Q. And as more and more computers invade the
22 residence, and on line services become more and more
23 popular, again, these generalizations will be hard to
24 maintain. Do you agree with that?

25 A. Yes. And I think you may actually see more

04256

1 switches having more even usage if they had daytime
2 peaks. Now, maybe they're going to have similar usage
3 in the evening but as long as that's off peak,
4 remember, that is not imposing any burden on the
5 system.

6 CHAIRMAN NELSON: Thank you.

7 COMMISSIONER HEMSTAD: I don't have any
8 questions.

9

10 EXAMINATION

11 BY COMMISSIONER GILLIS:

12 Q. Just one quick follow-up on Chairman
13 Nelson's question. You may have discussed in your
14 testimony, I didn't come across it, but do you have
15 any recommendations about how the attributes of a
16 customer to the extent that they cause additional
17 usage capacity, usage during peak periods, could that
18 be accounted for in pricing in your opinion?

19 A. Well, I guess in responding to that there
20 may be a couple of points here. First, certainly with
21 respect to PBX users, the ones that are using direct
22 inward dialing are already paying a substantial
23 premium because they're paying not only for a complex
24 line but they're paying for a DID termination which is
25 priced substantially above cost, so to the extent that

04257

1 they may use the network more, they're already paying
2 more, because they're paying twice. In effect they're
3 paying for the DID termination and the complex line.

4 The second point is that as we've moved
5 away from mechanical switches to analog and now mostly
6 digital switches that the usage costs themselves are
7 quite low, so even though we might have a big
8 difference in usage it's not going to put that much
9 additional cost on the company.

10 JUDGE WALLIS: Anything further from
11 counsel? Mr. Butler.

12 MR. BUTLER: I just have a couple of
13 questions.

14

15 REDIRECT EXAMINATION

16 BY MR. BUTLER:

17 Q. You were asked a couple of questions about
18 deductibility of telephone costs and income taxes.
19 Dr. Zepp, is it your understanding that government
20 agencies pay income taxes?

21 A. They do not.

22 Q. How about charitable organizations?

23 A. They do not.

24 Q. Public educational institutions?

25 A. They do not.

04258

1 Q. Would you agree that all of those entities
2 I listed pay business rates?

3 A. That is my understanding.

4 Q. You were asked by Mr. Shaw about whether
5 you had evidence regarding appropriateness of
6 currently authorized depreciation rates. Do you have
7 any evidence that currently authorized depreciation
8 rates are inappropriate?

9 A. No.

10 Q. You were asked about services which use the
11 local loop. If you could assume in response to this
12 question when I use the term local loop I'm referring
13 to the local loop that connects an end user subscriber
14 to a U S WEST central office switch and can be used to
15 carry switched local and long distance traffic over
16 the public switched network. Do you have that in
17 mind?

18 A. I have that in mind.

19 Q. Is it your understanding that a PS/ALI
20 service is provided over a CAMA trunk which is
21 different from that local loop as I've defined that
22 term?

23 A. Yes. It's a special trunk.

24 MR. BUTLER: Thank you. I have no further
25 questions.

04259

1 MR. SHAW: Couple of questions.

2

3 RE CROSS-EXAMINATION

4 BY MR. SHAW:

5 Q. Dr. Zepp, you were asked some questions by
6 Mr. Trotter on objective fill. If the company
7 actually designed and built its plant at objective
8 fill so that its average fill was its objective fill
9 or very close to that, would you expect the company's
10 held orders to go up or down or stay the same as they
11 are today?

12 A. That's a multiple part question, Mr. Shaw.
13 I will try to answer the different parts. First, as
14 far as I understand it, when we use the term objective
15 fill, you are designing your circuits based upon
16 objective fill. That's the first thing. The average
17 fill may be less than that, and generally will be less
18 than that. So it becomes a question about how much
19 lead time do you leave there so that you can move from
20 the average fill to the objective fill. I did not
21 spend that much time in this particular case studying
22 your lead times, but in the past I've been told
23 reinforcement of feeder usually occurs within a two-
24 year horizon, something like that. So it may well be
25 possible to shorten the reinforcement period. You may

04260

1 have to do something different than what you're doing
2 now. I don't know that. So that's part of the
3 answer.

4 The other part, as I understand it, is the
5 held order problem. That occurs in particular
6 locations and it wasn't a general problem and held
7 orders are there because possibly distribution plant
8 has been exhausted and you're going to have to
9 reinforce the distribution area which maybe was not
10 planned for when it was originally put in the ground.

11 Q. If the company designs and maintains to
12 objective fill, would you agree that in order to avoid
13 held orders it is going to have to reinforce more
14 frequently, assuming a growing demand?

15 A. More frequently than you're doing now?

16 Q. Yes.

17 A. My understanding is the way you do it now
18 -- it's been a few years since I got into the detail
19 of how you actually do your engineering. When we did
20 our study for the Oregon legislature we worked in more
21 detail with your folks and your engineers --

22 Q. Well, let me go back to your previous
23 answer rather than talk about that. You said that it
24 was your belief, based upon perhaps some out of date
25 information, that the company reinforced on a

04261

1 schedule, you thought, every two years?

2 A. Yes.

3 Q. Now, my question to you is, if the company
4 actually designed and maintained its network so as to
5 approximate objective fill, it would have to reinforce
6 more often assuming increasing demand, would it not?

7 A. I think I know where you want to go,
8 Mr. Shaw. Let me see if I can answer the question the
9 way I understand it. My understanding is whenever you
10 reinforce feeder you would do it -- and I don't know
11 whether the fill factor is confidential so let me pick
12 something out of the air. Let's say the objective
13 fill is 80 percent or something, so when you reinforce
14 you would reinforce it, so you would have, let's say,
15 60 percent fill knowing then that you're going to have
16 a certain period of time before you need to reinforce
17 again. And my understanding is when it gets close to
18 the objective fill level then you go in and reinforce,
19 so are you talking about in some way you're going to
20 change this normal pattern where the average fill is
21 now going to be closer to the objective fill? I just
22 don't understand what you're asking.

23 Q. That was my question. I'm sorry if I
24 didn't make it clear. If the company in fact designed
25 and maintained its network so as to keep it close to

04262

1 objective fill it would have to reinforce more often
2 than under the scenario that you just discussed where
3 as you approach 80 you would reinforce and it would
4 drop down to 50 or 60 and you would wait a couple of
5 years and you would reinforce again. Would you agree
6 that that is logical?

7 A. Yes, it is logical.

8 Q. And the expense of more frequent
9 reinforcing would have to be compared to the expense
10 of less frequent reinforcing to decide whether or not
11 more frequent reinforcing was an overall efficient
12 operation, wouldn't it?

13 A. Yes. Now, one thing you take into account
14 is held orders in making that determination.

15 Q. Chairman talked to you about the issue of
16 residential versus business subscribers and the
17 lessening differentiation in our modern society
18 between those. You talked about peaks shifting but
19 the shifting peaks can essentially be cost free.
20 Isn't it true in telecommunications that the peaks are
21 shifting from the traditional 9 to 5 work day and are
22 shifting to evenings and nights with increasing use of
23 data and the increasing use of work at home?

24 A. I would agree that I would expect that to
25 be the case. I have not done a study to know whether

04263

1 it's a 1 percent movement or a 5 percent. I would
2 expect that that is the way in which things are
3 changing. I just don't know how much it's happened as
4 of yet.

5 Q. Would it surprise you that in this recent
6 stormy weather that the company's switch exhaust moved
7 out into the suburban switches where people were
8 staying at home and kids were home from school and
9 people were working from home because of the weather?

10 A. I don't know what switch exhaust means.

11 Q. We have blocking problems in the suburban
12 exchanges.

13 A. I didn't realize that. That may be the
14 function of the concentration ratio you put in those
15 switches. Could be changed.

16 Q. But it wouldn't surprise you as more and
17 more people work at home that in fact the traditional
18 residential service could become more expensive, need
19 bigger switches than the traditional big business
20 service clustered in the downtowns and urban cores?

21 A. That may occur, Mr. Shaw. However, my
22 understanding is still, generally speaking, your
23 switches are line constrained and not usage
24 constrained, so I don't know exactly how to respond to
25 you on that. It may well be that changes in

04264

1 concentration ratios and line cards may have to be
2 adopted or something along those lines. At least
3 that's my understanding that it's not a processor
4 problem in the switch. It's still a line constraint.

5 MR. SHAW: That's all I have. Thank you.

6 JUDGE WALLIS: Is there anything further
7 for the witness? It appears that there is not. Dr.
8 Zepp, thank you for being with us today. You're
9 excused from the stand. Let's be off the record for a
10 scheduling discussion.

11 (Recess.)

12 JUDGE WALLIS: Let's be back on the record,
13 please. The Commission staff at this juncture is
14 concluding its presentation by calling witness Roger
15 Kouchi to the stand.

16 Whereupon,

17 ROGER KOUCHI,
18 having been first duly sworn, was called as a witness
19 herein and was examined and testified as follows:

20 JUDGE WALLIS: In conjunction with Mr.
21 Kouchi's appearance the following documents have
22 been predesignated. His direct testimony has been
23 marked as 797T for identification. Attachment RK-1
24 and RK-2 will marked as 798 and 799 respectively, and
25 an errata sheet has been distributed today which is

04265

1 marked as Exhibit 800 for identification.

2 (Marked Exhibits 797T, 798, 799 and 800.)

3

4 DIRECT EXAMINATION

5 BY MR. SMITH:

6 Q. Please state your name, spell your last
7 name and state your business address.

8 A. My name is Roger Kouchi, K O U C H I. My
9 business address is 1300 South Evergreen Park Drive
10 Southwest, P.O. Box 47250 Olympia, Washington 98504.

11 Q. And with whom are you employed and in what
12 capacity?

13 A. I'm employed by the Washington Utilities
14 and Transportation Commission as a consumer program
15 specialist 3.

16 Q. And do you have before you what's been
17 marked for identification as Exhibit 797T?

18 A. Yes, I do.

19 Q. And do you recognize that as your prefiled
20 testimony in this proceeding?

21 A. Yes.

22 Q. And do you also have before you what's been
23 marked for identification as Exhibit 800?

24 A. Yes, I do.

25 Q. And do you recognize that as your errata to

04266

1 your direct testimony?

2 A. Yes.

3 Q. If I were to ask you today the questions
4 contained in Exhibit 797T as corrected by Exhibit
5 800, would your answers be the same?

6 A. Yes, they would.

7 Q. And do you also have before you what has
8 been marked for identification as Exhibits 798 and
9 799?

10 A. Yes.

11 Q. And are those the exhibits you refer to in
12 your direct testimony?

13 A. That's correct.

14 MR. SMITH: Your Honor, I would move for
15 admission of Exhibits 797T through 800.

16 JUDGE WALLIS: Is there objection?

17 MS. HASTINGS: No.

18 JUDGE WALLIS: The exhibits are received.

19 (Admitted Exhibits 797T, 798, 799 and 800.)

20 MR. SMITH: Mr. Kouchi is available for
21 cross-examination.

22 MS. HASTINGS: Thank you.

23

24 CROSS-EXAMINATION

25 BY MS. HASTINGS:

04267

1 Q. Good afternoon, Mr. Kouchi.

2 A. Good afternoon.

3 Q. I put before you and also provided to your
4 counsel, or perhaps he provided to you a copy of a
5 couple of pages from a couple of company tariffs or
6 price lists that are on file with this Commission. I
7 don't intend to make these an exhibit but I wanted you
8 to have a handy access to them if you needed to. The
9 first one is a page from the Puget Power and light
10 Company tariff WN U 60. Do you have that in front of
11 you?

12 A. Yes, I do.

13 Q. And the other one is from the Digital
14 Direct of Seattle original sheet 9 WN U 1 effective
15 January 9, 1995. Do you have that in front of you
16 also?

17 A. Yes.

18 Q. Mr. Kouchi, in your testimony on page 2,
19 you identify a number of issues that you indicate have
20 been generated by U S WEST Communications's decision
21 to initiate a late payment charge, and your first
22 concern that you indicate is the timing for the
23 assessing of the late payment charge and the
24 relationship of that late payment charge to the
25 advanced payment for local service; is that correct?

04268

1 A. That's correct.

2 Q. Thank you. And I was wondering if I could
3 ask you to look at the Digital Direct of Seattle sheet
4 that's in front of you there. If I could get you to
5 look under section 2.6.2 and if you could tell me
6 whether or not from reading that Digital Direct
7 charges their customers in advance for recurring
8 service?

9 A. Again, can you repeat the question?

10 Q. Yes. Can you tell me whether or not from
11 reading that Digital Direct of Seattle applies their
12 recurring charges in advance of the service date?

13 A. It appears that they do bill in advance.

14 Q. And I was wondering if you could share with
15 me what staff's thinking was when it approved this
16 particular tariff sheet for Digital Direct where the
17 timing for the assessing of the late payment charge
18 was in advance of the assessment of the service.

19 MR. TROTTER: Your Honor, I will object to
20 the extent -- I guess I will object to the question as
21 vague, that this is a price list that was not
22 approved, but if it's the tariff I guess I can ask
23 that a foundation be laid that there was in fact
24 approval of this tariff.

25 MS. HASTINGS: Well, this is a page from --

04269

1 I guess the company can -- the Commission can take
2 official notice of the price lists that are in effect
3 and on file with the Commission and I will represent
4 to you that this is such a page.

5 MR. TROTTER: The question was from counsel
6 that this was approved and the Commission has not
7 approved. They accept them for filing.

8 MS. HASTINGS: I will be happy to restate
9 it that way.

10 Q. Could you share with me what the Commission
11 staff's thinking might have been when it reviewed this
12 particular price list or did it review this particular
13 price list?

14 A. I did not -- I guess I don't know is my
15 answer. I wasn't involved with the person that was
16 working this particular price list.

17 Q. To your knowledge, Digital Direct of
18 Seattle is regulated to some extent by this
19 Commission; is that correct?

20 A. That's my understanding.

21 Q. And so with respect to your issue No. 2,
22 you have an issue to take with U S WEST rationale for
23 the assessment of a late payment charge by a regulated
24 local exchange company, what explanation or rationale
25 did Digital Direct provide to the Commission staff for

04270

1 their assessment of a late payment charge?

2 A. I do not know.

3 Q. And I will represent to you that Digital
4 Direct's application as a competitive service provider
5 was approved by this Commission in docket UT 941204
6 and I will further represent to you that in that
7 approval application the Commission did not waive the
8 requirements of WAC 480-120-081. Do you have that in
9 mind?

10 A. I don't understand the question.

11 Q. Well, I'm just representing to you that if
12 you were to look at the approval -- the application
13 that approved Digital Direct's application as a
14 competitive provider in Washington that among the
15 rules that the company had asked to be waived WAC
16 480-120-081 was not a rule that the Commission waived.
17 I'm just asking you -- I'm representing that to you.
18 You can agree with that subject to check.

19 A. I guess I can agree to that subject to
20 check except I would like to comment that it's not my
21 understanding that there was a need to waive the rule,
22 so that's a reason why there wasn't a rule waiver.

23 Q. So your understanding is that Digital
24 Direct is not obligated to adhere to WAC 480-120-081?

25 A. In what regard?

04271

1 Q. In any regard.

2 A. When I made my initial statement in
3 response to your question about whether or not the
4 company came forward with a waiver to the disconnect
5 rules, it's my understanding that Digital Direct did
6 not come forward, for one, with a request for waiver,
7 nor was there a need to. There is a need for them to
8 comply with the rule, though, yes.

9 Q. There is a need for them to them to comply
10 with WAC 480-120-081?

11 A. Yes, yes, that's right.

12 Q. So my question to you is in assessing --
13 well, your issue No. 3 is that U S WEST's late payment
14 charge creates the potential for violations of the
15 Commission's rules, and I was just wondering what
16 thinking the staff might have had with respect to the
17 late payment charge of Digital Direct of Seattle with
18 respect to those same rules?

19 A. I didn't participate in that particular
20 filing. I guess I need to comment on that, but as far
21 as the potential for violations, the thinking of staff
22 is that U S WEST proposed a lump sum application of
23 the late payment charge. Staff is not aware that
24 Digital Direct bills for other entities such as U S
25 WEST does.

04272

1 Q. And your last point that you make or your
2 second to last point is that you are concerned about
3 the late payment charge because of the impact on low
4 income families, and on page 15 of your testimony you
5 indicate that in Mary Owen's deposition she indicates
6 that one of the purposes of the late payment charge is
7 to induce customers, and then you say "including low
8 income households," to make prompt payments on their
9 utility bills. It's true, is it not, that if you were
10 to look at Ms. Owen's deposition on page 35 there that
11 she in fact makes no reference to low income
12 household, is it not?

13 A. That's correct. May I make a clarification
14 comment?

15 Q. Yes.

16 A. The question I guess that was posed on line
17 13 says, "And is part of the LPC proposal to encourage
18 customers to make their payments more timely?" And
19 the answer was on line 16 "certainly." And of course
20 low income households are customers.

21 Q. Well, that's true, but Ms. Owen never
22 indicated that the company has any data whatsoever to
23 indicate that low income households fail to pay their
24 bills in any different time fashion than high income
25 households; isn't that correct?

04273

1 A. That's correct.

2 Q. The company has provided no data, has not
3 made that assertion; is that correct?

4 A. That's correct.

5 Q. Thank you. And then I would like to refer
6 you for a moment to page 4 of your testimony. You've
7 indicated that the company's decision to assess a 1.2
8 percent amount is -- well, you indicate that the
9 company -- let me read it. You said that the amount
10 of 1.2 percent was chosen because the company viewed
11 that as reasonable to assess for paying an unpaid
12 balance. I was wondering what studies has the
13 Commission done to determine that 1.2 percent is not
14 appropriate?

15 A. We didn't do any. I didn't do any studies.

16 Q. Could you tell me if you know what studies
17 the staff performed when it approved Puget Power's
18 late payment charge of 1 percent?

19 A. I am not aware of any studies. My
20 understanding is that was part of a general rate case.

21 Q. And do you know if staff performed any
22 studies when it approved the 1.5 percent per month
23 late payment charge that is in the Digital Direct
24 price list?

25 MR. TROTTER: I will object again to the

04274

1 word "approval."

2 Q. Do you know if staff performed any studies
3 regarding the 1.5 percent per month late payment
4 charge in Digital Direct's price list?

5 A. There weren't any studies but there
6 weren't probably any studies necessary because these
7 were competitive companies.

8 Q. Let me ask that question. You would agree
9 with me, wouldn't you, that if you were looking to
10 buy a product or service you might be inclined to buy
11 from a company that had no financing charges as
12 opposed to a company that was going to incur financing
13 charges, wouldn't you?

14 A. Can you repeat that question.

15 Q. Sure. You go out during the Christmas
16 holidays, you want to buy a stereo. Are you more
17 inclined to look at a place that is saying no
18 financing charges or no carrying charges for a year,
19 or are you more inclined to look at a place that says
20 there will be finance charges that are due immediately
21 upon purchase?

22 A. I guess I would agree that I would look at
23 the financing charges as part of a decision process.

24 Q. And so you might be more inclined to go
25 with a particular vendor where there were no financing

04275

1 charges because in the long run that might be a
2 cheaper purchase for you to make; is that correct?

3 A. That's quite possible but there are other
4 factors that would be involved in my decision.

5 Q. And so in this particular case staff or
6 Digital Direct of Seattle has a tariff or, excuse me,
7 a price list that has basically a financing charge.
8 The company here is proposing a tariff which would
9 have for all intents and purposes a financing charge
10 or a late payment charge. Staff is suggesting or
11 recommending that that financing charge for U S not be
12 applied; is that correct?

13 A. I'm not sure I totally agree with the
14 statement that staff does not agree what the financing
15 charge doesn't -- I guess it's not -- staff is not
16 convinced of the need for the late payment charge.

17 Q. Well, let me ask you this question. If I
18 am a Boeing Company and I am thinking about buying
19 telecommunications services in the next several months
20 and I am the telecommunications manager of the Boeing
21 Company and I am incented to buy the cheapest
22 telecommunications services available, am I going to
23 buy business services from U S WEST which have no
24 carrying charge or am I going to be buying business
25 services from Digital Direct of Seattle which have

04276

1 carrying charges?

2 A. I am not sure I could answer that question,
3 and I am not sure that -- I guess the answer to the
4 question is I don't know because there are other
5 factors involved in making a decision like that. That
6 may be one of them but I would think that there's
7 other factors involved.

8 Q. It's possible, is it not, in recommending
9 against a late payment charge while allowing -- I
10 won't use the word allow -- while knowing that there
11 are late payment charges available for competitive
12 providers in the Seattle area that are in direct
13 competition with U S WEST that in fact the staff is
14 creating an artificial barrier to entry for these
15 competitive providers, is it not?

16 A. I'm not sure I can address that. I don't
17 think I've addressed that in my testimony.

18 Q. Does staff consider U S WEST to be a
19 carrier of last resort for low income families as
20 compared to Digital Direct and therefore U S WEST
21 should not be allowed to charge a late payment fee?

22 A. Can you restate your question again?

23 Q. Yes. I'm wondering if staff considers U S
24 WEST to be the carrier of last resort for low income
25 families as compared to Digital Direct of Seattle, and

04277

1 therefore because it is the carrier of last resort U S
2 WEST should not be allowed to charge a late payment
3 fee.

4 MR. SMITH: Your Honor, I'm going to object
5 to the question because it assumes that staff opposes
6 a late payment fee and Mr. Kouchi's direct testimony
7 indicates that the staff is not flatly opposed to late
8 payment charges.

9 MS. HASTINGS: Do you want to find that
10 reference in his testimony? I think it's on page 17
11 and he says -- he lays out a number of different
12 criteria, the criteria that we've been talking about
13 here. I guess I can back up and ask him if staff
14 would require these criteria to be applied to these
15 other parties and then re-ask that question if you
16 would prefer.

17 MR. SMITH: Well, what you do is up to you.
18 I just objected to the form of the question when you
19 said that staff is opposed to a late payment charge
20 in general.

21 MS. HASTINGS: Let me ask this question
22 again.

23 Q. Mr. Kouchi, you indicate in your testimony
24 that you're not totally opposed to late payment
25 charge. You've identified four criteria -- five. The

04278

1 first criteria is that the late payment charge should
2 be based on costs incurred by the company except those
3 costs incurred as a result of regulatory requirement
4 related to consumer protection. Now, is that
5 a criteria that staff would apply to Digital Direct of
6 Seattle?

7 A. I think I would have to say, no, not at
8 this time.

9 Q. Thank you. And then your criteria is that
10 a late payment charge should be applied only to
11 amounts related to those regulated services for which
12 the jurisdictional body has specifically authorized
13 collection of the late payment charge. Now, is that a
14 criteria that staff would apply to Digital Direct or
15 to ELI or to any other competitive telephone provider
16 in this state?

17 MR. ROSEMAN: Your Honor, I am going to
18 object. I thought he answered the question that he
19 had no involvement with Digital Direct of Seattle. He
20 didn't work on that docket. He didn't have anything
21 to do with it. I don't understand how he could answer
22 the question about what staff's position is relating
23 to Digital Direct of Seattle. He said he had no
24 involvement in it.

25 JUDGE WALLIS: I think the question is

04279

1 whether on a prospective basis the witness as the
2 staff's representative would ask that the
3 criteria would be applied not only to U S WEST but to
4 other telephone companies.

5 MS. HASTINGS: That's correct.

6 JUDGE WALLIS: And as thus understood the
7 question is permissible.

8 A. Can you restate the question.

9 Q. My question, is your second criteria there
10 at the top of page 18 a criteria that staff would
11 require to be applied to all local exchange companies
12 operating in Washington?

13 A. I guess I would have to say no. The
14 alternate local exchange companies, customers of
15 alternate local exchange companies have choices and
16 therefore staff concerns regarding the needs of
17 consumers for Life Line services are not quite the
18 same.

19 Q. And would the answer to the third point be
20 the same?

21 A. Yes.

22 Q. And so I will ask you the question again.
23 Can I assume, because staff will apply different
24 criteria to different local exchange companies in the
25 state of Washington, does staff consider U S WEST to

04280

1 be the carrier of last resort for low income families
2 as compared to these other companies for whom you've
3 just described you would apply different criteria and
4 therefore on that basis U S WEST should not be allowed
5 to charge or should be allowed to charge a different
6 late payment charge than its competitors?

7 A. I guess, is there more than one question in
8 that? You said that does staff consider U S WEST a
9 carrier of last resort?

10 Q. Right.

11 A. For low income?

12 Q. Right. You've indicated to me you would
13 apply different criteria to different companies, so
14 I'm asking you in making that determination that staff
15 would apply different criteria to different local
16 exchange companies, is staff concluding by doing that
17 that U S WEST is the carrier of last resort for low
18 income families and the basis on which staff is making
19 the determination that one set of rules should apply
20 for U S WEST and a different set of rules for other
21 companies?

22 A. I will answer your question basically and
23 then I would like to say something. I guess the
24 answer would be yes, but the concern that staff has
25 with the application of the late payment charge is

04281

1 that it, one, addressed the needs of not only U S WEST
2 but of all parties involved, and of course the low
3 income, the fixed incomes, senior citizens, the
4 disabled, these groups of consumers, which was
5 indicated in an earlier testimony from DSHS, is not a
6 small number of people. Should be equally considered,
7 and so in considering the needs of all parties
8 involved certainly the costs associated with the late
9 payment charge should be considered, the nature of the
10 service provided should be considered, and the impact
11 or the the question of whether or not the late payment
12 charge accomplishes a goal, the prescribed goal that's
13 set out by the company should be considered.

14 Q. Thank you. And just one final question,
15 Mr. Kouchi. Do you know whether or not in approving
16 the late payment charges for Puget Sound Power and
17 Light Company the staff requires Puget Sound Power and
18 Light to assess a different late payment charge on low
19 income electric customers than it does on high income
20 electric customers?

21 A. The answer to your question is no, but
22 there is a difference in the application as far as low
23 income because the Puget does allow for delayed
24 payment without the assessment of late payment charges
25 for particular situations that low income customers

04282

1 have.

2 Q. Thank you.

3 MS. HASTINGS: That's all I have.

4 JUDGE WALLIS: Mr. Roseman.

5

6 CROSS-EXAMINATION

7 BY MR. ROSEMAN:

8 Q. Mr. Kouchi, does Puget Power bill in
9 advance, bill a month in advance?

10 A. No, it does not.

11 Q. Will you turn to page 5 of your testimony
12 where you -- I just want you to reference it -- where
13 you say, "U S WEST has stated that one of its primary
14 reasons for proposing a late payment charge is it is
15 common business practice of the retail industry."
16 Does the retail industry bill in advance for items
17 purchased?

18 A. I am not aware of any retail industry
19 billing in advance for the services they provide.

20 Q. I have one further question. This is
21 regarding the preferred payment date that you
22 mentioned in your testimony. Do you know how U S WEST
23 makes customers who need a preferred payment date
24 aware of the opportunity to request a change of their
25 payment date so it will coincide to their Social

04283

1 Security check or whatever?

2 A. I am not aware of any literature or
3 anything that the company sends out, if that's what
4 you mean, but I do know that, I guess, when in the
5 process of when the company becomes aware of it, it
6 will make that adjustment, the payment.

7 Q. And do you know how the company becomes
8 aware of a customer's request?

9 A. The only ones that I am aware of is the
10 complaint process.

11 Q. Through the Commission, through the
12 consumer section of the Commission?

13 A. Well, certainly through us, but certainly
14 they may have that same process through their own
15 company.

16 MR. ROSEMAN: That's all I have. Thank
17 you.

18 JUDGE WALLIS: Are there other questions
19 from counsel? Commissioners?

20 CHAIRMAN NELSON: Just one. Mr. Kouchi,
21 can you remind me what the current Commission policy
22 is about disconnecting local service for the
23 nonpayment of toll service?

24 THE WITNESS: Yes, Chairman Nelson. The
25 rule does not allow disconnection of service for

04284

1 interexchange services. Does not allow disconnection
2 of the local service for nonpayment of the
3 interexchange services.

4 CHAIRMAN NELSON: Do some of our companies
5 offer toll blocking options?

6 THE WITNESS: Yes, that's correct.

7 CHAIRMAN NELSON: Thank you.

8 JUDGE WALLIS: Mr. Kouchi, I have one. Do
9 you know whether the Commission staff opposed or
10 supported Puget's proposal to impose a late fee or
11 financing charge?

12 THE WITNESS: I did look into that rate
13 case somewhat, and I am just aware that it was
14 allowed. I know that the company proposed a proforma
15 adjustment.

16 JUDGE WALLIS: But you don't know whether
17 the staff supported or opposed it?

18 THE WITNESS: No, I don't.

19 JUDGE WALLIS: Thank you. Mr. Smith.

20 MR. SMITH: Just a few.

21

22 REDIRECT EXAMINATION

23 BY MR. SMITH:

24 Q. Mr. Kouchi, you were asked some questions
25 regarding Puget Power's late payment charge, and in

04285

1 response to a question from Ms. Hastings regarding
2 whether under Puget's tariff low income people were
3 treated differently than high income customers. Do
4 you recall that question?

5 A. Can you refresh my memory?

6 Q. Well, let me just -- you indicated that
7 under Puget's late payment tariff there's a provision
8 for delayed payment. Do you recall that?

9 A. Yes.

10 Q. And who is available -- who is entitled to
11 apply for the delayed payment?

12 A. The way that Puget's schedule 80 is set out
13 is that the consumers that have made application to an
14 agency for financial aid are allowed another 30 days
15 before the late payment charge is applied.

16 Q. When you say -- and you indicated, I think,
17 in response to Mr. Roseman that Puget does not bill in
18 advance; is that correct?

19 A. That's correct. They bill after the
20 service is provided.

21 Q. So with the additional delayed 30 days how
22 much time would pass from the completion of the
23 services to their, I guess, delayed due date?

24 A. Normally it would be 30 days. In the case
25 where financial aid is requested it would be 60 days.

04286

1 Q. Is that consistent with your recommendation
2 for U S WEST's late payment charge?

3 A. Yes, it is. We recommended that it was 60
4 days from the bill date which actually makes it 30
5 days from the date that was fully provided, service
6 fully provided.

7 Q. To your knowledge, does Puget bill and
8 collect for other companies?

9 A. Not to my knowledge.

10 Q. Ms. Hastings posed a hypothetical to you
11 about whether a customer would prefer a company with
12 no financing charges to one -- to a company that has
13 financing charges. That question assumes a choice of
14 two companies. Is that fair to say?

15 A. That's correct.

16 Q. Do all of U S WEST customers have a choice
17 of another local service provider?

18 A. No, they do not.

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

20 JUDGE WALLIS: Any follow-up questions?

21 MS. HASTINGS: Just one.

22

23 RE-CROSS-EXAMINATION

24 BY MS. HASTINGS:

25 Q. Mr. Kouchi, if you know, do you know what

04287

1 the average residential bill for a Puget Power
2 customer is?

3 A. Not off the top of my head.

4 Q. Do you have reason to believe it's less
5 than \$75 a month on an average?

6 MR. ROSEMAN: I object. It was asked and
7 answered. She asked the question. He said he didn't
8 know and now she's --

9 MS. HASTINGS: I was asking for a range.
10 If he doesn't know a range he can say he doesn't know
11 a range.

12 JUDGE WALLIS: The witness may respond.

13 A. I don't feel comfortable with giving you a
14 range because I just don't know.

15 MS. HASTINGS: Thank you.

16 JUDGE WALLIS: Anything further? It
17 appears that there is not. Mr. Kouchi, thank you for
18 appearing. You're excused from the stand. Let's
19 be off the record, please.

20 (Recess.)

21 JUDGE WALLIS: Let's be back on the record.
22 We do have a few administrative matters to resolve.
23 First relates to subject to check items. I am marking
24 as Exhibit 801 for identification a document entitled
25 Barbara M. Wilcox Testimony Errata for Subject to

04288

1 Check Items, and pages 1 and 2 of that are offered to
2 indicate errata in sub jectto checks. Company is
3 offering this, and I understand there's no objection
4 to that; is that correct?

5 MR. SMITH: No.

6 JUDGE WALLIS: This is correct that there
7 is no objection?

8 MR. SMITH: That's correct.

9 JUDGE WALLIS: Very well. The document is
10 received. Mr. Shaw, you have another document; is
11 that correct?

12 (Marked and ADmitted Exhibit 801.)

13 MR. SHAW: Yes. Your Honor, there is a
14 dispute between the company and staff on a subject
15 to check. Question staff asked to Mr. Spinks, the
16 question, thrust of it, would you accept subject to
17 check that the company provided data regarding Centrex
18 NARs. The company contends that the response to data
19 request, staff data request 01-146 was responsive in
20 that regard and that is in dispute so that it can be
21 argued on the record the company wishes to submit the
22 first page of its response to data request 1-146, and
23 I believe that's satisfactory to staff counsel.

24 JUDGE WALLIS: Is that correct?

25 MR. SMITH: That's correct, Your Honor.

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1 JUDGE WALLIS: That document will be
2 treated as a late-filed exhibit. The number 802 is
3 assigned to it and document upon its receipt will be
4 received into evidence.

5 (Marked and admitted Exhibit 802.)

6 MR. SHAW: What was the number assigned to
7 Ms. Wilcox's?

8 JUDGE WALLIS: 801. The parties will
9 have until Friday to offer either additional portions
10 of the interconnect record for incorporation into this
11 docket or to comment on the offerings that have been
12 made. The company has distributed some Commission
13 orders as an assist to the Commission in terms of
14 either taking official notice or having the documents
15 at hand. It is -- let's see. These are not only
16 orders. I see a motion as well.

17 MR. SHAW: Yes.

18 JUDGE WALLIS: This is of course without
19 prejudice to the Commission referring to other
20 materials of the same nature; is that correct?

21 MR. SHAW: Yes that's correct. That's
22 understood. This is strictly for convenience so that
23 we can cite to them without having to waste
24 precious brief space and extensive quotes.

25 MR. TROTTER: Your Honor, I commented

04290

1 earlier off the record that it was my understanding
2 that this was done as a courtesy and accommodation but
3 not a requirement, at least as far as the orders are
4 concerned, could cite to prior orders. I believe
5 company counsel agreed to that.

6 MR. SHAW: That's correct.

7 JUDGE WALLIS: Very well. As to other
8 subject to check items for this proceeding it will be
9 sufficient that any party objecting to a subject to
10 check provide information to that effect for the
11 record no later than 10 days after today. That's
12 agreed by all parties; is that correct?

13 MR. SHAW: Correct.

14 JUDGE WALLIS: The exhibit list, an interim
15 copy has been distributed. I'm asking parties to
16 respond by Friday as to whether you have any changes
17 or corrections to that interim list as far as it went,
18 and an updated list will be sent out the first part of
19 next week to all parties and it will be considered
20 correct unless corrections are offered within four
21 days, four working days after that.

22 The Commission has distributed for comment
23 and has received a number of comments on an outline
24 for briefs. A letter has been prepared with an
25 attachment showing an outline. I want to personally

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1 commend the parties, particularly Mr. Trotter,
2 Mr. Shaw and counsel for staff who participated in
3 preparing the basis for the outline as an
4 organizational tool for briefs, and the cover letter
5 on this also indicates the limitation 60 pages for
6 each of two subject area briefs. It states the
7 timing, rate design issues to be briefed no later than
8 February 23rd and revenue requirement issues no later
9 than March 1st those issues as appearing in the
10 document and the respective outlines.

11 Answering briefs will be allowed. They
12 will be very short, five pages and they're intended to
13 allow parties to respond to arguments that were not
14 reasonably anticipated or patent errors. Any comment
15 on briefing?

16 MR. TROTTER: Just one. With respect to
17 appended tables it was my understanding that those
18 were intended to be summary tables of ultimate
19 recommendations and those would not be counted against
20 the page limit but if a party wants to put in argument
21 based on accumulating facts and putting them in a
22 table that would be different.

23 JUDGE WALLIS: Yes.

24 MR. TROTTER: And would count toward the
25 page limit.

1 JUDGE WALLIS: Yes, that's correct. And
2 the appended tables are in fact intended to be the
3 summary of the parties' position on the issues, and
4 of course revenue requirements area that's most common
5 in which the tables on the various elements of revenue
6 requirements are a necessary way of demonstrating how
7 matters go together.

8 MR. SHAW: As a poison of clarification, I
9 would request that any table of content and table of
10 authorities not count towards the page limit on the
11 basis that both of those items will be helpful to the
12 reader. You can't of course make argument in those
13 two tables.

14 JUDGE WALLIS: I do see a lot of nodding
15 heads. Actually with a double space requirement I
16 note that our outlines are -- just the outlines are at
17 least three pages, three or four pages for each, so I
18 think that's appropriate.

19 MR. TROTTER: As long as we're counting
20 nits here, when you say double-spaced, can headings
21 and indented quotations from testimony be
22 single-spaced or is the entirety of the text to be
23 double-spaced?

24 JUDGE WALLIS: Headings that identify
25 rather than state the argument, a summary heading, and

1 quotations may be single-spaced, yes, per standard
2 legal document formatting.

3 There may be other administrative matters
4 as we all go through the paperwork for this, and I
5 would ask that Friday be the deadline for submitting
6 those for resolution or calling them to attention, and
7 we will attempt to have all our administrative matters
8 taken care of by Friday and advise parties if there is
9 any further.

10 Is there anything else that we need to
11 touch on today?

12 MR. SHAW: Your Honor, one administrative
13 matter that we anticipate. We have a couple in mind
14 and we haven't finished reviewing the transcript, but
15 there will be some corrections at least by us or a
16 motion for a correction to the transcript where things
17 were misstated. My recollection of the rule is that
18 there's no time limits so perhaps you would want to
19 set a time limit to make those motions.

20 JUDGE WALLIS: Any motion that would affect
21 the substance rather than just the syntax or grammar
22 of the witness's statement, if that could be submitted
23 within 10 days that would be helpful. That would
24 allow all parties, at least by the time the briefs are
25 presented, to have at least the sponsoring parties'

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1 view as to what the transcript should read.

2 I also want to commend our reporter who
3 has been with us through this entire process.
4 Witnesses and counsel who have at times seemed like
5 they're challenging the Federal Express commercial for
6 speed of speech, and I think that she's done a fine
7 job just to endure the burden of the past few days,
8 but also I think on my examination the transcript in
9 general has been of very good quality.

10 Is there anything further to come before
11 the Commission at this time? Let the record show that
12 there is no response and subject to the matters that
13 we've specified herein, the proceeding is concluded.

14 (Hearing adjourned at 1:15 p.m.)

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