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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Petition for)  
Arbitration of an Interconnection)  
Agreement Between )  
 )  
NORTH COUNTY COMMUNICATIONS )  
CORPORATION OF WASHINGTON, )  
 )  
and ) Docket UT-093035  
 )  
QWEST CORPORATION ) Volume 7  
Pursuant to 47 U.S.C. Section ) Pages 99 - 281  
252(b). )  
-----)

An arbitration in the above matter was held on Tuesday, July 13, 2010 at 9:01 a.m. at 1300 South Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge ADAM TOREM

The parties were present as follows:

QWEST CORPORATION by Lisa A. Anderl, Attorney at Law, ASSOCIATE GENERAL COUNSEL FOR QWEST, 1600 7th Avenue, Room 1506, Seattle, Washington 98191; 206-345-1574

NORTH COUNTY COMMUNICATIONS CORPORATION, by Anthony McNamer, Attorney at Law, McNAMER AND COMPANY, 920 Southwest Third Avenue, Suite 200, Portland, Oregon 97204; 503-727-2504

Tami Lynn Vondran, CCR No. 2157  
Court Reporter

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1 (Whereupon, the following proceedings went on  
2 the record at 9:01 a.m.)

3 JUDGE TOREM: Let's be on the record in the  
4 arbitration between Qwest and North County. This is  
5 Administrative Law Judge Adam Torem. It's Tuesday morning  
6 July 13th, 2010, it's a little after 9:00 in the morning.  
7 We've convened at Room 206 at the Olympia hearing room of  
8 the Utilities & Transportation Commission. This is Docket  
9 UT-093035.

10 This morning we're going to take appearances for  
11 both sides. We have a couple of motions to revise testimony  
12 that have been submitted. We'll deal with those first.  
13 I've asked counsel to review an exhibit list that actually I  
14 did finally provide to them over the weekend. And they've  
15 gotten back to me on a date for filing post hearing briefs,  
16 and we'll confirm that. And then counsel can let me know if  
17 you want to make opening statements or go straight to the  
18 witnesses. So let's take appearances first for Qwest.

19 MS. ANDERL: Thank you, Your Honor. Lisa Anderl,  
20 in-house attorney representing Qwest Corporation. I  
21 previously provided my full appearance, but would you like  
22 me to do that again for the new reporter?

23 JUDGE TOREM: No, I think if you've provided a  
24 business card to the court reporter that will be sufficient  
25 to create that information in the record for today's

0103

1 hearing.

2 Okay, for North County?

3 MR. McNAMER: Anthony McNamer of McNamer and  
4 Company for North County Communications.

5 JUDGE TOREM: And Mr. McNamer, you've also  
6 provided your information to the court reporter?

7 MR. McNAMER: Yes, I have.

8 JUDGE TOREM: Okay, thank you. Let's turn to  
9 those motions to revise testimony. Ms. Anderl, you have on  
10 July 2nd filed a motion to revise Ms. Albersheim's  
11 testimony, I think it was the original direct from May 19th,  
12 and it was something on Page 17; is that correct?

13 MS. ANDERL: Turning there now, Your Honor. Pages  
14 16 and 17, and it's very hard to see. And Page 16, it's on  
15 Line 7.

16 JUDGE TOREM: Oh, I see. There's a number that's  
17 been corrected?

18 MS. ANDERL: Yes. And then we added a question  
19 and answer on Page 17. And it's basically a correction of a  
20 mathematical calculation error that we made that we didn't  
21 catch until the 1st of July.

22 JUDGE TOREM: All right. So, it's a cap on a  
23 number of minutes?

24 MS. ANDERL: Yes.

25 JUDGE TOREM: And it's an upward move from 10,000

0104

1 to 240,000 and then the explanation is what's on Page 17?

2 MS. ANDERL: Yes.

3 JUDGE TOREM: Mr. McNamer, what's your company's  
4 position, your client's position on the motion?

5 MR. McNAMER: We don't have any problem with the  
6 amendment.

7 JUDGE TOREM: All right. So, I'll grant the  
8 motion. And we'll use as Exhibit RA-1T the revised July 2nd  
9 edition of Ms. Albersheim's prefiled direct testimony.

10 MS. ANDERL: Yes. And, Your Honor, while we're on  
11 Qwest corrections, Ms. Albersheim does have a correction to  
12 make to her testimony when she's on the stand today. We did  
13 not have time to file an errata. It's a correction that  
14 Mr. McNamer and Mr. Lesser are aware of because we  
15 supplemented a data request response on either Thursday or  
16 Friday last week with the changes, but putting together the  
17 errata just proved to be beyond us. So we'll make some very  
18 small number of changes that are not extensive when  
19 Ms. Albersheim is on the stand.

20 JUDGE TOREM: All right, sounds good. If I think  
21 we need to have an errata filed later we'll arrange for  
22 that.

23 MS. ANDERL: Thank you.

24 JUDGE TOREM: Mr. McNamer, you had a motion, as  
25 well, that came in on Friday, I believe on Page 7 of 8 of

0105

1 Mr. Lesser's testimony?

2 MR. McNAMER: Yes.

3 JUDGE TOREM: Briefly explain that.

4 MR. McNAMER: It essentially is just a summary of  
5 the position we're taking. There's pointed out I think in  
6 some of the testimony that they didn't understand the exact  
7 position we were taking, and so I just added two questions  
8 and answers just to summarize the position.

9 JUDGE TOREM: Okay. And, Ms. Anderl, Qwest  
10 opposing this?

11 MS. ANDERL: Yes, we are.

12 JUDGE TOREM: On what basis?

13 MS. ANDERL: Well, Your Honor, we're opposing it  
14 because of the timing of the motion doesn't really allow us  
15 to revise our testimony to respond to it. Honestly, the  
16 substance of it, if Mr. Lesser -- if you give the witnesses  
17 a chance to make opening statements, and Mr. Lesser said  
18 these things on the record today, I probably wouldn't have a  
19 problem with it. But I have a problem with it appearing to  
20 be in testimony that was filed in May where my witnesses'  
21 responsive testimony comes out and says this witness didn't  
22 talk about this. You know, I don't want to be too  
23 colloquial, but it makes us look foolish, and it doesn't  
24 sink up.

25 So for potential review purposes for the

0106

1 Commission or the courts I think it would be confusing and  
2 potentially cast Qwest in an unfairly bad light. Again, if  
3 they want to put these statements on the record as some sort  
4 of a supplemental statement today to frame the issues,  
5 that's fine. But the point is that wasn't their testimony  
6 in May, and Qwest's testimony responded to what they did  
7 file. They should not be allowed, you know, really  
8 virtually 24 hours before the hearing, in terms of business  
9 days, to go back and patch that hole in a way that I think  
10 substantively and procedurally disadvantages us.

11 JUDGE TOREM: So if I understand, it's truly a  
12 question of the timing of this addition and clarification  
13 and how it's being put in. Had this been a motion to add  
14 supplemental testimony you probably would be fine with it or  
15 he could be allowed to make the testimony on the stand  
16 today?

17 MS. ANDERL: Yes, he could be allowed to make this  
18 testimony on the stand. I mean we have gleaned that was  
19 their position, but that was not clearly stated as their  
20 position in the May filing. And our testimony responded to  
21 their testimony with those two questions and answers not  
22 being in there. Now if those were to be placed in there our  
23 testimony wouldn't sink up.

24 JUDGE TOREM: I understand. Mr. McNamer?

25 MR. McNAMER: I think if she has no problem with



0107

1 us just putting supplemental testimony on the stand I'll  
2 just have Mr. Lesser read that in his testimony on the  
3 stand, that will be fine.

4 JUDGE TOREM: All right. So it's really just a  
5 question of the path we take to have this testimony admitted  
6 one way or the other?

7 MR. McNAMER: Yeah.

8 JUDGE TOREM: I think I do understand the temporal  
9 concerns Ms. Anderl is stating so that someone else  
10 reviewing this, if they didn't read this part of the  
11 transcript in context, would wonder why certain questions  
12 came later. So, I'll deny the motion to revise the  
13 testimony as prefiled. But I will allow your witness,  
14 Mr. Lesser, to either read that directly or you can briefly,  
15 in asking if he has anything to add to his testimony before  
16 he's subjected to cross-examination today he can certainly  
17 add these.

18 MR. McNAMER: I'll do that, Your Honor, thank you.

19 JUDGE TOREM: All right. The exhibit list I sent  
20 around, of course it would be modified to indicate this  
21 ruling to show that the testimony for Mr. Lesser is as of  
22 the date and not revised, any other corrections or catches  
23 on that?

24 MS. ANDERL: No.

25 MR. McNAMER: No, Your Honor.

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1                   JUDGE TOREM: Okay. Then I think we're ready to  
2 just proceed about confirming the dates for post hearing  
3 briefs. I believe you suggested, Ms. Anderl, Wednesday,  
4 August 4th, which would be essentially three weeks from  
5 tomorrow's, at least on paper, scheduled close for the  
6 hearing?

7                   MS. ANDERL: Yes, Your Honor. And that was  
8 subject to clarification today from the court reporter about  
9 when we can get the transcript.

10                  JUDGE TOREM: All right, have you gotten that  
11 clarification?

12                  MS. ANDERL: No, I forgot to ask her.

13                  JUDGE TOREM: I think that our standard is about  
14 two weeks. So that would mean that you would have a week or  
15 maybe a week plus with the transcript. Did you need more  
16 time? If we complete the hearing today then the transcript  
17 will be ready the 27th of 28th, somewhere in there.

18                  MR. McNAMER: I probably would like more than a  
19 week, I think, if that's only going to give us a week.

20                  MS. ANDERL: I would, too. And I don't want to  
21 press Your Honor with a deadline on your arbitrator's  
22 decision.

23                  JUDGE TOREM: The Commission and the State are  
24 already going to be pressing me and giving me another one of  
25 these temporary layoff days on August 6th. So perhaps

0109

1 Monday the 9th would be a good day, or Tuesday the 10th, to  
2 file your brief?

3 MS. ANDERL: Tuesday the 10th would be good.

4 JUDGE TOREM: That way we are not pushing  
5 anybody's weekend in the summer.

6 So August the 10th. And as long as the page  
7 limitations, or any surprises are limited to me, then I  
8 think I should be able to have enough time to write the  
9 order and get things done by the September 3rd deadline that  
10 we've set for the arbitration report. All right, so  
11 Tuesday, August 10th.

12 Anything else?

13 MS. ANDERL: And just one round of simultaneous  
14 opening briefs, no replies?

15 JUDGE TOREM: I think that would be best. At this  
16 stage we should be able to get most things out today in any  
17 opening statements you need to set the stage and then from  
18 there any cross-exam on the record. Mr. McNamer, do you  
19 think --

20 MR. McNAMER: That's fine.

21 JUDGE TOREM: Okay, so Tuesday, August 10th  
22 simultaneous briefs. And now let's turn to opening  
23 statements unless there's any other preliminary items.

24 Counsel, did you guys want to make your own  
25 opening statements or do you want to do that through the

0110

1 witnesses as we call them up?

2 MR. McNAMER: I planned to make my own.

3 MS. ANDERL: We're happy to do that, as well.

4 JUDGE TOREM: All right. I'm not sure who wants  
5 to go first this morning.

6 MS. ANDERL: Well, Mr. McNamer and I have talked  
7 about that. And it is Qwest's petition for arbitration and  
8 so we're willing to put our witnesses up first for  
9 cross-examination, and we're also willing to start with the  
10 opening statement first if that's okay.

11 JUDGE TOREM: Seems logical to me. Let's go ahead  
12 and begin.

13 MS. ANDERL: Thank you, Your Honor. We're here  
14 today on an arbitration proceeding that we believe  
15 encompasses only a very small number of issues. I think  
16 that NCC has a different view, but I'll let them make their  
17 own case. NCC, largely the relationship with Qwest is one  
18 where it's just interconnection. So all we're really  
19 talking about are the local interconnection trunks and the  
20 provisions for the mutual exchange of traffic that  
21 implicates in the Interconnection Agreement Section 7. And  
22 there are issues associated with virtual NXX or VNXX. There  
23 are issues associated with the RUF, the relative use factor.  
24 There are issues associated with the interconnection trunks  
25 between the companies and the extent to which Qwest can

0111

1 accommodate those trunks being only MF signaled as opposed  
2 to using SS7 or out-of-band signaling. And then there are  
3 overarching issues with whether Qwest is then able to  
4 request a brand new agreement or must in fact continue to  
5 negotiate or live under the agreement from 1997.

6 We believe the Commission is largely on the way to  
7 deciding the jurisdictional issue, and I won't reargue that  
8 here. We think it is very appropriate for Qwest to have  
9 proffered a new interconnection negotiation template for a  
10 new ICA. Our witnesses will demonstrate, and I will tell  
11 you here today, that that ICA was not written by Qwest, does  
12 not contain terms and conditions in it that were solely for  
13 Qwest's benefit.

14 It was a document that was created through a  
15 painstaking often tortuous process associated with three or  
16 four year applications of the request before the FCC for  
17 relief under Section 271. It contains terms and conditions  
18 that in many cases were written by state commissions or  
19 arbitrators and in other cases were written by our  
20 competitors. Contains terms and conditions that are in many  
21 cases very favorable to the requesting CLEC. It, in our  
22 view, complies with the law that it's currently written,  
23 reflects all of the changes of law since 1997.

24 It contains definitional terms and other  
25 provisions that comport with Qwest's current product

0112

1 descriptions and Qwest's current processes including the  
2 process called the change management process, or the CMP,  
3 that was set up in order to enable CLEC's to have an  
4 opportunity for input when Qwest wishes to change the way  
5 CLEC's interact with Qwest.

6 It also reflects this Commission's decisions on  
7 issues such as the relative use factor and VNXX and whether  
8 those minutes are appropriate for inclusion or exclusion and  
9 whether those minutes should be compensated or not. It is,  
10 of course, been the Commission's ruling in the not too  
11 distant past that VNXX traffic, if it is to be permitted to  
12 be exchanged at all in the state of Washington, is to be  
13 exchanged on a bill and keep basis.

14 For those reasons, and because the agreement that  
15 we presented to NCC has been drafted in a way so as to allow  
16 NCC to continue to use MF signaling, the only CLEC in the  
17 state of Washington that wishes to interconnect with Qwest  
18 using MF signaling. We believe we have reasonably  
19 accommodated their desire to maintain that term. We believe  
20 that the Interconnection Agreement itself is very reasonable  
21 and fair and balanced, in compliance with applicable law.  
22 And we believe that the Commission should, on all of the  
23 disputed issues, rule in Qwest's favor and adopt the ICA  
24 that was submitted in Qwest's August 2009 petition for  
25 arbitration. Thank you.

0113

1 JUDGE TOREM: Mr. McNamer?

2 MR. McNAMER: Yes. There are three main issues in  
3 North County's opinion. The first issue is MF technology  
4 and the use of MF technology by NCC. As Your Honor knows,  
5 NCC uses MF technology and Qwest used to use MF technology  
6 but now has changed to SS7 technology. There are other  
7 technologies that Qwest could have changed to but it chose  
8 SS7, and now it's attempting to punish NCC for not  
9 converting to Qwest's chosen technology. We don't believe  
10 there's anything in the law or any regulation that allows  
11 Qwest to dictate NCC's technology choices or allows Qwest to  
12 punish NCC for its technology choices. As Mr. Lesser's  
13 direct testimony makes clear, the MF technology is actually  
14 more reliable than SS7, and there will be more testimony  
15 about that today.

16 Moreover, Qwest alleged they cannot accurately  
17 track billing information on MF. That allegation, as  
18 Mr. Lesser's testimony makes clear, is false. Qwest chooses  
19 not to track the information, that's a choice that they've  
20 made. They could easily do so by programming their switches  
21 to track the information or by providing North County with  
22 something called an automatic number identification or ANI  
23 which would allow NCC to track the information. Qwest  
24 simply refuses to do either, and then it claims it doesn't  
25 have sufficient information to properly track MF.

0114

1           While Qwest's proposed language technically allows  
2 NCC to terminate calls using MF, it does not allow NCC to  
3 originate calls. If NCC wants to start originating calls  
4 NCC would have to switch to SS7 which would cost an amount  
5 of money that would make it prohibitive for NCC to ever do  
6 that. And though the language does allow for termination it  
7 arbitrarily caps the number of billable minutes at 240,000  
8 per DS1 line. DS1 lines, as you will hear today, have a  
9 capacity of about a million minutes. So, if you cap it at  
10 240,000 you're arbitrarily requiring my client to operate at  
11 24 percent capacity, either that or just give away the rest  
12 of the minutes for free. And, you know, again, there's no  
13 reason for that. That's just a made up number, 240,000.

14           The second issue is relative use factor, which is  
15 called RUF or maybe RUF, I'm not sure, but we'll call it  
16 RUF. But Qwest, again, has arbitrarily decided to count  
17 calls that originate from Qwest customers and terminate with  
18 NCC as if they originated from NCC customers and terminated  
19 with Qwest. There's -- as far as we know, there's no other  
20 ILEC, at least no other ILEC that NCC operates with, which  
21 does this, which uses a formula which literally does the  
22 exact opposite of what is actually happening as it relates  
23 to relative use.

24           Relative use is suppose to be exactly what it says  
25 it's suppose to do, it's suppose to determine what the



0115

1 relative use of the network is. And as Qwest has admitted,  
2 the current relationship between the two parties, the  
3 relative use, is that 100 percent of the use is used by  
4 Qwest customers terminating with NCC. NCC does not place  
5 outgoing calls, so 100 percent of the use is Qwest use. And  
6 by modifying the way you determine relative use Qwest is  
7 attempting to simply arbitrarily make relative use factor  
8 something that benefits Qwest. The factor should be based  
9 on reality and should operate to determine actual relative  
10 use. So, we would ask that the Commission deny the request  
11 to change the relative use factor.

12 Finally, there is an issue with VNXX. The  
13 Commission has already decided -- has already made a  
14 determination on what the definition of VNXX is. The  
15 Commission has already determined that VNXX is something  
16 that has to be bill and keep. We don't believe that there  
17 should be a different determination or definition by Qwest.  
18 The Commission has already defined VNXX calls and determined  
19 how they should be compensated. So we think that ruling  
20 governs and the parties do not need to address VNXX in this  
21 agreement.

22 And those are the three issues we'll talk about  
23 today. And we believe on all three issues the Commission  
24 should deny Qwest's request for the language that they've  
25 presented and instead, in relation to RUF and in relation to

0116

1 MF technology, use the prior language in the current ICA.

2 JUDGE TOREM: All right, thank you.

3 I take it then we're ready for witnesses. Are all  
4 the witnesses here?

5 MS. ANDERL: For Qwest, yes.

6 MR. McNAMER: Yes.

7 JUDGE TOREM: All right. So Qwest is going to put  
8 on their witnesses first?

9 MS. ANDERL: Yes.

10 JUDGE TOREM: It is going to be Ms. Albersheim  
11 first?

12 MS. ANDERL: It is going to be Mr. Linse first.

13 So Qwest would call Mr. Linse to the stand.

14 JUDGE TOREM: Mr. Linse, let me ask you to come  
15 over to this chair that's across from the court reporter.  
16 Since we don't need to use that for counsel today I will  
17 have you all the way to my right. And when you get to the  
18 microphone there I think if you push the button on there it  
19 will light up and then you will know that mic is active.

20 MS. ANDERL: Your Honor, may I ask a point of  
21 clarification?

22 JUDGE TOREM: Go ahead.

23 MS. ANDERL: I don't have a copy of the witness  
24 list in front of me that Your Honor sent out, as I neglected  
25 to print it. Are we going to refer to the exhibits just the

0117

1 way they were numbered without assigning them any sort of  
2 separate numerical identifier?

3 JUDGE TOREM: I think that would be fine. We were  
4 trying to do that in some of our more complex rate cases  
5 rather than listing these and having competing sets of  
6 numbers. I don't see any initials that are duplicative.  
7 And there's only three witnesses, so I think they're fine as  
8 they are. So it will be the first and last initial of the  
9 witness, a number and then if it's a testimony exhibit with  
10 a "T." So, for Mr. Linse it looks like we have exhibits  
11 PL-1T, PL-2 and PL-3T.

12 MS. ANDERL: Yes. Thank you, Your Honor, just  
13 wanted to clarify that so we're all...

14 JUDGE TOREM: Mr. Linse, is the microphone on in  
15 front of you?

16 MR. LINSE: Yes.

17 JUDGE TOREM: Briefly I am going to have you stand  
18 up and I'll swear you in.

19

20 PHILIP A. LINSE,  
21 having been first duly sworn  
22 on oath was examined and  
23 testified as follows:

24

25 JUDGE TOREM: Sir, if you can state and spell both

0118

1 your first and last name for the court reporter?

2 MR. LINSE: My name is Philip Linse, P-h-i-l-i-p.

3 And Linse is spelled L-i-n-s-e.

4 MS. ANDERL: Thank you, Your Honor.

5

6 DIRECT EXAMINATION

7 BY MS. ANDERL:

8 Q. Good morning, Mr. Linse.

9 A. Good morning.

10 Q. You prepared and caused to be filed in this docket  
11 Exhibits PL-1T, PL-2 and PL-3T; is that correct?

12 A. That's correct.

13 Q. Is that your testimony in this case?

14 A. Yes, it is.

15 Q. And if I were to ask you the questions contained  
16 in that testimony today would your answers be the same?

17 A. Yes.

18 Q. Do you have any changes or corrections that you  
19 need to make?

20 A. No, I don't.

21 MS. ANDERL: Your Honor, we would move the  
22 admission of those three exhibits and tender the witness for  
23 cross.

24 MR. McNAMER: No objection.

25 JUDGE TOREM: Those exhibits will be admitted.

0119

1 Mr. McNamer, your witness.

2

3 CROSS-EXAMINATION

4 BY MR. McNAMER:

5 Q. Mr. Linse, I believe in your direct examination  
6 you said that you worked for CDI Telecommunications in  
7 Missoula, Montana; is that correct?

8 A. Yes, that's correct.

9 Q. During your employment with CDI was it your job or  
10 responsibility to install or maintain or program central  
11 offices?

12 A. No, that was not part of my job function at CDI.

13 Q. In 1998 it looks like you took a job as a planner  
14 with Pacific Bell; is that correct?

15 A. That is correct.

16 Q. And was it your job at Pacific Bell to install,  
17 maintain or program central offices?

18 A. No, it was not part of my job function at Pacific  
19 Bell.

20 Q. In 2000 it looks like you took a similar position  
21 at Qwest; is that correct?

22 A. That's correct.

23 Q. Was your responsibility at Qwest to install,  
24 maintain or program central offices?

25 A. Not as the transfer, that job function, no.

0120

1 Q. And in 2001 you were promoted to staff position of  
2 technical regulatory interconnection planning with Qwest; is  
3 that correct?

4 A. That's correct.

5 Q. At that point was it your job to install, maintain  
6 or program central offices?

7 A. It was my job to understand that -- how to program  
8 and not necessarily install but how switches work.

9 Q. Did you ever actually install, maintain or program  
10 central offices?

11 A. I did do some programming when I went through the  
12 switch translations courses that were part of my training  
13 for that position of interconnection planner.

14 Q. Did you do any actual installation, maintenance or  
15 program in the field?

16 A. No, I have not, the actual installations.

17 Q. So you -- so I'm clear, you took some -- in a  
18 class you took you had to do some programming but other than  
19 that you have no real world programming, installation or  
20 maintenance of central offices?

21 A. Actually, those training classes involved real  
22 world switches.

23 Q. Were they active switches that Qwest was using or  
24 switches just for the purpose of the class?

25 A. Well, as far as the classes were concerned those

0121

1 were not customer affecting switches, no.

2 Q. Okay. Have you ever programmed a Northern Telecom  
3 or Lucent central office?

4 A. Lucent, I think, is where the main training course  
5 that I was involved with, when I programmed, was involved  
6 with switch translations.

7 Q. So the one we were talking about earlier that you  
8 programmed in a class was a Lucent one?

9 A. Right.

10 Q. And what was the -- how many days or weeks or  
11 months was the training for the programming of the Lucent  
12 central offices?

13 A. I don't recall, it was maybe five weeks.

14 Q. Was it a tandem or in-office -- I mean tandem or  
15 in-office switch training?

16 A. It involved both.

17 Q. Have you ever read the Bellcore document LSSGR?

18 A. The LSSGR is a very, very large set of documents.  
19 So, I don't think I've -- I don't know if I've ever heard of  
20 anybody reading the entire LSSGR.

21 Q. Have you read the portion of the LSSGR that  
22 discusses the capability of a central office switch?

23 A. Yes.

24 Q. And did you do that as part of your classes?

25 A. I did that as part of the preparation for this as

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1 well as other references as part of my function as a  
2 interconnection planner.

3 Q. Have you ever read any of the programming manuals  
4 for the Northern Telecom or a Lucent central office?

5 A. I believe that was part of my training, they  
6 provided that type of documentation to me.

7 Q. For both or just for Lucent?

8 A. For the Lucent.

9 Q. Now, you testified that Qwest can't track MF  
10 calls. Did you -- in preparing your testimony did you  
11 contact anyone at Northern Telecom or Lucent to see if they  
12 knew of a way to track MF calls?

13 MS. ANDERL: I'm going to object, Your Honor, I  
14 believe that this -- I believe that Counsel's paraphrase of  
15 Mr. Linse's testimony misstates his testimony. I don't  
16 believe that Mr. Linse stated that we can't track MF calls.

17 MR. McNAMER: Okay. Let me just clarify.

18 Q. (By Mr. McNamer) Can you explain to me what you  
19 believe to be the limitation on tracking of MF calls?

20 A. Essentially what we have as far as the ability to  
21 track is the ability to identify individual call events.  
22 They call those the peg count which identifies individual  
23 calls in either direction between the companies. In  
24 addition to that Qwest switches have the capability to  
25 identify the overall usage throughout a period of time for a



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1 particular trunk with a particular switch.

2 Q. What piece of information that you need to  
3 accurately track calls is missing?

4 A. What is missing is the ability to segregate the  
5 individual calls, specifically the difference between an  
6 interLATA or an interstate call and intrastate call and  
7 intraLATA call, a transit local call, a transit intraLATA  
8 toll call, a local Qwest originated or terminated call.  
9 Those are I think pretty -- and wireless, originating and  
10 terminating wireless.

11 Q. Have you, in relation to the things that you just  
12 named were missing pieces of information, have you tried to  
13 contact anyone to determine whether or not that information  
14 is available?

15 A. In the preparation of my testimony I've consulted  
16 with many of our tech support engineers and they have weekly  
17 discussions about different switch translations, issues and  
18 confirmed what my understanding was which was this was a  
19 limitation of our switch.

20 Q. Did you contact anybody at Northern Telecom or  
21 Lucent?

22 A. No, I did not. Our technical support staff is  
23 very -- their job functions are specific to individual  
24 switch vendors. So we will have individual tech support and  
25 engineers that specialize in the manufacture/vendor type

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1 switch. So we have Nortel switch tech supports as well as  
2 Lucent and Ericsson.

3 Q. And you contacted your own tech support for each  
4 of those vendors to determine whether or not your  
5 understanding of the information/issues was correct?

6 A. That's correct. I basically confirmed that the  
7 same limitation exists with all the switches that we  
8 operate.

9 Q. I believe Mr. Lesser testified that AT&T and  
10 Verizon track North County's in-bound and out-bound MF  
11 traffic, did you read that testimony?

12 A. Yes, I did.

13 Q. And did you contact Verizon or AT&T to figure out  
14 how they're doing that?

15 A. You know, we are involved with the network  
16 interoperability and interconnection forum which is an  
17 industry standard group that Qwest, AT&T, as well as Verizon  
18 participate in. And we queried AT&T and Verizon on that.  
19 And the feedback that I got, which was not formal, was that  
20 they did not track it in the same way that Mr. Lesser has  
21 testified to.

22 Q. Did they explain to you how they track it or how  
23 they bill --

24 A. No, it was just a high level query to them. I  
25 don't know exactly what their expertise was as far as our

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1 interface with them.

2 Q. Do you know who you spoke with?

3 A. Their network interoperability interconnection  
4 forum representative.

5 Q. Do you know if that person had any direct  
6 familiarity with --

7 A. I really don't know. It was kind of a general  
8 query with them and so I don't know exactly what their  
9 expertise was.

10 Q. Now, is it your position that MF is not as  
11 reliable as SS7?

12 A. In some instances it's not. I think when you look  
13 at the overall capability of that trunk, and the problems  
14 that you can have with an MF trunk versus an SS7 trunk, SS7  
15 is more reliable.

16 Q. Do you have any -- have you looked at any  
17 statistics relating to outages for the two different kinds  
18 of trunks to determine whether statistically one is more or  
19 less reliable?

20 A. What I have looked at is that since SS7 has been  
21 developed and is a protocol that has been considered a  
22 mature protocol, the reliability has increased significantly  
23 just since 9-11, and has consistently become more and more  
24 reliable as time progresses.

25 Q. Are you saying the reliability of SS7 has

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1 increased as compared to --

2 A. Absolutely.

3 Q. -- prior reliability of SS7?

4 A. Absolutely. When SS7 was first installed into the  
5 networks and was first used of course companies weren't as  
6 familiar with the procedures that would be necessary to make  
7 it as reliable as it is today. Over time the companies --  
8 we've all learned to make SS7 about as reliable as it can  
9 be.

10 Q. And my question was as compared to MF have you  
11 done any research or seen any statistics which compare the  
12 reliability of SS7 as compared to the reliability of MF?

13 A. The reliability, I think, is pretty relative  
14 because you're talking about a whole different network.  
15 You're talking with SS7 an out-of-band type signaling. SS7  
16 is its own network where MF is not its own network, it's  
17 just the voice network. So it's only as reliable as that  
18 one circuit that runs between the two switches, where SS7,  
19 you know, it's a whole nother network.

20 Q. Is it true that 9-11 system uses MF signaling?

21 A. 911 you mean?

22 Q. Sorry, 911.

23 A. We do use SS7 for our 911 trunking at Qwest.

24 Q. You use SS7?

25 A. That's correct.

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1 Q. In general in the country is 911 typically MF?

2 A. I think people, or other carriers, are moving  
3 towards using SS7 for 911. You know, Qwest has converted,  
4 if not all, the majority of its network -- 911 network to  
5 SS7.

6 Q. So right now you're using both MF and SS7 for 911?

7 A. You know, I'm not 100 percent sure if it's  
8 complete. There might be one or two offices or a few  
9 offices that might be MF, but I don't think they really  
10 exist. I think there are -- I think we are 100 percent off  
11 MF, but I haven't validated that, but I know we are in the  
12 process or have converted our 911 network to SS7.

13 Q. In the 13 years that NCC and Qwest interconnected  
14 were there ever any outages related to the MF signaling that  
15 you know of?

16 A. Can you repeat that question? I missed the first  
17 part.

18 Q. In the prior 13 years where NCC and Qwest  
19 interconnected do you know of any outages related to MF  
20 signaling?

21 A. I don't know if I would know or if anybody would  
22 really know because I don't think we document that type of  
23 outage.

24 Q. So you don't know of any?

25 A. I don't know of any.

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1 Q. In your reply testimony I believe you stated that  
2 the agreement required NCC to implement SS7 in a very short  
3 period of time; is that your testimony?

4 A. Yes.

5 Q. Now, isn't it true that the last Qwest central  
6 office just converted from MF to SS7 a few months ago?

7 A. Yes.

8 Q. And so I guess I don't understand the point that  
9 you're making then. So there was an agreement that was  
10 entered 13 years ago and your testimony was that that  
11 agreement required the conversion to SS7 in a very short  
12 period of time, yet 13 years later Qwest is just finally  
13 changed over their last central office to SS7?

14 A. That's correct. Essentially how Qwest implemented  
15 SS7 is as we entered into agreements with other CLEC's Qwest  
16 upgraded its switches as interconnection requests came in.  
17 Obviously, we would start with the much larger offices, the  
18 tandem offices and those types of metro area type switches.  
19 The last few switches that Qwest upgraded were in very rural  
20 areas where there was no competitive presence, thus there  
21 was no real necessity to upgrade into that to an SS7.  
22 However, if we were to receive a request for interconnection  
23 we would have upgraded that particular switch.

24 Q. And do you know about how much it costs to  
25 upgrade, let's just take one of the smaller switches, how

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1 much it costs to do the upgrade from MF to SS7?

2 A. I don't have the actual figures but it was for the  
3 last switch that we upgraded it cost about \$30,000, 30 or  
4 \$40,000 to upgrade that switch.

5 Q. What kind of switch was that?

6 A. It was a DMS-10.

7 Q. Do you know what kind of switches NCC uses?

8 A. They're DMS-100's.

9 Q. At the point five months ago isn't it true that  
10 NCC couldn't have ordered SS7 trunks to that central office  
11 that was using MF technology?

12 A. They could have, we would have then had to have  
13 upgraded that switch to SS7.

14 Q. As the switch was at the time it wouldn't have  
15 been able, you would have had to upgrade it in order for  
16 them to connect?

17 A. Of course.

18 Q. Did you have to replace the central office to  
19 implement the SS7 in that central office?

20 A. No.

21 Q. How did you do the upgrade without replacing the  
22 central office?

23 A. It's just -- I think there was some software and  
24 some hardware. But the Nortel switches have the capability  
25 of doing SS7, it's a matter of basically making sure that

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1 you have the appropriate interfaces and software to enable  
2 that capability.

3 Q. If you didn't have a switch that had SS7  
4 capability do you know how much it would cost to change out  
5 the central office?

6 A. No, I don't.

7 Q. Do you know how much a new central office with an  
8 SS7 switch costs?

9 MS. ANDERL: Objection, Your Honor. This is a  
10 question that was asked in discovery. It is vague without  
11 adequate parameters to enable the witness to answer, nor are  
12 central office costs directly at issue in this case.

13 JUDGE TOREM: Sustained.

14 Q. (By Mr. McNamer) Do you know how much -- at any  
15 point did you have to replace a central office entirely to  
16 upgrade to SS7?

17 A. Hmm...

18 Q. You mentioned that MF doesn't allow you to send  
19 calling party information, have you ever set up an MF trunk  
20 group?

21 A. I'm trying to think back to my training if we set  
22 up -- I think there's an option to set those types of trunk  
23 groups up in the Nortel software, or in the Lucent software  
24 I should say.

25 Q. Do you know if you ever did it?



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1           A.    I think we probably did it as part of, you know,  
2    let's set up a trunking arrangement MF, let's set up a  
3    trunking arrangement with SS7.

4           Q.    Have you ever done that in the field other than  
5    your training class?

6           A.    No, I haven't been involved with that on a live  
7    switch.

8           Q.    Is it true that MF 911 and Feature Group D trunks  
9    send calling party information?

10          A.    Would you repeat those?

11          Q.    Isn't it true that MF 911 and Feature Group D  
12   trunks both send calling party information?

13          A.    I don't know if I would call it calling party, I  
14   would call it automatic number identification which is more  
15   of a billing telephone billing type number.

16          Q.    And, so, MF 911 trunks send automatic number  
17   identification information?

18          A.    That's true.

19          Q.    Isn't it true that right now you segregate --  
20   Qwest segregates trunk groups on a jurisdictional basis?

21          A.    No, we don't require that that's -- that's not a  
22   requirement.

23          Q.    Is it something that you guys do?

24          A.    We typically segregate specialized type trunk  
25   groups such as 911 and operator services, directory

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1 assistance type trunk groups because of the specialized  
2 nature of those; however, other types of jurisdictional  
3 billed type trunk groups or trunk groups that are subject to  
4 different jurisdictional billing can be combined.

5 Q. Now, a second ago you said that MF 911 trunks send  
6 ANI information. Can't you use ANI to determine  
7 jurisdiction?

8 A. ANI is typically used like with -- like Feature  
9 Group D is a -- the jurisdiction is predetermined when that  
10 call is originated. And, so, the ANI merely provides the  
11 billing information to the interexchange carrier for the  
12 long distance jurisdictional traffic.

13 Q. How is it predetermined?

14 A. By the originating office.

15 Q. Can you use the ANI -- let's assume it's not  
16 predetermined. Can you use ANI to determine jurisdiction?

17 A. I guess I'm not quite sure what you mean by can  
18 you use ANI? You can use a telephone number to determine  
19 jurisdiction. If you want to call it ANI, I mean that's...

20 Q. And so if -- just trying to connect the dots here.  
21 So if MF trunks can provide ANI information--ANI information  
22 is a telephone number--and a telephone number can be used to  
23 determine jurisdiction, then MF trunks can provide  
24 information that allows you to determine jurisdiction;  
25 right?

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1           A.    That's not how the network is designed and how the  
2 network operates.  If you want to create a whole new network  
3 and whole new set of rules as far as how the network  
4 operates then you can probably come into any one of our  
5 industry standard meetings and propose a new standard for  
6 how this traffic is identified and recognized.  In fact, you  
7 know, it's a big issue in the industry today that the  
8 industry groups have been attempting to address is, you  
9 know, how can we better identify traffic?  The problem is is  
10 with MF, MF has specific limitations that prohibit ANI, any  
11 type of identifying originating information associated with  
12 local calls.

13           Q.    But if -- let's just say Qwest didn't want to  
14 change their system so they figured out the jurisdiction  
15 using the information that can be provided by MF trunks,  
16 couldn't Qwest at the very least provide the ANI information  
17 to North County, or North County could then send a bill to  
18 Qwest based on the ANI information that Qwest delivers to  
19 North County?

20           A.    I suppose they could probably do that over like a  
21 long distance trunk, but then I believe the traffic over  
22 that trunk would be subject to long distance charges.  So if  
23 North County would like to establish that kind of a trunk  
24 with Qwest, you know, we could send that traffic over to  
25 that trunk and bill them long distance charges for that

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1 traffic.

2 Q. But couldn't Qwest just take the information that  
3 is available -- and maybe I'm not understanding this. But  
4 it sounds like what you said is that you can get ANI from an  
5 MF trunk and if you have ANI then you can figure out the  
6 jurisdiction, but Qwest billing isn't set up to look at ANI  
7 and determine jurisdiction for billing purposes, is that --  
8 am I summarizing that part correct?

9 A. I don't believe so.

10 Q. So tell me what's wrong.

11 A. I'm not really sure exactly what all you were  
12 trying to say.

13 Q. Okay. So stop me when I get something wrong. So  
14 MF trunks have the ability to send ANI; that's correct,  
15 right?

16 A. For long distance traffic, that's correct.

17 Q. Why is it only long distance traffic?

18 A. Because that information is necessary for carrier,  
19 a long distance carrier, to bill for the traffic. In  
20 addition to that, of course, you have 911 that provides ANI,  
21 and that provides the information of the calling party to  
22 PSAP which is the Public Safety Answering Point so that the  
23 operator at Public Safety Answering Point can identify  
24 address type information associated with that calling party.  
25 And it's very specific to the service that's being provided.

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1 So 911 is an emergency service type signaling that provides  
2 ANI, the called party is always 911. So you don't have  
3 really a jurisdictional issue there, it's an emergency  
4 service trunk which is why you have the protocol set up the  
5 way it's set up.

6 Q. I understand there's a specific reason why 911 has  
7 the ANI information because you want to know who's calling  
8 to report an emergency. But what's the reason why you can't  
9 set up a local trunk to do the exact same thing, is there --  
10 I mean if you can do it for long distance and you can do it  
11 for 911 there doesn't seem to be a technical barrier for  
12 doing it for local, you just don't do it that way. But is  
13 there a technical reason why you can't?

14 A. I believe it's called a long distance trunk or a  
15 911 service. It's either long distance -- there's  
16 essentially what? four types of traffic in the network.  
17 You've got long distance, you've got local, you've got 911  
18 and operator services. There's some other extraneous type  
19 trunks but those are essentially the four categories of  
20 signaling information that comes with those types of  
21 services.

22 Q. I understand that Qwest classifies services  
23 differently, but the switches themselves can do it, you're  
24 just making determinations based on the classifications not  
25 to do it; right?

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1           A.    You know, we could provide a 911 service but it  
2    would provide 911 service.  I mean I guess I'm not quite  
3    sure what --

4           Q.    My point is this, you know, if you can collect  
5    this information for long distance calls, and you can  
6    collect the information for 911 calls then you can collect  
7    the information.  And I understand that you have determined  
8    that you only collect it for certain classes of information  
9    or if it's a long distance call or if it's a 911 call or  
10   there's some other kind of special service call.  But  
11   there's no technical reason--I mean I understand there's a  
12   determination that you don't do it--but there's no technical  
13   reason why a local switch couldn't also collect that  
14   information; right?

15          A.    Okay.  You've just changed the question.  The  
16   question originally was whether or not we can provide ANI on  
17   these different types of trunks.  Now it's a question of  
18   whether or not we can record that information.  And I don't  
19   think we've said that we can't collect the information, it's  
20   a matter of limitations of signaling for a local call does  
21   not provide the ANI or any other calling party information.  
22   It's local signaling and that's the nature of local  
23   signaling, period.

24          Q.    Okay.  Is that parameter that is just set up by  
25   Qwest that the way you define local signaling it does not

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1 allow for the collection of ANI? The switches themselves  
2 could collect the information but you've set up a parameter,  
3 this is what local calling means, and local calling doesn't  
4 mean we collect ANI -- or send the ANI, sorry?

5 A. So what is -- long distance call requires the  
6 interexchange carrier to obtain billing information, that is  
7 why ANI is sent on a long distance call. With a local call  
8 that type of information is not necessary. So MF signaling  
9 was never designed to provide that kind of information on a  
10 local call.

11 Q. Okay. And so what if it was necessary?

12 A. Then the protocol would have been designed with  
13 that capability.

14 Q. Okay. But -- and obviously I'm not a technician,  
15 but the thing I'm not understanding is one of the points  
16 you're making is with MF technology you can't get the  
17 information, the necessary information to segregate it  
18 jurisdictionally? And then on the other hand the  
19 information, the ANI information is something you can get  
20 from MFI -- I'm sorry, from MF, and if you get that  
21 information you can segregate it jurisdictionally? And so  
22 it sounds to me, and correct me if I'm wrong, that you're  
23 saying the necessary information we can't get? And on the  
24 other hand you're saying, well, we can get it but we're not  
25 set up to -- for local calls we just don't, we don't, that's

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1 just not what we do, that's not part of the local call  
2 protocol.

3 So if someone decided tomorrow that it was  
4 necessary, or, for instance, in order to track MF calls  
5 coming from North County you decided, well, it's necessary  
6 for us now to track ANI for local calls, there's nothing in  
7 the switches that would prevent you from doing that; right?

8 A. That's the interesting thing about this whole case  
9 is that the industry has moved to SS7. Qwest interconnects  
10 with, you know, well over 100 different CLEC's and they're  
11 all SS7. NCC is the only one that insists on being MF for,  
12 you know, exclusively. The MF protocol type of signaling is  
13 basically obsolete. Everybody is using SS7 in the public  
14 switch telephone network. So if you brought that to the  
15 industry you would be waiting a long time before you would  
16 see a standard come out redefining MF signaling to provide  
17 ANI on a local call.

18 Q. Are there other -- you said that everybody  
19 switched to SS7, isn't it true that a lot of people have  
20 switched to other things other than SS7?

21 A. I think there are other methods of providing  
22 signaling with the -- with new Voiceover IP type calling and  
23 things like that. There's other signaling protocols out  
24 there that other companies use, but there isn't -- hasn't  
25 been any industry standard that has been agreed upon for all



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1 service providers to exchange traffic.

2 Q. Is there some agreement somewhere where everybody  
3 has decided on SS7?

4 A. I don't know if there is necessarily an agreement  
5 but it's basically a de facto standard that all service  
6 providers at least on a TDM network uses SS7.

7 Q. Let's move on to a different issue. So is there  
8 any technical reason to cap the number of billable minutes  
9 at 240,000 minutes per DS1 line?

10 A. 240,000 for a DS1, from a technical perspective,  
11 typically that kind of an arrangement is provided using a  
12 call centum second usage calculation. When you look at the  
13 blocking objectives associated with trunking, which is the  
14 amount of calls, the percentage of calls that would complete  
15 over a particular trunk group during a very high volume of  
16 traffic time.

17 I think most people understand that Mother's Day  
18 is typically like the biggest phone call day of the year  
19 where everybody is calling their mothers for Mother's Day.  
20 And so when you engineer your network you engineer it based  
21 on the busy hour of the busy season which is typically the  
22 Mother's Day period. When you look at the call centum  
23 seconds associated with that there is an acceptable limit as  
24 to how much volume is acceptable over those trunk groups in  
25 order to minimize the amount of blocking. And so when you

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1 take that calculation into play and you say I'm going to  
2 engineer my network to the busiest time of the year so I can  
3 insure that that capacity is there for that busy time of the  
4 year then you have to -- basically you end up over  
5 engineering it for the rest of the year.

6 So when you look at that calculation it's about, I  
7 think about a 60 percent utilization for the rest of the  
8 year is what you would experience over that trunk group.  
9 And I've done some note pad and pencil calculations and it  
10 comes to be about 240,000 minutes for the -- what we would  
11 call the 512CCS rule which is also in our contract. And  
12 it's kind of an accepted level of traffic volume over a  
13 particular trunk group.

14 Q. Okay. But isn't that an engineering issue not a  
15 billing issue?

16 A. It's an engineering issue that says this is what  
17 the maximum number of minutes you would theoretically see  
18 over that trunk group to make -- to get to the point where  
19 you have that 512 call centum seconds. And that then  
20 translates into the need for another trunk group. Which  
21 from a billing perspective, okay, how many minutes is there  
22 possible over a DS1 before you actually need to install  
23 another DS1? And I think that's where you get your billing  
24 calculation is because that DS1 has a capacity of about  
25 240,000 minutes. Once you reach that benchmark then you

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1 would need to put in another DS1.

2 Q. But doesn't the capacity you're referring to -- so  
3 you're just talking about the sort of low average capacity  
4 you need so at the high point of the -- on Mother's Day you  
5 don't get dropped calls or you don't get busy signals and  
6 the rest of the year it's way under capacity; is that right?

7 A. It can be. I mean it depends. You can also have  
8 that fluctuation of other times of the year, doesn't  
9 necessarily have to be Mother's Day.

10 Q. Isn't that also completely dependent on the types  
11 of callers you have and the types of calls they're making?

12 A. Yeah, there's a whole algorithm as determining how  
13 that works. But it's designed into the network.

14 Q. And you guys don't stop billing your customers  
15 when you go over 240,000 minutes; is that correct?

16 A. I think that's when your billing issue comes into  
17 play. I think that's a protection for Qwest because of the  
18 MF nature of the connection and their inability to track --  
19 or not track, but to receive the calling party information  
20 that you would normally receive like with SS7.

21 Q. Other than making Qwest -- okay. Can you tell me  
22 why that number couldn't be 350,000?

23 A. Well, from an engineering perspective if you were  
24 to draw that line, if you were to equate 512CCS to a  
25 particular number of minutes then it's whatever that number

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1 of minutes are.

2 Q. But you're not proposing to actually limit the  
3 amount of minutes actually used, just the amount of minutes  
4 that you'll pay for? So, for instance, if Qwest customers  
5 call my client and use a million minutes you're not limiting  
6 the ability of my client to take a million minutes of calls  
7 from Qwest customers, my client can do that, technically,  
8 you're not setting up any sort of engineering blockade for  
9 that? So your clients -- or Qwest customers get to call my  
10 client for a million minutes, Qwest is just saying we're  
11 only going to pay you for the first 240,000 minutes of it;  
12 right?

13 A. I think that's part of the protection of limiting  
14 Qwest's exposure to the unknown nature of the traffic.

15 Q. If you're a retail or a wholesale customer and you  
16 send 800,000 minutes is Qwest going to only bill for 240,000  
17 minutes of that?

18 A. I don't think this is a matter of Qwest billing,  
19 it's a matter of Qwest's exposure to NCC's traffic that's  
20 originated MF or terminated MF.

21 Q. But earlier you said that the 240,000 minutes  
22 relates to some engineering calculation where that's about  
23 how much you need in order to make sure that your network is  
24 fine during the busiest periods. So earlier you said  
25 240,000 minutes, it's an engineering number, right? It has

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1 to do with being able to maintain capacity during peak  
2 periods of time; right?

3 A. The 512CCS is an engineering number. The 240,000  
4 minutes is a cap in the Interconnection Agreement. You  
5 asked is there any technical association of the 240,000  
6 minutes from an engineering perspective. And I said, yes,  
7 there is, and that was my explanation for that.

8 Now, the 240,000 from a billing perspective, or  
9 the cap that's in the Interconnection Agreement, I think is  
10 different than from my engineering perspective.

11 Q. So there's two reasons to have the 240,000 cap,  
12 there's the technical reason to have it at 240,000 and then  
13 there's also a billing reason. And the billing reason is  
14 that it will disincentivise people to use more than 240,000  
15 minutes?

16 MS. ANDERL: Your Honor, I'm going to object.  
17 Ms. Albersheim is the witness who supports the billing  
18 rationale. And that question is therefore outside the scope  
19 of Mr. Linse's testimony.

20 MR. McNAMER: Want me to respond to that?

21 JUDGE TOREM: Overruled. I think Mr. Linse is  
22 doing a fine job of answering these. If Mr. Linse feels  
23 he's not competent to answer the question he can say so.

24 A. Well, and I think Renee, Ms. Albersheim, would  
25 have probably a better insight into that and could probably

0144

1 answer your question a little more completely than I can  
2 from the billing side of it.

3 Q. (By Mr. McNamer) Is there anything that says  
4 240,000 minutes as compared to 305,000?

5 A. From an engineering perspective the 240,000 or  
6 even 300 is really a guess from an engineering perspective  
7 even. And that's just because of the nature of trying to  
8 convert call centum seconds to minutes of use which doesn't  
9 really convert. You kind of have to say, well, if 512CCS is  
10 about a 60 percent use of trunk and how many minutes are  
11 possible over the trunk theoretically? Then you're kind of  
12 at 240,000 minutes. I mean it's not an exact calculation by  
13 any means, it's just kind of a ballpark.

14 Q. And is there anything that -- technically is there  
15 any reason -- do you have any reason to believe, as you sit  
16 here today, that my client's DS1 lines can't operate at a  
17 million minutes without having any blocked calls?

18 A. I can't imagine a trunk working, a T1 working at a  
19 million minutes and not experience some blocking.

20 Q. But doesn't that depend a lot on the kind of calls  
21 the T1 is getting?

22 A. Really it's more of the peakedness of the trunk  
23 group. And what I mean by "peakedness" is you have -- the  
24 calling patterns of people are very dynamic. You can have  
25 times where call volumes just peak and other times where

0145

1 they may not peak as much. And so they call that variation,  
2 quote, peakedness. And that's what the, you know, the call  
3 centum seconds, the trunk engineering standards are suppose  
4 to accommodate for is that kind of peakedness. And I would  
5 never expect to see a million minutes used sequentially  
6 across a trunk group. You will always see some sort of  
7 peakedness associated with human calling patterns.

8 Q. Could you have a trunk group that -- would a DS1  
9 line be able to handle a trunk group that was sort of always  
10 in the 700,000 to 1.2 million minutes?

11 A. You know, again, a calculation like that, you're  
12 trying to back in to the engineering of that and it just --  
13 minutes of use does not typically transfer into the  
14 engineering of a trunk group.

15 Q. So it's something that's very difficult to  
16 calculate?

17 A. It's not something engineers calculate at all. We  
18 don't -- when you design a trunk group you don't design it  
19 based on how many minutes of use.

20 Q. And, so, under the formula that Qwest has, let's  
21 just assume that NCC has DS1 lines and they can handle up to  
22 a million minutes, not constant million minutes of use but  
23 up to a million minutes of use. Unless NCC wanted to give  
24 away that last 760,000 they would just order another line?  
25 After 240 you just keep ordering lines? Like if you want to

0146

1 get anything more than 240 you can get that, you can get it  
2 and get paid, you just have to order another line; is that  
3 right?

4 A. You know, again, engineering of those trunk groups  
5 is different than minutes of use, and, so, I would not  
6 equate the two from an engineering perspective.

7 Q. Can you explain to me why Qwest remote call  
8 forwarding service is not VNXX?

9 A. From a technical perspective with call forwarding  
10 there's two telephone numbers involved, the called number  
11 and then the forwarded to number. And in each of those  
12 instances those numbers are assigned within the local  
13 calling area of the subscriber that subscribes to those  
14 services.

15 Q. The local number isn't assigned to the -- does  
16 Qwest currently have the ability to not bill a CLEC for  
17 terminating traffic to a remote call forwarding number?

18 A. I guess you're going to have to clarify that.

19 MR. McNAMER: Actually, I don't need the answer to  
20 that question. I'll withdraw that question. Can I take a  
21 minute break to see if there's anymore questions?

22 (Discussion between Mr. Lesser and  
23 Mr. McNamer held off the record.)

24 MS. ANDERL: Your Honor, may we have a few minutes  
25 off the record then for a general comfort break?



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1                   JUDGE TOREM: We will as soon as he comes back and  
2 let's us know if he has additional questions we will take a  
3 brief recess.

4                   MS. ANDERL: Thank you.

5                   MR. McNAMER: We don't have any further questions.

6                   JUDGE TOREM: All right, thank you. It's about  
7 10:20, so we'll take a break. Maybe about 10:30 we'll come  
8 back on the record unless, Ms. Anderl, you need any time to  
9 check with your witness on any redirect?

10                  MS. ANDERL: I think we're ready to proceed after  
11 the break. Thank you, Your Honor.

12                  JUDGE TOREM: We'll come back in 10 or 12 minutes  
13 and proceed with redirect of Mr. Linse.

14   (Break taken from 10:16 to 10:32 a.m.)

15                  JUDGE TOREM: All right. We're back on the  
16 record. It's a little after 10:30. Ms. Anderl, ready for  
17 redirect of the witness?

18                  MS. ANDERL: Yes, Your Honor, Mr. McNamer and I  
19 have spoken previously about stipulating to the admission  
20 of/or official notice being taken of the two Interconnection  
21 Agreements that are at issue in the docket, the 1997 one and  
22 the proposed 2009 one. And I believe he has said that he  
23 did not have a problem with that. I thought I would ask  
24 Your Honor how you would like us to refer to those at this  
25 point since I do have a couple of redirect questions for

0148

1 Mr. Linse on the 1997 ICA.

2 JUDGE TOREM: You can go ahead and refer to it  
3 that way. I'll mark the 1997 Interconnection Agreement as  
4 Bench Exhibit 1.

5 MS. ANDERL: Okay, great.

6 JUDGE TOREM: And the proposed 2009 ICA or  
7 Interconnection Agreement as Bench Exhibit 2, but you don't  
8 have to refer to them by their exhibit numbers, I think  
9 we'll be clear enough in the record as to which ICA's we're  
10 referring to and go from there.

11 MS. ANDERL: Thank you, Your Honor.

12

13 REDIRECT EXAMINATION

14 BY MS. ANDERL:

15 Q. Mr. Linse, before we get to the 1997 ICA, let me  
16 direct you to some questions that Mr. McNamer asked you  
17 about whether you had checked with AT&T and Verizon with  
18 regard to their ability to track inbound and outbound calls  
19 to NCC, do you recall those questions?

20 A. Yes, I do.

21 Q. And in connection with Qwest's questions about  
22 that issue, did Qwest ask NCC some data requests on AT&T and  
23 Verizon's ability to track inbound and outbound calls?

24 A. Yes.

25 Q. And are you familiar with and did you review the

0149

1 NCC answers to those data requests?

2 A. Yes, I did review them.

3 MS. ANDERL: Your Honor, I would like to offer now  
4 as an exhibit, an exhibit that I was going to offer on  
5 cross, it is the set of North County Communications  
6 responses to Qwest Corporation's first, second and third  
7 sets of data requests just bundled together as a packet.  
8 How many copies would the Bench like?

9 JUDGE TOREM: I'll need one for now and then we'll  
10 arrange to put, I think, four copies to the records center  
11 should be sufficient for those on staff that are tracking  
12 the case.

13 MS. ANDERL: Thank you. May I approach the  
14 witness to give him a copy?

15 JUDGE TOREM: Certainly.

16 If you want to hand one up to me now that would be  
17 great.

18 MS. ANDERL: Sorry, I just thought I teleported it  
19 there to you. I apologize, Your Honor.

20 JUDGE TOREM: We don't have VNXX for exhibits I  
21 don't think.

22 MS. ANDERL: And, Your Honor, how should we  
23 identify this exhibit?

24 JUDGE TOREM: The main use of this is going to be  
25 for cross-exam of Mr. Lesser; is that right?

0150

1 MS. ANDERL: Yes.

2 JUDGE TOREM: I think what we'll do is just mark  
3 this as TL-3X, that way we'll know it's associated with that  
4 witness mainly. But certainly this is going to be, it looks  
5 like three different documents as you've described it, two  
6 pages each, so for a total of six pages; is that correct,  
7 will be TL-3X?

8 MS. ANDERL: Yes, Your Honor. Thank you.

9 Q. (By Ms. Anderl) Mr. Linse, in connection with the  
10 AT&T/Verizon issue we were just discussing did you assist me  
11 in the preparation of certain data requests to NCC  
12 addressing that topic?

13 A. Yes.

14 Q. Was one of those data requests Request No. 2?

15 A. I believe that was, yes.

16 Q. And on the second page of this six page packet do  
17 you see Request No. 2 and NCC's response?

18 A. Yes, I see that.

19 Q. And then on the last page of this document did you  
20 assist me in the preparation of a follow-up question that --  
21 or questions that were Requests No. 11 and 12?

22 A. That's correct.

23 Q. And were those the--on the last page of that  
24 document--the entirety of the responses that we received  
25 from North County?

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1 A. Yes, it was.

2 MS. ANDERL: Your Honor, we'll save that document  
3 and move its admission with Mr. Lesser after he's  
4 authenticated it unless counsel is willing to stipulate its  
5 admission at that time?

6 MR. McNAMER: I have no objection.

7 JUDGE TOREM: All right. No objection from North  
8 County, so we'll admit the copy that's been marked as  
9 Exhibit TL-3X at this time. It looked like you were  
10 referring to Pages 2 and 6 of that document?

11 MS. ANDERL: Yes, Your Honor.

12 JUDGE TOREM: Go ahead.

13 Q. (By Ms. Anderl) Now, Mr. Linse, I'm also going to  
14 ask you a question about the 1997 Interconnection Agreement  
15 that Qwest and NCC have, and I'm going to hand you up a copy  
16 of that. Do you have that document in mind, you are  
17 familiar with it?

18 A. I am aware of it.

19 MS. ANDERL: And Your Honor, this is one of  
20 voluminous ones that I only have a couple of copies of. Let  
21 me see how many I have. I have one for Your Honor.

22 JUDGE TOREM: And this is the 1997 agreement?

23 MS. ANDERL: Yes.

24 JUDGE TOREM: So, again, this is Exhibit B-1.

25 MS. ANDERL: And I provided one to opposing

0152

1 counsel as well, left myself without a copy, but I think I  
2 can do this from memory.

3 Q. (By Ms. Anderl) Mr. Linse, Mr. McNamer asked you  
4 a number of questions about ANI information?

5 A. Yes.

6 Q. Does the 1997 ICA have a definition for ANI?

7 A. Yes, it does.

8 Q. Can you please tell us what that definition is and  
9 then where it's located in this exhibit?

10 A. It is -- pardon me. It is located in Section 3  
11 which is entitled definitions and it's definition letter "E"  
12 as in Eric. And the definition reads, automatic number  
13 identification for ANI means a Feature Group D signaling  
14 parameter which refers to the number transmitted through a  
15 network identifying the billing number of the calling party.

16 Q. And what is Feature Group D?

17 A. Feature Group D is a long distance trunk that is  
18 used to route long distance traffic to interexchange  
19 carriers.

20 Q. Does the definition of ANI anywhere reference the  
21 provision of ANI over anything other than a Feature Group D  
22 trunk?

23 A. No, it does not.

24 Q. Are you aware of whether the Interconnection  
25 Agreement as currently configured requires Qwest to provide

0153

1 ANI over local trunks or for local calls?

2 A. No, I'm not.

3 Q. Mr. McNamer asked you questions about whether it  
4 was Qwest's local call protocol to not provide ANI, do you  
5 recall that?

6 A. Yes.

7 Q. And are you aware of whether that is merely  
8 Qwest's practice or an industry protocol?

9 A. In my conversations with other companies it's my  
10 understanding that it is industry wide.

11 Q. With regard to the 240,000 minutes per DS1 is that  
12 a cap that Qwest is proposing related to the use of MF  
13 signaling?

14 A. Yes.

15 Q. If NCC were to choose to interconnect with SS7  
16 signaling would Qwest impose the cap?

17 A. No.

18 Q. Mr. McNamer asked you some questions about Qwest's  
19 remote call forwarding, let me just ask you a couple of  
20 follow-up questions about that. When a customer remote call  
21 forwards a call to another number if the second call is a  
22 long distance call does that customer pay toll charges on  
23 that?

24 A. They would pay based upon whatever long distance  
25 service provider they subscribed to, yes.

0154

1 Q. In those circumstances would then access charges  
2 apply?

3 A. That's correct.

4 Q. And neither of those is the case with the VNXX; is  
5 that correct?

6 A. No, that's not the case with VNXX.

7 Q. With regard to the use of Signaling System 7  
8 versus MF throughout Qwest's network does NCC, to your  
9 knowledge, have any interconnection trunks in the state of  
10 Washington?

11 A. I'm not aware of any.

12 Q. With regard to the interconnection trunks that NCC  
13 has in Oregon and Arizona do you know whether those offices  
14 are -- Qwest offices are SS7 capable?

15 A. Yes, they are.

16 Q. Do you know how long they have been SS7 capable?

17 A. Not specifically for each office, but the majority  
18 of Qwest offices was converted in the early to mid '90s to  
19 SS7.

20 Q. And would a request for CLEC interconnection via  
21 SS7 provoke an SS7 conversion in a Qwest central office that  
22 was not at that point SS7 capable?

23 A. That's correct.

24 MS. ANDERL: Nothing further on redirect. Thank  
25 you, Your Honor.



0155

CROSS-EXAMINATION

1

2 BY JUDGE TOREM:

3 Q. Mr. Linse, I had one question back on that 240,000  
4 minute cap. We talked about the engineering and maybe some  
5 practical requirements. Do you have any knowledge of North  
6 County's use of minutes or what you have previously referred  
7 to as I believe it was CCS, call centum seconds?

8 A. I'm not aware of the minutes or what North  
9 County's traffic looks like. We have standard practices  
10 that monitor the volume of traffic over trunks, and it  
11 automatically triggers notice to a CLEC if it goes above a  
12 certain level, as far as blocking is concerned, and then the  
13 companies would address that. So I mean it's -- I don't  
14 know personally but it's kind of built into our system to  
15 monitor that type of measurement, if you will.

16 Q. Well, I'm asking because earlier Mr. McNamer was  
17 asking for your real world experience with programming  
18 switches and operating them. And I just want to know real  
19 world experience if 240,000 minutes is a meaningful cap for  
20 this particular exchange carrier in their traffic with  
21 Qwest, do you have any knowledge of that?

22 A. You know, again, it's -- from an engineering  
23 perspective minutes of use doesn't equate really to usage as  
24 far as the ability for calls to complete over a particular  
25 trunk group.

0156

1 Q. Do you know, and maybe Ms. Albersheim is the  
2 better witness for this, but billing wise would they not be  
3 getting paid with this cap under the past practices?

4 A. Yeah, I think from a billing perspective  
5 Ms. Albersheim might be best to answer that question for  
6 you.

7 Q. Okay. I will pose it to her later if it's not  
8 already posed to her.

9 A. Okay.

10 JUDGE TOREM: Mr. McNamer, do you have additional  
11 cross-exam questions for this witness?

12 MR. McNAMER: Can you just give me one minute?

13 (Brief discussion held off the record  
14 between Mr. McNamer and Mr. Lesser.)

15 MR. McNAMER: We have no further questions.

16 JUDGE TOREM: Okay. Unless anybody else has  
17 questions for Mr. Linse, do you have any follow up?

18 MS. ANDERL: No thank you, Your Honor.

19 JUDGE TOREM: Thank you, Mr. Linse, for your  
20 testimony.

21 I take it we're ready for Ms. Albersheim?

22 MS. ANDERL: Qwest calls Ms. Albersheim to the  
23 stand.

24 ///

25 ///

0157

1                               RENEE ALBERSHEIM,  
2                               having been first duly sworn  
3                               on oath was examined and  
4                               testified as follows:

5  
6                               JUDGE TOREM: Once you get comfortable if you make  
7                               sure your microphone is on and state and spell your first  
8                               and last name for the record and then Ms. Anderl will ask  
9                               some other questions to get you set up.

10                              MS. ALBERSHEIM: My name is Renee, R-e-n-e-e,  
11                              A-l-b-e-r-s-h-e-i-m.

12

13                              DIRECT EXAMINATION

14                              BY MS. ANDERL:

15                              Q. Ms. Albersheim, you prepared two pieces of  
16                              testimony and attached exhibits in connection with this  
17                              docket; is that correct?

18                              A. Yes.

19                              Q. And you have a correction to make to both your  
20                              direct testimony and your rebuttal testimony?

21                              A. Yes, I do.

22                              Q. Okay. Starting with your direct testimony and  
23                              looking at the document that was revised July 2nd, 2010 with  
24                              the agreed upon change or the unopposed change from 10,000  
25                              minutes to 240,000 minutes and please walk us by page and

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1 then line number through the corrections you need to make.

2 JUDGE TOREM: And for the record this is going to  
3 be Exhibit RA-1T; is that correct?

4 MS. ANDERL: Yes, thank you, Your Honor. RA-1T.

5 A. As revised July 2nd. The first change is on Page  
6 13, Line 7. This change should be for the number 87 it  
7 should be changed to 78.

8 Q. (By Ms. Anderl) Okay.

9 A. The second change is on the same page, Page 13,  
10 Footnote 7, three numbers need to be changed here. The 34  
11 is now 27. The 10 is now 25. And the 5 is now 6.

12 The next change is on Page 20, Line 2. And the 87  
13 should be changed to 78.

14 And the last change is on Page 21, Line 8. Again,  
15 the 87 should be changed to 78.

16 Q. Okay. Thank you, Ms. Albersheim. And then you  
17 had attached to that testimony Exhibits RA-2 through RA-6.  
18 Did you have any changes or corrections to make to those?

19 A. No.

20 Q. And then RA-7RT is your rebuttal testimony dated  
21 June 17, 2010, do you have any changes or corrections to  
22 make to that document?

23 A. Yes, one.

24 Q. And what's the page?

25 A. The page is Page 4, Line 19.

0159

1 Q. Okay. Wait one minute.

2 A. Uh-huh.

3 Q. All right.

4 A. And again the change is changing the 87 to 78.

5 Q. And with regard to those changes did Qwest provide  
6 notice to NCC of those changes prior to the hearing today?

7 A. Yes, with regard to the answer to a data request  
8 we, on reviewing the data in that data request, discovered  
9 that the numbers were wrong and submitted a supplemental  
10 response with a corrected spreadsheet and corrected numbers.  
11 And so they knew that the numbers were different, they  
12 didn't know that we were changing the testimony, but that's  
13 what I'm doing here.

14 Q. And with those changes is your testimony true and  
15 correct?

16 A. Yes.

17 MS. ANDERL: Your Honor, we would move the  
18 admission of the corrected testimony and the associated  
19 exhibits, so RA-1T through RA-7 and tender the witness for  
20 cross.

21 MR. McNAMER: No objection.

22 JUDGE TOREM: So, we'll admit those as corrected.  
23 It appears to me that those corrections, Ms. Albersheim, all  
24 had to do with the number of CLEC's participating in various  
25 Qwest styled agreements in Washington?

0160

1 MS. ALBERSHEIM: Yes, it had to do with how those  
2 agreements were categorized.

3 JUDGE TOREM: All right. I recall the  
4 conversation with counsel over that, so I think I know where  
5 those numbers relate.

6 Mr. McNamer, go ahead with your cross.

7

8 CROSS-EXAMINATION

9 BY MR. McNAMER:

10 Q. Okay. Ms. Albersheim, are you aware of anything  
11 in the law or any regulation that allows Qwest to dictate  
12 the technology that CLEC's must use?

13 JUDGE TOREM: Can you make sure your microphone is  
14 on or just pull it closer?

15 MR. McNAMER: Yes, it is, I'll repeat the  
16 question.

17 Q. (By Mr. McNamer) Ms. Albersheim, can you tell me  
18 whether there's anything in the law or a regulation that  
19 allows Qwest to dictate the technology that CLEC's must use?

20 A. No.

21 Q. Isn't it true that up to a few months ago Qwest  
22 was still using MF technology?

23 A. I don't think I can answer that quite the way  
24 that's been asked. For what?

25 Q. Did it have MF -- was using MF technology at one

0161

1 of its central offices?

2 A. I understand that's true, Mr. Linse can tell you  
3 which offices and when.

4 Q. Do you know whether there are currently any rural  
5 CLEC's that continue to use MF technology in Washington?

6 A. I'm not aware of any that interconnect with Qwest  
7 except for North County.

8 Q. Do you know of any other current ICA's where Qwest  
9 does not limit or penalize a CLEC for using MF technology?

10 A. Say that again?

11 Q. Trying to make it an easier question.

12 Do you know if there's any existing ICA's that  
13 Qwest has with any other CLEC which doesn't prevent or  
14 prohibit that CLEC from using MF technology?

15 A. I'm not aware of any other CLEC interconnecting  
16 with Qwest that uses MF so the subject isn't part of those  
17 agreements.

18 Q. Would all those agreements specifically state that  
19 CLEC's will interconnect using SS7?

20 A. I believe SS7 is included in the terms of those  
21 agreements.

22 Q. And, so, are you aware of any ICA's that either  
23 don't discuss MF technology and, therefore, don't prohibit  
24 it or specifically allow SS7 and MF technology?

25 A. Well, I haven't reviewed all of our agreements, so

0162

1 I don't know all the terms in all of our agreements. This  
2 issue hasn't come up with any other CLEC that I'm aware of  
3 where we've had to interconnect using MF. So the terms in  
4 Section 7 of the agreements, to my knowledge, don't include  
5 the terms that we proposed here for North County because  
6 North County wishes to use MF.

7 Q. If -- what would happen if North County began  
8 originating calls to Qwest using MF technology under the  
9 current ICA?

10 A. I don't believe the current ICA prohibits that.

11 Q. Are you sure?

12 A. I'm not sure.

13 Q. If it did prohibit it what would Qwest do in the  
14 instance --

15 MS. ANDERL: And, Your Honor, let me just  
16 interpose a clarifying objection. When Mr. McNamer refers  
17 to the current ICA, I believe --

18 MR. McNAMER: Sorry, I misspoke.

19 Q. (By Mr. McNamer) So what I meant --

20 A. Okay, I was thinking the 1997.

21 Q. Sorry, sorry. Under the proposed ICA what would  
22 happen if North County began originating calls to Qwest  
23 using its MF technology?

24 A. Well, that would be in violation of the proposed  
25 ICA.



0163

1 Q. What would happen, would Qwest block the calls,  
2 what exactly would happen?

3 A. I don't know the procedures they would follow but  
4 Qwest would certainly contact North County about those  
5 calls.

6 Q. Does Qwest have the ability to turn off, I mean to  
7 stop terminating calls because North County uses MF  
8 technology?

9 A. Are you talking about blocking?

10 Q. Yeah.

11 A. Yes.

12 Q. But you don't know exactly what would happen, you  
13 would assume something like that would happen but you don't  
14 know?

15 A. I would expect Qwest to contact North County  
16 first.

17 Q. In relation to the 240,000 minute cap, can you  
18 explain to me the reason behind that cap?

19 A. The cap is in place to protect Qwest from  
20 arbitrage, not just from North County but from any company  
21 that opts into this agreement, because other companies are  
22 permitted to opt in to new Interconnection Agreements. The  
23 number used here is based on North County's prior traffic  
24 with Qwest, and it has a cushion built into it to allow for  
25 more.

0164

1 Q. Is it just a coincidence that the number is based  
2 on North County's prior traffic that happens to be the same  
3 number that engineering believes is a minimum capacity  
4 number?

5 A. I believe that's a coincidence. This number was  
6 calculated based on North County's traffic.

7 Q. And how was it calculated based on North County's  
8 traffic?

9 A. Our billing staff used North County's traffic as a  
10 basis for coming up with a formula to calculate that number.

11 Q. Do you know what that formula was, current traffic  
12 plus some percentage?

13 A. Yes, I'm not sure what the percentage exactly was,  
14 but it did include a cushion for increased traffic.

15 JUDGE TOREM: Excuse me, one moment.

16 Ms. Albersheim, if I were to ask to see those North County  
17 pre-existing traffic numbers could you provide those?

18 MS. ALBERSHEIM: Yes.

19 JUDGE TOREM: Ms. Anderl, let me go ahead and make  
20 that a bench request.

21 MS. ANDERL: Your Honor, we were going to propose  
22 admission of a data request response where NCC asked to  
23 explain the reasoning behind the proposed cap of 10,000  
24 minutes per month for billable MF traffic. And we, at that  
25 point, were aware of the error and so we changed, in our

0165

1 response, changed the 10,000 minutes to 240,000 minutes and  
2 then provided a narrative answer as well as a spreadsheet  
3 attached showing actual track. We're happy to pull that out  
4 of our data request responses and provide it up to you now  
5 or...

6 JUDGE TOREM: Is that an exhibit you're intending  
7 to proffer later?

8 MS. ANDERL: Yes, through Mr. Lesser. I can offer  
9 it now through Ms. Albersheim, she is one of the respondents  
10 on the data request.

11 JUDGE TOREM: So long as that's going to be  
12 offered and perhaps made as part of the record in some  
13 sequence, we don't need to tear up the exhibits.

14 MS. ANDERL: Okay. The only thing I guess, and we  
15 can deal with it at that time, is whether North County wants  
16 us to submit the spreadsheet as a confidential document, I  
17 can talk to Mr. McNamer over the lunch break or something.

18 MR. McNAMER: Yeah.

19 JUDGE TOREM: I'm trying to recall if we even do  
20 not have a protective order, so it may be something that  
21 need not come in if it has confidential information in it?

22 MS. ANDERL: I think it could come in, Your Honor,  
23 under the rule, the WAC 480-07-160 that protects  
24 confidential information, but counsel and I can work it out.

25 JUDGE TOREM: I think in this proceeding that

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1 could work as well.

2 Mr. McNamer, go ahead.

3 Q. (By Mr. McNamer) Do you recall, I'm not going to  
4 refer to the specific numbers, but do you recall whether  
5 Qwest's position that that 240,000 allows for a specific  
6 percentage increase over prior years, is that the --

7 A. It allows for additional traffic within the  
8 monthly total, if more is needed that can certainly be  
9 negotiated with Qwest. North County never provided an  
10 alternative cap number to Qwest during negotiations.

11 Q. And so it sounds like \$240,000(sic) is a  
12 negotiable number; is that right?

13 A. It could be.

14 Q. And is there a -- I'm not going to say the  
15 percentage because we can work backwards and figure out the  
16 number, which might be confidential. Do you know how they  
17 came up with the percentage that they used as the increase  
18 that they're allowing for? Like let's just say it's 20  
19 percent, do you know how they came up with, say, we'll allow  
20 them a 20 percent growth?

21 A. No.

22 Q. Do you know whether they allowed -- the growth  
23 that they allowed was a year to year growth or just a gross  
24 growth that they could reach?

25 A. Well, this figure is monthly, so it's based on an

0167

1 estimate of monthly traffic volume.

2 Q. But it would necessarily since \$240,000 -- I mean  
3 240,000 is a specific number it necessarily has to be the  
4 total amount of growth regardless of the period of time;  
5 right? So what I mean by that if they -- if the percentage  
6 was 20 percent, and my client happened to go 20 percent that  
7 next month, that means he couldn't grow any more forever if  
8 \$240,000 was the cap -- I mean 240,000 was the cap?

9 A. That doesn't follow. If he gets to the cap in one  
10 month that doesn't necessarily mean he will in the next  
11 month.

12 Q. I understand that. But assuming his minutes are  
13 growing, as soon as he hits the cap it's not like that cap,  
14 it's not like \$240,000 which escalates -- I mean 240,000  
15 which escalates to 320 in year two, which escalates to 380  
16 in year three, it's 240,000 minutes without a restriction on  
17 the period of time?

18 A. There is not a restriction on the period of time  
19 for that, that is the monthly cap.

20 Q. Do you know what the line capacity is  
21 approximately for the DS1 lines?

22 A. The line capacity?

23 Q. Yeah, how many minutes can you actually use on the  
24 lines before they stop?

25 A. Okay, you're getting towards engineering which I

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1 would defer to Mr. Linse on.

2 Q. So you don't know?

3 A. Only from what I've heard.

4 Q. From a billing perspective have you ever seen  
5 bills which indicated that people were using more than a  
6 million minutes on a line?

7 A. I haven't, no. Again, this is only necessitated  
8 by the fact that North County is using MF signaling which  
9 limits our ability to capture the information. If there  
10 were SS7 signaling a cap would not be necessary.

11 Q. So for every other CLEC, other than North County,  
12 you would pay 100 percent of the minutes regardless of  
13 whether they went over 240 or not, there's no cap?

14 A. There are no caps for CLEC's using SS7, we would  
15 pay if we agreed with the bills.

16 Q. Understood. For the relative use factor isn't it  
17 true that the proposed formula for calculating relative use  
18 counts calls that originate from Qwest and are terminated to  
19 North County as if they originated from North County and  
20 terminated to Qwest?

21 A. Could you ask that again?

22 Q. Sure. For the relative use factor, for the  
23 formula to determine what the relative use is, isn't it true  
24 that for some calls, calls to ISP's, that even though those  
25 calls actually are coming from Qwest customers, and are

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1 terminating with North County under your proposed formula,  
2 you're counting those calls as if they were calls  
3 originating from North County and terminating with Qwest,  
4 they're being counted against the terminated carrier, not  
5 the originated carrier?

6 A. Are you speaking of VNXX calls?

7 Q. ISP calls, any calls to ISP's?

8 A. My understanding is that those are -- that is how  
9 VNXX calls are treated which usually are ISP calls, but I  
10 don't believe the terms are specific to ISP.

11 Q. So for nonlocal VNXX traffic those calls are  
12 counted against the terminating carrier, not against the  
13 originating carrier?

14 A. Yes, that's consistent with this Commission's  
15 ruling on VNXX.

16 Q. Now, can you explain to me -- and so I have two  
17 questions, so for local ISP calls that's not counted  
18 against?

19 A. You know, I would prefer to see the terms you're  
20 talking about rather than trying to speculate here.

21 MS. ANDERL: Your Honor, I was just going to  
22 interpose an objection not to the questions themselves but  
23 to the witness being asked to answer questions about  
24 essentially a document that she doesn't have in front of  
25 her. We have before -- I have--that I was going to propose

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1 as an exhibit that I was going to use with Mr. Lesser--the  
2 Exhibit H which is the calculation of the relative use  
3 factor from the proposed ICA, and I'd be happy to distribute  
4 that as an exhibit.

5 MR. McNAMER: That would be great.

6 JUDGE TOREM: All right. Let's distribute that,  
7 Mr. McNamer says he has no objection. So that may be  
8 getting them out of the order you'll be using them.

9 MS. ANDERL: We can mark it as an exhibit for  
10 Ms. Albersheim.

11 JUDGE TOREM: We'll do that then. This will  
12 become RA-8, it's a one page exhibit. And where's this  
13 document drawn from, Ms. Anderl?

14 MS. ANDERL: Your Honor, the proposed  
15 Interconnection Agreement that was attached to Qwest  
16 petition for arbitration contains Exhibits A through L or M,  
17 I think, this is Exhibit H from that proposed ICA. So it's  
18 a portion of Bench Exhibit 2.

19 Q. (By Mr. McNamer) So according to -- you have  
20 Exhibit H in front of you, you've seen this before?

21 A. Yes.

22 Q. So when it says -- just to make this clear, when  
23 it says minutes that are Qwest's responsibility, that means  
24 minutes that are counted as Qwest's usage, and minutes that  
25 are CLEC responsibility minutes are counted as CLEC usage to



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1 determine relative use; is that correct?

2 A. Yes.

3 Q. And so for according to bullet point one under the  
4 first, under Qwest's responsibility, if Qwest sends an ISP  
5 traffic that's local to North County that's counted as Qwest  
6 usage?

7 A. Yes.

8 Q. Okay. And then the -- and then if you look at  
9 bullet point number one, two, three, four, five, six for  
10 CLEC responsibility it says all VNXX MOU that Qwest sends to  
11 CLEC. And then the next bullet point is all VNXX MOU that  
12 transits Qwest to a network and is terminated to CLEC. Can  
13 you explain to me those two bullet points starting with the  
14 first one?

15 A. Per this Commission's orders VNXX traffic is to be  
16 attributed to the terminating carrier which would be North  
17 County in this situation. These two bullet points cover  
18 both traffic originating from Qwest or traffic originating  
19 from another carrier and transiting Qwest's network to North  
20 County.

21 Q. And so for the second bullet point could this  
22 be -- and so for the second bullet point even if it's  
23 someone else's, some other CLEC that transits Qwest's  
24 network and terminates with North County, North County gets  
25 that counted against them, as well?

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1 MS. ANDERL: Clarification, Your Honor, counsel  
2 asked about the second bullet point, did you mean the last  
3 one?

4 Q. (By Mr. McNamer) Yeah, the last. The second of  
5 those two, the last one.

6 A. The last VNXX bullet point?

7 Q. Yes.

8 A. Yes, that's correct.

9 Q. Can you explain to me why you believe -- I  
10 understand that the -- I've read the Commission's order and  
11 it's my understanding, you can correct me if you have a  
12 different understanding, my understanding of the  
13 Commission's order is that VNXX traffic is legal traffic,  
14 it's not prohibited but it's bill and keep and then access  
15 charges apply. To the extent there are access charges  
16 access charges apply; is that right?

17 A. It is bill and keep. I think in that situation  
18 I'm not sure how access charges would apply.

19 Q. Okay. So why do you believe -- if the Commission  
20 has found that VNXX is legal and that it's bill and keep,  
21 why do you believe that leads to the conclusion that for the  
22 purposes of relative use VNXX should be counted against the  
23 terminating carrier?

24 A. Well, first of all, that's how the Commission has  
25 ordered it but also if it's counted against Qwest then you

0173

1 are billing Qwest for those minutes.

2 Q. If -- what if it's just taken out all together?

3 A. But the -- part of the problem here, and the  
4 reason that we put this into the agreement and the terms of  
5 Section 7.8 is because in our experience with your billing  
6 of us those minutes were not removed. It is Qwest's purpose  
7 to make sure that they are.

8 Q. So if the billing -- so would Qwest then be okay  
9 if the relative use factor completely excluded all VNXX  
10 minutes from the calculations all together, and so the only  
11 minutes that were used in the relative use factor were  
12 non-VNXX minutes?

13 A. That would be okay as long as it were explicitly  
14 stated in the contract that that is to be done. That's part  
15 of the problem with MF. We figured out from the bills we  
16 received from you that those minutes were not excluded and  
17 we would like to make sure that the contract contains a  
18 provision that explicitly states that Qwest will not have to  
19 pay for VNXX minutes. That's why those provisions are  
20 included in our proposed language.

21 MR. McNAMER: Okay. Can I take a break to see if  
22 I have anymore questions? I may not have anymore questions.

23 (Discussion held off the record between  
24 Mr. McNamer and Mr. Lesser.)

25

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1 Q. (By Mr. McNamer) I just have one more question.  
2 Can you explain why MUX charges are not in the RUF  
3 calculation?

4 JUDGE TOREM: Can you spell that out for the court  
5 reporter?

6 MR. McNAMER: M-U-X.

7 A. No.

8 Q. (By Mr. McNamer) You don't know why?

9 A. No.

10 MR. McNAMER: I have no further questions.

11 JUDGE TOREM: Ms. Anderl?

12 MS. ANDERL: Thank you, Your Honor.

13

14 REDIRECT EXAMINATION

15 BY MS. ANDERL:

16 Q. Ms. Albersheim, just one area. Ms. McNamer just  
17 asked you a question about whether it would be okay to  
18 exclude the VNXX traffic from the calculation of the RUF,  
19 and let me just walk through that with you?

20 A. Sure.

21 Q. So if under the current scenario the way Exhibit H  
22 is written now?

23 A. Uh-huh.

24 Q. If Qwest sent 100 minutes of VNXX traffic and 10  
25 minutes of regular traffic to NCC, in a very, very

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1 simplified way that would -- what would that result in?

2 A. I see, that would -- it would impact the  
3 percentage of traffic that is to be attributed to Qwest  
4 versus North County. So I guess it wouldn't be okay just to  
5 exclude it because it needs to be attributed in the proper  
6 way.

7 Q. Okay. And so then we just, as long as we're clear  
8 on that, under the current -- the way Exhibit H is drafted  
9 now under the percentages that I just gave you, that 100  
10 minutes of VNXX traffic would actually be attributed to NCC;  
11 right?

12 A. Yes.

13 Q. And the 10 minutes of true local traffic would be  
14 attributed to Qwest?

15 A. Yes.

16 Q. And that would be for the apportionment of the  
17 relative responsibility for the LIS trunks?

18 A. Yes.

19 Q. And if the 100 minutes was excluded and there was  
20 only 10 minutes of regular traffic, then that would result  
21 in what?

22 A. Well, that would change the percentage attributed  
23 to Qwest versus to North County which would not be an  
24 accurate reflection of traffic passed over the trunk.

25 Q. So if VNXX were excluded it could potentially

0176

1 result in more financial responsibility being attributed to  
2 Qwest?

3 A. Yes.

4 Q. And can you clarify whether that's acceptable to  
5 Qwest or no not?

6 A. No, that's not acceptable to Qwest.

7 MS. ANDERL: Nothing further on redirect.

8 MR. McNAMER: I have a couple questions.

9

10 RE-CROSS-EXAMINATION

11 BY MR. McNAMER:

12 Q. So you said on this issue of taking out VNXX, you  
13 said you wanted to attribute it in a proper way, but do you  
14 mean by proper way just the way that benefits Qwest?

15 A. No, I mean that it should be attributed  
16 appropriately to the terminating carrier.

17 Q. But can you tell me where? Because I read the  
18 order, all 92 pages of the order, I've read the order, can  
19 you tell me where in the order it even mentions relative use  
20 or mentions how VNXX should be attributed for the  
21 calculation of relative use?

22 A. I can't tell you that.

23 Q. Is it your understanding that the order addresses  
24 relative use in any way whatsoever?

25 A. I don't recall.

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1           Q.    But -- and so then if you don't remember it being  
2   in there, and don't recall if it addresses it at all, how do  
3   you jump to the conclusion that based on the order VNXX has  
4   to be attributed to the terminating carrier for the  
5   calculation of relative use?

6           A.    VNXX needs to be attributed to the terminating  
7   carrier in general.  So I don't think that the Commission  
8   was speaking in terms of relative use or not, that is how  
9   they have ordered the VNXX be attributed.

10           MS. ANDERL:  And, Your Honor, we might interpose  
11   an objection at this point asking the witness to interpret a  
12   92 page order that she does not have in front of her.  We're  
13   happy to cover our legal rationale with counsel either  
14   privately offline or in briefing.

15           MR. McNAMER:  I'm just asking her understanding of  
16   it.  She's made -- I mean there's a lot of testimony that  
17   she said based on the Commission's order.  So she's made  
18   testimony that's based on the Commission's order, so I'm  
19   just asking of her understanding of that order.

20           JUDGE TOREM:  I'll allow the question.  And,  
21   Ms. Albersheim, if you don't know, again, as I've told the  
22   previous witness, say so.  If it's beyond your depth of  
23   understanding of the order that's fine, as well.

24                    It sounds to me, Mr. McNamer, that you're trying  
25   to understand what the purpose of the VNXX numbers are in

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1 the relative use factor calculation and whether or not they  
2 can be excluded in any way? And you're asking  
3 Ms. Albersheim to state, if so, is that a violation of the  
4 Commission order to the best of her knowledge, and if it's  
5 not a violation of the order can't we strike a deal on that?

6 MR. McNAMER: That's right.

7 JUDGE TOREM: So, Ms. Albersheim, if you want to  
8 comment essentially on that that would be great.

9 MS. ALBERSHEIM: As I said before, our purpose is  
10 to ensure that if VNXX minutes are sent across these trunks  
11 they are properly captured, and that is what our language  
12 intends to do. In the prior agreement we experienced issues  
13 with bills we received from North County that included VNXX  
14 traffic that was not attributed to North County but to  
15 Qwest, therefore Qwest was billed for those minutes. We  
16 would like the new agreement to make sure VNXX minutes are  
17 properly attributed.

18 JUDGE TOREM: That will be a new contractual  
19 provision that obligates the billing records to reflect as  
20 much?

21 MS. ALBERSHEIM: Yes. And that is in Section 7.8  
22 of the proposed agreement, the 2009 proposed agreement.

23 Q. (By Mr. McNamer) I just have one more question  
24 about the billing issue you referenced. How did you know it  
25 was VNXX traffic?



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1           A.    They had to analyze the traffic from other sources  
2    than from your MF signaling and determine that some of the  
3    traffic was indeed VNXX.  And I believe we reported on how  
4    many of those bills we found VNXX traffic in in a response  
5    to one of your data requests.

6           Q.    But I mean my understanding, and I'm not a  
7    technician, my understanding of the VNXX traffic is that you  
8    wouldn't be able to figure out -- sort of the whole thing  
9    about VNXX is you can't figure out who the customer is.  So  
10   how were you guys able to figure out who the customer was?

11          A.    Well, again, this was our billing staff, so I  
12   would have to defer to them, I didn't get the details on how  
13   they figured that out.

14          Q.    Just interested in the methodology.

15                JUDGE TOREM:  Ms. Albersheim, is this the sort of  
16   thing that I think is known in the industry as phantom  
17   traffic.

18                MS. ALBERSHEIM:  No, I don't think that would  
19   qualify as phantom traffic.  As I understand it, that's  
20   traffic where there isn't enough information to determine  
21   either the source or -- well, I guess it would be the source  
22   but I'm not an expert on phantom traffic.

23                JUDGE TOREM:  Mr. McNamer, anything else?

24                MR. McNAMER:  No more questions.

25                MS. ANDERL:  A couple of follow-up, Your Honor.

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1

FURTHER REDIRECT EXAMINATION

2

BY MS. ANDERL:

3

Q. Ms. Albersheim, you did read or review the

4

Commission's order on VNXX?

5

A. Yes, I did.

6

Q. And is it your understanding that this relative

7

use factor is applied to allocate the cost of the

8

interconnection trunks between the companies?

9

A. Not the cost of the trunks, the use.

10

Q. But that's applied then to price then, is it not?

11

A. You mean the fixed cost?

12

Q. It works into a formula in terms of who bears the

13

responsibility for those trunks?

14

A. Oh, okay, yes.

15

Q. And would it be fair to call those, the

16

interconnection trunks then, the methods by which the VNXX

17

traffic is transported?

18

A. Yes.

19

Q. And would you be able to accept, subject to your

20

checking, that the Commission, in at least the initial order

21

by the ALJ in the VNXX docket, stated that the CLEC's are

22

required to purchase transport for VNXX traffic from Qwest

23

Corporation at TELRIC rates?

24

MR. McNAMER: Calls for speculation. She's

25

reading something that's right in front of her but not in

0181

1 front of her. I don't how she can testify to that.

2 MS. ANDERL: I asked the witness if she would  
3 accept that subject to her check. It's a fairly accepted  
4 practice.

5 JUDGE TOREM: I'll allow the question.  
6 Ms. Albersheim, you'll have an opportunity, once you step  
7 down, to take a look at that document. If you want to  
8 change your testimony just let me know and I'll put you back  
9 on.

10 A. I would accept that subject to check, yes.

11 Q. (By Ms. Anderl) Does the Exhibit H calculation of  
12 the relative use factor by allocating VNXX minutes to the  
13 CLEC implement that petition of the order?

14 A. Yes, it does.

15 MS. ANDERL: Nothing further.  
16 Did we move and admit Exhibit 8, Your Honor?

17 MR. McNAMER: Nothing further.

18 JUDGE TOREM: I was about to go through that.

19 Ms. Albersheim, thank you for your testimony. I  
20 think you're done testifying, but I would check.

21 MS. ALBERSHEIM: I will check.

22 JUDGE TOREM: For the record then for this witness  
23 Exhibits RA-1T and then the follow on RA-2 through 6 were  
24 offered as was RA-7T and RA-8, all of those are offered and  
25 they are admitted.

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1                   We also had previously admitted PL-1T, PL-2, PL-3T  
2    TL-3X and Bench Exhibit 1 which was the original 1997  
3    Interconnection Agreement. We've referenced the proposed  
4    B-2, the proposed Interconnection Agreement, we haven't  
5    formally circulated that, but for the record we'll admit  
6    that so I can take notice of it or you can refer to it in  
7    your briefs as needed.

8                   MS. ANDERL: Thank you, Your Honor.

9                   JUDGE TOREM: That's where we stand on the  
10   exhibits that have been offered and admitted.

11                   It's now 11:30. We have Mr. Lesser still to be  
12   put on unless Qwest has any additional witnesses?

13                   MS. ANDERL: Those are all our witnesses, Your  
14   Honor, thank you.

15                   JUDGE TOREM: So then, Mr. McNamer, do you know  
16   how long -- well, maybe it's more a question of Ms. Anderl  
17   how long the cross-examination for Mr. Lesser might be  
18   scheduled in your mind?

19                   MS. ANDERL: This is a witness I've never  
20   cross-examined before, so it's tougher to estimate, but I  
21   would venture to say I have one to two hours with  
22   cross-examination depending on how quickly things go.

23                   JUDGE TOREM: So if we take a break now for lunch  
24   would that be appropriate for all parties?

25                   MR. McNAMER: Fine with us.

0183

1 MS. ANDERL: That would be great.

2 JUDGE TOREM: Let's do that. Is an hour, hour and  
3 a quarter? What's comfortable?

4 MS. ANDERL: An hour and a quarter is usually what  
5 it turns out to be by the time you get in a car.

6 JUDGE TOREM: Let's make sure if people are back  
7 aiming for a quarter to 1:00 I guess it would be at that  
8 point, if we're back on the record by 1:00 at the latest,  
9 but we'll aim for kind of gathering here at quarter to 1:00.  
10 And if you need a few minutes to go through your notes at  
11 that point just let me know. It sounds like we can  
12 comfortably finish today, and we won't need to extend into  
13 tomorrow one way or the other.

14 MS. ANDERL: Thank you.

15 JUDGE TOREM: Thank you. We will be at lunch  
16 recess.

17 (Lunch break taken from 11:28 to  
18 12:50 p.m.)

19 JUDGE TOREM: We have completed our lunch break,  
20 we are ready to go back on the record. It's somewhere  
21 between ten and five minutes to 1:00. Mr. Lesser is ready  
22 to be sworn in.

23

24 TODD LESSER,  
25 having been first duly sworn

0184

1                           on oath was examined and  
2                           testified as follows:

3  
4                   JUDGE TOREM:  If you can state and spell your  
5 first and last name for the court reporter?

6                   MR. LESSER:  Sure.  My name is Todd, T-o-d-d, last  
7 name Lesser, L-e-s-s-e-r.

8

9                           DIRECT EXAMINATION

10 BY MR. McNAMER:

11           Q.  Mr. Lesser, did you submit direct and rebuttal  
12 testimony in this proceeding?

13           A.  Yes.

14           Q.  And is the testimony that was already submitted  
15 true and correct?

16           A.  Yes.

17           Q.  Would you like to supplement the direct testimony  
18 in any way right now?

19           A.  Yes.

20           Q.  Can I ask you a couple questions for that purpose?

21           JUDGE TOREM:  These are the questions we  
22 originally discussed?

23           MR. McNAMER:  Yes.

24           JUDGE TOREM:  Ms. Anderl, no objection to just  
25 going over these?

0185

1 MS. ANDERL: As long as it's as written, that's  
2 fine.

3 Q. (By Mr. McNamer) Though Qwest has refused to  
4 provide you with any indication of the substantive changes  
5 that they made, what specific issues do you know exist with  
6 the proposed ICA?

7 A. As mentioned, the proposed ICA illegally attempts  
8 to force NCC to switch to SS7. It also places an arbitrary  
9 cap on the number of minutes that NCC can bill Qwest,  
10 initially 10,000, now 240,000. Further, the formula for the  
11 relative use, RUF, has no bearing on actual relative use.  
12 Finally, it contains a definition of VNXX which is unclear  
13 and which is not mandated by any FCC rule or other legal  
14 obligation.

15 Q. So how would you change these areas?

16 A. I would revert back to the original language used  
17 in the current ICA which did not penalize or otherwise limit  
18 NCC from using MF technology, did not place a cap on the  
19 number of billable minutes contained in RUF based on actual  
20 usage and did not ban VNXX traffic.

21 Q. Is that the total of your supplemental testimony?

22 A. Those --

23 Q. That's the only thing we added?

24 A. Yes.

25 Q. All right.

0186

1 JUDGE TOREM: At this time are you offering and  
2 moving for admission of Exhibit TL-1T, TL-2T as verbally  
3 supplemented today?

4 MR. McNAMER: I am.

5 JUDGE TOREM: Any objections?

6 MS. ANDERL: No.

7 JUDGE TOREM: All right. So that testimony is  
8 admitted. Anything else before we tender the witness for  
9 cross-exam?

10 MR. McNAMER: No, I now tender him for cross.

11 MS. ANDERL: Thank you.

12

13 CROSS-EXAMINATION

14 BY MS. ANDERL:

15 Q. Good afternoon, Mr. Lesser. I'm Lisa Anderl, the  
16 attorney for Qwest, I will be asking you some questions  
17 today. Let's begin with some historical questions. Are  
18 you -- were you the person who was involved in filing, with  
19 the Washington Commission in 1997, an application for  
20 registration of North County as a telecommunications  
21 company?

22 A. Yes.

23 MS. ANDERL: I'm going to hand up and would ask to  
24 be marked for identification as the next exhibit in line,  
25 TL-4X, a copy of the Washington order granting that



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1 registration.

2 JUDGE TOREM: If you hand a copy up to me and make  
3 sure the witness and opposing counsel have copies.

4 MS. ANDERL: Absolutely.

5 JUDGE TOREM: So, this is a two-page document, and  
6 it's an order of Docket UT-970958?

7 MS. ANDERL: Yes. Thank you for that  
8 identification, Your Honor.

9 Q. (By Ms. Anderl) And if I may ask the witness, not  
10 withstanding the dicy formatting on this, do you recognize  
11 that as the order from this Commission granting you  
12 authority to do business in the state as a  
13 telecommunications company?

14 A. It's been 13 years since I've seen this document,  
15 but it looks probably accurate.

16 MS. ANDERL: Okay. Your Honor, we move the  
17 admission of TL-4X, and have some questions on it in a  
18 moment.

19 MR. McNAMER: I have no objections other than  
20 the -- my client's trepidation to say this is the exact  
21 document since he hasn't seen it for 13 years, but I have no  
22 objection.

23 JUDGE TOREM: It looks from the bottom of it,  
24 Ms. Anderl, that you pulled it off the Commission's website?

25 MS. ANDERL: This is true.

0188

1           JUDGE TOREM:  And I'm also looking at formatting,  
2   who knows what word processing documentation they were using  
3   in October 1997.  The date is somehow scrunched out of the  
4   dated line.  But I imagine for purposes of looking this up  
5   one could find it and obtain the exact date it was entered,  
6   if needed.

7           MS. ANDERL:  That's my understanding, Your Honor.  
8   I was frankly surprised to find even the text of an order  
9   this old online but there it was.

10          JUDGE TOREM:  Okay.  We'll admit TL-4X, two page  
11   document, the October 1997 order.

12          Q.    (By Ms. Anderl) Mr. Lesser, is NCC a privately  
13   held company as opposed to publicly traded?

14          A.    Yes.

15          Q.    How many employees do you have?

16          A.    I don't really feel comfortable talking about, you  
17   know, operations of the company when anyone can listen in on  
18   this, I don't think it's a requirement or will lead to  
19   anything that's actually necessary for this arbitration.  If  
20   the judge wants me --

21          JUDGE TOREM:  Mr. Lesser, your attorney has to  
22   make the objections not the witness.

23          MR. McNAMER:  The objection would be if you're  
24   going to go into confidential stuff about the business and  
25   business operations then we need to make this part of the

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1 testimony confidential and not have anybody on the line  
2 since we don't know who is on the line.

3 JUDGE TOREM: Let me just inquire if it is a  
4 relevant issue for me to know more about the company, or  
5 what parts do you think might be relevant that we can focus  
6 in on?

7 MS. ANDERL: We think it is relevant. It's mostly  
8 contextually, to some extent some background. Normally the  
9 arbitrations that we have are with publicly traded companies  
10 with a lot of data about the company such as their size,  
11 their annual revenue, their business plans. To some extent  
12 the types of customers they have is something that's  
13 available and provides a context for who is this carrier who  
14 you're interconnecting with.

15 I certainly don't intend to go into confidential  
16 information. As I said, most of this was just contextual or  
17 background. I can skip the how many employees do you have  
18 for right now and argue the relevance of that later.

19 But Mr. Lesser has made some allegations in his  
20 direct testimony about being a small company, about how the  
21 cost of the arbitration here in Washington could potentially  
22 bankrupt them or put them out of business. Certainly based  
23 on those allegations, which I did not intend to directly  
24 pursue, I think I would have license to do that though, to  
25 explore that testimony in terms of even asking questions

0190

1 about the company's revenues in Washington, et cetera. I  
2 understand that some of that may be confidential, I don't  
3 intend to go there if I can get some of the basic background  
4 information.

5 JUDGE TOREM: And I'm just looking at TL-4X, it  
6 appears that in the application, Mr. Lesser, to do business  
7 this recites the company's solely owned by you and who the  
8 registered agent is and a variety of other items that are  
9 required probably by the Commission for standard  
10 information. If you go beyond that, Ms. Anderl, I'll wait  
11 and see if there's an objection and see if Mr. McNamer and  
12 Mr. Lesser can have some sort of communication as to what  
13 Mr. Lesser might feel needs to be objected to without making  
14 the objection himself.

15 So let's press on with the questioning, and if we  
16 can avoid anything by making it confidential that would be  
17 best. But if we need to, make a motion and we'll go from  
18 there.

19 MS. ANDERL: We'll try that.

20 Q. (By Ms. Anderl) Mr. Lesser, withdrawing the  
21 question about the number of employees, are you still the  
22 CEO?

23 A. Yes.

24 Q. Are there other officers of the company?

25 MR. McNAMER: Object. Same basis, it's

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1 confidential information.

2 MS. ANDERL: Your Honor, I think that in order to  
3 have registered to do business with the state of Washington  
4 and in California and other states you would have to file a  
5 certificate of incorporation with an officer and other  
6 information on there, I don't think it's confidential.

7 MR. McNAMER: Actually, as a California, Oregon  
8 and Washington attorney, who does corporate stuff, you do  
9 not have to do that. All you have to do is list your  
10 incorporator, and that's it. You don't have to put any  
11 members, you don't have to list different things, it depends  
12 what kind of entity you are.

13 JUDGE TOREM: I'm just trying to decipher if that  
14 information is already on file with the Commission based on  
15 the previous exhibit.

16 MS. ANDERL: It doesn't appear to me that it is.

17 JUDGE TOREM: Ms. Anderl, I'm going to sustain the  
18 objection for now. If there's a showing of relevance that  
19 we need to go into a certain number of items I'll let you  
20 repose those questions later if they prove critical to what  
21 you're trying to get at, and we'll deal with them as a group  
22 rather than individually trying to -- as I want to be  
23 consistent as to what I might let in or not, and not  
24 inconsistently say one thing is here and one is there, and  
25 open myself up in the record, and maybe Mr. Lesser's

0192

1 corporation, to a wily-nilly approach. So, we'll see what  
2 the objections come out as and then move on to all that's  
3 included if they need to be reposed later.

4 Q. (By Ms. Anderl) All right. Mr. Lesser, in 1997  
5 the Commission's order recited you were the sole owner of  
6 NCC; is that still true?

7 A. Yes.

8 Q. Do you have any employees?

9 MR. McNAMER: Objection. Same objection.

10 JUDGE TOREM: Sustained.

11 Q. (By Ms. Anderl) Mr. Lesser, what are NCC's annual  
12 revenues?

13 MR. McNAMER: Objection.

14 JUDGE TOREM: Can you state the relevance more  
15 where you're going on this one?

16 MS. ANDERL: Your Honor, I represented a minute  
17 ago that I wasn't going to go there because I felt as though  
18 I could maybe by asking some general questions about the  
19 size and structure of the business not need to go into that,  
20 but I do not think that Mr. Lesser ought to be permitted to  
21 offer direct and rebuttal testimony that talks about what a  
22 small company they are and how Qwest is bullying them and  
23 then not answer any questions about the nature of their  
24 company.

25 JUDGE TOREM: Mr. McNamer?

0193

1           MR. McNAMER: Can I speak to my client about this  
2 whole line of questioning and might be able to have a better  
3 articulation of the different objections and how they might  
4 apply? I mean to that point I would like to see my client  
5 just to see if there's a few questions that can get her what  
6 she needs without being objectionable. To that point I have  
7 the exact same objections, confidential information. If we  
8 want to make it confidential my client can testify to  
9 confidentiality. But my client has no idea who's on the  
10 line right now and offering up his revenue which is  
11 obviously nonpublic information.

12           JUDGE TOREM: I understand that. I'm a bit  
13 concerned about how much information is confidential. I  
14 recognize it's a privately held company, and not being a  
15 corporate attorney now or in the past, I'm just running  
16 through in my mind what information a private entity might  
17 be required to provide to a member of the public, let alone  
18 to a State agency such as the Utilities & Transportation  
19 Commission here in Washington that regulates their business.

20           Now, we do have the power to go in for raping  
21 purposes to going in and inspect books. On the Telecom side  
22 of the house I'm less than familiar to how and when we might  
23 seek to review books. It may only be in response to billing  
24 complaints or other such issues where we're looking. So,  
25 I'm being extra cautious here and erring on the side of

0194

1 excluding information.

2 But I'm concerned that certain testimony, as  
3 Ms. Anderl's pointed out, covers a large part of  
4 affordability. And even your cross-examination today  
5 focused on costs of the central office and was going into  
6 areas that I think have been made part of the record, made  
7 relevant issues by your lines of argument. And I can't  
8 possibly be asked to rule on something if I'm not allowed to  
9 get information, and Ms. Anderl is the one providing it.

10 MR. McNAMER: I think there's a limited amount of  
11 information, for instance, asking how much my client bills a  
12 month in Washington only -- is that something that you --

13 JUDGE TOREM: I think you're right that the  
14 Washington operations are what's relevant to this  
15 Commission. So, Ms. Anderl, if you can briefly summarize  
16 the areas you intend to go into, without losing all of your  
17 element of surprise that comes with cross-exam, then perhaps  
18 we can streamline this conversation between Mr. McNamer and  
19 his client.

20 MR. McNAMER: And, of course, anything that  
21 relates to how much it would cost to replace a central  
22 office, that's fine.

23 JUDGE TOREM: Certainly. But I wonder about some  
24 of the other finances that might be part of that. I can see  
25 why Ms. Anderl wants to go there, and I can understand why



0195

1 we may need to based on the three areas you lined out today  
2 about the costs between the multifrequency and the SS7  
3 technology and the billing and the 240,000 call limit,  
4 probably all have a financial nexus that's been made part of  
5 the issues in this case.

6 So, I know at the end of the line it's a question  
7 of what parts of the Interconnection Agreement may or may  
8 not be something in arbitration setting ordered to be  
9 changed or not. But at the heart of this is--as it always  
10 is--is what is the financial impact on the players. So why  
11 don't we take a brief break. Unless Ms. Anderl seems to be  
12 handing you a few of those questions, did you want to put  
13 that on the record as to where we're going?

14 MS. ANDERL: You know, Your Honor, I can talk to  
15 Mr. McNamer offline, and maybe we can streamline this, let  
16 him talk to his client first. I did have one other  
17 cross-examination exhibit kind of along these lines which  
18 may or may not be objectionable, I may as well just hand  
19 that up if you don't mind?

20 JUDGE TOREM: So, this will be TL-5X?

21 MS. ANDERL: Yes.

22 JUDGE TOREM: Looks to be a single page?

23 MS. ANDERL: It is.

24 JUDGE TOREM: This looks to be a printout from the  
25 North County Communication's website summarizing their

0196

1 corporate information?

2 MS. ANDERL: Yes, Your Honor. That's what I would  
3 ask Mr. Lesser to verify if I were to ask him about this  
4 exhibit.

5 JUDGE TOREM: So, holding that question in  
6 abeyance, are we ready to take about a ten minute break?

7 MR. McNAMER: We can probably take less than that.

8 MS. ANDERL: Five or ten.

9 JUDGE TOREM: I'll come back in about five minutes  
10 and see if we're ready. If counsel can propose a mutually  
11 agreeable resolution that will be fine. And I'll step out  
12 so you folks can stay here.

13 MS. ANDERL: Okay, thanks. And, Your Honor, we're  
14 pretty safe if we turn the mics off, right, that nobody will  
15 be on?

16 JUDGE TOREM: Yes, the microphones are what feeds  
17 into the Bridge line. So, we'll be at recess for about five  
18 minutes.

19 (Break taken from 1:06 to 1:13 p.m.)

20 JUDGE TOREM: All right. I've asked someone in  
21 our Telecom section just to pull the docket number we  
22 referred to in the previous exhibit and take a look at what  
23 has been provided to the Commission so I'm not keeping out  
24 of the record here anything that might be already in the  
25 public record.

0197

1 MS. ANDERL: Okay.

2 JUDGE TOREM: I take it we've gone back on the  
3 record if you're typing what I'm saying, so that's fine.  
4 So, it's about a quarter after, we're back on the record. I  
5 understand counsel have reached an agreement, so hopefully  
6 we have no more objectionable questions in this area, we'll  
7 see where we go.

8 MR. McNAMER: As part of the agreement -- to the  
9 extent we have direct testimony which talks about generally  
10 how this will affect our -- that we'll go out of business,  
11 those sort of questions, we are happy to withdraw those  
12 questions so there aren't specific questions about the  
13 company's overall revenues and that sort of thing.

14 JUDGE TOREM: We'll see where this leads us.  
15 Ms. Anderl, go ahead.

16 MS. ANDERL: Thank you, Your Honor. I would just  
17 propose as a practical matter, Mr. Lesser and I can work  
18 on -- Mr. McNamer and I can work on agreeing what those  
19 questions and answers should be post hearing and submit the  
20 revised testimony.

21 JUDGE TOREM: Okay.

22 MS. ANDERL: But we're willing to accept that now  
23 for purposes of moving this forward.

24 Q. (By Ms. Anderl) Okay. Mr. Lesser, more  
25 questions. I handed out before we broke a document that's

0198

1 marked for identification as Exhibit TL-5X that does appear  
2 to be a North County Communication's website page.

3 Mr. Lesser, can you identify that exhibit and describe for  
4 me in your words what that is?

5 A. Yes, this is an e-mail that --

6 Q. I'm sorry, the website.

7 A. Looks like a printout from our web page.

8 Q. Okay. Is that corporate information there that  
9 describes the primary business areas, is that an accurate  
10 description of your primary business areas?

11 A. It's a very general one. Many places always ask  
12 you, do you have a web page? So we paid someone to create a  
13 web page for us. That's why we say we provide local dial  
14 tone and CLEC services, and then we kind of listed a few  
15 things we do under that. But it's not encompassing  
16 everything, it's not a tell-all document.

17 Q. But it's accurate as far as it goes?

18 A. Yeah, in different parts of the country, yes.

19 MS. ANDERL: Okay. Your Honor, we move admission  
20 of that document, TL-5X.

21 JUDGE TOREM: Okay, it's been offered. Any  
22 objection?

23 MR. McNAMER: No objection.

24 JUDGE TOREM: It will be admitted.

25

0199

1 Q. (By Ms. Anderl) In what states do you do business  
2 in, Mr. Lesser, as a telecommunications company?

3 A. We are approved in Hawaii, California, Oregon,  
4 Washington, Arizona, Illinois, West Virginia, New York, New  
5 Jersey, Pennsylvania, Texas and Missouri.

6 Q. And do you actually have customers in all of those  
7 states?

8 A. No.

9 Q. Are you offering services in all of those states  
10 yet?

11 A. I guess it depends on what your definition of  
12 offering services is.

13 Q. Well, let's --

14 A. We have authority to operate in those states.

15 Q. Are you holding yourself out to do business in any  
16 way advertising or soliciting customers?

17 A. Yes.

18 Q. Now, the types of businesses that you offer as  
19 described on Exhibit TL-5, those generate largely traffic  
20 that is inbound to NCC's customers; is that true?

21 A. No.

22 Q. If you have a customer who is a call center what  
23 is the likely balance of traffic going to be?

24 A. Depends on what type of call center it is.  
25 There's outbound call centers that take a whole bunch of

0200

1 telemarketing calls which we have. There's inbound call  
2 centers that receive, you know, 800 numbers, it just depends  
3 on what that customer's usage is. But the term call center  
4 in itself is not indicative of more inbound or more  
5 outbound.

6 Q. Does the description on the third bullet point,  
7 ISP's, does that tend to signify more inbound or more  
8 outbound?

9 A. Well, not necessarily. I mean if it's dial up ISP  
10 traffic, by it's definition it's going to be inbound. If  
11 it's ISP traffic where you're providing Internet bandwidth  
12 that's not either. If you're providing circuits that's not  
13 either.

14 Q. Prior to filing an application for NCC in  
15 Washington in 1997 were you employed by any other  
16 telecommunications companies?

17 A. Yes.

18 Q. Can you give me a brief work history?

19 A. I -- you mean the names or just what --

20 Q. Yes, the names.

21 A. I worked for a company called Info Connections and  
22 then prior to that a company called Comtel Communications.

23 Q. Now, if you turn back to the Commission's  
24 decision -- or Commission order that's marked as Exhibit  
25 TL-4X, the last sentence in the first paragraph there says

0201

1 that North County intends to eventually install an XL switch  
2 in the state of Washington for provision of services, do you  
3 see that?

4 A. What document is this?

5 Q. TL-4X, the Commission decision in the order  
6 authorizing your registration of the telecommunications  
7 company.

8 MR. McNAMER: First paragraph, first page.

9 Q. (By Ms. Anderl) Page 1 of 2, first paragraph,  
10 last sentence?

11 A. Okay, yes.

12 Q. Yes. Is that -- do you recall that as having been  
13 a part of your applications to the Commission?

14 A. No.

15 Q. Do you know what an XL switch is?

16 A. Yes.

17 Q. What is it?

18 A. Central office switch made by Excel Corporation.

19 Q. Did you install such a switch in the state of  
20 Washington for provision of services?

21 A. No.

22 Q. Do you still intend to do that?

23 A. We haven't decided.

24 Q. Did you install any switch in Washington for the  
25 provision of service in Washington?

0202

1           A.    No.  We signed an SPOP agreement, Single Point of  
2    Presence agreement with Qwest some multiple years ago, and  
3    we only offer service in Vancouver, Washington which is in  
4    the Portland LATA.  So the only traffic in question in  
5    Washington is traffic in the Portland LATA.  So, at this  
6    point -- or for the last 13 years we've only interconnected  
7    with Qwest in Portland.

8           MS. ANDERL:  Your Honor, if I might just for the  
9    court reporter, LATA is L-A-T-A, all caps.

10          Q.    (By Ms. Anderl) At the time of your application  
11    with the Washington Commission did you file a tariff that  
12    showed that you mirrored the incumbent local exchange  
13    company calling areas?

14          A.    I don't recall.

15          Q.    Do you still do that?

16          A.    Do we still --

17          Q.    If you did file a tariff of your local exchange  
18    calling areas, as this Commission's represented that you  
19    did, is that your current practice?

20          A.    We follow whatever is in our tariff.

21          Q.    And where would one find a copy of your tariff for  
22    service in Washington?

23          A.    Filed with the Washington Public Utilities  
24    Commission.

25          Q.    And if the Commission no longer accepted those



0203

1 tariffs for filing from CLEC's where would one find a copy,  
2 is it posted on your website?

3 A. I believe so.

4 Q. Do you know where on your website?

5 A. No. I think we have a tab for tariffs.

6 Q. And have you filed on that tab your FCC tariff, to  
7 the best of your recollection?

8 A. Our technicians were suppose to put it on there.  
9 I asked them to.

10 Q. All right. And I found that, and we'll ask you  
11 some questions about that in a minute. Would there be any  
12 place else -- if the Washington tariff is not on your  
13 website would there be anywhere else a person could obtain  
14 such a copy?

15 A. Yes, they could ask us for it. Before providing  
16 service we would either do it under contract or under  
17 tariff.

18 Q. Do you serve customers in Washington today?

19 A. Yes.

20 Q. And when you say you serve customers in Washington  
21 what exactly do you mean by that? Are your customers  
22 physically located in Washington?

23 A. Yes.

24 Q. And do they have Washington telephone numbers?

25 A. Yes.

0204

1 Q. And are they all in the Portland LATA?

2 A. Yes.

3 Q. How many customers do you have in Washington?

4 MR. McNAMER: Objection.

5 JUDGE TOREM: On what basis?

6 MR. McNAMER: Confidentiality. Same basis, it's  
7 nonpublic information.

8 JUDGE TOREM: Ms. Anderl?

9 MR. McNAMER: Also I don't understand the  
10 relevance.

11 MS. ANDERL: Still trying to get an understanding  
12 of this company's operations. The state -- we have some  
13 ideas about what they're doing, but, of course, it's not on  
14 the record unless it's on the record. I thought that  
15 counsel said that they did not have an objection to  
16 Washington revenues or Washington billings. Maybe I will  
17 withdraw the question as to the number of customers and ask  
18 it another way.

19 JUDGE TOREM: Okay. So consider that one  
20 withdrawn.

21 Q. (By Ms. Anderl) Did you file an annual report  
22 with the Washington Commission this year for 2009 calendar  
23 year operations?

24 A. Should have.

25 Q. Did you pay a regulatory fee?

0205

1 A. Should have.

2 Q. Do you know what that was?

3 A. No.

4 Q. Do you know what your Washington revenues were?

5 A. No.

6 Q. Do you know what your Washington billings to Qwest  
7 were?

8 A. Yes.

9 Q. For 2009?

10 A. Yes.

11 Q. What were those?

12 A. We actually have a billing dispute with Qwest that  
13 we haven't billed them for two years because we're  
14 attempting to kind of work this whole situation out, and  
15 with interconnection, but the last time we billed them our  
16 local interconnection fees were only approximately \$300 a  
17 month.

18 Q. That was for the state of Washington?

19 A. Yes, very little.

20 Q. And the last time that NCC billed Qwest for  
21 Washington was in August of 2008 for July 2008 charges?

22 A. That sounds about right, it was approximately \$300  
23 in reciprocal compensation fees.

24 Q. Were there any fees other than reciprocal  
25 compensation?

0206

1           A.    I don't believe so.  Of course, I haven't seen  
2   that document in two years.

3           Q.    Do you have any interconnection trunks with Qwest  
4   in the state of Washington?

5           A.    I don't really know how to answer that.  I mean --

6           Q.    Do you know what an interconnection trunk is?

7           A.    Yes, but we have an SPOP agreement where we agreed  
8   to a single point of interconnection, and we have the single  
9   point of interconnection which includes the Portland LATA  
10   which includes Vancouver, Washington, is in downtown  
11   Portland.  So, I'm not attempting to be evasive, I just  
12   don't know if you would define those as interconnection  
13   trunks in Washington or you would define them as  
14   interconnection trunks in Oregon, but the Washington traffic  
15   flows over those interconnection trunks, but they are  
16   physically located in Oregon.

17          Q.    Okay.  When we talk about an A location and a Z  
18   location, one point on one end of the trunk and a point on  
19   the other end where the networks are connected, both the A  
20   and the Z locations are in Oregon for your trunks,  
21   interconnection trunks with Qwest?

22          A.    Yes.  But I would also like to clarify that Qwest  
23   tandem for the Vancouver, Washington central office is also  
24   in Portland.  So, we both own for Vancouver traffic off the  
25   Qwest Portland tandem.  So, this is not an unusual thing

0207

1 that this is set up this way. What's unusual is that the  
2 Portland LATA crosses state lines. And generally around the  
3 country is the LATA lines do not cross state lines, but this  
4 is a very unusual situation.

5 Q. For your customers in Washington what services do  
6 you provide them?

7 A. Local dial tone.

8 Q. And what do you mean when you say local dial tone?

9 A. We provide phone service.

10 Q. Okay. And what are the -- do you have an NPA, all  
11 caps, dash, NXX that you use for Washington?

12 A. Yes.

13 Q. And that is 360-847?

14 A. I believe so.

15 Q. How many of those telephone numbers do you have  
16 assigned to customers?

17 A. I don't recall.

18 Q. Is that the only NPA-NXX traffic that you have for  
19 Washington?

20 A. Yes.

21 Q. Or numbers?

22 A. Yes.

23 Q. And do you know where your customers are located,  
24 you said they were in the Portland LATA in the state of  
25 Washington?

0208

1 A. Yes.

2 Q. Do you offer 911 service?

3 A. Not in Washington.

4 Q. Do you offer operator services?

5 A. No.

6 Q. Do you -- are you --

7 A. Not in Washington.

8 Q. All right. Do you offer local number portability  
9 in Washington?

10 A. Yes.

11 Q. So if any customer who was assigned a 360-847  
12 telephone number within that 10,000 block wanted to port  
13 their number and go to a different carrier you would allow  
14 that?

15 A. Absolutely.

16 Q. And you're technically capable of accomplishing  
17 that?

18 A. Yes.

19 Q. Are you aware of whether or not there is a  
20 requirement in Washington to offer 911 service if you offer  
21 local service?

22 A. I'm sure there's a requirement to offer it for a  
23 outbound phone line, but if you have an inbound phone line  
24 only there's no requirement of it. For example, Qwest  
25 offers something called DID trunks. A DID trunk is an

0209

1 inbound only line and is not capable of 911.

2 The reason we do not offer 911 service in  
3 Washington is because none of our customers have requested  
4 to use our North County Communications local phone lines to  
5 make outbound calls, thereby there's no need for them to  
6 dial 911.

7 Q. So when you say you offer local dial tone to  
8 Washington customers that is exclusively for inbound  
9 traffic?

10 A. We offer it both ways, our customers are only  
11 asking for inbound only.

12 Q. Are the lines that you provisioned to them capable  
13 of outbound dialing?

14 A. No. We provisioned them exactly how they  
15 requested them to be ordered.

16 Q. So you do not -- you provide local service in  
17 Washington that is not set up to allow outbound calling?

18 A. Correct.

19 Q. Okay.

20 A. But if a customer requested outbound calling we  
21 would take the necessary steps to allow them to make  
22 outbound calls. But one of those steps would be if you have  
23 an outbound line for local calls we would have to  
24 interconnect with 911 trunks. And the reason for that is  
25 you don't want someone to be able to pick up a phone that

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1 dials phone numbers and they dial 911 and the call fails.

2 Q. Mr. Lesser, do you know what the LERG is?

3 A. Yes.

4 Q. Does the LERG contain a field in it with regard to  
5 NPA-NXX listings as to whether or not that particular  
6 NPA-NXX is number portability enabled?

7 A. Can you ask the question one more time?

8 Q. Probably not exactly the same way.

9 A. I will attempt to answer what I think it says.

10 One of the fields in the LERG is if the number is -- if  
11 they're portable or not.

12 Q. Thank you. Would you accept, subject to your  
13 check, that the LERG currently indicates that 360-847, the  
14 portability indicator, is an "N" for no?

15 A. It's possible.

16 Q. Why would that be?

17 A. Well, the first issue is we didn't put that entry  
18 into the LERG. At the time Qwest offered a service where  
19 they would do your LERG entries for you, and Qwest actually  
20 controls that LERG entry. And subsequently -- well, at the  
21 time there was no number portability. Now there is number  
22 portability and Qwest hasn't updated that record. I haven't  
23 pursued it with Qwest to get them to update it because we've  
24 not received a request from one of our customers to port  
25 their numbers. If we did receive a request then I would



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1 have to attempt to find out someone at Qwest who would know  
2 how to do that.

3 Q. So, back to the questions about inbound versus  
4 outbound calling, is it fair to say that based on the  
5 description that you've given me of the service that you  
6 offer to your customers in Washington, traffic would be in  
7 Washington exclusively one way to the NCC customers?

8 A. The NCC customers that are using NCC's local  
9 interconnection trunks, but we do provide services through  
10 resellers that are other companies that do provide, you  
11 know, making calls.

12 Q. Give me an example of that?

13 A. Well, for example, we route calls that are  
14 interstate calls to Washington, but we don't use our local  
15 interconnection trunks, our trunks we have with Qwest, we  
16 use other companies to route those calls, you know, like XO,  
17 for example, or Electric Lightwave.

18 Q. And so those are interexchange calls?

19 A. Yes.

20 Q. Mr. Lesser, how do you define local traffic?

21 A. That's a very difficult question to answer because  
22 it depends on each public utilities commission defines local  
23 traffic in a different way. Certain states, approximately  
24 anything over 12 miles is considered long distance traffic.  
25 Other areas have really big calling patterns that they

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1 consider local traffic. Some public utilities use terms  
2 like extended local calling area. Other ones use terms such  
3 as, I don't even know what it stands for, ZUM calls, Z-U-M.  
4 So I don't have any other definition other than when I wear  
5 my Washington "hat" a local call is whatever the Washington  
6 Public Utilities Commission says a local call is.

7 Q. Okay. How would you define VNXX traffic?

8 A. While in Washington I would define VNXX traffic  
9 the way the Washington Public Utilities Commission defines  
10 it. I wouldn't define it the way Qwest is attempting to do  
11 in the local interconnection trunk. For example, under  
12 Qwest's definition of VNXX traffic, remote call forwarding  
13 lines that Qwest offers itself would not be allowed to apply  
14 to reciprocal compensation traffic. Well, clearly Qwest  
15 charges reciprocal compensation traffic for a remote call  
16 forwarding line. So I don't feel comfortable with Qwest's  
17 definition of VNXX.

18 I feel comfortable with how the Washington Public  
19 Utilities Commission chose to define VNXX. And that is why  
20 I would prefer to have no language in there, similar to I  
21 believe it's the Interconnection Agreement with one of the  
22 ones that was provided was Echelon, that said both parties  
23 simply agreed to follow whatever the Commission defines as  
24 VNXX traffic.

25 Q. And if the parties disagree as to what the

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1 Commission defines as VNXX traffic, as we apparently do in  
2 this case, how do you resolve that?

3 A. I assume many times you have a question about a  
4 public utilities commission order you either file something  
5 for a clarification with the public utilities commission or  
6 some other legal means to do it. But I frankly don't know  
7 what the procedures are if you don't understand what a  
8 Commission order is how you do it. Maybe you simply ask  
9 staff here.

10 Q. And if there's a debate about which parties'  
11 definition in this arbitration most appropriately implements  
12 the Commission's decision on VNXX do you think that that's a  
13 decision this arbitrator can make?

14 A. Since we didn't propose a VNXX definition, we said  
15 we simply will go with what the Commission defines as VNXX.

16 Q. If the arbitrator agrees that Qwest's definition  
17 complies with what the Commission previously ordered is that  
18 acceptable to NCC?

19 MR. McNAMER: I don't know why this is relevant.

20 MS. ANDERL: Well, I've been trying to explore  
21 whether there is actually a competing language proposal and  
22 what the appropriate resolution of that competing language  
23 proposal would be, or if in fact what NCC is recommending is  
24 just that we have a contract that doesn't resolve this  
25 dispute and then we bring the dispute back to the Commission

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1 for another day for resolution. That's obviously going to  
2 impact the way we brief this case and what we argue to the  
3 Commission is the appropriate route to take.

4 A. I can probably answer that. That's very much why  
5 I'm perplexed that we've not had a single carrier in any  
6 state across the country take us back to renegotiate an  
7 Interconnection Agreement. Number one, is my reading of the  
8 Telecom Act, I don't think it allows that.

9 Number two, is all the Interconnection Agreements  
10 have a change of law. Now, when we started both our  
11 interconnections 13 years ago there was no such thing as  
12 VNXX. But it's reasonable to assume there's going to be  
13 changes of laws, and as long as an agreement has a change of  
14 law provision, which every Interconnection Agreement at  
15 every public utilities commission with every carrier that I  
16 am in, and all the states I mentioned, has a change of law  
17 provision, that happens all the time. I mean it doesn't --  
18 you don't have to re -- you don't have to put in new  
19 definitions in your Interconnection Agreement. All you have  
20 to say is we will follow the current laws. I mean, for  
21 example, ISP traffic. There was no requirements for there  
22 to be a separate rate that you paid on ISP traffic when we  
23 started. But the FCC did their famous ISP order which  
24 requires us to follow that, didn't require us to amend our  
25 Interconnection Agreement because our Interconnection

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1 Agreement had a change of law provision.

2 Q. (By Ms. Anderl) The parties did amend their  
3 Interconnection Agreement to adopt an ISP amendment though,  
4 didn't they?

5 A. I don't recall, but it was -- either way you have  
6 to follow the laws. Whether you change your Interconnection  
7 Agreement or not you can't do something illegal by doing  
8 that. But if one party requests to amend the  
9 Interconnection Agreement, which I think Qwest did  
10 approximately right before we did this, and that's frankly  
11 why I was surprised. I mean Qwest did not request  
12 arbitration, did not request an Interconnection Agreement  
13 change two plus years ago, they send me huge documents  
14 saying we want to amend the Interconnection Agreement, we  
15 want to do all the change of law provisions to make it  
16 current to make it follow every single law out there. They  
17 sent it to us. I had the document reviewed. We changed  
18 some words, we agreed on it and then we submitted it to the  
19 Washington Public Utilities Commission for approval. Once  
20 that happened, right away Qwest then requested  
21 arbitration -- or requested negotiations again. And I'm  
22 still perplexed why they did that when we had an agreement  
23 that was following all the laws.

24 Q. Qwest sent you the proposed ICA that's Exhibit 2  
25 in this document in June of 2008; isn't that right?

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1 A. Yes.

2 Q. Is NCC willing to exchange VNXX traffic, as  
3 defined by this Commission, with Qwest on a bill and keep  
4 basis?

5 A. I am willing to follow any Commission order. We  
6 don't have any VNXX traffic in Washington. Now, I know you  
7 guys said it but--and with all due respect, you know, I  
8 don't want to spend a lot of time criticizing your  
9 experts--but to know where VNX traffic is, unless they have  
10 a crystal ball, you have to know what the rate center is and  
11 you have to know where the customer is located. Now, unless  
12 you're telling me that Qwest has some spy that knows where  
13 every one of my customers are, there's no possible way that  
14 they can say we have VNXX traffic.

15 So when your witness says, oh, well, there's some  
16 way we're doing it, but I don't know how, it's because they  
17 made it up. There's no way to physically know until you  
18 physically know where the customer is. I mean read the  
19 definition of VNXX traffic. So have I looked at VNXX  
20 traffic and followed all the rules, no, because we don't  
21 have any. So it's not worth my time. If we started to get  
22 VNXX traffic I'll abide by the rules, just as if we have a  
23 customer that needs to make outbound calls I'll learn what  
24 all the rules are for 911 traffic. But I'm not going to  
25 learn the rules of how to do 911 traffic, how to do

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1 co-location in Washington, how to do all the features that  
2 we're not selling. We only provide the services that the  
3 customer has asked us to provide.

4 Q. So is NCC willing to enter into an Interconnection  
5 Agreement with Qwest that treats VNXX traffic in accordance  
6 with the Washington Commission's decision for purposes of  
7 reciprocal compensation?

8 A. To answer that question it would require me to  
9 divulge attorney-client privilege.

10 MS. ANDERL: Your Honor, I'm afraid I don't  
11 understand the witness's objections.

12 JUDGE TOREM: Nor do I. You're asserting a  
13 privilege as to would you be willing to enter such an  
14 agreement? You're the CEO of the company, and I don't see  
15 how the attorney makes any of those decision. You may  
16 advise, but you're the decider on this one.

17 A. You're absolutely right, when I think of the  
18 question answered that way. Would I be willing to? No.  
19 Would I be willing to of my own free volition change our  
20 Interconnection Agreement from what we have now, other than  
21 a change of law provisions? Absolutely not, we're not  
22 changing anything.

23 JUDGE TOREM: I'm not sure that's the question.  
24 Ms. Anderl, is the question about changing the  
25 Interconnection Agreement or just a standalone agreement

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1 about this VNXX traffic that you're hypothesizing here?

2 Q. (By Ms. Anderl) Yes. And I'm not trying to trick  
3 Mr. Lesser into agreeing to change the ICA when I know that  
4 they don't want to change the ICA. What I'm trying to ask  
5 Mr. Lesser is whether he's willing to enter into a provision  
6 addressing VNXX traffic, whether there's in the context of a  
7 new ICA, or an amendment to the old ICA, that treats VNXX  
8 traffic consistently with how the Commission ordered it to  
9 be treated for purposes of reciprocal compensation?

10 A. Absolutely.

11 Q. And same question with regard to a contract term  
12 that treats VNXX as NCC originated traffic for purposes of  
13 the calculation of the relative use factor consistent with  
14 the Commission's decision that the CLEC paid for transport?

15 MR. McNAMER: I'm going to have to object to that  
16 one because I think it mischaracterizes -- it's  
17 argumentative because what it's doing in the question is  
18 mischaracterizing what the Commission's order is. So the  
19 question is are you willing to treat it like the Commission  
20 tells you to be treated -- tells it to be treated? But my  
21 position, which I think I made clear on cross, was that  
22 that's not what the Commission's order said. The  
23 Commission's order doesn't address relative use, so I think  
24 her question is argumentative.

25



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1 MS. ANDERL: Let me withdraw that question and ask  
2 a different question.

3 Q. (By Ms. Anderl) Is NCC willing to pay -- if NCC  
4 has VNXX traffic is NCC willing to pay for the transport  
5 facilities for that traffic?

6 A. If that's what the Commission order says.

7 Q. Then, yes, if that's what the Commission order  
8 says?

9 A. Yes. Again, I just need you to know, I've never  
10 read the Washington Public Utilities Commission VNXX orders  
11 because we don't have any traffic. It's a big document. If  
12 I read it, by the time it really applied I would have to  
13 read it again because I would forget. It's difficult.  
14 Qwest has experts for every state. We're operating in so  
15 many different states I don't have someone who just is an  
16 expert in Washington. And all the Interconnection  
17 Agreements.

18 I'd love to be the one that had the same  
19 Interconnection Agreements in all my states because, you  
20 know, Qwest wants us to use theirs, Verizon wants us to use  
21 theirs, AT&T wants us to use theirs. They have different  
22 ones for each state. They all blend together. And every  
23 Commission has different orders for different rules. So if  
24 you're going to ask me really specific questions about VNXX  
25 orders in Washington I can't answer them. All I can tell

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1 you is I will follow whatever the Commission rules are.

2 Q. How do you find out what those Commission rules  
3 are, do you have people on your staff who advise you about  
4 that?

5 A. Well, in this case if I wanted to offer VNXX  
6 traffic I know that my attorney, without divulging  
7 attorney-client privilege, sent me a document of the rules  
8 for VNXX traffic, and I saved it on my computer. So what I  
9 would do if I wanted to offer VNXX traffic, first I would  
10 read it so I had a baseline of what the prior history was,  
11 then I would send an e-mail, and I don't -- I feel  
12 comfortable divulging this without fully disclosing  
13 attorney-client privilege, I would send an email to one of  
14 my attorneys and say, has there been any updates in the  
15 laws? Or I would go to the Washington Utilities Commission  
16 web page myself and search for it. Just depends what my  
17 workload was at the time if I would research it myself or if  
18 I would have an attorney do it.

19 Q. These attorneys that you're talking about, are  
20 these outside counsel?

21 MR. McNAMER: I guess objection.

22 JUDGE TOREM: On what basis?

23 MR. McNAMER: I mean I don't -- first of all, I  
24 think that -- I'm not sure how this is relevant to anything,  
25 but also it's confidential with what attorneys he consults

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1 with and whether they're outside counsel or inside counsel.  
2 I think it's also completely irrelevant. Why does it matter  
3 if they're inside counsel or outside counsel?

4 JUDGE TOREM: Ms. Anderl?

5 MS. ANDERL: I was, again, just trying to figure  
6 out the extent to which Mr. Lesser was relying on his own  
7 expertise, expertise from employees within his company or  
8 from expertise from outside consultants or experts. I'm,  
9 again, just trying to get an understanding of the nature of  
10 his decision-making process, his ability to comply with the  
11 laws in the state of Washington and, you know, just  
12 contextually the nature of the negotiations and the  
13 Interconnection Agreement. It's very, very hard not to  
14 be -- have an understanding of who it is we're dealing with.

15 MR. McNAMER: She's asking a hypothetical about  
16 something that might happen in the future and who he might  
17 consult with in the future if that thing happens, and she's  
18 asking whether that would be an outside attorney or inside  
19 attorney. We've already established it would be an  
20 attorney.

21 JUDGE TOREM: Mr. McNamer, I'm going to sustain  
22 your objection, but it's not without understanding where  
23 Ms. Anderl is coming from and trying to sort out just who,  
24 if anyone, falls under the North County Communications  
25 rubric besides Mr. Lesser, who if anyone he consults with,

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1 hires, talks to. The shadow of this I'm -- I have my own  
2 questions and forming my own opinions, but I want to be  
3 cautious, as I said earlier, not to unintentionally violate  
4 any laws of privacy that that corporation is entitled to.

5 There's a variety of information that the  
6 Commission requires, and I have access to that now, there's  
7 a variety of information that I think an Interconnection  
8 Agreement requires between your client and Qwest and I want  
9 to make sure that Qwest has access to that and nothing more.  
10 So I'm leaning in the direction of sustaining this  
11 objection, but eventually there will be something I will  
12 have to overrule, I'm sure --

13 MR. McNAMER: I understand.

14 JUDGE TOREM: -- just on the basis of your  
15 client's testimony as he's given in writing previously and  
16 verbally today. Ms. Anderl, you can resume.

17 MS. ANDERL: Thank you, Your Honor.

18 I'd like to offer or take up to the witness Bench  
19 Exhibit No. 1 which is the 1997 Interconnection Agreement.

20 I believe I previously provided copies and if I  
21 may approach the witness, Your Honor?

22 JUDGE TOREM: Yes. If you can give me an  
23 additional copy of TL-4X? I think in my request for some  
24 supplemental documentation that got left back at the ranch.

25 MS. ANDERL: Sure, I have an extra here somewhere.

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1 There might be two but it's extra.

2 JUDGE TOREM: Here's that other one.

3 MS. ANDERL: Thanks.

4 Q. (By Ms. Anderl) Mr. Lesser, I've placed in front  
5 of you a document that's been marked for identification, and  
6 admitted I guess, as Bench Exhibit 1, it's the 1997  
7 Interconnection Agreement between Qwest -- or U.S. West and  
8 North County, do you recognize that document?

9 A. Yes.

10 Q. And are you the one who signed it?

11 A. Yes. It's not complete but I was the one who  
12 signed it.

13 Q. What's it missing?

14 A. It's missing all the amendments.

15 Q. Some of the amendments and pricing exhibits?

16 A. I don't know if it's missing the pricing exhibits,  
17 I do notice that it's missing the amendments.

18 Q. Do you know how many amendments the parties have  
19 entered into?

20 A. I don't recall. I just remember the last one was  
21 approximately a change of law provision approximately a year  
22 and a half ago, two years ago maybe.

23 Q. Was that for the TROO provision?

24 A. I don't recall. I just remember that Qwest came  
25 to us and said we wanted to update our agreement to include

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1 all change of law provisions, and that's what we did.

2 Q. Could you turn to Page 3 in the document that's in  
3 front of you. And do you recognize that as a page that has  
4 some of the definitions on it?

5 A. You mean under table of contents Page iii.

6 Q. Not little "i" Page 3 but arabic Page 3?

7 A. Yes.

8 Q. Do you see the definition there for ANI?

9 A. Yes.

10 Q. Can you point me to any place in this  
11 Interconnection Agreement that requires Qwest to provide ANI  
12 over local interconnection trunks?

13 A. First, let me define multiple things. Now, ANI  
14 stands for automatic number identification, just to point  
15 out that, you know --

16 JUDGE TOREM: Mr. Lesser, we've already had this  
17 particular definition read into the record. So I think it  
18 can speak for itself.

19 A. Okay. ANI refers to Feature Group D signaling  
20 parameter, but that is not the only thing ANI includes. You  
21 can have ANI on Feature Group B trunks, you can have ANI on  
22 Feature Group C trunks, you can have ANI on local  
23 interconnection trunks. Now, I've had ANI on all those  
24 things so I would have to say while this definition  
25 describes what ANI is, it doesn't include all its uses.

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1           Now, there is somewhere in the document, because  
2 we did have an e-mail exchange with Qwest, and this was  
3 sometime ago, five years ago maybe, I would have to look for  
4 that e-mail exchange. I know you were looking at some  
5 e-mails that you provided me here as an exhibit that you're  
6 going to show in a few minutes from three years ago, so  
7 maybe you have the full e-mail exchange. But we asked Qwest  
8 to provide us with ANI over the local interconnection trunks  
9 to help resolve all these issues. We said to you that the  
10 switch is capable. We said that other phone companies have  
11 given us ANI over local interconnection trunks, they have  
12 the same switch as you. It's just a parameter, you just  
13 type it in, no different than setting a switch to be  
14 unlimited local calling versus measure break business  
15 calling. It's just a class, it's a class of service plan.

16           These switches are several million dollars and are  
17 very powerful and can be highly configured because they're  
18 used in all different types of applications. They don't  
19 just counter peg counts. So there is a provision somewhere  
20 in here that talked about you providing calling party  
21 information.

22           Now, calling party information sometimes can be  
23 ANI, and sometimes can be just what would be displayed on  
24 caller I.D. For example, if I have a trunk my trunk may  
25 just give me ANI of the BTN which is the billing telephone

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1 number. Now, the caller I.D. may be the specific extension  
2 on a PBX. So sometimes you have the calling party telephone  
3 number separate from the ANI. Other times ANI is the exact  
4 same thing as calling party number.

5 Now, in the agreement I believe it says they will  
6 provide us calling party information and Qwest's response to  
7 that e-mail says it doesn't say we have to require ANI.  
8 Now, I didn't pursue it, but I feel that they were wrong. I  
9 felt that they can provide us, they can technically provide  
10 us ANI, and ANI would be providing us with calling party  
11 information.

12 JUDGE TOREM: So was the answer to that yes or no?

13 MR. LESSER: Yes.

14 JUDGE TOREM: Yes, there's something in the  
15 agreement that requires Qwest to provide North County with  
16 ANI?

17 Q. (By Ms. Anderl) Over local trunks?

18 A. Yes, if you -- because -- yes.

19 Q. And then where is that?

20 A. I would have to spend some time, I don't have a  
21 search. But somewhere on there it talks about calling party  
22 information that they're suppose to provide. And I sent an  
23 e-mail, maybe even to Anne Marie Brunk, I could search for  
24 it on my computer, I probably have a copy of it.

25 JUDGE TOREM: If I understand, we can identify



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1 that if necessary today or in briefs later, but if I  
2 understand your answer it's that this exhibit, somewhere in  
3 it, requires Qwest to provide calling party information and  
4 you think that that means ANI? And I'm sure there's a  
5 disagreement exactly as to what that is. And you've given a  
6 pretty good thorough explanation as to how those might be  
7 interpreted differently?

8 MR. LESSER: Right. It was just something I  
9 didn't think of at the time. That's why I'm very wary.  
10 When you read Interconnection Agreements --

11 JUDGE TOREM: Weary for the record or wary, it  
12 could be both.

13 MR. LESSER: It could be both, yeah.

14 Anthony, I had a conversation with him, and I  
15 explained to him sometimes we use the same acronym to mean  
16 multiple different things, and sometimes I will have five  
17 different ways of describing something technical. When you  
18 have a document like this sometimes you miss things because  
19 you don't think well, what if. Like Qwest's VNXX  
20 definition, if you take it literally it does include remote  
21 call forwarding. Well, their testimony was, yep, remote  
22 call forwarding lines are not VNXX traffic. When I read  
23 that definition I think it does, that it doesn't allow  
24 reciprocal compensation on remote call forwarding lines. So  
25 with this document it was very -- you know, it defines ANI

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1 and it defines calling party information. I don't even know  
2 if it necessarily says they'll provide ANI over SS7. I  
3 think it even excludes that.

4 Well, SS7 and calling party information is a  
5 parameter of SS7. For MF there is no calling party  
6 parameter, it's just ANI. So, again, it's a very  
7 complicated thing. But I think the intent in this document,  
8 at least my intent when signing it, is that they would  
9 provide ANI to us over MF. And I was surprised that they  
10 wouldn't do it because it would have resolved all the  
11 problems. It doesn't cost them anything. And I could then  
12 clearly, even if they choose not to--and I'm sure I'll have  
13 time to testify to that later--track it themselves, I could  
14 provide them with every call record. And I could say,  
15 here's every call we received. We received 1,000 phone  
16 calls, this is the phone number that it came from, this is  
17 where it terminated. You can clearly see is it an intraLATA  
18 toll? is it local? is it wireless? We could tell all that  
19 because we would have a record, an EMI record to provide to  
20 swap records with Qwest.

21 JUDGE TOREM: Why don't we get to where  
22 Ms. Anderl's asking the questions, it's her cross-exam at  
23 the moment. When you have a chance with Mr. McNamer to ask  
24 questions we can cover anything else you need to supplement.  
25 Ms. Anderl?

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1           Q.     (By Ms. Anderl) So, Mr. Lesser, is there a  
2     provision in that contract that's in front of you that  
3     identifies ANI by that acronym as information that Qwest has  
4     to provide to NCC on local trunks?

5           A.     I seem to recall that it doesn't use the word ANI  
6     anywhere else in the document, it only uses the term calling  
7     party information. I could be wrong, it's been several  
8     years since I've read that document.

9           Q.     Now, if you thought that the document required  
10    Qwest to provide ANI over local trunks, and Qwest was not  
11    doing that, why did you not pursue that?

12          A.     It wasn't worth hiring an attorney \$300 an hour to  
13    file a complaint with the public utilities commission,  
14    probably end up with a bill over maybe a couple hundred  
15    thousand dollars to fight over it for \$300 in reciprocal  
16    compensation traffic.

17          Q.     Do you have plans to operate in the state of  
18    Washington outside of the Portland LATA?

19          A.     It's asking me to answer a hypothetical, and I'm  
20    not sure.

21          Q.     It's not a hypothetical, I'm asking you if you  
22    have plans?

23          A.     Yes.

24          Q.     And what's the timeline on those plans?

25          A.     I have no timeline.

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1 Q. What is the geographic scope of your plan?

2 A. We're approved in the entire state. Eventually  
3 some day we'd like to provide service throughout the state.  
4 I should add we've had plans to do that for 13 years and so  
5 far we're only in Vancouver, Washington.

6 Q. Mr. Lesser, let me ask you a question about the  
7 document that has been distributed as Exhibit TL-6X.

8 MS. ANDERL: Your Honor, did I hand that up to you  
9 as well, the e-mail?

10 JUDGE TOREM: Please, because it certainly hasn't  
11 been distributed to me yet.

12 MS. ANDERL: Okay. I believe I did give it to the  
13 parties.

14 JUDGE TOREM: So this is the one page document.  
15 It looks to be an e-mail from February 13, 2007 from  
16 Mr. Lesser to Anne Marie Brunk, and her response follows the  
17 next day on February 14th, 2007.

18 Q. (By Ms. Anderl) Yes. Let me just ask Mr. Lesser  
19 if he can identify this document as the judge described it?

20 A. Yes, this is part, only part of an e-mail chain  
21 between Anne Marie Brunk, spelled B-r-u-n-k, and myself on  
22 or around February 14, 2007 requesting Qwest to purchase our  
23 CNAM, spelled C-N-A-M, and LIDB, spelled L-I-D-B, all  
24 capitals for both of those, under the same terms and  
25 conditions that Qwest was selling us their CNAM and LIDB

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1 information.

2 Q. But if you look at the bottom four paragraphs, is  
3 it correct that the paragraphs with the right facing caret  
4 next to them are the questions, and the paragraphs  
5 immediately below those are your answers?

6 A. Yes.

7 Q. Now on -- when you say our equipment is SS7 in San  
8 Diego, what does that mean?

9 A. It means we have SS7 equipment in San Diego.

10 Q. Does it mean you have a switch that's SS7 capable  
11 in San Diego?

12 A. If you're asking me if we have a switch that is  
13 SS7 capable in San Diego, the answer is yes. But that's not  
14 necessarily -- doesn't say that in this document. It just  
15 says our equipment is SS7 in San Diego.

16 Q. What equipment are you talking about?

17 A. We have SS7 databases in San Diego, we have a  
18 switch that's SS7 in San Diego.

19 Q. What switch is that? Can you identify the  
20 technical vendor name and model of the switch?

21 A. I don't have the model but it's a Lucent switch.

22 Q. Do you have any other switches in your network?

23 A. Yes.

24 Q. Where are they?

25 A. We have switches in Sacramento; San Francisco;

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1 Los Angeles; Tucson; Phoenix; DeKalb, Illinois. We have two  
2 switches in Charleston, West Virginia, I believe that's it.

3 Q. Which ones of those switches are SS7 capable?

4 A. San Diego and one of the switches in West  
5 Virginia.

6 Q. And that's all?

7 A. Yes.

8 Q. And you also have links to a signaling transfer  
9 point, SS7 links?

10 A. Yes.

11 Q. Can you explain what that involves? And  
12 specifically I'm asking you about the last two lines in this  
13 e-mail. You state our STP is located in San Diego, what  
14 does that mean?

15 A. She asked the question as for Qwest purchasing  
16 NCC's ICNAM information I need more information in order to  
17 assist you with this question. Where is the STP located  
18 that contains specific NCC data related to ICNAM? And what  
19 are the connection requirements to connect to your STP? And  
20 I responded that our signal transfer point, STP, is located  
21 in San Diego.

22 Q. What type of switch do you have in San Francisco?

23 A. Lucent.

24 Q. Is -- what about Sacramento?

25 A. Lucent.

0233

1 Q. What about L.A.?

2 A. Lucent.

3 Q. Tucson?

4 A. Lucent.

5 Q. Phoenix?

6 A. Lucent.

7 Q. DeKalb?

8 A. Lucent.

9 Q. And the two switches in Charleston?

10 A. Ericsson and Lucent.

11 Q. Do you know whether or not the LERG indicates that  
12 you're operating Nortel DMS-100's?

13 A. It does.

14 Q. Do you know why that is?

15 A. Because at the time we installed our switch the  
16 model number we had was not in the LERG and we set up our  
17 switches to do the features for MF signaling that a Northern  
18 Telecom DMS-100 is. We just emulate the DMS-100.

19 MS. ANDERL: Your Honor, if I haven't before moved  
20 the admission of TL-6X, I would do so now.

21 MR. McNAMER: No objection.

22 JUDGE TOREM: That will be marked and admitted.

23 Q. (By Ms. Anderl) Other than Verisign,  
24 V-e-r-i-s-i-g-n, which is the company identified at the  
25 bottom of that e-mail, are there any other SS7 hub

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1 providers, or any other companies to which NCC has SS7  
2 connectivity?

3 A. No.

4 Q. Let me ask you some questions about your  
5 Interconnection Agreement in California. Do you have an  
6 agreement, an Interconnection Agreement with -- well, signed  
7 at the time with PacBell?

8 A. Yes.

9 Q. And who is PacBell now?

10 A. AT&T.

11 Q. And if I were to show you a copy of that PacBell  
12 agreement would you be able to identify it?

13 A. Probably.

14 Q. Let's try then.

15 A. I mean I'll trust you. You can -- again, it's a  
16 300 page document or so, and I don't have it memorized, but  
17 I can look at an Interconnection Agreement, if it says North  
18 County Communications on it and Pacific Bell Phone, and it's  
19 coming from you, I would have to say it's probably our  
20 Interconnection Agreement.

21 Q. I can show it to your counsel first.

22 A. I can tell you he doesn't have it memorized  
23 either.

24 MS. ANDERL: Excuse me, Your Honor.

25 (Discussion held off the record between



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1                   counsel.)

2                   MS. ANDERL: Your Honor, this is one of the  
3 voluminous documents that I was describing in my e-mail that  
4 I would ask, subject to counsel's objection or stipulation  
5 or otherwise, that we just be able to ask the witness a  
6 couple of questions from, admit only those pages that are  
7 relevant to either my cross or his redirect, and subject to  
8 the rule of completeness, if they want the whole document  
9 I'm happy to make the requisite number of copies, but you  
10 can see it from here.

11                  JUDGE TOREM: Yes, it has to be two plus inches  
12 thick and it seems to me that you're only going to use a few  
13 pages?

14                  MS. ANDERL: That's true.

15                  JUDGE TOREM: Why don't you publish that to the  
16 witness.

17                  Will you be subjecting me to the full copy of it,  
18 as well?

19                  MS. ANDERL: I can take it up to you now so you  
20 can see it while we question on it, and then I can provide  
21 you with just the admitted pages down the road if that's all  
22 right with you?

23                  JUDGE TOREM: That's fine.

24                  MS. ANDERL: Okay. Here you go, Your Honor.

25                  JUDGE TOREM: Might be better to describe this one

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1 with the use of a scale than a ruler.

2 MS. ANDERL: That's true.

3 Q. (By Ms. Anderl) Mr. Lesser, I've handed you up a  
4 document that we're going to eventually mark excerpts from  
5 as Exhibit TL-7, I believe.

6 So let me just ask you, subject to the odd format  
7 and the copying with a half a page during the -- only a half  
8 a page of text on each of the first 20 or 30 pages and then  
9 the regular portrait format for the rest of the document,  
10 does that look to you like the agreement that you have  
11 between Pacific Bell and your company?

12 A. Yes, this was the agreement that initially the  
13 company -- well, I won't go too far back, was Pacific  
14 Telephone, then they became Pacific Bell, then they became  
15 SPC, then they became AT&T.

16 Q. And this was entered into in 1998 approximately?

17 A. I don't recall but probably.

18 Q. Are you the person that decided to enter into this  
19 contract?

20 A. Yes.

21 Q. How did you decide to enter into this particular  
22 agreement?

23 A. I don't recall.

24 Q. Do you know if you've read every page of this  
25 agreement?

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1 A. Yes, 12 years ago approximately.

2 Q. And can you turn to the first -- well, the first  
3 page is the cover sheet, the second page, physical page, is  
4 the table of contents; is that right?

5 A. Yes.

6 Q. And then the third page shows the attachments?

7 A. Yes.

8 Q. Okay. And Attachment 18 is listed as the  
9 Interconnection Attachment; is that right?

10 A. My eyesight isn't that good, yes.

11 Q. It's very tiny print. If you can find Attachment  
12 18, please, it's towards the back of the document?

13 JUDGE TOREM: Appears to be the last 30 pages.

14 Q. (By Ms. Anderl) Do you have that?

15 A. Yes.

16 Q. And can you turn to Page 4 of 30?

17 A. I'm there.

18 Q. Does that have on it a Paragraph 1.4 that says  
19 signaling protocol?

20 A. It starts the page before on Page 3, yes.

21 Q. And I wonder if we're on the same -- literally on  
22 the same page then, let me just double-check.

23 JUDGE TOREM: Mr. Lesser, are you looking in the  
24 center of the page, Paragraph 1.4, starts on Page 4 of 30?

25 MS. ANDERL: May I approach, Your Honor?

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1 MR. LESSER: Well, mine it appears on Attachment  
2 18, Page 3, 1.4. Signaling protocol is on my Page 3. Page  
3 4 has the continuation of that paragraph and then in the  
4 middle of that page, on Page 4, is 1.5 signaling.

5 JUDGE TOREM: All right. It looks like there  
6 might be a different printout.

7 MS. ANDERL: Yeah, we might have a pagination  
8 error. If I may approach the witness, Your Honor?

9 JUDGE TOREM: Please. Why don't you clarify he's  
10 looking at the same thing that you are.

11 MS. ANDERL: Yeah.

12 (Discussion held off the record.)

13 JUDGE TOREM: We're going to re-collect this TL-7X  
14 exhibit and figure out exactly which pages correspond?

15 MS. ANDERL: Yes.

16 MR. McNAMER: Would now be a good time for a break  
17 anyway, maybe like a five minute break?

18 JUDGE TOREM: Ms. Anderl, did you want to get any  
19 other questions in before we break?

20 MS. ANDERL: No, we can take a break now, and then  
21 I can figure out what's wrong with these documents.

22 JUDGE TOREM: All right. It's now about 2:20,  
23 we'll come back in about 10 minutes.

24 MS. ANDERL: Thank you.

25 (Break taken from 2:20 to 2:36 p.m.)

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1           JUDGE TOREM: Ms. Anderl, you checked through  
2 these piles of papers that's marked as TL-7X, and I now have  
3 a new copy, Mr. Lesser has a copy. Want to redirect us to  
4 those pages again?

5           MS. ANDERL: Sure, Your Honor, thank you.

6           Q.     (By Ms. Anderl) If we go to the very last  
7 document which indicates -- well, the bottom of the stack,  
8 Attachment 18 says interconnection and then it says Page 4  
9 of 30 or -- right, Pages 1 through 30 of 30. And Page 4  
10 should, in the middle of it, have a 1.4 signaling protocol  
11 on it?

12          A.     Yes.

13          MS. ANDERL: Okay. Are you there, Your Honor?

14          JUDGE TOREM: I am.

15          Q.     (By Ms. Anderl) Mr. Lesser, could you read the  
16 first sentence of the second paragraph of that under  
17 signaling protocol?

18          A.     The parties agree that the interconnection using  
19 SS7 is preferred.

20          Q.     Okay. And then the agreement goes on to allow for  
21 the use of MF if SS7 is not available?

22          A.     Yes.

23          Q.     Or if the CLEC is unable to use SS7?

24          A.     Yes.

25          Q.     And then further down in that Section 1.4 is there

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1 a list of five service problems that MF might cause?

2 A. It may cause.

3 Q. Might, may?

4 A. Yeah. We never had any.

5 Q. And this is a term that -- the term that's in your  
6 Interconnection Agreement with Pacific Bell?

7 A. Yes.

8 Q. Why would you agree with Pacific Bell that SS7  
9 interconnection is preferred?

10 A. You kind of pick and choose your battles. If they  
11 want to use the word preferred but they allowed me to have  
12 MF, that's all I cared about. Just as, for example, they  
13 talked about these may cause service problems. I knew they  
14 were wrong. They wanted to put it in, they said may, I  
15 didn't have a problem because in 13 years I haven't had any  
16 call failures on 1010 XXX or 10 XXX cut through, all these  
17 I've had zero problems with MF with AT&T.

18 Q. Okay.

19 A. Sometimes lawyers get involved and I know they --  
20 it was once explained to me they used to get billed by the  
21 word or the syllable. And you read these Interconnection  
22 Agreements and a layperson would have this thing be 15  
23 pages, but when you get the attorneys involved it turns into  
24 a several hundred page document.

25 Q. About how many pages is this document?

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1 A. I have no idea, hundreds.

2 Q. And if you turn to Attachment 1, which is about 15  
3 pages in, and it's the kind of weird format where there's  
4 only text on the left-hand side of the page?

5 A. And this was not amended; correct?

6 Q. It's in the very beginning of the document.

7 A. Yes.

8 Q. If you go to the definition section under  
9 Definition No. 8, you see there the definition for ANI?

10 A. Yes.

11 Q. Is that substantially the same definition that's  
12 in the Qwest Interconnection Agreement for ANI?

13 A. I believe it's verbatim. But, you know, I think  
14 the definition speaks for itself, but it just gives an  
15 example. It's not the complete definition of ANI, it just  
16 gives one example of when ANI is used. Because obviously  
17 you can get ANI over Feature Group B, but that thing just  
18 talks about Feature Group D.

19 Q. Is it your understanding as a layperson that the  
20 terms contained in the Interconnection Agreement are what  
21 govern the parties' relationship to each other from a legal  
22 standpoint?

23 A. I wouldn't define myself as a layperson the amount  
24 of times I've testified and read Interconnection Agreements.  
25 I mean I've testified as technical experts in front of the

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1 FCC, the Federal Trade Commission. I know I've read the  
2 LSSGR. I've helped design switches. I know what ANI is.  
3 And you can get ANI over Feature Group B, you can get it  
4 over "D." And when this thing specifically -- I mean you  
5 have to read the wording --

6 JUDGE TOREM: Mr. Lesser?

7 MR. LESSER: Yes.

8 JUDGE TOREM: Can you just answer her question?

9 Q. (By Ms. Anderl) When I said layperson, sorry,  
10 that was not precise. As a nonattorney would you agree that  
11 the terms and conditions in the Interconnection Agreement  
12 are what govern the parties' relationship to each other?

13 A. Not completely.

14 Q. Do you have any agreements with AT&T that are not  
15 tariffed or contained in this Interconnection Agreement?

16 A. Sure.

17 Q. Such as?

18 A. I have it with every carrier. Sometimes you agree  
19 to, you know, when you send bills how you'll do the billing,  
20 who will track the records. I have agreements like that  
21 with Qwest that are not in the agreement, it's just a way of  
22 doing things. I mean these documents from experience  
23 have -- you know, working as a CLEC since 1996 I'll refer to  
24 them almost as a guideline. But when it comes down to  
25 certain practical reasons you can't -- like, for example,



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1 ANI. ANI can apply over Feature Group B, C, D  
2 Interconnection Agreement and that's why they just kind of  
3 gave a definition of, you know, that automatic number  
4 identification or ANI means a Feature Group D signaling  
5 parameter but it can also mean other things, and they  
6 realize that. So when it means other things, and you point  
7 that out, they don't all the sudden say, oh, ANI doesn't  
8 mean Feature Group B because you show the documents.

9 A lot of times if you look at this Interconnection  
10 Agreement it references a lot of Bellcor documents. And  
11 because it was written by attorneys, not necessarily  
12 technicians, they don't always fully understand what these  
13 terms mean. If you look at the references, the Bellcor  
14 documents, they explain what ANI is. And the Bellcor  
15 documents show ANI can be used over Feature Group B, or ANI  
16 can be used over Feature Group C. This is why I'd have to  
17 say it's a guideline. I mean you -- more than anything  
18 else. I mean, yes, there are certain provisions in there  
19 that there's no room for interpretation, and there's other  
20 provisions in there, like this ANI, where there is.

21 Q. Let me just ask you a couple of questions about --

22 MS. ANDERL: And, Your Honor, for this document I  
23 think we're going to just move the admission of the pages I  
24 referenced. So, you know, the cover page and the table of  
25 contents, the definition page that contains the definition

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1 Mr. Lesser read and Pages 4 and 5 of Attachment 18?

2 MR. McNAMER: No objection.

3 JUDGE TOREM: All right. Then as paginated it  
4 sounds like it would be six, seven, eight pages total. I'll  
5 have you submit that exhibit electronically, and by Monday  
6 of next week file three or four copies for records center.  
7 So if you'll send in one for me, and to all the parties as  
8 needed and three or four copies for records center by Monday  
9 of next week. That will be TL-7X, that will be admitted at  
10 this time, again, with the promise to provide however it  
11 boils down.

12 MS. ANDERL: Yes, I'll identify those pages when I  
13 submit it.

14 MR. LESSER: You know, I thought about something  
15 else if you would like me to add other contradictions in the  
16 document concerning ANI?

17 MS. ANDERL: Not really. Thank you. You can do  
18 that on redirect with your counsel.

19 Q. (By Ms. Anderl) Let me ask you, there's been a  
20 document that's been admitted as Qwest's data request to  
21 NCC, the first, second and third sets, that was previously  
22 provided as Exhibit TL-3X. Do you have a copy of that  
23 available to you, or I can hand it to your counsel?

24 A. Yes, I have it.

25 Q. Okay.

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1           A.    No, maybe -- I'm not sure if I do have it, I mixed  
2    the 5X with the 3X.

3           Q.    We'll provide a copy to you through your counsel.

4                    Mr. Lesser, do you see that six page document  
5    before you now?

6           A.    Yes.

7           Q.    And then on Page 2 of the second page of that  
8    document were you the person who wrote the response to  
9    requests one through five?

10          A.    Yes.

11          Q.    And on the 4th page were you the person who wrote  
12   the response to requests six through ten?

13          A.    Yes.

14          Q.    And on the 6th page were you the person who wrote  
15   the response to requests 11 and 12?

16          A.    I don't -- oh, yes.

17                   MS. ANDERL:  Your Honor, I don't recall if we  
18   have -- I think Mr. McNamer previously stipulated admission  
19   of this document?

20                   JUDGE TOREM:  Correct.

21                   MR. McNAMER:  Yep.

22          Q.    (By Ms. Anderl) Now, with Verizon and AT&T--and  
23   if there's not one response that's accurate overall, you can  
24   segregate your responses--but do you exchange traffic with  
25   Verizon and AT&T over SS7 signaled interconnection trunks or

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1 multifrequency?

2 A. Both.

3 Q. Does it vary by state or switch or some other  
4 breakdown?

5 A. By switch.

6 Q. So the switches that you previously identified as  
7 SS7 capable are the ones that have SS7 interconnection  
8 trunks?

9 A. And MF.

10 Q. And is the traffic over those trunks one way or  
11 two way?

12 A. Two way.

13 Q. And it's your testimony that Verizon sends you the  
14 information with regard to how much you should bill them  
15 each month?

16 (Brief interruption as court reporter  
17 plugs power cable into machine.)

18 Q. (By Ms. Anderl) Was there a question pending?

19 A. Yes. I would first like to kind of add to your  
20 question. Explain. Because I assume your follow-up  
21 question is going to be AT&T. Each carrier deals with it  
22 differently. AT&T sends us a bill for all the outbound  
23 calls we make, whether it be over an SS7 or an MF trunk  
24 group for both, they can track both our outbound calls.  
25 They, for inbound calls of our SS7 and MF trunk groups, they

0247

1 track both of those. They give me a report every month for  
2 the inbound calls and they tell me how much of it's local  
3 and how much is intraLATA toll, and then I send them a bill.  
4 We agree to use their minutes.

5 With Verizon they bill me for outbound calls over  
6 the local interconnection trunks that are MF or SS7, both.  
7 And for the incoming calls to me I send them a bill based on  
8 my minutes. Sometimes they come back and they disagree with  
9 the minutes and then they say this is what we show and we  
10 negotiate back and forth and adjust the bill if it's  
11 appropriate.

12 Q. I have some questions for you about your  
13 responsive -- or your reply testimony dated June 28th. Can  
14 you -- do have a copy of that in front of you?

15 A. I have a document dated May 19th for direct  
16 testimony. I do not have, I believe, the document you  
17 mentioned.

18 MR. McNAMER: I only have one, so if you have one?

19 MS. ANDERL: I don't. Let me see if we have an  
20 extra copy. We'll get a copy of Mr. Lesser's reply.

21 May I, Your Honor?

22 JUDGE TOREM: Yes.

23 Q. (By Ms. Anderl) Okay. Mr. Lesser, here you go,  
24 ignore the underline.

25 A. Okay.

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1 Q. I've handed you a document that we have as your  
2 file to testimony. Let me know if you see anything that you  
3 don't recognize as having been yours. But we'll just go  
4 based on that. Can you turn to Page 9?

5 A. Yes.

6 Q. You say there near the last question on the page,  
7 Mr. Linse says that other CLEC's interconnect with Qwest  
8 using MF?

9 A. Yes.

10 Q. Where does he say that?

11 A. Well --

12 Q. I mean are you responding to a particular piece of  
13 his direct testimony there or to a data request response?

14 A. I don't recall. I do recall that we asked the  
15 question does -- we asked either for a list -- are there any  
16 CLEC's that interconnect with Qwest by MF. And Qwest  
17 refused to answer the question and then came back and said,  
18 well, every CLEC interconnects with us by SS7. What they  
19 didn't say is were there carriers that still had MF trunk  
20 groups? And then I believe there was a document that talked  
21 about that there were some ILEC's that still connected up  
22 with MF.

23 And part of this, unfortunately, is we're in three  
24 arbitrations with Qwest, in Oregon, Washington and Arizona.  
25 And they're all happening at the same time, and I don't

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1 remember -- and all the same parties are involved. I just  
2 don't remember where it is. I just know that I was told  
3 that there are CLEC's that interconnect with Qwest by MF.  
4 And whether I've been told that verbally during our  
5 negotiations or in testimony. I thought it was in  
6 testimony, but maybe I was wrong.

7 Q. Now, turn to Page 17 of that same testimony, and  
8 on the fourth line down from the top you state, "this is one  
9 of the main reasons we don't send outbound calls over our  
10 interconnection trunks in Washington"?

11 JUDGE TOREM: Which page?

12 MS. ANDERL: Seventeen, Your Honor, Line 4.

13 A. Okay.

14 Q. (By Ms. Anderl) So is it true that you do not  
15 send outbound calls over your interconnection trunks in  
16 Washington?

17 A. We make some test calls.

18 Q. When you talk about your interconnection trunks in  
19 Washington, what trunks are you talking about?

20 A. The trunks that carry Washington traffic, the ones  
21 from the Qwest tandem in Portland that the Vancouver,  
22 Washington switch and our switch both subtend.

23 Q. You state that one of the main reasons you don't  
24 send outbound calls over those trunks is because Qwest has  
25 to date refused to purchase your CNAM data; is that right?

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1 A. Correct.

2 Q. Okay. Now, when you say outbound calls you mean  
3 calls from NCC customers to Qwest customers?

4 A. Yes.

5 Q. Okay. And then later you say, in the very next  
6 sentence, you say we use other carriers to route the calls  
7 to Qwest?

8 A. Yes.

9 Q. Is that testimony true?

10 A. Yes.

11 Q. What other carriers do you use?

12 A. That's proprietary information.

13 MS. ANDERL: Your Honor, I believe I'm entitled to  
14 an answer. We can go into a confidential session.

15 MR. McNAMER: I'm fine if we go into a  
16 confidential session.

17 MR. LESSER: I can explain, Your Honor. I can  
18 even say this, Qwest does not tell me every carrier that  
19 they have that has Qwest long distance. They're not giving  
20 me a list of all their carriers that they have as a  
21 customer. I mean, they're a competitor of mine.

22 JUDGE TOREM: I understand.

23 MR. LESSER: I'm not trying to be evasive, I just  
24 don't want this on the record that my other competitors can  
25 read too, or them.



0251

1 Q. (By Ms. Anderl) Well, let's -- before we go into  
2 the confidential session let me ask another preliminary  
3 question. When you say don't send outbound calls over our  
4 interconnection trunks in Washington are you talking about  
5 local calls?

6 A. That's what the local interconnection trunks are  
7 for, yes.

8 Q. Okay. When you say that you use other carriers to  
9 route the calls to Qwest are you also talking about local  
10 calls?

11 A. Yes.

12 MS. ANDERL: I believe we would like to go into a  
13 confidential session, Your Honor, and get the answer to  
14 this.

15 JUDGE TOREM: All right. For anyone that's on the  
16 conference Bridge it's now 3:00, we're going to turn off the  
17 conference Bridge. I'm looking to see, actually, I can mute  
18 the send button on here, so I don't have to turn it off, but  
19 you're not going to be able to hear what goes on with the  
20 control panel we have here. I forgot we had that ability.  
21 So we're going to unmute the Bridge, we'll let you know when  
22 I come back on.

23 Ms. Anderl, how long will this line of questioning  
24 be?

25 MS. ANDERL: Shouldn't be very long, Your Honor,

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1 maybe 10 minutes.

2 JUDGE TOREM: So hopefully by ten after 3:00 there  
3 might be some sound being broadcast again on the line. I'm  
4 going to mute that.

5 MR. McNAMER: Can I also ask who this gentleman is  
6 right here?

7 MS. ANDERL: Yes. The other person in the hearing  
8 room is Bill Easton, he's a Qwest witness, as well. He  
9 works in the same organization as Ms. Albersheim does. I do  
10 not -- since there's no protective order in this matter  
11 nobody is a signatory, but we would commit that all Qwest  
12 persons present in the room would agree to be bound by the  
13 requirements for treating confidential information that are  
14 contained in the Washington rules. Alternatively, since  
15 Mr. Easton is not a witness in this docket we could ask him  
16 to leave.

17 JUDGE TOREM: Counsel?

18 MR. McNAMER: Do you care?

19 MR. LESSER: No.

20 JUDGE TOREM: All right. So, with all the  
21 witnesses in the room that are testifying in this docket, or  
22 not, we'll treat the following session as confidential and  
23 the transcript will be so marked.

24 MS. ANDERL: Thank you, Your Honor.

25 JUDGE TOREM: Go ahead, and we'll start that

0253

1 confidential session now and repose the question.

2 (The following portion of this  
3 transcript was removed and placed in a  
4 separate transcript is marked CONFIDENTIAL.)

5 Q. (By Ms. Anderl) Thank you, Your Honor. Before we  
6 went out of confidential session I had directed Mr. Lesser  
7 to Bench Exhibit 1, Section Roman Numeral V as in "V,"  
8 Subsection, capital A and asked him to please read that  
9 provision into the record.

10 A. Reciprocal traffic exchange addresses the exchange  
11 of traffic between North County end users and U.S. West end  
12 users. If such traffic is local the provision of this  
13 agreement shall apply. Where either party acts as an  
14 intraLATA toll provider or intraLATA -- interexchange  
15 carrier or where either party interconnects and delivers  
16 traffic to the other from the third parties each party shall  
17 bill such third parties the appropriate charges pursuant to  
18 its respective carriers or contractual offerings for such  
19 third-party terminations. Absent a separately negotiated  
20 agreement to the contrary the parties will directly exchange  
21 traffic between their respective networks without the use of  
22 third-party traffic providers -- or transit providers.

23 Q. Thank you. Mr. Lesser, staying on Page 17 of your  
24 testimony you describe there Qwest's data request response  
25 to NCC's data request No. 21, do you see that?

0254

1           A.    And I just want to add, reading that paragraph  
2    made me think of another answer I may not have answered  
3    accurately of one of your previous questions.  What page is  
4    this?

5           Q.    We're on Page 17.  And if you want to go ahead and  
6    correct an inaccurate statement that you believe you made,  
7    go ahead and do that now.

8           A.    I believe you asked me if the agreement allows me  
9    to route traffic.  And after reading that I would say, yes,  
10   as long as you have an agreement with that other carrier.  
11   For example, you have an Interconnection Agreement with  
12   Qwest that allows you to bill them reciprocal  
13   compensation for traffic that they terminate on your  
14   network.  So I would think I'm in compliance with that  
15   provision because you have an interconnection with that  
16   carrier for the termination of traffic.  And you're billing  
17   XO for termination of traffic.

18          Q.    That's what you think that provision reads?

19          A.    Yes.

20          Q.    Go back to your testimony on Page 17, the  
21   rebuttal?

22          A.    Yes.

23          Q.    And there you discuss Qwest's response to NCC data  
24   request No. 21, is that right, middle of the page?

25          A.    Qwest now admits they can track incoming minutes?

0255

1 Q. Yes.

2 A. Yes.

3 Q. And the next question is a discussion of Qwest's  
4 data request No. 16?

5 A. Okay.

6 Q. Is that right?

7 A. Yes.

8 Q. And on the next page, Page No. 18, at the bottom  
9 of the page you also discuss a Qwest data request response  
10 No. 14; is that also right?

11 A. I believe so, yes.

12 Q. And so you had read and reviewed Qwest's data  
13 request responses to the NCC data request prior to  
14 formulating that testimony; right?

15 A. I don't recall, I would assume so.

16 MS. ANDERL: Your Honor, what I'm going to offer  
17 up now is the next cross-examination exhibit in line, I  
18 believe we are at TL-9?

19 JUDGE TOREM: I think we're at eight.

20 MS. ANDERL: Oh, 8X. Okay. If I may, Your Honor?

21 Q. (By Ms. Anderl) Mr. Lesser, I've handed you a  
22 packet of documents that reflect--and your counsel as  
23 well--that reflect Qwest's data request responses to NCC's  
24 first, second and third sets of data requests; do you see  
25 that?

0256

1 A. Yes.

2 Q. And were you -- I don't want to ask you anything  
3 that's privileged but were you involved in recreating the  
4 requests themselves, the data requests themselves?

5 A. I think that's privileged, but yes.

6 Q. And did you review the responses when they came  
7 in?

8 A. Yes.

9 Q. And are these the -- do these appear to be the  
10 responses that Qwest provided to you?

11 A. I'll trust you that they are, but I don't  
12 remember.

13 Q. And with regard to -- as we go toward the back of  
14 the document, maybe it's easier to count from the back  
15 forward, the seventh page in from the back, is that the  
16 question and answer that addresses the rationale for the cap  
17 on the number of minutes?

18 (Ms. Anderl shows the witness.)

19 A. I believe so, yes.

20 MS. ANDERL: Your Honor, what we are looking at is  
21 a full page narrative with an attachment that is a table, a  
22 spreadsheet.

23 JUDGE TOREM: This is in the third group of  
24 stapled documents within this --

25 MS. ANDERL: Yes.

0257

1 JUDGE TOREM: -- from July 7th that's labeled NCC  
2 3-1 at the top?

3 MS. ANDERL: Yes, Your Honor.

4 JUDGE TOREM: So the question is?

5 Q. (By Ms. Anderl) I wanted to just confirm with  
6 Mr. Lesser that we were all on the same page that this  
7 appeared to be the NCC request and Qwest's response  
8 regarding the rationale for the cap on the minutes?

9 A. I think the document speaks for itself, I believe  
10 that is that.

11 Q. And the table that is attached, have you had a  
12 chance to review that document?

13 A. No.

14 Q. Do you see that Qwest represents that it is a  
15 document that was prepared based on the total terminating  
16 minutes of use per NCC's reciprocal compensation invoices?

17 A. Appears to be the case.

18 Q. And you see that it reflexes a usage cycle of  
19 approximately 19 months or so from January of 2007 to July  
20 of 2008?

21 A. Yes.

22 Q. And then that would -- that end date would be  
23 consistent with the date that you said you stopped billing  
24 Qwest?

25 A. Yes.

0258

1 Q. And these are all, all the trunks in service here  
2 in the far left column, those are codes that represent  
3 central offices in Oregon; is that right?

4 A. Yes.

5 Q. And do you have any reason -- looking at these  
6 numbers, do you have any reason to doubt that they  
7 accurately reflect the total terminating minutes of use per  
8 reciprocal compensation invoices?

9 MR. McNAMER: Objection, calls for speculation.

10 JUDGE TOREM: Overruled.

11 A. It's been two years but maybe.

12 Q. (By Ms. Anderl) Maybe they're accurate and maybe  
13 they're not?

14 A. Yeah. I mean it's been two years. They look like  
15 they could be accurate, but I can't tell you for sure.

16 Q. And do you have --

17 A. I'll tell you this, if Nancy Batz prepared  
18 them--and I trust Nancy Batz, and I'm sure she's the one who  
19 prepared them, and she really knows what she's doing--then  
20 they're accurate but I just can't tell you, my memory is not  
21 that good on things like that.

22 Q. And you see that Nancy Batz is one of the persons  
23 listed as a respondent?

24 A. No, I didn't know that, but I just know Nancy  
25 handles those things.



0259

1 Q. Well, thank you. If you look at the bottom,  
2 bottom line as it were, does that appear to show then the  
3 minutes of use based on actual use per DS1 trunk?

4 A. Yes.

5 Q. And without reading any numbers into the record,  
6 every single one of those per month minutes of use is under  
7 the 240,000?

8 A. I don't know if it gives a breakdown per T1 of  
9 minutes of use.

10 Q. Do you see the very -- the furthest left cell on  
11 the bottom, bottom left?

12 A. Okay. I can tell you that's an average, that does  
13 not mean that --

14 Q. I see what you're saying.

15 A. -- you know, for example, that CLLI code, C-L-L-I,  
16 from -- which is from -- like I'll just pick the bottom one,  
17 for example, PTLDOR 13C9T didn't have a million minutes and  
18 the CLLI code above that PTLDOR 1350T had 200,000 minutes,  
19 and you average the two together and it's 600,000 minutes.  
20 All this is is an average of all our T1's. And I can tell  
21 you from experience, based on different locales, sometimes  
22 we have higher utilization. Like, for example, Tucson, that  
23 one I received a -- I won't -- I don't want to go on too  
24 far.

25 Q. Okay. Well, then maybe we should stop there.

0260

1           Mr. Lesser, this packet of documents that's been  
2 marked as TL-8X, does that contain the data request  
3 responses from Qwest that you referred to in your reply  
4 testimony?

5           A.    I believe so.

6           MS. ANDERL: Your Honor, we would offer this  
7 packet?

8           MR. McNAMER: Object, I object.

9           JUDGE TOREM: On what basis?

10          MR. McNAMER: For the most recent thing that she's  
11 offering this exhibit it wasn't authenticated by any of her  
12 witnesses. So there's been no testimony that authenticates  
13 this, and there's no testimony that supports this other than  
14 his testimony that this may be right. So I don't think this  
15 is evidence that can come in without her having put on a  
16 witness to authenticate the evidence.

17           I mean all of the answers here, to the extent that  
18 she didn't go over them with her own witnesses, it's not  
19 evidence, it's not direct evidence, it's not supplemental  
20 evidence. And she had a chance to put on this evidence. If  
21 she wanted this evidence put on she needed someone to  
22 authenticate it. So to the extent that she didn't have any  
23 of this authenticated I object to all of it.

24          JUDGE TOREM: I am going to overrule the  
25 authentication issue, but I will direct to Ms. Anderl that

0261

1 we haven't used the majority of what's in front of me. I  
2 know I'm familiar with some of this from the discovery  
3 dispute that I resolved last month. But which pages of this  
4 are relevant for the inquiries you just made, just the ones  
5 that are referred to in his testimony and this 3-1 that we  
6 just discussed with the table?

7 MS. ANDERL: Yes. And there are more than just  
8 the ones that I called out in his testimony. He refers to  
9 other data requests in his testimony, as well. I agree that  
10 not all of them. Certainly I don't mind going through and  
11 pulling the ones out that I believe are not referred to and  
12 we can then debate whether that's accurate or not, but --

13 JUDGE TOREM: Well, I'm not going to have you  
14 debate the authenticity or the accuracy, I'll give it  
15 appropriate weight based on the supporting testimony. I  
16 understand that for cross-examination we have a little bit  
17 wider scope of what can be used. But I think I do  
18 appreciate if we can cut this down to what the relevant  
19 pages are rather than wholesale offer everything that you  
20 responded to in the course of the litigation. If we go that  
21 route we will just get 300 page documents wily-nilly.

22 MS. ANDERL: No, I didn't intend that. It's  
23 simply -- there's quite a bit of information, I think, that  
24 Mr. Lesser put in that said, well, Qwest said this and Qwest  
25 said that, and a lot of it was in the discovery. So I

0262

1 wanted to make sure we had the appropriate context, because  
2 in some cases he's interpreting Qwest's data request  
3 responses, and I think it's only fair on cross-examination  
4 to present those responses so that they can speak for  
5 themselves.

6 JUDGE TOREM: Right. And that's why I'm admitting  
7 the ones that you referenced. If there are other pages that  
8 you think are worth excerpting from this then let's identify  
9 those to opposing counsel and mark the pages accordingly.

10 So let's hold TL-8X out now, and you'll decide  
11 which pages of it will become the actual exhibit that will  
12 be offered. But for right now it's still three different  
13 sets of responses from Qwest and North County's data  
14 requests. There are three different sets and let's sort  
15 through which ones of those and then I guess re-fabricate  
16 this exhibit a little bit later this afternoon.

17 MS. ANDERL: Certainly, Your Honor.

18 JUDGE TOREM: Let's set that aside for now. What  
19 other questions do you have for this witness?

20 MS. ANDERL: If I might have a minute to review my  
21 notes, that may have been all of them.

22 (Brief break as Ms. Anderl reviews her  
23 notes.)

24 MS. ANDERL: Your Honor, just one other area, one  
25 more exhibit and authentication, a couple of questions and

0263

1 we'll be done.

2 JUDGE TOREM: Okay.

3 MS. ANDERL: So, the next exhibit I'm going to  
4 mark will be 9X, TL-9X. And it's a portion of North County  
5 Communications Corporation's FCC Tariff No. 2. And I've  
6 handed that document up to the bench and the witness and to  
7 opposing counsel.

8 Q. (By Ms. Anderl) Mr. Lesser, do you recognize the  
9 document that I've placed in front of you by its cover  
10 sheet?

11 A. Yes.

12 Q. And it indicates on the bottom that it was issued  
13 by Todd Lesser, President, is that you?

14 A. Yes.

15 Q. And the first 10 sheets are excerpted, and then  
16 you will see that there's a gap, and then there is original  
17 sheet No. 56, and then another gap, and original sheets 67  
18 through 75. And the only reason I didn't include them all  
19 is because -- well, I had nothing of interest in the  
20 excluded sheets but I can provide a complete copy if either  
21 counsel or Your Honor wants one. Does that, based on the  
22 opportunity that you've had at this moment to review that  
23 document, Mr. Lesser, does that appear to be excerpts from  
24 your Interstate Access Services tariff on file with the FCC?

25 A. Yes.

0264

1 Q. And on page original sheet No. 8, and the  
2 pagination on this is in the upper right-hand corner?

3 A. Yes.

4 Q. You have a definition for common channel  
5 signaling?

6 A. Yes.

7 Q. And that's an out-of-band signaling?

8 A. Yes.

9 JUDGE TOREM: Let me just be clear for the record.  
10 This is actually the first revised sheet No. 8 that canceled  
11 the original sheet No. 8 in the language of our tariffs?

12 MS. ANDERL: That's correct. Thank you, Your  
13 Honor, for the correction.

14 JUDGE TOREM: So that's the only sheet No. 8 that  
15 we'll be referring to, but I don't want the record to be  
16 confusing later.

17 MS. ANDERL: Thank you.

18 Q. (By Ms. Anderl) Then do you see on first revised  
19 sheet No. 10, canceling original sheet No. 10, a definition  
20 for Signaling System 7.

21 A. I think I jumped from original sheet 9 to 56. Oh,  
22 and then it goes back to 10.

23 Q. Oh, okay.

24 A. They were just stapled wrong, but, yes, I see a  
25 definition of SS7.

0265

1 Q. Are there some access services that you offered to  
2 your customers that require SS7 connectivity?

3 A. No.

4 Q. Are there some where it's permitted?

5 A. Yes.

6 Q. And is an example of that described on the bottom  
7 of original sheet No. 56, the paragraph that starts in  
8 addition?

9 A. Yes.

10 Q. And then for your -- the billing and collections  
11 services, the description of which starts on Page 69?

12 A. Yes.

13 Q. That's a database service that you provide to your  
14 end users?

15 A. Billing name and address?

16 Q. Yeah, is that right, the database service?

17 A. I don't know if I would refer to that as a  
18 database service. It just means that if someone gives an  
19 ANI or we will give them back the billing name and address  
20 of the customer.

21 Q. Okay. And on page original sheet No. 70, 4.1.1 C  
22 it says the company will provide the most current BNA,  
23 that's all caps, BNA information resident in its database;  
24 is that right?

25 A. Yes.

0266

1 MS. ANDERL: Your Honor, we move the admission of  
2 TL-9X and would have no further questions at this time.

3 MR. McNAMER: No objection.

4 JUDGE TOREM: All right. TL-9X is admitted.

5 We're going to hear the revised version of TL-8X  
6 at some point later to close up shop and evidence that Qwest  
7 wants to offer on cross-exam.

8 MS. ANDERL: Yes, I think if we have another five  
9 minute break I can probably identify the documents that I  
10 want to admit.

11 MR. McNAMER: I would like another five minute  
12 break before I start my redirect.

13 JUDGE TOREM: Can you estimate the length of your  
14 redirect exam?

15 MR. McNAMER: Twenty minutes.

16 JUDGE TOREM: Let's go ahead and make it 10  
17 minutes. At 20 minutes to 4:00 we'll come back. We'll be  
18 at recess until then.

19 (Break taken from 3:29 to 3:44 p.m.)

20 JUDGE TOREM: We're ready to go back on the  
21 record. Sorry that took me a little longer to get back.

22 We'll go to your redirect.

23 MR. McNAMER: Sure.

24 ///

25 ///



## REDIRECT EXAMINATION

1

2 BY MR. McNAMER:

3 Q. The first thing I want to address, Mr. Lesser, is  
4 the judge's -- the judge pointed out that you seemed  
5 reticent to answer some questions about your company. And I  
6 just wanted to give you a chance to explain your reticence a  
7 little bit?

8 A. Yeah. We have been in litigation a long time with  
9 Verizon. And we sued Verizon in Illinois. And we were  
10 the -- in their entire history we're the only company that  
11 got a judgment that they used their monopoly status to put  
12 us out of business. And they've done a lot of unethical  
13 things. They hired a private investigator to talk to an old  
14 girlfriend of mine. They hired a special law firm to dig up  
15 dirt about companies. And their whole speciality is to try  
16 to kind of basically blackmail you to get their settlement.  
17 And I've just received advice from counsel, don't answer any  
18 questions you don't have to. And I don't mean to be evasive  
19 here. And Qwest has always been very ethical. I think  
20 they're wrong technically on things, but they've never lied.  
21 But these other people have changed documents and did every  
22 unethical thing in the book. So that's why I just can't  
23 answer those questions.

24 Q. So can you explain how Qwest can track MF if it  
25 wanted to, how would it do that?

0268

1           A.    Okay.  Well, there's several different ways.  I  
2    mean I should explain, these are several million dollar  
3    switches that are highly configurable, and they've been  
4    using them for years.

5                    Now, you can track MF in multiple different ways.  
6    For example, let's assume I stay MF.  Since the rest of  
7    their network is SS7 they have a record of every call that  
8    comes in and every call that goes out.  Well, they know the  
9    call goes to me because they can tell that by the phone  
10   number that's dialed.  So, if they did calculations on their  
11   internal SS7 network they can calculate the minutes.  That's  
12   how I assume -- I mean I've never asked AT&T how they do it,  
13   but that's how they do it even with my MF trunk groups.  I  
14   mean I have SS7 with them in some areas but I have MF in  
15   others.  And they track it that way.  So that's one way to  
16   track it.

17                   The second way to track it is really the way that  
18   was done, you know, since 1984.  I mean these switches --  
19   and it's all documented in the LSSGR.  They have something  
20   called call detail recording, and every time someone makes a  
21   call you just write a record.  And they can keep track of  
22   all those records in the tandem for our trunk group.  And  
23   it's just, again, a class of service option that you just  
24   enter in and they can record all those calls and then use  
25   that to validate our bills.

0269

1           Q.    When you say class of service option you can just  
2    enter in, what do you mean by that?

3           A.    It's an option.  It's very similar to you can  
4    order a car and you can order air conditioning or you can  
5    order it without air conditioning, you can order it by  
6    color.  When you build a trunk group in their switch there's  
7    a whole bunch of different options that you click, you know,  
8    similar to a web page, you click a box.  Do you want air  
9    conditioning?  Do you want tinted roofs?  Well, you click  
10   all the different things you want.  And one of those things  
11   are record the calls and send it to the call detail report.

12                    So even basic switches, you can have a \$1,000  
13   phone system at a law firm, keeps track of every outbound  
14   call it makes, every inbound call, which extension it goes  
15   to.  You can even set it to program an account code.  So,  
16   it's a really -- it's a basic telecom thing.  And Qwest  
17   apparently is choosing not to use that feature.

18           Q.    How do you know that, how do you know how Qwest's  
19   switches work?

20                   MS. ANDERL:  Your Honor, I'm going to object at  
21   this point.  I believe this is an entire area of the  
22   technical capabilities of the switch, what can they do?  how  
23   do you know what they can do?  that I fairly carefully  
24   avoided on my cross-examination and did not open up.  This  
25   is to supplemental direct testimony.

0270

1                   JUDGE TOREM: I concur. Are we having redirect  
2 here or is it going to be supplemental testimony.

3                   MR. McNAMER: Well, if Your Honor believes it's  
4 supplemental testimony and allows me to do supplemental  
5 testimony I can do that. But I think it's redirect because  
6 one of the issues that came up on direct was the issue of --  
7 I believe the issue of cap on minutes that came up on  
8 direct. And this relates to the cap -- I mean the ability  
9 of Qwest to track relates to ANI which she spent a ton of  
10 time on, which will be a follow-up question on this, and it  
11 also relates to the cap. And so this is just background.  
12 My next questions will be about ANI and about the cap.

13                   JUDGE TOREM: Let's move to those questions.

14                 Q.     (By Mr. McNamer) So, just to summarize, you know  
15 for a fact that they can track it if they wanted to; is that  
16 correct?

17                 A.     Yes.

18                 Q.     And have you asked them to track it?

19                 A.     Yes.

20                 Q.     And how would they track it, I mean what would  
21 they provide you?

22                 A.     They could do exactly what AT&T provides me. AT&T  
23 sends me an e-mail every month saying here's all your local  
24 calls, all your intraLATA toll calls and then I use their  
25 data set that they give me and I create a bill to send them.

0271

1 Q. And they in your -- in the cross questioning there  
2 was a lot of questions about whether or not the definition,  
3 the old definition of ANI included local traffic. When you  
4 entered into this agreement 13 -- the original agreement 13  
5 years ago, did Qwest ever make any claims that they couldn't  
6 track your minutes?

7 A. No.

8 Q. And so up until this dispute arose, relating both  
9 to the tracking issue and to their request for a new ICA,  
10 did you have any need to get the ANI from them?

11 A. No.

12 Q. But now that they're claiming in this proceeding  
13 that they can't track your minutes, and using that claim as  
14 a basis for capping your minutes at 240,000 and not allowing  
15 your to originate, at this time their provision of ANI is  
16 important; correct?

17 A. Yes, absolutely.

18 Q. And if they provided you the ANI, which you've  
19 already told us that they're completely capable of doing,  
20 and other people do, if they provided you that then they  
21 wouldn't have any reason or any excuse for not paying the  
22 full amount of minutes that you use; is that correct?

23 A. Correct.

24 Q. And they wouldn't have any ability to try to limit  
25 your origination of calls; correct?

0272

1 A. Correct.

2 Q. Because they would have all the information that  
3 they say they need?

4 A. Yes.

5 Q. Then you would be able to provide them with a bill  
6 that says, that gives them the geographic?

7 A. Yes. What you do is it's called swapping EMI  
8 records which stands for, I think its -- I don't know what  
9 EMI is, maybe electromechanical interface or something. You  
10 create a dataset. And in that dataset there's a standard,  
11 industry standard billing protocol where you give the  
12 originating ANI, you give the terminating phone number and  
13 then you even say what type of call it is, if it's local,  
14 intraLATA toll, interLATA toll. And so what we would do is  
15 we would give them a bill and we would say -- and if they  
16 asked for it we would say here's the backup data. And all  
17 the phone numbers that -- all the ANI's that they gave me I  
18 would give them the dataset to justify our bill. And it's,  
19 again, to turn on ANI, it's click a box.

20 Q. And right now does Qwest segregate your bill  
21 jurisdictionally, segregate your trunk groups  
22 jurisdictionally?

23 A. Yes. Like on one of the documents that Nancy Batz  
24 prepared showed I have different trunk groups and they  
25 showed three, I think it was three different tandems. And

0273

1 those tandems, one is a long distance tandem, one is a Qwest  
2 local tandem and the third one I forget what it is. But  
3 they segregate them all, all different types of traffic.

4 Q. So even right now, just based on which tandems the  
5 calls are coming from, Qwest can tell whether it's local or  
6 long distance?

7 A. Yes. I mean even their rudimentary peg count way  
8 of doing it by counting out the minutes and calls without  
9 having, you know, an idea of what the phone numbers are you  
10 can still track it down that way, too.

11 Q. And do you have -- I think you may have heard  
12 testimony by Mr. Linse that Qwest converted an end office  
13 for \$30,000 that they just converted from MF to SS7. Do  
14 your MF offices, at least the one in Portland which you use  
15 for Washington, do you have the capability of converting it  
16 to SS7?

17 A. No. I mean the term is we call it a forklift  
18 upgrade. Our switch is not SS7 capable. We would have to  
19 totally get rid of our switch and put in a new one.

20 Q. Are some MF switches able to upgrade, upgradeable  
21 to SS7?

22 A. Yes. When you have a contract with Lucent or  
23 Northern Telecom these switches are very powerful and you  
24 buy the options you need. If you need it to be a call  
25 center, you know, because some people don't use them as

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1 central offices, they use them as a huge office PDX like a  
2 university. So you buy the package and then they turn on  
3 those options as available software packages or options in  
4 the switch.

5 So some of the switches if you want to turn on the  
6 SS7 it may require hardware upgrades and it will definitely  
7 require you to buy that license from Lucent or Northern  
8 Telecom to turn on that capability. It's not a -- they  
9 don't give you the switch and say you can do whatever you  
10 want with it.

11 Q. But the ones you have for Washington don't even  
12 allow you the ability to do that?

13 A. Correct.

14 Q. Is there any reason to have a 240,000 minutes per  
15 DSI cap on billable minutes?

16 A. No. I'll give you an example why. And this is  
17 from an engineering and billing standpoint. I received an  
18 e-mail during this hearing. I get something called the TGSR  
19 report from Qwest. Qwest tells me whenever my trunk groups  
20 are busying out. I have a trunk group in Tucson that has  
21 two T1's in it, 48 lines. Now, if you do the math, you  
22 know, busy -- you know, 24 lines, busy 24 hours a day, you  
23 know, for one month, that equals close to a million minutes.  
24 Now, these T1's have close to 2 million minutes on it  
25 between the two. And the report that Qwest tells me is that



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1 I only need -- I have a 1.9 percent blockage and they're  
2 requesting that I only order one more T1. So under their  
3 engineering analysis they say I should have 72 trunks.

4 Well, under this Interconnection Agreement for me  
5 to get paid for all of those I would have to order 10 T1's,  
6 eight additional ones that even according to their  
7 engineering analysis would be sitting their idle because I  
8 only need one more T1.

9 Q. So, just to summarize what you just said, Qwest in  
10 Arizona right now you have two DS1 lines?

11 A. Yes.

12 Q. Each of them is working at about a million minutes  
13 a month?

14 A. Yes.

15 Q. And Qwest literally during this hearing sent you  
16 an e-mail update or something that said your one point  
17 something percent over, we want you to order a new line?

18 A. Yes.

19 Q. But if you were working under the terms of this  
20 agreement with Qwest also this would require you to have 2.1  
21 million minutes which would require you to order eight new  
22 lines?

23 A. Yes, or equivalent to -- to have 2.4 million  
24 minutes at 240,000 times ten I would have to have 10 T1's or  
25 otherwise I couldn't bill them for all the minutes. And

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1 that's just not what the industry does. The industry bills  
2 you on usage. Even for them, if I made a whole bunch of  
3 outbound calls under my existing agreement they're not going  
4 to say, oh, at 240,000 minutes it's free. They're going to  
5 bill me the whole million minutes.

6 Q. And, so, is your position that if -- the fact that  
7 Qwest has switched to SS7, do you have any problem with the  
8 fact that Qwest decided to switch to SS7?

9 A. No. We have another saying in the industry, like  
10 a computer, it's as fast as the day I bought it. Now,  
11 sometimes you get these young guys that say, oh, why don't  
12 you get the latest and greatest computer? I'm going to say,  
13 well, it's as fast as the day I bought it. If it's doing  
14 the job you don't need to upgrade it. And for me, my MF  
15 trunk groups and my switch is working perfect, it's worked  
16 for 13 years. Will I have SS7 in ten years? Actually,  
17 probably not, I'll probably switch to Voiceover IP because I  
18 think SS7 is, you know, for certain things, but most people  
19 are moving to Voiceover IP, most other companies I talk to  
20 interconnect by Voiceover IP now. So I'll probably skip  
21 that technology, go from MF to Voiceover IP. But if I had  
22 an application where a customer says, you know, needs the  
23 features that SS7 has I would order it.

24 Q. Other than being arbitrary, the \$240,000 -- the  
25 240,000 minutes being arbitrary, does it effectively end up

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1 forcing you to use your network inefficiently?

2 A. Yes. For example, that Tucson example. From an  
3 engineering standpoint--this is separate from billing--I  
4 need three T1's, I need 72 trunks. But because there's this  
5 financial incentive where I can't bill them for those  
6 minutes I would have to order a total of 10 T1's and have  
7 seven of them sit idle which is a total inefficient use of  
8 the network.

9 MR. McNAMER: I don't think I have any other  
10 questions.

11 JUDGE TOREM: Any recross?

12 MS. ANDERL: May I have a minute?

13 (Brief break as Ms. Anderl speaks with  
14 her witnesses.)

15 MS. ANDERL: I don't have any recross.

16 JUDGE TOREM: All right. Any other evidence for  
17 North County?

18 MR. McNAMER: No, Your Honor.

19 JUDGE TOREM: Then I think the only other issue we  
20 have to take care of on the record today is the excerpts  
21 from what was originally proposed as TL-8X. Ms. Anderl, did  
22 you have a chance to go through those?

23 MS. ANDERL: Yes. Mr. McNamer and I spoke. We'll  
24 withdraw from the third set questions and responses two  
25 through five. And so that would keep in the first set, the

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1 second set and response 3-1 which is the information with  
2 regard to the 240,000 minutes.

3 JUDGE TOREM: Okay. So just the last several  
4 pages after the table are being pulled?

5 MS. ANDERL: Yes, let me -- I think it's the last.  
6 I just lost my packet.

7 JUDGE TOREM: I'll just describe it then. It's  
8 the June 15th responses, the July 9th supplemental response  
9 to data request 1-11, the June 23rd second set of responses,  
10 and the July 7th responses but only to the first question,  
11 first data request?

12 MS. ANDERL: That is what that exhibit will be now  
13 as offered, yes.

14 JUDGE TOREM: Okay. So what we're leaving out for  
15 completeness is request Nos. 2 through 5, the last four  
16 pages?

17 MS. ANDERL: Yes.

18 JUDGE TOREM: That's the TL-8X that you want to  
19 offer?

20 MS. ANDERL: Yes, it is, Your Honor.

21 JUDGE TOREM: Any objection?

22 MR. McNAMER: Same foundation authentication  
23 objection which you already ruled upon.

24 JUDGE TOREM: Again, the reason for that is if  
25 they have been referred to by your witness, and also

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1 discussed in some degree, then I'm going to allow those. As  
2 far as the authentication, I want to note that I'm going to  
3 look at the weight of the evidence on what's used here, but  
4 it will allow some use during the briefing for both of you.  
5 If I don't find that there's adequate authenticity or  
6 adequate background for it then I just won't give it much  
7 weight in writing up the arbitration decision. So that will  
8 be admitted as recomposed.

9 Counsel, anything else for the record today then  
10 respective of both of your clients?

11 MS. ANDERL: No, Your Honor.

12 JUDGE TOREM: We have a due date, just to  
13 reconfirm, of August 10th, and that will be simultaneous  
14 briefs, due at close of business on that particular, I think  
15 it's a Tuesday, yes, Tuesday the 10th.

16 MS. ANDERL: So that's 3 p.m., Your Honor?

17 JUDGE TOREM: If you're going to file it  
18 electronically by 3 p.m. according to our rules. And then  
19 the hard copy would be due by noon the following day. Or  
20 you can just submit the hard copy, have it served and  
21 entered here by 5:00 on the due date itself.

22 MS. ANDERL: Thank you.

23 JUDGE TOREM: Mr. McNamer, anything else?

24 MR. McNAMER: No, Your Honor.

25 JUDGE TOREM: Okay. As far as ordering

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1 transcripts, see the court reporter because the Commission  
2 always orders the original plus one. And I believes there's  
3 other protocols for the folks appearing in front that want  
4 to order their own copies of the transcript.

5 Okay. Then we are adjourned here at about five  
6 after 4:00.

7 (Whereupon, the proceedings concluded  
8 at 4:05 p.m.)

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C E R T I F I C A T E

I, TAMI LYNN VONDRAN, a Certified Court Reporter,  
do hereby certify that I reported in machine shorthand the  
foregoing proceedings in the above-entitled cause; that the  
foregoing transcript was prepared under my personal  
supervision and constitutes a true record of the testimony  
of the said witnesses and proceeding.

I further certify that I am not an attorney or  
counsel of any parties, nor a relative or employee of any  
attorney or counsel connected with the action, nor  
financially interested in the action.

DATED at Edgewood, Washington this 26th day of  
July, 2010.

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Tami Lynn Vondran, CCR  
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