

1 BEFORE THE WASHINGTON
2 UTILITIES AND TRANSPORTATION COMMISSION

3 In the Matter of the Petition)DOCKET NO. UT-011439
4 of)VOLUME VII
5 VERIZON NORTHWEST, INC.)Pages 430-724
6 For waiver of WAC)
7 480-120-071(2)(a))
8 _____)

8 A hearing in the above matter was
9 held on January 24, 2003, at 9:03 a.m., at 1300
10 Evergreen Park Drive Southwest, Olympia, Washington,
11 before Administrative Law Judge THEODORA M. MACE,
12 Chairwoman MARILYN SHOWALTER, Commissioner RICHARD
13 HEMSTAD and Commissioner PATRICK OSHIE.

14 The parties were present as
15 follows:

16 VERIZON NORTHWEST, INC., by Judith
17 Endejan, Attorney at Law, Graham & Dunn, 1420 Fifth
18 Avenue, 33rd Floor, Seattle, Washington, 98101.

19 QWEST CORPORATION, by Douglas N.
20 Owens, Attorney at Law, 1325 Fourth Avenue, Suite
21 940, Seattle, Washington, 98101.

22 RCC MINNESOTA, INC., by Brooks
23 Harlow, Attorney at Law, Miller Nash, 601 Union
24 Street, Suite 4400, Seattle, Washington, 98101.

25 THE COMMISSION, by Gregory
26 Trautman, Assistant Attorney General, 1400 South
27 Evergreen Park Drive, S.W., Olympia, Washington
28 98504-1220.

29 Barbara L. Nelson, CCR
30 Court Reporter

0431

1

2

INDEX OF WITNESSES

3

4

WITNESS:

PAGE:

5

6

THOMAS SPINKS

7

Direct Examination by Mr. Trautman 435

8

Cross-Examination by Ms. Endejan 437

9

Cross-Examination by Mr. Owens 454

10

Examination by Chairwoman Showalter 469

11

Recross-Examination by Mr. Owens 484

12

Recross-Examination by Ms. Endejan 485

13

14

ROBERT T. WILLIAMSON

15

Direct Examination by Mr. Trautman 488

16

Cross-Examination by Mr. Owens 491

17

Examination by Chairwoman Showalter 502

18

Examination by Commissioner Oshie 509

19

Recross-Examination by Mr. Owens 511

20

Examination by Chairwoman Showalter 514

21

22

ROBERT SHIRLEY

23

Direct Examination by Mr. Trautman 516

24

Cross-Examination by Ms. Endejan 518

25

Cross-Examination by Mr. Owens 583

0432

1	Cross-Examination by Mr. Harlow	610
2	Examination by Chairwoman Showalter	617
3	Examination by Commissioner Hemstad	660
4	Examination by Chairwoman Showalter	681
5	Examination by Commissioner Oshie	684
6	Examination by Chairwoman Showalter	690
7	Recross-Examination by Ms. Endejan	692
8	Recross-Examination by Mr. Owens	711
9	Redirect Examination by Mr. Trautman	716
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

0433

1

2

INDEX OF EXHIBITS

3

4	EXHIBIT:	MARKED:	OFFERED:	ADMITTED:
5	171, 172-D	434	--	434
6	700-G	434	--	434
7	121-T through 123	434	--	435
8	611	435	455	458
9	111-T through 115	--	437	437
10	116, 117	--	468	469
11	601 through 605	--	469	469
12	606 through 610		withdrawn p. 469	
13	160-T, 161	--	490	490
14	162	--	515	516
15	131-T through 140-T	--	518	518
16	590	--	533	534
17	543		withdrawn p. 582	
18	544 through 589	--	582	582
19	501 through 542	--	609	609
20	591 through 592	--	720	denied p. 721

21

22

23

24

25

0434

1 JUDGE MACE: Let's be on the record in
2 UT-011439. Before we commence with Mr. Spinks, I'd
3 like to do a little bit of housekeeping cleanup here.
4 The Nelson and Taylor depositions have been marked
5 171 and 172-D, I believe, and I wanted to admit those
6 into the record at this point. I understand there's
7 a stipulation of the parties to admit those. Is
8 there any objection to my admitting those
9 depositions?

10 MR. HARLOW: No, Your Honor.

11 MR. TRAUTMAN: No, Your Honor.

12 JUDGE MACE: I'll admit Exhibits 171 and
13 172-D. The map that Staff provided has been marked
14 700-G, and is there my objection to the admission of
15 that exhibit?

16 MR. OWENS: No, Your Honor.

17 MR. HARLOW: No, Your Honor.

18 JUDGE MACE: I'll admit that. Finally, I
19 want to deal with Dr. Duft's exhibits. I understand
20 that the parties will stipulate to the admission of
21 his exhibits, 121-T through 123. He's not present
22 here today because we decided in a prehearing
23 colloquy that no one had any cross-examination for
24 him and he did not need to appear. Is there any
25 objection to the admission of his proposed exhibits?

0435

1 MS. ENDEJAN: No, Your Honor.

2 MR. TRAUTMAN: No, Your Honor.

3 JUDGE MACE: I'll admit those exhibits.

4 Finally, distributed prior to the hearing today were
5 another Qwest cross-examination exhibit for Mr.
6 Spinks, it's been marked 611, and a revised copy of
7 the testimony of Mr. Williamson, which should be
8 substituted for his 160-T. It includes changes made
9 to his testimony pursuant to his discussion with the
10 manufacturer of the GoDigital System.

11 And while we're awaiting Commissioner
12 Oshie, I could swear the witness in, if you would
13 please raise your right hand.

14 Whereupon,

15 THOMAS SPINKS,
16 having been first duly sworn by Judge Mace, was
17 called as a witness herein and was examined and
18 testified as follows:

19 JUDGE MACE: Please be seated. Mr.
20 Trautman, are you ready to present Mr. Spinks?

21 MR. TRAUTMAN: I am.

22 JUDGE MACE: Go ahead.

23

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

25 BY MR. TRAUTMAN:

0436

1 Q. Good morning, Mr. Spinks.

2 A. Good morning.

3 Q. Could you please provide your name,
4 business address for the record?

5 A. Certainly. It's Thomas Spinks, and my
6 business address is 1300 South Evergreen Park Drive,
7 S.W., Olympia, Washington, 98504.

8 Q. And what is your position with the
9 Commission?

10 A. I'm a regulatory consultant.

11 Q. And for this case, did you file testimony
12 that has been marked as Exhibit 111-T, that is April
13 17th testimony; testimony 113-T, from September 20th,
14 2002; Exhibit 114-T, which is testimony from January
15 10th, as well as the exhibits that have been marked,
16 Exhibit Numbers 112 and 115?

17 A. Yes, I did.

18 Q. Were those exhibits all prepared by you or
19 under your supervision?

20 A. They were.

21 Q. Are there any changes you need to make to
22 those exhibits?

23 A. Not that I'm aware of.

24 Q. And if I were to ask the questions
25 contained in your testimony, would your answers be

0437

1 the same?

2 A. Yes.

3 MR. TRAUTMAN: At this point, I would move
4 for the admission of Exhibits 111-T through 115.

5 JUDGE MACE: Any objection to the admission
6 of those exhibits?

7 MR. HARLOW: No.

8 MS. ENDEJAN: No objection.

9 JUDGE MACE: I'll admit those exhibits.

10 MR. TRAUTMAN: Mr. Spinks is available for
11 cross-examination.

12 JUDGE MACE: Ms. Endejan.

13 MS. ENDEJAN: Thank you, Your Honor.

14

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

16 BY MS. ENDEJAN:

17 Q. Good morning, Mr. Spinks.

18 A. Good morning, Ms. Endejan.

19 Q. Just a few questions for you. I'm
20 primarily concerned with your testimony, which is
21 Exhibit 111-T. Do you have that in front of you?

22 A. Yes, I do.

23 Q. Could you turn to page two, the top of the
24 page, lines one through three?

25 A. Yes.

0438

1 Q. Do you have that in front of you?

2 A. Yes, I see that.

3 Q. Okay. And in that -- or let me clarify
4 something here. If you read that, the sentence that
5 begins on line one and ends on line three, are you
6 claiming in your testimony that, in your opinion, the
7 Timm and Taylor extensions are no more costly than
8 the, quote, same type of facilities in Washington?

9 A. What this testimony is about is I'm trying
10 to provide to the Commission some --

11 Q. Mr. Spinks, if you can answer the question
12 with a yes or no, and then, of course, your -- I
13 would request the Judge to direct, if the question is
14 capable of answering with a yes or no, and then
15 perhaps to proceed.

16 JUDGE MACE: Could you repeat the question,
17 please?

18 MS. ENDEJAN: What I'm doing is I'm seeking
19 -- trying to seek clarification of Mr. Spinks'
20 position, which appears to be expressed in lines one
21 through three on page two of Exhibit 111.

22 Q. And my question is, by that testimony I've
23 just cited, are you claiming that the Timm and Taylor
24 extensions are no more costly than -- and I use your
25 words -- quote, the same type of facilities in

0439

1 Washington? Is that your testimony?

2 A. Yes, the per-mile cost of constructing
3 those facilities is around or less than the historic
4 cost of building those same types of facilities.

5 Q. When you use the term same types of
6 facilities, are you talking about facilities used in
7 line extensions under the new line extension tariff?

8 A. No, I'm not. I'm talking about the cost of
9 constructing loops generally.

10 JUDGE MACE: About?

11 THE WITNESS: Loops.

12 JUDGE MACE: Loops, okay.

13 Q. So your testimony is just concerned with
14 loop costs and not necessarily project costs; isn't
15 that correct?

16 A. Well, the comparison that I did in order to
17 determine whether or not Verizon had submitted
18 reasonable construction costs for these jobs, I
19 looked at the historical data on what loops have cost
20 to build historically in the state, and I use that as
21 a broad gauge measure of the reasonableness of the
22 amounts of money that Verizon said it's going to cost
23 them to construct the facilities if they do it.

24 Q. Okay. Fair enough. But now, Mr. Spinks,
25 to determine if one project is more costly than

0440

1 another project, however, you're going to have to
2 know the number of miles involved in a project to
3 have some sort of an apples and apples comparison,
4 wouldn't you agree?

5 A. When you use the term costly, you can be
6 referring to per-mile costs or total costs. I'm,
7 again, in my testimony, I'm looking at the unit costs
8 of doing the jobs, not so much a focus on total cost.

9 Q. Okay. But would you --

10 CHAIRWOMAN SHOWALTER: Mr. Spinks, I'm not
11 sure what you mean by unit. Do you mean --

12 THE WITNESS: Per mile.

13 CHAIRWOMAN SHOWALTER: -- a customer? Oh,
14 you mean a mile?

15 THE WITNESS: Per mile or per foot, yes.

16 Q. So your testimony really does not address
17 the per-project or total costs; is that correct?

18 A. Well, I think it does in the sense that you
19 have per-mile costs. Those per-mile costs don't
20 really change if it's a ten-mile loop or a 20-mile
21 loop. It's just you multiply the number times ten or
22 20 to get the total.

23 Q. But wouldn't you agree with me that a
24 20-mile project is, in total dollars, going to cost
25 more than a ten-mile project?

0441

1 A. Absolutely.

2 Q. Now, you said that you've looked at
3 materials -- excuse me, strike that.

4 Do you have in front of you your responses
5 to our data requests? And I'd specifically direct
6 you to Verizon Data Request Number Two, which has
7 been marked Exhibit 602.

8 A. Yes, I reviewed that this morning.

9 Q. And do you have that in front of you or --

10 A. I don't, but, again, they were fairly short
11 responses, so I'm familiar with what they are.

12 Q. So you're relatively comfortable talking
13 about them?

14 A. Yes.

15 JUDGE MACE: Well, let's take a moment and
16 make sure that the witness has them in front of him.

17 MR. TRAUTMAN: Can I provide him a copy?

18 THE WITNESS: Yes, I have that in front of
19 me.

20 Q. Okay. I just want to clarify, looking at
21 your response to number two, which is Exhibit 602,
22 that you have looked at Verizon's responses to
23 Staff's data requests in preparing your testimony?

24 A. I reviewed the responses that were to data
25 requests that I sent out, yes.

0442

1 Q. Okay. Well, let me ask you, did you review
2 Verizon's response to Staff's Data Request Number 44,
3 which has been marked as Exhibit Number 9 in this
4 case? It's an attachment to the testimony of Ms.
5 Ruosch. And with permission, may I approach the
6 witness?

7 JUDGE MACE: Yes, please. This is a
8 confidential exhibit?

9 MS. ENDEJAN: It is.

10 Q. Okay. Mr. Spinks, did you look at this
11 exhibit before you wrote your testimony?

12 A. No.

13 Q. So would I be correct in assuming that you
14 didn't compare any of the extension costs associated
15 with line extensions Verizon did under the new line
16 extension with the cost estimates for the Timm and
17 Taylor jobs before you concluded that the costs for
18 the Timm and Taylor jobs were reasonable?

19 A. That's correct. I don't believe we had
20 that document in our possession at the time I wrote
21 my testimony.

22 Q. Okay. I'm just trying to clarify. You
23 said, in response to Number 602, that you looked at
24 other than materials provided in response to other
25 data requests, and you don't specify what those data

0443

1 requests were.

2 A. I see.

3 Q. So --

4 A. It was the early data requests that I had
5 sent to Verizon asking them about the material costs
6 and some other aspects of the -- their cost
7 estimates, how they put them together.

8 Q. Okay. But for purposes of comparing
9 relative costs, would it have been important to you
10 to know the relative costs of the actual extensions
11 that had been done to date before you concluded that
12 the costs for the Timm and Taylor extensions were
13 reasonable? Would that have been important to you?

14 A. It might have been useful. But what I was
15 looking for was a way to judge, sort of independently
16 of the question of line extensions, how much plant
17 costs to build, because all that you've really
18 provided are estimates of what it costs to construct
19 plant for so many miles. Whether you call it a loop
20 or a line extension doesn't seem to me to really
21 connote any distinction in the cost.

22 Q. And let me just clarify, Mr. Spinks. You
23 do understand that Verizon's costs are premised on a
24 recommended engineering approach that involves buried
25 plant, don't you?

0444

1 A. Yes. Well, buried for one job, aerial for
2 the other, I believe.

3 CHAIRWOMAN SHOWALTER: Ms. Endejan, I just
4 want to be clear, if it is the case, that this
5 discussion is about the reasonableness of the costs
6 in terms of cost estimates, and we're not talking
7 about whether, in some absolute sense, it's
8 reasonable to incur those costs. Is that -- we're
9 using this word reasonable and reasonable costs quite
10 a bit, so was that the line of your questioning, that
11 we're talking about whether it, in fact, would cost
12 about that much, or are you talking about whether
13 spending that much is reasonable?

14 MS. ENDEJAN: Okay. I apologize for the
15 confusion, because I was confused in reading his
16 testimony about what Mr. Spinks is testifying to, and
17 I'm trying to get that clear. Maybe I'm just
18 muddying the waters more. So let me ask a series of
19 questions that might clarify that.

20 Q. Is the purpose of your testimony here, Mr.
21 Spinks, to render an opinion about the reasonableness
22 of the cost estimates that Verizon put forth in this
23 case for the Timm and Taylor Ranch? I'm sorry, Timm
24 and Taylor line extensions?

25 A. The purpose of my testimony with respect to

0445

1 these costs is to provide the Commission with some
2 understanding or some sense that if they order the
3 line extension to be built, that that's roughly the
4 amount of costs that will indeed be spent to build
5 them. In other words, if I had found that, jeez,
6 800,000, no, it could be built for 400,000, what's
7 going on here, you know, then I would have wrote
8 testimony that said those costs aren't reasonable,
9 they're too high.

10 Q. Okay. So then maybe I can ask one question
11 I think will clarify this. So in other words, you
12 don't take issue with the reasonableness of the cost
13 estimates that Verizon has presented in this case for
14 the Timm Ranch and the Taylor locations?

15 A. I am not saying that, as a line extension,
16 it's a reasonable cost, that it's reasonable to spend
17 that much on a line extension. I don't go there.
18 That's Mr. Shirley's area.

19 Q. Okay. I'm just saying, but you think the
20 numbers that Verizon put forth in this case for those
21 costs, whether they're good or bad --

22 A. Or ugly, yes.

23 Q. -- in terms of policy, they're okay from
24 your standpoint?

25 A. Yes.

0446

1 Q. Let me just ask, then, a couple follow-up
2 questions to further clarify your testimony here.
3 You talk on the top of page three of Exhibit 111
4 about maintenance costs. Do you see that? It's from
5 lines one through four --

6 A. Yes.

7 Q. -- at the top?

8 A. Yes, I do.

9 Q. Now, your background is in economics and
10 you're not an engineer; right, Mr. Spinks?

11 A. That's correct.

12 Q. So really you're not in a position to say
13 one way or the other how maintenance should be
14 addressed when new telephone plant is placed in an
15 area such as the Timm Ranch, are you?

16 A. Well, I wouldn't agree with that
17 characterization. In the over 20 years I've worked
18 for state commissions, one of my areas of expertise
19 has been depreciation, and I've went to a number of
20 schools and have much training and education in that
21 area, and that area involves, in fact, accounting,
22 engineering and economics. And so, through the
23 pursuit of that expertise, I have gained a good
24 understanding about many of the engineering, as well
25 as accounting aspects --

0447

1 Q. Okay.

2 A. -- in regulation.

3 Q. Well, I apologize. I didn't mean to --

4 A. Yeah.

5 Q. -- make light of or dismiss your background
6 in regulatory accounting. What I'm just getting at,
7 Mr. Spinks, is, you know, you haven't worked for a
8 telephone company in terms of maintenance and
9 engineering, have you?

10 A. No, I've not.

11 Q. So you really, you know, you don't know
12 what Verizon's practices are with respect to
13 maintaining new plant, do you?

14 A. Well, some of those would have been
15 discussed in various depreciation meetings that I've
16 had with Verizon over the years or its predecessor
17 company, GTE, in which maintenance is an issue with
18 respect to the average service lives of plant. For
19 instance, the less well it's maintained, the shorter
20 its average life is going to be, so there -- I have
21 some familiarity with maintenance in that sense.

22 Q. Okay. Fair enough. You didn't visit the
23 Timm Ranch or Taylor locations, did you, before you
24 prepared your testimony?

25 A. Not before, but I did go out there in

0448

1 October.

2 Q. To both locations?

3 A. Yes.

4 Q. Let me ask you some questions about your

5 testimony. The bottom of page three that -- of

6 Exhibit 111, that talks about loop lengths. Do you

7 see that?

8 A. Yes, I do.

9 Q. Now, in your experience, long loop lengths

10 of 20 to 40 miles could serve a great number of

11 customers, couldn't they?

12 A. No, you're not going to see that, because

13 by -- almost by definition, the further out into the

14 network you get, the fewer people there are to be

15 served, so it tapers off the further out you get. So

16 you're not likely to have an apartment building with

17 500 people in it at the end of a 40-mile loop.

18 Q. Okay. But you don't know the customers

19 along each of the 20 to 40-mile loops that you talk

20 about in your testimony, do you? You really don't

21 have any idea of how many numbers of customers are

22 along those loops. Well, let me ask you this.

23 A. No, I don't. The only information I had

24 that I provided was the approximate number of long

25 loops that there are in the state, based on

0449

1 information that was provided in the universal
2 service proceeding.

3 Q. Okay. Would it be fair to say, in your
4 experience, you don't know and can't identify any
5 loops of -- with specificity, any other loops of 20
6 to 40 miles in lengths with no customers along a
7 23-mile stretch in Washington, can you?

8 A. No, that's correct. I responded to that in
9 a data request, I believe from Verizon, and indicated
10 that such information would only be known by the
11 company and would likely be expensive and
12 time-consuming to determine.

13 Q. Okay. And I guess because you didn't
14 either have access to or the opportunity to look at
15 the document I talked about earlier, which is the
16 Exhibit 9, and that's the information provided Ms.
17 Ruosch about the actual line extension requests that
18 have been fulfilled by Verizon, you didn't see that
19 before you wrote your testimony, you said; right?

20 A. That's correct, I hadn't.

21 Q. So you didn't compare the loop lengths that
22 appear on the existing extension -- excuse me. You
23 didn't compare the lengths of the loops constructed
24 by Verizon under the new line extension tariff to
25 date with the lengths at issue with the Timm and

0450

1 Taylor Ranch before you wrote your testimony, did
2 you?

3 A. That's correct.

4 Q. Okay. Just one final area of inquiry, Mr.
5 Spinks.

6 JUDGE MACE: Can you wait just a moment
7 while he gets some water?

8 MS. ENDEJAN: Oh, excuse me.

9 Q. The very last page of Exhibit 111 deals
10 with the topic of a change in the loop cost for the
11 two exchanges involved in this case. Do you see
12 that?

13 A. Yes, I do.

14 Q. Okay. The very last sentence -- I'm sorry.
15 Well, actually, the last sentence of the first
16 question on page four, you say, The results show that
17 the wire center average will increase in the range of
18 ten to 20 percent and, given the small size of the
19 wire centers, this does not represent an unreasonable
20 change in the amount of USF support required to add
21 these investments.

22 What are you referring to when you say
23 amount of USF support?

24 A. The models were used to develop the costs
25 -- the monthly loop costs or the monthly costs of

0451

1 local service for the purposes of determining how
2 much universal service funding was required for
3 Verizon, and I think it was 33 million.

4 And if you added these loops to the
5 investment in these two wire centers, if you added
6 the cost of the line extension, it would increase the
7 cost -- monthly service costs, as I said in my
8 testimony, \$6 a month or \$9 a month for the -- in the
9 two wire centers where the loops would be
10 constructed. And that would add to the amount
11 required for Verizon for universal service purposes
12 \$9, say it was \$10, that's \$120 a year. It would add
13 that much to the amount of money they required. And
14 so that's what that sentence was addressing.

15 Q. So are you saying if Verizon is required to
16 build the Taylor and Timm extensions, that Verizon's
17 USF support amount -- they'll get more money every
18 year?

19 A. No, I'm not saying that. I'm saying what
20 would be required is it would increase by that
21 amount.

22 Q. Okay. But you don't know if, in fact,
23 Verizon's going to get any more money for -- if
24 they're required to do these line extensions as a
25 result of the change in the average exchange cost

0452

1 estimates. You don't know that, do you?

2 A. Well, my understanding is is that they
3 would be able to put an adder on the terminating
4 access charge that would recover all of the
5 investment in one year.

6 Q. Okay. But I'm talking about the ongoing
7 USF support. I mean, Verizon won't get any more
8 ongoing USF support for these exchanges due to the
9 Timm and Taylor extensions, will they?

10 A. Well, it won't be ongoing if you collect it
11 all the first year. If you get all the investment
12 back, then you don't have the monthly operating
13 liability that goes with that investment, so no, you
14 wouldn't get it. But if you didn't recover that
15 investment over the one year, if you kept it in as
16 part of your capitalized investment cost, then you
17 would be entitled to that much more.

18 Q. I'm confused, Mr. Spinks. Looking at your
19 testimony here, you say that the average cost of
20 service in the Brewster and Bridgeport exchange will
21 go up approximately ten to 20 percent if the Timm and
22 Taylor line extensions are done and completed by
23 Verizon. Isn't that what you're saying here?

24 A. That's correct. And so I need to correct
25 myself, because I earlier said \$120, and that's not

0453

1 correct. It's \$9 times the number of loops in the
2 wire center. And I apologize for that. So it would
3 be more in the range of \$120,000 a year in increased
4 USF.

5 Q. But that -- but this is where I'm getting
6 confused. That's if Verizon doesn't elect to seek
7 recovery of these costs from the terminating access
8 charge?

9 A. Correct, but I'm not saying that there is a
10 mechanism in place that does that. In fact, since
11 we've set those costs, there hasn't been any
12 subsequent actions made.

13 Q. To change the costs associated with each
14 exchange and to update and change the amount of USF
15 --

16 A. Sure.

17 Q. -- support; is that correct?

18 A. That's correct.

19 Q. Okay. So really, if we go forward with
20 these line extensions, that's not really going to do
21 anything to the calculus of what Verizon gets
22 currently under the model that you refer from Docket
23 UT-980311(a)?

24 A. That's correct.

25 MS. ENDEJAN: Thank you. Nothing further.

0454

1 JUDGE MACE: Mr. Owens.

2 MR. OWENS: Thank you, Your Honor.

3

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

5 BY MR. OWENS:

6 Q. Good morning, Mr. Spinks.

7 A. Good morning.

8 Q. Sort of a preliminary matter. In your
9 Exhibit 114-T, you have an attached exhibit, 115,
10 which includes some responses by Qwest to Staff data
11 requests; is that right?

12 A. That's correct.

13 Q. And one of those, which appears on the
14 second unnumbered page, is response to Data Request
15 Number Ten; would that be true?

16 A. Yes.

17 Q. And that exhibit is dated June 28th of
18 2002. And are you aware that Qwest recently
19 supplemented its response to this request on January
20 16th of 2003?

21 A. I am.

22 Q. And do you have what's been marked as
23 Exhibit 611?

24 A. I do.

25 Q. Is that what the Staff received as Qwest's

0455

1 response, supplemental response to Data Request Ten?

2 A. It is.

3 MR. OWENS: Thank you.

4 MR. TRAUTMAN: Your Honor, I have a -- are
5 you intending to move for admission of this exhibit?

6 MR. OWENS: Yes.

7 MR. TRAUTMAN: Because I object to
8 admitting this exhibit through Mr. Spinks. First of
9 all, it is not prepared by him.

10 CHAIRWOMAN SHOWALTER: It hasn't been
11 offered yet.

12 JUDGE MACE: It hasn't been offered yet.

13 Let's wait until --

14 MR. TRAUTMAN: Well, but I assume he's
15 going to ask several questions pertaining to it.

16 JUDGE MACE: Well, we'll wait until we get
17 to those questions. If the witness can answer them,
18 then we'll let him answer, or, if you have an
19 objection, you could voice it at that point.

20 MR. OWENS: Well, I'll offer it now. I
21 wasn't planning on asking him any more questions on
22 the document.

23 JUDGE MACE: And your objection?

24 MR. TRAUTMAN: Well, first, it's not
25 prepared by Mr. Spinks, it is not his exhibit.

0456

1 Secondly, it is essentially -- essentially simply
2 changing the testimony of Qwest. We received a
3 response back in June on the same question of
4 reinforcement and -- from Mr. Hubbard outlining all
5 of the costs associated with it. We have prepared
6 testimony based upon that response in June, and now,
7 on January 16th, we have essentially a change in
8 Qwest's testimony, not prepared by Mr. Spinks.

9 MR. OWENS: I don't see a basis for an
10 objection in that objection, Your Honor. This is
11 offered to show that the document that has been
12 proffered as a part of Exhibit 115 is not the most
13 current response of Qwest to this data request. What
14 is in the document, I suppose, is a matter for
15 argument.

16 If it were the case that each party were
17 limited in its evidentiary presentation to what was
18 disclosed months ago, either in data request
19 responses or in testimony, then the testimony that is
20 about to be changed by Mr. Williamson wouldn't be
21 admissible either. I don't think that the Commission
22 should adopt such a rigid posture.

23 We are simply offering this to show that
24 the document that's been offered as the request is
25 not the most current version. We are not objecting

0457

1 to the receipt in evidence of what is physically
2 attached to Exhibit 115 for whatever value it has.
3 We are simply stating or offering to state by this
4 exhibit that the company has revised its response,
5 and we think it's appropriate that the record show
6 the most current response.

7 CHAIRWOMAN SHOWALTER: Are you harmed in
8 any way by the admission of this?

9 MR. TRAUTMAN: Well, I -- it does seem that
10 it's -- it's hard to tell. It seems like if Qwest,
11 in fact, believed this was not reinforcement, it does
12 seem that an amendment should have been made to their
13 data request that was issued in June. It would seem
14 that some change should have been made before January
15 the 16th.

16 CHAIRWOMAN SHOWALTER: Well, I'm just
17 asking, it wasn't made before the 16th, but given
18 that it was the 16th, do you need time -- is it
19 adverse to your ability to put on the case? Does it
20 frustrate your ability?

21 MR. TRAUTMAN: It's -- well, I'm not sure
22 exactly how Mr. Spinks will respond to questions
23 concerning it.

24 CHAIRWOMAN SHOWALTER: I thought all the
25 questions have been done. It's just being offered

0458

1 for admission at this point.

2 MR. TRAUTMAN: Well, I --

3 JUDGE MACE: And you've had it since
4 January 16th; is that right?

5 MR. TRAUTMAN: Correct.

6 JUDGE MACE: We'll admit the exhibit at
7 this point.

8 MR. OWENS: Thank you, Your Honor.

9 Q. Now, in Exhibit 114-T, Mr. Spinks, at page
10 two --

11 JUDGE MACE: I'm sorry, 114?

12 MR. OWENS: 114-T, Your Honor, beginning
13 page two, and really, actually, all of the material
14 on that page, you criticize Mr. Hubbard's testimony
15 -- just a moment, Your Honor. Exhibit 69-T.

16 JUDGE MACE: This is a Hubbard Exhibit --

17 MR. OWENS: Well, no, I'm saying he
18 criticizes Mr. Hubbard's testimony, Exhibit 69-T,
19 where he compares the 738,875 cost estimate with a
20 Verizon cost estimate.

21 Q. Is that correct?

22 A. Well, I don't know if I would term it
23 criticizing as much as correcting.

24 Q. Well, you say it's an apples and oranges
25 comparison, and to that extent, you're critical that

0459

1 Mr. Hubbard has performed an inappropriate
2 comparison; would that be true?

3 A. Well, Mr. Hubbard stated that Qwest costs
4 --

5 Q. Can you answer me yes or no, that you --

6 A. Repeat the question, please.

7 JUDGE MACE: Would you repeat?

8 Q. You state that Mr. Hubbard performed an
9 apples and oranges comparison and, to that extent,
10 you criticized the comparison as inappropriate; is
11 that correct?

12 A. Yes.

13 Q. Okay. Now, did you understand, in making
14 that criticism, that Mr. Hubbard was responding to a
15 comparison that Mr. Shirley made in his testimony,
16 which has been marked as Exhibit 137-T?

17 A. No, I'm not certain that I --

18 Q. Do you have Mr. Shirley's 137-T?

19 A. No, I don't.

20 MR. OWENS: Could a copy be provided to the
21 witness, please?

22 MR. TRAUTMAN: Do you have a copy? This
23 was -- it was not marked for Mr. Spinks.

24 MR. OWENS: Well, considering --

25 MR. TRAUTMAN: I have a copy for me.

0460

1 JUDGE MACE: Is there an extra copy of
2 Exhibit 137-T, Mr. Trautman?

3 MR. OWENS: No, I'll give him my copy.
4 That's fine. Thank you.

5 Q. And I believe it's on page two there, Mr.
6 Spinks. Isn't it true that --

7 JUDGE MACE: At what line? Sorry. No, you
8 don't have the copy.

9 MR. OWENS: No, I don't.

10 THE WITNESS: Seven through 11.

11 MR. OWENS: Yeah, seven through 11.

12 CHAIRWOMAN SHOWALTER: Can we just start
13 over with the exhibit, page and line?

14 MR. OWENS: Yes, Your Honor, Exhibit 137-T.

15 JUDGE MACE: If it would help -- I
16 recognize you have your cross questions there, but if
17 it would have help, you can stand by the witness if
18 you need to refer to pages and numbers of 137-T,
19 since you don't have the copy.

20 MR. OWENS: I was trying to stay by the
21 mike.

22 JUDGE MACE: I know.

23 Q. Mr. Spinks, isn't it true that in this
24 exhibit, which is 137-T, at page two, beginning on
25 line seven, Mr. Shirley compares Qwest's cost

0461

1 estimate of 738,875, which is the same number that's
2 in your testimony, to Verizon's estimate of 737,672,
3 and concludes that the two numbers are essentially
4 the same?

5 A. Yes, I see that.

6 Q. And Mr. Shirley notes that the Verizon
7 number does not include reinforcement; correct?

8 A. I see that.

9 Q. Okay. But you weren't aware of that when
10 you wrote your testimony saying that Mr. Hubbard's
11 comparison was apples and oranges; is that right?

12 A. Yes, that's right. I wasn't aware that Mr.
13 Shirley had qualified his numbers. What I was
14 looking at was Mr. Hubbard's bare statement that his
15 \$811,000 was in fact higher than Qwest's, but he had
16 failed to distinguish between the line extension and
17 reinforcement, and when you do that, it comes out --

18 MR. OWENS: Your Honor, this goes way
19 beyond my question, which was simply was he aware
20 that Mr. Shirley had made this particular comparison
21 in his testimony and that Mr. Hubbard was responding
22 to that comparison by Mr. Shirley.

23 JUDGE MACE: And your answer is, Mr.
24 Spinks?

25 THE WITNESS: I believe I said yes, or that

0462

1 I wasn't aware of it.

2 MR. OWENS: Right. Thank you.

3 JUDGE MACE: Thank you.

4 Q. In Exhibit 113-T, beginning at page one,
5 line 18, and continuing over onto page two, you give
6 a similar presentation of Qwest's estimated cost per
7 mile to Qwest's historical buried metallic cable
8 construction cost to that which you provided for
9 Verizon and discussed with Ms. Endejan a little while
10 ago; is that true?

11 A. Yes.

12 Q. And the number that you give for Qwest's
13 historical -- I'm sorry, you don't give a number; you
14 just compare to Qwest's historical cost per mile, and
15 I believe, in response to a data request, which has
16 been marked as Exhibit 116, you provided -- or you
17 indicated that you relied on what Qwest had provided,
18 which has been marked as Exhibit 117, in drawing that
19 conclusion; is that true?

20 A. Yes.

21 Q. Okay. And the numbers involved here, just
22 so the record's clear, if you could look at 116, you
23 compared the \$31,216 per mile with what you show as
24 historical cost of \$37,456 per mile; correct?

25 A. Yes.

0463

1 Q. And that comes from the second page of
2 Exhibit 117; correct?

3 A. Yes.

4 Q. And where that is located would be in the
5 third group of numbers for the buried copper -- or
6 buried cable, metallic copper, Account 2423, shown as
7 ending balance divided by total sheath miles;
8 correct?

9 A. Yes.

10 Q. Now, would you agree with me that that
11 account would include all of the company's investment
12 in buried metallic cable?

13 A. Yes.

14 Q. And that would not necessarily be limited
15 to just loop plant, would it?

16 A. I'm not sure I understand Account 242.3, I
17 believe it is. There's a code of federal regulations
18 which states what gets capitalized in that plan
19 account and there are many costs that go into it.

20 Q. There could be, for example, some
21 interoffice copper that's included in that account?

22 A. Yes, yes.

23 Q. And would it also be true that that account
24 could include investment in placing cables that range
25 in size from many hundreds of pairs down to the six

0464

1 and 11 pairs that we have in the current existing
2 plant in the region near the Timm Ranch?

3 A. Yes, that's certainly true, but the bulk of
4 the cost is going to be the placement cost.

5 Q. And would you agree with me that it
6 generally costs more per foot to place a large
7 volume, that is, a high number of pairs cable because
8 of the handling difficulties in such a stiff cable
9 than it would to place a smaller cable, such as a 25
10 or 11 or a six-pair cable?

11 A. I don't know that.

12 Q. So in all of the studies that you've done,
13 you haven't seen any data on the labor costs to place
14 like a 600 or a thousand-pair cable compared to a six
15 or 11-pair cable?

16 A. Well, generally, the cost of placing a
17 cable isn't so much dependent on the size as it is
18 the method of placement. If you need to trench, the
19 trenching cost is going to be the same whether you're
20 putting a 600-pair or six-pair in the ground. Small
21 -- it's true that smaller cables can be plowed
22 directly into the ground, for instance, maybe at a
23 faster rate than a larger cable.

24 Q. And a faster rate would translate into
25 lower labor costs, as labor is billed by the hour;

0465

1 true?

2 A. That's true, but the jobs are actually
3 billed by the foot, not by time.

4 Q. But you don't know whether the way they're
5 billed is that they accumulate the actual labor costs
6 and divide by the footage of the job?

7 A. No, the way they would do it is bid the job
8 out on a per-foot basis, and then the contractor does
9 the job at that. And there will be specials in the
10 contract if they have to do rock, for instance, that
11 will be adders, but generally it's not a
12 time-sensitive process.

13 Q. Well, would you agree with me that the cost
14 to splice a thousand-pair cable per mile of cable
15 would be much greater than the cost to splice a
16 25-pair cable?

17 A. Yes.

18 Q. And it's the cost of splicing --

19 A. But that particular cost component of the
20 total cost of the job is going to be very small.

21 Q. Is that cost included in Account 2423?

22 A. Should be.

23 Q. You could calculate the number of
24 conductors per mile in the cable that was used to
25 compute the ending balance per total sheath miles by

0466

1 dividing the sheath miles by -- or excuse me,
2 dividing conductor miles by sheath miles; correct?

3 A. Yes.

4 Q. And could you accept, subject to check,
5 that if you did that, you'd come up with something
6 like 308?

7 A. 308 what?

8 Q. 308 conductors per sheath used in this
9 calculation?

10 A. I see, okay. I'll accept that, yes.

11 Q. Thank you. And would you expect that if,
12 on average, these cables have 308 conductors, they're
13 generally serving considerable numbers of customers,
14 not four or five per mile?

15 A. Sure.

16 Q. In your Exhibit 114-T, back to that again,
17 you discuss, beginning at page four and continuing
18 over onto page five, the subject of the existing air
19 core cable, and on page five, you discuss what you
20 believe is the remaining life span; is that right?

21 A. Yes.

22 Q. Now, the statement that you make that
23 Qwest's predecessor, US West, pursued aggressive air
24 core to filled cable replacement programs since the
25 mid-1970s because of problems with the air core cable

0467

1 is based on a ten-year-old depreciation rate study;
2 correct?

3 A. Well, it's based on my knowledge and it's
4 verified by the study.

5 Q. Didn't Qwest -- or didn't US West submit a
6 study to the Commission in 1997, in which it did not
7 refer to any such aggressive program?

8 A. Yes, and presumably, that was because they
9 had --

10 MR. OWENS: Excuse me.

11 THE WITNESS: -- accomplished its goal.

12 MR. OWENS: Excuse me. I'm going to object
13 to a presumption and to an answer that goes beyond my
14 question.

15 JUDGE MACE: Let me -- go ahead, Mr.
16 Trautman.

17 MR. TRAUTMAN: The witness answered yes or
18 no, and is typically able to explain his answer.

19 MR. OWENS: Well, he gave a presumption.

20 JUDGE MACE: I think I'd like to have the
21 witness focus on answering the question as directly
22 as possible, and if there is additional information
23 that needs to be brought out, Mr. Trautman, you'll
24 have a chance to redirect.

25 Q. Do you have any direct evidence, Mr.

0468

1 Spinks, that Qwest is today pursuing what you
2 characterize as an aggressive air core to filled
3 replacement program?

4 A. No.

5 Q. Now, you talk about the -- what you'd
6 consider the remaining life span of this particular
7 cable that runs from the Omak central office out to a
8 point approximately seven miles from the Timm Ranch;
9 is that right?

10 A. No. I'm talking about any air core cable
11 that Qwest has, including this cable. It's broader
12 than just this cable south of Omak.

13 Q. So isn't it true, Mr. Spinks, that based on
14 data which establishes an average life span for a
15 particular kind of facility, it's impossible to
16 predict the actual retirement date of any specific
17 facility?

18 A. That's correct.

19 MR. OWENS: That concludes my
20 cross-examination. Thank you, Your Honor.

21 JUDGE MACE: Mr. Harlow.

22 MR. HARLOW: No questions, Your Honor.

23 MR. OWENS: I guess we would offer the
24 cross-examination Exhibits 116 and 117.

25 JUDGE MACE: Yes. Is there any objection

0469

1 to the admission of proposed 116 and 117?

2 MR. TRAUTMAN: No, Your Honor.

3 MS. ENDEJAN: Your Honor, excuse me. I had
4 failed to move for the admission of certain exhibits
5 that I had asked Mr. Spinks about.

6 JUDGE MACE: Yes, 601 to 610?

7 MS. ENDEJAN: Actually, I think at this
8 point the only ones I talked about and would move for
9 admission would be 601 through 605. We no longer
10 wish to move into evidence 606 through 610.

11 JUDGE MACE: Any objection to the admission
12 of 601 to 605?

13 MR. TRAUTMAN: No, Your Honor.

14 JUDGE MACE: And you're withdrawing 606 to
15 610. Thank you. And Mr. Harlow, you have no cross
16 of this witness?

17 MR. HARLOW: No, Your Honor.

18 JUDGE MACE: Do the Commissioners have
19 questions?

20 CHAIRWOMAN SHOWALTER: Yes.

21

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

23 BY CHAIRWOMAN SHOWALTER:

24 Q. Mr. Spinks, if you could turn to page three
25 of your testimony, that is 111-T, page three --

0470

1 A. Yes.

2 Q. And I'm looking specifically at lines 18 to
3 20. Do you have any information on how many of those
4 thousands of loops are in Verizon's or Qwest's
5 territory versus the rural companies?

6 A. Yes, yes. Verizon has a little over a
7 thousand -- I'm sorry, Qwest has just over a thousand
8 and Verizon has 574, and the rest would be
9 independents.

10 Q. Okay. Focusing on Verizon, do you have any
11 information of those -- let's call them long loops,
12 what proportion of the costs the company paid versus
13 the individual customer?

14 A. No, I don't have any information.

15 Q. Then, turning to the next page, page four
16 of 111-T, well, first of all, how many lines are in
17 the Bridgeport -- excuse me, the Brewster exchange?

18 A. I think there's around a thousand.

19 Q. Okay. So if there were roughly six
20 customers with similar costs to the Timm Ranch, would
21 that imply a doubling, approximately, of the average
22 loop cost? Am I right on that? I'm focusing on your
23 lines ten to 14, where you say, well, if you look at
24 the Timm -- it appears that the costs of the Timm
25 Ranch would raise the average loop cost something

0471

1 like 18 percent; is that right?

2 A. Well, I said ten to 20 percent, so it would
3 probably be \$9.08 divided by the 66 -- by the 66.

4 Q. Wouldn't it be the 57.8 -- \$57?

5 A. Let me see.

6 Q. When you say -- wouldn't you be adding \$9
7 to 57 --

8 A. You're right, yes.

9 Q. -- and that's not quite 20?

10 A. Yes.

11 Q. All right. If that is the case, if you had
12 six such customers, would that raise the average loop
13 cost six times nine, added to 57, or is that how the
14 math works?

15 A. Okay. I think I understand what you're
16 saying. If you added six Timm Ranch type line
17 extensions, wouldn't you essentially double the cost
18 of the exchange?

19 Q. That's my question. And I'm not saying I
20 have the math right, because I'm just looking at this
21 in my head.

22 A. Yes, that's the way --

23 Q. Okay.

24 A. I believe that's right.

25 Q. Okay.

0472

1 A. You would keep -- continue the cost -- as
2 long as the incremental cost is above the average
3 cost, that average is going to keep going up; that's
4 correct.

5 Q. I'm not entirely sure it does go up by that
6 whole multiple, but --

7 A. No, no, I don't, either. That's right. It
8 would be less each time.

9 Q. Well, I don't know if it would or wouldn't,
10 because I'm comparing it to the \$57 starting point.

11 A. Right.

12 Q. This is something we could calculate later,
13 but I think my general question is to how significant
14 an increase in cost a single location can trigger,
15 and I recognize it's not that exchange that's paying
16 for that extension. Quite the opposite. A much
17 broader group would be. But if we're similarly
18 looking at the significance of the additional cost,
19 do you regard that 18 to 20 percent increase as a
20 significant increase in the average loop cost? If
21 you think of it as one or two or three customers'
22 impact on a thousand or, no, five -- let's see, what
23 did you tell me? A thousand, didn't you?

24 A. Yes, about a thousand in that wire center.

25 Q. Yeah, right.

0473

1 A. I didn't think so, in the sense that I went
2 back to the case and was reviewing what we had done,
3 and we had identified \$33 million as the amount of
4 USF support Verizon was entitled to. To me, raising
5 that by 100,000 a year due to these, you have to
6 remember there's other factors at play, input cost
7 change, and if we remodeled it, it might only come
8 out to 30 million again, you know. It's not the only
9 thing that's going on with the determination of
10 universal service costs. But in this case, we are
11 adding some high-cost customers and that, just by
12 itself, is going to create this increase in the
13 average exchange cost.

14 But if we were to redo the universal
15 service case today, there's no telling where -- you
16 know, you could come up with something less or more
17 that had nothing to do with these subscribers being
18 added.

19 Q. So when you say it's not significant, are
20 you referring to the effect on Verizon as a whole,
21 either in terms of what it would be entitled to if
22 you ran the numbers again or maybe what it doesn't
23 get if you don't run the numbers again? Is that what
24 you're -- is that the gist of the nonsignificance?

25 A. Yes, it's more in the whole sense than the

0474

1 -- I'm not weighing in in this case at all about
2 whether or not these costs are too much for a line
3 extension purpose. I was rather -- my role in this
4 case has been more to give the Commission some
5 assurance that the numbers they're looking at are
6 fairly accurate, that they're going to come in -- if
7 this job is done, that's what it's going to cost.

8 Q. All right. But you are an economist?

9 A. Yes.

10 Q. And I believe you're the only economist on
11 the Staff team; is that correct?

12 A. Yes.

13 MR. OWENS: No.

14 CHAIRWOMAN SHOWALTER: No. On the Staff
15 team?

16 MR. OWENS: I thought Dr. Duft was an
17 economist.

18 Q. Well, that's true, and he's not here, so we
19 can't ask him. Well, I would like to ask you some
20 questions as an economist.

21 A. I'll try to.

22 Q. Because it is getting to this issue of
23 significance, nonsignificance, reasonable,
24 unreasonable, which I think there are different ways
25 to circumscribe that judgment, but they are judgments

0475

1 when you talk about something being significant or
2 unreasonable or reasonable. And I'm wondering if you
3 agree conceptually with Mr. Danner, Dr. Danner
4 yesterday, that one can measure conceptually the --
5 well, I want to say system benefit. I can't recall
6 the word he was using.

7 A. The externality?

8 Q. Well, I don't know. That wasn't the word,
9 either. We were comparing whether something is
10 economic. That was the term, whether it is economic,
11 and we distinguished between calculations done by a
12 particular company as to whether they would or
13 wouldn't have an incentive to enter into a
14 transaction on the one hand, and whether something is
15 economic in a system sense, meaning does it add
16 value. Do you recall that conversation yesterday?

17 A. I'm having trouble. I was here for his
18 discussion with you, but I'm just -- it's just
19 escaping me, the train of economic thought that you
20 were on with him when he discussed that.

21 Q. Well, one of his points was that, from an
22 economic point of view, that is, whether an extension
23 does or doesn't add value, that, as more and more
24 people are already on a system, the value of adding
25 another one might be something like five to \$7 in

0476

1 absolute dollars?

2 A. Okay, yes, and that was the externality
3 study that Dr. Perl had done --

4 Q. All right.

5 A. -- when he said it added two to \$7 of
6 externality. That was the value to us to have
7 somebody like the Nelsons on the network.

8 Q. Right, and then he distinguished that
9 measurement from potentially some other values that
10 we have that might not be reflected in the \$7?

11 A. Yes, and that's where I -- what I thought
12 about when I heard that discussion was -- and I think
13 what he says about the economics is all well and
14 good, but what about the value of a customer being
15 able to make a 911 call from a phone, and what if
16 they don't have \$20,000 to afford the phone with,
17 that there's these other -- there's externalities to
18 the customer and the customer's not in a position to
19 be able to demonstrate how valuable it is to them
20 because of economic circumstances.

21 Q. All right. And I think he actually
22 recognized that.

23 A. Yeah, I think he touched on that, that
24 there are these policies --

25 Q. That's not my question. Thank you.

0477

1 A. Okay.

2 Q. He recognized that and said, yet still
3 there might be -- there might be a few multiples of
4 the hard measurement to capture the non-dollar values
5 or the more intangible values, but I would like to
6 focus on his \$7, or the economic measurements, not
7 the non -- not the more subjective values.

8 First of all, would it be the case that if
9 a customer already -- already could be contacted
10 through a cell phone, let's say it's working very
11 well, that that \$7 would be reduced to near zero?

12 A. I'm not sure, because -- well, in the
13 context of Dr. Perl's analysis, he focused purely on
14 wire line, I believe.

15 Q. Well, was he assuming that there was no way
16 to contact the person to whom the next line was
17 going?

18 A. Yeah, and that I don't -- yes, I would have
19 thought that would have been the way the analysis was
20 done. I did look at the study, but I don't really
21 recall the methodology, so --

22 Q. But would it be the case that if someone
23 were available by cell phone always perfectly, all
24 the time, that there wouldn't be any additional value
25 to adding a wire line?

0478

1 A. That makes sense. I agree, yes.

2 Q. But then, to the extent that maybe that
3 communication was less than perfect, there might be
4 some value building up from zero up to \$7 if it never
5 worked?

6 A. Right.

7 Q. Okay. Do you agree conceptually that, in
8 addition to the -- in addition to the more measurable
9 benefits, like the five to \$7, not that that's so
10 measurable, by the way, but at least it's put in
11 dollar terms, the more -- the measurements that can
12 be put in dollar terms, that at some point we have to
13 try to incorporate or balance or add or subtract
14 those less tangible values?

15 That is, at some point we're talking about
16 dollar costs and dollar benefits and also societal
17 costs and societal benefits and maybe some individual
18 costs and individual benefits that take a less
19 tangible form?

20 A. Absolutely. It's the kind of case, I
21 think, where you wish there was -- economics could
22 give you a single answer, you know, that you wanted a
23 one-handed economist, as Harry Truman once said, but
24 there are, I think, multiple factors, and Dr. Danner
25 listed a number of them yesterday, that the

0479

1 Commission needs to consider in arriving at a
2 decision about the case. Cost is certainly a factor,
3 but the intangibles, the benefit to the network, the
4 policy matters of providing universal service goals
5 that we have, other considerations.

6 Q. Then do you agree that there is some point
7 at which something is simply too costly in real
8 dollar terms relative to the benefit?

9 A. Yes, a cost benefit analysis shows that all
10 the time. The problem is is trying to weigh the
11 externalities and the intangibles that are involved
12 where a cost benefit analysis shows it's more costly
13 than the identified benefits or the tangible benefits
14 that you can identify, but then you somehow have to
15 weigh the intangible benefits, like the ability to
16 call the 911 and the like, and what value you put on
17 those, I think, is a function of your internal -- who
18 you are.

19 Q. What about the -- well, what I think an
20 economist would call opportunity costs. In other
21 words, supposing that for the price of connecting one
22 person, with all the costs and benefits and
23 intangibles associated with it, you could connect ten
24 people who would have, therefore, ten times whatever
25 benefits those were. Is that an appropriate

0480

1 consideration when deciding whether an amount for a
2 particular project is or isn't reasonable?

3 A. I think it's relevant when there's a budget
4 constraint. And part of my testimony in this case is
5 that the budget -- Verizon's budget, which they
6 submit to us every year, in 2000, they budgeted 160
7 million for the state of Washington and actually
8 wound up spending 173. And that's because budgets
9 are your best estimate of what you're going to spend,
10 but you spend what you really need to spend to keep
11 your network operating.

12 Q. But doesn't that beg the question of who's
13 paying Verizon's budget? In other words, isn't the
14 appropriate way to look at this not what does the
15 company have or not, but what are the appropriate
16 costs to go into what the company ultimately
17 recovers? Because, of course, any reasonable cost
18 they should have an opportunity to recover one way or
19 another, but --

20 A. Yes.

21 Q. -- we're trying to look at what's a
22 reasonable approach to line extensions that are at
23 the upper limit of typical ones, in determining is it
24 or isn't it reasonable not for the company to pay it,
25 but for the other ratepayers to pay it?

0481

1 A. Right. From a non-economist, more
2 practical standpoint, I think we realize that there
3 are a lot of costs in the rates the ratepayers pay
4 today that one could question, capacity costs. The
5 company installs capacity, and it winds up not using
6 all of it. We still have to pay for it.

7 Q. But don't we have proceedings to talk about
8 fill rate and -- I'm getting into the other
9 proceeding we're in, but isn't that what we generally
10 do here, is we from time to time review the
11 reasonableness of the types of costs for which the
12 company can recover, and the bottom question is not
13 what is the company getting or not, but isn't the
14 bottom line question what's reasonable for the
15 company to spend on behalf of the other -- or what is
16 reasonable for the other ratepayers or access chain
17 payers to pay through the company?

18 A. Well, in forward-looking costs in the
19 proceedings we've been involved with in our cost
20 dockets, that's been a forward-looking cost. What I
21 was referring to was like a rate case, an old
22 fashioned rate case where you look at the rate base
23 and you look at what the real -- what the actual
24 costs that were expended in the test year were, and
25 it was in that sense I was talking about the fact

0482

1 that there are costs that we pay today that maybe
2 every ratepayer wouldn't agree with.

3 Q. But some regulator somewhere determined
4 that it was an appropriate cost under the law of that
5 state or federal government?

6 A. Yeah, they made a decision that -- what the
7 rate would be.

8 Q. And so isn't that what we're doing in this
9 proceeding? We're trying to determine whether
10 Verizon should have a waiver, in part dependent on --
11 or maybe wholly dependent on whether in this case
12 this is a reasonable cost, not so much for the
13 company to incur as for other ratepayers to pay,
14 because that's whose revenue the company has?

15 A. Right. I don't -- I don't really think
16 it's egregious to recover the costs through the
17 terminating access, and I'm not the expert on this,
18 on how all of that works, but it seems to me that we
19 set up what looks to me to be a reasonable cost
20 recovery mechanism for the company so that it's not
21 out-of-pocket for the costs it has to do for the line
22 extension.

23 Q. Right, and so -- but that's a good example,
24 is that if we provide a way for the company to
25 recover everything that we direct it to do, well,

0483

1 then, it's not going to be any skin off the company's
2 back if it gets it. So that merely begs the
3 question, once again, of whether in some more
4 absolute sense or general sense these are or aren't
5 reasonable.

6 But that's -- my sense about your testimony
7 is that you don't want to face that question. You
8 just want to look at how would they, wouldn't they
9 recover, which is relevant to know, but it doesn't
10 get to the issue of is this or isn't this a
11 reasonable expenditure in light of, you know, the
12 facts of this case, the distance, the history, the
13 cell phones, the people who have made applications,
14 all of those facts and circumstances.

15 A. No, that's absolutely correct. My role in
16 this case was not to take on that. Mr. Shirley has
17 taken on the policy questions about the
18 reasonableness. My role was to simply look at the
19 cost from the perspective of are they accurate.

20 Q. So you are not -- even though Dr. Danner's
21 approach as an economist went significantly broader
22 in scope than yours --

23 A. Absolutely, yes, and that's why Dr. Duft
24 and Mr. Shirley's testimony, I think, is -- was
25 intended to respond to Mr. Danner's. Mine was simply

0484

1 to focus on the reasonableness of the cost estimates
2 in the sense of giving the Commission some assurance
3 that that is even a cost, in fact, that will need to
4 be incurred if the line extensions are built.

5 Q. I have --

6 A. So it's more narrow than --

7 CHAIRWOMAN SHOWALTER: Thank you. I have
8 no further questions.

9 COMMISSIONER HEMSTAD: No questions.

10 COMMISSIONER OSHIE: No questions.

11 JUDGE MACE: Mr. Trautman, redirect?

12 MR. TRAUTMAN: No, Your Honor.

13 JUDGE MACE: I believe we've dealt with all
14 the exhibits for this witness. Thank you. You're
15 excused.

16 MR. OWENS: Your Honor, I just had one
17 follow-up question on one of the Chairwoman's
18 questions, if I might?

19 JUDGE MACE: Go ahead.

20 MR. OWENS: Thank you.

21

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

23 BY MR. OWENS:

24 Q. Mr. Spinks, do you recall discussing with
25 the Chairwoman intangibles, and I believe you said

0485

1 one of the intangibles that needed to be weighed was
2 how valuable is it to the customer to be able to make
3 a call to 911?

4 A. Yes.

5 Q. Okay. Were you in the hearing room when
6 RCC's witness testified that all of their test 911
7 calls were completed successfully?

8 A. I wasn't. I wasn't, but I am aware of
9 that.

10 Q. Okay. So at least to that extent, that
11 intangible would seem to at least be covered by the
12 available wireless service?

13 A. When it works.

14 Q. Okay. But you don't know when it works and
15 when it doesn't?

16 A. Well, the reports I'd heard, it depends on
17 the weather and the like.

18 MR. OWENS: Okay. Thank you.

19 MS. ENDEJAN: Your Honor, may I ask a
20 follow-up question --

21 JUDGE MACE: Go ahead.

22 MS. ENDEJAN: -- to something that
23 Chairwoman Showalter asked?

24

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

0486

1 BY MS. ENDEJAN:

2 Q. Because I just want to clarify, Mr. Spinks,
3 one thing. Now, Verizon -- the USF amount that
4 Verizon is, quote, entitled to get as a result of the
5 Docket UT-980331(a), is set, I believe, at 33
6 million. Is that your testimony?

7 A. Yes.

8 Q. Now, that amount isn't going to change one
9 way or another as a result of this proceeding; isn't
10 that correct?

11 A. That's correct.

12 MS. ENDEJAN: Thank you.

13 JUDGE MACE: Mr. Trautman?

14 MR. TRAUTMAN: No.

15 JUDGE MACE: All right. Thank you. You're
16 excused.

17 THE WITNESS: I'm done?

18 JUDGE MACE: You're excused. We'll take a
19 15-minute break.

20 (Recess taken.)

21 JUDGE MACE: Let's be back on the record.

22 We're not quite ready to begin the cross-examination
23 of Mr. Williamson. I wanted to deal with a
24 preliminary matter, and that is a bench request for
25 the Perl study. This has been mentioned by two

0487

1 witnesses, and we've discussed it in
2 cross-examination, but yet I don't believe it's been
3 marked as an exhibit.

4 MS. ENDEJAN: It has not, Your Honor. It
5 was provided to Staff in response to a data request,
6 and I'm not certain if I have it with me or -- I know
7 we sent it to you, Greg.

8 MR. TRAUTMAN: I don't know which one it
9 is.

10 MS. ENDEJAN: So I mean, I'd like to get it
11 today if we can, so that way, you can take care of
12 it. Could you check? I'll look through our data,
13 because I know you asked me --

14 MR. TRAUTMAN: I could check with our
15 paralegal.

16 JUDGE MACE: Either way, I'm making it
17 Bench Request 801, and I would like to make sure that
18 a copy is provided to the Bench.

19 Mr. Williamson, do you want to stand and
20 raise your right hand.

21 Whereupon,

22 ROBERT T. WILLIAMSON,
23 having been first duly sworn by Judge Mace, was
24 called as a witness herein and was examined and
25 testified as follows:

0488

1 JUDGE MACE: Please be seated. We'll wait
2 for just a few more minutes for the other
3 Commissioners.

4 Mr. Trautman, I've already sworn in Mr.
5 Williamson. Are you ready to present him?

6 MR. TRAUTMAN: I am.

7

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

9 BY MR. TRAUTMAN:

10 Q. Good morning, Mr. Williamson.

11 A. Good morning.

12 Q. Could you give your name and business
13 address for the record?

14 A. Robert T. Williamson, business address is
15 1300 South Evergreen Park Drive, S.W., Olympia,
16 Washington, 98504.

17 Q. What is your position with the Commission?

18 A. Utility engineer.

19 Q. And for this case, have you filed what has
20 been marked as Exhibit 160-T -- I believe it's the
21 substitute for 160-T?

22 A. Yes.

23 Q. And that is your testimony of September
24 20th, 2002, and as well as Exhibit 161?

25 A. Yes.

0489

1 Q. And does Exhibit Substitute 160-T reflect
2 changes from your prior testimony?

3 A. Yes, it does.

4 Q. And would you please point out those
5 changes?

6 A. Page two, there are changes on lines two
7 through seven. Do you want me to go through them
8 exactly?

9 Q. If you'd please read them, yes.

10 A. On line two, I've added the word "not"
11 following, "Mr. Hartzog is." Between "is" and
12 "correct," I've added "not." On line three,
13 following "analog and," I've added "the newer
14 ADSL-based." On line four, I added a period
15 following "cable sheath," and a new sentence reading,
16 "According to the manufacturer of the GoDigital Xcel
17 12, it is the condition of the older deteriorating
18 cable plant that is the determining factor for
19 whether or not the Xcel system and older analog
20 carrier systems can exist in the same cable binder,"
21 period. I crossed out "but," started a new sentence
22 with "In any case."

23 Q. Are there any other changes you need to
24 make to this testimony?

25 A. No.

0490

1 JUDGE MACE: For the reporter, the words
2 GoDigital, it's all one word with a G capitalized and
3 the D capitalized, and Xcel is X-c-e-l.

4 Q. If I were to ask the questions contained in
5 your testimony, would your answers be the same?

6 A. Yes, they would be.

7 MR. TRAUTMAN: At this point, I would move
8 for admission of Exhibits 160-T and 161.

9 JUDGE MACE: I have extra copies.

10 CHAIRWOMAN SHOWALTER: I think I have it
11 here. I got it.

12 JUDGE MACE: Does everybody else have it?
13 I'll -- is there any objection to the proposed
14 exhibits, 160-T through 161?

15 MR. HARLOW: None.

16 JUDGE MACE: I'll admit those exhibits.
17 Ms. Endejan.

18 MS. ENDEJAN: No objection.

19 JUDGE MACE: Do you want to cross?

20 MR. TRAUTMAN: Mr. Williamson is available
21 for cross.

22 JUDGE MACE: Thank you. Ms. Endejan, do
23 you have cross for this witness?

24 MS. ENDEJAN: I do not.

25 JUDGE MACE: Mr. Owens.

0491

1 MR. OWENS: Thank you, Your Honor.

2

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

4 BY MR. OWENS:

5 Q. Good morning, Mr. Williams.

6 A. Good morning.

7 Q. Douglas Owens, for Qwest. Just a few
8 questions. On Exhibit 162, page two, you describe
9 your professional background, and --

10 JUDGE MACE: Exhibit 162, page two?

11 MR. OWENS: I'm sorry, 161, page two.

12 Q. And focusing on your work for Pacific
13 Northwest Bell and US West beginning in 1965 and
14 ending in 1995, what did you do as a network design
15 engineer?

16 A. As a network design engineer, it was a
17 central office network design engineer. I did
18 capacity engineering for the planning of central
19 offices and worked with the outside plant forces for
20 the design and then further installation of
21 integrated digital loop carriers, as well as
22 installation of ISDN.

23 Q. And as a maintenance engineer, what did you
24 do?

25 A. I fixed the things that I engineered in my

0492

1 other job, which is always the more difficult. I was
2 responsible for five ESS central offices in Oregon
3 and Washington.

4 JUDGE MACE: Five what?

5 THE WITNESS: Five ESS. I'm sorry.

6 JUDGE MACE: What is ESS?

7 THE WITNESS: Electronic switching system.

8 JUDGE MACE: Thank you.

9 THE WITNESS: Again, for hardware problems,
10 hopefully that I didn't engineer, but for hardware
11 problems, and to work with other forces to resolve
12 issues, which included the outside plant forces,
13 again, for integrated digital loop carriers and ISDN.

14 Q. And as a maintenance quality assurance
15 engineering manager, what did you do?

16 A. Similar to the last title. I think it's
17 more of a title change that US West changed it to.

18 Q. And as service assurance manager, was there
19 any difference in responsibilities there?

20 A. As service assurance manager, I changed,
21 actually, the type of equipment that I -- that I
22 worked with, and I worked with the Boeing and
23 Microsoft teams on SONET support.

24 Q. SONET, S-O-N-E-T?

25 A. Sorry, and it's not a poem. Yes, all

0493

1 capitals.

2 Q. Standing for synchronous optical network?

3 A. Network, yes, sir.

4 Q. So that was basically a fiber-based system?

5 A. Yes, sir.

6 Q. As central office project manager, what did
7 you do?

8 A. As a central office project manager, I was
9 the manager in charge of the installation and
10 subsequent cutovers, again, of five ESS switches.

11 Q. And an ESS switch is a digital switch; is
12 that correct?

13 A. It's a digital switch supplied by Lucent.

14 Q. And as a network operations center manager,
15 what did you do?

16 A. I was the manager in charge of a number of
17 technicians who maintained those same types of
18 switches, and dealt with different forces at US West
19 to help maintain that, including the outside forces,
20 the engineering forces and the technicians that
21 maintained the switches.

22 Q. And then, when you moved to TCG in April of
23 '95, as switch application engineering manager, what
24 were your responsibilities?

25 A. I was second-tier support for the TCG

0494

1 forces in Seattle to interface with the engineering
2 forces for TCG in Denver and to provide support to
3 their regulatory people for TCG to work on the first
4 interconnection agreements between US West and TCG
5 and GTE and TCG. I was the technical support for
6 that effort.

7 Q. So that job didn't involve engineering
8 outside plant?

9 A. No, it did not.

10 Q. And then, in March of '97, you became
11 utility engineer for this Commission, and what are
12 your -- what were your responsibilities then?

13 A. To deal with, technically, with any
14 engineering issues that come to the Commission.

15 Q. And then, in October of 1997, you moved to
16 AT&T Hawaii Information Transfer System as test
17 manager. What did you do there?

18 A. The contract was a defense department
19 contract, and I was a contractor for AT&T. And on a
20 defense contract, the government has a very large
21 contract, very detailed, thousands of pages of
22 details, and it was my job to write test plans for
23 the central office, outside plant, and other
24 facilities, AT&T people and their contractors, to
25 prove to the government that we met all their

0495

1 contract responsibilities.

2 Q. And in that job, did you do any outside
3 plant engineering?

4 A. No, but I interfaced with the outside plant
5 engineering people.

6 Q. Then, in April of 2000, you moved to C-7.
7 Is that a company?

8 A. No, C-7 is the European SS7 standard. The
9 company is NeuStar, N-e-u-S-t-a-r.

10 Q. Oh, NeuStar, I see. And so signaling
11 system seven is the method by which the switches in
12 the network communicate with one another to set up
13 and take down calls; is that correct?

14 A. Yes, sir.

15 Q. And so in that job, did you engineer any
16 outside plant?

17 A. I did not.

18 Q. And then, in February 2001, also for
19 NeuStar, you became new business technical director
20 -- excuse me, new business technical development
21 director for IT services; is that right?

22 A. That's true.

23 Q. And what were your duties there?

24 A. Didn't involve outside plant.

25 Q. That's fine. That's all I need. So would

0496

1 it be fair to say that you don't have any actual
2 practical experience with the GoDigital Xcel 12
3 system yourself?

4 A. I'd say that would be true.

5 Q. And do you know whether or not the
6 manufacturer of the GoDigital Xcel 12 system has
7 performed any tests on Qwest's existing cable
8 facility from the Omak central office to a point
9 about seven miles from the Nelson residence?

10 A. I don't have that knowledge, but I assume
11 they have not.

12 Q. And it's true, isn't it, that entropy says
13 that anything starts deteriorating pretty much as
14 soon as it's put into use?

15 A. I'm an example of that.

16 Q. Aren't we all. And would I be correct in
17 assuming that you didn't perform any tests on Qwest's
18 cable from the Omak central office to near the Timm
19 Ranch?

20 A. You would be correct.

21 Q. And would you also agree that, as a matter
22 of engineering, whether or not a particular cable is
23 so deteriorated that the, according to the testimony
24 you filed here, the GoDigital system could or could
25 not coexist with an analog system on that same cable

0497

1 as something that could be tested?

2 A. I'm sorry. Repeat that again.

3 Q. Would you agree that whether or not the
4 GoDigital system could or could not coexist on a
5 particular cable could be tested?

6 A. Yes, I would agree.

7 Q. In your work, either for any of your
8 private employers or the Commission, have you ever
9 heard of the concept of spectrum management?

10 A. Yes, I have.

11 Q. And would you tell the Commission what that
12 is, please?

13 A. Spectrum management is -- I have to think
14 of the right words -- the management of frequencies
15 within a cable or some transmission medium to manage
16 so they don't interfere with each other. I mean,
17 it's a simplified version, but --

18 Q. And that's so that different communication
19 modalities on the same cable can both operate
20 simultaneously; would that be correct?

21 A. Yes.

22 Q. Okay. And so it's acknowledged in the
23 industry that certain types of communication
24 modalities have the capability of interfering with
25 one another if they're on the same cable; is that

0498

1 correct?

2 A. Yes, sir.

3 Q. And would you agree that there are industry
4 standard-setting bodies whose function it is to study
5 this phenomenon and set technical standards to avoid
6 or minimize that kind of interference?

7 A. Yes, I would agree.

8 Q. Are you aware of a technical standard for
9 that purpose designated T1.417?

10 A. I'm familiar with it in general.

11 Q. And isn't it true that that standard was
12 established by an industry standard-setting body?

13 A. Yes.

14 Q. Do you know which one?

15 A. I believe that was the Bellcore standard.

16 Q. Would you agree with me that that standard
17 acknowledges that analog carrier is a known disturber
18 of DSL technology if put on the same cable?

19 A. Without that toreference, no, I couldn't.
20 I couldn't say that.

21 Q. In preparing your testimony that Mr.
22 Hartzog was not correct that the new ADSL-based
23 digital subscriber carrier systems cannot exist in
24 the same cable sheath, did you not think it
25 appropriate to consult the standard that I just

0499

1 mentioned?

2 A. Given the time, it might have been
3 appropriate. The information that I received was
4 late the day before yesterday and yesterday, through
5 a number of telephone calls with the manufacturer.

6 Q. Well, the testimony that Qwest filed was
7 filed on December 20th, was it not?

8 A. Yes, it was.

9 Q. So is there some reason why it's taken a
10 month for you to come up with the answer without
11 examining the standard that I mentioned?

12 A. Only that I had not thought to question the
13 testimony of -- that particular part of the testimony
14 until the last couple days.

15 Q. Well, let me ask you if you can accept,
16 subject to check, that what I recited to you or
17 described to you is contained in that standard?

18 A. I could accept, subject to check. I'm not
19 sure that it's as simple as you've stated. There may
20 be extenuating circumstances, but subject to check, I
21 would accept that.

22 Q. Do you know whether or not the Federal
23 Communications Commission has also acknowledged that
24 analog carrier is a known disturber of DSL
25 technology?

0500

1 A. I don't know that.

2 Q. Can you accept, subject to check, that the
3 FCC's 706 order recognized that AMI, T1, or analog
4 carrier is a known disturber of DSL technology?

5 A. I can accept that.

6 Q. And could you further accept, subject to
7 check, that paragraph 214 of the FCC's line sharing
8 order states that the only technology known to be a
9 consistent disturber of DSL is analog T1?

10 A. I don't know that, but --

11 Q. Well, I'm asking you to --

12 A. I can accept that, subject to check.

13 Again, you're giving me a broad range, and I'm not
14 sure if it says in the same binder, in a poor cable,
15 in a good cable, so subject to check, I don't know
16 the circumstances.

17 Q. Well, Mr. Spinks testifies that the air
18 core cables involved here were placed at least 20
19 years ago. And so would you agree that all of them
20 are in some stage of passing through their useful
21 lives?

22 A. Yes, I would.

23 Q. And would you agree that it's possible for
24 a cable that's 20 years old to perform acceptably for
25 analog carrier systems?

0501

1 A. Analog carrier systems are very tolerant of
2 outside plant problems.

3 Q. And would you agree that CM8 is an analog
4 system that operates as an analog T1 technology
5 system?

6 A. Yes, I would accept that.

7 Q. So would it be fair to say that when you
8 said Mr. Hartzog is not correct that analog and the
9 newer ADSL-based digital subscriber carrier systems
10 cannot exist in the same cable sheath, you would have
11 to acknowledge that he may be correct as to any
12 particular cable sheath; is that true?

13 A. I meant that he may be incorrect that the
14 two carrier systems could exist in a newer cable. It
15 would depend on the older cable and its condition as
16 to whether that was true or not.

17 Q. And Mr. Hubbard testified that Qwest had
18 actual field experience that it was unable to make
19 this system function and had attempted to get the
20 GoDigital manufacturer to come out and somehow make
21 the system operate the way that you indicate the
22 manufacturer says it will. Do you recall that
23 testimony?

24 A. I recall that. He didn't give us any
25 specifics as to the cable or the newness or oldness,

0502

1 the condition of the cable that they tried their test
2 in.

3 Q. But you don't have any evidence that what
4 he recounted as Qwest's actual field experience isn't
5 correct?

6 A. No, I do not.

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

8 JUDGE MACE: Mr. Harlow, do you have
9 cross-examination of this witness?

10 MR. HARLOW: No, Your Honor.

11 JUDGE MACE: Do the Commissioners have
12 questions?

13

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

15 BY CHAIRWOMAN SHOWALTER:

16 Q. Well, I want to pick up from the last
17 discussion. Is it your testimony that, as to this
18 particular cable involved, you don't know whether it
19 is or isn't too deteriorated to accommodate the
20 GoDigital --

21 A. The GoDigital?

22 Q. -- technology compatibly?

23 A. My testimony is that if new cable were
24 reinforced along the older, as Mr. Hubbard has
25 testified, that there could be some benefit to

0503

1 existing customers by moving them to the new cable.
2 Movement to the new cable, if the GoDigital system
3 and the older CM8s were compatible on the new cable
4 would be much easier for Qwest to do.

5 I didn't testify that the manufacturer ever
6 told me that, on an older cable, there weren't
7 problems with analog carrier and their system working
8 together. So my testimony isn't that they should try
9 and make the two work together on the old cable; it's
10 to take advantage of the new if it's reinforced.

11 Q. And all right. I'm pretty sure I'm missing
12 some technical parts of the picture. Is it your
13 testimony that if the GoDigital technology can be
14 used, then that reinforcement will inure to the
15 benefit of others, but you're not commenting on the
16 if part?

17 A. I'm not sure I understood what you said.

18 Q. Well, all right. What I -- let's -- if you
19 look at your testimony on page one, lines 16 and 17,
20 you say, Any existing customers that were moved to
21 the new cable and digital subscriber systems would
22 see improved service. So first of all, is that still
23 your testimony?

24 A. Yes, it is.

25 Q. But there's a condition in those lines.

0504

1 It's any existing customers that were moved,
2 indicating they might be moved, they might not be
3 moved. So you're saying if they are moved, they'll
4 see a benefit?

5 A. That's true. And I believe it was in Mr.
6 Hubbard's testimony that if they reinforced with the
7 new cable, there would be no movement of existing
8 customers to the new cable. It would only be for the
9 extension to the Timm Ranch. And all I was
10 testifying to is there is possible benefit to
11 existing customers along the route. If they are
12 moved, if, being an engineering decision by Qwest, if
13 they are moved to take advantage of the new cable
14 that is laid next to the old.

15 Q. All right. Actually, I think we've got two
16 ifs going on now.

17 A. Yes, there are.

18 Q. Because one of the ifs is if there is this
19 new technology, would the new customers be moved.
20 That's the if you were talking about, I believe.

21 A. Well, it's Qwest's testimony that they will
22 install if they do this work. They will install a
23 GoDigital carrier system as part of the extension to
24 the Timm Ranch.

25 Q. Okay. Then the if that I'm thinking about

0505

1 is the one that has to do with whether it is
2 technically feasible to combine these two
3 technologies in an old cable, whose condition on that
4 specific cable we don't know. Is that -- does that
5 affect your testimony or the context of your
6 testimony?

7 A. I don't believe it affects my testimony. I
8 would agree that on older air core cable, which there
9 is a lot of left in the state of Washington, in my
10 background with trying to make ISDN work and also
11 ADSL, the 2B1Q line coding that makes that work, it
12 is not nearly as tolerant of outside plant problems
13 of cable issues than the older is. To try and make
14 it work on the old cable would be problematic, but if
15 new cable is laid next to the old cable, there could
16 be benefits to existing customers to remove them from
17 the old cable and put them on the new.

18 Q. Okay. Assuming all of that happens and the
19 new customers are moved to the new cable, you say
20 they would see improved service; correct?

21 A. Yes, ma'am.

22 Q. Do you have any sense of the
23 proportionality of the improvement they would see
24 relative to the cost of putting in the new
25 technology?

0506

1 A. I can tell you the improvements, and we'll
2 deal with it afterward. On the new digital system,
3 there's a vast improvement, particularly for people
4 who want to do dial-up modem service to the Internet.
5 On the old analog system, and particularly with older
6 cable, you may not even be able to get to the
7 Internet. If you do, it would be very slow. In the
8 new GoDigital system, you should be able to reach
9 your modem speed. If you have a 56-kilobit modem
10 you'll come very close to that, instead of 28.8 or
11 some subset. So that would be an improvement. Also,
12 customers should have a better transmission, less
13 noise, a clearer response.

14 Q. All right. So if Qwest were to put in the
15 new cable, and is that -- is new cable the right
16 term?

17 A. Yes.

18 Q. Okay. If Qwest were to put in the new
19 cable and move customers over to it so that they see
20 this improvement, how many customers would be
21 affected?

22 A. It's a difficult question for me to answer.
23 In all truth, I would have to sit with the Qwest
24 engineers and planners and designers to be able to
25 say exactly how many could, in the future, move. I

0507

1 would assume at some point in the future, and I have
2 no idea what that time frame is, other than based on
3 what Mr. Spinks has testified to, that it would be
4 very possible that all customers along that route
5 would at some time be moved to that cable as the old
6 cable deteriorates and dies.

7 Q. Is there a cost involved in transferring
8 existing customers to a new cable?

9 A. Yes, ma'am. It would require some way to
10 cross-connect between the two cables to reach the
11 other customers.

12 Q. Are there any estimates of those costs in
13 this record?

14 A. I believe Qwest has some estimates of those
15 in testimony.

16 Q. And you don't contest those particular
17 costs?

18 A. I don't contest them. What my engineering
19 background, having worked with outside plant
20 engineers and organizations, not being an outside
21 plant engineer myself, but having worked closely with
22 them, it would be hard for me to understand if a new
23 cable with a larger capacity was laid next to an
24 older deteriorating cable, that at some point those
25 engineers wouldn't take advantage of that to improve

0508

1 the service. Whether there was an extension at the
2 end of it or not, at some point to save themselves
3 maintenance costs, if nothing else, they would want
4 to make it possible to serve those customers, and
5 there is an added cost to do that.

6 Q. And again, if -- do you know how many
7 existing customers there are who could ultimately
8 take advantage of this new cable if they were all
9 transferred?

10 A. In Qwest's testimony, they have said there
11 are somewhere close to 75 customers at different
12 portions along the route or wide off of that route, I
13 believe. I believe it's in Mr. Hubbard's testimony.

14 JUDGE MACE: Can I just interject there,
15 because my recollection of Mr. Hubbard's testimony
16 about that was that there was a correction.

17 MR. OWENS: That's right.

18 JUDGE MACE: It was lined out where he said
19 75.

20 THE WITNESS: Oh, I'm sorry.

21 JUDGE MACE: And the correction was made to
22 23 existing customers. And I just want to make sure
23 the record's clear --

24 THE WITNESS: Well, that makes it a little
25 easier. I don't have to count the other 50-some. So

0509

1 if he said 23, I believe that, subject to check,
2 that's true. So there would be a possibility, at
3 some time in the future, that 23 customers could get
4 better service. It may be that not all of them would
5 do that and I believe they probably all wouldn't at
6 the same time.

7 CHAIRWOMAN SHOWALTER: Thank you. I have
8 no further questions.

9 JUDGE MACE: Commissioner Oshie.

10

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

12 BY COMMISSIONER OSHIE:

13 Q. Mr. Williamson, what's the value, if you
14 will, if you can -- and perhaps it's the value in
15 economic terms and dollar terms -- to the existing
16 cable? And I guess my question really is, if it has
17 value, what value is lost if the existing cable's
18 replaced with the new digital cable?

19 A. Of course, asking an engineer an economic
20 question is difficult, but if it were true at some
21 point in the future, whatever that time is, that no
22 customers remained on the old cable, then all of its
23 value is lost at that time. I believe it would have,
24 if it's far enough out past a 30-year period,
25 probably have recouped its economic value through its

0510

1 economic life.

2 Q. Is retirement of a system based upon its
3 useful life or are there other factors that the
4 company may consider before retiring an existing
5 system? Well, let's use the term cable. Maybe
6 that's easier to --

7 A. If I understand your question correctly,
8 there are other issues that the company would want to
9 think about before it retires an existing cable.
10 Some of them are economic, some may be
11 maintenance-related, which are related to economic
12 problems, and some may be politically, if the cable
13 is creating enough trouble reports that they want to
14 change it to resolve that issue.

15 Q. Do you know if any of those factors are
16 present with the cable that's been at issue this
17 morning?

18 A. We did check. I'm not aware, as close as
19 we could get, that the trouble report rate for the
20 particular area's higher than any of the other rural
21 areas. So I'm not aware of other issues other than
22 economic.

23 Q. Mr. Williamson, by area, do you mean the
24 exchange or do you mean --

25 A. The exchange. I'm sorry.

0511

1 Q. Okay. So that your testimony doesn't --
2 you're not stating, in effect, that that cable has a
3 higher number of trouble reports than others?

4 A. I have no way to gauge that at the moment.
5 I don't know that.

6 COMMISSIONER OSHIE: Okay. Thank you.

7 JUDGE MACE: Any other questions before we
8 go to redirect? Go ahead.

9 MR. OWENS: I have a follow-up question to
10 I think one of the Chairwoman's questions, and
11 perhaps Commissioner Oshie's question, Your Honor.

12 JUDGE MACE: Go ahead.

13

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

15 BY MR. OWENS:

16 Q. I'd like to see if we can clarify something
17 that I'm not sure is clear. When you talk about
18 moving existing customers to the new cable, am I
19 correct in assuming that you are not contemplating
20 that Qwest would connect the existing analog system
21 in the central office to one of the pairs in that
22 cable and connect the customer's existing analog
23 channel units to the new cable; am I correct in that?

24 A. I'm assuming that at some point in the
25 future Qwest may choose to move existing customers on

0512

1 analog carrier onto the new cable.

2 Q. But using the analog system on the new
3 cable?

4 A. Yes.

5 Q. And what's the basis for that?

6 A. Only that it makes it easier, because of
7 Qwest's earlier testimony of the cost of putting
8 existing customers onto new digital system includes
9 the cost of digital equipment in the field. If Qwest
10 wanted to not have to spend that extra cost, they
11 could reuse existing analog carrier on the new cable.

12 Q. And that, then, in turn depends on the same
13 issue with regard to possible interference in that
14 cable of the analog with the digital system that we
15 discussed earlier?

16 A. That's true. And that is what the
17 manufacturer of the GoDigital systems says is not an
18 issue.

19 Q. Was it your testimony that existing
20 customers who were migrated on the analog system to
21 the new cable would experience any perceptible
22 improvement in their service?

23 A. If any, it would be slight, other than
24 being the start of their transition to some newer
25 service in the future. Let me -- if I might, I

0513

1 believe there'd be very little benefit to moving
2 existing customers on existing analog carrier onto
3 the new cable, other than the transition costs for
4 Qwest. If there was any improvement in service for
5 the customer, it would be small at that time.

6 Q. What transition costs for Qwest do you
7 believe would be improved by doing what you just
8 said?

9 A. In the past, I've seen telephone companies
10 begin to transition customers under older service
11 with a long-range plan of improving that in the
12 future. That's what the outside plant planners and
13 designers and engineers do for a long-term plan, not
14 maybe a one year plan, but a long-term plan. So the
15 plan may be to move existing customers on an analog
16 service to the new cable in one year so that they can
17 transition to a new service at a more appropriate
18 time at some future date.

19 Q. But this hypothetical plan is apparently
20 your idea. You're not saying that you're aware that
21 Qwest has any such plan for this area of Okanogan
22 County, are you?

23 A. I have not sat with the planners, engineers
24 or -- in history, it has been done. Whether they
25 plan on doing it here, I don't know. This cable

0514

1 doesn't even exist in the ground at this time.

2 Q. And when you referred to Mr. Hubbard's
3 testimony as initially being 50 to 75, and then as
4 amended to 23 customers, were you aware of his
5 testimony, 69-T, in which he describes the fact that
6 of the 23, only ten existing customers actually
7 reside along the portion of the existing cable route
8 that would be paralleled by the new cable?

9 A. Actually, I do remember reading that.

10 MR. OWENS: Thank you. That's all I have.
11 Thank you, Your Honor.

12 JUDGE MACE: Anything else from the
13 Commission?

14

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

16 BY CHAIRWOMAN SHOWALTER:

17 Q. I hesitate, but, yeah, I am left a little
18 bit confused. I think I thought that whatever new
19 customers, whatever existing customers were put on
20 the new cable, they would see improved service in the
21 form of high-speed communications. That's what I
22 thought your answer to me was, but then I heard
23 another exchange that they would not see a
24 perceptible difference. Can you just clarify --

25 A. Yes.

0515

1 Q. -- those two statements?

2 A. Any customer moved onto the new cable, onto
3 a new GoDigital or similar system, would see improved
4 service.

5 Q. In what way?

6 A. High-speed modem access and better service,
7 in general. If there was a transition to at some
8 point move existing customers on their old analog
9 carrier systems as a plan to improve their service at
10 a future date to move them onto a digital service,
11 they wouldn't see it at that interim step, but when
12 they were moved onto a GoDigital system, they would
13 see improved service.

14 Q. Where does this interim step come into
15 play?

16 A. I have no idea whether Qwest plans on doing
17 that at any time in the future, whether they would
18 move all customers to a new system.

19 CHAIRWOMAN SHOWALTER: Okay. Thank you.

20 JUDGE MACE: Mr. Trautman.

21 MR. TRAUTMAN: I have no redirect.

22 JUDGE MACE: Qwest had marked 162.

23 MR. OWENS: Yes, Your Honor. I would like
24 to offer that at this time.

25 JUDGE MACE: Is there any objection to the

0516

1 admission of proposed 162?

2 MR. TRAUTMAN: No, Your Honor.

3 JUDGE MACE: I'll admit that. Thank you,
4 Mr. Williamson. You're excused. Is Staff ready to
5 present its next witness?

6 MR. TRAUTMAN: We are.

7 Whereupon,

8 ROBERT SHIRLEY,
9 having been first duly sworn by Judge Mace, was
10 called as a witness herein and was examined and
11 testified as follows.

12 JUDGE MACE: Please be seated.

13 CHAIRWOMAN SHOWALTER: Can we take a
14 two-minute pause?

15 JUDGE MACE: We're going to take a brief,
16 couple-minute pause here.

17 (Recess taken.)

18 JUDGE MACE: Mr. Trautman.

19 MR. TRAUTMAN: Thank you.

20

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

22 BY MR. TRAUTMAN:

23 Q. Good morning, Mr. Shirley.

24 A. Good morning.

25 Q. Could you please give your name and

0517

1 business address for the record?

2 A. Yes, my name is Robert B. Shirley,
3 S-h-i-r-l-e-y. My business address is 1300 South
4 Evergreen Park Drive, S.W., Olympia, Washington,
5 98504.

6 Q. And what is your position with the
7 Commission?

8 A. I'm employed with the Commission as a
9 telecommunications policy analyst.

10 Q. For this case today, have you filed what
11 has been marked as Exhibit 131-T, your April 17th
12 testimony; Exhibit 134-T, your June 20th, 2002
13 testimony; 137-T, your September 20th, 2002 reply
14 testimony; Exhibit 139-T, which is your December
15 27th, 2002 reply testimony; Exhibit 140-T, which is
16 your September 13th, 2002 supplemental testimony; as
17 well as exhibits marked 132, 133, 135, 136 and 138?

18 A. Yes, I did submit those.

19 Q. Were those exhibits prepared by you or
20 under your supervision?

21 A. Yes, they were.

22 Q. Do you have any changes you need to make to
23 any of them?

24 A. None that I'm aware of.

25 Q. If I were to ask you the questions

0518

1 contained in your testimony, would your answers be
2 the same?

3 A. Yes.

4 MR. TRAUTMAN: And I would now move for
5 admission of Exhibits 131-T through 140-T.

6 JUDGE MACE: Is there any objection to the
7 admission of those exhibits?

8 MR. OWENS: No, Your Honor.

9 JUDGE MACE: Hearing no objection, I'll
10 admit those exhibits.

11 MR. TRAUTMAN: Mr. Shirley is available for
12 cross-examination.

13 JUDGE MACE: Ms. Endejan.

14 MS. ENDEJAN: Thank you, Your Honor.

15

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

17 BY MS. ENDEJAN:

18 Q. Good morning, Mr. Shirley.

19 A. Good morning.

20 Q. Mr. Shirley, let's sort of start from the
21 beginning.

22 A. Okay.

23 Q. From Exhibit Number 131, which is your
24 April 17th testimony.

25 A. Yes.

0519

1 Q. Okay. But in order to answer some
2 questions I'm going to put to you, could you turn to
3 what has been marked as Exhibit 559, which is a
4 response to a Verizon data request, Data Request
5 Number 20?

6 A. 559?

7 Q. It's Exhibit 529.

8 JUDGE MACE: Is it 529 or 559?

9 MS. ENDEJAN: Excuse me, 559.

10 JUDGE MACE: 559. And hold on for just a
11 moment till we -- go ahead.

12 Q. Okay. Have you located it?

13 A. I'm not sure that I have a 559.

14 Q. Do you have your response to Verizon Data
15 Request Number 20?

16 A. Oh, I may have been looking at the wrong --
17 I'm sorry. I probably do have it. 558 has many
18 attachments. 559, yes, looking at it.

19 Q. Okay. And 550 -- you have that in front of
20 you?

21 A. Yes.

22 Q. And 559 has attached to it the -- let's say
23 the old GTE line extension tariff, does it not?

24 A. Yes.

25 Q. Okay. Now, when you -- or strike that.

0520

1 You've reviewed the testimony of Kay Ruosch in this
2 case, have you not?

3 A. Yes, I have.

4 Q. And you've read the exhibits to her
5 testimony, including the testimony of David
6 Richardson, which was Exhibit 10. Do you recall
7 doing that?

8 A. Yes. It's across the room, but I recall
9 looking at it.

10 Q. Okay.

11 A. Perhaps someone can bring me that
12 three-ring binder.

13 Q. Well, that's okay. I don't think that's
14 necessary. I'm not going to ask you about the
15 specifics of Mr. Richardson's testimony. I just
16 wanted to establish that you, in fact, have reviewed
17 it and you know about it?

18 A. Yes.

19 Q. Okay.

20 A. In the white three-ring binder.

21 Q. Okay. Now, having all of that in mind,
22 going back to Exhibit Number 131, starting on pages
23 two and going through actually page three, you
24 generally discuss the policy of the state of
25 Washington with respect to universal service?

0521

1 A. Yes.

2 Q. Okay. Now you're not suggesting in your
3 testimony in 131 that the Commission's actions
4 starting in the mid-'90s and continuing up until the
5 late -- starting in the mid-'80s and continuing
6 through the late '90s violated the state's universal
7 service policy that you say dates from 1911, and
8 continued through the 1985 regulatory flexibility
9 act, are you?

10 A. No.

11 Q. Okay.

12 A. I would add that I think the concepts of
13 what is universal service and what does it mean to
14 preserve and advance it have always been matters of
15 discussion and that people's views of what it means
16 at a given time have changed and that perhaps even
17 the Commission arguably has -- for example, 980311(T)
18 made changes in how it would be effectuated.

19 Q. Okay. So the definition of sort of what is
20 a reasonable line extension tariff may change over
21 time; is that what you've just said?

22 A. I think so.

23 Q. Okay. Now, in your testimony at page six
24 of T-131 --

25 CHAIRWOMAN SHOWALTER: Page six?

0522

1 Q. Page six, directing your attention to lines
2 23 through 25. And on lines 23 and 24, you suggest
3 that Verizon ignored its own tariffs, tariffs which
4 were not designed to recover costs, but to discourage
5 customers from seeking extensions. Do you see that?

6 A. I see those words, or words similar to
7 that.

8 Q. Okay. And are you -- when you made that or
9 wrote that testimony, were you thinking about the
10 then existing tariff, which is attached to your
11 response to Verizon Data Request Number 20, which is
12 Exhibit 559?

13 A. I believe so. I was thinking about the
14 tariff that was in effect in 1998, '99.

15 Q. Okay. Well --

16 A. Then I went back and attempted to find
17 those.

18 Q. Right. Well, if you look at the data
19 request response, it's tied specifically to the
20 testimony I'm asking you about, and you attached the
21 tariff that we're talking about.

22 A. Yes, this is the one that changed from --
23 in December 10th, 1999.

24 Q. Okay. Now, you've read this tariff?

25 A. I have certainly looked at it.

0523

1 Q. Can you point to me anywhere in the
2 language of this tariff where the company is
3 deliberately discouraging customers from seeking line
4 extensions?

5 A. No, not in the tariff, but I can point to
6 testimony of that effect in Kay Ruosch's testimony,
7 but that's maybe for another moment.

8 Q. Well, you heard Ms. Ruosch's testimony when
9 she was here on Wednesday, did you not?

10 A. Yes, I did.

11 Q. And she, in fact, testified that the
12 company never intentionally discouraged customers
13 from seeking line extensions. Do you recall that?

14 A. I believe she said that.

15 Q. Thank you.

16 A. Excuse me. This is my first time on the
17 stand. I have more to say about what she said, but I
18 don't want to -- I don't know --

19 JUDGE MACE: Right. One of the things it's
20 helpful to remember is at this point you're under
21 cross-examination, and counsel can ask you -- will
22 ask you questions to which you should respond
23 directly, and your counsel will have an opportunity
24 to --

25 THE WITNESS: Mr. Trautman will ask me

0524

1 about that. Thank you.

2 MS. ENDEJAN: Thank you, Your Honor.

3 Q. Okay. Getting back to your allegation that
4 the tariffs were not designed to recover their costs,
5 which is at line 24 of page six.

6 A. Mm-hmm.

7 Q. Now, were you aware that the tariff at
8 issue, which goes back to the 1980s, was, in fact, at
9 that time intended to cover the costs, at least
10 according to Staff's testimony, Mr. Richardson, which
11 is Exhibit 10?

12 A. The attached tariff is December 10th, 1999,
13 but I do -- I did look at Mr. Richardson's testimony
14 and understand that the change in approximately 1984,
15 '85, from \$209 per tenth to 440 was, I believe,
16 ultimately a Commission decision.

17 Q. Right.

18 A. That's what I understood.

19 Q. But the Commission decision at that time
20 appeared to approve a tariff that was designed to
21 recover --

22 A. Yes.

23 Q. -- the line extension costs?

24 A. I agree with that.

25 Q. Okay. Now, going back again to the

0525

1 testimony in page six, when we're talking about the
2 quoted charges that would quickly run into the tens
3 of thousands of dollars, you're not suggesting here
4 that Verizon at any time tried to quote charges that
5 were not consistent with its tariff, are you?

6 A. Yes, and I supplied supporting
7 documentation in my memo about Pontiac Ridge where I
8 do discuss that.

9 Q. That's premised on your belief that the
10 company didn't include the presence of other
11 potential customers; isn't that true?

12 A. No, it's that when it quoted an extension
13 cost for 21 people, and I'm quickly trying to find
14 the portion of the --

15 JUDGE MACE: What are you referring to, Mr.
16 Shirley?

17 THE WITNESS: Excuse me, this is 132.

18 CHAIRWOMAN SHOWALTER: An exhibit?

19 THE WITNESS: Exhibit 132, pardon me. Page
20 two, in the middle of the page, under application for
21 service, I state that 21 people who lived on Pontiac
22 Ridge contacted GTE, requested service, field
23 engineer was sent out, GTE wrote to applicants on
24 July 31st 1988 --

25 JUDGE MACE: Well, now, the reporter --

0526

1 THE WITNESS: I'm sorry. Pardon me.

2 JUDGE MACE: -- is recording what you're
3 saying, and if you speak too quickly --

4 THE WITNESS: I will go more slowly. I
5 know there's always a desire to end hearings, and I
6 want to contribute to that. Stated that each
7 applicant would have to pay for construction after
8 one-half mile of line extension was provided without
9 charge. GTE apparently treated each applicant as an
10 individual and not as a group, and indicated that
11 construction charges would run into the tens of
12 thousands of dollars for most applicants.

13 And my point is that I believed then, as I
14 believe now, that that tariff in effect, that those
15 half-miles for 21 people, which would come to ten and
16 a half miles, needed to be added serially or before
17 any determination that the line would run farther
18 than ten and a half miles, and then a charge would
19 have to be paid.

20 Q. Okay. But if you look at the actual
21 language of the tariff, which is Exhibit 559, there's
22 no language to deal with pooling. And isn't it true
23 that the company at the time disagreed with your
24 interpretation of the tariff?

25 A. Yes, you're correct that the December 10th,

0527

1 1999 tariff, which was filed after this memo, refers
2 to 1998, reduced the pooling from one-half mile to
3 one-tenth mile, and it changed the language about
4 pooling and grouping.

5 Q. Okay. I'm not asking you about that
6 tariff; I'm asking you about the tariff in existence
7 that you're talking about in your memo about Pontiac
8 Ridge. And just to move on to the next phase, my
9 question to you really is --

10 A. Well, no, let me answer, please.

11 JUDGE MACE: No, she hasn't asked a
12 question. Let's let her ask the questions.

13 MS. ENDEJAN: Right.

14 THE WITNESS: I'm sorry.

15 Q. Mr. Shirley, my only question to you is
16 Verizon, to the best of your knowledge, charged
17 customers of Pontiac Ridge consistent with its
18 interpretation of its tariff, one which we concede
19 you did not agree with; wouldn't you agree?

20 A. Yes, I'm not saying that Verizon in bad
21 faith said --

22 Q. Okay.

23 A. -- we're going to misinterpret our tariff
24 and charge them, but I do believe they misinterpreted
25 the tariff and the result is, in my belief, that you

0528

1 were not following it.

2 Q. Okay. Thank you.

3 A. The company was not.

4 Q. Do you know how many customers actually
5 received service at Pontiac Ridge?

6 A. My recollection, and I know there's some
7 material in this case, I think Dr. Danner referred to
8 this, and I may have said that there were 44, or the
9 number might have been 43, and I believe that Dr.
10 Danner at one point in his testimony said and now
11 there are only 37. So that's my recollection.

12 Q. Okay.

13 A. That it was 42, 43, 44, I think, 43 or 44.

14 Q. Would you, and I guess -- I think it's
15 subject to check and it's in Ms. Ruosch's testimony,
16 which is Exhibit 7-T at page 15, that of the original
17 applicants, three didn't follow through with service
18 orders, and since the project's been constructed,
19 there have been 11 disconnects. Do you have any
20 reason to question that?

21 A. I don't. I sure wish one of my colleagues
22 would hand me my white binder.

23 JUDGE MACE: Okay. Let's let Mr. Shirley
24 refer to his materials.

25 THE WITNESS: But I'm assuming you're

0529

1 reading that out of her testimony, and I -- so I
2 agree that she said that.

3 Q. Okay. And my question is you don't have
4 any reason to question her numbers, based upon
5 Verizon's records?

6 A. My recollection was it was a little bit
7 higher, but if she said 37 -- was that what you say
8 she said?

9 Q. The testimony, according to my notes here,
10 is that the original -- three didn't follow through
11 with service orders and there have been 11
12 disconnects from the original order -- orders.

13 A. Yes, and that's probably --

14 MR. TRAUTMAN: Do you have a page
15 reference, Counsel?

16 MS. ENDEJAN: Page 15.

17 JUDGE MACE: This is 15 of --

18 MS. ENDEJAN: This is Exhibit 7-T. Seven
19 as in T, not 70.

20 JUDGE MACE: Okay.

21 Q. Let me -- basically, that's what she says
22 and --

23 A. Yeah, yeah.

24 Q. Okay. Thank you.

25 A. I -- yeah.

0530

1 Q. Could we turn to page 33 of your Exhibit
2 131?

3 A. Thirty-three?

4 Q. That's your April 17th testimony.

5 A. Page 33, did you say?

6 Q. Yes, page 33.

7 A. Yes.

8 Q. Okay. And directing you to your answer
9 that begins on line 12 on that page, you're talking
10 about the Nespelem Valley Electric Co-op, and are you
11 suggesting that the Nespelem Valley Co-op also, in
12 its tariffs, intends to charge enough to discourage
13 people from asking for extensions?

14 A. I don't believe I said that.

15 Q. Okay. Well, you say, Implicitly, she is
16 saying that the Commission ought to do what many
17 electric utilities do, which is to let telephone
18 companies charge enough to discourage people from
19 asking for extensions. So that sentence does not
20 relate to Nespelem Valley, or does it?

21 A. I guess I stand corrected, and I guess I
22 said that.

23 Q. Okay. Before preparing your testimony on
24 Nespelem -- the Nespelem, that's N-e-s-p-e-l-e-m,
25 Valley Electric Co-op, did you go to their Web site

0531

1 or do anything to look at the Nespelem Valley's
2 charges for line extensions?

3 A. I took Ms. Ruosch's testimony of 36,690. I
4 did not look to see if it would be more or less than
5 that.

6 Q. Okay. And if I could direct your attention
7 to what has been marked as Exhibit 590, and I don't
8 know if you have it, Mr. Shirley, but I'll -- with
9 permission, I have an extra copy.

10 A. I intended to bring it with me.

11 CHAIRWOMAN SHOWALTER: You really need to
12 try not to talk over each other, especially just
13 casual comments. Just try to wait until it's your
14 turn.

15 MS. ENDEJAN: Your Honor, I have an extra
16 copy of Exhibit 590 I'd like to provide to the
17 witness.

18 JUDGE MACE: Yes, please provide it to him.

19 THE WITNESS: Thank you.

20 Q. Okay. Mr. Shirley, first of all, let me
21 ask you, by way of foundation of this document,
22 because it's got -- consists of three pages, and I
23 will represent to you that this was taken from the
24 Web site on the Internet posted by the Nespelem
25 Valley Electric Cooperative. Do you have any reason

0532

1 to question that?

2 A. I don't, do not.

3 Q. Okay. And just for purposes of this case,
4 I printed out a photograph of Mr. Ike Nelson --

5 A. Yes.

6 Q. -- who is apparently a commissioner for
7 district nine of the co-op. Is this Mr. Nelson on
8 page one?

9 A. Yeah, it's a poor picture, but I believe
10 that's the Mr. Nelson I've met.

11 Q. Okay. And then, looking at the remaining
12 two pages of this exhibit, do you see a discussion of
13 rates and line extensions that tell a potential
14 customer who wants to sign up for the co-op's service
15 how much they'd have to pay?

16 A. I see that.

17 Q. Okay. And that's at the bottom of page
18 one, isn't it?

19 A. Yes, it is.

20 Q. And my --

21 A. Well --

22 Q. Because I believe there's been some
23 testimony in this case about that. What is the line
24 extension charge, if you would just read that into
25 the record?

0533

1 A. NVEC contributes the first \$1,500 for any
2 single-phase residential line extension. The member
3 is responsible for the rest of the cost of any
4 additional new line extension at \$7 per foot.

5 MS. ENDEJAN: Thank you, Mr. Shirley. I
6 guess I'd like to offer this Exhibit 590 into
7 evidence at this time.

8 JUDGE MACE: Any objection to the admission
9 of proposed 590?

10 MR. TRAUTMAN: Well, I would object in that
11 it's neither -- it was not prepared by Mr. Shirley or
12 anyone else on the Staff. I don't believe he's the
13 appropriate witness to sponsor this.

14 MS. ENDEJAN: Well, unfortunately, Your
15 Honor, he's the only one who's met Mr. Nelson
16 personally. I couldn't authenticate Mr. Nelson if I
17 wanted to.

18 MR. TRAUTMAN: Well, this could have been
19 provided as part of your own testimony.

20 MS. ENDEJAN: Well, none of us -- well,
21 Your Honor, I think that, under the Commission's
22 rules, there is a fairly broad latitude in terms of
23 admitting information into the record that might
24 assist the Commissioners, and there's been so much
25 discussion about this Nespelem Valley line extension

0534

1 charge. Verizon thought that it would be beneficial
2 to the Commission to have this information in the
3 record.

4 JUDGE MACE: There has been quite a bit of
5 discussion about the Nesperlem Valley Electric Co-op,
6 and I think it's beneficial to the record to have
7 this information from their Web site. The witness
8 indicated he didn't have any reason to believe it was
9 inaccurate information or not from their Web site. I
10 will admit the exhibit.

11 MS. ENDEJAN: Thank you, Your Honor.

12 Q. Let me ask you another question about your
13 statements about the Nesperlem Valley Co-op on page 33
14 of Exhibit 131-T. At lines 27 through 28, you state,
15 Finally, Nesperlem Valley Electric Co-op cannot draw
16 upon support from across the nation.

17 Let me direct your attention to Exhibit
18 576, which is your response to Verizon Data Request
19 Number 37. If you could get that in front of you?

20 A. Yes.

21 Q. Okay. Now, you didn't investigate whether
22 the Nesperlem Valley Electric Co-op is eligible for
23 support from any state or federal sources before you
24 made that statement; isn't that correct?

25 A. That's correct.

0535

1 Q. Okay. Could I direct your attention to
2 page 14 of line -- of Exhibit 131-T?

3 A. Yes.

4 Q. If you would go to the bottom of the page,
5 starting on line 25, there you discuss the estimated
6 Verizon reinforcement cost, do you not?

7 A. Yes.

8 Q. Okay. Now, if the Commission orders the
9 line extensions at issue here and accepts your view
10 of reinforcement costs, then Verizon -- or strike
11 that. Let me lay a foundation.

12 Is it your testimony that the reinforcement
13 costs here, stated on lines 25 through 31, are costs
14 that would not be included in the interim terminating
15 access charge?

16 A. Correct.

17 Q. Okay. So if the Commission orders the line
18 extensions here and accepts your view of what
19 reinforcement costs are properly includeable, then
20 Verizon will incur a cost of \$165,000 for the Taylor
21 extension and -- I'm sorry, \$164,000 for the Taylor
22 extension and 143,000 for the Timm Ranch extension,
23 that it will have to bear all on its own; correct?

24 A. Not all on its own, no.

25 Q. Okay. Well, those are costs that would not

0536

1 be included in the interim terminating access charge?

2 A. That's correct.

3 Q. Okay. And they will have to spend this
4 money to do those jobs, will they not?

5 A. I believe so.

6 Q. Okay. You don't have any reason to believe
7 that -- or strike that.

8 Now, can you identify for the Commission or
9 tell us any rate that will go up or revenue source
10 that will increase for Verizon that will cover the
11 cost of these -- the two costs I'm talking about,
12 which total approximately \$309,000? Can you point to
13 a specific rate or revenue stream that will cover
14 those costs?

15 A. The line extension rule permits -- if these
16 were built -- would permit Verizon to submit a tariff
17 for the nonreinforcement direct and indirect costs to
18 recover those nonreinforcement -- that is, the cost
19 of the extension beyond reinforcement -- through a
20 terminating access adder to its -- what is referred
21 to by Verizon, I think, as the ITAC, I-T-A-C, interim
22 terminating access charge, that routinely recoups the
23 33 million approximate dollars per year amount. But
24 --

25 Q. Okay. I guess I'm confused. Mr. Shirley,

0537

1 there's no specific rate or revenue source that will
2 go up for the reinforcement part of --

3 A. Correct. I thought you had asked me about
4 the whole 329,000. That's why I broke it into two.
5 But you're correct. For the reinforcement, there's
6 not a specific.

7 Q. And the \$33 million that -- of what you
8 have called universal service support that was set by
9 the Commission in the U-980311(a) case, that won't
10 change as a result of this; correct?

11 A. No, not --

12 Q. That's what Mr. Spinks said?

13 A. Not as a result of filing a tariff or doing
14 the extension.

15 JUDGE MACE: Just a moment, just a moment,
16 please.

17 MS. ENDEJAN: I can break for lunch, if
18 that's what the Commission desires.

19 CHAIRWOMAN SHOWALTER: I think we should.

20 JUDGE MACE: Then we'll break for lunch now
21 until 1:30.

22 MS. ENDEJAN: Thank you.

23 (Lunch recess taken.)

24 JUDGE MACE: Let's be back on the record.

25 Ms. Endejan, I believe you were cross-examining when

0538

1 we adjourned for lunch. Why don't you continue.

2 MS. ENDEJAN: Thank you, Your Honor.

3 Q. Now, Mr. Shirley, just to sort of circle
4 back here, before lunch we were talking about the
5 \$309,000, which is the total of the reinforcement
6 cost --

7 A. Correct.

8 Q. -- for both the Taylor and Timm Ranch. Do
9 you recall that?

10 A. I do.

11 Q. And it's that amount that I'm talking about
12 here.

13 A. I understand now.

14 Q. Okay. And so I believe it was your
15 testimony that the state universal service support
16 that Verizon gets, which you've stated was \$33
17 million, would not be increased by \$309,000 as a
18 result of those line extensions; correct?

19 A. That's correct, not by that act alone.

20 Q. Okay. Now, let's assume that the \$309,000,
21 if you looked at it from the standpoint of how long
22 would it take you to recover that amount, if ever,
23 from the customers. Did you ever look at that
24 question?

25 A. I didn't do that calculation, but I would

0539

1 certainly say it would be a long time, if ever.

2 Q. Okay. So you have no reason to believe
3 that that \$309,000 amount would be recovered from
4 customer revenues at these locations?

5 A. On ten or 12 customers, whatever it is for
6 these two locations; correct.

7 Q. Okay.

8 A. At \$13 a month.

9 Q. Okay. Even assuming, if you just, subject
10 to check, did the math, say, for the Taylor residence
11 and assumed \$25 a month revenue times 12, that would
12 give you -- and times three, that would give you \$900
13 a year of revenues from the Taylor location?

14 A. I'll accept that.

15 Q. And if you divided that by the
16 reinforcement costs, it would take 183 years to
17 recover?

18 A. I'll accept your mathematics, I guess.

19 Q. Okay. Thank you. Let me direct your
20 attention now to Exhibit 134-T, which is your June
21 20th testimony. And on page ten, you talk about
22 meeting with Mr. Nelson. So if you could turn to
23 that, and I'd like to ask you some questions.

24 A. I'm on that page, yes.

25 Q. Okay. And I believe you would describe Mr.

0540

1 Nelson's operations as a large-scale cattle ranch,
2 would you not?

3 A. Yes.

4 Q. Okay. Did you review Dr. Duft's testimony
5 and his answers to data request responses in this
6 case?

7 A. At one time, I did, yes.

8 Q. Okay. Do you happen to have with you
9 Staff's response to Verizon Data Request Number 15,
10 which has been marked as Exhibit 554?

11 A. 554, 554.

12 Q. It's DR Number 15.

13 A. Yes.

14 Q. Do you have that in front of you?

15 A. I do.

16 Q. Okay. Now, in that response to data
17 request, I recognize it was prepared by Dr. Duft and
18 he wasn't here, but I don't think that's going to
19 harm or hurt your ability to answer this question,
20 but do you have any reason to believe that Dr. Duft
21 was wrong in assigning a per-head value of \$840 to
22 the cattle on the Timm Ranch? Would you accept that
23 that's a reasonable value?

24 MR. TRAUTMAN: Objection, objection. It
25 calls for speculation.

0541

1 MS. ENDEJAN: Well, he's the Staff's
2 witness and --

3 MR. TRAUTMAN: He didn't prepare this data
4 --

5 JUDGE MACE: Now, I'd like to have Ms.
6 Endejan's argument and then your response so that
7 we're not having people talk over one another. Ms.
8 Endejan.

9 MS. ENDEJAN: Thank you. My response to
10 that is I'm not asking him if he prepared it; I'm
11 asking him if he reviewed it and maybe -- let me
12 rephrase the question.

13 JUDGE MACE: Go ahead.

14 Q. Did you -- you have reviewed this data
15 request response, did you not?

16 A. I have read it. I don't know what reviewed
17 means, but I have read it.

18 Q. Okay. And if you -- and it states that the
19 per-head value of cattle would be \$840, and it says
20 that you could assign the current value of the Timms'
21 cattle based upon that for the 2,000-plus head of
22 cattle noted. Do you see that?

23 A. That appears to be about what it says.

24 Q. Okay. And if you accept, subject to check,
25 that 840 times 2,000 gives you 1.68 million, would

0542

1 you have any reason to take issue with that number as
2 being the value of the cattle at the Timm Ranch
3 location?

4 A. I wouldn't have any reason to take issue
5 with your calculation of approximately 2,000 times
6 840.

7 Q. Okay. And you would describe the Timm
8 Ranch as a successful cattle ranch operation?

9 A. I don't think I have. Dr. Duft may have.
10 I know Dr. Danner repeatedly said that.

11 Q. But you met with Mr. Nelson and actually
12 went out to the Timm Ranch, didn't you?

13 A. Yes.

14 Q. So if you're not able to answer the
15 question based upon those observations, then that's
16 fine.

17 A. Success is kind of a relative term, and I
18 don't know --

19 Q. Okay. That's fine. When you went out to
20 visit the Timm Ranch location and the Taylor
21 locations, did you happen to travel through Chelan
22 County?

23 A. I did on one trip, I believe, but not on
24 the second trip. Yes, I probably traveled through
25 Chelan County.

0543

1 Q. Would you agree with me that Chelan County
2 has a lot of the same characteristics that Okanogan
3 and Douglas County have?

4 JUDGE MACE: In the sense of?

5 Q. In the sense of sparsely populated, a few
6 towns, and a dispersed population over mountainous
7 western territory?

8 A. I would not agree as to Douglas County.
9 It's very much different than Chelan County, in my
10 opinion. Chelan and Okanogan County probably have a
11 fair amount in common. Douglas County doesn't have
12 the mountains that Chelan and Okanogan have.

13 Q. Okay. But Douglas County is, in your
14 opinion -- or strike that. Wouldn't you agree,
15 though, that Douglas County is fairly
16 sparsely-populated?

17 A. It's a relative term. Certainly compared
18 to Seattle.

19 Q. Well, let me put it in context. It's not
20 necessarily any more or less populated than Okanogan
21 or Chelan County; would you agree with that?

22 A. Yeah, it's -- Wenatchee is in Chelan
23 County, and Douglas is certainly, even with East
24 Wenatchee in Douglas County, I believe it would be a
25 smaller population.

0544

1 Q. Okay.

2 A. I think the --

3 Q. There's no question, Mr. Shirley. Would
4 you agree that people who live in rural areas have a
5 different lifestyle than people who live in city or
6 urban areas?

7 A. I'm sure many aspects of the life are the
8 same and many are different.

9 Q. Okay. One of the aspects where life might
10 be different is that they may not necessarily get the
11 same level of service from their local governments
12 that you might get if you were an urban citizen;
13 wouldn't you agree with me there?

14 A. It depends on how you calculate the level,
15 but if it means closer to some things and farther
16 from others, I suppose so.

17 Q. Okay. Are you aware that the Chelan County
18 government has adopted a code to guide citizens who
19 choose to purchase rural land outside of towns and
20 municipal boundaries?

21 A. I'm aware there's been an exhibit marked
22 that has something like that, and I'm leafing through
23 and I finally found that exhibit.

24 Q. Okay. If I could direct your attention to
25 Exhibit Number 545, and -- do you have that in front

0545

1 of you?

2 A. Yes, I do.

3 Q. And that's entitled Chelan County Code of
4 the West; is that --

5 JUDGE MACE: I think that the Chelan County
6 Code of the West is on the second page of that
7 exhibit.

8 MS. ENDEJAN: Yes. Well, let me be clear
9 for the record.

10 Q. Exhibit 545, the first two pages that
11 appear here are copies from the Chelan County Web
12 site, and starting on the third page is a nine-page
13 document entitled Chelan County Code of the West. Do
14 you see that, Mr. Shirley?

15 A. Yes.

16 Q. Okay. And that document -- have you had a
17 chance to read this document before you went on the
18 stand?

19 A. I've read the paragraph about the
20 telephone.

21 Q. Yeah.

22 A. It's nine pages long.

23 Q. Okay. Well, I -- you were aware that this
24 was distributed last week, were you not?

25 A. Yes.

0546

1 Q. Okay. But you haven't read the whole
2 thing?

3 A. I skimmed some of it and I read that
4 paragraph or two, three sentences, and I reread them
5 today to be prepared.

6 Q. Well, would you agree that this document
7 seems to describe certain trade-offs that people who
8 choose to live in highly-rural areas might make when
9 moving from, say, more urban areas?

10 A. Well, it does for Chelan County.

11 Q. Okay. Speaking of choices, let me direct
12 your attention to Exhibit T-139, which is your
13 December 27th testimony.

14 A. Okay.

15 Q. Page 23.

16 JUDGE MACE: This is 139-T, and what page?

17 MS. ENDEJAN: I'm sorry, page 23, the top
18 of the page, lines one through seven.

19 Q. Do you see that, Mr. Shirley?

20 A. Yes, it starts with, It is my --

21 JUDGE MACE: Hold on for just a moment.

22 139-T, page 23.

23 MS. ENDEJAN: Are we all there?

24 JUDGE MACE: Are we all there, Mr.

25 Trautman?

0547

1 MR. TRAUTMAN: Yes.

2 Q. Thank you. From reviewing the testimony
3 I've just cited, is it your contention that customers
4 can require ratepayers to subsidize their preference
5 for land line service when lower cost wireless or
6 other alternatives might be available?

7 A. I'm sorry. Would you repeat the question
8 one more time?

9 Q. Okay. Is it your contention, Mr. Shirley,
10 that customers can require ratepayers to subsidize
11 their preference for land line service when lower
12 cost wireless or other alternatives are available?

13 A. No, customers cannot, but the laws and
14 policies of the United States and Washington and this
15 Commission might mean that a customer would be in a
16 position to make a choice, the result of which would
17 be that a service chosen or a location -- they could
18 live in Pe Ell and they would get subsidized phone
19 service, for example.

20 Q. Okay. But are you telling this Commission
21 that if a customer choice involves, for instance, the
22 expenditure of in excess of \$1.2 million to provide
23 them with wire line when they have wireless
24 alternatives, that you think customer choice should
25 control, or does the Commission have a say in that?

0548

1 A. Yeah, in the absence of some statute or a
2 Commission action that would restrict that, I would
3 say that, in general, my point here is that where
4 there are two or more phone companies of whatever
5 stripe or technology, we would normally expect the
6 customer to make the choice.

7 Q. But there may be circumstances, then, Mr.
8 Shirley, where the Commission may find in the public
9 interest that the customer's choice cannot be
10 reasonably honored; would you agree with that?

11 A. Well, I think that's what this case is
12 about.

13 Q. Okay.

14 A. Or --

15 Q. Okay. Let me direct you to another area in
16 your testimony, and I apologize for keeping --
17 flipping back and forth, but this one is back to your
18 first testimony, T-131, page 11, line 17.

19 A. Yes.

20 Q. Okay. And I would like to clarify
21 something there. You suggest in that sentence that a
22 party may petition not to be required to extend
23 service through a line or other means at all (even if
24 the customer offers to pay the full cost of
25 construction.)

0549

1 And I'm going to ask you about that
2 parenthetical comment. Are you suggesting somehow or
3 other that Verizon would not build these line
4 extensions if the residents at the Timm Ranch and
5 Taylor locations offered to pay the full cost of
6 construction?

7 A. Yes. This rule, 480-120-071, and I'll --

8 JUDGE MACE: Now, can you speak a little
9 bit more slowly?

10 THE WITNESS: Sorry. WAC 480-120-071
11 provides two types of waivers. One is a waiver for a
12 company to be excused from building at all, and the
13 other is a waiver that would permit a company to not
14 build an extension unless the customer pays the full
15 cost of the extension. And I didn't find it while I
16 was talking, so --

17 Q. Okay. Well, let me ask you -- oh, excuse
18 me. I didn't mean to cut you off.

19 A. And my understanding, and I've seen it in
20 both the petition and the amended petition, is that
21 Verizon has asked for a waiver to be excused from
22 building one at all. So even if, for example, Ms.
23 Taylor paid \$329,000, Verizon, with the waiver which
24 it has requested, could say thanks, but no thanks.

25 Q. Okay. But we don't have that circumstance

0550

1 here, do we, Mr. Shirley? Mrs. Taylor has not
2 offered to pay the full cost of construction of
3 329,000?

4 A. Correct.

5 Q. Okay. And similarly, Mr. Nelson and the
6 other applicants at the Timm Ranch have not offered
7 to pay the full cost of construction, have they?

8 A. Correct.

9 Q. And you never asked either one of them if
10 they would be willing to do so, have you?

11 A. No, I have not.

12 Q. Okay. Are you aware of any opportunities
13 that either Kay Taylor or Ike Nelson might have had
14 prior to the effective date of the new line extension
15 rule to get line extensions out to their locations?

16 A. I am.

17 Q. And they turned those -- or they did not
18 accept those opportunities; correct?

19 A. There was the 1983 for Mr. Nelson,
20 approximately 23,000, and Ms. Taylor, I forget the
21 date, several years ago or whenever, and it was
22 approximately 40,000.

23 Q. Okay. And they didn't go through with
24 trying to get service at those prices; correct?

25 A. Correct.

0551

1 Q. Okay. Let me ask you about Exhibit Number
2 585, which is your response to Verizon Data Request
3 Number 49.

4 A. 585, yes.

5 JUDGE MACE: Let's wait for just one
6 moment. It was 585?

7 MS. ENDEJAN: Correct.

8 JUDGE MACE: Go ahead.

9 Q. Okay. And actually, this exhibit ties to a
10 portion of your testimony which is cited in the data
11 request, and that is Exhibit 134-T, page 13, in which
12 you state that total telecommunications expenditure
13 in Washington on an annual basis was between \$3.5 and
14 \$3.6 billion. Do you see that? And you were asked
15 in this data request for the source of that belief.

16 A. Yes, the source of the belief.

17 Q. Right. You weren't intending to imply that
18 Verizon makes an investment of \$3.5 and \$3.6 billion
19 on an annual basis in Washington, were you?

20 A. No, that's the information supplied to the
21 Commission during the time at which the line
22 extension rule, WAC 480-120-071, was under
23 consideration, and that represents an estimated
24 amount, must be between 3.5 and 3.7 billion for total
25 telecommunications expenditure throughout the state

0552

1 of Washington, all companies, all customers combined,
2 however you want to view it.

3 Q. Okay. Well, you cite as the source for
4 that document your memo of January 9th, 2002,
5 footnote nine, and that has been marked as Exhibit
6 540 in this case. Could I perhaps direct you to
7 that? I don't know if -- do you have that?

8 A. 540?

9 Q. 540.

10 A. Yes, I do. Actually, I -- this seems to
11 start at 546.

12 Q. Here, let me, to simplify things --

13 A. My apologies.

14 MS. ENDEJAN: If I could approach the
15 witness, Your Honor?

16 JUDGE MACE: Yes.

17 Q. Okay. Mr. Shirley, I'm showing you on page
18 three the footnote --

19 JUDGE MACE: You're referring now to
20 Exhibit 540, page three?

21 MS. ENDEJAN: Yes, correct. 540, page
22 three, footnote nine at the bottom there.

23 Q. I just want to clear something up about
24 that. That footnote says, Verizon estimates the
25 total cost of the two extensions, including

0553

1 reinforcement costs, at 1.13 million, petition at
2 one. Assuming an annual expenditure of \$3.5 billion
3 for telecommunications equipment and services in
4 Washington, the reinforcement and extension costs
5 equal approximately .000322 percent of the annual
6 expenditure.

7 You didn't mean to imply Verizon's annual
8 expenditure in that sentence, did you?

9 A. I did not.

10 Q. Okay. So you don't know what percentage of
11 Verizon's actual capital budget \$1.13 million would
12 be, do you?

13 A. I do not.

14 Q. Okay. Now, there are provisions built into
15 the new line extension rule, which is 071, to allow
16 companies to petition for a waiver; correct?

17 A. Correct.

18 Q. And this case represents the first example
19 of a company coming forward to ask for a waiver?

20 A. Correct.

21 Q. Okay. And as far as you know, with the
22 exception of the two extensions at issue here,
23 Verizon has been building out extensions under the
24 new rule; correct?

25 A. Correct.

0554

1 Q. Okay. And you're not suggesting here that
2 Verizon is doing anything other than legitimately
3 invoking its right to petition the Commission for a
4 waiver in this case?

5 A. Absolutely correct.

6 Q. All right. I believe in Exhibit 139, at
7 page 12, lines three to four -- I'm sorry, page 12,
8 lines three to four.

9 JUDGE MACE: This is 139?

10 MS. ENDEJAN: Yes, 139.

11 JUDGE MACE: Mr. Shirley has a lot of
12 exhibits, so sometimes --

13 MS. ENDEJAN: I know.

14 JUDGE MACE: -- just pure shifting back and
15 forth takes a moment or two.

16 MS. ENDEJAN: Right. And I apologize for
17 flipping back and forth, but there are a lot of
18 exhibits associated with him.

19 JUDGE MACE: Page 12?

20 MS. ENDEJAN: Page 12, yes.

21 THE WITNESS: Yes, I'm on that page.

22 Q. Okay. Thank you. You state that extension
23 charges, quote, were -- and I'm cutting out a few
24 words -- were placed on an essentially average cost
25 pricing basis with adoption of WAC 480-120-071. Do

0555

1 you see that?

2 A. Yes, I do.

3 Q. Now, I guess I'm confused by the use of
4 your term average cost pricing. Are you suggesting
5 that line extension charges, on average, will recover
6 their costs, or are you suggesting that costs will
7 always be recovered by spreading those costs or
8 averaging them across all customers?

9 A. The latter. That is -- and in this
10 testimony, I compare it to incremental costs, so that
11 would have been when people might have been asked to
12 pay, well, 440 times a tenth of a mile, and that
13 could add up to anywhere from 440 up to thousands.
14 And now the rate is 40 times the local rate, so often
15 in the neighborhood of five or \$600. So largely,
16 then, the cost of the extension is spread throughout
17 ratepayers who pay terminating access.

18 Q. Okay. So because of this essential average
19 cost pricing, would there ever be a case or a
20 situation where the costs couldn't be spread in that
21 manner, or wouldn't be permissible to do so?

22 A. With the way the rule is structured, if a
23 customer asks for an extension and the company builds
24 it, the company is limited to charging the amount
25 under the rule 40 times the local service rate. And

0556

1 if the company -- there's no other charging provision
2 that I know of. Perhaps you're going to show me
3 something. Well, other than I mentioned the type of
4 waiver where the customer can be told that the
5 company would have to build if the customer paid the
6 full cost.

7 Q. Okay. Now, and this is just about my final
8 line of inquiry. Let me ask you to turn to Exhibit
9 546, which is -- wait a minute, nope. Sorry, I've
10 got the wrong number. If you'd bear with me for just
11 a second. Oh, nope, I was right. Exhibit 546, and
12 that's your response to Data Request Number Seven.

13 A. Yes.

14 Q. Do you see that? And we asked you to
15 describe circumstances where you might think that a
16 waiver of a line extension obligation would be
17 warranted. And your response was, quote, One that,
18 after all seven of the factors in WAC 480-120-071 are
19 considered, and any other information that may be
20 beneficial to the Commission is not in the public
21 interest. Do you see that?

22 A. (Nodding.)

23 Q. And I'd like to walk you through those
24 seven factors and see what advice you might provide
25 the Commissioners on when you think a waiver of a

0557

1 line extension would be warranted. Do you happen to
2 have a copy of the rule?

3 A. I do.

4 Q. And do you see the very last section,
5 7(b)(ii) that lists the seven factors that at least
6 the rule says should be looked at?

7 A. I do, A through G?

8 Q. A through G, right. Let me ask you about
9 the first factor, which deals with the direct cost of
10 the extension. Mr. Shirley, how much is too much? I
11 mean, how expensive does an extension have to be
12 before the direct cost is too high to ask the
13 ratepayers to bear?

14 A. When this -- that's not susceptible to a
15 yes or no answer; correct? So I'll answer more
16 fully. When this rule was discussed and considered
17 and ultimately adopted, that very question was
18 considered in the discussions at the Staff level, and
19 I know among Commissioners and ultimately the
20 Commission -- well, let me talk some more about that.

21 Staff endeavored to consider, you know, was
22 there some sort of a formula that could be developed
23 using statistical analysis, looking at averages? I
24 brought in my, you know, college statistics books and
25 sat with economists and we drew pictures and wrote

0558

1 formulas, and we could not come up with a number that
2 we -- or a formula and certainly not an upper number
3 that we could recommend to the Commission, and that
4 was discussed with the Commissioners. And
5 ultimately, when the rule was adopted, it did not
6 click in a -- an upper limit, a dollar amount upper
7 limit.

8 It's now three years later, and while I
9 have given it thought and -- certainly because of
10 this case, but even at other times, I still find that
11 I cannot do today what I spent a good deal of time
12 trying to do three years ago, whenever this docket
13 was under consideration, this rule, and that is find
14 the bright line that certainly would make life easier
15 for everybody, I suppose, except perhaps people on
16 the wrong side of the bright line, but I can't do
17 that.

18 Q. Okay. Well, let me ask you about the
19 second criteria, which is the number of customers to
20 be served for a particular line extension. You know,
21 how many are too few, so to speak?

22 A. Well, I think we have some experience with
23 that. We have an exhibit that's been discussed in
24 this case. We have a couple of exhibits. One is a
25 list of extensions prepared by Verizon and for which

0559

1 it's currently receiving recovery, and a number of
2 them where, for one customer, for example, in Curlew,
3 the direct cost for one customer was 49,101, but
4 compare that with another one where the direct cost
5 for one in -- I think it's Waterville was \$2,662.29.

6 The largest one is nine customers on this
7 list. Qwest supplied a list, and I think it's
8 Exhibit 79, 75, 79.

9 MR. TRAUTMAN: Seventy-five, I believe.

10 THE WITNESS: Seventy-five. Thank you.
11 Approximately a dozen, all but two of which are to
12 serve one residence, and those other two serve two
13 residences. So on the other hand, there was an
14 extension completed with a dozen customers in Moses
15 Coulee, but that's a little different, because it's
16 unserved area; it was not inside of an exchange.

17 I'm trying to think of some other others
18 that have been larger, but the bottom range is one.

19 Q. Okay. So as long as one customer is to be
20 served, in your view, I guess, the line extension
21 should go forward?

22 A. No.

23 Q. No?

24 A. No.

25 Q. Okay. Maybe I misunderstood your

0560

1 testimony.

2 A. I thought you asked me how many is too few,
3 and I said, well, we have plenty of examples where
4 just one. It does not mean that an extension to just
5 one should not someday be the subject of a waiver.

6 Q. Okay.

7 A. And perhaps one of the factors would be
8 it's just one.

9 Q. Okay. Let's go on to the next one, next
10 criteria, which talks about the comparative price and
11 capabilities of radio communications service or other
12 alternatives available to customers.

13 Do you think it's an important
14 consideration for this Commission to -- if the facts
15 of a particular case show that customers have
16 wireless service or satellite service?

17 A. If the facts of a particular case show
18 that, that should certainly be considered. I think
19 it's important to read in the context of the rule, at
20 subsection (2)(c), where that is particularly
21 discussed. In the second sentence of subsection
22 (2)(c) in the rule, it reads, The services provided
23 through a radio communications service company or
24 other alternative provider must be reasonably
25 comparable services at reasonably comparable prices

0561

1 compared to services provided through wire line
2 distribution facilities in the area of the exchange
3 where service has been requested.

4 Q. But that provision applies to a situation
5 where a company's extending service by using radio
6 communications service; right?

7 A. Correct, but I think --

8 Q. Let me ask you, it doesn't apply to a
9 situation where customers, on their own, might
10 already have found wireless options or Internet
11 satellite options or other things; right? That's a
12 different situation.

13 A. That's correct. I was pointing to that
14 because I think what has to be done with these
15 factors is evaluate the comparative pricing
16 capabilities, whether or not it's as a substitute
17 found by the otherwise obligated provider, ILEC, or
18 found by the customers themselves. And I think, you
19 know, I believe most everyone in this room would
20 recognize the phrases coming from Section 254 of the
21 federal Telecom Act, where reasonably comparable
22 services at reasonably comparable prices are
23 discussed and, in the context of this case, I think
24 that also needs to inform the evaluation of the
25 factors.

0562

1 Q. Okay. Let's go to the next one, which is
2 technological difficulties and physical barriers
3 presented by the requested extensions. See that?

4 A. Yes.

5 Q. Now, in this case, you don't quarrel with
6 the fact that the route to the Timm Ranch has a great
7 deal of physical barriers presented by what appear to
8 be a lot -- the rocky terrain and the nature of the
9 road?

10 A. I take great issue with that.

11 Q. So you don't think that having a lot of
12 basalt in the area that would require the presence of
13 rock cutting equipment in order to lay cable presents
14 any sort of technological difficulty or physical
15 barrier?

16 A. I do not, for two reasons. In some
17 ultimate sense, and this is not the most important of
18 my two reasons, technologically, it is possible to
19 cut through the rock. But I don't mean to give that
20 as, you know, because it could somehow ultimately be
21 done, that's why, but it's more because, in my
22 experience, making eight or ten trips or more in the
23 last four years to North Central Washington, related
24 to this case and many others, what I have seen at the
25 two locations, Timm and Taylor, is very similar to

0563

1 what one sees throughout North Central Washington,
2 and that there are other places that are rockier, if
3 you will, in my opinion, and certainly some that are
4 less so.

5 If you just go south into the Mansfield
6 exchange, into the wheat country, it's different, but
7 if one goes up to Pontiac Ridge, there's granite or
8 rocky reach, so I guess I don't find those
9 technological or physical barriers here. If they
10 exist at all, they're no different than technological
11 or physical barriers that exist throughout North
12 Central Washington.

13 Q. Okay.

14 A. And probably other places in Washington.

15 Q. Well, but the fact of the matter is if it's
16 very rocky terrain that requires the use of a rock
17 cutter, that's going to add to the cost of a project.
18 Wouldn't you agree with me there?

19 A. I understand that.

20 Q. Okay. And in the course of your driving
21 around, can you identify any 23-plus mile route that
22 has -- between spot A, which is where say the
23 telephone facilities end, and the only customer on
24 the loop at the other end? Can you identify any
25 similar route anywhere in this state?

0564

1 A. I cannot. I identified one location where
2 the facilities appear to go 11 miles between
3 customers. It was not a Verizon exchange. I can
4 describe it more particularly if that's desired, but
5 --

6 Q. Well, Mr. Shirley, my question was, and I
7 believe you've answered it --

8 A. I've answered it, yeah.

9 Q. -- about the 23-mile loop. Let me go on to
10 the next criteria, the effect on the individuals and
11 communities involved. Now, you've read the
12 depositions of Mr. Nelson and Ms. Taylor, have you
13 not?

14 A. Yes, I have.

15 Q. Okay. And you've also visited both
16 locations; correct?

17 A. Yes, I have.

18 Q. And in Mr. Nelson's case, as he said in his
19 deposition, he and all the other applicants at the
20 Timm Ranch have cell phones; correct?

21 A. I believe he said that, yes.

22 Q. Okay. And he has been out at the cattle
23 ranch for how many years?

24 A. I think it's a little more than 20 now.

25 Q. Okay. And so he's been able to pretty much

0565

1 do his business and run the cattle operation even
2 though he hasn't had a wire line phone; wouldn't you
3 agree?

4 A. He's done whatever he's done without a wire
5 line phone, yes.

6 Q. Okay. So to what extent do you know what
7 the addition of a wire line phone would have on Mr.
8 Timm -- Mr. Nelson's ability to run the Timm Ranch?

9 A. I -- would you repeat the question, please?

10 Q. The question was do you know to what extent
11 having a wire line phone would impact his ability to
12 run the Timm Ranch?

13 A. I cannot say specifically, day in and day
14 out. I didn't have that discussion with him. I --

15 Q. Okay.

16 A. I would say that he would then be able to
17 -- whether it's ranch business or personal business
18 -- conduct it in the way that the vast, vast, vast
19 majority of citizens of Washington State conduct --

20 Q. Didn't he say in his deposition, Mr.
21 Shirley, and I'll try to find it for you if you don't
22 want to accept my word for it, that Mr. Timm (sic)
23 told me in his deposition that why he wanted the wire
24 line phone is it would allow him to do business
25 better?

0566

1 A. I think he said that.

2 JUDGE MACE: It was Mr. Nelson, for the
3 record.

4 MS. ENDEJAN: Mr. Nelson, yes. Mr. Nelson,
5 excuse me.

6 Q. Okay. And Mrs. Taylor.

7 A. Mm-hmm.

8 Q. Did she tell you how her life would change
9 if she had wire line phones instead of the -- what
10 apparently appears to be three types of cellular
11 service at her site now, which would be the Ameritel
12 (sic) and AT&T Wireless and RCC. How would the
13 addition of wire line service to her location change
14 her life?

15 A. This first thing that I recall is, I
16 believe from the deposition, and she talked about
17 having her grandchildren at her home and being
18 concerned about safety and the ability to contact
19 emergency services if there were ever a need to do so
20 concerning her grandchildren.

21 Q. Well, she didn't say that the absence of
22 wire line phones presented her grandchildren from
23 visiting her, did she?

24 A. No, no, she said that that's on her mind
25 and that that is an important reason to her why she

0567

1 is seeking it, to be even -- well, to feel more
2 comfortable. I don't have the deposition in front of
3 me. I think, if not there -- well --

4 MR. TRAUTMAN: Can I request that if you
5 make further --

6 MS. ENDEJAN: That was my last question.

7 MR. TRAUTMAN: All right.

8 MS. ENDEJAN: That was my last question in
9 that area.

10 THE WITNESS: I wasn't done. I'm sorry.

11 JUDGE MACE: All right. Now, just a
12 moment. It's not helpful to have those kinds of
13 exchanges, and especially on top of one another.
14 Again, it's very hard for the reporter to keep up
15 with that. I understand there's no question pending
16 at this point.

17 MS. ENDEJAN: That's right.

18 JUDGE MACE: And so we're going to leave it
19 at that.

20 Q. Okay. I'd like to move on to the next
21 criteria, which is the effect on the public switched
22 network.

23 COMMISSIONER HEMSTAD: I'm sorry. I
24 thought Mr. Shirley was not completed with his answer
25 when his counsel interrupted and then we had the

0568

1 other dialogue. If he wasn't -- he was answering a
2 question that I thought was not yet completed, unless
3 the assertion is that he was off point.

4 JUDGE MACE: Well --

5 MS. ENDEJAN: I didn't mean to cut him off,
6 Commissioner Hemstad. I thought -- I thought he was
7 through talking about -- if he's not, then, you know,
8 please.

9 JUDGE MACE: Mr. Shirley, you did seem to
10 indicate that you had more to say, but I was just
11 concerned -- that I guess my remembrance of the
12 question was that it was such that you had already
13 answered it, but if you'd like, go ahead.

14 THE WITNESS: Thank you. She told me a
15 couple of other reasons, not unrelated to the
16 grandchildren, probably, but nevertheless she spoke
17 to me about being in touch with her own children and,
18 more broadly, her family. And she spoke about the
19 convenience of, you know, being able to call town
20 before making a trip. It's true that she has had an
21 array of wireless services that have not, in her
22 opinion, I believe, served her well enough so that
23 she always has the convenience that she would like as
24 provided by regular telephone service.

25 Q. Mr. Shirley, her deposition was taken

0569

1 before RCC provided her service, wasn't it?

2 A. Yes.

3 Q. Let's go on to the next criteria, which is
4 the effect on the public switched network. Do you
5 have an opinion -- or strike that.

6 The addition of new and lengthy loops in
7 remote areas would be an obvious effect on the public
8 switched network, would it not? You're adding to the
9 public switched network?

10 A. Yes. I just want to say that I don't agree
11 that we're talking about remote areas in the case of
12 Ms. Taylor, and I don't think I even agree with
13 respect to the Timm Ranch.

14 Q. Okay. Well, let's hear your definition of
15 remote if that's not remote. And I'm pointing to the
16 Taylor photographs and the Timm Ranch photographs, so
17 the record is clear.

18 A. Okay. Well, I'll use the maps that are on
19 the wall and the Commissioners have, and these have
20 an exhibit number, and I'm afraid I don't have one
21 with the number on it.

22 JUDGE MACE: It's 700-G, but I think we
23 know what you're referring to here.

24 THE WITNESS: Thank you. If you look at
25 the third map, which is the one that has Nichols,

0570

1 Schomler and Taylor, and in the lower left-hand
2 corner, it has Mansfield, and you'll see a grid of
3 about half-inch by half-inch squares, which, at first
4 blush, might be taken for section lines. These are,
5 in fact, roads. And of course, there's Highway 17
6 that lies to the north of the Nichols' home, and then
7 turns south. Highway 174 continues on over to Coulee
8 Dam. This is an area with farmhouses.

9 Without giving just a dictionary definition
10 of what is or is not remote, I guess, practically
11 speaking, looking at this, I do not think that this
12 is a remote area. One might say it looks different
13 than downtown Seattle, but I don't think that makes
14 it remote.

15 Q. Okay. So by your definition of remote, you
16 literally have to be on top of a mountain?

17 A. I believe the definition that Verizon
18 supplied in one of the DR responses included the
19 adjective secluded, and in speaking first of Ms.
20 Taylor and the Schomlers and the Nichols, they're
21 between a half a mile and 2.2 or 2.7 tenths of a
22 mile, I forget what it is now, from a state highway.
23 They're on a county road. I do not consider that
24 secluded. Anyone can go there.

25 Q. Okay. Well, let's get back to the question

0571

1 I asked you, about whether --

2 A. May I answer with respect to the Timm
3 Ranch, and why I do not think it is remote? Again,
4 using the large 700-G map, it's map number two of
5 three, and it shows a home marked Nelson, Timm Road.
6 And just slightly to the east and north, there's a
7 road marked New Omak Lake and there's a road marked
8 Columbia River, later it's marked BIA10. That road
9 goes from Nespelem to Omak. It is paved from
10 Nespelem along the Columbia -- that is from the east
11 to the west. Nespelem is off the eastern edge of
12 this map. It is a paved road along the Columbia
13 River to the turn-off for the Timm Road. It is then
14 an unpaved gravel road, wide enough for two semis,
15 and it is a major connecting county road. The gravel
16 road is a county road. Okanogan has approximately
17 two-thirds of its county roads are not paved, not
18 macadam.

19 And by our standards over here, I suppose
20 there's not a lot of traffic, but it's a road that
21 carries a lot of the traffic there is between
22 Nespelem and the county seat of Omak. I guess I
23 don't think this is secluded. It is true that if one
24 comes from the west, and that is where Verizon will
25 come from, and I'm not trying to cloud this, one

0572

1 comes over some roads that are certainly of lesser
2 size and probably even lesser quality, the Greenaway
3 Road compared to the New Omak Lake and Columbia River
4 Road. And if one comes from there, I can see how one
5 might at least ask the question is this remote. But
6 coming from the east or from the north from Omak or
7 Nespalem, two of the larger cities in the county,
8 it's really right off the road.

9 Q. Okay. There's not a lot of traffic on
10 those roads, because there's not a lot of population
11 in the areas on the map that you have just discussed;
12 right?

13 A. Not a lot of population in Okanogan County,
14 but it's still a county.

15 Q. Okay, fair enough. So just so we're clear
16 and I guess we might have a different interpretation
17 of the meaning of the word remote, but in your view,
18 then, what is important is the absence or presence of
19 roads, based upon what I've just heard you say?

20 A. That's certainly, I think, a major
21 indicator, yes.

22 Q. And does it factor in whether those roads
23 are primitive roads, maintained roads, dirt roads,
24 gravel roads, or just that there are roads?

25 A. In Okanogan County in particular, it

0573

1 matters not whether they're dirt or gravel or macadam
2 roads. Again, in 1998 and 1999, I visited a public
3 works office there and learned that fully two-thirds
4 of the county roads in Okanogan are dirt or gravel.
5 It is the case that some are marked primitive and not
6 maintained, but, for example, the day I drove to the
7 Nelson home in November of 2001, I had to pause about
8 -- I didn't drive. I was sitting in the car. The
9 car had to pause about a hundred yards from the
10 Nelson driveway because the county grader was grading
11 the road.

12 And so one can get to -- from Omak or
13 Nespelem to the Timm Ranch on mostly macadam coming
14 from Nespelem, a combination of macadam about halfway
15 and paved -- or unpaved, but very wide,
16 well-maintained road. One can do 50 miles an hour on
17 it, so --

18 Q. Okay. Well, before I get back to the
19 effect on the public switched network, while we're on
20 the topics of roads, the Greenaway, Cold Spring and
21 Timm Roads, which are involved in getting to the Timm
22 Ranch, now, they're classified as primitive roads,
23 aren't they?

24 A. Portions of them may be.

25 JUDGE MACE: Which roads were you referring

0574

1 to?

2 MS. ENDEJAN: The Greenaway, Cold Spring
3 and Timm Roads.

4 THE WITNESS: Timm -- well, correct.

5 Q. Do you happen to have what's been marked as
6 Exhibit 544? If not, I, with permission of the
7 Bench, I'll show it to the witness.

8 A. I should. I knew the one about which you
9 speak and -- yes, I have it in here. I do have it
10 with me.

11 Q. Okay. And this is a letter from the
12 Okanogan County Department of Works, which you say
13 you have visited; right?

14 A. Yes.

15 Q. It says that Okanogan County does no winter
16 maintenance on Greenaway Road and then does limited
17 plowing on all the other -- on the Timm, Cold Spring,
18 and a couple other roads?

19 A. Yes.

20 Q. And then that they're all known as
21 primitive roads, Greenaway, Cold Spring and Timm
22 Road?

23 A. Correct.

24 Q. Okay. So do you have any reason to
25 question the accuracy of this document?

0575

1 A. No.

2 Q. Okay. Well, let's get back to --

3 A. May I expand on that?

4 Q. I believe he --

5 A. I answered yes or no. I thought the

6 practice was to then -- I'll be brief.

7 JUDGE MACE: Well --

8 THE WITNESS: Very brief.

9 JUDGE MACE: On the one hand, I don't mind.

10 On the other hand, we do have limited time and --

11 MS. ENDEJAN: Right.

12 JUDGE MACE: -- I want you to answer the

13 questions fully. I do believe you answered the

14 question as it was posed. Your counsel will have a

15 chance to redirect.

16 THE WITNESS: Fine.

17 JUDGE MACE: But I defer to the

18 Commissioners, if they want to hear at this point.

19 Q. Okay. Let me get back to just a few final

20 questions, Mr. Shirley, here for me. Now, the

21 addition of a new 30-mile loop and a new 17 -- or

22 actually the construction of, because I recognize a

23 portion of that wouldn't necessarily be new -- the

24 17-mile extension that we're talking about for

25 Taylor. Now, that would have an impact on Verizon's

0576

1 network, which is part of the public switched
2 network, would it not?

3 A. Impact? Yeah, I suppose any addition
4 anywhere has some impact, absolutely.

5 Q. Okay. And it may impose additional
6 maintenance and repair costs that weren't there
7 before, because the facilities didn't exist; right?

8 A. Like any mile of new facilities anywhere,
9 whether it's Everett or the Timm Ranch, it would be
10 maintained, one would hope.

11 Q. Okay. And then, finally, I guess, the
12 final criteria we're talking about is, you know, the
13 effect on the company, which in this case is Verizon?

14 A. Yes.

15 Q. And in coming up with your recommendation,
16 did you take into account the fact that the company
17 would not recover \$309,000 in cost and that it would
18 be imposing in its rates on its customers the
19 remaining costs leading up to \$1.2 million? Did you
20 consider that?

21 A. I did. Do you want -- may I say more than
22 I did?

23 Q. Well, apparently, from your recommendation,
24 you did not include that that was a sufficiently
25 detrimental impact to recommend in favor of a waiver,

0577

1 did you?

2 A. Correct, because Verizon receives in its
3 current rates, in two different rates, dollars for
4 the purpose of reinforcement, network upgrades, et
5 cetera. That's in the local rate, and I address that
6 in my testimony.

7 I also address in my -- and I'm speaking of
8 my April 17th, 2002 testimony. I'm leafing through
9 here. I address the fact that in UT-980311, the
10 Commission adopted -- ultimately determined that
11 Verizon should recover 33 million plus per year to
12 support its high-cost service, and in coming to that
13 conclusion, it included something called a fill
14 factor, and that is described in its order -- I'm
15 leafing through, and it is in my testimony, so that
16 can be read by the Commissioners and others here.

17 But that fill factor is so that there is
18 capacity in the network. And so my position is that
19 Verizon is already receiving funds, the purpose of
20 which are for reinforcement in these -- generally in
21 the state and, in particular, in the Brewster and
22 Bridgeport exchanges and pretty much all the others
23 in Central Washington.

24 Q. Now, let's take that answer apart a little
25 bit here. You weren't the -- you weren't involved in

0578

1 UT-980311(a) as a Staff witness, were you?

2 A. I was not.

3 Q. The issue of fill factor in that case, that
4 was used to calculate costs to build in spare
5 capacity where forecasted demand might demonstrate
6 anticipated growth; correct? Is that your
7 understanding?

8 A. Well, I can read from the Tenth
9 Supplemental Order. It says, So that the Commission
10 --

11 Q. Well --

12 A. -- fill factors so that the level --

13 JUDGE MACE: Just a minute. Just hang on
14 for a second.

15 Q. Mr. Shirley, I'm asking if that's your --
16 I'm trying to paraphrase what this means in common
17 language and what your understanding of the term fill
18 factor is. Does my question comport with your
19 understanding of what fill factor is and what it is
20 intended to do?

21 A. It's to meet current demand while allowing
22 for growth.

23 Q. Okay. So -- and in 1998, that \$33 million,
24 that amount was, at that point in time, designed to
25 cover the costs of Verizon as determined in that

0579

1 docket, which then rolled up into the \$33 million
2 figure; correct?

3 A. Correct.

4 Q. Okay. Now, the fill factor does not
5 necessarily apply to facilities that are in place for
6 which there is no forecasted demand, does it?

7 A. Well, for current demand while allowing for
8 growth. Whether or not you've forecasted it, it
9 would depend on whether or not your forecasting
10 methods foresaw the growth or not, I suppose.

11 Q. Well, you don't assign cost for a facility
12 for which there is no reasonably anticipated
13 forecasted demand. That wouldn't -- that, I don't
14 believe, if you read the order, was the intent of the
15 fill factor. But you're right, the order speaks for
16 itself. Just a moment, Your Honor.

17 Okay. Your Honor, that concludes my
18 cross-examination, and I guess I need to move for the
19 admission of a whole bunch of exhibits here. Would
20 you like to do that now or maybe at the conclusion,
21 to save time?

22 JUDGE MACE: I show that you've had marked
23 546 through 590. 590 itself has been admitted, so we
24 would have 546 to 589. Is there any objection to the
25 admission of those exhibits?

0580

1 MR. TRAUTMAN: We do have an objection to
2 545.

3 JUDGE MACE: Just a moment.

4 MR. TRAUTMAN: That's the Chelan County
5 Code of the West.

6 JUDGE MACE: Just a moment.

7 MR. OWENS: You started at 543.

8 MS. ENDEJAN: Did we start at 543?

9 JUDGE MACE: Mr. Trautman, your objection
10 is?

11 MR. TRAUTMAN: Well, I would like to be
12 able to ask Mr. Shirley a few questions about his
13 knowledge and his view of the value of this document,
14 if I may.

15 MS. ENDEJAN: No.

16 MR. TRAUTMAN: Well, all right.

17 JUDGE MACE: Let me hear Mr. Trautman's
18 argument, if I could.

19 CHAIRWOMAN SHOWALTER: What's your
20 objection to it?

21 MR. TRAUTMAN: Well, my objection, it was
22 not prepared by him, he was not consulted in doing --
23 in preparing the document, he -- there's been no
24 showing that the statements in the document are
25 consistent with the line extension rules and tariffs

0581

1 and there's no showing that it's any reliable source
2 of legal authority for the rights of applicants and
3 the obligations of telephone companies. I mean, this
4 is not -- the first time he's seen the document, I
5 believe, was about a week ago.

6 JUDGE MACE: Ms. Endejan.

7 MS. ENDEJAN: Your Honor, under the
8 Commission's Rule 480-09-750(2)(c)(iii), it says
9 codes or standards that have been adopted by an
10 agency of the United States or this state or of
11 another state or by a nationally recognized
12 organization or association are matters that the
13 Commission may take official notice of.

14 MR. TRAUTMAN: This is not a -- well --

15 MS. ENDEJAN: And Your Honor, I think that
16 the matter -- I'm not really quite certain completely
17 what Mr. Trautman's objections are, but I think it's
18 highly relevant in the sense that it is action by a
19 governmental body in an area that is close to and
20 similar to the area at issue, and it legitimately, I
21 think, expresses the reasonable expectations that
22 customers might have moving from urban areas to rural
23 areas or for those who might live there. The Nichols
24 in this case are moving from the west side of the
25 mountains to the Taylor location.

0582

1 Whether Mr. Shirley reviewed it or prepared
2 it is not a basis for objection if the document can
3 come into the record by virtue of official notice,
4 because it was a formally adopted code of an agency
5 of this state. And we think that it very much
6 informs the Commission about what people are thinking
7 over on the east side of the mountain in terms of
8 really what their viewpoint is. We tend sometimes, I
9 think, maybe tend to get a little skewed idea of what
10 life might be like in less populous counties, and
11 this is a very relevant example of how others, people
12 who live over there, might view it.

13 JUDGE MACE: After considering the nature
14 of the exhibit, we're inclined to admit it and
15 evaluate it to -- you can argue what weight it should
16 be given in your briefs.

17 MS. ENDEJAN: And Your Honor, I believe
18 that my exhibits started with 543, which I won't
19 offer at this time, because it just deals with Timm
20 Brothers bull buying actions, which I don't think
21 needs to clutter the record, but Exhibits 544 through
22 589, we would then move for admission.

23 JUDGE MACE: I'll admit those at this
24 point. Before we go ahead with the
25 cross-examination, we'll take a 15-minute break.

0583

1 (Recess taken.)

2 JUDGE MACE: Let's be back on the record.

3 Mr. Owens.

4 MR. OWENS: Thank you, Your Honor.

5

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

7 BY MR. OWENS:

8 Q. Good afternoon, Mr. Shirley.

9 A. Good afternoon.

10 Q. I'd like to just begin with a few questions
11 about your background. I understand you're licensed
12 as a lawyer here in the state of Washington?

13 A. That's correct.

14 Q. Are you an engineer?

15 A. I am not.

16 Q. And are you an economist?

17 A. I am not. Like Dr. Danner, my other
18 degree's in public policy.

19 Q. Are you a geologist?

20 A. I am not a geologist.

21 Q. Have you ever managed a telephone network?

22 A. I have not.

23 Q. Have you ever designed a telephone network?

24 A. I have not.

25 Q. Just a housekeeping matter to start with.

0584

1 If you could direct your attention to Exhibit 136,
2 which is the color map of exchanges in the state.

3 A. Yes.

4 Q. And this shows a date of January 30th,
5 1997; correct?

6 A. Correct.

7 Q. And is it correct that there have been some
8 changes in exchange ownership since then in the
9 state?

10 A. Well, certainly the names of US West, PTI
11 and GTE have changed. There was once a sale of an
12 exchange to citizens, Clarkston, that didn't go
13 through, and that was from Qwest. I'm trying --

14 Q. Well, let me -- that's fine. Let me move
15 on.

16 A. Some company from North Carolina bought
17 Ellensburg Tel.

18 Q. That's fine. I'm just asking you to agree
19 with me that there may be some detail changes from
20 what's portrayed here to make this map currently
21 correct; is that right?

22 A. I would agree to you that, because this is
23 1997, there may have been changes, and we could
24 discuss them if --

25 Q. There's only one that I think is at all

0585

1 material, and that has to do with what you show as
2 Coulee Dam, and you show that in green, and that's
3 just to the east of Bridgeport and to the southwest
4 of CenturyTel, or what's shown on here PTI Nespelem
5 exchange; correct?

6 A. Now I see it.

7 Q. Is it correct that part of that exchange,
8 which would consist of probably the half that
9 represents the northwesterly part of that Coulee Dam
10 exchange, now belongs to CenturyTel?

11 A. I'm looking at this map. I think I'm
12 willing to agree with you, because I've looked at --
13 I know where the Leahy Junction is and I know,
14 relative to that, to the Bridgeport and the Coulee
15 Dam, and I know that's now CenturyTel. So in that
16 respect, I think I come to the same conclusion you
17 suggested.

18 Q. Okay. And just so the record's clear, the
19 legend that's in blue that says PTI, you would
20 understand to be CenturyTel today?

21 A. Correct.

22 Q. And also, just for clarification, that same
23 map appears in what's been admitted as Exhibit 560;
24 is that correct?

25 A. I know it appears as an exhibit, and let me

0586

1 turn to 560. I do not -- I find that map here in my
2 book and it's the same, yes.

3 Q. And so your testimony that we've just been
4 discussing would apply to that exhibit, as well; is
5 that right?

6 A. Yes.

7 MR. OWENS: Okay. Now, if I may have a
8 moment, Your Honor?

9 JUDGE MACE: Yeah.

10 Q. Would you look at Exhibit 502, please, Mr.
11 Shirley?

12 A. Yes.

13 Q. Now, I just would like to ask you to
14 explain your statement. You say, ETC designation is
15 unrelated to recovery of extension construction and
16 related costs under WAC 480-120-071, and that was in
17 response to a question why the Staff seeks to force
18 Qwest to extend service to the Timm Ranch, under the
19 assumption that the Qwest exchange boundary is
20 modified to include that area, while Verizon is still
21 an eligible telecommunications carrier for that area.

22 And I just would like to know why, in the
23 Staff's view, is ETC designation unrelated to
24 recovery of extension construction, as posed in that
25 question?

0587

1 A. I can answer it this way. If ETC
2 designation disappeared from the U.S. Code and all
3 that follows, my view is that WAC 480-120-071 would
4 still be a valid rule, and companies that extended
5 service under subsection two or subsection five could
6 seek recovery of extension direct and indirect costs
7 and could reasonably expect to be granted a tariff
8 for terminating access to recover those costs in
9 probably one year.

10 Q. Forgive me, but it sounded as if your
11 answer says the Commission shouldn't consider ETC
12 designation as a factor in determining issues in this
13 case. Is that a fair understanding?

14 A. I think the Commission can go either way on
15 that. In its adoption order adopting this rule, it
16 stated that the extension rule is not a new universal
17 service program and then, in June or July, that
18 period, based on a motion from Qwest and argument
19 about that, that because RCC had just been designated
20 an ETC, which takes us directly back into the realm
21 of, at a minimum, federal universal service, if not
22 universal service more broadly, the Commission
23 brought RCC into the case.

24 Now, again, because one of the factors that
25 we reviewed earlier is comparability -- I can read it

0588

1 quickly. Factor C, the comparative price and
2 capabilities of radio communications service, I
3 suppose that the Commission could have brought RCC in
4 even though it was not an ETC. And, in fact, the
5 Commission, in UT-003106, named as parties AT&T
6 Wireless, Verizon Wireless, RCC Holdings, and I think
7 perhaps one other wireless, and that was to see if a
8 company should be designated to serve the unserved
9 outside of any exchange area, or what we call the
10 white spaces on the map in Moses Coulee area.

11 So it's a little unclear to me where you go
12 with ETC status in relationship to decisions about
13 extensions under 071.

14 Q. Thank you.

15 COMMISSIONER HEMSTAD: Mr. Owens, your
16 microphone may not be on.

17 MR. OWENS: I think I was too far away from
18 it, Commissioner Hemstad. Sorry about that.

19 Q. Now, directing your attention to what's
20 been marked as Exhibit 542 --

21 A. Can you give me a title? I've found 540,
22 541.

23 Q. 542, it's the --

24 A. Oh, two --

25 JUDGE MACE: If we can -- again, it's a

0589

1 problem when you talk over one another. And I know
2 this seems like an informal colloquy here, but the
3 reporter is still recording and we're on the record,
4 so if you can just try to be careful about that.

5 MR. OWENS: Thank you, Your Honor.

6 Q. Now, 542 is your open public meeting memo
7 in the case which resulted in RCC being designated an
8 eligible telecommunication carrier; correct?

9 A. Correct.

10 Q. Now, on page two, at the top --

11 A. Mm-hmm.

12 Q. -- you describe the purpose for making
13 designations at the exchange level, and you say that
14 it's to balance promotion of competitive entry with
15 prevention of cream skimming, and then you go on to
16 discuss what that is. So would it be correct that
17 you think cream skimming, as you use the phrase and
18 the concept here, is something to be avoided?

19 A. Yes.

20 Q. And then, in the fourth paragraph on that
21 page, you say, A would-be competitor is not required
22 to serve in every exchange of an incumbent company,
23 but it may not pick the densely populated part of an
24 exchange and ignore the less densely populated and
25 therefore higher cost locations.

0590

1 A. Yes.

2 Q. Now, would the Timm Ranch be within the
3 class of places that would be considered less densely
4 populated and, therefore, higher cost locations
5 within the Bridgeport exchange?

6 A. It would be, and it would also be a lower
7 revenue location.

8 Q. And you address that concept in the
9 footnote on the bottom of the page, high cost per
10 customer served. Is that sort of a correlative
11 concept --

12 A. Yes.

13 Q. -- to lower revenue?

14 A. Yes, it is.

15 Q. Thank you. And in the Commission's order
16 in Dockets UT-970333 through 356, which were the
17 previous order designating wire line eligible
18 telecommunications carriers, you're aware that the
19 Commission, in footnote 11, noted that there were
20 differences between wire line companies and wireless
21 companies that make strict application of set
22 standards to all companies difficult, but the
23 Commission said that it will insist that all
24 companies provide quality service to all customers
25 within the designated service area for that company;

0591

1 correct?

2 A. Yes.

3 Q. And the Staff's position in this case
4 vis-a-vis what the Commission should do with respect
5 to RCC is that the Commission should not do anything,
6 because none of the named applicants has requested
7 RCC for service; is that correct?

8 A. It's correct that none of the named
9 applicants have asked for RCC service. I don't know
10 if I have made a recommendation anywhere in my
11 testimony about -- well, I'd have to look at the
12 December testimony, but what I have said is that I
13 think the wiser choice would be to let a company
14 that, I believe just this very month, began
15 participating in the federal pool. There is no state
16 money for it to build a network.

17 This may seem at odds with that footnote
18 from five years ago, and perhaps it is even at odds
19 with that footnote from five years ago. I would say
20 that, in five years, a great deal of activity that
21 had never gone on before in this state or any other
22 on ETC designation has occurred, including with
23 wireless companies, in that wireless -- after I wrote
24 the memo, of course there was an open meeting and I
25 found myself particularly interested in and persuaded

0592

1 by the testimony given at that open meeting in June
2 by RCC about -- you know, the issue was, as they put
3 it, whether they agree on ETC designation and the
4 benefits of wireless service come to rural Washington
5 sooner rather than later, in a few years or in 2020,
6 I think was the quote.

7 And during the course of this case and
8 leading up to my December testimony, it became clear
9 to me that I think the way to achieve that goal of
10 coverage and competition and all that can be achieved
11 through wireless service is to permit an ETC, and
12 particularly one that's just barely been designated,
13 to build its network. And I don't think it will need
14 the decades that wire line companies have had of
15 implicit and explicit support.

16 I think at some time it might be
17 appropriate for a Commission to say, Now, what about
18 this particular place or that particular place, but I
19 don't know that that -- in fact, I'm saying, I've
20 stated in my testimony that's not what should be done
21 with this case at this time with RCC. In particular,
22 directing it to build one or two cell sites from 150
23 to 500,000.

24 Q. Let me see if I can ask a follow-up
25 question or two on that answer. Is it correct that,

0593

1 at least in part, the Staff's recommendation to take
2 no action with regard to RCC is based on your
3 testimony at page 23 of Exhibit 139-T, that no person
4 in the Taylor or the Timm Ranch locations has
5 contacted RCC and requested service?

6 JUDGE MACE: I'm sorry, can you repeat your
7 reference, please?

8 MR. OWENS: Sorry, Your Honor. Page 23 of
9 Exhibit 139-T.

10 THE WITNESS: The answer is yes, I think
11 that's an important consideration, although even if
12 that had been the case, I do not know that I would
13 have reached a different conclusion. I did not think
14 about that in making this recommendation that it
15 ought to be permitted to build network in the fashion
16 that networks apparently are normally built, and
17 that's not for one customer at a time or three or
18 four or five customers at a time.

19 So in making that recommendation, I didn't
20 think to myself, Well, what if the Taylors or the
21 Nelsons or any of those other people had specifically
22 contacted them. And then I think if I had thought of
23 that, I would have looked at the FCC decisions in
24 this area, and I think they seem to suggest that --
25 support my view that it would not be the best policy

0594

1 to direct a wireless ETC right off the bat to take
2 care of this particular or that particular location.

3 Q. And do you think that this Commission
4 should treat regulated companies that are similarly
5 situated in a similar fashion?

6 A. I think there's a difference that comes
7 from technology. With wire line, you're either at
8 the location or you're not, and it is built to one
9 customer at a time. Yes, networks are planned, of
10 course. You know, if there's development in an area,
11 one takes cognizance of the whole group, not one
12 customer at a time, but ultimately that's how the
13 service is provided through the technology. And so I
14 think --

15 Q. Excuse me. Are you saying you can't answer
16 yes or no to that question?

17 A. If you'll repeat the question, I'll attempt
18 to give you a yes or no answer.

19 Q. Should the Commission treat similarly
20 situated companies in a similar manner?

21 A. Well, if a similarly situated company is a
22 wireless company that's an ETC to -- in comparison to
23 RCC, I would say yes. I would not say that Qwest,
24 for example, is similarly situated, nor Verizon, to
25 RCC. I think there's a difference.

0595

1 Q. Well, let me ask this. You have no
2 evidence that any of the personnel or the residents
3 at the Timm Ranch have specifically requested service
4 from Qwest; is that true?

5 A. Well, I've testified on that and I have
6 testified -- I can paraphrase -- that --

7 Q. Well, let me -- so you say it's not capable
8 of a yes or no answer?

9 A. I'll say no.

10 Q. It's not true?

11 A. No person has contacted Qwest directly.
12 The person who knows the most about these things at
13 the Timm Ranch location is a former employee of
14 Qwest. He knows that he lives in the Bridgeport
15 exchange of Verizon, and I believe he knows that if
16 he were to call Qwest, he would not receive a yes or
17 no. He would receive a you're not in our territory,
18 so we don't even have to say no.

19 But I think it's clear, from the very
20 earliest testimony, the material in this case, that
21 Mr. Nelson -- in fact, Mr. Nelson stated that it was
22 his hope that Qwest and Verizon would agree to trade
23 obligations each has where -- he knows from his
24 experience that Qwest has facilities closer to the
25 Timm Ranch and Verizon has facilities closer to

0596

1 Turtle Lake. So he was clearly thinking about having
2 Qwest serve him.

3 Q. You don't know what he was thinking, do
4 you, Mr. Shirley?

5 A. Yeah, I talked to him about that. We had a
6 conversation about that that lasted several minutes
7 or more in his truck the first time I visited there.
8 So instead of saying he was thinking about it, he
9 talked to me about that. He stated that.

10 Q. Well, he never said any such thing in his
11 deposition; is that true?

12 A. I don't know that he -- I don't recall that
13 he did in his deposition.

14 Q. And he hasn't filed a petition with this
15 Commission the way the Thompsons did to have Qwest's
16 boundary changed, has he?

17 A. No, he did not.

18 Q. If there were two wire line companies who
19 were similarly situated, should the Commission treat
20 those companies in a similar way?

21 A. Yes.

22 Q. Now, Mr. Nelson mentioned in his
23 deposition, in Exhibit 171-D, at pages 10 and 11 --

24 JUDGE MACE: Just a moment, please.

25 MR. OWENS: I'm sorry.

0597

1 JUDGE MACE: I think Mr. Shirley does not
2 have a copy of the deposition.

3 THE WITNESS: Thank you very much. Thank
4 you very much.

5 JUDGE MACE: Now, what page were you
6 referring to?

7 MR. OWENS: Ten and 11, Your Honor.

8 JUDGE MACE: Ten and 11?

9 THE WITNESS: Yes.

10 Q. You mentioned that his closest neighbor to
11 the east was a business called Penial, P-e-n-i-a-l,
12 Ranch, run by Faith Ministries, with three families
13 and a commercial fish farming operation on the river;
14 is that a fair paraphrase?

15 A. Yes.

16 JUDGE MACE: Just for the record, it's
17 Frontier Ministries.

18 MR. OWENS: Frontier Ministries, I'm sorry.

19 Q. Now, did that suggest to you that there was
20 telephone service as close as three miles to the east
21 of where the Timm Road intersected the Columbia River
22 Road?

23 A. You asked that in the past tense, and the
24 answer is no. It does today, however.

25 Q. So if the answer to the past tense is no, I

0598

1 assume that you didn't investigate whether or not
2 there was any telephone service three miles to the
3 east of the intersection of the Timm Road and the
4 Columbia River Road; is that right?

5 A. That's correct. Just like one of the other
6 witnesses in this case, I didn't grasp that at the
7 time.

8 Q. And can you refer to what's been marked as
9 Exhibit 539?

10 A. Is that the Frontier Ministries?

11 Q. Yes.

12 A. I've seen that, yes.

13 Q. Okay. And just, can you accept, subject to
14 check, that if you went to the URL at the bottom of
15 that page, you'd see this Web site depicting a
16 telephone number for that business on Omak Lake Road?

17 A. Yes.

18 Q. And Omak Lake Road and Columbia River Road
19 are two names for the same road?

20 A. Yes.

21 Q. So does that suggest to you that there is
22 another wire line company similarly situated to Qwest
23 vis-a-vis this case, namely CenturyTel?

24 A. It suggests that. I don't know that it
25 confirms that. I did talk to CenturyTel in the

0599

1 process of -- between October 2001, when the petition
2 was filed, and January 9th, 2002, when the Commission
3 started this proceeding. I spoke to them because, in
4 the petition for waiver, with respect to the Taylor
5 residence, Verizon specifically mentioned having
6 contacted Century itself to discuss having Century
7 serve and, with respect to Timm Ranch, it
8 specifically mentioned Qwest.

9 And of course, I had met Mr. Nelson and he
10 had taken me to where he understood, from 20 years of
11 being a fellow who buried cable in that exchange and
12 others, where the Qwest service was in relation to
13 the home.

14 I did talk to Century about the possibility
15 of serving the Timm Ranch, and I understood, rightly
16 or wrongly, that it did not have service this close.
17 I understood it to be -- to have service 13 miles
18 away and, based on that understanding, right or
19 wrong, and it may well be wrong, it seemed to be at
20 least twice -- approximately twice the distance that
21 I understood Qwest to be and, again, buttressed by
22 Verizon's approach of Qwest and the fact that one has
23 to get going on a case, I thought I had investigated
24 that and reached a proper conclusion.

25 Q. But as you sit here today, do you feel

0600

1 there's grounds to inquire into that further?

2 A. Not for me. Qwest brought RCC into this
3 case in June, and I think Qwest could have brought
4 CenturyTel into this case in June. So that's my
5 answer.

6 Q. Well, let me ask this. When you say no, in
7 terms of whether there is a similarly situated wire
8 line carrier to Qwest, you're satisfied that there
9 isn't, based on the facts as you know them today to a
10 certainty?

11 A. No.

12 Q. You're not satisfied?

13 A. You have given -- you have given me cause
14 to wonder, but we're here now, the proceeding's on,
15 no one brought Qwest into -- or CenturyTel into the
16 case.

17 Q. And page -- in Exhibit 137-T -- may I have
18 a minute, Your Honor?

19 JUDGE MACE: I don't know how many more
20 questions you have for the witness, but I was
21 thinking maybe you could go on to another topic, and
22 then maybe at a break you could try to find your
23 place.

24 MR. OWENS: Maybe I could ask a more
25 general question.

0601

1 Q. You make reference in your testimony, Mr.
2 Shirley, to state support that you state that Qwest
3 and Verizon received for some of their exchanges; is
4 that true?

5 A. That's correct.

6 Q. And as you use that term, state support,
7 are you referring to the element in terminating
8 switched access, which resulted from the Commission's
9 order to divide the previous terminating access
10 charge into a forward looking cost element and a
11 remainder, which was then denominated universal
12 service fund charge?

13 A. I'm talking about the terminating switched
14 access charge that supports universal service, or
15 ITAC, in the case of Verizon, I-T-A-C.

16 Q. So you're not claiming that Qwest received
17 any additional funds over and above the level that it
18 was receiving prior to the time its terminating
19 access charges were divided in that way to support
20 universal service when you use the term state
21 support; is that correct?

22 A. I don't believe I addressed that either
23 way. For the purpose of my testimony, I -- to me,
24 it's enough that there is a tariff that each company
25 has that is on terminating switched access that

0602

1 recoups an amount determined under UT-980311(a),
2 which was explicitly for universal service, and
3 whether or not that -- there was any splitting or not
4 or anything that predated that, I think that's the
5 subject of other discussions and I didn't talk about
6 that in my testimony.

7 Q. So you said you didn't talk about it one
8 way or another, so I think the answer to my question
9 is -- which was you're not claiming that there is
10 incremental revenue, the answer to that is that's
11 correct; is that right?

12 A. I didn't deal with whether or not there's
13 incremental revenue. There is an explicit amount
14 recovered for universal service on terminating
15 access.

16 Q. But that, I think you've agreed with me, is
17 simply a subset of previously determined rates that
18 were set by the Commission under a different
19 regulatory approach; is that true?

20 A. I don't think I've agreed with you. I
21 think I've stated my answer. That was not -- never
22 addressed what happened in that regard or didn't
23 happen.

24 Q. Well, do you know, then, I guess is my
25 question, whether or not what you're calling state

0603

1 support is the result of simply dividing the
2 company's previous terminating access rates into two
3 separate parts and calling one of them universal
4 service support?

5 A. I do not think I know one way or the other,
6 and I certainly didn't testify about that.

7 Q. You had some discussion with Ms. Endejan
8 about your testimony in Exhibit 139-T about average
9 cost pricing. I'm sorry, that would be Exhibit
10 137-T, average cost pricing. Do you recall that?

11 A. I recall that. Whether it's in 137 or 139,
12 I can't --

13 Q. No, I guess it was 139.

14 A. I think it was 139, but I don't recall.

15 Q. Page 12.

16 A. Page 12, thank you.

17 Q. And one way to understand an average cost
18 price would be to take the actual costs of all the
19 extensions and add them up and divide by the number
20 of extensions; is that correct?

21 A. That doesn't -- you didn't mention price.

22 Q. Well, if you set the price equal to that
23 average, that would be an average cost price for
24 extensions. That's one way you could construct such
25 a price?

0604

1 A. Right. I think so.

2 Q. And you would agree with me, wouldn't you,
3 that there was no evidence of that type. That is, of
4 a cumulative cost of extensions added up and divided
5 by the number of extensions introduced in the
6 rule-making that resulted in the Commission's line
7 extension rule?

8 A. Correct.

9 Q. And directing your attention now to Exhibit
10 540.

11 A. 540.

12 Q. That's your -- the open public meeting memo
13 that resulted in this case.

14 A. Yes.

15 Q. And is that your open public meeting memo?

16 A. Yes, it is.

17 Q. And that's the document that you refer to
18 as the source of the statements that you attribute to
19 Mr. Nelson about his desire for Qwest service; is
20 that correct?

21 A. I think so. The actual source was my
22 conversation with him, and then I -- I believe I
23 indicated that in this memo.

24 Q. Did you ever ask him if he would not accept
25 CenturyTel service?

0605

1 A. I did not. You heard my long explanation
2 of -- about that, and so I never did talk to him. I
3 can say -- maybe this will move things along -- that
4 if I'm asked about an ultimate recommendation in this
5 case from Staff, it would be one that would perhaps
6 result in as likelihood of CenturyTel or Qwest
7 serving or not serving the Timm Ranch.

8 Q. Directing your attention now to what's been
9 marked as Exhibit 541.

10 A. Yes.

11 Q. Did you write this?

12 A. I did write this, May 1st, 1998. This is a
13 memo that I also disavowed the conclusions I drew in
14 front of this Commission in October of 2002, when it
15 was presented to them in another matter.

16 Q. But you did write it?

17 A. I did write it.

18 Q. Did you use your best legal scholarship
19 when you did this memo?

20 A. I'd say, according to Jeff Goltz, I did
21 not. No, I would say I did not. That's why I have
22 said now twice before the Commission that I disavow
23 or do not agree with the conclusions I reached at
24 that time.

25 Q. Are there some cases that lead you to that

0606

1 conclusion that aren't reflected here?

2 A. There probably are, since 1998. But I
3 would say it has much more to do with learning a lot
4 more than I knew at the time and a little less
5 hubris.

6 Q. Well, what specifically is in error about
7 this memo, from a legal standpoint?

8 A. I haven't really reviewed this in a long,
9 long time, but I believe I questioned the extent of
10 governmental authority to direct a company to go to a
11 particular place to which it might not want to go and
12 serve.

13 Q. And so it's that part that you say is in
14 error now?

15 A. Without having reviewed this in some time,
16 that's my best recollection.

17 Q. But you're not aware of a specific case
18 that comes to the conclusion that your previous
19 analysis was wrong; is that correct?

20 A. Well, you mentioned the Thompson case, and
21 this Commission decided in that case, which came
22 subsequent to this, that this Commission does have
23 authority, under 80.36.230, to alter boundaries. And
24 if one alters a boundary, one -- you know, it goes
25 along with that one would expect would be a direction

0607

1 to go farther than what the boundary had been with
2 respect to a company whose boundary is altered.

3 Q. That's the full extent of the case law that
4 you believe is contrary to the conclusion you reached
5 in this memo on that issue?

6 A. It's the one that comes to mind on the
7 stand at this time.

8 Q. In Exhibit 137-T --

9 A. Yes.

10 Q. -- at page three --

11 A. Yes.

12 Q. -- you criticize Mr. Hubbard's testimony
13 about the costs that Qwest would incur in building
14 facilities to serve the Timm Ranch, as far as
15 maintenance and ongoing expense are concerned. And
16 my question is, at the bottom of that page, beginning
17 at line 19, you say, It's hard to determine why Qwest
18 would have to add cross-country facilities in order
19 to follow Omak Lake Road to Timm Road and then to the
20 homes on Timm Road.

21 But did you review the exhibit which has
22 been marked Exhibit 64 in Mr. Hubbard's testimony,
23 where he showed the route that Qwest would follow if
24 it were to make this extension?

25 A. I'm not sure that I did. I think Mr.

0608

1 Spinks handled most of that.

2 Q. But this is your testimony, where you say

3 --

4 A. Yes, it is.

5 Q. So you have no reason to disagree with Mr.

6 Hubbard's engineering conclusion that Qwest would

7 have to place cross-country facilities if it were to

8 make this extension; would that be fair?

9 A. Yes, but I also understand that those
10 facilities would follow the -- or parallel the route
11 now in existence, and so whatever maintenance costs
12 there would be with cross-country, there would be --
13 that's -- but Mr. Spinks would have been able to
14 address this better. It is my testimony.

15 Q. Well, it's true, isn't it, that as Qwest
16 has presented its evidence, there would -- if Qwest
17 were to build this facility, there'd be two cables
18 where today there is just one cable?

19 A. That's correct.

20 Q. So wouldn't it be true that there is at
21 least conceptually twice as much opportunity for
22 there to be a need for maintenance due to the hostile
23 effects of the environment on these buried facilities
24 with two cables paralleling one another as there is
25 for one?

0609

1 A. You asked me at the beginning if I'm an
2 engineer, and I'm not. But as a lay person, if there
3 are two cables and a dig-up occurred, it might
4 disrupt both of them, and I guess that doubles the
5 maintenance, for example.

6 Q. So when you testified, Mr. Hubbard cannot
7 have new concerns about winter maintenance where
8 Qwest already has facilities, you would agree that,
9 at least in some respects, there is reason for
10 concern; is that true?

11 A. In some respects, but I think it's also --
12 I was attempting to address in general the notion
13 that winter -- that Qwest doesn't experience winter
14 maintenance throughout its territories in North
15 Central Washington, but as I have stated, it may add
16 to it.

17 MR. OWENS: I believe that's all the
18 questions that I have, and I would offer Exhibits 501
19 through 542.

20 JUDGE MACE: Is there any objection to the
21 admission of those exhibits?

22 MR. TRAUTMAN: No, Your Honor.

23 JUDGE MACE: I'll admit them. Mr. Harlow,
24 do you have any cross?

25 MR. HARLOW: Yes, Your Honor. Give me a

0610

1 moment.

2 CHAIRWOMAN SHOWALTER: Mr. Shirley, do you
3 need a break?

4 THE WITNESS: I'm fine. Thank you very
5 much.

6

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

8 BY MR. HARLOW:

9 Q. Good afternoon, Mr. Shirley.

10 A. Good afternoon.

11 Q. Mr. Owens has cross-examined you for a
12 while, but if you could recall fairly early on Mr.
13 Owens' question about whether the Commission should
14 consider ETC status. And I think the gist of it was,
15 it may not have been the exact words, in deciding
16 whether to order line extensions under Rule 71. Do
17 you recall that line of questioning?

18 A. Yes.

19 Q. And you indicated you felt the Commission
20 could go either way on that?

21 A. Yes.

22 Q. And then, subsequently, Mr. Owens asked you
23 about a Staff memo and concerns about cream skimming
24 by ETCs?

25 A. Yes.

0611

1 Q. Do you recall that? And he asked you if
2 the Timm Ranch was an example of a high cost area?

3 A. Yes.

4 Q. And you said yes, but it's also an example
5 of a lower revenue area. Do you recall that?

6 A. Yes.

7 Q. That's -- with that background, I want to
8 focus on the potential revenues available to RCC, as
9 potentially available to Qwest, to serve the Timm
10 Ranch location. Do you have that possibility in
11 mind?

12 A. Yes.

13 Q. Okay. Let's start first with Qwest. First
14 of all -- well, let's start first of all with the
15 kind of revenues I assume would be available to both
16 carriers, and that would be regular monthly rates?

17 A. Yes.

18 Q. I assume Qwest would charge something in
19 the neighborhood of \$15 a month, including federal
20 subscriber line charge?

21 A. Or slightly more.

22 Q. And it would take many, many years to
23 recover the cost of extension from that revenue
24 source; is that correct?

25 A. As came out in Verizon's cross-examination,

0612

1 yes.

2 Q. Do you have any familiarity with the
3 monthly rates that RCC might charge to serve these
4 residents in one of their regular rate plans?

5 A. Not specifically. I understand they would
6 probably be a bit higher, but I don't know for sure.

7 Q. Is the number \$30 a month something you
8 remember hearing?

9 A. Yes, I'm not sure what that buys one. It's
10 not typically all the minutes you can use in the
11 cellular world, but yes.

12 Q. And the cost range, you mentioned of 150 to
13 \$500,000. It would likewise take many, many years to
14 recover the costs of -- with those rates?

15 A. Correct.

16 Q. Okay. What about -- I gather that both
17 companies receive kind of general support. You maybe
18 heard the number used in this proceeding of a little
19 over a million dollars, I think it's from Exhibit 53.
20 Do you recall that, for RCC?

21 A. That RCC, during the course of 2003 --

22 MR. OWENS: I'm going to object to that
23 question without some identification of what both
24 companies means, because the prior question mentioned
25 Qwest, and I don't believe Qwest is included in 53 as

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1 a recipient.

2 JUDGE MACE: Yes, I was not clear whether
3 you're referring to RCC and Qwest or Qwest and
4 Verizon, so if you could be more clear, I'd
5 appreciate it.

6 MR. HARLOW: I'll revise it and we'll take
7 each company one at a time.

8 Q. Now, with regard to RCC, you recall that
9 RCC receives USF support of a little over a million
10 dollars a year, or excuse me, has projected a million
11 dollars for 2003?

12 A. Correct.

13 Q. And that's general support. That's not
14 specific to the Timm Ranch location?

15 A. Correct.

16 Q. And they receive that regardless of whether
17 they serve those residents or not?

18 A. Correct.

19 Q. And I gather that Qwest receives support
20 through the -- through an element of the terminating
21 access charge of a little over \$23 million a year?

22 A. Correct, and that's a state charge, and the
23 one you describe for RCC is from the federal high
24 cost fund.

25 Q. And likewise, that's not specific. It

0614

1 wouldn't change as a result of the Timm Ranch
2 service?

3 A. Correct.

4 Q. Okay. Now I'd like to focus specifically
5 on --

6 A. As it wouldn't change for Qwest.

7 Q. Right.

8 A. Correct.

9 Q. I'd like to focus specifically on
10 incremental support that the two companies might
11 receive.

12 JUDGE MACE: Which two companies?

13 Q. RCC and Qwest, okay. First of all, do you
14 have any understanding as to what RCC would receive
15 by way of incremental support by serving an
16 additional five residents at the Timm Ranch location?

17 A. Yes, it would either be \$8.50 or \$8.70,
18 rounded off, per month, per line, and that is based
19 on the -- what's known as interstate access money
20 that Verizon now receives. It comes from the federal
21 high cost fund. Verizon must and RCC both must state
22 that they will invest that fund only for the purposes
23 of universal service. They must declare that each
24 year.

25 Q. And in the case of Qwest, if Qwest were to

0615

1 extend service under Rule 71, what incremental
2 revenues might Qwest seek to recover specific to the
3 Timm Ranch location?

4 A. Well, it could, at a minimum, seek to
5 recover the cost of the extension. The other issue
6 in this case is could it receive some or all of the
7 reinforcement for doing that job, and it would be
8 Staff's recommendation that if a decision is made to
9 redraw the boundary under 80.36.230 and direct Qwest
10 to construct to the Timm Ranch, that it should be
11 permitted to collect all of its reinforcement,
12 because that would be analogous to what the
13 Commission has done when, for example, CenturyTel, in
14 sort of the seminal event that's led to all these
15 changes, went into an unserved area, an area that was
16 unfiled, it received 100 percent of its reinforcement
17 dollars.

18 Q. So just to put a dollar number on that,
19 Qwest could, if Staff's recommendation were followed,
20 could receive over \$800,000 in incremental support to
21 serve the Timm Ranch?

22 A. Yes. Let me just say that that's not
23 likely to be Staff's first or primary recommendation,
24 but if Staff is asked for a recommendation about
25 that, that's what Staff would say, what I will say.

0616

1 Q. Would it take many, many years to recover
2 that over \$800,000?

3 A. The standard practice has been -- this
4 year, anyway, the standard has been a tariff lasting
5 12 months, I believe. Century and Sprint and I think
6 the Verizon tariff that has been discussed in this
7 proceeding was for over 12 months, but I saw some
8 notations about three months, and that Staff who
9 handled that has had a death in the family and is
10 unavailable, so it's either three or 12. I would add
11 that we have had conversations with Qwest about --

12 Q. I think you're going --

13 A. Okay.

14 Q. I think you've covered the question,
15 mindful of the time. Just to kind of wrap up, what
16 about RCC? Could RCC recover costs in a similar
17 manner by some kind of access charge filing, recover
18 hundreds of thousands of dollars in 12 months?

19 A. No.

20 Q. And why is that?

21 A. Under federal rules, it's not permitted to
22 file an access tariff in the state.

23 Q. Is the -- or are the recovery mechanisms
24 and the differences that we've just identified, are
25 those things that you feel the Commission should take

0617

1 into account in deciding which carrier, if any, to
2 order to provide an extension of service or
3 improvement of service to the Timm Ranch area?

4 A. Yes, I think I discussed that in my
5 testimony.

6 MR. HARLOW: Thank you, Mr. Shirley.

7 JUDGE MACE: Ten-minute break.

8 (Recess taken.)

9 JUDGE MACE: Okay. Let's be back on the
10 record and turn to the Commissioners.

11 MR. HARLOW: I hope I haven't been holding
12 you up, but it looks like I had.

13 JUDGE MACE: You had indicated to me
14 earlier not to wait.

15 CHAIRWOMAN SHOWALTER: I chose to wait.

16 MR. HARLOW: Thank you, Madam Chairwoman.

17 CHAIRWOMAN SHOWALTER: Sure.

18

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

20 BY CHAIRWOMAN SHOWALTER:

21 Q. Mr. Shirley, I'd like to start with the
22 rule itself.

23 A. Yes.

24 Q. And I'm focusing on (7)(b) of the rule.

25 A. Yes.

0618

1 Q. And in particular, little two, that lists
2 the factors A through G that we will consider.

3 A. Yes.

4 Q. And A is the total direct cost of the
5 extension. For the moment, I would like to consider
6 the total cost and we can try to separate things out
7 later. But as far as Verizon's costs are concerned,
8 let's take the Timm Ranch first.

9 A. Mm-hmm.

10 Q. Is there a disagreement at this point in
11 time as to what the total costs would be?

12 A. I don't believe so. I think it's 881,000.
13 Is that about right?

14 Q. Okay.

15 A. It's in my testimony, I know, and I
16 subtract reinforcement, but I use a total, and I
17 think that's a total that Verizon uses.

18 Q. All right. And is the same true for the
19 Taylor Ranch, that the parties are generally agreed
20 on Verizon's cost for the Taylor Ranch?

21 A. Yes.

22 Q. Not the ranch, but the --

23 A. You know, the job that they've sort of
24 penciled out in engineering fashion, I think we agree
25 that if you went that many miles -- we might have

0619

1 concerns about why they'd have to go that many miles
2 or whatever, but that's another story.

3 Q. All right. But what I'm trying to do here
4 is discern some of the differences and ask you about
5 some of the differences, but my understanding is, as
6 to the costs of the projects for Verizon, there's not
7 substantial or even any disagreement?

8 A. I guess no real disagreement.

9 Q. Okay. Now, part of that total cost is
10 direct and part is reinforcement costs, so I don't --
11 let's just focus on the direct for the time being.
12 I'm just looking at this rule conceptually. If you
13 hold constant the net effect of B through G in any --
14 let's just say we have ten cases and the net effect
15 of the pros and cons and costs and benefits of B
16 through G are the same in all ten, isn't it the case
17 that, as the cost increases in A, the likelihood that
18 a waiver is warranted also increases?

19 A. All other things being the same?

20 Q. Right.

21 A. And the ability to recover being the same?

22 Q. Right.

23 A. Yes. Whether or not you reach that
24 threshold with the tenth one is not my decision, but
25 yes, assuming the tenth is the higher of the one

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1 through ten.

2 Q. Right. Which is just another way of
3 saying, isn't it, that the proportionality of total
4 costs or total direct costs to the rest of the costs
5 and benefits is probably the central thing we need to
6 weigh in determining whether a waiver is justified or
7 not. Would you agree with that?

8 A. I guess I don't agree, because I believe --
9 I don't think you're going to find ten extensions
10 that are so similar in every respect that that's
11 going to be the case. In other words, I guess I'm at
12 this point saying I think they're all going to be
13 complex and varied and there's a number of factors
14 and we have quite a record here, and so I guess I
15 agreed at first, yeah, if it's as simple as
16 everything from B through G is equal. But what I'm
17 saying is when you get down to really making a
18 decision about a case that involves people and
19 whether or not they're going to have the same
20 communication ability as others, it's just -- I don't
21 think you're going to find ten that are alike.

22 Q. Well, let me say, we're not talking about
23 this case. I won't even speak hypothetically. Let's
24 speak theoretically.

25 A. Okay.

0621

1 Q. Is a cost that might be ten times average
2 or a hundred times average going to be a significant
3 factor in our weighing of these factors? Do you
4 think we should weigh them? Maybe that's my first
5 question. Do you think these are factors that we
6 need to weigh against each other in light of other
7 values and legal constraints?

8 A. I think that that is a reasonable approach,
9 but I think it needs to be coupled with the broadest
10 view possible of telecommunications in Washington and
11 the opportunities that so many people have to be a
12 part of the public switched network. And I don't
13 think, for example -- let's say -- you spoke
14 theoretically. Let me go back to the case.

15 Let's say the Timm Ranch, at \$881,000,
16 would be the most expensive total for -- of any,
17 ever, or at least up to this point and foreseeably.
18 I'm not sure that, for example, that necessarily
19 disqualifies -- you know, that you say, Well, it's
20 the most expensive ever. How can it not be the one
21 that meets the waiver.

22 Q. No, that would involve how it is offset
23 against other factors; isn't that the case?

24 A. Right.

25 Q. But implicit in -- I think it was your

0622

1 answer. Let me ask it more simply. Should we
2 consider the cost of the project when thinking about
3 whether Verizon is entitled to the waiver?

4 A. Well, the specific factor is the total
5 direct cost of the extension. And what I would say,
6 it really ought to be the total direct and indirect
7 cost of the extension and, mind you, that extension
8 is not -- you know, as we define direct cost of an
9 extension in the rule, as this rule does, it does not
10 include reinforcement. So when you look at the
11 total, you're also looking at the reinforcement.

12 As I discuss in my testimony, there is an
13 amount of money in the various rates that phone
14 companies receive, and even ones that don't receive
15 rates, an RCC, it chooses its own rate, but certainly
16 it must choose a rate that allows it to move forward
17 to do the things it needs to do to maintain and
18 upgrade its network, that those -- that those go to
19 the company, and if they aren't spent on
20 reinforcement, whether it's for reinforcement
21 associated with an extension or reinforcement in
22 downtown Everett, then customers have paid for
23 something and that expenditure is not being made for
24 the purpose, so --

25 Q. Well, let me -- I want to stop you there.

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1 I think I'm following what you say. Are you saying
2 that because companies -- Verizon gets rates that
3 cover general expenses, including reinforcement
4 costs, for example, that means every extension should
5 be granted regardless of cost?

6 A. No, I think it means you don't look at the
7 total cost, or you may choose not to look at the
8 total cost, and the reason why you might choose not
9 to look at the total cost is because if Verizon gets
10 a -- this is a terribly low number, but a simple
11 number. If it receives a million dollars a year in
12 its various rates intended for it to spend on
13 reinforcement network upgrades and it spends only
14 \$900,000, then my understanding is that that money
15 essentially becomes earnings. So if Verizon were to
16 say, We categorically have spent our million dollars
17 and, you know, it's December 31st and this is the
18 last job or, you know, whatever, so we would -- we,
19 Verizon, would be paying for the reinforcement costs,
20 the shareholders would be, then maybe under that
21 circumstance you'd look at the total cost.

22 But if it has an amount -- if it receives
23 some sum of money and it hasn't -- for reinforcement
24 and it hasn't spent that money and if it's got money
25 in the kitty, money sufficient, say, to do the Timm

0624

1 Ranch or the reinforcement portion of the Timm Ranch,
2 then I don't know why that should be used as a factor
3 to say it gets a waiver.

4 Q. All right. So that you're saying, as long
5 as Verizon has money in its budget that was supposed
6 to go to reinforcement costs and it hasn't spent them
7 all, then, on a first come, first serve basis,
8 really, we should not consider in a waiver
9 reinforcement costs, because, at whatever point we're
10 considering it, there's still money left allocated to
11 that function; is that what you're saying?

12 A. And for example, let's --

13 Q. Well, is that what you're saying?

14 A. Yeah. And the proof here is let's say that
15 amount was \$100,000, and it was facing 20 extensions
16 each to 20 people with \$5,000 of reinforcement.
17 Certainly not a sum that, in the context of this,
18 would seem to raise everybody's concern. That would
19 still add up to \$100,000 of reinforcement. Granted,
20 it would serve more, but what I think we would all
21 expect them -- I would expect them to spend the
22 hundred thousand to do those extensions. If it
23 happens to be all in one -- I grant you there's other
24 factors here, if it's fewer people that you look at.

25 And I'm not saying that having not looked

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1 at -- if you take reinforcement out, don't look at
2 the total-total costs, but just the extension costs,
3 I'm not saying you can't reach a decision in favor of
4 a waiver. I'm not advocating that, of course, you
5 know, but --

6 Q. Well, I know. I'm just trying to determine
7 what you think we should be balancing in this case.
8 And what I hear you saying is we should not consider
9 reinforcement costs for Verizon, because Verizon
10 hasn't spent its budget on -- allocable to
11 reinforcement costs. That's what I heard you say.
12 Is that what you --

13 A. Yeah, I'm unaware of any testimony in this
14 case that it has spent or will spend all of its
15 reinforcement dollars to do the Timm Ranch.

16 Q. All right. Well, meaning cumulative;
17 right? In other words, I assume that no project
18 would take up all of the reinforcement costs?

19 A. Well, yeah, but this somehow pushes them
20 over -- you know.

21 Q. No, I understand.

22 A. It may be hard to determine how much, but
23 they get some amount, and that's all they get on an
24 annual basis.

25 Q. All right.

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1 A. And there was no testimony that doing
2 either of these extensions pushed them beyond that
3 amount. It may -- obviously, it takes up more of
4 what they have.

5 Q. Well, then, that leads to another area of
6 inquiry, but let's stick on reinforcement costs and
7 budgets and allocations for them. Budgets are
8 general and they don't hook up case-by-case with
9 expenditures?

10 A. Correct.

11 Q. So I presume that -- I'll ask the question.
12 Would a budget or an amount allocated to
13 reinforcement costs anticipate let's say extremely
14 expensive reinforcement costs versus some kind of
15 average? That is, should it matter that there's a
16 particularly expensive project as long as there's
17 still money in that budget or, on kind of an ongoing
18 basis, the company needs to know what to anticipate
19 to put into its budget --

20 A. Right.

21 Q. -- for extensions, and so here we are kind
22 of setting the standard. Which way should it be?

23 A. Well, first, a comment on budgets. They're
24 a plan chosen by the company, and I think that one
25 might look at the -- at several telephone companies

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1 and their history and say that, at different periods,
2 they have valued different things and they have
3 budgeted accordingly.

4 We went through a period in Washington in
5 the early '90s where I believe a lot of people felt
6 that at least one company was not budgeting nearly
7 enough to reinforce its network in places even like
8 Seattle, let alone a rural area with lesser demand,
9 and now I think some people might say that that
10 particular company's plans are different and it
11 budgets more.

12 Now, what it was doing with the money when
13 it wasn't investing it in the network, I don't know
14 if it was going to profits, I don't know if it was
15 going someplace else, but -- so those are choices.
16 Just to say, Well, a company says their budget's
17 tight or their budget's this, well, that just says
18 they made a plan and --

19 Q. Well, yes, but aren't their budgets
20 appropriately pegged to what the Commission is going
21 to require?

22 A. That should be the case, yes.

23 Q. And so in this case, aren't we deciding
24 whether a quite expensive project is or isn't
25 appropriate to do?

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1 A. Yeah, I forget the exact numbers, but if
2 you do not grant this waiver, you would, in effect,
3 be sending a signal, if not something more direct
4 than a signal, that, Verizon, you need to plan to
5 spend X, you know, couple, 300,000 is the -- 309,000,
6 I guess is the reinforcement amount of the two
7 combined.

8 Q. Well, I'm looking much beyond that project.
9 If we say yes, this is a case that is not appropriate
10 for a waiver, isn't that at the same time a signal
11 that similar cases, recognizing that every case is
12 different, but the proportionality that is in this
13 case of cost to benefits dictated denying the waiver
14 in this scenario, and so that, in similar situations,
15 let's say rural extensions of few customers --

16 A. Mm-hmm.

17 Q. -- that if the case can be made that the
18 benefit cost ratio is better in those cases than this
19 case, it would be a signal that those will be
20 approved and, therefore, the company had better plan
21 that expense in its reinforcement budget. Is that
22 generally correct?

23 A. Yes, and I think it also has another
24 alternative if it is worried that that's going to
25 lead to some circumstances that does absolutely tax

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1 it, and that is to look to do what it is in the best
2 position today, which is to see if there really are a
3 number of other Timm Ranch circumstances out there
4 and come to the Commission and, based on that,
5 perhaps argue for different funding mechanisms. It
6 could ask the Commission to reconsider the
7 reinforcement.

8 I suspect that if -- if Verizon could have
9 recovered its reinforcement along with its extension
10 cost for this -- either of these, we might not be
11 sitting here. So you know, in the rule-making, Staff
12 advised --

13 Q. I'm losing my train of thought. This is my
14 problem, by the way. It's just that I can't hold
15 thoughts in my mind --

16 A. I'm sorry.

17 Q. -- through a long answer. So I just
18 appreciate short, short answers --

19 A. Okay.

20 Q. -- if possible. Where was I?

21 MR. OWENS: You were talking about sending
22 a signal by your decision in this case to people
23 about how much they would have to budget for
24 reinforcement in the future, given similar sized
25 extensions, something like that.

0630

1 Q. Oh, well, it's that -- I think partway into
2 your answer, it triggered my reaction that isn't the
3 bottom line whether other ratepayers than the
4 individual customer should pay for -- let's call them
5 expensive extensions? That is, it's either Verizon's
6 ratepayers or access charge payers or universal
7 service fund payers; is that correct?

8 A. Yes.

9 Q. So I mean, if you look backward and say is
10 there budget to do this, it's one thing. If you look
11 forward, aren't we really asking that same old
12 question, which is is this a reasonable expense, not
13 really so much for the company, but for others, all
14 of the subsidizers, if you want to call it that. Is
15 it reasonable for subsidizers to pay this expense.
16 Isn't that what we're really weighing here?

17 A. Yes, and I'm prepared and have said that,
18 in these two particular instances, I think there are
19 factors that weigh on the side of yes, it is. I'm
20 not saying that, with identical dollar amounts, one
21 might not encounter a set of circumstances where
22 conceivably the Commission would make a different
23 choice. I'm saying that the dollar amounts coupled
24 with the various other factors and all the other
25 considerations weren't a decision not for a waiver,

0631

1 but --

2 Q. All right. For you, when you add up the
3 pluses and minuses, you think that the benefits --
4 that the benefits outweigh the costs in a public
5 interest sense. Therefore, Verizon's waiver should
6 be denied; is that correct?

7 A. Yes.

8 Q. But focusing again on A, let's deal with
9 the direct cost this time, not the indirect cost. Go
10 ahead.

11 A. I'd love to take that answer that I just
12 gave and take it into subsection five of this,
13 because it's more than a simple -- my answer to your
14 question is more than a simple deny the waiver. It
15 has -- it has three parts, if you will, that I would
16 recommend.

17 Q. Well, but, actually, all I really want to
18 know is do you think Verizon should have to pay these
19 costs? Should Verizon -- should Verizon be granted a
20 waiver?

21 A. No.

22 Q. They should not be granted a waiver?

23 A. They should not be.

24 Q. Okay. Getting back, then, to the direct
25 cost, that's -- do you agree there that the more the

0632

1 direct costs are, the more difficult it becomes to
2 justify the expense, all other things being equal?

3 A. All other things being equal, and you know
4 my answer is then but I don't know that that really
5 occurs in reality, but yes.

6 Q. Do you know offhand the average loop cost
7 in zone -- in Verizon's Zone Four?

8 A. Well, I can get close to that pretty
9 quickly with the exhibit attached to my April 17th --
10 was it 131-T? It's Exhibit 133, Exhibit 133. And if
11 you turn -- the first page is just a copy of the
12 front page of 980311. Then there's an estimated cost
13 for three companies, GTE, Sprint, US West. Those are
14 statewide estimates of costs per loop. And then the
15 next page, Appendix B-1, page one, is the label at
16 the upper right-hand corner, and it has the estimated
17 cost per loop from 980311.

18 So you look at -- just picking them out
19 quickly, and I'll name only three or four ones that
20 have been discussed here. Bridgeport and Brewster
21 are next to each other, they're line nine and ten.
22 Brewster has an average cost of 43.47; Bridgeport,
23 113.43. Then let's go to Mansfield on the next page,
24 line 43, \$447.09. Mansfield is right to the south of
25 Bridgeport exchange. And then there's -- another one

0633

1 mentioned is Molson-Chesaw, 47, the cost is \$450.44.

2 And to do it properly, I suppose one would
3 do a weighted average, we'd have to look behind this
4 to the number of access lines. But you see the
5 spread and how high it gets. Remember, these are
6 averages within an exchange. So in Mansfield, there
7 could well be a line, the cost of which is seven,
8 eight, \$900 per month. And if you multiply that by
9 -- say 800 times 12, 8,000, \$9,000 in one year of
10 support for that line alone. Pretty quickly, it
11 starts looking like, in a year or two or three, you
12 have the same amount that we're talking about for the
13 Taylor.

14 Q. Okay. You've gone way beyond my question.
15 My question, perhaps it's an inappropriate question,
16 I asked about zones.

17 A. Okay.

18 Q. I asked about Verizon's loop cost in Zone
19 Four, which I think is the wholesale cost. That's
20 what -- I was referring to that.

21 A. Okay. Pardon me.

22 Q. So in other words, I assume Bridgeport and
23 Brewster are in Zone Four?

24 A. I believe so, but I am not absolutely
25 certain.

0634

1 Q. And what I was asking --

2 A. Mansfield would be.

3 Q. I was asking for what the cost -- the
4 wholesale loop cost for Zone Four is?

5 A. Because of the case with the CLEC from the
6 Wenatchee area, if you recall that, my recollection
7 is they said they were paying somewhere in the 40 or
8 \$50 per loop wholesale.

9 Q. All right. If you don't know, that's okay.

10 MS. ENDEJAN: Your Honor, I don't mean to
11 interrupt, but that cost is on file with the tariff
12 with the Commission. We can go get it, if you'd like
13 it.

14 JUDGE MACE: Or we can make a bench
15 request.

16 Q. We can find it. What I was trying to
17 figure out is whether Bridgeport and Brewster's
18 average cost, loop costs, were, you know, high or low
19 within the Zone Four average. And I might not be
20 comparing the appropriate things. What I was looking
21 at, actually, is Mr. Spinks' testimony, which is 111,
22 page four.

23 A. Somebody's going to get that for me, but go
24 ahead with your question, and I'll do my best.

25 Q. Well, it says the average loop cost in

0635

1 Brewster exchange is \$57.18 a month. Now, I don't
2 really know why it is different from the exhibit you
3 just pointed out, Exhibit 133-B, in which it says
4 43.47.

5 A. And I don't know either. The only thing I
6 can understand is he talks about Staff's original
7 calculation, and I'm not sure that, in a decision in
8 980311, the Commission accepted Staff's calculation,
9 unless it's different.

10 Q. All right.

11 A. But --

12 Q. Well, first, are these measuring --
13 purporting to measure or report the same thing? Are
14 we talking about the same thing here, average loop
15 cost in Brewster exchange, and this other one is
16 estimated cost?

17 A. But for the discrepancy, I would think so,
18 but I don't --

19 Q. Okay.

20 A. -- know.

21 Q. That's okay. All right. You would agree,
22 I think, that at least comparing the cost of this
23 loop, the Timm Ranch loop --

24 A. Yes.

25 Q. -- To the average, average --

0636

1 A. Yes.

2 Q. -- in Brewster --

3 A. Yes.

4 Q. -- the Timm Ranch is a very, very high,
5 several or many multiples of the average; is that
6 right?

7 A. I believe -- I don't know if it's multiples
8 or not. I know it's higher at -- what I'm struggling
9 with is how one goes from the cost of the loop, total
10 cost, and reduces that down to a monthly -- I mean,
11 it's not a comparison of 881,000 to 43, I don't
12 believe.

13 Q. Well, I think we learned that there --

14 A. This is the cost to operate it per month at
15 \$43.

16 Q. Okay.

17 A. It's not a one-time cost, as I understand
18 it. So you can't compare the one-time cost of
19 881,000 to 43.

20 Q. Well, maybe I just should not ask you about
21 his testimony. I think what I'm trying to get at
22 conceptually is that the -- while averages are
23 averages and can involve --

24 A. Wide dispersion from a mean.

25 Q. That this cost of the Timm Ranch would

0637

1 surely have to be on the outer edge of the bell
2 curve? But you don't know, one way or the other?

3 A. I don't absolutely know. And Staff has
4 never suggested it's somehow inexpensive.

5 Q. All right. Let's see. I'm just marching
6 through your testimony, so these questions may not be
7 logical, not that your testimony's not logical, but
8 your questions are not in any particular order. If
9 you could turn to Exhibit 131-T, page five?

10 A. Yes.

11 Q. And here you're quoting from the
12 Commission's order that authorized the rule.

13 A. Yes.

14 Q. And I'm looking at lines nine through ten,
15 which says, In many instances, there are groups of
16 people who are without service. Examples range from
17 as small as a dozen households to as large as 175.
18 Would you agree that, in this case, the number's even
19 smaller than a dozen for each location?

20 A. Yes.

21 Q. And then, on lines 18 and 20, the order
22 says that people who do not have wire line
23 connections typically have no access to wire lines --
24 wireless telecommunications, or that is not
25 sufficiently reliable.

0638

1 Do you agree that the customers in question
2 do have some degree of wireless telecommunications in
3 this case?

4 A. In the case of the Timm Ranch, I think the
5 testimony was that each and every household had
6 service from Verizon Wireless, but that none of them
7 could use it at their household. They might have to
8 drive two, three, five miles, that it varied
9 depending on the atmospheric circumstances, so --

10 Q. But didn't we get somewhat conflicting
11 testimony from the Verizon folks, I believe, the
12 witnesses, in terms of what they were able to do when
13 making a call?

14 A. Well, Verizon, in its petition for waiver,
15 said it attempted to get a cell signal at the Timm
16 Ranch, or maybe it said at the Nelson location. It
17 said a location, it was one of those two, the ranch
18 is big, but the Nelson home, and that it could not.

19 Now, to be fair, subsequently, after three
20 or four visits and putting in an antenna and a
21 particular type of service, there is -- I don't want
22 to get into hearsay. I've talked to Mr. Nelson, but
23 there is something more than driving three miles to
24 make a wireless call at his home, but there's
25 something less than always completing a call or --

0639

1 again, I'm not trying to -- I've spoken with him, but
2 if it's hearsay the Commission would like, I will
3 give hearsay, but otherwise I'll stop there.

4 Q. Is what you're saying is that the
5 communications through wireless are better today than
6 they were when you first started looking into this
7 case and the first information was taken from the
8 applicants?

9 A. Yes, but I might say they're better in a
10 way that a car that starts three or four days a week
11 is better than a car that doesn't start any day of
12 the week. That's a --

13 Q. Is that roughly the ratio, that things only
14 work three or four out of seven days?

15 A. Well, why don't I just give the hearsay and
16 you decide.

17 Q. All right.

18 A. I have spoken to Mr. Nelson and he has told
19 me that his experience has been service that comes
20 and goes by sometimes as much as not available for a
21 couple days in a row, and then available for a couple
22 days in a row, and that its quality varies from, you
23 know, fine for the length of the call to dropping
24 calls, some difficulty in hearing. That's my
25 understanding of what he told me. It is -- you know,

0640

1 he doesn't have to drive three miles on the days that
2 it works.

3 Q. All right. Could you turn to page six, the
4 next page of Exhibit --

5 A. Yes.

6 Q. -- 131? You were asked some questions
7 about your testimony about tariffs being designed to
8 discourage customers.

9 A. Yes.

10 Q. And I just wonder if you today think that
11 is the appropriate word to be using for Verizon's
12 prior tariff?

13 A. Well, I was also asked about whether or not
14 they recovered costs, and these two go together.
15 I'll be as brief as I can. I've heard you. In July
16 of 1999, Verizon put forth a tariff that would have
17 required eight customers to pay \$1,800 per tenth of a
18 mile, replacing one with \$440 per tenth of a mile,
19 based on what it said in its testimony was a
20 conservative estimate of its costs, that it needed
21 \$1,800.

22 It's not unfair for a company to seek -- to
23 recover costs, and whether or not that amount
24 discourages customers or not, if that's the cost,
25 that's the cost. But in -- it took that tariff back,

0641

1 and in November filed another tariff, a tariff that
2 only sought the same \$440 per tenth of a mile, so the
3 change was not in the rate. It backed off of what it
4 had said it needed to recover, and it only changed
5 the one-half mile allowance to one-tenth and made
6 clear that there was not pooling the way Staff had
7 perceived it in that tariff.

8 So that combination tells me that it, one,
9 wasn't going to insist on recovering its costs by
10 defending a tariff at \$1,800 per tenth of a mile, and
11 that it either was willing to live with the
12 consequences of that or believed that, even at \$440,
13 there would not be many people, nonetheless, and
14 there's testimony in Kay Ruosch, at page nine --

15 Q. Mr. Shirley, I have to say you again are
16 straying very -- I have to think you can give a more
17 concise answer to my question.

18 A. I think the December 10th -- the December
19 tariff that was allowed to go into effect, based on
20 that exchange we've all heard about, was not designed
21 to recoup costs, and that I think one could infer
22 that Verizon believed it would discourage enough
23 customers that it would not be harmed by a tariff
24 that did not recoup its costs. It, Verizon, would
25 not be harmed.

0642

1 Q. And are you saying that if a company files
2 a tariff that does recoup all of its costs, as
3 perceived by the company, that it would nevertheless
4 have an incentive or a reason to discourage
5 customers?

6 A. I'm sorry. One more time.

7 Q. Well, I mean, it seems that there are two
8 variables here. One is whether a customer does or
9 doesn't take advantage of a tariff and the other is
10 how much the company gets in that situation. And
11 depending on what the company gets, it may or may not
12 want the customer to apply, because, if the company
13 doesn't think it's getting enough, it wouldn't want
14 the customer to apply?

15 A. Correct.

16 Q. But do you think -- isn't it more a case of
17 what the company does or doesn't think recovers its
18 costs appropriately, rather than whether the customer
19 is or isn't a customer, because if the company was
20 recovering the costs that it thinks it should, why
21 would it object to having a customer? In other words
22 --

23 A. It wouldn't.

24 Q. -- isn't this really about whether cost
25 recovery is adequate; not whether people are

0643

1 discouraged or should not become customers?

2 A. I believe it -- that one could infer that
3 it believed that, by reducing the allowance from
4 one-half mile to one-tenth, but that nevertheless
5 letting the \$440 per tenth-mile recovery from the
6 customer would be in the same -- that it would --
7 that it would not be in jeopardy of losing that
8 amount of money from 440 up to 1,800, which it said
9 conservatively is what it needed to cover its cost.

10 Q. If you could turn to Exhibit 132.
11 Actually, it might be better to turn to Exhibit 138.

12 A. 138, yes.

13 Q. I think these both involve the same
14 situation, possibly.

15 A. Yes.

16 Q. In this Cedar Ponds agreement between the
17 Staff and the company, was there any adjudicatory
18 proceeding going on with respect to this issue?

19 A. No, no request for a complaint, no request
20 for suspension of tariff had occurred.

21 Q. So the Staff was not a separate party from
22 the Commission?

23 A. No, we were not. I think a docket might
24 have been opened, but that's different than a
25 proceeding.

0644

1 Q. And did I hear you earlier say that this --
2 the Staff and the company disagreed on the
3 appropriate interpretation of the prior tariff; is
4 that correct?

5 A. With respect to pooling, yes.

6 Q. But in this case, the Staff and the company
7 agreed to a project under a mechanism that was more
8 similar to what the Staff felt was appropriate under
9 the tariff than what the company interpreted it to
10 be?

11 A. Pooling, essentially the result of applying
12 the pooling and adding serial one-half miles, meant
13 that the customers would not incur any cost at \$440
14 per tenth-mile.

15 Q. But that, also, the company was careful to
16 say that it was not agreeing that the tariff would
17 require it to perform in the way that it was going to
18 perform for Cedar Ponds?

19 A. Right, that the -- right, that it would no
20 longer pool, as Staff believed it needed to under the
21 tariff that was replaced by this one.

22 Q. Okay. What -- did this matter ever come
23 before the Commissioners?

24 A. In the sense that the -- I think the open
25 meeting date was December 3rd, and the tariff was on

0645

1 the no action agenda and became effective, I believe,
2 on December 10th, 1999. What's interesting, also,
3 about this tariff --

4 Q. Actually --

5 A. Sorry.

6 Q. -- I'm more interested in whether the
7 Commissioners were consulted about this agreement or
8 the Staff's interpretation with respect to Cedar
9 Ponds?

10 A. If I get a chance to check with Dr.
11 Blackmon, I will. My recollection is that he would
12 have told the Commissioners about this, but I cannot
13 say for a certainty, and I certainly cannot say
14 exactly what he would have told you at that time.

15 Q. Do you agree that this letter, and perhaps
16 there's something that went on on the no action
17 agenda, does not constitute the Commission's approval
18 of the formula that's in this agreement?

19 A. Yeah, I agree that -- well, maybe somebody
20 could take issue with this, but it certainly is not
21 in the nature of, you know, a settlement of a case
22 where the Commissioners sign an order. In that
23 sense, no, I don't think it represents the Commission
24 itself giving its stamp of approval to the terms, the
25 trade, if you will, made in this letter.

0646

1 Q. If you could turn to page eight of Exhibit
2 134-T?

3 A. Eight of 134-T. While I do that, may I say
4 that, on the record, there was some question about
5 whether Staff believed that GTE had borne its end of
6 this bargain, even though it was not official with
7 the Commission, and it certainly did.

8 Q. Yeah, I'm looking at page eight of 134-T.

9 A. Yes.

10 Q. Lines six and seven, then also 21 and 22
11 talk about what this proceeding is about. And six
12 and seven says, The object is to determine who will
13 serve several citizens. And later, Staff is asking
14 Commission to consider requiring Qwest to serve them.

15 A. Yes.

16 Q. On six and seven, isn't -- aren't we also
17 deciding whether -- well, Verizon will serve these
18 citizens, or do you think it is simply a matter of
19 who?

20 A. No, I did not mean to suggest that the
21 Commission couldn't grant a waiver. And if I could
22 read all the pages before and after, maybe I -- but
23 it's certainly not my intention to suggest that one
24 outcome could not be a waiver and no company having
25 any obligation.

0647

1 Q. All right. And then, with respect to lines
2 21 and 22, is there a pleading in this case that is
3 asking for a boundary line adjustment or -- I am
4 aware that Qwest has -- excuse me, that Verizon has
5 requested a waiver of its obligation. Is there any
6 pleading that puts any other issue, other than issues
7 that reflect on that issue, is -- what's in front of
8 us?

9 A. Yeah.

10 Q. So far, what I know is the issue in front
11 of us is is Qwest entitled to a waiver?

12 A. Staff --

13 Q. Excuse me. Verizon. Sorry.

14 A. Staff -- at the open meeting that commenced
15 this proceeding, the waiver was filed and the
16 Commission had to deal with the waiver and we
17 recommended a proceeding, and Staff recommended
18 joining Qwest at that time. And the typical course
19 of events, if all the paperwork had been done
20 correctly, Qwest would have been served with the
21 prehearing conference order, as Verizon and Staff and
22 Public Counsel were. It was not.

23 So the first prehearing conference came, no
24 Qwest, at least not officially, and then Staff moved
25 to include Qwest. And to include Qwest for the

0648

1 purpose of asking the Commission to consider -- see,
2 at that time we knew that Qwest was in the vicinity,
3 believed that it was approximately three times closer
4 in terms of its having facilities somewhere between
5 four and a half and seven miles away, rather than 23
6 miles away, approximately, as Verizon's case. So it
7 seemed that it might be reasonable to look at whether
8 or not 80.36.230 could be used to move the boundary
9 if there were some substantial difference.

10 In other words, the object being serve the
11 Timm Ranch, do not let the existence of --
12 hypothetical. Company A is across the boundary, but
13 it would only take \$20,000 to get there. The company
14 with the obligation is \$2 million away. Do you let
15 the boundary stop service when it would only be
16 20,000 for Company A if you move the boundary or
17 direct them across or they volunteer to go across.

18 Q. I get the issue conceptually, but one way
19 is that the proceeding is whether the incumbent
20 company, whose territory the job is in, should be
21 obligated to serve, in which case it may be relevant
22 to that consideration whether there are other
23 methods, but that's not the same as a proceeding to
24 determine whether the second company or third has
25 that obligation. I'm just asking you --

0649

1 A. I think they're different questions.

2 Q. -- do we have a pleading in front of us
3 that puts directly in front of us whether Qwest is
4 obligated or can be required to change its boundary?
5 Are we in a boundary line adjustment proceeding or
6 are we in a waiver proceeding in which it may be
7 relevant that, for example, someone has cell phone
8 service or that it may be available?

9 A. I believe we're in both. I believe -- I
10 don't have the Staff motion to the Commission to join
11 Qwest in front of me, so I'm --

12 Q. All right. Oh, if you could turn to
13 Exhibit 139-T.

14 A. Yes.

15 Q. Page -- well, just a minute. Page 12,
16 lines one through four. This was the discussion we
17 had a couple times about average cost pricing.

18 A. Yeah.

19 Q. And I wondered whether the more appropriate
20 term might be socialized cost, because, to my way of
21 thinking, anyway, where a price does not include
22 certain costs and those costs are subsidized by -- in
23 a much more general way, that's what I would call
24 socialized cost. An average cost price, I think is
25 more correctly dividing the number of projects by --

0650

1 A. Right.

2 Q. -- the total cost.

3 A. I agree with you. I use this term because
4 I was thinking that we would use average cost pricing
5 to refer to the monthly rate of 12.50 for Qwest or 13
6 for Verizon. Everybody pays the same when they buy
7 the good, 500, 40 times the basic thing. So I think
8 your term is quite fine.

9 Q. Dr. Duft was the main person talking about
10 cattle ranches.

11 A. Yes.

12 Q. But does it matter what kind of activity
13 exists near residences? Or in other words, supposing
14 this weren't a cattle ranch; it was a wheat farm or a
15 fishing resort. Does the type of economic activity
16 -- the type of activity that resides or that occurs
17 somewhere make any difference in whether we should be
18 granting a waiver or not?

19 A. I think it does, because the rule speaks
20 specifically. It's -- and generally, the rule says
21 for business purposes. For example, if someone went
22 to where the Timm Ranch is and said, I want to start
23 an insurance sales company, you know, hang out my
24 shingle and sell insurance, they'd have to pay the
25 full cost of getting an extension to them.

0651

1 In the rule, in the definition of premises,
2 because, one, the obligation without a waiver is to
3 extend to a premise, meaning a residence, basically
4 means any structure that uses a residence, including
5 farmhouses. And the purpose of that, as I understood
6 it at the time the rule was adopted, to not exclude
7 farms, ranches, agriculture, because certainly they
8 are economic activities, but they are, if you will,
9 somewhat place bound.

10 The real estate agent, the insurance agent
11 might like to be off someplace, but they can do that
12 in downtown Brewster. The cows, the farming of the
13 corn and silage for the cows can't occur in downtown
14 Brewster.

15 Q. Can you just point me to that language?

16 A. Yes. On the -- the rule begins with a long
17 list of alphabetical definitions. One is premises.
18 Premises means any structure that is used as a
19 residence, including farmhouses, but does not include
20 predominantly commercial or industrial structures.

21 The reason for that second clause is let's
22 say you have a gas station out at the junction, you
23 want to build a gas station out of the junction and
24 you're going to put an apartment upstairs, and then
25 call and say, Well, I want a line extension to my

0652

1 residence. Well, I think the company could rightly
2 say no. That apartment is just part of a
3 predominantly commercial or industrial -- commercial
4 structure in the case of a gas station, mini mart,
5 out of the junction.

6 Q. All right. But is it a preference for the
7 business of farming or is it a recognition that
8 people live in residences on farms?

9 A. I think sort of two ways of saying the same
10 thing.

11 Q. Okay.

12 A. But certainly the latter, that farmhouses
13 are going to be -- likely be farther from the nearest
14 neighbor than other types of housing might be, and
15 almost necessarily so in some instances.

16 Q. All right. I'd like to ask you some
17 questions about Dr. Danner's comments on your
18 testimony.

19 A. Okay.

20 Q. I assume you took a pretty close look at
21 that?

22 A. Well, yeah, a long time ago, but I'll do
23 it.

24 Q. In a way, he's cross-examining you, or
25 maybe I'm using his comments as a cross-examination

0653

1 --

2 A. Yeah.

3 Q. -- question.

4 A. I don't have numbers marked on his, so if
5 you can identify as either his direct or his reply or
6 by date.

7 Q. All right. Well, here's one that's not too
8 direct, but it is a little. Let's see. This is in
9 -- it's Exhibit 7-T, which is KR7-T. Does that help
10 you?

11 JUDGE MACE: That's a Ruosch exhibit.

12 THE WITNESS: What date of testimony?

13 CHAIRWOMAN SHOWALTER: Oh, this is Kay
14 Ruosch, I'm sorry. Is that right?

15 THE WITNESS: I examined that, too.

16 Q. Well, let's look at that one. It's KR7-T,
17 page 16.

18 A. Is that her reply or her direct?

19 Q. It's reply.

20 A. Okay. Yes, I've got it.

21 Q. This page in general prompted my question
22 about whether -- if a waiver is appropriate, it would
23 be appropriate to have some allowance for the
24 customer beyond which the customer pays, or I think
25 Dr. Danner had suggested some kind of sharing.

0654

1 But, in essence, the question is if we find
2 -- if we find a waiver is justified, that is, the
3 whole amount is too high, what are our options?
4 Would one of them be, yeah, the whole amount is too
5 high, so therefore Verizon should pay only so much,
6 the customer should pay the other amount?

7 A. I don't know if that's an option for you or
8 not. I can say that I prepared this case in response
9 to a petition that I understand to ask for a waiver
10 that says, if granted, Verizon doesn't have to do it,
11 even if a customer comes up with hundreds of
12 thousands of dollars.

13 Q. But you don't think that we would have the
14 right to say granted on condition that Verizon pay
15 \$5,000?

16 A. I would say that if you do that, you would
17 be doing it in a proceeding in which at least one
18 party didn't ever address that or consider that in
19 preparing and presenting testimony and exhibits.

20 Q. All right. If you could turn to Dr.
21 Danner's reply testimony, and that's Exhibit 32-T.

22 A. Yes.

23 Q. And it's page 11.

24 A. Page 11.

25 Q. Yeah. And the question and answer begins

0655

1 on line 15, and I'll just let you read the question
2 and answer, and also the next question and answer.
3 And I really just want your reaction to his critique
4 of your statements. And maybe if you'd begin with
5 the first question first and the second question
6 second.

7 A. Okay. The first question. Well, I note
8 that his very last sentence is -- very last two,
9 where he says, Contrary to Mr. Shirley, I find it
10 striking that the addition of a handful of telephone
11 lines could increase per-customer cost by ten to 20
12 percent in exchanges of that size. To me, that
13 suggests the added cost would be large.

14 It would be -- would have been much better
15 if he'd gone on to do more than suggest, but he
16 didn't. In any event, to get to your real question,
17 the point I'm trying -- I was trying to make and to
18 which he responded is that we do socialize telephone
19 service clearly for some 400,000 residential
20 customers and 35,000 business customers in
21 Washington. I'm leaving aside, you know, whether or
22 not somebody who pays, you know, 12.50 is getting \$15
23 worth of service. I'm talking about where the
24 Commission has determined, under 980311, that there's
25 a high cost location by exchange and said, you know,

0656

1 extra money goes there through terminating access.
2 That's done for approximately 400,000 residences and
3 35,000 businesses, and it's done on an average basis,
4 as we discussed earlier. Those exchanges, on the
5 averages, go from as little as 30 or \$40 up to as
6 high as 450 in cost.

7 And so that I do not think that if you take
8 the Bridgeport exchange, which my recollection of
9 cost is \$113.33, as determined by 980311, that if,
10 for example, the Timm and Taylor extensions had been
11 built in the past and were included at the time, all
12 those calculations were made that led to a
13 determination of the average cost in Bridgeport, and
14 instead of being \$113.33, it had been 10 or 20
15 percent larger. Let's take 20 percent. So that's --
16 it would be something like a \$140 on average.

17 Well, if you compare that on that list,
18 there are a whole lot of exchanges where the average
19 cost that is supported today by terminating access is
20 considerably in excess of \$140 average cost per
21 month, per loop, in an exchange like Mansfield,
22 Molson-Chesaw -- it's a long list.

23 Q. All right. So the -- which is to say that
24 increasing Bridgeport's average by 20 percent still
25 doesn't get you to the average of -- name me one --

0657

1 Chesaw?

2 A. Mansfield, right next door, \$447.

3 Q. All right. But the cost of this particular
4 project is multiples above the average of both
5 Bridgeport and Mansfield; am I right there?

6 A. Again, remember that 447 cost is per loop,
7 per month, on average, and if you do the
8 multiplication and you figure -- I think what one
9 would do, I'm -- Mr. Spinks would have helped on
10 this, but, you know, I think you then have to look
11 over a 30-year, you know, some period of time that
12 that loop works and see how much there is. And
13 perhaps more importantly, the relevant calculation
14 would be to go back and try and find not the average,
15 which we have, but the most expensive one in the
16 dispersion, and say, you know, which could be 600,
17 800, 1,000, 12 -- you know. If most are clustered
18 around a mean and there's only one out there --

19 Q. Well, if there is one out there, would we
20 have any way of knowing whether it was built under
21 the prior extension rule and the customer incurred a
22 substantially higher portion of the cost?

23 A. That's a very good question, that's a very
24 good question, and I do not know that we would know
25 that.

0658

1 Q. All right. What about the second question
2 here on page 12, line six?

3 A. Well, that is a calculation that assumes
4 that the contribution only comes from Verizon
5 customers. In other words, it's dividing, I believe,
6 1.2 million by the number of Verizon customers. And
7 the actual contribution is, in the first instance,
8 working back from the company by access payers, long
9 distance companies, who then, of course, pass some or
10 all of that onto their ratepayers, and those
11 ratepayers might be anyone who makes an intrastate
12 long distance call that terminates on a Verizon
13 access line.

14 Q. Okay. Could you turn to exhibit -- well,
15 I'll just -- I'll point you to the question.

16 A. Okay.

17 Q. But it's not really so much a comment on
18 testimony as when I happen to think of a question to
19 ask Mr. Shirley. And it is Exhibit 61-T, which is
20 the rebuttal testimony of Hubbard.

21 A. Oh, my. Okay. I may have that in this
22 book. He submitted December 20th, and sometime in
23 June or July.

24 Q. July 5th.

25 A. Okay.

0659

1 Q. It's RJH-1T.

2 A. July 5th.

3 Q. It's page 13.

4 A. Yes.

5 Q. And I'm looking at line ten.

6 A. Yes.

7 Q. Which is his point that other necessary
8 projects would not be financed in order that this
9 type of design could be built. Actually, to tell you
10 the truth, I'm not sure the exact context of the
11 question, of that sentence. What I want to get at is
12 opportunity cost.

13 A. Yes.

14 Q. Should it matter to us that this same
15 amount of money might be spent on other elements of a
16 network that would have better benefit cost ratio or
17 benefit more people? Is that a legitimate thing to
18 consider?

19 A. I think that, yes, I think it's certainly
20 something the Commission can consider, and this is in
21 the context of Qwest crossing its boundary, the
22 boundary that normally -- not normally, but does
23 define, subject to any change required by order or
24 law, where it would plan to serve.

25 And so if the Commission were to order

0660

1 Qwest to change its boundary to include the Timm
2 Ranch and then directed to do so, I believe what he's
3 saying is that, because it had never planned to go
4 there because this house is in Verizon's territory,
5 that all of its plans in existence, of course, would
6 be to serve people in its current territory, so this
7 would conceivably, I guess, trump one of
8 those. That's what I think it means.

9 CHAIRWOMAN SHOWALTER: Thank you. I have
10 no further questions.

11 THE WITNESS: Thank you.

12 JUDGE MACE: Commissioner Hemstad.

13

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

15 BY COMMISSIONER HEMSTAD:

16 Q. I think Chairwoman Showalter has either
17 asked directly or cut across several questions that I
18 was going to pursue, which I now won't. I'm still a
19 bit unclear about the issue of reinforcement costs.
20 And your statements are clear that, by the rule
21 itself, they would be excluded. Is that because it's
22 not a direct cost?

23 A. Yes. Well, yes.

24 Q. But the --

25 A. The rule on the first page in the list of

0661

1 definitions has a cost of service extension, and it
2 specifically says, And does not include the cost of
3 reinforcement, network upgrade, or similar costs.

4 Q. Okay. I guess that's quite explicit. But
5 then, I think later, you or others, I think you
6 testified here or in your written testimony -- this
7 was with regard to Qwest, said it was within the
8 discretion of the Commission to allow the cost to be
9 recovered?

10 A. Yes, I did.

11 Q. And how do you get there?

12 A. Well, I get there because I think if the
13 Commission were to direct Qwest to go to a location
14 that it would not have otherwise planned to go, that
15 then it's not any different than when, either
16 voluntarily or at the direction of the Commission, as
17 has happened in the CenturyTel at Libby Creek, sort
18 of kicked all this off. They went to an area that no
19 company, including their own, had an obligation to go
20 to. It existed outside any exchange boundary. And
21 at that time, the Commission determined that it was
22 appropriate to let it recover its reinforcement
23 costs, because it would have never planned to go
24 there.

25 Inside an exchange, our view is that --

0662

1 let's take a simple one, you know, not the Timm
2 Ranch, but just a house three-tenths of a mile down
3 the road, where development's sort of been going on,
4 that a company should expect to go there as part of
5 -- it knows it needs to have enough cable capacity to
6 do extensions in areas within its boundaries, within
7 the boundaries of its exchange. So I think Qwest
8 would be, like CenturyTel, going to someplace it had
9 not planned to go.

10 Q. And on the other hand, Verizon is not in
11 that category, because this is within its exchange
12 where it has an obligation to serve?

13 A. Correct.

14 Q. Okay. Changing the subject to the Taylor
15 residence, somewhere in your testimony I believe you
16 state the total amount that she pays per year for
17 wireless costs. And as I recall, it's something like
18 \$5,000 a year; is that --

19 A. Something like that.

20 Q. And that was after excluding her costs for
21 business services in the Coulee Dam?

22 A. Yes.

23 Q. Is -- or should it be a relevant factor for
24 us to consider, assuming wireless service were
25 otherwise thought to be acceptable, relative costs

0663

1 between that and what she would pay for wire line
2 service?

3 A. I believe that that's appropriate. I think
4 the rule itself points in that direction and that the
5 federal law certainly takes the Commission there. 47
6 USC 254(b).

7 Q. But does that -- what are the implications
8 of that? Does that mean that whenever the average or
9 socialized cost for wire line is lower than what it
10 would be for wireless, that wire line gets the short
11 straw?

12 A. I don't know if I would have used short
13 straw, but I understand your question. The set of
14 circumstances today are wire line companies have
15 means of recovering their investment, and I do not
16 believe they get the short straw.

17 Q. And I'm --

18 A. I'm not saying there's not an expenditure,
19 but I do not believe they get the short straw. I
20 think, in fact, in a number of tariff filings to
21 recoup these extension investments, including the
22 Verizon one from May, cost of money is included, a
23 variety of things that are expenses associated with
24 this -- with these endeavors. So I do not believe
25 they get the short straw.

0664

1 Q. I'm sorry. I shouldn't have used that
2 phrase. I probably should have said obligation.

3 A. Okay.

4 MS. ENDEJAN: We support that definition,
5 Your Honor.

6 COMMISSIONER HEMSTAD: I was trying to be
7 cute, I guess.

8 MS. ENDEJAN: Works for me.

9 Q. All right. My last area of inquiry, I want
10 to try to sort out a bit here what is in front of us,
11 at least from the Staff's perspective. In your
12 answers earlier, it's Staff's position that the
13 petition for waiver should be denied?

14 A. Correct.

15 Q. But I think you, in response to question
16 from counsel, said that your preferred solution would
17 be that the service be provided either by Qwest or
18 CenturyTel; is that accurate?

19 A. No, that's not. And if I misspoke or
20 unintentionally led you to that conclusion -- what I
21 believe our ultimate recommendation is is that the
22 Commission should determine that the residents of the
23 Timm Ranch area and the residents of Taylor locations
24 should be served. And in particular, with regard to
25 the Timm Ranch, the onus, if you will, should be on

0665

1 Verizon.

2 However, subsection five of the rule
3 contemplates companies trading obligations, if you
4 will, where one just happens to be closer to
5 customers that are some other company's obligation,
6 and in another location that other company, you know,
7 Company B, if you will, doesn't have the obligation,
8 but is closer to Company A's customers.

9 Now, those trades might not be always be,
10 you know, dollar-for-dollar, equal. One can imagine,
11 you know, three miles here and four miles there, but
12 still, you know, the unobligated -- or the obligated
13 company would have to go 10 or 12. They can trade
14 dollars, they can make a deal that the next time one
15 of these situations comes around, they'll, you know,
16 step up to the mark.

17 So what I was attempting to say about
18 CenturyTel and Verizon is that -- or CenturyTel and
19 Qwest is that, under that recommendation, yes, the
20 onus is on Verizon, but it could go to both Qwest and
21 CenturyTel and say, You know, this might be a
22 situation where, instead of us going 23-plus miles,
23 one of you do it. Under subsection five, you can
24 recoup your extension costs through terminating
25 access, the same as if you were doing an extension

0666

1 you're obligated to do, and either immediately or in
2 the future, when you're in the same situation and we
3 can help out, we'll do it, or maybe a trade cash kind
4 of -- one is the player to be named later and the
5 other one is swapped Joe for Bill and a million
6 dollars, \$100,000, whatever.

7 So that's how I get to Century and Qwest
8 might or might not. They might refuse, and then
9 Verizon's on the hook. The alternative, and I think
10 it's second best, is to, you know, find that the
11 Qwest is closer and it's less expensive and it's more
12 efficient to use your powers to move the boundary,
13 but I -- I think the Commission can encourage a great
14 deal more efficiency, including without these
15 proceedings, if it points companies to subsection
16 five.

17 I spoke with Mr. Spinks this morning. He
18 tells me, prior to the 1996 Act, that kind of
19 cooperation, in his view, was, in his word, common.
20 You had a -- at your open meeting on Wednesday,
21 Michelle and --

22 MS. ENDEJAN: Your Honor, with all due
23 respect, Mr. Spinks (sic) is going off on -- I have
24 no idea what tangent, but he is talking about hearsay
25 from Mr. Spinks about a subject that isn't at issue

0667

1 in this proceeding, about situations and conditions
2 predating 1996, and I'd move to strike this from the
3 record. It's not responsive to your question and
4 it's really irrelevant and it's hearsay.

5 JUDGE MACE: Well, it's Commissioner
6 Hemstad's question and --

7 MS. ENDEJAN: It's the answer I'm worried
8 about, Your Honor.

9 JUDGE MACE: Yes, I understand that.

10 COMMISSIONER HEMSTAD: I'm satisfied with
11 the answer. And the fact the reference is hearsay, I
12 don't think prevents him from making the comment, but
13 let me go on.

14 THE WITNESS: Please.

15 Q. And we really are at the point of my next
16 question, and it really is back to the question that
17 the Chair asked. Quite narrowly, what is in front of
18 us, I think everybody would agree, we have a petition
19 here for waiver. But you also said that we have in
20 front of us the issue of the boundary line adjustment
21 proceeding. Now, maybe this a question that really
22 ultimately needs to be addressed with counsel, but --

23 MR. TRAUTMAN: Would you like --

24 COMMISSIONER HEMSTAD: Apparently, it's the
25 Staff position that, whether or not there was an

0668

1 actual pleading for it, I take it that Qwest has been
2 sufficiently put on notice so it has actual notice
3 that that's what this is about?

4 MR. TRAUTMAN: May I respond, Commissioner?

5 COMMISSIONER HEMSTAD: Okay. Sure. But I
6 mean, I -- at this point, I am really quite unclear
7 as to the scope of this proceeding. Is it the waiver
8 issue only or is it that, plus a boundary line
9 proceeding as sort of an interpleader kind of
10 proceeding?

11 CHAIRWOMAN SHOWALTER: I'm going to jump in
12 here, because I think I asked some questions -- and
13 it may be that this really is a legal argument, not
14 one for testimony. But I will say I'm looking at the
15 third supplemental order, which is our order dated
16 May 31st, 2002, and there's a fair amount of
17 discussion about the issue. But what seems to me to
18 be the order itself is paragraph 28, and I think the
19 critical sentence is, While it is not clear whether
20 -- I better read -- I'm sorry, I better read the
21 whole paragraph. It says, The Commission agrees that
22 Qwest should be joined as a party to this proceeding.
23 The Commission has authority under RCW 80.36.230 to
24 prescribe exchange area boundaries for
25 telecommunications companies. And here's the

0669

1 sentence: While it is not clear whether and how this
2 authority should be invoked in this proceeding, Qwest
3 has a significant stake in the outcome, since it
4 bears a common exchange boundary with Verizon near
5 the Timm Ranch. And it then goes on, then says,
6 Thus, to protect its interests under Civil Rule 19,
7 Qwest is properly made a party to this proceeding.

8 MR. TRAUTMAN: Well, and also in paragraph
9 29, it then later says, In order for us to best
10 exercise our general regulatory authority -- then I'm
11 skipping -- and determining whether we should alter
12 exchange boundaries to facilitate that service, it
13 requires the formation of a complete factual record,
14 as well as legal argument from all interested
15 persons, including Qwest.

16 I mean, we've -- Staff clearly read this as
17 contemplating that one outcome might be that the
18 Commission might determine to alter the exchange
19 boundary. It might not. It might determine, as it
20 indicates, while it's not clear whether this
21 authority will be invoked, perhaps it won't. Perhaps
22 the Commission would determine not to. But we
23 clearly felt the issue was raised, and the testimony
24 of Qwest has clearly been directed to that end of
25 whether they should be obligated to serve.

0670

1 CHAIRWOMAN SHOWALTER: I'm not reaching a
2 conclusion. All I'm saying is this alone, I think,
3 really says Qwest is an interested party in this
4 proceeding. We don't know what is going to develop.
5 But I will just put out there, without an answer, the
6 issue of whether there has been any formal request of
7 the type that puts Qwest on notice of a boundary line
8 adjustment change? Maybe the yes, maybe no, but I'm
9 not confident at this moment. I think it is clearly
10 -- was a potential that the case that the Staff
11 alluded to at the beginning, and therefore that was
12 one of the reasons that Qwest would be a necessary
13 party or an interested party, but --

14 MR. TRAUTMAN: Staff clearly believed that
15 the Commission put this issue at issue, so to speak,
16 in this case.

17 MR. OWENS: You haven't asked me for an
18 answer, but I'd be glad to state Qwest's position.

19 CHAIRWOMAN SHOWALTER: Since we're having a
20 legal interlude here, you might as well.

21 MR. OWENS: Well, Qwest's position is that
22 there has not been a pleading sufficient to give you
23 jurisdiction to change Qwest's boundary, and Qwest
24 hasn't received notice of any allegations of facts
25 that would put Qwest on notice of the claims it's

0671

1 required to defend against in order to avoid such a
2 change in its boundary.

3 COMMISSIONER HEMSTAD: The question I would
4 have is did Qwest, in any event, prepare its case
5 with that possibility in mind?

6 MR. OWENS: Qwest prepared its case based
7 on the statement in the third supplemental order that
8 the Commission didn't know how its power could be
9 exercised in this case. Qwest attempted, through
10 discovery and through reading the Staff's testimony,
11 to find out how the Staff, which was the only
12 proponent in the case of changing Qwest's boundary,
13 thought that the power could be exercised. And Qwest
14 responded as best it could to the vague and
15 indefinite and equivocal statements that it saw in
16 those responses and testimony as best it could. So
17 it is essentially defending itself against perhaps a
18 shadow case in some ways.

19 We've heard Mr. Shirley state that, at some
20 point, we will see the Staff's ultimate
21 recommendation on this issue, but at least here, on
22 the last day of hearing, I haven't seen it.

23 COMMISSIONER HEMSTAD: Well, then there's
24 an additional issue that Mr. Shirley has referenced,
25 and it has perhaps come up in other contexts, too,

0672

1 that, again, without making any comment on the
2 merits, but asserting that CenturyTel is the
3 potentially additional possibly preferred company to
4 provide service, but, of course, they're not a party
5 to this proceeding at all. Any comment on that from
6 counsel?

7 MR. TRAUTMAN: I -- yes, I did not -- I was
8 not aware that that was one of the relief that we had
9 been seeking.

10 COMMISSIONER HEMSTAD: I understand, but I
11 say the testimony here suggests that that is --
12 again, I don't wish to make any inference on the
13 merits of it, but that CenturyTel is a shadow party
14 that probably should have been here if this was going
15 to be kind of a three-ring circus kind of
16 environment.

17 MR. TRAUTMAN: If we had made -- if Staff
18 had made a recommendation to alter the exchange
19 boundary or to require CenturyTel to serve, I would
20 agree, but I don't -- but with Qwest, I do not agree
21 that Qwest has not been put on notice that there is
22 -- that there were arguments that one possible remedy
23 would be to alter the exchange boundary and that they
24 would be required to serve. I think that's clearly
25 been the case.

0673

1 CHAIRWOMAN SHOWALTER: Do we have in front
2 of us at this moment a either petition, paper, or a
3 firm recommendation that Qwest's boundary be changed?
4 Is that --

5 MR. TRAUTMAN: Well --

6 CHAIRWOMAN SHOWALTER: Has somebody
7 actually -- some party actually proposed it so that
8 it can be defended against?

9 THE WITNESS: I could answer that. Would
10 you like me to, or should I butt out?

11 MR. TRAUTMAN: It was -- it was Staff's
12 belief that there was no need for an additional
13 pleading upon reading the third supplemental order,
14 which, if the issue was not to be raised and not to
15 be considered, we did not believe that the order
16 would have been written in the way that it was. And
17 the way it was written indicated that, to say that
18 the authority to change the boundary, you have the
19 authority to change the boundary. You may. You may
20 determine, under the facts of the case, that you
21 should not. But to say that the fact that it may be
22 exercised seems to put the issue in -- seems to
23 clearly raise the issue. It would not seem to
24 require some additional pleading on the part of Staff
25 to raise the issue.

0674

1 CHAIRWOMAN SHOWALTER: Well, I guess the
2 question I have is we -- the possibility, I guess you
3 would say, of Qwest providing the service was raised
4 by Staff. We did say we have authority to change
5 boundaries. We asserted that. That's not the same
6 as saying that statute has been invoked and is in
7 front of us or a petition is in front of us in this
8 proceeding.

9 So the question is, really, in this
10 proceeding, has a petition or other recommendation
11 been made to us such that were we to grant this
12 request, if it exists, Qwest would have been put on
13 sufficient notice of the nature of this proceeding
14 that it would not have an appealable issue should we
15 grant that request. At least that's how I would
16 think of it.

17 MR. TRAUTMAN: Staff believes yes. And in
18 fact, Qwest provided testimony on why they shouldn't
19 be -- why the boundaries shouldn't be changed. They
20 directly responded to the issue. I understand -- I
21 understand the questions regarding CenturyTel.

22 MR. HARLOW: Your Honor, perhaps I could
23 weigh in before Mr. Owens?

24 JUDGE MACE: Go ahead, Mr. Harlow.

25 MR. HARLOW: I don't want our silence to be

0675

1 construed as acquiescence or waiver. We've noted
2 internally, not before the Commission, that there are
3 potential issues under the APA, and I have in mind
4 RCW 34.05.434, which has specific provisions
5 regarding adequacy of notice of the hearing. And
6 without getting into the question of whether a
7 supplemental order that isn't denominated notice of
8 hearing can qualify, RCC frankly had -- has had some
9 confusion about what its role in this docket would
10 be, and we were brought in under another supplemental
11 order, which is the fifth supplemental order, and
12 it's not clear there.

13 It seems to suggest that -- there sure
14 doesn't seem to be any indication that RCC was joined
15 in this proceeding for purposes of granting any
16 relief against it, if you will, as opposed to just
17 having the opportunity to get factual input from RCC.
18 Of course, we don't know at this point whether the
19 Commission's considering that kind of relief.

20 So we haven't made a final determination
21 whether to raise that notice issue in the briefing or
22 not. Probably will, just to preserve it for purposes
23 of appeal, but obviously we hope the Commission
24 doesn't want to go there for reasons unrelated to the
25 notice, since, after all, we can cure that by simply

0676

1 bringing another case.

2 CHAIRWOMAN SHOWALTER: I will say that
3 there is an order that we issued recently where Qwest
4 was the petitioner to us, and it had to do with when
5 in a proceeding you can migrate over to another
6 issue. I'm not saying it's directly on point, but
7 it's something that I think I'll go look at, because
8 it discusses when notice is adequate and when it
9 isn't under the APA.

10 MR. HARLOW: But simply my point is, you
11 know, we're going to wait and see, but we certainly
12 aren't conceding that notice has been given to RCC.
13 And I'll let Qwest speak for itself whether it feels
14 it had adequate notice, and relief might be against
15 RCC, some affirmative relief.

16 CHAIRWOMAN SHOWALTER: I just want to say,
17 the only motions I know of are motions to join
18 somebody as a party. Or is there a motion to change
19 a boundary?

20 MR. TRAUTMAN: That may be. I would point
21 out, though, that, first, Staff did not move to join
22 RCC. Staff did move to join Qwest with a particular
23 purpose, and that particular motion, as you pointed
24 out, was addressed in the third supplemental order.
25 I don't have the one addressing RCC, but the one

0677

1 pertaining to Qwest was in the third supplemental
2 order, and I do not necessarily believe that the two
3 motions should be treated -- or the way they were
4 resolved necessarily should need to be treated the
5 same. I guess what I'm saying is, I think in the
6 case of Qwest, I think they clearly have been put on
7 notice.

8 MR. OWENS: Well, since Mr. Trautman's
9 gotten two bites at that apple, may I respond? Qwest
10 points out, I think as Chairwoman Showalter alluded
11 to, that part of fundamental due process is not just
12 telling someone that something may happen as a result
13 of a proceeding, but also telling that respondent in
14 this case the grounds on which that relief might be
15 granted so that the respondent has a chance to put on
16 evidence to say why that relief should not be
17 granted.

18 And I submit to you that if you examine the
19 Staff's case from beginning to end, you will not find
20 a -- what you said, a clear statement or a petition
21 for the relief of changing Qwest's boundaries. The
22 closest that you can come to that is Mr. Shirley's
23 testimony that was filed, I believe, in September, in
24 which he states that pending testimony by RCC, he
25 might make a recommendation to change Qwest's

0678

1 boundary, depending on the relationship of the cost
2 that Qwest would incur to serve the Timm Ranch
3 compared to the cost Verizon would incur.

4 You can examine his testimony after RCC
5 submitted its evidence in vain for any recommendation
6 to change Qwest's boundary in this matter. And
7 you've heard him say on the witness stand that
8 changing Qwest's boundary might be the second or
9 third preference of the Staff. He didn't say what
10 the first was or under what conditions that second or
11 third preference might be the recommendation.

12 And this is what I alluded to earlier, that
13 we have struggled through, since we were made a party
14 to this case, to find out what the basis is that the
15 Staff thinks this power under Section 230 should be
16 exercised. And we think that it's fundamental that,
17 since the legislature didn't put any standards in
18 that statute for you to exercise that power, there
19 has to be -- if this is going to be an adjudication,
20 there has to be some notice of the grounds on which
21 you would exercise that power for us to respond.

22 CHAIRWOMAN SHOWALTER: So just if, in your
23 view, if we decided for some reason to grant
24 Verizon's waiver, the most we might do is to initiate
25 another proceeding that might propose a boundary

0679

1 change for Qwest or CenturyTel or -- basically, that
2 would be step two, not step one --

3 MR. OWENS: Yes.

4 CHAIRWOMAN SHOWALTER: -- in this
5 proceeding?

6 MR. OWENS: Yes, Madam Chairwoman.

7 CHAIRWOMAN SHOWALTER: Well, this was just
8 a little lawyers commercial, but I think it is fair
9 -- Mr. Shirley wanted to say where he thinks the
10 recommendation is, and why don't we wrap up this
11 topic with that.

12 THE WITNESS: Yes, thank you. Our first
13 recommendation --

14 CHAIRWOMAN SHOWALTER: Well --

15 THE WITNESS: Our recommendation is --

16 CHAIRWOMAN SHOWALTER: I don't want you to
17 testify right now. The issue is where in the
18 testimony would there be anything, either a pleading
19 or a motion or a recommendation that would have --
20 that gets at this suggestion that Qwest's boundary be
21 changed?

22 THE WITNESS: Just prior to when this
23 started, I answered Commissioner Hemstad's question,
24 and I thought I said Staff's primary recommendation
25 is, and I said it. And earlier, at least once that

0680

1 was I think misunderstood by, with all due respect,
2 that I didn't make myself clear to Commissioner
3 Hemstad two hours ago, and then he asked me -- one of
4 his first questions was what was I really saying
5 about CenturyTel and Qwest, and I said that, Well, if
6 you take our primary recommendation, it would be --
7 let's just talk about the Timm area. I want to talk
8 about Timm, you know, that -- to say the Commission
9 expects Timm Ranch residents to be served, the onus
10 is on Verizon, but they may turn to any company they
11 want -- could be RCC, I suppose -- but certainly, in
12 terms of wire line, they might turn to Qwest or
13 CenturyTel using subsection five of the rule, which,
14 what it allows -- of course, a company can build
15 where it wants, but the question is would this
16 Commission give it terminating access if it goes
17 someplace where it does not have an obligation.

18 And what subsection five says is the
19 Commission will treat you like any other company with
20 an obligation, whether it's to go three-tenths of a
21 mile or 20 miles in your exchange. If you cross a
22 boundary because that's less expensive than having
23 the otherwise obligated company do it, in this case,
24 23 miles, that you'll get your terminating access --

25 CHAIRWOMAN SHOWALTER: All right. Now --

0681

1 THE WITNESS: -- for the extension.

2

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

4 BY CHAIRWOMAN SHOWALTER:

5 Q. Subsection five of the rule --

6 A. Yes.

7 Q. -- beginning with 5-A, refers to willing
8 companies?

9 A. Yes, exactly.

10 Q. A company that is willing. I'm assuming in
11 this case that Qwest is not willing. And so how does
12 this sub five even pertain to this situation at hand?

13 A. If you were to take our recommendation, the
14 case would be over, Verizon would be on the hook, but
15 they can turn to Qwest, as they already have once, or
16 to Century, or perhaps to some other company, and
17 say, We're on the hook for this and we'd have to go
18 23 miles, and that's pretty expensive, and we think
19 you could do it cheaper, Century, you could do it
20 cheaper, Qwest, and oh, by the way, perhaps there's a
21 place elsewhere that, you know, you're far away, but
22 you have the obligation and we just happen to be
23 closer --

24 Q. All right. I understand that. Aren't you
25 talking about, then, the end of this proceeding would

0682

1 be no waiver for Verizon, at which point they go off
2 and negotiate with willing parties?

3 A. Right.

4 Q. So aren't we all -- it sounded to me as if
5 we're now agreed that we would not, in this
6 proceeding, based on anyone's recommendation, anyway,
7 come out with a boundary line change for Qwest?

8 A. I guess I would say, and I know you're not
9 going to do this, if for some reason you didn't want
10 to put the burden on Verizon, we would say, Well,
11 then, please change the -- in other words, have the
12 Timm Ranch served. I understand that that's not
13 going to happen and that -- that is, that I don't
14 think the Commission is going to do that.

15 Q. Well, not in this --

16 A. Certainly if it doesn't think it has the
17 legal ability to do it.

18 COMMISSIONER HEMSTAD: I have a procedural
19 recommendation with regard to the legal stuff again.
20 At this point, would it be most appropriate not to
21 have simultaneous briefs filed, but for Staff to file
22 an opening -- file their closing brief and stating
23 their position as to what they think is the
24 procedural environment and what is their
25 recommendation for the Commission to act, and then

0683

1 allow the other parties to respond to that, rather
2 than just having simultaneous briefs? Because I
3 don't see how we're going to get the issues joined
4 here.

5 CHAIRWOMAN SHOWALTER: What do we do about
6 -- this is Verizon's petition.

7 MR. OWENS: I don't mean to make this more
8 complicated than it has to be, but based on Mr.
9 Shirley's statement just this past moment, Qwest
10 moves to vacate the third supplemental order and the
11 fifth supplemental order on the basis that, based on
12 the Staff's testimony, they were improvidently
13 entered, that neither RCC nor Qwest should be parties
14 to this case, because you can't determine whether
15 you, according to the Staff, are going to consider
16 changing Qwest's boundary until you decide whether or
17 not you're going to grant Verizon relief, and that is
18 what we suggested in our opposition to the Staff's
19 motion in the first place.

20 You didn't rule with Qwest's position at
21 that time. Qwest, having been improvidently joined,
22 it follows inexorably that Qwest's motion to have RCC
23 joined should follow the same path.

24 CHAIRWOMAN SHOWALTER: Well, that -- we
25 would probably need to hear from others on that

0684

1 motion, but I'm wondering if we should address all of
2 this procedural stuff at another time so that we can
3 get done with the testimony.

4 MR. OWENS: Very well. I just wanted to
5 put it on the record, Madam Chairwoman.

6 CHAIRWOMAN SHOWALTER: This is what happens
7 when you keep the lawyers shut up for too long. They
8 just have to burst out with --

9 COMMISSIONER HEMSTAD: I was completed with
10 my questions to Mr. Shirley, and Commissioner Oshie
11 may have some.

12

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

14 BY COMMISSIONER OSHIE:

15 Q. I'll just kind of take the end position
16 here. Mr. Shirley, I want to inquire a bit about a
17 line of questioning that the Chair had addressed and
18 others, and that is at what amount would Staff
19 believe that Qwest -- or that Verizon's petition to
20 waive its obligation under the rule would be granted.

21 By my calculation, at least in its rough,
22 that, at the Timm Ranch, at least, under the cost
23 that had been proposed by Verizon, that we have
24 approximately \$175,000 of cost per customer to extend
25 service to that particular individual there.

0685

1 Now, Staff's recommendation under those
2 circumstances is that Verizon's request for a waiver
3 should be denied. And I guess I'm surprised that in
4 some of your answers to the Chair's question that you
5 didn't have an upper limit as to where Staff would
6 believe that that -- that the price was just too high
7 to extend service to the Timm Ranch. And I'm willing
8 to go, you know, in an auction-like fashion. Is it
9 at 200,000, is it at 225, is it at 250? Where would
10 it end to where Staff would say, based on the
11 analysis that's been completed by you, Mr. Shirley,
12 where would Staff believe the cost to be just too
13 high to extend service to -- let's use, for example,
14 the Timm Ranch?

15 A. The reason why Staff did not state an upper
16 limit is that is for the same reason that the rule
17 does not state an upper limit. As I indicated, I
18 think that looking at one factor and one factor only
19 is not the way to reach the conclusion under the
20 waiver provision.

21 Q. Well, I guess what I'm asking you to do is,
22 looking at all the factors that you've considered,
23 now give weight to the cost. At what point do you
24 give -- is the cost dispositive in your analysis, or
25 is it ever?

0686

1 A. I would say that cost alone is not. I
2 think if the -- if there is a cost alone, then the
3 proper way to tell companies and customers is to have
4 a rule that says no matter what else there is to
5 consider, if it's more than X -- but let me also tell
6 you why, for policy reason, I think stating such a
7 thing as cost alone, and let's say --

8 Q. Well --

9 CHAIRWOMAN SHOWALTER: I don't think that
10 was his question.

11 Q. No, that's not my question. It's not cost
12 alone; it's that you've done the analysis for the
13 Timm Ranch, at least?

14 A. Yes.

15 Q. Let's use that as an example. And based on
16 all consideration of all the elements that are
17 contained in the rule that deal with what the
18 Commission should consider before granting a waiver,
19 Staff, or at least you have concluded that cost as at
20 least a piece of that analysis of \$175,000 per
21 customer is at least, under these circumstances,
22 reasonable. Now, at what point would it not be
23 reasonable?

24 CHAIRWOMAN SHOWALTER: Supposing it cost a
25 hundred million dollars to serve the Timm Ranch.

0687

1 Would you say, in all circumstances the same, but it
2 was going to cost a hundred million dollars, would
3 you say that we should grant Qwest a waiver --
4 Verizon a waiver?

5 THE WITNESS: You may wonder why I'm
6 pausing so long. I think a hundred million is too
7 much, and if you take it down a dollar at a time, I
8 don't know where I stop. I have to say that we
9 calculate the amount differently. Calculate the
10 amount from -- starting with 737 and --

11 Q. Well, I guess -- I don't mean -- I should
12 let you finish, Mr. Shirley, but I'm not -- Staff's
13 figures and Verizon's figures are really not relevant
14 to the question. It's what would the upper limit be;
15 not that you have a difference of opinion as to what
16 the cost may be for that particular line extension.
17 If you don't know, you just --

18 A. I think I don't know.

19 Q. -- don't know.

20 A. I think I don't know. I really do.

21 Q. Okay. Let me move on to another area, and
22 that is, I guess, again, doing some rough
23 calculations, the reinforcement cost for Verizon for
24 the Timm Ranch is \$143,000, and for the Taylor line
25 extension is \$164,000?

0688

1 A. Yes.

2 Q. It's approximately three hundred and --

3 A. Nine.

4 Q. Three hundred and nine. And my question to
5 you is, considering that that would come from the
6 capital budget of Verizon, those funds, is it Staff's
7 -- and is it your belief that this is the best use of
8 those monies and whether -- and this is -- I believe
9 this line of questioning's already been pursued, but
10 whether those monies wouldn't be better used to
11 reinforce the network in other areas to serve more
12 people?

13 A. I think this is an appropriate use of
14 \$309,000, under the circumstances in which Verizon,
15 in my opinion, has not said that anything in
16 particular will go begging. Now, in other words, I
17 do not know where they would put that \$309,000, and I
18 do not know whether it would, in fact, be spent on
19 the network or become -- go to the shareholders, or
20 some third option.

21 Q. I take it from your answer that you believe
22 that there's more than enough money to reinforce the
23 network and -- including the Timm and Taylor line
24 extensions?

25 A. Yes. From the testimony I've heard, I've

0689

1 read, that's my conclusion.

2 Q. One final question is that if the
3 Commission were to grant Verizon's request to waive
4 the obligation under the rule, are we, as the
5 Commission, discriminating against the Timm and
6 Taylor applicants, given the fact that other line
7 extension applicants have received as much as \$49,000
8 per customer under the rule, and Timm and Taylor, if
9 the waiver is granted, would get zero?

10 A. I think that's an important consideration
11 and I think we will be able to demonstrate in our
12 brief that some have received as much as in excess of
13 a hundred thousand. And that 49,000, I think we'll
14 be able to demonstrate, is only the direct cost and
15 there are indirect costs recovered and it's more -- I
16 think we will point to the \$90,000 that exists on the
17 -- I thought I had it here -- that list from Qwest
18 for one customer. And that is, particularly in terms
19 of the Taylors, that's in excess of the 50 to 60,000.

20 And again, we would actually divide by six,
21 not by three. There are three homes. Granted, they
22 didn't -- maybe wisely they didn't ask for service.
23 They would have been part of this. But the testimony
24 was that Verizon would put the equipment out there to
25 provision for six, so we would divide the number by

0690

1 six.

2 COMMISSIONER OSHIE: No further questions.

3 CHAIRWOMAN SHOWALTER: I have a follow-up

4 on that one.

5

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

7 BY CHAIRWOMAN SHOWALTER:

8 Q. Just to be clear, the customers in those
9 other situations didn't receive \$100,000; they
10 received telephone service?

11 A. Telephone service, yes.

12 Q. That cost \$100,000 or more?

13 A. More per customer, yes.

14 Q. All right. And one other follow-up
15 question. You mentioned the Telecom Act a couple of
16 times, the provision that says people are entitled to
17 reasonably comparable service at reasonably
18 comparable prices. In your opinion, does that
19 entitle individual customers -- all individual
20 customers to the same type of service for the same
21 type of cost?

22 A. Reasonably comparable? I'm -- I always
23 hesitate to go to extremes, so to say every one --

24 Q. That is my question.

25 A. Yeah. I think it's sufficient if --

0691

1 everyone.

2 Q. In other words, does it give rise to an
3 individual entitlement to receive reasonably
4 comparable service at reasonably comparable prices
5 for each individual?

6 A. I think that all citizens should reasonably
7 expect that that's the goal of the activities of the
8 Commission and the FCC, and whether it happens today
9 or tomorrow or the next day for an individual, I
10 think there's room, you know, for that. And then,
11 ultimately, I don't think we can say we live in a
12 world of absolutes, so I guess I think somebody might
13 get left out. Arguably, the low-income person who,
14 you know, manages to flunk out of the WTAP program at
15 \$4 a month, even --

16 JUDGE MACE: At the what program?

17 THE WITNESS: WTAP program, winds up
18 without service.

19 Q. What about people who live in remote or
20 secluded areas, for whom it is extremely expensive to
21 bring service? Do you think those people are
22 entitled to service under the federal Telecom Act?
23 And not as a group, but I mean as each individual?

24 A. As -- I would say that they are not
25 entitled, in the sense that they can walk in and say

0692

1 do it now. I think they are entitled to believe that
2 the policies of the FCC and the WUTC are going to go
3 in that direction, and I don't know if one ever
4 achieves universality.

5 CHAIRWOMAN SHOWALTER: Thank you. Let's
6 try and finish him.

7 MS. ENDEJAN: Yeah. Unfortunately, I
8 apologize, but in light of the line of questioning, I
9 do have some substantial re-cross in light of some of
10 Mr. Shirley's answers to the Commissioners and the
11 Chairwoman's questions.

12 CHAIRWOMAN SHOWALTER: Well, we better take
13 a little check. Do we need a little break? Phone
14 calls home?

15 MR. TRAUTMAN: Yeah, I need a little --
16 yes, a little break.

17 (Recess taken.)

18 JUDGE MACE: Go ahead, Ms. Endejan.

19 MS. ENDEJAN: Thank you.

20

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

22 BY MS. ENDEJAN:

23 Q. Mr. Shirley, I want to ask you some
24 questions to follow up on the questions asked to --

25 MR. TRAUTMAN: Your Honor, do we do

0693

1 redirect or do we do re-cross?

2 JUDGE MACE: Well, I think these questions
3 pertain to the Commissioners' questions, and I will
4 give you, then, an opportunity to redirect on all of
5 it.

6 Q. Okay. Let me just immediately jump to the
7 questions that related to Verizon's budget and budget
8 process, because you were asked about that.

9 A. Yes.

10 Q. Now, you seem to profess a knowledge of
11 Verizon's budget-making process in your responses to
12 some of Chairwoman Showalter's questions, and my
13 question for you is what is -- where do you know how
14 Verizon sets its construction budget, or do you?

15 A. I do not.

16 Q. Okay. Would you --

17 A. My answers earlier were sufficient.

18 Q. Okay. And would you assume with me,
19 subject to check, that Verizon's capital construction
20 budgets are finite and don't differentiate between
21 construction costs for reinforcements versus regular
22 construction costs for line -- I'm sorry. Let me
23 strike that.

24 Would you assume, subject to check, that
25 Verizon sets a finite budget amount for capital

0694

1 construction costs for a district, and that capital
2 construction cost does not differentiate between line
3 extensions and other costs that would be covered by
4 capital construction? So in other words, it's just
5 one budget for capital construction?

6 A. If you say --

7 MR. TRAUTMAN: Objection. Are you stating
8 that as a fact or are you asking whether that is his
9 opinion?

10 MS. ENDEJAN: I asked him subject to check,
11 if he would accept that as a true statement.

12 MR. TRAUTMAN: All right, all right.

13 THE WITNESS: And this question left out
14 the notion that it's finite.

15 Q. All right. We'll break it down. There's
16 just one capital construction budget that does not
17 differentiate between line extensions and other
18 capital construction costs.

19 A. That's fine. If you -- if that's how
20 Verizon does it.

21 Q. And do you know if Verizon's capital
22 construction budgets are set on an annual basis?

23 A. I believe I have read that.

24 Q. Okay. And do you have Ms. Ruosch's
25 testimony, which is Exhibit 1, in front of you? If

0695

1 not --

2 A. Her direct or reply?

3 Q. It's her direct testimony, marked 6.

4 A. Yes. What page?

5 Q. Page nine.

6 A. Yes.

7 Q. Do you see there Ms. Ruosch has testified
8 that the estimated costs to serve the eight
9 applicants involved here would amount to 40 percent
10 of the 2002 construction budget for the entire
11 district?

12 A. I see she said that.

13 Q. Okay. Now, you also, in response to some
14 questions about reinforcement costs, I believe you
15 speculated that if Verizon doesn't use some monies
16 that are intended to come to it for reinforcement
17 costs, that somehow that money might become earnings.
18 That was, I believe, what you said in response to a
19 question from Ms. -- from Chairwoman Showalter. Do
20 you remember that?

21 A. Yes, in the same way that there's no
22 specific, you know, rate for, say, the CEO's salary,
23 reinforcement -- you know, it's not like a Verizon
24 customer writes a \$12 check for everything but
25 reinforcement and a \$1 check for the reinforcement,

0696

1 and that equals 13. It comes out of your rates.

2 Q. Okay. Are you --

3 A. Or earnings.

4 Q. Are you aware of Verizon's earnings
5 situation in Washington?

6 A. I heard Dr. Danner say that Verizon has
7 said that it's earning -- help me.

8 Q. Well, would you again accept, subject to
9 check, that its latest results of operation reported
10 to the Commission reported an intrastate earnings
11 level of under two percent?

12 A. I believe that's what Dr. Danner said. I
13 also believe that Commission Staff has advised you to
14 file a rate case. Verizon, not you.

15 Q. So Verizon isn't in a situation in
16 Washington State, given that earnings picture, to --
17 strike that.

18 Given that earnings situation in
19 Washington, wouldn't you agree that Verizon has to
20 watch its construction budget very tightly, try to
21 manage it to the best level possible?

22 A. Well, I'm also aware from the New York
23 Times that the vice chairman of the company earned 78
24 million over the last -- I think it was three years.

25 MS. ENDEJAN: Well, Your Honor, I'd move to

0697

1 strike that. That is completely nonresponsive to my
2 question.

3 THE WITNESS: I have as much knowledge as
4 --

5 JUDGE MACE: Just a moment, Mr. Shirley.
6 We have to deal with the objection.

7 MS. ENDEJAN: He didn't answer the question
8 and, when he did, it was nonresponsive.

9 JUDGE MACE: Mr. Trautman.

10 MR. TRAUTMAN: Well, I believe he responded
11 to the question.

12 JUDGE MACE: I'm going to strike the
13 response that had to do -- the part of the response
14 that had to do with the CEO compensation. That's not
15 responsive to the question.

16 MS. ENDEJAN: Thank you.

17 THE WITNESS: May -- I thought that was my
18 total answer.

19 MS. ENDEJAN: He didn't give a yes or a no,
20 actually.

21 JUDGE MACE: Let's go back to the question,
22 then.

23 Q. My question was, given the earnings
24 situation of Verizon in Washington State, wouldn't
25 you agree that the company -- it's incumbent upon the

0698

1 company to manage its capital investment wisely in
2 this state?

3 A. Without agreeing to what the earnings
4 situation is, I would say any company, in any
5 business, whether it feels flush or not, must pay
6 attention to those things.

7 Q. From your testimony -- and I couldn't tell,
8 Mr. Shirley. Is it your position that Verizon has
9 unlimited capital resources and that if unanticipated
10 expenses like the Timm Ranch line extension crops up,
11 that somehow, somewhere, it will come up with the
12 money? Is that your view?

13 A. No.

14 Q. Then, in other words, you do admit that
15 there's some finite boundary of the company's capital
16 budget that it should be expected to apply in a
17 state?

18 A. No, not its capital budget. There's some
19 finite limit to its earnings and shareholder
20 contribution, et cetera, but a capital budget is a
21 plan that Ms. Ruosch's 40 percent, if someone in New
22 York says slash that budget by half, then the 40
23 percent becomes 80. If someone in New York says,
24 quadruple that budget, then 40 percent becomes ten
25 percent.

0699

1 Q. Okay. Now, Mr. Shirley, you've never been
2 involved with the capital budgeting process for
3 Verizon, you've just stated, so what -- your last
4 answer to my question was sheer speculation on your
5 part, wasn't it, because you don't know?

6 A. I know --

7 Q. Yes or no?

8 A. No.

9 MR. TRAUTMAN: Objection, argumentative.

10 THE WITNESS: It doesn't come down from --

11 JUDGE MACE: We have an objection.

12 MS. ENDEJAN: Your Honor, this is --

13 JUDGE MACE: It's made after the answer to
14 the question, I think.

15 MR. TRAUTMAN: I object to the
16 argumentative line of questioning of counsel.

17 MS. ENDEJAN: Well, Your Honor, with all
18 due respect, given the answers that are coming that
19 are subject to challenge, I am left with no option
20 but to test the basis for the witness' statements.

21 JUDGE MACE: On the one hand, I don't want
22 to preclude your questions. On the other hand, you
23 do have a statement from Mr. Shirley in the record
24 that he doesn't -- he's not familiar with the
25 budgeting process at Verizon.

0700

1 MS. ENDEJAN: Okay. I'll move on.

2 Q. Chairwoman Showalter asked you some
3 questions about the tariffs in 1999, and you spoke
4 about an interim tariff where Verizon sought to
5 recover \$1,800 per tenth of a mile. Do you remember
6 that?

7 A. Yes.

8 Q. And they withdraw that and replaced it with
9 another one?

10 A. Yes.

11 Q. And all of that activity in approximately
12 1999, that was occurring at the same time that the
13 line extension rule-making was ongoing, wasn't it?

14 A. The line extension rule-making started, I
15 believe, November 17th, 1999.

16 Q. Okay. But it was in 1999 and then 2000;
17 correct?

18 A. Correct.

19 Q. Okay. And the \$1,800 per tenth-mile tariff
20 met with some resistance from Staff when Verizon
21 proposed it; isn't that true?

22 A. Yes, that was also a tariff that reduced
23 the allowance in the pooling. It was a combination.

24 Q. Okay. You were asked some questions about
25 whether or not it's a relevant factor to consider the

0701

1 farming operations at the Timm Ranch. Do you recall
2 that line of questioning?

3 A. Sort of.

4 Q. Okay. And is it your testimony that
5 somehow farming and ranching commercial operations
6 are exempt from the requirement that businesses
7 should pay for line extension rates?

8 A. No, it's my testimony that a request for an
9 extension to a farmhouse is the same as a request to
10 a premise, if you will, a standard single family
11 home.

12 Q. But if the farmhouse is used as a place to
13 conduct the commercial operations of the business,
14 that, in effect, changes the character from one of
15 pure residential; wouldn't you agree?

16 A. While that may be true, I do not read the
17 rule to convert a farmhouse in that circumstance to
18 the mom and pop grocery store that I described in my
19 earlier -- you know, with an apartment up above that
20 I described earlier.

21 Q. Okay. You were also asked some questions
22 about I guess Docket UT-980311(a), and whether or not
23 we socialize the provision of telephone service in
24 Washington through the fund set up as a result of
25 that docket. Do you remember that?

0702

1 A. Yes.

2 Q. Now, let me break it down, if I can,
3 briefly. In that docket, what happened was the
4 access charges of the ILECs got split into two to
5 separate out from the terminating access part a
6 portion that you might deem pure subsidy, because it
7 was above cost. Would you agree with me that that
8 was what happened in that docket?

9 A. I stated earlier, in response to what I
10 thought was an earlier identical question, that the
11 result is that there's now an explicit terminating
12 access charge for explicit universal service.

13 Q. And --

14 A. And I have not testified about whether
15 something was split or not.

16 Q. Okay. But the purpose of the new explicit,
17 what you call universal service charge was to replace
18 the revenues that had previously come from a larger
19 terminating access charge; isn't that true?

20 A. What I know is it's there to make it
21 explicit, that the act 254(e), I'm going to say, says
22 explicit, and that that's what the Commission did.

23 Q. Okay. But the Commission, in effect,
24 didn't create a state universal service fund by doing
25 that, did it?

0703

1 A. In the sense of there's not a pool of money
2 that comes from all and then is redistributed;
3 correct.

4 Q. Well, the Commission couldn't establish a
5 state universal service fund by Washington law, isn't
6 that true, without legislative authorization?

7 A. I think that's what 83.6.610 limits, only
8 that.

9 Q. Okay. Would your position on whether RCC
10 or any other wireless ETC -- I don't want to pick on
11 RCC, but would your position on them change if the
12 wireless ETC could recover from a state universal
13 service fund, say to serve Timm Ranch, to the same
14 extent that Verizon could?

15 A. That would certainly be a significant
16 change. If you ask me a question, I'll answer it,
17 but I'm not going to say that tips me over some
18 border, but that would be a very significant
19 difference other than the current circumstances, I
20 believe.

21 Q. Okay. Commissioner Hemstad asked you some
22 questions about reinforcement costs.

23 A. Yes.

24 Q. And the rule does not define reinforcement
25 costs or costs of reinforcement; isn't that true?

0704

1 A. Correct.

2 Q. Okay. And you were asked some questions
3 about, you know, why you would recommend that Qwest
4 be allowed recovery of its reinforcement costs, but
5 Verizon would not. Do you remember that?

6 A. Correct.

7 Q. Okay. And I believe you said that, for
8 Qwest, it was because they would be forced to go to a
9 location where they would not have planned to go.
10 Remember that?

11 A. Correct.

12 Q. Now, what about a situation like Verizon,
13 where it's forced to go where its reasonable planning
14 forecasts tell it it shouldn't be going?

15 A. Well --

16 Q. Isn't that, in a sense, the similar sort of
17 situation that Qwest is being forced to do, because
18 Verizon would not have normally, in the normal course
19 of its business operations, gone out 23 miles from
20 the end of its network to serve the Timm Ranch?

21 A. I think that companies should forecast for
22 extensions.

23 Q. So you -- it's your testimony, then, that
24 it was reasonably -- that Verizon could reasonably
25 have anticipated an order from phone service from

0705

1 initially one applicant 23 miles from the end of its
2 last facility?

3 A. Well, it had already heard from that
4 applicant in 1983. And I want to go to Verizon's
5 response to Staff Data Request Number 43, and I'm
6 afraid I don't have exhibit numbers for things. I
7 believe we put this in. I hope we did. I'll pause.

8 MS. ENDEJAN: Counsel, do you know what
9 that would be?

10 MR. TRAUTMAN: It would be 189.

11 THE WITNESS: Exhibit 189, in response to
12 DR 16, Verizon supplied a network gain forecast for
13 Bridgeport. Does that document have a row in which
14 forecasted line extensions would appear if any had
15 been forecasted? The response, No. My point is
16 that, to the extent you have a planning process, you
17 don't even have a category for extensions.

18 Q. However, but, Mr. Shirley, do you know if
19 the concept of line extensions is, in a sense,
20 subsumed in forecasts for primary residential? In
21 other words, line growth may be characterized by a
22 different line item and recognized in residential
23 primary?

24 A. In which case I'm looking at Staff Data
25 Request Number 15, and then -- I don't have an

0706

1 exhibit number.

2 Q. I don't, either.

3 A. Well, let me just try and answer the
4 question, so we can all move on. Excuse me.

5 Q. Right.

6 A. I do not know if it is or is not. My basic
7 position is companies should forecast for extensions.
8 They go on all the time. They predate rules and acts
9 and different rules and different tariffs and --

10 Q. Is it then your theory that somehow
11 telephone companies are supposed to go out and survey
12 and contact every possible customer that might be in
13 their district in order to reasonably forecast line
14 extensions?

15 A. I think that's one way a company could
16 approach it.

17 Q. Do you know if any company -- any telephone
18 company on the face of the earth today does that?

19 A. I do not.

20 Q. Now, on the issue, again, of reinforcement
21 costs, there appears to be some confusion about the
22 source of where Verizon theoretically is to have
23 recovered the \$309,000 of reinforcement costs at
24 issue. Do you recall some questioning from
25 Chairwoman Showalter about that?

0707

1 A. Yes.

2 Q. Okay. Now, and I believe the basis for
3 that -- is it your understanding that Verizon has
4 already somehow received the \$309,000 in
5 reinforcement costs from some unspecified rates in
6 prior years?

7 A. Yes, it's my testimony that the present
8 rate structure includes sufficient funds for
9 reinforcement network upgrades and similar costs, and
10 that would be true if there were not any extensions.
11 It would need that and Verizon collects that every
12 month. It also -- there's the fill factor in the
13 universal service. And I read that, so I won't go
14 into it again.

15 Q. What specific rate is designed to recover
16 these costs?

17 MR. TRAUTMAN: Objection. That's been
18 asked and answered long ago.

19 MS. ENDEJAN: No, I don't believe this one
20 particularly has, Your Honor.

21 THE WITNESS: Three words, local service
22 rate.

23 MS. ENDEJAN: Okay.

24 JUDGE MACE: Look, when there's an
25 objection, I know we're well along here, but it may

0708

1 be important for us to deal with that objection and
2 it would be helpful if you didn't respond until we
3 dealt with it.

4 THE WITNESS: I'm sorry, Your Honor.

5 Q. Okay. So you're talking about, okay, the
6 local service rate. Mr. Shirley, are you aware that
7 local service rates are set based upon, say, actual
8 numbers, actual expenses and revenues incurred?

9 A. Yes.

10 Q. Okay. And local service rates themselves
11 are not set based upon recovering costs that they
12 have not yet incurred to date. Are you aware of that
13 fact?

14 A. I don't think I agree with that
15 characterization. I don't think a Commission sets a
16 local service rate on one day only to believe that
17 the company, the following day, will have such
18 different expenses facing it that that rate is going
19 to be insufficient. Yes, there's a lot of backward
20 looking, but implicit in it is an assumption that
21 this will get you through for some period of time,
22 and then, quite likely, there will be another rate
23 case some day.

24 Q. Did Docket UT-980311(a) create any new --
25 any new specific rate element to provide cost

0709

1 recovery for reinforcement costs? And that calls for
2 a yes or no answer.

3 A. Yes.

4 Q. What was that rate element?

5 A. It's -- well, you call it the ITAC, and the
6 part that provides reinforcement is the fill factor.
7 It's for growth. That's what reinforcement is for,
8 is to keep the network growing, whether it's by
9 extensions or downtown Everett.

10 Q. Okay. So it's your position that, somehow
11 or other, the reinforcement costs are recovered by
12 both local service rates and the ITAC? Is that your
13 testimony?

14 A. I believe so, yes.

15 Q. Okay. And the revenues from both the ITAC
16 and local service rates are supposed to cover all of
17 the reinforcement costs for the entire Verizon
18 network, isn't -- wouldn't you agree that that would
19 be what would be anticipated?

20 A. Unless I've failed to identify some other
21 rates you have that, again, were developed through
22 Commission processes with the idea that they would
23 cover a wide array of expenses, from the CEO down to
24 the janitor, including reinforcement of the network.

25 Q. But there's no general sort of line item or

0710

1 pot of money that flows directly from ITAC or local
2 phone service rates that would be applied directly to
3 network reinforcements; right?

4 A. Just as there's not one that's denominated
5 pay this rate to pay the CEO's salary, to pay Joan
6 Gage's salary, et cetera.

7 Q. So you don't know if the money that Verizon
8 theoretically gets from the ITAC or local service
9 rates for reinforcement, if those funds have been
10 depleted or spent already on projects in connection
11 with reasonably anticipated demand. You don't know
12 that, do you?

13 A. Well, I think I know there hasn't been
14 testimony provided by Verizon that says it has spent
15 every last nickel --

16 Q. That -- excuse me.

17 A. -- for reinforcement that it has earned.

18 MS. ENDEJAN: Your Honor, that was not an
19 answer to the question. If you could perhaps have
20 the court reporter restate the question?

21 JUDGE MACE: All right. Let's have the
22 question reread, if you can find it.

23 (Record read back.)

24 JUDGE MACE: So the question is you don't
25 know that, do you?

0711

1 THE WITNESS: I think I do know, and I
2 think that that would have been in Verizon's
3 testimony front and center if that was the case and
4 they could demonstrate it, so I don't think they have
5 spent every nickel.

6 MS. ENDEJAN: I have nothing further.

7 JUDGE MACE: Mr. Owens, anything?

8 MR. OWENS: A brief question or two, Your
9 Honor. Thank you.

10

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

12 BY MR. OWENS:

13 Q. Mr. Shirley, you answered a question
14 concerning the companies should forecast demand for
15 extensions. And would you agree with me that the
16 Commission substantially changed the perceived price
17 to the end user of extensions by adopting the rule
18 effective in early 2001?

19 A. It certainly changed it, and in some of
20 those cases it would be substantial, yes.

21 Q. And according to Verizon's testimony, that
22 had a very significant impact on the incidence of
23 demand for extensions; is that true?

24 A. If that's their testimony, I --

25 Q. The testimony?

0712

1 A. Yeah, right, the number went up, I think it
2 was 85; correct.

3 Q. Do you think such a significant change in
4 demand would make it difficult to successfully
5 forecast specific locations where you would
6 experience requests for line extensions?

7 A. I don't know that it would.

8 Q. That's fine. The Chairwoman asked you a
9 few questions trying to get a grip on the
10 relationship of the cost of the extensions at issue
11 in this case to some other data, such as the -- I
12 think you said the monthly support amount for the
13 Mansfield exchange, was it \$444; is that right?

14 A. Well, the cost is 447.

15 Q. Four-forty-seven.

16 A. The support amount is probably \$31 lower
17 than that.

18 Q. All right. Let's deal with the cost.
19 Would you agree with me that that monthly amount
20 would translate into an annual figure somewhere in
21 the neighborhood of \$5,200?

22 A. At this hour, I will.

23 Q. Okay. And just from an economic
24 standpoint, could you agree with me that you could
25 get a rough idea of the magnitude of the investment

0713

1 necessary to produce a recovery amount of \$5,200 by
2 using a capitalization rate, dividing that amount by
3 the cap rate?

4 A. I'm not sure I understand the question.

5 Q. Well, if you had an investment and it
6 required a payment of \$5,200 to support it, you would
7 try to figure out what the interest rate or
8 capitalization rate necessary to produce that payment
9 was, and then you could calculate or estimate the
10 investment amount, couldn't you?

11 A. Maybe it's the capitalization rate is the
12 term I'm having trouble with. If you had to meet a
13 \$5,200 obligation, I guess you'd have to figure out
14 how to earn 5,200. Is that the answer?

15 Q. No, I'm saying if \$5,200, let's say, were
16 the interest, you could figure out at what interest
17 rate you were paying. If you knew that, you could
18 also figure out the principal that would be needed or
19 would generate that interest payment; correct?

20 A. Oh, yeah, some principal times some
21 interest rate yields \$5,200.

22 Q. Right.

23 A. Sorry.

24 Q. Let's say -- just assume an interest rate
25 of ten percent, you could, just for rough purposes,

0714

1 translate that \$5,200 into a \$52,000 investment.

2 Would you agree with that?

3 A. The math sounds right.

4 Q. Okay. And directing attention now to

5 Exhibit 75, which was introduced by the Staff.

6 JUDGE MACE: Is that a Hubbard exhibit?

7 MR. OWENS: It was a cross exhibit for Mr.

8 Hubbard, yes, Your Honor. Thank you.

9 MR. TRAUTMAN: Is that the table?

10 MR. OWENS: Yes, that's the table; correct.

11 THE WITNESS: I'm not sure I have that.

12 I'm sorry.

13 MR. TRAUTMAN: I have one that doesn't have

14 the links, but are you asking about --

15 MR. OWENS: Yeah, the links aren't

16 important.

17 THE WITNESS: Oh, okay. Now I know what

18 you're talking about. I'm sorry.

19 Q. And I think there was another question.

20 Did you have any idea how these extensions, the costs

21 of them related to the average extension? And would

22 you agree that you could perform a calculation by

23 looking at the total recovery, which on this exhibit

24 is 337,557?

25 A. Mm-hmm.

0715

1 Q. And that does not include the reinforcement
2 the way it's calculated; right?

3 A. With the exception of one job, I think it
4 says these are all without reinforcement.

5 Q. Right, and the reinforcement is backed out
6 of the number that's in the total; right?

7 A. If that's the way you prepared it.

8 Q. Well, just for purpose of getting an idea
9 --

10 A. Sure.

11 Q. And can you accept there are 20 jobs on
12 this page?

13 A. If you say 20, yes.

14 Q. Okay. So if you divided the 337,000 by 20,
15 you'd come up with something in the neighborhood of
16 18,000 per job; correct?

17 A. Okay.

18 Q. Okay. So that would give the Commission
19 just a rough idea of, compared to what Qwest's total
20 jobs in 2001 that would meet the parameters of the
21 rule, these two extensions' relationship to that;
22 correct?

23 A. If this is your total jobs. I thought we
24 asked for the top 12 by length.

25 Q. You asked for the top 12, but I believe you

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1 got 20 jobs, which were everything that was in 2001.

2 A. Okay. If --

3 Q. And so could you accept roughly that the
4 Timm Ranch extension is about 40 times larger than
5 the average for 2001?

6 A. And that's 40 times what number?

7 Q. Eighteen thousand?

8 A. Two, four, six, eight -- well, the Timm
9 Ranch is 881,000, minus -- and without reinforcement,
10 it's 737,000. That sounds in the ballpark.

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

12 JUDGE MACE: Mr. Harlow.

13 MR. HARLOW: Nothing further, Your Honor.

14 JUDGE MACE: Mr. Trautman.

15 MR. TRAUTMAN: I just had a few questions.

16

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

18 BY MR. TRAUTMAN:

19 Q. Following up on some questions that were
20 asked, I believe now, quite a long time ago, Ms.
21 Endejan had asked you how a wire line phone would
22 help Mr. Nelson, and you had indicated that Mr.
23 Nelson had said that it would help him in his
24 business better. I believe you wanted to indicate
25 some other reasons. What other reasons might there

0717

1 be?

2 A. Correct. I think I was told that he said
3 that in his deposition. The other things that I
4 wanted to add are that it would allow him to keep in
5 touch with family on a consistent basis without
6 concern about whether or not it would work,
7 participate in his community. We had an exhibit
8 here, you saw that co-op board. He could participate
9 in any number of things. He could no doubt save a
10 lot of time in any circumstances where he makes a
11 call into town and learns something is cancelled or
12 that the hardware store doesn't have what he needs.

13 So there's -- in other words, all the
14 things that 95 percent-plus Washingtonians have with
15 wire line service.

16 Q. And Ms. Endejan also directed you to the
17 pictures of the Taylor location in asking you about
18 their remoteness, I believe was her language. Now,
19 is there anything else you would like to point out in
20 these pictures in that regard?

21 A. Yes, I would, and very quickly. I'm
22 looking at Exhibit 12-B, B, as in boy, and then I'll
23 go to 12-D, D, as in dog. I want to point out in
24 each of them that you can see some cultivated ground.
25 One of the things that I learned on my second visit

0718

1 to the Taylor location, this was the visit in the
2 spring instead of the near winter, is how much of the
3 area along Highway 17 from Bridgeport leading out to
4 the turn-off at Hayes Road is cultivated. In other
5 words, I wanted to, you know, back to how come there
6 aren't, you know, lots and lots of houses nearby so
7 that the unit cost is lower. Well, there are
8 different land use patterns, and I wanted to point
9 that out. Thank you.

10 Q. And Mr. Owens had asked you some questions
11 about Exhibit 541, which was your May 1998 memo on
12 unserved areas?

13 A. Yes.

14 Q. Do you recall that? Has this memo or has
15 the information or the advice in that ever been
16 adopted by the Commission?

17 A. No, it has not. And in fact, it was not
18 approved by the Assistant Attorney General's office.
19 It doesn't appear on letterhead and it's never been
20 accepted -- well, the one purpose for which it's been
21 accepted has always been humbling.

22 MR. TRAUTMAN: On that note, I have no
23 further questions.

24 CHAIRWOMAN SHOWALTER: Note.

25 JUDGE MACE: Commissioners, anything

0719

1 further? Anything further on behalf of the parties?
2 I think we need to -- there's two outstanding things.
3 One of them is there's two remaining exhibits that
4 have been marked with regard to Mr. Shirley, 591 and
5 592, and then we also need to discuss a briefing
6 schedule.

7 MR. HARLOW: Your Honor, I'm sorry, but
8 what are 591 and 592?

9 JUDGE MACE: 591 and 592 are two documents
10 that Mr. Trautman presented to me to be marked, and I
11 believe that they are responses to Staff data
12 requests. And I believe he should have distributed
13 copies to all the parties.

14 MR. HARLOW: I do have copies. I just
15 wasn't sure --

16 JUDGE MACE: 110 is 591 and 111 is 592.

17 MR. HARLOW: Thank you for the
18 clarification.

19 MR. TRAUTMAN: Yes, I had intended to bring
20 these in through Ms. Ruosch, but, unfortunately, she
21 isn't here at the time that I located these. I
22 believe -- I had believed that yesterday I -- we'd
23 had an agreement, I had believed, with Verizon's
24 counsel to stipulate to these, although I understand
25 that that may not be the case now. And I'm aware of

0720

1 the discussions that have taken place regarding
2 Turtle Lake and as far as Qwest serving across in
3 another exchange. We do believe that these exhibits
4 are relevant to the issue of cross exchange service,
5 and we would move for --

6 JUDGE MACE: Any objection to the admission
7 of proposed 591 and 592?

8 MR. OWENS: Yes.

9 MS. ENDEJAN: Yes, Your Honor. I hate to
10 do this late at night, but -- and I do apologize to
11 Mr. Trautman, because he did show me these. I didn't
12 know really what they were about, but -- and I may
13 have given him the impression that, because other
14 Verizon responses to data requests, not a problem.
15 And so I apologize for giving the impression that I
16 was stipulating to something which I really didn't
17 give full consideration to.

18 Upon full consideration and after the
19 discussion yesterday wherein Mr. -- there was some
20 questioning relating to Turtle Lake of I believe a
21 Qwest witness. Mr. Owens objected and the
22 Commissioners sustained those objections, I believe
23 on the grounds that the issue of the discussion of
24 the swap, potential swap of Turtle Lake with other
25 areas really is not germane to the issues in this

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1 case, and are, in fact, quite irrelevant to the
2 issues in this case. So accordingly, on that basis,
3 we do oppose their entry into the record.

4 MR. OWENS: I won't belabor the point other
5 than to say I wasn't party to any discussions about a
6 stipulation, and Qwest objects on the same ground
7 that we objected to the examination yesterday of a
8 Qwest witness about this same subject. And we
9 believed the Commission sustained the objection and
10 would rely on that for this ruling.

11 JUDGE MACE: Based on the arguments I've
12 heard from Ms. Endejan and Mr. Owens, we will not
13 admit these exhibits. Thank you, Mr. Shirley.
14 You're excused.

15 THE WITNESS: Thank you.

16 JUDGE MACE: We need to discuss the
17 briefing schedule at this point.

18 CHAIRWOMAN SHOWALTER: Oh, I was going to
19 -- what I wonder is if this would be better handled
20 with a teleconference call at some point. It's
21 really not up to us. We can just leave. But I just
22 wonder, given all the stuff that's been raised and
23 the legal issues, if people shouldn't think about how
24 to join the various issues and through what kind of
25 briefing schedule and maybe hash that through and let

0722

1 us figure that out based on that call or maybe you'll
2 come to an agreement. Maybe you're ready to talk
3 about it now. I don't want to --

4 MR. OWENS: We have no objection to that,
5 Madam Chairwoman, but I'm sure you haven't overlooked
6 the fact that Qwest did move to vacate two of the
7 prior orders, which could drastically shorten the
8 briefing, at least if you grant that motion.

9 MR. HARLOW: Shorten our brief.

10 CHAIRWOMAN SHOWALTER: Well, I guess the
11 question is if we've got the mental abilities to deal
12 with all this at this moment or is there a way to
13 handle it a little later?

14 MR. OWENS: I'm not suggesting you make a
15 decision on how you want to treat that motion or the
16 briefs right this second; I'm just saying that I see
17 them as perhaps two separate issues, and perhaps the
18 motion needs to be dealt with prior in time to the
19 decision on briefing schedule.

20 CHAIRWOMAN SHOWALTER: I see. Well, then,
21 another thing we sometimes do is we carry motions and
22 people have to go through all the briefing and we
23 sort out the issues later.

24 MR. OWENS: I understand we're at risk of
25 that, but I just thought that I'd put our thoughts

0723

1 forward.

2 CHAIRWOMAN SHOWALTER: Here's another idea
3 that may not be a complete idea, but perhaps there
4 should be a round of -- I'm not sure if it's maybe --
5 I think three? In other words, initial briefs, which
6 is going to be Verizon's position. I'm not sure what
7 the positions are going to be of Staff, but you need
8 a chance to respond to whatever that is and reply. I
9 mean, maybe it should be a traditional one, two,
10 three, except for everybody goes one, two, three,
11 initial brief, reply brief, rebuttal brief.

12 MR. OWENS: That makes a lot more sense
13 than single simultaneous briefs. I'd agree with
14 that.

15 COMMISSIONER HEMSTAD: It seems to me there
16 either has to be sequential briefs or there would
17 have to be two rounds, at least. And it seems to me
18 the lawyers can sort that out as to how best to make
19 that happen.

20 MR. TRAUTMAN: Madam Chair, you had
21 suggested a telephone conference. About what time or
22 --

23 CHAIRWOMAN SHOWALTER: Well, I wouldn't
24 even think we'd be part of this.

25 MR. TRAUTMAN: Oh, I didn't know. I see.

0724

1 JUDGE MACE: Perhaps the parties could
2 discuss this and come up with a reasonable schedule
3 that they could propose. I'm just thinking of the
4 logistics.

5 MR. TRAUTMAN: Are we off the record on
6 this?

7 JUDGE MACE: Oh. Let's be off the record.
8 Sorry.

9 (Discussion off the record.)

10 JUDGE MACE: Back on the record. Let me
11 just indicate that the parties have agreed to have a
12 teleconference on Thursday, January --

13 MR. OWENS: 30th.

14 JUDGE MACE: -- 30th, at 10:00, to discuss
15 the briefing schedule, and that closes the record in
16 this case.

17 (Proceedings adjourned at 7:36 p.m.)

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