

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,) DOCKET NO. U-89-2698-F
vs.)
5 PACIFIC NORTHWEST BELL) Volume II
TELEPHONE COMPANY d/b/a) Pages 61 - 268
6 U S WEST COMMUNICATIONS, INC.,)
Respondent.)

7 -----)
In the Matter of the)
8 Petition of)
9 PACIFIC NORTHWEST BELL)
TELEPHONE COMPANY d/b/a) DOCKET NO. U-89-3245-P
10 U S WEST COMMUNICATIONS, INC.)
11 for an Alternative Form)
of Regulation)
12 -----)

13 A hearing in the above matter was held on
14 July 1, 1993 at 9:55 a.m., at 1300 South Evergreen
15 Park Drive SW, Olympia, Washington, before Chairman
16 SHARON L. NELSON, Commissioners RICHARD
17 D. CASAD and RICHARD W. HEMSTAD, and Administrative
18 Law Judge ELMER CANFIELD.

19 The parties were present as follows:
20 U S WEST COMMUNICATIONS by Edward T. Shaw,
Attorney, P.O. Box 21225, Seattle, Washington 98111.
21 WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION
22 by Rick Finnigan, Attorney, 1201 Pacific Avenue, Suite
1900, Tacoma, Washington 98402.
23 TRACER by Arthur A. Butler, Attorney, 1201
24 Third Avenue, Suite 2850, Seattle, Washington 98101.
25 Lisa K. Nishikawa, CSR, RPR, Court Reporter

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AT&T COMMUNICATIONS OF THE PACIFIC
NORTHWEST, INC. by Ruth D. MacNaughton, Attorney, 795
Folsom Street, Suite 670, San Francisco, California
94107.

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MCI TELECOMMUNICATIONS by Sue E. Weiske,
Attorney, 707 17th Street, #3900, Denver, Colorado
80202.

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U.S. DEPARTMENT OF DEFENSE AND ALL OTHER
FEDERAL EXECUTIVE AGENCIES by Cecil O. Simpson, Jr.,
Attorney, 901 North Stuart Street, Room 400,
Arlington, Virginia 22203-1837.

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PUBLIC by Charles F. Adams, Assistant
Attorney General, 900 Fourth Avenue, Suite 2000,
Seattle, Washington 98164-1012

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WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION by Steven W. Smith, Assistant Attorney
General, South 1400 Evergreen Park Drive Southwest,
Olympia, Washington 98506.

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I N D E X

3 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

4 R. STUMPF 75 78 153 154 140

5 C. KING 161 171

6 M. BRYANT 189 190 230 232 220

7 S. LUNDQUIST 234 236 262

8

9

10 EXHIBIT MARKED ADMITTED

11 T-1036, 1037, 75 77

12 1038-1040

13

14 T-1041 164 171

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16 1042 164

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18 1043 170 171

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20 T-1044, 1045 189 190

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22 T-1046, 233 236

23 1047-1049

24

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(COLLOQUY)

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

2 JUDGE CANFIELD: This hearing will please
3 come to order. The Washington Utilities and
4 Transportation Commission has set for hearing at this
5 time and place Docket Numbers U-89-2698-F and
6 U-89-3245-P, Washington Utilities and Transportation
7 Commission, complainant, versus Pacific Northwest Bell
8 Telephone Company doing business as US WEST
9 Communications, Inc., respondent; and in the matter of
10 the petition of Pacific Northwest Bell Telephone
11 Company doing business as US WEST Communications, Inc.
12 For an alternative form of regulation.

13 This matter is being held pursuant to due
14 and proper notice to all interested parties at
15 Olympia, Washington on Thursday, July 1, 1993. The
16 matter is being heard by the Washington Utilities and
17 Transportation Commission consisting of Chairman
18 Sharon L. Nelson, Commissioner Richard D. Casad, and
19 Commissioner Richard W. Hemstad. I'm Elmer Canfield,
20 administrative law judge with the Office of
21 Administrative Hearings.

22 As indicated on the notice of hearing, the
23 ultimate issue is whether the AFOR which is the
24 alternative form of regulation approved for US WEST

25 still satisfies the conditions of RCW 80.36.135

(COLLOQUY)

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1 subsection (3)(a)-(g), and as indicated, a related
2 issue is whether those companies can be satisfied by
3 modifications to the current AFOR.

4 With that, at the outset I would like to
5 start by taking appearances beginning with the
6 respondent/petitioner, please.

7 MR. SHAW: Yes. Edward T. Shaw for the
8 respondent US WEST Communications. The address is as
9 previously noted in this proceeding.

10 JUDGE CANFIELD: Okay. And maybe we can
11 start at this side of the room to make it easier.

12 MR. SMITH: Your Honor, Steven W. Smith,
13 assistant attorney general representing the Commission
14 staff, and my address is as previously noted.

15 JUDGE CANFIELD: Okay. And next.

16 MR. ADAMS: Appearing as public counsel,
17 Charles F. Adams. Address as previously noted.

18 JUDGE CANFIELD: And I'll ask if there's
19 any change in address to make sure it's noted at the
20 outset today as well. Next.

21 MR. SIMPSON: Cecil O. Simpson, Jr.
22 representing the U.S. Department of Defense and All
23 Other Federal Executive Agencies. The address is as
24 previously noted.

25 JUDGE CANFIELD: Okay. Next.

(COLLOQUY)

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1 MS. WEISKE: Sue Weiske for MCI
2 Telecommunications, W E I S K E. The address is 707
3 17th Street, Suite 3900, Denver, Colorado, 80202.

4 MS. MacNAUGHTON: Ruth D. MacNaughton.
5 That's M A C capital N A U G H T O N representing AT&T
6 Communications of the Pacific Northwest, Inc. Address
7 previously noted.

8 MR. BUTLER: Arthur A. Butler appearing on
9 behalf of TRACER. My address is in the record.

10 JUDGE CANFIELD: Okay.

11 MR. FINNIGAN: Rick Finnigan appearing on
12 behalf of the Washington Independent Telephone
13 Association. The address is in the record.

14 JUDGE CANFIELD: Okay. Thank you. I'll
15 ask again, is anyone here from GTE? Okay. I haven't
16 heard one way or the other whether they were planning
17 to attend today's session, so just let it stand for
18 the record that no one for GTE has appeared as of yet.

19 Before going on the record we did discuss
20 some preliminary type matters and I'll get to those
21 momentarily. Are there any preliminary matters that
22 anyone has to address at the outset? I'm going to get
23 to the assigning exhibit numbers in a moment, but
24 anything that hasn't been brought up that anyone has

25 to address as a preliminary type matter?

(COLLOQUY)

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1 MS. WEISKE: Yes, your Honor. And also we
2 do have an agreed upon order of witnesses. Would you
3 like that first before we raise our procedural issue?

4 JUDGE CANFIELD: Sure.

5 MS. WEISKE: Parties have agreed to an
6 order as follows: Ms. Stumpf, Mr. Damron, Mr. King,
7 Dr. Bryant, Mr. Lundquist, Ms. Parker and Mr. Moran.
8 Thank you.

9 JUDGE CANFIELD: Okay. Thank you for that
10 information, Ms. Weiske.

11 MS. WEISKE: As we indicated, your Honor,
12 MCI has a preliminary procedural matter we would
13 appreciate being able to raise at this time. You
14 indicated a moment ago that this hearing is being held
15 pursuant to particular statutes as noted in the notice
16 for this hearing. MCI would simply point out and
17 raise as an argument that it is also our belief that
18 this hearing is being held pursuant to paragraph 8 of
19 the settlement agreement between the Commission, US
20 WEST, and public counsel, and as such we believe, one,
21 that the burden of proof is appropriately upon US WEST
22 to prove that the continuation of this plan is in the
23 public interest per the statutory test.

24 In addition, we would also argue and would

25 be happy to brief as part of final briefing, if it is
(COLLOQUY)

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1 agreed we are going to brief that, pursuant to
2 paragraph 8, if this Commission determines its plan
3 should be terminated pursuant to the last sentence of
4 that paragraph, US WEST is not at liberty to appeal
5 that decision.

6 JUDGE CANFIELD: Okay. So by making these
7 comments you're basically what --

8 MS. WEISKE: What we're requesting, your
9 Honor, is clarification that this hearing is being
10 held pursuant to paragraph 8. There is a public
11 interest test noted in that paragraph which would
12 follow with the statutory delineations that is
13 contained in the notice as filed prior to this
14 hearing, and in addition it is MCI's argument and
15 belief that if the Commission agrees this hearing is
16 being held pursuant to paragraph 8 that ultimately a
17 decision, if it were reached to terminate the plan
18 would not be permitted -- that US WEST would not be
19 able, pursuant to that agreement, to appeal that
20 decision, and as I said, we would be happy to brief
21 that matter at a later day.

22 JUDGE CANFIELD: As of yet it hasn't been
23 determined that briefs are going to be requested,
24 but that certainly is a possibility that may come to

25 pass.

(COLLOQUY)

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1 MS. WEISKE: Your Honor, the other reason
2 we raise it is that Mr. Moran in his testimony does
3 address the burden of proof issue.

4 JUDGE CANFIELD: Okay. With that, any
5 additional comments from anyone else?

6 MR. SHAW: I believe I would need to
7 respond briefly, your Honor. We would note that the
8 hearing notice in this proceeding for today makes
9 absolutely no mention of paragraph 8 of the settlement
10 agreement but refers instead to statutes RCW
11 80.36.135, and as such is company's view that is what
12 this hearing is, as opposed to previous proceedings
13 instituted in this case.

14 Secondly, as to the burden of proof
15 allegation, paragraph 8 of the settlement agreement
16 certainly provides no shift of the burden of proof to
17 the defending company at all. It says that the
18 Commission on its own motion or upon petition may
19 institute a proceeding. It certainly doesn't place
20 the burden of proof on the company, neither does the
21 statute place any burden of proof on the company as a
22 respondent/defendant where the Commission is
23 addressing whether or not alternative form of
24 regulation should be continued. So I would not agree

25 with Ms. Weiske's statements.

(COLLOQUY)

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1 Perhaps if the Commission decides to take
2 briefs those issues can be left for briefs since they
3 are pure legal issues.

4 JUDGE CANFIELD: Okay. So you would also
5 offer to take up that matter in brief then after the
6 hearing. Any other comments other than those of Mr.
7 Ms. Weiske and Mr. Shaw?

8 MR. SMITH: Yes, your Honor.

9 JUDGE CANFIELD: Okay, Mr. Smith.

10 MR. SMITH: Mr. Shaw indicated that the
11 notice of hearing for today's proceeding does not
12 refer to paragraph 8 of the settlement agreement. It
13 does, however, refer to the 14th supplemental order
14 instituting this window review proceeding which itself
15 refers to paragraph 8 of the settlement agreement.
16 This is a continuation of that proceeding. We are in
17 the window review so I would agree with Ms. Weiske
18 that paragraph 8 of the settlement agreement controls.
19 And the original order instituting this proceeding did
20 refer to the same statutory criteria with which we are
21 concerned today.

22 And I would also agree with Ms. Weiske that
23 under paragraph 8 if the Commission elects to
24 terminate this plan that US WEST does not have the

25 right to appeal that decision. And I think the burden
(COLLOQUY) 71

1 of proof is something that is not addressed in the
2 settlement agreement statutes or even in the
3 Commission's rules for this type of proceeding, and
4 something that may be best handled on brief if it is
5 something that really makes a difference in this
6 proceeding. I'm not sure that it does.

7 MR. SHAW: The company will be proceeding
8 on the reasonable assumption that it has no burden of
9 proof in this case.

10 JUDGE CANFIELD: Okay. I think that
11 position has been announced by Mr. Shaw. Any other
12 comments that have not been made that you wish to make
13 at this point then?

14 MR. ADAMS: Your Honor, I would raise, as
15 one of the other signers to the original settlement
16 agreement, I would concur in the comments made by Mr.
17 Smith and Ms. Weiske.

18 JUDGE CANFIELD: Okay. That may be a
19 matter that the Commission will be wanting to have
20 briefs on, and that hasn't yet been determined that
21 briefs are going to be requested, but that certainly
22 will be taken under advisement, and I'll endeavor to
23 alert the parties as to whether or not the briefs are
24 going to be requested and the dates for that action.

25 COMMISSIONER HEMSTAD: I would like to

(COLLOQUY)

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1 pursue and just ask the company the question, is it
2 your position then that it is -- the burden of proof
3 is placed on the Commission staff?

4 MR. SHAW: Mr. Commissioner, I think the
5 notice of hearing suggests that the Commission is
6 bringing this on its own motion, this complaint, if
7 you will, to terminate the AFOR. If paragraph 8 is
8 relevant to this proceeding here today it is certainly
9 silent on who bears the burden of proof, but it uses
10 the same language, the Commission on its own motion or
11 upon petition. Going to standard principles of law,
12 the moving party, the person that brings the
13 complaint, has the burden of proof unless the statute
14 or some other rule makes it a different case.

15 MR. SMITH: Your Honor, may I respond
16 briefly?

17 JUDGE CANFIELD: Okay, go ahead, and then
18 we'll get started shortly.

19 MR. SMITH: First of all point out that
20 this is not a complaint. It is a proceeding
21 instituting a review of the alternative form of
22 regulation under paragraph 8 of the settlement
23 agreement. It is not a complaint that was instituted
24 by staff, so I would disagree that we have the burden

25 of proof, so it was instituted by the Commission
(COLLOQUY)

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1 itself. It seems to me, and we can brief this fully,
2 that every party bears the risk that it will not
3 persuade the Commission of its decision. So it's
4 ultimately up to the Commission to decide whether to
5 terminate this plan or to continue it with
6 modifications, and in that context I'm not sure that
7 the burden of proof is something that is as important
8 as it would be in a complaint case, for example.

9 JUDGE CANFIELD: But again that's a matter
10 that you would be willing to cover in brief if
11 requested?

12 MR. SMITH: Yes.

13 JUDGE CANFIELD: Okay. I think we've
14 certainly gotten the comments that the parties wanted
15 to make on that and any further preliminary matters
16 other than what we've discussed already? I'm going to
17 be reassigning exhibit numbers and we've already
18 established the order of witnesses. Any other
19 matters?

20 Hearing nothing, why don't we proceed then
21 and maybe before I get the first witness up here I can
22 go ahead and just procedurally make the reassignment
23 of exhibit numbers. At the prehearing conference that
24 we conducted back in November we had assigned exhibit

25 numbers T-1 through 35 for identification to the
(COLLOQUY)

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1 prefiled testimonies and exhibits as of that time and
2 it comes to mind that those numbers may duplicate
3 numbers that had earlier been assigned in the initial
4 proceeding held several years back, so I'm going to
5 just reassign 1,000 to those numbers.

6 So the testimony that was earlier
7 identified as T-1 in that proceeding will be T-1001.
8 Let's put the T first, and then the numbers that
9 consecutively go through 1035, and then begin today's
10 numbering with the number of exhibit 1036 and on, so
11 that we don't have duplication of exhibit numbers in
12 this same docket number. So I think that would be --
13 make for a less confusing record in that regard.

14 So with that, why don't we start then. The
15 witness order has already been announced and agreed to
16 by the parties so I'll turn it over to Mr. Smith.

17 MR. SMITH: Yes, your Honor. We call
18 Rebecca J. Stumpf.

19 JUDGE CANFIELD: Okay. At this point I'll
20 just assign numbers before we get started to the
21 prefiled testimony of Ms. Stumpf. That's RJS-1. I'll
22 assign a number T-1036, and then the accompanying
23 exhibits -- there were I think four of them -- I'll
24 assign the consecutively numbers of 1037, 1038, 1039

25 and 1040 to those four accompanying exhibits. Ms.

(COLLOQUY)

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1 Stumpf, can I have you raise your right hand, please.

2 (Marked Exhibits Nos. T-1036, 1037, 1038,
3 1039 and 1040.)

4 Whereupon,

5 REBECCA J. STUMPF,

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

8 JUDGE CANFIELD: And let me ask all parties
9 and witnesses to make sure you use the microphone so
10 that the answers and questions can be heard by all
11 individuals in the room. So if you can do that it
12 would be appreciated. Thanks. Okay, Mr. Smith, your
13 witness has been sworn.

14 MR. SMITH: Thank you.

15

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q. Would you please state your name and give
19 us your business address.

20 A. Rebecca J. Stumpf, S T U M P F. My
21 business address is 1300 South Evergreen Park Drive
22 Southwest, Olympia, Washington, 98504.

23 Q. Where are you employed and in what
24 capacity?

25 A. I'm employed by the Washington Utilities
(STUMPF - DIRECT BY SMITH)

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1 and Transportation Commission as a telecommunications
2 program manager.

3 Q. And do you have before you what's been
4 marked for identification as Exhibit T-1036?

5 A. Yes.

6 Q. And do you recognize that as your prefiled
7 testimony in this proceeding?

8 A. Yes, I do.

9 Q. If I were to ask you -- or let me ask you
10 first. Do you have any corrections or additions to
11 make to it?

12 A. I have two corrections. Page 8, line 11,
13 replace "August 1992" with "May 1993." And on Exhibit
14 1038 replace the title with -- from "Held Orders" to
15 "Complaints." That is all.

16 Q. With that change to Exhibit T-1036, if I
17 were to ask you today the questions contained in that
18 exhibit, would your answers be the same?

19 A. Yes, they would.

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

22 A. Yes.

23 Q. And you also have before you what has been
24 premarked as Exhibits 1037, 1038, 1039 and 1040?

25 A. Yes.

(STUMPF - DIRECT BY SMITH)

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1 Q. And are those the exhibits referred to in
2 your direct testimony?

3 A. Yes, they are.

4 Q. And were they prepared by you or under your
5 direction and control?

6 A. Yes.

7 Q. Other than the change you noted in Exhibit
8 1038, are there any other changes to be made to those
9 exhibits at this time?

10 A. No.

11 Q. Are they true and correct to the best of
12 your knowledge and belief?

13 A. Yes, they are.

14 MR. SMITH: Your Honor, I would offer
15 Exhibits T-1036, 1037, 1038, 1039, and 1040.

16 MR. SHAW: No objection.

17 JUDGE CANFIELD: Any others? None? Okay.
18 There being no objections, Exhibits T-1036 and
19 Exhibits 1037 through 1040 are so entered into the
20 record.

21 (Admitted Exhibits Nos. T-1036,
22 1037, 1038, 1039, 1040.)

23 MR. SMITH: And Ms. Stumpf is available for
24 cross-examination.

25 JUDGE CANFIELD: Okay, thank you. Mr.

(STUMPF - DIRECT BY SMITH)

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1 Shaw.

2 MR. SHAW: Thank you, your Honor.

3

4 CROSS-EXAMINATION

5 BY MR. SHAW:

6 Q. Good morning, Ms. Stumpf.

7 A. Good morning.

8 Q. Ms. Stumpf, is it correct you're the staff
9 policy witness in this case, you are addressing policy
10 issues that are before the Commission for decision?

11 A. Yes.

12 Q. And is it such then you are knowledgeable
13 of the policies relating to telecommunications that
14 the staff would argue that the Commission should adopt
15 going forward?

16 A. Yes.

17 Q. Now, looking at your testimony I gather
18 that you're specifically addressing whether or not the
19 current US West Communications AFOR meets condition
20 sub (e) of RCW 80.36.135 (3) and sub (f). Is that
21 correct? You're not addressing any of the other
22 subsections of that statute other than (a), being the
23 public interest?

24 A. (a), (e), and (f).

25 Q. Okay. And you assert that the current AFOR
(STUMPF - CROSS BY SHAW)

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1 is not in the public interest because it does not meet
2 the requirements of (e) and (f), is that correct?

3 A. Yes.

4 Q. There's no other independent ground for
5 your allegation that it does not meet condition (a) or
6 that it's in the public interest?

7 A. No.

8 Q. Now, you suggested at page 4 at lines 14
9 through 16 that Mr. Damron discusses other conditions
10 not achieved by the current plan. Could you identify
11 for me specifically what subsections you believe Mr.
12 Damron addresses in RCW 80.36.135?

13 A. He addresses section (3) (b), (c), (d), and
14 (g).

15 Q. Now, I believe that you are Mr. Damron's
16 manager or supervisor in the organization of the
17 Commission staff, is that correct?

18 A. Yes, I am.

19 Q. And did you review and approve Mr. Damron's
20 testimony before it was submitted for prefiling?

21 A. Yes, I did.

22 Q. Did you make any changes in it from his
23 initial drafts?

24 A. By initial draft, I assume you are speaking

25 of the one that is filed in this proceeding.

(STUMPF - CROSS BY SHAW)

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1 Q. Yes.

2 A. No, I did not.

3 Q. Can you tell me, if you know -- if this is
4 better addressed to Mr. Damron, say so, but can you
5 tell me where he addresses in his almost 90 pages of
6 testimony sub (b), whether or not the current AFOR is
7 necessary to respond to changes in technology in the
8 structure of the industry?

9 A. That question would be better put to Mr.
10 Damron.

11 Q. Do you have any views yourself on whether
12 this AFOR is necessary to respond to changes in
13 technology and the structure of the industry?

14 A. Again, Mr. Damron discusses it in
15 particulars in his testimony.

16 Q. As staff member specializing in
17 telecommunications, you agree that there are
18 significant changes in technology going on in the
19 industry?

20 A. Yes, I do.

21 Q. You agree that there are significant
22 changes going on in the structure of that industry?

23 A. I would agree with that.

24 Q. And most notably here in Washington the

25 most profound change in the 50-year-old structure is
(STUMPF - CROSS BY SHAW)

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1 the recent court ruling that US WEST and other local
2 exchange companies have no legal monopoly over local
3 exchange or access services? Would you agree that
4 that is a major change?

5 A. That is a significant change, yes.

6 Q. And that change has happened since this
7 AFOR was adopted?

8 A. In Washington, yes.

9 Q. Is it a policy position of the staff that
10 changes in regulation of local exchange companies need
11 to be made in light of that very significant change in
12 the underlying structure of the industry?

13 A. It is possible, yes.

14 Q. Would you agree that some sort of
15 alternative form of regulation is going to be required
16 to deal with that drastic change in structure?

17 A. No, I don't agree that it would be
18 required. It may be the best to meet the changing
19 structure of the industry, but it may not be the best.

20 Q. Is it your assertion that traditional rate
21 based rate of return regulation as practiced for the
22 last 40 or 50 years in this jurisdiction is a suitable
23 way to deal with the changed structure of this
24 industry?

25 A. With the changes in the industry an AFOR
(STUMPF - CROSS BY SHAW)

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1 may be the best suited means of addressing the
2 industry over rate of return regulation, but this
3 particular AFOR that US WEST is under may not be the
4 best one.

5 Q. But you do agree, I take it from that
6 answer, that there has to be some sort of alternative
7 form of regulation in light of these changes?

8 A. Does not have to be, no. That it is an
9 option.

10 Q. Let's address more specifically some of the
11 changes that have happened. Are you aware, for example,
12 that AT&T is in the process of purchasing a major
13 interest in McCaw telecommunications cellular company?

14 A. Yes, I am.

15 Q. Is that a major change in the structure of
16 the industry in your view?

17 A. A change in the dynamics of the industry.
18 Structure, no.

19 Q. Was it the assumption of the staff at the
20 time of divestiture in going forward that
21 interexchange companies like AT&T were limited to
22 providing interexchange services, and local exchange
23 companies would be the exclusive provider of local
24 exchange services and access services?

25 A. At that time I don't believe it was

(STUMPF - CROSS BY SHAW)

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1 projected, the changes were projected, but I cannot
2 address what was in staff's mind prior to my tenure.

3 Q. You think that the largest international
4 interexchange manufacturing company entering the local
5 exchange business by purchasing wireless company or a
6 substantial interest in a wireless company -- let me
7 finish the question before you object, please -- is
8 not a major change?

9 MS. MacNAUGHTON: I would like to object to
10 that question on two grounds. First of all, I don't
11 see the relevance of this. This is a proceeding
12 involving US WEST, not AT&T. Secondly, the question
13 assumes facts not in evidence.

14 JUDGE CANFIELD: Mr. Shaw.

15 MR. SHAW: Well, your Honor, Ms. Stumpf as
16 the staff witness and is the supervisor of Mr. Damron
17 has testified essentially it's the staff position that
18 the current AFOR does not meet any of the subsections
19 of 80.36.135(3), and I think the company is entitled
20 to test that through cross-examination. And this is a
21 fact that the witness has already said that she's
22 aware of the AT&T purchase. It's not a matter of
23 whether or not that particular purchase is under
24 review by the Commission. It's an environmental

25 change that is relevant to this proceeding.

(STUMPF - CROSS BY SHAW)

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1 JUDGE CANFIELD: I'll allow the question.

2 Q. Do you recall the question, Ms. Stumpf?

3 A. Would you please restate the question.

4 Q. Yes. Is the fact that the largest
5 international interexchange manufacturing
6 telecommunications company has moved to purchase a
7 substantial interest in a local exchange wireless
8 company --

9 MS. MacNAUGHTON: Excuse me again. I would
10 like to object. The phrasing of that question is
11 totally objectionable. I don't understand the
12 phrasing, largest telecommunications manufacturing.
13 Why don't you simply say AT&T if that's what you're
14 referring to?

15 JUDGE CANFIELD: Okay. This witness is
16 certainly going to be available for cross-examination
17 if there's still some questions remaining after Mr.
18 Shaw has asked his questions. I'll certainly allow
19 some follow-up on that. And if there's any question
20 in the witness's mind upon hearing the question, I'll
21 certainly allow her to ask for clarification, but I'll
22 allow the question.

23 MR. SHAW: Thank you, your Honor.

24 Q. Let me finish it. I'll start over again.

25 Is the fact that AT&T has purchased an interest in
(STUMPF - CROSS BY SHAW)

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1 McCaw, a local exchange wireless company, leading to
2 the reasonable assumption that AT&T is entering the
3 local exchange business in competition with US WEST
4 and other local exchange companies an environmental
5 change you think should be taken into account by any
6 AFOR?

7 A. Your question states that there is an
8 assumption that AT&T is entering the local market. I
9 cannot respond to that question.

10 Q. You have no opinion on why AT&T bought a
11 substantial interest in McCaw Communications except
12 other than to enter the local exchange business via
13 wireless services?

14 A. I do know of the purchase. I have not made
15 an objective opinion on that yet.

16 Q. Are you aware of the multi billion dollar
17 infusion of cash into the MCI company by British
18 Telecom, a foreign telecommunications company?

19 A. Yes, I am aware of that.

20 Q. Are you aware of the announcement by chief
21 executive officer of MCI that that cash will now
22 enable MCI to investigate opportunities in the local
23 exchange business and access bypass?

24 A. I cannot confirm that is a direct quote but

25 I believe that's the tone of the announcement, yes.

(STUMPF - CROSS BY SHAW)

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1 Q. You agree that since the court ruling on
2 the monopoly issue and the Commission's orders on
3 remand from the court in regard to Electric Lightwave
4 and Digital Direct of Seattle, that any company is
5 free on a minimal showing to enter the local exchange
6 or access business in the state of Washington?

7 A. No, I do not agree that any company is free
8 on a minimal showing to enter the market.

9 Q. What are the showings that are required by
10 statute in the rules of this Commission for a new
11 entrant to enter the local exchange and access
12 industry?

13 A. I do not have those rules before me right
14 now to quote you, but they are more than minimal, Mr.
15 Shaw.

16 Q. Do you recall that the only required
17 showing is that the company prove it is financially
18 viable and able to offer the service that it's holding
19 itself out to offer?

20 A. Yes, I do.

21 Q. And the protections related to customer
22 services deposits?

23 A. That is part of the criteria that staff
24 looks at.

25 Q. There are no other showings that need to be
(STUMPF - CROSS BY SHAW)

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1 made by a new entrant into the local exchange business
2 other than those two, are there?

3 MR. SMITH: I'll object to the question.
4 The statutory requirements speak for themselves.

5 MR. SHAW: Well, your Honor, this is the
6 expert staff policy witness that is testifying to --
7 whether as a matter of law the current AFOR meets the
8 conditions of RCW 80.36.135, so I think she's holding
9 herself out as a lay expert on what the statutes this
10 Commission administers require, and I think questions
11 along this line are totally appropriate.

12 MR. SMITH: My only point, your Honor, is
13 Ms. Stumpf cannot add to or detract from the statutory
14 criteria for registration of a telecommunications
15 company. They are what they are.

16 JUDGE CANFIELD: And she did qualify her
17 response, is that she did not have them in front of
18 her, but just to get an understanding of her position
19 on it, I'll certainly allow the last question of Mr.
20 Shaw.

21 A. Would you please restate the question.

22 Q. Yes. Let me try this way. Would you agree
23 that given the requirements of the statute as you
24 understand them, that it's very easy now that the ELI

25 and DDS have done the pioneering for any company that
(STUMPF - CROSS BY SHAW)

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1 is financially viable to enter the local exchange or
2 access business in the state of Washington?

3 A. No, I do not agree that it's easy to enter
4 the market.

5 Q. On what basis do you not agree that it is
6 easy?

7 A. The requirements, Mr. Shaw, you
8 characterize those as easy. I do not.

9 Q. Let me try it this way then. You agree
10 that any company that makes a sufficient financial
11 showing to the Commission can enter the market?

12 A. I would agree with that.

13 Q. And the Commission had no trouble in
14 finding that ELI and DDS, new startup companies in
15 turn owned by independent telephone company in one
16 case and the largest cable television company in
17 another case, were financially viable companies?

18 A. That was a two-part question, if I
19 understood you correctly. First part of that question
20 was the Commission found it easy to register those two
21 companies. I do not agree with that statement. It
22 was an extended and carefully scrutinized process by
23 the Commission. And if you could restate the second
24 part of the question, please.

25 Q. The question, as I recall it, was the
(STUMPF - CROSS BY SHAW)

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1 Commission had no trouble finding that those two
2 companies were financially viable, did they?

3 A. The Commission did find those two companies
4 viable, yes.

5 Q. Other new entrants into the local exchange
6 business such as the Centrex resellers, the Commission
7 had no trouble finding that those companies were
8 financially viable and should be allowed to go into
9 the business of providing local exchange service, did
10 it?

11 A. I do not agree with your found-no-trouble
12 part of the question. The Commission did approve
13 entrance.

14 Q. Do you read the Commission orders on remand
15 in the ELI and DDS proceedings stand for the general
16 proposition that the Commission has no discretion but
17 to register any company offering to provide any
18 service telecommunication service, so long as they
19 meet the financial viability requirements?

20 MR. SMITH: Your Honor, I'm going to
21 object. There are other requirements of the statute,
22 including technical competence, that I don't know if
23 Mr. Shaw is glossing over them on purpose or not, but
24 I mean I think if the Commission has approved entrants

25 into the telecommunication industry in this state it
(STUMPF - CROSS BY SHAW)

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1 did so based on all the statutory criteria and not
2 just financial viability.

3 MR. SHAW: I didn't mean to mislead the
4 witness. I'll withdraw the question.

5 JUDGE CANFIELD: Okay. Go ahead, Mr. Shaw.

6 Q. Do you agree with and support the efforts
7 of telecommunications companies in Washington
8 including US WEST to expand their facilities to
9 provide broad band capability?

10 A. I support technology enhancement, yes.

11 Q. And you have no objection as a matter of
12 policy to the local exchange companies in this state
13 modernizing their networks to provide broad band
14 capability on a ubiquitous basis?

15 A. At this time staff has not yet found an
16 objection.

17 Q. Are you trying to find an objection?

18 A. No, but we are scrutinizing the issues
19 surrounding that.

20 Q. Have you read in the trade press in your
21 role as policy staffer the predictions by John Malone,
22 chief executive officer of TCI, the largest cable
23 company in the country, that he plans to be offering
24 interactive two-way video and voice communication

25 services by 1996?

(STUMPF - CROSS BY SHAW)

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1 A. Yes, I have read that.

2 Q. Is TCI a major provider in the state of
3 Washington of cable services today?

4 A. Yes, it is.

5 Q. Do you agree with the concept that there
6 should be local competition that is in the overall
7 public interest to have competing providers for local
8 exchange and access service?

9 A. I'm still forming an opinion on that.

10 Q. As I read Mr. Damron's testimony he seems
11 to believe that it's of doubtful use. Do you share
12 his beliefs on the role and desirability of
13 competition at the local exchange level?

14 A. Can you refer me to the passage that he
15 states that in his testimony?

16 Q. Surely. Page 6 starting at line 23 and
17 going over through line 5 on page 7.

18 A. The statement reads, "As we are all aware,
19 competition was introduced with questionable success
20 into sections of the telecommunications market."

21 JUDGE CANFIELD: If you are going to read
22 some text, read it slowly enough so we can all follow.

23 A. "As we are all quite aware, competition
24 was introduced with questionable success into sections

25 of the telecommunications market. In all this mess of
(STUMPF - CROSS BY SHAW)

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1 'regulated competition', local and access services
2 remain essentially a monopoly. I think effective
3 competition may come, but is not here yet. However,
4 without a carrier of last resort, I am not sure what
5 will happen to universal service."

6 Q. Do you endorse that statement yourself?

7 A. I agree with the thought that effective
8 competition may come but it is not here yet.

9 Q. Do you disagree with everything else in
10 that statement?

11 A. No, I do not. It is Mr. Damron's opinion.

12 Q. I'm not sure of your answer. Do you
13 disagree with his opinion?

14 A. No, I do not.

15 Q. Is it then the position of the staff that
16 interexchange competition in the state of Washington
17 has been of questionable success and presumably
18 benefit to the public?

19 A. It is not been of questionable benefit.
20 Questionable success, yes.

21 Q. By that do you mean that interexchange
22 competition is not working and that it remains
23 monopolistic or semi monopolistic in the way it's
24 provided? Is that what you mean?

25 A. In my opinion it does remain a monopoly
(STUMPF - CROSS BY SHAW)

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1 service.

2 Q. But in fact this Commission has seen fit
3 to virtually deregulate all interexchange providers,
4 has it not, except local exchange companies?

5 A. Yes.

6 Q. Do you assert that the competitive
7 provision of customer premises equipment has been of
8 questionable success?

9 MR. SMITH: Your Honor, I'm going to
10 object. It appears that Mr. Shaw is cross-examining
11 Ms. Stumpf on Mr. Damron's testimony, and I've allowed
12 some leeway here, given the nature of this proceeding,
13 but I'm just wondering where we're going with all of
14 this.

15 MR. SHAW: Your Honor, one of the
16 fundamental issues here that this industry is facing
17 is how are we going to adapt the industry and the
18 regulatory environment to the fact that at least as of
19 today we've a fully -- an open competitive environment
20 including local exchange services, and if the staff as
21 a matter of policy is going to take the position that
22 competition is bad for the consumer and that US WEST
23 should be regulated as a monopoly, notwithstanding the
24 environmental changes, I think that's totally relevant

25 to the efficacy of this AFOR today, so I think I'm

(STUMPF - CROSS BY SHAW)

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1 entitled to go into this.

2 MR. SMITH: Well, your Honor, Ms. Stumpf
3 addresses the current AFOR that's in existence now.
4 And staff has not said that competition is bad. Mr.
5 Damron in his testimony states that competition is not
6 here yet, or is not fully here yet. That's quite a
7 different story, but again, it's Mr. Damron's
8 testimony.

9 JUDGE CANFIELD: Okay. It may be that some
10 of these areas will be better directed to Mr. Damron,
11 and with that in mind I would request, Mr. Shaw, to
12 confine as much as possible the questions to this
13 witness regarding her testimony, but that, likewise, I'm
14 inclined to allow some exploring of these policy type
15 issues that he's addressing as well, so with that, why
16 don't we proceed.

17 MR. SHAW: Yes, your Honor. This is doubly
18 important in this proceeding because it does appear
19 from reading Mr. Damron's testimony and Ms. Stumpf's
20 testimonies it would appear we have two different
21 staff positions that appear to be in disagreement, so
22 I think that's critical to get that resolved so that
23 we don't repeat the same situation we had when the
24 Commission first reviewed this AFOR where Mr. Damron

25 testified contrary to Mr. Cook.

(STUMPF - CROSS BY SHAW)

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1 MS. WEISKE: MCI would object to the
2 counsel for US WEST testifying. If he has a question,
3 he should ask the question of Ms. Stumpf. If he has a
4 question for Mr. Damron, he should ask it of Mr.
5 Damron, but MCI would object to that last statement
6 and ask that it be stricken. Mr. Shaw is not a
7 witness in this proceeding.

8 JUDGE CANFIELD: It's certainly not going
9 to be construed as testimony, so to that extent, I'll
10 certainly agree with the comment, but it would behoove
11 us to get on with the question. Mr. Shaw.

12 MR. SHAW: Thank you, your Honor.

13 Q. Do you believe as a matter of policy, Ms.
14 Stumpf, that the environment for effective competition
15 in local exchange and access services should be
16 fostered by this Commission?

17 A. Yes.

18 Q. And that if there are any impediments to
19 that competition being effective and of benefit to the
20 consumer left over from the old monopoly days that
21 they should be fixed? Would you agree with that?

22 A. I don't know what you mean by fixed.

23 Q. Well, let me give you a concrete example.
24 If the evidence is that local exchange service as

25 provided by US WEST is below its total service

(STUMPF - CROSS BY SHAW)

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1 long-run incremental cost, therefore making it very
2 hard for a competitor to compete with US WEST for
3 local service, do you think local service rates should
4 be raised above those costs so as to make a more
5 competitive environment available?

6 MR. SMITH: Your Honor, now we're getting
7 into cost studies. There is nothing in Ms. Stumpf's
8 testimony about long-run incremental cost or any other
9 kind of cost.

10 MR. SHAW: Your Honor, Ms. Stumpf's
11 testimony is to the effect that this AFOR is not
12 producing fair, just and reasonable rates. And
13 although she tends to focus solely on the earnings of
14 US WEST, the issue is are the rates that are being
15 charged in the environment that exists today fair,
16 just and reasonable. I think it's totally relevant to
17 this proceeding that if the rates being charged by US
18 WEST are too low and, therefore, anti competitive,
19 that a good AFOR would address that issue. I think
20 it's totally relevant to this proceeding.

21 JUDGE CANFIELD: With that understanding,
22 I'll allow the question.

23 MR. ADAMS: Your Honor, could I interject a
24 question of counsel. Is this a hypothetical that's

25 being asked or an assertion of fact? If it's an

(STUMPF - CROSS BY SHAW)

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1 assertion of fact, I would clearly object that there
2 is no foundation for the statement whatsoever. If
3 it's some kind of hypothetical I would agree that it
4 may be asked.

5 MS. WEISKE: MCI would concur in that
6 request for clarification.

7 MR. SHAW: I did state in my question very
8 carefully that if the evidence shows.

9 MS. WEISKE: What evidence are you
10 referring to? Maybe it would, as a suggestion, be
11 better to say "if you assume" following, that would at
12 least be clear to me that you're asking a hypothetical
13 question.

14 Q. Do you understand, Ms. Stumpf, I'm not asking
15 you to agree to a fact that local exchange rates are
16 below cost?

17 A. Yes.

18 Q. Assuming that they are, is it the staff's
19 policy position that they should be increased above
20 cost so as to provide a pro competitive environment?

21 A. I have not formed a considered opinion on
22 that at this time.

23 Q. It may be then that some of US WEST's rates
24 set in a monopoly environment are not fair, just and

25 reasonable in a competitive environment. Would you

(STUMPF - CROSS BY SHAW)

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1 agree with that?

2 A. I would agree with that.

3 Q. Do you agree as a general proposition that
4 access charges and toll charges should come down in a
5 competitive environment?

6 A. I cannot project what will happen if there
7 was truly a competitive environment in all of those
8 services. But I would hope that they would be
9 lowered.

10 Q. Are there facility based providers of
11 intraLATA toll today in the state of Washington other
12 than US WEST?

13 A. I don't believe so.

14 Q. Is it your belief that AT&T, Sprint, MCI,
15 do not provide intraLATA toll in the state of
16 Washington?

17 A. Yes.

18 Q. And so it's the staff's position that there
19 are no facilities-based providers of intraLATA toll
20 other than local exchange companies today in the state
21 of Washington?

22 A. Yes.

23 Q. Is it likewise your position that there are
24 no facilities-based providers of access services today

25 in the state of Washington other than the local

(STUMPF - CROSS BY SHAW)

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1 exchange companies?

2 A. Yes.

3 Q. What in your view is ELI and DDS authorized
4 to provide in the state of Washington?

5 A. Electric Lightwave and Digital Direct of
6 Seattle are fiberoptic companies providing mainly data
7 and voice services on a minimal level and are in no
8 way competitors with the LECs at this time as far as
9 volume and accessibility.

10 Q. Is the flagship product of those two
11 companies to provide alternative access from customer
12 premises to carrier points of presence or POPS?

13 A. I believe that's true.

14 Q. And so then there are facilities-based
15 providers of access services doing business today in
16 the state of Washington, aren't there?

17 A. Yes, there are on a minimal level. I stand
18 corrected earlier.

19 Q. Do you have some number in mind as the
20 policy witness on when such a facilities-based carrier
21 is a competitor to a local exchange company in terms
22 of market share?

23 A. No, I don't have a number in mind.

24 Q. Do you think it's an appropriate policy of

25 the Commission, if it believes that the

(STUMPF - CROSS BY SHAW)

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1 facilities-based competitors to local exchange
2 companies do not yet have a sufficient market share,
3 to structure the environment so that they can obtain
4 a sufficient market share in order to be viable
5 competitors?

6 A. Would you restate the question, please.

7 Q. Yes. Do you agree that this Commission as
8 a matter of policy should adopt conditions that will
9 enable facilities-based competitors of the local
10 exchange companies to gain market share?

11 A. I cannot speak for the Commission, but with
12 the staff position I would agree that it would be
13 beneficial to allow competitors into the market.

14 Q. And the Commission should encourage
15 competitors in the local exchange market?

16 A. Yes, if they can provide the appropriate
17 level of service.

18 Q. What do you mean by that?

19 A. They can meet the standards of quality --
20 service and quality, set by the Commission.

21 Q. Does the policy staff whom you represent
22 intend that the Commission will regulate on a rate of
23 return rate based basis new entrants into the local
24 exchange business providing integrated video and voice

25 service?

(STUMPF - CROSS BY SHAW)

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1 A. I cannot project that at this time.

2 Q. Do you agree with Mr. Damron's concern that
3 the Commission has to keep ahold of a carrier of last
4 resort in a multi vendor environment?

5 A. Can you identify the passage in Mr.
6 Damron's testimony.

7 Q. Same place as we were looking at before,
8 page 6 and 7.

9 A. Yes, I do agree. That is on page -- that
10 is line 4 on page 7 of Mr. Damron's testimony.

11 Q. By that answer do you mean that the staff
12 would intend that a regulatory grip be kept on US WEST
13 as the carrier of last resort notwithstanding
14 facilities-based competitors in the local exchange
15 market?

16 MR. SMITH: Could you define regulatory
17 grip?

18 MR. SHAW: Referring to Mr. Damron's
19 testimony where he uses the term that the Commission
20 should not lessen its regulatory grip.

21 Q. Do you remember that phrase, Ms. Stumpf?

22 MR. SMITH: Could I just have a
23 clarification. By regulatory grip in the context of
24 this question, do you mean something beyond carrier of

25 last resort obligations?

(STUMPF - CROSS BY SHAW)

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1 Q. Did you understand my question, Ms. Stumpf?

2 A. I believe that you are referring to the
3 obligations of US WEST under regulation. Is that
4 correct?

5 Q. Let me ask it this way. Do all
6 telecommunications companies providing local exchange
7 service have the same obligation to provide service as
8 any other company?

9 A. If you're referring to local exchange
10 companies, yes.

11 Q. So if TCI provides interactive voice and
12 cable service in competition with US WEST in Seattle I
13 guess they would have the same carrier of last resort
14 responsibilities as US WEST, correct?

15 MR. BUTLER: Excuse me. I would object to
16 that question. It assumes something which is
17 completely inconsistent with the statutory framework
18 in this state. It's not necessarily the case that
19 provision of video, especially one-way video, is
20 subject to regulation.

21 MR. SHAW: Mr. Butler assumes something in
22 my question that wasn't there. I'll restate it if
23 there was any confusion.

24 JUDGE CANFIELD: Okay, if you would, Mr.

25 Shaw.

(STUMPF - CROSS BY SHAW)

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1 Q. Assuming that TCI provides two-way video
2 and voice telecommunications services on an integrated
3 basis in competition with US WEST in Seattle, do they
4 have the same carrier of last resort responsibilities
5 as US WEST does?

6 A. They would be under the same regulatory
7 requirements as US WEST if they are defined as a local
8 exchange carrier.

9 Q. Let's look at page 4 of your testimony
10 carrying over onto page 5 where you state beginning
11 at line 19, First and foremost, the rates developed
12 are no longer fair, just and reasonable as required by
13 condition (3)(f). Do you see that?

14 A. Yes.

15 Q. By that statement do you mean only to say
16 that US WEST has turned out to make too much money
17 under this AFOR?

18 A. That is an opinion formed based on the
19 excess revenues that US WEST has realized during the
20 1990 and '91 years of the AFOR plan.

21 Q. So again the only basis for that statement
22 is your opinion that US WEST has been able to earn too
23 much money under this AFOR, correct?

24 A. Yes.

25 Q. By that statement you're relating to the
(STUMPF - CROSS BY SHAW) 104
1 currently authorized range of rate of return, correct?
2 A. Yes.
3 Q. You have no other rate of return in mind
4 other than that authorized in the predecessor portions
5 of this proceeding?
6 A. Yes.
7 Q. Directing your attention to page 41 of Mr.
8 Damron's testimony, line 23.
9 A. Yes.
10 Q. In 1990 was the first measurement period
11 under this AFOR, was it not?
12 A. Yes, 1990 was.
13 Q. And you see Mr. Mr. Damron's statement that
14 the company earned 11.79 percent after sharing in
15 1990?
16 A. Yes, I see that.
17 Q. In other words, the company earned .79
18 percent or 79 basis points more than its authorized 11
19 percent rate of return, correct?
20 A. Eleven percent is where the excess earnings
21 sharing comes in. I do not believe it was projected
22 that the company would achieve over the 11 percent in
23 the first year of the plan and continue that for the
24 following three and a half years.

25 Q. The range of the authorized rate of return
(STUMPF - CROSS BY SHAW) 105

1 set by this Commission is 9.25 to 11 percent, correct?

2 A. Yes.

3 Q. Therefore, based upon your previous
4 answers, the company would not be over earning if it
5 earned at 11 percent, correct?

6 A. 10.53 is the authorized rate of return.
7 The sharing comes in at 11 percent.

8 Q. You just agreed with me that the authorized
9 remaining of rate of return that this company now
10 operates under is 9.25 to 11 percent.

11 A. Yes. That is the authorized range.

12 Q. And so if the company is earning at 11
13 percent it is not over earning under your criterion,
14 is it?

15 A. Agreed.

16 Q. Therefore, based upon Mr. Damron's numbers
17 in 1990 the company over earned, in your opinion, .79
18 percent?

19 A. I would agree with Mr. Damron's facts and
20 figures.

21 Q. And that's what those facts and figures
22 show, isn't that right, in 1990 the company over
23 earned .79 percent under your theory?

24 A. In my testimony on page 6, line 3 and 4,

25 figures based on the uncontested adjusted results show
(STUMPF - CROSS BY SHAW) 106

1 that US WEST earned 13.03 percent overall rate of
2 return and a 17.53 rate of -- on return on equity in
3 1990.

4 Q. That's before sharing, correct?

5 A. Yes, it is before sharing.

6 Q. After sharing is the relevant number,
7 correct?

8 A. To the company, yes.

9 Q. Company didn't earn what it gave back to
10 the ratepayer, correct?

11 A. You did receive a portion of that money,
12 the company did.

13 Q. The relevant numbers for this Commission to
14 decide whether US WEST is earning too much under this
15 AFOR is the results of operations after sharing,
16 wouldn't you agree with that?

17 A. Mr. Shaw, you're asking revenue
18 requirements details. That would be better addressed
19 by Mr. Damron.

20 Q. Well, you're here on this stand giving the
21 opinion that the Commission -- that the present AFOR
22 is producing unfair, unjust and unreasonable rates,
23 are you not?

24 A. Yes.

25 Q. And the sole basis for that is your

(STUMPF - CROSS BY SHAW)

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1 assertion that the company is earning too much money,
2 correct?

3 A. Yes.

4 Q. And it doesn't have anything to do with
5 whether or not the rates themselves are fair, just and
6 reasonable, it is simply that the company's earning
7 too much money at those rates, correct?

8 A. It is based on the over earnings, yes.

9 Q. And you would agree that the only relevant
10 numbers for this Commission to look at in judging the
11 truthfulness or the propriety of your assertion is the
12 after sharing numbers, correct?

13 A. That is one of the relevant numbers. The
14 rate of return and return on equity are relevant
15 numbers as well.

16 Q. The rate of return -- the overall rate of
17 return and the return on equity after sharing,
18 correct?

19 A. I would believe that before and after
20 sharing are relevant numbers.

21 Q. I thought you just agreed with me that the
22 company can't earn what it doesn't keep. If the
23 company over earns \$10 million and gives 5 million of
24 it back, then it has only over earned \$5 million,

25 correct, in this hypothetical?

(STUMPF - CROSS BY SHAW)

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1 A. Yes. True.

2 Q. Okay. Look at Mr. Damron's testimony at
3 page 42, line 15.

4 MR. SMITH: Your Honor, I'm going to object
5 again. If we have questions about Mr. Damron's
6 testimony, they should be directed to Mr. Damron. Ms.
7 Stumpf in her testimony refers to the rate levels as
8 being no longer fair, just and reasonable and it's
9 based on the testimony of staff witness Damron. Those
10 questions are all properly addressed to Mr. Damron who
11 did the analysis.

12 JUDGE CANFIELD: Obviously I tend to agree
13 with that statement, but then again, as far as policy
14 matters as has earlier been covered, I think we're
15 allowing some leeway to have this witness testify on
16 those as well, but I would agree that I don't want her
17 sitting up here being cross-examined on all these
18 elements of Mr. Damron's testimony that he is going to
19 be addressing in his testimony and cross-examination.
20 So with that in mind, I would request that it be kept
21 to an absolute minimum, Mr. Shaw, just to make sure you
22 cover the policy points that you want to make.

23 Q. Do you see at line 15, Ms. Stumpf, the
24 statement by Mr. Damron that the company's return

25 after sharing was 11.95 percent for 1991 measurement
(STUMPF - CROSS BY SHAW)

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1 period?

2 A. Yes, I do. If I'm correct, this is the
3 statement that says, "After all sharing the Company's
4 ultimate achieved return for 1991 was 11.95% as shown
5 on line 16."

6 Q. Then he goes on at the end of that page and
7 over onto page 43 to say that since the Commission
8 hasn't determined the sharing disposition for the 1992
9 measurement period as yet, no after sharing return can
10 be calculated, correct?

11 A. I believe you're speaking about page 43,
12 line 3, 4, and 5?

13 Q. Yes.

14 A. "Since there's no way of predicting what
15 the ultimate disposition of these 1992 revenues might
16 be I've not included a page 2 in this exhibit."

17 Q. And that's meant to recognize the fact that
18 how the Commission determines to dispose of the
19 revenues available for sharing in turn determines the
20 company's achieved rate of return for that measurement
21 period, correct?

22 A. You're speaking about 1992, yes.

23 Q. Yes. Page 45 of Mr. Damron's testimony, do
24 you see at line 2 Mr. Damron states that, rate of

25 return of 12.36 was the level of return that triggered
(STUMPF - CROSS BY SHAW) 110

1 Commission's earnings complaint in 1989? Do you see
2 that?

3 A. Yes, I see it.

4 Q. Have you compared the achieved rates of
5 return of US WEST in 1990, 1991 of 11.79 and 11.95 to
6 other local exchange companies in this state?

7 A. I have not compared them. I am aware of
8 the general rate of return on a number of the other
9 LECs in this state.

10 Q. In drawing your conclusion that US WEST is
11 over earning in the first two years of this AFOR, did
12 you make a specific comparison to what the achieved
13 earnings are of other local exchange companies in this
14 state?

15 A. I did not make a comparison. They are
16 under -- none of them are under an alternate form of
17 regulation.

18 Q. By that statement, is it your testimony
19 that a company under alternative form of regulation
20 should be allowed only to earn a lower rate of return
21 than a company under traditional regulation?

22 A. No, that is not my testimony.

23 Q. Is it your testimony that they should be
24 allowed to earn more than a company under traditional

25 regulation?

(STUMPF - CROSS BY SHAW)

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1 A. No. Again that is not my testimony.

2 Q. Is your testimony that under either an AFOR
3 or traditional regulation a local exchange company
4 should only be allowed to earn the same rate of
5 return?

6 A. No.

7 Q. You agree, then, that under an alternative
8 form of regulation it is contemplated, in fact,
9 expected and encouraged, for a company to exceed its
10 so-called authorized rate of return?

11 A. An alternate form of regulation or an
12 incentive regulation allows US WEST to financial
13 rewards that are commensurate with performance. That
14 is different from traditional rate of return
15 regulation on which the other companies in this state
16 are under or the local LECs -- excuse me -- local
17 exchange companies or LECs.

18 Q. And by electing an alternative form of
19 regulation that was agreed to and approved by the
20 Commission and assuming certain risks US WEST had and
21 has the opportunity to earn modestly over its
22 authorized rate of return, correct?

23 A. Yes, it does, but again I'll state I do not
24 believe it was projected by the Commission or the

25 staff that the company within the first 11 months of
(STUMPF - CROSS BY SHAW)

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1 the plan would earn over the authorized rate of return
2 and continue that for the next three and a half years.

3 Q. For the first two years of the plan was it
4 the staff's view that the company should have earned
5 under its authorized rate of return and there be no
6 sharing?

7 A. If it was under the 9.25, the company could
8 come in for a change. And it did not do so.

9 Q. No. That wasn't my question. Was it the
10 Commission staff's firm expectation that in the first
11 two years of this plan the company would not be able
12 to earn over 11 percent and, therefore, that there
13 would be no sharing in the first two years?

14 A. No.

15 Q. So the Commission staff did expect that the
16 company would manage to earn over 11 percent and that
17 there would be sharing, correct?

18 A. Yes.

19 Q. Did the Commission staff have a number in
20 mind of what the company reasonably could have been
21 expected to exceed 11 percent by?

22 A. That would be best addressed by Mr. Damron.

23 Q. You of your own knowledge have no idea
24 what the staff expected the company to be able to do

25 in 1990 and 1991?

(STUMPF - CROSS BY SHAW)

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1 A. I do not know what was projected by the
2 staff witness in 1989 on the earnings level.

3 Q. Have you compared the earnings of US WEST
4 achieved in 1990 and 1991 to the achieved earnings of
5 AT&T or MCI or Sprint?

6 A. No, I have not.

7 Q. Does the staff have any idea what AT&T,
8 MCI, and Sprint are earning in the state of
9 Washington?

10 MS. WEISKE: I'm going to object. It would
11 help me to know how this question is relevant. MCI,
12 AT&T and Sprint do not offer currently local exchange
13 service in the state of Washington, thus, I think the
14 comparison is not relevant and I would object to the
15 question on that grounds.

16 MS. MacNAUGHTON: AT&T joins in that
17 objection.

18 MR. SMITH: I have a continuing objection
19 to the extent we're getting into details that are
20 properly addressed by Mr. Damron and we're not into
21 broad policy questions and haven't been for some time.

22 MR. SHAW: Your Honor, this witness has
23 testified as an expert staff person that this AFOR is
24 fatally flawed because it allows US WEST to earn an

25 excessive return. I think the company is entitled to
(STUMPF - CROSS BY SHAW)

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1 explore on what basis that opinion is given. If that
2 is not her opinion and she wants to withdraw her
3 testimony, then she won't be cross-examined on that
4 opinion.

5 MR. SMITH: I'll be happy to provide the
6 basis. It's on page 4 of Ms. Stumpf's testimony. She
7 says, This conclusion is supported by the testimony
8 of Robert Damron. He can answer the questions
9 regarding earnings.

10 JUDGE CANFIELD: I think just for
11 clarification I'll allow him to ask this witness her
12 understanding of that since she does make reference of
13 it in her testimony, and the objections are overruled,
14 but my caveat earlier is I would like to defer to Mr.
15 Damron cross-examination on his testimony.

16 Q. Ms. Stumpf, in your capacity as Mr.
17 Damron's supervisor and policy witness in this case,
18 did you compare the achieved returns of US WEST to
19 other telecommunications companies, and specifically
20 AT&T, Sprint, and MCI?

21 A. I did not compare US WEST's earnings as
22 compared to the IXC's or interexchange carriers.

23 Q. Did you compare the achieved earnings of US
24 WEST to any other companies such as Centrex resellers,

25 payphone providers, alternative operator service

(STUMPF - CROSS BY SHAW)

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1 companies?

2 A. In this proceeding I did not compare them.

3 Q. How does US WEST achieved rate of return of
4 11.79 and 11.95 in '90 and 91 compare to the
5 authorized return of the FCC for US WEST?

6 A. I don't know.

7 Q. Would you be surprised to find out that the
8 authorized return of the FCC for US WEST is higher
9 than US WEST's achieved return in the first two years
10 of this AFOR?

11 A. I do not believe that the Commission looks
12 at the company in other jurisdictions and the rate of
13 return as compared to Washington state. They look at
14 the -- staff has looked at the achieved rate of return
15 for this state.

16 Q. Am I mistaken or is a substantial portion
17 of Mr. Damron's testimony as reviewed by you taken up
18 with a discussion of earnings of Mountain Bell
19 Telephone Company, Northwestern Bell Telephone
20 Company, back to 1984, and 1985, and 1986?

21 A. Yes, it does.

22 Q. So you did in fact compare the earnings of
23 US WEST today in Washington to the earnings of other
24 affiliated US WEST companies in other states, correct?

25 A. Mr. Damron did, yes.

(STUMPF - CROSS BY SHAW)

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1 Q. But you did not compare it to the earnings
2 of other telecommunications companies doing business
3 in the state of Washington?

4 A. I did not, no.

5 Q. Nor did Mr. Damron?

6 JUDGE CANFIELD: If you know. You don't
7 have to make an exhaustive search of his testimony. I
8 think I'll let him speak for that.

9 A. I don't know. No.

10 JUDGE CANFIELD: And maybe, Mr. Shaw, you
11 can let me know how much more questioning you have for
12 this witness. We were going to take a break and we're
13 beyond the time estimates I got, so I just want a
14 little update at this point.

15 MR. SHAW: I'm more than half finished.
16 Three-quarters at least, I think.

17 JUDGE CANFIELD: Okay. Let me know when it
18 would be an appropriate time to take a break then.

19 MR. SHAW: It would be fine. I'm going to
20 change subjects to held orders at this point.

21 JUDGE CANFIELD: Okay. Let's take a break
22 and come back at 11:35.

23 (Recess.)

24 JUDGE CANFIELD: We're back on the record

25 now after our break. Mr. Shaw indicated that he has
(STUMPF - CROSS BY SHAW)

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1 some additional remaining questions for this witness,
2 and hopefully we'll be able to conclude the witness's
3 testimony by the noon break according to the estimates
4 that I've gotten thus far. So with that, I would
5 appreciate the questions being kept as brief and on
6 point as possible, and likewise, the answers. Okay,
7 Mr. Shaw.

8 MR. SHAW: Yes. Thank you, your Honor.

9 Q. Ms. Stumpf, would you refer to your
10 testimony at page 6 and 7 and your Exhibit 1039 which
11 is your RJS-3, dealing with held orders. Directing
12 your attention to 1039 and line for May '93, the very
13 last line on the table of numbers. Do you have that?

14 A. Yes, I do.

15 Q. And you show there resident primary held
16 orders for May '93 of 407. Do you see that number?

17 A. Yes.

18 Q. Would you accept, subject to your check,
19 that includes 188 additional lines, in other words,
20 that included -- within the number 407 are 188 lines
21 ordered by customers as additional lines to their
22 primary service?.

23 MR. SMITH: Your Honor, just a procedural
24 question. Is this something we can check today or

25 tomorrow, Mr. Shaw?

(STUMPF - CROSS BY SHAW)

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1 MR. SHAW: I believe so. These are reports
2 by the company to the staff.

3 MR. SMITH: Thank you.

4 A. Yes, I'll accept that subject to check.

5 Q. Would you agree, then, that the actual held
6 residential primary first lines are 407 minus 188,
7 subject to your check on the 188?

8 A. For May 1993 I'll take that subject to
9 check.

10 Q. And as another example, directing your
11 attention to December 1992 where in that same column,
12 residential primary, you show 240. That includes
13 subject to your check 143 additional lines, lines in
14 addition to the primary service that the customer
15 already had?

16 A. For 1992 December, yes, I'll take that
17 subject to check.

18 MR. SMITH: Could you repeat that number,
19 Mr. Shaw. I missed it.

20 MR. SHAW: 143 additional lines.

21 Q. Now, in regard to held orders, it's your
22 testimony, I take it, that the company has allowed
23 those held orders to increase above unacceptable
24 levels?

25 A. Yes, it is.

(STUMPF - CROSS BY SHAW)

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1 Q. And would you agree that the level of
2 acceptability for held orders for local exchange
3 companies doing business in the state of Washington is
4 controlled by WAC 480-120-051 which is a part of the
5 new comprehensive quality rule that the Commission
6 just adopted earlier this year?

7 A. I don't have that passage before me, but,
8 yes, I'll take that subject to check.

9 Q. And you agree that if the company's held
10 orders are within the parameters of that rule, then by
11 definition under the Commission's quality rule the
12 company is providing quality service?

13 A. The basis for these numbers, Mr. Shaw, were
14 1990 and 1991 comparative on the held orders during
15 the first two years of the plan which staff saw a
16 marked increase from the previous years, and based on
17 that information I made my judgment and opinion that
18 the company was not meeting an appropriate held order
19 which was an indicator of service quality.

20 Q. Your testimony is, is that in 1990 and 1991
21 the held order levels were above the levels allowed by
22 the Commission's quality rule adopted in '93?

23 A. The rule was adopted January 27, 1993. The
24 open window proceeding was initiated prior to that,

25 and the two years that were reviewed were 1990 and

(STUMPF - CROSS BY SHAW)

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1 1991, and looking at historical held order levels.

2 Q. The decision before the Commission in this
3 proceeding is whether to terminate this AFOR today
4 because it's not meeting, allegedly, the requirements
5 of the statute today, isn't that correct?

6 A. True.

7 Q. So what is relevant for the Commission to
8 consider is the quality of the service that the
9 company is providing today under that AFOR, correct?

10 A. My testimony is based on information that
11 was provided for the open window years of 1990 and '91
12 on the success of the plan at that time.

13 Q. Is it your testimony that if the Commission
14 determines that the company missed its obligation to
15 provide quality service in 1990 that the plan should
16 be terminated in 1993 based upon that alleged failure
17 in 1990?

18 A. On my testimony on page 10, lines 18
19 through 21, I state that "the level of US WEST held
20 orders increased concurrent with the initiation of the
21 AFOR and has remained at volumes significantly above
22 historic levels prior to the AFOR plan." They are
23 still at high levels.

24 Q. And in fact the levels in 1990, 1991 and

25 1993 are all within the requirements of the existing
(STUMPF - CROSS BY SHAW)

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1 Commission quality rule, right?

2 A. Can you refer me to that passage on the
3 rule?

4 Q. You have a copy of the rule in front of
5 you?

6 A. Yes, I do.

7 Q. Refer you to WAC 480-120-051, and the
8 section that starts, Each local exchange company shall
9 complete applications for installation of primary
10 exchange access lines as follows. And then it has a
11 sub (1) and a sub (2). Do you see that?

12 A. I don't have that page before me but --

13 Q. (Handing.)

14 A. Mine is in a different format, but I'll
15 take what you're saying.

16 JUDGE CANFIELD: Okay. She may not have
17 that properly before her, Mr. Shaw, but maybe you can
18 just ask the gist of your question.

19 Q. Do you recall, Ms. Stumpf, that US WEST, as
20 well as all other local exchange companies, are
21 required to install request for service within five
22 days of request in 90 percent of the occasions and
23 that 99 percent of applications for installation of
24 primary service shall be completed within 90 days

25 after the date of the service request is received?

(STUMPF - CROSS BY SHAW)

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1 A. Yes, I agree with that.

2 Q. And in fact in 1990, 1991 and 1993 current
3 today, the company's performance on held orders is
4 within the parameters of that rule, correct?

5 A. In 1990, '91 and '92 I am looking at
6 historic held orders which the company has stated was
7 -- should be around 200, and I'm looking at held
8 orders far in excess of that in '90, '91 and '92.

9 Q. So the standard for held orders for US WEST
10 is not the Commission's quality rule, it's some other
11 standard? Is that your testimony?

12 A. No, it is not. I looked at the historical
13 data that US WEST provided and the average mean of
14 around 200 held orders which the company stated was
15 average, and made my determination on what the held
16 order numbers were in '90, '91.

17 Q. You agree that held orders fluctuate
18 seasonally?

19 A. Yes, I will agree to that.

20 Q. Would you further agree that historically
21 in the high growth areas of the 70s held orders by
22 then PNB were very much higher than they are today?

23 A. In the 1970s, I don't know.

24 Q. Held orders have been in the thousands in

25 the past when the company's been faced with high

(STUMPF - CROSS BY SHAW)

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1 growth and unexpected exhaustion of plant, correct?

2 A. I'll accept what you're saying.

3 Q. And those levels of high held orders based
4 upon circumstances that prevail were under traditional
5 regulation, correct?

6 A. Previous to 1990, yes, they would have
7 been.

8 Q. And again I'll ask you, the level of held
9 orders by this company since the initiation of this
10 AFOR have at all times been within the parameters of
11 the Commission's new rule on quality, have they not?

12 A. The new rule does not define a number.

13 Q. Well, even if you do not deduct additional
14 lines beyond the primary service, 400 held orders on a
15 base of over 2 million access lines is within the 90
16 percent and 99 percent requirements of the rule, is it
17 not?

18 A. Yes, it is.

19 Q. One of your recommendations for any AFOR
20 that would replace this one is that the company be
21 held to the requirements of the quality rule, correct?

22 A. Yes, it is.

23 Q. And that's one of the suggestions of the
24 Commission's initial order, proposed order, in this

25 case?

(STUMPF - CROSS BY SHAW)

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1 A. In the proposed order, yes.

2 Q. And so that is the standard by which the
3 company should be measured as to whether or not it's
4 providing quality service?

5 A. That would be a new measure if the order is
6 -- the proposed order is accepted.

7 Q. That's the measure of quality service
8 regardless of what kind of regulation a local exchange
9 company is under, is it not?

10 A. As of January of '93.

11 Q. Referring you to your testimony where
12 you talk about Commission complaints in regard to held
13 orders, do you have that in mind?

14 A. Yes, I do.

15 Q. Did you examine the data for the level of
16 customer complaints to the Commission?

17 A. That is in my Exhibit T-1038, I believe, it
18 is.

19 Q. The complaints that you graph there relate
20 only to held orders, correct?

21 A. Yes.

22 Q. The Commission typically receives
23 complaints dealing with other service matters other
24 than just held orders, correct?

25 A. Yes, they do.

(STUMPF - CROSS BY SHAW)

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1 Q. Would you accept, subject to your check,
2 that in 1990 the Commission received 989 complaints or
3 inquiries by US WEST customers; 1991, 714; 1992, 830;
4 and in 1993 to date, 429?

5 A. I'll take that subject to check.

6 Q. And the staff does keep track of the number
7 of complaints --

8 A. Yes.

9 Q. -- as to every company?

10 A. Yes.

11 Q. Your recommendation as you summarize it at
12 page 13 is that the Commission terminate the current
13 alternative form of regulation, correct?

14 A. The recommendation is to terminate if the
15 proposed changes are not accepted.

16 Q. The proposed changes that you have
17 reference to are just the changes as proposed by the
18 Commission in its initial order in this case?

19 A. Yes.

20 Q. Is the staff of the Commission at this
21 point urging upon the Commission any additional
22 conditions to avoid termination of the AFOR other than
23 in the initial order?

24 A. Not for the next year and a half that the

25 AFOR plan completes, the existing AFOR.

(STUMPF - CROSS BY SHAW)

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1 Q. So to the extent that in Mr. Damron's
2 testimony he argues for conditions not contained in
3 the initial order, staff does not sponsor those
4 requests?

5 A. Staff would accept the proposed changes in
6 the initial order for the term of the existing
7 agreement.

8 Q. Do you recall Mr. Damron's testimony that
9 the company be required to rebase rates with the
10 burden of proof on the company?

11 A. I recall that, but any questions related to
12 Mr. Damron's testimony would be best addressed by him.

13 Q. Assuming for the purpose of this question
14 that Mr. Damron argues that that condition should be
15 imposed on this AFOR or any AFOR, you as the staff
16 policy witness and the supervisor of Mr. Damron are
17 not asking that that condition be placed on the
18 continuation of this AFOR, is that correct?

19 A. That is correct. That would be a
20 consideration as we go into possibly another AFOR at a
21 future time.

22 Q. So all of the additional conditions
23 discussed in Mr. Damron's testimony for an AFOR do not
24 relate to the continuation of this AFOR through its

25 expiration date of 1994?

(STUMPF - CROSS BY SHAW)

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1 A. All the issues that are contained in the
2 Commission's initial order would be. Those outside
3 would be considered at a later date.

4 Q. Finally, your recommendation in your
5 testimony is that this current AFOR be terminated as
6 of December 31, 1993?

7 A. If the proposed changes in the Commission's
8 initial order are not accepted.

9 Q. You believe this current AFOR, I take it,
10 to be contrary to law? That's your testimony?

11 MR. SMITH: I'm going to object to that
12 question, your Honor.

13 JUDGE CANFIELD: Okay. I don't think I saw
14 that in the testimony either, so I'll sustain the
15 objection, and if you've got a specific reference to
16 her testimony, Mr. Shaw, go ahead.

17 MR. SHAW: Let me rephrase it.

18 Q. Is it your testimony that the current AFOR
19 does not meet the requirements of RCW 80.36.135
20 (3)(a)-(g)?

21 A. As stated on page 4 of my testimony, they
22 do not.

23 Q. By that opinion do you mean to say that the
24 current AFOR is contrary to law?

25 MR. SMITH: Your Honor, I'm going to renew

(STUMPF - CROSS BY SHAW)

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1 my objection. She indicated the basis of her
2 recommendation.

3 JUDGE CANFIELD: Okay. I'll agree and I'll
4 rule, as I did before, that the question is -- the
5 objection is sustained.

6 Q. Do you assert by this testimony, Ms.
7 Stumpf, that this AFOR is bad for ratepayers?

8 A. In its existing form, yes.

9 Q. Why are you not arguing that it should be
10 terminated effective January 1, 1993 or December 31,
11 1992?

12 A. The 1992 sharing could be distributed.
13 We're halfway through the year, Mr. Shaw. It makes
14 sense to follow it out until the end of this year,
15 terminate, and then go into a new plan.

16 Q. In other words, it's the staff's
17 recommendation to terminate this plan one year before
18 its natural termination date, correct?

19 A. Yes.

20 Q. And replace it with another plan for a
21 period of one year, that is calendar year 1994?

22 A. Yes.

23 Q. And then replace it again thereafter,
24 perhaps, with yet another AFOR?

25 A. Yes.

(STUMPF - CROSS BY SHAW)

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1 Q. By your recommendation to terminate it at
2 the end of '93 instead of the first of '93, I take it
3 you believe that the plan provides benefits to
4 ratepayers?

5 A. There would be earnings to distribute. I
6 would assume there would be earnings this year to
7 distribute to ratepayers.

8 Q. So the plan is not so bad that it shouldn't
9 be allowed to continue through the end of 1993,
10 correct?

11 A. Correct.

12 MR. SHAW: Thank you very much.

13 JUDGE CANFIELD: Okay. Thank you, Mr.
14 Shaw. The estimates were not much for the remainder
15 of this witness, but I don't know. It's a little
16 after noon, so --

17 COMMISSIONER CASAD: How much?

18 JUDGE CANFIELD: Well, we've got up to 15
19 minutes from Mr. Adams, I don't know if that estimate
20 still holds.

21 MR. ADAMS: It's probably 10 to 15 minutes.

22 JUDGE CANFIELD: And I believe Mr. Finnigan
23 had a few minutes as well.

24 MS. WEISKE: And, your Honor, based on the

25 questions all morning, MCI has about five minutes of
(STUMPF - CROSS BY SHAW)

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1 cross.

2 COMMISSIONER CASAD: I suggest we have
3 lunch.

4 JUDGE CANFIELD As I'm hearing that, we'll
5 take our break. Let's take our lunch break now and
6 come back at 1:15.

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

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(STUMPF - CROSS BY SHAW)

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1

AFTERNOON SESSION

2

1:15 p.m.

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CROSS-EXAMINATION

14

BY MR. SIMPSON:

15

Q. Good afternoon, Ms. Stumpf.

16

A. Good afternoon.

17

18

19

Q. You would agree, would you not, that there's a link or a tie between the development of competition and US WEST's rate structure?

20

A. Yes, I would agree.

21

22

Q. Could you elaborate on what that linkage is or what tie?

23

24

A. The -- if I understand you correctly, the rate structure and -- repeat the question and I'll

25 respond.

(STUMPF - CROSS BY SIMPSON)

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1 Q. I believe you agree that there is a
2 connection, if you will, between the development of
3 competition in the state of Washington and US WEST's
4 rate structure, and I have asked you to elaborate on
5 that, if you would.

6 A. Yes. The less competition, I believe that
7 the less competitive the rates will be.

8 Q. Thank you. Would you agree that permanent
9 rate reductions can be used to adjust the development
10 of competition to help it along, if necessary?

11 A. Yes, I would agree.

12 Q. Can you tell me does the staff advocate the
13 use or the application of ratepayer's shared revenues
14 to reduce rates as a response to competition?

15 A. Staff does advocate that position.

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

18 JUDGE CANFIELD: Okay. Thank you, Mr.
19 Simpson. And Ms. Weiske.

20 MS. WEISKE: Thank you.

21

22 CROSS-EXAMINATION

23 BY MS. WEISKE:

24 Q. Ms. Stumpf, this morning you had a brief

25 discussion with Mr. Shaw about the state of

(STUMPF - CROSS BY WEISKE)

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1 competition vis-a-vis intraLATA toll competition and
2 I want to briefly go over that with you. Is it your
3 understanding that currently MCI does compete for
4 intraLATA toll calls in the state of Washington with
5 US WEST?

6 A. Yes.

7 Q. And are you also -- isn't it also true that
8 to make an intraLATA toll call using MCI you need to
9 use an alternate access code?

10 A. Yes, you would need an access code.

11 Q. And thus the only way you could make a 1
12 plus intraLATA toll call would be through using US
13 WEST, correct?

14 A. That is true.

15 Q. Would you agree with me, then, there is not
16 currently effective competition in the intraLATA toll
17 market until there would be 1 plus?

18 A. I would agree there is not effective
19 competition.

20 MS. WEISKE: Thank you. That's all I have.

21 JUDGE CANFIELD: Okay. Thank you. Ms.

22 MacNaughton.

23

24 CROSS-EXAMINATION

25 BY MS. MacNAUGHTON:

(STUMPF - CROSS BY MacNAUGHTON)

134

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. Ms. Stumpf, you testified that staff
4 supports the modification proposed by the Commission
5 in the current AFOR, is that correct?

6 A. That is true.

7 Q. Does staff support include the Commission's
8 determination that the modifications proposed would
9 apply to both the 1993 and the 1994 sharing years?

10 A. The proposed changes would go out through
11 the term into the existing agreement which is another
12 year and a half, so it would be 1993 and into '94,
13 yes.

14 Q. And with respect to the proposed changes in
15 the sharing bands, you support the Commission's
16 proposal to apply those changes to 1993 sharing
17 revenues, is that correct?

18 A. Staff does support those changes.

19 Q. And staff also supports applying beginning
20 with 1993 excess revenues, if any, the Commission's
21 proposal to accrue interest on the rate payers' share
22 of the excess earnings, is that correct?

23 A. Yes, that is true.

24 Q. Ms. Stumpf, you were asked a few questions

25 regarding AT&T's proposed investment in McCaw, a
(STUMPF - CROSS BY MacNAUGHTON)

135

1 cellular company. Do you remember those questions?

2 A. Yes, I do.

3 Q. Cellular is not regulated by the
4 Commission, isn't that correct?

5 A. That is true.

6 Q. How would you generally speaking compare
7 the level of local exchange rates to the level of
8 cellular rates?

9 A. There is no comparison. The level of
10 cellular rates are very high as compared to local
11 rates.

12 Q. So would you agree that cellular is priced
13 too high for there to be effective competition between
14 McCaw's cellular service and local exchange service as
15 it's priced today?

16 A. Yes.

17 MS. MacNAUGHTON: I have no further
18 questions.

19 JUDGE CANFIELD: Thank you.

20 MR. BUTLER: No questions.

21 JUDGE CANFIELD: No questions? Okay. And,
22 Mr. Finnigan.

23 MR. FINNIGAN: Thank you.

24

25

(STUMPF - CROSS BY FINNIGAN)

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1 CROSS-EXAMINATION

2 BY MR. FINNIGAN:

3 Q. I have just a couple of questions. This
4 morning Mr. Shaw was asking you some questions about
5 your policy position on the AFORs and one of the
6 questions or a series of questions related to the rate
7 of return that US WEST was earning under the
8 alternative form of regulation. Do you have that line
9 of questioning in mind?

10 A. There were several, but I will try and
11 follow.

12 Q. Okay. One of the ways in which you have
13 measured the success of the alternative form of
14 regulation is through the use of a rate of return
15 test, is that correct?

16 A. Yes.

17 Q. Is it staff's position that a rate of
18 return test should be used to measure the success or
19 failure of any form -- any alternative form of
20 regulation or is that a test that is peculiar to US
21 WEST's current AFORs?

22 A. That is one of the tests used for US WEST's
23 plan. I couldn't project what would be used on
24 another plan with another company.

25 Q. Are you saying then that staff does not
(STUMPF - CROSS BY FINNIGAN)

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1 have a fixed position that any alternative form of
2 regulation proposed for use in Washington has to be
3 measured by a comparison to traditional rate of return
4 rate based regulation?

5 A. Let me revise my answer. It is a good
6 indicator and I am sure rate of return would be one of
7 the measures. It is my opinion it would be one of the
8 measures in any other kind of a plan other than US
9 WEST.

10 Q. So if someone proposed a price cap form of
11 alternative form of regulation the staff would still
12 look to test that by rate of return measure?

13 A. Yes.

14 Q. The other area I want to ask you questions
15 about concerns a discussion you had with Mr. Shaw
16 about the responsibilities for the carrier of last
17 resort. You indicated in response to a question that
18 if there was a new entrant into the local exchange
19 market that they would have the same carrier of last
20 resort responsibilities as the existing local exchange
21 company. And could you explain to me what you meant
22 by that response because I quite frankly am confused
23 by that.

24 A. I would modify that response. A competitor

25 that was at the same magnitude as US WEST would be
(STUMPF - CROSS BY FINNIGAN)

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1 under the same obligations. We have yet to see a
2 competitor that is responsible for the existing
3 monopoly market.

4 Q. Then is it your position that the existing
5 local exchange company would continue to be
6 responsible as a carrier of last resort and the
7 provider of POTS, if you will, within the exchange to
8 all customers while a new entrant would not be?

9 A. A new entrant would be responsible for the
10 same service levels and the same regulatory
11 obligations as US WEST. Right now we don't have a
12 situation with a company of that size or magnitude
13 that has the market hold that US WEST does.

14 Q. Well, that wasn't quite what the question I
15 asked was, trying to get at, so let's try again. And
16 let's take it away from US WEST for just a moment.
17 Let's just pick one. Let's try Ellensburg Telephone
18 Company. If there was a new company, a new entrant,
19 that wanted to serve in the Ellensburg service
20 territory, would Ellensburg have to continue to
21 provide service to all customers in its exchange? I'll
22 just stop the question there.

23 A. I have not made a final opinion on that
24 yet.

25 Q. Let's look at it from the other side. The
(STUMPF - CROSS BY FINNIGAN) 139

1 new entrant, would the new entrant be required to
2 provide service to anyone who requested it, local
3 exchange service, to anyone who requested that service
4 of that new entrant?

5 A. Yes, in my opinion.

6 Q. Okay. So they would be required to build
7 facilities if they want to enter the local exchange
8 market to serve anyone within a defined exchange?

9 A. It would be my opinion.

10 Q. Is that your personal opinion or is that
11 staff's opinion?

12 A. That is my personal opinion now.

13 Q. Does staff have an opinion on that subject
14 at this time?

15 A. Not that I can speak for.

16 Q. Does staff have an opinion that their --

17 A. No.

18 MR. FINNIGAN: Thank you.

19 JUDGE CANFIELD: Okay. Thank you, Mr.

20 Finnigan. I don't see Mr. Adams here so why don't we
21 proceed then. Commissioners, questions for Ms.
22 Stumpf?

23 CHAIRMAN NELSON: I'll pass.

24 COMMISSIONER CASAD: I just have one

25 clarifying question.

(STUMPF - CROSS BY FINNIGAN)

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EXAMINATION

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BY COMMISSIONER CASAD:

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Q. In response to questioning by Mr. Shaw, a question was framed to you that the company earned 11.79 return after all sharing. Do you recall that question?

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A. Yes, I do.

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Q. "After all sharing" would connote to me that not only would the sharing be done with ratepayers, but the sharing would also be done with shareholders, i.e. that percentage that was due shareholders would have been distributed. Would that not alter the 11.79? Would those not be extra earnings which were not accounted for under that scenario?

A. I would like to defer that question to Mr. Damron as a revenue requirement specialist. He addresses that in his testimony.

Q. Well, you were the one who responded to Mr. Shaw and I'm just trying to get what your understanding is of the situation, and when you were asked that question and you responded, I would be interested in what you were talking about. I'll be

25 glad to ask the question of Mr. Damron, but I want to
(STUMPF - EXAMINATION BY CASAD)

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1 be clear so I know where staff is.

2 A. If I was correct, that was referring to
3 page 45 of Mr. Damron's testimony on the level of
4 return that was triggered on the earnings and the
5 excess earnings above 11 percent. If I recall the
6 question, we're talking about the sharing to the
7 ratepayer, to the stockholder.

8 Q. As I recall the question, the question was
9 the company earned 11.79 percent after all sharing had
10 been completed. Now, you know, I can repeat the
11 question. "After all sharing" means to me that the
12 ratepayers had received their share and the
13 shareholders had received their share, otherwise all
14 sharing would not have been completed. And if that's
15 the case, 11.79 would not be a real accurate
16 reflection of -- the earnings of the company would be
17 11.79 plus the shareholders' share which they had
18 returned and received in sharing prior to the
19 establishment of this rate of return figure.

20 A. Yes.

21 Q. Was that your understanding when you
22 answered the question?

23 A. Yes.

24 COMMISSIONER CASAD: Thank you, very much.

25

(STUMPF - EXAMINATION BY HEMSTAD)

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1

EXAMINATION

2

BY COMMISSIONER HEMSTAD:

3

Q. I was interested in your responses to Mr.

4

Shaw's questions about the level of rate of return.

5

Doesn't incentive regulation inherently apply there's

6

a potential for higher rate of return for the company?

7

A. Yes, it does.

8

Q. And is it your position that, though, that

9

rate of return that is above the upper band level for

10

the rate of return is, simply because it is

11

there, excessive?

12

A. No. It is anything above the 11 percent

13

should have been earned through incentives, and staff

14

has not seen the productivity and services incentives

15

that should have been developed from these excessive

16

earnings.

17

Q. So is it your position that if the company

18

could demonstrate that the amount, the rate of return

19

above 11 percent, were a direct result of

20

productivity, that could be almost at any level then

21

if it were a direct result of productivity increases?

22

A. That would be one of the factors, but then

23

staff would not have an objection to the earnings. We

24

are one of the few plans that do not have a rate cap.

25 Q. So when you say it's excessive, it's

(STUMPF - EXAMINATION BY HEMSTAD)

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1 excessive because it's not measurable as to whether
2 it's the result of productivity or for other kinds of
3 reasons?

4 A. Yes.

5 Q. In your exhibits and your testimony, first
6 your testimony, on page 10 and 11, I believe, you talk
7 about the quantity of tariff filings as a measure for
8 improvements in service.

9 A. Mm-hmm.

10 Q. Is it your testimony that that kind of
11 quantitative measurement of tariff filings is an
12 accurate measure of improvements in service?

13 A. That was one of the measures that would
14 indicate.

15 Q. But, for example, you could have, you know,
16 a revolutionary change in services in a single tariff,
17 for example, or you could have a whole series of very
18 minor changes in service in a series of minor tariffs?

19 A. Yes.

20 Q. Did you do any evaluation of the
21 qualitative nature of those tariff filings against a
22 quantitative measure?

23 A. Yes, I did look at the tariff changes and
24 the -- many of the changes were to the existing

25 services in those tariffs rather than innovative new

(STUMPF - EXAMINATION BY HEMSTAD)

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1 services.

2 Q. So your generalized conclusion is that they
3 are not particularly innovative collectively in that
4 group of tariff filings?

5 A. Yes.

6 Q. I have really the same kind of inquiry with
7 regard to complaints and held orders. I take it held
8 orders, the percentage, I'm left with the sense that
9 the percentage of held orders in relationship to the
10 total access lines is, either under the historical
11 pattern or under the more recent pattern, is still
12 quite small, isn't it?

13 A. Yes, it is.

14 Q. So you think that, say, a change from 200
15 to 400 held orders is a significant measure of decline
16 in quality of service?

17 A. It shows that the company was not incented
18 to improve their service. Although the earnings were
19 high, there was no incentive to improve the existing
20 services.

21 Q. But if it had gone from, say, 200 to 150,
22 you would be satisfied that would have shown an
23 incentive to improve quality?

24 A. That would have been a decrease in the held

25 orders, thus showed a positive change, yes.

(STUMPF - EXAMINATION BY HEMSTAD)

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1 COMMISSIONER HEMSTAD: I have no other
2 questions.

3

4 EXAMINATION

5 BY JUDGE CANFIELD:

6 Q. Ms. Stumpf, I certainly don't want to
7 repeat any of the questions that were asked before,
8 but just a general reference to pages 4 and 5 where
9 you've got -- where you discuss the rates under the
10 plan no longer being fair, just and reasonable. Mr.
11 Shaw asked a series of questions on that earlier. I
12 don't want to repeat that, but do you think the
13 Commission could or should in an incentive regulation
14 context make any distinction between the earnings and
15 rates within that context?

16 A. If I understand your question correctly,
17 you were asking if -- let me rephrase that. In my
18 testimony I am stating that the earnings level shows
19 excessive rates because of the earnings level, thus
20 the rates were excessive.

21 Q. Okay, yes. That gets us to where I was
22 starting from.

23 A. Okay.

24 Q. And the question beyond that was whether

25 you take the position that the Commission could or

(STUMPF - EXAMINATION BY JUDGE)

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1 should make any distinction between earnings and rates
2 in the incentive regulation context.

3 A. Yes.

4 Q. Maybe you could just explain that.

5 A. With the earnings, if the earnings levels
6 were lower, the rates could be lowered and, thus, the
7 Commission would have the authority to make those
8 changes.

9 Q. And looking at incentive regulation, the
10 focus is on rates?

11 A. No. The focus is on earnings.

12 Q. Maybe we could turn to page 7 of your
13 testimony, Exhibit T-1036. I'm looking at your Table
14 1. Then going down to lines 18 through 20, you
15 indicate that the primary held orders increased during
16 the 1990-1991 time frame despite the fact that the
17 access line growth rate during that time was lower
18 than the 1988-1989 period?

19 A. Yes.

20 Q. Applying a simple averaging to those growth
21 rates, I've calculated the opposite -- maybe you can
22 help me explain -- an average of 3.05 percent growth
23 rate per year in access lines for the 1988-1989 and a
24 4.05 percent per year for the 1990-1991. I'm having a

25 little trouble following that. Apparently the

(STUMPF - EXAMINATION BY JUDGE)

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1 compounded percentage growth rate would also be higher
2 for the 1990-1991 than for the 1988-1989. Maybe you
3 can help me out there a bit. Do you follow where I'm
4 having some difficulty following the table?

5 A. You're looking at the access lines from the
6 previous year, the growth?

7 Q. The Table 1 where it does reflect the
8 access lines and the percentage of change in access
9 lines from the previous years, right.

10 A. Yes.

11 Q. Yes, but I'm just trying to compare the
12 numbers to the statement that I referenced as well.

13 A. Lines 18 through 21, "This increase
14 occurred despite the fact that growth in access lines
15 was lower in the 1990-1991 time period than the
16 1988-1989 time period"?

17 Q. Right. I'm trying to reconcile the numbers
18 with that statement.

19 A. We see an increase of 4.4 in '89 change in
20 access lines from the previous year in 1988, and then
21 less in 1990 and '91: 4.3, and then it drops again,
22 3.8. And but the held orders increase in those two
23 years.

24 Q. What I'm looking, as a two-year period.

25 A. We're looking at a percentage of growth

(STUMPF - EXAMINATION BY JUDGE)

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1 from the previous years. It's incremental.

2 Q. Are you comparing a one-year period to a
3 one-year period or a two-year period to a two-year
4 period?

5 A. One-year period to one-year period.

6 Q. Still trying to figure out how the numbers
7 are consistent with the compounding percentage growth
8 rate figured in there. You're still taking the
9 position that the numbers are consistent with the
10 statement?

11 A. Yes, I am.

12 Q. Let's quickly turn to your testimony at
13 page 7, line 23, and continuing on through line 6 on
14 page 8, and you discuss complaints registered with the
15 Commission concerning held orders. Do you know how
16 many or what percentage of those complaints were
17 related to held regrade orders?

18 A. I do not have that information with me.
19 These are strictly primary orders for business and
20 residence.

21 Q. You don't have it broken down any further
22 than that?

23 A. No.

24 Q. Okay. Do you know when it was that US WEST

25 was directed to begin transitioning to a one-party

(STUMPF - EXAMINATION BY JUDGE)

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1 universal service?

2 A. The OPUS plan I believe was 1990 and was to
3 conclude in 1994.

4 Q. Then at page 9, at lines 12 through 15, you
5 state that, "Staff believes if the company had been
6 willing to spend the money and thus forego some of the
7 profits realized under the incentive plan, the level
8 of held orders would have certainly been less."

9 Do you know whether US WEST capital
10 expenditures overall, and specifically with regard to
11 spending on outside plant that would presumably impact
12 the level of held orders, has increased or decreased
13 during the term of the current AFOR?

14 A. I don't have the details of the
15 construction budget with me.

16 Q. So maybe you can give a basis for your
17 statement then, the one that I just referenced.

18 A. The company has increased its construction
19 budget, according to US WEST, in the last couple of
20 years, but the held orders have continued to increase,
21 and staff believes that that is an indicator of
22 service quality.

23 Q. Let's go to the bottom of page 10 and onto
24 the top of page 11. You discuss Exhibit 1040 and you

25 state that during the 1988-1989 the company filed 29
(STUMPF - EXAMINATION BY JUDGE)

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1 tariffs to establish new services, and during
2 1990-1991 the Commission approved 12 tariffs. So
3 switching from filed to approved. I'm just wondering
4 if you know how many tariffs the company actually
5 filed during the 1990-1991 time frame.

6 A. Actually, I should revise that. The
7 company filed and -- 29 were filed and approved during
8 the 1988 and '89, and I do not have all of the tariffs
9 that were filed, but the tariffs that were approved
10 which were 12 from '90 to '91, which was significantly
11 less than the previous two years.

12 Q. So you don't know how many were filed?

13 A. Were actually filed?

14 Q. Right.

15 A. No, I do not have that.

16 Q. Okay.

17 COMMISSIONER CASAD: Are you finished?

18 JUDGE CANFIELD: I'm done. Thank you.

19

20 EXAMINATION

21 BY COMMISSIONER CASAD:

22 Q. I want to try once more on Table 1 on page
23 7. The figures that you used for '90 and '91 are the
24 average of the two years, correct?

25 A. Yes.

(STUMPF - EXAMINATION BY CASAD)

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1 Q. And the same thing is true for '90, '91 and
2 -- well, that's even getting confusing. Okay. Let's
3 look at the table itself. If you average the 145 and
4 the 288 in 1989 and 1988, that gives you your average
5 of 216 per month, does it not?

6 A. Yes, it does.

7 Q. The same thing would be true of '90 and
8 '91, you take 636 and 488, that gives you the average
9 of 562 per month, is that correct?

10 A. That is correct.

11 Q. Let's go down to the percent change in
12 access lines from the previous year. If you take the
13 same period 1988 and 1989 and you add 1.7 and 4.4,
14 that gives you a factor of 6.1, does it not?

15 A. Yes, that does.

16 Q. Okay. Then if you take the two years 1990
17 and '91 and add 4.3 and 3.8, that gives you 8.1, does
18 it not?

19 A. Yes.

20 Q. So there's a growth in access lines rather
21 than a lessening of access lines in that comparable
22 period; there are more rather than fewer?

23 A. That is true.

24 COMMISSIONER CASAD: Thank you.

25 heard recent comments. It was earlier indicated that
(STUMPF - EXAMINATION BY CASAD)

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1 the agreed list was as we earlier announced, but we
2 can touch upon that momentarily.

3 First, Mr. Smith, any redirect of Ms.
4 Stumpf?

5 MR. SMITH: Yes, I have a few questions.

6

7 REDIRECT EXAMINATION

8 BY MR. SMITH:

9 Q. Ms. Stumpf, does the quality of service
10 rule set a minimum standard for held orders?

11 A. Yes, it does.

12 Q. And have held orders gone up during the
13 AFOR as compared to the years prior to the AFOR, the
14 two years prior to the AFOR?

15 A. Yes, they have.

16 Q. And in your view would that constitute a
17 degradation of the quality of service under the AFOR?

18 A. Yes.

19 Q. Compared to the prior two years?

20 A. Yes, it does.

21 Q. Mr. Shaw asked you some questions about the
22 qualities of service rule WAC 480-120-051, and as I
23 understood the question, he was comparing number of
24 held orders in a month to total number of access

25 lines. Is that your understanding of how the

(STUMPF - REDIRECT BY SMITH)

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1 percentage is derived under that rule?

2 A. No, it is not.

3 Q. And is the comparison, the total number
4 of applications in a month to the total number of held
5 orders during a month?

6 A. Yes, it is.

7 Q. On page 7, the Table 1, on the bottom row
8 of numbers that is a percentage change in access lines
9 from the previous year, is that correct?

10 A. Yes.

11 Q. Each number --

12 A. Each number.

13 Q. -- is a change from the prior year?

14 A. Yes.

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

16 JUDGE CANFIELD: Okay. I don't know
17 whether that opened up any or not, but I'll just in
18 general ask any questions on that.

19 MR. SHAW: I have a bit of recross raised
20 by other cross examiners, your Honor.

21 JUDGE CANFIELD: Okay. Go ahead, Mr. Shaw.

22

23 RECCROSS-EXAMINATION

24 BY MR. SHAW:

25 Q. Two items that I believe are confused on
(STUMPF - RE CROSS BY SHAW) 155

1 the record, Ms. Stumpf, that should be clarified. Ms.
2 MacNaughton asked you some questions about your
3 recommendation to terminate the plan at the end of
4 this year but that the changes should be made
5 retroactive to the beginning of the year. Do you
6 recall those questions?

7 A. Yes, I do.

8 Q. So to be perfectly clear then, your
9 recommendation is that the Commission should terminate
10 the plan effective the end of this year in order to
11 gain the benefits of 1993 sharing?

12 A. Yes.

13 Q. And additionally, to continue the plan or a
14 plan beyond 1993, the company has to agree to modify
15 the existing plan back to the beginning of the year?
16 Is that your recommendation?

17 A. The modifications would begin at the end of
18 this year, 1993.

19 Q. Okay. I thought there was some confusion.
20 So your recommendation on behalf of the staff is the
21 plan should be terminated as of the end of this year
22 and a new plan substituted in its place with the
23 changes outlined in the initial order and they are
24 effective going forward from the end of this year?

25 A. Yes.

(STUMPF - RE-CROSS BY SHAW)

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1 Q. Or one more year until December 1994?

2 A. Yes.

3 Q. Commissioner Casad asked you a question
4 about the achieved rate of return and I just want to
5 make very sure of what you're saying. You have Mr.
6 Damron's testimony handy, and turn to page 41. At
7 line 22 and 23.

8 A. Yes.

9 Q. Will you just read that statement for the
10 record starting with "after all" and ending with "line
11 16."

12 A. Excuse me. Page 41, line 20 and 21?

13 Q. 22.

14 A. 22. "After all sharing the Company's
15 ultimate achieved return for 1990 was 11.79 percent as
16 shown on line 16."

17 Q. Now, do I understand your testimony to be
18 that you take that statement to mean that in addition
19 to the 11.79 you have to add a percentage of achieved
20 rate of return for the company's share of earnings
21 over 11 percent so that the company's ultimate
22 achieved return for 1990 was something higher than
23 11.79?

24 A. Mr. Damron's testimony states that the

25 ultimate achieved return was 11.79. You're asking a
(STUMPF - RECROSS BY SHAW)

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1 revenue requirements question and I would prefer if
2 you referred that to him.

3 Q. Okay. But as far as your understanding
4 goes from the questions this morning and the question
5 by Commissioner Casad, was that in fact the company
6 made after sharing, including the portion that it got
7 to keep, 11.79 in 1991 -- or 1990, excuse me?

8 A. Yes.

9 MR. SHAW: Thank you.

10 MS. MacNAUGHTON: Your Honor, I have a
11 couple of recross questions.

12 JUDGE CANFIELD: Okay. If you would keep
13 them as brief as possible. We do have some additional
14 witnesses that have to testify and will not be
15 available tomorrow, so go ahead.

16

17 RECROSS-EXAMINATION

18 BY MS. MacNAUGHTON:

19 Q. Ms. Stumpf, I would like to ask you about a
20 sentence that appears in the Commission's 18th
21 Supplemental Order on page 16, specifically the
22 sentence providing the Commission would adjust the
23 sharing mechanism under the current plan for 1993 and
24 1994 plan years so that 100 percent of the excess

25 earnings between the company's authorized 10.53

(STUMPF - RECCROSS BY MacNAUGHTON)

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1 percent rate of return and 11 percent, after the
2 Commission has determined proper adjustments, would be
3 returned to the ratepayers.

4 Ms. Stumpf, does the Commission staff
5 support that statement in the Commission's order?

6 A. Yes. The Commission staff does.

7 Q. Then why did you tell Mr. Shaw just a
8 moment ago that you didn't believe the modifications
9 proposed by the Commission would apply to 1993?

10 A. I'm afraid that I didn't quite understand
11 his question.

12 Q. So it's your testimony that it is the
13 staff's position that the modifications proposed by
14 the Commission would apply to both the 1993 and the
15 1994 sharing years, is that correct?

16 A. Yes, it is.

17 Q. And does that testimony apply both to the
18 proposed modifications in the sharing bands as well as
19 the proposal to accrue interest on the ratepayers'
20 share of excess earnings?

21 A. Yes, it would.

22 MS. MacNAUGHTON: Thank you.

23 JUDGE CANFIELD: Any additional questions;
24 on recross? Commissioners? Nothing?

25 MR. SMITH: One question.

(STUMPF - RECROSS BY MacNAUGHTON)

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1 JUDGE CANFIELD: Okay. Go ahead, Mr.

2 Smith.

3

4 REDIRECT EXAMINATION

5 BY MR. SMITH:

6 Q. Ms. Stumpf, you were asked a question from
7 page 41 of Mr. Damron's testimony where it stated at
8 the bottom after sharing the Company's ultimate
9 achieved rate of return for 1990 was 11.79
10 percent, and paragraph on the next page continues to
11 indicate that the return on equity to the shareholders
12 after sharing would be 15.2 percent.

13 A. Yes.

14 MR. SMITH: Thank you.

15 JUDGE CANFIELD: Okay. With that, you're
16 excused.

17 COMMISSIONER CASAD: I'll wait until Mr.
18 Damron gets on to clarify.

19 JUDGE CANFIELD: Okay. Defer remaining
20 questions on that to Mr. Damron. Okay. Thank you,
21 Ms. Stumpf. And initially we had agreed we were going
22 to go to Mr. Damron next and we've been --

23 CHAIRMAN NELSON: Let's go off the record.

24 JUDGE CANFIELD: -- and had a reason to

25 request otherwise, and so let's take a short off the
(COLLOQUY)

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1 record discussion on who's up next. So this is just a
2 short break.

3 (Discussion off the record.)

4 JUDGE CANFIELD: We're back on the record
5 after a short break during which time there was a
6 short discussion on the witness order, and some
7 witnesses do have to testify today, will not be
8 available tomorrow, and it was requested that they be
9 allowed to testify out of order today, and I'm going
10 to grant that request to accommodate those witnesses
11 and we'll come back and take Mr. Damron's testimony in
12 due course following these witnesses. So we can go
13 ahead and proceed with the order beyond Mr. Damron, so
14 that, I believe, was Mr. King that was going to be up
15 next.

16 MR. SIMPSON: Yes, your Honor. And thank
17 you for the accommodation. I would like to extend a
18 thanks to Mr. Smith as well. At this point the U.S.
19 Department of Defense and All Other Federal Executive
20 Agencies would call our witness in this case, Charles
21 W. King.

22 JUDGE CANFIELD: Okay.

23 Whereupon,

24 CHARLES W. KING,

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

(KING - DIRECT BY SIMPSON)

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1 herein and was examined and testified as follows:

2 JUDGE CANFIELD: Go ahead, Mr. Simpson.

3

4 DIRECT EXAMINATION

5 BY MR. SIMPSON:

6 Q. Thank you. Mr. King, would you state on
7 whose behalf you are here today testifying.

8 A. I'm appearing on behalf of the Department
9 of Defense representing the customer interests of All
10 Federal Executive Agencies.

11 Q. And did you have prefiled in this case
12 testimony consisting of a total of 103 pages?

13 A. Well, the actual testimony is only four
14 pages but the remaining 99 pages are attachments to
15 that testimony, and the answer is yes.

16 Q. Would you elaborate for us so we'll
17 understand why the package was filed in the format
18 that it is?

19 A. Yes. I observed the notice of hearing
20 called for virtually the same explanation from the
21 respective parties that was called for in the notice
22 of hearing that this Commission issued last summer
23 calling for testimony on October 9, 1992. I think
24 that date was delayed a week to October 16th.

25

Since the subject which was whether the
(KING - DIRECT BY SIMPSON)

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1 AFOR plan conformed to the Commission's regulations
2 and to the statute was virtually the same, I felt it
3 unnecessarily time consuming to restate what I had
4 stated back in October and, therefore, I provided a
5 short summary of four pages of the principal points
6 that I felt were made in the earlier testimony, and
7 filed as an attachment that earlier testimony, which
8 in turn had as its attachment testimony that I had
9 filed in 1989.

10 I also filed testimony as testimony the
11 comments that I had prepared on behalf of the
12 Department of Defense in February and in May, and
13 those too are attached to my testimony. All of them
14 address the respective components of the Commission's
15 rules that are to be addressed in this proceeding.

16 Q. And as an alternative format you could
17 have, could you not have, I will refer to it as cut
18 and pasted various documents into a format that would
19 have been one single piece of narrative testimony?

20 A. Yes. And then of course instead of four
21 pages we would probably have had testimony of 30 or 40
22 or 50 pages.

23 Q. But you do here adopt the entire package as
24 the testimony to be considered today in this hearing?

25 A. Yes, I do.

(KING - DIRECT BY SIMPSON)

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1 Q. Are there any corrections or additions to
2 this testimony?

3 A. No, there are not.

4 JUDGE CANFIELD: Okay. We haven't assigned
5 exhibit numbers yet to this, Mr. Simpson. Are you
6 requesting that I assign exhibit numbers to each of
7 those documents referenced or just the testimony of
8 June 23, '93? I guess I'm a little bit unclear yet.

9 MR. SIMPSON: Any way you wish to go is
10 fine with us. I would suggest perhaps just giving the
11 entire package one Exhibit T number, would make it
12 easier to deal with.

13 JUDGE CANFIELD: I'm trying to determine
14 the easiest way to do this. The testimony that was
15 filed June 23, 1993, that's the four pages. Let me
16 assign Exhibit T-1041 to that testimony.

17 And then as was indicated, there were a
18 number of attachments, and wondering how to number
19 those. I'm going to assign the next exhibit number
20 for those remaining attachments and that will be
21 Exhibit 1042, and even though some of them were noted
22 as a testimony, I'm going to just assign the Exhibit
23 No. 1042 to those remaining attachments.

24 And they haven't been offered yet, but

25 I think there's been some preface to that, so Mr.

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1 Simpson.

2 (Marked Exhibits Nos. T-1041 and 1042.)

3 MR. SIMPSON: That would be fine, your
4 Honor, and for ease of reading through these several
5 documents that constitute the package, we have hand
6 numbered in the bottom right-hand corner of the page
7 the pages 1 through 103 so that one doesn't get
8 tongue-tied on various attachments. So that the
9 Exhibit T-1042 begins with the hand-numbered page 6 at
10 the bottom right-hand corner.

11 JUDGE CANFIELD: Okay.

12 MR. SIMPSON: And with that, your Honor, I
13 would move that the exhibits be received into
14 evidence.

15 JUDGE CANFIELD: Okay. Any objections to
16 the offered exhibits?

17 MR. SHAW: Yes, your Honor, I have
18 objections.

19 JUDGE CANFIELD: Okay, Mr. Shaw.

20 MR. SHAW: The offer is not in keeping with
21 the notice of hearing in this proceeding. The
22 Commission instituted this proceeding by its June 8
23 notice of hearing, and in bold print on page 2 of that
24 notice it is stated, "Parties to this proceeding are

25 requested to prefile testimony specifically addressing
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1 whether these conditions can or cannot any longer be
2 satisfied," referring to the conditions contained in
3 RCW 80.36.135 (3).

4 And then it goes on to state, "Prefiling
5 must comply with provisions of WAC 480-09-120, and the
6 Commission will permit refileing of that portion of the
7 parties October 16, 1993 prefiled testimony to the
8 extent such portions specifically address the
9 conditions set forth in the cited RCW."

10 What this party is offering is the entirety
11 of its October 16 prefiled testimony which I'll accept
12 the representations of addresses the requirements of
13 the statute. The rest of it, however, is the comments
14 filed and reply comments filed and the comments filed
15 on the Commission's proposed order, which are
16 virtually all of the pleadings filed by this party in
17 this lengthy AFOR proceeding since its inception as
18 well as their original testimony filed at the time the
19 Commission approved this AFOR.

20 The Commission already rejected, to the
21 extent not accepted, the testimony of Mr. King filed
22 way back in 1989 and now he's purporting to refile it
23 again. That's rearguing matters already decided. The
24 issue in this proceeding is whether today, June 1993,

25 this AFOR no longer meets the requirements of the

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1 relevant statute. That's what this hearing is about,
2 and I think it is a misuse of process and unfair to
3 the company for them to file every pleading that they
4 filed over the last four years in this proceeding and
5 call it their testimony in this case.

6 The Commission set this hearing for a day
7 and a half with five or six witnesses. There's been
8 no discovery and now this party purports to file 100
9 pages of its pleadings as testimony. It's just
10 improper.

11 I do not object to the four-page summary
12 and the October 16th testimony as well as the vita,
13 but all the rest of it is objectionable beyond the
14 notice of hearing.

15 JUDGE CANFIELD: Any other comments or
16 objections to the offered exhibits?

17 MR. SIMPSON: Your Honor, if I might add to
18 what Mr. Shaw said, on page 1 of the Exhibit T-1041
19 Mr. King in his Q and A is asked what is the objective
20 of his testimony, and his response in his testimony
21 here is that he's responding to the June 8 notice of
22 hearing by the Commission which asks specifically
23 whether RCW 80.36.135(3)(a)-(g) can be satisfied by
24 the current AFOR.

25 And what he says is, after listening to the

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1 requirements, the question is, Have you previously
2 addressed these issues, and he says that he has in a
3 series of filings on behalf of the Department of
4 Defense. And while I wouldn't characterize them as
5 pleadings, since they are direct testimony and
6 comments that had a requirement of providing a
7 sponsoring witness, the documents filed are in
8 response to specifically the same language that is in
9 the June 8 order of the Commission, and virtually
10 identical language in the notice of hearing of October
11 28, 1992.

12 The reason for the inclusion of the 1989
13 testimony is it was submitted as an attachment to one
14 of these earlier documents. To me it's clear that
15 this is all relevant material, that Mr. King could
16 have written the same number and virtually the same
17 words in a different format. One of the reasons that
18 this was done was to save the client, meaning the
19 federal government and the federal taxpayers, some
20 money rather than him having to go to the extra work
21 of doing this. But I don't see where there's a
22 problem.

23 JUDGE CANFIELD: Okay. As I understood
24 Mr. Shaw, he would have no problem with the four-page

25 June 23 testimony, and the qualifications portion, the

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1 appearance Attachment B portion, and the October 16,
2 '92 testimony. But beyond that, that's the portion
3 you find objectionable, Mr. Shaw, is that correct?

4 MR. SHAW: Yes. In particular, it's not
5 even in Q and A format. It's pleadings filed by Mr.
6 Simpson on the comments on the Commission's bench
7 request and the Commission's initial order.

8 I can't imagine that the Commission would
9 allow me to append my filing to Mr. Moran's testimony
10 as sworn testimony.

11 JUDGE CANFIELD: In view of the package as
12 it's offered, I agree with the objection and I'll
13 sustain it and I'll reject Exhibit 1042. And in view
14 of the fact that Mr. Simpson was not wanting the
15 package broken up, I'll leave that as it is and the
16 whole package is rejected.

17 If he wants to reoffer those attachments A,
18 B and the October 16 testimony as a separate exhibit,
19 I think we can deal with that, but as far as their
20 offer now as a package, I'll reject the offered
21 Exhibit 1042.

22 MR. SIMPSON: Your Honor, though I don't
23 agree with the ruling, I nevertheless do not think
24 we've done serious harm if we are allowed to put the

25 testimony in as you just indicated, and as I

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1 understand Mr. Shaw would not object to, but certainly
2 just to allow the four-page document does a disservice
3 to us.

4 MR. ADAMS: Can I interject one question.
5 Under the peace bill approach I heard you propose I
6 guess I would ask, Attachment D is specifically
7 referenced in the October testimony. I had certainly
8 intended to ask some questions about it. I guess if
9 you're going to exclude -- that's not a repeat of
10 prior testimony, that's, as I understand it, a fresh
11 exhibit of the time of the October testimony.

12 If you're going to exclude it, I would like
13 to know whether we can ask any questions about --
14 the issues of cost of capital I think are one of the
15 issues that Mr. King has reiterated throughout his
16 testimony.

17 JUDGE CANFIELD: Why don't we take a short
18 off-the-record break to see if Mr. Simpson can put
19 together the offered exhibit and have that offered as
20 the next exhibit number in order and just so we all
21 understand which exhibit he might be offering as the
22 next exhibit in order. That should just take a minute
23 or so, so I'll take a short recess.

24 MR. SIMPSON: Thank you, your Honor.

25

(Recess.)

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1 JUDGE CANFIELD: Let's go back on the
2 record. We're back on the record now after a short
3 off-the-record discussion, and I believe the next
4 exhibit being offered by Mr. Simpson then will be
5 identified as follows, as Exhibit 1043. And maybe you
6 can just briefly indicate what you're offering as
7 Exhibit 1043, Mr. Simpson.

8 (Marked Exhibit No. 1043.)

9 MR. SIMPSON: Yes, your Honor. Exhibit
10 1043 consists of Mr. King's qualifications and the
11 October 16, '92 direct testimony of Mr. King with
12 relevant attachments, and I would offer that and I
13 request that it be received into evidence.

14 JUDGE CANFIELD: And for ease of reference,
15 those are pages 6 through 33 of the rejected Exhibit
16 1042 and pages 67 through 76.

17 MR. SIMPSON: That's correct. Looking at
18 the hand-numbered pages on the bottom right-hand
19 corner.

20 JUDGE CANFIELD: Okay. And all other hand-
21 numbered pages become earlier rejected on the offer of
22 Exhibit 1042?

23 MR. SIMPSON: Yes, your Honor.

24 JUDGE CANFIELD: Any objection to that

25 exhibit? Let the record reflect there are none, so
(KING - DIRECT BY SIMPSON)

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1 Exhibit T-1041 is so entered into the record and the
2 new exhibit as offered, 1043, is so entered into the
3 record.

4 (Admitted Exhibits Nos. T-1041, 1043.)

5 MR. SIMPSON: Thank you, your Honor, and
6 Mr. King is available for cross-examination.

7 JUDGE CANFIELD: Okay. Mr. Shaw.

8

9 CROSS-EXAMINATION

10 BY MR. SHAW:

11 Q. Good afternoon, Mr. King.

12 A. Good afternoon.

13 Q. As I understand your testimony, Mr. King,
14 the Federal government supports AFORs at the state
15 level?

16 A. Well, not just any AFOR. It supports the
17 concept of incentive regulation in an environment of
18 declining unit cost as a necessary mechanism for
19 encouraging the utilities to participate in cost-
20 saving productivity enhancements.

21 Q. Stated another way, the Federal government
22 finds traditional rate of return rate based regulation
23 to provide improper incentives to the regulated
24 companies which can be corrected through a properly

25 designed AFOR?

(KING - CROSS BY SHAW)

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1 A. In the present environment of declining
2 unit costs, that is true.

3 Q. Do you agree that the markets for local
4 exchange telecommunications services are becoming
5 increasingly competitive?

6 A. Yes, they are.

7 Q. Has the advent of competition played any
8 role in the Federal government's recommendation for a
9 properly designed AFOR?

10 A. No.

11 Q. So the issue in the eyes of the Federal
12 government is solely one of designing a mechanism to
13 quickly pass declining costs through to ratepayers, is
14 that correct?

15 A. Well, again, we have a problem of what is
16 defined as AFOR. If AFOR comprehends both the idea of
17 sharing excess revenues and also selective and careful
18 rationalization of the rate structure, including
19 downward pricing flexibility for competitive services,
20 then the answer to your question is no. The Federal
21 government would advocate AFORs for both competition
22 and declining costs.

23 If AFOR is exclusively defined as a
24 mechanism for sharing excessive revenues with

25 ratepayers, then the answer is yes. That is the only
(KING - CROSS BY SHAW)

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1 reason we would accept AFORs. In this state
2 unfortunately AFOR has been defined principally as a
3 revenue sharing mechanism. It is not perceived of as
4 a rate structure modification or procedure.

5 Q. As a general proposition are you against
6 sharing-type plans as opposed to a properly designed
7 price cap band/service quality AFOR?

8 A. No. I believe price cap pure and by itself
9 is too crude a measure to insure that both ratepayers
10 and the company are protected from unreasonable
11 relationships between costs and revenues. So I think
12 you do need a sharing of excess revenues as part of
13 any AFOR plan.

14 Q. Have you read the prefiled testimony of Mr.
15 Damron on behalf of the staff?

16 A. Unfortunately, I did not receive that prior
17 to this hearing, and that was owing to my being away
18 from my office all of this week.

19 Q. Let me read you a statement from Mr.
20 Damron's testimony at page 17 starting at line 12.
21 "In the disposition of excess revenues, competitive
22 services and contracted services should not receive
23 any amount. Competitive services should be assumed to
24 be appropriately priced, and since customers of

25 contracted services are insulated from rate increases

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1 they do not share the same risks as other ratepayers
2 and correspondingly should not receive any benefit of
3 sharing."

4 Now, with that statement in mind, it's
5 true, is it not, that overwhelmingly the services that
6 the Federal government gets from US WEST in the state
7 of Washington are on contract and pursuant to
8 competitively-awarded bid?

9 A. Yes. Dollarwise that's true.

10 Q. U.S. government because of its size and
11 purchasing power takes little or no 1FB service or low
12 speed private line, other traditional POT services,
13 does it?

14 A. That's not altogether true. There are a
15 lot of small offices that would still subscribe to 1FB
16 type services. Dollarwise, the largest amount of
17 money is conveyed through contract service.

18 Q. Overwhelmingly the largest dollar amount?

19 A. I would say so, probably.

20 Q. The Federal government is the operator of
21 the largest private network in the world, is it not?

22 A. If by private you mean dedicated to one
23 user, the Federal government, then the FTS 2000 system
24 which is the interstate system for the Federal

25 government is undoubtedly the largest in the world.

(KING - CROSS BY SHAW)

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1 Q. And pursuant to FTS 2000 the Federal
2 government purchases, to the maximum extent possible
3 through that master contract, its telecommunications
4 services at the state level?

5 A. It doesn't purchase much intrastate
6 service. It is an interexchange offering. And it
7 only would purchase interexchange services. The intra
8 -- the local level service which is local exchange
9 service may be purchased under contract and those are
10 separate contracts that go under the term acronym ASP,
11 aggregate system procurements, and they are for
12 Centrex type services. They may be Centrex; they may
13 be PBX.

14 Q. And you anticipated my next question.
15 Federal government is a large customer of steeply
16 discounted large Centrex service, is it not?

17 A. Yes.

18 Q. I take it as a customer who procures its
19 services through competitive bids on contract you do
20 not agree with Mr. Damron's statement that you do not
21 deserve to share in any revenues that are produced by
22 an AFOR?

23 A. Surprisingly, I agree with Mr. Damron
24 insofar as contract services are concerned. We

25 attempt to insulate contract services from Commission
(KING - CROSS BY SHAW)

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1 rate actions. Our position is that these are
2 privately negotiated and they should not be subject to
3 Commission overrides, either on the upward or the
4 downward direction in terms of rate movement.

5 And this is necessary in order for US WEST
6 to be a viable competitor against other organizations
7 that are totally free of Commission jurisdiction. So
8 I would not argue that shared revenues going to
9 ratepayers should be flowed through to contract
10 customers.

11 I would strongly disagree with Mr. Damron's
12 characterization of competitive services as
13 necessarily being priced by the market. The reason
14 there is the competitive services are not always fully
15 competitive. Many of them are quasi competitive and
16 the competition lies in the perception of the
17 beholder.

18 The company should have the opportunity to
19 propose or even the staff might propose modifications
20 in quasi competitive services that render them more
21 competitive with the emerging competition. Here I'm
22 referring to each local exchange service, particularly
23 in high density areas such as downtown Seattle, where
24 it might be necessary to reduce what appear to be a

25 monopoly of 1FB type services in order to meet the
(KING - CROSS BY SHAW)

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1 competition of such organizations as Electric
2 Lightwave.

3 Q. And in order for the company to meet the
4 low prices of its competitors, sharing money should be
5 used to lower those prices? Is that your testimony?

6 A. My testimony which I repeat over -- have
7 repeated over and over again -- some of the
8 repetitions have now been removed from the record --
9 is that the sharing money should be used to
10 rationalize the rate structure, which means to move
11 all rates in the direction of the corresponding costs.
12 That's easiest to do when you are reducing rates. The
13 target rates for reductions should be those which are
14 most exaggerated, most elevated above the
15 corresponding marginal costs.

16 Q. And on the same logic I take it if the
17 evidence turns out to be that local exchange rates,
18 residential local exchange rates are priced below
19 cost -- cost meaning total service long-run
20 incremental cost -- that in a properly designed AFOR
21 those rates should be increased above cost?

22 A. Yes. One of the objections to the AFOR
23 plan is there is no mechanism for rationalization of
24 rates, specifically there's no mechanism for the

25 increase of below cost rates, and it is our position
(KING - CROSS BY SHAW)

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1 and is my personal belief going beyond simply the
2 policy of the Department of Defense, that in the long
3 run the residential cross subsidy is a not as
4 sustainable cross subsidy and the Commission runs the
5 risk of forcing either a sudden and dramatic increase
6 in residential rates or alternatively precipitating a
7 series competitive price crisis on behalf of US WEST
8 if it does not make serious moves toward rendering
9 residential rates compensatory. And the present AFOR
10 plan has no mechanism for doing that.

11 Q. I take it the Federal government
12 wholeheartedly supports the action of the Washington
13 courts in removing the purported legal monopoly
14 thought to be held by the local exchange companies
15 over the last 50 years?

16 A. It was not a party to that proceeding, but
17 it applauds the result.

18 Q. And the Federal government supports full
19 local exchange competition?

20 A. Last week the Federal government -- or
21 maybe it's this week -- the Federal government is
22 filing comments before the FCC strongly supporting
23 Ameritech's proposed plan to invite competition into
24 the local exchange market. This is a policy we have

25 followed in every jurisdiction in which we have been
(KING - CROSS BY SHAW)

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1 represented.

2 Q. Including the removal of the interLATA
3 restriction?

4 A. Yes.

5 Q. If the Federal government because of its
6 massive purchasing power does not purchase pursuant to
7 tariffed rates an overwhelming dollar percentage of
8 its services, why does the Federal government spend
9 the money to send you and Mr. Simpson out here every
10 couple of months to argue about what the AFOR should
11 be designed like in the state of Washington?

12 MR. SIMPSON: Your Honor, I object. That's
13 silly.

14 MS. WEISKE: It's a silliness objection?

15 MR. SHAW: What's the ground of the
16 objection? I didn't hear.

17 MR. SIMPSON: It's silly.

18 JUDGE CANFIELD: Well as stated, I tend to
19 agree. I'll sustain the objection.

20 Q. I'll restate the question. What is the
21 Federal government's interest in what this Commission
22 does in terms of the detailed design of an AFOR in the
23 state of Washington if the Federal government
24 purchases hardly any tariffed rates from US WEST in

25 the state of Washington?

(KING - CROSS BY SHAW)

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1 A. Well, now first of all, one factual
2 correction. Because the Federal government
3 overwhelmingly purchases through contract rates does
4 not mean that there are hardly any tariffed rate
5 purchases. The Federal government does buy
6 significant quantities of telecommunications services,
7 probably on the order of millions of dollars of
8 conventional tariff services that are subject to the
9 effects of the AFOR.

10 A second effect relates to the contract
11 services, but indirectly. Almost all of the Federal
12 government contracts have a provision that says that
13 if the tariffed rate is higher than the contract rate
14 for any given rate element, then the contract rate
15 will become the tariffed rate and, therefore, the
16 tariffed rates establish the rate ceiling for the
17 Federal government services.

18 The Federal government service is obviously
19 interested in having that ceiling as low as possible.
20 So to the extent that business services enjoy rates
21 that move down toward incremental cost, the Federal
22 government gets a secondary benefit from that.

23 Q. Are you aware in the state of Washington
24 under the rules of this Commission and the statutes of

25 the state, the Federal government is entitled to

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1 purchase anything that US WEST sells so long as it's
2 above cost, which in this jurisdiction is long-run
3 marginal cost?

4 A. I'm sorry. You'll have to repeat that
5 again.

6 Q. Are you aware that under the rules of this
7 Commission and the statutes of the state of Washington
8 the Federal government is entitled to competitively
9 procure at contract rates anything US WEST sells so
10 long as those rates are at or in excess of long-run
11 marginal cost?

12 A. What you're describing I think is the rate
13 floor on contract services to the Federal government.
14 The answer is yes.

15 Q. And you're certainly not here arguing that
16 the Federal government should be able to purchase
17 services at below cost, are you?

18 A. No. No. What I'm suggesting is that many
19 business rates, particularly those that pertain to
20 monopolistic functions -- a good example is a direct
21 inward dialing -- those rates are established at
22 multiples of their incremental cost, and as a
23 consequence the Federal government has a very
24 difficult time obtaining discounts that are meaningful

25 for those kinds of rates because they are the --

(KING - CROSS BY SHAW)

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1 what the Federal government would have to get to get
2 something close to incremental cost would be a
3 fraction of what the public rate is. For that reason
4 we are interested in having the public rate reduced to
5 a level it begins to reflect the corresponding costs.

6 Q. And you and Mr. Simpson would then fully
7 intend to participate in the proceedings that will
8 design the AFOR that will begin sometime after
9 December 1994 in this jurisdiction?

10 A. Mr. Shaw, that's not my call. I respond to
11 the directions of my client and I can't speak for what
12 that client will direct us to do. It appears that
13 that client gives a high level of interest to the
14 state of Washington and, therefore, there is a high
15 probability, but I can't tell you for sure that we
16 will be there.

17 Q. You support and agreed with the concepts of
18 Dr. Bryant and Mr. Lundquist on behalf of AT&T in that
19 follow-up --

20 MR. BUTLER: On behalf of whom?

21 MR. SHAW: Excuse me. TRACER. Strike the
22 reference to Mr. Lundquist. Let me start all over.

23 Q. Do you agree with the concepts of Dr.
24 Bryant on behalf of MCI and Ms. Parker on behalf of

25 AT&T to the effect that in any follow-on AFOR in the
(KING - CROSS BY SHAW)

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1 state of Washington a core part of that AFOR should be
2 an unbundling, a provision for local exchange access
3 so that there can be local exchange competition?

4 A. I have not read the testimonies of those
5 two witnesses. For the reason I indicated earlier, I
6 haven't been able to get the package. However, as
7 depicted by your statement just now, the answer would
8 be yes. We are always very much in favor of
9 unbundling local exchange services to allow the
10 maximum opportunity for competitive enterprises to
11 enter the business of local exchange telephone
12 service.

13 MR. SHAW: Thank you very much. I have
14 nothing further.

15 JUDGE CANFIELD: Thank you. Mr. Smith.

16 MR. SMITH: I have no questions

17 JUDGE CANFIELD: No? Okay. Mr. Adams?

18

19 CROSS-EXAMINATION

20 BY MR. ADAMS:

21 Q. Yes, Mr. King. You have a quote -- let me
22 just quote you from page 28 of Exhibit 1043, and I
23 think that's from your October prefiled testimony,
24 October of 1992 testimony. It says, The sharing bands

25 should be changed when there is a major change in the

(KING - CROSS BY ADAMS)

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1 cost of capital to US WEST.

2 And I just want to give you that as sort of
3 a point of reference. Would you turn to Exhibit 1043,
4 page 67, which is the graph of bond yields that was
5 attached to that October of '92 testimony. Do you see
6 that?

7 A. Yes.

8 Q. And I wonder, could you sort of give us an
9 update of where we would be currently for the
10 referenced yields which are for ten-year bonds and
11 Moody A, small A public utilities?

12 A. I don't have the Moody double A utility
13 yields, but the ten year T-bonds would be off the
14 chart at the bottom. Yesterday's yields for those
15 bonds was 5.78 percent which is well below the 6.59
16 percent shown as the last reading on Attachment D.

17 Given that approximately 80 basis point
18 drop, there was probably if not fully corresponding a
19 similar drop in the Moody's double A utilities.
20 They're probably in the range of seven and a half
21 percent by now.

22 Q. Have you had any occasion to review the
23 cost of equity in a sort of similar context?

24 A. Yes. I recently --

25

MR. SHAW: Excuse me. I object to the form

(KING - CROSS BY ADAMS)

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1 of the question. Cost of equity for what, for who,
2 where?

3 Q. Let me just ask, the cost of equity in
4 either an AFOR or for a -- specifically for a
5 telecommunications company.

6 A. I testified two weeks ago, I believe in San
7 Francisco, concerning the cost of equity of Pacific
8 Bell in connection with a proceeding virtually
9 identical to this, namely, a proceeding as to whether
10 there needed to be modifications in what is in
11 California known as the new regulatory frameworks.

12 And I testified on the subject of rate of
13 return and I found that the rate of return to equity
14 for Pacific Bell was 9 percent.

15 Q. Recognizing that it is not the same as the
16 bond yields shown on page 67, but do you believe that
17 the cost of equity follows the same kind of general
18 pattern?

19 A. Oh, yes. I indicated that the cost of
20 equity had fallen about 400 basis points since it was
21 established in California in 1989. And that is about
22 the same fall as we have seen in not the 10-year but
23 the 3-year treasury bonds, which is not to be -- which
24 is not surprising because the average holding time for

25 Pacific Bell's stock -- as a matter of fact, for any
(KING - CROSS BY ADAMS)

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1 of the Bell regional holding companies stock is about
2 four years.

3 So since the time horizon of an investment
4 in a stock is about the same as that of a 3-year
5 treasury, it's not surprising that the two yields or
6 required yields have fallen at about the same rate.

7 Q. Now I'm taking you back to the initial cite
8 that I gave you in your testimony, that is, the
9 sharing bands should be changed, that quote. Do you
10 believe in light of current capital costs that the
11 sharing bands should be changed under the existing
12 AFOR?

13 A. Yes. I was willing to acquiesce to the
14 Commission's initial decision which did not formally
15 change the sharing bands other than to establish a 100
16 percent sharing band for the band that begins at I
17 believe 10.52 percent and goes to 11, and that had
18 been 100 percent previously collected by the company
19 would now be 100 percent collected by ratepayers.

20 Were we to start over, I would strongly
21 recommend a reconsideration of the entire approved
22 rate of return including the range of acceptable rates
23 of return. I recognize that no record had been built
24 on this issue and, therefore, it seemed unlikely,

25 virtually impossible, for the Commission to make that
(KING - CROSS BY ADAMS)

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1 modification in the time frame called for in this
2 proceeding.

3 Q. So is it your opinion, and I gather the
4 Department of Defense's opinion, that that
5 modification proposed by the Commission in the
6 proposed order, at least in the short term, would be
7 acceptable?

8 A. Well, that's what I said in the four-page
9 document. No, I'm sorry. That's what we said in our
10 response to the Commission's initial decision which is
11 not in the four-page document. But we accepted that
12 as possibly a second best solution. The best solution
13 would have been a reconsideration of the approved rate
14 of return.

15 MR. ADAMS: Okay. Thank you. That's all I
16 have.

17 JUDGE CANFIELD: Okay, thank you. Ms.
18 Weiske.

19 MS. WEISKE: No questions.

20 JUDGE CANFIELD: And Ms. MacNaughton.

21 MS. MacNAUGHTON: I have no questions.

22 JUDGE CANFIELD: Okay, thank you. And Mr.
23 Butler.

24 MR. BUTLER: No questions.

25 JUDGE CANFIELD: Okay. Moving right along.

(KING - CROSS BY ADAMS)

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1 Likewise, I don't see Mr. Finnigan so he has no
2 questions. Commissioners, questions for Mr. King?

3 CHAIRMAN NELSON: None.

4 COMMISSIONER CASAD: I have no questions.

5 COMMISSIONER HEMSTAD: I have no questions.

6 JUDGE CANFIELD: Okay. Mr. Simpson, any --

7 MR. SIMPSON: No redirect, but thank you.

8 JUDGE CANFIELD: Okay, thank you. You're
9 excused and it would be a time for a break, so let's
10 take our afternoon break and come back at 3:00.

11 (Recess.)

12 JUDGE CANFIELD: We're back on the record
13 after our afternoon break, and I guess the next
14 witness in order is Dr. Bryant for MCI. Is that
15 correct?

16 MS. WEISKE: That's correct.

17 Whereupon,

18 MARK T. BRYANT,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21 JUDGE CANFIELD: During the break I did go
22 ahead and preassign exhibit numbers to the prefiled
23 testimony of Dr. Bryant identified as Supplemental
24 Testimony, and that is a seven-page document. And

25 then the attachment beyond that I've assigned Exhibit
(BRYANT - DIRECT BY WEISKE)

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1 Number 1045 to that, which consists of some prior
2 testimony and attachment which is collectively refer
3 to that as one exhibit number. So okay.

4 (Marked Exhibit No. T-1044 and 1045.)

5

6 DIRECT EXAMINATION

7 BY MS. WEISKE:

8 Q. Would you state your business address,
9 please.

10 A. Yes. My business address is 701 Brazos
11 Street -- B R A Z O S -- in Austin, Texas.

12 Q. And your current title with MCI
13 Telecommunications?

14 A. My current title is executive staff member
15 regulatory and economic analysis.

16 Q. And did you file or have filed under your
17 supervision both Exhibits T-1044 and Exhibit 1045?

18 A. Yes, that's correct.

19 Q. And do you have any changes, modifications
20 or corrections to either T-1044 or Exhibit 1045?

21 A. One small correction to 1045. On page 19,
22 line 1, there is a typographical error. The next to
23 the last word in that first line should be True, T R U

24 E. And that's all.

25 Q. If you were asked the same questions

(BRYANT - DIRECT BY WEISKE)

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1 contained in both T-1044 and Exhibit 1045 would your
2 answers be the same?

3 A. Yes, they would.

4 MS. WEISKE: Your Honor, I would request
5 that both T-1044 and Exhibit 1045 be admitted into the
6 record.

7 JUDGE CANFIELD: Any objections?

8 MR. SHAW: None.

9 JUDGE CANFIELD: Let the record reflect
10 there is no objection. Exhibit T-1044 is so entered
11 into the record and Exhibit 1045 is so entered into
12 the record.

13 (Admitted Exhibits Nos. T-1044 and 1045.)

14 MS. WEISKE: And at this time Dr. Bryant is
15 available for cross-examination.

16 JUDGE CANFIELD: Okay, thank you. Mr.
17 Shaw.

18

19 CROSS-EXAMINATION

20 BY MR. SHAW:

21 Q. Good afternoon, Dr. Bryant. Good
22 afternoon, Mr. Shaw.

23 Q. Dr. Bryant, do you understand that MCI -- I
24 don't believe you were involved, but MCI, your client,

25 opposed the initial adoption of this AFOR back in
(BRYANT - CROSS BY SHAW)

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1 1989, '90?

2 A. That is my understanding, yes.

3 Q. And MCI together with TRACER currently has
4 on appeal the Commission's order adopting this AFOR
5 pending before the Washington State Court of appeals?

6 A. I am not specifically aware of that, no,
7 sir.

8 Q. And safe to say that MCI opposed the
9 adoption of this AFOR when it was adopted and opposes
10 it today as an appropriate regulatory framework for US
11 WEST?

12 A. Yes, I believe that's a fair statement.

13 Q. From your testimony you spend most of your
14 time talking about what would be a good replacement
15 AFOR going forward from '94, is that correct?

16 A. I believe the bulk of my testimony was
17 concerned with a discussion of whether the current
18 AFOR was capable of fulfilling the statutory
19 standards.

20 Q. The one issue that MCI would like addressed
21 in any AFOR in Washington is a costing and building
22 blocks docket or proceeding, is that correct?

23 A. Yes, that's correct.

24 Q. And one of your key criticisms of the

25 current AFOR and the AFOR as proposed as modified

(BRYANT - CROSS BY SHAW)

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1 by the Commission's initial order is that it provides
2 no process for undertaking that investigation,
3 correct?

4 A. Yes. I believe I stated that there's
5 nothing in the current AFOR that would address the
6 statutory requirement having to do with permitting
7 competitive companies nondiscriminatory access to the
8 network.

9 Q. You agree that the current AFOR and the
10 AFOR as proposed to be modified changes in no respect
11 the Commission's authority to address competitive
12 issues?

13 JUDGE CANFIELD: Let me ask that all
14 parties use the microphone so that everybody in the
15 room can hear, please.

16 A. Mr. Shaw, one of the problems that I have
17 with the current AFOR plan is that unlike with
18 traditional rate of return regulation the opportunity
19 doesn't exist for a periodic reexamination of the
20 relationship between the rates for the company's
21 services and the underlying costs.

22 We're simply every year looking at the
23 degree to which the company has exceeded certain
24 benchmark levels of rate of return and we don't look

25 at those sort of rate-to-cost relationships on any

(BRYANT - CROSS BY SHAW)

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1 sort of regular basis.

2 So to the extent the Commission has adopted
3 a regulatory program that forecloses that opportunity,
4 I would say that we are worse off in terms of being
5 able to address those sorts of issues than we were
6 under rate of return regulation.

7 Q. Let me take a specific rate to give some
8 grounding to our discussion here. Carrier access
9 charges is a service of US WEST that MCI is uniquely
10 interested in, would that be correct?

11 A. We purchase a great deal of access.

12 Q. It's upwards of 40 percent of MCI's cost of
13 doing business across the country?

14 A. Certainly more than 40 percent.

15 Q. And MCI has made certainly no secret out of
16 its desire to see those rates come down, lacking that,
17 to find some way to avoid those rates?

18 A. Certainly any time a company can reduce the
19 level of one of its major cost components the company
20 is going to be better off, yes, sir.

21 Q. Do you recall the question I asked Ms.
22 Stumpf here this morning, chief executive officer of
23 MCI has announced publicly that one of the uses of the
24 money infused from British Telecom would be to explore

25 ways to minimize that cost to the company and to enter

(BRYANT - CROSS BY SHAW)

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1 the local exchange business?

2 A. I have seen the same announcement you have,
3 yes.

4 Q. Okay. Do you understand in Washington that
5 the cost basis for carrier access charges is
6 prescribed by an outstanding Commission order dating
7 back to the time of divestiture?

8 A. No, sir, I'm not aware of that
9 specifically, no.

10 Q. Do you understand that in Washington
11 carrier access charges are set on a fully distributed
12 cost methodology with a large allocation of
13 non-traffic sensitive costs?

14 A. Again I'm not specifically aware of the
15 manner in which access charges have been set in the
16 past here.

17 Q. Well, if you will assume with me that that
18 is the fact then, in Washington the Commission has an
19 outstanding order prescribing how carrier access
20 charges are to be computed by local exchange
21 companies, would you agree that there's nothing in
22 this current AFOR or the proposed follow-on AFOR that
23 addresses that issue?

24 A. I have seen nothing in the current AFOR or

25 in the proposed modification that specifically

(BRYANT - CROSS BY SHAW)

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1 addresses that issue, no, sir.

2 Q. And there's no prohibition on MCI filing a
3 petition to change that methodology of computing
4 carrier access charges; there's no prohibition on the
5 company filing a petition to change that methodology;
6 there's no prohibition on the Commission itself
7 changing that methodology on its own motion?

8 A. That's really a legal question. I am aware
9 of no such restriction.

10 Q. So there's nothing in this AFOR that
11 hampers the Commission's existing authority to deal
12 with the level of carrier access charges, is there?

13 A. Well, nothing per se. The entire structure
14 inhibits in its ability to do so. As I said before,
15 we are not in a mode where we're regularly reexamining
16 the relationship between rates and costs.

17 Q. Basic tenet of MCI's position, as I
18 understand it, is that all rates for essential
19 unbundled building blocks should be based upon cost
20 and specifically total service long run incremental
21 costs, is that correct?

22 A. Having a little bit of trouble with the
23 phrase "based on." It is our position that prices
24 established for the use of building blocks or basic

25 network functions should be no lower than total

(BRYANT - CROSS BY SHAW)

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1 service long run incremental cost. There may well be
2 reasons why a rate higher than that level will be
3 established.

4 Q. But the necessary first step is to
5 establish the total service long run incremental cost
6 of each defined building block?

7 A. Yes, that's correct.

8 Q. In the case of access charges that at a
9 minimum that would be switching functions and
10 transport functions as opposed to the bundled service
11 of switching and transport?

12 A. Yes, that's correct.

13 Q. And once that is done, the prices would be
14 set relative to those costs and considering other
15 things like universal service, and then all users of
16 those building blocks would pay the same price?

17 A. Yes, I would agree with that.

18 Q. So long as they are deemed to be essential?

19 A. As they are deemed to be essential, I'm
20 unclear by what you mean by that.

21 Q. Is the thrust of MCI's position is that if
22 a piece, part of US WEST's network is essential to
23 MCI's operation then US WEST has to pay the same price
24 for its use as MCI does?

25 that answer. If you mean in a technical sense could
(BRYANT - CROSS BY SHAW)

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1 we switch calls between a local access line and
2 another local access line, I suppose that provides a
3 portion of that capability. There may be other things
4 that would be required in order for us to be able to
5 do that.

6 Q. In MCI's ideal world you would like to have
7 the option of just buying the loops from the local
8 company and providing its own switching function, is
9 that correct?

10 A. It's our position that those unbundled
11 capabilities should be made available. Whether or not
12 MCI would decide to enter that market or provide that
13 function is something that I really couldn't speak to.

14 Q. That's the option that MCI wants to pick
15 and choose what pieces of US WEST's facilities it will
16 use to put together into a total service to its end
17 user customers, correct?

18 A. Yes, that's correct.

19 Q. And in order to do that at the local level
20 we need some sort of a system of local service access
21 like we have for long distance access conceptually?

22 A. I'm sorry. If you could clarify what you
23 mean by local service access.

24 Q. Let me try again. Say that Mr. Roberts

25 does decide to take MCI into the local exchange

(BRYANT - CROSS BY SHAW)

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1 business with a joint venture with TCI or even by
2 itself, and it enters the city of Seattle to provide
3 local service in head-to-head competition with US
4 WEST. In order to do that it's going to need access
5 to US WEST's facilities, is it not, so that calls
6 placed by its customers to US WEST customers can be
7 completed?

8 A. There would be a need for some form of
9 interconnection between the networks assuming that
10 scenario were to play out.

11 Q. Just like with interexchange service
12 conceptually it's no different in a multi-vendor
13 environment, the vendors need to connect with each
14 other to deliver each other's traffic, correct?

15 A. The local exchange carriers and the
16 interexchange carriers certainly need to interconnect
17 for that purpose.

18 Q. And if MCI and US WEST were competing head
19 to head for local exchange service in Seattle, they
20 would also need to interconnect?

21 A. I would suppose so, yes.

22 Q. It's highly unlikely that if the
23 environment is competitive one or the other of the
24 company would have all of the customers and would not

25 need to connect to anybody else to deliver or receive

(BRYANT - CROSS BY SHAW)

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1 traffic, correct?

2 A. Well, one company is going to start out
3 with all the customers, but certainly to the degree
4 that anyone is going to enter that market there would
5 be a need for them to be able to complete calls from
6 their network to the other carrier's network.

7 Q. And vice versa?

8 A. Yes, that's correct.

9 Q. Otherwise, the public interest would be
10 harmed and we would have the situation like we had
11 years ago where you have to have two phones in your
12 house, subscribe to both companies in my hypothetical?

13 A. Yes, I would agree with that.

14 Q. And if it turns out that MCI and TCI form a
15 joint venture to provide local telephone service in
16 the city of Seattle, it will need a framework that
17 allows it to interconnect so that it can effectively
18 compete, correct?

19 A. Yes, we will need some network functions
20 from US WEST in order to interconnect the two
21 networks.

22 Q. And to effectively compete it's going to be
23 hard if US WEST's prices are priced below their total
24 service long run incremental cost, correct?

25 A. Yes, I would -- well, let me qualify that
(BRYANT - CROSS BY SHAW)

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1 by saying what will make competition difficult is if
2 US WEST is paying a different than a lower price for
3 its use of certain network functions that its
4 potential competitors also would need to provide its
5 services.

6 Q. And the unbundling concept that MCI
7 advocates would be applicable to the local service
8 markets also, correct?

9 A. It has general applicability to all of the
10 functions that would make up US WEST's local exchange
11 network. I think in every jurisdiction where we've
12 proposed building blocks we've permitted certain
13 exceptions where the Commission feels that pricing
14 residential local exchange service above the total
15 service long run incremental cost might endanger
16 universal service concerns, and I would add to that
17 that I have yet to see a demonstration that current
18 prices for residential local exchange service are
19 below cost.

20 Q. I'm not asking you to assume that. I'm
21 saying if they are, it would need to be raised above
22 cost in order to provide a competitive environment at
23 the local exchange level, will they not?

24 A. If the service -- first of all, let me back

25 up and say that when you say local exchange service
(BRYANT - CROSS BY SHAW)

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1 that really encompasses several of the network
2 components that we would regard as building blocks.
3 There are network access channels, the loops that
4 connect the subscriber to the central office; there
5 are switching functions; and there are local transport
6 functions. It's not clear to me that current rates
7 for residential local exchange service are above or
8 below the sum of the incremental cost for all of those
9 various building blocks.

10 And in fact what I would suspect is
11 probably true is that some residential subscribers,
12 because of their usage characteristics, are paying
13 rates which are substantially below the cost that they
14 actually cause in the network, while another group of
15 residential customers are probably paying more than
16 the incremental cost that they cause to be incurred.

17 Q. Do you understand in the state of
18 Washington that all local exchange service is flat
19 rate?

20 A. I didn't understand that to be the case,
21 but I would not be surprised.

22 Q. Therefore, the price to the consumer does
23 not vary with the usage, does it?

24 A. If it is flat rated, no, it would not.

25 Q. If the building block approach is

(BRYANT - CROSS BY SHAW)

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1 implemented at the local exchange level and the
2 incumbent carrier, US WEST in Seattle, has to price
3 its retail service local exchange service at the sum
4 of the cost of the building blocks that it uses, plus
5 any of its own direct costs, by definition then, the
6 local exchange rates will be above cost, correct?

7 A. If the rates are set in that fashion, yes,
8 that would be the case.

9 Q. And that is a necessary predicate in your
10 view for effective competition at the local exchange
11 level, correct?

12 A. Again it's a question -- yes, to answer
13 your question. Yes, if competition for that service
14 as a whole were to develop, I think that is a
15 requirement. You know, once again, though, I would say
16 there are different components that make up the
17 residential local exchange service as we know it
18 today.

19 What I would expect to happen is that
20 various components of that service would over time
21 become subject to competition at different rates, as
22 you may see competition for interoffice transport much
23 more quickly than you would see competition in the
24 provision of network access channels.

25 Q. Yes. And in fact in the scenario that's
(BRYANT - CROSS BY SHAW)

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1 expected trade literature is that a company like MCI
2 or TCI when it provides local exchange service will in
3 fact provide its own loops, correct?

4 A. I suppose there are some who have talked of
5 that sort of scenario. I don't know that that's the
6 way that it would occur.

7 Q. That's one scenario that's quite often
8 discussed. In fact, a cable television company
9 diverting its plan to two-way capability providing
10 local exchange service either by itself or in
11 combination with a company like MCI?

12 A. Yes. Or there might be other alternatives,
13 say, for example, with the provision of services by
14 wireless means.

15 Q. The other scenario would be a company like
16 MCI might get into the PSN service, the low power
17 wireless service and provide local exchange service,
18 in effect providing its own loops?

19 A. Personal communication services or PCS is I
20 believe what Mr. Shaw is referring to, then yes.

21 Q. Yes. And, therefore, loops aren't going to
22 be in a central facility in that competitive
23 environment. Each company is providing its own loops
24 to its own customers, but it does need the loops of

25 the other company to deliver traffic to the customers

(BRYANT - CROSS BY SHAW)

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1 of the other company, correct?

2 A. Once again, I would resist the use of the
3 term "essential" because I don't believe that that
4 captures the concept that needs to be addressed here.
5 It's whether or not the service is competitive or not.
6 And my answer would be, no, that if you have some entry
7 by cable television companies or by personal
8 communications systems in to provide loops, that does
9 not in itself mean that the market has become a
10 competitive one.

11 Q. Let's assume a simple hypothetical of the
12 city of Seattle and TCI, MCI, provides service --
13 offers to provide service to all residents of the
14 city of Seattle, has facilities in place and could
15 provide service to anybody that will switch from US
16 WEST to them.

17 MR. WEISKE: Could you speak up, Mr. Shaw.

18 JUDGE CANFIELD: I've mentioned that
19 several times, both the questioner and the answerer,
20 please use the microphones and speak up.

21 Q. Do you have that hypothetical in mind?

22 A. You're asking me to assume that MCI -- or
23 some consortium of MCI and TCI was holding itself out
24 to provide local exchange service basically to

25 all comers in the city of Seattle.

(BRYANT - CROSS BY SHAW)

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1 Q. Yes. Has the facilities in place using the
2 cable television company's facilities as their
3 backbone network.

4 A. Okay. I will make that assumption.

5 Q. Okay. And let's assume that they've been
6 in operation for one year and have 15 percent of the
7 customers in the city of Seattle signed up. Is it
8 your testimony that at that juncture the loops of US
9 WEST are still monopoly facilities and, therefore, has
10 to be priced on the building block approach?

11 A. Mr. Shaw, I think market share is certainly
12 one consideration that would go into determining
13 whether a market is competitive or not. There are
14 certainly a number of other factors that also should
15 be considered, for example, what has been done about
16 the availability of numbering resources? Is MCI free
17 to acquire any telephone number in the exchange for
18 use by its customers, or its customers forced to use
19 some sort of code dialing arrangement to access the US
20 WEST or the incumbent's network? That would be one
21 example.

22 Another would be the capacity of the
23 MCI/TCI consortium to carry all of that traffic. If
24 the MCI/TCI did not have the ability to respond to all

25 of the requests for service that were made, then

(BRYANT - CROSS BY SHAW)

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1 certainly it could not act as a check to US WEST's
2 market power.

3 And there are many other factors that would
4 go into a determination of whether the market had
5 become competitive or not. So I couldn't say given a
6 15 percent market share for the entering firm that we
7 had a competitive situation yet.

8 Q. Do you remember the first assumption of the
9 hypothetical is that this consortium has plant and
10 facilities sufficient to serve all the customers in
11 the city of Seattle; they can sign them up and provide
12 them service; they can go by everybody's house.

13 A. Okay.

14 Q. With that assumption in mind, are you still
15 arguing that US WEST's facilities are essential or
16 monopoly facilities?

17 A. Well, again, the ability or the capacity of
18 the entering firm to carry all of that traffic was
19 one, as I think I said, of many considerations that
20 would go into assessing whether the market was
21 competitive or not. I also alluded to the problem of
22 numbering resources and whether those were available,
23 and there are certainly other considerations.

24 You know, I wouldn't want on an advance of

25 seeing the actual fact situation that would exist at

(BRYANT - CROSS BY SHAW)

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1 that time, to say that with a 15 percent market share

2 the market is competitive at that point.

3 Q. Well, for the Commission to adopt your

4 recommendation to break US WEST's network down into

5 building blocks and make them available to other

6 providers at rates that at least start at long run

7 incremental cost, would you agree that the Commission

8 would like to know -- indeed, would need to know --

9 where it's going with that approach?

10 A. Well, certainly, yes. I would say that as

11 a general matter the Commission should have in mind

12 that at such time as any -- as the market for any one

13 of the building blocks truly does become a competitive

14 one, that it should have in mind an appropriate

15 regulatory response for that, and I think that it

16 should create mechanisms whereby US WEST could come to

17 the Commission and say, look, the market for switching

18 is now competitive for these reasons, and the

19 Commission then could make a judgment as to what sort

20 of a policy it would like to adopt at that point.

21 Q. Are you familiar with the statutory

22 definition of effective competition in the state of

23 Washington that exists today?

24 A. No, I'm not.

25 Q. Is MCI willing to pay mutual compensation

(BRYANT - CROSS BY SHAW)

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1 with the other carriers in a multi-vendor competitive
2 environment such as we've been postulating here?

3 A. Could you define a little more clearly what
4 you mean by mutual compensation?

5 Q. To pay the other company for delivering its
6 traffic and be paid by the other company when MCI
7 would deliver its traffic.

8 A. Well, certainly we pay access charges now.
9 We pay for any usage that we place on the local
10 exchange network, and I certainly believe that kind of
11 arrangement will continue. As far as traffic going in
12 the other direction, frankly, I hadn't given it much
13 thought, but I'm certain we would opt to charge
14 something for traffic delivered to our network as we
15 do charge our customers today.

16 Q. And it is MCI's position that this building
17 block approach that we've discussed very generally in
18 not much detail this afternoon is an essential
19 component of any AFOR?

20 A. Yes. I think as I stated earlier because
21 of the fact that under an incentive regulation plan we
22 don't have the opportunity to periodically examine the
23 relationship between rates and costs, that a building
24 blocks program such as we've been discussing here is a

25 necessary component.

(BRYANT - CROSS BY SHAW)

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1 Q. And lacking this component, it's your
2 opinion that an AFOR would not need statutory criteria
3 for an AFOR in the state of Washington?

4 A. Yes, that's correct.

5 MR. SHAW: Thank you. I have nothing
6 further.

7 JUDGE CANFIELD: Okay. Thank you, Mr.
8 Shaw. Mr. Smith, questions for Dr. Bryant?

9 MR. SMITH: I have no questions.

10 JUDGE CANFIELD: No? Okay. Mr. Adams.

11 MR. ADAMS: Yes, just a couple of
12 questions.

13

14 CROSS-EXAMINATION

15 BY MR. ADAMS:

16 Q. Yeah, just a couple of questions. In your
17 -- I'll call it -- I guess it's your October testimony
18 which is contained in Exhibit 1045 at page 20, you
19 make a recommendation relating to the level at which
20 sharing begins and propose that 100 percent of the
21 overearnings between 10.53 percent and 11 percent
22 should flow to ratepayers. Do you recall that
23 recommendation?

24 A. Yes.

25 Q. Am I correct that the Commission in its
(BRYANT - CROSS BY ADAMS)

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1 proposed order has adopted that recommendation?

2 A. Yes, that's correct.

3 Q. Now, do you in your testimony, have you
4 made a determination or -- to determine whether that
5 the existing range of 9 and a quarter percent to 10.53
6 percent is reasonable under today's market conditions?

7 MR. SHAW: Object to the question. It
8 assumes facts not in evidence. The facts in this case
9 are that the authorized range of return for this
10 company is 9.25 to 11.

11 MR. ADAMS: Your Honor, I am referring to
12 the proposal the Commission seems to me has made in
13 its proposed order.

14 JUDGE CANFIELD: Okay. I'll allow the
15 question concerning that proposed order.

16 A. And the question is, have I made any
17 determination as to whether that range is appropriate
18 under current conditions?

19 Q. Correct.

20 A. I am not an expert on rate of return
21 determination and, no, I have performed no such study.

22 MR. ADAMS: Okay. Thank you. That's all I
23 have.

24

(BRYANT - CROSS BY MacNAUGHTON)

1 BY MS. MacNAUGHTON:

2 Q. Good afternoon, Dr. Bryant.

3 A. Good afternoon.

4 Q. Dr. Bryant, I take it that the unbundling
5 repricing process recommended by MCI is one that MCI
6 believes would serve the public interest, is that
7 correct?

8 A. Yes, I do.

9 Q. Would you describe for us some of the
10 public benefits of flowing to different customer
11 classes that you believe would flow from unbundling
12 and repricing?

13 A. Well, I think certainly one benefit would
14 be that competitive entry in the provision of certain
15 telecommunications services that currently are a
16 monopoly would be encouraged, and I think that one
17 only has to look at the interexchange market over the
18 past nine years since divestiture to see that indeed
19 the introduction of competition has had significant
20 benefits for customers of long distance companies, so
21 that certainly is a benefit.

22 I think another important benefit of
23 pricing network functions on a consistent basis and
24 setting those prices so as to recover the total

25 service long running incremental cost is that sort of

(BRYANT - CROSS BY MacNAUGHTON)

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1 pricing policy would provide some important
2 protections for monopoly ratepayers against
3 subsidizing the competitive venturers of the telephone
4 company as they move into the profession of broad band
5 service or wireless services or what-have-you.

6 Q. Is it your position that these public
7 benefits would flow to all customer classes?

8 A. Yes.

9 Q. Is it MCI's position that without this kind
10 of an unbundling repricing process, that an AFOR would
11 not serve the public interest?

12 A. Well, I think, as I stated in my testimony,
13 I have doubts that any kind of AFOR such as the one
14 we're discussing here ultimately serves the public
15 interest, but certainly I think if an AFOR is to be
16 implemented that this is definitely a necessary
17 component of that.

18 Q. And again, one of those public benefits
19 that you believe would flow from unbundling would be
20 an increased array of customer choices due to
21 competitive entry, is that correct?

22 A. Yes.

23 Q. Has the public utility commission of any
24 other state undertaken an unbundling repricing process

25 such as the one you recommend, the results of which
(BRYANT - CROSS BY MacNAUGHTON)

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1 might assist or expedite a similar process in this
2 state?

3 A. Yes. Well, a number of states have
4 undertaken a building blocks process and those states
5 are in various stages of actually implementing it.
6 North Dakota would be an example. California has
7 ordered in principle the concept of unbundling. New
8 York state has undertaken an unbundling of network
9 access channels and switching. Probably the state
10 that is furthest advanced in the process is the state
11 of Oregon where workshops have been ongoing for about
12 the last three years and which is now coming to a
13 resolution.

14 Q. Are many of the parties to this proceeding
15 also parties to Oregon unbundling proceeding?

16 A. Yes. I think most of them, in fact.

17 Q. Would that include, besides MCI and AT&T,
18 US WEST?

19 A. Yes.

20 Q. Would it include GTE?

21 A. Yes.

22 Q. Can you summarize for us to the extent
23 you're familiar with it the status of the Oregon
24 unbundling building blocks proceeding?

25 check, that the unbundling requirements must be

(BRYANT - CROSS BY MacNAUGHTON)

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1 implemented within six months of the order?

2 A. Yeah, I'll accept that, yeah. I don't have
3 it here in front of me right now.

4 Q. Is it your opinion that the adoption of
5 actual ONA rules in Oregon and the completion of the
6 cost phase of the building blocks docket would assist
7 this Commission in undertaking a similar process?

8 A. Yes, I believe it would. In fact, a very
9 good illustration of that is a set of costing and
10 pricing rules that are currently under consideration
11 by the Texas Commission, my home state. The Texas
12 Commission has published rules for adoption within the
13 next 60 days, pending whatever comments are filed by
14 parties, that basically take the work that was done in
15 Oregon in defining the costing methodology and in
16 defining what the actual building blocks are and use
17 that as the starting place.

18 So I think by building on the work in
19 Oregon they have short-circuited a great deal of that
20 process and are going to be requiring Southwestern
21 Bell and General Telephone to submit cost studies
22 within a year after the adoption of the rules there,
23 so I think that's a good example.

24 The Oregon process I think has done a lot

25 of work that is adaptable in other jurisdictions and
(BRYANT - CROSS BY MacNAUGHTON)

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1 by other telephone companies, and certainly in the
2 case of Washington where US WEST has been a very
3 active participant in the building blocks process, the
4 results should be very easily transferable.

5 Q. Do you have an opinion, Dr. Bryant, on
6 whether this Commission should look at unbundling and
7 repricing in the context of the efforts coming up in
8 the future to develop a new AFOR or should that
9 process occur in a separate docket?

10 A. Well, certainly I think the idea of doing
11 an unbundling and repricing exercise is a necessary
12 component of the AFOR. Whether or not it takes place
13 in the same proceeding or whether a separate
14 proceeding should be established, I don't know that
15 that makes a lot of difference, so long as it is that
16 that sort of exercise is undertaken and the unbundling
17 actually does take place.

18 Q. When does MCI recommend that the Commission
19 begin the unbundling repricing process?

20 A. Subject to its resources, I don't see why
21 that process couldn't start right away.

22 Q. And you believe it can and should continue
23 while the efforts begin to develop a new AFOR, is that
24 correct?

25 A. That certainly is -- seems to me to be a
 (BRYANT - CROSS BY MacNAUGHTON)

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1 workable process.

2 Q. To your knowledge, did the Commission in
3 its 18th Supplemental Order address the subject of the
4 unbundling and repricing?

5 A. No, it did not.

6 Q. Does MCI have any recommendations in that
7 respect?

8 A. Well, we certainly would encourage the
9 Commission to address the issue that we've raised in
10 its final order in this proceeding and to direct its
11 staff to either initiate another proceeding or to
12 within the context of this proceeding begin to
13 undertake the unbundling and repricing exercise that
14 I've suggested.

15 MS. MacNAUGHTON: I have no further
16 questions.

17 JUDGE CANFIELD: Okay. Thank you. Mr.
18 Simpson, no questions. Mr. Butler?

19 MR. BUTLER: No questions.

20 JUDGE CANFIELD: And Mr. Finnigan?

21 MR. FINNIGAN: Just one or two very brief.

22

23 CROSS-EXAMINATION

24 BY MR. FINNIGAN:

25 Q. Dr. Bryant, are you advocating that the
(BRYANT - CROSS BY FINNIGAN)

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1 building block approach apply to any other local
2 exchange companies other than US WEST?

3 A. In other states where I've been involved
4 typically this sort of exercise has been imposed on
5 the largest telephone companies, and that has
6 generally always included the RBOC in that particular
7 jurisdiction. In other cases has also included
8 General Telephone and United Telephone, which tend to
9 be the second and third largest telephone companies.
10 For the very small telephone companies most of them do
11 not currently perform cost studies at all, and in most
12 of those states they have been excused from the full
13 requirements for building blocks, costing and pricing,
14 and the entire program. However, in North Dakota
15 comes to mind as an example, a requirement has been
16 recommended to the Commission that the smaller
17 telephone companies be required to unbundle network
18 functions upon a bona fide request from a party that
19 wants to purchase that unbundled function.

20 Q. I didn't ask you what has happened in other
21 states. I asked you what you are recommending in
22 Washington.

23 A. I think that that's a reasonable approach,
24 that that sort of approach to the smaller companies is

25 a reasonable one.

(BRYANT - CROSS BY FINNIGAN)

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1 Q. You would agree, would you not, that the
2 vast majority of local exchange companies operating in
3 Washington are not part of the Oregon docket?

4 A. Yes, that's -- I believe that's correct,
5 yeah.

6 MR. FINNIGAN: Thank you.

7 JUDGE CANFIELD: Okay. Thank you.
8 Commissioners, questions?

9 CHAIRMAN NELSON: No.

10

11 EXAMINATION

12 BY COMMISSIONER CASAD:

13 Q. I just have one, Dr. Bryant. On page 6 of
14 your attached testimony at the top of the page, line
15 4, you indicate the amount of overearnings, i.e., the
16 amount of overearnings by US WEST amounted to 44.1
17 million with the ratepayers' share of excess earning
18 totaling 21.7 million in 1990.

19 A. Yes, that's correct.

20 Q. And then again on page 20 at the bottom of
21 the page on line 21 you indicate overearnings between
22 -- US WEST overearnings between 10.53 and 11.0 should
23 flow to ratepayers rather than to US WEST.

24 A. Yes.

25 Q. So you are alleging that US WEST is

(BRYANT - EXAMINATION BY CASAD)

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1 overearning, i.e., earning excessively. In an attempt
2 to determine what you think is a fair return for a
3 company to earn, what is MCI's rate of return in the
4 state of Washington?

5 A. Mr. Commissioner, we do not calculate
6 earnings or even -- unless I'm very much mistaken --
7 even track earnings on a state-specific basis, so I
8 really couldn't answer your question. I certainly
9 don't know the answer to that.

10 Q. You have no idea about return on investment
11 or return as compared to cost or total earnings as
12 opposed to total cost?

13 A. Not for the state of Washington
14 specifically. And the last time I've looked at that
15 on a total company basis it was two or three years ago
16 in a proceeding in Texas where Southwestern Bell was
17 asking for an incentive regulation program. It was
18 asking a very similar question, at that time MCI's
19 earnings were substantially below what Southwestern
20 Bell's authorized rates of return was.

21 Q. You're telling me that you cannot provide
22 me the information regarding how much or what MCI's
23 rate of return is in the state of Washington?

24 A. That's correct. No, I don't know that

25 answer.

(BRYANT - EXAMINATION BY CASAD)

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1 COMMISSIONER CASAD: Thank you.

2 MS. WEISKE: Commissioner Casad, as Dr.
3 Bryant indicated, MCI has never compiled rate of
4 return numbers on any state-specific basis and so the
5 numbers that we provide in the annual report to the
6 state of Washington are based on overall company
7 numbers nationally that are included in our annual
8 report. We simply don't compile those numbers
9 anywhere in the country.

10 BY COMMISSIONER CASAD:

11 Q. Why don't you, Dr. Bryant, compile those
12 numbers on a state basis?

13 A. We simply don't have any business reason
14 for doing so.

15 Q. You're not interested in what your earnings
16 production is in the state of Washington concerning
17 the amount of money you have invested in your plant,
18 your facilities, your access charge costs, as compared
19 to what it might be in Texas or New York or Illinois?

20 A. Well, first of all, let me say that I'm not
21 really involved in the part of the company that would
22 have that type of an interest, so it would be a little
23 difficult for me to say exactly what they are
24 interested in. I know that in a number of states that

25 I've dealt with in a regulatory sense that there have

(BRYANT - EXAMINATION BY CASAD)

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1 been requests to try and produce that information. We

2 simply don't ask the systems in place to do that.

3 My understanding is the people that

4 establish our prices have a -- certainly know what our

5 access costs are in the various states and have a feel

6 for what our other operating expenses and investment

7 costs are in a very general sort of way and are able

8 to establish prices.

9 It's important to realize that MCI, because

10 we operate in the competitive market, don't have the

11 ability to determine unilaterally what our prices are

12 going to be. We have to react to the market price

13 that's established by all the competitors in that

14 market. So if we could make money at that price,

15 fine, but if we can't, then we simply can't.

16 Q. And the amount of money that you make is

17 immaterial?

18 A. Well, certainly we hope to make money at

19 being able to price at the market and have to control

20 our costs in order to do so, but it's a different

21 process than --

22 Q. I recognize it's a different process, but

23 the more money you make, the better it is?

24 A. Absolutely.

25 Q. Without limitation?

(BRYANT - EXAMINATION BY CASAD)

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1 A. The competitive market is a terrific
2 limitation on any firm's ability to make a lot of
3 money.

4 Q. You believe this is a fully competitive
5 market?

6 A. Interexchange market certainly is.

7 Q. Is fully competitive?

8 A. Yes, sir.

9 Q. What is the rate of the return overall of
10 MCI, not on the state-specific basis?

11 A. As I said, it's been a couple years since
12 I've done that calculation. I could probably provide
13 that information to you, looking at our annual report.

14 Q. I guess I can look in the annual report. I
15 don't think it's part of the record. But if you can't
16 provide it on a state-specific basis, I guess it's not
17 as meaningful as I would like it to be.

18 COMMISSIONER CASAD: Thank you very much.

19 JUDGE CANFIELD: Commissioner Hemstad.

20

21 EXAMINATION

22 BY COMMISSIONER HEMSTAD:

23 Q. In your general proposal for unbundling and
24 building blocks of US WEST's network, would it be your

25 expectation that that unbundling would apply to all

(BRYANT - EXAMINATION BY HEMSTAD)

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1 services, both the long distance intraLATA services as
2 well as access, but also as well as local services?

3 A. Yes, sir. Well, it would apply at the
4 level of the network functions and to the extent that
5 any service used the network functions the price of
6 that service might be affected in by the unbundling
7 exercise.

8 Q. When you say network service, give me a
9 definition of what you mean by that.

10 A. We would speak in terms rather than of
11 services when we are doing cost studies as MCI's
12 proposal is, instead of looking at the cost of the
13 finished service that appears in the tariff, you
14 instead would look at the cost of the underlying
15 network functions. And some examples of that would be
16 the network access channel or the loop, various kinds
17 of switching functions, and interoffice transport
18 functions.

19 So to the extent that, for example,
20 intraLATA toll service uses some switching functions
21 and uses some interoffice transport functions, the
22 building blocks philosophy would say that service
23 needs to pay whatever price is established for the
24 interoffice transport and for the switching.

25 Q. And each of those unbundled services then

(BRYANT - EXAMINATION BY HEMSTAD)

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1 would be expected to be priced above the long run
2 incremental cost?

3 A. Yes, sir.

4 Q. Do you have an opinion as to the effect of
5 that upon residential rates for ratepayers in
6 Washington?

7 A. Well, I think I mentioned a little while
8 ago that I have never seen a demonstration that
9 residential rates are in general priced below their
10 long running incremental cost, and I think there is
11 probably some variation, you know.

12 For example, I use telephones very heavily
13 in my residence, and I have a computer and a modem and
14 a fax there in my house as well as a couple of
15 teenagers, so I use an awful lot of telephone service,
16 and I pay the same \$9 a month in Texas that a person
17 who only makes two calls a month would make, so I
18 suspect very strongly that my usage is being
19 subsidized. I'm not convinced that the person who
20 makes two calls a month is paying less than the cost
21 of serving that person.

22 Q. Well, I thought that that's what you
23 had said earlier. So it's your opinion that that kind
24 of unbundling would not ultimately result in requiring

25 an increase in pricing for residential services?

(BRYANT - EXAMINATION BY HEMSTAD)

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1 A. Not necessarily. And I think in addition
2 to that, MCI has always said in making the building
3 blocks proposal that if the Commission feels that it
4 needs to establish a certain rate for residential
5 local exchange service in order to foster universal
6 service or whatever other policy concerns it has, that
7 certainly we don't object to that. Our real concern
8 is more in the area of the more competitive service,
9 the private line services, toll services and stuff.

10 COMMISSIONER HEMSTAD: Surely. I have no
11 other questions.

12

13 EXAMINATION

14 BY JUDGE CANFIELD:

15 Q. Okay. Maybe I can ask one in an area that
16 I don't think was covered in any great detail, Dr.
17 Bryant. Maybe just a general reference to page 22 of
18 your attached Exhibit 1045, you discuss treatment of
19 exogenous factors. Do you have that in mind?

20 A. Yes, I do.

21 Q. Have you had a chance to read US WEST's
22 witness's testimony of Mr. Moran?

23 A. Yes. I didn't get it -- I didn't have a
24 lot of time. I read through it. I haven't studied it

25 in great detail.

(BRYANT - EXAMINATION BY JUDGE)

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1 Q. Let me provide you with a specific portion
2 of that that I wanted to ask you about. In Mr.
3 Moran's testimony at page 25 beginning at line 20 he
4 states, US WEST has not opposed a modification of the
5 list of exogenous factors to include the net impact of
6 changes in the level of access charges paid by US WEST
7 to local exchange companies as long as the net
8 financial impact of a LEC converting to a primary toll
9 carrier are also included.

10 Going on from that, at page 26 of his
11 testimony beginning at line 22 he characterizes the
12 changes proposed by the Commission in its 18th
13 Supplemental Order as to the current exogenous factors
14 list as, quote, unclear, unfair, and administratively
15 burdensome.

16 The principal complaint at line 28 of page
17 26 being that under the Commission's proposed
18 modification the exogenous events that increase
19 sharing are not offset 100 percent against exogenous
20 events that reduce sharing.

21 Okay. With that in mind, I want to get
22 your testimony of whether or not you agree with US
23 WEST's position that exogenous events ought to be
24 netted out essentially.

25 quickly to follow on a few of his questions.

(BRYANT - EXAMINATION BY JUDGE)

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1 EXAMINATION

2 BY COMMISSIONER CASAD:

3 Q. Could you tell me -- you indicated that
4 you felt the interexchange marketplace was truly
5 competitive. Could you tell me -- and I haven't
6 looked at these figures for a little while -- what the
7 current market share of the three principal players is
8 in the interexchange market?

9 A. I don't know precisely, but the shares are
10 roughly AT&T has about 65 percent of the market; MCI
11 has between 10 and 15 percent of the market; and
12 Sprint has maybe roughly 8 percent of the market; with
13 a number of smaller carriers making up whatever the
14 balance is.

15 COMMISSIONER CASAD: Thank you.

16 JUDGE CANFIELD: Okay. That's the first
17 round. Ms. Weiske, any redirect?

18 MS. WEISKE: Yes, I do. Thank you.

19

20 REDIRECT EXAMINATION

21 BY MS. WEISKE:

22 Q. Dr. Bryant, you had a brief discussion with
23 Mr. Finnigan on behalf of WITA about MCI's
24 recommendation vis-a-vis the small independent LEC

25 companies. Do you recall that?

(BRYANT - REDIRECT BY WEISKE)

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1 A. Yes.

2 Q. And you also referred in some responses to
3 questions from Ms. MacNaughton to an Oregon ONA order.
4 Do you recall that?

5 A. Yes, I do.

6 Q. Would you accept subject to check that that
7 Oregon ONA order also requires the independents to
8 unbundle upon request?

9 A. I don't recall that specifically, but I'll
10 accept that subject to check.

11 Q. And in a brief conversation that you had
12 with Commissioner Casad you got into how MCI generally
13 sets its rates. Do you recall that?

14 A. Yes.

15 Q. And, for example, if AT&T overall across
16 the 50 states reduced its interLATA toll rates would
17 it be likely to assume that MCI would respond
18 accordingly and reduce its rates?

19 A. Yes. It would be virtually required that
20 we do.

21 Q. And if in doing that we then believed the
22 profit margin was not sufficient, for example, would
23 we go about trying to implement certain cost-cutting
24 measures like we have over the last few years, for

25 example, decreasing personnel?

(BRYANT - REDIRECT BY WEISKE)

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1 A. Yes. That would be the -- if we were not
2 able to continue to earn a profit at that rate level,
3 certainly we would have to all cut costs somewhere.

4 MS. WEISKE: That's all I have.

5 COMMISSIONER CASAD: I have to offer a
6 correction. I wasn't talking about rate setting. I
7 was talking about earnings.

8 JUDGE CANFIELD: All right. Any additional
9 questions for Dr. Bryant?

10 MR. BUTLER: I have a couple.

11

12 RE-CROSS-EXAMINATION

13 BY MR. BUTLER:

14 Q. Dr. Bryant, you said in your opinion the
15 interexchange market is fully competitive. By that
16 statement did you intend to include the intraLATA
17 interexchange market?

18 A. No. Certainly not. I was referring and
19 assume the question was directed to the intraLATA
20 interexchange market. No, there are -- there is no
21 state in which the intraLATA interexchange market has
22 been competitive.

23 MS. WEISKE: Thank you. That's all I have.

24 JUDGE CANFIELD: Any additional questions

25 for Dr. Bryant? None? Okay. Thank you. You may be

(BRYANT - RECROSS BY BUTLER)

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1 excused.

2 JUDGE CANFIELD: Was that the end of the
3 out-of-order requests of the witnesses?

4 MR. BUTLER: Your Honor, we would like to
5 put Mr. Lundquist on if that's possible.

6 JUDGE CANFIELD: Okay. I didn't understand
7 whether that was a part of the earlier agreed request
8 or not. But any problems with that? No? Okay, let's
9 go ahead with Mr. Lundquist then. And while he's
10 setting up I'll go ahead and preassign numbers to the
11 prefiled testimony of Mr. Lundquist as T-1046, and I
12 believe there were three attachments, Mr. Butler, is
13 that correct? Appendix 1, 2 and 3.

14 (Marked Exhibit No. T-1046.)

15 MR. BUTLER: Yes. I think that is correct.

16 JUDGE CANFIELD: Let's just number those as
17 Exhibits 1047, 1048, and 1049.

18 (Marked Exhibits Nos. 1047, 1048 and 1049.)

19 Whereupon,

20 SCOTT C. LUNDQUIST,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23 JUDGE CANFIELD: And I would request again,
24 please, all parties speak into the microphone clearly.

25 Okay, Mr. Butler.

(LUNDQUIST - DIRECT BY BUTLER)

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1

2

DIRECT EXAMINATION

3

BY MR. BUTLER:

4

Q. Mr. Lundquist, will you state your name and
5 business address for the record, please.

6

A. My name is Scott C. Lundquist, L U N D Q U
7 I S T. My business address is Economics and
8 Technology, Incorporated, One Washington Mall, Boston,
9 Massachusetts 02108.

10

Q. You're appearing here today on behalf of
11 TRACER, is that correct?

12

A. Yes.

13

Q. And have you prefiled testimony which has
14 been marked for identification as Exhibit T-1046 with
15 three attachments marked for identification as 1047,
16 1048 and 1049?

17

A. Yes, I have.

18

Q. Do you have any additions or corrections to
19 those exhibits?

20

A. I have three minor corrections. On page 9
21 of Exhibit T-1046, footnote 12, I would like to add
22 dollar signs before each of the quoted figures for the
23 amount of rate reductions for local exchange carriers
24 in 1990, 1991, and 1992.

25 On page 10, line 4, the words "rate base"

(LUNDQUIST - DIRECT BY BUTLER)

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1 should be replaced with -- I'm sorry -- the word

2 "investment" should be replaced with "rate base."

3 JUDGE CANFIELD: What line is that?

4 THE WITNESS: Line 4.

5 JUDGE CANFIELD: Okay.

6 A. And on page 13, line 20, the word "equity"

7 should be replaced with the words "rate based."

8 Q. Were there additional corrections?

9 A. No. That was all.

10 Q. With those corrections, if I were to ask

11 you the questions that are contained in Exhibit T-1046

12 today, would your answers be the same as are written

13 therein?

14 A. Yes, they would.

15 Q. And are the answers true and correct to the

16 best of your knowledge?

17 A. Yes.

18 Q. With respect to Exhibits 1047, 1048 and

19 1049, were those prepared by you or under your

20 direction or control?

21 A. Yes, they were.

22 Q. And are they true and correct to the best

23 of your knowledge?

24 A. Yes.

25 MR. BUTLER: At this time I would like to
(LUNDQUIST - DIRECT BY BUTLER)

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1 move the admission of Exhibits T-1046, 1047, 1048
2 and 1049.

3 JUDGE CANFIELD: Any objections?

4 MR. SHAW: No.

5 JUDGE CANFIELD: None? Let the record
6 reflect there are no objections. Exhibit T-1046, and
7 Exhibits 1047 through 1049 are so entered into the
8 record.

9 (Admitted Exhibits Nos. T-1046, 1047,
10 1048, and 1049.)

11 MR. BUTLER: Mr. Lundquist is available for
12 cross-examination.

13 JUDGE CANFIELD: Okay. Thank you, Mr.
14 Shaw. And I'll ask everybody to speak up. There's
15 some competing noise outside the building so it's even
16 more imperative that we use the microphone.

17

18 CROSS-EXAMINATION

19 BY MR. SHAW:

20 Q. Mr. Lundquist, turn to page 9, please, of
21 your testimony. Do you see at the top five lines you
22 make a comparison to traditional rate of return
23 regulation and observe that in the past three years,
24 under presumably traditional regulation, local

25 telephone companies have had their rates lowered over
(LUNDQUIST - CROSS BY SHAW)

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1 \$1 billion. Do you see that?

2 A. Yes. I see those lines.

3 Q. And the purpose of that answer, I presume, is
4 to suggest that traditional regulation produces more
5 benefits to ratepayers than AFORs and particularly
6 this AFOR?

7 A. No. The purpose of those -- of my
8 statements were to indicate the types of ratepayer
9 benefits that ratepayers across the country are
10 receiving from the productivity improvements that are
11 related to technological change.

12 Q. Under traditional rate of return
13 regulation?

14 A. Not necessarily. Some of -- because the
15 figures that I'm quoting with respect to local
16 exchange carrier or rate reductions are national in
17 scope, they would also include companies that may be
18 regulated under an alternative form of regulation.

19 Q. Okay. So combined across the country
20 whatever AFORs are in place plus whatever traditional
21 regulation in place, has produced \$1 billion worth of
22 rate reductions?

23 A. Yes.

24 Q. Accept a little math for me subject to your

25 check, please, that -- would you agree there's about
(LUNDQUIST - CROSS BY SHAW)

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1 140 million access lines across the United States?

2 A. I'm not aware of that figure, but subject
3 to check, yes.

4 Q. If you divide that by a billion you would
5 get \$7.14 an access line in reductions. Would you
6 accept that arithmetic subject to check?

7 A. Yes.

8 Q. And that accept, subject to your check, that
9 Washington has -- US WEST's Washington has
10 approximately 2 million access lines, and that if you
11 took that \$7.14 average national reduction times
12 Washington's 2 million US WEST access lines that would
13 produce 14 million. Would you accept that subject to
14 your check?

15 A. Could you define what you're encompassing
16 within access lines?

17 Q. Two million individual access lines, lines
18 to individual customers.

19 A. Basic exchange access lines?

20 Q. Yes. And if you assume with me that
21 Washington US WEST has two million access lines, two
22 million times \$7.14 is \$14 million approximately?

23 A. I would accept your arithmetic. I'm not
24 sure about the significance of that calculation at

25 this point.

(LUNDQUIST - CROSS BY SHAW)

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1 Q. The AFOR in Washington with the \$65 million
2 initial rate reduction plus the 30 million in average
3 yearly sharing in the first three years has produced
4 \$92 million in rate cuts and dollar benefits to the
5 ratepayers of the state of Washington, correct?

6 A. Subject to check on the \$30 million average
7 annual rate reduction that you're proposing.

8 Q. Okay. That would suggest, would it not, that
9 the AFOR in Washington has outperformed the national
10 average many times over, that if US WEST was average,
11 based upon your \$1 billion worth of rate reductions,
12 over the last three years it would have reduced its
13 rates \$14 million over the last three years?

14 MR. BUTLER: Excuse me, your Honor. I
15 object to the form of the question to the extent it
16 assumes that the \$65 million reduction was in fact
17 part of the AFOR plan as opposed to part of the
18 proposed settlement on the settlement of the earnings
19 complaint case that was decided in conjunction with
20 the AFOR.

21 MR. SHAW: Well, I disagree with my
22 colleague. I think the record is very clear that US
23 WEST would not have settled the case for \$65 million
24 without the AFOR.

25 JUDGE CANFIELD: I think the question is

(LUNDQUIST - CROSS BY SHAW)

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1 clear that it's within the assumption, so the point is
2 so noted.

3 Q. Do you have my question in mind?

4 A. Why don't you repeat it.

5 Q. Would you agree that, assuming the
6 arithmetic is correct, that if US WEST in Washington
7 had met the national average represented by your
8 billion dollars over three years, it would have
9 reduced its rates \$14 million over the last three
10 years?

11 A. On average the national trend has been that
12 a -- there has been a \$1 billion net worth of rate
13 reductions for the local telephone companies over that
14 timespan.

15 Q. And US WEST's share of that, if it was part
16 of that average, would have been \$14 million, correct,
17 on an access line basis?

18 A. Under the assumption that all -- we're
19 making certain assumptions in this calculation, but
20 under the assumption that, you know, all access lines
21 should be afforded the same amount of rate reduction,
22 you could make that inference.

23 Q. I accept your qualification. You do agree
24 then that the AFOR in Washington has outperformed the

25 national average in rate benefits and dollar benefits
(LUNDQUIST - CROSS BY SHAW)

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1 to consumers --

2 A. No.

3 Q. -- by many times over, correct?

4 A. No. I wouldn't agree with that statement.

5 One thing we must keep in mind is that the basic
6 exchange rate for US WEST in Washington, as I've
7 indicated in my testimony, have actually remained
8 essentially constant over the time frame of the AFOR
9 plan. The -- there has been a -- several million
10 dollars worth of sharing in every year of the plan
11 and that amount of sharing has actually grown every
12 year. However, partly because the rates have remained
13 so high, the shareable earnings that are returned in
14 one year are then actually recollected in some form in
15 the next year which is an example of the type of
16 circularity within the existing AFOR plan which the
17 Commission has recognized is not a desirable outcome
18 within such a plan.

19 Q. My numbers corrected for that, did they
20 not? I added 65 million and 30 million to get roughly
21 95 million. I did not take 30 million three times on
22 the average 30 million per year sharing. So taking
23 away the cumulative effect the fact of the matter is
24 that US WEST has reduced its rate \$65 million in 1990

25 and additionally has given back dollar benefits to
(LUNDQUIST - CROSS BY SHAW)

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1 consumers of at least \$30 million in the three-year
2 plan?

3 A. I would agree that consumers have received
4 some shareable earnings as a result of the company
5 exceeding the top of the allowable earnings range of
6 11 percent. I would not characterize those as
7 equivalent to the types of permanent rate reductions
8 that have been occurring in other states across the
9 country for local telephone companies.

10 Q. You don't deny that the \$65 million was
11 certainly permanent rate reductions?

12 A. That was indeed a permanent rate reduction,
13 although as we've seen, the company managed to exceed
14 the top of the authorized earnings range with the
15 first year of the plan despite that \$65 million rate
16 reduction.

17 Q. And you don't deny that there has been
18 significant access charge rate reductions, do you, under
19 the plan?

20 A. I am not familiar with the level of access
21 charge rate reductions that have occurred in
22 Washington over the duration of the plan in any
23 specific amount.

24 Q. Do you recall that this plan provides that

25 US WEST lowers its access charges to meet the

(LUNDQUIST - CROSS BY SHAW)

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1 prescribed cost floors of this Commission every year
2 if the calculation leads to a decrease, but does not
3 increase them if the calculation indicates an
4 increase?

5 A. Are you referring to the provision within
6 the settlement agreement on that?

7 Q. Yes.

8 A. I believe so, but I would like to be
9 pointed to the appropriate section of the settlement
10 agreement on that before I acknowledge it.

11 Q. Would you accept, subject to your check,
12 that that's what that settlement agreement calls for?

13 A. Subject to check, yes.

14 Q. And the agreement has also provided for
15 ongoing rate reductions for E-911 emergency telephone
16 services?

17 A. Since I do have a copy of the settlement
18 agreement let me find that and check.

19 I believe I found the appropriate section
20 but could you repeat your question.

21 Q. The settlement agreement provides for
22 subsidized rates for enhanced 911 service, does it
23 not.

24 MR. BUTLER: Excuse me. I object to the

25 question insofar as it assumes that the rate is

(LUNDQUIST - CROSS BY SHAW)

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1 subsidized.

2 MR. SHAW: I'll rephrase the question.

3 It's not worth arguing over.

4 JUDGE CANFIELD: Okay.

5 Q. The settlement agreement provides that
6 enhanced 911 service will be provided throughout the
7 company's service territory for a maximum of 25 cents
8 per line per month?

9 A. Yes.

10 Q. The agreement also provides for yearly rate
11 restructures that may involve rate reductions, does it
12 not?

13 A. Can you refer me to the specific section of
14 the agreement that you're referring to.

15 Q. Are you familiar with this agreement at
16 all, Mr. Lundquist?

17 A. Yes.

18 Q. Do you recall that the Commission has
19 options for the disposition of excess earnings and
20 that its number one preferred option is rate
21 restructures which may involve rate reductions?

22 A. Yes, I'm aware of that. However, there are
23 various provisions in the agreement that could have
24 met the description you were making to me.

25 Q. So the fact of the matter is, based upon
(LUNDQUIST - CROSS BY SHAW)

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1 your national statistics this AFOR has outperformed
2 the national average, correct?

3 A. No. I do not agree with that for the
4 reason I have stated earlier.

5 Q. Okay. Well, does TRACER believe that
6 rates should be cost based?

7 MR. BUTLER: Object to the question. Lack
8 of foundation. He's here to testify to the issues
9 that were set forth in the Commission's notice of
10 hearing. He's not a generalized representative or
11 member of TRACER and can't speak for TRACER beyond the
12 testimony that he's submitted.

13 Q. What does the acronym TRACER stand for, do
14 you know, Mr. Lundquist?

15 A. Yes.

16 Q. It's on the front of your testimony.

17 A. I know. Telecommunications Ratepayers
18 Association for Cost Based and Equitable Rates.

19 Q. From that do you gather that your client is
20 in favor of cost based rates?

21 A. In a general manner of speaking, yes.

22 Q. If the evidence were that residential rates
23 are below cost, would you advocate on behalf of your
24 client that they be raised above cost?

25 MR. BUTLER: Again I object on the grounds

(LUNDQUIST - CROSS BY SHAW)

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1 that he has not been retained to sponsor any testimony
2 other than the testimony which is specifically
3 submitted before the Commission at this time in this
4 proceeding.

5 MR. SHAW: This is curious, your Honor. We
6 have this witness here saying that this AFOR is
7 deficient because it doesn't produce fair, just, and
8 equitable rates, and I want to get this witness's
9 definition of what fair, just, and equitable rates
10 are.

11 MR. BUTLER: That's fine. You can ask him
12 that, but to ask him what he would or would not be
13 retained to advocate in some other proceeding is not
14 an appropriate question.

15 MR. SHAW: I didn't ask him that, your
16 Honor.

17 JUDGE CANFIELD: With in mind what you're
18 asking, I think we could get right to that then.

19 Q. Do you have the question in mind, Mr.
20 Lundquist?

21 A. Please restate it.

22 Q. Do you believe that rates that are below
23 cost should be raised above cost?

24 A. I cannot give a general answer to that

25 question. There are many, many factors which would be

(LUNDQUIST - CROSS BY SHAW)

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1 involved in making such a policy determination.

2 Q. So is a basic definition of a fair, just,
3 and equitable rate a rate that is above cost?

4 A. Could you define cost in the context of
5 your question.

6 Q. Is it your position that an AFOR or a
7 regulatory framework that produces rates that are
8 below cost is producing fair, just, and equitable
9 rates?

10 A. Again, I would want you to specify the type
11 of costs you're referring to. There are many
12 different types of costs, long run incremental cost,
13 short run marginal cost, fully embedded cost, and I'm
14 not sure which you're referring to here.

15 Q. What is the cost standard you believe as an
16 expert should be used to establish the cost floor for
17 the telecommunications services?

18 A. For -- the costs floor for which specific
19 services are you referring to?

20 Q. Are you suggesting that different services
21 have different cost methodologies?

22 A. I'm suggesting that for certain types of
23 services, for instance, those which face -- may face
24 effective competition, it may be appropriate to have

25 the cost floor that is based on long run incremental

(LUNDQUIST - CROSS BY SHAW)

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1 cost.

2 Q. Are you aware that the courts have recently
3 held that all services are competitive in the state of
4 Washington, telecommunication services?

5 MR. BUTLER: Excuse me. I object to that.
6 I'm not aware of any court that's held that all
7 services are competitive in the state of Washington.

8 JUDGE CANFIELD: Mr. Shaw.

9 MR. SHAW: I'll rephrase it.

10 Q. Are you aware that the courts have recently
11 held in the state of Washington that this Commission
12 cannot prescribe a legal monopoly for any
13 telecommunications services offered by regulated
14 companies?

15 A. I have been informed of that today earlier
16 in testimony in these hearings.

17 Q. And do you support that concept that all
18 services should be competitive?

19 A. I believe that was a legal matter, a legal
20 finding in this state, and I would not want to
21 question the judgment of the Washington courts in that
22 respect.

23 Q. Is TRACER indifferent as to whether or not
24 there's a local exchange monopoly, if you know?

25 A. Are you specifically referring to the
 (LUNDQUIST - CROSS BY SHAW)

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1 potential legal monopoly --

2 Q. Yes.

3 A. -- for local exchange services?

4 Q. Yes.

5 A. This is a position that I have not
6 developed with respect to TRACER and I don't think I
7 could speak for TRACER with respect to that issue.

8 Q. Well, let me try this. If it's in the
9 public interest for all services to be competitive,
10 does it necessarily follow that all services should be
11 priced above cost in order to effectuate competition?

12 MR. ADAMS: Again, your Honor, could I ask
13 for clarification? This is a hypothetical? That's a
14 question? Is this a hypothetical that's being asked?

15 MR. SHAW: No. This is an economic theory.
16 It's not a hypothetical at all.

17 MR. BUTLER: Can I ask for clarification --

18 MR. ADAMS: I don't know that that's an
19 economic theory that all services should be
20 competitive.

21 MR. BUTLER: May I ask for a clarification,
22 when you say all services should be competitive,
23 you're asking whether -- you meant by that whether
24 there should be legal barriers to entry for all

25 services?

(LUNDQUIST - CROSS BY SHAW)

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1 JUDGE CANFIELD: Maybe we can get that
2 clarified then, Mr. Shaw.

3 MR. SHAW: Yes. I'll rephrase the
4 question. I don't want to mislead the witness.

5 Q. If it is in the public interest and is the
6 public policy of the state of Washington that there be
7 no legal barriers to entry for competitive provision
8 of any telecommunication service, does it necessarily
9 follow that to make that competition successful all
10 services must be priced above their relevant cost?

11 A. I think there is a fairly clear distinction
12 between a legal finding that competition may be
13 permitted within interstate telecommunications markets
14 in Washington and the actual likelihood of effective
15 competition within those markets.

16 Q. Is there going to be effective competition
17 if the dominant carrier is pricing its services below
18 cost for those services, competition for those
19 services?

20 A. Which specific services do you have in
21 mind?

22 Q. Any services.

23 A. Separate from the legal question of whether
24 there can be competitive entry into a service market,

25 I think the policy question of whether or not

(LUNDQUIST - CROSS BY SHAW)

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1 competition should be promoted in a market depends
2 upon whether or not competition will bring benefits,
3 net benefits, to ratepayers. If in order to promote
4 competition as a matter of policy, it would be
5 necessary to raise the prices for that service which
6 will become competitive, it seems unlikely that
7 ratepayers will be receiving a benefit from that
8 introduction of competition.

9 Q. And, therefore, what?

10 A. I make that observation to emphasize that
11 there is a distinction between the legal opening of a
12 market to competition and the policy question of
13 whether or not this Commission should pursue policies
14 that will promote the development of effective
15 economically based competition.

16 Q. I take it then from those answers that you
17 disagree with Dr. Bryant and Ms. Parker that a
18 building blocks process ought to be implemented in the
19 state of Washington, leading to cost based rates in
20 order to encourage and effectuate competition?

21 A. In concept I do not oppose the development
22 of a building blocks regime for essential network
23 components that are being offered by dominant local
24 exchange carriers. However, I do believe that such an

25 endeavor is beyond the present scope of these hearings

(LUNDQUIST - CROSS BY SHAW)

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1 and the question of whether the current AFOR meets the

2 statutory criteria upon which I'm testifying today.

3 Q. Mr. Lundquist, you're not an economist, I

4 take it. You have a bachelor's degree in sociology?

5 A. Psychological and social relations.

6 Q. But you do hold yourself out as an expert

7 on the telecommunications industry in the United

8 States by deed of your work at your firm ETI?

9 A. I have been involved in the

10 telecommunication -- the regulated telecommunication

11 industry under the employment of Economics and

12 Technology, Incorporated for seven years, four of

13 which I have served in the capacity of consultant, and

14 in that time I have worked on over 20 major projects

15 involving rate design issues, alternative forms of

16 regulation proposals, some revenue requirement

17 matters, and some competitive entry issues, so I

18 consider myself fairly well experienced in the

19 industry and able to comment upon US WEST's current

20 AFOR plan.

21 Q. Do you understand that -- or do you agree

22 that one of the purposes of an AFOR plan is to respond

23 to emerging competition?

24 A. I believe that a comprehensive AFOR plan of

25 the type that TRACER has recommended previously in
(LUNDQUIST - CROSS BY SHAW)

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1 this proceeding should incorporate provisions that
2 allow measured and appropriate responses to
3 competition by the dominant local exchange carrier, in
4 this case, US WEST.

5 Q. And as a general proposition -- I'll ask
6 you again -- does TRACER support competition in all
7 services in the state of Washington?

8 A. I'll stand by my previous answer to that
9 question.

10 Q. Which is you don't know?

11 A. Which is that I have not developed a
12 position with respect to that issue and will not speak
13 on TRACER's behalf.

14 Q. Is it your position on behalf of TRACER
15 that an acceptable AFOR must accept -- or must have a
16 sharing component with a reference to an achieved rate
17 of return?

18 A. Are you referring to an acceptable AFOR
19 with reference to the statutory requirements of
20 subsection three of --

21 Q. You're giving your opinion here on what a
22 good AFOR would be for US WEST in the state of
23 Washington going forward, are you not?

24 A. In these hearings and in the testimony that

25 I have presented, I am demonstrating that the current
(LUNDQUIST - CROSS BY SHAW)

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1 AFOR plan for US WEST fails to meet the criteria
2 outlined in the statutes RCW 80.36.135(3), and I have
3 recommended certain modifications to that plan that
4 would enable the modified plan to meet those criteria.
5 That is the purpose of my testimony today.

6 Q. Is it your testimony that an AFOR in order
7 to meet those criteria must have a sharing mechanism
8 based upon achieved rate of return?

9 MR. BUTLER: Excuse me. I'm going to have
10 to object. We were instructed by the Commission that
11 TRACER's proposal for what we consider to be a good
12 AFOR plan was beyond the scope of these proceedings
13 and, therefore, that portion of our testimony was not
14 resubmitted in this round of the proceeding.

15 This specific exercise was directed by the
16 notice of hearing purely to the question of whether
17 the US WEST existing plan met statutory criteria and
18 whether it could be modified so as to meet those
19 criteria. We've specifically withdrawn from the
20 testimony submitted here our position on what a good
21 AFOR plan would be and that would encompass any other
22 theoretical plan beyond the scope of the issues raised
23 in the notice of hearing.

24 JUDGE CANFIELD: Okay. Yes, I think Mr.

25 Butler did restate basically the parameters of the
(LUNDQUIST - CROSS BY SHAW)

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1 notice, but I'll hear Mr. Shaw on that.

2 MR. SHAW: Well, your Honor, the situation
3 we have here is apparently that this AFOR should be
4 terminated and a patched up one substituted for one
5 year and then immediately go into another one, and
6 this witness on behalf of TRACER is here presenting
7 his opinion on what complies with the statute and I
8 think it's a totally relevant question to ask him
9 whether or not he believes that the statute in the
10 state of Washington requires sharing based upon a rate
11 of return measurement.

12 JUDGE CANFIELD: Okay. As to what he
13 believes the statute requires, I'll allow that, but I
14 certainly don't want to get too far afield as was
15 pointed out in the objection that we might intend to
16 be doing, but I'll allow that last question. Go
17 ahead.

18 BY MR. SHAW:

19 Q. Do you have the question in mind, Mr.
20 Lundquist?

21 A. Maybe we could have the question repeated.

22 Q. In your opinion does the relevant statute
23 in the state of Washington require as an element of an
24 AFOR, sharing with an achieved rate of return

25 measurement?

(LUNDQUIST - CROSS BY SHAW)

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1 A. There is no explicit reference to earning
2 sharing within the seven criteria that comprise
3 section (3) of the statute.

4 Q. And by the same order, there is no explicit
5 requirement in the statute for an inflation factor
6 minus a productivity offset of 4.5 or a Z factor
7 treatment of exogenous factors, is there?

8 A. Part D of section (3) of the statute
9 requires that the AFOR plan will insure that
10 ratepayers will benefit from any efficiency gains and
11 cost savings arising out of the regulatory change and
12 will afford ratepayers the opportunity to benefit from
13 improvements in productivity due to technological
14 change.

15 I believe my recommended rate adjustment
16 formula which includes a gross domestic product price
17 index minus 4.5 percent productivity offset and a
18 prescribed procedure for effecting certain types of
19 exogenous or so-called Z adjustments would satisfy
20 that statutory requirement.

21 Q. And so would price caps with a productivity
22 adjustment, would they not?

23 A. Suitably devised.

24 MR. SHAW: Thank you. I have nothing

25 further.

(LUNDQUIST - CROSS BY SHAW)

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1 JUDGE CANFIELD: Okay, thank you. Mr.
2 Smith, did you have questions for Mr. Lundquist?

3 MR. SMITH: No questions.

4 JUDGE CANFIELD: Okay. And Mr. Adams.
5

6 CROSS-EXAMINATION

7 BY MR. ADAMS:

8 Q. Mr. Lundquist, I have got a few questions.
9 First off, would you agree that currently under the
10 existing AFOR plan in the state of Washington that
11 there are no productivity offsets or formula driven
12 annual rate changes?

13 A. There are no --

14 MR. SHAW: I object. That misstates the
15 settlement agreement.

16 MR. ADAMS: It seems to me I would ask for
17 an agreement, if the witness disagrees, he can so
18 state.

19 MR. SHAW: The question is misleading and
20 I'll object to it. It invites the witness to agree
21 with counsel's characterization of it, and the
22 agreement has a formal setting of access rates.

23 MR. ADAMS: I'll be happy to modify the
24 question with that exception.

25 JUDGE CANFIELD: Okay, go ahead.

(LUNDQUIST - CROSS BY ADAMS)

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1 A. There certainly is no specific rate
2 adjustment mechanism that explicitly recognizes
3 productivity improvements of the company that arise
4 from technological change.

5 Q. Do I understand from your testimony, and I
6 think it's referring to basically about page 17 of
7 your testimony, that there is currently no price index
8 that would sort of measure the actual mix of goods and
9 services purchased by US WEST?

10 A. To the best of my knowledge there is not
11 one in existence.

12 Q. And that's why you propose your gross
13 domestic price product index?

14 A. The gross domestic price index is a -- my
15 recommendation for an inflation adjustment portion of
16 the rate adjustment mechanism for several reasons
17 which I have provided in my testimony. These include
18 the fact that it is a well recognized and established
19 measure of general inflation, one that is superior to
20 the use of a consumer price index because it more
21 closely corresponds to the types of input to
22 production that US WEST would be using.

23 Q. What I'm trying to get at, though, is were
24 there an index, price index that dealt with the actual

25 mix of goods and services purchased by US WEST, would
(LUNDQUIST - CROSS BY ADAMS)

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1 you propose that that be applied?

2 A. At first. It depends upon the source of
3 that index. There have been and I have been familiar
4 with attempts by companies including US WEST in Oregon
5 to propose a company specific index. I would have
6 problems with an index which is derived from company
7 data and also controlled by the company as something
8 which, you know, could encourage some structural bias.

9 Q. At page 18 of your testimony you refer to I
10 believe some price cap plans by the FCC and in
11 California. Do you know, do those plans include some
12 kind of earnings monitoring and what I'll call
13 earnings constraints, whether they be in the form of
14 sharing or something similar?

15 A. Yes. The California plan, for instance,
16 includes, among other things, a cap on the total -- I
17 believe it's measured in terms of return on equity but
18 a cap on earnings for the companies.

19 Q. What about the FCC?

20 A. To my knowledge, the FCC does not have a
21 comprehensive review of the company's earnings that is
22 specifically associated with the price cap plans.

23 Q. In terms of your proposal in this
24 jurisdiction, would you preserve earnings oversight

25 and/or sharing as part of any plan? In other words,
(LUNDQUIST - CROSS BY ADAMS)

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1 it's not strictly a matter of formula, but you have
2 earnings in addition?

3 A. We're talking about a follow-on plan to the
4 current or modified AFOR plan?

5 Q. Yes. Let's talk about the modified AFOR.

6 A. Within the modified plan, yes.

7 MR. ADAMS: Okay. Thank you. That's all I
8 have.

9 JUDGE CANFIELD: Okay. Mr. Simpson?

10 MR. SIMPSON: I have no cross, thank you.

11 JUDGE CANFIELD: Okay. And Ms. Weiske.

12 MS. WEISKE: Thank you.

13

14 CROSS-EXAMINATION

15 BY MS. WEISKE:

16 Q. At pages 29 and 30 of your testimony you
17 refer to service quality standards adopted in an AFOR
18 plan applicable to US WEST in Colorado.

19 A. Yes.

20 Q. Do you understand that the service quality
21 measurements that you reviewed vis-a-vis the AFOR plan
22 in place for US WEST in Colorado has measurements that
23 are intended to be applied to US WEST's service
24 delivery of services to IXCs as well as end users?

25 A. Yes.

(LUNDQUIST - CROSS BY WEISKE)

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1 Q. And when you refer to the fact that you
2 like that aspect of the Colorado AFOR, are you also
3 referring to that aspect of the proposal, meaning the
4 applicability of service quality measurements that
5 also measure US WEST on its delivery of services to
6 IXC's?

7 A. I would have no objection to inclusion of
8 such measures, although my recommended service quality
9 linkage to the earnings sharing plan does not include
10 specifically measures that deal with the provision of
11 network services to interexchange carriers. The --
12 one must strike a balance between the number of
13 measures considered and the administrative complexity
14 of such a plan. I attempted to strike such a balance
15 using 15 measures and did not include that type that
16 you're referring to.

17 Q. But you would have no objection to that?

18 A. No.

19 MS. WEISKE: Thank you. That's all I have.

20 JUDGE CANFIELD: Okay.

21 MS. MacNAUGHTON: I have no questions.

22 JUDGE CANFIELD: Okay. And Mr. Finnigan.

23 MR. FINNIGAN: No questions.

24 JUDGE CANFIELD: Okay. Commissioners?

25 CHAIRMAN NELSON: No.

(LUNDQUIST - CROSS BY WEISKE)

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1 COMMISSIONER CASAD: I have no questions.

2

3

EXAMINATION

4 BY COMMISSIONER HEMSTAD:

5 Q. Just one. You would apparently propose
6 that the use of a price cap and the price index minus
7 a 4.5 productivity offset be applied in this as a
8 modification of the current arrangements?

9 A. Yes, I do. I believe that would allow the
10 existing AFOR plan as so modified to satisfy part D of
11 the statutory requirements.

12 Q. Well, I guess my concern is that's a quite
13 significant restructuring of the settlement
14 arrangements, is it not, or do you consider that a
15 relatively minor change?

16 A. I would say that it would not be
17 necessarily administratively burdensome to the
18 Commission staff to implement such a change.

19 Q. But even though that would be in place only
20 for one year until a new AFOR plan were adopted going
21 forward?

22 A. No. Because I -- although this may be
23 outside of the scope of the present hearings, I would
24 see the modified plan as a transition towards the more

25 comprehensive type of AFOR plan that TRACER has
(LUNDQUIST - EXAMINATION BY HEMSTAD)

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1 proposed in this proceeding which would include such
2 a rate adjustment mechanism, and then also bring in
3 several other advantageous features for the
4 comprehensive AFOR.

5 COMMISSIONER HEMSTAD: I have no other
6 questions.

7 JUDGE CANFIELD: Okay.

8

9 EXAMINATION

10 BY JUDGE CANFIELD:

11 Q. Maybe one clarification, Mr. Lundquist. On
12 the recommended gross domestic product price index
13 minus 4.5 percent, on page I of your testimony there's
14 a reference to that it should include a GNP-PI minus
15 the 4.5 percent. Is that --

16 A. You have sharp eyes. That is a
17 typographical error. It should be GDP.

18 Q. GDP. And that references page 14 and
19 that's on line 13, it again refers to the GNP, and
20 again that should be GDP?

21 A. Yes, it should. For clarification, the
22 GNP-PI is a measure of price levels with respect to
23 gross national product. However, the government has
24 since superseded the measurement of that parameter

25 with the gross domestic price index and that has also
(LUNDQUIST - EXAMINATION BY JUDGE)

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1 been replaced in the California plan or -- I'm sorry,
2 it has been proposed to be replaced in the California
3 plan.

4 Q. Those references should be consistent and
5 that's the GDP?

6 A. Yes, they should.

7 Q. Okay. And comparing this Commission's
8 currently approved AFOR for US WEST which essentially
9 is an extended rate settlement coupled with a rate of
10 return range that includes a threshold above which
11 earnings are shared with the ratepayers, now comparing
12 that the current AFOR with the GDP-PI minus 4.5
13 percent rate adjustment mechanism, could you give an
14 opinion what type of an incentive program this
15 Commission would be apt to choose in an environment of
16 increasing inflation versus low and steady decreasing
17 rate of inflation that we're experiencing now?

18 A. Well I believe that the GDP-PI minus 4.5
19 percent rate adjustment formula would be applicable in
20 conditions of either a low or high inflation, and
21 would be suitable in either condition.

22 Q. What about the condition of high inflation
23 versus the condition that we've got now and the plan
24 that we've got now?

25

JUDGE CANFIELD: No? Okay. I thought I

(LUNDQUIST - EXAMINATION BY JUDGE)

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1 heard that. I just wanted to make sure. Thank you,
2 Mr. Lundquist. And with that, we'll conclude today's
3 session.

4 MR. SIMPSON: Your Honor.

5 (Discussion off the record.)

6 JUDGE CANFIELD: We're back on the record
7 after a short break. We're going to be beginning at
8 8:30 tomorrow morning. We're going to try to conclude
9 in the morning's session. We do have an afternoon
10 session beginning at 1:30 for the public testimony.

11 And there was a question earlier about
12 briefs and the Commission would allow briefs. I think
13 the narrow issue was on the burden of proof, so I
14 think that was basically the only matter that the
15 Commission would be inclined to allow the parties to
16 brief on. And I think in view of that limited matter
17 two weeks' time would be adequate for that, so we're
18 looking at a two-week filing date for the briefs on
19 the burden of proof issue that was discussed at the
20 earlier session this morning.

21 MS. WEISKE: So, your Honor, you do not
22 want any comments in these briefs concerning the
23 arguments that were raised concerning the notice and
24 at least MCI's position that since this hearing is

25 pursuant to the notice, if the plan is terminated, US
(LUNDQUIST - EXAMINATION BY JUDGE)

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1 WEST per the settlement agreement, does not have right
2 of appeal?

3 JUDGE CANFIELD: I think that was one other
4 point that there was some disagreement about this
5 morning as well. Thanks for pointing that out. So
6 let's amend my earlier announcement to include that
7 as well.

8 MS. WEISKE: Thank you.

9 MR. ADAMS: I don't want to enlarge this,
10 but public counsel because our witness is out of the
11 country at the time this was scheduled, has not been
12 able to state a position. We can do it very
13 succinctly, or if you even want it on the record, I
14 can do it, otherwise we would include it as a
15 paragraph or two in a brief. I would like an
16 opportunity to express it.

17 JUDGE CANFIELD You could submit a letter
18 within that filing time as well within the two-week
19 filing time then.

20 MR. ADAMS: Thank you.

21 MR. SHAW: Well, I just have to object to
22 that process. US WEST may turn out to be without any
23 rights of appeal in this, but that doesn't especially
24 mean it should be subjected to testimony of public

25 counsel, testimony of public counsel that it can't

(LUNDQUIST - EXAMINATION BY JUDGE)

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1 cross-examine or rebut. He's going to get a single
2 right to --

3 JUDGE CANFIELD Let's not call it a brief.
4 Let's have him state his position at the end of the
5 session then so you'll be in the full hearing of it.
6 Then he did indicate that would be a possibility so --

7 MR. SHAW: Can I rebut it?

8 MR. ADAMS: We're not going to be
9 introducing new evidence. It's not the purpose.

10 JUDGE CANFIELD: I think you've outlined
11 the purpose and it's understandable and we'll take it
12 at the conclusion of the session tomorrow then. This
13 hearing is adjourned.

14 (Adjourned at 5:10 p.m.)

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