

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Petition of:)
4 of: INTERNATIONAL PACIFIC, INC.,) Hearing No. UT-920546
5 For Classification as a) Volume III
6 Competitive telecommunications) Pages 58 - 293
7 Company.)
8 -----)

9 A hearing in the above matter was held on
10 December 21, 1992 at 9:30 a.m., at 1300 South
11 Evergreen Park Drive SW, Olympia, Washington, before
12 Administrative Law Judge ROSEMARY FOSTER. Also
13 present was Christine Clishe.

14 The parties were present as follows:

15 WASHINGTON UTILITIES AND TRANSPORTATION
16 COMMISSION STAFF, by SALLY G. BROWN, Assistant
17 Attorney General, 1400 South Evergreen Park Drive
18 Southwest, Olympia, Washington 98504.

19 INTERNATIONAL PACIFIC, INC., by DOUGLAS N.
20 OWENS, Attorney at Law, 4705-16th Avenue NE, Seattle,
21 Washington 98105.

22
23
24

25 Cheryl Macdonald, CSR, RPR
Court Reporter

I N D E X						
	WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	JUDGE
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3	COULSON	142	144	161		155
4	SOUHAS	164	168	225		200
5	WENDERS	231	233	288		279
6						
7						
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1 P R O C E E D I N G S

2 JUDGE FOSTER: Let's be on the record. The
3 hearing will please come to order. The Washington
4 Utilities and Transportation Commission has set for
5 hearing at this time and place two docket numbers.
6 The first is in the matter of the petition of
7 International Pacific, Inc., docket No. UT-920546,
8 and it's IPI's petition for classification as a
9 competitive telecommunications company.

10 Also being heard today is a second petition
11 for classification as a competitive telecommunications
12 company and that's been filed by Paytel Northwest, Inc.
13 That docket number is UT-920632.

14 Today's date is December 21, 1992. This
15 hearing is being held in the Commission's offices in
16 Olympia, Washington. The presiding officer for
17 International Pacific, Inc. is Rosemary Foster. The
18 presiding officer for Paytel Northwest, Inc. is
19 Christine Clishe. We have four witnesses set for
20 hearing in the IPI matter this morning. One of the
21 reasons why we're having two judges sit on part of
22 this, at least, is because the Paytel matter and the
23 IPI matter have a common witness, that being Dr. John
24 Wenders.

25 At this time I will ask the parties to make

1 their appearances, beginning with the petitioner.

2 MR. OWENS: Thank you, your Honor. For
3 both International Pacific and Paytel in their
4 respective dockets, I'm Douglas N. Owens, attorney at
5 law. Business address is 4705 - 16th Avenue
6 Northeast, Seattle, Washington 98105 appearing on
7 behalf of petitioners.

8 JUDGE FOSTER: Thank you. For Commission
9 staff.

10 MS. BROWN: Sally G. Brown, assistant
11 attorney general. My address is 1400 South Evergreen
12 Park Drive Southwest, Olympia, Washington 98504.

13 JUDGE FOSTER: Are there appearances by
14 anyone else, any intervenors or public counsel?

15 MR. OWENS: Your Honor, I received a call
16 on Friday from Mr. Harlow, representing the Northwest
17 Payphone Association. He indicated the Association
18 would not be participating in this hearing. However,
19 it still remained a party to the case, at least the
20 International Pacific case.

21 JUDGE FOSTER: All right, thank you.
22 Before we went on the record Mr. Owens advised us that
23 in the IPI matter Mr. Schrader and Mr. Coulson would
24 be the first two witnesses and they will be the
25 witnesses only for the IPI docket. Next witness will

1 be Dr. Wenders and we will consider his testimony to
2 be a part of both Paytel docket and the IPI docket.
3 Also, before we went on the record, Mr. Owens had some
4 comments concerning a proposed stipulation. Maybe you
5 want to repeat those communications, if you would, for
6 everyone's benefit.

7 MR. OWENS: Thank you, your Honor. This is
8 related to the fact that by prior stipulation of
9 counsel, as you just recited, the cross-examination
10 testimony of Dr. Wenders will be incorporated into
11 both records. The direct testimony of Dr. Wenders
12 which is Exhibit T-4, in, I believe it is both
13 dockets, is identical, except for the references to
14 the respective companies on whose behalf he testifies
15 in the two dockets, and there is one reference in his
16 testimony in the International Pacific docket to a
17 request based on the status of NCS Teleworks as an
18 aggregator. He's asked does such a company have a
19 market power. Since there are no separate aggregators
20 from the petitioner in the Paytel case, that question
21 and answer was slightly changed in the testimony in
22 that docket, but with those exceptions the testimony
23 is identical, and I believe that's the substance of
24 the stipulation we had.

25 Also, with regard to the order of witnesses

1 Dr. Wenders refers in his testimony to the testimony
2 of other witnesses, not all of whom will have
3 testified physically by the time he takes the stand,
4 and by stipulation I believe we agreed that those
5 questions and answers in his direct testimony may be
6 treated as in the nature of hypothetical subject to
7 being -- having the foundation established by the
8 admission of the testimony of the underlying witnesses
9 later.

10 JUDGE FOSTER: Ms. Brown, does that comport
11 with your understanding of the agreement?

12 MS. BROWN: Yes, it's a fair summary.

13 MR. OWENS: Your Honor, I have here the
14 corrected record copies as per the Commission's rules,
15 two copies of the testimony and exhibits. Do you want
16 me to hand those up at this time?

17 MR. OWENS: I should let you know that
18 there have been minor revisions to the testimony of
19 Mr. Schrader and Mr. Soumas, in the nature of
20 Mr. Soumas' testimony correcting his middle initial
21 and a typographical error and in the testimony of
22 Mr. Schrader, correcting an answer that he gave based
23 on response to Commission discovery, and reflecting
24 additional information that came to light after the
25 testimony was filed of a minor nature.

1 MS. BROWN: Well, I would like to have
2 those corrections pointed out to me so that I can look
3 at them now.

4 MR. OWENS: Be happy to do that.

5 JUDGE FOSTER: Do you want to do that off
6 the record?

7 MS. BROWN: Yes.

8 JUDGE FOSTER: Let's be off the record for
9 that purpose.

10 (Recess.)

11 JUDGE FOSTER: Let's be back on the record.
12 While we were off the record Mr. Owens and Ms. Brown
13 had an opportunity to go over the minor changes that
14 have been made in Mr. Soumas' and Mr. Schrader's
15 testimony, and I asked Mr. Owens, just for the record,
16 if he would briefly summarize these changes.

17 MR. OWENS: Be happy to, your Honor. In
18 Exhibit T-1 in the International Pacific docket the
19 testimony of Robert B. Schrader, on page 2 the
20 question and answer that begin at line 2, Mr. Schrader
21 was asked the question whether his company was
22 registered. Initially his answer was yes.
23 Subsequently, upon investigation in response to a
24 Commission data request, it was determined that was
25 not correct, and this answer simply corrects that

1 error in the prefiled testimony and explains the
2 circumstances.

3 And also on page 19 the answer that begins
4 on page 18, line 19 and continues over on to the
5 middle of the page 19 was determined to be over
6 inclusive, and so beginning on line 11 of page 19 a
7 further qualification to the answer was put in to make
8 it true and correct to the best of the witness'
9 knowledge.

10 The correction to the testimony of
11 Mr. Soumas was to correct the spelling of his name and
12 a minor typographical error on page 19, line 3. The
13 word "and" was changed to the word "it."

14 JUDGE FOSTER: Okay, thank you. Anything
15 else before we go ahead with Mr. Schrader?

16 MR. OWENS: I have nothing, your Honor.

17 JUDGE FOSTER: Do you want to call your
18 first witness.

19 MR. OWENS: Thank you, your Honor.
20 International Pacific calls Robert B. Schrader to the
21 stand.

22 Whereupon,

23 ROBERT B. SCHRADER,
24 having been first duly sworn, was called as a witness
25 herein and was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. OWENS:

3 Q. Please state your name and address.

4 A. Robert B. Schrader. 1535 Fourth Avenue
5 South, Suite I, Seattle, 98134. That's my business
6 address.

7 Q. That's fine. Are you the same Robert B.
8 Schrader who has caused to be prefiled a document
9 entitled, Testimony of Robert B. Schrader, that's been
10 identified as Exhibit T-1?

11 A. That is correct.

12 Q. And are you also the same Robert Schrader
13 who in that prefiled Exhibit T-1 identified a one-page
14 document entitled, Previous Call Accounting Report,
15 that's been identified as Exhibit 2?

16 A. That is correct.

17 Q. Were these documents prepared by you or
18 under your direction and supervision?

19 A. Under my direction and supervision,
20 correct.

21 Q. Do you have any additions or corrections to
22 Exhibit T-1?

23 A. Other than the corrections you've already
24 made, Doug?

25 Q. If you want to adopt those you may do that.

1 A. Yes. As you stated.

2 Q. As corrected, are Exhibits T-1 and Exhibit
3 2 true and correct, to the best of your knowledge?

4 A. That is correct.

5 Q. If I were to ask you the questions in
6 Exhibit T-1, would your answers be as set forth
7 therein?

8 A. That is correct.

9 MR. OWENS: Thank you. I have no further
10 questions. Mr. Schrader is available for cross and I
11 offer Exhibits T-1 and 2.

12 JUDGE FOSTER: Any objections?

13 MS. BROWN: No objection.

14 JUDGE FOSTER: Exhibits T-1 and Exhibit 2
15 will be admitted.

16 (Admitted Exhibits T-1 and 2.)

17 JUDGE FOSTER: Ms. Brown, do you want to go
18 ahead?

19 MS. BROWN: Yes, thank you.

20

21 CROSS EXAMINATION

22 BY MS. BROWN:

23 Q. Mr. Schrader, how long have you been
24 general manager for NCS?

25 A. About 17 or 18 months.

1 Q. At page 2 of your testimony you state that
2 NCS is a joint venture. What are the entities
3 participating in that joint venture?

4 A. NCS is a joint venture of Teleworks
5 Services, Inc. and NCS Communications Corporation,
6 Inc., I believe, is the full name.

7 Q. Who are the owners of NCS Communications?

8 A. Bill Hopoulos and Dan Kranzler.

9 Q. Do you know the relative ownership interest
10 in NCS?

11 A. Pardon me? Are you asking about NCS
12 Communications, one of the two joint venture partners
13 or the joint venture?

14 Q. Both.

15 A. The joint venture, NCS Communications
16 Corporation Inc. is composed of Bill Hopoulos and Dan
17 Kranzler, equal ownership. The NCS Teleworks, which
18 we operate under in the joint venture, is those two
19 own 50 percent, 25 percent each, and Raymon Gallante
20 owns 50 percent.

21 JUDGE FOSTER: Do you have a spelling?

22 THE WITNESS: G A L L A N T E, Raymon,
23 R A Y M O N.

24 Q. Other than your position as general
25 manager, do you, as an individual, have any

1 affiliation or relationship with any other
2 telecommunications companies?

3 A. None.

4 Q. Where do you do business?

5 A. Totally within the State of Washington. We
6 have less than 3 percent of our phones are outside --
7 pardon me -- are in the Eastern Washington area. The
8 rest are basically in the Puget Sound basin area.
9 Furthest south is about Aberdeen. So we're quite
10 concentrated in the, I guess you would say, greater
11 Seattle area, if you would, on up to as far north as
12 Bellingham. We go west, Kingston, Port Townsend.
13 That type of scenario. We do not go out on the
14 Western Washington coast.

15 Q. How many employees do you employ?

16 A. Nine full-time and one part-time.

17 Q. And those employees are largely based on
18 Western Washington?

19 A. All but one. The part-time person is based
20 in Eastern Washington.

21 Q. Does IPI pay you commissions?

22 A. Yes.

23 Q. And are those commissions more than you
24 would be able to receive from AT&T?

25 A. It depends on the instance but in general,

1 yes.

2 Q. Would that also be true of US West?

3 A. Does IPI pay me more than US West? At
4 present, yes.

5 Q. Are the size of the commission payment
6 checks you receive from IPI related in any way to the
7 amount of revenue you receive from IPI?

8 A. Certainly.

9 Q. How long has --

10 MR. OWENS: Excuse me. You said the
11 revenue you receive from IPI, is that the question?

12 THE WITNESS: My interpretation was that
13 you were asking me if my gross sales with IPI had
14 an effect or were -- if my commission income was a
15 percentage of that figure and that's correct.

16 MR. OWENS: Thank you.

17 Q. How long has NCS been using IPI's phones?

18 A. About 16 months. We started with
19 International Pacific and gradually adopted their
20 -- all of our phones into their network other than
21 some that we maintain on a couple of other carriers,
22 but we didn't do it on one day. In other words, we
23 didn't switch all the phones in one day so it's a
24 little bit difficult to pick a time when actually all
25 the phones were not on. Even as we speak all the

1 phones are not on because we do have some that are
2 designated with other operator service providers.
3 It's a small percentage of our total.

4 Q. I may have misheard but when did you first
5 switch phones over to IPI?

6 A. About 16 to 18 months ago. Somewhere in
7 that range. And we would do somewhere in the area of
8 -- we were with a different firm that we did not feel
9 comfortable with at the time and we moved our phones
10 in blocks of 50 to 100. Might have been 200 a week,
11 it might have been 50 over a month.

12 Q. And you operate 752 private pay telephones
13 in Washington?

14 A. As of right now, I think it's about 775.

15 Q. Who did NCS use as its operator service
16 provider before it selected IPI?

17 A. Phone America, although we have tried ITI
18 International or Intelecall, pardon me. We have
19 applied a number of other carriers. Those three are
20 the principal carriers that we had done and we did a
21 trial program about 20 months ago to evaluate a lot of
22 different features, some of which I would hope you'd
23 get to.

24 Q. And why did you leave those other AOS
25 companies for IPI?

1 A. We didn't feel we were getting the type of
2 service we felt that our -- some of the data that
3 had been submitted was not necessarily factual and the
4 relationship was deteriorating and we felt that was
5 coming from their perspective, and we had concerns
6 about their financial stability.

7 Q. Could you be more specific about the types
8 of services that you didn't find attractive with these
9 other AOS companies?

10 A. Well, we were having -- as I've tried to
11 indicate in my testimony, I think you people have
12 approached this situation from a perspective that is
13 not -- and I'm not trying to be critical here, but it
14 is not the true perspective of this business. Somehow
15 or another you have in your mind that AT&T or MCI or
16 Sprint are wonderful responsive companies and that's
17 not the case. And we would be glad to talk to you
18 about that at any time you would like in an open forum
19 or workshop. The concerns that we had -- we have a
20 database available to us with Phone America, for
21 example, called Dads. We felt grave concerns over
22 that because in that database were not only our phones
23 but every one of our competitors that were using Phone
24 America, some that weren't even using Phone America
25 at that time. We could access that database through

1 our computer network, and do upgrading on our phones.
2 If we had a problem with a phone we could get into
3 Dads right away and see if the phone was doing
4 activity that we would normally expect from it. We
5 could set certain parameters as far as to the volume
6 those phones were doing, and if they dropped below or
7 went above those we could evaluate whether or not we
8 might add a second phone, whether or not we had a
9 problem with the phone if the volume dropped down and
10 so on. And so on.

11 We also were not getting the trouble ticket
12 data in as timely a fashion as we used to, nor were we
13 getting the kind of responses that we would want on
14 Phone America. We would be put on hold or be unable
15 to get in touch with certain people. My business
16 operates from 6:30 in the morning until 5:00, 5:30 at
17 night and then we have a live answering service 24
18 hours a day that has my home number, our operation
19 manager's home number, our service manager's home
20 number and your installation home number.

21 Our business is unique. We have, unless a
22 facility closes any external phone for example, we're
23 in business 24 hours a day. And the link to our
24 operator service company for that 24 hours a day is
25 critical. And I just can't explain to you without

1 sitting down -- and we would welcome you to come on up
2 and look at our operation. At 7 a.m. in the morning I
3 get trouble tickets from International Pacific that
4 tell me exactly what my phones -- if there's been any
5 stated complaint or perceived complaint, I get a
6 trouble ticket from International Pacific by ANI and
7 location that outlines any potential problem I might
8 have. And by 7:15 to 7:30, my service manager has
9 gone through that and any responses we've had from our
10 24-hour operator service, anything we know from our
11 field people as to what might be a potential problem
12 at any one of our pay stations. And almost without
13 exception, depending on the locale, that phone is up
14 and running by 9:00 if we've had a problem. This
15 morning we had four trouble tickets on 775 phones.
16 And they will all be fixed by 9:30 this morning.

17 MR. OWENS: Counsel, would you indulge --
18 the witness used a term "ANI," and I thought maybe the
19 record would be clearer if he could explain what that
20 acronym means.

21 THE WITNESS: Phone number.

22 MS. BROWN: Automatic number?

23 THE WITNESS: ANI is the phone number of
24 the phone.

25 MR. OWENS: A N I.

1 Q. That was a long answer.

2 A. Sorry. We have some things on our chest,
3 too.

4 Q. Just backing up a bit, you mentioned that
5 you had used various operator service companies prior
6 to selecting IPI. Can you give me a number?

7 A. We used ITI, International Pacific, Phone
8 America, AT&T and Sprint prior --

9 Q. I'm sorry?

10 A. This is, I would say from October of 1990
11 to about March of 1991.

12 Q. And what is the longest that you have been
13 with any provider?

14 A. The longest that we've been with any
15 provider? Actually the longest we've been with any
16 provider if you were to take our total inventory is
17 probably AT&T.

18 Q. Of the AOS providers, of the others?

19 A. International Pacific.

20 Q. And how do International Pacific's
21 commissions compare with those other providers you've
22 just listed?

23 A. Of the AOS companies?

24 Q. Of those that you have done business with.

25 A. It's about mid-range. Commission

1 structures are -- you have to evaluate a commission
2 structure on a lot of different factors that you
3 haven't addressed.

4 Q. To your knowledge, would one of the reasons
5 that you left these other AOS companies be complaints
6 about the previous AOS's rates being too high?

7 A. No. If you don't mind my adding, I make
8 less money with International Pacific than I could
9 with two other carriers on the marketplace right now
10 of the group that I've already mentioned.

11 Q. Who?

12 A. ITI and Phone America.

13 Q. But at this time, IPI is the only AOS you
14 use in Washington; is that right?

15 A. No -- yes, AOS, excuse me, that's correct.

16 Q. Who other than IPI?

17 A. If you're talking about AOS companies we
18 use AT&T on a number of our phones and we use -- but
19 the predominant carrier is International Pacific right
20 now. Is that what you're asking?

21 Q. Yes. You have selected rate option C from
22 IPI; is that right?

23 A. That is correct.

24 Q. And you realize that that is the highest
25 rate IPI offers?

1 A. No, I'm not familiar with that. I can't
2 honestly say that that is the highest rate.

3 Q. In response to staff's request No. 67 you
4 provided analysis of dial-around activity at certain
5 additional locations. Similar to those presented in
6 the exhibit that you were sponsoring are concerning
7 dial-around activity at Ivar's and Cutter's. Do you
8 recall that response or do you have that with you?

9 A. I recall it. I do probably have it with me
10 also, yes.

11 Q. You also answered staff's request No. 80
12 which provided several more locations for analysis.
13 Do you recall that?

14 A. Yes. We had to amend that because you
15 picked some phones that the data wouldn't be valuable
16 in.

17 Q. And those additional locations were chosen
18 at random?

19 A. You chose them. I don't know your
20 selection technique.

21 MR. OWENS: I think we could stipulate for
22 the record that request 80 involved a joint effort in
23 selection essentially by random by counsel for
24 International Pacific and Mr. Wilson.

25 (Discussion off the record.)

1 JUDGE FOSTER: Ms. Brown, do you want these
2 marked separately, identified separately?

3 Identified as the exhibit next in order
4 which is Exhibit 8 is Commission request No. 67. The
5 date is December 2, 1992. This is a three-page
6 exhibit and apparently it's the response to a couple
7 of questions, A being "Provide a numbered and
8 alphabetized listing of all locations in Washington
9 where NCS provides pay telephone service." And then
10 also a response to question B.

11 Identified as Exhibit 9 is a three-page
12 exhibit. The caption on the first page is Previous
13 Call Accounting Report, December 15, 1992, and it has
14 some handwritten notes at the bottom of the first
15 page, "Schrader's dial-around analysis continued."
16 That's Exhibits 8 and 9 for identification.

17 (Marked Exhibits 8 and 9.)

18 Q. Mr. Schrader, are you familiar with the
19 data request No. 67 and its response?

20 A. Yes, our office provided these.

21 Q. Provided both Exhibit 8 and 9 for
22 identification?

23 A. Provided the information on the five
24 different phones, that's correct.

25 MR. OWENS: Just for clarification, the

1 handwritten materials on Exhibit 9 --

2 MS. BROWN: -- were written by Mr. Wilson.

3 MR. OWENS: Thank you.

4 MS. BROWN: Your Honor, I ask these two
5 data requests responses be admitted.

6 MR. OWENS: No objection.

7 JUDGE FOSTER: 8 and 9 will be admitted.

8 (Admitted Exhibits 8 and 9.)

9 Q. Mr. Schrader looking at page 2 of the first
10 I handed you, this is analysis of calls at a phone
11 number, area code (206) 649-9907?

12 A. Okay.

13 Q. And the merchant is delineated as Zones?

14 A. Yes.

15 Q. What does Zones mean? What kind of a
16 business or location is that?

17 A. Zones is an interesting contrast to some of
18 the other requests that you hit on. Zones is a kid
19 amusement parlor, game establishment where they play
20 Putt-Putt golf and video games and all of that sort of
21 thing. This is an interior phone located right next
22 to the batting cage. I believe if you make a
23 comparison between that and some of the other
24 establishments you will note that there is not a great
25 deal of dial-around activity indicated, for example,

1 for AT&T as a normal percentage. Kids don't dial
2 around.

3 Q. So this phone at Zones at the children's
4 amusement center is prescribed to IPI?

5 A. That is correct.

6 Q. Down at the bottom it says reroute No. 1,
7 reroute No. 2, 3 and 4. Could you please explain what
8 those mean?

9 A. Well, there are various reroutes depending
10 on how the phone is programmed. One is for trouble
11 calls, one is to International Pacific. In fact,
12 reroute 2 is to International Pacific, as my testimony
13 indicates.

14 Q. And 3 and 4?

15 A. I don't know. It goes by individual phone.
16 I cannot tell you.

17 MS. BROWN: We would like to make a records
18 request, your Honor, for that information.

19 MR. OWENS: A clarifying question. Is that
20 something you can obtain by looking at your records
21 back at your office?

22 THE WITNESS: Actually I could call Sherry
23 and get it.

24 JUDGE FOSTER: Do you want to make it a
25 record request or try and obtain it during break? Is

1 it relatively brief?

2 THE WITNESS: She's not there today. She
3 won't be there all this week but I would be glad to
4 fax something down to you, if you would like, as to
5 what those various reroutes are.

6 MR. OWENS: We will provide it as a
7 response to a record requisition.

8 JUDGE FOSTER: Make that record
9 requisition No. 1. Would you restate it, please.

10 MS. BROWN: Define reroutes 3 and 4 of page
11 2, Exhibit 8.

12 (Record Requisition No. 1.)

13 MS. BROWN: We would like to also add
14 reroutes 1 and 2 to that request.

15 THE WITNESS: That's already in my
16 testimony, if you care to look at it.

17 MR. OWENS: Your Honor, I believe that's
18 correct. The witness testified reroute 1 is a trouble
19 call and reroute 2 is International Pacific.

20 MS. BROWN: That's fine, thank you.

21 Q. If you could turn the page, Mr. Schrader,
22 you will see an analysis of calls at the AGC Building?

23 A. Correct.

24 Q. What kind of business location is that?

25 A. It's the Associated General Contractor's

1 Building in downtown Seattle. It's an office
2 building, six stories, I think, seven stories.

3 Q. And where it says reroute 2 there, what
4 does that mean?

5 A. Calls to International Pacific. That's
6 consistent through all our phones.

7 Q. If you could now go to the analysis of
8 calls at Barnaby's Restaurant.

9 JUDGE FOSTER: That's Exhibit 9?

10 MS. BROWN: Yes.

11 Q. Do the terms reroute 1 and 2 mean the same
12 things as what we've learned at the Zones' location?

13 A. Reroute 1 and reroute 2, let me reiterate,
14 are consistent for all of our phones. Reroute 1 is
15 trouble calls to International -- trouble calls which
16 we handle ourselves, and reroute 2 goes to
17 International Pacific on all of our phones that are
18 prescribed to International Pacific.

19 MS. BROWN: We would like to make a records
20 requisition for reroute 4 on Barnaby's restaurant,
21 please.

22 JUDGE FOSTER: That will be received as
23 record requisition No. 2.

24 (Records Requisition No. 2.)

25 Q. If you could turn, next, Mr. Schrader to

1 Anthony's.

2 MR. OWENS: May I make one statement? It
3 should be clear on the record that Mr. Schrader and
4 his company are not parties to this litigation so
5 technically aren't subject to record requisition
6 requests. However, it's my understanding he will
7 cooperate and we will provide the information. Thank
8 you.

9 A. Are you aware that Anthony's is not
10 International Pacific? You've never asked that
11 question.

12 Q. Who is it if it's not International
13 Pacific?

14 A. AT&T.

15 Q. Well, what would reroute 2 mean on the
16 Anthony's analysis then? Didn't you just state that
17 consistent --

18 A. On all phones prescribed to International
19 Pacific -- maybe I'm not making myself clear, reroute
20 1, 2, 3 and 4 may be different on AT&T prescribed
21 phones. Okay. I will clarify each of those if you
22 would like for our entire network for you, both as it
23 relates to AT&T and International Pacific.

24 I have to say that I thought what you folks
25 were attempting to do was ascertain if we were being

1 candid with you about the amount of dial-around that
2 was occurring on private pay phones. And so, I mean,
3 if you had asked me to make the data requests that you
4 made of me, I would have made it completely different
5 and could have perhaps provided you with more data.
6 You're going to find -- I don't think there's anybody
7 in this room, and we represent the three biggest pay
8 phone vendors in the state -- that dial-around we feel
9 runs consistently and conservatively at between 25 and
10 40 percent of our total call activity. Now, that's an
11 interesting number when you consider that conversely
12 those of us, for example, that are prescribed to
13 International Pacific, the remainder of those calls go
14 to International Pacific, and you mentioned that I'm
15 at the highest International Pacific rates, which I am
16 not sure that is the case. I've never had a complaint
17 for 24 months, period. And the amazing thing to me is
18 that we're sitting in this room having this kind of
19 dialogue when public counsel, I believe, at the very
20 first meeting indicated it's not an issue. There are
21 so many other issues out there, folks, that you are
22 not addressing that would make a profound difference
23 in this business.

24 Q. Well, I don't recall ever hearing public
25 counsel make such a statement and if, in fact, public

1 counsel did, public counsel is probably not aware of
2 some of the consumer complaints that exist regarding
3 access and those sorts of things, but we're here
4 today to talk about IPI's petition for competitive
5 classification and I would like to move on.

6 Do you pay different commission payments at
7 each of these various locations?

8 A. No.

9 MR. OWENS: Am I correct that the witness
10 understood these locations to refer to the ones in
11 Exhibits 8 and 9?

12 THE WITNESS: That's correct.

13 MS. BROWN: That's correct.

14 Q. Page 13, lines 11 through 14 you assumed
15 that 20 to 25 percent of these 1,800 calls in the call
16 analysis in your exhibits don't go to other companies
17 competing for your revenue stream but rather that they
18 may go to Hertz, for example, or a florist or
19 something; is that right?

20 A. That is correct.

21 Q. Do you know a man named Robert Aldridge?

22 A. I believe so, yes.

23 Q. Who is he?

24 A. I believe he's done some consulting on some
25 national issues.

1 Q. Do you recall, what is the basis for the 20
2 to 25 percent figure which appears in your testimony?

3 A. I think that's an industry standard. Even
4 though we've developed smart phone technology and can
5 provide you with this type of data instantly, that you
6 would have a heck of a time getting from a LEC for
7 example, instantly. We, as pay phone vendors
8 throughout the United States -- I'm the secretary/
9 treasurer of the Payphone Association; there's other
10 officers here of the association. We communicate on
11 these things all the time because we're interested in
12 dial-around compensation for access that we're
13 providing for no fee, locally, nationally, all of
14 those kinds of things. And we don't like to submit
15 numbers that are not accurate. We like to think that
16 we're presenting a fair and straightforward business
17 approach.

18 Q. Just one more question, Mr. Schrader. In
19 response to our request No. 69 you estimated the
20 average duration of calls handled by IPI, excluding
21 emergency, local, coin sent pay, long distance,
22 directory assistance, and dial-around is approximately
23 4.2 minutes?

24 A. 4.1 last week. It was 4.4 a week before.

25 MR. OWENS: Can we stipulate that the

1 records show that the answer given in response to
2 request 69 was stated to be for the week of November 9
3 through November 15, 1992? This is the 4.2.

4 MS. BROWN: And apparently it varies from
5 week to week.

6 MR. OWENS: I just didn't want the record
7 to carry any implication that we hadn't answered the
8 question as accurately as we could.

9 MS. BROWN: Thank you. I have nothing
10 further for this witness.

11 JUDGE FOSTER: Well, I'm afraid I do. The
12 last exchange between the two of you about this 4.1
13 minutes totally lost me. Could one of you just
14 explain to me what we're talking about? What was 4.1
15 minutes?

16 MR. OWENS: Yes. Do you recall request 69?

17 THE WITNESS: I do vaguely. It is a result
18 of our -- of information that we get from our long
19 distance carriers that gives us an idea of what the
20 average duration of call is, but that -- I mean, that
21 breaks out in so many possibilities, given the various
22 kinds of calls we're making and so on. So we took an
23 average number of minutes and simply divided it out to
24 arrive at this number, and I did those calculations,
25 as I think I indicated, for some other weeks just

1 before I came down.

2 JUDGE FOSTER: What week was this again?

3 THE WITNESS: The 4.1?

4 MR. OWENS: 4.1 was this past week?

5 THE WITNESS: That's correct. And the week
6 before this it was 4.4, I believe.

7 JUDGE FOSTER: Thank you.

8

9 EXAMINATION

10 BY JUDGE FOSTER:

11 Q. Besides International Pacific, who are the
12 other currently operating AOS's in Washington?

13 A. Tariffed or --

14 Q. Both.

15 A. Payline, Teltrust, ITI, MCI, Sprint, AT&T,
16 of course, International Pacific. I'm sure there are
17 others. Those just come to my mind.

18 MS. BROWN: We will be offering as an
19 exhibit later in this proceeding a list of AOS
20 providers.

21 THE WITNESS: They are at our door every
22 day, believe me, but you can't tie it to a service,
23 that's the problem.

24 Q. You know them well?

25 A. It's simple. If you're a salesman and you

1 get a commission, why go out and solicit a ma and pa
2 grocery store when you can come into our offices
3 and you can get 750 commissions, basically. We do see
4 them and that's part of our jobs for our customers
5 is to evaluate what the best company is given all the
6 various considerations.

7 Q. You were asked a question about Robert
8 Aldridge and maybe you could explain a little bit more
9 about who he is and what he has to do with anything in
10 this proceeding.

11 A. I only read a study of his that deals with
12 certain portions of dial-around on a national level.
13 I've never met the man individually.

14 Q. Is he a telecommunications expert?

15 A. I don't know his precise credentials. I
16 don't know.

17 MR. OWENS: Your Honor, maybe I could
18 offer a stipulation that might clear this up.
19 Mr. Aldridge's name was supplied by me in answering a
20 data request that asked for information supporting the
21 20 to 25 percent number in Mr. Schrader's testimony
22 which represents the estimated portion of 800 calls
23 that are really calls to another carrier rather than
24 calls, like, to make a hotel reservation or calls to
25 reserve a rental car. Now, Mr. Aldridge is a lawyer,

1 a partner in the firm of Keck, Mahin and Cate in
2 Washington D.C. They are the law firm that represents
3 the American Public Communications counsel. He
4 supplied us a study that was, in turn, done by a man
5 named Mr. Turner which had been filed with the Federal
6 Communications Commission that attempted to quantify
7 that figure, and the data request asked for
8 information that Mr. Schrader had to support this.
9 This seemed to be responsive and so that's where
10 Mr. Aldridge's name came into it. He supplied it to
11 me, who in turn supplied it to Mr. Schrader.

12 MS. BROWN: I was asking about it because
13 we don't see those figures in the response.

14 THE WITNESS: I'm not sure I understand
15 what you're saying.

16 MR. OWENS: I was just answering the
17 judge's question about who Mr. Aldridge is. I offered
18 that as a stipulation. I can provide you Mr. Aldridge's
19 phone number, you can verify that he is who I say he is
20 if you like. There was never any intent to represent
21 that he had authored the study because the study itself
22 carries the name of the author on it. And if there's
23 some unclarity about that, I am sorry.

24 JUDGE FOSTER: Well, his name just came up.
25 Not being familiar with the discovery of counsel, it

1 doesn't have any meaning for me and I appreciate your
2 effort to tie that in with something relevant to this
3 hearing, Mr. Owens.

4 Ms. Brown, do you have any problems with
5 that stipulation, as far as Mr. Owens attempting to
6 explain who Robert Aldridge is and how he fits into
7 the evidence in this matter?

8 MS. BROWN: Subject to check.

9 JUDGE FOSTER: Okay. Then we'll treat that
10 as the accepted stipulation and move on to my next
11 question.

12 Q. Mr. Schrader, I detect a note of
13 frustration or something with this proceeding and
14 perhaps with the Commission in your answers to
15 Ms. Brown's questions. And I don't necessarily need a
16 speech but maybe in two or three or four sentences you
17 could basically tell me what the problem is, as you
18 see it, so that I understand a little bit more about
19 the background of your testimony here today.

20 A. Well, we're -- I don't think I can limit
21 myself to what you're suggesting, unfortunately.

22 Q. No 25-words-or-less?

23 A. We're dealing with a service industry and
24 the reason I have pay phones on the wall is because my
25 phones work and my phones work better than the local

1 exchange phones, and because of efficiencies that I
2 can provide and options available to me in all kinds
3 of different areas, I am able to compete successfully
4 with US West for sites, for example, or with GTE or
5 what have you.

6 Surcharges and rates -- I liken this
7 industry to the airline industry. It is a recently,
8 in terms of modern history, deregulated industry. I
9 can remember being a flyer at least two or three times
10 a year to Hawaii where my rate varied between \$109 --
11 pardon me, \$195 and \$220. After deregulation I can't
12 fly to Hawaii now for \$400. And in the meantime I've
13 been able to fly for a lot less and a lot more than
14 that. But the long and the short of it is the
15 marketplace in this process of reaching parity where
16 everybody competes and if you don't compete you're out
17 of the business. If I don't compete successfully in
18 terms of my proprietor and in terms of my customer --
19 and that's the loop I don't see you exploring -- I
20 don't have phones on the wall because the second one
21 of my customers goes to my manager at my restaurant,
22 and says, I have a problem with the phone, as I tried
23 to say in my testimony that phone is going to come off
24 the wall, and that problem may be equal access. That
25 problem could be my rates are too high. Problem could

1 be it didn't return the quarter. Problem could be he
2 couldn't get response from my office, what have you.
3 So my job every day is to select the most responsive
4 people in the various aspects of the business that I
5 can find in dealing with those problems so that my
6 manager never gets involved in that.

7 Q. And I assume that you're here today because
8 you're satisfied with IPI's services?

9 A. Oh, I'm more than satisfied with IPI's
10 services. They're the best in the business. And it's
11 unfortunate that you cannot have the distinct
12 privilege of working with somebody like an AT&T or MCI
13 or Sprint because you would -- that's why I suggest a
14 workshop format or something like that, either before
15 or after this is done, because the perception versus
16 the reality is immensely different.

17 Q. Well, I plan to ask you some more questions
18 about this, about your perceptions on how you view the
19 reality of the situation but I'm just trying to get
20 some background into your frustration as far as the
21 situation is concerned.

22 A. Well, I have another frustration, I guess.
23 As I read the testimony, you had roughly 300
24 complaints in the entire long distance business last
25 year, am I correct? I believe your data indicates

1 that.

2 Q. Are you referring to 300 complaints to the
3 Commission?

4 A. That's correct.

5 Q. Are you talking about International Pacific
6 or pay phones or what?

7 A. No. The entire long distance business, as
8 I understood your testimony or your data at this
9 point.

10 Until we have an opportunity -- and we're
11 all anxious individually to see that data and review
12 those complaints -- I believe that to start an action
13 like this, frankly, on a Washington company and a
14 Washington tax base and everything else when you have
15 no complaints against my company, I think you have
16 relatively few if any complains against the companies
17 represented here today, it's pretty amazing.

18 Q. You understand that this proceeding has
19 some limitations. We're here strictly talking today
20 about the classification petition that International
21 Pacific has requested. I'm aware that there are some
22 other proceedings, but we're not talking about those
23 here today. Okay?

24 A. Okay.

25 Q. So they may come up and they may have some

1 bearing on the type of service that's being provided,
2 but I guess that gets me to my next question, and
3 that's why I would like to know from you why it would
4 be to your advantage to have International Pacific
5 classified as competitive?

6 A. Well, we, much like our side of the
7 business, if you will, in natural? [TPHAERL] putting
8 the phone on the wall, International Pacific has shown
9 an amazing interest in developing new products, in
10 consolidating the offerings that they make available
11 to us, and providing us with more options at our pay
12 phones than US West can provide. It's just that
13 simple.

14 Q. They will continue to do that even if they
15 were not declared a competitive telecommunications
16 company, wouldn't they?

17 A. I can only guess at what might happen to
18 them if you don't. Those that have not to date either
19 gotten a tariff and so on have certainly not been
20 successful in the state of Washington.

21 Q. Well, I've gotten a conclusion to my
22 question but I'm still not understanding the exact
23 reasons in your mind why competitive status is
24 essential for IPI.

25 A. I'm trying. I guess I'm trying to state

1 it. Perhaps I'm missing and excuse me if I am. I
2 think International Pacific has shown the ability to
3 compete merely by developing these products for the
4 consumer. The only reason, I guess I have to relate
5 it back to the consumer, the reason we use those
6 services is because they're consumer-friendly. And if
7 you then look at it and say, why would you want to
8 continue doing business with them, that's the reason.
9 It is not because of yields, return, if you will, from
10 each call. I believe IP has shown the kind of
11 creativity in the marketplace that's critical to
12 getting the big people, the MCI, the Sprint, the AT&T
13 to move off things that are not good for the consumer.
14 AT&T amazingly enough, their rate structure, their
15 return for a private telephone vendor, their response
16 to service problems, is amazingly improving. AT&T
17 wouldn't do that voluntarily. I don't care what you
18 think about them. They wouldn't do a thing for
19 customer service voluntarily unless they think it
20 affects their bottom line, and they're very slow to
21 move. I think the pressure from POS's such as
22 International Pacific and so on and the resultant drop
23 in their traffic is exactly what you would want to
24 happen and is beneficial to the consumer.

25 Q. Mr. Schrader, you should understand that I

1 am an administrative law judge with another agency,
2 and I am not very knowledgeable about
3 telecommunications markets and about how the industry
4 is structured and what the trends and changes are.
5 Judge Clishe and I are with an independent agency and
6 the purpose here today is to get your input about the
7 issues concerning the petition for classification as a
8 competitive telecommunications company that's been
9 filed by IPI. So I don't have any predisposition or
10 even any particular knowledge about any kind of
11 transactions you may have had with the Commission
12 staff. I just want to make sure you understand that.
13 I'm going to be asking you some pretty basic questions
14 about how all this works so that I have a better
15 understanding after your testimony about the kind of
16 business you're operating, how you make money and how
17 IPI affects that than we did when we started out.

18 If IPI were to continue on, if its petition
19 for classification as a competitive company were
20 denied, wouldn't that just maintain the status quo for
21 you, for your company? They would continue to provide
22 you service you're satisfied with; isn't that correct?

23 A. We can presume so. I can only guess at the
24 future. But certainly the niche they have in the
25 marketplace at this point in time has been developed

1 because of perhaps that they've developed very
2 rapidly. Ours is not a static industry. It changes
3 daily at best, and it can change hourly literally.
4 So, yes, we certainly hope that IP or a company like
5 IP would continue to be kind of on the leading edge of
6 developing these kinds of services.

7 Q. Their competitive status, what does that
8 have to do with new programs or new technologies that
9 they might develop?

10 A. Well, I'm not sure I can successfully
11 divorce the competitive classification from the rate
12 case that's pending, okay? If they're granted
13 competitive classification, it's my understanding that
14 the rate case that has been brought by the PUC
15 becomes, if you will, a moot point.

16 Q. Or the complaint?

17 A. The complaint, okay. And I don't propose
18 to know all the rates available in the industry and so
19 on. The competitive classification I think gives us
20 an opportunity to operate with a company in the state
21 of Washington that is, and again I hate to beat this
22 point to death, that is responsive, that is aggressive
23 and that is extremely consumer-friendly.

24 Q. Can you just tell me, by way of background,
25 how long private companies have been in the business

1 of providing pay telephones?

2 A. Well, it goes back to Judge Green's
3 decision.

4 Q. But in Washington, when did that process --

5 A. Late 1984, early 1985.

6 Q. Your business -- NCS has been operating for
7 how long?

8 A. Well, one of the two joint venture
9 partners, I believe, started operation in late 1986 or
10 early 1987 and I believe the other was just within six
11 months of that and I don't recall -- I don't have
12 specific dates. Can I give you a little example about
13 the business? You mentioned when you start with the
14 infancy. I think the transformation, metamorphosis
15 or whatever you want to use --

16 Q. Go ahead.

17 A. We started, when I came to work two years
18 ago at NCS Teleworks we had five different phones on
19 the wall. They may look the same from the exterior,
20 but on the interior we're basically in the computer
21 business. We had five different phones that all
22 represented, going back probably over the previous
23 seven years, state-of-the-art technology, literally.
24 The industry has changed so rapidly that as of today I
25 have two different brands of phones on the wall, one

1 of which I would give anything to get off the wall.
2 And as fast as I can spend 500 bucks every time I
3 have a call, if I have a problem with this particular
4 make of phone I don't fix the phone. I pull that
5 computer out of that phone and put a new one in.
6 That's 500 bucks every time that happens.

7 That's the nature of this business when
8 it's easy to think that, gee, it's the same case, and
9 it's the same handset and it's the same keypad that
10 it was. Believe me it is not and what we're able to
11 do today with the phones -- for example, at all my
12 parking lots I can provide toll free, and I do provide
13 it, toll free speed dial function so that the customer
14 can walk up to one of my phones, let's say their car
15 has been vandalized, they've got a barrel on it that
16 they're not supposed to because they paid or whatever.
17 They make a toll free call, for example, to Diamond
18 Parking with a speed dial number, and I post a plaque
19 on the phone that so identifies it. We couldn't have
20 done that three years ago, four years ago with any
21 sort of level of consistency.

22 Q. In your testimony you indicate you've got
23 752 private pay telephones in Washington. I'm
24 assuming that this company, you're only operating in
25 Washington, right?

1 A. We only operate in Washington and we own
2 our own phones.

3 Q. How do you go about obtaining customers?
4 How do you advertise your services?

5 A. We pay customers a percentage -- actually
6 it's a two-part formula. We pay them a percentage of
7 what we call adjusted gross income on both the coin
8 income from the phone and long distance income from
9 all sources.

10 Q. For the average customer, if there is such
11 a thing in Washington, what would that run a month?

12 A. I would say -- I have to give you a range,
13 and I have to qualify it by, let's say in your
14 example, the preponderance of people would be US West
15 territory. It makes a difference because GTE's phone
16 bill is so much higher. But in general, a US West
17 average phone in terms of our company network would
18 probably produce 25- to 40-a-month net to the
19 proprietor.

20 Q. And you have a formula that you use for
21 figuring that out?

22 A. Yes. Basically I'm not afraid to share it.
23 We take the total coin income, subtract the phone bill
24 and pay them a percentage of the difference and we
25 take all the long distance income and pay them a flat

1 percentage of that, whatever it is.

2 Q. Then how does NCS make money?

3 A. Hopefully -- that's a good question
4 sometimes. Hopefully, we make money by being able to
5 service the phones, install the phones, pay our debt,
6 pay our overhead and management expenses and so on and
7 so forth and that those are exceeded by the net income
8 after payment of phone bills and commissions.

9 Q. So I assume one of your largest expenses
10 would be whatever you pay International Pacific for
11 the operator services that they're providing to your
12 pay phones?

13 A. One of my biggest expenses is the phone
14 bill.

15 Q. You mentioned the dial-around phenomenon in
16 your answer to a question Ms. Brown posed to you.
17 Does dial-around represent a loss in revenues to NCS?

18 A. Yes.

19 Q. Can you explain how that works?

20 A. Well, it's a two-part formula. First of
21 all, those are calls where basically AT&T has started,
22 on a number of different fronts, a mass advertising
23 campaign and sent out cards, credit cards to people
24 and so on indicating that we want you to use our -- in
25 any laymen's terms, use our long distance company. No

1 one else is good. Please go to our phone, dial our
2 access code 102880 and you will go direct to our
3 operator. I don't capture any of that revenue from
4 that task. I get nothing from that. At present
5 we have been granted on a national level, \$6 per
6 phone per month for providing that access, but the
7 other side of that equation and an issue that we would
8 love to have the PUC in Washington and in other states
9 get involved in, AT&T, as an example, I have about
10 \$6,500 in fraud charges last month alone. That is a
11 direct result of people using AT&T, dialing around my
12 selected long distance carrier and then defrauding
13 AT&T or US West. And AT&T at the present time
14 maintains that we're responsible for that, even though
15 we pay for the screening from the LEC and so on to
16 eliminate it.

17 Q. We're going to be taking a break in a few
18 minutes. I had some things that I would like to have
19 you offer as exhibits in connection with your
20 testimony. So maybe you can investigate that a little
21 bit more when we're taking a break. On page 6 at
22 lines -- at line 5 you refer to an agreement between
23 International Pacific and NCS Teleworks. Could you
24 offer a copy or give Mr. Owens a copy of a sample
25 agreement so we could take a look at that?

1 A. We have a handshake agreement.

2 Q. You don't have a written agreement?

3 A. Absolutely not. I've never had a written
4 agreement with International Pacific.

5 Q. All right. Then what about the agreement
6 that you have with the pay phone, with the business
7 where the pay phone is provided?

8 A. Site provider? I don't have one with me
9 but I would be glad to send one in. Do you want to
10 take one of the five, for example, that we've used as
11 an example? I would be glad to do that.

12 Q. Doesn't matter. Just a sample would be
13 fine.

14 A. Okay.

15 MR. OWENS: Excuse me, your Honor. Is this
16 in the nature of a bench request that will be
17 stipulated in as an exhibit?

18 JUDGE FOSTER: However you all want to work
19 it. I just want to tell him that that's something I
20 would like to have.

21 MR. OWENS: I'm trying to deal with whether
22 it's part of the evidentiary record or not.

23 JUDGE FOSTER: I want it part of the
24 evidentiary record.

25 MR. OWENS: Fine. Then I will send it to

1 you as opposed to sending it -- send a copy to staff
2 but I am responding directly to the bench, I gather.

3 JUDGE FOSTER: All right. However you want
4 to take care of it. I will let you all work that out
5 off the record.

6 I've got some more questions but just one
7 more before we take our break. Going to page 21, you
8 are asked the question, "Are you aware of the fact
9 that certain of IPI's rates are higher than certain of
10 the rates of AT&T and US West?" And you say, yes.
11 Then you answer a question about do you have reason to
12 believe callers are aware of these rate differences
13 when they make calls. And I'm wondering how you know
14 about what callers are aware of.

15 A. Well, we feel that AT&T's advertising
16 campaign basically is, fairly directly speaks to that.
17 AT&T implies in all of its campaigns, for example,
18 that there are -- theirs are the best rates and so on.
19 I suppose this represents to some degree some
20 hypothecation on my part, but I am able, I think, to
21 divorce myself from my business and say when I'm
22 sitting there watching the Skins game and AT&T does
23 five ads on dial-around, the message comes clear.
24 It's real easy to see. I would like you also to bear
25 in mind, however, if you go to one of my pay phones

1 you can make a call cheaper than AT&T, IPI, Sprint,
2 MCI or anybody in the business on one of my pay phones
3 and that is by doing a dollar for three minutes
4 anywhere in the United States, continental United
5 States, I believe.

6 JUDGE FOSTER: Well, let's take our morning
7 break at this time. Let's be off the record and we
8 will reconvene at 11:00.

9 (Recess.)

10 JUDGE FOSTER: Let's be back on the record
11 after our morning break. Before we went off the
12 record, I had some questions for Mr. Schrader and I
13 still have some more questions for him.

14 Q. My recollection of your answer about
15 dial-around was that this was resulting in some
16 financial losses to NCS; is that correct?

17 A. That is correct.

18 Q. And those losses are -- do you expect those
19 to continue, to increase, to decrease?

20 A. It depends on the success or failure of
21 AT&T's actions in some ways. This relates back to
22 our telephone charges. We're charged basically a
23 minimum rate and 300 free completed calls. After 300
24 free completed calls then we're charged six cents a
25 message. In general, our phones' volume is such that

1 we exceed the 300 messages across the board so that to
2 the extent that there was more dial-around and we
3 create more messages, of course, we lose on that basis
4 because our phone bill is going up. Then, of course,
5 we're not getting paid for any of that traffic. AT&T
6 bills a \$5 call, we get no percentage of that call, we
7 get a \$6 offset total for the composite of MCI, Sprint
8 and AT&T calls on a dial-around basis. And that's at
9 the federal level.

10 Q. Are you familiar with the Commission's
11 decision in a previous International Pacific case?
12 It's what was referred to as docket No. U89-2603P.

13 A. I cannot say I am.

14 Q. You made reference in your testimony to
15 rate option C. Can you tell me what that is?

16 A. I don't know. In all honesty, I do not
17 know the specifics of it.

18 Q. You also talked about trouble tickets and I
19 believe several other witnesses talked about
20 identifying trouble within the system. It sounds like
21 you have a fairly aggressive system for coping with
22 those kinds of problems, but I didn't hear you talk
23 about the follow-up. Can you address that a little
24 bit more?

25 A. Well, yes. It's an extremely important

1 part. It kind of closes the loop with our electronic
2 capabilities within the computers in the phones. Our
3 phones literally will call us when certain things
4 happen. I don't know how familiar with this you are,
5 how much of that testimony you've read, but for
6 example we have a preset level on our phones where if
7 the coin count gets to a certain level the phone calls
8 in and says, gee, I'm getting full. If the circuitry
9 is changed, for example, on the handset on certain
10 phones they will call in and say I have a handset
11 missing. Each time one of our collectors goes to our
12 phones -- and we collect once every ten days; every
13 phone in our company is collected three times a month
14 -- each time our collectors go to the phones, we're
15 able then to download the phone -- that's part and
16 parcel of what we do and we check all the access codes
17 of the major carriers, MCI, Sprint, AT&T and so on.
18 We check 911, we check information, all of those kinds
19 of things that are needed from the customer point of
20 view.

21 The other part of that whole loop is, of
22 course, that any feedback that the long distance
23 company gets, be that a question of rates, a customer
24 saying that he was unable to have his call forwarded
25 to AT&T -- there are still a lot of customers, despite

1 AT&T's massive budget, there are still a lot of
2 customers who will go up, dial 0, get our
3 International Pacific carrier, for example, and ask
4 them to redirect that call to AT&T or Sprint or MCI
5 and, in fact, I think Mr. Soumas can provide you with
6 some data on what percentage of calls they get along
7 those lines.

8 If a person says their call was cut off,
9 whatever the feedback out of the ordinary from a
10 customer on one of our phones, we can handle. And
11 that information is either phoned to us if it's
12 somebody on the line that we can still work with or
13 they will fax us a trouble ticket, and then we respond
14 immediately to that by sending our service manager out
15 and/or calling the phone to verifying that the
16 information in the computer in the phone is as we
17 desired it to be programmed.

18 Q. You mentioned something earlier about 300
19 complaints, and I wasn't quite sure what you were
20 referring to. Can you tell me more about that?
21 That's complaints the Commission would have received?

22 A. Well, I have seen some information
23 indicating that in either '90 or 1991 the total number
24 of complaints on the long distance business received
25 by the PUC was some 300. I make -- I have to guess a

1 little bit on this but if you assume the assumptions
2 that we have, I think, delineated in testimony here as
3 an industry, I make 50 to 55,000 long distance calls a
4 month off my network. I will make over 4 million
5 calls total off my pay phones this year and I have
6 never had a complaint in two years. And that includes
7 rates, right down the line.

8 Q. Much of the testimony in this case seems to
9 suggest that since 1990, in the last two years, things
10 have been -- any service complaints or problems which
11 may have existed before that time have been reduced or
12 resolved; is that correct?

13 A. Well, we certainly see that on our phones,
14 and that's a product of a lot of different facets.
15 The technology in our phones has certainly improved
16 dramatically. We think our commitment to service -- I
17 can't stress it. We work on it every day. We don't
18 go to our phones every ten days rather than every
19 month just because it's fun to do. We go because we
20 think we need to be at those phones to do everything
21 from take graffiti off the enclosures, wiping the
22 handset off, cleaning the chrome plates, to collecting
23 the phone, to downloading it. We have gone to a
24 system where we pull every phone every night. In
25 other words, we have computers in the office that call

1 the computers in the phones every night, go completely
2 through them, download them so they're up, running. We
3 know exactly if there's any problems in the rate
4 schedules, if they're overly full. Anything of that
5 nature. It's all part of the service process.

6 But the industry, the level of
7 professionalism in the industry, might relate it back
8 when the industry first started, there were people that
9 had Amway distributorships that put two phones out on
10 the wall at ma and pa's grocery here and one over there
11 and there isn't one of us in this room today that would
12 buy one of those phones to start with because of its
13 deficiencies in technology. But those people have either
14 gone out of business or been absorbed by bigger firms
15 with more commitments and capabilities and service and
16 so on. That's the nature of this business. And our
17 ability to compete with the local exchange carrier, I
18 think, is shown by what we've done on the service side.
19 It is not merely a yield. Because there isn't one
20 customer that I have that would, as I think I alluded
21 to, like to get another \$4 a month out of his pay
22 phone and lose a family of four that's spending \$40 on
23 their meal.

24 Q. Taking a look at your Exhibit 2 that's your
25 Previous Call Accounting Report. This is also a

1 little unfamiliar to me. Maybe you could just walk me
2 through this and tell me what you're attempting to
3 show on this exhibit.

4 A. Well, this is data that we can pull out of
5 the phone. Certain phones it's more accessible than
6 others and is maintained on a longer basis. It really
7 breaks out the number of calls over a given time frame
8 to various preprogrammed and recognizable areas within
9 the phone. Ten triple X is primarily AT&T. 1-800 as
10 we've discussed is all toll free numbers, but, of
11 course, the access code, for example, for Sprint is
12 1-800-877-8000, for example. I did make contact with
13 another person that was able to provide me with
14 information on the reroute numbers. Reroute 1 for our
15 phones is our trouble free -- we have a toll free
16 number for repairs, maintenance and service which is
17 211. You can dial that number toll free anywhere in
18 the state of Washington and get directly to our
19 office.

20 Reroute 2 is the AOS company that we've
21 chosen. Reroute 3 is the local exchange carrier and
22 reroute 4 is a network that we have set up to handle
23 our 1 plus calls, for example, dollar for three
24 minute. That kind of a thing.

25 Q. And this category called pay count, what

1 is that?

2 A. Pay count is actually the number of calls
3 that have hit the switch.

4 Q. And then after that you say average, is
5 that average per day?

6 A. I would say it is average per day but I'm
7 not sure. Dave Coulson is much better on the
8 technical side in all honesty than I am.

9 JUDGE FOSTER: I think that's all the
10 questions I have for now, Mr. Owens, do you have
11 redirect for this witness?

12 MR. OWENS: Yes, I do. I would like to ask
13 maybe a couple of basic questions to flesh out the
14 record on the relationship of the various entities
15 that join together to provide a through communication
16 service to the customer.

17 JUDGE FOSTER: Thank you.

18 MS. BROWN: Great.

19

20 REDIRECT EXAMINATION

21 BY MR. OWENS:

22 Q. Now, Mr. Schrader, and if counsel objects
23 to my leading the witness I will do it a different
24 way, but would I be correct in saying that your
25 business is to essentially provide the pay telephone

1 instrument that the customer actually communicates
2 through when he wants to make a call, he or she?

3 A. That is correct.

4 Q. Now, your pay telephone instrument is
5 connected to a public access line that's provided by
6 the local exchange telephone company; is that right?

7 A. Yes.

8 Q. And when you earlier in your testimony
9 described your telephone bill you were referring to
10 the charges you pay to the local exchange company; is
11 that right?

12 A. That is correct.

13 Q. And that would be the flat monthly charge
14 with the 300 call allowance and then six cents per
15 message over and above that?

16 A. Plus screening.

17 Q. Plus screening. And so those charges all
18 go to the local exchange company as a cost of doing
19 business out of your pocket?

20 A. Yes.

21 Q. So then the local exchange company would
22 provide access to an alternative operator services
23 company such as International Pacific; is that right?

24 A. The local exchange company would -- no, I'm
25 not sure I understand the question. They could if I

1 didn't make that choice.

2 Q. Let me phrase the question differently.
3 Let's say your pay phone is prescribed to
4 International Pacific. Customer comes up to your pay
5 phone and wants to make a straight zero plus call.
6 That is, just dial zero and then the area code and the
7 number that he or she wants to reach. Now, under
8 ordinary circumstances, that call would go over the
9 public access line to the local exchange company's
10 switch, as a first step; is that right?

11 A. That is correct.

12 Q. And then from the local exchange company's
13 switch the fact that the line has been designated as
14 prescribed to International Pacific would mean that
15 that call would be routed to the International Pacific
16 switch wherever that is, probably in Spokane?

17 A. In simplified terms, yes. Please ask the
18 same question of David Coulson because there are
19 alternatives to that.

20 Q. But to try to make it basic and kind of a
21 verbal schematic diagram is what I would like to do at
22 this point.

23 Then, at that location the customer will
24 have also entered some billing information at the key
25 pad on the pay phone in terms of probably of a credit

1 card or calling card number; is that right?

2 A. That is correct.

3 Q. And then at the International Pacific
4 switch that information would be processed and it
5 would be determined whether that was a valid number
6 that the call could be charged to; is that right?

7 A. That is correct.

8 Q. And then if it's determined that that's a
9 valid number the call would then be sent on its way by
10 the International Pacific equipment, or in some cases,
11 a live operator; is that right?

12 A. That is correct.

13 Q. Then, the billing information and the
14 called number and the length of the call, all of that
15 information would be accumulated and passed on to a
16 billing agent of some form or another. Would that be
17 correct?

18 A. Yes.

19 Q. And then the billing agent would arrange
20 matters so that the charge for that call appears on
21 the phone bill of the local exchange company that
22 serves that customer, generally --

23 A. That is correct.

24 Q. Unless it's, for example, like a major bank
25 credit card in which case the charge would appear on

1 his bank credit card statement?

2 A. That is correct.

3 Q. Now, when a customer dials around the
4 prescription, that customer would instead of entering
5 zero plus the area code, plus the number he or she
6 wants to reach would enter something else. Either an
7 800 number, a 950 XXX number or a 10 XXX number before
8 dialing anything else; is that right?

9 A. That is correct.

10 Q. And those numbers would instruct the local
11 exchange company's switch not to send that call to
12 International Pacific if it were an International
13 Pacific prescribed phone; is that right?

14 A. Exactly.

15 Q. In some cases if it's an 800 number the
16 call would proceed and have its number translated by
17 the 800 database; is that right?

18 A. That is correct.

19 Q. And so the call would then be routed to an
20 interexchange carrier and the same would happen on a
21 10 XXX or 950 XXX call?

22 A. Right, based on whatever the translation is
23 built in.

24 Q. And so then that carrier which would
25 essentially be a stranger to the relationship between

1 you and the International Pacific would perform the
2 validation and recording functions that otherwise
3 International Pacific would perform?

4 A. That is correct.

5 Q. And likewise that carrier would be able to
6 bill the customer through its billing agent and it
7 would get the compensation rather than International
8 Pacific?

9 A. That is correct.

10 Q. And since you would have no contractual
11 relationship with that carrier you, in turn, would
12 receive no compensation for that call?

13 A. That's precise.

14 Q. Now, Judge Foster asked you a number of
15 questions about what benefit there would be to NCS if
16 this petition is granted. And before I deal directly
17 with that I wanted to ask you a question which may
18 lead into it. You've indicated that notwithstanding
19 the fact that you find that International Pacific
20 performs and provides excellent service to you and to
21 your customers, that you still have some phones, and
22 specifically we've got an example here of Anthony's in
23 Kirkland that are prescribed to AT&T. Why is that?

24 A. Well, there is certain flexibility that
25 AT&T has in its competitive classification to pick and

1 choose rates that are more responsive to consumers'
2 needs that are changing at all times. Secondly to
3 that answer, some of the other phones, for example, if
4 you take the Kingston area, the local exchange
5 carrier, PTI, has sent out a calling card that
6 basically a resident phone owner in Kingston has a
7 credit card and when he walks up to any pay phone in
8 Kingston he can make a call presumably on that credit
9 card and that call will be refused by a number of
10 carriers because only AT&T can validate and bill that
11 call. That's all that PTI has available in their
12 computer network, and that's been the case, they've
13 been saying for three years they were going to develop
14 the capability to provide open access to that
15 database. They still don't.

16 So in certain situations we have to match
17 -- we wouldn't want to put a phone on the wall -- I
18 don't want to put a phone anywhere on the wall and get
19 a complaint. It's just not in my best interests, it's
20 that simple. And regardless of whether or not that's
21 a local exchange company's restriction or business
22 problem or what have you, my customer doesn't want to
23 hear that. My customer want to know that he can make
24 his call, any call he wants to make from any one of my
25 phones. It's that simple. So when I go into Kingston,

1 for example, or into a PTI territory I have to deal with
2 that situation, and the most expeditious way of dealing
3 with that is to use AT&T.

4 Q. Now, focusing on International Pacific's
5 situation, do you understand that currently
6 International Pacific is under tariff regulation?

7 A. Yes.

8 Q. Do you understand that if International
9 Pacific's petition in this matter is granted that
10 International Pacific would not be under tariff
11 regulation but it would instead be allowed to price
12 list its rates?

13 A. Yes, and that would give us immense
14 flexibility.

15 Q. And would that flexibility be of benefit to
16 NCS?

17 A. It would be of benefit to us. It would be
18 even more beneficial to our customers.

19 Q. Now, you said in previous testimony, I
20 believe in response to Judge Foster, that with regard
21 to this dial-around revenue loss that you were
22 receiving \$6 per phone per month at the national
23 level. Now, is that as a result of action by the
24 Federal Communications Commission?

25 A. Yes. We have not actually received any

1 funds for that yet, but that has been legislated at
2 the national level.

3 Q. And is that for, as far as you know,
4 interstate traffic and costs only?

5 A. Yes, to date. And that is, as I understand
6 it, an interim, if you will, settlement based on
7 further evaluation of what a, if you will, model phone
8 actually does. In other words, the \$6 is not a
9 figure, I doubt sincerely that it will ever go down
10 but it could go up dramatically. Figures in the
11 industry indicate that could range to \$14 or \$15 if it
12 were to accurately portray the percentage of calls
13 that are done on a dial-around basis on our phones.

14 Q. Now, there was a bench request made and
15 during the recess were you able to locate a form of
16 your pay telephone service agreement?

17 A. Yes.

18 MR. OWENS: Your Honor, staff has kindly
19 made copies of that and I would ask that a one-page
20 document entitled Pay Telephone Service Agreement and
21 bearing the logo of NCS Telework be marked as Exhibit
22 10 for identification.

23 JUDGE FOSTER: This is a classic example of
24 a fine print document. Let's identify as Exhibit
25 10 the Pay Telephone Service Agreement of NCS Telework

1 Communications Company.

2 (Marked Exhibit 10.)

3 Q. Handing you Exhibit 10, I ask if you can
4 identify that as the form of the NCS Pay Telephone
5 Service Agreement that responds to the request made by
6 Judge Foster?

7 A. I only have to qualify it in that it does
8 comply with, I would say, somewhere in the area of 95
9 to 98 percent of our agreements. We probably have
10 five or six that are a longer form only because they
11 address the handicap requirements and so on.

12 Q. Now, the agreement is, of course, in blank
13 because it's a form agreement and I believe Judge
14 Foster indicated that that would be sufficient.
15 However, do you have any information as to the range
16 of the commission agreement that we might find if we
17 were to look at some actual agreements that you have?

18 A. Yes. Almost, again, about the same
19 percentage. I would say 95 percent of our commission
20 structure is on a two-part calculation and they're
21 completely separate calculations. In general, we pay
22 25 percent of the adjusted gross profits from coin in
23 box in income and 15 percent of the adjusted gross
24 profits from AOS credit card long distance activity.
25 And they are, as I said, two completely separate

1 calculations.

2 MR. OWENS: I would offer Exhibit 10.

3 JUDGE FOSTER: Any objections?

4 MS. BROWN: No objection.

5 JUDGE FOSTER: Exhibit 10 will be admitted.

6 (Admitted Exhibit 10.)

7 THE WITNESS: If you would like, our
8 typical term is somewhere between 48 and 60 months.
9 Those are the principal blanks that you would have
10 questions about, I would think.

11 Q. Judge Foster asked you about your testimony
12 on page 21 as to how you had reason to believe callers
13 are aware of rate differences between IPI and AT&T and
14 US West when they make calls at NCS phones. Are you
15 aware of whether or not customers obtain rate quotes
16 from IPI?

17 A. Yes. And when we first started using
18 International Pacific we stayed in very close touch
19 with International Pacific on the types of calls we
20 were getting, whether they were questions about rates
21 or were they getting any input negatively about our
22 rates or anything along those lines. We don't do that
23 so much now, us calling them. They provide the data
24 any time we want it but there's an open line of
25 communication with us on that and we just know from

1 experience that they are getting rate calls, that
2 people are acknowledging both from the point of view
3 that it is not -- pardon me, that it is not AT&T, for
4 example, when they get their operator service
5 provider, but also from the point of view that our
6 cards are working. The expressions on our cards about
7 rates being different than prevailing rates or what
8 have you, basically, if you will, the Pardini
9 statement and so on, I think, is working very well.

10 Q. When you say your cards are working, are
11 you referring to the placard that has certain
12 information that's required by the Commission's rules
13 that must be placed on each pay phone instrument?

14 A. Yes. And I want to elaborate a little bit.
15 Obviously being at our phones every ten days it is
16 possibility you could find one of my phones without a
17 card on it, but every one of my collectors has upper
18 and lower cards for every one of our phones and their
19 job as a part of the other service things they do is
20 to repair and replace cards every time they're at the
21 phone. They don't leave a phone, if they leave a
22 phone, they answer to me. If they leave a phone
23 without a card in it, it's inexcusable and it must be
24 working because your complaint against IP that you
25 just recently made, there's not one of my phones on

1 that complaint.

2 MR. OWENS: I don't think this is a matter,
3 really, for testimony by Mr. Schrader but we would be
4 happy to provide a copy of International Pacific's
5 tariff showing what rate option C is, which is another
6 question you had.

7 JUDGE FOSTER: At some point I was going to
8 ask for that from Mr. Soumas but a copy of the current
9 IPI tariff would be helpful.

10 MS. BROWN: We will be offering it as well.

11 JUDGE FOSTER: Okay.

12 MR. OWENS: Nothing further for Mr.
13 Schrader.

14 JUDGE FOSTER: Ms. Brown.

15

16 RECROSS EXAMINATION

17 BY MS. BROWN:

18 Q. Mr. Schrader, you've spoken very highly of
19 International Pacific and the services it provides,
20 and you mentioned in particular that there were many
21 benefits that would flow to the consumer, in fact,
22 part of the phones themselves -- I assume you meant
23 phones themselves -- are consumer-friendly. Perhaps
24 you could help me with this. How is it a benefit to
25 the consumer to pay the rates that IPI charges for the

1 calls?

2 A. Well, first of all, again I will relate it
3 to service. If there's a customer on an International
4 Pacific phone who says he put \$1.65 in the phone the
5 first time and the phone doesn't operate properly,
6 second time he's on the phone, IP will call me, and I
7 will make the call for him or they will make the call
8 for him. If they have a problem with a refund,
9 anything like that, we will make the call right on the
10 spot. He doesn't have to get 25 cents in the mail or
11 \$1.65 in the mail six weeks later or anything else if
12 you keep the customer on the line. You can't do that
13 with AT&T, Sprint or MCI and the more they promise it,
14 the less they deliver. And that's the part I'm sorry,
15 you just don't understand.

16 Q. But the benefits as you see them that flow
17 to the consumer have nothing to do with the rates per
18 se. They have more to do with the service that they
19 can obtain through IPI --

20 A. Well --

21 Q. -- such as the refunding and redirection
22 of call if the particular pay phone is not working
23 properly. Those sorts of things.

24 A. They deal with a lot more factors than
25 that. They deal with operator friendliness. They

1 deal with the level and quality of transmission. All
2 of this relates back to we're putting phones on the
3 wall in competition with both the local exchange
4 carrier and with AT&T. It's that simple. If we
5 weren't doing the job you would be deluged with
6 complaints, our phones would be disappearing off the
7 wall and so on. My company is growing at a rate,
8 believe me, that far exceeds US West, and far exceeds
9 US West -- pardon me AT&T's efforts to put pay phones
10 in the local market.

11 Q. So is it your opinion that when consumers
12 use your pay phones that happen to have IPI as its
13 operator service provider that particular consumer is
14 making an informed, educated choice among
15 alternatives, except in the case of course for the
16 Zones Amusement Center where there is no dial-around
17 option?

18 A. Yes, there's dial-around at Zones.
19 Certainly there's dial-around at every one of my
20 phones.

21 Q. Is it your opinion though that the consumer
22 is educated in making an informed decision when it
23 uses one of your pay phones and the AOS servicing your
24 phone is International Pacific?

25 A. That's a difficult question for me because

1 even I'm confused at times about all the long distance
2 rate claims and carrier claims and so on, both as a
3 residential customer and as a pay phone user. So I'm
4 not suggesting you're trying to put words in my mouth,
5 but I do think that we exceed the local exchange
6 carrier in identifying what a customer has available
7 to him when he operates one of our pay phones.

8 Q. But isn't the price to be charged for a
9 telephone call central to a consumer's perspective on
10 the service?

11 A. Well, ma'am, if that's the case, how can --
12 let's say the three representatives in this room make
13 somewhere in the area of 150,000 calls a month,
14 150,000 completed long distance calls a month and you
15 have the complaint base that you have. If the system
16 isn't working and if the rates aren't reasonable from
17 the consumer's point of view, then there would be
18 major problems.

19 Q. Do you use IPI?

20 A. Do I use International Pacific?
21 Absolutely. Do I use my own pay phones, you bet. Do
22 I use my own pay phones versus my cellular, you bet.

23 Q. You mentioned an advertising campaign
24 that's under way through AT&T promoting its
25 dial-around opportunities. Why do you think that

1 International Pacific hasn't undertaken such a
2 campaign?

3 A. I can only suppose.

4 MR. OWENS: The witness really is being
5 asked to speculate. Mr. Soumas is going to be on the
6 witness stand. He can testify as to why IP has or
7 hasn't done something.

8 MS. BROWN: That's fine, although
9 Mr. Schrader has speculated a fair amount, I believe,
10 in his testimony here today.

11 JUDGE FOSTER: I will allow the witness to
12 answer if he knows.

13 A. I really don't know. They haven't given me
14 a credit card either so I don't know what to tell you.
15 You know, you're taking a position there --

16 Q. There's no question pending, sir.

17 A. I thought you just asked me a question.

18 Q. Would it surprise you to learn that the
19 Commission has filed a complaint against International
20 Pacific alleging 98 separate violations of the AOS
21 rule, WAC 480-120-141 with regard to lack of access,
22 posting and branding?

23 A. No. I alluded to it about five minutes ago
24 in my testimony. And I don't want to get into an
25 adversarial thing here, Ms. Brown, but when you

1 complain, let's take your complaint, and I have not
2 seen the entire complaint but you've complained about
3 phones that you can't get equal access in Sedro
4 Woolley. My goodness, Sedro Woolley isn't an equal
5 access community. What is the nature and basis of
6 your complaint? What is the nature of the
7 300-some-odd complaints that you had in either 1990 or
8 '91 that you've alluded to? It's amazing to me we're
9 sitting here having this conversation and you haven't
10 submitted your case yet. It's like the sheriff coming
11 to my door and saying you're under arrest and my
12 saying what for and having to defend myself against
13 all the potential charges. So believe me, as soon as
14 we know what the nature of those 300 complaints is, we
15 will evaluate -- I say me -- I will attempt to
16 evaluate each one of those as they related to my
17 phones or anybody else. I haven't had any written
18 complaints so I don't know, but you're spending --
19 excuse me, there's a question that I'm allowed to
20 answer; is that correct?

21 Q. That's correct.

22 A. You're spending this time, this money, that
23 time, that money and this time, and this money on a
24 minute percentage of formal complaints, presumably in
25 proportion to the entire number of calls made, not

1 only on International Pacific, but if my understanding
2 of what I've read is correct, if you took all the
3 AT&T, Sprint, MCI, and various long distance carrier
4 company calls made in the state of Washington and took
5 300 out of that, pardon me, but it's inconsequential.

6 Q. The only reason the number of complaints
7 has been raised in this proceeding is because it would
8 bear upon the competitive nature of the market. So we
9 are here today for the competitive classification
10 proceeding. The complaint proceeding has not been
11 held yet.

12 A. You asked me about the complaints, ma'am.
13 You asked me about your 98 complaints.

14 Q. I'm not going to argue with you. You have
15 testified about how few complaints there are and have
16 been in this industry. I simply asked you if it would
17 surprise you to learn that there are, in fact, many
18 complaints and that the complaints have increased in
19 this area, many of which pertain to dial-around.

20 You testified earlier that you have just a
21 gentlemen's agreement with International Pacific. Did
22 you also have simply an oral agreement or a handshake
23 agreement with the other AOS companies that you did
24 business with?

25 A. I have a contractual relationship with

1 AT&T. I had a preexisting agreement, which I did not
2 see, with Phone America, and I had a contractual
3 agreement with ITI. I have had a handshake agreement
4 with MCI and I have done a little bit of business with
5 Sprint on a handshake agreement and I've done some one
6 plus on a handshake agreement. These agreements don't
7 mean any -- if you're going to make 40,000 calls a
8 month and your company doesn't provide the level of
9 services that you've bargained for, you don't want a
10 contract. I don't want to spend the time on attorneys
11 that -- I don't want to call Doug Owens and say, Get
12 me out of my contract with IP. I would love to call
13 Doug Owens and say, Get me out of my contract with
14 AT&T.

15 Q. And you also testified that you're not
16 familiar with rate option C?

17 A. I am not.

18 Q. So how was it that you and Mr. Soumas of
19 International Pacific arrived at the amount of
20 commissions that will be paid to you?

21 A. In terms of a dollar per phone or a dollar
22 per call or something like that, we relate it to what
23 is prevailing in the marketplace. They are experts.
24 They receive the calls, the complaints from you
25 people, the calls from the customers and so on. They

1 know what this marketplace, this competitive
2 marketplace is. If Louis Soumas calls me tomorrow and
3 says your rates are too high, you can bet in a
4 heartbeat my rates would be lower. If he calls me and
5 tells me my rates are too low, you can bet in a moment
6 I would change them.

7 MS. BROWN: I have nothing further at this
8 time.

9 MR. OWENS: One brief question.

10 JUDGE FOSTER: I've got a few more
11 questions, I'm sorry.

12

13 EXAMINATION

14 BY JUDGE FOSTER:

15 Q. I asked you before, Mr. Schrader, and I
16 didn't quite track what your answer was so I will ask
17 again. Tell me again how NCS makes money.

18 A. We're just like any business. We sell or
19 we put equipment on the wall that we hope generates
20 more income than our costs of operating the equipment.
21 I am not sure what you're asking me.

22 Q. You told me earlier that you had a formula
23 which included such things as adjusted gross income
24 that amounted to, say, \$25 to \$40 a month for the site
25 owner -

1 A. I guess.

2 Q. -- of the pay phone. I guess what I am
3 trying to get from you is like, for example, if you
4 could tell us what your net earnings were last year
5 for NCS and the sources of those net earnings and what
6 your projections are, just out of curiosity, because
7 it sounded like you were replacing a lot of these wall
8 phones because of changes in technology or you're
9 dissatisfied with some of it or for whatever reason,
10 that's a substantial expense. So I'm just kind of
11 trying to get an idea from you about the cash flow.
12 You've talked about the site owner of the pay phone.
13 Where do you fit into this?

14 A. You know, off the top of my head I cannot
15 break down the exact percentages although commissions
16 run somewhere in the area of around 15 to -- my best
17 recollection, 15 to 16 percent of our total gross
18 sales. NCS for the 11 months of this year-to-date --
19 and we are on a calendar year -- has made about
20 \$101,000 and we have done well over \$2 million in
21 gross sales, and we have replaced well over 100
22 InTelecall phones with Protel phones which are the
23 old to the new style phones. We have -- and this is
24 rough -- we have put in about 160 retrofit either
25 boards or enclosures or both. I don't know what else

1 to tell you. That's up 12.4 percent over the previous
2 year today.

3 Q. This \$6 per month for interstate losses,
4 can you tell me a little more what that was for?

5 A. That's what they call dial-around
6 compensation. And it is basically going to be a check
7 that we will get on a quarterly basis based on the
8 number of phone lines that we operate, which should
9 obviously relate to number of phones on the wall on a
10 per phone basis, and it's an attempt by the FCC to
11 initiate some form of compensation for the fact that
12 we have provided access so that AT&T can capture this
13 traffic and not pay us and so on.

14 MR. OWENS: If you please, your Honor, I
15 would be glad to supply a copy of the FCC order and
16 the notice inquiry that resulted in that.

17 JUDGE FOSTER: If you would, thank you.

18 Q. In your testimony about the pay phone
19 customer, and also in answers you gave to Mr. Owens'
20 questions about how this works, is there anything that
21 IPI imposes on those customers that's analogous to a
22 site charge?

23 A. I operate under their rate tariff. There
24 really isn't.

25 MR. OWENS: Maybe I can -

1 JUDGE FOSTER: Can you clarify that?

2 MR. OWENS: Yes, your Honor. Maybe I
3 stopped a little short of where I could have in asking
4 the basis. I think we had gotten to the point in my
5 questioning where a billing agent sends a bill to the
6 local -- or to the phone company that serves the
7 person who makes the call, and presumably that person
8 pays his or her phone bill and the amount then gets
9 transmitted by the local exchange phone company who
10 gets that money to IP, either through the billing
11 agent or directly; is that right?

12 THE WITNESS: That's correct.

13 MR. OWENS: And then IP, pursuant to its
14 agreement with NCS, forwards a portion of that money
15 to NCS?

16 THE WITNESS: That's correct.

17 MR. OWENS: And then NCS, pursuant to its
18 site agreement similar to Exhibit 10, pays some of
19 that money which it has received to the site owner; is
20 that right?

21 THE WITNESS: That's correct.

22 MR. OWENS: Does that clarify it, your
23 Honor?

24 JUDGE FOSTER: I think so. Does that
25 payment include something that's analogous to a site

1 charge, I guess, as a question to counsel in your
2 example?

3 MR. OWENS: Well, the payment by
4 International Pacific to NCS, which would be called
5 the aggregator, would include something which NCS
6 would treat as its cost of doing business and would,
7 in turn, pay to the site owner. If you're asking is
8 there a separate identifiable part of that payment
9 that would be called a site charge, I believe the
10 answer is no. In other words, International Pacific's
11 tariffs don't contain any kind of location surcharge.

12 JUDGE FOSTER: Do they contain something
13 that's analogous to a location surcharge?

14 MR. OWENS: I believe not. Probably the
15 best answer would be to let the tariff speak for
16 itself on that point. I believe the tariffs are
17 simply in terms of cents per minute and there are
18 various options that could be chosen, in other words,
19 the same minute, depending on which option you choose,
20 you as the aggregator choose, can be a relatively
21 higher or a relatively lower amount, but it's still
22 the same amount per minute. There isn't any separate
23 element called for as a site charge that I am aware
24 of.

25 JUDGE FOSTER: Well, if counsel would

1 follow up on those questions, maybe not necessarily
2 for this witness but subsequent witnesses to clear
3 that up exactly what payment the consumers are
4 responsible for by way of something analogous to a
5 site charge, I would appreciate it. We had a
6 conversation about this earlier, Mr. Owens, and I
7 believe my understanding was that Paytel does have
8 site charges?

9 MR. OWENS: I believe that's true.

10 JUDGE FOSTER: But that IPI did not, but
11 they had something else and it's this something else
12 that I'm not clear about. And I can go back and look
13 in the transcript and bring it up or ask you about it
14 after lunch, but I would like to have it cleared up
15 about what the consumer is paying for by way of component
16 of the charge that's analogous to site charges like
17 Paytel has, if IPI has the same kind of thing.

18 MR. OWENS: All right.

19 MS. BROWN: Your Honor, just for the
20 record, in staff's case when we prefile in a couple of
21 weeks we will be fleshing out many of these issues.

22 JUDGE FOSTER: Okay. Mr. Schrader, I
23 think I asked most of the questions that I have for
24 you. I appreciate your coming here and laying some of
25 these groundwork -- some of this groundwork today.

1 Mr. Owens, I believe you had some more
2 questions for this witness.

3 MR. OWENS: Very briefly, your Honor. It
4 relates to the issues of the complaint that was raised
5 on recross. And I simply wanted to get clear on the
6 record the context of Mr. Schrader's discussion of
7 equal access in that regard, and it relates to kind
8 of the verbal schematic diagram that we went through a
9 minute ago and with your indulgence I will ask a
10 couple of more questions along that line.

11

12 REDIRECT EXAMINATION

13 BY MR. OWENS:

14 Q. Mr. Schrader, remember a few minutes ago we
15 talked about the fact that your pay phone is connected
16 to a public access line that goes to the local
17 exchange telephone company?

18 A. Correct.

19 Q. And that in our schematic diagram we talked
20 about what happens when a customer dials zero plus the
21 telephone number with the access code and what happens
22 when the customer dials 10 XXX or 950 XXX, and the
23 indication under that general scenario would be that
24 if a customer dials 10 XXX or 950 XXX, the call would
25 be routed to the interexchange carrier whose access

1 code that was; is that right?

2 A. That is correct.

3 Q. And the XXX in each case represents
4 specific digits issued by Bell Communications Research
5 that identify a particular carrier; is that right?

6 A. That is correct.

7 Q. Now, is it correct that not all local
8 exchange company central offices are capable of
9 recognizing that 10 XXX dialing pattern?

10 A. That's right.

11 Q. And why is that?

12 A. Their switching is just not up to par with
13 the requirements of the federal legislation.

14 Q. Well, did the federal legislation contain
15 or the MFJ or the appropriate order for the General
16 Telephone Company in that case contain any exceptions
17 for offices that serve relatively small communities to
18 the requirement that they be replaced or re-engineered
19 to recognize those dialing sequences?

20 A. That I don't know. I'm not sure.

21 Q. But for whatever reason it is your
22 understanding that some central offices physically are
23 not capable of recognizing and acting on those
24 sequences; is that right?

25 A. That is correct.

1 Q. And in those offices is it still possible
2 for a customer to dial around a prescribed carrier?

3 A. It is through our phones because we will
4 work it through an 800 prefix type of situation, for
5 example.

6 Q. All right. But it requires something other
7 than simply having the pay phone be transparent and
8 passing the digits that are entered by the customer;
9 is that right?

10 A. Exactly. And, of course, the other
11 function there is the redirect that IP does for us.

12 Q. Thank you.

13 MR. OWENS: Nothing further.

14 JUDGE FOSTER: Ms. Brown.

15 MS. BROWN: Nothing further.

16 THE WITNESS: Now I've responded to the
17 contract and the reroutes. Do I have something
18 pending that I'm supposed to get you?

19 JUDGE FOSTER: I don't believe so.

20 MR. OWENS: No. I believe we've covered
21 all the requests.

22 MS. BROWN: Did you give us the reroutes?

23 THE WITNESS: Yes, reroutes are -- reroute
24 1 is repair number, our 211 number. 2 is the AOS PIC.
25 3 is the LEC and 4 is any network that we want to

1 preprogram for dialing one plus, dollar for three
2 minutes for example or something like that.

3 MR. OWENS: When you use the phrase "PIC,"
4 what does that mean?

5 THE WITNESS: That's the designated.

6 MR. OWENS: Prescribed Interexchange Carrier?

7 THE WITNESS: Yes.

8 MR. OWENS: IP calls David Coulson to the
9 stand.

10 Whereupon,

11 DAVID COULSON,

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

13 herein and was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. OWENS:

17 Q. Please state your name for the record.

18 A. David W. Coulson.

19 Q. What is your address?

20 A. 802 Industry Drive in Seattle, 98188.

21 Q. Are you the same David Coulson who has

22 cause to be prefiled in this case Exhibit T-6 and

23 Exhibit 7?

24 A. Yes.

25 Q. And were these exhibits prepared by you or

1 under your direction or supervision?

2 A. Yes, they are.

3 Q. Are they true and correct to the best of
4 your knowledge?

5 A. Yes, they are.

6 Q. If I were to ask you the questions set
7 forth in Exhibit T-6 would your answers be as set
8 forth therein?

9 A. Yes, they would.

10 MR. OWENS: I have no further questions.
11 Mr. Coulson is available for cross. I offer Exhibits
12 T-6 and 7.

13 MS. BROWN: No objection.

14 JUDGE FOSTER: Exhibits T-6 and Exhibit 7
15 will be admitted. Ms. Brown?

16 (Admitted Exhibits T-6 and 7.)

17 MS. BROWN: Did you want to start for ten
18 minutes and then break for lunch or shall we just
19 break now?

20 JUDGE FOSTER: I don't care.

21 MS. BROWN: I prefer to break.

22 JUDGE FOSTER: All right. Let's take our
23 luncheon break at this time. Let's be off the record
24 and reconvene at 1:15.

25 (Lunch recess.)

1 AFTERNOON SESSION

2 (1:15 p.m.)

3 JUDGE FOSTER: Let's be back on record
4 after our lunch break. Before we broke for lunch I
5 believe Ms. Brown was ready to cross-examine
6 Mr. Coulson. Go ahead, Ms. Brown.

7 MS. BROWN: Thank you.

8

9 CROSS-EXAMINATION

10 BY MS. BROWN:

11 Q. Mr. Coulson, how long have you been
12 vice-president and general manager of Digital Access
13 Communications Corporation?

14 A. Since its inception, which was in August of
15 1989.

16 Q. I notice in your testimony that you've been
17 employed in the telecommunications industry for 40
18 years. Could you briefly describe what you were doing
19 prior to securing your position as vice-president and
20 general manager of DACC?

21 A. The dominant portion of my career was in
22 the United States Navy where I was an electronics
23 specialist and was responsible for both airborne
24 telemetry as well as carrier-based where we have a
25 very large telephone company to support.

1 Q. Could you tell me a little bit about DACC
2 itself and, in particular, who holds ownership interest
3 in the corporation?

4 A. DACC is a closely held subchapter S
5 corporation. There are two principals, myself, the
6 other is Mark Follett, F O L L E T T.

7 Q. Then you have 50 percent ownership interest
8 then?

9 A. No. It's not evenly split. It's 75
10 percent to Mr. Follett and 25 to myself.

11 Q. Other than DACC, do you as an individual
12 have any affiliation or relationship with any other
13 telecommunications company?

14 A. None whatsoever.

15 Q. Where does DACC do business?

16 A. You mean where we're located? We are
17 actually in the state of Washington, Oregon and Idaho.

18 Q. How many employees do you have?

19 A. We have 22 total.

20 Q. And how are those employees split up
21 between the states in which you operate?

22 A. We have one employee that is solely Oregon;
23 one that is out of Portland and serves both states;
24 one that is out of Idaho and serves both states. So
25 we have crossovers there. It's hard to define. But

1 all with the exception of one work at some portion of
2 their work is in the state of Washington.

3 Q. And approximately how many private pay
4 telephones do you operate in Washington?

5 A. As of this morning it was 882.

6 Q. So since the time that you prefiled
7 testimony you have --

8 A. We have increased our locations.

9 Q. Does IPI pay you commissions?

10 A. It's a shared revenue type of -- of their
11 total billings, a percentage of their billings based
12 on the calls.

13 Q. Could you please explain to the court how
14 that works?

15 A. Well, it is based upon a charge which we
16 negotiate with them that is placed on top of the
17 actual call costs that IP -- normal billing plus a
18 cost that is billed to the customer that is passed on
19 to us. I think a little bit of what was talked about
20 before, a site charge, if you would, is not specific
21 to the site. It is in our agreement with IP, it's
22 paid to us and we share with the site.

23 Q. What kind of an agreement do you have
24 within International Pacific? Do you have a written
25 contract?

1 A. No. We started out it was strictly a
2 verbal agreement. We sat down and negotiated out what
3 do you have to offer and what is the really dominant
4 or prevailing rate and that's what we agreed to and
5 accepted.

6 Q. So did you and IPI negotiate the rate
7 and as a result of that, those negotiations, did you
8 select rate option C?

9 A. Was not known to me as a rate option C. It
10 was just a discussion as to what is the prevailing
11 rate, what's important to me as what are my
12 competitors doing so that I don't get out of balance
13 with what the marketplace is and it's really the
14 dominant structure that was acceptable to the
15 marketplace and this is what we agreed to. It was not
16 a schedule that was offered to me saying that this is
17 our planning. It's really market-driven.

18 Q. Does IPI pay you more in commissions than
19 AT&T?

20 A. Yes, they do.

21 Q. And does IPI pay you more in commissions
22 than does US West?

23 A. That's easy. They pay me nothing from U.S.
24 West.

25 Q. Are the size of your commission payment

1 checks from IPI related to the amount of revenues that
2 you receive from IPI?

3 A. I'm not quite clear on that question.

4 Q. Is there any relationship between the size
5 of the commission payments you receive from IPI and
6 the amount of revenue generated?

7 A. No. It's based on a per call basis. We
8 follow the philosophy that if you load every minute a
9 long call is going to be way out of proportion so
10 therefore we elected to go on a per call charge. That
11 way it's a one-time charge and -- it can get quite
12 exorbitant if somebody talks for 30 minutes with a
13 premium on every minute.

14 Q. I can imagine. How long has Digital Access
15 been using IPI as its AOS provider?

16 A. We went on about six months after we
17 initiated business. So we've been with them almost
18 two years.

19 Q. Who did Digital Access use before that?

20 A. We were using ITI which is now known as
21 Encore based out of Dallas, Texas.

22 Q. And were you dissatisfied with ITI or what
23 prompted the move to IPI?

24 A. Several things prompted our decision to
25 move. Part of it came from the Commission. Because

1 of ITI's location in Dallas, Texas, there was a lot of
2 what we refer to as back hauling. Unnecessary call
3 lengths, mileage going to Dallas and back to Seattle
4 to go across the street. This was the only thing that
5 they could offer and we felt that back hauling was an
6 expensive and unfair practice and so we sought out a
7 local service.

8 In addition, they were quite large and we
9 were quite small and received very little, if any,
10 attention.

11 Q. Were those the only reasons or I should say
12 the primary reasons you were dissatisfied with ITI or
13 were there service quality problems or were you
14 receiving complaints?

15 A. We were receiving complaints for exorbitant
16 surcharges. We could never really determine what they
17 were charging our customers. We had no close enough
18 relationship. The other thing was the
19 inaccessibility to any type of trouble reportings or
20 anything else. We were just at their disposal and had
21 no feedback whatsoever as to how goes it and we felt
22 very much in need of knowing. It was a new business
23 to us and we were testing a market and we needed good
24 feedback.

25 Q. So at this time IPI is the only AOS that

1 you use in Washington state?

2 A. We use them exclusively, yes.

3 Q. In your response to one of our data
4 requests, I believe it was data request No. 72, you
5 estimated the average duration of calls handled by IPI
6 excluding emergency, local, coin sent pay, long
7 distance, directory assistance and dial-around is
8 approximately four minutes. Do you remember that?

9 A. Yes.

10 Q. In response to another of our requests you
11 provided an estimate that DACC will handle
12 approximately 672,162 calls in 1992. Do you remember
13 that?

14 A. Yes.

15 Q. At page 6, lines 2 through 17 of your
16 testimony you state that your review of data from high
17 volume locations confirms increasing dial-around use,
18 use which you say has doubled over the last twelve
19 months; isn't that right?

20 A. Yes.

21 Q. And the basis for this testimony was
22 provided in response to another of our requests, No.
23 75. Do you remember that?

24 A. Yes.

25 Q. That response described a situation

1 involving a truck stop at Eugene, Oregon where you had
2 installed 11 pay phones in May of 1991 and then
3 subsequently removed them in May of 1992?

4 A. Yes.

5 Q. Was IPI your AOS at the truck stop in
6 Eugene?

7 A. Yes, it was.

8 Q. Were the rates the same as the rate option
9 C which is offered in Washington --

10 A. No, it was --

11 Q. -- to you now?

12 A. It was less because International Pacific
13 gives us the option of setting our rates to a specific
14 site where we can say that the truck stops in
15 particular, there's a tremendous awareness, there is a
16 tremendous, well, cost savings, if you would, and we
17 elected a lower charge for those locations merely
18 because of the intense competition that we had from
19 AT&T to regain that site.

20 Q. Do you know if consumer notification
21 requirements are the same in Oregon as they are in
22 Washington?

23 A. We use the same planks. We even have the
24 Pardini in our locations because there's no reason to
25 take it off. It's a fair statement and it saves us

1 printing costs not having to have different signage,
2 if you would. So we've really -- there's a
3 requirement that comes on, why, we will integrate it to
4 the fullest extent. I have quite a few locations that
5 have the Washington state Pardini and they're resident
6 in Oregon. I would like to amend that a little bit
7 because when we came out with the mandatory 206, now,
8 I have other requirements here that, my dialing
9 instructions and such have changed and I think I've
10 probably lessened the amount that I have in Oregon on
11 the Pardini. Outside of that they're the same.

12 Q. Would you agree with Mr. Schrader that the
13 consumer benefits from using IPI as an AOS provider?
14 I should probably reword that. The fact that you use
15 or have selected IPI as your AOS provider, does that
16 fact benefit the consumer end user, in your opinion?

17 A. At the present time I feel it's just not
18 that great of importance as far as the consumer is
19 concerned. We see the real benefit as being able to
20 develop new programs, in conjunction with IP, to look
21 at the market needs and develop answers to those needs
22 and bring them to market rapidly. We're in a very,
23 very rapidly changing environment.

24 Q. Do you think that the amount a consumer is
25 required to pay to place a telephone call is important

1 to that consumer?

2 A. To some it is. Convenience is more
3 important to others. When somebody makes a 25 cent
4 local call and puts that on his calling card his main
5 incentive is he wants a receipt. He wants to charge
6 it off, he wants his money back. That customer I
7 don't believe is all that cost sensitive or price
8 sensitive. We've gone to great extent -- we share
9 your concerns about the consumer. And in those areas
10 where we have control of our costs we have given the
11 best opportunity to the consumer who is really cost
12 conscious, and that's in the dollar call that we
13 pioneered. It has been so well received that now the
14 number of calls that are placed through that dollar
15 cash are equal to the amount of calls that I place
16 through International Pacific. When we first
17 initiated it it was very little, it was very
18 infinitesimal. It's growing and growing. The
19 acceptability is there. I have letters from customers
20 expressing their appreciation for that service and
21 it's been so well received, and our volume, our size
22 is such that we've negotiated better rates with our
23 carrier and we're extending that -- sorry, Ron, you're
24 the first to know -- to four minutes per dollar. This
25 is competition and you see, the LEC is not providing

1 this, but all of my competitors caught up with me and
2 therefore to keep ahead in the marketplace we are very
3 consumer driven, and we are giving now four minutes
4 for a dollar to remain competitive.

5 Q. Are you through?

6 A. Yes.

7 Q. What does that work out to per minute then?

8 A. What does it work out per minute?

9 Q. Yes.

10 A. For the consumer, for the average call
11 length in that category is 2.67 minutes.

12 Q. Do you think it's possible that the three
13 minutes for a dollar program was so successful and in
14 fact generated so much interest in that sort of a
15 program and ultimately was a catalyst for your moving
16 to four minutes for a dollar could be that consumers
17 are keenly aware of high telephone rates and are
18 concerned about the costs of placing telephone calls?

19 A. There are people who have a need to use
20 public phones. Some of them have no access to any
21 other phone. These are the people we're very
22 concerned about and these are the people that we feel
23 that we are doing our utmost to serve.

24 MS. BROWN: I have nothing further.

25 JUDGE FOSTER: Just a couple of questions.

1

2

EXAMINATION

3

BY JUDGE FOSTER:

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Q. Could you repeat your answer about the shared revenues? I believe Ms. Brown asked you about a charge plus the actual cost of the call was the way that the charges were computed. Can you be a little more specific or give an example of that?

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A. It is based upon the type of call that is made. For example, we have as low as a 50 cent per call charge if the call is placed in the local calling area, which, believe it or not, is a significant percentage of the calls that are placed. They are local calls that are put on a credit card. This makes no economic sense to me, I don't do it, but a great number of people do.

17

18

19

20

Q. Can you give me an example using Olympia as the calling point, what would be an example of that.

21

22

23

24

25

A. Through an intraLATA call of that nature we would have \$1.75 charge.

Q. And that would be, say, for example, Olympia to Longview?

A. Yes.

Q. Because it's within the LATA?

A. Yes, or within the state, actually. Same

1 thing.

2 Q. And you said that's \$1.75?

3 A. Yes.

4 Q. In addition to the actual cost of the call?

5 A. Uh-huh.

6 Q. How is that \$1.75 arrived at?

7 A. I couldn't really answer that. It was the
8 mechanics of market testing, if you would, I guess.
9 It's a matter of like any new service -- I could
10 expand a little bit on this hopefully. It goes to the
11 reason for why we believe competitive status is
12 necessary here. We suffer under a price structure
13 that is artificial, it's not based on cost. It's not
14 based on anything but a long-standing agreement of
15 rates. This is what's acceptable because that's
16 what's been tariffed. We never really tested the
17 market to see what the consumer says about that. The
18 complaints that you receive are our best guideline of
19 knowing what the consumer is willing to pay for this
20 type of convenience. Now, we don't really know. What
21 we do know is that we're in a rapidly changing
22 environment. Strong competition to all operator
23 services. Just on the horizon we have four new debit
24 card programs where you will be able to prepay by a
25 card that's good for \$25 worth of direct dial calling

1 and have very, very inexpensive access, and you will
2 be able to have a receipt for that expenditure and it
3 satisfies the business needs. These competitive
4 forces are coming. And we need to be able to position
5 ourselves to be responsive to them, to enhance them if
6 possible, to compete against them where necessary.

7 I continually go to Mr. Soumas. It would
8 be nice to have this, it would be nice to have this,
9 and we're looking at a long delay as to, well, we'll
10 have to look at it, we'll have to get it tariffed and
11 then we'll have to go out and see if the consumer
12 wants it, where the best thing would be is to do a
13 small offering and shove it out to the marketplace,
14 see if the consumer wants it, see what the consumer is
15 willing to pay for it and then determine whether we
16 want to do it on a large scale, but we don't have this
17 flexibility and all of these other forces are coming
18 at us, and believe me they are quite voluminous.
19 Various alternatives are arising every day, and so
20 we're forced to compete and yet we're in a
21 noncompetitive status and it makes it very, very
22 difficult to maintain and yes, it drives costs up.

23 Q. So one of the questions I was going to ask
24 you was why you were supporting this petition for
25 competitive classification and I guess you've kind of

1 answered that by saying it would decrease the amount
2 of time and give you more flexibility in responding to
3 market changes and demands?

4 A. Very definitely. It's something that we
5 feel strongly that we need for our future.

6 Q. What about a hypothetical call from
7 Olympia, say, to Ellensburg, what would be the charge
8 for that from one of your pay phones, assuming there's
9 no dial-around, just --

10 A. An operator-assisted call or a credit card
11 you mean -- see if it's sent paid call it's dollar
12 any place in the United States, Alaska and Hawaii.

13 Q. I understand that.

14 A. A credit card call, though, we base on --
15 there the ultimate end of the cost I only deal with
16 that portion of it that I agree is my portion of it,
17 which is the fixed charge, that's the \$1.75. As to
18 the full cost of the call, Lou, I think you could
19 address that better than I could.

20 Q. But the \$1.75 is the same whether you made
21 the call from Olympia to Longview or Olympia to
22 Ellensburg?

23 A. Yes, if it was an intraLATA or actually
24 inter, could be out of the local calling area. What
25 would normally be called a one plus call.

1 Q. You also answered a question about a truck
2 stop in Eugene. I didn't really understand the
3 situation there. Perhaps you could describe it a
4 little more and particularly describe what you said
5 about IPI being able to set the rate depending on the
6 site?

7 A. When we went into this site the owner of
8 the site, the one we were contracting with, expressed
9 to us a desire to have the absolute minimal amount of
10 surcharge for his customers, which is his prerogative
11 and this we agreed to and because of the flexibility
12 offered to us by International Pacific we're allowed
13 to set this charge site by site if need be, which is
14 the case that we did there. It was his sensitivity to
15 the AT&T advertising more than anything else but it
16 brought up his degree of concern to the point that we
17 had to really negotiate this out to where it was
18 better all the way around.

19 Q. Well, that raises another question. How
20 much flexibility does the owner of the site have in
21 terms of negotiating with you about what the charges
22 will be to consumers?

23 A. I am there at his pleasure and he has a lot
24 of clout as far as negotiating that is concerned.

25 Q. What's an example of the highest charges

1 that have been imposed on consumers in this kind of
2 situation where that's what the aggregator wanted?

3 A. In my case?

4 Q. Yes.

5 A. The rate that I quoted you, \$1.75. That
6 is the maximum. And it goes all the way down to zero
7 because in some cases I have just let the traffic go
8 directly to AT&T and we profit not at all. That's his
9 option. He foregoes a commission on that so his
10 income is less, my income is less and we find a
11 mutually agreeable situation.

12 Q. "His" being the aggregator?

13 A. The location. I mean, like I say, he holds
14 the location, he holds the real clout. I can only
15 serve his desires and his sensitivities. If, in fact,
16 he wants to forego any income from the operator
17 service side of it, well, then, why, we both give up
18 that income and continue to do business as long as the
19 coin is sufficient to carry the site profitably.

20 Q. What is the minimum return you have to have
21 per month as you maintain the site?

22 A. The total that falls to the bottom line is
23 in the neighborhood of about \$50 that we have to see
24 clear out of that site after all of the expenses are
25 paid. 42 percent of my income goes to the local

1 telephone company. I would like to expand upon that,
2 too. DACC is a little unique. We are predominantly a
3 management company. That \$50 is -- actually most all
4 of that is passed through the investors. DACC needs
5 to see about 10 percent of that gross for our own
6 overhead. That return is really dictated by the
7 investors. We cannot get investment capital without a
8 fair rate of return so that's the world we live in.

9 Q. When did you say you changed from ITI to
10 IPI?

11 A. Save you the trouble. ITI change their
12 name to Encore. Now, I have difficulty reconstructing
13 that, Lou. It goes back to when you first came to IP.

14 MR. SOUMAS: Summer of 1990.

15 JUDGE FOSTER: The witness has to answer.

16 A. I'm sorry. We started up in August of 1989
17 and we only ran with IT for about six months.

18 Q. Okay. That's close enough.

19 JUDGE FOSTER: I don't have any other
20 questions. Mr. Owens, any redirect?

21 MR. OWENS: Briefly, your Honor.

22

23 REDIRECT EXAMINATION

24 BY MR. OWENS:

25 Q. Mr. Coulson, just to clarify the record.

1 You made some mention in questioning by Judge Foster
2 about your consumer notification on your pay phones
3 and you talked about the Pardini and just to be clear,
4 when you use that phrase, are you referring to the
5 notification required in WAC 480-120-141 paragraph 1A
6 that says "Services on this instrument may be provided
7 at rates that are higher than normal. You have the
8 right to contact the operator for information
9 regarding charges before placing your call.
10 Instructions for dialing through the local telephone
11 company are also available from the operator"?

12 A. That is correct.

13 Q. And you also used the phrase the dollar
14 call and just again so the record is clear. When you
15 say the dollar call, are you talking about the sent
16 paid coin long distance call that is now three minutes
17 for a dollar anywhere in the country but you've just
18 announced on the stand that's to be four minutes for a
19 dollar anywhere in the country?

20 A. That is correct. This is another one of
21 the things that's come about because of the market
22 forces where you drove up our volume to the point
23 where we can get a deeper discount on those minutes
24 and we're passing that along to the consumer.

25 Q. Now, Judge Foster asked you on several

1 hypothetical calls with regard to the charge. Just so
2 the record is clear. When you say there's a 50 cent
3 charge for a local call and \$1.75 charge for a call
4 outside the central office, are you referring to the
5 compensation that comes back to you from International
6 Pacific?

7 A. That's right.

8 Q. So, are you aware of whether or not there
9 is any specific charge that actually appears on the
10 consumer's phone bill that's in any way different from
11 what's in IP's tariff?

12 A. No.

13 Q. And finally with regard to the experience
14 at the Eugene truck stop, are you aware of whether or
15 not AOS services are regulated in the state of Oregon?

16 A. They are not.

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

19 JUDGE FOSTER: Ms. Brown, anything else?

20 MS. BROWN: Nothing further.

21 JUDGE FOSTER: Thank you for your
22 testimony. You may be excused. Are we ready to go
23 off the record for a minute?

24 (Discussion off the record.)

25 JUDGE FOSTER: Let's be back on the record.

1 While we were off the record, we had a discussion
2 concerning scheduling and we've rearranged the time
3 for appearance of the IPI witnesses and will be taking
4 Mr. Soumas next. So if you will take the stand.

5 MR. OWENS: Thank you, your Honor. IPI
6 calls Louis J. Soumas.

7 Whereupon,

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

11

12 DIRECT EXAMINATION

13 BY MR. OWENS:

14 Q. Mr. Soumas, please state your name and
15 address.

16 A. My name is Louis J. Soumas. Business
17 address is West 442 West Riverside, Suite 408,
18 Spokane, Washington 99201.

19 Q. Are you the same Louis J. Soumas who has
20 caused to be predistributed in this case what's been
21 marked for identification as Exhibit T-3?

22 A. I am.

23 Q. Do you have any revisions or corrections to
24 Exhibit T-3?

25 A. I do not.

1 Q. Other than --

2 A. Other than those previously stated on this
3 record.

4 Q. Is Exhibit T-3, as corrected, true and
5 correct to the best of your knowledge?

6 A. It is.

7 Q. Was it prepared by you or under your
8 direction and supervision?

9 A. It was.

10 Q. If I were to ask you the questions in
11 Exhibit T-3 would your answers be as set forth
12 therein?

13 A. They would be.

14 MR. OWENS: Your Honor, I want to ask leave
15 to ask a few brief questions on oral direct in light
16 of testimony of a prior witness relating to the
17 complaint case. It was indicated by counsel that the
18 reason that those questions were asked was because
19 they bore on the competitive classification and since
20 certain of Mr. Soumas's testimony relates to issues of
21 quality assurance, I would like to at least put on the
22 record facts relating to why those matters weren't in
23 the prefiled testimony in view of the service of the
24 complaint last week.

25 JUDGE FOSTER: Any problems with that?

1 MS. BROWN: No. I figure you will ask
2 questions on redirect or now, so that's fine.

3 MR. OWENS: My philosophy on these matters
4 is that if there's an indication that there is a
5 problem with the testimony, I would like to put it on
6 direct rather than waiting until later.

7 JUDGE FOSTER: Go ahead.

8 BY MR. OWENS:

9 Q. Mr. Soumas, you heard questions of
10 Mr. Schrader regarding the filing of a complaint by
11 the Commission alleging 98 violations of WAC
12 480-120-141 and there's a statute also, did you not?

13 A. Yes.

14 Q. And have you, in fact, received a copy of
15 such a complaint?

16 A. We received a copy on December 16, 1992.

17 Q. And does it, in fact, allege certain
18 violations of that rule and the statute?

19 A. The docket does allege that.

20 Q. Is there some reason why these matters
21 weren't referred to in your direct testimony?

22 A. It has been our standing practice to work
23 closely with the Commission staff, particularly Ms.
24 Stillwell to resolve any matters that come to our
25 attention that are posing potential violation of any

1 WACs. It was our knowledge at the time that we
2 prepared our testimony that we had no outstanding
3 violations nor that there were any problems pending
4 with this Commission concerning any sections within
5 the WAC, particularly WAC 480-120-141.

6 Q. And, in fact, had the company asked in
7 discovery for information and possession of the
8 Commission that would have indicated such violations?

9 A. I believe previously at a hearing with this
10 administrative law judge in late September, early
11 October, we did ask the Commission questions
12 concerning whether there were any outstanding
13 complaints and we received no positive response to
14 that.

15 Q. Have you conducted any investigation of
16 these allegations at this point?

17 A. We have looked into them in the last few
18 days in some detail. We find in our records some of
19 the complaints had been brought to our attention at
20 various points in the last year. They had been dealt
21 with expeditiously by our staff and resolved to the
22 satisfaction of our staff and to our knowledge the
23 satisfaction of this Commission. The fact that the
24 Commission chose to file the complaint now seems
25 somewhat timed for their convenience more than for the

1 reality of the facts as we see them.

2 MR. OWENS: Thank you. I have nothing
3 further on oral direct. I offer Exhibit T-3. Mr.
4 Soumas is available for cross-examination.

5 JUDGE FOSTER: Any objections to T-3?

6 MS. BROWN: No objections, your Honor.

7 JUDGE FOSTER: T-3 will be admitted.

8 (Admitted Exhibit T-3.)

9

10 CROSS-EXAMINATION

11 BY MS. BROWN:

12 Q. Mr. Soumas, how long have you held your
13 position as president of International Pacific
14 Incorporated?

15 A. For two years and four months.

16 Q. Could you please describe the structure of
17 the corporation?

18 A. International Pacific, Inc. is a Washington
19 corporation wholly owned by a parent company known as
20 International Pacific Holdings Corp.

21 Q. How long has that been the case?

22 A. International Pacific Holdings Corp.
23 purchased 100 percent of the equity of International
24 Pacific, Inc. on May 8, 1992.

25 Q. Who holds the ownership interest in

1 International Pacific Incorporated and in
2 International Pacific Holding Corporation?

3 A. As of this point in time?

4 Q. Yes.

5 A. As I previously just stated, International
6 Pacific, Inc. is wholly owned by International Pacific
7 Holdings Corp. It is the only shareholder.
8 International Pacific Holding Corp is owned by various
9 concerns, including 40 some percent owned by an
10 individual investor out of California known as Richard
11 S. Cuissack; 33 percent or thereabouts owned by a
12 venture capital firm based in Wellesley, Massachusetts
13 known as Bessemer Venture Partners and the balance is
14 owned by the management of the company.

15 Q. Do you know who owns Bessemer Venture
16 Partners?

17 A. Bessemer is partly owned by Bessemer
18 Securities which is an old line investment firm based
19 back east. It is a family trust and I could not tell
20 you to what level it is owned within the family.

21 Q. You testified that management owns
22 approximately 25 percent?

23 A. 20 percent approximately.

24 Q. 20 percent. Would that include yourself?

25 A. I own approximately 10 percent of the

1 company on an undiluted basis, around 9 percent on a
2 fully diluted basis.

3 Q. Other than your interest in IPI, do you as
4 an individual have any affiliation or relationship
5 with any other telecommunications company as either
6 owner, director, stockholder, president, officer?

7 A. All of the above with National Technical
8 Associates and Regulatory Service Company doing
9 business in the state of Washington as well as other
10 states in the western United States. I serve as the
11 director, president and chief executive officer of
12 that corporation.

13 Q. Could you tell me little bit more about
14 National Technical Associates?

15 A. It is an operator service provider,
16 licensed to do business with the FCC and in a number
17 of states. We purchased that corporation on August 14,
18 1992 as previously notified to this Commission in a
19 letter dated somewhere around that time. Mr. Wilson is
20 shaking his head no. He's obviously not aware that this
21 Commission has also asked us for further data requests
22 related to that particular filing so therefore the
23 Commission must have knowledge of the filing.

24 Q. And how many employees does National
25 Technical Associates have?

1 A. I do not know that number at this time.

2 Q. Can you give me an approximation?

3 A. Under 20 but more than 10.

4 Q. And in which states does NTA operate?

5 A. Besides Washington NTA operates in Oregon,
6 Idaho, Montana, Wyoming, Utah, Colorado, New Mexico,
7 Arizona. I believe that's it.

8 Q. What percentage of ownership interest do
9 you have in NTA?

10 A. My -- NTA is wholly owned by the holding
11 company so my percentage ownership in them is the
12 same.

13 Q. In which states does International Pacific
14 operate?

15 A. Washington, Oregon, California, Nevada,
16 Arizona, Utah, Colorado, Idaho, Montana, and Iowa.
17 And I may have missed one or two.

18 Q. How many employees does International
19 Pacific have?

20 A. Approximately 160.

21 Q. And are all of those employees based in
22 Washington or is that throughout all the states in
23 which you operate?

24 A. All but two sales individuals are based in
25 Washington state.

1 Q. Where are those other two located?

2 A. California and Arizona, one each.

3 Q. At page 9, lines 10 through 14 of your
4 testimony you state that you compete with at least 25
5 other AOS companies in Washington. Do you remember
6 that?

7 A. Yes.

8 Q. I believe in a staff data request you were
9 asked to provide the names of the carriers that you've
10 used, competitors. Do you recall your response?

11 A. I do not but I am sure you will remind me.

12 Q. I will be happy to remind you. I will hand
13 you staff request No. 46 and your response. I asked
14 that it be marked for identification as Exhibit 11.

15 JUDGE FOSTER: Identified as Exhibit 11 is
16 request No. 46 and it's dated November 20, 1992. Says
17 provide the names of all 25 or more carriers
18 referenced at page 9, lines 10 and 11 of Exhibit T-3.
19 That is a three-page exhibit.

20 (Marked Exhibit 11.)

21 Q. I do see some handwriting on page 3 of 3,
22 Intellicall Operator Service. I believe that was
23 written by Mr. Wilson.

24 Mr. Soumas, did you recall supplying this
25 or sending this to the staff in response to staff's

1 request No. 46?

2 A. I have never seen this before. If it was
3 prepared on my behalf -- it could have been by someone
4 on my behalf but I have never seen this list before.
5 It doesn't look like something that actually
6 originated from our office.

7 MR. OWENS: Your Honor, I would be happy to
8 stipulate that this was sent by me in response to the
9 request based on a discussion with Mr. Soumas. I
10 don't believe that he actually saw the list in advance
11 of my sending it. As far as I know, it consists of
12 the registered providers of operator services in the
13 state.

14 JUDGE FOSTER: Ms. Brown, I would like to
15 have you, if you're going to submit this, submit a
16 clearer version at a later date or just mail one in
17 but my second page is not really legible, especially
18 at the bottom. Anyway, that's been identified as
19 Exhibit 11.

20 Q. Mr. Soumas, have you had a chance to take a
21 look at this then?

22 A. I just did.

23 Q. And would you in responding to staff data
24 request attach the same list that your counsel
25 attached in response to the request to provide the

1 names of the carriers that you view as competitors to
2 IPI?

3 A. I would not view all of these competitors
4 to IPI. I would consider most of the people on the
5 list to have an inferior product or service in the
6 state of Washington and, therefore, they would not be
7 effective to compete within the state of Washington.

8 Q. With IPI?

9 A. With IPI or with any carrier. They either
10 do not have a network in the state or have an inferior
11 service for the market.

12 Q. Does IPI provide AOS service in jails?

13 A. We do not market to jails. With over
14 20,000 properties on line now it could be very easy
15 that one of my customers has a pay phone in a jail, I
16 would not know that specifically, but we do not market
17 to the jail market nor do we bid on jail properties.
18 We shy away from it due to the fraud.

19 Q. But it's a possibility that IPI phones may
20 be in jails or IPI may be the AOS provider in jails?

21 A. It's a possibility if someone has a pay
22 phone in a jail.

23 Q. And why is it, again, that you would have no
24 knowledge of that?

25 A. Ms. Brown, we have over 20,000 properties

1 on line in my network. I do not have intimate
2 knowledge of where those 20,000 properties may be
3 located. An individual customer with 1,000 phones may
4 have a particular jail site property. I would not
5 have that specific knowledge.

6 Q. Mr. Soumas, would you view Hare Office
7 Products as one of your competitors?

8 A. Sometimes they provide direct AOS services
9 in this state from their phones. I don't consider
10 that part to be the competitive part. However, we do
11 have belief that other individuals are using their
12 tariff within the state of Washington which makes
13 their tariff being used for competitive purposes.

14 Q. Do you view Payline as a competitor?

15 A. Yes.

16 Q. Are they a very strong competitor?

17 A. They are not.

18 Q. I believe that they have taken the position
19 in other proceedings before the Commission that IPI is
20 taking away locations because the rates are a lot
21 higher and therefore you have the ability to pay
22 larger commissions?

23 A. I'm not sure what Payline --

24 MR. OWENS: Excuse me --

25 A. I will answer the question. I'm not sure

1 what Payline's strategic position is. You would have
2 to ask the president of Payline why they voluntarily
3 reduced their rates in the state of Washington.
4 Obviously, they viewed rates not to be an issue for
5 competition or they would not have lowered them. We
6 beat them on service hands down and that's why we have
7 the business we do in the state of Washington but you
8 could ask Mr. Pease why he reduced his rates.

9 Q. On page 10 of your testimony at the bottom
10 of the page you discuss redirecting hundreds of calls
11 per day. Is that hundreds of calls a reference to
12 Washington intrastate calls?

13 A. I do not know at this time the split
14 between Washington intrastate and total company.

15 Q. Do redirects have anything to do with your
16 rates?

17 A. Redirects have more to do with consumer
18 knowledge of access to other carriers. I don't
19 believe consumers have direct knowledge of any
20 particular carrier's rates, ours included. I believe
21 they respond to promotions and advertisements and
22 their own knowledge of that more than they do specific
23 rates.

24 Q. Are your rates the same in all
25 jurisdictions where you do provide service?

1 A. They are not.

2 Q. At page 12, lines 9 through 11 you state
3 that you have files on the rates of a number of your
4 competitors. How long have you been maintaining such
5 files?

6 A. I believe we answered that question in
7 response to a staff data request. If I can find that
8 request I will have the answer for you. Maybe you
9 know the number I could look it up with.

10 Q. 51.

11 A. I will read it to you as stated in the data
12 request response. We said, "Since the company
13 initiated its competitive status efforts in May 1992
14 the company has collected general information which
15 could include rate data, for selected operator service
16 companies within the state of Washington."

17 Q. Is there some reason why you didn't
18 maintain such files prior to May of 1992?

19 A. We have had information of various kinds on
20 file for periods before my tenure with the company.
21 However, it only became important for us to start
22 maintaining them in a comprehensive place where we
23 could find them once we decided to pursue the
24 competitive status filing within the state.

25 Q. At page 14, lines 12 through 17 you

1 testified that you had seen a decrease in the number
2 of redirects. Were you present in the hearing room
3 when we asked Mr. Schrader about the increasing number
4 of complaints against IPI?

5 A. I don't recall any comment about increasing
6 complaints against IPI.

7 Q. What is your recollection?

8 A. Of what, ma'am?

9 Q. Of the testimony.

10 A. I believe Mr. Schrader was referring --
11 the only comments I refer to him making, I believe he
12 was referring to a report produced by the compliance
13 division of this Commission issued for 1991 which was
14 a general report for the telecommunications long
15 distance industry. I don't believe Mr. Schrader has
16 any specific knowledge of IPI's complaint levels as
17 they may be directed at the company.

18 Q. Are you familiar with Dr. Wenders'
19 testimony?

20 A. I am.

21 Q. On page 11, lines 1 through 4, Dr. Wenders
22 testifies that -- and I am quoting here -- "complaints
23 about the operator services industry and the higher
24 prices they charge have both declined significantly
25 since the early days of this industry indicating that

1 market forces are doing their job." And further, in
2 his response to staff's data request No. 21 Dr.
3 Wenders references the Commission's 1991 Consumer
4 Affairs Annual Report stating, beginning of quotation
5 here, "Consumer complaints against all long distance
6 companies, which include in this report providers of
7 operator services including International Pacific,
8 declined 21 percent compared to the previous year.
9 Consumer complaints against International Pacific were
10 down 13 percent compared to the previous year."

11 Do you agree with these comments or is this
12 your understanding?

13 A. Well, I would defer to Dr. Wenders to give
14 you the specifics of it, but our understanding is that
15 in my experience complaints have been on the decline
16 over the past few years since I've joined the company,
17 both the federal and state level.

18 Q. And what about the prices for the telephone
19 calls? Have they gone down at all?

20 A. In most jurisdictions in which we operate,
21 our prices have decreased over the last two years.

22 Q. Is that true in Washington state?

23 A. We have not had a flexible enough tariff in
24 Washington state to reprice our services, which is one
25 of the reasons we're seeking competitive status within

1 the state of Washington.

2 Q. Are you aware that the Commission's
3 consumer affairs section is usually the court of last
4 resort for most complainants and that most
5 complainants, I believe by law, are directed to
6 contact the company as the first contact when an
7 individual has a complaint?

8 A. We publish --

9 MR. OWENS: I'm going to --

10 A. -- our 800 number on all of the bills so
11 that the consumer can identify us. What the
12 Commission's particular practices are, I have no
13 knowledge of.

14 JUDGE FOSTER: Mr. Soumas, your counsel has
15 tried to interpose an objection a couple of times
16 here.

17 MR. OWENS: That's all right.

18 JUDGE FOSTER: I don't mind letting you
19 answer but I'm a little concerned that your signals
20 are getting crossed here. Maybe you should be sure
21 and make sure he isn't making any objection.

22 THE WITNESS: I think he wanted to make
23 sure I was going to say I don't have any knowledge of
24 the Commission practices.

25 MR. OWENS: I wanted to be sure that he was

1 not being asked a question that called for a legal
2 conclusion.

3 Q. Could you describe the typical complaint
4 that IPI would receive, not Commission complaints but
5 complaints that IPI would handle on a day-to-day basis
6 with the end user directly?

7 A. The most common complaint International
8 Pacific receives relates to access. Specifically, it
9 relates to the consumer's knowledge of how to access
10 alternative carriers. AT&T has done a wonderful job
11 of letting the consumer know how to dial another
12 operator service provider but the average consumer is
13 extremely confused by 102880 and getting that right
14 every time. They will miss the 1, miss one of the
15 zeroes and, therefore, they will think there is a
16 problem with the phone when in reality the phone works
17 just fine. The fact is that there's too many numbers
18 to remember for them. So that's our most common
19 complaint.

20 Q. Do you ever receive complaints about the
21 rates charged by IPI?

22 A. Yes, we do.

23 Q. How does IPI handle those complaints?

24 A. We generally do not refund calls because
25 they have been appropriately branded, rated and

1 tariffed. We find most commonly that the rate problem
2 or the rate question is more related to the fact that
3 it's International Pacific on the phone bill than it
4 is the actual level of the rate. For example, we
5 routinely get queries about rates from hospitality
6 locations where the rates are an exact mirror of
7 AT&T's rates but the consumer is not familiar with
8 International Pacific, doesn't tie the company to the
9 bill when he gets it a month later after he stayed at
10 the hotel and so we find that our rate complaints are
11 more tied towards a knowledge of the carrier than they
12 are of the actual level of charge.

13 Q. What is Zero Plus Dialing Incorporated?

14 A. Known in the industry as ZPDI, Zero Plus
15 Dialing is a wholly-owned subsidiary of U.S. long
16 distance. It is a billing aggregating company used by
17 the operator service industry as well as the private
18 pay phone industry for billing calls to end users
19 through the local exchange company's phone bill.

20 Q. Does IPI contract with ZPDI?

21 A. We do.

22 Q. And does ZPDI handle any complaints against
23 International Pacific?

24 A. They are paid a fee to handle inquiries on
25 our behalf.

1 Q. So the inquiries you were just referring to
2 coming from consumers are actually inquiries made of
3 the ZPDI?

4 A. And of International Pacific directly.

5 Q. Both then. Could you please describe the
6 nature of the typical complaint you receive from the
7 Utilities and Transportation Commission's consumer
8 affairs staff?

9 A. I'm not the most qualified to discuss that
10 since I have very little contact with that division.
11 I believe they are infrequent in nature and they are
12 generally related to a posting violation more than any
13 other occurrence, I believe. But there are others who
14 would be more qualified to answer that question within
15 my organization.

16 Q. So you're not of the opinion that the
17 majority of the complaints that the Commission
18 receives involve the rates of IPI?

19 A. I have --

20 MR. OWENS: I am going to object to the
21 form of the question unless a foundation is laid that
22 the witness has knowledge of the type of complaints
23 the Commission receives relating to companies other
24 than IP. If the question is limited to --

25 MS. BROWN: It's limited to International

1 Pacific.

2 MR. OWENS: Thank you.

3 A. Could you restate the question.

4 Q. To your knowledge, the complaints that this
5 commission receives about International Pacific don't
6 involve rates, or at least the majority of those
7 complaints, don't involve the rates charged by
8 International Pacific?

9 A. I do not have full knowledge of what types
10 of rates or other complaints this commission receives
11 and what percentage might be in what mix. I have no
12 basis on which to answer the question.

13 Q. Do you have any idea of the overall number
14 of complaints in 1992 investigated by the Commission's
15 consumer affairs staff involving International
16 Pacific?

17 A. I have no knowledge of that.

18 Q. Would it surprise you that our records
19 indicate that the complaints against International
20 Pacific in 1992 are nearly four times greater than
21 they were last year?

22 A. Well, I would guess I would have to know
23 what basis that is on. First, I would have to know
24 the volume of calls placed in the state in comparison
25 to the prior years so I would have a database to

1 compare to. Second, I guess I would want to know who
2 initiated the complaint, whether it was a commission-
3 initiated inquiry by a traveling commission person or
4 relative thereof, or if this was a true consumer
5 complaint.

6 Q. Is it possible that there is any
7 correlation between or that a correlation exists
8 between the number of decreasing in redirects and
9 increasing complaints?

10 MR. OWENS: Your Honor, I am going to
11 object on the basis that it assumes facts not in
12 evidence, namely that there are, in fact, increasing
13 complaints. The witness has stated he has no
14 knowledge of that.

15 JUDGE FOSTER: Do you want to rephrase the
16 question?

17 MS. BROWN: I am merely asking if it's a
18 possibility that decreasing redirects and increasing
19 complaints may bear a relationship to one another.

20 MR. OWENS: No. It assumes as a fact that
21 there are increasing complaints. The witness has
22 testified that he has no knowledge of that. He can't
23 be asked to determine whether or not a correlation
24 exists between something that is known as a fact,
25 namely, decreasing redirects, and something which is

1 not known as a fact, namely alleged increasing
2 complaints.

3 JUDGE FOSTER: Can you ask the question in
4 the form of a hypothetical as if there were increasing
5 complaints because you may show that at some point in
6 this record or if the record was to establish that.

7 MS. BROWN: Well, we will be submitting
8 testimony on that and proving that there have, in fact,
9 been increasing complaints.

10 JUDGE FOSTER: Well, can you rephrase the
11 question for the witness then.

12 Q. If there were increasing complaints, in
13 your opinion, would it be possible that there is a
14 direct correlation, a relationship, between those
15 maybe increasing complaints and decreasing redirects?

16 A. In the hypothetical world we're painting
17 here I would find it highly unlikely that there would
18 be any correlation between the two matters. The
19 direct decrease in redirects is proportionate to the
20 increase in direct access to alternative carriers from
21 the pay phone. If that individual is dialing directly
22 to the carrier of choice and not hitting our network
23 there is no need for us to redirect the call. I think
24 it's a fairly simple correlation that if one is going
25 up, the other is going to decrease.

1 Q. Dr. Wenders also testified that the higher
2 priced companies such as yours have both declined
3 significantly since the early days of this industry --
4 have declined significantly since the early days of
5 this industry indicating that market forces are doing
6 their job. Do you agree with this statement?

7 A. Yes, I do.

8 Q. Why?

9 A. One doesn't have to look back too far in
10 the history of the industry to see that rates have
11 dropped dramatically in the industry as a whole, not
12 speaking specifically as to International Pacific,
13 which has never been a high rate company in
14 comparison. Most of the customers we currently enjoy
15 in the western United States at one time were
16 customers of ITI. ITI traditionally had the highest
17 rates in the nation, still has the highest rates in
18 the nation but is enjoying a decreasing market share
19 every day as we sit here. Therefore, it seems pretty
20 evident that the consumer is paying less for most of
21 the calls.

22 Q. In several places in his testimony
23 Dr. Wenders suggests that there are plenty of
24 alternatives and choices for end users. On page 32
25 line 8, he states that there are no captives anywhere.

1 What about the person who receives a collect call?

2 MR. OWENS: Your Honor, I am going to
3 object to cross-examining Mr. Soumas on Dr. Wenders
4 testimony. Dr. Wenders is going to be on the stand.
5 He will be available for cross-examination on his
6 testimony.

7 JUDGE FOSTER: I believe the witness
8 indicated some familiarity with that.

9 MR. OWENS: He wasn't even asked -- he was
10 asked if he was familiar with the testimony. Being
11 familiar with it and being asked to stand cross on it
12 are two completely different things, your Honor.

13 JUDGE FOSTER: Ms. Brown.

14 MS. BROWN: Well, I think one of the issues
15 is whether or not there are captive customers in
16 consumers in this industry and whether or not
17 consumers are, in fact, making intelligent, informed,
18 educated choices when they use International Pacific
19 as an operator service provider. For that reason, I
20 think that Mr. Soumas -- I can delete my references to
21 Dr. Wenders' testimony if that will make opposing
22 counsel happy, but I think that I'm entitled to ask
23 these questions about the end user of Mr. Soumas.

24 JUDGE FOSTER: Would you just go ahead and
25 restate the question then without reference to Dr.

1 Wenders' testimony?

2 Q. What about that, Mr. Soumas? Do you
3 believe that when consumers use International Pacific
4 that they are making educated, intelligent, informed
5 choices to use International Pacific?

6 A. They have all means at their disposal to
7 determine who they're using. There's no secret when
8 they're using the International Pacific network.
9 Therefore, I can only assume if they're literate and
10 are smart enough to dial the phone number that they
11 probably know they're on the International Pacific
12 network. Announce it twice, it's posted on every
13 telephone.

14 Q. What about the person who receives a
15 collect call? Could you please describe the choices
16 and alternatives he or she would have?

17 A. Well, when I receive collect calls at my
18 house I generally have two choices, accept or refuse.
19 I'm sure that the end users who receive our calls have
20 the same choice.

21 Q. And those are the two alternatives that you
22 see?

23 A. If there's another, I'm sure we'll discover
24 it at a later date.

25 Q. And for that reason, the fact that they can

1 either accept or refuse you don't view that individual
2 as captive to the operator service provider, i.e., IPI?

3 A. I do not view them as captive.

4 Q. How long does it take to get a bill from
5 International Pacific? Did you say 30 days?

6 A. We bill through the exact same phone
7 systems that AT&T does when they use the LEC bills.
8 So our timing is identical to the dominant carrier,
9 can be as short as 10 days to as high as 45 depending
10 on the timing of the LEC billing cycles.

11 Q. In my scenario where there's an individual
12 receiving a collect call and 30 to 60 days later
13 receives a bill, would IPI offer any options or
14 alternatives for that particular individual?

15 MR. OWENS: Your Honor --

16 A. I believe I stated 45 days and I'm not sure
17 what options you're referring to.

18 Q. Well, I'm just curious as to how IPI would
19 handle -- if that individual were disgruntled and
20 dissatisfied after having received the bill and
21 contacted International Pacific, would International
22 Pacific's response be, You accepted the call?

23 A. I'm unclear as to what the question is in
24 that I do not know what the disgruntled or
25 dissatisfied person might be disgruntled or

1 dissatisfied about. What are you referring to?

2 Q. Rates.

3 A. Rates. Specifically what?

4 Q. High rates.

5 A. Are you referring to the call cost?

6 Q. Yes.

7 A. So we're hypothetically saying that someone
8 calls us within this period of time and has an inquiry
9 about the cost of the call. Is that an accurate
10 statement?

11 Q. Yes.

12 A. It would go into our normal billing cycle
13 or our billing inquiry system. We would see if it was
14 rated properly, which it almost always is. Pending
15 the review of the circumstances with the individual we
16 would probably sustain the charges. However, we do
17 refund charges on occasion. Depends on the individual
18 circumstances.

19 Q. What sorts of circumstances would they be
20 where IPI would refund?

21 A. My personal knowledge where I've been
22 involved has been relatively minor. Where I have been
23 involved personally I can recall one in the last six
24 months where an individual was receiving calls. This
25 individual was foreign speaking. They had incurred

1 about \$70 worth of phone calls from International
2 Pacific. We did re-rate those down to dominant
3 carrier rates for that individual, because we felt
4 that there may have been a communication problem.
5 They may not have had a Spanish-speaking operator at
6 the time. That's just one example. I guess if you're
7 getting at do we feel embarrassed by our rates, we do
8 not. We feel our charges are justified; obviously,
9 therefore, we generally sustain.

10 Q. At page 23 of your testimony, lines 18
11 through 20 you indicate that you believe IPI's quality
12 is enjoyed by end users. By that do you mean that end
13 users you serve are pleased with your service and find
14 it to be a good value?

15 A. Yes.

16 Q. Do you have any evidence to show that end
17 users dial around either AT&T, US West or any other
18 competitor of IPI or otherwise seek access to IPI from
19 locations prescribed to a competitor?

20 A. I believe, again, you're asking verbatim a
21 quote that was previously asked by the data request so
22 if you will bear with me I will try and find my
23 response that we previously provided. If you could
24 point out which request number that was we could find
25 it quickly.

1 Q. 55.

2 A. Is that question C -- the response I
3 believe. The response previously sent to the
4 Commission states, "International Pacific has not
5 claimed that any end users attempt to dial around
6 other carriers to reach the International Pacific
7 network. International Pacific does not market its
8 services in such a way that end users would have an
9 ability to dial around another carrier should they
10 choose. We do not publish a dial-around number nor do
11 we compete directly for the end user customer through
12 that approach. The WUTC request makes an assumption
13 which IPI is not asserting."

14 I will stand by that testimony with one
15 point of clarification. We do not allow casual
16 calling within our network. It exposes us to too much
17 fraud. Casual calling means that from any phone you
18 can reach our network. Our system will only recognize
19 ANI; as previously defined today they are entered
20 into our network. Therefore, it would not be possible
21 for a consumer to dial around any carrier to reach our
22 network unless they were at a phone already prescribed
23 to the International network. If they were at that
24 phone there would be no reason to attempt dial-around,
25 therefore, we do not attempt to market dial-around.

1 Q. Could you please turn to your response to
2 staff's request No. 56?

3 MS. BROWN: Your Honor, I would like to
4 have this marked for identification as Exhibit 12.

5 JUDGE FOSTER: Identified as Exhibit 12 is
6 a response to commission staff request No. 56 and
7 it's dated December 8, 1992. Single-page document.

8 (Marked Exhibit 12.)

9 Q. Are you familiar with this response?

10 A. Yes.

11 Q. And you prepared this response?

12 A. I assisted in its preparation.

13 Q. Could you please read the first four
14 sentences of your response?

15 A. "International Pacific is not seeking
16 competitive status for the purpose of increasing its
17 rates. To the contrary, the more likely event is that
18 we would like the flexibility to be able to tailor our
19 existing rates and programs for the ever changing
20 needs of the consumer market. In most cases, we would
21 like to have the flexibility to provide lower rates
22 from our various programs to the sites within the
23 state of Washington."

24 Did you want me to go further?

25 Q. One more.

1 A. "Most property owners and aggregators
2 within the State of Washington would like to see rates
3 decrease as International Pacific's costs decrease
4 over time."

5 Q. Is there some reason why International
6 Pacific requires competitive status before it is able
7 to decrease its rates?

8 A. In our dealings with this Commission, it
9 has been our understanding that they would accept
10 nothing less than a decrease to a level we would find
11 unacceptably low to remain in business in the state
12 of Washington. There has not appeared to be any
13 middle ground with this Commission. We are not able
14 to, therefore, to marginally reduce our rates to take
15 advantage of or to advantage the consumer without what
16 we feel putting ourselves out of business in the state
17 of Washington. Being in business for a profit we
18 don't choose to go out of business. Therefore, we
19 have not had the flexibility to reduce our rates.

20 Q. What is the rate at which you think that
21 you would be put out of business?

22 A. That is an extremely complicated question
23 in that there are numerous rate programs that we would
24 like to develop within the state of Washington. I do
25 not have the information available with me at this

1 time to discuss that in detail. However, we would
2 find dominant carrier rates as sought by this
3 commission to be at a level that we could not accept.

4 Q. How many rate options are in your tariff to
5 date?

6 A. I believe there are six in the state of
7 Washington.

8 Q. Could you please describe those options?

9 A. Each option is composed of two components
10 that go into the rate of a call. First is a measured
11 service option which has a first minute charge and an
12 additional minute charge. The other component is a
13 fixed charge applied to each call depending on what
14 usage was used to set the call up. The six ranges
15 that we have within our options filed on tariff in the
16 state vary from what used to be an AT&T look-alike
17 product to a higher priced product that we use
18 predominantly for pay phones within the state of
19 Washington.

20 Q. Are there rates in between those two?

21 A. Yes, there are.

22 (Recess.)

23 JUDGE FOSTER: Let's be back on the record.

24 While we were off the record the reporter changed her
25 paper and we're back in business. Go ahead.

1 Q. At page 21, line 10 of your testimony, you
2 describe the situation where US West and AT&T do not
3 have the ability to credit customers for calls which
4 had a service problem prior to the call being billed
5 to the customer. Do you see that?

6 A. Yes.

7 Q. I understand the basis of your statement is
8 your own personal experience there?

9 A. Correct.

10 Q. Is it your understanding that these
11 companies can credit the charge concurrently with
12 billing?

13 A. I do not have knowledge of their specific
14 practices.

15 Q. How do you credit a charge prior to billing
16 at IPI?

17 A. Our billing systems are real-timed in that
18 if a consumer calls back in within the period before
19 the bills are produced on a weekly basis we will back
20 it out of our billing system prior to it ever being
21 submitted so the consumer will never see the original
22 charge.

23 Q. How does International Pacific verify
24 ongoing compliance with the AOS rule 480-120-141?

25 A. As you're aware, that's a fairly

1 complicated rule so there are multiple areas of
2 compliance. We have various internal policies, and
3 customer policies that hopefully afford us to be in
4 full compliance at all times. Specifically, as
5 alleged in the UT docket 92-1340 most of those
6 complaints revolve around posting. With the number
7 of phones we have on line in the state of Washington,
8 it is virtually impossible to assume 100 percent
9 compliance on a daily basis. Any individual can rip
10 the posting off a phone. What we do hope is that our
11 customers will follow the policies we've laid out with
12 them to insure compliance at all times with the rules.
13 We provide cards for all customers. We enforce
14 whether it's a handshake contract or a written
15 contract that they have to comply fully with the rules
16 of the state of Washington and the federal rules if
17 they choose to use our service. We monitor them. We
18 react quickly to any knowledge we receive whether it
19 be from a consumer, a commission, or a customer of any
20 level of noncompliance and we take immediate response
21 to try to come back into compliance.

22 Q. I believe on direct today you indicated
23 that you weren't familiar with some of the complaints
24 that have been filed against International Pacific.

25 MR. OWENS: I am going to object to the

1 form of the question. Question was, was he familiar
2 with the allegations contained in the complaint the
3 Commission itself filed. I don't believe there was
4 any evidence nor has there been a question as to
5 whether he's aware of the contents of the specific
6 complaints filed by others with the Commission.

7 MS. BROWN: That's fine.

8 Q. I just wanted to ask Mr. Soumas if he's
9 aware that the allegations contained in the particular
10 complaint were addressed and raised to IPI many months
11 ago?

12 A. Based on conversations with my staff in the
13 preliminary investigation -- and I'm not sure that
14 we're here today to discuss in detail the complaint
15 that the Commission recently brought since we have
16 seen no discovery at this point in time. We have only
17 received the complaint and its allegation, but based
18 on our initial review our records indicate
19 notification of some of the allegations and immediate
20 response and to our knowledge satisfaction of the
21 resolution of those allegations with the Commission
22 staff, in particular Ms. Stillwell. That is what our
23 records indicate.

24 Q. Are you also aware of an earlier complaint
25 filed by this commission against IPI in 1989 -

1 A. Very passingly.

2 Q. For violations of that rule, the AOS rule?

3 A. Very passingly. I've never read the
4 complaint.

5 Q. Do you have the three minutes for a dollar
6 deal in your tariff, Mr. Soumas?

7 A. Ms. Brown, that would not apply to us since
8 we do not provide three minutes for a dollar.

9 MS. BROWN: I have nothing further.

10 JUDGE FOSTER: Let's take our afternoon
11 break at this time. Let's be off the record and we'll
12 reconvene at 5 to 3:00.

13 (Recess.)

14 JUDGE FOSTER: Let's be back on the record
15 after our afternoon break. I believe we left off with
16 the end of the cross-examination by Ms. Brown.

17 Mr. Soumas, I have some questions for you.

18

19 EXAMINATION

20 BY JUDGE FOSTER:

21 Q. I guess notwithstanding all of your various
22 dockets, this is the first time you've appeared as a
23 witness in one of these hearings?

24 A. We're further along in this one than all
25 the others.

1 Q. We're sort of soon to be in the process of
2 turning this into a cottage industry and I guess that
3 relates to my first question to you and that has to do
4 with the fact that there is a complaint involving over
5 earnings, a complaint case involving compliance with
6 the Commission's AOS rule and this classification
7 proceeding. That's quite an unusual number of
8 proceedings for a company that the Commission
9 regulates. Can you tell me what's going on here?

10 A. Well, I will give my side, and I'm sure the
11 Commission has its side, too. International Pacific
12 originally filed for competitive status, I believe in
13 1989, and after an extended period, I believe well
14 over a year, the Commission denied that status. We
15 had slated for 1992 to be a year where we would refile
16 for that status. We, for lots of reasons, believe
17 that we deserve competitive status in the state. In
18 January, the Commission brought the complaint against
19 us which alleged, among other things, the over
20 earnings. That complaint is obviously ongoing with
21 your involvement. We feel we have a strong position,
22 they feel they have a strong position and you will
23 help us determine that over time. My personal opinion
24 is that the most recent complaint dealing with
25 primarily posting of notices on phones is aimed at

1 trying to thwart our status with this competitive
2 filing and somewhat heavy-handed regulation I guess
3 would be my interpretation.

4 Q. You mentioned the previous proceeding that
5 you had with this commission and I would like to refer
6 you for a minute to docket No. U89-2603 P which was
7 the first classification petition by International
8 Pacific, and the Commission final order on that was
9 issued July 24 of 1990. And in that they went through
10 and analyzed your petition along with that of several
11 other alternative operator services companies, and did
12 an analysis of the aggregator situation and the
13 consumer situation, and apparently because they
14 believed there were not sufficient alternatives or
15 choices available for consumers that, among other
16 reasons, was the reason for denying this petition.
17 I'm sure you've read this order and you're familiar
18 with the analysis in here?

19 A. I have, yes, your Honor.

20 Q. What is different about this petition for
21 competitive classification that you filed at this time
22 that would differentiate it from that previous
23 proceeding and order?

24 MR. OWENS: Your Honor, before the witness
25 answers, I infer, and with great trepidation, venture

1 to ask if I could indicate that my reading of that
2 order is that the Commission just found there wasn't
3 evidence of the alternatives and that evidence should
4 have been submitted. I don't believe that they found
5 that, in fact, there weren't any, and so well --

6 JUDGE FOSTER: Well, they expressed some
7 concern, let's say, about the existence of adequate
8 choices and whether there was a captive consumer in
9 the system. Would that be a more fair statement?

10 MR. OWENS: Yes, your Honor. I just would
11 like to have the witness respond based on that to your
12 question. Thank you.

13 JUDGE FOSTER: All right. Go ahead,
14 Mr. Soumas.

15 A. The original filing occurred well over a
16 year before I joined the company and the Commission
17 ruled almost at the same time I came on board with the
18 company. At that time being a novice in the
19 telecommunications industry, I wasn't even sure what
20 competitive status meant in the state of Washington.
21 I have a much clearer understanding today. The
22 company chose at that time not to appeal the
23 Commission's decision, although there was much
24 rumbling about the office that they felt they had been
25 wronged. We refiled this year because we feel we

1 deserve the competitive status because, as Dr. Wenders
2 will testify much further, feel that there have been
3 further changes since the original filing, not the
4 least of which is the 1990 act passed by Congress, the
5 Telephone Operator's Consumer Protection Act of 1990,
6 or I may be quoting it wrong, but it's the only major
7 act the federal government has ever issued dealing
8 with operator services.

9 In that act there were a number of
10 requirements placed on the site locations, not the
11 operator service company, a distinction that this
12 state seems not to have made, to not allow blocking at
13 the phones, among other things, posting requirements,
14 branding requirements. That has, because of its
15 federal level, has forced the industry, those players
16 in the industry who chose not previously to be up
17 front with their customers, to come more into
18 compliance. And that has helped the competitive
19 status of the industry as a whole. Beyond that AT&T
20 is spending well over \$800 million a year based on our
21 research in advertising to educate the public about
22 alternatives to any carrier whether that be us or
23 others. All of those things going on in the
24 marketplace make us feel that several things have
25 changed since the last time we filed for competitive

1 status.

2 Q. Is it your position then that because of
3 this federal act and your company's compliance with
4 that, whatever that act requires, and I trust your
5 counsel will fill us in on that, that the consumer is
6 more protected now than they were when the first IPI
7 case was issued?

8 A. Yes. Within that act the federal
9 government required the FCC to monitor the operator
10 service industry for a few years. They recently
11 issued their final report to Congress in November of
12 this year, and we would be glad to provide you with a
13 copy of it. Basically they concluded that competition
14 is working, that regulation in the operator service
15 industry is not required beyond that which the act
16 previously described which was posting and branding
17 and free access for the consumer.

18 So at a federal level the issue seems to
19 be, in the minds of the people who regulate us
20 federally, resolved, and competitive status at a
21 federal level has never been a challenge.

22 Q. Also on your current petition for
23 competitive classification, are you relying upon the
24 dial-around phenomenon or can you tell me what role
25 that plays in this current classification petition?

1 A. Well, dial-around is one of the methods by
2 which the consumer can have access to another carrier,
3 and, therefore, it is part of the basis in which
4 competition exists within our marketplace. So, yes, I
5 would say we're relying on it.

6 Q. You've mentioned that AT&T, I believe, has
7 the campaign going on to educate its customers about
8 how to dial around. Do other competitors of AT&T, are
9 they doing the same thing?

10 A. To a much lesser extent. Sprint and MCI
11 are also attempting to educate. The larger people who
12 are attempting to educate the consumer these days are
13 the local exchange companies, trying to educate their
14 customers to use the LEC-issued cards.

15 Q. Taking a look at the commission request No.
16 56, that I believe, was Exhibit 12 -- by the way,
17 before I forget, were Exhibit 11 and 12 offered?

18 MS. BROWN: I can offer it. I would like
19 to move that Exhibit 12 be admitted into evidence.

20 JUDGE FOSTER: What about 11?

21 MS. BROWN: 11 as well.

22 MR. OWENS: No objection.

23 JUDGE FOSTER: Exhibit 11 and 12 will be
24 admitted.

25 (Admitted Exhibits 11 and 12.)

1 Q. I want to direct your attention to the
2 bottom, the last line on the first paragraph which
3 says, "To this end we would like the flexibility to be
4 able to work within a range of rates rather than a
5 specific tariffed rates when negotiating with an
6 aggregator or a hotel location." Is this something
7 that you believe competitive status would give you?

8 A. Yes. My understanding of competitive
9 status is that we could issue price lists rather than
10 request tariffs from the Commission and that if those
11 price lists were not objected to within, I believe,
12 ten days they would go into effect. We looked for
13 that flexibility so that we have more latitude in
14 negotiating with our customers or potential customers.

15 Q. If I gave you an example of a Red Lion in
16 Aberdeen and a Red Lion in Pasco, would it be
17 possible, then, that the consumer in the motel room
18 who uses IPI's services could have a different charge
19 in Aberdeen for the same type of call from a charge
20 that was imposed in Pasco?

21 A. Yes. That is a high probability that it
22 would occur and it would occur predominantly because
23 most hospitality locations as used in your example
24 impose a charge tied to the hotel, which we do not
25 bill.

1 Q. I'm just talking strictly about your
2 charge.

3 A. Our charge, depending on who own those
4 hotels -- your example of two Red Lions would probably
5 be the same charge. Maybe the example of a Red Lion
6 across the street from a Hilton you would probably
7 have different charges for the Red Lion than the
8 Hilton for the exact same service because that hotel
9 chooses a different program, chooses to recover its
10 cost in a different approach from its customers.

11 Q. Do you think this would be confusing to
12 consumers?

13 A. Not being totally qualified to answer that,
14 but I think that consumers experience that within the
15 AT&T environment today versus MCI and Sprint and other
16 carriers, they experience it throughout the United
17 States in virtually every state that they travel to.
18 So I think it's become a part of the consumer's
19 presence and knowledge and I think the consumer is
20 much more educated today than they were five years
21 ago concerning these matters.

22 Q. Looking over your testimony as a whole, I
23 got the impression that part of what you're suggesting
24 is that there's been a change in circumstances in the
25 last two years that you believe the Commission should

1 consider?

2 A. Correct.

3 Q. Does that mean a decrease in complaints
4 about IPI's services?

5 A. Well, we've seen in our in-house complaints
6 a decrease in complaints as a percentage of the
7 volumes we're doing by jurisdiction. Counsel for the
8 other side indicated earlier they are at some point
9 going to admit evidence that we have had a higher
10 number of complaints. Where the source of those
11 complaints is and how that fits into the overall
12 percentage of volume we carry within the state, I do
13 not know because that has not been presented yet.

14 Q. I guess what I'm asking you is, what has
15 changed from the time the Commission issued its order
16 in 1990 in the first classification petition between
17 that time and now that the Commission should consider
18 as a change in circumstances? What's different now
19 from then?

20 A. Dr. Wenders will elaborate on this but, in
21 my view, the biggest changes are consumer awareness,
22 better access, equal access availability within the
23 state of Washington, which has always been at the
24 control of the local exchange company, which allows
25 dial-around to occur. And I think more competitors in

1 the marketplace than there were two years ago.

2 MR. OWENS: Your Honor, if I may, your
3 question in part I think is directed to counsel as
4 well, and I would simply represent that we have
5 introduced evidence that we believe is responsive to
6 that which the Commission said was not introduced in
7 the prior case, namely the actual extent to which
8 people used their dial-around alternatives at pay
9 phones that are nominally prescribed to International
10 Pacific. And that doesn't necessarily represent a
11 change of circumstance as much as a response to what
12 the Commission characterized as a lack of evidence in
13 the record of that prior case.

14 JUDGE FOSTER: Thank you. Will you be
15 putting in a copy of IPI's tariff?

16 MR. OWENS: We would be happy to supply
17 that, your Honor.

18 JUDGE FOSTER: I don't necessarily need it
19 today but perhaps you could send it in by mail and we
20 will put it in the record next time.

21 Q. Just a question about the Commission staff
22 reference to complaints about IPI. When that occurs,
23 I assume that you know about the same complaints
24 they're receiving; is that correct?

25 A. I believe they notified our department when

1 they receive them.

2 Q. Are you familiar, then, when a complaint
3 comes into the Commission, do you know about it also
4 as a matter of procedure within your company?

5 A. I personally wouldn't know about it, no.

6 Q. Do you have someone designated in your
7 chain of command or your company organization that's
8 responsible for regulatory complaints?

9 A. Well, that's two questions or two answers
10 to that. We have an individual besides myself who has
11 responsibility for regulatory complaints from a
12 strategic standpoint and a more micro basis but we
13 handle inquiries and complaints within the customer
14 service department, which is at a lower level within
15 the organization. Those people follow fairly
16 standardized procedures that have been developed to
17 insure compliance with regulation.

18 Q. Looking at page 3 of your testimony, the
19 second or the third -- it's down about line 13, 14,
20 you said that blocking is not allowed. What steps --
21 I know that the AOS rule that the Commission
22 instituted talks about what to do in a situation where
23 blocking occurs, but as a practical matter, can you
24 tell us in the last, say, year, how many situations
25 there have been where you've terminated service

1 because blocking was going on?

2 A. We have never found a customer who had the
3 ability to unblock who wasn't willing to do it. All
4 of our customers have been willing to comply with the
5 law when it's been pointed out that they had a
6 blocking problem. We have not found customers who are
7 wantingly and knowingly violating the law and
8 therefore they don't challenge it; they comply.

9 Q. So it's more of a matter if it happens to
10 occur it's usually because they don't know about it
11 and you assist them in removing whatever was causing
12 the blocking problem in the first place?

13 A. Correct.

14 Q. You had as an exhibit this morning a copy
15 of the Pay Telephone Service Agreement from NCS
16 Telework. Have you brought with you today or do you
17 have available any of the agreements that you use with
18 your aggregators?

19 A. Most aggregators within the state of
20 Washington are either under a verbal handshake
21 agreement or under a letter of understanding
22 agreement. We do not have formal contracts. It has
23 been our business philosophy to not tie our customers
24 up with contracts. We would rather tie them up with
25 high quality service.

1 Q. Looking at page 8, you talk about providing
2 rate quotes and I guess I will ask the same question
3 that I asked some of the earlier witnesses. If you
4 would describe whether or not IPI has what's referred
5 to as a site charge.

6 A. We do not impose what is known as a site
7 charge. Our tariff within the state is known as what
8 we call a retail rate tariff where what you see in the
9 tariff is exactly what the consumer will be charged.
10 No additional charges will be added to it nor can any
11 deductions be made from it. So when you look at our
12 tariff for Washington state you will see exactly what
13 the consumer will pay.

14 Q. One of the earlier witnesses referred to, I
15 believe it was Mr. Coulson, he talked about shared
16 revenues, a charge plus the actual costs for the call.
17 Does that comport with your understanding of how this
18 works?

19 A. Our relationship with Mr. Coulson's
20 company, Digital Access, spans three or four states
21 now. For calls carried within the state of Washington
22 we have agreed to a level of revenue sharing. How
23 that works is we charge the consumer the exact tariff
24 rate. From those monies we collect we pay him a fixed
25 amount per call. That is the amount he was referring

1 to earlier within the state of Washington. We have
2 different relationships with him in other
3 jurisdictions.

4 Q. I see. How is that amount per call
5 determined then again?

6 A. It is negotiated with his company and our
7 company based on the level and volume of traffic he
8 sends us, the type of traffic, i.e. local intraLATA,
9 interLATA. There are a number of variables that go
10 into pricing the revenue sharing.

11 Q. What would be the lowest charge per call
12 and what would be the highest charge per call?

13 A. As far as the end user charge?

14 Q. Well, you're talking about two pieces of
15 it. One is the actual cost for the call and the other
16 is another charge that you define.

17 A. Well, within the state we only had the
18 actual charge per call, so for every carrier who
19 chooses to use the option that Mr. Coulson's business
20 is on the charge would be the same to the end user.
21 The amount we share with that particular customer is
22 dependent on our arrangement with him and that is
23 dictated by the volume of calls that he places through
24 our network.

25 Obviously, the more favorable his traffic

1 flows are, the larger his volumes are and our network,
2 the more likely we are to pay him a high revenue
3 share.

4 Mr. Coulson's particular charge that we pay
5 him or his particular sharing would be at the top of
6 the spectrum because of he's one of our largest
7 customers.

8 Q. If a dial-around situation occurs, is the
9 customer or the consumer who is dialing around charged
10 for that at all?

11 A. Not by us. The way that dial-around works
12 from an equal access phone, the consumer dials an
13 access code into the telecommunications network.
14 International Pacific would never be involved in that
15 call. We would never see it. So we would basically
16 have no knowledge that that call occurred from that
17 individual site.

18 Q. Does that cause your revenues to decline?

19 A. Theoretically if that call had been carried
20 on our network we would have had the opportunity to
21 have billed it, so it's an opportunity lost.

22 Q. But you haven't noticed any decline in
23 revenues as a result of this dial-around phenomenon?

24 A. No, we have noticed a substantial decline
25 in revenue as a result of dial-around. As dial-around

1 has become more prevalent in the industry we have seen
2 the average revenue per phone decrease over the past
3 two years.

4 Q. Tell me about that decrease, then, like in
5 the last two years. Do you have some definite figures
6 about the decrease it's been?

7 A. I will quote some statistics that will be
8 close but don't hold me to them. In 1990 we averaged
9 in operator service revenue around \$270 per phone per
10 month. In 1991 that average fell to around \$225 per
11 phone per month. In 1992 it's down to around a little
12 under \$200 per phone per month.

13 Q. Is this due primarily to dial-around?

14 A. Primarily to dial-around.

15 Q. On page 9 of your testimony you talk about
16 operators. Are these operators, is this a live person
17 on the other end of the line or do you ever use like a
18 voice mail-type operator service?

19 A. We have automated and live operators.

20 Q. Is there some way --

21 A. On page 9 looking at it here it discusses
22 rate quotes. This looks like we're referring here to
23 all live operators. We don't give automated rate
24 quotes.

25 Q. Is there a way for a consumer to reach a

1 live operator 24 hours a day?

2 A. Yes. We have a 24-hour-a-day full-time
3 operator service center which is constantly staffed
4 and any phone within our network by walking up to the
5 phone and punching zero you will get one of our lovely
6 ladies or gentlemen on the line.

7 Q. You were here during Mr. Coulson's
8 testimony?

9 A. Most of it. I missed the beginning of it.

10 Q. Okay. Well, he testified what I understood
11 to be something where there's a variable rate to
12 aggregators. If you take aggregator A and aggregator
13 B and they're both pretty much the same, would their
14 rates always be the same or would they vary or how
15 does that work?

16 A. He may have been -- and we may need
17 clarification here -- referring to sites themselves
18 that he may pay a different variable commission to.
19 When they negotiate for a site, let's say a 7-Eleven
20 versus a Quick Stop, the 7-Eleven chain guy may say, I
21 want 35 percent of the call revenue or I won't do
22 business with you whereas the Quick Stop guy says to
23 Dave, I will take 25, and I will be happy to take it.
24 So it depends on the level of sophistication or
25 knowledge that that individual site owner has. And I

1 think the trend over time has been for those rates to
2 increase to the site owners as they have become more
3 sophisticated in having enjoyed the fruits of
4 competition.

5 Q. Does that change the amount that you're
6 collecting from the consumer at that --

7 A. We are not a party to their individual site
8 agreements so we basically have no knowledge of what
9 they have negotiated with an individual site.

10 Q. At page 15 of your testimony on the top
11 portion where you talk about informed consumers, what
12 about those individuals who are for whatever reason
13 not aware of AT&T's campaign? You're very aware of it
14 because you're in the telecommunications industry but
15 for a lot of people what's going on with their
16 telephone is not necessarily -- occupies a lot of
17 their attention. So, if they don't know about
18 dial-around, how are their choices increased or
19 enhanced or any different than they were say two to
20 four years ago?

21 A. Well, all phones in the United States now
22 that the federal act has been passed are required to
23 post the carrier. All phones are required when they
24 go to an operator service provider to brand the call
25 twice during the call setup. So the consumer has at

1 least three chances to figure out who he is dealing
2 with, which is probably more choices than he gets in
3 most other competitive environments. The fact that
4 there may be still be consumers out there who are
5 confused by this I think can't be disputed. To what
6 level that still exists and how pervasive it is in the
7 marketplace, I do not know. There are still pay phone
8 companies that we find on occasion who are still just
9 collecting the coin out of their phone and don't even
10 have a relationship with an operator service company.
11 So I mean there are all different levels of people in
12 this industry as the competition expands and different
13 levels of sophistication.

14 Q. Down on the bottom of page 15 you talk
15 about customers saying that they choose your company
16 because of its high quality and unique services. What
17 kind of unique services are you referring to there?

18 A. As alluded to earlier today in
19 Mr. Schrader's and Mr. Coulson's testimonies, and you
20 can get testament from most of our other customers, we
21 are very proactive in our management of our customer's
22 business. We treat our customers' businesses as we
23 would if we owned it ourselves, and therefore we play
24 the shepherd I guess to a large extent. We want to
25 make sure their phones are working correctly,

1 accurately and timely. And to that end we have
2 developed some fairly sophisticated internal systems
3 that monitor these phones on a regular daily basis
4 where we can report back to our customers when they're
5 having problems with their phones or when one seems to
6 be working too well which could indicate fraud. We've
7 really spent a lot of time with our customers to
8 identify their needs and have then developed systems
9 to fill those needs. Refunding is another area that
10 they all want us to do for them.

11 Q. You've talked about the price list as an
12 advantage for being classified as competitive. What
13 other specific things would a competitive status
14 enable IPI to do?

15 A. I'm glad you asked that. We're seeking it
16 for the ability to expand services and products. We
17 would like to be able to bring products like voice
18 messaging to the market without going through a long
19 tariffing process. We're not sure how well or not it
20 would be received. But we would like to go through
21 it without the added legal cost on top of it. We've
22 experimented with coin control products. That means
23 that you walk up to a pay phone, you put in 65 cents,
24 the phone eats your money and you'd like it back, most
25 of these phones that our customers use are smart

1 enough now that we could call that phone back, tell us
2 how much money the guy put in it, it would tell us if
3 it gave it back. If it didn't, we could release the
4 money from operator center. That's a product we would
5 like to bring to the market. There's a substantial
6 cost, too, in the development of that product and we
7 would obviously want to recover the cost from that
8 customer.

9 Under our current approach we have to go to
10 a tariff for it and explain to the Commission why
11 we're doing it and why that's a benefit to the
12 consumer. We feel we are in a better position to do
13 those things in a competitive environment. We are
14 better qualified because it's our business to make
15 those determinations and that these types of products
16 are just some of the things that a competitive market
17 will bring to the consumer in the long run if allowed
18 to work its way through.

19 Beyond that we feel that the accounting
20 requirements of competitive companies are whole
21 nonsense for the type of industry we are. They were
22 developed for companies in the local business. If you
23 read the rules for who complies with the accounting
24 requirements of this commission would purport we
25 should follow they are based on the number of lines

1 you have installed, that being over or under 10,000.
2 We have zero installed but for some reason doesn't
3 mean we're out of the rules in this state although it
4 does in every other jurisdiction. We would like to
5 get out of that. We feel it's a burden on us that we
6 feel is an unnecessary expense.

7 Beyond that we feel that competitive status
8 would be a reflection of the reality in the
9 marketplace and it would allow us much more time to
10 devote to production of development resources and
11 less time to devote to time spent in rooms like this.

12 Q. With regard to your comment about
13 development of new products, out of the total cost to
14 develop and market a new product what percentage of it
15 would you say is attributable to dealing with the
16 costs of regulation?

17 A. 20 to 25 percent. That's assuming a smooth
18 one.

19 Q. Your petition asks for waiver of 480-120, I
20 think it's 031. It's the Commission's accounting
21 rule; is that correct?

22 A. That is correct.

23 Q. And that's all you wanted to ask for in a
24 way of a waiver at this time. Last time when you
25 filed for your petition, you asked for a waiver of a

1 whole lot of rules. Why is there the difference?

2 A. I wasn't involved in the first waiver but
3 reading through the AOS rules I have some differences
4 in how I would like to see them done, but nonetheless
5 those are the rules of the land at this time. The
6 only one that I find really somewhat nonsense is the
7 accounting rules and again the accounting rules as are
8 prescribed for under part 32 really mean nothing
9 to anyone who monitors the operator service industry,
10 and in our opinion should a regulatory body choose to
11 try and follow those rules and apply that approach to
12 our business they will come up with rules that are
13 meaningless for regulatory purposes as well. That's
14 obviously a difference of opinion between us and the
15 Commission, but that opinion we have may be different
16 with this commission but it's identical to virtually
17 every other commission in the United States so we
18 don't think we're on completely unstable grounds.

19 Q. Do you by any chance have a copy of your
20 petition with you?

21 A. I'm sure my counsel does.

22 MR. OWENS: I do.

23 Q. Ask you to take a look at page 5. Actually
24 it starts at page 4. You're talking about the ability
25 of alternative providers to make equivalent services

1 available at competitive rates, and on page 5 right at
2 the end of that section, you say, "Other AOS provider
3 services are also readily available because callers
4 that decide not to use one of the array of providers
5 described above that are accessible via an access code
6 or 800 number on a pay telephone can easily in most
7 situations find a pay telephone prescribed to a
8 competing provider to IPI nearby." My question is if
9 you're up on top of Bluett Pass and there's a pay
10 phone out in front of the only cafe up there there's
11 not another competitive alternative available to you.

12 A. Probably not for lunch or for a pay phone.

13 Q. That's true.

14 A. So the comment was meant to be somewhat
15 broad. If you looked at the demographics of the over
16 5,000 phones we have in the state of Washington you
17 would probably find within a few blocks of a vast
18 majority of those phones a competitive pay phone
19 prescribed to another carrier but it is not meant to
20 cover all circumstances.

21 Q. Or all the state?

22 A. Yeah, or all the state. Regulated
23 competitive or noncompetitive it is not a perfect
24 world.

25 Q. With that observation then I will turn you

1 back to Mr. Owens. Do you have redirect for this
2 witness?

3 MR. OWENS: Very brief, your Honor.

4 Pursuant to stipulation of counsel, in
5 light of some questions by Ms. Brown concerning
6 Exhibit 11 and specific companies that Mr. Soumas
7 meant in his testimony at page 9, I would offer to
8 file as a late-filed exhibit a copy of Exhibit 11 with
9 the specific companies that he meant in that reference
10 indicated with a checkmark, just so the record doesn't
11 contain any implication that IPI responded in a
12 misleading fashion. That wasn't the intent. And if
13 there is a fault there it's mine and I believe that's
14 an agreeable stipulation.

15 JUDGE FOSTER: Ms. Brown, is that
16 acceptable to you?

17 MS. BROWN: Fine. I still will provide you
18 with a complete copy, good copy.

19 REDIRECT EXAMINATION

20 BY MR. OWENS:

21 Q. Mr. Soumas, you were asked during
22 cross-examination by the staff counsel about whether
23 IPI provides three minutes for a dollar, and you
24 indicated that wasn't in your tariff. Could you
25 elaborate on why that isn't in your tariff?

1 A. Our tariff is an operator service tariff
2 and does not cover one plus calling. When someone
3 uses three minutes for a dollar from a phone, as
4 Mr. Coulson identified earlier, basically they're
5 dialing a one plus call from the telephone using coin.
6 That would be carried on the network of the carrier
7 Mr. Coulson chooses as his one plus carrier and would
8 either be covered in their tariff or in some coin
9 tariff he has on file. Would he be regulated, which I
10 don't believe he is by the state -- maybe I'm wrong --
11 so the question is a valid question but applied to the
12 wrong person.

13 Q. And finally, Judge Foster asked you a
14 question about what happens when an aggregator has a
15 problem of blocking of access and you indicated that
16 it's IP's policy to assist and to date you haven't
17 found anybody that's refused to unblock if they have
18 the ability to unblock. Are there situations where
19 due to the limitations of the central office that
20 serves a particular aggregator, particular kinds of
21 access may not be able to be transmitted through to
22 the preferred carrier?

23 A. Yes. Access blockage can occur routinely
24 in unequal access carriers where a ten triple X code
25 will not work. Beyond that we experienced times where

1 there are network outages across the United States
2 where an 800 number won't work. That's a problem. A
3 consumer will go to a phone, dial his 800 number,
4 didn't go anywhere and thinks it's the phone. Tries
5 again about two hours later and it works. Nothing
6 changed with the phone but the network is back up
7 again. There are a number of things that can happen,
8 it happens at US West and and AT&T phones. It's
9 not unique to International Pacific or any alternate
10 service provider.

11 Q. What does IP do when it encounters a
12 situation where it has received a complaint of
13 blockage, either from a consumer directly or from the
14 Commission's consumer complaint organization that
15 access has been blocked and you determine that it is
16 either a nonequal access area or a 10 XXX code was
17 attempted or one of these situations where an 800
18 number was dialed and the 800 system was not operating
19 at the time?

20 A. We will do a full investigation of the
21 blocked access. The first step is to make sure that
22 the consumer indeed dialed it correctly. I would say
23 we dispose of well over half of them due to dialing
24 errors, a misunderstanding on the consumer's part as
25 to how to reach the alternate carrier. For those

1 portions that appear to be an outage problem or
2 blockage problem we will go further to make sure the
3 phone is either unblocked or if it can't be unblocked
4 because it's in an unequal access area there's not
5 much we can do with it at that point.

6 Q. Do you in those situations respond to the
7 Commission and indicate that to the best of your
8 knowledge this is a problem that's beyond the ability
9 of either IP or the aggregator to correct?

10 A. That is our policy and I hope that it is
11 being complied with.

12 MR. OWENS: Thanks, nothing further on
13 redirect.

14 MS. BROWN: Nothing more.

15

16 EXAMINATION

17 BY JUDGE FOSTER:

18 Q. I have one more question that I forgot to
19 ask you before, and that was there was reference to
20 decrease in redirects. Would you define that for me,
21 please?

22 A. Surely. When a consumer goes up to a phone
23 on the International Pacific network it is not
24 uncommon for them to simply dial zero and wait for an
25 operator to come on to a system. When that consumer

1 comes on and the impact of the brand sinks in, they
2 say, gee, I really wanted an AT&T operator. My mom
3 will really get mad at me if I use anybody else. So
4 they say, How do I get to AT&T? Our first choice, or
5 our first preference is to make this as easy on the
6 consumer as possible. A number of the phones in our
7 network support what is known as redirect. What we're
8 able to do is send a message back down through the
9 telecommunications network to that phone which will
10 automatically access AT&T for the consumer, therefore
11 not forcing them to have to dial 10288 or understand
12 exactly what all of this means. That is what redirect
13 is.

14 As AT&T and others have marketed their
15 dial-around access the consumers are becoming more
16 knowledgeable that they don't need to access our
17 operator center to get to AT&T so they do it directly.
18 Therefore, we see a proportionate decrease in the
19 redirects that we initiated.

20 Q. Thank you.

21 A. Another point that competition must be
22 working.

23 JUDGE FOSTER: Anything else for this
24 witness?

25 MR. OWENS: I have no further redirect,

1 your Honor.

2 MS. BROWN: No, your Honor.

3 JUDGE FOSTER: I'm sure I will have more
4 questions about this when it comes time for rebuttal
5 so I assume you will be around at rebuttal time, too?

6 THE WITNESS: I think this is getting into
7 my job description more and more.

8 JUDGE FOSTER: If I think of anything
9 between now and then, I will know who to ask.

10 THE WITNESS: I would like to thank you for
11 the opportunity to testify here today and to thank the
12 staff for their help on the competitive filing.
13 And I'd like to invite you over and if it's within the
14 rules -- I'm not sure, my counsel hasn't told me --
15 for you to visit us and see how our operations work.
16 They say a picture says a thousand words and I think
17 you would find that the case in our business, so if
18 you would ever like to come see us, feel free.

19 JUDGE FOSTER: Witness may be excused.
20 Let's be off the record while the witnesses change.

21 (Recess.)

22 JUDGE FOSTER: Let's be back on the record.
23 While we were off the record the next witness has
24 taken the stand. Before I swear him in, Mr. Owens,
25 did you want to reserve the next number for -

1 MR. OWENS: Yes, your Honor. I would like
2 to reserve Exhibit 13 as a late-filed exhibit to
3 consist of a modified version of Exhibit 11, the
4 modification to consist of checkmarks designating the
5 companies that Mr. Soumas would have orally stated
6 were the companies on that list that he had outlined
7 in page 9 of his testimony when he testified he
8 competed with 25 or more operators of services or
9 alternative service operators in this state.

10 JUDGE FOSTER: Any problems with that,
11 Ms. Brown?

12 MS. BROWN: No problems.

13 JUDGE FOSTER: We will reserve Exhibit 13
14 for that exhibit.

15 Whereupon,

16 JOHN WENDERS,
17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19 MR. OWENS: My understanding is this part
20 of the record will be incorporated in both dockets so
21 I am going to ask the foundation questions in both
22 dockets.

23

24 DIRECT EXAMINATION

25 BY MR. OWENS:

1 Q. Dr. Wenders, please state your name and
2 address for the record.

3 A. My name is John T. Wenders, W E N D E R S.
4 Reside at 2266 Westview Drive in Moscow, Idaho.

5 Q. Are you the same John T. Wenders that has
6 cause to be prefiled in these dockets specifically
7 920546 and 920632 documents that have been identified
8 in each one as Exhibit T-4 and Exhibit 5 consisting of
9 prepared direct testimony and your curriculum vitae?

10 A. That is correct.

11 Q. And were these documents prepared by you or
12 under your direction and supervision?

13 A. Yes, they were.

14 Q. Do you have any additions or corrections to
15 these documents?

16 A. No. I only found a couple of typographical
17 errors and they were obvious. I don't think it's
18 worth wasting time on.

19 Q. If I were to ask you the questions set
20 forth on Exhibit T-4 in both dockets, would your
21 answers be as set forth therein?

22 A. Yes.

23 Q. And are the exhibits true and correct to
24 the best of your knowledge and belief?

25 A. Yes, they are.

1 MR. OWENS: Your Honor, I have no further
2 questions of Dr. Wenders. Pursuant to prior
3 stipulation, the cross-examination of him will be
4 incorporated in both records. I would offer Exhibits
5 T-4 and 5 in both dockets and he is available for
6 cross-examination.

7 MS. BROWN: No objection.

8 JUDGE FOSTER: All right then. Exhibits
9 T-4 and Exhibit 5 will be admitted in both the IPI
10 petition and the Paytel matter.

11 (Admitted Exhibits T-4 and 5.)

12 JUDGE FOSTER: Ms. Brown, do you want to go
13 ahead with your questions?

14

15 CROSS-EXAMINATION

16 BY MS. BROWN:

17 Q. Dr. Wenders, at page 9 of your testimony at
18 line 5 you state, "The initial high prices in the
19 operator services market were better explained by the
20 fact that this market was in short run
21 disequilibrium." Do you see that?

22 A. Yes.

23 Q. Would you accept, subject to check, that
24 International Pacific was authorized to operate as a
25 telecommunications company in Washington on

1 September 1, 1988?

2 A. Subject to check.

3 Q. Would you also accept, subject to check,
4 that since filing an initial tariff effective
5 September 26, 1988 International Pacific has not
6 reduced its rates under rate option C, the option
7 chosen by NCS Teleworks and Digital Access, who are
8 also -- the company is represented by Mr. Schrader,
9 Mr. Coulson who were also witnesses in this case?

10 A. That's my understanding.

11 Q. At page 11 of your vitae it says that you
12 presented testimony on behalf of, among others,
13 Central Corporation; is that right?

14 A. That is correct.

15 Q. Would you accept, subject to check, that
16 you presented that testimony on Tuesday, August 9,
17 1988 before the Florida Public Service Commission?

18 A. You could be right.

19 Q. I will even give you the docket number.

20 A. I gave you the docket number.

21 Q. 871394-TP. Purpose of that proceeding was
22 to review the requirements appropriate for alternative
23 operator services and public telephone in the state of
24 Florida; is that right?

25 A. I believe so.

1 MS. BROWN: Which exhibit are we at?

2 JUDGE FOSTER: Next exhibit will be 14.

3 JUDGE CLISHE: In the Paytel matter it will
4 be Exhibit 6.

5 JUDGE FOSTER: Identified as Exhibit 14 in
6 the IPI case and Exhibit 6 in the Paytel matter is a
7 multi-page document and it's docket No. 871394 In The
8 Matter of Review of the Requirements Appropriate for
9 Alternative Operator Services and Public Telephones.
10 And this is before the Florida Public Service
11 Commission.

12 (Marked Exhibit 14.)

13 Q. Dr. Wenders, I just handed you what's been
14 previously marked for identification a copy of
15 portions of the transcripts from the Florida
16 proceeding. Would you please turn to page 264?

17 A. Mine only goes to -- 254 hand-lettered or
18 typed? Mine only goes to 124.

19 Q. It would be hand-numbered.

20 A. Well, mine is chopped off on a lot of them.

21 Q. (Indicating.)

22 MS. BROWN: Have you found it?

23 JUDGE FOSTER: No.

24 MS. BROWN: Third page in, back side. Tom
25 has written 4 at the top. Right there (indicating).

1 JUDGE FOSTER: The record should indicate
2 that this is the third page in from the front of the
3 document and it's designated with a 4 at the top.

4 Q. Could you please begin reading at line 8
5 and read through to the word "disequilibrium" on line
6 25, please.

7 MR. OWENS: Well, your Honor, if this is
8 going to be made an exhibit, it seems duplicative to
9 have the testimony appear three places, once in the
10 exhibit and in two transcripts.

11 MS. BROWN: That's fine. I will just
12 introduce it then.

13 MR. OWENS: I thought that was the purpose
14 of it, if it's marked or at least it's got the legend
15 for an exhibit. I am just trying to speed the process
16 up.

17 MS. BROWN: That will be fine. I ask that
18 these exhibits and these respective documents be
19 admitted, please.

20 MR. OWENS: Has it been established that
21 they actually accurately reflect the testimony?
22 That's all that I'm concerned about.

23 Q. Dr. Wenders --

24 A. What?

25 Q. -- is this transcript of the proceeding

1 before the Florida Public Service Commission, does it
2 accurately reflect your testimony during -- during
3 that proceeding?

4 A. I just don't know. I mean, I've testified
5 100 times, and besides it says at the top of the page
6 "redirect Freeman." Now, I can look that over and see
7 if I agree with it and I did glance through it, and
8 that's something I could have said, but I can't -- I
9 don't know how good your memory is, you're a lot
10 younger than I am, but I can't remember all of this
11 stuff. It says "Freeman" at the top of it and Katie
12 Nichols said Okay, proceed, John T. Wenders, that
13 sounds right. And it sounds to me like somebody is
14 summarizing testimony here and it sounds like
15 something I would have gotten but what has got me
16 confused without looking at the whole thing it says,
17 "Redirect,
18 Mr. Freeman" at the top and then, "Direct Wenders."

19 Q. Okay. What I propose, then, is to get a
20 complete copy of the transcript so that you would be
21 able to satisfy yourself that --

22 A. Well, let's proceed as if I said this.
23 You're asking me to do something fast.

24 JUDGE FOSTER: Ask him to accept it subject
25 to check.

1 MS. BROWN: For purposes of authentication
2 it's sort of difficult.

3 JUDGE FOSTER: You have the original
4 document?

5 MS. BROWN: Do we have it?

6 MR. WILSON: This is what Florida sent me.

7 MS. BROWN: Yeah, this is portions.

8 Q. Dr. Wenders, how much time would you need
9 to review this transcript to satisfy yourself that the
10 testimony herein is yours?

11 A. Let me just look quickly over it. The
12 pages 4 and 5 that you have before me, I agree with
13 what's on page 4 and 5. Whether I said them or not I
14 don't know but it sounds like something I might have
15 said.

16 MR. OWENS: Is that sufficient?

17 MS. BROWN: No, I'm not satisfied with that
18 response because there are other excerpts from this
19 testimony before the Florida Commission that I would
20 like to rely upon in this proceeding and to have him
21 say that it looks like something I may have said but
22 I'm not certain doesn't satisfy me.

23 A. I will adopt it. How does that sound? I
24 will adopt that as my testimony in this proceeding.

25 Q. Fine.

1 MS. BROWN: Your Honor, I can proceed with
2 questioning and I can get a complete copy of it.

3 JUDGE FOSTER: All right. If that would be
4 satisfactory to counsel, why don't you go ahead with
5 your questions on it and work it out off the record as
6 far as verifying that this testimony is accurately
7 presented here in what's identified as Exhibit 14.

8 Q. Dr. Wenders, subject to check in your
9 testimony before the Florida Commission, you stated
10 that a short run disequilibrium explains the existence
11 of high prices in the marketplace in 1988. Do you
12 recall that testimony?

13 A. Yes.

14 Q. Would you agree that a proper definition of
15 the term short run would be the time needed for the
16 entry of capacity to occur?

17 A. That depends on whether you're talking
18 about the supply or the demand side. In the short run
19 here I'm sure I'm talking about both. There's a short
20 and a long run in both the supply and demand sides of
21 the market. I believe here in this context I'm
22 talking about both but if you're going to talk about
23 it on the supply side, then it's as you state it. In
24 standard economic language, usually you say short run
25 is a period of time during which capacity is fixed and

1 you don't have entry or exit, but you also may have
2 short run on the demand side during which consumers
3 can display their ability to search for alternatives,
4 too, and that's why when you start talking about
5 relative markets you look at both the supply and the
6 demand side of the market place.

7 JUDGE FOSTER: Ms. Brown, I hate to
8 interrupt but it appears that Judge Clishe and I have
9 have different copies of Exhibit 14 and it has
10 something to do apparently with different order of
11 pages. Let's be off the record for a minute while we
12 try and sort this out.

13 (Discussion off the record.)

14 JUDGE FOSTER: Let's be back on the record.
15 While we were off the record we had a discussion
16 concerning the order of pages in Exhibit 14 and I
17 believe both Judge Clishe and I now have pages in
18 the same order. Ms. Brown, do you want to go ahead?

19 MS. BROWN: Thank you.

20 Q. As part of the questioning that took place
21 in this Florida proceeding, you were asked how long
22 the short run disequilibrium could be expected to
23 last.

24 MR. OWENS: Is there a reference to a
25 particular page?

1 A. Where are you?

2 MR. OWENS: Does the witness have a copy of
3 the document?

4 Q. Page 361 to 62.

5 A. What is it in hand numbers? Mine is
6 chopped off.

7 Q. 101, 102.

8 A. I have 101, 102. Where are you?

9 Q. At the bottom of the page on 25, one of the
10 commissioners.

11 A. Right.

12 Q. How long is the short run disequilibrium
13 going to last. And as I read your testimony in this
14 proceeding you indicated that it would not last
15 particularly long. I think you used the phrase
16 "pretty fast" and agreed on page 364 that a year or
17 less would not be outlandish, I believe was the word
18 you chose?

19 A. Well, I have to look and see what the
20 context of this is here. I mean, if you're talking
21 about a situation on one side of the market or the
22 other, I would have to see how the Commissioner was
23 phrasing the question. I mean, you're yanking
24 something right out of the middle of testimony. I
25 would be glad to answer the question in this

1 proceeding. Why don't we do that instead of me trying
2 to answer the question in another proceeding.

3 Q. I've already indicated what the question
4 was.

5 A. How long was the short run disequilibrium
6 going to last. That's what Commissioner Herndon asked
7 me.

8 Q. Just above that you were talking about the
9 short run disequilibrium to explain the existence of
10 high prices in the marketplace.

11 A. That's right. And I think that's correct.
12 I think at that time and maybe even still at this time
13 but certainly at that time the operator services
14 companies were just getting going, in my view, at that
15 time. But prices were still coming down at that time.
16 Now, that's one side of the market.

17 Q. Are you aware that the Florida Commission
18 ultimately adopted a rate cap approach for AOS in
19 Florida?

20 A. No.

21 Q. Would you accept, subject to check, that
22 the Florida rate cap is similar to the one adopted in
23 Washington in July of 1991?

24 A. I will accept anything subject to check.

25 Q. You also testified in Florida that in your

1 view the AOS industry is competitive.

2 MR. OWENS: Do you have a reference?

3 MS. BROWN: No. We'll see if he'll adopt
4 it.

5 MR. OWENS: Well, your Honor, I'm going to
6 object to that.

7 JUDGE FOSTER: Let's hear the question
8 first, the whole question and then see if it's still
9 objectionable.

10 Q. In your view, is it true that the AOS
11 industry is competitive from the viewpoint of both the
12 location owner -- by that I mean the hotel, motel,
13 hospital, pay phone -- but also that the industry is
14 competitive from the viewpoint of the end user
15 consumer?

16 A. Yes.

17 Q. Are you aware that more than 50 alternate
18 operator service companies have applied for
19 registration in Washington since September 1988?

20 A. No.

21 Q. Would you accept, subject to check, that
22 approximately 25 alternate operator service companies
23 have applied for registration since the Commission
24 adopted its AOS rule in July of 1991, establishing
25 what is tantamount to a rate cap similar to that

1 imposed by the Florida Commission?

2 MR. OWENS: Your Honor, I am going to
3 object to the form of the question. The rule speaks
4 for itself. Whether it's a legal rate cap is a legal
5 question. And this witness can't be asked to give a
6 legal opinion as to what the legal effect of that rule
7 is. If the question is simply reformulated to whether
8 he would accept subject to check that a certain number
9 of companies have applied for registration after the
10 effective date of the WAC 480-120-141, I certainly
11 wouldn't object to that.

12 JUDGE FOSTER: I guess I didn't hear the
13 word "legal" in there, Mr. Owens.

14 MR. OWENS: Well, he was asked whether he
15 would agree with the characterization of the rule as
16 being tantamount to a rate cap. I think that implies
17 that it's a lawful rate cap and that it would have the
18 effectiveness of -- it would play some role in the
19 company's decision to locate in Washington.

20 MS. BROWN: I will just reword the
21 question.

22 Q. Would you accept, subject to check, that
23 approximately 25 AOS companies have applied for
24 registration since the Commission adopted its AOS rule
25 and as part of that rule those companies were not

1 allowed to operate unless their rates were less than
2 or equal to AT&T and US West in the relevant market?

3 A. Yes.

4 Q. At page 38, line 13 of your testimony, you
5 use the term heavy-handed regulation. Do you see
6 that?

7 A. That's right. I use that term.

8 Q. Is it your opinion that setting rates
9 constitutes heavy-handed regulation?

10 A. In this context, yes.

11 Q. And why do you say that?

12 A. Because it's a competitive industry and I
13 don't see any reason why the Commission has to try and
14 find opportunity or second-guess competition. These
15 people know a lot more about the marketplace than you
16 do or I.

17 Q. Could you please turn to page 38 of your
18 testimony?

19 A. Yes.

20 JUDGE CLISHE: Excuse me. Now are you
21 speaking of the Florida transcript or are you on to --

22 MS. BROWN: Exhibit T-4.

23 MR. OWENS: Your Honor, before we proceed
24 to that there was that matter the witness was asked to
25 accept subject to check and we've checked and we can't

1 accept the characterization of the Florida rule as
2 being consistent with the Washington rule. Our
3 understanding is the Florida rule is AT&T daytime
4 rates plus one dollar.

5 MS. BROWN: That's for pay phones, isn't
6 it?

7 MR. SOUMAS: That's correct. That's what
8 95 percent of our business is.

9 MR. OWENS: That's what we understand.

10 MS. BROWN: Well, it's a rate cap -- I mean
11 to the extent that these companies are not allowed to
12 charge rates that exceed those of US West and AT&T in
13 the relevant market, that is all I meant by rate cap.

14 Q. Could you please read --

15 MR. OWENS: Well, but the answer is, we're
16 unable to accept the matter that the witness was asked
17 to accept subject to check. That was the purpose of
18 the interruption. I don't mean to interrupt further.

19 JUDGE FOSTER: So you've not accepted it
20 and you've explained why and given additional
21 information.

22 MR. OWENS: That's right.

23 JUDGE FOSTER: Go ahead, Ms. Brown.

24 Q. Dr. Wenders, are you on page 38 of your
25 testimony?

1 A. Yes.

2 Q. Please read the sentence beginning on line
3 13.

4 A. "Heavy-handed regulation of the operator
5 service carriers runs the risk of thwarting the
6 development of these services."

7 Q. And despite the fact that there are at
8 least 25 AOS companies operating in Washington where
9 the UTC has imposed its rate levels, it remains your
10 position that setting rates are thwarting competition?

11 A. Yes. And the reason is it's just not
12 rates. That's one thing that you people don't seem to
13 understand. Rates is not the most important thing in
14 this market, it's service, and you don't control
15 service. You control rates. And if you allow these
16 people to adjust rates to service you will get a
17 competitive result. If you set low rates you get low
18 service. And maybe that's what the Commission wants
19 to do, but I guess it seems to be what you're up to.

20 Q. Like to return to your earlier mention in
21 your testimony wherein you stated that IPI's high
22 rates are really evidence of short run disequilibrium.

23 A. Where did I say that? I thought I said
24 that generally the higher rates in this industry may
25 be evidence of short run disequilibrium.

1 Q. Page 9, line 5.

2 A. I don't see anything about IPI there, do
3 you? You said IPI. I didn't say IPI.
4 Mischaracterized what I said.

5 Q. IPI is an AOS provider so I would again
6 like to return to the earlier discussion where you
7 said that these sorts of rates charged by the
8 companies, the likes of IPI, are really evidence of
9 short run disequilibrium and not evidence of market
10 power.

11 A. They may be evidence of short run
12 disequilibrium. Then again they may be evidence of
13 better quality service, too.

14 Q. And you earlier defined the short run as
15 being the time needed for the entry of capacity to
16 occur. Does the entry by --

17 A. On the supply side.

18 Q. I accept that. Does entry by 50 new AOS
19 companies in Washington since International Pacific
20 registered in 1988 in your opinion constitute the time
21 needed for the entry of capacity to occur?

22 MR. OWENS: Objection, no foundation.
23 There's no evidence that that's entry. The witness
24 stated he wasn't aware of it when he was asked.

25 JUDGE FOSTER: Ms. Brown.

1 Q. Well, if you accept, subject to check, that
2 there have been 50 new AOS companies registered in
3 Washington post 1988 September 1 --

4 A. Subject to check.

5 Q. So in your opinion that should be the time
6 needed for entry of capacity to occur?

7 A. That depends what quality of service they
8 were offering. Just plain capacity isn't the real
9 issue here. It's a whole bundle of things. Now it
10 may very well be that that is -- you have people
11 entering under the cap and restraints which you've put
12 on people by your AOS rules, you have a certain
13 segment of companies entering because they think that
14 they can come in, offer a certain quality of service
15 or unquality of service, and survive under that rate.
16 You may have prevented a whole bunch of other
17 companies from coming in who would offer other quality
18 services, voice messaging, all kinds of other things
19 that they may have come in and said, Hey, we can't go
20 in the state of Washington because they've got this
21 rate cap. We will go somewhere else.

22 Q. I am referring again to your testimony at
23 page 18. Is it your opinion that as shoppers become
24 more sophisticated and learn to make choices the
25 market will discipline pricing behavior?

1 A. That is correct.

2 Q. Would that also have been your testimony in
3 1988?

4 A. Yes. I probably said it in 1988.

5 Q. Would you please turn to your testimony at
6 page 11, line 22, continuing through page 12, line 2
7 where you discuss new services offered by
8 International Pacific that are not offered by
9 traditional carriers.

10 A. I don't think I mentioned International
11 Pacific but go ahead.

12 Q. What is your definition of a traditional
13 carrier?

14 A. Well, there, as I say, the traditional
15 carriers, Bell operating companies and AT&T.

16 Q. What sort of new services have been
17 introduced by International Pacific that have not been
18 introduced by the traditional carriers?

19 A. Well, you might ask that of Mr. Soumas.
20 You had him up here.

21 Q. So you don't know the answer?

22 A. I don't know the answer offhand, no, but if
23 I just sit here and listened to his testimony he would
24 tell you about the refunds, automatic refunds and
25 things like this which the other companies can't do.

1 That's one I just heard when he was here.

2 Q. Are you familiar with IPI's rates filed in
3 Washington?

4 A. No.

5 Q. Are you aware of whether IPI's rates are
6 higher than than those charged by the traditional
7 carriers?

8 A. I believe they are higher in some
9 instances.

10 Q. Have you read the testimony of Mr. Schrader
11 and Mr. Coulson?

12 A. Yes.

13 Q. And so you're aware that these individuals
14 represent two companies that are clients of IPI's and
15 that those companies represent a major portion of
16 IPI's Washington customer base?

17 A. That's my --

18 MR. OWENS: Your Honor, I was going to
19 object. That's a compound question.

20 JUDGE FOSTER: Ms. Brown?

21 Q. Mr. Schrader and Mr. Coulson represent two
22 companies; is that correct?

23 A. I presume that is correct, yes.

24 Q. And that the companies that they represent,
25 Digital Access and NCS Teleworks, are clients of IPI's?

1 A. Yes.

2 Q. And that together those companies comprise
3 a major portion of IPI's Washington customer base?

4 A. I believe that's correct, yes.

5 Q. As you probably heard earlier today, IPI
6 offers a wide variety of rate options and you probably
7 also heard the testimony of both Mr. Schrader and
8 Mr. Coulson that each of their companies have chosen
9 IPI's rate option C for end use customers at their
10 phones and that rate option C actually pays the
11 highest commissions.

12 MR. OWENS: Your Honor, I'm not sure that
13 that latter fact is in evidence. I believe
14 Mr. Schrader indicated he was not aware of whether or
15 not option C was the highest rate, and I don't believe
16 that question was asked Mr. Coulson.

17 JUDGE FOSTER: Ms. Brown.

18 MS. BROWN: I believe I have that in a data
19 request response. I will look that up.

20 JUDGE FOSTER: Let's identify as Exhibit 15
21 in the IPI docket a two-page exhibit and this is a
22 comparison of interLATA rates in the Washington AOS
23 market, December 20, 1992 by Tom Wilson identified
24 as Exhibit 15 for IPI.

25 JUDGE CLISHE: This will be identified as

1 Exhibit 7 for Paytel.

2 (Marked Exhibit 15.)

3 Q. Dr. Wenders, I just handed you a two-page
4 exhibit. This is a comparative rate analysis
5 performed by Mr. Wilson of the commission staff
6 setting forth rate quotes for operator-handled collect
7 calls for AOS companies, including IPI, AT&T and US
8 West.

9 A. Okay. What about it?

10 Q. Do you see where AT&T appears on -- page
11 2 at line 10?

12 A. Yes.

13 Q. And page 1 of 2 at line 7?

14 A. Yes.

15 Q. Do you see where AT&T would charge \$3.03
16 for a six-minute interLATA call at a distance of 150
17 miles billing the call collect?

18 MR. OWENS: I am going to object on the
19 basis of no foundation. This witness didn't perform
20 the study. I don't believe that the staff can get its
21 case in through Dr. Wenders. If they want to ask him
22 to accept, subject to check, that some numbers bear
23 some relationship to one another, that's fine, but we
24 have no idea how this study was done, even though we
25 made a request for discovery long ago for any

1 information that would indicate that IP's service was
2 not subject to effective competition and we've
3 received absolutely nothing in response to that. And
4 this material would appear to have been responsive to
5 that request. So, I am going to object.

6 JUDGE FOSTER: Ms. Brown.

7 MS. BROWN: Well, aside from the gratuitous
8 remarks about discovery, all of these numbers are
9 taken directly off of tariffs. Your Honor, you may
10 take judicial notice of any tariff in this building,
11 and for that reason alone I think that the staff is
12 entitled to ask Dr. Wenders questions about numbers
13 about which no discretion was exercised other than to
14 pull out the figures that correspond with any given
15 call so that it becomes clear what the rates are.

16 MR. OWENS: I beg to differ. There are a
17 number of carriers that don't file tariffs, they file
18 price lists, that are listed on that exhibit. And
19 certainly we have had no indication as to the method
20 by which these numbers were selected, and I reiterate,
21 the staff cannot cross-examine Dr. Wenders about an
22 exhibit the theory of which he has not been informed
23 and as to the execution of which he has no knowledge.
24 If the staff wants to bring the tariffs in and the
25 price lists, I suppose we can compare the prices on

1 those for what it's worth.

2 MS. BROWN: For what it's worth, we will
3 attach it to the staff's case when we prefile in a
4 couple of weeks.

5 JUDGE FOSTER: What do you want to do with
6 Exhibit 15 for identification then? Just leave it and
7 tie it to something later on?

8 MS. BROWN: I'm just not offering it. Yes.

9 Q. Would you accept, subject to check, that
10 International Pacific's rates are approximately 62
11 percent higher than AT&T and 48 percent higher than US
12 West for a comparable service in the relative market?

13 A. I simply don't know whether that's right or
14 -- and I have no idea how I would check it.

15 Q. Would you agree that generally speaking
16 economic theory indicates that in a competitive market
17 if a producer attempts to charge higher than the
18 dominant market price for a comparable service it is
19 likely that over time that producer will have to
20 consider dropping prices to remain competitive?

21 A. Presuming that the product is the same, and
22 that's again the piece of this case that has been --
23 you're assuming that the product in this case is a
24 telephone call. It is not. The product in this case
25 is a whole package of services offered at a site

1 location, each of which is unique and each of which is
2 different and each of which may face a different
3 customer base. And so what you're quoting is textbook
4 economics that presumes location is the same, quality
5 is the same, customer is the same, elasticity is the
6 same, and that's fine in that textbook market but
7 we're not in the textbook market here.

8 Q. As we've discussed, International Pacific
9 hasn't dropped prices since its registration in
10 Washington in 1988 and has, in fact, maintained rates
11 that are higher than the dominant providers.

12 MR. OWENS: Is that a question?

13 Q. Is it your testimony that this is not
14 evidence of any market power?

15 A. That's right. It's not evidence of market
16 power. It's the evidence of the way in which they
17 have segmented their market. They have found that
18 customers and quality of service for which that is the
19 proper price and quality of service. You constrain
20 them to another price, they're going to have to adjust
21 the other variables in the marketplace.

22 Q. If I understand your position, and correct
23 me if I am wrong, a couple of explanations for this
24 feature, as you call it, in your testimony, page 8,
25 line 17, is that consumers haven't yet learned to shop

1 around and they perceive that they would get more
2 value for the service if they knowingly use IPI. Is
3 that a fair summary?

4 A. That's possible. It may very well also be
5 that there are different kinds of customers out there.
6 Take a look at an industry that has just been
7 deregulated called the airline industry. The airline
8 industry, we had under regulation when we had a civil
9 aeronautics board before it was taken over by an
10 economist, I might add, and demolished itself, we had
11 one rate quoted across the country. You wanted to fly
12 from Seattle to New York you paid one rate. Now what
13 has happened since you have deregulation of that
14 industry is that you have competition has produced
15 market segmentation. You know as well as I know that
16 if you're flying on that plane from Seattle to New
17 York, there may be people flying under a dozen
18 different tariffs there. Why, because the airline
19 industry has figured out there are people with
20 different elasticities of demand, different market
21 segments. That is how competition has sorted out the
22 airline industry.

23 Exactly the same thing is going on in this
24 industry. You had tariffed rates that were filed
25 based on mileage that had nothing to do with anything

1 and once that is lifted you have market segmentation
2 going on here, and these companies are part of
3 segmentation. They have found niches in the market
4 where they can serve based on the location of the
5 business and how that businessman perceives he is
6 going to cover his business. And it may very well be
7 that what you have going on in this industry is
8 exactly the same thing that happened when the airline
9 industry became competitive. Market segmentation is
10 the name of the game in competition. We have an
11 airline in Phoenix, Arizona that is in bankruptcy
12 because it never figured out how to select its market,
13 America West, by the way.

14 Q. Dr. Wenders, I believe that you testified
15 that consumer ignorance has disappeared. Do you
16 remember that?

17 A. It has disappeared or is disappearing. I
18 think that's a reasonable characterization.

19 Q. So if, in fact, this disequilibrium due to
20 user ignorance of alternatives has disappeared, as you
21 testified at page 20, in concurrence with Mr. Schrader
22 and Mr. Coulson, then IPI would have been forced to
23 reduce its charges; is that right?

24 A. No. For reasons I just explained to you,
25 IPI is offering different services to different

1 customers at different sites and you're back in the
2 textbook world of wheat. This is not wheat.

3 Q. How does a consumer shop for AOS services
4 when that consumer is at a pay phone?

5 A. Well, the point is that the consumer shops
6 when it goes into a restaurant for a whole package of
7 services.

8 Q. I'm talking about a pay phone.

9 A. Yeah, but that is not the product that the
10 consumer -- you do not typically go or not go to a
11 restaurant because of the pay phone. You typically go
12 there for a whole package of supplementary services.
13 You go in and there are a lot of things that you look
14 at. My wife, for example, won't go back if she
15 doesn't like -- the johns are dirty. Now maybe the
16 Commission should regulate johns, but I'm just saying
17 it's a whole package of service. What you're doing is
18 you're picking out one little piece of it and trying
19 to compare it from a truck stop to a hotel to a pay
20 phone at a Circle K. And it fits into the package of
21 services offered by the proprietors at those locations
22 in a completely different way. The Circle K may not
23 care at all about the revenues he gets from the pay
24 phone. In the hotel business, it's a large piece of
25 their business. So he pays more attention to it. He

1 has a different clientele. And when you're comparing
2 one segment of the hotel business with the Circle K
3 business, with the truck stop, with God knows what and
4 saying that the prices are different you've missed the
5 whole point.

6 The point is that there's a whole package
7 of services, they're complementary and as the
8 Commission has chosen to look at one little piece
9 of it and try to say that this piece of this piece,
10 and that piece of that business, and that piece of
11 that business all should have the same rates and all
12 should be regulated, let AT&T regulate the market,
13 that's what you're saying. You're saying we are going
14 to turn this market over to AT&T and we're not going
15 to exercise our ability to regulate the market, we're
16 going to let AT&T regulate it because we're going to
17 force you all to do what AT&T does, I think you're
18 abrogating your constitutional duty by turning it over
19 to AT&T and that misses the whole point of what this
20 market is.

21 Q. So do consumers shop around?

22 A. They shop around by going to Circle K's
23 and doing certain things. They shop around by going
24 to restaurants and doing certain things and if it
25 occurs to them that they have to make a phone call

1 from those places, they look at it and decide whether
2 they're going to make the phone call and if the value
3 of placing the call exceeds the price for making it,
4 then they're made better off.

5 Q. Do you think that consumers are making
6 educated, informed choices when they use a pay phone,
7 for example, who has IPI as its AOS provider?

8 A. I think they're making a choice that the
9 benefits exceed the costs and that they are made
10 better off doing it. So if they make the choice
11 they're made better off. Besides, I think that people
12 have a better idea of what prices are and information
13 are in the telephone industry than they do in the
14 supermarket industry. When you go in Safeway, how
15 many prices do you know?

16 Q. So is your opinion then that the customer
17 or consumer or end user placing the call is making an
18 informed choice among alternatives?

19 A. Yes. He is going to a restaurant. He's
20 going to his choice among restaurants.

21 Q. So the prices charged to place the call are
22 irrelevant?

23 A. It may be to him. He just takes a look and
24 decides do I want to call the babysitter or don't I.
25 Do I want to call somebody or don't I. He makes that

1 choice. The same reason he says do I eat the steak
2 that's on the menu. Do I use the john?

3 Q. Is it your understanding that IPI sells
4 collect calls at pay phones as well?

5 A. You might better have asked him but I think
6 it probably does.

7 Q. How would the recipient of a collect call
8 handled by IPI shop around?

9 A. In the same way he does when he gets it
10 from AT&T.

11 Q. Which is?

12 A. Accept it or not accept it.

13 Q. In several places in your testimony you
14 suggest that there are plenty of alternatives and
15 choices for end users. On page 32, line 8, you state
16 that there are no captives anywhere. Why do you not
17 view the recipient of a collect call a captive to a
18 operator service provider?

19 A. Because he can say yes or no and besides
20 it's probably not a big deal. You know, there are
21 lots of things that we do that we don't think much
22 about because it's not a big deal. I got a phone call
23 last week, collect call from somebody in jail, who I
24 never heard of, thought maybe it was one of my
25 itinerant students, and I accepted a collect call from

1 somebody in jail, not knowing him, just to find out
2 what the heck it was. Maybe I was irrational and
3 uninformed, but I did it.

4 Q. How do you think the consumer would react
5 or how will you react when you get the bill and see
6 that it's significantly higher than you had anticipated?

7 A. Well, I had no anticipation. I didn't know
8 how I got this call from jail. I had no anticipation
9 and it hasn't come yet and when it comes I'm going to
10 look at it and say, well, maybe I should have said no.

11 Q. Do you know how long it takes to be billed
12 by IPI?

13 A. You should have asked Mr. Soumas. I think
14 you did.

15 Q. On page 11, lines 1 through 4 of your
16 testimony, you indicate that complaints about the
17 operator services industry and the higher prices they
18 charge have both declined significantly since the
19 early days of this industry indicating that market
20 forces are doing their job. In response to the
21 staff's data request No. 21 you responded by
22 referencing the Commission's 1991 Consumer Affairs
23 Annual Report stating "consumer complaints against all
24 long distance companies, which includes in this
25 report providers of operator services, including

1 International Pacific, declined 21 percent compared to
2 the previous year. Consumer complaints against
3 International Pacific were down 13 percent compared to
4 the previous year." Do you have any idea of the
5 overall number of complaints in 1992 or more
6 specifically, are you aware of the number of
7 complaints against International Pacific for 1992?

8 A. No. And the first thing I would ask would
9 be the number of complaints and the second thing I
10 would ask would be the complaints relative to volume
11 of calls. And number two, I would ask what were the
12 character of complaints? I would do that in all
13 instances.

14 Q. You've mentioned hotels and the position of
15 services that you view that they offer. Is it your
16 position that if a person were to stay at a hotel
17 served by IPI and that if that person was dissatisfied
18 by high rates at that hotel then he or she might not
19 stay at that hotel again?

20 A. They might not or they might dial around or
21 not make the call.

22 Q. And you believe that that dissatisfaction
23 might constitute a market force which would discipline
24 IPI's rates?

25 A. You bet.

1 Q. Is it also possible that a chain of hotels
2 like Holiday Inn with many repeat customers all across
3 the country may be more sensitive to this sort of
4 consumer reaction than a motel that is possibly not
5 part of the chain but is perhaps a little motel off
6 some highway somewhere?

7 A. May or may not. That depends.

8 Q. Hospitals might be another client
9 institution that IPI would serve; isn't that right?

10 A. I don't know.

11 Q. Do you suggest that likewise a person
12 should shop around and make sure that when he or she
13 selects a hospital that they select a hospital that
14 doesn't have an AOS with high rates?

15 A. I suggest they do whatever they want.
16 Maybe one of the problems is that government has
17 created monopoly in hospitals.

18 Q. But we would still have a problem, wouldn't
19 we, of what should the person do who is in a hospital
20 bed and wants to make a call, call collect. How does
21 that person shop around?

22 A. In the same way he does in every other
23 market. What you're trying to do is pick out
24 nitpicking little instances in a highly competitive
25 market and apparently drawing the conclusion that the

1 answer is to regulate the industry. What do I do when
2 my car breaks down halfway to Moscow and Pullman and I
3 have to go and pound on a farmhouse door or something.
4 That guy has got a monopoly over me. Are we
5 suggesting that the Commission should regulate that?
6 I mean, the little nitpicking examples exist in every
7 industry and in every competitive industry and the
8 conclusion that I think that you're trying to draw
9 from these is that the result is more government
10 regulation. It's absurd.

11 Q. Do you yourself use IPI, given a choice?

12 A. I don't know whether I have or haven't.

13 Q. Well, would you?

14 A. Would I? Why not? I like to see different
15 companies' rates on my bill.

16 Q. At page 19, lines 8 through 14 you discuss
17 how an AOS company might be able to enter the market
18 because the Bell operating companies' and AT&T's cost
19 structure is too high and the AOS entrant can make a
20 profit even without charging higher rates. Are you
21 with me?

22 A. Yeah.

23 Q. In your response to the staff data request
24 No. 31, you detail the basis of your A series that a
25 company such as IPI has lower costs than US West or

1 AT&T, which is that IPI pays operator wages and
2 benefits in the range of \$6 to \$10 per hour on average
3 while the Bell companies pay \$20 to \$40 per hour in
4 operator wages and benefits.

5 A. Where is that? I want to see exactly what
6 I said there.

7 MR. OWENS: May I approach the witness?

8 JUDGE FOSTER: Yes.

9 MR. OWENS: Which number was it, Ms. Brown?

10 MS. BROWN: 31.

11 A. Yes.

12 Q. You indicate in that response that the
13 Communications Workers of America was thoroughly
14 opposed to the appearance of AOS companies because of
15 the competition they provide to their own highly paid
16 operators in the Bell companies. Can you provide any
17 instances of the Communications Workers of America
18 opposing any of the 50-plus registration applications
19 by any AOS company seeking authority to operate in
20 Washington?

21 A. No, in Washington, but there are instances
22 elsewhere.

23 Q. You are also testifying on behalf of Paytel
24 today. Are you aware of whether Paytel pays its
25 operators at wages lower than those paid by Bell?

1 A. I don't believe Paytel employs any
2 operators. I believe I answered another question
3 where I did give the wages of the operators that are
4 employed by the supplier to Paytel, if I remember
5 correctly, \$8.40 an hour.

6 Q. Is it your understanding that a hotel or
7 pay phone company may elect to choose IPI as the
8 provider of operator services on the basis of the
9 commission fee payments it can expect to receive from
10 IPI as opposed to the commission fee payments offered
11 by other providers?

12 A. That's one of the things that they may use,
13 yes, but certainly not the only thing.

14 Q. A hotel or a pay phone owner doesn't
15 actually pay any money to IPI or buy any service from
16 IPI, does it?

17 A. I think you're mincing words. I mean, they
18 have an arrangement whereby IPI provides certain
19 services to their customers and there is a revenue
20 sharing arrangement. Whether they buy it and resell
21 it or not, I think, is immaterial.

22 Q. So is that a no?

23 A. Well, I don't know. I think you indicated
24 that the hotel or the pay phone people were buying
25 something from IPI and I think they really are buying

1 a service even though it's not a formal resale
2 arrangement.

3 Q. If IPI has higher rates than other
4 carriers, then it follows that IPI would have the
5 ability to offer a higher commission fee. Would you
6 agree with that?

7 A. No, not necessarily.

8 Q. Since many of the carriers are subject to a
9 rate cap at rates that are 60 to 40 percent lower than
10 IPI's rates, IPI's ability to pay higher commissions
11 might be construed as an advantage by some hotels or
12 pay phone companies?

13 MR. OWENS: Objection, no foundation as to
14 the 60 to 40 percent.

15 MS. BROWN: Subject to check, 60 to 40
16 percent lower.

17 A. May or may not. Depends upon the quality
18 of service.

19 Q. What is your definition of the term "market
20 power" as you have used it in your testimony at page
21 2, line 10?

22 A. I gave you a response, I believe, in one of
23 your data requests and I think a summation of market
24 power to me means the ability to earn above normal
25 rates of return for considerable period of time, and I

1 think that it's hard to tell what a considerable
2 period of time is, especially in an industry that's as
3 dynamic and changing as this one.

4 Q. At page 10 of your testimony you warn
5 against the Commission trying to regulate the
6 telecommunications services aspect of aggregators,
7 hotels, for example. You do understand that the
8 Commission has made it quite clear in its earlier AOS
9 rulemaking docket that it does not intend to regulate
10 hotels or other aggregators?

11 A. That's right, as I found out last night.

12 Q. At page 11, line 1 -- page 11, on line 1
13 you state that complaints about the operator services
14 industry have declined since the early days of the
15 industry and in response to a data request that we
16 talked about just a little brief while ago, request
17 No. 21, you cited the Commission Consumer Affairs
18 Annual Complaint report. Would you accept subject to
19 check that complaints against IPI in 1988 were zero,
20 in 1989 there were 14?

21 A. That's an infinitesimal percent increase.

22 Q. In 1990 there were 15. In 1991 there were
23 13 and in 1992 there have been 48?

24 A. I said I will accept anything subject to
25 check. Could be one traveling person.

1 MR. OWENS: Your Honor, I have a little
2 difficulty knowing how the witness is going to check
3 it since we've asked for the information and haven't
4 received it in discovery.

5 JUDGE FOSTER: Ms. Brown, can you tell us
6 how the witness would check this?

7 MS. BROWN: I indicated to Mr. Owens last
8 week that I would provide him with the information
9 that we have that supports the complaint.

10 MR. OWENS: Well --

11 MS. BROWN: I indicated it will be provided
12 to you in the context of this proceeding.

13 MR. OWENS: I understand that but you're
14 asking him to accept a different number than the -- at
15 least it hasn't been established that it's the same
16 number. You're asking him to accept a number for the
17 total year of 1992 of 48 and it's my understanding
18 that the formal complaint was for the period May 21
19 through September 30, at approximately 20 specific
20 locations. There's never been any indication that
21 we will get information on all the complaints filed
22 during that 1992 even though I believe it will be
23 responsive to our data requests.

24 MS. BROWN: Well, there's a distinction to
25 be drawn between formal and informal complaint. I can

1 just withdraw it -- I don't want to withdraw the
2 question. I want it on the record and just ask
3 Dr. Wenders if it's possible that his predictions
4 regarding the level of complaints in this industry
5 since 1988 have not borne out.

6 A. I think they have -- are you asking me if
7 they have not borne out? I don't think that they have
8 been borne out and the reason I say that is that
9 volume has increased tremendously during this period
10 of time. Secondly, we've had a mass advertising
11 campaign by AT&T for people to dial 10 triple X 0.
12 Now, people tend to foul up when they dial that thing.
13 What they do is they dial 0 triple X 0 and they get it
14 blocked and they call up and complain about it. Or
15 they dial 10 triple X and forget the last zero and
16 they call up and complain about it. So we would have
17 to look at the character of the complaints. And
18 secondly, my statement about decline significantly
19 since the early days of this industry was a statement
20 based on national, not just necessarily on the
21 Washington situation.

22 Q. On page 11 of your testimony at lines 8,
23 lines 7 and 8, you use the phrase "regulatory
24 gamesmanship." Could you please define that term
25 for us?

1 A. Regulatory gamesmanship to me is when one
2 carrier or one interested person, a consumer advocate
3 or somebody starts using a regulatory proceeding to
4 further their own ends and not the ends of the
5 consumer in the competitive market.

6 Q. Is it your opinion that the only
7 competitive result produced by regulation is that
8 there is a situation where no one has market power?

9 A. Would you please repeat that question.

10 Q. Is it your opinion that the only
11 competitive result produced by regulation is that
12 there is a situation where no one has market power?

13 A. The only competitive result produced by
14 regulation is a situation where no one has market
15 power -- no. Commission may have market power.

16 Q. I would like to direct your attention to
17 your response to staff's data request No. 27.

18 A. Read it back to me.

19 Q. The question is, "is the situation in which
20 no one has market power the only competitive result
21 produced by regulation response?" "Yes. Presuming
22 that regulation is perfect, something that may be
23 impossible."

24 A. And you didn't add that to your question,
25 did you.

1 Q. Add what to my question?

2 A. Your question is, is the only result
3 produced by regulation, and I qualified it in my
4 answer when I gave the yes answer.

5 Q. Is it your understanding that the theory of
6 regulation includes the concept that where there does
7 not exist effective competition regulation has been
8 used as a second best way to achieve an outcome of
9 disciplining prices?

10 A. Wow. Where effective competition does not
11 exist, regulation has been used to produce a
12 competitive result, is that the thrust of your
13 question? I'm sure there are instances of that. I'm
14 sure there are instances where it's not true, too.

15 Q. Do you understand that it is a legislative
16 policy of this state to promote rates that are
17 affordable?

18 A. I don't know what that means. I'm sure
19 that's what the politicians say. That's what all
20 politicians say. But I don't know what affordable
21 means.

22 Q. At page 14, lines 12 through 14, you
23 explain that it is clear that operator services
24 providers have appeared because they have found at
25 least a short run profitable niche in the

1 telecommunications market. And I believe you've also
2 testified to that same thought here today?

3 A. Right.

4 Q. So the fact that the operator services
5 provider including IPI have survived what we view as a
6 competitive marketplace indicates that these
7 companies, including IPI, are profitable; is that
8 right?

9 A. Are prospectively profitable. In other
10 words, you may enter a business saying I'm going to
11 lose money for three years but I expect in years four
12 and five I am going to make money. Any business
13 starts out losing. I would expect that they expect to
14 make profits.

15 Q. Have you done any studies that support your
16 view that operator service providers, including IPI,
17 are profitable which might support your testimony at
18 page 14, lines 12 through 14?

19 A. My conclusion that they're profitable is
20 that they're there expanding and want to expand.
21 What the books say is immaterial. I look at what
22 people do and people are not stupid.

23 Q. You testified here today and also in your
24 prefiled direct testimony to the effect that hotel or
25 aggregators select IPI or another AOS on the basis of

1 more than just the size of the commission payments,
2 that they might also select IPI because of perceptions
3 they have of superior service; is that right?

4 A. Yes.

5 Q. Turning to page 19, line 4 you state that
6 "New operator services competitors initially found
7 themselves with little head to head competition."
8 What is the basis for that statement?

9 A. Well, if you look back about 1986 when this
10 industry got going, there were a few people that found
11 out about what was going on, and what started the
12 whole thing out was when AT&T stopped paying
13 commissions to aggregators, thereby getting a
14 multi-million rate increase from the Federal
15 Communications Commission without ever filing a
16 tariff. And when they stopped paying to the hotels
17 primarily, these people said, Hey, hotels, you turn
18 your business over to us and we'll pay commissions.
19 That's what started the whole thing and they found the
20 niche in the first ones in the industry, there was
21 very little competition right then and there, head to
22 head, and that's how the industry started. And they
23 started out charging high prices and they gave the
24 hotels commissions or whatever you want to call them,
25 and that's how it started. It was all due to AT&T.

1 They forced AT&T back into the business is what they
2 did. To the consumer's benefit.

3 Q. At page 23 of your testimony you refer to
4 cross elasticities in supply and demand. Have you
5 done any studies in cross elasticities in supply and
6 demand for IPI's services?

7 A. No. Besides, it will be impossible to do
8 because it refers to cross elasticity of supply in the
9 market, not just one producer.

10 Q. If a business person were in an airport in
11 Denver and she needed to call her spouse in Olympia to
12 let him know that her flight to SeaTac was delayed
13 five hours, and she needed to reach him before he left
14 Olympia with the kids knowing that if she couldn't
15 reach him, he and the kids would wind up possibly
16 sitting in the airport waiting an extra five hours
17 paying extra parking and probably even having to eat
18 an expensive dinner at the airport restaurant while
19 they waited, would you say that that business person
20 might have a pretty inelastic demand for that call?

21 A. You bet. And he would make the call and be
22 happy as a clam that he was able to do it. It's
23 called a high valued call.

24 Q. At page 31, lines 18 through 22, you state
25 that, and I quote here -

1 A. What lines again?

2 Q. 18 through 22?

3 A. Thank you.

4 Q. "If NCS takes too large a share of the
5 revenues generated at a client's location or fails to
6 provide quality service to the clients' clients then
7 NTS's clients are free to shop elsewhere for a pay
8 phone service provider."

9 A. That's right. And I believe it.

10 Q. What studies or analyses have you performed
11 or what facts do you rely upon to support that
12 testimony?

13 A. The testimonies that you heard here today
14 where these people talked about them as providing
15 alternatives in the marketplace to their site owners
16 and if they don't provide the right alternatives
17 they're out.

18 Q. At page 39, lines 4 through 5, you talk
19 about the new options AT&T is pursuing in this
20 industry. Could you please describe what those
21 options are?

22 A. Well, number one, their option of massive
23 advertising campaign.

24 Q. You mentioned that.

25 A. Right. And number two, they are providing

1 services in a more efficient way. Number one, they're
2 relying less on large operators and more on store and
3 forward-type phones for openers. Those are the two
4 major ones I was thinking of.

5 Q. At page 40, lines 13 through 17, you opine
6 that detailed regulation of the operator services
7 industry may serve to create a barrier to entry into
8 this market. By "detailed regulation," are you
9 referring to a price cap or any sort of rate cap?

10 A. Yes, one of the things.

11 MS. BROWN: Your Honor, we have nothing
12 more.

13 JUDGE FOSTER: Just a few questions.
14 Appreciate your bearing with us to this late hour.

15 THE WITNESS: That's okay. I've got
16 nowhere to go but Pullman.

17 JUDGE FOSTER: This constitutes a better
18 offer then?

19 THE WITNESS: Yeah.

20

21 EXAMINATION

22 BY JUDGE FOSTER:

23 Q. On page 3 of your testimony you refer to
24 your specific field being the economic welfare theory.
25 For those of us who are not economists, can you tell

1 me what that is?

2 A. Well, briefly, there are sort of two kinds
3 of economics one of which we call -- and I am not
4 going to -- I hope I don't put you off by my buzz word
5 -- positive economics, and positive economics is
6 concerned with how markets work, you know. Let me
7 give you an example. If phone rates go up, generally
8 the economists can tell you what will happen. Now,
9 the second question called the normative part is what
10 should happen. That's what welfare economics is.
11 What should happen in order to best serve the
12 consumer. So, briefly, welfare economics is what we
13 call normative. What should you do. What should this
14 commission do.

15 Q. All right. Taking a look, then, at page 29
16 you talk about the Commission's previous decision in
17 this docket No. U89-2603 in International Pacific's
18 first petition for competitive classification?

19 A. Was that page 29?

20 Q. Page 29 and I believe you said, "This
21 Commission found in its previous docket" --

22 A. Go ahead.

23 Q. -- "on this issue that alternative operator
24 service providers, which implies a too narrow
25 definition of the market, were effective competitive

1 in this market."

2 MR. OWENS: I think that's one of the
3 typos.

4 JUDGE FOSTER: Should be "effectively"?

5 MR. OWENS: Yes.

6 Q. My question is, if you consider this too
7 narrow a definition, how would you analyze this
8 market?

9 A. Well, I think that what I was responding to
10 there, your Honor, was the idea that there was market
11 power if there wasn't an alternative phone within
12 walking distance or within the immediate proximity, I
13 forget what the docket said, and I think that is a much
14 too narrow definition of the market. Where I talked
15 elsewhere in my testimony, your Honor, about the idea of
16 what a relevant market is and that you must look at the
17 alternatives that the buyer has of the product, and the
18 alternatives on the supply side in order to look at a
19 relevant market. So you have to look at alternatives on
20 both sides of the market in order to make a judgment
21 about what a real definition of the market is.

22 Q. Then going to page 40, you talk about your
23 final opinion on this matter, and I guess I will ask
24 you to tell us what you think, what benefits
25 competitive status would confer both on International

1 Pacific and also on the aggregators and the consumers,
2 this market we've been talking about.

3 A. Well, the first thing I think that you have
4 to understand is that this is a constantly changing
5 marketplace. Quality of service and price are various
6 elements which must be balanced against one another.
7 These people know more about how this market is
8 changing and how it has changed than I do. But what
9 we have to do is to understand that they are adapting
10 to the marketplace and thereby adapting to the
11 consumer. And whether the consumer is, say, a
12 restaurant or the restaurant's clients, they are
13 adapting to those changing conditions there.

14 When you have a tariff list, where you have
15 to go through rigamarole in order to file or try a new
16 rate, it becomes burdensome on the company to do
17 things like that and therefore they can't move fast
18 enough to provide these new services. And it's not a
19 question of them saying, Well, we're going to provide
20 this service and not being able to do it, they may
21 have to experiment. They may have to try four or five
22 different services, four or five different prices,
23 four or five different degrees of taper to their
24 tariff, for example, to see which one works, and you
25 don't know which one beforehand is going to work.

1 They've got to be free to do this in the marketplace.

2 And what I'm saying is that the people who
3 -- let's use pay phones as an example. The people who
4 use pay phones in their restaurants are making a
5 judgment as to how to run their business to best serve
6 their clients, and they are in a competitive business.
7 They must be able to respond, and all you're doing by
8 having these tariffs under one segment of their
9 business is taking away from them the ability to use
10 that in running their competitive business.

11 So my view in summary is that this market
12 is competitive. There are lots of alternatives for
13 everyone, and that what you have to do is to relieve
14 them of the burden so they can explore in this
15 changing market.

16 JUDGE FOSTER: I had one other question
17 and I guess it's a comment for Commission staff.
18 There was reference, Ms. Brown, to the number of
19 complaints, and I believe it was involving
20 International Pacific in one of the questions you
21 proposed.

22 MS. BROWN: That's correct.

23 JUDGE FOSTER: And I believe Dr. Wenders
24 also went on a little bit later to suggest that some
25 of those might be due to consumers not dialing the

1 number properly and as a result they are blocked, et
2 cetera. Some of them might be due to rates. Some of
3 them might be due to other things. When it comes to
4 point of the Commission staff presenting its case, if
5 there's going to be information in the record about
6 allegations of the complaints I think it would be
7 helpful to have it detailed as to the source of the
8 complaint. In other words, is it inability to dial a
9 number, is it blocking, is it not placarding right, is
10 it the rate level? What is the problem that generated
11 the complaint so that we don't have this enormous lump
12 of complaints without knowing what they are and how
13 serious they are. If people are just dialing the
14 wrong numbers, I guess that's a whole different thing
15 than people complaining about rate levels or blocking
16 or other things. So if you would just be sure and add
17 that to any complaint data you propose to offer, I
18 think it would be helpful.

19 MS. BROWN: Well, we certainly would.

20 THE WITNESS: Your Honor, may I comment one
21 other thing about this and I don't know how relevant
22 it is to this case. You're talking about 48
23 complaints. That's a relatively small number. I
24 would like to know who was making them. Let me give
25 you an example. As part of -- AT&T employs hundreds

1 of thousands of employees and these people have been
2 told that when they go to a hotel and can't get the
3 AT&T to call up the Commission and complain about it.
4 Why are they doing that? They're doing it because
5 they want to goad you into handicapping somebody.

6 The second thing that I've encountered
7 in this business is the Communication Workers of
8 America. Not wanting competition for their jobs,
9 being paid \$19, 20 an hour, not wanting these \$8.60
10 people competing with them are also the kind of people
11 who have been told by their unions to call up and
12 complain. And I think --

13 MS. BROWN: Excuse me. I am going to
14 object to this. How are you qualified to offer
15 testimony as to what the union has advised the
16 Communication Workers of America?

17 THE WITNESS: Because it has become -- in
18 other instances in which I have testified I have heard
19 this talked about and they have filed complaints
20 before the FCC about this and it's something that I
21 normally rely on as an expert, and I'm just -- not
22 saying that it's 100 percent true or anything but I'm
23 just saying that it's one of the things you got to
24 look at. You got 48 complaints, I am not accusing you
25 of doing it but you could be responsible for twelve of

1 them easily.

2 JUDGE FOSTER: Well, my question or my
3 comment was just to suggest that information about the
4 type and source perhaps of the complaint might be
5 helpful in analyzing.

6 MS. BROWN: We intended to do that, your
7 Honor, with great specificity.

8 JUDGE FOSTER: Thank you. I don't have any
9 other questions.

10 (Recess.)

11 JUDGE FOSTER: Let's be back on the record.
12 While we were off the record, the reporter changed the
13 paper. I believe I've completed my questions for
14 International Pacific. Judge Clishe, do you have
15 questions for the Paytel.

16 JUDGE CLISHE: Regarding Paytel --

17 MR. OWENS: Ms. Brown isn't here.

18 JUDGE CLISHE: I guess we'll wait for a
19 couple of minutes.

20 (Recess.)

21 JUDGE CLISHE: I had a couple of requests,
22 Ms. Brown. Since the questions covered the
23 classification proceeding regarding IPI, and the
24 proceeding that I am presiding over as regarding Paytel,
25 I want to, first of all, have through staff witnesses or

1 whatever, however you could do this, to include in the
2 record a copy of the tariff for Paytel, and also Judge
3 Foster had talked about the complaints. In requesting
4 specifics regarding the complaint, I would also like to
5 have testimony or presented information specifics about
6 any complaints involving Paytel. Is that possible?

7 MS. BROWN: Certainly.

8 JUDGE CLISHE: Would that be possible for
9 the next hearing day which is scheduled for the 23rd
10 or do you wish to do this when staff witnesses testify?

11 MR. OWENS: I thought that was the next
12 hearing day.

13 MS. BROWN: We can put it through when
14 staff testifies.

15 JUDGE CLISHE: All right, that's fine.

16 MR. OWENS: The 23rd is the date for
17 prefiling; is that right?

18 MS. BROWN: 23rd is cross of --

19 JUDGE CLISHE: Is there some confusion
20 about what we're doing next?

21 MR. OWENS: I'm sorry, I thought you meant
22 -- you meant day after tomorrow?

23 JUDGE CLISHE: Right. Are we all on the
24 right track? Other than that, I don't have any
25 questions of Dr. Wenders.

1 JUDGE FOSTER: Do you have redirect?

2 MR. OWENS: A few.

3

4 REDIRECT EXAMINATION

5 BY MR. OWENS:

6 Q. Dr. Wenders, you were asked by Ms. Brown in
7 cross-examination to accept, subject to check, that 25
8 AOS companies had applied for registration since the
9 July 1991 adoption by the Commission of its AOS rule.
10 Do you know whether any of those companies are
11 actually providing service?

12 A. No, I do not.

13 Q. And you were asked whether the application
14 for registration would make any difference in terms of
15 your conclusion about whether any short run
16 disequilibrium existed any longer. Would whether
17 these companies were actually serving make a
18 difference to that inquiry?

19 A. No.

20 Q. You were asked whether a hotel guest had
21 any options. Could a hotel guest make an operator-
22 assisted call using a pay phone in the lobby as
23 opposed to a phone in the guest room?

24 A. Yes.

25 Q. Could the hotel guest make, if the pay

1 phone were so arranged, that same call using one of
2 the coin sent paid options that we've heard about
3 today, the three minutes for a dollar?

4 A. Yes.

5 Q. And would that --

6 A. Just one other, point out, too, that many
7 businesses you make that one phone call to your
8 company's PBX and then you make additional calls from
9 there. You can do that kind of thing. Dial out on
10 an 800 number into your company's PBX and then make
11 your calls by getting a dial tone out of the PBX, for
12 example.

13 MR. OWENS: I have nothing further on
14 redirect.

15 JUDGE FOSTER: Ms. Brown?

16 MS. BROWN: I have nothing further.

17 JUDGE FOSTER: I believe that Exhibits 14
18 and 15 were identified but I don't believe that there
19 was any request that they be admitted. I don't
20 believe there was any requests.

21 MS. BROWN: Which were they? The data
22 requests?

23 JUDGE FOSTER: It's the Florida proceeding
24 testimony, which is Exhibit 14 in the IPI matter and
25 Exhibit 6 in the Paytel matter and the other is

1 Exhibit 15 for identification interLATA rates for
2 Washington AOS market and that would be Exhibit 7 for
3 identification in the Paytel case. Did you want to
4 offer those for admission?

5 MS. BROWN: Well, the rate analysis we will
6 submit and offer in the staff's direct case.

7 JUDGE FOSTER: Okay. Are you going to
8 withdraw that now or what?

9 MS. BROWN: I can if you're going to hold
10 onto it, that's fine.

11 JUDGE FOSTER: No, I will mark it as
12 withdrawn or I can leave it as not yet admitted.

13 MS. BROWN: I would prefer the latter.

14 JUDGE FOSTER: Okay. Then what about 14,
15 the --

16 MS. BROWN: The testimony from the Florida
17 proceeding?

18 JUDGE FOSTER: Yes.

19 MS. BROWN: I would like to have that
20 admitted into evidence. I believe that the witness
21 said that he adopted the testimony.

22 MR. OWENS: Well, he adopted the specific
23 pages that you referred him to. I guess the only
24 concern I have is that this, and neither I nor the
25 witness has had a chance to read it all, comprises the

1 entirety of the record involving his testimony in that
2 proceeding. If you want to represent that it is, then
3 I don't have any objection. If there are any pieces
4 that aren't here, I would request that they be also
5 included.

6 MS. BROWN: That's understandable. Did you
7 want to recontact the Commission to ascertain whether
8 that's true?

9 MR. WILSON: I understand that this is it.

10 THE WITNESS: I might specifically just say
11 I don't recall if I went back there and did rebuttal.
12 I do not -- I simply don't recall. If I went back and
13 did rebuttal and was recrossed on that I don't recall.

14 MS. BROWN: Is that what you're referring
15 to is rebuttal testimony?

16 MR. OWENS: Yes.

17 MS. BROWN: I believe that the order of the
18 Commission in this case indicates that he didn't
19 return for rebuttal.

20 THE WITNESS: I don't recall.

21 MS. BROWN: That's fine. We can contact
22 the --

23 MR. OWENS: I have no problem if counsel
24 will check and based on whatever the outcome of the
25 check is, if we can have an agreement that whatever

1 part of the testimony isn't included in here would be
2 included, I have no objection. If the check turns out
3 that there is no omitted part, then I also have no
4 objection.

5 JUDGE FOSTER: Well, I will go ahead and
6 admit Exhibit 14. If it turns out subsequently
7 there's any problem with it, I will leave it to
8 counsel to bring it to my attention or our attention
9 at a future proceeding.

10 MR. OWENS: Thank you.

11 (Admitted Exhibit 14.)

12 JUDGE FOSTER: Anything else for this
13 witness?

14 Then the witness may be excused.

15 THE WITNESS: Thank you, your Honor.

16 JUDGE FOSTER: As far as I know then, this
17 would conclude the proceeding as far as IPI's direct
18 case in the classification matter that was scheduled
19 for today's date. We'll have the staff's presentation
20 in March of 1993 and then rebuttal in March also so I
21 trust that IPI doesn't have anything more to present
22 in its direct case today?

23 MR. OWENS: That's correct. The direct
24 case of IPI we rest at this point.

25 JUDGE CLISHE: As far as the admission of

1 Exhibit 6, I'm going to reserve ruling on that until
2 we have some information or a representation from the
3 staff counsel about what, in fact, occurred in that
4 proceeding, if there's anything else that Dr. Wenders
5 testified about or if there's not that that's the
6 case. So I will reserve in addition. And the cross-
7 examination of the company's witness will take place
8 here on December 23, which is day after tomorrow. Is
9 that everyone's understanding?

10 MR. OWENS: Is that in the hearing room
11 here or is there a Commission meeting that day?

12 JUDGE CLISHE: Let me check and see where
13 we put this. From the schedule that I have from the
14 Commission, it indicates it's here in Room 250. If
15 there's any change, it will be on the bulletin board
16 down by the receptionist or the little announcement
17 board. I think perhaps the commissioners -- there
18 aren't enough commissioners here to have an open
19 meeting but if there's a change from Room 250, it will
20 be on the board downstairs as you come in.

21 MR. OWENS: Thank you, your Honor.

22 JUDGE FOSTER: Anything else today? Thank
23 you all for your patience and we'll adjourn until
24 Wednesday.

25 (Hearing adjourned at 5:30 p.m.)