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1 BEFORE THE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,) DOCKET NO. UT-040788
5)
6 Complainant,) Volume V
7) Pages 251 to 398
8 vs.)
9)
10 VERIZON NORTHWEST INC.,)
11)
12 Respondent.)
13)
14 _____)

8 A hearing in the above matter was held on
9 August 11, 2004, from 10:45 a.m to 5:00 p.m., at 1300
10 South Evergreen Park Drive Southwest, Room 206, Olympia,
11 Washington, before Administrative Law Judge C. ROBERT
12 WALLIS and Chairwoman MARILYN SHOWALTER and Commissioner
13 RICHARD HEMSTAD and Commissioner PATRICK J. OSHIE.

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

2 JUDGE WALLIS: We are taking up today with
3 the August 11, 2004, session in the matter of Docket
4 UT-040788 regarding the request for interim rate relief
5 posed by Verizon. Mr. Banta is on the stand.

6 Mr. Banta, I will merely remind you that you
7 have previously been sworn.

8 Mr. Trotter, you may continue your
9 examination.

10 MR. TROTTER: Thank you, Your Honor.

11

12 Whereupon,

13 STEVEN M. BANTA,
14 having been previously duly sworn, was called as a
15 witness herein and was examined and testified as
16 follows:

17

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

19 BY MR. TROTTER:

20 Q. Good morning, Mr. Banta.

21 A. Good morning.

22 Q. I would like to start with just a few of the
23 follow-up questions or questions that were deferred to
24 you by Ms. Heuring, so would you turn to Exhibit 42,
25 page 3.

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1 A. Is this Data Request Number 77?

2 Q. Yes.

3 A. Okay.

4 Q. And in the third paragraph, this response
5 states that:

6 62% of residential customers in
7 Washington have purchased local services
8 in combination with either Verizon Long
9 Distance or DSL or both.

10 And my question to you is, when a customer
11 buys those services in combination, what entity sells
12 those services to the customer?

13 A. Well, the local service would be sold --
14 well, could you clarify, do you mean who actually sells
15 them or who are they purchasing the services from?

16 Q. Who sells it to them?

17 A. It could be sold by Verizon Northwest
18 employees on behalf of Verizon LD and Verizon Online,
19 and we are compensated for that transaction.

20 Q. So a customer could call up Verizon Long
21 Distance and order local, long distance, and DSL?

22 A. I'm not sure if they called Verizon Long
23 Distance that they could complete that transaction.

24 Q. So the part of the transaction they couldn't
25 complete would be the DSL or the local service or both?

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1 A. That's what I'm not sure about.

2 Q. Okay. Then on the, well, I think we have
3 covered this yesterday, but if a customer calls and
4 orders local service just to hook up a new service, can
5 they at that time purchase Verizon Long Distance service
6 and DSL?

7 A. Yes, they can.

8 Q. And that would be Verizon Northwest that
9 sells that?

10 A. Well, it would be Verizon Northwest that
11 completes the transaction. They take the order for the
12 customer.

13 Q. That's what I had in mind, thank you.

14 And then at the bottom of the page there's a
15 reference to the Freedom packages, and those package
16 local call service with long distance, wireless, and
17 Internet access, what entity sells the Freedom packages
18 to customers in the state of Washington?

19 A. The same situation would apply where if a
20 customer calls Verizon Northwest, the service
21 representative could take the order on behalf of all of
22 the entities and be compensated by those entities for
23 the transaction if completed.

24 Q. And what is the form of the compensation?

25 A. It's per our agreement, our joint marketing

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1 agreement, and the terms within that. I'm not sure of
2 the exact amount.

3 Q. Is it a flat fee or a recurring?

4 A. I think it's a flat fee per transaction.

5 Q. Since the Freedom packages were just launched
6 in this state on July 12th of this year, do you expect
7 that sales of the Freedom packages to Washington
8 customers will cause an increase in Verizon Northwest's
9 Washington intrastate revenues?

10 A. I think that it has a greater probability of
11 helping to retain revenues, because if you look at the
12 components of that package, it's very similar to what
13 cable companies are offering, so it would allow us to
14 retain the local service revenues from the customer.

15 Q. So it will help stabilize your current local
16 service revenue base?

17 A. Yes.

18 Q. And would you turn to Exhibit 71, please.
19 This is the Web page where the Verizon Freedom with DSL
20 package is described. Do you have that?

21 A. Yes, I do.

22 Q. This is not a Verizon Northwest Washington
23 intrastate Web site, is it, it's a general Verizon Web
24 site?

25 A. It's a Verizon Web site.

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1 Q. Is it a Verizon Communications Web site or
2 Verizon Northwest Web site?

3 A. It is not a Verizon Northwest Web site, but
4 I'm not sure what legal entity actually runs that.

5 Q. But it would be one legal entity under --
6 either Verizon Communications or a legal entity under
7 Verizon Communications?

8 A. Yes.

9 Q. I would like to return now to your rebuttal
10 testimony, Exhibit 63T, page 11, line 1. In the
11 question and answer here you are responding to Staff's
12 recommendation that if an interim rate increase is
13 granted that it be spread on an equal percentage basis;
14 is that right?

15 A. Yes.

16 Q. And the higher increase to B1 service that
17 you're referring -- that's being referred to in the
18 question relates to the fact that an equal percentage
19 basis will cause a somewhat higher dollar increase to
20 business lines because they are priced higher than
21 residential lines currently; is that correct?

22 A. That's correct.

23 Q. The basis for your concern is the residential
24 and business rate and cost relationship is already out
25 of alignment; do you see that?

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1 A. That's correct.

2 Q. I would like to discuss with you why this
3 rate, what you call rate disparity discrepancy, is of
4 concern to the company in the context of an interim
5 surcharge. My first question in that regard is, is your
6 concern that the discrepancy is unfair to customers or
7 to Verizon?

8 A. Well, I think that when you look at the
9 underlying costs associated with providing an R1 or a B1
10 service, essentially they're very much the same service.
11 And that we already have, as I pointed out in the
12 testimony, a big disparity between what a residential
13 customer pays and a business customer pays. And if
14 anything, over time we would like to move these rates
15 more towards parity, and I think the Commission has
16 recognized that in other cases in this state. And that
17 by putting an equal percentage on both, you would be
18 making that disparity greater rather than narrower. So
19 I think in fairness we already, well, just in fairness
20 between the residence and the business customers, it
21 would be more in parity to give them both the same
22 surcharge.

23 Q. So your answer to my question is that your
24 concern is that it is unfair to the customers; is that
25 correct?

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1 A. Yes.

2 Q. If the company's rate design proposal in the
3 general rate case is approved, there will still be a
4 substantial rate disparity discrepancy between business
5 and residential service, won't there?

6 A. Well, when we looked at the rate design and
7 what we needed to do to achieve revenues that we need,
8 that if we wanted to remove that disparity, it would put
9 a much greater burden on the residential customers, so
10 we made the decision to put an equal rate increase on
11 both.

12 Q. And my question was, if the Commission adopts
13 your rate proposal in the general rate case, the rate
14 disparity discrepancy will still exist, will it not?

15 A. Yes, it definitely will.

16 Q. Do you believe that it would be impossible as
17 a practical matter to increase business services as much
18 as Staff is proposing should interim rate relief be
19 granted because of the vigorous competition in the
20 market for business services?

21 A. I think impossible is a pretty strong term,
22 so I could not agree with that.

23 Q. And still on page 11, lines 1 through 8, you
24 quote a Commission order that was issued in 1998; is
25 that correct?

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1 A. Excuse me, what is your reference again?

2 Q. Footnote 5 and your testimony on lines 5
3 through 7, you cite a rate order or a Commission order
4 from 1998?

5 A. That's correct.

6 Q. And that involved U S West, correct?

7 A. Yes.

8 Q. Verizon did not charge the same price for
9 residential service that U S West charged in that case,
10 did it?

11 A. Our rates are different than U S West.

12 Q. Same for business service?

13 A. I believe that's correct.

14 Q. Is it your testimony that Verizon's costs
15 today for business and residential service are the same
16 as U S West's costs in that docket?

17 A. No, it is not.

18 Q. And Verizon's rates and costs were not part
19 of that record in the U S West case six years ago, was
20 it?

21 A. No, they are not, but I think what we're
22 talking about are relationships and not absolute cost.
23 And the only thing I'm trying to point out here is that
24 from a policy perspective that if Verizon is similarly
25 situated, even though our costs are not the same, it's

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1 reasonable to assume that a similar policy for us would
2 hold true.

3 Q. Well, the Commission resolved the Bell
4 Atlantic/GTE merger docket in combination with two other
5 dockets within the past six years, did it not?

6 A. Yes, it did.

7 Q. And there were residential and business
8 service rate reductions as a result phased in over time;
9 is that true?

10 A. Yes, it is.

11 Q. Would you accept subject to check that
12 business local rates were reduced by a total of \$12.67
13 Million per year, and residential rates decreased by
14 almost \$4 Million per year as a result of that merger
15 and the associated dockets?

16 A. Yeah, I think that was the net impact. There
17 were some minor increases. We had EAS adjustments that
18 we brought into the flat rate also. So I'm not sure
19 it's as straightforward as you say, but I think subject
20 to check I would agree with that.

21 Q. Turn to your direct testimony, Exhibit 61T,
22 page 8, line 20, and you note there that:

23 Vigorous competition in that market --

24 And you're referring to long distance.

25 -- makes it impossible as a practical

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1 matter to increase the company's long
2 distance prices.

3 Do you see that?

4 A. Yes.

5 Q. That's the same strong language that you
6 commented on a few minutes ago?

7 A. Yes.

8 Q. And then on the next page you say on line 1:
9 The same is true for the data and other
10 specialized services the company
11 provides to business and governmental
12 customers.

13 Do you see that?

14 A. Yes.

15 Q. And we discussed yesterday on page 12 of your
16 rebuttal, Exhibit 63T, that the company could support a
17 proposal that would apply the interim surcharge to all
18 intrastate retail and resale tariff price listed and
19 contracted access lines except for UNEs. Do you recall
20 that?

21 A. Yes, I recall a discussion, but that was
22 within the context of Verizon prefers its original
23 proposal, but if the Commission so ordered.

24 Q. And the category that you described there on
25 lines 1 through 3 of page 12 of your rebuttal would

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1 include data and other specialized services the company
2 provides to business and governmental customers,
3 correct?

4 A. Yes.

5 Q. My final line of questioning starts on page 6
6 of your rebuttal, Exhibit 63T, question and answer
7 beginning on line 10.

8 A. I'm sorry, where are you, exhibit?

9 Q. Your rebuttal testimony, page 6.

10 A. Oh.

11 Q. Line 10.

12 A. Okay.

13 Q. And in your answer here you list actions that
14 you state were done by Verizon Northwest to:

15 Combat Verizon Northwest's poor
16 financial condition for Washington
17 intrastate operations.

18 Is that right?

19 A. That's correct.

20 Q. The first thing you discuss are reduced
21 employee counts, and you state on line 17 that:

22 As Verizon Northwest stated in its
23 supplemental response to Staff Data
24 Request Number 11, the company waited
25 for the results of the program before

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1 deciding if further action was required.

2 Do you see that?

3 A. Yes.

4 Q. And you're referring to the MSVP program?

5 A. That's correct.

6 Q. And you go on to say that if that program had
7 not been in place or the results had not worked out, the
8 company would have had to take more direct action; is
9 that right?

10 A. That's correct.

11 Q. Please turn to Exhibit 77. Here we asked for
12 each document that evidences that Verizon waited for the
13 results of the MSV program before deciding if further
14 action was required and any document that evidences that
15 Verizon would have taken more direct action if that
16 program had not been in place. And your response is
17 that no such document exists; is that right?

18 A. You have to look at this within the context
19 of how this unfolded for us in that documents don't
20 exist because we had been managing very closely what was
21 going on in Washington state through the access
22 complaint case. And at the same time, Verizon had a
23 number of initiatives through all parts of our
24 organization to reduce costs of doing business. And so
25 when the access complaint case was resolved and we

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1 implemented the rate reduction associated with that,
2 that we knew that we had in place a program that was
3 going to have a dramatic impact on our expenses in this
4 state.

5 So there really -- the reason there aren't
6 any more documents is because it was very clear to me
7 and it was very clear to the other management that we
8 were going to see how many people -- we did not know
9 ahead of time how many people were going to sign up for
10 the voluntary separation. In fact, the estimates were
11 quite low, and we had a more dramatic take than we ever
12 anticipated. So I think that when you look at a 35%
13 reduction in your management force in the state, that's
14 a pretty dramatic impact on the resources you have
15 available to manage the operations. So there were
16 myself consulting with the other folks responsible for
17 the Northwest, it was very clear that we needed to see
18 how that unfolded and then respond accordingly.

19 Q. Okay. The MSVP program was not initiated due
20 to the financial results in Washington intrastate, was
21 it?

22 A. Well, that's why I referred to you have to
23 look at this within the context with everything else
24 that's going on with the industry and with Verizon. And
25 fortunate or unfortunate, as a coincidence they happened

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1 to happen at the same time. So if it had not been there
2 and if we had not had that situation, we would have had
3 to take more direct action specifically for Washington.

4 Q. Okay. But your answer is that the MSVP
5 program was not started because of the Washington
6 intrastate financial situation?

7 A. No, but I think it's unquestionable that it
8 had a direct impact on Washington.

9 Q. Okay. Now you said that you had
10 consultations with your people regarding the program and
11 what you would do if the program didn't work out. Am I
12 correct then that none of those consultations were
13 reduced to writing in any form?

14 A. Well, it wasn't -- if -- you phrased it
15 differently than I responded, that if the MSVP didn't
16 work, MSVP did not work out, what I said was that we
17 were waiting to see what the take was, and then we would
18 respond accordingly.

19 Q. But the strategy of waiting was not reduced
20 to any written document in any form; is that correct?

21 A. No.

22 Q. And you didn't have a contingency plan in
23 place, did you?

24 A. What do you mean by a contingency plan?

25 Q. Well, a plan that if the MSV program did not

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1 work out that Verizon would take additional action and
2 what that action would be.

3 A. Well, if it didn't work out, then we would
4 have put together a contingency plan.

5 Q. I don't want to play semantics here, but when
6 I said contingency plan, that would be contingent on the
7 MS -- you would have that plan in advance so if the MSV
8 program didn't work, then the contingency plan would go
9 into effect. You didn't have such a plan while the MSV
10 program was going on, did you?

11 A. Well, as I think back, I don't see a need at
12 the time. I did not think of a need for a contingency
13 plan at that time, and I did not put one together.

14 Q. Turn to Exhibit 78, and here we ask whether
15 any Verizon Northwest employee who spends more than 50%
16 of their time on Washington intrastate had had any pay
17 reduced due to the poor financial condition that you are
18 alleging in your testimony for Washington intrastate
19 operations, and there have been no such salary or wage
20 cuts; is that right?

21 A. The objective of salary and wage cuts is to
22 reduce your expense, and when you look at the impact of
23 removing the number of management folks and some
24 associates from the payroll, that we had a more dramatic
25 impact on the expenses, in reducing the expenses in

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1 Washington state than impacting payroll would have had.

2 Q. Is it your understanding that in the Avista
3 interim rate relief case the company reduced management
4 salaries by 15%?

5 A. I do recall something about that, but I don't
6 have any recollection that they did anything to actually
7 reduce their management ranks to the same magnitude that
8 Verizon has.

9 Q. Turn to Exhibit 79, and this was a similar
10 question asking if any Verizon Northwest employee that
11 spends most of their time on Washington intrastate
12 received a bonus. Am I correct that your answer is no,
13 that there were no bonuses, but they were subject to the
14 Verizon Incentive Plan and Team Performance Awards,
15 which you do not categorize as bonuses?

16 A. That's correct.

17 Q. Were either of those plans, the Incentive
18 Plan or Performance Award Program, changed or suspended
19 due to the financial situation in Washington that you
20 are discussing in your testimony?

21 A. They were not suspended, but I know there are
22 some that were impacted.

23 Q. Go to Exhibit 63T, your rebuttal, page 7. On
24 line 1 you're asked about the steps taken to reduce
25 Verizon Northwest's capital budget, and you refer us to

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1 Staff Data Request Number 11; is that right?

2 A. That's correct.

3 Q. Turn to Exhibit 82, and here you were asked
4 to state the reason for the budget reductions that you
5 identified in your rebuttal and each document that
6 stated the reason for the capital budget reduction. Is
7 that right?

8 A. Yes.

9 Q. And the reason for the budget reductions that
10 you're referring to was less capital spending is
11 required due to declines in customer demand and
12 substantial network investment in previous years. Do
13 you see that?

14 A. Yes.

15 Q. This exhibit also refers us to your
16 supplemental response to Staff Data Request 11.B,
17 correct?

18 A. Yes.

19 Q. And you state that that attachment shows a
20 further reduction in capital associated with the Verizon
21 Washington's intrastate financial condition, correct?

22 A. That's correct.

23 Q. Let's turn to Exhibit 83. Do you recognize
24 this as your response to Staff Data Request 11?

25 A. Yes.

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1 Q. Including all supplements?

2 A. Yes.

3 Q. And the data request was issued May 21st, is
4 that right, of this year as shown in the upper left-hand
5 corner? Oh, excuse me, maybe it wasn't, just a second.

6 Would you accept that those data requests
7 were issued May 7th of this year?

8 A. For some reason I don't have that on my copy
9 here, but I would accept that.

10 Q. Part B of the data request asks you to
11 identify any construction budget item that has been
12 deferred or eliminated in response to the financial
13 condition that you describe in your interim rate relief
14 case and to produce documents that show the connection
15 between the construction item deferred or eliminated and
16 that financial condition. Is that your understanding?

17 A. Yes.

18 Q. First response which is shown on the bottom
19 of page 1 was that the capital budget had dropped, was
20 28% lower than 2003, and that you were currently
21 reexamining your capital expenditures and you estimated
22 a further reduction. Do you see that?

23 A. The 28% reduction was corrected to reflect an
24 actual decrease of 13%.

25 Q. Okay. But this is what the initial response

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1 said?

2 A. Yes.

3 Q. We'll get to the correction in a moment.

4 No documents were provided that tied that
5 reduction to Washington intrastate financial results; is
6 that right?

7 A. Well, again, you have to look at this within
8 the context of how we manage our business and that the
9 -- with the constraints placed on where we are in
10 Washington state, the capital group built their budget
11 from the bottom up looking at what the minimum that we
12 had to do to be able to maintain service quality in the
13 state of Washington. And that's where we ended up with
14 a 13% lower than the prior year, and so that reflects as
15 just part of our normal business practice what it takes
16 to be able to do that.

17 Q. So what you did was part of your normal
18 business practice that you do every year?

19 A. Yeah, we look at the situation that we're
20 faced in any given jurisdiction, and we build our budget
21 accordingly from the bottom up. And then we look at the
22 available capital and other constraints that may impact
23 that and manage the budget accordingly.

24 Q. Okay. And in this particular year when you
25 looked at the situation, I take it there was no document

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1 generated that reflected the situation of Washington
2 intrastate financial situation that you described in
3 your testimony?

4 A. Well, the document is in my attachment.

5 Q. Okay, we'll get to that then.

6 A. Okay, thank you.

7 Q. Turn to page 2, and this is the supplement.
8 We had asked you as a supplemental request to be sure
9 you produced the documents that showed the connection we
10 were looking for, and that's in B; do you see that?

11 A. Yes.

12 Q. And in your answer here you indicated that
13 the budget was 13% lower, not 28%, at the bottom of page
14 2?

15 A. Yes.

16 Q. And on page 3 you said:
17 Verizon will produce the requested
18 documents showing the connection for the
19 second step of reductions when
20 completed.

21 Do you see that?

22 A. It says that Verizon will produce the
23 requested documents showing the connection for the
24 second step of reductions when completed.

25 Q. Now no documents were provided in the

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1 supplemental response on page 2 and 3 of this exhibit,
2 correct?

3 A. I'm sorry, say that again.

4 Q. No documents were supplied in the
5 supplemental response on June 2nd, 2004, which is page 2
6 and 3 of this exhibit?

7 A. I'm not sure I understand. We have the
8 exhibit that lists the additional cost reduction
9 initiatives.

10 Q. And we're getting to that, but I'm focusing
11 on the June 2nd, 2004, response didn't produce any
12 documents?

13 A. That's correct.

14 Q. Okay. Now let's go to the last pages of the
15 exhibit beginning on page 4, and this was a supplement
16 that you provided on August 4th; is that right?

17 A. That's correct.

18 Q. And the documents you provided on page 7 and
19 8 of the exhibit?

20 A. That's correct.

21 Q. Please turn to those.

22 Before you turn to those pages, on page 5 you
23 state that in your -- that the attached document,
24 supplemental attachment 11, shows the further reduction
25 in capital spending associated with Verizon's Washington

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1 intrastate financial condition. Is that right?

2 A. That's correct.

3 Q. Okay, let's look at the supplemental
4 attachment which starts on page 7. Now first of all,
5 these capital reductions were effective June 4th of this
6 year; is that right?

7 A. That's correct.

8 Q. And you provided these on August 4th; is that
9 right?

10 A. Yes.

11 Q. And you did not provide any document that
12 indicates that these project reductions were in fact due
13 to Verizon's Washington intrastate financial condition,
14 did you?

15 A. Other than the response to the data request.

16 Q. But this exhibit is the company's complete
17 response to the data request, correct?

18 A. Yes, it is.

19 Q. The first two projects, DSL expansion and DSL
20 growth, account for over half the total planned
21 reductions on this sheet; is that right?

22 A. That's correct.

23 Q. But the company books revenues from its DSL
24 services as 100% interstate, correct?

25 A. Yes, it does.

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1 Q. Now Verizon's position in this case is that
2 the financial emergency that it alleges began when
3 Verizon reduced its access charges as a result of Docket
4 UT-020406, correct?

5 A. That's correct.

6 Q. And that was in October of 2004, correct?

7 A. That's correct.

8 Q. The budget reductions in this exhibit on page
9 7 were effective in June of '04, seven months after the
10 Commission, or excuse me, after those reductions,
11 correct?

12 A. The budget process is an evergreen process,
13 and we had a very tight original capital budget that was
14 significantly reduced over prior periods. You don't
15 turn on and turn off capital programs. There's a long
16 lead time associated with managing a capital budget.
17 And that we knew that we were -- that we are in a
18 stressed position, and as management we had to make a
19 decision. Do you just shut it down and suffer the
20 consequences, or do you find a way to manage the best
21 you can in maintaining service quality.

22 So what we did in managing this was manage a
23 very tight budget to begin with, and then as the
24 opportunities presented themselves, to identify what I
25 would classify as more discretionary programs that would

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1 have minimal impacts on our customer base. And so as
2 you look at this over time, this was an additional
3 capital budget cut that we felt we could make at that
4 time that would have a minimal impact on customer
5 service. It really puts us in more of a pay me now or
6 pay me later scenario where we're finding that we have
7 to defer projects that we normally would do as a course
8 of business.

9 Q. We did not mark this as an exhibit by the
10 way, but I would like your counsel to refer you to your
11 response to Staff Data Request Number 3.

12 MS. ENDEJAN: Mr. Trotter, do you have a copy
13 of this, it would save time.

14 Q. If you could look at page 2 of the response,
15 let's just focus on Item H, we asked you to:

16 Produce all documents in which Verizon
17 Northwest, Inc., or any affiliate
18 thereof, produce all documents in which
19 Verizon Northwest, Inc., or any
20 affiliate thereof that discusses the
21 emergency and/or its causes.

22 Do you see that?

23 A. Yes.

24 Q. And the emergency is the one we talked about,
25 which you said was the Commission's order and the

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1 resulting access charge reductions, right?

2 A. Yeah, that was the order that triggered our
3 earnings to go negative.

4 Q. Okay. And your response to that item for the
5 production of those documents was:

6 Verizon has produced all relevant
7 documents in connection with its April
8 30, 2004, filing. Verizon is not aware
9 at this time of other documents that
10 specifically respond to this request.

11 Did I read that correctly?

12 A. I'm sorry, where are you reading from?

13 Q. Your response to Item H.

14 A. Yes.

15 Q. So if, in fact, Verizon was actively
16 budgeting around the financial emergency it's alleging
17 in this case, you would have produced documents that
18 explain that emergency and how it was being dealt with,
19 wouldn't you, in response to that data request?

20 MR. PARKER: I would like to interpose an
21 objection. The data request asked for documents with
22 prose in it that discusses an emergency. Apparently
23 there were no such documents. The other documents are
24 budget documents with numbers in them that would not be
25 responsive to that request. I think it mischaracterizes

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1 the discovery response.

2 MR. TROTTER: The discovery response says
3 what it says.

4 MR. PARKER: Well, the question says what it
5 says too, counsel.

6 MR. TROTTER: Can we just have the question
7 read back, please, Your Honor?

8 JUDGE WALLIS: Would the reporter, please.
9 (Record read as requested.)

10 MR. TROTTER: Can the witness answer that
11 question?

12 THE WITNESS: I'm sorry, would you please
13 read that back again.

14 (Record read as requested.)

15 MR. PARKER: I would just like to assert the
16 same objection. That data request does not ask for
17 budget documents. It asks for a prose explanation of an
18 emergency.

19 JUDGE WALLIS: I think the question is
20 permissible, and the witness may respond.

21 A. The emergency was triggered by the order that
22 took our earnings negative, and we began the process to
23 respond to that emergency. One of the first things that
24 we did and that was very high on my list was to see if
25 there was a way to get relief for the lost revenues, and

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1 the immediate response to that was to file an emergency
2 petition. And legal had drafted such a petition to try
3 to -- and if we would have gotten a -- well, first of
4 all, we went to court to get a stay. If that stay would
5 have been granted, the revenue stream would have been
6 perpetuated, and that emergency would have been
7 resolved. The stay was not granted, the court recourse
8 was not -- did not resolve our situation, so we prepared
9 to file an emergency petition with this Commission.

10 At that time, I wanted to make sure that if
11 we filed such a petition there was a chance that it had
12 an ability to succeed and actually result in emergency
13 relief for Verizon. And I visited with the Commission
14 and was advised that it would behoove me to look at
15 prior decisions that this Commission has granted. And
16 when we looked at those prior decisions, filing for
17 emergency relief outside the framework of a general rate
18 case gave a very low probability for having success. So
19 in response to that, that's when we began the work to
20 prepare for a general rate case and had other
21 discussions with parts of the organization in terms of
22 the impact of this on Verizon.

23 BY MR. TROTTER:

24 Q. Well, the question was -- let me put it
25 another way.

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1 When we drafted this data request, we thought
2 there would be documents that said, we are in an
3 emergency, here's the emergency, and here's what we're
4 going to do about it. Do I take it correctly from your
5 answer to Staff Data Request 3, part H, that no such
6 document exists or ever existed?

7 A. I guess what I'm contemplating here is that I
8 had consultation with legal counsel about how to respond
9 to the situation and that there's probably some
10 correspondence that went back and forth between myself
11 and legal counsel on how to deal with the emergency.

12 Q. Okay, that was not identified.

13 A. So --

14 Q. I will let the response speak for itself.

15 Please turn to, finally, please return to
16 your rebuttal testimony on page 4, and you just alluded
17 to this on line 18, you began preparing a case for
18 interim relief in the fall of 2003:

19 But when we discussed this filing with
20 Staff and the Commission, we were urged
21 not to file such a case unless it was
22 part of a permanent rate case filing.

23 We accepted this advice and began
24 preparing a rate case filing.

25 Do you see that?

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1 A. Yes.

2 Q. Please turn to Exhibit 75. We asked you to
3 produce each document in which the urging or advice you
4 referred to is evidenced, and no such documents exist;
5 is that correct?

6 A. That's correct.

7 Q. The Commission in its order in the access
8 charge case did not specify the type of filing the
9 company might file in response, they didn't say interim
10 rate relief or general rate relief, did they, in the
11 order?

12 A. No, they did not.

13 Q. Further down in your rebuttal on page 4, you
14 talk about meeting with Staff to discuss the bifurcation
15 case and other matters. Would you turn to Exhibit 76,
16 please, and here we ask whether you were contending that
17 the Commission Staff or any other party urged, advised,
18 or encouraged Verizon to file its rate case on a
19 bifurcated basis. And do I understand correctly that
20 you are not contending that that occurred?

21 A. I don't believe my testimony said that, and
22 I'm not contending that.

23 MR. TROTTER: I believe those are all my
24 questions, Your Honor. I just want to check my exhibit
25 list here.

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1 I would move for the admission of Exhibits 65
2 through 71 and 75 through 83.

3 MR. PARKER: No objections, Your Honor.

4 JUDGE WALLIS: There being no objection,
5 those exhibits are received into evidence.

6 MR. TROTTER: Thank you.

7 JUDGE WALLIS: Mr. ffitch.

8 MR. FFITCH: Thank you, Your Honor.

9

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

11 BY MR. FFITCH:

12 Q. Good morning, Mr. Banta.

13 A. Good morning.

14 Q. You have had a lucky draw, you have avoided
15 the dreaded afternoon time slot, come on in the morning
16 when we're awake, so. As with prior witnesses, Staff
17 has covered a lot of areas, so hopefully this won't be
18 very long, maybe we will be done before lunch here.

19 Let me ask you to turn first of all to your
20 rebuttal testimony on page 2, and that's Exhibit 63T, do
21 you have that, and go to line 24.

22 A. I'm there.

23 Q. And there you testify that the revenue
24 reduction was caused by the unilateral action of the
25 Commission. What do you mean by the unilateral action

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1 of the Commission?

2 A. I mean it was an action taken by the
3 Commission that was beyond management's control.

4 Q. Is it Verizon's position that there was
5 something unfair in the Commission's action that it took
6 in that case?

7 A. Yes.

8 Q. What's the unfairness that you're talking
9 about?

10 A. From our perspective, it was unfair that the
11 Commission reduced our revenues approximately by \$30
12 Million annually without looking at the financial
13 condition of Verizon Northwest and giving the company an
14 opportunity to demonstrate why that would have created
15 an emergency situation and have a grossly unjust impact
16 on the company.

17 Q. And your preference would have been for the
18 Commission to engage in rate rebalancing at that time to
19 replace any revenue that was lost from access charge
20 reductions; is that your position?

21 A. It was my hope that if the Commission chose
22 to reduce access charges for whatever reason that it
23 would recognize that those access charges had provided
24 some contribution in the past to local exchange service
25 and that, in fact, there would have been an opportunity

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1 to do a revenue neutral rate rebalancing.

2 Q. Now you have referred to this as unilateral
3 action, the Commission proceeding was actually initiated
4 upon a formal complaint by another party; isn't that
5 correct?

6 A. Yes, it was.

7 Q. Now can you look at line 26 of that same page
8 of your testimony, and there you say that the order,
9 referring to the order in the access, the AT&T access
10 complaint, "invited Verizon Northwest to take actions to
11 seek immediate relief"; is that right? I'm just --

12 A. That's correct.

13 Q. That's a correct reading. And when you say
14 invited, did Verizon or does Verizon view the order in
15 the AT&T case as a promise that if a request for relief
16 is filed it would be granted?

17 A. No, the order merely stated that if in
18 Verizon's opinion this created a hardship that it should
19 come in and seek relief.

20 Q. So your testimony today and in this rebuttal
21 testimony is not that the Commission made a commitment
22 to replace the lost access charge revenue for Verizon,
23 is it?

24 A. No, it is not.

25 Q. And in Verizon's view, did the invitation as

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1 you described it eliminate Verizon's burden of proof to
2 show the existence of financial need for interim relief
3 or for any other basis for interim relief?

4 A. No, it was just the opposite, it said the
5 burden of proof is yours, Verizon, and come in and make
6 your demonstration.

7 Q. And in your view, did that invitation even
8 lessen the burden of proof that Verizon faces in any
9 way?

10 A. I think the Commission at the time was
11 contemplating a general rate case, that we would come
12 forward with a general rate case. We had an impossible
13 situation to be able to file a rate case, a general rate
14 case, within the time frame that was allotted before the
15 tariff was going to take effect, so we examined other
16 alternatives, that being the emergency relief situation,
17 in which case there are other factors that the
18 Commission considers in granting emergency relief.

19 Q. Well, my question was a little bit different
20 than that, but essentially what I'm asking is, whatever
21 relief the company sought, it is not the company's
22 position, is it, that the Commission has lessened its
23 burden of proof for the chosen form of relief that they
24 seek, whether through interim or general relief?

25 A. Well, I think the Commission has not taken a

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1 position on any of that, that we're simply responding to
2 an action taken by the Commission with the vehicles that
3 are available to us in this state.

4 Q. Well, you're not suggesting that the
5 Commission has invited the company to file and offered
6 it a reduced burden of proof for either interim or
7 general relief, are you?

8 MR. PARKER: At this point, Your Honor, I
9 would like to assert an objection. I've been trying to
10 be nice, but number one, it calls for a legal
11 conclusion, number two, Order Number 5 says what Order
12 Number 5 says, and it speaks for itself, and this is an
13 improper line of questioning.

14 JUDGE WALLIS: Mr. ffitch, are we also
15 perhaps getting a little repetitive.

16 MR. FFITCH: Well, we are, Your Honor, but
17 the witness is not answering the question, a fairly
18 straightforward question about whether the company
19 believes that it has been offered a reduced burden of
20 proof.

21 However, I will withdraw the question, we can
22 move on.

23 BY MR. FFITCH:

24 Q. Is it Verizon's position that it should
25 receive \$29 Million in interim rate relief even if it

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1 can not show any actual financial emergency?

2 A. I believe we have clearly demonstrated a
3 financial emergency.

4 Q. Well, excuse me, my question though is that
5 if the record shows and the Commission concludes that
6 there is no actual financial emergency, is it Verizon's
7 position that the company should nonetheless receive
8 interim rate relief?

9 A. Well, there are more factors in consideration
10 here, and the financial emergency is one of the factors
11 or gross hardship and gross inequity. And I think it's
12 clear that Verizon has suffered a gross inequity, which
13 is -- I would -- in my opinion, there would be a
14 different standard than just a pure financial emergency
15 on a stand-alone basis.

16 Q. So it sounds -- am I understanding you to say
17 yes to that question, yes, even if the Commission
18 concludes there's no actual financial emergency, interim
19 relief should be granted on other grounds; is that your
20 company's position here?

21 A. On grounds consistent with the PNB factors,
22 yes.

23 Q. Now you have mentioned gross hardship or
24 gross inequity, is it fair to summarize your testimony
25 as pointing to or finding gross hardship or inequity in

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1 the events we have just been discussing, that is that
2 the Commission unilaterally reduced the company's access
3 charge revenues without simultaneously performing a
4 revenue neutral rate rebalancing for the company; is
5 that the core of the inequity or hardship that you're
6 relying on in this case?

7 A. Well, I'm looking at the impact of the
8 decision, and the impact of the decision was that we
9 were required to reduce our annual revenues by \$30
10 Million, this was an action that was beyond management's
11 control, and that yes, that creates a financial
12 emergency, drove our earnings to the negative range, and
13 it's created hardship.

14 Q. Well, I guess I'm trying to separate out your
15 view of gross inequity or hardship from the financial
16 question, if that's possible. Your testimony appears to
17 be that they are distinct factors and that one can exist
18 without the other. I'm asking you, isn't your position
19 basically that it's grossly unfair that the AT&T access
20 charge decision was issued without an accompanying rate
21 rebalancing for the company; isn't that the core of your
22 -- the unfairness that you see here?

23 A. I think the core of the unfairness, that's
24 not an accurate characterization, the core of the
25 unfairness is that the company did not have the

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1 opportunity to demonstrate its earnings situation as
2 part of that decision.

3 Q. The amount you request in the interim case
4 which is allegedly needed to repair the company's
5 financial condition, provide it with the necessary
6 interest coverages and ratings, just happens to be
7 coincidentally exactly the same amount of money that the
8 company lost in the access charge order; is that right?

9 A. Well, it's not a coincidence.

10 Q. Did the company direct Dr. Vander Weide to
11 independently calculate a figure necessary for
12 additional revenue to reach certain interest rate
13 coverages or bond ratings, other financial assistance
14 for the company, separate from the \$29 Million access
15 charge reduction?

16 A. We looked at what we thought would be --

17 Q. I'm sorry, I'm happy for you to explain, but
18 that was a yes or no question, was Dr. Vander Weide
19 directed to independently calculate an amount of revenue
20 needed to address those factors that I just listed?

21 A. He did an independent evaluation of what the
22 impact of achieving \$30 Million in additional revenue
23 would be.

24 Q. All right, so he was given the \$30 Million as
25 the figure to work with, is that what you're saying, and

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1 then asked what that impact would be?

2 A. That's correct.

3 Q. Go to your rebuttal on page 4, please. And
4 there you say at line 7, if you have that, that, "the
5 mere passage of time does not demonstrate delay." Is
6 that right?

7 A. That's correct.

8 Q. And then in the next line, you say that even
9 if there was delay, it should not be given much weight
10 in this case. Is that right?

11 A. That's correct.

12 Q. So it's your position the Commission should
13 not give weight to delay in assessing the validity of a
14 claim of emergency or gross inequity; is that your
15 position?

16 A. It's my position that the company responded
17 as fast as it could to a general rate case filing under
18 the circumstances we were faced with and that that does
19 not change the situation that we were in, which is an
20 emergency situation.

21 MR. FFITCH: I just need to find something
22 here, Your Honor, if you could just give me one moment.

23 BY MR. FFITCH:

24 Q. Do you have a copy, Mr. Banta, of the AT&T
25 versus Verizon, the access charge decision of the

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1 company? It's been marked as an exhibit for Mr. King,
2 and I just want to ask you to look at that. Maybe your
3 counsel can give you a copy.

4 A. I don't have a copy here.

5 CHAIRWOMAN SHOWALTER: What exhibit is it?

6 MR. FFITCH: It's Exhibit 111.

7 BY MR. FFITCH:

8 Q. And could you go to page 43, Paragraph 145,
9 please, and could you just read that paragraph, please.

10 COMMISSIONER HEMSTAD: I'm not there. Again
11 would you repeat where we are?

12 MR. FFITCH: I'm sorry, Your Honor, it's
13 Exhibit 111, Paragraph 145 of the order, which is page
14 43.

15 BY MR. FFITCH:

16 Q. And could you please read that paragraph.

17 A. It states:

18 Verizon testimony of record made it
19 clear that the company is conscious of
20 its revenue situation and that it has
21 been considering for some time the
22 possibility of a rate case filing. Its
23 offer of extensive rate related
24 information demonstrate that the company
25 does not need a long time to prepare a

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1 general rate case presentation if it
2 chooses to make such a filing.

3 Q. Thank you.

4 I'm going to go to another topic now,
5 Mr. Banta. Yesterday in response to questions from
6 Staff counsel, Mr. Trotter, you indicated that, well,
7 you testified about the nature of the company's offer to
8 provide refunds in the event that interim relief is
9 granted, and let me just see if I understood your
10 testimony. As I understand it, the company is saying
11 the only factor that comes into play in whether refunds
12 are allowed is whether the total amount of revenue
13 allowed in the general case is lower than the total
14 allowed in the interim case and that the refund
15 determination wouldn't be dependent on differences in
16 rate levels within customer classes. Is that a fair
17 statement of your position if I have explained it
18 clearly?

19 A. The company put forward a proposal that
20 because the surcharge would be subject to refund, it's
21 very important that it be easy to administer. And if
22 the Commission grants emergency relief to Verizon, that
23 tells me that we're entitled to this \$30 Million on an
24 annual basis. If, however, the Commission ultimately
25 found that our rates should be set at \$40 Million let's

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1 say but that the R1 service was less than surcharge, if
2 we had to refund that, that in effect would have been
3 taking away the emergency relief. So the way you stated
4 it is yes, unless any award is less than the \$30 Million
5 on an annual basis, there should not be any refunds.

6 Q. Well, how do you explain that to a
7 residential customer who has paid a \$3.54 surcharge and
8 the ultimate decision is that their rate's only going to
9 go up a buck and they're looking for their \$2 back over
10 the eight months and you say no, that's not what we
11 meant, isn't that --

12 A. Well, it's explained to the customers in a
13 notice we give to them explaining why they're getting
14 the surcharge to begin with, and their -- my assumption
15 is it would be very clear that the company has
16 demonstrated an emergency situation and this is a
17 surcharge that will be collected pending the ultimate
18 resolution of the case.

19 Q. Is it your testimony that you have already
20 explained this to customers in their notice, a notice of
21 any kind?

22 A. Customers have been noticed that we have made
23 this filing, but I think a subsequent notice would need
24 to go out. I'm not sure about that, I would need to
25 verify that.

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1 Q. Now the company has filed a tariff with
2 regard or set a tariff with regard to interim relief,
3 correct?

4 A. That's correct.

5 Q. And, in fact, initially left out the refund
6 portion of the tariff and then at Staff's request
7 subsequently filed tariff language with respect to the
8 refund, correct?

9 A. I'm not recollecting that clearly, can you
10 show me what you're talking about?

11 Q. Well, would you accept that subject to check,
12 that the company has filed tariffs with regard to the
13 refund part of their proposal?

14 A. I will accept that statement but not the
15 prior statement.

16 Q. All right, it's not that important, the two
17 steps. It's my basic point is that you have a tariff
18 filing with respect to your refund offer, correct?

19 A. Yes.

20 Q. And my question getting to the point is, does
21 that refund tariff that you filed contain this condition
22 or caveat that you have just outlined during the
23 hearing?

24 A. Do you have a copy of the tariff?

25 Q. Well, I don't actually. I'm sure we have one

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1 in the hearing room, or I'm not positive, but we might
2 have one in the hearing room.

3 A. I would be happy to respond if I could see
4 the tariff.

5 JUDGE WALLIS: Mr. ffitch, we are rapidly
6 approaching the noon hour, and perhaps if this doesn't
7 conclude your examination it might be an appropriate
8 place for a break, and the document can be referenced
9 over the time of the break.

10 MR. FFITCH: I have just one or two other
11 short areas, but we could rustle up a copy of the tariff
12 over the break and clear things up. Thank you, Your
13 Honor.

14 MS. ENDEJAN: Your Honor, I just wanted to
15 advise you that we have cut our cross-examination time
16 considerably last night to sort of focus things, and so
17 it would be our hope and prayer that we might conclude
18 hearings today.

19 JUDGE WALLIS: Very well, I don't hear any
20 objection at all to that proposal, so that is indeed a
21 delightful goal for us to pursue.

22 MS. ENDEJAN: However, I will need help from
23 some other counsel here.

24 MR. FFITCH: Well, I don't have -- I probably
25 have less than ten minutes left for Mr. Banta, so.

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1 JUDGE WALLIS: Let's take a break now, and
2 the break will also allow counsel to review questions
3 that they may be asking in light of the admirable goal
4 that we have been presented. So let's resume at 1:30,
5 please.

6 (Luncheon recess taken at 12:00 p.m.)

7

8 A F T E R N O O N S E S S I O N

9 (1:30 p.m.)

10

11 JUDGE WALLIS: Let's be back on the record,
12 please, following our noon recess. During the recess
13 Mr. ffitch has provided copies of Advice Number 3121
14 dated May 11, 2004, which includes in this multipage
15 document a copy of the tariffs on which he was
16 questioning the witness at the time of the break. I
17 would like to mark this as Exhibit 84 for
18 identification.

19 In doing so, the ball is back in your court,
20 Mr. ffitch.

21 MR. FFITCH: Thank you, Your Honor.

22

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

24 BY MR. FFITCH:

25 Q. Good afternoon, Mr. Banta.

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1 A. Good afternoon.

2 Q. Now I just handed you a few minutes ago a
3 copy of this tariff filing that's been marked as Exhibit
4 84. Have you had a chance to look that over?

5 A. Yes, I have.

6 Q. And could we turn, please, to page 3 of that
7 document, and if you look at section E-2, well, first of
8 all, section E relates to the interim surcharge,
9 correct?

10 A. That's correct.

11 Q. And then section E-2 describes the surcharge
12 as an interim surcharge of \$3.54 and then describes the
13 particular services that it would be applied to,
14 correct?

15 A. That's correct.

16 Q. And then the final section, section E-3,
17 contains the subject to refund offer that was made by
18 the company, correct?

19 A. That's correct.

20 Q. And there is nothing in that sentence in
21 section E-3 that contains the qualification that you
22 testified to at this hearing regarding the availability
23 of the refund, is there?

24 A. Which aspect of what I testified to are you
25 referring to?

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1 Q. Your statement that a refund would not be
2 available to a customer if their ultimate rate was lower
3 than their interim rate with surcharge in the event that
4 the total amount of revenue awarded to the company in
5 the general exceeded the award in the interim?

6 A. That language is not in here.

7 Q. And is that language or any testimony
8 describing that qualification anywhere else in the
9 company's pre-filed testimony in this case?

10 A. I don't believe so.

11 Q. Can I ask you now to turn to page 11 of your
12 rebuttal, which is Exhibit 63T. I'm going to revisit
13 something that Staff touched on. And at line 4 --

14 A. I'm sorry, what page are you on?

15 Q. Page 11 of 63T, this is your rebuttal
16 testimony. And there you make the reference at line 4
17 to your assertion that the relationship between
18 residential and business rates are "out of alignment
19 already," "already out of alignment"; is that right?

20 A. That's right.

21 Q. Has Verizon in the interim phase of the
22 proceeding offered any cost of service studies to
23 support the assertion that the relationship is out of
24 alignment?

25 A. Our cost of service studies will be filed on

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1 August 23rd with our testimony.

2 Q. And so at this point in time there is no cost
3 of service study in the record supporting an assertion
4 that the rates are out of alignment; is that right?

5 A. Well, I think that it's clear that the rates
6 are out of alignment because the residential rate is so
7 much less than the business rate. So it's clear that
8 the rates are out of alignment, and until the cost study
9 gets filed, I'm depending on just my knowledge of an R1
10 and a B1. And I think if you look at the typical
11 arrangement that the cost characteristics are very
12 similar, or I would even expect the business cost to be
13 lower because the average loop length is less.

14 Q. But as you have noted, the issue of the
15 alignment between these rates, the relationship between
16 these rates, will be taken up in the general rate case,
17 correct?

18 A. Yes, that would be one of the issues
19 addressed.

20 Q. Presumably the Commission will in part make a
21 decision based on the cost studies that you will be
22 filing and perhaps other parties as well in the general
23 rate case, correct?

24 A. Yes, that would be one of the factors that
25 would be considered.

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1 Q. But you in this testimony here are asking the
2 Commission to do that alignment or that realignment now
3 in this proceeding ahead of time?

4 A. No.

5 MR. PARKER: Objection, mischaracterizes the
6 testimony.

7 Q. No, you're not requesting that the Commission
8 realign the relationship between business and
9 residential rates in the interim proceeding?

10 A. We are requesting that the difference between
11 those not be exacerbated by applying an equal percentage
12 to the existing rates.

13 Q. And the record that the Commission would use
14 to support that decision consists of your testimony
15 today on the witness stand and the pre-filed written
16 testimony that we have here in front of us; is that
17 correct?

18 A. Yes.

19 Q. Is there anything else that the company has
20 submitted to support a realignment of the business and
21 residential rate relationship?

22 A. I don't understand your question.

23 Q. Okay. Other than your testimony on the
24 witness stand today and the rebuttal testimony that
25 we're looking at right here, has the company submitted

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1 any other cost study or other evidence in this phase of
2 the proceeding to support the Commission realigning as
3 you would like them to do the relationship between
4 residential and business rates?

5 A. The part that I didn't understand is the
6 support the realigning. I don't know what you mean. We
7 are asking that the same surcharge be applied to both.
8 It's a surcharge, it's not a permanent rate, so there is
9 no realignment, and it's subject to refund.

10 Q. But if you do not apply the same percentage
11 rate to the two classes, are you not realigning the
12 current relationship between the rates?

13 A. You're not realigning the rates, you're using
14 the surcharge to collect subject to refund an amount set
15 by this Commission, so you are not realigning the rates.

16 Q. Maybe I'm misunderstanding the whole thrust
17 of your testimony here. My understanding is that this
18 testimony right here on the page that we have just
19 referred to is an expression of the company's position
20 and your position that the differential between
21 residential and business rates is out of alignment; is
22 that correct?

23 A. That's correct.

24 Q. And you are asking the Commission to begin to
25 address that improper differential, in your mind

0305

1 improper differential, by imposing different percentage
2 increases on the two different customer classes at this
3 time; isn't that correct?

4 A. We are proposing that the surcharge would
5 have a different impact as a percentage on residence
6 versus business.

7 Q. And the reason for that is that you believe
8 that the differential as it currently stands is
9 improperly out of alignment; is that your position?

10 A. Yes, that's the primary reason.

11 Q. And then this gets to my final question, I
12 think, which I was trying to ask before and perhaps not
13 making clear. Other than this testimony here in the
14 rebuttal and your testimony on the witness stand today,
15 is there any cost of service study or other empirical
16 information or any other information submitted by the
17 company in this phase of the docket to support this flat
18 rate increase, flat surcharge proposal, as a realignment
19 of the relationship or differential between the two
20 customer classes?

21 A. There is no cost support submitted in this
22 docket.

23 Q. Just one other area, and then I will be
24 finished, Mr. Banta. We had testimony I believe from
25 Ms. Heuring yesterday that the company continues to

0306

1 assert a revenue deficiency of \$240 Million, and I am
2 rounding up from \$239 Million. Is that an accurate
3 statement of the Verizon position?

4 A. Yes, it is.

5 Q. And as I understand it from the tariffs that
6 are on file, Verizon is only seeking to increase
7 revenues by, again rounding up, \$110 Million. Is that
8 also correct?

9 A. Yes, that is correct.

10 Q. Is the company going to file for other rate
11 increases in other classes of service in the event that
12 it establishes a revenue requirement in excess of \$110
13 Million in the general rate case?

14 A. We would have to look if that -- if that
15 event happens, we would have to look at it within the
16 framework of whatever the Commission ordered. I can't
17 say right now what the company's response would be.

18 Q. So if the company, for example, established a
19 revenue deficiency of \$240 Million, your testimony is
20 that we might see additional tariff filings from this
21 company to increase rates for any of its services,
22 customer classes, as a result of that decision?

23 A. Did you say company or Commission?

24 Q. I mean company, the company decision to file
25 new tariffs to increase rates to recover \$240 Million

0307

1 revenue deficiency.

2 A. I'm sorry, you are asking if the Commission
3 found -- please just restate the question.

4 Q. Well, you're making me rethink the question.
5 Your position is -- my understanding is that Verizon is
6 going to attempt to prove in this case through evidence
7 that it has a \$240 Million revenue deficiency; is that
8 correct?

9 A. That is correct.

10 Q. If the company is successful and the
11 Commission makes a finding that there is a \$240 Million
12 revenue deficiency, the only tariffs you have on file
13 recover \$110 Million. And my basic question is, what is
14 the company going to do then? Are you simply going to
15 go forward with your \$110 Million rate increase, or do
16 you have other plans in the event that you establish a
17 revenue deficiency of greater than \$110 Million?

18 A. And that is a question that I can't answer
19 right now. We would need to look at that and evaluate
20 that at that time and react accordingly.

21 Q. Can you explain to the Commission today why
22 the company has only filed tariffs to recover \$110
23 Million if it believes that it has a revenue deficiency
24 of in excess of double that amount?

25 MR. PARKER: May I just interject an

0308

1 objection as to relevancy. This is a matter for the
2 permanent case, this is the interim case, it's totally
3 irrelevant.

4 JUDGE WALLIS: Mr. ffitch, what is the
5 purpose you're exploring at issue at this time?

6 MR. FFITCH: Because it was a matter of
7 testimony from Ms. Heuring yesterday, Your Honor. I
8 agree that it does go over into the general rate case,
9 but it did come up yesterday, so I thought I would
10 pursue it.

11 JUDGE WALLIS: I think the objection should
12 be sustained.

13 MR. FFITCH: Your Honor, that concludes my
14 examination, and I would offer Exhibit 84 into the
15 record.

16 MR. PARKER: No objection.

17 JUDGE WALLIS: Exhibit 84 is received.

18 MR. FFITCH: Just for your record keeping,
19 Your Honor, we are not offering Exhibit 72 identified
20 for Mr. Banta.

21 JUDGE WALLIS: Thank you very much.

22 Mr. Roseman, do you have any questions?

23 MR. ROSEMAN: Yes, I do, Your Honor.

24

25

0309

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

2 BY MR. ROSEMAN:

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. It's my understanding that based on page 9 of
6 your direct testimony that the citizens who participate
7 in the Washington Telephone Assistance Program would not
8 be impacted by this surcharge; is that correct?

9 A. They would not be impacted by the company's
10 proposal, that's correct.

11 Q. And the company would be exempting these
12 persons from the surcharge, that's your proposal?

13 A. Yeah, our proposal is that we would not
14 include those access lines in the surcharge, that's
15 correct.

16 Q. Can you give me the company's reason for
17 doing that?

18 A. The primary reason was that we did not want
19 to impact those customers or the fund with this interim
20 surcharge.

21 Q. Why?

22 A. I was not sure what the impact might be on
23 the fund if we did that, and we thought it was just
24 easiest to exclude those access lines.

25 Q. Do you know what the purpose of this program

0310

1 is, the Washington Telephone Assistance Program?

2 A. Well, the purpose of the program is to help
3 those customers out there that are part of other
4 programs, to help them pay for their telephone service.

5 Q. And are these individuals low income persons?

6 A. I'm not specific, I don't know the programs
7 that they need to participate in to be able to qualify
8 specifically, but it is my understanding that it's low
9 income assistance, yes.

10 Q. Do you know of any other programs that the
11 State offers or Verizon offers to assist low income
12 persons with their telephone service?

13 A. No, I do not.

14 Q. You mention, we have talked about Washington
15 Telephone Assistance Program, but there is another
16 program called Tribal Lifeline, are you familiar with
17 that one?

18 A. I am not familiar with Tribal Lifeline.

19 MR. ROSEMAN: Nothing further, Your Honor.

20 JUDGE WALLIS: Mr. Butler.

21

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

23 BY MR. BUTLER:

24 Q. Good afternoon, Mr. Banta.

25 A. Good afternoon.

0311

1 Q. If you could please turn to your rebuttal
2 testimony, Exhibit 63T, page 11, please.

3 A. Okay.

4 Q. And specifically could you look at lines 1
5 through 8. There you address the Staff's proposal that
6 there be a higher increase to business local exchange
7 service rates than to residential rates, and you state
8 that the current rate and cost relationship between
9 residential and business rates and costs is already out
10 of alignment, you have discussed that with Mr. Trotter
11 and Mr. ffitch. You then state that a higher increase
12 to business rates would exacerbate this rate disparity
13 discrepancy. By exacerbate the rate disparity
14 discrepancy, do you mean that the discrepancy between
15 residential and business rates would be larger?

16 A. That's correct.

17 Q. In fact, the Staff proposes that business
18 rates be increased by \$4.69 per line per month and
19 residential rates by \$2.05; is that correct?

20 MR. TROTTER: I will object to the form --

21 Q. Would you accept that subject to check?

22 A. Yes.

23 MR. TROTTER: I will object to the form of
24 the question, because the Staff is not proposing any
25 interim rate increase, only if there is one.

0312

1 MR. BUTLER: With that correction.

2 BY MR. BUTLER:

3 Q. Would you accept subject to check that the
4 current difference between residential and business
5 local exchange rates is \$16.70 per line per month and
6 that if the Staff proposal were implemented by the
7 Commission that that rate differential would increase to
8 \$19.34 per line per month?

9 A. Yes.

10 Q. Do you have available to you what's been
11 marked for identification as Exhibit 73?

12 A. Yes, I do.

13 Q. And that is the Verizon tariff for unbundled
14 network elements; is that correct?

15 A. That's correct.

16 MR. BUTLER: I move the admission of Exhibit
17 73.

18 JUDGE WALLIS: Is there any objection?

19 MR. PARKER: No objection.

20 JUDGE WALLIS: The exhibit is received.

21 BY MR. BUTLER:

22 Q. Do you have available to you what's been
23 marked for identification as Exhibit 74C?

24 A. Yes, I do.

25 Q. And can you identify that as Verizon's

0313

1 response to WeBTEC Data Request Number 3?

2 A. Yes, it is.

3 MR. BUTLER: I move the admission of Exhibit
4 74C.

5 MR. PARKER: No objection.

6 MR. TROTTER: Your Honor, I would ask that
7 you reserve ruling until we have had a chance to
8 cross-examine on this exhibit.

9 JUDGE WALLIS: Very well, we'll reserve
10 ruling.

11 BY MR. BUTLER:

12 Q. That data request and response addresses
13 Verizon's estimates of the cost of premium one party
14 flat, residential one party flat, premium business, and
15 premium PBX trunk service; is that correct?

16 A. That's correct.

17 Q. And the exhibit shows that according to
18 Verizon's estimates the cost of premium one party flat
19 business and premium PBX trunk service are less than the
20 cost for premium one party flat residential service; is
21 that correct?

22 A. That's what this shows, yes.

23 Q. Just to clarify, am I correct that the entire
24 cost of the loop are included in those cost estimates?

25 A. That's correct.

0314

1 Q. And you discussed earlier, I believe it was
2 with Mr. Trotter, or maybe it was Mr. ffitch, I'm sorry,
3 that one reason for the cost difference between
4 residential and business service is the fact that on
5 average business loop lengths are shorter than
6 residential loop lengths; is that correct?

7 A. That was my comment, yes.

8 Q. Are you aware of any order of this Commission
9 that business rates should be set at a particular
10 percentage multiple of residential business rates?

11 A. No, I am not.

12 Q. Could you next look at line 17 of Exhibit 63T
13 on page 11. There you testified that --

14 A. Wait, I'm sorry, where are you?

15 Q. Page 11, your rebuttal testimony.

16 A. Yes.

17 Q. Exhibit 63T, page 11, line 17.

18 A. Okay.

19 Q. There you testify that it remains your
20 proposal that if an interim increase is approved by the
21 Commission that it be recovered by imposing a \$3.54 per
22 line surcharge, correct?

23 A. That's correct.

24 Q. But on the next page, page 12, you discuss an
25 alternative proposal.

0315

1 A. Yes.

2 Q. And there you say that Verizon would find it
3 acceptable to apply a surcharge to all retail and resale
4 tariff price listed and contracted access lines except
5 for UNEs; is that correct?

6 A. If so ordered by the Commission, yes, that's
7 correct.

8 Q. Now when you use the term resale, does that
9 include special access services?

10 A. I believe it would.

11 Q. But not switched access; is that correct?

12 A. I'm not sure about that.

13 MR. BUTLER: I don't know whether this is an
14 appropriate subject for a record requisition, but I will
15 ask for a record requisition to confirm whether the
16 proposal would extend to switched access services.

17 (Discussion on the Bench.)

18 JUDGE WALLIS: Yes, we will identify that as
19 Record Requisition Number 1, and could you describe it
20 very tersely.

21 MR. BUTLER: Yes, the request is that Verizon
22 confirm whether or not its alternative proposal to
23 impose a surcharge on resale services includes switched
24 access services.

25 JUDGE WALLIS: Very well.

0316

1 BY MR. BUTLER:

2 Q. Mr. Banta, it is correct, isn't it, that
3 Verizon's retail tariffs include at least for some
4 services options available to the customer to make a
5 term commitment for a period of time, for example a year
6 or three years, in exchange for a specified price?

7 A. Yes.

8 Q. And those tariffs usually contain a
9 termination liability provision; is that correct?

10 A. That's correct.

11 Q. If Verizon were to reduce the monthly rate
12 for one of those services, whether in response to
13 competitor pressure, whatever, would the price reduction
14 be flowed through to customers who have signed up for
15 the one or three year term, or would they be obligated
16 to pay the price they originally agreed to for that
17 period of time?

18 A. Could you restate that question, please?

19 Q. Yes. If Verizon were to reduce the price for
20 monthly service for a service that say a customer had
21 entered into a term commitment of a one year or three
22 year period, would the price reduction be flowed through
23 to the customers who have signed up for the one or three
24 year term, or would they be required to pay for the
25 remainder of their term the price they originally agreed

0317

1 to?

2 A. I believe the contract would stand, and they
3 would be -- it would be a new contract for new
4 customers.

5 Q. Do you believe then as a matter of policy, as
6 the Verizon policy witness, that it would be fair to
7 require a customer who had signed up for a term
8 commitment to also have to pay a higher price during the
9 period of that term commitment?

10 A. This is moving into an area that I think
11 would be more technical in terms of what the Commission
12 can or can not order in regard to a tariff or a contract
13 that we have. Typically most of the contracts I'm
14 familiar with are subject to actions by the Commission,
15 which means that there is some latitude for the
16 Commission to take action.

17 Q. I was specifically interested in whether you
18 as a policy witness believe that it would be good policy
19 to require that a customer pay a higher price during the
20 term under which they had made a commitment?

21 A. From a policy perspective, we had excluded
22 those types of arrangements from our original proposal,
23 and I think that was part of the reason we had done so,
24 and so the company's original position would have been
25 to exclude those. From a policy perspective, we would

0318

1 rather not do that, but if it's within the Commission's
2 authority to do so, we have agreed that we would.

3 Q. Let me then ask you about contracted services
4 since your alternative proposal extends to contracted
5 services as well. I believe you have available to you a
6 copy of Washington statute RCW 80.36.150. Do you have
7 that?

8 Do you have that, Mr. Banta?

9 A. Yes, I do.

10 Q. And do you see the language that has been
11 highlighted in yellow?

12 A. Yes.

13 Q. First sentence highlighted is:

14 The Commission shall not treat contracts
15 as tariffs or price lists.

16 Do you see that?

17 A. Yes.

18 Q. And the second one:

19 Contracts shall be enforceable by the
20 contracting parties according to their
21 terms.

22 Do you see that, the second highlighted
23 language?

24 A. Well, there's more language, that's not the
25 complete sentence.

0319

1 Q. Well, you can read the sentence if you would
2 like.

3 Unless the contract has been rejected by
4 the Commission before its stated
5 effective date as improper under the
6 Commission's rules and orders or the
7 requirements of this chapter.

8 That's the complete sentence, correct?

9 A. Yes.

10 Q. I'm not going to ask you to state a legal
11 opinion about whether Verizon or the Commission has the
12 legal authority to change the terms of a contract once
13 it has been approved. My question to you is, if, in
14 fact, that is the effect of this statute, that Verizon
15 and the Commission lack the authority or the power to
16 order changes in the terms, including the price of
17 contracts once they have become effective, would that
18 change your recommendation, alternative recommendation,
19 with respect to whether the surcharge should be applied
20 to contracted services?

21 A. Well, I'm not expressing a legal opinion, but
22 if the face of these words, for face value, that would
23 change my position in that contracted services should be
24 excluded.

25 Q. Next could you please turn to Exhibit 61T,

0320

1 which is your direct testimony, at page 8.

2 A. I'm there.

3 Q. Specifically if I could direct your attention
4 to a discussion that begins at line 16 where you state
5 that Verizon's surcharge proposal reflects marketplace
6 realities. And then again at lines 20 through line
7 number 2 of the following page, you discuss a subject
8 which you also discussed with Mr. Trotter to the effect
9 that vigorous competition would make it impossible as a
10 practical matter to increase data and other specialized
11 services to business and/or governmental customers. Do
12 you see that?

13 A. Yes.

14 Q. In your alternative proposal, you propose
15 extending a surcharge to those data and other
16 specialized services. Do you still have a concern about
17 the potential effects of competition if the surcharge
18 were implemented?

19 A. Yes, the concern remains.

20 Q. And that concern is that the price increase
21 might cause customers to look for an alternative
22 provider that might not otherwise do so; is that
23 correct?

24 A. It could, it could have that impact.

25 Q. On Exhibit 61T, page 8, lines 17 through 18,

0321

1 you make the statement that Verizon's surcharge proposal
2 would be easier to administer, and I assume your
3 reference is with respect to the Staff proposal; is that
4 correct?

5 A. That's correct.

6 Q. Would you agree that any time that the
7 Commission or a company is involved in an exercise where
8 it is attempting to give refunds to customers that there
9 is the chance that certain customers would not receive
10 the refund to which they might otherwise be entitled?

11 A. There is that chance if they discontinue
12 service or move away, we don't have a forwarding address
13 or a way to get in touch with them.

14 Q. And there is a discernible cost associated
15 with implementing a refund proposal; would you agree
16 with that?

17 A. Yes.

18 Q. You discussed with Mr. Trotter Verizon's
19 proposal that a refund would be given only in the event
20 that the Commission determines in the general rate case
21 portion of this proceeding that the revenue requirement
22 for Verizon is less than the \$29.7 Million on an
23 annualized basis; is that correct?

24 A. Yes.

25 Q. Are you familiar with the concept of a

0322

1 deferral account, sometimes referred to as a memorandum
2 account?

3 Let me be a little more clear about that. If
4 the Commission were to decide to allow Verizon or order
5 Verizon to establish a deferral account for possible
6 recovery through rates during a future period, that is
7 after the general rate case and pursuant to the
8 permanent rate design that is approved in that case,
9 first, wouldn't concerns regarding potential problems
10 with refunds be avoided?

11 MR. PARKER: Could I have a definition of
12 deferral account as it's used in the question, please.

13 MR. BUTLER: Yes, an account where Verizon,
14 side account, collects the money that would be
15 authorized by the Commission just as an account. If the
16 Commission at the end of the general rate case were to
17 conclude that Verizon were entitled to all or a portion
18 of that, Verizon would then be permitted to recover that
19 amount with interest in future rates according to the
20 rate design that would be found to be fair, just, and
21 reasonable by the Commission in the general rate case.

22 MR. PARKER: So, counselor, just to make sure
23 I understand, you're suggesting an escrow account where
24 I don't get the money until the end of the permanent
25 rate case?

0323

1 MR. BUTLER: That's the concept, yes.

2 MR. PARKER: Thank you.

3 A. And the question was?

4 BY MR. BUTLER:

5 Q. Wouldn't that avoid the potential problems
6 with refunds that you identified before?

7 A. I think it would make it worse. The more
8 time that goes by -- no, I guess you would get a
9 decision -- that would not help, I would have to think
10 about it, but I don't know that that would help or hurt
11 the situation.

12 Q. You would avoid the cost of a refund; isn't
13 that correct?

14 A. Well, you still have to return the money to
15 the customer.

16 Q. No, no, you would recover only the amount
17 that the Commission determined you were entitled to, but
18 you would do it in future rates set at that point.

19 A. I would rather incur the cost of the refund.

20 Q. If the Commission through approval to
21 establish a deferral account decided for whatever reason
22 to authorize Verizon to recover some amount of the
23 proposed \$29.7 Million on an annualized basis together
24 with interest, wouldn't that address Verizon Northwest's
25 concern about giving proper assurance to bond rating

0324

1 agencies or to the parent company that it could earn a
2 reasonable return on the investments that it made?

3 A. Our issue is and the reason that we're here
4 today is because that we have lost \$2,000 a month in
5 revenue, and that triggered our earnings to go negative
6 and has created a very difficult situation for us, so
7 our need is to be able to generate that additional
8 revenue stream as soon as possible. And putting it in a
9 deferral account where the company can't touch it and
10 has no access to it and needs to wait to have it
11 available based upon a final Commission order does not
12 help our situation at this time.

13 Q. So your concern is the immediate need for
14 cash as opposed to the right to collect that revenue?

15 A. That is one of the issues, yes.

16 MR. BUTLER: That's all I have, thank you.

17

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

19 BY MR. MELNIKOFF:

20 Q. Good afternoon, Mr. Banta.

21 A. Good afternoon.

22 Q. Let me quickly follow up on one area that
23 Mr. Butler just talked to you about, and that's page 8
24 of your direct, 8 and 9 of your direct testimony, the
25 paragraph that straddles page 8 and page 9. As I

0325

1 understand your responses to Mr. Butler, you're
2 concerned that because of the intense competitive
3 marketplace that if you included the surcharge on data
4 and other specialized services the company provides to
5 business and governmental customers, that will drive
6 them to the competition?

7 A. It is a concern that that would make our
8 rates less competitive and customers may make other
9 choices.

10 Q. And if they did, what would be the impact on
11 the company?

12 A. The impact would be that we would lose the
13 entire revenue stream.

14 Q. So your situation would be exacerbated from
15 the present situation?

16 A. If that happened, yes, that would be an
17 outcome.

18 Q. Going back to your testimony, your pre-filed
19 testimony, as I understand it, and I'm now on page 2,
20 the purpose of your testimony, the purpose of you being
21 on the stand and your testimony, is to explain why the
22 Commission should grant the \$29.7 Million per year
23 interim rate relief; is that correct?

24 A. Yes.

25 Q. On page 4 of your direct testimony, lines 15

0326

1 and 16, and I'm paraphrasing but quite accurately,
2 without an interim rate increase, Verizon's ability to
3 meet its public service obligations will be impaired.
4 What do you mean by public service obligations, what
5 specific public service obligations?

6 A. Well, that's within the context of Verizon
7 providing public service in terms of telephone service
8 and our ability -- what we have had to do is we have had
9 to cut our capital budget back, and we have had to cut
10 back on the resources we have to take care of service
11 quality, and that what we're finding is that some of our
12 measures are now extended in terms of our ability to,
13 well, I should say delayed order requests, we're having
14 more of those now than we used to because --

15 Q. I'm not asking what the effect is, I'm asking
16 what public service obligations are you talking about
17 here?

18 A. Our obligations to serve in the state. I
19 mean we are the provider of last resort. Wherever
20 ourselves territory extends to, it is our obligation to
21 serve if we get a request to have that service. So that
22 is an obligation that we have.

23 Q. Has Verizon Northwest developed any
24 alternative method or contingency plan of satisfying
25 those obligations, those overall obligations, assuming

0327

1 that relief is denied, your interim relief is denied?

2 A. Well, we're going to continue to the best of
3 our ability to meet those obligations. However, we are
4 very stressed as an organization in terms of our
5 resources available to be able to get the job done. We
6 have had a dramatic impact in our, and I mentioned this
7 earlier, the management employees that we have on the
8 payroll, we also have fewer associates, we have cut
9 overtime, and, you know --

10 Q. And I will get to that part of your
11 testimony.

12 A. All right.

13 Q. Has Verizon Northwest coordinated with its
14 parent company to develop a list showing which
15 obligations will be impaired and which will not be
16 impaired?

17 A. No, we have not generated a list.

18 Q. What is the company's largest construction
19 project in Washington at this time?

20 A. I don't know the largest construction project
21 right now.

22 Q. If interim relief is denied, how will that
23 project, how will the large projects be affected, if at
24 all?

25 A. Well, I included a list of those projects

0328

1 that are directly impacted, and those projects are on
2 hold. That was a little over \$11 Million worth of
3 projects. The other projects that are in process right
4 now, the bare minimum of what we need to be able to meet
5 our obligations here in the state will continue. But as
6 I mentioned earlier, what we are not able to do is a lot
7 of the routine maintenance and other aspects of
8 maintaining, for example, central offices or replacing
9 outside plant, that we are having to defer those
10 projects.

11 Q. So what you're saying is you're managing your
12 budget? I heard you --

13 A. We're --

14 Q. I heard you use that term with Mr. Trotter.

15 A. We are managing the business, and the budget
16 reflects the amount of capital that we have assigned to
17 that.

18 Q. On page 6, lines 19 going over to the next
19 page through I think it's line 5, this is on your direct
20 testimony, you're detailing what consequences of the
21 current financial condition, and I presume that would be
22 similar, the condition would continue if your request
23 for interim rate relief is denied, correct?

24 A. That's correct.

25 Q. If the Commission denies your request for

0329

1 interim relief, does Verizon plan to implement a hiring
2 freeze?

3 A. We have already implemented a hiring freeze.
4 It takes senior vice president approval to be able to
5 replace vacancies at this time.

6 Q. And is that hiring freeze specific to
7 Washington state intrastate operations?

8 A. Well, employees support both, so it applies
9 to Washington.

10 Q. Does it apply beyond Washington?

11 A. There are other states with hiring freezes
12 also.

13 Q. In Verizon Northwest?

14 A. Yes.

15 Q. So the hiring freeze is for the company,
16 Verizon Northwest?

17 A. Yes.

18 Q. Not specific to Washington state?

19 A. That's correct.

20 Q. You have a statement here that, and I will
21 paraphrase it, but I'm -- the word is must, and that's
22 your word, and what I'm trying to understand is what is
23 the basis of your belief that a company whose revenues
24 do not cover its costs must, and that's your word,
25 implement a hiring freeze and eliminate overtime?

0330

1 A. Well, you're running a business, and you're
2 not making any money, we're not making any money in our
3 intrastate operations, I think it's responsible for
4 management to do everything it can to contain its costs.
5 Any additional costs that we incur or any additional
6 capital that we invest creates an additional burden on
7 the rate payer that ultimately that we would seek to get
8 revenues to cover. So I think it's just being
9 responsible management, and that's where the must comes
10 from.

11 Q. And if a company's revenues do not cover its
12 costs, and it's incumbent upon responsible management to
13 watch its costs, must that company discontinue paying a
14 dividend?

15 MR. PARKER: Excuse me, I would like to
16 interpose an objection as to what the company is,
17 Washington intrastate operation or Verizon Northwest?

18 Q. Well, we'll take them seriate. Does -- let's
19 talk about Verizon Northwest.

20 MR. PARKER: Objection, Order Number 5 says
21 total company operations are irrelevant to the
22 determination of interim rate relief.

23 JUDGE WALLIS: We'll allow some latitude to
24 explore the context of the situation.

25 Mr. Melnikoff, you may proceed.

0331

1 BY MR. MELNIKOFF:

2 Q. Could you answer the question in terms of
3 Verizon Northwest?

4 A. Dr. Vander Weide provided extensive testimony
5 about dividends and payments. Verizon Northwest as a
6 company may have money available to pay dividends to the
7 parent, but it does not come from the Washington
8 intrastate operations. I believe that's what he
9 represented.

10 Q. So would you answer my question. If a
11 company is not -- if the company Verizon Northwest or
12 any other company is not -- its revenues are not
13 covering its costs, and it's implementing -- it must
14 implement hiring freezes, and those hiring freezes are
15 not specific to Washington state but are it's a company
16 wide program, does that company's responsible
17 management, must that company's responsible management
18 decide not -- to discontinue dividends?

19 MR. PARKER: Objection to the form of the
20 question. I don't believe there's any evidence in this
21 record that Verizon Northwest as a total legal entity
22 does not exceed -- revenues don't exceed its costs.

23 Q. Let's take it as a hypothetical, Mr. Banta.

24 A. So you're saying if Verizon Northwest as a
25 company revenues exceeded its costs, I mean costs

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1 exceeded its revenues?

2 Q. It's not covering its costs, it's
3 implementing cost savings by a non-specific Washington
4 hiring freeze because responsible management is trying
5 to manage its budget, must it, must it discontinue its
6 dividends?

7 A. Again I want to be clear on this. You're
8 saying Verizon Northwest as a hypothetical now is in the
9 exact same situation as Verizon intrastate operations so
10 that Verizon Northwest is earning a negative rate of
11 return on its investment?

12 Q. That's not what I said.

13 A. As a total company.

14 Q. That's not what I said. It's not -- its
15 revenues are not covering its costs, and it's
16 implementing cost savings programs that are not
17 Washington specific.

18 A. Well, it's my understanding that dividends
19 are paid from available net income. Our dividend policy
20 is first we take care of customer service needs and all
21 the expenses that go along with that. Second, we take
22 care of the capital programs that we need in a given
23 state or a given jurisdiction. And then only after
24 those items are taken care of are dividends paid to the
25 parent. So if there is no net income, there would be no

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1 dividend paid to the parent.

2 Q. Thank you.

3 Let me go briefly to page 5 of your direct
4 testimony, and you use the term throughout your
5 testimony, but I just want to focus on these two. On
6 line 7 you use the term gross hardship, and on line 9
7 you use the term gross inequity. Could you define those
8 for me so that I get an understanding of what you're
9 meaning in your testimony?

10 A. Well, to me gross hardship and gross inequity
11 go hand in hand. But it is a situation that has a
12 material impact on your business that you have no
13 control over.

14 Q. And in that context or that definition in
15 this context you're talking about what?

16 A. I'm talking about the access reduction.

17 Q. Several paragraphs below you explain why the
18 interim relief is required. You seem to be indicating
19 that, and correct me if I'm wrong, that we filed a
20 general rate case, and even if, even if we get every
21 penny we ask for, we're not going to be able to recover
22 this shortfall, and by this shortfall you seem to be
23 meaning the access charge reduction, so that -- so that
24 you won't be able to do it, recover that shortfall, thus
25 you need an interim rate increase; is that correct?

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1 A. Well, the --

2 Q. And you can look at your words there.

3 A. Which words are you talking about?

4 Q. I'm looking at the sentence, the two

5 sentences that appear on page 5 of your direct

6 testimony, lines 19 through 21.

7 A. Right, this is simply a statement that the
8 rate decrease went into effect last October, and we have
9 been losing approximately \$2 Million in revenue every
10 month since then. And because we are requesting to gain
11 \$29.7 Million in annualized revenues, which is the
12 amount of the access reduction, that for the months that
13 have already gone by we will not be able to be made
14 whole for that.

15 Q. And that's the justification, and thus
16 interim relief is required, which is your --

17 A. That's not the justification.

18 Q. No, I'm reading your words here, it says,
19 thus interim relief is required.

20 A. That's simply a statement that we have
21 suffered a gross hardship and a gross inequity and that
22 we have -- time has already gone by, the interim relief
23 is required to stop that goes injustice and gross
24 inequity.

25 Q. In your pre-filed testimony which had the

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1 purpose of explaining why the Commission should grant
2 Verizon the interim rate relief of \$29.7 Million, do you
3 once use the word emergency, financial emergency,
4 financial crisis, emergency, other than to explain the
5 six criteria that the Commission uses?

6 A. I would have to review my testimony to answer
7 that affirmatively.

8 Q. Would you take it subject to check that you
9 don't?

10 MR. PARKER: I will not accept that.

11 MR. MELNIKOFF: Okay, then I would await the
12 answer.

13 CHAIRWOMAN SHOWALTER: Doesn't the testimony
14 speak for itself? Do we need an answer to that
15 question, or can we read the testimony ourselves?

16 MR. MELNIKOFF: That's fine.

17 I have no further questions for the witness,
18 thank you.

19 JUDGE WALLIS: Questions from the Bench?

20 CHAIRWOMAN SHOWALTER: Yes, I have several
21 areas of questioning.

22

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

24 BY CHAIRWOMAN SHOWALTER:

25 Q. Let me begin with just a single follow-up

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1 question to one of Mr. Butler's questions. He asked you
2 to look at RCW 80.36.150, specifically the sentence in
3 subsection 3, contracts shall be enforceable by the
4 contracting parties according to their terms, and then
5 there's an unless, and I want to focus on that phrase
6 according to their terms. I understood you to say that
7 most contracts that you know about have terms in them
8 that allow for change pursuant to Commission action. Is
9 that the case?

10 A. Chairwoman, I would need to review the
11 contracts, but that is my -- that has been my
12 experience.

13 Q. So where there were no such terms, there
14 presumably would be less flexibility. Where there were
15 terms allowing adjustment pursuant to Commission action,
16 there would be that kind of flexibility. Is that
17 generally right?

18 A. That would be my interpretation, yes.

19 Q. Okay. I want to turn now to the subject of
20 gross inequity, and I want to explore what this term
21 might mean and what factors might flesh it out. And I
22 would like to speak hypothetically for a period of time
23 in order to think about the term conceptually, and I
24 will come back to the facts at issue and Verizon in
25 particular, but could you imagine this hypothetical.

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1 Two companies, there's company A and company
2 B, and company B is a tune on Mr. Roseman's cell phone,
3 but company A is intrastate only. That's all it does.
4 And it has a zero -- it is earning 0% return on its --
5 let's see, I want to make sure I get my terms right.
6 Yes, its rate of return is 0%. This is company A. It
7 has been earning 0% for the last three years. It is
8 projected to earn 0% for the next one year. So do you
9 have that company in mind?

10 A. Yes, I do.

11 Q. All right. Now company B is a much bigger
12 company. It has Washington intrastate operations that
13 look exactly like company A, but company -- but
14 Washington's operations are only 1% of its business, so
15 it has a lot of other business in a lot of other states.
16 And I want you to assume that in every other
17 jurisdiction for all 99% of its business its rate of
18 return there is 12%, which let's say is exactly what
19 every other jurisdiction has authorized, and it has been
20 12% for three years, and it is projected to be 12% for
21 the next year. In other words, on an intrastate basis
22 company A and company B look the same, but company B on
23 a whole company basis looks very healthy.

24 And I would like to add let's say there
25 simply is no companywide financial emergency as we

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1 normally think of the term, that is company B is in fine
2 financial shape, it can afford, if it borrows from other
3 jurisdictions, it can afford to invest in Washington if
4 it wants to, but that would be at the -- at some expense
5 to somewhere else in its system.

6 So do you have those two companies in mind?

7 A. Yes, I do.

8 Q. I would like to ask you now about different
9 factors that may or may not constitute a gross inequity.
10 First of all with company A, do you agree that in that
11 situation probably company A is in quite bad financial
12 shape by almost all measures?

13 A. Yes.

14 Q. And that probably company A meets definitions
15 of financial emergency or the more historical kinds of
16 situations that we have looked at in terms of interim
17 rate relief?

18 A. Yes.

19 Q. All right. Now with company B, there would
20 you say that there is a gross inequity in let's say a
21 relational sense, that is the Washington, I'm using
22 Washington intrastate in this situation, that Washington
23 intrastate is simply not paying its fair share to a
24 grossly inequitable degree vis a vis all of the rest of
25 the jurisdictions.

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1 A. I guess not only is it not paying its fair
2 share, but it is drawing a scarce resource away from
3 those other jurisdictions, the other 99% where company B
4 could earn a reasonable rate of return.

5 Q. All right. Now I would like to test some
6 other factors. I used 0% for a rate of return for my
7 example. If the rate of return in the intrastate
8 operation is negative, and the more negative it is,
9 would you say in a directional sense that's a greater
10 inequity than 0%, a grosser inequity maybe?

11 A. I would say that the worse the earnings are,
12 the more dramatic the situation is.

13 Q. All right. And on the flip side, if it's not
14 -- if again all the rest of the jurisdictions are steady
15 at 12%, would you say that if instead of being 0% the
16 return in Washington is say 10% that the better the
17 return, the less the inequity?

18 A. It would need to be compared to whatever the
19 12% for example, because I am -- I am aware that this
20 Commission in the past has granted interim relief with
21 returns that were substantially above zero let's say,
22 but they were still marginally below authorized.

23 Q. And my hypothetical is 12% is authorized
24 everywhere, including Washington. I should have added
25 that in. Let's say 12% is the benchmark, so do you

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1 agree that the higher the rate of return, the closer it
2 is to 12%, the less the inequity?

3 A. That's correct.

4 Q. All right. I want to take another factor in
5 another direction. Looking backwards, my hypothetical
6 was three years this had gone on. Now supposing it had
7 only been one month, and the rate of return had been 12%
8 intrastate except for just the past month, do you agree
9 that the shorter the time the differential has gone on
10 or the low rate of return has gone on, the less of an
11 inequitable situation we have?

12 A. I think you have less impact to the company,
13 that it may not necessarily detract from the inequity or
14 the gross inequity event itself.

15 Q. Well, and wouldn't that somewhat depend on
16 the other forward looking factor, if it was only going
17 to go on for one more month, wouldn't that be less of a
18 problem, or two months of 0% return than four years of
19 0% return, three years backward, one year forward?

20 A. Yes, it could.

21 Q. Then here's another factor that may not cut
22 the same way. I posited that company B's intrastate,
23 Washington intrastate operations were 1% of its
24 business. Supposing that it were 50% of its business,
25 does that change the inequity factor?

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1 A. I think for company B whether it is 1% or
2 99%, it does not change the inequity factor.

3 Q. And when we use this word inequity, we have
4 been using it in lots of ways, but one way is to look at
5 whether Washington is paying its fair share and so vis a
6 vis all the other jurisdictions. So in that case,
7 looking at it that way, I would think it wouldn't matter
8 whether we are 50% of the business or 1% of the business
9 if our rate of return is 0%. Would you agree with that?

10 A. Yeah, I agree. Even if it's 1%, if it's not
11 contributing its fair share, it's an asset that is not
12 performing equal to the others, so the others are
13 subsidizing it.

14 Q. On the other hand, if you jump out of this
15 hypothetical for a minute and consider financial
16 distress, financial emergency, would you agree that if
17 Washington intrastate were 50% of the business at 0% for
18 three years backwards and one year projected forward,
19 that's likely to mean a much greater hardship, financial
20 hardship, on the whole company than if it's 1%?

21 A. I think the financial hardship for the
22 intrastate operations is still dramatic, but in terms of
23 its materiality or its impact on the total entity, it
24 may be, yeah, it would have less of an impact.

25 Q. And in terms of the choices that company B

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1 has regarding investment in Washington, under my
2 hypothetical it has plenty of money to do that, but
3 isn't it put to the choice of carrying on its investment
4 or its management with revenues from other jurisdictions
5 or not doing that and putting that money to work in the
6 jurisdictions that paid for it? Essentially isn't that
7 the choice?

8 A. That would be the choice.

9 Q. So with the factors I have discussed thus
10 far, would it be the case that the lower the rate of
11 return, the longer it has gone on, the longer it is
12 projected to go on, the more compelling the gross
13 inequity argument?

14 A. Yeah, it would depend on how you apply all
15 the factors that you look at to establish the gross
16 inequity, but that would appear to have a more
17 compelling argument.

18 Q. I'm really just thinking right at this moment
19 of directional weight I guess.

20 A. Yes, I would agree.

21 Q. A few more factors that I'm trying to work
22 through. It seems to be a theme of your case that
23 because you did not decide or agree with the access
24 charge reduction that that makes the inequity greater,
25 or at least that's a theme of your case. And I'm kind

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1 of -- I'm wondering why that should have much to do with
2 it, and maybe it does, maybe it doesn't. But isn't the
3 basic issue whether in fact your Washington intrastate
4 operations are paying their fair share for whatever
5 reason, or does it matter how you got into this
6 situation?

7 A. Oh, I think it matters how we got into this
8 situation. We had hoped to be able to within the
9 framework of the access complaint case have the
10 Commission look at Verizon Northwest's intrastate
11 earnings and include all the information we had supplied
12 to the Commission when the final decision was made to
13 make whatever change the Commission deemed necessary
14 with access. And the part that we thought was the most
15 inequitable was that our earnings were not a factor in
16 that and that the rates were reduced, and the company
17 was told, if this does create a hardship for you to come
18 in and demonstrate that and seek relief. So the
19 inequity and the hardship from my perspective was that
20 those did not happen simultaneously.

21 Q. Okay. I see somehow we have slipped out of
22 the hypothetical.

23 A. I'm sorry.

24 Q. But I think we would say hypothetically that
25 the more the revenue deficiency is the result of

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1 something beyond the company's control or even over the
2 company's objection, the greater the inequity versus a
3 discretionary decision the company may have made; is
4 that correct?

5 A. Yes.

6 Q. Okay. Another factor is what amount, once --
7 if a gross inequity is established, what amount is
8 necessary to provide relief. And do I take it that the
9 company thinks that, I'm not sure whether it's a minimum
10 or a maximum, but that an amount sufficient to reach
11 investment grade is appropriate?

12 A. We're saying in this situation, yes.

13 Q. I mean I want -- supposing \$30 Million would
14 not have gotten -- oh, I have just slipped out of the
15 hypothetical. I will come back to that, because I want
16 to come back to the facts at issue, but I'm trying to
17 stick to hypotheticals.

18 Another factor is the likelihood of recovery
19 of the interim amount in the general rate case. Now
20 would you agree to this, that the lower the interim
21 amount, the greater the likelihood that that amount will
22 be recovered in the general rate case, not knowing
23 whether even that amount would be?

24 A. I would agree with that.

25 Q. And the greater the amount of interim relief

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1 requested or granted, the less likelihood there is of
2 recovering that amount, that full amount, in a general
3 rate case?

4 A. That seems reasonable.

5 Q. And that leads to the issue of rate design.
6 There was discussion of the problem of what to do if
7 interim relief is not recovered, either interim relief
8 is refunded because the general rate case has either
9 found that was too much money on a general basis or
10 through some rate design some class was paying too much
11 money; is that right?

12 A. Yes.

13 Q. So isn't it the case that the lower the
14 amount in general, the less likelihood that the
15 Commission would run into that problem later?

16 A. Yes.

17 Q. And then in terms of rate design, is it
18 possible to have a rate design that is more likely than
19 other designs not to be upset at an absolute level in
20 the general rate case?

21 A. We're still talking hypothetical?

22 Q. Yes. And maybe isn't it a combination of the
23 amount of the rate relief requested and the rate design?
24 That is if the Commission granted a very large amount,
25 then any change in the rate design or any change or

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1 reduction in the overall amount might trigger a refund
2 or the problem of some class or individuals having "paid
3 too much". But if the amount is less relative to what
4 ultimately is granted in a general rate case, that
5 problem is less likely to arise?

6 A. The difficult thing is to anticipate what the
7 Commission's ultimate decision would be to be able to
8 put that in context for how to deal with the interim
9 situation.

10 Q. Right. And, you know, on that score, clearly
11 all of these decisions are subject to a general rate
12 case that is more thorough and longer running, but the
13 question is whether we have evidence in this proceeding
14 that allows us to make some kind of preliminary judgment
15 if it's justified under either past doctrine or whatever
16 doctrine we develop to apply to this type of situation.
17 Do you agree with that?

18 A. Yes.

19 Q. And speaking in terms of this type of
20 situation, are you aware of any case that has come
21 before this Commission seeking interim relief of a
22 company B type nature, that is where it was not claimed
23 that the company was in financial distress overall but
24 was claimed that there was a gross inequity due to
25 insufficient Washington revenues?

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1 A. I am aware of a number of companies that have
2 received interim relief, but I can't speak right now to
3 whether any of those were in similarly situated -- were
4 similarly situated.

5 Q. Have you been a witness or participated in
6 any other state requesting interim relief?

7 A. No, I have not.

8 Q. Are you familiar with any other state's
9 standards for interim relief?

10 A. No, I am not.

11 Q. All right. Now coming back to Verizon off of
12 my hypothetical, in terms of the length of time that the
13 company has been earning less than its authorized rate
14 of return, from the company's point of view I believe
15 that it's been the year 2000, 2001, 2002; is that
16 correct, and 2003 and --

17 A. Yeah, our earnings have been on a steady
18 decline since the year 2000 and continue to be.

19 Q. All right. And we have I believe a Bench
20 request asking for projections for the next ten months,
21 I think, maybe it's a year.

22 COMMISSIONER HEMSTAD: It was cash flow.

23 CHAIRWOMAN SHOWALTER: Oh, cash flow, okay.

24 BY CHAIRWOMAN SHOWALTER:

25 Q. Can you tell, do you know what percent of

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1 Verizon Northwest's overall business is from Washington
2 intrastate?

3 A. From a net income or an asset or a revenue?

4 Q. In any way that you can characterize it or
5 maybe a couple ways.

6 A. Well, from net income, it's generating no net
7 income from intrastate operations, so that would be zero
8 I think. From an asset perspective, I think, I don't
9 know the numbers, but Washington is the biggest of the
10 three states that are part of the Northwest company, so
11 it would have the largest percentage of assets. And
12 from revenues, I'm not familiar enough with the
13 individual state revenues, although Washington should
14 have the highest percent of revenues.

15 Q. Well, I guess I think a broader question,
16 let's go back to company B, but supposing it is a gross
17 inequity as we have just discussed, just defined it, and
18 I mean this as for purposes of this discussion and those
19 factors. A broader question is, well, all right, why
20 should there be interim relief, why shouldn't the
21 otherwise healthy company just wait until the rate case
22 is done to determine this in a more thorough and final
23 way?

24 A. Because Verizon Northwest's intrastate
25 operations has incurred this gross inequity and should

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1 be entitled to seek relief for that regardless of the
2 financial shape or condition or size of its parent
3 company or other operations in other jurisdictions.

4 Q. We have been using the term gross inequity
5 because it appears in a PNB order that we originally
6 ordered and have cited several times, but do you agree
7 first of all that is not a statute?

8 A. Yes.

9 Q. And it is not a rule?

10 A. It's Commission order.

11 Q. Right. I want to ask you a little bit about
12 intra versus inter, and the evidence at least for
13 Washington is that, that the company has presented, is
14 that the intra revenues are too low but the inter
15 revenues or at least the rate of return or, I apologize
16 if I haven't got the right term, but maybe you could
17 tell me, something was 33%, it seemed pretty high.

18 A. That may be an exhibit to Ms. Heuring's
19 testimony.

20 Q. Well, maybe we can put it in more lay terms.
21 Supposing on an intrastate basis you're not making
22 enough, but on an interstate basis you're making too
23 much, and supposing this condition exists in other
24 states as well. Maybe it's a pattern perhaps because of
25 something like the yellow pages decision. What are we

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1 to make of that, if anything? In other words, do we
2 simply focus on intra and whether that's enough, as I
3 think we have to do in the general rate case, or should
4 we take account of that situation in some way and say,
5 well -- well, should that be a factor?

6 A. I do not believe it should be a factor that
7 -- you know, this Commission regulates our intrastate
8 operations. We comply with all the rules and
9 regulations and accounting that goes along with that.
10 We have to manage our business from that perspective.
11 And that if there is something within the intrastate
12 operation that needs to be addressed, we look at it from
13 that perspective. In this situation, the intrastate
14 return has gone negative, and it needs to stand on its
15 own two feet as far as that goes.

16 Q. Well, here's another hypothetical. Supposing
17 there was an FCC decision on say separations that
18 suddenly caused a bunch of revenue to go from intrastate
19 to interstate, and so suddenly through no company
20 action, intrastate is not making enough and interstate
21 is making a lot, and the company allows that to go on
22 for two years say and then comes in to Washington and
23 says, look at this, on an intrastate basis we're way
24 below what we should be making. Should it make a
25 difference that overall revenues are the same, they're

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1 just accounted for differently, in an interim case, not
2 a general?

3 A. I really don't think it should make a
4 difference. I mean the rules are the rules, and we need
5 to comply with the rules, and that's what we manage our
6 business to also.

7 Q. I wanted to ask you a question about the
8 merger and rate design. In the merger, weren't, as I
9 recall, both business and residential rates were
10 reduced. Is that part correct?

11 A. Yes.

12 Q. Were business rates reduced more than
13 residential rates either in absolute dollars or
14 percentage or both?

15 A. I would have to go back and look at it. I'm
16 not sure.

17 Q. What I was wondering is did the merger
18 exacerbate, keep the same, or improve the alleged
19 differential between residential and the alleged
20 justified difference between business and residential
21 rates, so you're not sure.

22 A. I would have to review the filing.

23 Q. Okay, I can probably ask that question to
24 another witness somewhere along the line.

25 If you could turn to Exhibit 65, page 4 of 7.

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1 You were asked a question with respect to whether
2 Verizon in Washington is doing -- reflects that 50% of
3 Verizon residential customers purchasing long distance
4 or DSL, and I think you said no, but you didn't say what
5 the figures were. So what is the figure for Verizon
6 Northwest and Verizon Washington? This is with respect
7 to the fourth bullet on the page.

8 A. Yes, Chairwoman, I don't have those numbers
9 but can make them available to you.

10 Q. But I think I took from your testimony that
11 they are lower than 50%?

12 A. The especially hard part is the combination,
13 yes, the DSL -- the DSL number is lower than 50%.

14 Q. Could you turn to Exhibit 63T, that's your
15 rebuttal testimony, page 11, and in lines 1 to 8 you
16 talk about really what an absolute dollar increase would
17 do versus a percentage increase. And I think it's your
18 testimony that a percentage increase across, a same
19 percentage increase across residential and business
20 would exacerbate the disparity. Is that your testimony?

21 A. Yes, it is.

22 Q. And isn't it the case that what you mean is
23 it exacerbates it in the sense of an absolute dollar
24 amount, but it would not exacerbate it in terms of a
25 percent, or would it? I mean doesn't it just depend on

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1 what you mean by discrepancy?

2 A. Well, the discrepancy would be that the B-1
3 customers would be paying more of a surcharge than the
4 residential customers would.

5 Q. In absolute dollars?

6 A. In absolute dollars.

7 Q. And it would be your testimony there that
8 business would be getting further away in an absolute
9 sense from what you characterize in this proceeding on a
10 sort of sketchy basis as true cost?

11 A. That's correct.

12 Q. But is it getting further away on a
13 percentage basis?

14 A. Than the residential?

15 Q. Yeah.

16 A. I would have to do the math on that.

17 Q. Yeah, I would have to do the math too. But I
18 guess my point here is when we're talking about
19 discrepancy, some of that is how you define that, if you
20 define it by absolute dollars or percent?

21 A. From my perspective, it's the business, the
22 customer receiving basically the same service is paying
23 more of a surcharge as a business customer than the
24 residence customer is.

25 Q. I have a question from Exhibit 67, page 10.

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1 This doesn't have line numbers, but you were asked a
2 question about the last sentence in the first full
3 paragraph. I'm not really sure who's talking here,
4 whose application is this? Oh, this is the merger
5 application. That makes the point that a merger would
6 translate parent company benefits into stronger support
7 for its operations in Washington. And I think you said
8 something like, yes, and that has happened. And I
9 wanted to follow it up but couldn't at the time. Is
10 what you meant by that is that because the Washington
11 intrastate operations are now part of a bigger company
12 that the bigger company has been able to carry
13 Washington?

14 A. Well, I was thinking of it more from the
15 perspective of what happened when GTE merged with Bell
16 Atlantic.

17 Q. I see.

18 A. And we were able to leverage great resources
19 to be able to lower costs in a number of ways. One
20 example would be the procurement process where because
21 of the buying power of all of the Verizon companies, we
22 have been very aggressive at negotiating with vendors to
23 lower the costs. So the Verizon customer and the
24 Verizon intrastate operation benefits from the lower
25 cost that the combined company has versus what GTE had

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1 on a stand-alone basis.

2 There have been a number of other areas too.
3 One of them is even the Verizon funding pool that's been
4 talked about here in this testimony. We were able to
5 leverage the financial resources of the operating
6 companies to get lower financing or financing at a lower
7 cost for the Northwest company, so that's another
8 benefit that has accrued here.

9 We have also been able to do more, we have
10 talked here about the Internet, but we have used the
11 Internet and our ability on a nationwide basis to have
12 other ways for customers to access our systems either
13 for repair or for establishing service or for changing
14 service that has helped drive a lot of costs out of the
15 business.

16 All the way across the board in terms of even
17 on land and buildings, we have -- it's hotter in the
18 summer, it's colder in the winter, but we have been able
19 to negotiate to be able to lower our energy costs.

20 So the list goes on and on all the way --
21 that would also include the voluntary separation plan
22 also. That Verizon has been recognized by the
23 investment community as being the most aggressive RBOC
24 for driving costs out of the business. We have over
25 57,000 fewer employees today than we did at the time of

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1 the merger. So all of these actions that we're taking
2 in every department, in every aspect of our business, I
3 think reflect well, and Washington receives a benefit
4 from that.

5 Q. Isn't it implicit in what you're saying that
6 at least most of the company is on firm financial
7 footing standing on its -- standing on each its own
8 little bottom, and that the support that is going to
9 benefit Washington or any other state is dependent on
10 the whole company or each of its parts being relatively
11 financially sound?

12 A. Well, I don't think it would be accurate for
13 me to state that the individual parts are strong on an
14 individual basis. For example, the Verizon funding pool
15 that I talked to you about, we have two states that are
16 excluded from that funding borrowing pool because their
17 bond ratings are so low based on their financial status.
18 We're not there yet in the Northwest, but that just
19 shows that there are other parts of Verizon that are not
20 healthy also.

21 CHAIRWOMAN SHOWALTER: Thanks, I have no
22 further questions.

23 JUDGE WALLIS: Let's take a recess now. I
24 have a task to accomplish over the recess, could we
25 extend it to about 20 minutes?

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1 CHAIRWOMAN SHOWALTER: Yes.

2 JUDGE WALLIS: Thank you.

3 (Recess taken.)

4 JUDGE WALLIS: The Commission has two
5 additional Bench requests of the company, and I have
6 printed copies of these if you would like them, but I
7 will state them for the record. The first, which will
8 be Bench Request Number 4, is please provide a statement
9 of cash flows for Washington intrastate operations for
10 the test period. This is related to the prior Bench
11 request for a projection of cash flows.

12 MS. ENDEJAN: Excuse me, Judge Wallis, we may
13 have misunderstood Bench Request Number 3, we thought
14 that that was a request for a statement for cash flows
15 for Washington intrastate -- oh, for test periods, I
16 see.

17 JUDGE WALLIS: Yes.

18 MS. ENDEJAN: As opposed to --

19 JUDGE WALLIS: Historical as opposed to
20 projected.

21 MR. PARKER: I believe that's already
22 contained in Dr. Vander Weide's testimony, but we can
23 pull it out so it would be easy for the Commission to
24 look at and resubmit it.

25 JUDGE WALLIS: Very well, thank you.

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1 The second, which is Bench Request Number 5,
2 relates to Dr. Vander Weide's rebuttal testimony, table
3 1, Exhibit 3T at page 8, and it asks that the company
4 provide information for Oregon and Idaho comparable to
5 the information set out on lines 5, 6, 7, and 8 for
6 Washington state, that is identifying the interstate
7 non-regulated and other revenues net operating income
8 and operating margin, the intrastate and the total state
9 for those two states. That will be Bench Request Number
10 5.

11 And as I say, I do have them in writing if
12 you would prefer to have them.

13 MR. TROTTER: Your Honor, could I briefly
14 comment on both of those?

15 JUDGE WALLIS: Mr. Trotter.

16 MR. TROTTER: I was going to do this at the
17 end, but one of Ms. Folsom's exhibits is Exhibit 130,
18 and we asked the company to provide cash flow for
19 Verizon Northwest, Inc.'s Washington state operations
20 for the years 2001, 2002, and 2003. The company said
21 with respect to that aspect of the request:

22 Statement of cash flows is not produced
23 at the state level, therefore it is not
24 available for Washington.

25 So they did not provide that.

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1 With respect to your Bench Request Number 5,
2 we asked the company to provide that table showing other
3 jurisdictions separated out I think with the same effect
4 as Bench Request Number 5, and the company refused to
5 provide that.

6 So we're in an awkward situation here of us
7 asking for the very same information you're asking for
8 and the company not able to provide it to us. So I
9 would hope that the company could address that. If we
10 had it, we might have had an opportunity to use it in
11 the hearing and examine on it and so on, and so it puts
12 us in an awkward situation.

13 JUDGE WALLIS: I understand your concerns. I
14 would note that the Staff, as other parties, does have
15 the opportunity to ask Commission review when requests
16 for discovery are, subject to objection, are not
17 supplied.

18 MR. TROTTER: Yes. Given the exigencies of
19 the case in preparing for this, we felt this was not
20 possible. Also obviously under the Fisons case in the
21 supreme court, albeit under the superior court rules,
22 the court did not require a motion to compel before
23 finding that a company's discovery practices were
24 unacceptable. But I understand your point, it just
25 wasn't possible in the context of this.

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1 JUDGE WALLIS: Yes.

2 MR. FFITCH: May I be heard also, Your Honor.

3 We have a similar concern, although we did not propound
4 discovery of this type. I would note for the record
5 that the company did not object to the request, it
6 simply said that it did not have the information and
7 could not provide it and it was not maintained on that
8 basis. That type of a response does not normally
9 engender a motion to compel. You simply accept the fact
10 that they don't have it, and you prepare for hearing
11 accordingly.

12 We, as the Staff has, have addressed cash
13 flow in our testimony, and we are now presented also
14 with the prospect of having brand new cash flow
15 information presented by the company perhaps. They're
16 saying they're going to present some, and we have not
17 had an opportunity to prepare any kind of response to
18 that, and we wanted to raise this issue. We're not
19 objecting to having the Bench request prepared, but we
20 would like to discuss a process in which we and other
21 parties would have a chance to respond in some
22 appropriate fashion to the new information.

23 JUDGE WALLIS: The common practice for Bench
24 requests and record requisitions, Mr. Butler made one,
25 would be to have the documents presented no later than

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1 the time of briefing. And parties raising -- I'm sorry,
2 the documents presented within ten days, and the parties
3 able to voice objections at the time of the initial
4 briefs and responses at the time of final briefs. My
5 suggestion would be that at the conclusion of the
6 evidentiary portion of the hearing we look at this
7 issue, and parties will have a chance to think about it
8 for a little while, and see what process can be
9 developed that will meet all the parties' procedural
10 concerns.

11 MR. TROTTER: Thank you, Your Honor.

12 MS. ENDEJAN: Your Honor, I would just like
13 to state for the record, because there seems to be some
14 suggestion here by Staff and Public Counsel that somehow
15 or other Verizon has withheld information that is extent
16 or existing, the responses that the company provided to
17 Public Counsel and Staff were accurate. What has been
18 asked by the Bench in a Bench request is to compile and
19 do an analysis and extract data from other sources to do
20 this sort of analysis. It is out of the norm, the
21 company does not keep its books this way, and it will be
22 doing this as a direct response to requests from the
23 Commission. And we would like the record to be clear on
24 that point so that there's no suggestion that there's
25 been any sort of wrongful withholding of information.

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1 JUDGE WALLIS: Thank you, Ms. Endejan.

2 MR. TROTTER: Just by brief rhetoric, Exhibit
3 130 shows the company objected because it was unduly
4 burdensome, and with respect to the recast of the table
5 it objected on that ground and I believe on relevance.
6 So those will speak for themselves, thank you.

7 JUDGE WALLIS: Yeah, I think the record is
8 complete at this point. And as I say, at the conclusion
9 of the evidentiary portion of the hearing, we can
10 address a process by which these matters may be
11 addressed.

12 Might I inquire the time frame in which the
13 company would be able to provide the responses to the
14 Bench requests?

15 MR. PARKER: Just to be blunt, as I usually
16 am, I have already gotten in trouble on one Bench
17 request for saying I would do it on Monday, so I really
18 need to -- because this information does not exist and
19 my accounting witness is on a plane somewhere back to
20 Texas, I need to consult, and I will get you the date.

21 JUDGE WALLIS: Very well, thank you very
22 much.

23 All right, are we ready to resume? I believe
24 we interrupted the questioning before Commissioner
25 Hemstad had a chance to ask his questions.

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

2 BY COMMISSIONER HEMSTAD:

3 Q. Good afternoon, Mr. Banta.

4 A. Good afternoon, Commissioner.

5 Q. There would seem to be two prongs to the
6 company's request here for interim relief, one asserting
7 a financial emergency and the other asserting gross
8 inequity, possibly also referred to as gross hardship.
9 Just as a preliminary statement, the Commission in
10 several recent orders has made it quite clear that the
11 PNB standards are not a formula or a straitjacket, but
12 they are a factor to be considered, and I realize -- I
13 assume there can be some substantial overlap in those
14 concepts. That having been said, a financial emergency
15 is perhaps relatively more objective evidence to support
16 it, and a gross inequity is, it would seem to me,
17 considerably less objective. But would you agree that
18 those are the two prongs of the case?

19 A. Well, those PNB factors, those are components
20 of the PNB factors that we looked at when we put
21 together our request for interim relief. But we believe
22 that having a negative return on our intrastate
23 operations, which this is the jurisdiction, which is the
24 jurisdiction that this Commission operates in, clearly
25 puts us in a position where if we can't even meet the

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1 requirements for an investment grade utility in this
2 state, with that type of earnings that that should be of
3 serious concern to this Commission, and that's the
4 position we find ourselves in in the intrastate arena.

5 Q. I take your answer as perhaps doing what my
6 preliminary comment said, you were making a generalized
7 conclusion on the situation of the company and saying
8 what, everything considered, you're entitled to interim
9 relief?

10 A. Yes, if you look at all the factors that we
11 have seen that the Commission has considered in the past
12 in other cases, that in our intrastate operations that
13 we meet the burden for an emergency. Having a negative
14 -- the negative return is one component of it, but also
15 in terms of gross hardship and gross inequity. The loss
16 of the \$2 Million, I think I stated \$2,000 earlier, but
17 it's \$2 Million a month represents a gross inequity and
18 a gross hardship. And that, you know, absent the
19 Commission action on that, which was beyond management's
20 control clearly, that we wouldn't be in this situation
21 right now, and that's why we're before you.

22 Q. All right. Then I am probably covering
23 ground that is already in the record, so in translation
24 of that, at least you are arguing that it's the
25 consequences of the access charge order standing by

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1 itself unrelated to everything else that would entitle
2 you to interim relief?

3 A. Well, it was the access charge order that
4 triggered our earnings to go below investment grade.

5 Q. But I guess I'm picking that up, does that
6 then translate into what you would then say is a
7 financial emergency?

8 A. Yes, that represents a financial emergency.

9 Q. And by the way, just as a footnote to
10 Mr. Melnikoff's question to you, I think Mr. Banta does
11 refer to that at page 4, lines 9 and 10 of 63T
12 referencing the testimony of Ms. Heuring and Dr. Vander
13 Weide.

14 In the conversations with Dr. Vander Weide, I
15 took his statements to say that a return below an
16 authorized rate of return would justify interim relief.
17 Is that your understanding of his testimony?

18 A. I'm trying to recall the phrasing. I think
19 -- I'm not sure how it relates to actually getting
20 interim relief, but anything below an authorized
21 triggers a management reaction in that they would no
22 longer have incentive to invest in that asset, whatever
23 that might be, because they could earn a better return
24 if they invested that money somewhere else.

25 Q. Well, maybe I could, without translating that

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1 into a legal standard, would you say that creates
2 presumption of entitlement to relief?

3 A. I'm sorry, Commissioner, what would create a
4 presumption to entitlement, a return less than an
5 authorized?

6 Q. Yes.

7 A. No, I would look at the standards that we
8 have here, and that in our situation it's that our
9 return is negative, and we don't meet the minimum
10 requirements for investment grade. In fact, if we get
11 relief, we will barely meet the requirements for
12 investment grade on an intrastate basis.

13 Q. I understand that, but of course one of the
14 issues in this case, I suppose it will be not possible
15 to make any determination in this preliminary
16 proceeding, is the issue in dispute as to whether or not
17 you are earning a negative rate of return or not. So I
18 think that is disputed based on the issues that will be
19 fleshed out in the case in chief. But so then again
20 taking the hypothetical, assuming you're making a
21 positive rate of return but low, does that then create a
22 presumption of entitlement to interim relief?

23 A. Well, just to comment on some of the issues
24 that have been discussed, first I think that imputations
25 or rate making adjustments it should be pointed out have

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1 no impact on the financial well being of Verizon
2 Northwest intrastate operations. They don't impact cash
3 flow, they don't generate revenue, they don't generate
4 net income, so that would do nothing to generate relief
5 for Verizon Northwest.

6 In terms of an entitlement, I don't believe
7 we're entitled to anything. I think that we clearly
8 meet the standards for emergency relief in terms of
9 where earnings are as far as that goes on an intrastate
10 basis, and also the aspects of this was an action that
11 was beyond management's control. We tried to clearly
12 define the amount of revenue we were seeking to get in
13 interim relief that would get us back to the absolute
14 minimum for investment grade on an intrastate basis so
15 that the Commission has the criteria necessary to make a
16 judgment consistent with prior decisions that would
17 grant Verizon interim relief in this case.

18 Q. All right. So then I take it whether
19 cumulative or in isolation, you might tell me which or
20 both apply, lacking an investment grade standard creates a
21 an environment where a company should reasonably expect
22 then to seek interim relief?

23 A. I think that the Commission could make that
24 finding.

25 Q. I'm asking what your view is?

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1 A. My view is that that would be a situation,
2 yes, where a company could find itself in an emergency
3 situation and need emergency relief.

4 Q. Even though say it had adequate cash flow to
5 meet its requirements?

6 A. I guess we need to look at the --

7 Q. When you say meet its requirements, short
8 term before the end date for the case in chief.

9 A. I think that you would need to look at the
10 individual situation. But even if there were enough
11 cash on hand, that does not alleviate the emergency
12 situation, and emergency relief could well be justified.

13 Q. Well, I suppose one could liken the request
14 for emergency interim relief like going to the emergency
15 ward at the hospital. There's an emergency, the company
16 is in jeopardy. Apparently you don't think that ought
17 to be sort of the litmus test?

18 A. Well, I believe when you look at Verizon's
19 intrastate operations, we are in severe hardship. I
20 mean when you have a negative net or you have a negative
21 return on investment, Dr. Vander Weide talked about the
22 different measures you look at there. If we were a
23 stand-alone company, we would clearly not be an
24 investment grade, which means that I think that
25 typically as regulators in looking and trying to balance

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1 the interests of the investors and the consumers look to
2 at least ensure that a utility is investment grade.

3 Q. Would you look at Mr. King's Exhibit 4, let's
4 see, that's Exhibit 104, and at line 9 is a number for
5 the capital expenses of the test year of \$84.9 Million.
6 In view of your testimony and the cross-examination here
7 and the like, is that still your understanding of how
8 much money will be --

9 A. Are you asking --

10 Q. -- will have been spent in the test year for
11 capital?

12 A. Yes, that's very close to it.

13 Q. Then I'm looking at Exhibit 83, page 7, which
14 is a list of capital cost reductions. Now are these
15 reductions outside of the test year?

16 A. Yes, these are reductions in this year.

17 Q. And I take it with those reductions, that
18 would lead to an increase in your level of cash?

19 A. Well, these -- there would be -- it would put
20 less demand on cash. I'm not sure that it would
21 increase the level of cash on an intrastate. Now we're
22 moving into Dr. Vander Weide's testimony, and I'm really
23 not --

24 Q. But if you're not expending the money for the
25 capital expenditures?

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1 A. My concern is that on an intrastate basis,
2 that money may not be there to begin with. But I'm not
3 the expert, so I shouldn't comment on that.

4 Q. Are there reductions in what had been
5 anticipated capital expenditures occurring in the other
6 states in Verizon Northwest?

7 A. Not to the extent of Washington. In the
8 state of Washington we looked at the overall situation
9 and have put in place a capital program that meets the
10 minimum requirements that we can have to be able to
11 provide service quality. However, those are in jeopardy
12 as I mentioned earlier because we're deferring projects
13 that impact customer service and that we could expect
14 over time perhaps to see outages or it taking longer for
15 a customer to get service or the time to repair, and
16 that is a concern.

17 Q. Well, I think in response to a question from
18 Mr. Melnikoff with regard to a freeze on hiring, your
19 response to his question was the freeze is company wide,
20 not just in Washington. That's correct, isn't it?

21 A. The freeze has been company wide, that's
22 true. I mean but the -- what the management -- with the
23 hiring freeze and with the employee reductions and with
24 not being able to have overtime except for in
25 extenuating, very extenuated circumstances, the

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1 organization is just very stressed in Washington at this
2 time.

3 Q. I understand, but the freeze is company wide,
4 my question was really going to whether your efforts at
5 reducing capital expenditures is company wide also?

6 A. Well, it's not as aggressive as it is in
7 Washington because in other states we have a different
8 situation, but we are always very careful with our
9 capital spending.

10 COMMISSIONER HEMSTAD: Well, let's see, I
11 would like to ask for a Bench request if it can be done
12 reasonably, reduction of, projected changes in capital
13 expenditures in the other states in Verizon Northwest
14 that would give us some information that would be
15 comparable to page 7 of Exhibit 83.

16 JUDGE WALLIS: Bench Request Number 6.

17 BY COMMISSIONER HEMSTAD:

18 Q. You were asked some questions about the
19 relationship between the overall deficiency that you see
20 the company has at the present time and what you're
21 asking for in your tariff as filed. I think that if I
22 remember the numbers correctly it's you claimed an
23 overall deficiency of around \$240 Million, and you're
24 asking for in the proposed tariff \$110 Million. Are my
25 figures approximately correct?

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1 A. That's correct, Commissioner.

2 Q. If this Commission orders increases fully to
3 the extent that you ask for them in the general rate
4 case, in view of the concern that your deficiency is
5 more than double that, will it be the company's view
6 that other states are still subsidizing Washington?

7 A. The other jurisdictions would continue to do
8 so, but we were -- we were faced with some practical
9 realities and that we knew when we looked at the rate
10 design, as you know, we originally requested that we
11 settle the revenue requirement -- be a two phased case.
12 Set a revenue requirement first, and then once the
13 Commission determined that, that we would go on with the
14 rate design. However, that is not the position we're
15 in, and we filed the tariff to reflect the \$110 Million
16 in revenue recovery. We knew that there would be some
17 practical limits that the Commission might face and from
18 a customer perspective from rate shock in terms of how
19 much impact we could have on them at one time, so we
20 decided to file the rate design the way we did for \$110
21 Million, although we know we need the \$240 Million to
22 earn a reasonable return, and that we would address that
23 at a later date.

24 Q. But with that in view of Dr. Vander Weide's
25 testimony, why wouldn't the company lose any incentive

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1 to invest?

2 A. From a pure economist's perspective, there is
3 no incentive to invest, and from a management
4 perspective, we need to take into consideration other
5 factors. If we shut down Washington state for example
6 right now and just stopped investing, that could -- that
7 would definitely lead to an emergency situation. So
8 what we have tried to do is take the measures that we
9 can to reduce spending, to reduce expenses, and to seek
10 relief without doing permanent damage to our
11 infrastructure here. We have invested very heavily in
12 the past. I think we have very good service quality. I
13 think it's fair to represent that this Commission has
14 held our service quality in high esteem for a number of
15 years here. The Northwest company has been rated among
16 the top regions, in the top region in some
17 classifications, in all of Verizon. So it has been a
18 significant investment on Verizon's part, and what we're
19 sharing with you now is that in terms of our intrastate
20 operations, we find ourselves in an emergency situation
21 in, you know, with our return going negative. So in
22 looking at the Commission's response to this, we would
23 hope that they recognize our past track record and
24 service quality in making a determination in this
25 interim proceeding.

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1 COMMISSIONER HEMSTAD: I think that's all I
2 have now, thank you.

3 COMMISSIONER OSHIE: I would like to -- I
4 want a clarification on Bench Request Number 5 I guess,
5 and that is the respective earnings within intrastate,
6 the other intrastate jurisdictions of Oregon and Idaho,
7 is that looking just at the historical, or are we
8 looking at projected numbers or both?

9 JUDGE WALLIS: That relates to Dr. Vander
10 Weide's rebuttal testimony, table 1, Exhibit 3T, page 8,
11 so let's refer back to that.

12 That's titled 2003, so according to its terms
13 it would be historical.

14 COMMISSIONER OSHIE: I would like to add to
15 that the projected revenues during the period that the
16 proposed interim rate increase would be in effect, I
17 believe that's nine months until April or May 2005 for
18 the other jurisdictions.

19 MR. PARKER: Your Honors, we will, you know,
20 certainly do, you know, as requested. You know, this
21 information on a projected basis, number one, is an
22 internal extremely sensitive matter within Verizon.
23 Number two, it doesn't exist. I mean we're going to
24 have to go back and, for Washington itself, and create
25 this information, and we're just going to have to do it

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1 two more times for Idaho an Oregon. And if appropriate,
2 I would request that we do this on a historical basis.
3 I am, of course, I'm here at your pleasure and will do
4 as told.

5 COMMISSIONER OSHIE: My interest here,
6 counsel, is that what the company is asking for at least
7 in part in their case is for us to compare the
8 intrastate earnings in its respective jurisdictions, and
9 I think the most pertinent factor is what it is earning
10 during the period that interim relief is being
11 requested, because that's the period in which there is a
12 purported emergency. And so looking at the comparison,
13 if there's a gross inequity it's looking at that period
14 in which these earnings are going to be in effect and
15 essentially in play and would be in effect in
16 Washington, and what's the comparison to the intrastate
17 earnings within Oregon and Idaho, and then we would
18 really have a clearer picture I think of whether there
19 is a gross inequity in earnings during the period in
20 question. That's my point on it.

21 MR. PARKER: Ask and you shall receive.

22 COMMISSIONER OSHIE: Thank you.

23 And I don't have any questions of Mr. Banta,
24 thank you.

25

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

2 BY CHAIRWOMAN SHOWALTER:

3 Q. I guess this word emergency is I'm finding
4 quite problematic. It seems to me that you are using
5 the phrase, the word emergency, maybe in two ways. But
6 in one way in order to fit into the PNB case, but all
7 those cases had to do with companies who actually said
8 that the company itself, the regulated company, was in
9 financial distress in a real world way. Aren't you
10 saying that, at least in one part, that if the
11 intrastate operation were a stand-alone company it
12 surely would be, you say, in a genuine emergency. That
13 much is correct, right, so far, right?

14 A. Yes.

15 Q. All right. But then I think you're also
16 trying to say that the intrastate operations in the real
17 world is in a financial emergency, and that's where this
18 starts to become a term of art that you are starting to
19 describe I think, which is no more than saying if you
20 were on a stand-alone basis you would be. That is, is
21 the Washington intrastate operations in dire straits
22 that threaten service today, or on the contrary, or are
23 you in essence borrowing from the rest of the company,
24 which I would not describe as an emergency as most
25 people know it. It might be very unfair.

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1 A. Chairwoman, perhaps I have not been conveying
2 this clearly, but what I have been trying to share with
3 you is that we are indeed in an emergency situation in
4 our intrastate operations of the Northwest company, that
5 we have had to cut back on capital, cut back on
6 manpower, cut back on the hours, all trying to improve
7 the financial situation that we have there. And that if
8 we have to sustain that over time, that the investments
9 that we have made in the past and the good will that we
10 have built up with our customers, the public is going to
11 be impacted, and the public is going to feel this.
12 Because simply put, the intrastate operations is losing
13 money. I mean it is, so I mean and that's a reality we
14 have to deal with. And we're dealing with the reality
15 that it on a stand-alone basis would be below investment
16 grade. So that is the situation we're faced with.

17 Q. So is it fair to say that management is
18 taking -- is making decisions that are somewhat
19 discretionary, though perhaps justified, that are
20 starting to or are starving the intrastate operations?

21 A. What we are doing is making decisions that
22 reflect the earning status in the state, and we're
23 moving to where we're meeting the minimum standards to
24 be able to be able to continue to provide service. That
25 if you looked at the numbers, you would say that we

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1 should be taking perhaps more severe action. But if we
2 get interim relief, that contributes and gets us to at
3 least a minimum investment grade standard, and then
4 ultimately if we get relief from a general rate case,
5 that creates more opportunities to be able to manage the
6 intrastate operations.

7 Q. I mean the word emergency is used in many
8 ways, and we actually have a statute about something
9 called emergency relief, but maybe it's a rule I
10 believe, but it talks about, you know, threat to life,
11 liberty, and property, that kind of emergency, the
12 ambulance kind of emergency. Then I think our cases
13 have talked about financial emergencies, which is a
14 little different. And now you are talking about I think
15 something that may be close to that but may be one step
16 removed as well because it involves decisions by a
17 larger company about a segment of its company. Is that
18 accurate?

19 A. Perhaps that clouds it depending on your
20 perspective, but it seems very clear to me that on an
21 intrastate basis, just because our intrastate operations
22 are part of a larger entity which is a part of an even
23 larger entity, we need to look at and deal with what's
24 before us, and that is Verizon's intrastate operations.
25 And if we look at it from that perspective, we're

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1 clearly in a dire situation.

2 Q. And maybe it's, maybe I will just leave it at
3 this, that it seems more fruitful to look at the actual
4 facts and actual decisions that are being made rather
5 than to argue about whether something does or doesn't
6 constitute an emergency, because that term is capable of
7 all kinds of meanings, and ultimately I think this
8 Commission will be looking at the underlying facts and
9 consequences to determine whether they justify relief,
10 and one need not go through the term emergency if one
11 doesn't want to.

12 A. But again, it's my understanding that that's
13 one of the factors that the Commission considers for
14 interim relief.

15 Q. Yes, it is.

16 A. And that the gross inequity and gross
17 hardship associated with the loss of revenue and the
18 impact that that had on operations and how that
19 triggered the intrastate operations to go into a
20 negative return would also be considered. And, in fact,
21 events when you look at them in combination or either
22 one on a stand-alone basis perhaps, Verizon Northwest
23 would be entitled to interim relief.

24 Q. Well, isn't it the same facts that justify
25 the use of the word emergency in your view as justify

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1 the term gross inequity?

2 A. The same facts could, but also the, you know,
3 the loss of the \$2 Million beyond management's control
4 and our inability to restore that or at least prevent
5 that from going, you know, the loss from occurring also
6 is a factor that goes -- that is taken into
7 consideration.

8 Q. That you feel falls more on the inequity side
9 because it has to do more with unfairness or that maybe
10 the hardship side?

11 A. Equity and hardship, because I am aware that
12 in other situations, for example in U S West where they
13 were faced with access charge reductions, that that was
14 done within the framework of a general rate case, that
15 currently there are discussions going on with other
16 telephone companies within the state, and I don't know
17 that any of them have come before the Commission, but
18 the discussion anyway is that they be done on the
19 revenue neutral basis and that if the Commission moves
20 forward and is pursuing those issues that that would be
21 inequity in my opinion. So I think that would be a
22 factor that would enter into this also.

23 Q. I think I will just note that I mean there
24 are other forms of interim or let's say relief prior to
25 ultimate decision that don't depend on words like gross

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1 inequity or emergency, and I'm thinking of FERC for
2 example. Take the case in, you get your rate, and then
3 you figure out the rest later. That is there is nothing
4 inherent that inherently requires gross inequity or
5 emergency, but the cases we have decided thus far have
6 involved those sorts of claims. We probably should
7 leave it at that, or I have started to testify myself,
8 and I don't think I want to do that.

9 A. If the Commission were so disposed, if they
10 wanted to just implement the rate, we would be happy to
11 defend that later in the general rate case.

12 Q. My point here really is I'm trying to think
13 through in this kind of situation what should bring
14 interim rates conceptually without straining too hard to
15 tie it to past cases that weren't the same as this case,
16 and that's why I feel a sort of straining to find the
17 terms that are the same as the ones we have used in
18 prior cases. And there's nothing wrong with that if it
19 fits, but it also may be that just straight facts and
20 analysis yield a more sound result.

21 Anyway thank you.

22 A. Well -- yes.

23 COMMISSIONER HEMSTAD: I have one other
24 question.

25

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

2 BY COMMISSIONER HEMSTAD:

3 Q. Again, would you look at Mr. Vander Weide,
4 Professor Vander Weide's testimony in Exhibit 3T, page
5 8, table 1. And I realize we're going to give out more
6 information here that will help, but so I understand
7 better right now, in lines 10 and 11 of his table with
8 reference to all other jurisdictions at 24%, does that
9 category include the equivalent of lines 6 and 7 under
10 Washington state, in other words all
11 interstate/non-regulated/other intrastate revenues when
12 it says all other jurisdictions? That's how I read it,
13 and I just am trying to --

14 A. I'm sorry, Commissioner, I'm not sure I'm
15 looking at the same exhibit. Is this the one we were
16 looking at earlier?

17 Q. Yes.

18 A. And which line are you looking at?

19 Q. Lines 10 and 11 of table 1 on page 8 of
20 Exhibit --

21 CHAIRWOMAN SHOWALTER: I will jump in here
22 and be helpful I hope. If you look at line 4 of that
23 table under revenue and then you add lines 10 and 11, I
24 think you get the same answer, which implies that your
25 view is correct.

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1 Q. Well, my question, and I realize this isn't
2 your table, but ultimately lines 10 and 11 are really
3 comparing apples and oranges, aren't they? In other
4 words, the figure of 24% shouldn't be compared with a
5 minus 8% because the 24% includes a much larger number
6 of categories of revenue.

7 A. Commissioner, I'm afraid I'm looking at a
8 different schedule, because I'm not being able to see
9 this.

10 Okay, now I have it, now I know what you're
11 looking at. Could you please state your question again.

12 Q. The category in line 10, all other
13 jurisdictions, includes both intrastate and
14 interstate/non-regulated/other revenues, doesn't it?

15 A. Yeah, outside of Washington intrastate, yes.

16 Q. And so a comparison between 24% and minus 8%
17 is not particularly useful here, because it's not -- or
18 what is that intended to convey in the way of evidence?

19 A. What this is intended to convey is that, when
20 you look at Washington intrastate operations, it is just
21 to convey that it's got a negative operating margin that
22 the -- that it doesn't -- it's not generating any net
23 income. But when you look at all other jurisdictions
24 combined that they do have net operating income and they
25 have a positive margin. It's just -- this is a way to

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1 exhibit -- I think Dr. Vander Weide was trying to convey
2 the extent to which the Washington intrastate operation
3 is being subsidized.

4 COMMISSIONER HEMSTAD: All right, thank you.

5 CHAIRWOMAN SHOWALTER: Just on that note, I
6 actually -- since you're going to do a Bench request,
7 can you, when you fill it out, can you just explain all
8 the terms very well on it. Because, in fact, if you add
9 lines 10 and 11 it does not equal line 4, so I'm not
10 sure what the difference is. But I think if you lay it
11 all out plainly, it will be clear.

12 JUDGE WALLIS: I think that would be helpful
13 for all of the Bench requests that call for a
14 calculation, if you would show the actual calculation of
15 the numbers that you present, that would be helpful.

16

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

18 BY JUDGE WALLIS:

19 Q. I have a quick question before we turn back
20 to Mr. Parker. You testified, if I recall correctly,
21 that the financial situation in Washington has resulted
22 in reductions in capital spending, reductions in
23 employment, and reductions in hours of work. If the
24 interim rate increase is granted, what changes, if any,
25 will the company make in those or other practices that

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1 are related to the financial situation?

2 A. It will provide some indication that we will
3 ultimately get relief in a general rate case and would
4 allow us I think to reassess the projects and the
5 operations that are at the margin and create the ability
6 to address those issues.

7 JUDGE WALLIS: Very well, thank you.

8 Mr. Parker.

9 MR. PARKER: Thank you.

10

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

12 BY MR. PARKER:

13 Q. Mr. Banta, you have before you I believe
14 Exhibit 3T, which is Dr. Vander Weide's rebuttal
15 testimony; is that correct?

16 A. Yes.

17 Q. All right. You and the Chairwoman were
18 discussing --

19 CHAIRWOMAN SHOWALTER: Can you please be at
20 your seat using a microphone.

21 MR. PARKER: I'm sorry.

22 CHAIRWOMAN SHOWALTER: And usually you ask
23 permission to approach a witness.

24 MR. PARKER: I apologize.

25 BY MR. PARKER:

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1 Q. You and the Chairwoman were discussing class
2 A and class B companies during the hypotheticals; is
3 that correct?

4 A. Yes, we were.

5 Q. All right. And I believe she asked you what
6 percent of revenue, or perhaps it was Commissioner
7 Hemstad, what percent of revenue intrastate Washington
8 was of total Verizon Northwest; is that correct?

9 A. Yes, she did.

10 Q. By looking at page 8 of Professor Vander
11 Weide's testimony --

12 MR. PARKER: Can I approach the witness, I
13 need to see the line items, Your Honor, I gave him my
14 testimony.

15 JUDGE WALLIS: Yes, you may.

16 BY MR. PARKER:

17 Q. By looking at table number 1 and dividing
18 what appears on line 4, which is total Verizon
19 Northwest, to what appears on line 2, which is
20 Washington intrastate operations, can you come up with
21 the percentage on a revenue basis of Washington
22 intrastate operations to the total?

23 A. If that calculation results in about the
24 Washington -- Washington being about 60% of the
25 Northwest operations revenue.

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1 EXAMINATION

2 BY CHAIRWOMAN SHOWALTER:

3 Q. Well, excuse me, wouldn't it be line 7 if we
4 wanted to know intrastate?

5 A. Well, this was Washington -- that is total
6 Washington revenue with total Verizon Northwest
7 intrastate -- I need a calculator.

8 Q. Well, doesn't line 7 give the Washington
9 intrastate --

10 A. Yes, if we divided those out, that would give
11 you the -- whatever the result of that calculation would
12 be would be what the intrastate is as a percent of the
13 total Northwest.

14

15 REDIRECT EXAMINATION

16 BY MR. PARKER:

17 Q. Would you make that calculation?

18 A. It's about 32%.

19 Q. Thank you, Mr. Banta.

20 There's been a lot of discussion here today,
21 Mr. Banta, about emergency and gross inequity, and I
22 would like to ask you a few questions about that. In
23 your opinion, does the financial emergency portion of
24 the PNB factors focus more on the financial indices of
25 the company as opposed to the other five factors that

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1 are in the PNB list?

2 A. Yes.

3 Q. And what are some of those factors?

4 A. Well, those are the factors that Dr. Vander
5 Weide testified to in terms of your ability to achieve
6 interest coverage that would give you an investment
7 grade rating.

8 Q. And are the trends that are associated with
9 those financial indices important in looking at what is
10 and what is not a financial emergency?

11 A. I think yes, the trends are important, and
12 the trends for Verizon Northwest in terms of our
13 earnings have been down.

14 Q. Now have you read this Commission's Order
15 Number 5?

16 A. Yes, I have.

17 Q. In this docket, Mr. Banta?

18 A. Yes, I have.

19 Q. And has the Commission in that order provided
20 at least one definition of what is a gross inequity as
21 it applies to this case?

22 A. Yes, it has.

23 Q. And do you have Order Number 5 before you?

24 A. No, I do not.

25 MR. PARKER: May I approach the witness?

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1 JUDGE WALLIS: Yes.

2 MR. PARKER: Thank you.

3 BY MR. PARKER:

4 Q. I have handed you Order Number 5, Mr. Banta,
5 page 7, Paragraph 20, does the last sentence in that
6 order define for purposes of this case at least one
7 definition of what is a gross inequity?

8 A. Well, it says:

9 We find it appropriate to consider the
10 company's need for interim rate relief
11 based on a Washington intrastate basis
12 only and to determine whether the level
13 of its intrastate revenues constitutes a
14 gross inequity justifying interim
15 relief.

16 Q. Now during questioning from the Bench,
17 Mr. Banta, I believe you talked about the short-term
18 cash pool; do you recall that?

19 A. Yes.

20 Q. And I believe you mentioned that there were
21 two ILEC's that were not a member of that cash pool?

22 A. That's correct.

23 Q. Do you know why those two ILEC's are not a
24 member of that cash pool?

25 A. They're not a member of the cash pool because

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1 they don't meet the criteria for an investment grade
2 company.

3 Q. Do you have an opinion based on our
4 presentation in this case on a Washington intrastate
5 basis whether we would continue to be in that cash pool
6 if earnings do not improve?

7 A. Since we are not an -- since Dr. Vander Weide
8 has demonstrated that we do not meet the requirements
9 for an investment grade utility, that we would not be
10 allowed to participate in that pool.

11 Q. You and the Chairwoman were discussing what I
12 believe was termed items that were analyzed in a
13 directional sense. Do you recall that?

14 A. Yes.

15 Q. Are there certain in your opinion trip points
16 or perhaps rest stops as you take the journey across the
17 directional sense on earnings that would make further
18 earnings either up or down irrelevant?

19 A. Well, if you're talking about the downward
20 trend in earnings, if you go -- once you are no longer
21 investment grade, it really doesn't matter how much
22 further down your earnings go in terms of what would
23 represent an emergency to the company.

24 Q. Is there a dollar amount under \$29.7 Million
25 that would get Verizon back as an investment grade bond

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1 rating?

2 A. Dr. Vander Weide testified that the \$29.7
3 Million barely achieves an investment grade rating on an
4 intrastate basis, because I think two of the three
5 factors that he testified to help lift the third factor,
6 which does not meet that criteria.

7 Q. Do you have before you, Mr. Banta, what's
8 been marked for identification as Exhibit Number 111?

9 A. I do not have that exhibit.

10 MR. PARKER: May I approach the witness?

11 JUDGE WALLIS: Yes.

12 Counsel, are you referring to the final
13 order, the 11th Supplemental Order in the access charge
14 case?

15 MR. PARKER: Yes, Your Honor.

16 BY MR. PARKER:

17 Q. Mr. ffitich directed you to page 43 on that
18 exhibit; is that correct?

19 A. Yes.

20 Q. And the discussion on that page is whether
21 that you had sufficient time to file a rate case; is
22 that correct?

23 A. That's correct.

24 Q. Do you agree with that statement, Mr. Banta?

25 A. I do not agree. After the Commission's

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1 order, what we had to do was begin to prepare a rate
2 case quality filing based on all new data with a new
3 test period. That is a considerable undertaking.

4 Q. Now as long as you're on page 43 there, could
5 you look at the paragraph above, please.

6 A. Paragraph 144?

7 Q. Yes.

8 MR. PARKER: Is it okay if I come over here
9 for a moment?

10 JUDGE WALLIS: Yes.

11 MR. PARKER: Thank you.

12 BY MR. PARKER:

13 Q. Could you read the first two sentences of
14 that paragraph, please.

15 A. (Reading.)

16 We have ruled against Verizon's request
17 that it be allowed revenue neutral rate
18 increases to compensate for the revenue
19 reduction resulting from this decision.
20 We recognize, however, that implementing
21 the access charge reductions will cause
22 considerable reduction in Verizon's
23 revenues and that we must afford Verizon
24 a reasonable opportunity to earn a
25 reasonable return.

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1 Q. Now while you were discussing I believe gross
2 inequity with the Bench, you discussed disparate
3 treatment in terms of access charge reductions both in
4 terms of being done on a revenue neutral basis and not
5 being done on a revenue neutral basis; is that correct?

6 A. Yes.

7 MR. PARKER: May I approach the witness, Your
8 Honor?

9 JUDGE WALLIS: For the purpose of?

10 MR. PARKER: Hand him the exhibit.

11 JUDGE WALLIS: Yes.

12 BY MR. PARKER:

13 Q. Mr. Banta, I would like to give you what's
14 been marked for identification as Exhibit 134. Do you
15 see that, sir?

16 A. Yes, I do.

17 Q. And is that the basis for the statement that
18 you discussed with the Bench in terms of other companies
19 getting revenue neutral offset whereas Verizon did not?

20 A. This is the basis for one of the statements
21 where the Commission was considering revenue neutral
22 offsets, yes.

23 Q. And is that part of the foundation for your
24 conclusion that there is a gross inequity in this state
25 in this case?

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1 A. Yes, it is.

2 Q. Mr. Banta, there was a fair amount of
3 discussion with Mr. Trotter walking through exhibits
4 concerning documents and why documents existed or why
5 documents didn't exist or why we didn't have documents;
6 is that correct?

7 A. Yes, it is.

8 Q. Could you tell the Commission how you do
9 business or how Verizon does business on a case like
10 this?

11 A. Well, it's really very straightforward.
12 There are very few senior executives that are actually
13 involved in dealing with the consequence of this. The
14 gentleman that is responsible for the capital component
15 of what goes on in the Northwest is in an office that's
16 just about 20 steps away from me. And so as a result of
17 the decision, I went and discussed our situation in the
18 Northwest, and we agreed on appropriate action, and he
19 is the one that initiated the evaluation of how to
20 implement the capital cutbacks. That's why there are no
21 documents indicating that an emergency exists and it's
22 going to trigger a wave of actions throughout the
23 organization.

24 The same is true with dealing with my chief
25 counsel, who is another individual that I work with on

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1 these kind of situations, who is only less than a minute
2 away.

3 So I think the impression was created that I
4 wasn't being forthright and not sharing information, but
5 simply the way we manage the business is that there are
6 a lot of decisions that get made and implemented without
7 documentation.

8 Q. When the original 2004 capital budget was
9 created, was the access reduction ordered by this
10 Commission a known fact? I'm sorry, a known fact within
11 senior management and Verizon?

12 A. Yes, it was.

13 Q. And was that a baked in item when the budget
14 was created?

15 A. Well, it was a factor that they considered as
16 they developed the budget, so I would consider that
17 baked in.

18 Q. Mr. Banta, I would like to turn you to
19 Exhibit 68C if you still have that before you, please.

20 A. I'm there.

21 Q. And this is I believe the confidential --
22 there's some confidential numbers on here. Do you have
23 any concerns with the numbers that appear on this
24 exhibit?

25 A. Yes, I do. After the discussion of this

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1 yesterday, I went back and looked at a couple of other
2 states that are similarly situated as Washington state,
3 and if the \$5 charge as was suggested not be there, if
4 Verizon wanted to alleviate or work to alleviate the
5 financial stress it's under right now, come forward to
6 the Commission. And I just wanted to share with the
7 Commission that other states that have implemented a
8 1.5% late payment charge with a similar number of access
9 lines generate in the neighborhood of around \$3 Million
10 in revenue a year. So it would be a dramatically
11 different number if it were implemented under those
12 circumstances.

13 Q. So we need to vet the number that appears on
14 that exhibit further; is that correct?

15 A. Verizon needs to, as we move forward with
16 this case, needs to take a very close look at that
17 number.

18 Q. Mr. Trotter asked you some questions about
19 intraLATA traffic and Verizon Long Distance; do you
20 recall that?

21 A. Yes.

22 Q. Does Verizon Long Distance resell Verizon
23 Northwest intraLATA toll?

24 A. Yes, it does.

25 Q. And when they do that, what is the discount?

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1 A. It's a 5% discount.

2 Q. So you're still retaining 95% of the
3 intraLATA toll revenue when that happens?

4 A. Yes, we are.

5 Q. I believe Mr. Trotter also asked you why
6 Verizon, Verizon Northwest, didn't engage in intrastate
7 interLATA traffic; do you recall that?

8 A. Yes, he did.

9 Q. Are there any technical reasons why that
10 can't be done, Mr. Banta?

11 A. If Verizon Northwest were to provide both
12 intraLATA toll service and interLATA toll service, it
13 would require the customer to make a pick, pick us for
14 both intraLATA and pick us for interLATA. However,
15 there's no such thing as an interLATA only pick. That
16 if you're an interLATA -- if there -- if it is an
17 interLATA pick, it is both interLATA and interstate,
18 there are only two picks possible for a customer. So
19 technically if Verizon Northwest wanted to expand its
20 intrastate toll business, it would have to also enter
21 the nationwide toll business, which we all know what's
22 going on in the LD business in terms of that as a
23 stand-alone option, so that is not viable for Verizon
24 Northwest. And I think that the current arrangement
25 does well to preserve revenues for the Northwest

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1 company. Of the \$20 Million approximately we received
2 in total revenue, \$13 Million of that was resulted from
3 intraLATA toll, resale toll.

4 MR. PARKER: I have nothing further, thank
5 you, Mr. Banta.

6 JUDGE WALLIS: Are there other questions?

7 MR. TROTTER: Yes, Your Honor.

8 JUDGE WALLIS: Let's be off the record,
9 please, for a scheduling discussion.

10 (Discussion off the record.)

11 JUDGE WALLIS: Rather than run the risk of
12 extending today's session well beyond the 5:00 mark
13 despite the best intentions of capable counsel, we will
14 pick up tomorrow morning as earlier indicated. We are
15 planning to start at 9:30, but there is an exigency that
16 might require us to delay for a few minutes.

17 So thank you very much, and we're off the
18 record.

19 (Hearing adjourned at 5:00 p.m.)

20

21

22

23