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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3

4 In the Matter of the Continued) Docket No. UT-003013
5 Costing and Pricing of)
6 Unbundled Network Elements and) Volume V
7 Transport and Termination.) Pages 386-602
8 _____)

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8 A hearing in the above matter was
9 held on August 22, 2000, at 9:07 a.m., at 1300
10 Evergreen Park Drive Southwest, Olympia, Washington,
11 before Administrative Law Judge LAWRENCE BERG,
12 Chairwoman MARILYN SHOWALTER, Commissioner RICHARD
13 HEMSTAD and Commissioner WILLIAM R. GILLIS.

14

15 The parties were present as
16 follows:

17 QWEST, by Lisa A. Anderl, Attorney
18 at Law, 1600 Seventh Avenue, Room 3206, Seattle,
19 Washington 98191.

20 THE COMMISSION, by Shannon Smith,
21 Assistant Attorney General, 1400 S. Evergreen Park
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23 98504-0128.

21

22 NEXTLINK WASHINGTON, ELECTRIC
23 LIGHTWAVE, INC., ADVANCED TELCOM, INC., NEW EDGE
24 NETWORKS, INC., NORTHPOINT COMMUNICATIONS, McLEOD
25 USA, AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
and TCG SEATTLE, by Gregory J. Kopta, Attorney at
Law, Davis, Wright, Tremaine, LLP, 2600 Century
Square, 1501 Fourth Avenue, Seattle, Washington
98101-1688.

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1 VERIZON, by Jennifer McClellan, W.
2 Jeffery Edwards, and Gregory Romano, Attorneys at
3 Law, Hunton & Williams, 951 E. Byrd Street, Richmond,
4 Virginia, 23219.

5 TRACER, RHYTHMS LINKS, INC., and
6 TELIGENT SERVICES, INC., by Arthur A. Butler,
7 Attorney at Law, Ater Wynne, Two Union Square, Suite
8 5450, 601 Union Street, Seattle, Washington 98101.

9 COVAD, by Clay Deanhardt and Sarah
10 Bradley, Attorneys at Law, 4250 Burton Drive, Santa
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12 WORLDCOM, INC., by Ann E.
13 Hopfenbeck, Attorney at Law, 707 17th Street, Suite
14 3600, Denver, Colorado, 80202.

15 RHYTHMS LINKS, INC., by Doug
16 Hsiao, Attorney at Law, 9100 E. Mineral Circle,
17 Englewood, Colorado 90112.

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24 Barbara L. Nelson, CCR
25 Court Reporter

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1 JUDGE BERG: Let's be on the record,
2 please. Today's date is Tuesday, August 22nd, the
3 year 2000. This is continued hearings in Docket
4 Number UT-003013. For today's session, we will
5 resume cross-examination of witness Jerrold Thompson,
6 but there's just one or two administrative matters to
7 take up before we do.

8 First of all, in preparation for this
9 afternoon's hearing session, I'm going to ask that
10 the reporter type into the record those exhibits that
11 have been marked on the exhibit list as Exhibits T-70
12 through Exhibit 85, as if they had been read into the
13 record. I should be clear. It's Exhibits T-70
14 through T-73 and Exhibits T-80 through 85.

15 (The following exhibits were marked in
16 conjunction with Larry Brotherson's
17 testimony.)

18 Exhibit T-70, the Direct Testimony of Larry
19 Brotherson. Exhibit 71, Physical Collocation Rate
20 Elements. Exhibit 72, Virtual Collocation Rate
21 Elements. Exhibit T-73, Rebuttal Testimony of Larry
22 Brotherson.

23 (The following exhibits were marked in
24 conjunction with Robert Hubbard's
25 testimony.)

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1 Exhibit T-80, the Direct Testimony of
2 Robert Hubbard. Exhibit 81, Shared loop - splitter
3 outside cage. Exhibit 82, Shared loop - splitter
4 inside cage. Exhibit T-83, the Response Testimony of
5 Robert Hubbard. Exhibit T-84, the Rebuttal Testimony
6 of Robert Hubbard. Exhibit 85, Covad 01-042.

7 JUDGE BERG: Also, another exhibit has been
8 presented. This exhibit is comments of US West
9 Communications, Inc. before the FCC in CC Docket
10 Number 98-147. This relates to a line of questioning
11 conducted by Dr. Gabel yesterday to which Mr.
12 Thompson may respond this morning. This exhibit is
13 marked as Exhibit Number 5. Also, there are a series
14 of record requests which were posed yesterday, which
15 I understand Record Request Number One will be
16 responded to on Friday, 8/25, and my understanding is
17 that Qwest is prepared to respond to Records Request
18 Two through Five this morning; is that correct, Ms.
19 Anderl?

20 MS. ANDERL: Yes, Your Honor.

21 JUDGE BERG: All right. Why don't you
22 proceed.

23 MS. ANDERL: With regard to Record Request
24 Number Two, the question was to please state whether
25 or not Qwest actually deploys attenuators when

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1 supplying entrance facilities to CLECs. And our
2 research has disclosed that that is, in fact, an old
3 assumption in the cost study, that the attenuators
4 are not deployed, and we will remove that element
5 from the study.

6 JUDGE BERG: All right. And will that
7 require revisions to the study or to summary pages?

8 MS. ANDERL: Mr. Thompson? I would think
9 that -- yes.

10 JUDGE BERG: All right. And at some point
11 will we have revisions to those affected documents?

12 MS. ANDERL: Yeah. If we could wait to
13 make a commitment on when we would provide those
14 until Mr. Thompson's cross-examination is done, and
15 maybe we'd have a better view of what needs to be
16 done then in terms of revisions.

17 JUDGE BERG: All right. Why don't we talk
18 about that tomorrow morning. Go ahead.

19 MS. ANDERL: Record Requisition Number
20 Three asked which of the four elements are the CLECs
21 allowed to self-provision. And the four elements
22 were cable, cable placement, blocks and block
23 placement. Now, I was sure I had the answer in my
24 head. I believe the answer is all of them, but if
25 you want to confirm that with Jeff Hubbard, who is

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1 the witness who could explain more in terms of the
2 answer. But I think the answer that I'm authorized
3 to give is yes.

4 MR. HUBBARD: Yes, with an approved vendor.

5 MS. ANDERL: Thank you for that caveat.

6 With an approved vendor.

7 JUDGE BERG: All right. Thank you. Go
8 ahead.

9 MS. ANDERL: It's terrible when your mind
10 goes blank like that. Record Requisition Number Four
11 was may the CLEC self-provision cable splicing in
12 Manhole One or in the POI hole. And the answer to
13 that is no.

14 And Record Request Number Five was please
15 state Qwest's policy position on whether it will
16 allow line splitting, and the answer is yes, that is
17 available through the BFR process, or the bona fide
18 request process.

19 JUDGE BERG: And that would be a situation
20 where one CLEC obtains an unbundled loop for voice
21 services and another CLEC seeks to provide xDSL?

22 MS. ANDERL: Generally, I think that the
23 line splitting would only be done if both CLECs
24 consented to it, and so the first CLEC would be
25 obtaining the loop, the entire loop, then would want

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1 to allow another CLEC to ride the high-frequency
2 portion of it.

3 JUDGE BERG: All right. And Mr. Kopta, is
4 that responsive to the records requisition or the
5 records request that you made?

6 MR. KOPTA: I believe so, with a
7 clarification that I think what Ms. Anderl is saying
8 is that Qwest's position is that the BFR process is
9 for determining how it would be done, not whether it
10 would be done; is that correct?

11 MS. ANDERL: Yes.

12 MR. KOPTA: Thank you.

13 JUDGE BERG: All right. Thank you, as
14 well. Any other matters to be taken up before Mr.
15 Deanhardt, for Covad, begins cross-examination of Mr.
16 Thompson?

17 MS. ANDERL: The only additional
18 qualification on the line splitting is I
19 characterized it as a CLEC containing an unbundled
20 loop. Mr. Reynolds just came up and clarified to me
21 that that's correct, but it's most likely to occur in
22 a UNE-P type situation, or UNE platform, where the
23 CLEC is obtaining a combination of unbundled
24 elements.

25 JUDGE BERG: Thank you for that

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1 clarification. Mr. Thompson, I'll remind you that
2 you are under oath. And at this point in time, Mr.
3 Deanhardt, please begin cross-examination.

4 MR. DEANHARDT: Thank you, Your Honor.
5 Whereupon,

6 JERROLD THOMPSON,
7 having been previously duly sworn, was called as a
8 witness herein and was examined and testified as
9 follows:

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

11 BY MR. DEANHARDT:

12 Q. Good morning Mr. Thompson. How are you
13 today?

14 A. Just fine.

15 Q. Okay. I'll take care of some of the
16 preliminary stuff first. You've given a lot of
17 testimony, particularly in your rebuttal testimony,
18 about the effect both of the FCC rules and, in the
19 case of your rebuttal testimony, the impact of the
20 Eighth Circuit's recent decision in the Iowa
21 Utilities case on this proceeding; isn't that
22 correct?

23 A. My testimony discusses both of those
24 things.

25 Q. Now, you are not a lawyer, are you?

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1 A. I am not.

2 Q. And you are not trained as a lawyer, are
3 you?

4 A. No.

5 Q. And you have not discussed with anyone at
6 the FCC your interpretations of the FCC's rulings to
7 confirm that they are consistent with the FCC's
8 understandings of its rulings, have you?

9 A. No.

10 Q. And you have not talked to anyone within
11 the Eighth Circuit to confirm that your
12 interpretation of the Eighth Circuit order is
13 consistent with the Court's interpretation of its own
14 order, have you?

15 A. No.

16 Q. And you have not talked to anyone at the
17 FCC to discuss with them how the FCC might reconsider
18 its pricing rules if the Eighth Circuit opinion
19 ultimately becomes effective, have you?

20 A. No.

21 Q. Now that we've done the boring stuff, move
22 on to the main event. Let's talk about the HUNE.
23 And again, as I did with Dr. Fitzsimmons, I'd like to
24 make sure that we can agree that the HUNE is the
25 high-frequency spectrum network element that exists

00397

1 on a copper loop, the copper loop being the copper
2 facility between the network interface device and its
3 termination point in a central office; is that
4 correct?

5 A. Yes. I always wondered if the correct
6 pronunciation is "hue-nee" or "honey".

7 Q. Well, the answer is, Ed Fagerlund in
8 Minnesota created this thing, and he called it the
9 HUNE, so -- and he wants me to try and do a DUNE and
10 a LUNE, so we'll see what we can do. See, you
11 rattled me.

12 CHAIRWOMAN SHOWALTER: It is convenient in
13 that you don't have to pronounce your Hs so
14 articulately to distinguish it from a UNE.

15 MR. DEANHARDT: That's true. We can call
16 it the "honey," but I'm a little concerned about what
17 that might do to the rest of our cross-examination
18 and our personal relationships.

19 Q. Okay. Again, to confirm my conversation
20 with Dr. Fitzsimmons, Qwest is not suggesting, is it,
21 that it should recover any of the costs of
22 collocating a splitter from the price of the HUNE, is
23 it?

24 A. No.

25 Q. And Qwest is not suggesting that it should

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1 recover any of the costs for installation of a shared
2 line from the price of a HUNE, is it?

3 A. No.

4 Q. And Qwest is not suggesting that it should
5 recover any of the cost for any type of OSS from the
6 price of the HUNE, is it?

7 A. No.

8 Q. And Qwest is not suggesting that it should
9 recover any costs, if there are any, associated with
10 work done on the customer premise side of the network
11 interface device from the price of the HUNE, is it?

12 A. No.

13 Q. So the price of the HUNE is intended only
14 to cover the spectrum on the copper loop?

15 A. That's right. I would characterize it as
16 the use of the high spectrum on the copper loop.

17 Q. Okay. Now, when Qwest filed its Megabit
18 tariff at the FCC, it did not attribute any cost for
19 the HUNE to its Megabit service, did it?

20 A. The HUNE didn't exist at that time. Let me
21 say that there are no loop costs identified as a
22 direct cost in the cost studies filed in support of
23 the Megabit tariff.

24 Q. And thank you for clarifying that. The
25 HUNE did not exist at that time. But to rephrase,

00399

1 Qwest did not attribute any cost for the
2 high-frequency portion of the loop to its Megabit
3 tariff, did it?

4 A. It didn't identify any direct cost of the
5 loop.

6 Q. Okay. If you could please turn to Exhibit
7 36 and C-36.

8 A. I have that.

9 Q. Okay. If you could please quickly review
10 the request and indicate to me when you have
11 completed doing so.

12 A. Okay.

13 Q. Now, are all of the costs that US West --
14 or at the time, it was US West -- considered in
15 filing its Megabit tariffs included in the
16 confidential attachment to Exhibit 36, or to,
17 actually, C-36?

18 MS. ANDERL: Actually, Mr. Deanhardt, there
19 are several confidential attachments.

20 MR. DEANHARDT: I'm referring to them
21 collectively.

22 MS. ANDERL: All right.

23 CHAIRWOMAN SHOWALTER: What was your
24 question?

25 MR. DEANHARDT: I was asking if all of the

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1 costs that Qwest, at that time US West, attributed to
2 its Megabit service were included in the confidential
3 attachment to C-36.

4 THE WITNESS: After review, the
5 Confidential Attachment C-36 contains all the direct
6 costs for the Megabit services, as filed with the
7 FCC.

8 MR. DEANHARDT: Thank you. Your Honor, I
9 would move for admission of C-36.

10 MS. ANDERL: No objection.

11 JUDGE BERG: C-36 -- 36 and C-36 are
12 admitted.

13 MR. DEANHARDT: Thank you.

14 Q. Mr. Thompson, as we -- and I'm sorry, if we
15 look through this, based on what you just said, we're
16 not going to find any loop cost in this study;
17 correct?

18 A. No, as I said earlier, there are no loop
19 costs identified in these exhibits.

20 Q. And that's because, as we discussed with
21 Dr. Fitzsimmons yesterday, Qwest attributes all of
22 the loop cost to basic service; isn't that correct?

23 A. Yeah, there's two ways to look at it. At
24 the time we filed it, that is correct. We attributed
25 the loop cost to that. Dr. Fitzsimmons talks about

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1 that subsequent to this filing, the FCC created the
2 line sharing arrangement and thereby created a joint
3 cost for the loop, so that's another reason that it
4 would not have been filed if the sequence had been
5 reversed.

6 Q. I'm not sure that I understand that answer,
7 so let me ask this. Are you suggesting that if the
8 HUNE had existed at the time that Qwest filed its
9 Megabit tariff, then Qwest would have included loop
10 cost as one of the direct costs of providing the
11 service?

12 A. No, no. Actually, the opposite. A direct
13 cost does not include any joint cost, by definition.
14 So what Dr. Fitzsimmons has said is that the line
15 sharing order created a joint cost for the loop, and
16 so it would not have been included whether or not it
17 was attributed to basic service because it's a joint
18 cost at that point, not a direct cost.

19 Q. Prior to Qwest determining that it would
20 propose the imputation of loop cost that it's
21 proposing in this docket, did you see any documents
22 within Qwest where the price of Megabit was
23 calculated with reference to any cost -- joint,
24 common, direct -- any cost for the loop?

25 A. No. Prior to the Commission's order, we

00402

1 were identifying -- well, prior to and subsequently,
2 the direct costs of Megabit are those that are
3 contained in C-36.

4 Q. Okay. But again, just to be clear, my
5 question was direct --

6 A. Which includes the loop.

7 Q. Okay. I'm sorry, I didn't mean to
8 interrupt.

9 A. No, that's okay. I apologize.

10 Q. Just to be clear, though, my question was
11 not just direct, but joint, common, shared, any kind
12 of cost to the loop in setting its prices for
13 Megabit?

14 A. No. Like I said, we would not have even
15 considered the loop as a joint cost until the line
16 sharing order.

17 Q. And Qwest has not changed its prices for
18 Megabit since the line sharing order, has it?

19 A. No.

20 Q. Now, Qwest does not incur any additional
21 loop cost -- again, focusing on the loop -- to
22 provide the HUNE to a CLEC, does it?

23 A. No, it incurs the whole loop cost.

24 Q. If a loop -- let's assume for a second that
25 the loop is being paid for, the loop is paid for.

00403

1 Can you assume that for me?

2 A. What does that mean?

3 Q. It means it's paid for. There's no -- all
4 the costs of the loop have been taken care of. Can
5 you assume that for me? Let's assume you've got a
6 paid-for loop.

7 A. I'm not sure what that -- I'm still not
8 clear what that means. We invest in the network, we
9 put the service in effect, and subscribers pay for
10 the service.

11 Q. I have a bottle of water in my hand.
12 Before I bought this bottle of water, this bottle of
13 water was not paid for. After I bought this bottle
14 of water and I paid the cost of this bottle of water,
15 the bottle of water was paid for; correct?

16 A. Yes.

17 Q. Now, I'm not talking about the service; I'm
18 talking about the copper loop, physical facility.

19 A. So you're assuming there is no regulation?

20 Q. I'm asking you to assume a very simple
21 thing, that the copper facility has been paid for,
22 the copper facility. Not the service; the copper
23 facility.

24 MS. ANDERL: Well, Your Honor, I object.

25 That's still very unclear what is meant by paid for,

00404

1 and just simply repeating that it's paid for does not
2 further explain what the assumption is.

3 CHAIRWOMAN SHOWALTER: Do you mean the
4 company bought the wire the way you buy a bottle of
5 water, or do you mean it has recovered the cost?

6 MR. DEANHARDT: It has -- either way, it
7 strikes me that it's the same thing, but I mean, it's
8 recovered the cost, that the loop is -- that there's
9 no longer any cost associated with the loop. The
10 loop's -- to my mind, that means paid for, but --

11 Q. Can you assume that for a second?

12 A. I'll assume it. We'll see where it goes.

13 Q. Okay.

14 A. Thank you.

15 Q. Okay. Now, my question is, in that
16 circumstance, if someone then -- if Qwest then
17 provided the HUNE, it would not incur any additional
18 cost for that loop to provide the HUNE, would it?

19 A. It's a difficult question for me to answer
20 because of the first problem I had with it. Let me
21 try this way. I would say, given all of the
22 circumstances from the first time we filed the
23 Megabit cost study, we identified that there were no
24 loop costs incremental to a provision of a DSL
25 service over loop, and we have said, with regard to

00405

1 line sharing, there are no additional costs
2 associated with the provision of the high-frequency
3 portion of the loop.

4 Q. Okay. Now, a CLEC cannot order the HUNE
5 from Qwest unless Qwest is already providing voice
6 service across the loop to the end user; correct?

7 A. That's my understanding of the FCC's
8 report.

9 Q. And that's also what's required in our
10 interim agreement with Qwest in Washington to provide
11 line sharing; correct?

12 A. I can't say. I haven't looked at the
13 interim agreement in Washington.

14 Q. Do you have any -- well, would you accept,
15 subject to check, rather than checking it now?

16 A. Yes.

17 Q. Okay. Check it, but -- so a CLEC cannot
18 purchase the HUNE on a loop that does not contain
19 Qwest voice service; correct?

20 A. No.

21 Q. And if the customer cancels Qwest voice
22 service, then the loop has to be converted to an
23 unbundled loop and the CLEC cannot simply continue to
24 use the HUNE without converting it to an unbundled
25 loop; correct?

00406

1 A. Could you take me through that one again?

2 Q. Sure.

3 A. I lost you.

4 Q. We'll try and break it up into two pieces.

5 If the customer for -- if the end user cancels Qwest

6 voice, then the CLEC can no longer continue to

7 purchase the HUNE across the loop connected to the

8 customer's premise; correct?

9 A. Not unless they bought that unbundled loop.

10 Q. That was going to be the next piece. So

11 the answer is no. And then, what the CLEC has to do

12 is convert that loop into an unbundled loop; correct?

13 A. I believe so.

14 Q. Now, if the customer that has combined

15 Qwest voice service and CLEC DSL, cancels the DSL,

16 doesn't substitute it, just cancels it, Qwest does

17 not incur any cost savings with respect to the loop

18 for that customer, does it?

19 A. No.

20 Q. Now, when a loop is connected for voice

21 service, I can't -- no one can simply provide DSL

22 across that loop without attaching that loop or

23 connecting that loop to additional equipment in the

24 central office; correct?

25 A. Correct.

00407

1 Q. We'll talk about this some with Mr.
2 Hubbard, but that additional equipment would include
3 the POTS splitter and the DSLAM, at a minimum;
4 correct?

5 A. Yes.

6 Q. And just so that we don't hold everybody in
7 breathless anticipation, the POTS splitter is the
8 piece of equipment that divides the voice and data
9 frequencies and distributes them to their appropriate
10 ending up places; correct?

11 A. Yes.

12 Q. Now, let's talk about this imputation
13 notion. At the time -- you may have answered this
14 earlier when we were talking about the loop price.
15 If you did, I apologize. But at the time that Qwest
16 filed its FCC tariff, not only did it not include any
17 direct cost of the loop, it also did not do any
18 imputation for loop cost in filing its tariff, did
19 it?

20 A. I think you phrased the question
21 incorrectly, but I think what you said is that US
22 West did not include any direct costs?

23 Q. I meant to say direct loop cost, if I --

24 A. Okay. No, the FCC's rules require, for a
25 new service, that US West file direct costs for that

00408

1 service. There aren't any rules or any requirements,
2 that I know of, that have anything to do with an
3 imputation, and the direct costs are the only thing
4 that are required, and that is what is expected. So
5 there aren't any joint costs or common costs or any
6 other types of costs in those filings.

7 Q. And also, there was no imputation of the
8 loop cost at the time that the FCC tariff was filed?

9 A. No, and that would be nonsensical. As we
10 talked about, the line sharing order happened maybe
11 six months, maybe nine months after the Megabit
12 filing, so there was -- it wasn't possible to do.

13 Q. Well, since the FCC order has come out,
14 Qwest has not filed anything, any formal document
15 with the FCC stating that it is imputing \$10 to the
16 cost of its Megabit service, has it?

17 A. No, it has not. And as I said, there
18 aren't any rules that would, as far as I know, allow
19 US West to do that.

20 Q. Well, US West has not, for example, sent a
21 letter to the director of the Common Carrier Bureau
22 suggesting that it would impute the \$10, has it?

23 A. No.

24 Q. In fact, Qwest has not filed a letter like
25 that with any official government body, has it?

00409

1 A. We've filed testimony now in two states
2 saying we were committed to doing that.

3 Q. You filed testimony in two cost hearings,
4 but no formal letter to any Commission or federal
5 agency stating that Qwest would impute this amount of
6 money to its Megabit tariff?

7 A. We have not.

8 Q. Isn't it correct that Qwest did not
9 determine that it could impute \$10 for the cost of
10 the loop into the price that it had set for its
11 Megabit service until January of 2000?

12 A. That's correct. As I said earlier, there
13 was no consideration of them until you saw the line
14 sharing order from the FCC in December of 1999.

15 Q. But Qwest backed into that amount; right?

16 A. I don't know that I would call it backed
17 into. What we did was we analyzed the FCC's order
18 for line sharing and said, We believe there should be
19 a price for the use of the unbundled loop for line
20 sharing purposes. We read the FCC's order and
21 interpreted it to imply an imputation. We said,
22 given the existing price, what level of imputation
23 could it sustain, and if we felt that there was a
24 value of a loop that was higher than that, we gave
25 consideration to raising the price of Megabit. But

00410

1 based on our analysis, we decided that the \$10
2 maximum amount was reasonable.

3 Q. Now, Qwest's proposal for pricing of the
4 loop actually has two components, as I understand.
5 The first is that it's 50 percent of the deaveraged
6 unbundled loop price; correct?

7 A. Yes.

8 Q. And then the second is that if 50 percent
9 of the deaveraged unbundled loop price is greater
10 than \$10, that Qwest will only charge \$10; is that
11 correct?

12 A. Yes.

13 Q. So isn't what Qwest decided is 50 percent
14 makes sense unless it's going to force Qwest to raise
15 its prices?

16 A. No. We said a maximum of \$10 is
17 reasonable. Our interstate rate is a rate that is
18 the same rate across all 14 of our states. It's a
19 region-wide developed number. We knew that we have,
20 particularly in Qwest territory, quite a variety of
21 unbundled loop costs, because we serve urban areas
22 and some very rural areas. We knew that the level of
23 the potential rate for the line sharing loop could
24 have a considerable range. We thought that since the
25 interstate rate was averaged across the region, it

00411

1 was appropriate to use the average unbundled loop.
2 When you calculate that, it's roughly around \$20. We
3 said, well, half of that is pretty reasonable.

4 Q. Okay. Now, without the imputation, isn't
5 it correct that Qwest could price its Megabit service
6 at any price above the direct costs that it disclosed
7 in its FCC tariff filing?

8 A. Within the range that the FCC considers
9 reasonable for their new services test.

10 Q. Okay. Could you please turn to Exhibit 40?

11 A. Yes.

12 Q. I'm sorry, you have Exhibit 40 in front of
13 you?

14 A. I do.

15 Q. And do you recognize Exhibit 40 as being a
16 Qwest response to a Covad data request?

17 A. Yes.

18 Q. And at the end of Exhibit 40, do you see
19 where it says, Provided this is -- I'm sorry, let's
20 back up. This request asks if, in somewhat more
21 convoluted terms, if Qwest could lower its price to
22 reflect a difference between direct cost plus a \$5
23 imputation, would it consider that consistent with
24 the FCC's rules; is that correct?

25 A. Right. What it says is, Provided that the

00412

1 only requirement is the new services test, the FCC
2 would allow, under that test, any price that is set
3 above direct cost.

4 Now, that may not be the only requirement
5 that the FCC has on this, but with regard to the new
6 services test, that would be the only -- any range of
7 prices above direct cost would be allowed.

8 Q. Are you aware of any other requirements
9 that the FCC has for this service?

10 A. Well, the one that comes to mind is their
11 concern about a price squeeze that they talked about
12 in the line sharing order.

13 Q. There's a concern about a price squeeze,
14 but there's no rule at this point on that; is there?

15 A. That's correct.

16 Q. So is there any other requirement, other
17 than the new access rules, that you are aware of?

18 A. Not that I'm aware of.

19 MR. DEANHARDT: Your Honor, I'd move for
20 the admission of Exhibit 40.

21 MS. ANDERL: No objection.

22 JUDGE BERG: Exhibit 40 is admitted.

23 Q. Mr. Thompson, if you would please just take
24 a look at Exhibits 41 and 42, I'm going to ask you to
25 identify them for me. I'm going to ask to have them

00413

1 admitted, and then we'll work from there. But if you
2 look at them, get them both in front of you, that
3 will help us as we go aboard.

4 A. Okay.

5 Q. Now, Exhibit 41 is the FCC -- or it's the
6 transmittal letter from US West to the FCC with
7 Megabit pricing for what I will call the full
8 Megabit, always on, dedicated service; is that
9 correct?

10 A. Yes, it's in the format described by the
11 FCC for transmittal of new rates.

12 Q. And Exhibit 42 is the transmittal letter
13 for what I will call, for the purposes of this
14 discussion, Megabit Lite. We'll talk about what that
15 is in a second, but is that correct?

16 A. Yes.

17 Q. Okay. And what I'm calling Megabit Lite
18 you understand to be the Megabit product where it is
19 not always on and where, using a modem pooling
20 concept, Qwest provides a DSL service off of the same
21 DSLAM port to more than one user, so that a user
22 might try to access DSL and not have access to that
23 DSL; correct?

24 A. Generally, the only qualification I'd say
25 is it's engineered such that that would not occur for

00414

1 the customer, but it is possible. In other words,
2 not having access.

3 MR. DEANHARDT: Okay. At this time, Your
4 Honor, I'd move for admission of 41 and 42.

5 MS. ANDERL: No objection.

6 JUDGE BERG: Exhibits 41 and 42 are
7 admitted.

8 MR. DEANHARDT: Your Honor, with your
9 permission, I'm going to use the board for the next
10 part of my cross-examination of Mr. Thompson, just to
11 make it easier to follow, and I'll bring it up so
12 that everybody can see it.

13 JUDGE BERG: My only concern is whether, in
14 fact, everybody will be able to see it. How will the
15 board be used, Mr. Deanhardt?

16 MR. DEANHARDT: We're going to walk through
17 the pricing for Megabit and the imputation analysis,
18 and so we're going to be putting some numbers on the
19 board, doing some addition, subtraction, there's
20 going to be a little -- we did this in Minnesota.
21 This is going to be a little bit easier for the
22 Commission to follow, to see how the numbers are
23 done. All the numbers will come from Mr. Thompson's
24 testimony.

25 MS. ANDERL: Your Honor, I just would like

00415

1 to note that, typically, even such a document is
2 presented as a cross-examination exhibit so that we
3 have an opportunity to review it beforehand. To the
4 extent that Mr. Deanhardt would then want to draw it
5 up for people to be illustrative, that's fine.

6 I probably don't have any objection to even
7 the numbers or what he's going to do. I don't think
8 the appropriate process is being followed in this
9 case. And I do tend to disagree that the board
10 always makes it easier to follow. I've found it
11 often confuses the record, because it's not clear
12 what number's being pointed to at any given time.

13 JUDGE BERG: Mr. Deanhardt, I'll allow you
14 to use the board, but I'm going to want you to
15 provide pointers to the record as to where those data
16 points are coming from.

17 MR. DEANHARDT: Yes, Your Honor, I will.
18 Thank you.

19 JUDGE BERG: I will share with you that I
20 know from experience that these Commissioners like to
21 be able to point back into the record and see where
22 information is coming from, and it helps them follow.

23 MR. DEANHARDT: I will. And I'll be
24 careful with the record. I do apologize. At this
25 point, I have no intention of submitting the actual

00416

1 sheet into the record unless people want it to be.
2 So we're just going to do it the easy way.

3 JUDGE BERG: All right. We'll be off the
4 record for a moment.

5 (Discussion off the record.)

6 JUDGE BERG: All right. We'll be back on
7 the record.

8 Q. Mr. Thompson, I'm going to put two columns
9 on this chart, one for CLEC and one for Qwest, okay.
10 Now --

11 CHAIRWOMAN SHOWALTER: Just a minute. Can
12 you read that or do you want a fatter Magic Marker,
13 because I'm sure we could find some fatter Magic
14 Markers.

15 MS. SMITH: If you had a fatter Magic
16 Marker, that would be great.

17 JUDGE BERG: Off the record again.

18 (Discussion off the record.)

19 JUDGE BERG: We'll be back on the record.

20 Q. Again, Mr. Thompson, I've marked the
21 left-hand side of this chart as CLEC and the
22 right-hand side of this chart as Qwest; correct?

23 A. Yes.

24 Q. Now, I'd like for you to first turn to
25 Exhibit 41 and to the first page of Section Five.

00417

1 It's after the page that's marked page 11. It's the
2 first page of prices. Do you see that?

3 A. I believe so. It says Section Five, Part
4 69, Expense Ratios, page one of four in the
5 right-hand column.

6 Q. That's correct. And --

7 CHAIRWOMAN SHOWALTER: Can you wait just a
8 minute, make sure everybody's there?

9 MR. DEANHARDT: Certainly. It says page
10 one of four, US West transmittal in the top left-hand
11 corner, it's the first page of numbered columns in
12 Exhibit 41 following the text pages, which end at
13 page 11 at the top right-hand corner. Does everybody
14 have that?

15 CHAIRWOMAN SHOWALTER: Counsel, this is the
16 reason we ask for exhibits to be numbered
17 consecutively, so we can just turn to page 23 and
18 we're all there, and you don't have to describe it
19 into the record.

20 MR. DEANHARDT: Thank you.

21 Q. Now, the price of a 256-kilobit Megabit
22 service to the end user, according to this document,
23 is 29.95; correct?

24 A. Yes, it is.

25 Q. So I'm going to assume -- and that's

00418

1 actually the price that Qwest is currently charging
2 for that service; correct?

3 A. Yes.

4 Q. So I'm going to put \$29.95 in both the CLEC
5 and the Qwest columns here to start, so that we have
6 a similar point of comparison, okay. Now, according
7 to Exhibit 42, the monthly direct cost of Megabit is
8 \$17.32; correct?

9 A. Yes.

10 Q. So in the Qwest column --

11 JUDGE BERG: Excuse me, Mr. Deanhardt. You
12 just said Exhibit 42. Did you mean --

13 MR. DEANHARDT: I'm sorry, Exhibit 41. I
14 apologize. Thank you, Your Honor. Now I won't
15 forget.

16 Q. Now, I'm going to ask you to assume for a
17 moment, again, so we can do a direct comparison, that
18 the direct costs of the CLEC are the same amount as
19 direct costs of Qwest, that is, that we can achieve
20 similar efficiencies, so all else being equal, our
21 direct costs are the same. Can you do that?

22 A. I'll assume that.

23 Q. So in that case, I'm going to put 17.32
24 also on the CLEC side. And if I did my subtraction
25 right this time, then the difference or the

00419

1 remainder, or whatever it is when you subtract,
2 between 29.95 and 17.32 is \$12.63; is that correct?

3 A. Yes.

4 Q. And so I'm putting \$12.63 in both columns.
5 Now, under the Qwest proposal for unbundled loop
6 pricing, the average HUNE price for the unbundled
7 loop is the \$9.08 reflected in your testimony;
8 correct?

9 A. Yes.

10 Q. So under the CLEC column, I'm now adding
11 \$9.08. And again, if I've done my math correctly,
12 then, when you subtract the \$9.08 from the \$12.63,
13 you are left with a remainder of \$3.55; correct?

14 A. Yes.

15 Q. Now, Qwest is agreeing or proposing that it
16 would impute \$10 to the cost of its -- to the direct
17 cost of its Megabit service; correct?

18 A. Yes.

19 Q. So on Qwest's side we're going to add --
20 we're going to subtract \$10, which I've now put on
21 the board, which leaves us with a remainder of \$2.63;
22 correct?

23 A. Yes.

24 Q. So I'm also going to mark, so that we can
25 remember this, that the \$9.08 for the CLEC is the

00420

1 price of the HUNE; correct?

2 A. Yes.

3 Q. That the 17.32 for both Qwest and the CLEC
4 are, under this model, direct costs; correct?

5 A. Yes.

6 Q. And that the \$10 for Qwest is the
7 imputation; correct?

8 A. Yes.

9 Q. And I've marked this correctly on this
10 board; correct?

11 A. Yes.

12 Q. Okay. Now, let's walk through these
13 pieces. The \$9.08 for the HUNE is a cost that the
14 CLEC must pay to Qwest; correct?

15 A. Under our proposal, yes.

16 Q. So under your proposal, that becomes an
17 additional direct cost to the CLEC for providing line
18 shared DSL; correct?

19 A. Yes.

20 Q. So that means that, after all of the direct
21 costs are accounted for, if the CLEC were to price at
22 the same price as Qwest, then it would have a total
23 revenue stream, on a monthly recurring basis, of
24 \$3.55, the remainder of this; correct?

25 A. Assuming all of those are the same price,

00421

1 only the service and so forth.

2 Q. Okay. Then I'm going to mark the \$3.55 as
3 revenue. Is that appropriate?

4 A. I would probably call it margin, rather
5 than revenue.

6 Q. I will strike through revenue and I will
7 write in margin. Okay. Now, out of that \$3.55, the
8 CLEC has to cover all of the rest of its -- what you
9 might call common costs, all of the operational type
10 costs that the Commission is familiar with, including
11 things like overhead, the price of the CEO's desk,
12 all of those kinds of costs; correct?

13 A. Yes.

14 Q. Now, let's move to the Qwest side. Now,
15 this \$10 that you have, the imputation here, this
16 passes your imputation test because you have \$2.63
17 remaining after you add the imputation to the direct
18 cost; correct?

19 A. Yes.

20 Q. But in this case, the \$10 that Qwest
21 imputes, it doesn't pay to anybody, does it?

22 A. No, it represents what it paid for on the
23 loop.

24 Q. It takes the \$10 -- it keeps the \$10 of
25 revenue; correct?

00422

1 A. It does.

2 Q. Okay. So --

3 A. Well, it's an imputation. It would keep
4 the \$9.08 of revenue.

5 Q. In this case, the \$10. That's the
6 imputation. So the total revenue to Qwest from this
7 same line is the \$12.63; correct?

8 A. No, the margin's \$12.63.

9 Q. So the margin for Qwest is \$12.63 under
10 this scenario; the margin for the CLEC is \$3.55 under
11 this scenario?

12 A. Yes.

13 Q. And from that \$12.63, Qwest gets to cover
14 the rest of its common overhead and all those other
15 kinds of costs we've just talked about; correct?

16 A. And joint costs.

17 Q. Okay. Now, let's go at this from -- one
18 more question about this, and then we'll go at it
19 from a different direction. The \$10 here, if Qwest
20 had to actually pay that to somebody, then that would
21 become a direct cost of the service; correct?

22 A. Not necessarily.

23 Q. If it had to actually pay that simply for
24 the loop to a third party, that would become a direct
25 cost in the same way that the \$9.08 is a direct cost;

00423

1 correct?

2 A. Not necessarily.

3 Q. I shouldn't, but I have to ask. Why not
4 necessarily?

5 A. Depends on whether it is a direct cost or
6 whether it's a joint cost.

7 Q. If you're paying it to a third party as
8 only a cost that you incur when you have to purchase
9 the loop?

10 A. For that service?

11 Q. Mm-hmm.

12 A. I suppose, given that, if it's just for the
13 service and we had to pay for access to the loop,
14 then it would be a direct cost, as it is for the
15 CLEC.

16 Q. And in that case, if Qwest had to do that,
17 then its margin would only be the \$2.63 that's left
18 at the end of the Qwest column; correct?

19 A. Yes.

20 Q. Now, again, I'm going to write down, under
21 the CLEC column -- actually, I'm going to put a line
22 under here and I'm going to write "end" to show that
23 we've completed this part of the CLEC analysis. Is
24 that okay?

25 A. It's your chart.

00424

1 Q. Okay. Now, I'm going to put down here
2 again the \$17.32. And again, under our assumptions,
3 that's the direct -- the same direct cost as between
4 CLEC and Qwest; correct?

5 A. That's your assumption.

6 Q. Okay. Now, I'm going to add to that the
7 \$9.08, and that \$9.08 is the price proposed by Qwest
8 on a statewide average basis for the HUNE; correct?

9 A. Yes.

10 Q. And again, if I've done my math correctly,
11 the sum of those two numbers is \$26.40; correct?

12 A. Yes.

13 Q. And that would be, for the CLEC, \$26.40 of
14 direct cost to provide DSL across a line shared loop;
15 correct?

16 A. Right, given all the assumptions.

17 Q. Okay. So I'm going to mark this as direct
18 cost. Now, if Qwest were to charge -- were to reduce
19 its price of Megabit DSL for the 256-kilobit product
20 to \$26.45, that would pass an imputation test if you
21 simply imputed the same loop cost that's going to be
22 charged to the CLECs; correct?

23 A. The number was 26.45?

24 Q. Yes.

25 A. Yes.

00425

1 Q. Okay. So at \$26.45, let's put that over
2 here. Let's assume 26.45 under the Qwest side of the
3 chart. And again, in order to separate this, I've
4 drawn a line and put the word "end" to separate one
5 from two; is that okay?

6 A. On the right-hand side of your chart, yes.

7 Q. So 26.45, we're going to call that assumed
8 price. And then, again, we're going to subtract the
9 \$17.32. That's the direct cost, okay. This one I
10 didn't do in advance. So this one, again, if I've
11 done my math correctly, I get \$9.13.

12 A. I get the same number.

13 Q. Okay. Now, if I then subtract the imputed
14 loop cost that would be charged to the CLEC, I get
15 five cents left; correct?

16 A. Yes.

17 Q. So if Qwest were to then lower its price to
18 \$26.45, it would still pass the imputation test and
19 the CLEC would have five cents with which to cover
20 all those per-month recurring charges, with which to
21 cover all those overhead and common costs that we
22 talked about, assuming that the CLEC matched Qwest's
23 pricing; correct?

24 A. Yes.

25 Q. But in this scenario, Qwest would still

00426

1 have \$9.13, the difference between the 26.45 and the
2 direct cost disclosed in the Megabit tariff to cover
3 all those same costs, wouldn't it?

4 A. Yes.

5 Q. Okay. Now, so just to make this consistent
6 in this case, the \$9.13 would be the Qwest margin;
7 correct?

8 A. Yes.

9 Q. Okay. And I'm going to move this number
10 over here, I'm going to move the five cents from the
11 Qwest side of the board to the CLEC side of the
12 board. The zero-five cents would be the CLEC margin
13 under that assumption; correct?

14 A. Yes.

15 Q. Okay. I'm going to write "CLEC margin."
16 Now, we're going to do one more round. And I had a
17 bigger pad in Minnesota, so I'm going to have to flip
18 this and go to the next chart, okay.

19 JUDGE BERG: Mr. Deanhardt, will we need to
20 continue to look at the first page in order to make
21 sense of the second page?

22 MR. DEANHARDT: You will not. We're going
23 to move on to Megabit Lite.

24 JUDGE BERG: Okay.

25 Q. I'd now like for you to turn to Exhibit 42,

00427

1 please. And again, and my apologies to the
2 Commission for not having all the pages consecutively
3 numbered, if you could turn to the first page of the
4 numbered columns again for this product. In the top
5 right-hand corner, it says Transmittal Number 997,
6 Section Five, page one of one, or Part 69, Expense
7 Ratios, page one of one, and is the first page after
8 the text which ends on page nine. Does everybody
9 have that? And do you have that, Mr. Thompson?

10 A. Yes.

11 Q. Okay. Again, I'm going to divide my chart
12 into CLEC and Qwest. Now, the CLECs do not
13 currently, as far as you are aware, offer a service
14 comparable to Megabit Lite, do they?

15 A. I don't know.

16 Q. Okay. Let's assume that if a CLEC wanted
17 to offer a service comparable to Megabit Lite, that
18 it would have to price that service in order to be
19 competitive with Qwest at the same price point that
20 Qwest prices Megabit Lite. Can you assume that for
21 me?

22 A. Yes.

23 Q. Okay. And that price, according to the
24 page that we are looking at on Exhibit 42 for the
25 256-kilobit service, is \$19.95; correct?

00428

1 A. Yes.

2 Q. Okay. So I have, under the CLEC column --
3 did I say that for the record? I created on this
4 page, again, two columns. On the left-hand side, a
5 CLEC side, on the right-hand side, a Qwest side. And
6 now, on this column, I've put 19.95 for both, and
7 we're going to mark that as the price of the service,
8 okay.

9 Now, according to Exhibit 42, the monthly
10 direct cost for this service is \$9.43; correct?

11 A. Yes.

12 Q. Okay. So again, I'm going to ask you to
13 assume that the CLECs and Qwest, so that we can
14 compare apples to apples, basically, that the CLECs
15 and Qwest could obtain the same operational
16 efficiencies and both have direct costs, in the same
17 sense, of \$9.43. Can you do that?

18 A. Yes.

19 Q. And I've now placed on the board \$9.43
20 under both the CLEC column and the Qwest column;
21 correct?

22 A. Yes.

23 Q. And if you do the subtraction here, you
24 come up with \$10.55 as the remainder, after you
25 subtract the direct costs from the price; correct?

00429

1 A. No. Check your math.

2 Q. Fifty-two cents. \$10.52; is that correct?

3 A. Yes.

4 Q. Would you believe that's the third time
5 I've gotten this wrong?

6 A. You're an attorney.

7 Q. That's good. I'm not an accountant, but I
8 play one on TV, and not well. Okay. Now, is Qwest
9 proposing that it would also impute \$10 to its
10 Megabit Lite prices for the UNE?

11 A. Yes.

12 Q. Okay. So we're going to put over here the
13 \$10 imputation on the Qwest side of the board, and if
14 I do this math correctly and I do my subtraction
15 correctly, I end up with 52 cents; correct?

16 A. Yes.

17 Q. And so, therefore, it passes the imputation
18 test that Qwest proposes, because there's a remainder
19 of 52 cents after you subtract both direct costs and
20 the imputed amount; correct?

21 A. Yes.

22 Q. Now, the CLEC, in order to provide this
23 service, is still going to have to purchase the HUNE
24 from Qwest; correct?

25 A. Yes.

00430

1 Q. And Qwest is not proposing that the CLEC
2 get a discounted rate for the HUNE for a service that
3 doesn't use the HUNE all the time, is it?

4 A. No, I don't think so.

5 Q. So if I'm going to buy the HUNE, however I
6 use it, I've got to pay \$9.08, as a statewide average
7 cost; correct?

8 A. Yes.

9 Q. Now, so if I subtract the 10.52 from the
10 9.08, I come up with \$1.44; correct?

11 A. Yes.

12 Q. Did I get the math right this time?

13 A. I think so.

14 Q. Okay. Now, again, this, on this product
15 would be -- the \$1.44 on this product would be the
16 CLEC margin for this product above all direct cost;
17 correct?

18 A. Yes.

19 Q. And in this case, the Qwest margin is going
20 to be the \$10.52, after subtracting the direct costs
21 of \$9.43; correct?

22 A. Yes.

23 Q. Okay. So on the board, I've marked the
24 \$10.52 for Qwest and the \$1.44 for the CLEC as
25 margin, and you would agree that both of those

00431

1 identifications are correct?

2 A. Yes.

3 Q. Okay. And again, out of this \$1.44, Covad,
4 or another CLEC, would have to recover all of its
5 other common, joint, whatever costs out of that
6 margin; correct?

7 A. Yes.

8 Q. And out of the -- Qwest would have \$10.52
9 available to itself to cover those same costs;
10 correct?

11 A. Yes.

12 Q. I am going to do it again. The direct -- I
13 want you to assume for a second that Qwest actually
14 has to pay a direct cost to a third party of \$10 for
15 the loop cost in order to provide this product. Can
16 you have that assumption in mind?

17 A. Yes.

18 Q. Now, under that assumption, then, Qwest's
19 margin would be 52 cents; correct?

20 A. Yes.

21 Q. Do you really think that Qwest would
22 provide this service if the only margin it can make
23 was 52 cents on a recurring basis?

24 A. Definitely.

25 Q. You can say that, but I had to ask, anyway.

00432

1 I could back this through again, but I'll just try
2 and ask this the easy way. If Qwest were to price
3 this service at five cents above the total of \$9.43,
4 plus \$9.08, which I guess would be \$18.52. So if
5 Qwest were to price its service at \$18.57 cents, then
6 this would pass the imputation test; correct?

7 A. As long as it was above those costs.

8 Q. And that would leave the DLECs with a
9 margin, again, of five cents on a recurring basis to
10 cover all those other associated costs that we talked
11 about?

12 A. Right.

13 Q. Okay.

14 JUDGE BERG: Mr. Deanhardt, will you be
15 spending much more time with this illustrative
16 exhibit?

17 MR. DEANHARDT: I am through with it,
18 actually, Your Honor.

19 JUDGE BERG: All right. Then I think this
20 would be a good time to take a break. Does that work
21 for you, Mr. Deanhardt?

22 MR. DEANHARDT: That's fine, Your Honor.

23 JUDGE BERG: All right. We'll take a break
24 until 10:35.

25 MR. DEANHARDT: And thank you to the

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1 Commission and Your Honor for your indulgence in
2 walking through this. I hope it was more helpful to
3 see it.

4 JUDGE BERG: Off the record.
5 (Recess taken.)

6 JUDGE BERG: Let's be back on the record.
7 Before Mr. Deanhardt resumes his cross-examination of
8 Mr. Thompson, I want to identify the two pages that
9 were developed as an illustrative exhibit as Exhibit
10 6. And Exhibit 6 would be the direct cost comparison
11 between a CLEC and Qwest.

12 MR. DEANHARDT: Let me get my Magic Markers
13 and I'll mark them.

14 JUDGE BERG: That won't be necessary, but
15 we will want to leave the easel up in case there are
16 questions about Exhibit 6 from other parties or the
17 Bench.

18 MR. DEANHARDT: Okay. Your Honor, I'm
19 sorry, so Exhibit 6 will be both pages?

20 JUDGE BERG: Exhibit 6 will be both pages.
21 Just refer to it as page one, page two, which will
22 correspond with the data source of Exhibits 41 and
23 42.

24 MR. DEANHARDT: I guess, Your Honor, if
25 we're going to mark it as an exhibit, I should

00434

1 probably move for its admission.

2 JUDGE BERG: That's certainly within your
3 discretion. Any objections?

4 MS. ANDERL: No.

5 JUDGE BERG: All right. Exhibit 6 is
6 admitted. And with that, Mr. Deanhardt, you can
7 resume cross-examination.

8 MR. DEANHARDT: Thank you, Your Honor. And
9 perhaps on the next break and offline, we can discuss
10 replicating that in some way that makes sense for the
11 transcript and for the record.

12 JUDGE BERG: Let me make a note, and we'll
13 discuss that tomorrow morning.

14 MR. DEANHARDT: Thank you.

15 JUDGE BERG: Thank you.

16 Q. Mr. Thompson, what is the loading factor
17 that Qwest uses in its unbundled network element cost
18 studies to cover the cost of overhead and other joint
19 and common costs?

20 A. We call it an attributed cost factor, I
21 think, what you're referring to, and the Commission
22 prescribed a percentage of 19.62 percent.

23 Q. And the way that you would apply that
24 factor is by multiplying the percentage times the
25 direct cost of the element to determine the

00435

1 appropriate -- and then take that resulting number
2 and add it to -- and that would be your -- the amount
3 allocated for common or joint cost; correct? I
4 changed the question three times, so let me try it
5 again.

6 The way you apply that is by multiplying
7 the 19.62 percent times the direct cost of the
8 network element to determine the amount of the cost
9 that will be attributed for overhead and common costs
10 and et cetera?

11 A. Yes.

12 Q. Okay. Mr. Thompson, if you could please
13 turn to Exhibit 16 of your testimony and -- Exhibit
14 16, which is your supplemental direct testimony. And
15 we're going to refer generally to some of your
16 discussion regarding OSS cost, the cost of the OSS
17 upgrade that -- we're going to focus on the portion
18 that begins on page nine. For the Commission and the
19 record, I am using, in this case, the printed copies,
20 so that should conform with what you have.

21 CHAIRWOMAN SHOWALTER: I'm sorry. My
22 attention wandered. What exhibit are we on?

23 MR. DEANHARDT: Exhibit 16, and we're
24 looking at the testimony that begins around page
25 nine, or on page nine.

00436

1 THE WITNESS: I'm there.

2 Q. Okay, thank you. Now, you identify two
3 data points that are important to determining how to
4 calculate OSS costs. The demand for line sharing and
5 the expected life of the use of the system; correct?

6 A. My recollection is that's correct. Is
7 there a particular line that you're looking at on
8 this page?

9 Q. Well, I believe if you want to refresh your
10 recollection by beginning on page 9, line 20, through
11 page 10, line 13, I believe that's where you testify
12 about this generally.

13 A. Yes.

14 Q. Having had your recollection refreshed, was
15 my description of your testimony accurate?

16 A. Right, there's demand and the life of line
17 sharing.

18 Q. Okay. Now, in calculating demand, Qwest
19 used some demand assumptions from one CLEC; correct?

20 A. That was the start of the process. There
21 was one CLEC that provided some information to us,
22 and that was the beginning of our process.

23 Q. Okay. You used that data and extrapolated
24 from that to come up with your final demand
25 assumptions?

00437

1 A. My understanding was that that information
2 was used, but also the best judgment of the product
3 manager that was managing that product and having
4 discussions with CLECs and so forth, his judgment was
5 used, as well.

6 Q. Is that project manager Jerry Shypulski?

7 A. You know, I don't know who exactly they
8 talked to on it.

9 Q. But you started that analysis with data --
10 according to your testimony, however, you started
11 that analysis with data from only one CLEC; correct?

12 A. That's right.

13 Q. Now, at Footnote 12 on page 10 of your
14 testimony, you state that, as with the previous
15 information, US West plans to seek this information
16 from CLECs participating in this proceeding. If
17 information is provided that warrants revisions to
18 cost estimates, US West will submit revisions to its
19 cost estimates. Do you see that?

20 A. Yes.

21 Q. And that is, in fact -- that footnote is,
22 in fact, referring to demand information; correct?

23 A. Yes.

24 Q. Qwest never did submit a data request to
25 the CLECs regarding -- in this docket regarding

00438

1 information on the demand for line sharing, did it?

2 A. You know, I don't know. I requested that
3 we ask for that information.

4 Q. Have you ever seen such a data request for
5 this docket?

6 A. I've never seen a response. I might not
7 have seen the request if there was no response.

8 Q. So you don't know if the data was asked for
9 or not?

10 A. No, I don't know.

11 Q. Okay. Now, you refer to, in your testimony
12 generally, to requesting this information in another
13 docket and not receiving it. The docket that you're
14 referring to is the Minnesota docket?

15 A. Yes.

16 Q. And in that docket, isn't it correct that
17 the administrative law judge determined that the OSS
18 costs were not at issue in the docket?

19 A. That's true.

20 Q. And at the time, the only basis for Qwest's
21 request for the demand information was to calculate
22 OSS costs; correct?

23 A. That was the primary reason.

24 Q. Now, Qwest did not use its own experience
25 in provisioning DSL as a basis for the demand study,

00439

1 did it?

2 A. I'm not sure.

3 Q. Okay. Now, you would agree with me,
4 wouldn't you, that Qwest has been providing DSL
5 service in its territory and in Washington, in
6 particular, for approximately two years?

7 A. It's been over a year. I don't know
8 whether it's close to two or not.

9 Q. And during that time, Qwest has always
10 provided its service across existing voice lines;
11 correct?

12 A. I couldn't say whether it was always
13 existing voice lines. There might have been a new
14 voice line that had Megabit on it, as well.

15 Q. But always a line that carried both voice
16 and DSL; correct?

17 A. I couldn't say that, either.

18 Q. If Qwest had provided DSL across
19 stand-alone loops, then the loop would be a direct
20 cost of providing the service; correct?

21 A. I hadn't thought about it, but, yeah, it
22 probably would be.

23 Q. And we established previously that the
24 Megabit tariff does not, in any of its permutations,
25 disclose a direct cost of the loop; correct?

00440

1 A. That's right.

2 Q. So from those two facts, we can assume
3 that, in fact, Qwest has never provided DSL across
4 anything other than a loop that also carries voice
5 service; correct?

6 A. Yes.

7 Q. So now, the FCC did not order Qwest or any
8 other CLECs to -- or any other ILECs, rather, to
9 permit line sharing until November of 1999; correct?

10 A. I don't have the exact date. It was in
11 that time frame.

12 MR. DEANHARDT: And if I can have one
13 second, Your Honor.

14 Q. The interim line sharing agreement that
15 allowed line sharing to begin in Washington was not
16 executed until April 24th, 2000; correct?

17 A. As I said before, I have not seen the
18 document.

19 Q. Well, the document is an exhibit both to
20 Mr. Cabe's testimony and also to Barbara Brohl's
21 testimony, so can you accept that, subject to check?

22 A. Yes.

23 Q. Now, so it's fair to say, then, that the
24 entity with the most experience regarding the demand
25 for DSL over existing voice loops in the state of

00441

1 Washington is Qwest; correct?

2 A. I don't know whether that's fair to say or
3 not. Certainly, there would be more experience with
4 -- that Qwest would have than many of them.

5 Q. Now, I'd like for you to turn, please, to
6 Exhibit 45.

7 JUDGE BERG: I'll indicate that 45 is also
8 C-45.

9 MR. DEANHARDT: Thank you, Your Honor. At
10 some point over the next week, I'll start trying to
11 remember to do that.

12 JUDGE BERG: Only way I know is looking at
13 the list.

14 Q. Do you have Exhibit 45 and C-45 in front of
15 you, Mr. Thompson?

16 A. I do.

17 Q. Now, do you recognize this, again, as being
18 a Qwest response in this case to a Rhythms Links data
19 request?

20 A. Yes.

21 Q. And I'd like for you to look at -- first,
22 if you would please refresh your recollection by
23 reading the request and the response, and then look
24 at Confidential Attachment A, and I would like for
25 you to tell me if these are the demand assumptions

00442

1 that were used in calculating the OSS price, or the
2 OSS -- yeah, price?

3 A. Your Honor, may I be excused for a second
4 to get something from my briefcase?

5 JUDGE BERG: Yes, sir. We'll be off the
6 record till the witness returns to the stand.

7 (Recess taken.)

8 JUDGE BERG: Back on the record.

9 THE WITNESS: These numbers appear close,
10 but -- oh, yes, I see, okay. These are the numbers
11 that are used in the OSS line sharing cost study.

12 Q. Okay. Now I've lost my piece of paper,
13 excuse me. Would you -- and I'm going to apologize
14 to the Commission in advance for having to ask the
15 question this way, and I can produce ultimately the
16 document that I'm going to refer to, but I just
17 wouldn't have been able to print it.

18 Mr. Thompson, would you accept, subject to
19 check, that according to a July 19th, 2000 press
20 release from Qwest, that US West/Qwest added 39,000
21 DSL customers in the second quarter of 2000 alone?

22 MS. ANDERL: And Your Honor, I would,
23 before Mr. Thompson even says whether or not he's
24 willing to accept that subject to check, ask that the
25 document be produced.

00443

1 MR. DEANHARDT: I'm happy to produce it,
2 Your Honor. To be quite honest, I didn't think about
3 this until last night, I looked it up on the web, and
4 Cavanaugh's does not have a place for me to print it.
5 So I'm going to figure out where I can go do that,
6 but I'm happy to download it and even bring it in
7 here and print it tomorrow.

8 MS. ANDERL: That's fine.

9 JUDGE BERG: All right. Is that something
10 that, Ms. Anderl, you feel should be marked as an
11 exhibit?

12 MS. ANDERL: Depending on whether or not it
13 accurately reflects what Mr. Thompson's being asked
14 to check, it probably won't be.

15 JUDGE BERG: Would you make a note to
16 follow up with me on that in the morning?

17 MS. ANDERL: Yes.

18 JUDGE BERG: All right.

19 Q. So the question pending, Mr. Thompson, is
20 whether you would accept, subject to check, that
21 according to a July 19th, 2000 press release from
22 Qwest that Qwest/US West added 39,000 DSL customers
23 in the second quarter of 2000?

24 A. I'd accept that, subject to check.

25 Q. And would you also accept, subject to

00444

1 check, that according to that same press release,
2 those additions raised the total number of Qwest DSL
3 customers to 175,000 customers?

4 A. Yes.

5 Q. And would you also accept, subject to
6 check, that that resulted in approximately 633
7 subscribers per Qwest central office?

8 A. Is that your math I'm going to be checking,
9 or was that in the press release?

10 Q. In the press release.

11 A. Okay. I'll accept that, subject to check.

12 Q. But you were right to be cautious. I
13 didn't think about it until I heard the laugh, and I
14 realized where you were going. Now, in calculating
15 this OSS price, Qwest is looking at demand across all
16 of its 14 states; correct?

17 A. Yes.

18 Q. Now, the basic math, as I understand it,
19 that Qwest did for this part of it -- I'm going to
20 leave out the time assumptions for a second --
21 leaving out the time assumptions, is to take the
22 price and divide by the demand, basically?

23 A. In the cost study?

24 Q. Yes.

25 A. Is that what you're saying? It's the cost,

00445

1 but yes, we would take the cumulative cost that we
2 were provided by Ms. Brohl and divide it by the
3 anticipated demand and then we go through a process
4 of annuitizing that to just get a constant level over
5 the five-year period.

6 Q. And to determine demand, Qwest used the
7 demand -- the demand that's being assumed as the
8 demand from all users of the system; correct?

9 A. All CLECs using line sharing, or
10 anticipated to be using. Is that what your question
11 --

12 Q. I guess what my question is, you only
13 assumed -- you only attributed this across the
14 assumed demand from entities that would be using the
15 system by line sharing?

16 A. Yes, which are those that subscribe to line
17 sharing.

18 Q. Okay. You did not, for example -- or you
19 did not attribute the cost across, for example, the
20 demand for Qwest DSL for Megabit?

21 A. No, that wouldn't be appropriate.

22 Q. Now, you are aware, are you not, that
23 Verizon has a separate DSL affiliate that provides
24 Verizon DSL?

25 A. I was just thinking about that. I think

00446

1 it's NorthPoint these days, but -- is that who you're
2 talking about?

3 Q. It will be soon, but even now, they already
4 have a separate affiliate that provides DSL in the
5 Bell Atlantic territory, or the former Bell Atlantic
6 territory; isn't that right?

7 A. That could be.

8 Q. All right. Isn't it also correct that SBC
9 has a separate affiliate that's providing DSL
10 services in its territory?

11 A. Yes, that's my understanding.

12 Q. And in that context, as the separate
13 affiliate, the separate affiliate would have to use
14 the same systems that a CLEC, for example, uses in
15 order to place a line sharing order; correct?

16 A. No.

17 Q. Well, if it's a separate company and not
18 part of the -- no longer part of the existing
19 company, wouldn't it have to use the same systems
20 that any other separate company would have to use?

21 A. Not necessarily.

22 Q. I thought the whole purpose of the OSS
23 upgrade was to make it possible for companies that
24 were not Qwest to access the systems?

25 A. I'm going to refer you to Ms. Brohl, but my

00447

1 understanding from her is that it isn't that simple,
2 but I'd like you to ask her these questions. She can
3 explain it in more detail.

4 Q. Happy to do that. Well, I'm going to ask
5 you to make an assumption, okay. I'm going to ask
6 you to assume that -- I'm going to ask you to assume
7 that the upgrades that are required in order to
8 provide line sharing, according to Ms. Brohl's
9 testimony, would be used by a separate affiliate if
10 one existed for Qwest to also provide line sharing.
11 Can you accept that assumption for me?

12 A. Okay. Let me just be clear. You're asking
13 me to make the assumption that, one, Qwest has a
14 separate subsidiary that is providing DSL services,
15 and secondly, that because of that separate
16 subsidiary, that affiliate relationship, they would
17 be required to use the same operating support systems
18 as Covad, for example?

19 Q. Yes.

20 A. I'll accept that assumption.

21 Q. Now, under that assumption, it would be
22 appropriate, would it not, to place -- to calculate
23 the cost of the OSS upgrade on a recurring basis by
24 including the demand for DSL to that separate
25 affiliate; correct?

00448

1 A. I think, from the cost accounting point of
2 view, what I would look at is the cost causation. If
3 in that situation the original data CLECs caused a
4 certain cost, then it may be appropriate to use their
5 anticipated demand over those costs. When and if, in
6 the assumption, there is a subsidiary that requires
7 those same support systems, then it would be
8 appropriate to use that demand against those. And if
9 there were any additional costs caused by that
10 separate subsidiary, then perhaps those additional
11 costs should be only borne by the separate
12 subsidiary.

13 Q. Now, you would agree with me, wouldn't you,
14 that the FCC has identified what it calls the first
15 mover problem, and suggested that it is not
16 appropriate for all the costs of any particular
17 buildout, whether it's a systems upgrade or a
18 collocation, for example, to be attributed solely to
19 the first user of that system; correct?

20 A. Yes.

21 Q. So in calculating, for example, demand
22 assumptions for OSS, you would want to, in order to
23 avoid the first mover problem, anticipate, to the
24 extent reasonably possible, future entrants into the
25 market that would use that system; correct?

00449

1 A. If it was pretty certain that you knew what
2 those users were. In the case of the separate
3 subsidiary, I think it's completely unclear whether
4 US West will be put in a position of having one.

5 Q. Now, are you aware that Covad -- actually,
6 in this case, Rhythms asked Qwest for information
7 regarding its plans to have a separate subsidiary?

8 A. No.

9 Q. Okay. Would you please turn to Exhibit 45.
10 I'm sorry, wrong one. Forty-six. And if you could,
11 please, read Exhibit 46 to yourself and indicate to
12 me when you have completed doing so.

13 A. I have read it.

14 Q. Do you recognize Exhibit 46 as being a data
15 request -- and again, I have to correct myself before
16 -- asked by Covad, I thought it was us, to Qwest, and
17 this being the Qwest response?

18 A. That's what it appears to be.

19 MR. DEANHARDT: I would move for the
20 admission of Exhibit 46.

21 MS. ANDERL: And 45, as well?

22 MR. DEANHARDT: Actually, no. Forty-five,
23 I did before. I just had the wrong number.

24 MS. ANDERL: I didn't have 45 moved.

25 JUDGE BERG: I didn't have 45 moved,

00450

1 either.

2 MR. DEANHARDT: Oh, did I not? I checked
3 it off on my chart. I apologize. I would also move,
4 then, for 45.

5 MS. ANDERL: No objection to either 45 or
6 46.

7 JUDGE BERG: All right. Forty-five, C-45,
8 and Exhibit 46 are admitted.

9 MR. DEANHARDT: Thank you for pointing that
10 out, Ms. Anderl.

11 Q. Having reviewed Exhibit 46, isn't it
12 correct that Covad asked Qwest for information
13 regarding its plans for establishing a separate
14 affiliate?

15 A. Yes.

16 Q. And isn't it also correct that Qwest
17 refused to provide any information regarding those
18 plans?

19 A. The response says that US West objects to
20 the data request and gives several reasons.

21 Q. So if, for example, Qwest planned to start
22 a separate affiliate a month from now, that
23 information would not be available to the CLECs to
24 use in this proceeding; correct?

25 A. Well, I think that's -- I think you're

00451

1 asking me for a legal opinion. The way I read this
2 is there's an objection. I don't know whether that
3 -- I don't know the status of that objection.

4 Q. Okay. Now, are you aware that, in
5 calculating the price -- that SBC, in calculating its
6 proposed price for OSS upgrades, used its demand for
7 its own affiliate's services in calculating the price
8 of the upgrades?

9 A. No.

10 Q. Now, the other assumption that you make to
11 determine this, as we discussed earlier, is the life
12 of the system; correct?

13 A. Yes.

14 Q. Now, in this case, isn't it correct that
15 Qwest did ask the CLECs for information regarding
16 their assumption for how long line sharing would
17 exist and that at least Covad responded that it does
18 not anticipate an end to the time that it will use
19 line sharing arrangements with US West in Washington?

20 A. I seem to recall that response.

21 Q. Okay. Did you go back and recalculate OSS
22 cost based on that response?

23 A. With that response, I'd have to assume some
24 life, so I didn't find that response to be very
25 helpful.

00452

1 Q. What is the assumed life for LFACS,
2 L-F-A-C-S, in determining the depreciation -- I guess
3 the easiest way to ask this is what's the
4 depreciation schedule for LFACS?

5 A. Not sure what LFACS is.

6 Q. Okay. I'll ask the question differently,
7 then. Do you know what the depreciation life is for
8 the operating and support systems that Qwest uses for
9 itself?

10 A. Not right off the tip of my tongue.

11 Q. And you have not checked that, have you?

12 A. Just a moment. I believe it's Account
13 2124, general purpose computers, which has an average
14 life in Washington of 5.8 years.

15 Q. General purpose computer. Now, my
16 understanding is that a general purpose computer is
17 like a desktop, not actually an OSS; is that not
18 correct?

19 A. I can't remember exactly where it is, to be
20 honest with you.

21 MR. DEANHARDT: Okay. I guess, as my first
22 request, I would ask for the depreciation life for US
23 West operating systems, and I'm going to identify two
24 or three specifically. And then, if there's
25 additional information that Qwest wants to provide

00453

1 regarding other systems, it's welcome to do so. The
2 three that I'm going to ask for are LFACS, L-F-A-C-S,
3 switch, which is spelled like it sounds, and TIRKS,
4 T-I-R-K-S. And Your Honor, with Ms. Brohl, I'll
5 establish the foundation for why those are
6 appropriate comparables.

7 MS. ANDERL: That's what I was going to
8 say. I'd like some time to think about whether or
9 not I have an objection to this, but --

10 JUDGE BERG: All right. What we'll do is,
11 Mr. Deanhardt, are you willing to hold the record
12 request until that foundation is established?

13 MR. DEANHARDT: Certainly, Your Honor.
14 What I will also suggest is, during off time, perhaps
15 Ms. Anderl and Ms. Brohl and I can speak and we may
16 be able to resolve this before that. But if not,
17 then I'm willing to hold it until such time as I do
18 what I need to do on the record.

19 JUDGE BERG: All right. I've made a note
20 that Record Request Seven is pending, pending further
21 requests by Counsel.

22 MR. DEANHARDT: Ms. Anderl, I realize that
23 I forgot to ask Mr. Thompson about Exhibit 47.
24 Rather than walking through that, which is similar to
25 Exhibit 46, can we just stipulate to its admission?

00454

1 It's another discovery request.

2 MS. ANDERL: Yes.

3 JUDGE BERG: All right. Exhibit 47 is
4 admitted.

5 Q. This raises another issue that I want to
6 figure out if we can all get on the same page here.
7 If you can turn, please, to Exhibit 18, which is your
8 response testimony, and beginning on -- these pages
9 aren't numbered, but beginning on page one, line 13,
10 there's a question and answer series where you're
11 focusing on some testimony from Dr. Cabe regarding
12 the -- you're responding to some testimony from Dr.
13 Cabe, and at the top of page two, and beginning on
14 page two, you make the argument that line sharing is
15 going to reduce the revenue base for Qwest over time,
16 and so that, therefore, it's not appropriate to
17 assume that those revenues will cover loop cost;
18 isn't that correct?

19 A. What I point out is that Dr. Cabe's
20 statement makes the assumption that the revenues and
21 embedded costs are constant, and the only thing that
22 happens is the addition of line sharing. I point out
23 that that assumption is invalid because, given that
24 theoretical construct of all things being equal, and
25 then you add line sharing on it, you shouldn't be

00455

1 making that all things being equal assumption in this
2 case, because other things are changing. And one of
3 those things that's changing is that it's likely that
4 you will see, as line sharing develops, reductions in
5 second lines.

6 Q. And in fact, on page two of your testimony,
7 lines eight through 12, you state that the probable
8 change in revenues is because its revenues are quite
9 likely to decline with line sharing, because, as you
10 just said, future demand for second lines will
11 decrease, and existing second lines for many
12 customers may be discontinued; correct?

13 A. Yes.

14 Q. Okay. Now, I want to compare that
15 assumption, that line sharing is going to do so well,
16 with the assumptions that you've made in calculating
17 other cost elements. Because you've only assumed a
18 five-year life for line sharing in your OSS study;
19 correct?

20 A. Yes.

21 Q. And in fact, if you will turn to Mr.
22 Hubbard's response testimony, Exhibit 83, on page 13
23 of that testimony, let me give you the line number.

24 A. Which testimony of Mr. Hubbard?

25 Q. It's Exhibit 83, it is Mr. Hubbard's

00456

1 response testimony. And actually, I wrote the page
2 number down wrong. It's page 12, lines 15 through
3 16.

4 A. Yes.

5 Q. Actually, lines 15 through 17, Mr. Hubbard
6 states that there is substantial evidence indicating
7 that line sharing will be a short-lived technology
8 and that, therefore, there will never be high
9 utilization of relay racks. Do you see that?

10 A. Yes.

11 Q. I'm trying to figure out which target I'm
12 supposed to be aiming for. Is the demand for line
13 sharing going to be so high that it kills US West's
14 revenue base or is it going to be so low that OSS
15 systems should be depreciated over five years and we
16 shouldn't worry about even being able to fill up a
17 single bay of splitters?

18 A. Neither.

19 Q. Okay.

20 A. The question really misses the point. The
21 point was the theoretical construct of Dr. Cabe's
22 analysis. He assumed no change. I pointed out that
23 that's an unrealistic assumption.

24 Q. And you heard Dr. Fitzsimmons' testimony
25 yesterday; correct?

00457

1 A. Yes.

2 Q. And Dr. Fitzsimmons, in fact, testified,
3 did he not, that the demand for line sharing would
4 lower revenues over time and that, therefore, the
5 assumption that, in a rate of return regulated state
6 such as Washington, that the cost of the loop would
7 not be covered by revenues; correct?

8 A. I didn't hear or reach that same
9 conclusion.

10 Q. Well, then, let me just ask the question
11 easier, more easily. Is there going to be, in
12 Qwest's view, a high demand for line sharing or a low
13 demand for line sharing over time?

14 A. I'd say, at this point, it's pretty
15 unclear. Based on our experience in Minnesota, which
16 was the first state where we deployed the ability for
17 carriers to have line sharing, we have seen so far
18 very low demand. The numbers are far less than 100,
19 in terms of total lines, but we we're told by the
20 data CLECs that they're still ramping up their
21 advertising campaigns, getting ready, and so forth.
22 So that's the reason we asked for -- I believe we
23 asked for demand. I know we did, I believe, in the
24 interim agreements, asked for demand for it, and US
25 West is willing to, if we do get demand forecasts, to

00458

1 consider the use of those in the development of these
2 costs, and I said so in my testimony.

3 We felt fairly uncomfortable, just on our
4 own, trying to forecast this, because it looks like
5 it's going to be pretty difficult to forecast.

6 Q. Now, have you checked with anybody
7 regarding the demand for line sharing in Washington?

8 A. I have asked about the responses that we've
9 received regarding forecasts from the interim
10 agreements.

11 Q. Let me -- that was actually my next
12 question, but the question I was asking is you just
13 talked just now about the Minnesota experience and
14 the number of loops that have been -- or line shared
15 loops that have been ordered in Minnesota to date.
16 Have you asked anybody in Washington the same
17 questions?

18 A. No.

19 Q. So if, for example, the volume of line
20 sharing orders placed so far in Washington was
21 significantly higher than the volume of line sharing
22 orders placed in Minnesota, despite the shorter time
23 span for implementation of line sharing in
24 Washington, you would not be aware of that?

25 A. Well, I am aware of the total amount

00459

1 region-wide. I'm not -- I do not know what the
2 Washington number is of the total. But the total, I
3 know, is a very low number.

4 Q. Now, Qwest's proposal is that the CLECs
5 begin paying these OSS -- recurring OSS costs
6 immediately after the Commission's order becomes
7 effective; correct?

8 A. I believe that's a fair statement.

9 Q. And that would be without regard to whether
10 or not the systems are actually in place; correct?

11 A. My feeling is they're probably pretty
12 close. Same time frames.

13 Q. Well, thank you, but that wasn't my
14 question. If they're not in place, then Covad and
15 the other CLECs would still have to pay the costs;
16 correct?

17 A. US West is incurring these costs now. We
18 would appreciate recovery of the cost as soon as
19 possible.

20 Q. Try again. You are proposing that if the
21 Commission orders these prices, that the CLECs pay
22 them whether or not the systems are already in place
23 at the time that the charge begins; correct?

24 A. Yes.

25 Q. And you are also proposing that the CLECs

00460

1 pay the charge whether or not the systems actually
2 work; correct?

3 A. In the proposal I made, there's no
4 discussion of that, so I guess so.

5 Q. Okay. Now, in this docket, Qwest has
6 proposed using the NRCs that come from the NRC -- and
7 that's nonrecurring charge -- cost studies and
8 decisions made in previous iterations of this cost
9 docket, correct, in previous phases?

10 A. Some of them, yes.

11 Q. And those cost studies are based on, in
12 part, on manual order processing; correct?

13 A. That's a combination of electronic, fairly
14 high-level of flow-through, and some manual.

15 Q. Now, we will discuss this some more with
16 Ms. Brohl, but I'd like for you to assume for the
17 moment that the OSS upgrades that are being put in
18 place to handle line sharing will create a
19 flow-through environment. That is, that when an
20 order is placed with Qwest, it will flow through
21 electronically, rather than having to be processed
22 manually. Can you make that assumption for me?

23 A. I'll make it, but I'll point out that
24 that's probably very unrealistic.

25 Q. Well, we'll talk with -- as you said,

00461

1 you're not the expert on how the systems work, are
2 you?

3 A. No.

4 Q. Okay. So we'll talk with Ms. Brohl about
5 that and we'll find out. Under that assumption,
6 then, the costs of provisioning that are included in
7 the NRC would be significantly reduced, would they
8 not?

9 A. I don't know.

10 Q. But there is a manual component to the
11 NRCs; correct?

12 A. I believe there is.

13 Q. And those would be eliminated if there is
14 flow-through; correct?

15 A. Not necessarily.

16 Q. Under the assumption that I made -- again,
17 we'll get to proving up the assumption -- those would
18 be eliminated, wouldn't they?

19 A. I can't agree even under your assumption,
20 because I don't know enough about it.

21 Q. You can't agree that if there's no manual
22 processing or if there's -- that's there's -- I'm
23 sorry. You cannot agree that if there are no manual
24 steps involved in processing an order, that the
25 manual steps included in the NRC would have to be

00462

1 removed?

2 A. What that sounds like to me is imagine
3 there's no cost, and then, do you agree there's no
4 cost.

5 Q. That's exactly what it is.

6 A. Absent reason, yes.

7 Q. Okay. So what Qwest is proposing, though,
8 is that the CLECs pay an OSS cost for OSS that's not
9 in place, and then pay an NRC charge that does not
10 acknowledge the benefits of the OSS system that CLECs
11 are paying for --

12 MS. ANDERL: I object.

13 Q. -- correct?

14 MS. ANDERL: Your Honor, that
15 mischaracterizes the prior testimony.

16 MR. DEANHARDT: That's the reason I asked
17 if I'm correct or not. He can answer yes or no.

18 THE WITNESS: No.

19 Q. Then I'd like for you to explain to me how
20 it is that I'm paying for an OSS system that's not in
21 place, that's going to have certain benefits for
22 provisioning, that may affect the NRC study, that I'm
23 -- how it is I'm not paying for kind of both sides of
24 the same coin? I mean, if I'm not correct, tell me
25 how I'm not correct.

00463

1 A. Well, first of all, everything you
2 established so far was a hypothetical that I
3 disagreed with.

4 Q. And I asked you, prior to asking the
5 question, to assume that those things were true.

6 A. Right, but now you're asking me to justify
7 it.

8 Q. Again, let me rephrase my question. So let
9 me make it clear. Assuming that -- I want you to
10 assume for the moment that the OSS upgrades that are
11 proposed by Qwest will have an effect on the manual
12 order processing steps that are included in the Qwest
13 nonrecurring cost study that you have proposed be
14 used in this proceeding. Can you make that
15 assumption for me?

16 A. Yes.

17 Q. Under that assumption, well, you've already
18 testified that we would -- that the CLECs would pay
19 the OSS charge regardless of whether the system is in
20 place; correct?

21 A. Under the proposal, we are asking for
22 recovery of the costs with the decision from this
23 Commission. Now, when that will be, I'm not sure.

24 Q. And again, if that decision happens before
25 the systems are in place, then we would be paying

00464

1 that price before the systems are in place; correct?

2 A. Yes, or if the decision is after they're in
3 place, then the price would be after they are in
4 place.

5 Q. And there's, in fact, a trueup; correct?

6 A. I don't know.

7 Q. So if there's a trueup, for example, in the
8 interim line sharing agreement, then, in fact, the
9 OSS price that's proposed by Qwest would go all the
10 way back to the beginning of the first order placed
11 by the CLECs, correct?

12 A. I'm not that familiar with the agreement.

13 Q. If there's a trueup, subject to check?

14 A. If that's what the agreement says.

15 Q. Rather than waste our time, I'll do it with
16 somebody else. The agreement's in the record, and I
17 won't ask you to look at it. So the question now is,
18 if the CLECs have to pay for OSS during a time that
19 the OSS is not in place, and the effect of that OSS,
20 had it been in place, would be to reduce the NRCs,
21 then isn't what Qwest is asking the CLECs to do is
22 pay for systems that aren't in place without
23 receiving any of the benefits of those systems on
24 other prices or processes?

25 A. No.

00465

1 Q. Okay. Now, you did not put a new NRC study
2 for line sharing in this docket, did you?

3 A. I'm trying to think through all the --

4 Q. I can refresh your recollection. I believe
5 in your testimony you proposed that, as I think we
6 already said in earlier cross-examination, that you
7 used the NRC numbers resulting from the cost study
8 submitted in prior phases of this docket; correct?

9 A. Well, we established there were some. The
10 way I interpreted your last question was all, and I
11 don't think that's true. Depends on which
12 nonrecurring costs you're speaking of.

13 MS. ANDERL: Mr. Deanhardt, just to
14 clarify, are you discussing the install and
15 disconnect nonrecurring charges?

16 MR. DEANHARDT: Actually, if that's the
17 problem, yes, that's what I'm referring to.

18 THE WITNESS: All right. There were other
19 nonrecurring charges proposed, other than the install
20 and disconnect.

21 Q. But as a general rule, the NRC cost study
22 covers install and disconnects; correct?

23 A. Well, that's one of them. There's another
24 rate here, for example, for cable unloading and
25 bridge tap removal that would have also a

00466

1 nonrecurring cost that was approved in another
2 proceeding.

3 Q. Right, and that's not part of the NRC cost
4 study that you refer to, as soon as I can find it, on
5 pages 14 through 16 of Exhibit 60?

6 A. I forget the way you phrased the question,
7 but the only thing I'm talking about here are the
8 install and disconnect.

9 Q. Okay. Now, Qwest did propose in Minnesota
10 a new cost study for install and disconnect prices
11 related to line sharing; correct?

12 A. I don't understand your question.

13 Q. To refresh your recollection, didn't you
14 submit in your testimony in Minnesota an entirely new
15 cost study related to the install and disconnect
16 charges associated with line sharing?

17 A. Yes.

18 Q. And there are, in fact, differences between
19 provisioning line sharing and provisioning an
20 unbundled loop, are there not?

21 A. Yes.

22 MR. DEANHARDT: Your Honor, I believe I've
23 concluded my cross-examination. Thank you.

24 JUDGE BERG: All right. Let's be off the
25 record.

00467

1 (Discussion off the record.)

2 JUDGE BERG: Back on the record. With the
3 conclusion of Mr. Deanhardt's cross-examination of
4 Mr. Thompson, we're going to take our lunch break now
5 at 11:45, and we would like to start again right at
6 1:15, and we'll be off the record.

7 (Lunch recess taken.)

8 JUDGE BERG: We'll be back on the record.
9 Before we resume cross-examination of Mr. Thompson,
10 I'd like to note for the record that there's another
11 exhibit to be marked, Exhibit Number 7, which is the
12 curriculum vitae of Mr. Fitzsimmons, who was
13 cross-examined yesterday. Are there any objections
14 to the admission of Exhibit 7?

15 MR. DEANHARDT: No.

16 JUDGE BERG: All right. Exhibit 7 will be
17 admitted. My understanding, Ms. Anderl, is that Mr.
18 Fitzsimmons' vitae was just inadvertently left off of
19 his direct testimony, which refers to the vitae, and
20 that you'll distribute copies to all counsel.

21 MS. ANDERL: That's correct, Your Honor.

22 JUDGE BERG: All right. And then I'll just
23 need approximately six or seven copies for the bench.

24 MS. ANDERL: We should be able to provide
25 that tomorrow.

00468

1 JUDGE BERG: All right, thanks. I'll mark
2 that down for a follow-up in the morning. At this
3 point in time, we'll resume cross-examination. Mr.
4 Butler, do you have any questions for this witness?

5 MR. BUTLER: Yes, I do, Your Honor.

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

7 BY MR. BUTLER:

8 Q. Mr. Thompson, if I could direct your
9 attention to Exhibit T-18, which is your response
10 testimony. Specifically at page three, you discuss
11 the likelihood that Qwest revenues would decline with
12 line sharing, and you state a number of reasons why.
13 My question for you is whether you have any evidence
14 as you sit here today that demand for Qwest second
15 lines are, in fact, declining?

16 A. No.

17 Q. Do you have any evidence as you sit here
18 today that Qwest's total revenues are declining?

19 A. No.

20 Q. Could you tell me how long Qwest has been
21 providing DSL service?

22 A. A year and a half to two years.

23 Q. If I could ask you to turn to Exhibit 15 at
24 page five, it's in the white pages, and direct your
25 attention to line 3.3, rent. And you see there the

00469

1 proposed rent on a per-square-foot basis is \$2.97?

2 A. Yes.

3 Q. Could I ask you to turn to what's been
4 marked for identification as Exhibit 57, please. And
5 that is a response to WorldCom Data Request 2-15?

6 A. Yes.

7 Q. Could you turn to what is marked as page
8 number two in the confidential attachment? So that
9 would be 57-C.

10 A. Yes.

11 Q. And that page includes a summary of numbers
12 that are designated as expense dollars for base rent?

13 A. Yes.

14 Q. Is that correct? And the base rent
15 calculated there is (confidential) --

16 MS. ANDERL: Wait, wait, wait.

17 Confidential number.

18 Q. Excuse me. The number identified there is
19 at the bottom of the page opposite base rent;
20 correct?

21 A. Yes, it is.

22 Q. Can you tell me how you get from that
23 figure shown on page two of Exhibit C-57 to the \$2.97
24 figure shown on C-15, page five?

25 A. Yes. First thing I would say is you don't

00470

1 start there. You start on the prior page, which is
2 one.

3 Q. That's entitled Capital Dollars for RRCN;
4 is that correct?

5 A. Yes. I am looking at, in Exhibit C-15,
6 page 142.

7 JUDGE BERG: Yes, Ms. Anderl.

8 MS. ANDERL: Bearing in mind, Mr. Thompson,
9 that your pagination might be one page off, can you
10 just tell us what it says at the top of it?

11 THE WITNESS: It says at the top E2.2 and
12 3.3, space rent.

13 MS. ANDERL: Okay. 142, is that your page?

14 THE WITNESS: Yes.

15 MS. ANDERL: It does match.

16 THE WITNESS: Looking at Exhibit C-57, the
17 two numbers that are used in the cost study are the
18 top of the C-15, the --

19 JUDGE BERG: Are we on page one on C-57?

20 CHAIRWOMAN SHOWALTER: But I think he's
21 referring us back now to page 142.

22 JUDGE BERG: Yes, yes, I understand.

23 THE WITNESS: Yes, I'm comparing page one
24 of C-57 to page -- I think it's 142 of C-15. And
25 you'll see a lot of the numbers that are on there,

00471

1 where it says summary of numbers, are similar, or
2 same numbers, descriptions. For example, the typical
3 central office model, the RSF, the rentable square
4 feet is the same number and so forth going down. The
5 GSF, the gross square footage, is the same. The RSF,
6 rentable square feet, is the same number. The next
7 line, site work and landscape, is the same, and so
8 forth.

9 The two critical numbers that are used in
10 the cost study are at the top, the land investment
11 and the building investment. The number under the
12 typical central office model comes from a base of --
13 survey of US West's central offices and is roughly --
14 it's a very large percentage. Let me see. I think I
15 can probably disclose this. It's 1,348 central
16 offices that that's been derived from.

17 The study that's used in this is the R.S.
18 Means study that has a central office square footage
19 average for these costs of 4,500 square feet. The
20 costs per square foot for that size office is the
21 number that's on the line 12 that's there. That
22 number is adjusted by what's called a size adjustment
23 relationship to reflect a lower cost per foot for a
24 larger office. That number, in turn, is adjusted for
25 the difference between gross square footage and

00472

1 rentable square footage, which is on page six of C-57
2 at the top.

3 The number that's shown as the ratio of G
4 over R equals on that page. I'm being very careful
5 not to put anything confidential in the record here.
6 That number, then, is the number that is on line 13,
7 describe building construction RRCN.

8 CHAIRWOMAN SHOWALTER: Excuse me. Do you
9 mean those are the same numbers, or line 13 has been
10 multiplied by the number you referred to on page six
11 of C-57?

12 THE WITNESS: The number on line 12 is
13 multiplied first by what is called a size adjustment.
14 Let me see if I can find that factor. Okay. This
15 calculation that's shown on C-57, page nine at the
16 top, where it says typical central office, RRCN
17 calculation.

18 CHAIRWOMAN SHOWALTER: Okay. Then I guess
19 I didn't understand. How does the number on the top
20 of page six that you referred to, of C-57, that was
21 that ratio you're talking about; right?

22 THE WITNESS: Yes.

23 CHAIRWOMAN SHOWALTER: All right. How does
24 that relate back to something on page 142 of C-15?

25 THE WITNESS: Okay. If you start with the

00473

1 number that's on line 12 of page 142, C-15, are you
2 with me there?

3 CHAIRWOMAN SHOWALTER: Yes.

4 THE WITNESS: We have that number in mind.
5 The first thing we need to do is get an adjustment
6 for the size of the office. If Qwest has an average
7 size of 8,000 square feet and the study gives us the
8 cost for an office size that's 4,500 square feet, we
9 need to make some adjustments to that. The
10 adjustments that are made are in the -- on C-57, page
11 nine, under the line that says project size factor.
12 It takes the rentable square feet times that factor
13 that I pointed you to on page six, divides it by the
14 4,500 square feet that's in the study, gets the
15 factor we'll use in a moment.

16 Then that factor then is used to identify
17 the project size modifier from a table in the R.S.
18 Means document. That modifier is .9 -- I can say it
19 -- .95. That is the factor that can be used to
20 reduce the dollar cost. With me?

21 CHAIRWOMAN SHOWALTER: I'm not. I'm sorry,
22 I'm distracted.

23 THE WITNESS: Anyway, the number that you
24 work towards is the building construction RRCN, which
25 is a rentable square foot number, and that is shown

00474

1 on line 13 of C-15. You then add the site work and
2 landscape and get a subtotal that's on line 15. The
3 engineer then added a cost escalation percentage to
4 reflect the -- basically, an inflation adjustment for
5 '97 to '98 dollars. That results in the sum that's
6 on line 17. Land was added on line 18. That land
7 number comes from that C-57, page one. There was an
8 architectural fee added of 15 percent, project
9 management of five percent, for the total that's on
10 line 21.

11 Mechanical and electrical delivery costs
12 were subtracted out to get to a typical central
13 office project ARRCN of the amount that's shown
14 there.

15 If you then back out the land from that
16 number, you get the land that results on line seven
17 -- or on line five, and the building investment that
18 is on line six, which are the two numbers that are
19 used in the cost study.

20 Q. Okay. Again, if you could explain to me --
21 I understand that the typical CO project ARRCN that's
22 shown on line 23, and is also the last number on page
23 one in C-57, if you look at page two on C-57, there
24 is a calculation shown there that yields a figure
25 entitled base rent. What is the difference between

00475

1 that base rent figure and the \$2.97 that you show as
2 the charge for rent per square foot?

3 A. The number that's shown on C-57 is a
4 calculation using, as it says there, a different
5 recovery period, different cost of money, a different
6 operating cost, different taxes, and different
7 methodology than what has been approved for use in
8 the TELRIC cost studies, as is presented in this
9 proceeding.

10 Q. I see. And those different factors that
11 you just mentioned are responsible for getting the
12 product of \$2.97 versus the number that's here when
13 you start with the typical CO project ARRCN figure;
14 is that correct?

15 A. Yes, and it may not be equivalent numbers
16 either, in terms of the components of the cost.

17 Q. There's no other difference there, no cost
18 that's in the 2.97 figure, as opposed to the
19 (confidential) figure?

20 MS. ANDERL: Confidential number.

21 MR. BUTLER: Excuse me.

22 CHAIRWOMAN SHOWALTER: So the record won't
23 show that.

24 THE WITNESS: Other than the components of
25 the cost, there's certain prescribed components of a

00476

1 TELRIC cost that, frankly, I don't know whether
2 they're in these calculations that were made here or
3 not. We basically ignored these.

4 Q. So the 2.97 figure does not include costs
5 for mechanical and electrical delivery?

6 A. That's included in a category other than
7 space rent.

8 Q. If I could ask you to turn to Exhibit 55.

9 A. I have it.

10 Q. That is a response to Teligent Request
11 01-001. And in that request, you were asked to
12 identify all recurring and nonrecurring collocation
13 fees applicable to a fixed wireless carrier
14 interconnecting to your switch via an antenna located
15 on your rooftop for a microwave collocation. And
16 then it asked to identify portions of fees that
17 recover expenses relevant to rooftop collocation, et
18 cetera, and the response is given in that document
19 that microwave entrance facility is currently offered
20 via the BFR process. That means that the quotations
21 would be on an ICB basis; is that correct?

22 A. That's my understanding. It would have to
23 be in a specific -- it would be costs related to the
24 specific request for that kind of collocation.

25 Q. And in the collocation cost studies in

00477

1 prices which you have offered in this proceeding so
2 far, you do not have a cost or prices reported
3 specifically for microwave collocation; is that
4 correct?

5 A. That's correct.

6 Q. Do you understand that, under the FCC's
7 rules, Qwest is required to provide a microwave
8 collocation if requested and if technically feasible;
9 is that correct?

10 A. I'm not sure exactly that. What I'd refer
11 you to is Mr. Brotherson, I think, is prepared to
12 answer some of those questions.

13 Q. I asked you about the last sentence of your
14 response there. Standard ordering methods, including
15 rates, are currently under development for this
16 product. Do you know what the status of that
17 development effort is?

18 A. Again, I'd refer you to Mr. Brotherson.

19 Q. Okay. And again, if I could ask you to
20 turn to Exhibit 56.

21 A. Yes.

22 Q. And there you were asked -- that's a
23 response to Teligent Request 01-002. You were asked,
24 with regard to charges that are ICB, such as many
25 nonrecurring charges, to identify the functions for

00478

1 which such fees recovered cost that would not be
2 performed with regard to rooftop microwave
3 collocation. And again, the response was that you'd
4 provide that on a BFR basis, and then, that a
5 standard ordering method, including rates, is
6 currently under development; is that correct? Mr.
7 Brotherson would be the person to ask about that?

8 A. Yes, he would.

9 Q. Would he also be the person to ask about
10 whether certain activities that would be required for
11 a microwave collocator would be found in your cost
12 study in your price lists, or would that be you?

13 A. I'll try them, if you have certain ones in
14 mind.

15 Q. Would a microwave collocator placing an
16 antenna on a rooftop of a central office, a Qwest
17 central office, including the support structure, that
18 collocator would have to pay a space rental fee; is
19 that correct?

20 A. For the space on the roof?

21 Q. Yes.

22 A. Probably would need to.

23 Q. As well as pay for space in a collocation
24 space inside the building; is that correct?

25 A. I would think so, yes.

00479

1 Q. And you have costs and prices for the
2 rental of space, collocation space inside the
3 building in your proposal; is that correct?

4 A. Yes.

5 Q. A collocator would have to, if a
6 weatherproof penetration were not available from the
7 roof, there would have to be a penetration created
8 coring through the roof; is that correct?

9 A. I'm not probably the best person to ask
10 that. There would have to be some way to get from
11 the roof, but what exactly that would look like, I
12 don't know.

13 Q. Do you have prices for coring in your
14 proposal?

15 A. For a type of coring. I don't know whether
16 it's similar to a roof type or not.

17 Q. That was going to be my next question.

18 A. Oh.

19 Q. You have prices for splicing cable, pulling
20 cable in your proposal?

21 A. Yes.

22 Q. You also have prices for an entrance
23 facility in your proposal, collocation entrance
24 facility; correct?

25 A. For a particular type of entrance facility.

00480

1 Q. And that entrance facility that you're
2 referring to is one that contemplates CLEC running
3 fiber into a series of manholes and then actually
4 penetrating the building; is that correct?

5 A. Yes.

6 Q. And a microwave collocator locating that
7 antenna on the roof would not need access to any
8 entrance facility that used a manhole, I take it?

9 A. That's right.

10 MR. BUTLER: I think that's all I need to
11 ask. Thank you. Oh, yes, could I move the admission
12 of Exhibit 57, C-57, and Exhibits 55 and 56?

13 MS. ANDERL: No objection.

14 JUDGE BERG: Exhibits 55, 56, 57 and C-57
15 will be admitted. And Mr. Deanhardt, previously you
16 had mentioned that there were numerous exhibits on
17 the exhibit list that you did not intend to use.
18 Before we turn to Staff, I'm just going to quickly
19 run down the numbers that I show for Covad
20 cross-examination which were not referred to
21 previously or offered for admission: Thirty-seven,
22 38, 39, 43, C-43, 44, C-44, 48, C-48, 49, 50 and
23 C-50.

24 MR. DEANHARDT: That's correct, Your Honor.
25 I do anticipate, based on some of the responses that

00481

1 Mr. Thompson gave me, I do anticipate using Exhibit
2 49 in my cross-examination of Ms. Brohl at this
3 point. But other than that, the rest of those were
4 not offered.

5 JUDGE BERG: All right. And Mr. Butler,
6 also, I had marked Exhibits 51 through 54 for
7 Rhythms' cross-examination.

8 MR. BUTLER: And I do not see a need to
9 include those.

10 JUDGE BERG: Okay. At this time, I believe
11 we have cross-examination from Staff. Or Ms.
12 Hopfenbeck, I see you reaching for the microphone?

13 MS. HOPFENBECK: I just wanted to clarify
14 for the record that since I will not be asking Mr.
15 Thompson any questions, the exhibits that we
16 previously identified in anticipation of doing some
17 cross-examination will not be offered.

18 JUDGE BERG: Thank you, I just noticed
19 that, as well. I appreciate you mentioning it at
20 this point.

21 MS. SMITH: However, Staff may offer some
22 of WorldCom's exhibits in its cross-examination.

23 JUDGE BERG: Certainly may.

24 MS. SMITH: Don't cross them off the list
25 just yet.

00482

1 JUDGE BERG: All right. Thank you for
2 mentioning it.

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

4 BY MS. SMITH:

5 Q. Mr. Thompson, if we can turn to your
6 rebuttal testimony, which has been marked as Exhibit
7 T-20. Starting off at line 11, you state that the --

8 A. Excuse me. What page?

9 Q. I'm sorry. It's page six, line 11. You
10 state there that you used the distance of 70.74 feet
11 to the battery distribution fuse board. Do you see
12 that?

13 A. Yes.

14 Q. Where did that figure come from?

15 A. Excuse me a moment. I have to look for it
16 here. I thought I'd prepared so well. I'm not sure
17 exactly where it came from. I'm going to have to
18 look at it -- look for it.

19 JUDGE BERG: Shall we mark that as a
20 records request?

21 MS. SMITH: Well, I think I know, but I
22 want to make sure that we're talking about the same
23 thing. In my understanding of the testimony, it
24 comes from a study that US West conducted of 41 jobs?

25 THE WITNESS: Yes. I just can't put my

00483

1 finger on it right at the moment.

2 Q. If you could turn to what's been marked as
3 Exhibit 59 and C-59 in this docket. And that
4 document is Qwest responses to the Commission Staff's
5 Data Request Number 14?

6 A. Yes.

7 Q. And if you flip over to the Exhibit C-59,
8 the next page, it looks like there's a list of jobs
9 on that page?

10 A. Yes.

11 Q. Are those the 41 jobs that US West used to
12 determine the 70.74 feet?

13 A. It looks like it would be the ones, yes.

14 Q. Now, on that page, are those jobs jobs that
15 are multi-state jobs?

16 A. Yes.

17 Q. If you can turn now to what's been marked
18 as Exhibit C-67.

19 A. Yes.

20 Q. And would you agree that -- strike that.
21 Does this document appear to be the same document
22 that's Exhibit C-59, but has some writing on it?

23 A. Yes.

24 Q. And would you accept, subject to your
25 check, that the writing on that Exhibit C-67 crosses

00484

1 out those jobs that are not from Washington State?

2 A. Well, I certainly would want to check it,
3 but that's what it appears to do.

4 Q. And would you also agree that it crosses
5 off about half of those?

6 A. Yes.

7 Q. Now, if you would look on, again, on
8 Exhibit C-67, the last column on the right, and
9 that's a column for lengths for power cables; is that
10 correct?

11 A. Yes.

12 Q. Now, the number on the very bottom, not the
13 handwritten number, but the number on the bottom of
14 that, is that a confidential number, the average
15 length?

16 A. Probably.

17 Q. Okay. Now, is that the number that you
18 used in your calculation for the 41 jobs?

19 A. That's the average of the 41 jobs.

20 Q. Now, if you'd look at the handwritten
21 notation for Washington only, would you accept,
22 subject to your check, that that's the average power
23 cable length for Washington-only jobs?

24 A. Well, again, I'd have to check the
25 calculation, but if they are the -- if the

00485

1 Washington-only jobs have -- everything but the
2 Washington-only jobs have been removed and that's the
3 new calculation, then I should be able to verify
4 that. But it does appear to be different than the
5 calculation I made.

6 Q. Now, on the same page, which is Exhibit 67,
7 there's another column that lists the amount of power
8 for these jobs.

9 A. I'm sorry.

10 Q. Do you find that column?

11 A. Where is this again?

12 Q. It's on Exhibit 67.

13 A. C-67?

14 Q. I'm sorry, Exhibit C-67, yes.

15 A. Okay.

16 Q. Now, in all cases on this exhibit, the jobs
17 are for 40 amps; is that correct?

18 A. Yes.

19 Q. Now, if you look only at the 20 or so
20 Washington jobs, would you agree that all but one of
21 those jobs required a cable size larger than 4/0 AWG
22 size of copper cable?

23 CHAIRWOMAN SHOWALTER: Can you just point
24 out what column you're referring to?

25 MS. SMITH: I'm referring to the third one

00486

1 in from the right.

2 THE WITNESS: I think you're referring to
3 the one that's USWPWR -- I think it's CA or might be
4 GA. Either one might make sense. I can't tell from
5 this. I guess it's GA from C-59. It's the third one
6 from the right. And your question was that the
7 Washington-only jobs are 4/0, or did you say --

8 Q. They would be 4/0 or less?

9 A. Let me put it this way. They're either
10 4/0, 1/0 or 2/0.

11 JUDGE BERG: I know this is one of the
12 first times we've really started discussing
13 confidential documents in detail, but I'll just
14 caution all Counsel, any time they characterize a
15 confidential document in terms of numbers, whether it
16 be number of offices composing a subgroup or
17 percentages, if you're unsure about whether the
18 number you want to use is confidential or not, please
19 check it out verbally without disclosing the number
20 before making specific numerical references.

21 MS. SMITH: I would move for the admission
22 of Exhibits 59 and 67.

23 MS. ANDERL: No objection.

24 JUDGE BERG: Exhibit -- I already show
25 Exhibit 57 and --

00487

1 MS. SMITH: I'm sorry, 67, 59 and 67.

2 JUDGE BERG: All right, thank you.

3 MS. SMITH: And C-59, as well.

4 JUDGE BERG: Okay. So 59 and C-59 are
5 admitted, Exhibit 67 is admitted, and was there
6 another exhibit, Ms. Smith?

7 MS. SMITH: No, I believe that's it.

8 JUDGE BERG: All right.

9 Q. If you could turn, please, now to Exhibit
10 Number 32 and C-32. And I apologize that these
11 numbers -- that these pages are not numbered, but if
12 you could count in about 17 pages to the confidential
13 document that's labeled Costs for A and B DC Feeds to
14 Equipment.

15 COMMISSIONER HEMSTAD: What is the caption?

16 MS. SMITH: Costs for A and B DC Feeds to
17 Equipment.

18 JUDGE BERG: I'll note that this subgroup
19 of documents does have a page one of four reference
20 at the bottom.

21 MS. SMITH: It does, that's correct. Thank
22 you.

23 CHAIRWOMAN SHOWALTER: So which page of the
24 one of four is it?

25 MS. SMITH: Page one of the one of four.

00488

1 Q. Does this document refer to five central
2 offices?

3 A. Yes, it does.

4 Q. And is this the five-central-office study
5 that you referred to on page six of your rebuttal
6 testimony?

7 A. Yes.

8 Q. Are the calculations contained on this
9 document based on actual data or are they
10 theoretical?

11 A. My understanding is they're primarily
12 actual. Not having done this study myself, I don't
13 know whether there's anything that has been created
14 from approximations of that actual data.

15 Q. So as far as you know, it's based on actual
16 data?

17 A. That's my understanding.

18 Q. Now, two of the central offices listed on
19 that page are from Washington State; is that correct?

20 A. Yes.

21 Q. If we look at the -- and again, I'm going
22 to try not to give any confidential numbers on the
23 record. If we look at the 40-amp calculations for
24 cageless collocation in the two Washington offices,
25 the costs per square foot are different for those

00489

1 offices; is that correct?

2 A. Yes.

3 Q. Now, if you could go ahead in the same
4 exhibit -- and again, I apologize, these pages aren't
5 numbered -- four more pages ahead to the one marked
6 Costs for A and B DC Feeds to Equipment again. And
7 the page I'm referring to on the bottom says page one
8 of three.

9 A. This was back or ahead?

10 Q. Ahead, forward. And it's for the Bellevue
11 Sherwood office.

12 A. Okay. I'm with you.

13 Q. Now, the calculation on this document
14 assumes the use of 4/0 AWC copper cable for 40 amps.
15 Do you see that?

16 A. Yes.

17 Q. Now, once again, three more pages ahead to
18 the page four, Seattle Duwamish.

19 A. Yes.

20 Q. The calculation on that page assumes the
21 use of 350 MCM or kcmil copper cable for 40 amps; is
22 that correct?

23 A. Yes.

24 Q. Now, if I could get you to keep your finger
25 on this five-office-study part and go back to what's

00490

1 been marked as Exhibit 59.

2 A. Excuse me just a second. Which one is 59?

3 Q. It's the company's response to Commission
4 Staff Data Request Number 14.

5 A. Okay.

6 Q. And on Exhibit 59, could you identify what
7 job is for the Duwamish office? And according to my
8 reading, it would be the job under job number, about
9 halfway down, C8WLC13. And I hope that's not a
10 confidential identifier.

11 A. Could you give me that job number again?

12 Q. Yes, it's C8WLC13.

13 MS. ANDERL: That's on Exhibit C-59?

14 MS. SMITH: Yes, it is. It's also on
15 Exhibit C-67, whichever one you have most handy.

16 MS. ANDERL: Great. But is it on Exhibit
17 32, or C-32?

18 Q. Now, are you with me on Exhibit 59?

19 JUDGE BERG: Excuse me. Is there some
20 issue pending, Ms. Anderl?

21 MS. ANDERL: I had just asked for a
22 clarification as to whether Ms. Smith was referencing
23 us to that job number on both exhibits or just the
24 one.

25 MS. SMITH: Well, it's on both.

00491

1 MS. ANDERL: But is it --

2 JUDGE BERG: My understanding is it's one
3 of the five offices on the five-office study; is that
4 right, Ms. Smith?

5 MS. SMITH: That's correct. That would be
6 on that page one of four. Let's get you on the same
7 page, Ms. Anderl.

8 MS. ANDERL: All I asked was whether or not
9 Ms. Smith had intended to reference us to --

10 MS. SMITH: I had intended to reference you
11 to Exhibit C-59.

12 MS. ANDERL: Right, but on Exhibit C-32,
13 are we supposed to be able to find that job number on
14 Exhibit C-32, as well?

15 MS. SMITH: I don't believe the job number
16 itself is on C-52, but I can refer you to another
17 exhibit.

18 CHAIRWOMAN SHOWALTER: Are you talking
19 about 32 or 52?

20 MS. SMITH: Sorry, 50 --

21 MS. ANDERL: Thirty-two. Isn't that where
22 we -- I thought that's where we had been. And C-59,
23 I understand, is the same as C-67, other than the
24 handwriting.

25 MS. SMITH: Right.

00492

1 MS. ANDERL: And I understand that you had
2 referenced us to a specific job number on that. The
3 other exhibit we had just been on, though, was
4 Exhibit C-32, and I thought you were wanting the
5 witness to compare items on those two documents. And
6 if I misunderstood, I apologize.

7 THE WITNESS: Excuse me. The witness had
8 that same understanding, but --

9 MS. SMITH: I will be asking you to compare
10 some numbers in Exhibit C-32 and Exhibit C-59.

11 MS. ANDERL: Okay.

12 MS. SMITH: For the Seattle -- or the
13 Duwamish Central Office.

14 THE WITNESS: What I understood you to ask
15 me, before Ms. Anderl commented, was to verify that
16 the job number C8WLC13 was the same job that was
17 shown on Exhibit C-32 on this page that you had me
18 put my finger on. Is that correct or --

19 Q. Okay, all right. I guess I had thought I
20 had asked you to just agree that the job number I
21 read to you was the same as that referred to in C-32.

22 A. And I don't know that I can agree to that.

23 Q. Then --

24 A. They are the same -- I'll take, subject to
25 check, that the job that you identified may be from

00493

1 that office. I don't know that it's the same job
2 that's shown in the document C-32.

3 Q. Okay. Then could I turn your attention,
4 then, to Exhibit 60 and Exhibit C-60.

5 A. Okay.

6 Q. Now, the first request, and that is a data
7 request from Nextlink to Qwest, Data Request Number
8 Nine, the first request is, With respect to Mr.
9 Thompson's February 15, 2000 testimony at page five,
10 lines 24 through 36, please provide the following
11 information on the sample of collocation jobs used to
12 model collocation costs.

13 Now, are those same collocation jobs the
14 five jobs that we were referring to back in Exhibit
15 C-32, or are they different jobs?

16 A. As I said earlier in some
17 cross-examination, they -- my understanding is these
18 are different jobs. They are not part of the 41
19 sample of the cageless jobs. Yesterday I was
20 explaining that my understanding of this is that all
21 of the 41 jobs for cageless were 40-amperage jobs.
22 The pricing structure that we preferred to offer
23 would have different amperage elements to it, so that
24 the CLECs could have some choices.

25 So the task was to modify the costs so that

00494

1 they would be reflective of different amperage jobs.
2 The power engineer went to those five offices and got
3 some power jobs that were fairly recent, my
4 understanding is that probably for Qwest's purposes,
5 not for collocation purposes. But they had the
6 information to be able to modify the costs from the
7 41 power jobs to reflect different amperages that are
8 shown on this Exhibit C-32.

9 So while the office may be the same, I
10 could not say whether the job is the same job, the
11 study of the five. In fact, my belief is that it is
12 not.

13 Q. Thank you. If I could get you to turn now,
14 please, to the document that I handed out at the
15 break that is page 67 of 91 from Exhibit C-60?

16 A. Again, page 67; is that correct?

17 Q. I believe it's page 67 of 91.

18 A. Okay.

19 Q. But unfortunately, my book has the page
20 number punched out. It's Power Cost 41 jobs. That's
21 on the top of it.

22 A. Yes.

23 Q. And at the very far right-hand side,
24 underneath unit price, there are two numbers, the
25 very bottom part of the right-hand column?

00495

1 A. Yes.

2 Q. What do those numbers represent?

3 A. I'd have to look at the derivation of the
4 numbers and what the cell references represented in
5 order to tell you -- it's tough for me to tell from
6 the printed copy.

7 MS. SMITH: Could we make that a record
8 request, please?

9 JUDGE BERG: Record Request Number Eight is
10 for an explanation of the two bottom right-hand
11 numbers; is that correct, Ms. Smith?

12 MS. SMITH: That's correct.

13 JUDGE BERG: The two bottom right-hand
14 numbers that appear to be in two separate cells of
15 Exhibit 60, page 67. Ms. Anderl, is that something
16 that you think you'll be able to track down for
17 Staff?

18 MS. ANDERL: Certainly. Depending on what
19 we have with us and what we need to get, we should be
20 able to do it in fairly short order.

21 JUDGE BERG: All right. We'll check back
22 with you in the morning, if you don't come up with it
23 before then.

24 MS. ANDERL: Thank you.

25 Q. Mr. Thompson, if you can please turn now to

00496

1 Exhibit 64 and C-64, which is the company's
2 supplemental response to the Commission Staff's Data
3 Request Number 18. And in that data request, the
4 Commission Staff had asked the company to provide
5 supporting documentation for the costs that were
6 shown in Exhibit JLT-4; is that correct?

7 A. Yes.

8 Q. And if you could please go to exhibit -- or
9 Attachment C of that exhibit, and go to page two of
10 Attachment C, which is handwritten in a large number
11 two at the bottom of the page. And at the top of the
12 page, it would say 16100 Wiring Methods.

13 CHAIRWOMAN SHOWALTER: What page?

14 MS. SMITH: It's page two of -- actually,
15 it's page four, I'm sorry, of Confidential Attachment
16 C, and it's the second page of the pages that look
17 kind of like columns.

18 CHAIRWOMAN SHOWALTER: What does it have at
19 the top?

20 MS. SMITH: 16100 Wiring Methods.

21 Q. Now, at the top of that page, there are
22 some columns labeled crew, daily output and labor
23 hours. Do you see that?

24 A. Yes.

25 Q. And under the word unit, there's an

00497

1 abbreviation that looks like CLF. Are you there?

2 A. Yes.

3 Q. And what does CLF stand for?

4 A. I don't know.

5 Q. Now, and near the bottom of the page, if
6 you were to count -- one, two, three, four, five --
7 about six cells up from the bottom, do you see the
8 notation 500 kcmil?

9 A. Yes.

10 Q. And under crew, if you read across to the
11 column labeled crew, it says with three electricians,
12 it says the daily output is (confidential) --

13 A. Excuse me. Is that a confidential number?

14 MS. SMITH: I'm sorry. Is that
15 confidential, Ms. Anderl?

16 THE WITNESS: I believe this is a
17 confidential document.

18 MS. ANDERL: Yeah, I think this is.

19 MS. SMITH: And I apologize for that.

20 JUDGE BERG: Ms. Smith, give us another
21 pointer to the page that you're on. What's at the
22 top?

23 MS. SMITH: 16100 Wiring Methods.

24 CHAIRWOMAN SHOWALTER: And what's at the
25 bottom?

00498

1 MS. SMITH: At the bottom, there's a large
2 number two, looks like it's handwritten.

3 MS. ANDERL: So it's conductors and cables?

4 MS. SMITH: Conductors and cables.

5 CHAIRWOMAN SHOWALTER: Can I say again,
6 this is the reason we ask all the exhibits to be
7 paginated, so that we can easily turn to the pages,
8 and also so that the record reflects what we're
9 talking about and we don't have to put our fingers in
10 places. That's the reason, at the prehearing
11 conference, when these exhibits are assembled,
12 everyone should be making sure they have these
13 numbers on the pages.

14 MS. HOPFENBECK: Excuse me, Your Honor. I
15 just had a question, just because the record is very
16 difficult to maintain when we have all this
17 confidential information. The question that I would
18 have is the document that Ms. Smith's referring to is
19 the R.S. Means Electrical Cost Data, 23rd Annual
20 Edition. And my question is why this document is
21 confidential. I think this document is a public
22 document.

23 THE WITNESS: That's not my understanding.
24 My understanding is that it's a copyrighted document,
25 that information is proprietary or whatever.

00499

1 MS. HOPFENBECK: Copyrighted is a little
2 different than confidentiality, so I just was -- I'm
3 just raising the question about whether or not these
4 numbers can be spoken of in the public record. And
5 that's a little different than -- usually, even a
6 copyrighted document can -- you know, items out of it
7 can be referenced in a public record, is my
8 understanding. I direct the question, actually, to
9 Ms. Anderl and the Judge.

10 MS. ANDERL: Well, and certainly if we had
11 known that there would be a question about the
12 confidentiality, we could have worked on determining
13 whether or not we could disclose it. At this point,
14 I can't just say on the record that we're going to
15 turn it public.

16 MS. HOPFENBECK: I thought it was an easy
17 one. I'm sorry.

18 MS. ANDERL: I wasn't aware that there
19 would be any sort of a challenge. We're happy to
20 look into it, if that makes it easier.

21 MS. SMITH: Actually, we'll just move on in
22 our cross, away from this document.

23 Q. Mr. Thompson, I'd like to return you back
24 to your rebuttal testimony, please, which has been
25 marked as Exhibit T-20, to page 10.

00500

1 A. Yes.

2 Q. And at line 14, you stated that the company
3 used a 9.63 percent cost of money?

4 A. Yes.

5 Q. Now, could you please turn to Exhibit C-15,
6 page 126, I believe. And at Cell Number 23, there's
7 a figure given for an interest rate?

8 A. Just a moment. I'm trying to catch up with
9 you here. Okay, C-15, page 120 --

10 Q. One-twenty-six.

11 A. -- six. And the cell?

12 Q. Number 23.

13 A. Would that be B-23?

14 Q. Yes, it would.

15 A. Okay, I'm there.

16 Q. And there's a figure given for an interest
17 rate?

18 A. Yes.

19 Q. Does that relate in any way to the rate of
20 return?

21 A. No.

22 Q. What does that relate to?

23 A. I believe the Staff gave us a discovery
24 request where we explained that. This has some
25 extraneous information that came from the internal

00501

1 analysis that I was talking about earlier, where
2 these five offices were studied and this information
3 was used in the cost study in terms of certain cost
4 data. It probably causes some confusion, and we're
5 going to be cleaning it up, but there's information
6 on here that was used for this internal analysis that
7 was just copied over into the documentation here, but
8 was not utilized. The cost of money that is used in
9 the cost study is on that cite that I mentioned in my
10 testimony.

11 Q. Now, if you could go back to your rebuttal
12 testimony at page 10, down at the bottom of the page
13 at line 17, you say there that Qwest used a 12-year
14 average life.

15 MS. ANDERL: I'm sorry, what was the page?

16 MS. SMITH: Page 10.

17 MS. ANDERL: Thank you.

18 Q. Line 17.

19 A. Yes.

20 Q. Now, once again, back in Exhibit C-15, on
21 page 126, the company appears to be using
22 depreciation years that's different than 12 years?

23 A. And again, we do not use that information.
24 If you follow through, you won't find that
25 information being used. What's used is back, as I

00502

1 say, on what we call the capital cost calculation,
2 which uses, for the account that I listed there,
3 2232, 35-C is a 12-year life, which is the
4 Commission-prescribed average life.

5 Q. So is it your testimony, then, that the
6 life used on page 126 in Cell B-24 was not what the
7 company used?

8 A. Not to calculate the power costs that
9 result in the cost that we present in my exhibit.

10 Q. Was the figure, the depreciation years in
11 B-24 on page 126 of C-15, used in any way in this
12 study?

13 A. I don't believe so.

14 Q. Would you accept, subject to your check,
15 that the depreciation years that we see in Cell B-24
16 on page 126 appears in other places in Exhibit C-15?

17 A. Yes, it will show up a number of places in
18 this power section, because that information was
19 copied multiple times, but, again, you have to look
20 at where the numbers are calculated in the cost
21 study, which is in the cap cost section, which is the
22 one that I referenced in the testimony, Section G of
23 the cost study.

24 Q. So would there be any other numbers used
25 under assumptions on page 126 or any other place in

00503

1 Exhibit C-15 that are not correct or were not used in
2 calculating the costs?

3 A. Some of those numbers are used. For
4 example, I believe the lengths are used that are in
5 Cells B-28 and 29 and 30. I believe that some of the
6 installation cost numbers that are in that column are
7 used, as well. The numbers that are at the top of
8 that page are all expense-related adjustments that
9 would not -- it would not be appropriate to either
10 use a interest rate or a depreciation for those type
11 of numbers, being expense dollars.

12 Therefore, it's extraneous information, as
13 we said in the data request, and frankly, I apologize
14 for it, but it's information there that can be
15 misleading, but if you understood the way the cost
16 study works, you could see that they're not being
17 used.

18 Q. Are the two numbers that we see in Cells
19 21-B and 22-B, they appear to be labor rates. Do you
20 see those on page 126?

21 A. Yes.

22 Q. Are those correct or not? All right. I'll
23 rephrase my question. Were those the numbers used to
24 calculate the costs or not?

25 A. I'd have to check that and see.

00504

1 MS. SMITH: Could we make that another
2 record request, please?

3 JUDGE BERG: Ms. Smith, would you
4 recharacterize, restate your request for me?

5 MS. SMITH: Yes, I will. Whether the labor
6 rates set forth in Cell 21-B and 22-B on page 126 of
7 Exhibit C-15, and any other places where they show
8 up, were those rates the rates that were used in
9 calculating the company's costs in this cost study.

10 JUDGE BERG: Same rates used to calculate
11 cost?

12 MS. SMITH: Yes.

13 JUDGE BERG: Okay, thank you.

14 Q. I'd like to direct you back to Exhibit
15 T-20, your rebuttal testimony, on page nine. In
16 lines one and two, you state that engineering costs
17 were revised.

18 A. Yes.

19 Q. Was this new calculation performed using
20 all 41 offices that were discussed earlier?

21 A. I think the convention we used in the
22 original and in this last calculation was to take the
23 engineering and eliminate the top two engineering
24 rates and the bottom two engineering rates, and then
25 take the average of the remainder.

00505

1 Q. And so it would be correct, then, that
2 those calculations were done using central offices
3 other than Washington-specific central offices?

4 A. Yes.

5 Q. Is it correct that each one of the 41 jobs
6 is a different central office?

7 A. I'm not sure of that. Some of them may be
8 in the same central office.

9 Q. Do you know if, in any of those central
10 offices, there were more than one collocator?

11 A. I don't know for a fact. I would guess
12 that there are far more than one collocator in each
13 of those offices.

14 Q. Would the same engineering cost be repeated
15 for each collocator in the same office?

16 A. The engineering costs wouldn't be by
17 collocator; they would be for specific jobs.

18 Q. Would the same cost -- if you had a
19 collocator and you figured the cost in this study,
20 would the cost be the same for the next collocator in
21 that central office?

22 A. In terms of the costs that we accumulated,
23 the costs would likely vary for each job. Now, that
24 job could be for the same collocator or for a
25 different one.

00506

1 Q. For subsequent collocators, would the cost
2 be greater or lesser?

3 A. it depends on the job that the collocator
4 asks to have engineered. That would be specific to
5 the request and the configuration that the collocator
6 requested.

7 Q. I believe I have just one more question for
8 you, if I can turn to it. If I could turn your
9 attention, please, to Exhibit 60 and C-60, and I
10 believe this is a page number that has not been
11 punched all the way out, and it's page 21 of 91.

12 A. I have it.

13 Q. It appears to me that most of the offices
14 there show more than one invoice for engineering; is
15 that correct?

16 A. Yes.

17 Q. Why is that?

18 A. Because the engineering, if done by
19 vendors, for example, could be billed in different
20 increments. So this is capturing the different
21 increments of the billing for a job. If it's US West
22 engineering, the time coded by the engineer to that
23 job could be made over multiple days or months or
24 weeks, as well. So it's just accumulating all of the
25 charges to the jobs for engineering.

00507

1 MS. SMITH: I don't have any more
2 questions, but I would move for the admission of
3 Exhibits C-32, C-64, 60, and C-60.

4 MS. ANDERL: Actually --

5 JUDGE BERG: I already showed 32, C-32 as
6 having been admitted, so Ms. Anderl, we're talking
7 60, C-60, 64, C-64.

8 MS. ANDERL: No objection. Just checking
9 to make sure there weren't others that should have
10 gone in, as well.

11 MS. SMITH: Briefly one more question.

12 JUDGE BERG: Sixty, C-60, 64 and C-64 are
13 admitted. Go ahead, Ms. Smith.

14 Q. Going back to pages 21 of 91 on Exhibit
15 C-60, it appears as though those engineering costs
16 are duplicated. Can you confirm whether they are or
17 whether they're not?

18 A. No, I can't. Can you tell me what you're
19 looking at that leads you to believe that?

20 MS. SMITH: The totals -- strike that
21 question.

22 JUDGE BERG: We're going to take a break
23 until 3:00, at which point in time Dr. Gabel will ask
24 questions from the bench. We'll be off the record.

25 (Recess taken.)

00508

1 JUDGE BERG: We'll be back on the record.
2 At this point in time, Dr. Gabel has some questions
3 for you, Mr. Thompson.

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

5 BY DR. GABEL:

6 Q. Good afternoon, Mr. Thompson.

7 A. Good afternoon.

8 Q. I'd like to begin with a question that I
9 presented to Dr. Fitzsimmons yesterday, and I believe
10 he deferred to you. And that is dealing with
11 paragraph 157 of the FCC's Third Report and Order,
12 the line sharing order. Were you in the room when I
13 I asked Dr. Fitzsimmons about this?

14 A. Yes.

15 Q. And I asked Dr. Fitzsimmons to explain the
16 difference between what US West proposed to the FCC,
17 and which the FCC commented on at paragraph 157 and
18 what US West is proposing in this proceeding, and I
19 believe he deferred the question to you. So I'd like
20 to begin just asking you to explain the difference
21 between US West -- I'm sorry, Qwest's proposal in
22 this proceeding and US West's submission to the FCC?

23 A. Okay. Well, I believe we've offered an
24 Exhibit T-5 that provides the comments of US West
25 Communications that were filed on June 15th, 1999.

00509

1 Paragraph 157 of the line sharing order quotes in
2 footnotes page 27 of those comments. That is the
3 last paragraph in a section that is at the end of
4 these comments. And the title of that section is
5 Cost Allocation and Pricing Issues Undermine the
6 Rationale for the Line Sharing Proposal. That's on
7 page 26 of those comments.

8 That heading is indicative of the arguments
9 that are made by US West regarding line sharing
10 overall, just the whole policy of line sharing, and
11 are not specific to a methodology. I think the FCC
12 used that word, and I think that's a
13 mischaracterization of what these comments are.

14 What these comments are doing is just
15 toward the end of the arguments that are made here,
16 they're basically asking the FCC not to implement the
17 line sharing proposals altogether, that is, specific
18 to pricing, but it points out that there's a
19 potential takings argument that's related to the
20 Fifth Amendment of the Constitution that could be
21 raised if the FCC pursued the line sharing proposal
22 in total.

23 So I would characterize it as one of the
24 several arguments that the comments make trying to
25 persuade the FCC not to undertake line sharing,

00510

1 rather than any kind of pricing proposal.

2 In this case, as Dr. Fitzsimmons outlined
3 yesterday, the position we are taking here is that
4 when the FCC did identify the loop for line sharing,
5 they created a joint cost. And the joint cost then
6 would need to have some reasonable allocation between
7 the two different services and two different
8 providers.

9 And Dr. Fitzsimmons said that the position
10 we're taking in this case is that a 50/50 allocation
11 is a reasonable allocation. And then he talked
12 somewhat about the reasons for that, why it was
13 reasonable and so forth. So that's why I would tend
14 to distinguish the comments that are in this filing
15 made in '99 versus the arguments that we are
16 presenting today.

17 Q. Thank you. Now, I'd like to ask you to
18 turn to Exhibit T-16. This is your supplemental
19 direct testimony, page six, lines 16 to 20.

20 A. Yes.

21 Q. Am I correct that, in this portion of your
22 testimony, you're addressing the FCC's concern about
23 a price squeeze?

24 A. Yes.

25 Q. And may I ask you to turn to Exhibit 22,

00511

1 which is filed on August 4th, proposed rates for line
2 sharing?

3 A. I have it.

4 Q. Am I correct that on this sheet you propose
5 that there be a monthly fee of \$3.75 that a CLEC or a
6 DLEC would pay for line sharing, and that is for
7 recovery of the OSS charges?

8 A. Yes.

9 Q. And this is a monthly fee that would remain
10 in effect for 60 months?

11 A. That's correct.

12 Q. Okay. Now I'd like to ask you to take a
13 look at the numbers that Mr. Deanhardt calculated
14 with you earlier this afternoon. And am I correct
15 that, on the left-hand column, he started with a
16 retail price for DSL service of \$29.95? This is
17 Exhibit 6.

18 A. Yes.

19 Q. And that he asked you to assume that a DLEC
20 would be equally efficient as Qwest in providing DSL
21 service, and that its direct costs would be \$17.32?

22 A. Yes.

23 Q. Leaving a difference of \$12.63. And then
24 he suggested we now subtract from that \$9.08, which
25 is the HUNE price that appears on Exhibit 22, leaving

00512

1 a margin of \$3.55?

2 A. Yes.

3 Q. And would it be correct, then, to subtract
4 from the \$3.55 the \$3.75, which is the OSS cost
5 recovery, leaving a negative margin of 20 cents?

6 A. In terms of what their costs would be, yes.

7 Q. Yes. And so the proper conclusion from
8 this would be that, under the proposal, that we have
9 a problem here of a price squeeze, and that there is
10 no margin left for line sharing, that the proposed
11 prices would effectively make it economically
12 unattractive for a DLEC to use line sharing?

13 A. No, I don't reach that conclusion.

14 Q. Why not?

15 A. The reason is that the OSS costs that we're
16 talking about here are nothing -- the equivalent in
17 US West are also being taken care of. In other
18 words, US West or Qwest would have those type of
19 development costs that it incurs for modifying its
20 services, and that amount is recovered from the
21 margins that it has, as well. So it's, in a sense,
22 extraneous to the calculation of the price squeeze.

23 Another way of saying it is that if you
24 assume that the costs are equivalent on both sides,
25 then US West has costs for developing OSS systems for

00513

1 its services, so does the CLEC have for developing
2 its services.

3 Q. So is it your position -- and I want to
4 make sure I understand this point, Mr. Thompson.
5 Your position is that it's incorrect to assume that a
6 DLEC has a direct cost of \$17.32, that their direct
7 costs are less than that 17.32? Is that --

8 A. Well, we don't know what their costs are.
9 We also don't know what their price will be. If we
10 look at the market right now, they are -- their
11 services are selling for higher prices than that
12 29.95 for equivalent services. So that's a fallacy
13 with this argument, as well.

14 But given all the assumptions we had
15 through it, we went through this -- and I wouldn't
16 say that this is the right calculation for the price
17 squeeze, but with regard for the OSS, what we have
18 are equivalent costs that aren't reflected in the
19 Qwest calculations there on the right-hand side, and
20 it's unclear where they might be reflected on the
21 left-hand side.

22 Q. I'm going to have to ask two things here.
23 Are you asserting that the DLECs charge more than
24 \$29.95 for ADSL service that's 256 kilobits per
25 second? When you say they charge more, is that

00514

1 because you're referring to a faster speed service,
2 or for the same service they're charging more than
3 29.95?

4 A. It's my understanding, for a 256k, they are
5 charging higher prices.

6 Q. All right. Now, on the second point, if I
7 understand your response, now, this OSS cost of
8 \$3.75, isn't that an OSS cost for opening up your
9 operational support systems to the DLECs?

10 A. I would characterize it as the
11 modifications that we are making at the request of
12 the DLECs to make our systems available to them so
13 that they would not have to make -- develop their own
14 systems to do those same -- provide those same
15 services.

16 Q. I'm pausing here, because I guess I've
17 misunderstood the nature of this charge, and I guess
18 I need you to elaborate on that. Because I'd always
19 understood that this OSS cost recovery, the reason
20 why it was a charge which you were asking the CLECs
21 to pay was because you already had your existing OSS,
22 for example, you already had an existing OSS system
23 that was used to provide your own retail services and
24 that you asked that the CLECs compensate you for
25 allowing them to have equal access to your existing

00515

1 OSS systems?

2 A. Okay. I don't disagree with that.

3 Q. All right. Well, then, if that's the case,
4 since the compensation is for allowing the CLECs to
5 have equal access to your existing OSS system, why
6 would they have an equivalent cost of \$3.75, or did I
7 misunderstand you, they do not have an equivalent
8 internal cost of \$3.75?

9 A. That is their cost for part of their OSS.
10 The way I think of it is that they have their own
11 internal OSS that they are developing. In addition,
12 they have the cost for the modifications we make to
13 OSS. Alternatively, we have costs for developing OSS
14 for our systems on our side. For the price squeeze
15 analysis to work in the assumptions of the cost,
16 you'd need to get alignment between their costs and
17 our costs if you're going to do that test properly.

18 Q. All right. I want to just follow that up
19 and then move on to another topic. You say to do it
20 properly, you need to know their cost as well as your
21 cost. So could you just describe how you think a
22 commission should undertake a price squeeze test?
23 You know, how would the approach differ from the
24 approach that Mr. Deanhardt took with you in the
25 questioning this afternoon?

00516

1 A. Well, first of all, we need to know what
2 their costs actually are, I think, what their direct
3 costs of providing the service. They may be lower
4 than Qwest's costs, they may be higher. We don't
5 know. But you would need to know the position
6 they're in. You would need to know what the price is
7 that is there. We have US West's price. You would
8 need to know what the commission would determine on
9 the prices that are proposed here to do the test.

10 Q. Thank you. The second example that Mr.
11 Deanhardt covered with you dealt with Megabit Lite
12 service. Do you recall that line of questioning?

13 A. Yes.

14 Q. And am I correct that with Megabit Lite, a
15 subscriber is not always connected to the packet
16 switched network, unlike a normal xDSL type service?

17 A. Well, the channel, as I understand it, is
18 dedicated to that customer's use and is activated
19 upon their request. It isn't always on. So the
20 modem pool, I believe it's called, is shared among
21 multiple users.

22 Q. So it would be a fair characterization to
23 say that Megabit Lite, the service, is not always on?

24 A. That's true.

25 Q. Now, you've read Dr. Fitzsimmons'

00517

1 testimony, his direct testimony?

2 A. Yes.

3 Q. All right. Now, Section Four of his
4 testimony is entitled One Loop, Two Dedicated
5 Connections. And in fact, there was testimony
6 yesterday from Dr. Fitzsimmons saying that the
7 provision of xDSL service involves providing a
8 dedicated and -- two dedicated connections to the
9 central office. Now, with Megabit Lite service,
10 since it is not always turned on, is it two dedicated
11 connections?

12 A. Yes, just because it isn't always on
13 doesn't mean that it's not dedicated. If you look at
14 the voice side, for example, you would have to pick
15 up the receiver and dial digits in order for that
16 connection to be on. With regard to the DSL service,
17 you have to -- the consumer has to take some action
18 to activate it, as well.

19 Either way, they're dedicated in the sense
20 that when the customer activates the voice portion of
21 the loop, he is connected to a US West facility.
22 When the consumer activates a line sharing DSL
23 service, he is connected to a DLEC's facility.

24 Q. Okay, thank you. I'd like to now follow up
25 on a topic that we heard yesterday during your

00518

1 cross-examination by Mr. Kopta. There was reference
2 to express fiber. Could you explain for me what is
3 meant by express fiber and its relationship to
4 entrance facilities?

5 A. Okay. I can touch on it. It's probably
6 good to have perhaps Mr. Hubbard to elaborate on it
7 or correct anything I misconstrue with it. It's a
8 service that I understand where the DLEC provides
9 cable that is a fire-rated cable, that would be
10 pulled through from the point of interface to the --
11 through the conduit up to probably a fiber
12 distribution panel in the office. I'm not sure
13 whether it goes beyond that point or not, but the
14 cable is more expensive than the normal cable. It's
15 supplied by the DLEC. Since it's fire-rated, I
16 believe you eliminate one of the splices, as well.

17 Q. Thank you. I'd like to ask you again to
18 turn to your direct testimony. That's Exhibit 10,
19 page 12, lines nine to 28.

20 A. Yes.

21 Q. At this portion of your testimony, you're
22 discussing SPOT frames. And I'm not sure I
23 understand US West's current position on SPOT frames
24 and how -- and the reason I found this a bit
25 confusing is you talk here about SPOT frames and

00519

1 intermediate frames, and I've always -- I thought of
2 them being somewhat synonymous, so I wasn't -- I
3 guess you could help me if you could tell me what
4 distinguishes a SPOT frame from an intermediate
5 frame, and how your treatment of intermediate frames
6 differs from your treatment of SPOT frames in the
7 last proceeding?

8 A. Sure. The SPOT frames, single point of
9 termination, was the original architecture used for a
10 lot of the collocation jobs that were first started
11 several years ago. In fact, probably prior to the
12 Telecom Act, as well. They're the point of
13 terminations of the collocator's cabling as a point
14 of distribution to the Qwest equipment in that
15 central office.

16 The intermediate frame is a concept we
17 utilize in the cost studies that is a different
18 structure for pricing. It assumes a frame that is an
19 existing US West-utilized frame, thereby shared with
20 US West, unlike a SPOT frame, which is typically
21 shared amongst CLECs. As it is shared with US West
22 and uses US West -- is commingled with US West
23 equipment, it is considered to be a recurring price,
24 as opposed to the nonrecurring nature that was
25 originally proposed for a SPOT frame.

00520

1 US West considers an intermediate frame to
2 be part of its general network, and thereby providing
3 a connection to the network that US West's request
4 has. A lot of these intermediate frames could be
5 frames for specialized services or toll frames or
6 things like that. They're in existence in, I'd say,
7 a majority of large offices.

8 Q. Thank you. And in that same testimony,
9 could I ask you to turn to page 21, line 15. Here
10 you state that in the FCC's analysis for most
11 collocation elements, the overhead loading factor for
12 US West was 1.01. That means a loading of one
13 percent for common costs?

14 A. Yes.

15 Q. Could you explain why the FCC chose this
16 one percent value? Are you familiar with the FCC's
17 order that established that value?

18 A. Yes, I've read it. I don't remember right
19 now why they established that. The context that this
20 is in had to do with -- there were two services that
21 the FCC was analyzing. Now, this isn't saying that
22 that's what they allowed for the pricing,
23 necessarily, but what they used in their analysis of
24 what legitimate prices would be.

25 The one percent common on this was related

00521

1 to DS1 services, which were the majority of the
2 services that were being analyzed in the analysis.
3 There was another factor for DS3 services.

4 Q. And the FCC was looking at DS1 and DS3
5 because they wanted to see what kind of margin you
6 built into your DS1, DS3 prices and then did -- is
7 that a correct understanding of that order? And then
8 they asked you to use that same markup for
9 collocation?

10 A. I believe that's right.

11 Q. I'd like to now ask you to turn to Exhibit
12 16, which is your supplemental direct. It's Exhibit
13 16 and page 16.

14 A. Yes.

15 Q. Have you undertaken any analysis where you
16 have compared US West's current operating times with
17 the times that were used in the Commission's
18 calculations or findings in the Eighth Supplemental
19 Order?

20 A. When we do our nonrecurring cost studies,
21 that essentially is an analysis of the times
22 experienced.

23 Q. And you state, at lines five and six, The
24 fact remains that the level of work times ordered by
25 the Commission are a fraction of the times actually

00522

1 being experienced. And what is the basis for that
2 statement?

3 A. The rest of that sentence says "experienced
4 by US West in the order process that currently
5 exists," to give it some context. Our nonrecurring
6 studies currently that are being conducted indicate
7 that an order takes about -- somewhere around -- I'm
8 pausing, because I'm not sure it's a confidential
9 number or not. It may be. A little over three times
10 the number that was approved by the Commission on the
11 nonrecurring studies for the order flow process.

12 Q. And that value, where you say that your
13 current times is three times higher than the number
14 used in the Commission's Eighth Supplemental Order,
15 when was that study done by US West?

16 A. The last study that I have seen was looking
17 at times that were sometime mid to late last year.

18 Q. And I want to just follow up on a few other
19 questions that you were presented with today. Mr.
20 Deanhardt was asking you about the markup for
21 overhead and common costs. Do you recall that line
22 of questioning today?

23 A. Yes.

24 Q. And did I correctly understand you to say
25 that the markup for overhead and common costs was

00523

1 19.62 percent?

2 A. I believe I said that. My counsel told me
3 I wasn't listening to the question, and so it was
4 scheduled for redirect to clear it up. So I'm glad
5 you brought it up. The common factor, I think, is
6 4.08, so I stand corrected.

7 Q. And following up a question from Mr.
8 Butler, Mr. Butler asked you about the difference
9 between the \$2.97 rate proposal for rent space and
10 the confidential number that appears on Exhibit C-57
11 at page two. Do you recall that line of questioning?

12 A. Yes.

13 Q. And Mr. Butler asked you to explain why the
14 numbers differed. Did I understand your testimony to
15 be that you stated that this difference was due to
16 differences in taxes, depreciation, and perhaps a
17 third factor, or could you again summarize for me why
18 there is a difference between those two values?

19 A. Well, I haven't gone through the
20 calculation of that number that was on that real
21 estate study, so I can't say with certainty what the
22 differences are. But the other elements that were on
23 that page indicated a cost of money number that was
24 there that I'm assuming was used in the calculation,
25 probably for -- it might be for some type of

00524

1 amortization. I don't know what it was used for.

2 Then there was also a depreciation life
3 there, I believe, on that page, which indicates some
4 depreciable asset that was assumed. And again, it's
5 just speculation, but my guess is that part of the
6 reasons that that would be a different number is that
7 it doesn't use the TELRIC-based approach in
8 calculating the number that was on that page. But I
9 couldn't tell for certain unless I went through the
10 overall calculation.

11 Q. And by TELRIC-based approach, are you
12 referring to the assumptions made in the TELRIC study
13 for cost of money and depreciation or some other
14 difference?

15 A. Those would be two differences that I would
16 guess at there. The other differences may have to do
17 with this Commission's decision on the appropriate
18 factors to use for common and the attributable costs.

19 Q. Well, since you said you're sort of
20 guessing, and I don't -- you're not certain about
21 this, as a bench request, could you provide an
22 explanation about why the value that appears on --
23 the \$2.97 rate that is on the rate sheet is different
24 from the value that appears on Confidential Exhibit
25 57 at page two?

00525

1 JUDGE BERG: Call that Bench Request One.

2 MS. ANDERL: I think it's the first.

3 Q. Mr. Thompson, earlier today, you were asked
4 about the OSS volumes that were used in the OSS cost
5 study. Do you recall that line of questioning?

6 A. Yes.

7 Q. Were you also involved in developing the
8 rate for other -- recovering the other OSS transition
9 costs?

10 A. I'm familiar with it. I'm not -- it's not
11 part of my testimony in this proceeding.

12 Q. Okay. So if I have questions about that,
13 the questions should be to --

14 A. Are they specific to the study and how it
15 was developed?

16 Q. Yes.

17 A. They probably should be deferred to Terry
18 Million.

19 Q. Okay. Mr. Thompson, there's been testimony
20 in this proceeding regarding using
21 Washington-specific, rather than data from the 14
22 states in developing your collocation estimates.
23 You're familiar with that issue that's before the
24 Commission?

25 A. Yes.

00526

1 Q. And also, Mr. Thompson, am I correct that
2 you have some experience in sponsoring loop studies?

3 A. Yes.

4 Q. And in developing loop studies, is it the
5 view of Qwest that the inputs to the loop study
6 should be specific to the state or should they just
7 have one set of numbers that apply to all 14 states?
8 For example, the cost of burying cable in normal
9 soil, would you use one number in all 14 states, or
10 would you look at the contracts that identifies the
11 cost in each of the 14 states?

12 A. In the advocacy around loop costs, and I
13 think in general, where there is data that is
14 specific to a state or location, it's probably
15 preferable to use. With regard to the switching
16 costs, we felt -- or not switching -- the collocation
17 costs, we felt that there was a pretty good sampling
18 of Washington-specific data. Roughly half of the
19 jobs are in Washington, so there's a pretty good
20 sampling of them. So we felt that they were
21 representative of it. But, generally speaking, our
22 position is you use the best data available.

23 Q. And I want to make sure I understand your
24 response. So for collocation, there may not be a
25 sufficient number of observations from the state of

00527

1 Washington, and that's why you felt that you needed
2 to look at a larger universe?

3 A. Yes.

4 Q. All right. My last area of questioning was
5 Staff has asked you about certain values that appear
6 in Exhibit 15-C. For example, the cost of money was
7 one area that you were asked about. The wage rates
8 was, I think, a second area. And did I understand
9 your testimony to be that, for example, when Staff
10 asked you about the cost of money, is your position
11 that, even though that value -- there's a value that
12 appears in the study, it wasn't used in the study?

13 A. Yes.

14 Q. All right. Now, how did you reach that
15 determination that it wasn't used?

16 A. I think there's two reasons. Number one, I
17 did a -- actually did what's called an audit feature
18 of Excel to go to the original study and see where
19 that value was being used in the worksheets, if
20 you're familiar with that.

21 Q. Yes.

22 A. And I found no indications that it was
23 being picked up and utilized in any other cells of
24 the program. Secondly, I asked the originator of the
25 study, a power engineer, why it was there and how he

00528

1 was using it. And as I said, the information was
2 taken out of a larger study that he had done, and
3 information that was considered to be useful for our
4 purposes was used to modify our data to configure it
5 the way that I talked about. And he told me that
6 that information was used in other portions of his
7 internal analysis.

8 DR. GABEL: Thank you. I have no further
9 questions.

10 JUDGE BERG: Commissioners? Commissioner
11 Hemstad, Chairwoman.

12 CHAIRWOMAN SHOWALTER: I have some.

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

14 BY CHAIRWOMAN SHOWALTER:

15 Q. I don't know if we want to go back to
16 chicken wings, but, actually, I do want to comment
17 that in today's Wall Street Journal, front page, it
18 shows that skill at seeing unlikely parallels yields
19 multiple career choices, and they go on to talk about
20 the more unusual analogy or metaphor you can find,
21 the closer you are to genius. So now I feel a lot
22 better about chicken wings, though I do wish I had
23 asked Dr. Fitzsimmons what his other analogy was
24 going to be, but I forgot.

25 But I want to ask you along some of the

00529

1 same line sharing issues, but maybe first I'll ask a
2 follow-up question of Mr. Kopta's, because he asked
3 you about the enforcement issue. I think I heard you
4 say that you had given your commitment not to lower
5 your price below the price squeeze threshold. Was
6 that what the nature of the commitment was?

7 A. Those might have been my words. The intent
8 was that if there is a situation where a price
9 squeeze exists, US West commits to eliminate that
10 situation. So that, for example, if there was a cost
11 that created a price squeeze, then we would either
12 recommend lowering one of those prices or raising our
13 retail price.

14 Q. And then he said, though, how is that
15 commitment enforceable, and pointed out that, well,
16 at least on the price of Megabit service or DSL, we
17 don't regulate that, so we aren't really a forum for
18 enforcement; is that right?

19 A. Not in terms of enforcement, but you could
20 be the catalyst for that.

21 Q. Okay.

22 A. Suppose you saw a price squeeze condition
23 in Washington. It could be that the Commission could
24 notify the FCC, file a complaint, any number of
25 different things to start an action with the FCC that

00530

1 their price was -- the price that they had authorized
2 was creating a price squeeze in the state.

3 Q. Okay. So it's your view that the FCC could
4 enforce against a price squeeze if somebody brought
5 it to their attention?

6 A. Yes.

7 Q. Okay. Then turning to Mr. Deanhardt's
8 chart there, I think that's Exhibit 6. And it might
9 be easiest just to look at the left-hand column. If
10 Qwest were allowed to charge the CLECs anything
11 between zero and half of the line cost, the actual
12 line, the deaveraged line cost up to a cap, but
13 whatever that charge was, there would be an offset of
14 the retail customers, of the Qwest retail customers'
15 price for the line, the regular voice line.

16 First of all, would that mean that your
17 cost would be just the same as the left-hand cost
18 there? In other words, whatever you charged the
19 CLEC, you would be receiving on your side an equal
20 offset so that your prices and their prices would
21 track along the left-hand column? Not the prices;
22 cost?

23 A. Yeah. Let me try to think of it. So the
24 situation you're saying is the consumer that has the
25 voice grade service from Qwest and the DSL service

00531

1 from one of Qwest's competitors receives a credit for
2 the amount of the loop charge that Qwest would make

3 --

4 Q. Right.

5 A. -- to the CLEC?

6 Q. Right.

7 A. And then your question is how would the
8 left-hand column change that?

9 Q. No, actually, the question is would your --
10 would the calculation for Qwest and the CLEC look the
11 same? I mean, it's easy, because let's say the
12 charge is going to be \$9.08, just because that's
13 what's up there right now. So if you charged the
14 CLEC \$9.08, but at the same time, you lost \$9.08 off
15 of your -- from the consumer, then does that mean
16 that your column and their column are equal, at the
17 bottom line, anyway?

18 A. Overall, but probably not on this sheet,
19 because the credit would probably be toward the basic
20 service, for example, the lFB rate or lFR rate, if
21 you will, and that isn't on this page.

22 Q. In economic terms, would it become that the
23 CLECs' cost that you charged them would be an equal
24 cost to you?

25 A. It would be neutral to US West in terms of

00532

1 incremental revenue. It would also be neutral to the
2 consumer.

3 Q. Okay. Now, and that -- instead of being
4 9.08, it could also be zero, for example. If it were
5 zero, it would be neutral to you, neutral to the
6 consumer, and a zero cost to the CLEC; would that be
7 right?

8 A. In economic terms?

9 Q. Right. And let's just say, let's make it
10 right in the middle, \$4.50. If that were the charge
11 to the CLEC, it would be neutral to you, neutral to
12 the consumer, and a \$4.50 charge to the CLEC, but it
13 would be neutral as between you and the CLEC?

14 A. Yes.

15 Q. Well, okay. Then just tell me, what is
16 wrong with doing that? What's wrong with an offset?
17 And for the purpose of this discussion, assume the
18 offset could be anywhere between zero and \$9.08, that
19 there would be one.

20 A. A credit to the consumer?

21 Q. Yes.

22 A. I'm probably going to disagree with some of
23 the Commission's past decisions on things here, but
24 if you look at residential service, it would be our
25 position that it's priced below its cost, and so

00533

1 there are services that are subject to competitive
2 pressures at Qwest, where we're losing the ability to
3 make up that difference between the residential price
4 and the cost of providing that service. To further
5 aggravate that condition by giving a credit would
6 just push it further below cost and put pressures on
7 our other services to make up that difference even
8 more.

9 Q. But you say to further aggravate. It would
10 be -- you would be getting the same amount of money
11 either way. That is, line sharing, no line sharing,
12 you get the same amount?

13 A. Right, but --

14 Q. So is the aggravation just that any chance
15 you get, you don't want to degrade the amount that
16 you get for basic, or is your argument that, because
17 it's line sharing, that causes an additional erosion
18 maybe because it's competing on long distance, for
19 example? I don't know.

20 A. Right. I think there's a couple reasons
21 for it. I think Dr. Fitzsimmons talks about some of
22 this, and I don't recall specifically what his
23 comments were, but just off the top of my head, I
24 think there's some issues around -- that in a
25 competitive market, we're faced with a lot of risk.

00534

1 Part of the reason that we look for opportunities for
2 new revenues is to offset some of that risk. It's
3 possible that some of the margins we're seeing here
4 are reflective of that type of risk.

5 The risk that the CLECs show on here is
6 probably also indicative of the margins, the margins
7 are indicative of that risk, because if they were
8 paying zero price for the loop, then, as the saying
9 goes, they have very little skin in the game as it
10 relates to the loop in that part. They certainly
11 have their own costs for the DSLAM and their own
12 network that they have to worry about recovering for,
13 but they are not sharing in that risk of the
14 contribution to the loop. And they're playing this
15 niche market that is just for this DSL service,
16 whereas we're counting on a number of different
17 services that are subject to a lot of competitive
18 pressures and losing those contributions.

19 In this regard, we're saying there is a
20 situation that the FCC has created that this is joint
21 cost. From the process of methodology, the right way
22 to deal with that is to recover the joint cost from
23 both providers. That's why we were saying 50
24 percent. That's a revenue stream for us that we are
25 looking for, obviously, to -- not only because it's

00535

1 the right thing to do methodology, in terms of the
2 method of TELRIC, but also to represent a
3 contribution to offset some of the risk.

4 Q. Okay. Well, then, that -- but supposing
5 the CLEC does have to pay something, let's say \$9.08
6 on average. Let's say 50 percent of the loop. So
7 they do have skin in it.

8 A. Yes.

9 Q. And they do have -- it's not a free good
10 and they do have to pay something. But you have a
11 credit, the customer has a credit, so you get an
12 offset or a decrease of the same amount. In that
13 situation, if you're not covering your costs for the
14 basic loop through all the legitimate ways or
15 approved ways that you can get it, isn't the answer
16 to come back in for a rate increase? In other words,
17 maybe the cost of the loop is too low.

18 A. The price of the loop?

19 Q. So in other words, why mix these two
20 issues? If your price for the loop is appropriate,
21 and I'm not saying it is or isn't, just -- but if it
22 is, then isn't this credit and offset to you
23 appropriate? In other words, it seems like you're
24 trying to mix covering the cost of your loop with the
25 appropriate charge to the CLEC?

00536

1 A. Yeah. I think the way I'd look at it is
2 that the Telecom Act, among many things, set up two
3 different processes. And it said that, with regard
4 to what we're calling unbundled network elements,
5 that we were to have proceedings like the one we're
6 having here today that are outside of the rate of
7 return context and outside of a rate-based
8 traditional way of setting retail rates. They said
9 that US West, or Qwest now, is entitled to recover
10 its cost for elements provided to its competitors.

11 So the first thing that I think we're about
12 is to establish what that compensation is for
13 recovery of those costs. If, in a sort of a
14 theoretical construct, where Qwest would be subject
15 to rate of return and have the ability to come in and
16 justify its retail rates versus its revenues and
17 rate-based costs, then those revenues are rightfully
18 considered in that analysis. Whether those are the
19 right -- it wouldn't be established in terms of
20 adjusting those, but in terms of the credits, that
21 would be the right place to establish credit, if that
22 was appropriate for the overall analysis of the
23 retail rates.

24 Q. And in this state, why isn't that
25 appropriate?

00537

1 A. I'm not an expert, but my understanding is
2 that we have a moratorium on those rates for a few
3 years.

4 Q. Well, that's true, although, actually, I
5 did mean to go look at the agreement and see what are
6 the reasons why it could be opened up or not opened
7 up, and I actually don't remember them. But
8 regardless, our overall scheme that we are still all
9 operating under is still rate of return?

10 A. Yes, yes. And I would say, you know, the
11 moratorium aside, the right way to do it, and I think
12 this is consistent with what Dr. Fitzsimmons said
13 yesterday, the right way to do it is to establish the
14 price for the unbundled network element, and that's
15 what we're charged to do, and then, if there are
16 issues regarding the consumer or any questions of
17 additional revenues or excess revenues or issues that
18 are typically raised in rate of return kind of
19 proceedings, then you take it into that context and
20 have an analysis there, whether that's indeed the
21 case or not.

22 One of the questions that was asked to Dr.
23 Fitzsimmons yesterday had to do with where are the
24 revenues attributed in a jurisdictional sense for
25 unbundled network elements. And the way that

00538

1 accounting works is all those revenues are considered
2 intrastate. And therefore -- like the costs are, I
3 might add, as well. And therefore, consideration for
4 this Commission.

5 Q. And where does that lead?

6 A. All I'm saying is that the right way to do
7 it, if the Commission felt there was a credit that
8 was appropriate on the retail rates, is in an
9 analysis and proceeding for retail rates.

10 Q. Okay. I think maybe this brings me back
11 around to the enforcement point and what we could or
12 couldn't enforce. Would it be appropriate for this
13 Commission to say, Look, you can charge what you
14 want, zero to \$9, but we're only going to allow you
15 to charge whatever you offset, as a sort of
16 conditional. Would that be appropriate?

17 A. You put me in a difficult position. First
18 of all, I think there's maybe some legal issues with
19 that that I couldn't address.

20 Q. All right.

21 A. Secondly is I don't think it's the right
22 thing to do.

23 Q. Because -- because of your earlier comments
24 that it's going in the wrong direction on recovering
25 the basic loop, or a different reason?

00539

1 A. I think that's one of them. I believe that
2 the -- even though we have the construct that the FCC
3 has given us around TELRIC, I believe that there's
4 some issues we have to deal with that are just common
5 sense. This is an asset, the loop, that it just
6 doesn't seem right that you shouldn't have a charge
7 for it.

8 Q. Now, wait a minute. But my --

9 A. I understand.

10 Q. You can charge what you want, but we're
11 assuming that, between the two, the line and the
12 voice and the high frequency, that will cover the
13 loop, plus whatever other, you know, the tail
14 feathers out there --

15 A. Right, I understand.

16 Q. -- that might also be contributing to it.
17 They don't change, at least in the first instance.

18 A. I didn't get to finish the sentence.

19 Q. I'm sorry.

20 A. So we're entitled to compensation, and that
21 compensation should result in a positive impact, not
22 offset by something else that, for example, suppose
23 -- I heard -- actually, this came up in Minnesota.
24 The administrative law judge was telling us a story
25 about a conversation he was having with his wife

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1 about this issue. And we were joking that sometimes
2 it's difficult to explain the work we do to others
3 that aren't very involved with the work. It's
4 difficult to understand. And he was having one of
5 those conversations with his wife. And she said,
6 Well, if I have a spare bedroom in our house and the
7 government says we want you to provide that rent-free
8 to these people, that isn't right, even if I'm not
9 using my spare bedroom.

10 And he was trying to explain to her how the
11 issues of cost get involved into that and so forth,
12 and she was having difficulty understanding it.

13 The point I'm making with that analogy is
14 -- and I don't know that that's a good analogy. We
15 keep looking for the right one. I think there's
16 problems with that analogy, as well. But the issue
17 is that there is -- it just makes sense to have some
18 charge for it. To me, it doesn't make sense to say,
19 Yes, you can charge it, but you have to give it up at
20 the same time.

21 Q. Well, maybe the right analogy, now that
22 we're really into this, it would be that there's a
23 landlord that owns the house and the landlord is
24 renting to somebody for the full amount of the house,
25 and then decides to rent out the attic in addition

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1 that everybody just discovered and is going to make
2 extra money on top, but the difference is the tenant,
3 the original tenant, may be a captive tenant. In
4 other words, this is why analogies are dangerous, I
5 think, because the regulated customer and company are
6 different than the free company and the free
7 customer.

8 A. Right.

9 Q. And isn't that the difference here, that
10 we've got a setup such that the original tenant, who
11 is captive, is supposed to be covering the whole cost
12 of the house, and that's the scheme or the
13 presumption, anyway, and when lo and behold, you
14 discover a new use for the attic, new wealth is
15 created, in essence. All of a sudden, this house is
16 worth more than anybody knew.

17 And so there can be a windfall, in essence,
18 to the new tenant, who gets it for free, a windfall
19 to the landlord, who suddenly gets the extra, or
20 maybe a credit back or you can call it windfall or,
21 you know, the new wealth goes back to the original
22 tenant who was supposed to be paying the whole cost
23 of the house. And if it was really a pure model,
24 wouldn't it go back to the captive regulated tenant,
25 and aren't these issues really factual ones? Well,

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1 do we really have that pure model or not? Is the
2 tenant really paying the whole cost of the house or
3 not?

4 A. Yeah, I think what I heard Dr. Fitzsimmons
5 say is that, in a competitive market, first of all,
6 it's tough to find a model or an analogy that works,
7 but in a competitive market, you may not know the
8 answer to those things.

9 Q. I took him to say that he really believed
10 that the tenant wasn't captive, that there are lots
11 of possibilities out there, really, on the ground,
12 and I posited, though, several examples -- I mean, a
13 spectrum where, in some cases, the tenant or the
14 ratepayers really do have choices, but in other
15 cases, they don't. And this Commission actually
16 hasn't made any pronouncements, except for downtown
17 business high-end competitive zones, where it has
18 found there to be ample competition.

19 A. Yes.

20 Q. Let me just ask a couple more questions. I
21 didn't understand your answer to Mr. Butler when he
22 was asking about microwaves up on the rooftop, and I
23 think -- I thought what I heard him ask you was,
24 well, in addition to paying a rooftop space, would
25 you also have to pay -- would the microwave company

00543

1 also have to pay collocation space inside for inside
2 costs it wasn't using, and I think you answered yes;
3 is that right?

4 A. Well, if I understood the question -- I
5 hope I did -- I thought Mr. Butler was saying that
6 it's a different type of collocation, where, rather
7 than entering through the bottom of the building,
8 it's from the top of the building. And either way,
9 the CLEC has its equipment in a collocation space on
10 one of the central office floors. And I thought he
11 was saying wouldn't the CLEC be charged the same or
12 comparable rates for that equivalent type of
13 collocation on that floor.

14 Q. Okay. And you answered yes?

15 A. And I said yes. I think the difference
16 with that kind of collocation that we are suggesting
17 is that there isn't a lot of information we have,
18 there isn't a lot of demand right now that has
19 required us to standardize the pricing. So we are
20 saying, Well, certainly we'll offer that, and Mr.
21 Brotherson will elaborate on this, but we'll offer
22 it, but we will look at the specific request and
23 develop costs on that basis.

24 Q. Okay. Then, Ms. Smith asked you, on
25 exhibit -- she had some questions on Exhibit C-67.

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1 And that column, the third from the right that says
2 USWPWRGA.

3 A. Yes.

4 Q. What are those units there? That 4/0, what
5 does that mean?

6 A. It's a gauge of cable.

7 Q. Okay. And is 500 bigger or smaller than
8 4/0?

9 A. I'm not sure. I think it's smaller.

10 Q. And the reason I ask is that she said, Are
11 all of the Washington cases for -- all those orders
12 for 4/0 or smaller, and you answered yes, and I just
13 noticed this one right in the middle that has 500 in
14 it, and I don't know if it's bigger or smaller, so I
15 didn't know if --

16 A. Let me -- if I could, could we defer that
17 to Mr. Hubbard, the engineer?

18 Q. Sure, okay.

19 A. He can clear it up. The reason I answered
20 that was -- and I may be wrong -- but it seems to me
21 that the numbers go inverse to the size. But like I
22 say, I may be wrong.

23 Q. All right. So that Mr. Hubbard will know,
24 my question is there's one line there, right in the
25 middle, that's a Washington case that has 500, and I

00545

1 just wondered whether that was sort of an outlier or
2 whether it, in fact, was within the general rule that
3 everything is 4/0 or smaller, in which case your
4 answer would have been correct.

5 A. Yeah.

6 Q. Okay. Then could you turn to Exhibit 21,
7 and it's the second page in. This is the page that
8 there have been some questions on that has the 3.75
9 for the recurring charge?

10 A. Yes.

11 Q. On this page, can you just tell me, what
12 costs are automatic and what are contingent on some
13 event, because, for example, the labor rates for
14 trouble isolation, or I imagine these to be prices
15 that will be charged if the event occurs?

16 A. Yes.

17 Q. The same with overtime?

18 A. That's true.

19 Q. But then, what are the ones that are going
20 to be charged regardless of the situation?

21 A. Well, we can go down the list here with
22 this. The proposal is, on the shared loop, is that
23 that would be a recurring charge per month for each
24 loop that was shared. The installation and
25 disconnect --

00546

1 Q. That was the 9.08?

2 A. Correct.

3 Q. Maybe you could just -- which number shall
4 I circle if they are inevitable charges under this
5 proposal?

6 A. Okay. Let me just kind of go down. Maybe
7 we could look at that, because I'm not sure I can
8 characterize them as inevitable or not.

9 Q. Okay.

10 A. The 9.08 would be there for every loop that
11 was shared --

12 Q. Right.

13 A. -- in your proposal. The installation and
14 disconnection is sort of the event when that -- when
15 the loop is -- when the activity, the line sharing on
16 the loop is installed or disconnected, that charge is
17 assessed. The OSS cost recovery, the 3.75, would be
18 a recurring rate monthly for 60 months. The
19 engineering is a nonrecurring, but it's event-based.
20 So it's when the CLEC is requesting this form of line
21 sharing, that would be the charge for this particular
22 option. It would be a one-time for each -- I believe
23 it's each order that is made, but that's a question
24 that I have to research for Mr. Deanhardt.

25 The bay per shelf in connections to the

00547

1 four-ten, that's a type of block. The 3,160 is a
2 one-time charge.

3 Q. And that would be charged in every
4 instance?

5 A. Where this option was selected.

6 Q. Okay.

7 A. Where the CLEC asks us to construct that
8 bay and all of the features that come with that bay,
9 which is power and so forth.

10 Q. But if a CLEC didn't ask for that, that
11 charge is not paid, but they still get a line
12 sharing?

13 A. They would have to have one of these forms
14 of line sharing. There's a -- we've called them in
15 the proceeding a splitter. It's -- you can think of
16 it as a rack, it's about a seven-foot rack. I'm sure
17 you've probably seen some central offices where
18 there's equipment in this steel structure that's
19 sitting there on the floor. We would construct the
20 structure, the CLEC would own the equipment in that
21 structure, the splitters, and this is the cost of
22 creating that structure for the CLEC.

23 We have different architectures where that
24 splitter could be located in the bay or mounted on a
25 frame or even provisioned by the CLEC in their own

00548

1 collocation area, if they choose. But in any one of
2 those situations, they would choose that option and
3 then they would pay the according cost for
4 constructing that environment that they need.

5 Q. Okay.

6 A. The cable unloading and bridge tap removal
7 would be on a request basis, and then the labor rates
8 for those types of things would also be done on a
9 request basis.

10 CHAIRWOMAN SHOWALTER: Okay. That's all
11 the questions I have. Thank you.

12 THE WITNESS: Thank you, Chairwoman.

13 COMMISSIONER HEMSTAD: Well, I'll try to
14 make this fast.

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

16 BY COMMISSIONER HEMSTAD:

17 Q. You're aware of, I assume, the decision of
18 this Commission in UT-950200, the US West rate case
19 in 1995?

20 A. I am vaguely aware of it.

21 Q. Okay. Well, we very explicitly found there
22 that the local loop is a shared cost, and Dr.
23 Fitzsimmons and other experts with the company will
24 continue to say, apparently, that it is not a shared
25 cost; it is a direct cost for a local service. But

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1 now we have the decision of the FCC, and as I
2 understand, it's the position of Qwest that it is now
3 a dedicated cost to dedicated services, and
4 therefore, the cost to be split between the two
5 50/50, and curiously coming in sort of the back door
6 into a position of a shared cost from perhaps a
7 different direction. At least that's how I'm
8 conceptualizing this.

9 But the position of this Commission has
10 been that, as a shared cost, you have local service
11 and local long distance and long distance access and
12 vertical services that share the costs of the local
13 loop, or you can look to all those services as
14 sharing the cost.

15 But now, as Chairwoman Showalter was
16 pursuing, we now have a new service, a service that
17 generates substantial amount of revenue on the
18 existing infrastructure, so I'm kind of surprised at
19 the ability to generate measurably greater income,
20 greater revenue, without a significant amount of
21 additional capital put into the system, with some
22 additional operating costs, I suppose.

23 So aren't we faced here, with the position
24 of the parties, kind of a dilemma or kind of a
25 conundrum? The company would say, well, it doesn't

00550

1 make common sense to give it away free, and we're
2 entitled to additional revenue. The CLECs would say,
3 no, you're recovering your costs. Therefore, give it
4 to us free. Isn't that sort of the posture of the
5 parties that is in front of us?

6 A. I guess I'd agree with you in terms of the
7 posturing. The way that I look at it, in terms of
8 reconciling the issue for -- that the position the
9 Commission has taken in the past, which is that there
10 are numerous services that contribute to the cost of
11 the loop, to the recovery of the cost of the loop,
12 which is a position this Commission has taken prior
13 to the Telecom Act, but in the competitive world we
14 have today, but nevertheless, that was the position.

15 The way that at least I look at it is, from
16 a cost analyst point of view, is that the loop
17 provides network access to a number of different
18 services. It is a cost that does not vary with
19 usage, and so the right way to recover the cost is on
20 a flat rate per month. The right way to cover a cost
21 that varies with usage is the same way, is to recover
22 the cost on a usage-based rate.

23 What we have with local service is an
24 assumption of local usage. We assume a certain level
25 of usage, and therefore, we're able to charge the

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1 usage component of residence service on a flat rate,
2 as well, and so then we combine the usage and the
3 loop on a flat rate to form the flat rate service.
4 That's what's happened traditionally with that
5 service.

6 That network access, that loop that is so
7 valuable and forms the basis of our business, is the
8 majority of our cost. What the FCC has done is
9 something that's very unusual and we're coping with
10 in this proceeding, and we believe other commissions
11 are coping with the same issue across the nation
12 right now. What the FCC has done has said, okay, no
13 longer is that loop dedicated to the incumbent local
14 exchange carrier, in this case, Qwest. It's now
15 shared with a competitor. And so you have two
16 companies that are using the same loop for different
17 services. That causes a lot of problems and a lot of
18 conflicts and a lot of challenges to past concepts
19 and ways of thinking. So in many ways, I agree with
20 the idea of a conundrum.

21 Q. Well, it's further complicated, as Mr.
22 Butler pointed out in his questions, and really, in
23 response to what I asked about yesterday about
24 following up with a rate case, this is classified as
25 an interstate revenue, and therefore apparently would

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1 not be at least directly in front of us in a rate
2 case proceeding, or it becomes more complicated
3 because of that issue. And this is still a rate of
4 return state, and to the extent that there is
5 substantially greater revenue that would flow to the
6 company, but there's no measurably significant
7 increase in cost, well, that poses a question. Is
8 the company, then, overearning, and hence, the
9 question is somehow do you reallocate, reassign costs
10 in some way so that, on the one hand, you don't have
11 a potential price squeeze; on the other hand, you
12 don't end up with a free service given away.

13 I guess more of a comment than a question,
14 but it would seem to me that's the dilemma that this
15 issue seems to be presenting to us. I don't --

16 A. My advice would be that the Commission
17 should look at it in steps and look at the facts
18 before it in this proceeding on the arguments
19 presented, establish what it feels is a reasonable
20 rate to be charged, not only for the loop, but for
21 all of the various elements that we are proposing in
22 the case, and then look at what options it has if it
23 believes that US West is -- or Qwest is exceeding the
24 standards or parameters that the Commission feels is
25 reasonable.

00553

1 I don't know the terms of the agreement on
2 the moratorium of rates. I don't know, I've never
3 seen them, but you can look at that. If you feel
4 that there are unjust revenues that are being
5 accumulated because of this, then I think the
6 Commission needs to look at the options it has in
7 that regard.

8 COMMISSIONER HEMSTAD: That's all I have.

9 COMMISSIONER GILLIS: I just have a brief
10 observation and question.

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

12 BY COMMISSIONER GILLIS:

13 Q. I have in mind your analogy of the house
14 with the extra room.

15 A. Mm-hmm.

16 Q. And thinking about this sort of as the
17 high-end service, it seems like it's found revenue,
18 it's a new revenue opportunity that wasn't exploited
19 before, just like the extra room in the house, and
20 there are -- it seems to me there's four different
21 outcomes that occur.

22 One is that it seems like your position
23 would be that the benefit of that revenue would go to
24 Qwest customers, because it's additional revenue to
25 recover the cost of the loop, that, in your position

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1 is not fully paid for by the basic service and the
2 other services that are having to contribute to it
3 and the revenues are eroding, so it's a new revenue
4 source. I think that's what I hear you saying.

5 Then Mr. Butler's point about whether it's
6 enforceable, I think it, in his logic, would probably
7 lead to an outcome that the new revenues would go, in
8 fact, to Qwest.

9 And then, in Covad's position, the revenue
10 could potentially go to the -- with the zero charge
11 for the room, or the new service, the benefit would
12 go to the customer, potentially, but it could also go
13 to the company, depending on the state of
14 competition.

15 I mean, it's just an observation, but I'm
16 wondering -- the question is, I'm wondering if -- Dr.
17 Fitzsimmons yesterday couched this in terms of a
18 question of economic efficiency, but I'm wondering if
19 the choice really in front of the Commission is a
20 choice of equity, which economics doesn't have much
21 to say about that. Are we really choosing about who
22 gets the benefit?

23 A. The Commission poses hard questions. I
24 guess the way I'd say it is that equity certainly
25 comes into people's judgment in hard issues and hard

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1 questions. What the circumstance is here is that,
2 from Qwest's point of view, we have been faced with a
3 problem that was created by the FCC. They've done
4 something very unusual, not consistent with their
5 prior rules, that kind of forces us into this
6 argument of saying what they've created is a joint
7 cost. If you try to comply with their rules, there
8 should be a reasonable allocation of a joint cost,
9 and therefore, a compensation that's related to that.
10 from the equity point of view, it would say
11 that that is consistent with the Telecom Act and
12 consistent with the FCC's rules around this
13 situation, and therefore equitable from the point of
14 view of following what the law says.
15 The CLECs, on the other hand, have taken a
16 position that the FCC said that it should be no more
17 than what was allocated to the price of the
18 interstate service, which US West/Qwest acknowledges
19 was zero. The point of view from equity, again, on
20 that, is that if the Commission follows that path and
21 it's zero, I think it brings in -- and again, I'm not
22 an attorney, but I can't help concluding that it
23 really calls into question the issue of a conflict
24 with the Fifth Amendment, just compensation for right
25 of property, use of property.

00556

1 I'm not going to make the argument; I'm
2 just saying, from an equity point of view, it brings
3 in that issue, which is also, I believe, there for
4 the point of view of fairness and equity, that that's
5 the intent of that idea. So just some thoughts off
6 the top of my head on equity.

7 Q. Would you agree that, depending on which
8 position that we would accept, that there would be
9 different beneficiaries and it could be either the
10 customers of Qwest, it could be Qwest itself as
11 shareholders, and it could be the customer of the
12 data company, or it could be the shareholders of the
13 data company, all depending on the state of
14 competition?

15 A. Yes.

16 Q. I think, as a follow-up on that, is with
17 respect to the wholesale side of the market, which
18 we're discussing here, isn't the point of a
19 combination of Section 251 and 252 to set the prices
20 of what are bottleneck wholesale inputs at a rate
21 that recovers cost, but no more than cost? And isn't
22 the reason for that is because that's most consistent
23 with the competition and we aren't relying on the
24 wholesale side of the market for the contribution?

25 A. I'd say that I agree that's the basic

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1 theory with it. In the issues in front of the
2 Commission here is, on one hand, there's an argument
3 that there is no cost. Therefore, the price should
4 be zero. The other argument is there is a joint cost
5 that has a value to it.

6 Q. The joint cost in this case being an
7 opportunity cost, as opposed to -- it's a new --
8 well, it's a foregone revenue if you were to treat it
9 as zero?

10 A. To me, it gets a little complex, probably a
11 lot complex. I would say I probably don't agree that
12 it's an opportunity cost, per se. If we just try to
13 keep in the realm of what TELRIC is doing, the FCC
14 has created a joint cost under the TELRIC kind of
15 principles that then forces us to address some kind
16 of allocation.

17 The FCC started that way, and in the order,
18 they even mentioned they need some type of allocation
19 of cost, but then they didn't go that direction.
20 They said, rather than doing that, they're going to
21 provide some pricing guidance. And that's the way I
22 interpreted it, was where they went into this price
23 squeeze test and said, to the extent that there is no
24 price squeeze, then an amount for the loop could be
25 up to that point.

00558

1 Q. All right. The reason, just to push that a
2 little bit, the reason it strikes me more as an
3 opportunity cost is that you haven't posed, in any
4 proceeding that I'm aware of, charging a 50 percent
5 of the loop markup, \$9.08, whatever that works out to
6 be, for the basic service connection. I mean, your
7 position is that it's a joint service that has two
8 dedicated connections, one being the low end, one
9 being the high end, but you don't suggest putting --
10 trying to collect that \$9.08 on the low end primarily
11 because the market won't support it.

12 The reason that you are able to propose it
13 and we're able to consider it on the high end is
14 because there's a market asset that can recover that.
15 And isn't that true?

16 A. I'm not sure what service you're talking
17 about on the low end.

18 Q. Well, the loop that's used to deliver --
19 let's say two services. There's the high-end
20 service, and that would be -- and then the rest of
21 the loop is used for the basic service connection.

22 A. Yes.

23 Q. And you're only suggesting to recover -- if
24 it were just used for the basic service connection,
25 what would you receive for it? They have to buy the

00559

1 whole loop to do that; right?

2 A. Yeah, if you're talking about retail
3 services, then voice grade services.

4 Q. If a competitor is buying the -- a
5 competitor buying the loop from you to provide basic
6 service. They're just providing -- a basic service
7 competitor, I guess they buy the whole loop, don't
8 they?

9 A. Yeah, they buy the whole loop, and that
10 would be 18.16, on average. One of the things I
11 think that we probably need to look at is that -- and
12 I don't have data that supports it, but the nature of
13 the DSL service is that it's only available to
14 customers that are fairly close to the central
15 office. I think that's pretty widespread knowledge.
16 How that breaks down into the deaveraged zones that
17 the Commission has looked at in the prior proceeding
18 on deaveraging the loop remains to be seen how that
19 demand for line sharing will fall within those
20 deaveraged zones.

21 But we know that there's about 65 percent
22 of the lines that are in the first four zones, the
23 low zones, and it's possible that you will see more
24 demand in those low-end zones, and therefore a lower
25 price, as proposed by US West, because of that

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1 deaveraging.

2 COMMISSIONER GILLIS: Okay. Thank you.

3 JUDGE BERG: Before we go back to the
4 parties, Dr. Gabel, do you have any other follow-up
5 questions?

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

7 BY DR. GABEL:

8 Q. Just when you ran through Exhibit 22 with
9 Chairwoman Showalter and you got down to the labor
10 rates, it made me take notice, and I want to ask you
11 about this. That is that the labor rate is per
12 half-hour. If a retail customer requires you to do
13 service work behind their network interface device,
14 do you have a minimum charge of a half an hour or a
15 quarter of an hour?

16 A. I don't recall.

17 Q. All right. Is there any particular reason
18 why you selected a half an hour as the minimum,
19 rather than 15 minutes?

20 A. As best I recall, that was the product
21 manager for the service that recommended that
22 increment, but I don't know the reason for that. So
23 we could try to find out if there was a reason behind
24 it, but I don't happen to know myself.

25 DR. GABEL: Yes, if we could make that

00561

1 Bench Request Two, then.

2 JUDGE BERG: Dr. Gabel, just restate --

3 DR. GABEL: The Bench Request Two would be
4 to provide an explanation of why the minimum billing
5 period is one half of an hour, rather than a shorter
6 period, 15 minutes or 20 minutes.

7 JUDGE BERG: That's Exhibit --

8 DR. GABEL: Twenty-two.

9 JUDGE BERG: Okay, all right. Anything
10 else, Dr. Gabel?

11 DR. GABEL: No.

12 JUDGE BERG: Anything else, Commissioners,
13 before we go back?

14 (Recess taken.)

15 JUDGE BERG: Let's go back on the record.

16 And Ms. Anderl, at this time -- oh, excuse me. Being
17 back on the record, there was a discussion before we
18 left regarding the completion of Mr. Thompson's
19 testimony here today. And the understanding is that
20 other parties would conduct further cross-examination
21 before Qwest would pose its questions on redirect.
22 So at this point in time, where shall we start? All
23 right. Mr. Kopta.

24 MR. KOPTA: Thank you, Your Honor.

25

00562

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

2 BY MR. KOPTA:

3 Q. Mr. Thompson, I'm going to follow-up on a
4 couple of things that you discussed with Dr. Gabel,
5 if I might. The first is a definition of express
6 fiber as a collocation element. Would you turn to
7 your Exhibit C-15? Specifically, page 99.

8 A. Yes.

9 Q. Based on the expenses and assumptions,
10 which include cable racking, would you agree with me
11 or would you accept, subject to your check, that
12 express fiber is the element that allows a CLEC to
13 have its fiber pulled through conduit, manhole, cable
14 vault and delivered up to the collocation space?

15 A. Yes.

16 Q. You also discussed with Dr. Gabel the
17 imputation analysis that you and Mr. Deanhardt
18 discussed, and specifically where the \$3.75 proposed
19 OSS charge fits into that analysis. And I wanted to
20 clarify that, on Exhibit 6, the \$17.32 that's listed
21 as direct costs, my understanding is that those are
22 the direct costs that Qwest has identified to the
23 FCC for its Megabit service; is that correct?

24 A. Yes.

25 Q. Now, do those costs include any costs for

00563

1 Qwest to develop its OSS to provide Megabit service?

2 A. No.

3 Q. So if we assume that the CLEC is as
4 efficient as Qwest and that Qwest's charges to the
5 CLEC that we went through in Exhibit 21, I believe,
6 are roughly equivalent, so that the CLEC incurs the
7 same \$17.32 in direct costs, if the CLEC also must
8 pay Qwest \$9.08 for the high spectrum on the loop, as
9 well as \$3.75 for OSS, isn't it correct that the CLEC
10 could not provide an equivalent service to Megabit at
11 29.95 and do so with any margin?

12 A. There's a couple ways of looking at it.
13 And the struggle I have with it is I agree that the
14 \$9.08 is a direct cost. I'm not sure that the OSS
15 cost, by its nature, is a direct cost.

16 Q. Well, let's look at it from the point of
17 view of the CLEC that's paying the cost. As a CLEC,
18 if I'm paying \$17.32 in direct costs, as well as
19 \$9.08 and \$3.75 to Qwest, that already is higher than
20 29.95, isn't it?

21 A. I'm sorry, what were the numbers? I'm
22 getting a little tired.

23 Q. As are we all, I'm sure. If, as a CLEC,
24 I'm paying \$17.32 in direct costs to whomever it is
25 that I'm paying to vendors, Qwest --

00564

1 A. Yes.

2 Q. And I add on top of that \$9.08 that I'm
3 paying to Qwest, as well as \$3.75 that I'm paying to
4 Qwest, I've already paid out more than \$29.95,
5 haven't I?

6 A. Yes.

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

8 JUDGE BERG: All right. Mr. Deanhardt.

9 MR. DEANHARDT: Thank you, Your Honor. Mr.

10 Kopta just saved me a little time.

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

12 BY MR. DEANHARDT:

13 Q. I'm going to stick on the chart in the
14 imputation analysis for a moment, so we can just all
15 stay on the same page. You testified, in response to
16 some questions from Mr. Gabel, that CLECs were
17 selling DSL for higher prices than 29.95; isn't that
18 correct?

19 A. I expressed my understanding, yes.

20 Q. Okay. And it's also your understanding
21 that, until only very recently, the only way that a
22 CLEC could provide DSL at all in Washington was
23 across an unbundled loop; correct?

24 A. Certainly before this year. I don't know
25 exactly when it was available in Washington this

00565

1 year.

2 Q. I think the date that we looked at earlier
3 in the agreements is that the interim agreement, at a
4 minimum, was signed on April 24th, 2000, subject to
5 check?

6 A. Yes.

7 Q. Okay. And the average unbundled loop price
8 or the -- yeah, the statewide average unbundled loop
9 price in Washington is \$18.16, roughly?

10 A. Yes.

11 Q. I did that by multiplying the --

12 A. Very good.

13 Q. Now, well, the combination of the 18.16 and
14 the 17.32 is something over \$35; correct?

15 A. Yes.

16 Q. Are you aware, Mr. Thompson, of the effect
17 on Qwest's DSL pricing in the state of Washington
18 after Covad's entry into the residential DSL market?

19 A. No.

20 Q. Okay. You are aware, though, that over the
21 course of the last year, Qwest's pricing for Megabit
22 has reduced from, I believe, approximately \$59 to
23 approximately now \$29?

24 A. Over what period?

25 Q. Over the course of the last -- actually, I

00566

1 would say year and a half?

2 A. That might be close. I think we were
3 looking at the -- I forget the exhibits, but the two
4 DSL tariff filings with the FCC, I think the first
5 one had an April date of last year, so it's getting
6 close to a year and a half. That would have been the
7 29.95 price. I don't know what it was in Washington
8 prior to that.

9 Q. All right. Now, in response to Mr. Gabel's
10 -- or I apologize, Dr. Gabel's questions, you also
11 said that to perform a price squeeze analysis, that
12 the first thing you needed to know were the CLEC
13 costs and whether or not they were lower or higher
14 than Qwest's. Do you recall testifying to that?

15 A. Yes.

16 Q. I want to talk about that a second, because
17 are you suggesting, then, that if a CLEC, for
18 example, had total direct costs of \$30, that in order
19 to prevent a price squeeze, Qwest should have to take
20 into account the \$30 of the CLEC's direct costs, plus
21 its imputation?

22 A. No, I don't think so.

23 Q. I think you see where I'm going.

24 A. Yes. What we've got is a situation of a
25 prize squeeze that's a little different than the

00567

1 typical one that we've done in other contexts. And
2 frankly, I don't know that I've thought it all the
3 way through on all the issues.

4 Q. Well, isn't the correct way to analyze the
5 price squeeze here is to assume if the price squeeze
6 is created by the variable cost of the loop, is to
7 assume that all other costs associated with providing
8 the service amongst the two parties are equal and
9 then determine the effect of the variable cost of the
10 loop to determine if there is, in fact, a price
11 squeeze?

12 A. I think I agree with that, but it was a
13 very long question.

14 Q. I can try it again.

15 A. Okay.

16 Q. Wouldn't the correct way to determine
17 whether or not there is a price squeeze be as
18 follows: First, you would assume that the costs --
19 that the direct cost of providing the service, other
20 than the cost of the loop, are the same as between
21 the CLEC and Qwest, and then, subsequently, add the
22 cost or the imputation of cost of the loop to
23 determine a final cost that you would then compare to
24 the retail price of the service to determine if a
25 price squeeze is being created?

00568

1 A. That's certainly the way that we've been
2 doing it, and I think that's probably the appropriate
3 way to do it.

4 Q. Okay. And that is, just to confirm, that
5 is, in fact, what we did with Exhibit 6?

6 A. Yes.

7 Q. Okay. Let's go forward instead of
8 backwards. I was going to go backwards, but now
9 we'll just go forward. Dr. Gabel also asked you
10 about SPOT frames and the distinction between SPOT
11 and intermediate frames. Do you recall that
12 discussion?

13 A. Yes.

14 Q. You referred to the -- or perhaps Dr. Gabel
15 first referred to the FCC's orders regarding not
16 using the SPOT frame. Do you recall that? I don't
17 think you specifically referred to the order, but you
18 generally talked about the concept of eliminating it
19 as being -- coming from the FCC. Do you recall that?

20 A. I recall the conversation. I don't know
21 that I'd characterize it exactly the way you did, but
22 --

23 Q. Well, isn't it correct that the -- well,
24 first of all, the order that we're talking about
25 where the FCC did this, would you agree with me that

00569

1 that's the March 31st, 1999 order in docket -- I
2 think it's 98147?

3 A. Yes.

4 Q. Which some people refer to as the advanced
5 services order?

6 A. I believe that's right.

7 Q. Okay. Now, in paragraph -- well, in the
8 advanced services order, the FCC actually refers to
9 what it is eliminating as an intermediate
10 interconnection arrangement; correct? It doesn't
11 actually use the term SPOT phrase -- or I'm sorry, it
12 does not actually use the term SPOT frame?

13 A. I don't recall what it -- how they referred
14 to it.

15 Q. Okay. Do you recall whether they actually
16 used the term SPOT frame?

17 A. No.

18 Q. Okay. Dr. Gabel also clarified the markup
19 for overhead and common costs of 408. Just out of
20 curiosity, because I'm not as familiar with some of
21 the earlier phases of this docket, what was the 19.62
22 percent?

23 A. I referred to it as attributable costs. I
24 don't remember the exact phrase that the Commission
25 used.

00570

1 Q. Is that attributable cost used in
2 determining -- as part of developing the cost of an
3 unbundled network element?

4 A. Yes.

5 Q. And what does it represent?

6 A. I guess I would have to go back to the
7 Commission's order to see exactly how they used it in
8 the context.

9 Q. That's okay. We won't go there now. Let's
10 do a couple of the easy cleanups. Dr. Gabel also
11 just asked you a question about Qwest's proposed
12 labor rates in one-half hour increments. Isn't it
13 correct that in Minnesota, Qwest's ultimate proposal
14 for labor rates was in quarter-hour increments?

15 A. Yes.

16 Q. Okay. Also, Chair Showalter asked you
17 earlier about how some of these costs would be
18 charged, and in particular the engineering costs.
19 Just to clarify, in Minnesota, it's correct that
20 Qwest's proposal was for -- that the engineering
21 costs would be -- for line sharing would be assessed
22 on a per order basis for collocation of the splitter?

23 A. Yes.

24 Q. That meant that if you tried to collocate
25 three splitter shelves or one splitter shelf, if it

00571

1 was all in the same order, that would be just one
2 engineering charge; correct?

3 A. That's correct.

4 Q. And in conversations we've had off the
5 record, you have agreed to determine whether that's
6 the -- confirm, I should say, that that's the same
7 proposal that Qwest is making here, so that we can
8 put that on the record; correct?

9 A. Yes.

10 JUDGE BERG: Mr. Deanhardt, just to make
11 that a formal point, let's identify that as a record
12 request. That would be Record Request Number 10.
13 And while I was certainly listening, I don't know
14 that I captured the idea well enough to write it
15 down.

16 MR. DEANHARDT: Thank you. Record Request
17 Number 10 would be to confirm that the engineering
18 charges reflected in Exhibit 22 are per order
19 engineering charges, as opposed to being per shelf,
20 or some other allocation.

21 JUDGE BERG: Some other basis, okay.

22 MR. DEANHARDT: Sorry, Your Honor, but what
23 I'm trying to do is follow your direction. Trying to
24 see what I can shorten.

25 JUDGE BERG: Thank you. I appreciate that.

00572

1 I'm sure the court reporter appreciates a few moments
2 to flex her fingers.

3 Q. You had a fairly extended discussion with
4 Chair Showalter regarding the issue of an offset as
5 to retail rates. Do you recall that?

6 A. Yes.

7 Q. Okay. Now, if the Commission were to
8 accept a -- I'm sorry, if the Commission were to
9 impose a positive price, that is a price above zero
10 for the HUNE, and there was not a corresponding
11 reduction in the retail rate for the loop, then I'm
12 correct, am I not, that the customer would be paying
13 -- the residential customer would be paying an
14 increased contribution for loop costs over and above
15 what the Commission has determined is the appropriate
16 contribution, as reflected in the retail rates?

17 A. It makes it difficult, when it passes
18 through another entity, to say what the contribution
19 is. Certainly, there would be an increase to the
20 rates paid by the consumer and increase in value of
21 service that they received.

22 Q. Well, let's try and parse it out just a
23 bit. I think both Dr. Fitzsimmons and maybe you,
24 this morning, have agreed with me that if the CLEC is
25 charged a cost for the HUNE, then, in order to stay

00573

1 in business, the CLEC is going to have to pass
2 through at least that cost to the customer; correct?

3 A. Yes.

4 Q. Okay. So that cost is going to be
5 reflected in the price that the CLEC can charge to
6 the consumer; correct?

7 A. Yes.

8 Q. Okay. And to follow up on a question that
9 Commissioner Gillis asked, where he was talking about
10 who the benefit would go to, in the case of line
11 sharing, the CLEC customer and the Qwest customer is,
12 in fact, the same customer; correct?

13 A. Yes.

14 Q. Now, I guess one other thing we haven't
15 talked about, as a general rule, DSL across shared
16 lines is considered primarily a residential product,
17 as opposed to being primarily a commercial product;
18 correct?

19 A. Frankly, from what I've seen, I would
20 disagree. At least what I've seen, it looks like the
21 primary market has been -- looks like small business
22 customers.

23 Q. Primary market for DSL, generally, or
24 primary market for what I would call ILEC DSL, or DSL
25 across existing voice lines?

00574

1 A. It's hard to distinguish from the ads that
2 I've seen what is -- whether it's a line shared type
3 service or whether it's through the use of a full
4 loop.

5 MR. DEANHARDT: I think this is important
6 enough that I'd like to ask, as the next record
7 request, for the percentage breakdown as between
8 residential DSL and/or business DSL in Qwest's
9 Megabit sales. And I just want to say, I obviously
10 recognize that that will be marked as confidential
11 information.

12 MS. ANDERL: Well, I need to know more. I
13 think I object, on various grounds, not the least of
14 which is relevance.

15 MR. DEANHARDT: Well, I think -- the reason
16 that I'm asking for it is I think that the Commission
17 has, in the course of its questioning, suggested that
18 there are a number of policy beyond just economic
19 concerns, in terms of allocating benefit and who
20 should pay for what. And I think if there's not
21 really another way that I can think of to get into
22 the record the evidence of what I know, based on
23 statements by both Qwest and Bell Atlantic and some
24 other ILECs to be correct, and so I want to try and
25 get it -- I want to make sure that everybody's on the

00575

1 same page and understanding that we're talking about
2 line sharing as, in essence, a residential product.
3 And that we need to have some way to reflect that in
4 the record so that the Commission can make the
5 appropriate policy decisions, if that's the course it
6 decides to take.

7 MS. ANDERL: Okay. Couple things, then,
8 Your Honor, if I might respond. First, Mr. Deanhardt
9 says he doesn't know any way to get it into the
10 record other than asking a record requisition that
11 has now come up on re-cross. I think he could have
12 asked for it a lot earlier in the proceeding. I
13 therefore question the appropriateness of having to
14 respond to something like that at this point in time.

15 Second, I don't know at all that Megabit is
16 appropriately analogized to line sharing. The
17 customers that Qwest has for its Megabit service may
18 or may not be the same customers or classes of
19 customers in the same proportions who will take a DSL
20 type offering over a shared line. I don't think we
21 have any factual basis in the record to draw that
22 conclusion and I don't believe that the provision of
23 the information by Qwest in terms of the breakdown of
24 its Megabit services would provide a foundation for
25 Mr. Deanhardt to make that analogy, and I therefore

00576

1 continue to believe that it's not relevant or
2 pertinent to the inquiry that we're here to look
3 into.

4 MR. DEANHARDT: Frankly, I'm asking for the
5 Commission's benefit, so you can do what you'd like.

6 JUDGE BERG: Okay. Well, the Commission
7 will confer. With regards to the record request, the
8 Commissioners are concerned, one, about the
9 speculative nature and with the relevance of the
10 request. And most significantly, the Commissioners
11 don't feel that they need this information in order
12 to make any appropriate equitable determination. And
13 on that basis, the record request is denied.

14 MS. ANDERL: Thank you, Your Honor.

15 Q. Okay. One other thing that I think we can
16 clear up pretty quickly. Also in response to
17 Commissioner Gillis' questions, Mr. Thompson, you
18 raised the issue of DSL being only available close to
19 the central office and then suggested that
20 deaveraging may therefore mean that, in some of the
21 higher rate zones, DSL may not be available. Do you
22 recall that?

23 A. I think what I said was that the proportion
24 of qualified subscribers might be higher in the more
25 dense zones that the Commission established, because

00577

1 the loops are likely to be shorter in the more dense
2 zone.

3 Q. But just to clarify, the Commission did not
4 order deaveraging by loop length; correct?

5 A. No, they did not. But the point I was
6 making is, in the lower cost zones, the nature of the
7 loops is probably such that they are shorter.

8 Q. You're basically saying there's probably
9 more people closer to the CO in Seattle than there
10 are in some small town in Washington that I'm not
11 going to be able to name, because I'm not from here.

12 A. Yes.

13 CHAIRWOMAN SHOWALTER: "See-quim".

14 MR. DEANHARDT: "See-quim," thank you.

15 MR. KOPTA: That's not fair. It's
16 pronounced "Squim".

17 MR. DEANHARDT: Oh, sorry. I was trying to
18 think fast, but I couldn't think that fast.

19 Q. Okay. I want to consider -- following up
20 on Commissioner Hemstad's questions and your
21 responses to him made me think of something else that
22 I want to ask about, this issue of the loop now being
23 a joint product. And back to our wonderful chicken
24 breasts and wings. The concept behind a joint
25 product is that a joint product is a joint product

00578

1 from the beginning of the time that it's created;
2 correct?

3 A. Normally, in the standard economic theory,
4 yes.

5 Q. Okay. So if that's correct, then every
6 loop that Qwest currently provisions is, under what
7 Qwest is proposing here, a joint product between
8 frequencies that can be used for local service and
9 frequencies that can be used for DSL; correct?

10 A. I think what's different about it, and I
11 don't have a good answer for it, but the FCC has
12 created a very unusual phenomenon that we -- I
13 haven't seen a lot of literature around on what
14 economists think we have, what the FCC has created.
15 I have seen Dr. Fitzsimmons's view of it and I've
16 seen I believe one other economist's -- two other
17 economists' points of view, so it's difficult to say
18 exactly what it is and what the nature of it would
19 be. I mean, from the economists' point of view, we
20 have our position that we think it's a joint cost.

21 Q. But I mean, if it is a joint cost, then, I
22 mean, every loop has both pieces; correct?

23 A. Every loop that's qualified for the DSL
24 service, I think, would be.

25 Q. Well, actually, we should clarify, just for

00579

1 technical reasons, that, as you said earlier, there
2 are some technical and distance limitations for DSL,
3 so every loop that could carry DSL would be a loop
4 that Qwest would consider to be a joint product loop;
5 correct?

6 A. I guess what I'd say is it potentially
7 could be, but it would not be unless it became one
8 that was shared. At that event, then it is a joint
9 cost for those two providers that are providing that
10 service. In and of itself, if it's just US West
11 providing voice grade service, it is not a joint
12 cost. It's sort of a joint cost because of a
13 regulatory decision by the FCC.

14 Q. Let's break out the difference between
15 joint cost and joint product, because, as I
16 understand it, the basis for suggesting that there
17 should be a positive price is the notion that the
18 loop has become a joint product; correct?

19 A. I think Dr. Fitzsimmons used the word joint
20 cost.

21 Q. So the distinction that you're making is a
22 cost causation distinction?

23 A. Again, I would go back to Dr. Fitzsimmons'
24 testimony.

25 MR. DEANHARDT: Okay. In that case, I

00580

1 don't think we'll go farther down that line at this
2 point. I believe that's all that I have, Your Honor,
3 if you could indulge me for just one second. That is
4 all that I have. Thank you, Your Honor.

5 JUDGE BERG: Thank you, Mr. Deanhardt. Mr.
6 Butler.

7 MR. BUTLER: No questions.

8 JUDGE BERG: Ms. Hopfenbeck.

9 MS. HOPFENBECK: I have nothing. Thank
10 you.

11 MS. SMITH: Just one, Your Honor. Thank
12 you.

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

14 BY MS. SMITH:

15 Q. If I can turn your attention back to
16 Exhibit C-15, and pages 126 and 127, please?

17 A. Yes.

18 Q. Were the assumptions that are stated at the
19 bottom of pages 126 and 127 used to calculate the
20 costs that appear at the top of the table on page
21 126?

22 A. I believe we've gone through this before,
23 but the answer, as best I know today, without tracing
24 each and every number through, is I believe that some
25 of those numbers were, but I believe that not all of

00581

1 them were. To the best of my knowledge, they were
2 not used on ones in B, Cells B-23 and 24.

3 Q. Right. And I guess I meant other than
4 those two?

5 A. Oh.

6 Q. We did cover those two. Other than those
7 two, were those assumptions used to calculate the
8 costs that appear at the top of page 126?

9 A. Without tracing the numbers through, I
10 couldn't tell you which ones of those that were used
11 or not.

12 Q. Would Mr. Hubbard know?

13 A. No, I don't think so.

14 Q. Or would any other Qwest witness here in
15 this proceeding know the answer to that question?

16 A. I have a -- I believe Record Request Number
17 Nine. I would volunteer to extend that to answer
18 your question, if you'd like.

19 Q. That would be fine. Thank you.

20 MS. ANDERL: It's always better when the
21 witness does it, as opposed to the lawyer
22 volunteering him. So I'm glad Mr. Thompson did that.

23 MS. SMITH: That's all I have.

24 JUDGE BERG: So just so I understand what
25 you intend to do, Mr. Thompson, that would be in

00582

1 addition to following up on 21-B and 22-B, you would
2 follow up on --

3 THE WITNESS: What I plan to do is look at
4 the numbers that are on the bottom half of page 126
5 and 127 and see which of those numbers -- let me
6 state it in the opposite -- which of those numbers
7 were not used in the calculation.

8 JUDGE BERG: Thank you.

9 THE WITNESS: That is at the top of page
10 126.

11 JUDGE BERG: Got it. Ms. Anderl, there are
12 no other cross-examination questions at this time.
13 Would you like to have some redirect?

14 MS. ANDERL: Yes, Your Honor. I can tell
15 you that there would be less if we did this in the
16 morning, but maybe it would be a kindness to all of
17 us if we just got it out of the way tonight. I don't
18 know how long you're planning on or willing to go.

19 JUDGE BERG: We need to finish this witness
20 tonight.

21 MS. ANDERL: That's fine.

22 THE WITNESS: Thank you.

23 JUDGE BERG: Don't thank me yet.

24 MS. ANDERL: Don't worry, Mr. Thompson. I
25 knew that was going to be the answer.

00583

1 CHAIRWOMAN SHOWALTER: Mr. Hemstad just put
2 a different emphasis on the word finish.

3 MS. ANDERL: As long as it's not followed
4 by the word off.

5 JUDGE BERG: Plucked and roasted.

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

7 BY MS. ANDERL:

8 Q. Let me see. I do believe some of the
9 questions that I had for you on redirect, Mr.
10 Thompson, have already been covered, but let me
11 double check.

12 MR. DEANHARDT: Glad to help.

13 MS. ANDERL: Thank you, Mr. Deanhardt.

14 Q. Let's just look at Exhibit Number 6 right
15 now that's on the white board. And with regard to
16 the Qwest margin that's shown in the right-hand
17 column, either the \$12.63 or the \$9.13, depending on
18 which calculation you look at, is it your
19 understanding that, with that margin, that margin
20 goes toward recovery of Qwest's joint and common
21 costs?

22 A. Yes.

23 Q. Okay. And included in those joint costs,
24 is there the cost of loop in a line sharing or line
25 splitting type -- not line splitting -- line sharing

00584

1 type situation?

2 A. Yes.

3 Q. Okay. And on the right -- or did I say
4 left-hand column before?

5 A. You said right.

6 Q. Good, that's what I wanted to say. On the
7 left-hand column, when you look at the CLEC column,
8 and the indication there for the \$9.08 for the
9 high-frequency portion of the UNE, would that number
10 change when the Commission orders deaveraged UNE
11 rates, depending on what the loop rate is in the
12 particular zone that the shared loop is being sold?

13 A. Yes.

14 Q. And if, for example, the loop rates stayed
15 as originally ordered in the Commission's, I believe,
16 25th Supplemental Order, would the high-frequency
17 rate in Zone One be \$3.75, as opposed to the \$9.08?

18 A. Yes.

19 Q. In fact, in Zones One, Two, Three and Four,
20 as originally ordered by the Commission, isn't
21 one-half of the loop rate less than the \$9.08 that's
22 shown on that board?

23 A. Yes.

24 Q. Some time back, I think it might have been
25 this morning, Mr. Thompson, you had a conversation

00585

1 with Mr. Deanhardt about whether or not Qwest had
2 submitted data requests to the CLECs asking for
3 estimates on demand information for the use of line
4 sharing. Do you recall that?

5 A. Yes.

6 Q. Since that conversation with Mr. Deanhardt,
7 have you had an opportunity to review the data
8 requests that Qwest submitted to Covad and others in
9 this docket on that topic?

10 A. Yes.

11 Q. And in your view, did those data requests
12 fairly encompass a request for demand-type
13 information, which, if responded to, would have given
14 Qwest information in order to either confirm or
15 revise its assumptions?

16 A. Yes.

17 Q. And was that information provided?

18 A. No.

19 Q. Along those same lines, I believe Mr.
20 Deanhardt asked about Qwest's experience in
21 provisioning DSL service, suggesting that that
22 provisioning was a basis for Qwest being in the best
23 position to evaluate the potential demand for the
24 line sharing services. Do you remember that?

25 A. Yes, I do.

00586

1 Q. Is there any information that Qwest does
2 not have that would be required for Qwest to be able
3 to evaluate or forecast the CLEC demand?

4 A. I think there's a number of things that you
5 would need in order to do that properly, all of which
6 would probably be very difficult to obtain given some
7 of the responses I've seen from the DLECs, but -- and
8 I wouldn't say that it's a -- it's surprising. But
9 things like entry strategies, marketing plans,
10 geographic targeting of customers, market
11 segmentation of customers, deployment schedules of
12 their technology, capital budgets that would allow
13 for acquisition of the necessary capital and so
14 forth. In order to do a forecast, you need probably
15 all of these things to do it in a proper manner,
16 particularly since those things would be probably
17 unique to a company and each company might have
18 different strategies of how they would do those
19 things and where they would do them, and then when.

20 Q. You were asked by Mr. Deanhardt about the
21 total number of line sharing orders in Washington to
22 date. Do you recall that?

23 A. Yes.

24 Q. And I believe you indicated that you didn't
25 know a Washington-specific number. Are you aware of

00587

1 a regional number?

2 A. Yes.

3 Q. What is that number?

4 A. The latest number I've heard is 104 line
5 sharing lines in a three-state -- three states of the
6 14 that US West has.

7 Q. And are you indicating, then, that no
8 orders have been placed in the other 11?

9 A. That's my understanding.

10 Q. Okay. You were asked some questions by Mr.
11 Deanhardt about the nonrecurring charges for
12 installation and disconnection of the shared loop.
13 Do you remember that?

14 A. Yes.

15 Q. I'd like you to take a look at a document
16 that was identified as potential Cross-examination
17 Exhibit Number 49.

18 A. Yes, I have it.

19 Q. Thank you. You were asked some questions
20 by Mr. Deanhardt about the potential similarities and
21 differences between provisioning a shared UNE and the
22 entire UNE in terms of the install and disconnects.
23 Do you remember that?

24 A. Yes.

25 Q. Does this data request response provide an

00588

1 additional explanation in connection with that
2 question?

3 A. Yes, it does.

4 Q. And is that a Qwest response to a Covad
5 data request in this docket?

6 A. Yes.

7 MS. ANDERL: Your Honor, we would move the
8 admission of that document, so that we don't have to
9 have the witness give the entire response again on
10 the record.

11 MR. DEANHARDT: Your Honor, as I said
12 earlier today, I'm actually going to question Ms.
13 Brohl about this document, because Mr. Thompson
14 indicated he didn't know anything about the system.
15 So I'm happy to have it admitted.

16 JUDGE BERG: All right. Exhibit 49 is
17 admitted.

18 Q. Mr. Deanhardt asked you some questions
19 about the timing of the OSS line sharing cost
20 recovery. Do you remember that?

21 A. Yes.

22 Q. And there were some questions in connection
23 with whether Qwest was asking for the \$3.75 line
24 sharing cost recovery element to apply just as soon
25 as the Commission ordered it, even if the systems

00589

1 were not up and running at that point in time. Do
2 you remember that?

3 A. Yes.

4 Q. In your view, is it necessary that there
5 always be a perfect synchronization of the
6 operational systems and the cost recovery mechanism
7 being in place?

8 A. I think it's often the case that it's very
9 imperfect. An example that I would just use to
10 illustrate that is that US West has been incurring
11 other OSS development costs since 1997, and so far,
12 in Washington, we have not received any of that
13 recovery of those costs. So there's certainly not a
14 matching of the recovery in either the occurrence of
15 cost or the rollout of those capabilities that US
16 West/Qwest has been providing in that period.

17 Q. And to the extent that the cost recovery
18 mechanism is a device used to recover a fixed dollar
19 amount of money, is there any danger of overrecovery?

20 A. Not to the extent there is mechanisms to
21 keep track of it.

22 Q. And does Qwest support the imposition of
23 those types of mechanisms to ensure that there is not
24 any overrecovery?

25 A. I think, in concept, we would support that

00590

1 and be willing to discuss mechanisms that would be
2 appropriate to accomplish that.

3 Q. And is it your understanding, do you have
4 an understanding of whether or not Qwest has already
5 incurred the OSS costs for line sharing that it's
6 seeking to recover through the \$3.75 charge?

7 A. I believe Ms. Brohl has more details on it,
8 but my understanding is that we have started
9 incurring those costs. I don't know the level that
10 we have incurred them to date.

11 Q. In connection with the discussions that you
12 had with some of the Commissioners, as well as some
13 counsel about this concept of a credit to the retail
14 end user customer for the same dollar amount as Qwest
15 might be authorized to charge for the high-frequency
16 portion of the loop, do you have those lines of
17 questions in mind?

18 A. Yes.

19 Q. Okay. I'm trying to think of how to ask
20 this simply and yet get all of the thoughts into the
21 question. In your view, if Qwest is authorized to
22 charge a positive price for the high-frequency
23 portion of the UNE, does that -- of a loop, rather,
24 does that necessarily mean that Qwest's overall
25 revenues will increase?

00591

1 A. No, no. I think the situation we're in,
2 you can't look -- you shouldn't be looking just at
3 the situation of an increase in revenue for the
4 high-spectrum UNE vis-a-vis other rates and revenues
5 that US West had. That's kind of a rate of return
6 regulatory rate base concept.

7 Where we're moving, and Dr. Fitzsimmons
8 talked about this, we made the choice, as a nation,
9 to go to a competitive model, and there's a
10 transition to that, naturally, but we have to start
11 thinking about that there may be increases in
12 revenues, there certainly will be in a competitive
13 environment from -- if you look at Qwest, decreases
14 in the revenues that it will receive, because that's
15 the nature of competition.

16 Just like we don't, in this competitive
17 model, expect to reimburse Qwest for each and every
18 dollar that it will lose in any -- lose to
19 competition, we also, on the other hand, don't
20 necessarily have to be concerned with every dollar,
21 new dollar of revenue that is raised. That was the
22 issue I was getting at when I was talking about risk.
23 To me, that's the issue there. It's a higher risk, a
24 more risky situation than it was in the strict rate
25 of return regulated environment without competition.

00592

1 Q. In order for a positive price for the
2 high-frequency loop to increase Qwest's revenues
3 overall on a net basis, wouldn't we have to assume
4 that Qwest's revenues from all of its other services
5 stayed exactly the same?

6 A. Yes.

7 Q. And have you seen any evidence presented in
8 this proceeding that that either is the case or will
9 be the case going forward?

10 A. No.

11 MS. ANDERL: Your Honor, I just need a
12 moment, if I might, to go through my notes from the
13 most recent questions. I don't think I have anything
14 else. Might I have just one minute to consult?
15 Thank you. That's all on redirect.

16 MR. DEANHARDT: I'm going to get a bad
17 reputation here.

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

19 BY MR. DEANHARDT:

20 Q. Quickly, Mr. Thompson, following up on the
21 last set of questions that Ms. Anderl asked you, is
22 it Qwest's position, based on your last response,
23 that the Commission should look to setting the price
24 for the HUNE so that Qwest can use the revenues from
25 line sharing to make up for competitive losses?

00593

1 A. No. It should allow US West to charge a
2 price that recovers the joint cost of the loop in a
3 line sharing situation.

4 Q. Now, you testified, in response to a
5 question from Ms. Anderl, about a total number of
6 line sharing orders region-wide. Do you recall that?

7 A. Yes.

8 Q. Are you aware that there is currently a
9 dispute between Covad and Qwest, because Covad
10 believes that it's placed about 400 line sharing
11 orders and that Qwest seems to have lost 300 of them?

12 A. I'm not aware of that.

13 Q. Okay. Now, you also, in response to
14 questions from Ms. Anderl, said that you had seen
15 data requests that you thought asked for demand
16 assumptions. Can you please identify that data
17 request for me?

18 MS. ANDERL: Your Honor, may I provide the
19 witness with a copy of the data requests, so that he
20 might review them?

21 JUDGE BERG: Yes, please. Do you happen to
22 have extra copies?

23 MS. ANDERL: I didn't make any.

24 JUDGE BERG: All right. We'll just work
25 with it on the record.

00594

1 THE WITNESS: I have those. What was the
2 question?

3 Q. My question is which one asks for demand
4 assumptions? Just give me the number, and we'll
5 start with that.

6 MS. ANDERL: I would have to object at this
7 point, because I don't believe that I characterized
8 in my redirect to Mr. Thompson that the data request
9 had asked for demand assumptions. I asked Mr.
10 Thompson to respond to the question, roughly, of
11 whether or not, in his view, if those data requests
12 had been responded to fully, it would have provided
13 us with enough information to either revise or not
14 revise our demand assumptions. And so just so that
15 the record is clear, there is not a data request that
16 says, Provide us with demand assumption, and we're
17 not representing that.

18 MR. DEANHARDT: And it was actually the
19 careful wording of the question and the response that
20 made me think perhaps it was most appropriate to
21 identify the request and have the request itself read
22 into the record.

23 JUDGE BERG: Everything that happens here
24 happens for a reason, and so I expect that Counsel
25 will always be using and choosing their words

00595

1 carefully.

2 MS. ANDERL: We'd be happy to stipulate
3 those into the record.

4 MR. DEANHARDT: Your Honor -- I'm sorry,
5 Lisa, I didn't mean to interrupt.

6 MS. ANDERL: I was going to say, if it will
7 streamline the process at the late hour, we are happy
8 to stipulate any of them into the record. Certainly,
9 I wouldn't deny Mr. Deanhardt his opportunity to
10 cross on them, but we believe that they'll speak for
11 themselves.

12 MR. DEANHARDT: Your Honor, The only reason
13 I asked this, and I asked it at the beginning of the
14 day, was because Mr. Thompson said some things in his
15 testimony about this. And I think this goes to the
16 credibility of Mr. Thompson's testimony and to the
17 credibility of the underlying numbers. If there is a
18 request that asked for the demand, then I think we
19 have a right to know which one they think that it
20 was, so we can figure out if we properly responded to
21 it or not.

22 JUDGE BERG: I don't understand. No one
23 else is claiming that you -- well, I guess, let me
24 take it back. Ms. Anderl, is it US West's position
25 that some other party, in particular, Covad, failed

00596

1 to adequately respond to the data request?

2 MS. ANDERL: I'm contending that we asked
3 Covad questions that were reasonably directed to
4 produce information and documents from which -- which
5 would have either contained demand assumptions by
6 Covad or from which we could have gathered enough
7 information to make the demand assumptions, either
8 verify our own or revise them accordingly.

9 And I believe that Covad's response to
10 particularly the last several of the data requests in
11 the set indicate that Covad knew that that was the
12 information we were seeking, but they declined to
13 provide it. It was not an issue until Mr. Deanhardt
14 asked about it this morning, which is why I didn't
15 identify any of those as exhibits.

16 MR. DEANHARDT: Your Honor, this was
17 actually made an issue by Mr. Thompson in his
18 testimony, when he said that the OSS costs are
19 allocated across demand and that they used what I
20 consider to be fairly low demand assumptions based on
21 a lack of information from CLECs.

22 JUDGE BERG: Let me just -- I'm having
23 trouble following. Let me just ask the question, So
24 what? Is this just a matter of parties wanting to
25 clear their good name or is there an issue regarding

00597

1 these demand assumptions, whether they're most
2 current or not, that's important for making the
3 decision?

4 MR. DEANHARDT: Well, it's important for
5 making a decision, because demand assumption is
6 placed in the denominator across which OSS costs are
7 spread.

8 MS. ANDERL: Well, if I might respond to
9 that, though, Mr. Thompson's testimony was filed back
10 in May, Covad had two rounds of testimony in which
11 they could have responded to that. If they did not
12 like our demand assumptions, whether they responded
13 to our data requests or not, it certainly would have
14 been incumbent upon them to provide their own in
15 their own testimony, and they did not do that.

16 JUDGE BERG: We have what we have in the
17 record. Is this going to produce any additional
18 information for the record for making a decision, Mr.
19 Deanhardt?

20 MR. DEANHARDT: I think at this point we
21 can just move on. However, I do think that I will
22 accept Ms. Anderl's offer to just stipulate the
23 responses and the questions into the record.

24 MS. ANDERL: We'll provide copies tomorrow.

25 JUDGE BERG: All right. Let's identify

00598

1 that as collectively -- can we do this collectively?

2 MS. ANDERL: Sure.

3 JUDGE BERG: All right. That would be --

4 MS. ANDERL: I'll review with Mr.

5 Deanhardt. There's some that are clearly not on

6 point. We asked, I think, either questions one

7 through 11, two through 11. He and I will come up

8 with an understanding of which ones would be in that

9 packet.

10 MR. DEANHARDT: All I'm asking is which

11 ones do you consider on point. So we can do that.

12 JUDGE BERG: We'll mark this as Exhibit 8,

13 and then Counsel can argue it in briefs however they

14 want to make use of it.

15 MR. DEANHARDT: Okay. Thank you, Your

16 Honor.

17 JUDGE BERG: Thank you.

18 Q. To quickly move on. Ms. Anderl also asked

19 you questions about the effect of the 50 percent

20 proposal on the various rates in the deaveraged

21 zones. Do you recall that?

22 A. Yes.

23 Q. And you did not cover, I believe, Zone

24 Five. Do you know what the unbundled loop rate is in

25 Zone Five?

00599

1 A. I think it's around \$27.

2 Q. So 50 percent of that is going to be higher
3 than the \$10 cap; correct?

4 A. That's right.

5 Q. And Zone Five is a rural zone; is that
6 correct?

7 A. I guess I would character it as high cost,
8 not necessarily rural.

9 Q. That generally, though, as a rule of thumb,
10 corresponds to rural in these situations, doesn't it?

11 A. Seems to me, as I recall, there were some
12 exchanges in Zone Five that I would not have
13 considered to be rural, but --

14 Q. Well, you are aware, aren't you, I mean,
15 the parties that are sitting here, Covad, Rhythms,
16 and I think you have New Edge in this one -- that was
17 directed to Mr. Kopta, for the record. You're aware,
18 aren't you, that New Edge Communications, in
19 particular, is targeted at providing DSL services to
20 rural areas, what are commonly referred to as Tier
21 Three and Tier Four cities?

22 A. No, I'm not aware of that, but that's
23 interesting information.

24 Q. All right. Finally, at the beginning of
25 redirect, Ms. Anderl asked you some questions about

00600

1 the margin numbers that are reflected on Exhibit 6,
2 and whether or not that margin is intended -- that
3 some portion of that margin is intended to recover
4 loop cost. Do you recall that?

5 A. Yes.

6 Q. Have you ever seen a document at Qwest,
7 outside of the imputation documents prepared in
8 response to the line sharing order, that suggests
9 that the price for Megabit was set to recover loop
10 costs?

11 A. Not specifically.

12 Q. Okay. Have you ever had a conversation
13 with anybody at Qwest outside of the context of
14 preparing for dealing with the FCC's order that
15 suggests that the price of Megabit was set in order
16 to recover loop costs?

17 A. I personally have not had any
18 conversations, but I'm not in charge of price setting
19 for any service. So I don't know what conversations
20 were made with regard to the margin.

21 Q. And if you're not in charge of price
22 setting of any kind, then you also have no idea
23 whether, in fact, the price was set to recover loop
24 cost, do you?

25 A. Not in terms of the specific price setting.

00601

1 The margins are typically characterized as recovering
2 joint and common costs.

3 MR. DEANHARDT: Those are all the questions
4 I have, Your Honor.

5 JUDGE BERG: Any questions from any other
6 parties? Any questions from the Bench or Dr. Gabel?
7 All right.

8 COMMISSIONER HEMSTAD: I was going to say,
9 Don't you dare.

10 JUDGE BERG: Mr. Thompson, thank you for
11 your responsiveness and your attentiveness here
12 today. At this point, questioning of this witness is
13 concluded, and you're excused.

14 MS. ANDERL: Oh, Your Honor, I think I had
15 an exhibit I needed to move. Exhibit Number 5, US
16 West's comments to the FCC on line sharing. I don't
17 recall that I moved that into the record, although it
18 was given an exhibit number.

19 JUDGE BERG: All right. You're correct.
20 Any objections to admission of Exhibit 5?

21 MR. DEANHARDT: No objection, Your Honor.

22 JUDGE BERG: Exhibit 5 is admitted. We'll
23 address Exhibit 8 after the parties decide what
24 comprises Exhibit 8 tomorrow. And with that, Mr.
25 Thompson, you are excused. Thank you very much for

00602

1 your participation.

2 THE WITNESS: Thank you.

3 JUDGE BERG: All right. And with that,

4 we'll be off the record.

5 (Proceedings adjourned at 5:55 p.m.)

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