

01538

1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3 In the Matter of the Continued )  
4 Costing and Pricing of           )     Docket No. UT-003013  
5 Unbundled Network Elements and )     Volume 12  
6 Transport and Termination.       )     Pages 1538 to 1658  
7 \_\_\_\_\_)

8                   A hearing in the above matter was held on  
9 August 31, 2000, at 9:30 a.m., at 1300 South Evergreen  
10 Park Drive Southwest, Olympia, Washington, before  
11 Administrative Law Judge LAWRENCE BERG, Chairwoman  
12 MARILYN SHOWALTER, Commissioner RICHARD HEMSTAD, and  
13 Commissioner WILLIAM R. GILLIS.

14                   The parties were present as follows:

15                   THE WASHINGTON UTILITIES AND TRANSPORTATION  
16 COMMISSION, by SHANNON E. SMITH, Assistant Attorney  
17 General, 1400 South Evergreen Park Drive Southwest, Post  
18 Office Box 40128, Olympia, Washington, 98504-0128.

19                   TRACER; RHYTHMS LINKS, INC.; TELIGENT  
20 SERVICES, INC.; and BROADBAND OFFICE COMMUNICATIONS,  
21 INC.; by ARTHUR A. BUTLER, Attorney at Law, Ater Wynne,  
22 LLP, 601 Union Street, Suite 5450, Seattle, Washington  
23 98101.

24                   COVAD COMMUNICATIONS, by SARAH BRADLEY,  
25 Attorney at Law, 4250 Burton Drive, Santa Clara,  
California 95054.

                  QWEST CORPORATION, by LISA ANDERL, Attorney at  
Law, 1600 Seventh Avenue, Suite 3206, Seattle,  
Washington 98191.

                  PUBLIC COUNSEL, by SIMON FFITCH, Attorney at  
Law, 900 Fourth Avenue, Suite 2000, Seattle, Washington  
98164.

24                   Joan E. Kinn, CCR, RPR  
25                   Court Reporter

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1 VERIZON NORTHWEST, INC., by W. JEFFERY  
2 EDWARDS, JENNIFER L. MCCLELLAN, and GREGORY M. ROMANO,  
3 Attorneys at Law, Hunton and Williams, 951 East Byrd  
4 Street, Richmond, Virginia 23219.

5 NEXTLINK WASHINGTON INC.; ELECTRIC LIGHTWAVE  
6 INC.; ADVANCED TELECOM GROUP, INC.; MCLEOD USA  
7 TELECOMMUNICATIONS SERVICES INC.; FOCAL COMMUNICATIONS  
8 CORPORATION; THE ASSOCIATION OF LOCAL TELECOMMUNICATIONS  
9 SERVICES; GLOBAL CROSSING TELEMAGEMENT; GLOBAL  
CROSSING LOCAL SERVICES; NEW EDGE NETWORKS; and NORTH  
POINT COMMUNICATIONS; by GREGORY J. KOPTA, Attorney at  
Law, Davis, Wright, Tremaine, LLP, 1501 Fourth Avenue,  
Suite 2600, Seattle, Washington 98101.

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EXHIBIT:

MARKED:

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6

JOSEPH GILLAN

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T-341

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THOMAS SPINKS

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DAVID GRIFFITH

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EXHIBIT:

MARKED:

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R-68

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RC-68

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

2 JUDGE BERG: Today's date is August 31st,  
3 year 2000. This is continued hearings in Docket Number  
4 UT-003013. We will begin today's hearing with the  
5 cross-examination of AT&T witness Joseph Gillan.

6 Before we take that testimony, I would like  
7 the reporter to insert into the transcript at this point  
8 the description of exhibits along with the corresponding  
9 exhibit numbers for T-30, excuse me, T-340, T-341, T-350  
10 through C-353, and T-360 through C-362 as set forth on  
11 the exhibit list as if read into the transcript in their  
12 entirety.

13 Also, for the record, counsel has distributed  
14 a revised Exhibit C-68, excuse me, it's a revised 68, so  
15 it will now be marked as R-68 and RC-68. This consists  
16 of a revised JLT-1 with work papers previously also  
17 admitted into the record as Exhibit 12.

18 Does that sufficiently describe the new  
19 exhibits, Ms. Anderl?

20 MS. ANDERL: I believe so, Your Honor. Did  
21 you indicate that the work papers are confidential?

22 JUDGE BERG: Yes, the work papers constitute  
23 the confidential portion of the RC-68.

24 MS. ANDERL: Okay. And just so the record is  
25 clear, Your Honor, that is the response to Record

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1 Requisition Number 1.

2 JUDGE BERG: Okay.

3 MR. KOPTA: And one further clarification is  
4 that it is the initial page from Exhibit 12 that was  
5 revised, not the entire exhibit, so that it's just one  
6 page.

7 MS. ANDERL: Page one of five.

8 MR. KOPTA: Right.

9 JUDGE BERG: All right. So if there was a  
10 reference to pages two through five, reference would  
11 still have to be made back to Exhibit 12.

12 MR. KOPTA: That's my understanding.

13 JUDGE BERG: All right. Anything further,  
14 counsel, before we take up the testimony of Mr. Gillan?  
15 All right, Mr. Gillan.

16

17 (The following exhibits were identified in  
18 conjunction with the testimony of Joseph  
19 Gillan.)

20 Exhibit T-340 is Direct Testimony (JG-1T).

21 Exhibit T-341 is Rebuttal Testimony (JG-2T).

22

23 Whereupon,

24 JOSEPH GILLAN,

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

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1 herein and was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. KOPTA:

4 Q. Good morning, Mr. Gillan.

5 A. Good morning.

6 Q. Would you state your name and business  
7 address for the record, please.

8 A. It's Joseph Gillan, P.O. Box 541038, Orlando,  
9 Florida, 32854.

10 Q. Do you have before you what's been marked for  
11 identification as Exhibits T-340 and T-341?

12 A. Yes.

13 Q. Were these exhibits prepared by you or under  
14 your direction and control?

15 A. Yes.

16 Q. Do you have any corrections to those exhibits  
17 at this time?

18 A. No.

19 Q. If I asked you the questions contained in  
20 those exhibits today, would your answers be the same as  
21 those contained in the exhibits?

22 A. Yes.

23 MR. KOPTA: Your Honor, I would move  
24 admission of Exhibits T-340 and T-341.

25 JUDGE BERG: Hearing no objection, Exhibits



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1 T-340 and T-341 are admitted.

2 MR. KOPTA: Thank you, Your Honor.

3 Mr. Gillan is available for  
4 cross-examination.

5 JUDGE BERG: Mr. Romano.

6 MR. ROMANO: Your Honor, I believe Ms. Anderl  
7 is going to go first if that's okay.

8 JUDGE BERG: All right. The microphone was  
9 just closer to you than it was to her, so I made that  
10 presumption.

11 MS. ANDERL: Thank you, Your Honor.

12

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

14 BY MR. ANDERL:

15 Q. Good morning, Mr. Gillan.

16 A. Good morning.

17 Q. I'm Lisa Anderl. I represent Qwest in this  
18 matter. Let me just ask you a couple of background  
19 questions first. You did not include a resume' with  
20 your testimony, did you?

21 A. No, I guess I did not.

22 Q. But is it correct that a brief description of  
23 your work and education is contained on page one of that  
24 Exhibit T-310 or 340?

25 A. Yes, it is.

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1 Q. And you said that you have testified for  
2 about ten years. Can you give me a list of maybe who  
3 your five major clients have been over that time, if you  
4 can categorize it in that way?

5 A. Generally over those ten years, the client  
6 base has always been, generally been, competitive  
7 carriers. So earlier on, those would have been  
8 represented by competitive local telephone companies and  
9 later on -- or rather competitive long distance  
10 companies and then later on competitive local companies.  
11 Over the course of the ten years, the names have changed  
12 to protect the innocent, but they would have been  
13 carriers such as MCI, Sprint, Qwest.

14 Q. Prior to the merger?

15 A. Prior to the merger, yes. I don't expect to  
16 see a lot of work there.

17 The Competitive Telecommunications  
18 Association, which is the association of all the  
19 competitive carriers in Washington, has been a major  
20 client. In more recent years, I have done more work for  
21 AT&T. I do work for a variety of coalitions around the  
22 states, the Southeast Competitive Carriers Association,  
23 the Florida Competitive Carriers Association. I suppose  
24 anyone who you would consider an entrant, at one time or  
25 another I have worked for in the past ten years.

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1 Q. Okay, thank you. Have you ever presented  
2 testimony before the Washington State Commission?

3 A. Yes, on one occasion.

4 Q. When was that?

5 A. Approximately four years ago, I believe. It  
6 was dealing with the issues of the restructure of a  
7 local transport component, a switched access service.  
8 It was one issue in a broader case. I can't recall the  
9 docket number or the name.

10 Q. Who was your client at that time?

11 A. It was an association of smaller -- an ad hoc  
12 group rather of smaller long distance carriers.

13 Q. And is it correct, Mr. Gillan, that you are  
14 by education and experience an economist?

15 A. Yes, even by choice.

16 Q. Prior to filing your testimony or appearing  
17 here today, did you read any of the prior Commission  
18 orders in this docket?

19 A. Yes, I did.

20 Q. Did you read any of the Commission orders in  
21 the prior generic docket, Docket 960369, et al.?

22 A. I believe so, although I wouldn't be able to  
23 remember them by their docket number. I read quite a  
24 stack of dockets or orders that went over a number of  
25 different proceedings.

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1 Q. You talked at the beginning of your direct  
2 testimony about local competition. Is that generally a  
3 correct characterization?

4 A. Yes.

5 Q. Are you aware of any of the Washington  
6 Commission determinations with regard to whether or not  
7 the market for intralata toll service is competitive in  
8 Washington state?

9 A. No, I was looking at issues involving local,  
10 not intralata toll competition.

11 Q. So no, you're not aware of any  
12 determinations?

13 A. Correct, that wasn't the focus of the  
14 testimony.

15 Q. What about the market for DS1 and DS3 or high  
16 capacity services in Seattle, are you aware of any  
17 Commission determinations with regard to whether or not  
18 that market is competitive?

19 A. No. Again, that was not the market I was  
20 looking at.

21 Q. Now, Mr. Gillan, you do not offer any  
22 testimony regarding the costs and prices for physical  
23 co-location, do you?

24 A. That is correct.

25 Q. Or the terms and conditions under which

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1 physical co-location should be offered?

2 A. That is correct.

3 Q. What about do you offer any testimony with  
4 regard to the appropriate level of costs for Qwest for  
5 OSS development and enhancement or ongoing maintenance?

6 A. No, not their level.

7 Q. Now you do testify about the costs or prices  
8 for the high frequency portion of the loop for line  
9 sharing; is that correct?

10 A. No, actually the testimony with respect to  
11 line sharing goes to the terms under which it would be  
12 made available or be able to be made available to  
13 carriers that have purchased loop port combinations  
14 known as UNE platform and how those carriers would be  
15 able to offer line sharing to other CLECs to get the  
16 line splitting capability from the ILEC.

17 Q. So you're not making a recommendation to the  
18 Commission today about the appropriate price for the  
19 high frequency portion of the loop?

20 A. Not insofar as what you would charge. The  
21 recommendation goes to encouraging the Commission to  
22 make sure that other carriers that obtain UNE platform  
23 from the ILECs are able to offer the high frequency  
24 spectrum to CLECs.

25 Q. Do you have an opinion as to whether or not

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1 those other carriers who obtain the UNE platform from  
2 Qwest would be able to charge a positive price for that  
3 high frequency spectrum?

4 A. In part, that would depend on what pricing  
5 comes from this with respect to Qwest's charges to other  
6 carriers. But more fundamentally, I would expect that  
7 since carriers that purchase UNE platform would be  
8 looking to promote widespread availability of xDSL  
9 services and looking to work cooperatively with xDSL  
10 providers, in my mind price isn't the way you would look  
11 at it, because you would be trying to form joint  
12 ventures or other imaginative arrangements with these  
13 carriers so that you would both be participating in a  
14 mutually beneficial activity. They don't view them as a  
15 threat to their operations. They view them as a  
16 potential asset or ally.

17 Q. Now in your direct testimony, T-340, at  
18 footnote 7, which is actually on page 10, you state that  
19 you recognize that the Commission has determined that  
20 OSS costs should be born by competitors and that you do  
21 not seek reconsideration of that decision. And yet in  
22 reading your rebuttal testimony, there seems to have  
23 been a change in that position. Is the testimony that's  
24 contained in footnote 7 still your position?

25 A. Well, I think -- when I wrote footnote 7, I

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1 was referring to it, sort of in a legal sense, that my  
2 testimony is not a petition for reconsideration. Do I  
3 believe that the Commission erred when it reached that  
4 determination? With all due respect, yes. Does my  
5 rebuttal testimony ask them to reconsider that aspect of  
6 it? Well, we could probably parse words and argue  
7 semantics, but fundamentally I think the staff has  
8 identified a logical basis for the Commission to move  
9 forward not assessing that charge on CLECs thereby  
10 avoiding the adverse consequences of that earlier  
11 decision without necessarily reconsidering the decision  
12 itself.

13 MS. ANDERL: Your Honor, if I might have a  
14 moment.

15 BY MS. ANDERL:

16 Q. Mr. Gillan, one other question or two about  
17 going back to the line splitting discussion, and you  
18 talked about the Commission making sure that the CLEC  
19 who leases an entire loop from Qwest or another  
20 incumbent through the UNE platform would be able to  
21 share that high frequency portion with another carrier;  
22 is that correct?

23 A. Yes.

24 Q. Okay. Would you contemplate that the other  
25 carrier or the data carrier who would share the high

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1 frequency portion of the loop on a UNE-P type situation  
2 could also be Qwest?

3 A. Yes, I would think that that's possible.  
4 It's not altogether likely. It's unclear how Qwest's  
5 future attitude towards competitors and competitive  
6 provision is going to be, you know, what it's going to  
7 be like. But at least in theory, there's no reason to  
8 presume that Qwest couldn't be that, particularly in  
9 GTE's territory.

10 Q. But even in their own?

11 A. I would not see a reason why that would not  
12 -- why Qwest could not also -- could not be a data  
13 provider just as a matter of, you know, principle or  
14 policy.

15 Q. And does considering that option of  
16 partnering or combinations of businesses change your  
17 thoughts at all with regard to whether or not the CLEC  
18 who leases the loop through a UNE-P would want to charge  
19 a positive price for the high frequency portion?

20 A. You mean charge a high price to prevent Qwest  
21 from being the data provider?

22 Q. Just charge any sort of a positive price for  
23 the higher frequency portion of the loop if it were  
24 Qwest wanting to lease it back from the CLEC?

25 A. Not if they found a mutually beneficial way



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1 to structure their relationship to offer a package of  
2 services, no. Here's the tension I have with your  
3 question, okay. The reason we're in a regulatory  
4 environment for you to establish -- for this Commission  
5 to establish a price for the high frequency portion of  
6 the local loop is that there's a monopoly provider of  
7 that, Qwest. UNE-P providers aren't monopoly providers  
8 of anything.

9           So what I would envision is and the reason  
10 it's important for the Commission to make sure that  
11 UNE-P providers have the same ability to obtain line  
12 splitting so that they can also provision out that high  
13 frequency spectrum is so that you have the full dynamic  
14 of all the different competitive relationships forming.

15           Now sometimes those are going to be, the way  
16 your questions have been phrased, the UNE-P provider  
17 sells the high frequency spectrum to a data provider,  
18 which more or less the way you ask it assumes that  
19 there's a UNE-P voice provider and some data provider,  
20 and somehow they're selling two different products.  
21 That is possible, but it's not exactly what I would  
22 expect.

23           I mean I think fundamentally this is moving  
24 towards people want to deal with one vendor, and that  
25 vendor is going to offer them a package that's going to

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1 have voice and data and long distance and Internet. And  
2 sometimes the person that you would call the UNE-P  
3 provider has got that end user relationship and has gone  
4 out and worked with the data provider like a Covad or a  
5 Rhythms to supply the underlying network capability or  
6 the underlined advanced service capability to provide  
7 the data.

8 But I think it's also reasonable to expect  
9 that if these type of arrangements can be formed in an  
10 open market, sometimes you could see things like Covad  
11 or Rhythms or some other carrier that you would call a  
12 data LEC contracting with the UNE-P provider, the UNE-P  
13 provider to take care of the provision of voice service,  
14 but from the customer's perspective, they just bought  
15 the package from Covad or from Rhythms.

16 So, you know, given the fact that as these  
17 sort of symbiotic relationships form, I don't think it's  
18 really proper to think about in terms of what price did  
19 one charge to the other, because I don't think they  
20 would be formed that way. In the context of what you  
21 sell though, it's critical that the Commission establish  
22 that price because for right now in today's environment,  
23 you're the only game in town.

24 Q. But what we're trying to replicate in setting  
25 prices for Qwest is what will be produced by a

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1 competitive market; isn't that true?

2 A. That may be true, but we have no idea what  
3 the competitive market is going to look like. That  
4 would be a really long and involved hearing. I mean the  
5 reality is we're trying to have you charge a price that  
6 is both efficient from an economics perspective and puts  
7 those other DLECs on an equivalent basis, I think, to  
8 your own affiliate. And since as a practical matter the  
9 economics cost of that shared spectrum is zero, the  
10 price should be zero. So that's the only way those two  
11 conditions are going to be satisfied.

12 Q. And is it your testimony that that's the  
13 price that a competitive market would produce?

14 A. I'm not sure a competitive market would  
15 produce a price, because when you ask me the question  
16 that way, it assumes that you have one person who is  
17 selling something and another person who is buying it.  
18 And I guess that what I am trying to articulate for you  
19 is that my expectation would be once you have the  
20 capability from an engineering perspective to supply  
21 this high frequency, you're going to see more -- you're  
22 going to see alliances or companies form that are more  
23 package oriented than that. They're not going to be  
24 structured around the model that the consumer goes and  
25 buys voice from one person and data from another.

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1 They're going to go to one place and get both, and then  
2 those companies will work out arrangements as to how  
3 they either do that on a joint venture basis, or they  
4 merge and become one company, or they do other things.

5 MS. ANDERL: Thank you, that's all that I  
6 have.

7 JUDGE BERG: Mr. Romano.

8 MR. ROMANO: Thank you.

9

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

11 BY MR. ROMANO:

12 Q. Good morning.

13 A. Good morning.

14 Q. If you could turn to Exhibit T-341, which is  
15 your rebuttal testimony.

16 A. Thank you.

17 Q. Specifically to page 13 at lines 2 and 3,  
18 there you recommend that the Commission adopt an NRC for  
19 UNE-P migration of \$1 per line?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. Is it your understanding that that particular  
24 issue is an appropriate subject for this phase or for  
25 Phase B?

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1           A.     It's actually Phase B, and the rebuttal  
2 testimony is filed as rebuttal in this phase and direct  
3 in Phase B. That particular recommendation is more  
4 germane to the part of this testimony that's direct  
5 testimony to Phase B.

6           Q.     If you could turn to pages 8 and 9 of the  
7 same Exhibit T-341, I believe you discussed this with  
8 Ms. Anderl, but just to clarify, on those pages you  
9 suggest that ILECs be required to install splitters on  
10 UNE-P lines; is that correct?

11          A.     Yes.

12          Q.     But you haven't made a proposal in this  
13 proceeding for costs and prices on that requirement,  
14 have you?

15          A.     For the splitters?

16          Q.     Correct.

17          A.     No, I would expect in this proceeding for you  
18 to -- for the Commission -- I am recommending that the  
19 Commission order you to provide that capability in this  
20 proceeding.

21          Q.     And does this -- is that also a subject which  
22 you believe is more appropriate for this phase or for  
23 Phase B?

24          A.     I think it's more appropriate for this phase.  
25 It needs to happen as soon as possible. This phase is

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1 on a faster time line and deals more with the  
2 availability, the carrier's ability to obtain high  
3 frequency spectrum, so I think it fits more in this  
4 phase than in part B.

5 MR. ROMANO: I have no more questions, Your  
6 Honor.

7 JUDGE BERG: Commissioners?  
8

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

10 BY CHAIRWOMAN SHOWALTER:

11 Q. Well, just a follow up to your answers to  
12 Ms. Anderl. In your scenario, you imagine multiple  
13 companies combining or joining in various ways to  
14 provide multiple services without necessarily setting a  
15 price for the high frequency portion of the loop or the  
16 low frequency portion for that matter. Is there an  
17 implicit price that theoretically could be derived at  
18 some point from the various arrangements that the  
19 companies make with each other?

20 A. Oh, I suppose if we were to sit around at a  
21 cocktail party, we could debate it. But as a practical  
22 matter to help you, I don't think there's any way you  
23 would be able to either analytically or have the  
24 information available to you to gather that.

25 Q. It --

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1           A.     First of all, I mean a market hasn't  
2 developed.

3           Q.     Right.

4           A.     And part of the problem here is on the one  
5 hand, we're talking about where is this market headed in  
6 the second and the third iteration, and we still haven't  
7 achieved the first step, which is making it possible for  
8 people to provide competitive voice services. Because  
9 until you have that seed accomplished, then sort of  
10 everything else that follows after that is going to have  
11 problems with it.

12          Q.     But at least some of the parties have  
13 suggested that what we should be doing is replicating  
14 what a competitive market would be, which necessarily  
15 involves us speculating what that would look like. So  
16 in speculating that way, can one at least say that the  
17 competitors would be sharing in the cost of the loop, or  
18 might it be that one company takes the burdon of that  
19 cost and contracts with someone else who bears less  
20 risk?

21          A.     Well, before we get into that direct  
22 question, I guess I have to first point out that I think  
23 I differ with the predicate that you're trying to  
24 establish, what a competitive market would price the  
25 high frequency portion of a loop be provisioned by a

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1 monopoly carrier would be. I mean I don't think there  
2 is an answer to the question when phrased, well, what  
3 would a competitive market do here, because if you had a  
4 competitive market, you wouldn't be setting the price at  
5 all, and there would be no need to try and figure -- I'm  
6 not even sure in a competitive market you would see this  
7 be a bilateral transaction between two carriers like  
8 this before they offered a product to a customer.

9         My threshold problem is I think you  
10 fundamentally have to look at this as you're setting a  
11 price that a monopoly provider is going to sell  
12 something for, recognizing that that monopoly provider  
13 also provides that same functionality to itself or to an  
14 affiliate to offer competing service.

15         Now having said that, trying to go back to  
16 more directly your question, I think time will bear out  
17 that even if carriers start out doing joint ventures,  
18 the reality here is that if you're involved in a market  
19 where you're trying to offer package services to  
20 customers, you may begin that process having -- if  
21 you're -- if you don't have data capability, you might  
22 buy it here or you might buy it there, but quickly we're  
23 going to move from this sort of transitional phase of  
24 stand alone data providers, because they are going to  
25 become part of entities that offer integrated products.



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1           In the case of carriers that use UNE-P, the  
2 critical element that you have to resolve is that they  
3 have the technical capability to easily still split out  
4 that high frequency spectrum to use to send to a data  
5 capability without going in and installing their own  
6 splitters and breaking down everything. So that's what  
7 I think the goal here should be is to make sure that the  
8 technical capability of a UNE-P provider splitting out  
9 that high frequency and getting it efficiently to a data  
10 provider is critical so that over time these other  
11 alliances can form.

12           I wouldn't get too hung up on what price they  
13 ended up charging each other, because it would be  
14 impossible to predict. I mean we don't even -- it's  
15 more important that you create the conditions to allow  
16 them to do it in the first place more than anything  
17 else. I mean you're not going to get that done before  
18 you set the price for what U S West sells, sorry, what  
19 Qwest sells or Verizon sells the high frequency spectrum  
20 for anyway. I mean you're going to have to -- there's  
21 going to be a time lag between these two events no  
22 matter what.

23           Q.     Back on the predicate, do you think it's  
24 misguided on a theoretical level to try to set prices  
25 for the monopoly according to what would be if we could

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1 determine what the competitive prices would be; is that  
2 theory itself flawed?

3 A. No, I just -- no, not as a general matter. I  
4 just think in this one unusual application, it's just  
5 there's no information available to you, there's no way  
6 to really figure out whether or not -- how the market  
7 would even look in terms of who is really perceived as a  
8 supplier versus who is perceived as the purchaser.

9 And given that it would be a completely  
10 fanciful exercise with no facts, I wouldn't be  
11 distracted by it as much as just thinking about, all  
12 right, what is the economic cost of this asset, this  
13 high frequency spectrum, which is zero, and what is the  
14 effective cost to the ILECs' affiliate when they use it,  
15 which is zero, and that then takes me to, well, those  
16 two conditions the answer is always zero, then shouldn't  
17 the answer here be zero when you sell it to a data CLEC  
18 given, you know, given the way the industry is going to  
19 be organized right now.

20 Q. Does the development of voice over Internet  
21 change any of these dynamics? If voice over Internet  
22 becomes high quality and perhaps avoids other charges  
23 because of regulations, does that affect how we should  
24 divide the high and low frequency at this time?

25 A. No, I don't think so, because I think -- I

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1 think we have to understand this, that you can do voice  
2 over IP today as an engineering matter. The reason that  
3 certain CLECs have focused on bringing advanced data to  
4 the market but not voice services isn't because they  
5 can't put the voice capability, change the voice into a  
6 data stream and put it in there as an engineering  
7 matter, they don't do it because all the other things it  
8 takes to become a voice provider are so far un -- well,  
9 they're massive, they're just gigantic barriers.

10 You have to develop back office systems, you  
11 have to develop marketing capability, you have to  
12 develop the ability to make sure that 911 data bases are  
13 populated and organized correctly. And there is all of  
14 those other sort of nonengineering factors in becoming a  
15 voice provider that is -- that really form the -- a  
16 large part of the barriers to carriers providing voice  
17 service.

18 So that's why they sort of have gone down  
19 this other line of saying, I don't want to mess with  
20 that just yet, I want to become good at doing one thing  
21 that I can bring to the market without having to  
22 overcome all of those other barriers. I want to -- I  
23 want to learn how to order co-location, how to put in  
24 DSLAMs, how to get modems up on a customer premise, how  
25 to provide that data service. But since I know that one

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1 way to do that is to do it on a line sharing  
2 environment, I need to have prices and procedures set  
3 for that.

4 And in addition, I think the next thing  
5 they're going to discover is, and I need to be able to  
6 go to those consumers with a product that combines this  
7 voice and data, if not from an engineering perspective,  
8 at least on the same bill.

9 And that's why in my view it's so critical to  
10 create these conditions for mass market local voice  
11 competition at the same time so that as they discover,  
12 which I'm convinced they're going to discover soon, the  
13 need to be able to offer consumers a package that has  
14 voice and data together, they can turn around and find  
15 people who want to be part of that process instead of  
16 the reluctant partner that they find in Qwest.

17 Q. Okay, then that leads to my next question.  
18 You have made a point that the delay between Phase A and  
19 Phase B is unfortunate because we're not addressing the  
20 UNE-P at the same time we're addressing the division of  
21 the high and low frequency loop. Do you consider the  
22 four months of delay that is built in to the current  
23 schedule as significant?

24 JUDGE BERG: Mr. Gillan, keeping that  
25 question in mind, be kind to our reporter and speak just

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1 a little slower.

2 THE WITNESS: Oh, I'm sorry, hasn't had a lot  
3 of sleep in the past couple of days.

4 A. No, I don't think it's -- I don't think it's  
5 even critical given the fact that in order for UNE-P to  
6 be useful as helping provide a vehicle to these data  
7 CLECs of creating more voice partners that they can --  
8 that they can go to market with, we have this  
9 intervening event that we need from the Commission,  
10 namely the Commission telling the ILECs that they have  
11 to install splitters, and they have to provide -- give  
12 the UNE-P purchaser the capability of providing the high  
13 frequency spectrum to the data CLECs. As long as you  
14 treat that as a Phase part A issue and get that decided  
15 so that the ILECs can then respond to that new  
16 obligation, get the cost studies, and then come back  
17 with that capability, I don't think the delay is that  
18 big a deal.

19 Q. Okay.

20 A. I'm more concerned with Verizon's suggestion  
21 that you hold off even telling them that it's their  
22 obligation until the end of part B, because now you're  
23 really starting to introduce significant delay into the  
24 process between the time of your order and the time that  
25 you actually see the capability in the marketplace.

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1 Q. Okay. I think I guess I didn't hear exactly  
2 what you said. What is it that you think is important  
3 to get it an order on in this Phase A as quickly as  
4 possible?

5 A. In Phase A, it would be directing the ILECs  
6 to establish the systems and come back with the prices  
7 to provide line splitting capability to people who  
8 purchase UNE-P, so that when you get the UNE-P up and  
9 operational at the end of part B, they have already been  
10 told that you expect UNE-P to be able to be used in the  
11 manner where the person who purchases UNE-P and  
12 therefore has the ability to provide voice services also  
13 has the ability to hand off the high frequency spectrum  
14 to a data CLEC so that they can add data services into  
15 the package. That would be the sequence.

16 Q. And --

17 A. You tell them here, ILEC, we reject your  
18 arguments that you're not obligated to do this, you must  
19 -- we want -- we want you to do this, therefore come  
20 back with your prices. Then in part B, you get UNE-P  
21 issues resolved, so UNE-P comes into the market, they  
22 come back with their cost studies for the line splitting  
23 that they need for UNE-P providers to also offer the  
24 data, the high frequency spectrum to data providers. Is  
25 that clear? I mean I realize there's a lot of moving

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1 parts there.

2 Q. Yes, it was clear, and it does presume though  
3 that that type of order is an issue that's fully in  
4 front of us in Phase A, part A?

5 A. Yes, which would be that is the conclusion I  
6 have reached. I mean I believe that we raised it in  
7 direct, and they said they didn't want to do it in  
8 rebuttal, and we responded.

9 CHAIRWOMAN SHOWALTER: Okay, thank you.

10

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

12 BY COMMISSIONER GILLIS:

13 Q. At least one of the economists we heard from  
14 earlier in the testimony suggested that charging a  
15 positive price for the high frequency spectrum was  
16 necessary to essentially jump start the market, I guess  
17 the theory being that a competitor -- if the dominant  
18 provider charged a zero price, then a competitor  
19 wouldn't be able to really charge a positive price, so  
20 there would never be a market. Is there any merit to  
21 that argument?

22 A. I don't think so. The market is -- the  
23 market you're trying to jump start is multiple carriers  
24 offering advanced data services to customers. The price  
25 that we're talking about is an input cost to those

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1 competitors. So the only thing you would gain by having  
2 U S West, pardon me, Qwest and Verizon -- it would be a  
3 lot easier if only one of these people changed their  
4 names at a time so you could get used to it.

5 The price you're talking about establishing  
6 is the price that the dominant provider, Qwest, sets for  
7 an input price to those carriers. So having a positive  
8 price, I must not -- I must be missing something,  
9 because it would seem to me by having a positive  
10 uneconomic price for the high frequency spectrum would  
11 only frustrate competition in the downstream data  
12 market.

13 Q. Just building off of your scenario you see  
14 for the marketplace with the bundling of services and  
15 different mutual symbiotic relationships, and now  
16 supposing that UNE-P were available in a format that a  
17 competitor could sell the high frequency in, if the  
18 dominant provider in the marketplace is charging zero  
19 price for that high frequency spectrum, why would Covad  
20 or Rhythms choose to partner with the UNE-P partner at  
21 any other price than zero?

22 A. Because I think the fundamental barrier these  
23 carriers are going to encounter is they can't go to the  
24 customer and say, buy from me your communication  
25 services, and here's what I give you for \$30 a month,



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1 whatever the number is, I give you high speed always on  
2 Internet access, I give you local dial tone, I give you  
3 long distance calling, I give you Internet service, that  
4 that's the -- that's really the fundamental barrier  
5 they're going to hit.

6           They're going to go to market at first, and  
7 they're going to try and sell people just high speed  
8 Internet access or high speed data access, and they will  
9 have some level of success with that strategy. But  
10 they're going to be going into a market against an  
11 incumbent that had or that used to have well known name  
12 recognition, perhaps now has a well known name, I don't  
13 know, and they're going to have to overcome a variety of  
14 barriers. They're going to -- they're going to have to  
15 convince customers that they can provide it in a quality  
16 way. They're going to have to develop marketing  
17 channels. They're going to have to do all of these  
18 things.

19           And I think what they're going to discover is  
20 they're going to be in the market for not very long  
21 before they discover that if they go into the  
22 marketplace as just the provider of this one slice, they  
23 will -- they will find some customers, but they're  
24 quickly going to start running into outer edge barrier,  
25 and that the way to get over that is to be able to go

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1 into the marketplace with a package of services that  
2 meets all the customer's needs. Anywhere people are  
3 being able to put together packages, their sales volumes  
4 pick up far more rapidly than anybody else's.

5         And to bring it back around to your question,  
6 that is why they're going to be interested in going with  
7 people who want to be willing participants in ventures  
8 that can go into the market with that package, because  
9 that package will succeed exponentially compared to  
10 selling it as an individual product where the consumer  
11 still has to go out himself and get other pieces to his  
12 communications puzzle.

13         Q.       Well, I'm trying to understand the economics  
14 of this in that there's a provider, Provider A, that's a  
15 UNE-P provider, that the problems have been solved that  
16 you're talking about, and this provider exists, and we  
17 want that provider to be a solid wholesale competitor to  
18 the incumbent, Qwest, in this case. And then on the  
19 other side of the market, you're describing the  
20 incentives of a Rhythms or a Covad that need to find  
21 mutual partners that can help them deliver more  
22 diversified product other than data.

23         But as Qwest and Rhythms look at this, their  
24 options are -- I suppose they themselves could buy the  
25 UNE-P or whatever, but supposing that they're looking

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1 for partners out there, those partners are going to  
2 choose whatever is the most economic, I would think, the  
3 most economic route to get to the customer in being able  
4 to deliver the high speed spectrum. And if the dominant  
5 price is set at zero, I don't understand how the UNE-P  
6 platform provider can charge anything more, there's  
7 going to be any profit to them. In other words, how are  
8 they going to be the supplier of choice for these new  
9 partnerships that are developing if there's not a  
10 positive price out there?

11 A. I'm taking a moment to try and formulate an  
12 example that reduces it into something simpler to talk  
13 about. Since I'm here today sponsored by AT&T, I will  
14 use their initials, although this is true for any number  
15 of providers.

16 When AT&T developed its voice capability, the  
17 question it -- the problem it will immediately confront  
18 is, okay, how do I get into this marketplace and start  
19 signing up consumers. The conclusion that I believe  
20 they and other UNE-P providers will reach, just as the  
21 data CLECs will reach it themselves is, boy, I can sign  
22 up a lot more consumers if I have a holistic package of  
23 services to offer.

24 So AT&T's -- any UNE-P provider's goal when  
25 they have the ability to hand off the high frequency

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1 spectrum isn't to make money on the sale of the high  
2 frequency spectrum. Their goal is to say, now that I  
3 have this ability to have this high frequency spectrum  
4 that I can use in conjunction with this other equipment,  
5 that either I have installed or I have joint ventured  
6 with somebody who has already put it out in the field,  
7 enables me to put together a package that gets me to  
8 marketplace to start signing up customers.

9           And that's the goal that they're looking at,  
10 how fast can I get in the market and sign up customers  
11 for my package of services, not can I get an additional  
12 \$1 a month or \$2 a month if I sell this spectrum over to  
13 this other carrier. Because their end game is the goal  
14 of building that subscriber base of people that are  
15 subscribing to their full package of services. Now they  
16 may decide that the best way to do that is to try and  
17 sell the spectrum. They may decide to do it by paying,  
18 agreeing to buy DSLAM capability from the CLECs on a  
19 wholesale basis. They may decide to do it by they split  
20 the profits or the price that they charge the end user.  
21 I mean there is all kinds of different ways that these  
22 companies can work together when they both recognize  
23 that their goal is to sign up all these end users, not  
24 to make money on this transaction between them  
25 concerning how much money did we get from the high

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1 frequency spectrum.

2           That process can't be replicated when there's  
3 just one guy in the market, just one dominant provider  
4 who doesn't really want to be partners with these data  
5 CLECs, who has the network, is the only voice game in  
6 town. And in that environment, you have to talk about  
7 selling -- having them sell that spectrum to somebody  
8 else, because they're going to go both into the market  
9 and sell two different products.

10           Did that make it clearer in terms of --

11           Q.       It does and it doesn't. I mean take your  
12 example of AT&T, and I guess we're assuming they're  
13 looking for customers they don't have cable access to,  
14 they want to get to the home, and there's two choices in  
15 the marketplace. They're, assuming your problems are  
16 taken care of, there is the UNE-P provider, and then  
17 there is Qwest, just to pick on one incumbent. Then  
18 AT&T's choice to get into the marketplace quickly is to  
19 buy the wholesale loop, including the high end piece,  
20 from Qwest through an interconnection agreement or  
21 whatever you talked about, and the price has been set by  
22 the Commission at zero for the high end spec.

23           A.       For the high frequency.

24           Q.       For the high frequency piece, and then the  
25 price of the loop is what it is. The UNE-P provider

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1 purchases UNE-P, purchases all these elements, puts it  
2 together, and pays, you know, the additional prices for  
3 the splitters and whatever is needed here. They have to  
4 offer out their services to AT&T and partners in  
5 competition with Qwest.

6 But the theory offered by, you know, by the  
7 other economist is essentially, well, that there's no --  
8 there's no way, at least as I understand the theory  
9 anyway, there's no way for the UNE-P provider, the  
10 alternative provider, to really charge a higher price,  
11 because there's no -- for the high end spectrum piece,  
12 and so we take away an element of the market, that that  
13 provider may be able to be more efficient or whatever,  
14 to price compete with Qwest. And that's the issue that  
15 was raised by the other economist that I was really  
16 asking about.

17 A. Right.

18 Q. Can we by setting a zero price, are we  
19 eliminating, really eliminating the possibility for a  
20 market to develop?

21 A. Well, part of the reason I'm having trouble  
22 here is the UNE-P provider doesn't compete with Qwest on  
23 a wholesale basis, because it buys UNE-P from them, it  
24 buys all the network from them, and when they do that,  
25 they're getting a high frequency spectrum at the same

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1 time.

2 Q. But they would both be alternative wholesale  
3 providers to AT&T, right?

4 A. No, because I mean AT&T would buy UNE-P so  
5 that that would be their input to be able to offer their  
6 retail services.

7 Q. Couldn't they buy the loop with the high  
8 frequency spectrum from Qwest?

9 A. But when you buy UNE-P, that's what in effect  
10 you are doing, because one of the elements of UNE-P is  
11 the high frequency -- is the loop and the high frequency  
12 spectrum that you're buying from Qwest. You're not  
13 really competing back against them.

14 I can't see -- the only reason you would want  
15 to establish a positive price for this to create that  
16 kind of market dynamic is if there were actually  
17 entrants that were interested in selling spectrum to  
18 other providers in that way, in a way where one entrant  
19 provides voice, and they want to sell the spectrum, so  
20 the customers buy data capability from a different  
21 company.

22 I'm not aware of entrants that perceive the  
23 market that way, where they really -- where they think  
24 that it makes sense for, particularly for Commissions to  
25 set up pricing systems that pushes you in that direction

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1 where one carrier does only one thing, then they sell  
2 spectrum to another carrier, and then that carrier  
3 provides the data services.

4           You need to do that in the context of Qwest,  
5 because Qwest has this effective voice monopoly, and  
6 Verizon, and therefore the only option available to  
7 these data CLECs today is to be a partial provider  
8 selling only the data services, and therefore they need  
9 to buy only the high frequency spectrum.

10           But other -- but competitors are going to, I  
11 believe, every entrant I have ever talked to and thought  
12 about it, wants more to have the ability to do this  
13 efficiently so that somehow they can work out  
14 arrangements to end up that the customer -- showing the  
15 customer a single set of products.

16           Now to be perfectly candid, I'm sure that  
17 AT&T, the client who is sponsoring me here today, always  
18 thinks of that equation in terms of AT&T has the final  
19 relationship with the customer. But others, people who  
20 are going to buy UNE-P and get proficient in provision  
21 of voice services, are likely to evolve to situations  
22 where they agree to be an underlying voice carrier for a  
23 Covad or a Rhythms so that they may want to go into the  
24 market and offer a full suite of services. It's going  
25 to be complicated. But I can't imagine a positive price



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1 encouraging the market to develop faster. I can only  
2 see it developing slower.

3 COMMISSIONER GILLIS: Thank you.

4

5

E X A M I N A T I O N

6 BY DR. GABEL:

7 Q. Good morning, Mr. Gillan. I understood you  
8 to state that you believe that the economic cost of  
9 providing the high frequency portion of the loop is  
10 zero; is that correct?

11 A. Of the spectrum itself, yes.

12 Q. Of providing the spectrum, okay. And I also  
13 believe I understood you to state that this high  
14 frequency spectrum would be used perhaps to provide high  
15 speed access to the Internet; is that correct?

16 A. Yes.

17 Q. And would you consider high speed access to  
18 the Internet an advanced telecommunications service?

19 A. Yes. I always get nervous when people ask me  
20 definitional questions.

21 Q. And in your work, Ms. Anderl asked you a  
22 little bit about your other work, have you had the  
23 occasion to review loop studies?

24 A. Yes.

25 Q. Okay. And also in your other work, have you

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1 had the occasion to read the May 1997 order of FCC  
2 dealing with universal service where they set out  
3 certain costing principles?

4 A. Yes, although there are two orders that were  
5 issued in May of 1977. There's sort of a principles of  
6 how funds operate and then the cost modeling order. I  
7 have spent more time with how the universal service  
8 funds themselves operate and less time with the cost  
9 modeling order, but I am familiar with it.

10 Q. In one of those orders, I believe it's at  
11 paragraph 250 of the order which established how the  
12 costing of the network will operate, the FCC, I believe,  
13 rejected the use of using long loops with load coils to  
14 serve rural customers because they impede the provision  
15 of advanced services. Do you recall that conclusion of  
16 FCC?

17 A. Not specifically, but I have no reason to not  
18 accept it for the purposes of your next question.

19 Q. In your own work reviewing loop studies or  
20 creating loop studies on your own, I don't know if you  
21 have, have you looked at what is the impact of removing  
22 load coils; does that raise the cost of telephone  
23 service?

24 A. I haven't specifically looked at the cost  
25 consequences of going through that process, no.

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1 Q. Well, would you agree that telecommunications  
2 companies are no longer installing load coils in their  
3 loops so that they can provide advanced  
4 telecommunications services?

5 A. Yes, that's my understanding.

6 Q. And if you're willing to accept the  
7 assumption that prospectively not installing load coils  
8 raises the cost of installing the loop, is it the case  
9 that there is a zero economic cost of providing advanced  
10 telecommunications services?

11 A. Actually I think it does still, because what  
12 you have described is now that the loop itself costs  
13 more. And admittedly it costs more to provision  
14 additional services, but it doesn't mean that the  
15 spectrum on that loop costs more. So while the overall  
16 cost of the loop may have increased, I don't know that I  
17 would agree that the cost of the high frequency spectrum  
18 on that loop changed.

19 Q. Well, is it your position that the removal of  
20 load coils or building networks prospectively without  
21 load coils, that economics would indicate that all of  
22 that cost should be recovered from voice services, and  
23 none of that cost should be recovered from advanced  
24 telecommunications services?

25 A. The problem that I bump into here is that

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1 ultimately you end up selling both to the same person at  
2 the end of the loop, and all that really matters is that  
3 the cost of the loop get reflected in the price that  
4 that customer ultimately pays. And to try and split  
5 this up between these different things, to me is -- it's  
6 almost like a complicated parlor game that has adverse  
7 consequences. That's where the concern I have is.

8           We could have a debate about this, but after  
9 we're -- while we would be debating it, Qwest would be  
10 sitting over there fully understanding that, hey, the  
11 cost of this spectrum is nothing to us because we  
12 incurred it when we built this plant, and therefore when  
13 we go out and try and set our prices, if we want to  
14 treat it as zero, we can treat it as zero.

15           And unless you give other DLECs that same  
16 capability, they're going to be disadvantaged vis-a-vis  
17 Qwest, and there's only one way out of that box, and  
18 that's setting a price that's zero.

19           Q.     Would you concur, Mr. Gillan, that at this  
20 point, the percentage of residential customers that are  
21 taking ADSL service is probably somewhere less than 5%?

22           A.     Yes.

23           Q.     All right. And so if there's this upgrade of  
24 the network to provide advanced telecommunications  
25 services at this point, maybe 5% of the customer body is

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1 taking advantage of that capability and 95% is not?

2 A. That may be where it is right now, but  
3 there's, in my mind, there's some reasons for that, not  
4 the least of which is the fact you don't have enough  
5 people out there in whatever kind of arrangements they  
6 need to have offering customers more choices and ability  
7 to buy this as packages and getting it out there simply  
8 and easily. And there's a reason that it's at 5%. I  
9 don't think if we were sitting here a year from now it  
10 would be 5%, and I really don't think if we were sitting  
11 here five years from now it would be anywhere near 5%.

12 Q. In response to my prior question, I believe  
13 you said, well, even if there's a non-zero economic cost  
14 of providing advanced telecommunications services,  
15 you're still going to just recover that cost from the  
16 same customer. As a matter of policy, does it make  
17 sense to not recover any of the economic cost of  
18 removing load coils from a network which at this point  
19 is only being used by less than 5% of the customers, or  
20 would it make better public policy to say, well, the  
21 people who benefit from the removal of the load coils  
22 should make the contribution to that network upgrade?

23 A. Well, first, I didn't agree that there was an  
24 economic cost, but I agreed that your logic was worth  
25 talking about, okay. But I can certainly understand

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1 your point of view. I just reach other mitigating  
2 factors that cause me to judge the close call in a  
3 different direction.

4         As to the other part of your logic, if only  
5 5% of the -- I will paraphrase it, and if I do so  
6 incorrectly, then tell me. If only 5% of the people are  
7 benefiting, then why should everybody sort of be part of  
8 that -- in seeing the cost of a network upgrade if only  
9 this 5% are benefiting. I think I might understand your  
10 point better if I thought that that was a long-term  
11 condition.

12         Since I tend to view this as that's just an  
13 early adaptor part of the marketplace, that this is the  
14 mainstream way that people are going to be buying  
15 communication services and that all we have here is a  
16 timing issue, you know, not a pervasive or permanent  
17 issue, I wouldn't want to distort that transition from  
18 this 5% to what I would hope to be, you know, 50%, 60%,  
19 70% in a relatively short window, relatively, you know,  
20 five years or whatever, by trying to take these costs  
21 and pin it on the 5% and penalize the early adaptor when  
22 all they really are is the pioneers of a fundamental  
23 market change. Now admittedly, that's a lot of judgment  
24 there, but that would be the judgment I would apply for  
25 the public policy resolution.

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1 Q. Would you agree, Mr. Gillan, that people have  
2 been dialing up the Internet since at least 1986,  
3 service has been available from companies like AOL?

4 A. Yes, but I -- but I would also say that I  
5 don't think people really started latching onto that  
6 capability until after, you know, after the browsers  
7 caught up to it and the modem speeds got up to, you  
8 know, 28.8 or whatever where they had some sort of  
9 experience with the Internet that was a little more  
10 graphical and less textual.

11 And so it seems to me that it's true that it  
12 happened a long time ago, now we've gone into this rapid  
13 curve driven, I think, in large measure to a pretty  
14 small fractional increase in the speed of the modems  
15 that really qualitatively changed your interaction with  
16 the Internet. Now you take that qualitative change and  
17 you're now talking about the next leap of instead of it  
18 being 28.8 it's 1 megabyte or whatever, whatever these  
19 technologies are going to give you, and then you  
20 translate that to, all right, what does that mean for  
21 the type of functionality the Internet supplies back to  
22 you, streaming video or true real, you know,  
23 interactive, instantly interactive information  
24 capability. I expect that ratchet to jump up once  
25 again.

01585

1                   And admittedly I get nervous about anything  
2 that would tend to put a brake on that process, because  
3 I think if we can get through this transition and get  
4 high speed access out there and get it out there in ways  
5 where there's more than one provider, which is why I  
6 keep coming back to you have to make it possible for  
7 there to be multiple voice providers, because at the end  
8 of the day, consumers are going to buy voice, data, and  
9 everything, and that nub, that seed of all the future  
10 innovation has to be competitive voice market of which  
11 all this other stuff can overlap.

12                   If we can get through this, then I think we  
13 will be in a dramatically different position within ten  
14 years. Anything in terms of pricing or cost allocation  
15 or refusal to support line splitting on competitors'  
16 facilities or that this will be sold to competitors is  
17 going to push back that curve and make it more likely  
18 that we have one or two providers at the end of the day  
19 instead of, you know, half a dozen or so. And that  
20 would be a great, I think, loss in opportunities.

21                   DR. GABEL: Thank you.

22                   CHAIRWOMAN SHOWALTER: A couple of follow-up.

23

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

25 BY CHAIRWOMAN SHOWALTER:



01586

1 Q. This might be a parlor game question.

2 A. I'm going to regret that, aren't I?

3 Q. If you say that the -- you qualified your  
4 answer on whether the price should be zero to saying  
5 it's the high frequency spectrum that costs zero. If  
6 that's the case, what's the cost of the low frequency  
7 spectrum?

8 A. Oh, well, you're right, this is a parlor  
9 question. There is a cost of this loop, and it's  
10 impossible to split that cost between high and low in an  
11 allocation sense in any rational way. So I'm left with  
12 thinking about it from the perspective of what are the  
13 consequences of making this high frequency spectrum  
14 appear expensive in the marketplace when it, in fact, it  
15 imposes zero or no additional cost in terms of --  
16 although other market changes I described, in my mind,  
17 making it appear there's a cost when there is none is  
18 going to frustrate development and imagination at  
19 precisely the point in time you don't want that to  
20 happen.

21 Q. So then it's --

22 A. Well, and it's going to happen -- the only  
23 other part of that answer that I want to make sure I get  
24 across is that and it's going to happen in a way that  
25 fosters the current incumbent maintaining in the future

01587

1 the same kind of dominance it has today.

2           If we do this right, we should be able to use  
3 this existing network as a leverage forward that  
4 launches multiple companies into this new environment so  
5 that at the end they're all competing. Or it can be  
6 used as a leverage that launches just one company into  
7 that environment so that they can dominate in the future  
8 in the same way they dominate it today.

9           That's the other side of why I keep coming  
10 back towards -- even where it's a close call using some  
11 of the arguments that you were raising, you should still  
12 move towards a zero price than a positive price, move  
13 towards keeping it inexpensive for innovation instead of  
14 expensive and seeking contribution.

15       Q.     Supposing you eliminated the appearance  
16 problem to the consumer by charging a positive price but  
17 requiring exactly the same amount in a credit to the end  
18 user, so the end user was paying no more for the loop,  
19 but the CLEC was paying \$5 to the ILEC. Is that no  
20 different than the zero price, or is it --

21       A.     No, it's just as bad. I mean it tells -- it  
22 tells the marketplace that offering advanced data  
23 services is artificially expensive. And if you tell the  
24 market that it's artificially expensive, you're going to  
25 get less of it. And I just can't imagine why you would

01588

1 want to get less of that particular capability at this  
2 point in time.

3 Q. I guess if all you're thinking about is  
4 deployment of advanced services, maybe that's right.  
5 But I think on page one early in your testimony, you  
6 talk about the importance of accurate costing. And  
7 maybe all you're saying is there is no way to be  
8 accurate, so it might as well be zero?

9 A. No.

10 Q. I mean \$5 isn't inaccurate either, is it?

11 A. Yes, it is, it's totally arbitrary.

12 Q. Isn't zero also arbitrary?

13 A. No. You come up with zero because you ask a  
14 very basic question is are there additional costs  
15 associated with that high frequency being provisioned  
16 and taken from being idle and worthless to being made  
17 useful and valuable. And the answer is, no, not really.

18 Now Mr. Gabel's point to me was, well, but if  
19 we're upgrading the network generally to make it easier  
20 for that high frequency spectrum and more of the high  
21 frequency spectrum to be available, shouldn't we use  
22 that linkage, that logical linkage to then try and come  
23 up with a price.

24 And my answer back fundamentally is, look,  
25 you can keep going backwards in time to almost any event

01589

1 that you say had some sort of cost effect, and I thought  
2 that that was -- while there is that linkage, I thought  
3 it was stretching it was the reason that my answer came  
4 out the way it was. That if you have to go through that  
5 many steps in logic to find a reason to say that there  
6 is a cost increase, then I think you have to start  
7 really viewing it that there was no cost increase.

8 And because there was -- and that's where I  
9 have always been on this recommendation to you is that,  
10 because I don't see any real credible tangible way for a  
11 non-zero price. And secondly, certainly inside these  
12 incumbents, they should be thinking about this as a zero  
13 cost, because it's a resource that's out there sitting  
14 idle today, that the only choice you really have to make  
15 the game to both reflect, I think, the best estimate of  
16 its cost as well as putting those other carriers on the  
17 same footing as the incumbent is to charge a zero price.

18 CHAIRWOMAN SHOWALTER: Thanks.

19 JUDGE BERG: Let's be off the record for a  
20 moment.

21 (Discussion off the record.)

22 JUDGE BERG: Ms. Anderl.

23 MS. ANDERL: Thank you, Your Honor.

24

25

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

01590

1 BY MS. ANDERL:

2 Q. Mr. Gillan, to the extent that you can't  
3 allocate the cost of the loop between the high frequency  
4 and the low frequency portion, doesn't that make the  
5 cost of the loop a joint cost as between those two  
6 services or products?

7 A. I don't think so, not given the -- not given  
8 the institutional nature of this industry and everything  
9 else. I think it's -- I wouldn't use the joint cost  
10 argument as a reason to allocate it, no.

11 Q. Would you agree with me that in order to stay  
12 in business, a firm has to recover from the total group  
13 of its services somewhere, all of its joint and common  
14 costs?

15 A. Yes.

16 Q. And so is it your affirmative recommendation  
17 today that Qwest or any other incumbent should not be  
18 permitted to recover any of its common costs through  
19 pricing of the high frequency portion of the loop?

20 A. You mean ask quite the additional  
21 contribution to your common costs?

22 Q. If you want to phrase it that way.

23 A. Well, I mean you don't get it -- you don't  
24 get it from there today. You wouldn't have any less of  
25 an opportunity to recover them if you sold this without

01591

1 assigning any of those costs to this particular  
2 arrangement. So it doesn't -- I don't see any way that  
3 it diminishes your ability to recover your common costs  
4 whether or not you assign any to this service or not.  
5 So yeah, I wouldn't -- I don't see any reason to do it.

6 Q. Now you have talked about the development of  
7 widespread local competition, and it seems to be your  
8 testimony that such competition will not develop until  
9 access to network element platforms is implemented; is  
10 that correct?

11 A. Absolutely.

12 Q. If, for example, there were a second  
13 ubiquitous network already in place over which telephone  
14 service could be provided, would local competition  
15 develop more rapidly if there were access to both  
16 networks?

17 A. You mean the cable network that you want to  
18 presume is out there ubiquitously employed and usable in  
19 this?

20 Q. I would prefer that you answer the question  
21 more generally first, but then we can ask about the  
22 cable network if you would like.

23 A. Well, there -- if you already had two  
24 ubiquitous networks, then at least you would have an  
25 oligopoly. I'm going to have to go back to the cable

01592

1 example for something for a more specific reason though,  
2 and that is that the cable network is not equivalent to  
3 the telecommunications network and isn't in any way,  
4 shape, or form compatible with offering UNE-P.

5         The reason that UNE-P is necessary for mass  
6 market applications is because it -- carriers --  
7 customers can be migrated between different providers  
8 electronically. That type of circumstance does not  
9 exist at all in the cable situation, not to mention all  
10 the customers are already on the phone network, not the  
11 cable network, for provisioning communications services.

12         Q.       To the extent that there's additional  
13 spectrum available on the cable network that is not  
14 being utilized, is it your testimony that the economic  
15 cost of providing that spectrum is also zero?

16         A.       I actually have no idea whatsoever what the  
17 costs are associated with spectrum on a cable network.  
18 I'm not that familiar with that technology for the  
19 provision of data services.

20         Q.       Finally, you talked about asking this  
21 Commission to order carriers to modify their systems in  
22 order to enable line splitting?

23         A.       Yes.

24         Q.       Do you recall that?

25         A.       Yes.

01593

1 Q. To the extent that such system modifications  
2 cause costs to the incumbent, would it be your  
3 recommendation that the incumbent be permitted to  
4 recover those costs from the CLECs and the data LECs who  
5 will be using the line splitting on the UNE platform?

6 A. You know, I actually feel uncomfortable  
7 giving an unequivocal answer to that one way or the  
8 other without looking at exactly what type of costs  
9 you're talking about.

10 As a practical matter, you're obligated to  
11 provision the high frequency spectrum. It's a legal  
12 obligation. The only thing that my testimony addresses  
13 is that that obligation should extend both to your lines  
14 and to lines that are purchased as UNE-P.

15 I don't believe that there would be any -- as  
16 you're developing the systems to accomplish that  
17 obligation, I don't know that -- I can't see any reason  
18 that there would be any additional costs associated with  
19 fulfilling that obligation on both your own lines and  
20 lines purchased through UNE-P. So I don't see a need --  
21 I don't under -- I don't see a cost that would be the  
22 subject of your question.

23 Q. I guess I understood your testimony that you  
24 were asking the Commission affirmatively to make any  
25 systems modifications that might be necessary to enable



01594

1 that, and my question was simply assuming that as a  
2 hypothesis additional modifications were necessary, is  
3 it your recommendation that such costs be able to be  
4 recovered from the CLECs and data LECs?

5 A. And here's the problem I have with the way  
6 the question is phrased, that if you started to develop  
7 those systems on the front end recognizing that you were  
8 going to do it in a non-discriminatory fashion and  
9 support UNE-P lines in the same way you support your  
10 lines, then I don't think there would be any additional  
11 cost.

12 The only way I see that there would be  
13 additional costs is if you first went down the path of  
14 deciding you were going to favor your own facilities  
15 over those you sell to competitors, in which case while  
16 there might be additional costs, it seems to me that  
17 those additional costs are a consequence of you reaching  
18 the first decision incorrectly, not something -- not  
19 something that your competitors should bear.

20 Q. Is it your opinion that line splitting is  
21 currently required by the FCC?

22 A. No.

23 Q. Okay.

24 A. Not for purposes of CLECs, which is why I'm  
25 asking this Commission to order -- if you were already

01595

1 required to do this, I wouldn't need to file this  
2 testimony. The point is it's in the public interest,  
3 and the Washington Commission should do it so that when  
4 the FCC gets around to it, like everything else they  
5 have done, they have taken the lead from some things  
6 that states have done.

7 MS. ANDERL: That's all that I have. Thank  
8 you, Your Honor.

9 JUDGE BERG: Anything, Mr. Romano?

10 MR. ROMANO: No, Your Honor.

11 JUDGE BERG: Before we go back to redirect,  
12 there are some more questions.

13 CHAIRWOMAN SHOWALTER: Why don't we take a  
14 break. I would prefer to.

15 JUDGE BERG: All right, we're going to take a  
16 break.

17 (Recess taken.)

18 JUDGE BERG: Dr. Gabel, just before going off  
19 the record, you indicated that you have follow-up  
20 questions for Mr. Gillan.

21

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

23 BY DR. GABEL:

24 Q. Mr. Gillan, you have been asked about mass  
25 market competition, and in your direct testimony, you

01596

1 provide some data on entry into the market in New York  
2 where entrants have used the UNE platform. And my  
3 question for you is where you have observed that type of  
4 entry, did the CLECs have the ability to use line  
5 splitting? Or the data that you present in your direct  
6 testimony, is that reflecting entry where the CLECs use  
7 the UNE platform for only voice services?

8 A. It's really pure -- it's really pure voice  
9 service at this point, and that's -- this issue about  
10 getting the line splitting capability really trails the  
11 line sharing order of the FCC, and this type of activity  
12 preceded it.

13 DR. GABEL: Thank you.

14 JUDGE BERG: Let's do redirect at this point.

15 MR. KOPTA: I have no questions.

16 JUDGE BERG: All right, any further questions  
17 from any party?

18 All right, Mr. Gillan, thank you very much  
19 for being here and testifying this morning.

20 At this point in time, we will take staff's  
21 first witness, Thomas L. Spinks.

22

23 (The following exhibits were identified in  
24 conjunction with the testimony of Thomas  
25 Spinks.)

01597

1                   Exhibit T-350 is Direct Testimony (TLS-1T).  
2 Exhibit 351 is Witness Qualifications (TLS-2). Exhibit  
3 C-352 is WUTC 01-027 (TLS-3C). Exhibit C-353 is WUTC  
4 03-035 (TLS-4C).

5

6 Whereupon,

7

                                  THOMAS L. SPINKS,  
8 having been first duly sworn, was called as a witness  
9 herein and was examined and testified as follows:

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

11 BY MS. SMITH:

12           Q.     Mr. Spinks, could you state your full name  
13 and spell your last name, please.

14           A.     My name is Thomas L. Spinks, that's  
15 S-P-I-N-K-S.

16           Q.     What is your business address?

17           A.     My business address is 1500 South Evergreen  
18 Park Drive Southwest, P.O. Box 47250, Olympia,  
19 Washington 98504.

20           Q.     And do you have before you the testimony and  
21 exhibits marked as T-350 through C-353?

22           A.     I do.

23           Q.     Was that testimony and were those exhibits  
24 prepared by you or under your direction?

25           A.     Well, the testimony and exhibit, the first

01598

1 exhibit was. The other two exhibits are responses from  
2 U S West data requests. I did not prepare those.

3 Q. Do you have any changes to your testimony?

4 A. Just one minor one. At page 14, I'm sorry,  
5 on, well, on this testimony it's on page 13, it's the  
6 last sentence that reads:

7 For example, with the 36 cent Verizon  
8 charges applied to the 750,000 access  
9 lines, the charge could be offset for a  
10 seven month period.

11 That sentence should be moved to the bottom  
12 of page ten.

13 Q. And where on page ten would that be inserted?

14 A. Well, at the bottom of page ten with the  
15 sentence after the sentence ending, the amount of  
16 revenue that would be available, and that's in response  
17 to the question, if the Commission chooses to reduce  
18 retail rates, what rates should the Commission consider.

19 JUDGE BERG: Mr. Spinks, I'm going to ask  
20 that you give a line reference to page 10 where lines 16  
21 through 18, the sentence on lines 16 through 18 on page  
22 13 should be inserted.

23 THE WITNESS: Yes, the wonders of our editing  
24 process resulted in this sentence being misplaced at the  
25 bottom of the wrong question.

01599

1 JUDGE BERG: So which line numbers on page  
2 10?

3 THE WITNESS: Oh, I'm sorry, beginning on  
4 line 21 is where it would fit in, at the end of the  
5 sentence on line 21.

6 JUDGE BERG: All right, thank you very much.  
7 BY MS. SMITH:

8 Q. With the exception of that change, if I were  
9 to ask you the same questions today as contained in your  
10 testimony, would your answers be the same?

11 A. Yes, they would.

12 MS. SMITH: I move for the admission of  
13 Exhibits T-350 through C-353 and make the witness  
14 available for cross-examination.

15 MS. MCCLELLAN: No objection.

16 MS. ANDERL: No objection.

17 JUDGE BERG: Exhibits T-350 through C-353 are  
18 admitted.

19 Ms. McClellan, will you be leading cross?

20 MS. MCCLELLAN: Yes, I will, thank you.

21

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

23 BY MS. MCCLELLAN:

24 Q. Good morning, Mr. Spinks.

25 A. Morning.

01600

1 Q. In your testimony, you don't make any  
2 specific criticisms of Verizon's line sharing proposals,  
3 do you?

4 A. No.

5 Q. If you could turn in Exhibit T-350 to page 8.

6 A. (Complies.)

7 Q. And in line 12, lines 12 through 14, you  
8 refer to the merger in Docket Number UT-981367, 991164.

9 A. Yes, I see that.

10 Q. That settlement involved the disposition of  
11 three separate dockets, which would be the GTE-Bell  
12 Atlantic merger, and intrastate access complaint, and an  
13 informal earnings review; is that correct?

14 A. It was a formal earnings complaint.

15 Q. Are you familiar with the fourth supplemental  
16 order in those dockets adopting that settlement  
17 agreement?

18 A. I reviewed it as part of my preparation in  
19 writing this testimony.

20 Q. And current retail rates were not considered  
21 in isolation from potential merger savings, were they?

22 A. Yes, they were. If I may explain?

23 Q. Please.

24 A. While the agreement resolved all three of the  
25 preceding dockets, there wasn't a sort of a quid pro quo

01601

1 tradeoff where staff really believed that earnings were  
2 in line and GTE gave us \$30,000,000 to settle the other  
3 two dockets or that earnings were \$60,000,000 and we  
4 settled for 30. It did not involve that kind of a  
5 tradeoff.

6 Q. Is any of that reflected in the fourth  
7 supplemental order?

8 A. No.

9 Q. Are there any other orders from those dockets  
10 or any other docket that reflects the answer that you  
11 just gave?

12 A. No, the answer I gave would not -- is not the  
13 kind of detail that one goes into in fashioning a  
14 settlement.

15 Q. Is the entire settlement reflected in that  
16 order?

17 A. I'm not sure what you mean by that.

18 Q. Are there any other terms of the settlement  
19 that either were or were not addressed in that order?

20 A. Well, I wouldn't think so.

21 CHAIRWOMAN SHOWALTER: Mr. Spinks, can you  
22 pull the microphone a little closer.

23 THE WITNESS: Yes, sorry.

24 BY MS. MCCLELLAN:

25 Q. Were individual retail rates scrutinized in



01602

1 those proceedings?

2 A. No.

3 Q. Were there any cost studies filed in any of  
4 those three dockets?

5 A. I don't know.

6 Q. Was there a determination at that time of  
7 GTE's rate base in any of those proceedings?

8 A. A determination, could you explain what you  
9 mean by that?

10 Q. Was there any formal decision on what GTE's  
11 rate base was at the time?

12 A. Well, there wasn't a formal decision, because  
13 the complaint never went to hearing, and there was a  
14 determination of the rate base level in staff's  
15 analysis.

16 Q. Was that reflected in the fourth supplemental  
17 order?

18 A. No, it was reflected in the \$30,000,000  
19 reduction that the company agreed to.

20 Q. You just testified that the \$30,000,000  
21 reduction was in the fourth supplemental order. Are you  
22 saying that by including the \$30,000,000 reduction in  
23 that order that the Commission also implicitly  
24 determined what GTE's rate base was?

25 A. No, I'm not. All I'm telling you is what

01603

1 staff, as I qualified, my answer was staff had  
2 determined a rate base level.

3 Q. And was there an exhibit or any testimony  
4 filed that outlined what staff's determination of the  
5 rate base was?

6 A. I don't know.

7 Q. Was there any filed in this proceeding?

8 A. No.

9 Q. OSS is an unbundled network element, correct?

10 A. Yes.

11 Q. And Section 252-D of the Telecommunications  
12 Act sets the pricing standard for unbundled network  
13 elements; is that right?

14 A. I'm not sure, but I will accept that.

15 Q. And doesn't Section 252-D explicitly state  
16 that UNE rates will be set without reference to a rate  
17 of return or other rate base proceeding?

18 A. Yes, and let me add that we are not in this  
19 proceeding determining the price for OSS. In this  
20 proceeding, we are dealing with the recovery of the OSS  
21 startup cost, which is not in staff's opinion.

22 Q. Can you identify any particular retail rate  
23 that recovers OSS startup costs?

24 A. No.

25 Q. Can you identify any particular OSS startup

01604

1 cost that is recovered in retail rates?

2 A. Yes, all of the startup costs.

3 Q. Did you perform any cost study to make that  
4 determination?

5 A. It wasn't necessary to perform a cost study.  
6 It was the earnings level of the company that made that  
7 -- led me to that determination.

8 Q. But that wasn't filed in this docket? Let me  
9 rephrase.

10 Is there any exhibit filed in this docket  
11 that explicitly identifies the amount of OSS costs that  
12 are recovered in Verizon's retail rates, in your  
13 opinion?

14 A. Well, what the company has submitted in its  
15 own testimony representation of the amount of OSS costs  
16 that it's seeking to recover. And to that extent, it  
17 would be identified.

18 Q. But is there an exhibit that identifies that  
19 those costs are being recovered in retail rates?

20 A. No.

21 Q. And your testimony does not offer any  
22 criticism of Verizon's OSS cost study, does it?

23 A. No, it doesn't, and that is because we were  
24 not able to audit or otherwise ascertain the voracity of  
25 the level of OSS costs which the company seeks to

01605

1 recover.

2 Q. Did you send any data requests specific to  
3 the OSS study?

4 A. Well, that's what -- that's not what is  
5 necessary to ascertain the validity of the costs.  
6 What's necessary is the ability to audit. And when the  
7 company provides its costs on a national basis, we don't  
8 have the ability to go out and audit the company's costs  
9 on a nationwide level. If they had been Washington  
10 specific costs, we may have been able to do more work,  
11 but they weren't.

12 Q. Did you offer any testimony on whether or not  
13 the Commission should conduct an independent audit of  
14 the cost study?

15 A. No, we didn't.

16 Q. And you don't offer any criticism of the  
17 projects identified for which Verizon seeks cost  
18 recovery, did you?

19 A. No, we did not -- we did not attempt to --  
20 well, I reviewed the descriptions of the projects, and I  
21 didn't find them to be specific enough to either  
22 criticize -- to criticize.

23 Q. Did you state that in your responsive  
24 testimony?

25 A. No.

01606

1 Q. Did you send any data requests asking for  
2 more detail or more specificity?

3 A. We didn't focus on GTE level of cost for the  
4 projects for two reasons. One is we couldn't, as I  
5 stated earlier, we don't have the ability to audit, so  
6 we didn't go out to -- were unable to weigh in, if you  
7 will, on the cost. And the second is between the two  
8 companies, we're talking about a request for 1.9 million  
9 on the one hand and a request for 121 million or 145  
10 million on the other. And as a result, we devoted most  
11 of our resources to trying to address the issues raised  
12 in the U S West cost proposal.

13 Q. Okay. I would like to ask you to turn to  
14 what's been marked as Exhibit T-360, which is the direct  
15 testimony of Mr. Griffith.

16 A. I don't have that.

17 MS. SMITH: Do you have that, Mr. Spinks?

18 THE WITNESS: I don't have that.

19 BY MS. MCCLELLAN:

20 Q. You may not need it. Staff's counsel  
21 represented that there is a recommendation in  
22 Mr. Griffith's testimony which you may be able to answer  
23 some questions about on how ILECs can structure a  
24 monthly recurring charge for nonrecurring co-location  
25 costs.

01607

1 A. Yes, that's correct.

2 JUDGE BERG: And just for the commissioners'  
3 ability to follow, could you make a page and line  
4 reference, please?

5 MS. MCCLELLAN: Sure, it's page 11.

6 CHAIRWOMAN SHOWALTER: What's the Exhibit  
7 number?

8 JUDGE BERG: T-360.

9 MS. MCCLELLAN: Page 11, the question  
10 beginning at line 14.

11 JUDGE BERG: Thank you, Ms. McClellan.

12 MS. MCCLELLAN: Okay.

13 BY MS. MCCLELLAN:

14 Q. And here, I will just read what Mr. Griffith  
15 recommended:

16 That the ILECs should estimate  
17 nonrecurring costs on a Washington  
18 specific basis using the estimated  
19 number of CLECs anticipated to co-locate  
20 in Washington central offices to  
21 calculate the Washington specific  
22 nonrecurring costs each would have to  
23 pay.

24 Do you remember that recommendation?

25 A. Yes.

01608

1 Q. Would you propose a true up if the estimated  
2 number of co-locators in Washington turns out to be  
3 incorrect?

4 A. I think that question should be deferred to  
5 Mr. Griffith.

6 Q. All right. I would like to go back to a  
7 little while ago you said that the fourth supplemental  
8 order resolved a formal earnings review.

9 A. I had understood that, that we had filed a  
10 complaint or the Commission had filed a complaint.

11 MS. MCCLELLAN: Your Honor, may I approach  
12 the witness to show him a copy of the fourth  
13 supplemental order? And I didn't intend to use it, so I  
14 didn't make enough copies. I could show it to counsel  
15 first.

16 MS. SMITH: That's fine.

17 JUDGE BERG: Yes, you may.

18 And for the record, Ms. McClellan, could you  
19 identify again the docket number within which this order  
20 relates?

21 MS. MCCLELLAN: Yes.

22 JUDGE BERG: Or, Mr. Spinks, could you do it?

23 THE WITNESS: Certainly, this is the fourth  
24 supplemental order in Dockets UT-981367, UT-990672, and  
25 UT-991164.

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1 JUDGE BERG: Thank you.

2 BY MS. MCCLELLAN:

3 Q. And on page two of that, I believe it's the  
4 third full paragraph that discusses the earnings review.  
5 I wonder if you could just read that first sentence,  
6 please.

7 A. Yes, it says:

8 Docket Number UT-991164 is an informal  
9 earnings review investigation initiated  
10 by Commission staff in May of '99.

11 Which means I was incorrect in thinking it  
12 was formal, and I apologize.

13 MS. MCCLELLAN: Thank you, I have no further  
14 questions.

15 JUDGE BERG: All right. Ms. Anderl.

16 MS. ANDERL: Thank you, Your Honor.

17

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

19 BY MS. ANDERL:

20 Q. Good morning, Mr. Spinks.

21 A. Good morning.

22 Q. Do you have any recollection or understanding  
23 of a provision under Washington state law that prohibits  
24 telecommunications companies for giving away services  
25 for free?



01610

1           A.       I recall -- I can recall one WAC which  
2 permits companies to give free services to, in certain  
3 circumstances, to certain parties, limited, very  
4 limited.

5           Q.       Very limited.  Would that be the provision  
6 under Washington law that dates way back and permits the  
7 company to give free services to organizations such as  
8 the YMCA and to individuals such as physicians and  
9 surgeons; is that the one you're thinking of?

10          A.       Yes, yes, it is.

11          Q.       And do you have any view or opinion on  
12 whether or not the provision of a free or zero price  
13 high frequency portion of the UNE would be impacted by  
14 the general prohibition on free services with limited  
15 exceptions?

16          A.       Well, that seems to me to be a legal question  
17 that I'm probably not the best one to try to respond to.

18          Q.       And that's fair, I was just wondering if you  
19 were able to represent staff's view on that?

20          A.       Not at this time.

21          Q.       Okay.  Now you contend generally, Mr. Spinks,  
22 in your testimony that Qwest's retail rates recover its  
23 wholesale OSS costs; is that correct?

24          A.       I don't think it's quite -- I'm saying it  
25 that quite directly, although it may be stated that way.

01611

1 What we're saying is that the earnings level of the  
2 company is such that all of its costs, current costs,  
3 are being recovered by its current revenues, and that  
4 includes as a subset the UNE startup costs.

5 Q. Well, isn't it true, Mr. Spinks, that on page  
6 7 of your testimony, which is Exhibit T-350, page 7,  
7 lines 19 and 20, the question is asked, are ILECs  
8 already recovering OSS costs in retail rates, and that  
9 the response to that is yes with an explanation?

10 A. Yes, and that's correct, and as I further  
11 qualified it in the context for that just now.

12 Q. And can you identify any specific retail  
13 rates which you contend recover these OSS costs?

14 A. No.

15 Q. Okay.

16 A. That's not a necessary part of the process to  
17 make this determination.

18 Q. When you refer to retail rates there, is it  
19 more correct to say that you're referring to the  
20 company's overall revenues?

21 A. Yes.

22 Q. And is it correct that those revenues are  
23 comprised of a mix of wholesale and retail revenues?

24 A. Yes, but predominantly retail I would think  
25 unless -- well, if you consider access to be wholesale,

01612

1 then it may not be necessarily overwhelmingly  
2 predominantly retail. But you're quite correct, we're  
3 referring to the revenues.

4 Q. And is --

5 A. And that the revenues are collected primarily  
6 through the rates that its customers pay it.

7 Q. Is it your understanding that the revenues  
8 that you're looking at also include wholesale revenues  
9 in the 1996 Telecom Act sense of the word?

10 A. I don't know, and that's because I'm not sure  
11 of with respect to the accounting classification whether  
12 they would be classified as interstate or intrastate or  
13 how they're necessarily accounted for.

14 Q. If they were classified as intrastate, say  
15 for example, if Qwest's loop revenues, unbundled loop  
16 revenues, were classified as intrastate revenues, would  
17 they have been included as a part of the revenues you  
18 were looking at?

19 A. I would think so.

20 Q. Is it your testimony that Qwest should not be  
21 permitted to increase existing rates or institute new  
22 wholesale rates unless it passes or shows an earnings  
23 deficiency in connection with the type of review you  
24 have done with these OSS costs?

25 A. No, that's not my testimony.

01613

1 Q. Is it your understanding that Qwest is  
2 currently or should be, and accept subject to your check  
3 that they are, currently charging wholesale in  
4 accordance with individual interconnection agreements  
5 pending a final decision in the -- and effective rates  
6 in the first generic docket?

7 A. Yes.

8 Q. Would you agree that, subject to your check,  
9 that under the interconnection agreements, the price for  
10 the loop has been set at either \$11.33 or \$13.37?

11 A. I will accept that subject to check.

12 Q. Okay. Now under the analysis that you  
13 performed to determine whether or not Qwest was  
14 recovering its OSS costs in its other revenues, would  
15 that analysis also preclude raising the loop price to  
16 \$18.16 on the theory that Qwest is already recovering  
17 all of its loop costs through its existing retail and  
18 wholesale revenues?

19 A. No.

20 Q. Why not? In other words, what's the  
21 distinction?

22 A. Sure, our analysis is focusing on the  
23 question of the recovery of these one time OSS startup  
24 costs and how they should be recovered. And, in fact,  
25 we're not saying that the company shouldn't recover

01614

1 those costs from the CLECs, but simply acknowledging  
2 that in doing so, it would be in essence recovering  
3 those costs twice, because it has already -- its  
4 earnings levels are at or above its authorized return.

5 Q. And how is that different from whether or not  
6 Qwest should be permitted to raise its loop price to  
7 \$18.16 on a statewide average basis?

8 A. Those are subject to -- those are arbitrated  
9 agreements that the company has with customers that  
10 involve ongoing costs and the rates which are subject to  
11 the agreements. There is no agreement that, in this  
12 case, with respect to OSS startup costs.

13 Q. Is it correct, Mr. Spinks, that your analysis  
14 rests in whole or in part on staff's theory that the  
15 startup costs are not part of the UNE pricing?

16 A. Well, we don't believe that the startup costs  
17 constitute a UNE.

18 Q. Does that differ from the ongoing maintenance  
19 costs in your view?

20 A. I don't think that the ongoing maintenance  
21 costs are a UNE, but they are something that will be  
22 recovered or presumably would be recovered in OSS  
23 charges, charges for the use of the OSS system, if there  
24 are any.

25 Q. And I believe your testimony makes a

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1 recommendation as to the rate design for recovery of the  
2 maintenance charges; is that correct?

3 A. Yes.

4 Q. And you state that it should be an ongoing  
5 monthly recurring charge as opposed to the Qwest  
6 proposal of an initial per order charge; is that right?

7 A. Yes, as well as I understood the company's  
8 proposal or the company's case was that it incurs and  
9 expects to incur into the future O&M costs such as  
10 operating, training to operate its OSS systems, and  
11 various other costs associated with the operation and  
12 maintenance of the system, and that it wished to have  
13 the CLECs bear a share of that cost. And we don't  
14 dispute that.

15 However, I had a hard time understanding how  
16 a per order charge made sense relative to the way we  
17 have always historically treated the recovery of O&M  
18 costs, which has always been through the monthly  
19 recurring charge. That is -- and that goes to the  
20 question of whether volume sensitive or volume  
21 insensitive to some extent.

22 Q. Can you explain for me what I think your  
23 testimony just was, which is that you do not believe  
24 that those maintenance costs are a cost of the unbundled  
25 network element which is OSS; is that correct, was that

01616

1 your testimony?

2 A. No, no, I'm sorry, I don't think I said that.

3 Q. So you believe that those are?

4 A. They're not a UNE. I don't see them as a  
5 UNE. I see them as one of the cost elements that go  
6 into developing the price for the UNE when you price it.

7 Q. Mr. Spinks, with regard to line sharing OSS  
8 costs, is it your understanding that the costs that  
9 Qwest is seeking to recover for line sharing OSS  
10 specifically are costs that were incurred in the year  
11 2000?

12 A. My understanding is that the company has  
13 asked the Commission to recover costs it has incurred in  
14 '97 and 1998 and 1999.

15 Q. I'm just directing you to the line sharing  
16 OSS right now, the \$11.9 Million that Ms. Brohl  
17 testified about, is it your understanding that those are  
18 year 2000 costs or '97 through '99?

19 A. I'm sorry, the 11.9 I believe is the result  
20 of the 85/15 split of the software costs to provide the  
21 line sharing UNE that the company has represented it got  
22 from Telecordia.

23 And what is the question now?

24 Q. What's your understanding of when those costs  
25 were incurred, during the '97 through '99 time frame

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1 that we have talked about for OSS generally, or during  
2 2000?

3 A. If I recall correctly, that was brought up in  
4 our supplemental testimony, so it -- they -- it sounds  
5 like it would have been something they incurred in late  
6 '99 or early 2000, but I don't know.

7 Q. Okay. And if they were in the year 2000, the  
8 type of earnings review or analysis that you performed  
9 in your testimony does not cover the year 2000, does it?

10 A. Well, I believe that it would.

11 Q. Well, let's go to that section of your  
12 testimony, Mr. Spinks. Take a look at page nine, if you  
13 would.

14 A. I'm there.

15 Q. Now you talk in that answer at line 11 about  
16 earnings in 1998 and 1999; is that correct?

17 A. Yes.

18 Q. Do you have a similar discussion anywhere in  
19 your testimony about earnings or revenues in the year  
20 2000?

21 A. I'm not seeing it right now, but I believe  
22 that I said something with respect to Verizon's earnings  
23 review having been conducted in 1998 and set in place  
24 then. And then since in 1998 the expense level was --  
25 OSS startup cost was let's just say it was \$38 Million,



01618

1 then what I'm saying and then what I went on to say was  
2 in subsequent years, that level of expense is already  
3 built into the rate structure from the rate resetting  
4 process, that at that point if there were \$38 Million of  
5 OSS startup costs billed into rates, then that carries  
6 through the next year. That's in their rates every  
7 year. So within the next year, they were to claim in  
8 1999, well, we had \$20 Million of costs, that \$20  
9 Million is already covered by the \$38 Million of expense  
10 that was built into rates in the prior review.

11 Q. Well, in the discussion that we just --

12 A. And that same kind of logic would apply to U  
13 S West too.

14 Q. Well, on page nine of your testimony where we  
15 are, Mr. Spinks, isn't it true that the question and  
16 answer at the top of that page reflects your  
17 understanding that to the extent that any OSS costs  
18 could have been embedded in any rate setting, in your  
19 view, Qwest appears to have excluded those 1996 costs  
20 that were part of the last test period from any cost  
21 recovery in this case?

22 A. It excluded the '96, but then in a subsequent  
23 adjustment of expenses, I'm not sure that it has  
24 properly reflected the effect of having that built in  
25 through the reductions that Ms. Million had made to the

01619

1 expense.

2 Q. Did you put in your testimony any  
3 quantitative analysis with regard to that?

4 A. No.

5 Q. Mr. Spinks, would you agree with me that in  
6 order to determine whether a company was meeting or  
7 exceeding its authorized rate of return -- well, strike  
8 that.

9 Would you agree that in order to make a  
10 correct analysis of a particular company's rate of  
11 return, such a rate would first have to be determined?

12 A. I'm not sure what you mean by correct  
13 analysis in your question.

14 Q. Isn't the first step in doing a rate of  
15 return analysis a determination of what that rate of  
16 return should be?

17 A. Well, I think the first step would be to  
18 determine the methods you're going to use to develop a  
19 rate of return estimate. But there isn't any rate of  
20 return analysis, per se, that I'm aware of that involves  
21 this case.

22 Q. In determining a rate of return estimate, is  
23 it correct that one must determine both a company's cost  
24 of debt and cost of equity?

25 A. There's quite a bit of work that goes into

01620

1 the determination of a rate of return. Again, this  
2 testimony is not about a rate of return analysis. It's  
3 about earnings level.

4 Q. But your testimony is about earnings level  
5 relative to a rate of return; isn't that right?

6 A. Relative to the Commission's authorized rate  
7 of return, yes.

8 Q. Did you conduct any analysis to determine  
9 whether or not that previously established rate of  
10 return would be the rate of return that would result if  
11 an analysis were conducted today?

12 A. No, I didn't, and that's because this same  
13 issue was brought up and addressed in Phase 1 where the  
14 ILECs asked the Commission to consider a different rate  
15 of return for use in its cost studies than is  
16 authorized, and the Commission decided that issue then.

17 Q. Mr. Spinks, you state in your testimony,  
18 again page 9, line 16, that staff believes it is highly  
19 unlikely that the company could demonstrate that its  
20 Commission basis for earnings levels for '98 and '99  
21 were not at least at the authorized level; is that  
22 correct?

23 A. I see that testimony.

24 Q. Did you conduct any sort of an analysis aside  
25 from what is included here in your testimony to make any

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1 independent determination for yourself as to what the  
2 company's Commission basis earnings levels were for  
3 those years?

4 A. The information that's necessary to do that  
5 is totally in the control of the company, not the staff.  
6 And the company did do an analysis that was presented in  
7 Mr. Inouye's testimony. And his own analysis showed  
8 that if we accepted every single adjustment that he  
9 made, and some of them were clearly not acceptable rate  
10 making adjustments, but even if we accepted them, the  
11 1999 earnings levels met or exceeded the authorized  
12 return.

13 Q. I believe I asked you if staff conducted any  
14 analysis beyond that which is set forth in your  
15 testimony. Is your answer no?

16 A. Staff analyzed the company's A61 report and  
17 developed its own for the Commission, what the company's  
18 current earnings level was.

19 Q. Where is that in your testimony?

20 A. I'm sorry, I did not present the spreadsheet  
21 which developed that, but I think that the company  
22 showed the same result in its own spreadsheet that we  
23 asked Mr. Inouye about. I don't think there was any  
24 disagreement in the 1266 or the -- well, the company's  
25 version was 1266. Ours was 1267. I was told that was

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1 simply a rounding difference.

2 Q. Mr. Spinks, moving to a couple of different  
3 topics for just a minute, you state that line sharing is  
4 a form of subloop unbundling in your view; is that  
5 right?

6 A. Yes, we think that's a useful way to look at  
7 it.

8 Q. Do you have any citation to any FCC order or  
9 any other, well, let's start with any citation to any  
10 FCC order that supports the interpretation that line  
11 sharing is a form of subloop unbundling?

12 A. No, I think that subloop unbundling is in  
13 such a nasid form at this time that not much work has  
14 really been done yet to establish what is or isn't.

15 Q. Would you accept subject to check that the  
16 FCC has defined subloop as the portions of the loop that  
17 can be accessed at terminals in the incumbent's outside  
18 plant including the feeder/distribution interface and  
19 distribution components of the loop?

20 A. No, I think that's fine.

21 Q. And where within that definition of the  
22 subloop does this line sharing fit?

23 A. Well, I don't think it's necessary for line  
24 sharing to fit into that definition for line sharing to  
25 be viewed as a form of subloop unbundling. Obviously

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1 the terminals are in the central office and at the  
2 customer's SNI.

3 Q. Is the central office considered part of the  
4 incumbent's outside plant?

5 A. I think part of the facilities that terminate  
6 in the central office are.

7 Q. Is the terminal in the central office?

8 A. What terminal?

9 Q. The one you referred to.

10 A. I --

11 Q. That you said was in the central office?

12 A. Oh, it -- well, where the line splitter and  
13 main frame -- I mean the connections are made in the  
14 central office and made -- and the other end of the  
15 connection, of course, is at the customer's computer.  
16 What I'm saying is that that definition does not  
17 preclude line sharing from being viewed as a form of  
18 subloop unbundling. It's just a different way of  
19 slicing the straw, if you will.

20 Q. Finally, the topic that Ms. McClellan touched  
21 on with you in connection with the recovery of  
22 nonrecurring co-location costs through recurring  
23 charges, I have a couple of questions for you about  
24 that. Is it your testimony that that proposal is  
25 consistent with FCC pronouncements on the appropriate

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1 methodology for the recovery of nonrecurring costs in a  
2 physical co-location setting?

3 A. I don't know. I know that the companies have  
4 treated their other customers, have offered options for  
5 the recovery of the nonrecurring costs over different  
6 time periods. And all I'm testifying to is that you  
7 ought to extend that same option to these CLEC  
8 customers, or that it certainly should be available to  
9 them.

10 Q. Would you propose any sort of a termination  
11 liability if there is a recurring cost element over a  
12 period of time and the CLEC chooses not to stay in the  
13 contract for the period of time necessary for the  
14 incumbent to achieve full cost recovery?

15 A. I don't see a problem with that.

16 MS. ANDERL: Thank you, Your Honor, that's  
17 all I have.

18 JUDGE BERG: All right, let's be off the  
19 record.

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

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A F T E R N O O N   S E S S I O N

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(1:35 p.m.)

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JUDGE BERG: Mr. Spinks, I will remind you  
that you remain subject to the oath you took this  
morning.

7

8

THE WITNESS: Thank you, Judge Berg.  
(Discussion off the record.)

9

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JUDGE BERG: Mr. Butler, do you have  
questions for this witness?

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E X A M I N A T I O N

BY DR. GABEL:

Q. Good afternoon, Mr. Spinks.

A. Good afternoon, Dr. Gabel.

Q. Earlier in the hearings I asked Mr. Behrle  
and Ms. Casey about how Verizon developed their  
maintenance charge factor. I would just like to ask you  
a couple of questions on that topic. Do you know in



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1 general how a firm like Verizon might develop a  
2 maintenance charge factor?

3 A. The way that I have seen them developed in  
4 the past is by using the current data on what their  
5 operations and maintenance charges are as a percentage  
6 of investment.

7 Q. And in investment, do you know if jumper wire  
8 is included as an investment, or do you believe that or  
9 do you happen to know if jumper wire is expensed rather  
10 than capitalized?

11 A. Well, there are accounting rules that apply  
12 to certain materials that if they're under a particular  
13 dollar level, they would be expensed, whereas if they  
14 exceed the dollar level, and it's usually I think around  
15 \$500 or \$1,000, then they're capitalized.

16 Q. So is it your understanding, well, based upon  
17 the cost estimates that you have seen in this proceeding  
18 on the cost of installing jumper wires, would that  
19 activity be expensed or capitalized?

20 A. Actually, I have not reviewed those costs in  
21 enough detail to be able to answer that question.

22 Q. This morning Ms. McClellan asked you about  
23 the degree to which you had audited the reported OSS  
24 transition expenditures of Verizon, and I believe your  
25 response was that you had focused a bit more on Qwest

01627

1 than Verizon; is that correct?

2 A. Yes, that is.

3 Q. Okay. And in your audit of Qwest  
4 expenditures, was this a matter of looking at the  
5 different projects or more focusing on aggregate  
6 numbers?

7 A. Actually, we did not do any audit, per se, of  
8 the expenses. They were analyzed to the extent we could  
9 with respect to looking at the project descriptions and  
10 asking questions about, for instance, if there were  
11 joint benefits and trying to get what information we  
12 could about that for the Commission.

13 Q. And could you summarize your overall  
14 conclusion regarding the Qwest OSS expenditures? Did  
15 you feel that they are reasonably incurred expenses?

16 A. I guess to summarize it, I go back to the  
17 very beginning of the case when I read the testimony and  
18 looked at the costs that were being asked, and I then  
19 met with the accounting staff, and my first question  
20 was, can we go out and audit these expenses, and the  
21 answer was no, we can't do that. And it was months  
22 later in the process when I finally sat down to write  
23 testimony, and at that time I was sort of focused on the  
24 narrower issues that we could address, and so that's why  
25 we didn't say anything in the report about that or in my

01628

1 testimony.

2 Q. Okay. Let me ask that you turn to page five  
3 of your direct testimony.

4 A. Yes.

5 Q. At lines 14 and 15, you state that the  
6 company needs to clarify the level of Washington expense  
7 it seeks to recover. Do you have anything that you can  
8 add to this statement based upon subsequent information  
9 you have reviewed?

10 A. Well, what the statement goes to is the  
11 difference between the responses I got in the two staff  
12 data requests, and I guess I need to review those for a  
13 second to see what that was, if you give me a minute.

14 I guess what I could add is from the  
15 testimony I have heard is that the level of expense  
16 which they're requesting recovery would be the \$121  
17 Million and not the full level of expense which was  
18 discussed, that is those operational support systems  
19 defined generally by the FCC's UNE that the second data  
20 request talked about.

21 DR. GABEL: All right, thank you, Mr. Spinks.

22 THE WITNESS: Thank you.

23

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

25 BY CHAIRWOMAN SHOWALTER:

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1 Q. Well, I wanted to explore with you just a  
2 little bit what the relationship is of the company's  
3 revenues to the cost of the high frequency portion of  
4 the loop, and maybe I can get at it this way. If you  
5 have two companies and they have similar networks and  
6 structures, and company A is more than recovering all of  
7 its expenses by any measure and we know that, and  
8 company B is not for whatever reason, does that make any  
9 difference in the cost of the high frequency portion of  
10 the loop?

11 A. No, it wouldn't.

12 Q. Okay. Then when we're -- is determining the  
13 cost of the high end separate from determining what the  
14 appropriate charge ought to be?

15 A. Well, in the case of the question of what the  
16 price for line sharing ought to be, it seems to me our  
17 testimony has been for the equity reasons that we  
18 discussed involving imputation that if it doesn't charge  
19 itself anything that it shouldn't charge competitors  
20 anything for the same thing is sort of the primary  
21 recommendation that we're asking the Commission to  
22 consider.

23 But if the Commission feels that, for  
24 whatever reasons, that for instance U S West has now  
25 stated that it would be willing to impute, then the

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1 second question is, well, if we're not going to use for  
2 these equity reasons the price of zero, what is the  
3 cost. And to that extent, we have indicated in our  
4 belief that the appropriate cost to look at would be the  
5 TELRIC costs plus a reasonable share of the common  
6 costs. And in this case, we believe the appropriate  
7 common costs to look at are the common costs already  
8 included in the loop.

9 Q. Okay. But different witnesses, and I'm sorry  
10 to say I can't think at this moment whether you're one  
11 of them, but have said the company is recovering, is  
12 already recovering its costs, therefore the price should  
13 be zero. And that logic, seems to me, is going to  
14 depend on what the company is making.

15 A. Yeah, that's not my argument.

16 Q. Okay.

17 A. Except as it respects to the OSS startup  
18 costs, which were the one time costs associated with  
19 making access to the OSS available. To that extent, we  
20 believe that the company's earnings level is relevant.  
21 But with respect to how we set a price for line sharing,  
22 it's not.

23 Q. Okay. Then let's take the startup costs. I  
24 understood you to say that while you don't think startup  
25 costs are a UNE, those costs are implicit in UNE prices;

01631

1 is that right?

2 A. Well --

3 Q. Or are part of what makes up the UNEs.

4 A. I would think that the ongoing UNE prices,  
5 charges for the use of the UNE, would include certain  
6 costs, could include certain costs. Certainly the  
7 investment that the company put in to provide the access  
8 to the UNEs would become part of the investment that was  
9 considered in developing a rate for the use of the UNE.

10 Q. So in that case, it's not that the company  
11 shouldn't be charging for startup costs, it's that they  
12 are already charging a UNE which would cover those  
13 costs. Is that what you're saying?

14 A. Well, I think that my testimony is that in  
15 the context of these, the question of recovering these  
16 costs, the company has already earned -- is already  
17 earning at or above its authorized. So if you charge  
18 the CLECs for the recovery of these costs, there ought  
19 to be an offset that commensurably reduces rates for  
20 other things, whether they be -- and it was suggested  
21 both potential retail candidates, retail service  
22 candidates, as well as perhaps other UNE rates.

23 Q. All right. And my other question was when  
24 you said subloop unbundling was a good way to think  
25 about line sharing, what does that mean or imply? Why

01632

1 is it a good way to think about it?

2 A. Well, it gives you a paradigm, a way of  
3 thinking about line sharing, the context for it. But  
4 line sharing, you know, is it a service, you know, is  
5 it, you know, what is the nature of this service. And  
6 if you think about the nature -- what the nature of the  
7 service is in the context of how it works and what  
8 facilities it uses, you can see it as being just another  
9 part of the subloop unbundling. I just think it's  
10 useful because it gives you context.

11 Q. Well, my --

12 A. For understanding the nature of the service.

13 Q. Well, maybe, you know, the context that I  
14 lack is I don't know, I don't have the context for what  
15 it means to have -- to be engaged in subloop unbundling.

16 A. Okay.

17 Q. In other words, I don't know why that is a  
18 better context, because I don't know that context.

19 A. Well, I guess I think I have always been  
20 involved in these, I'm not an engineer, but these  
21 semi-engineering kinds of issues as a depreciation  
22 person, and it helps me to understand better the nature  
23 of the service and to understand where it fits in with  
24 all of the other millions of parts of what constitutes  
25 telecommunications services that are developing and

01633

1 being offered today.

2 Q. I see I still lack the context. In other  
3 words, I realize it helps you to think about it as  
4 subloop unbundling, but I don't know why. In other  
5 words, I don't know what subloop unbundling connotes or  
6 what camp it puts the service in. It's a word, but I  
7 don't understand the word in its context.

8 A. Maybe I think you're reading or expecting  
9 that there's some mysterious thing in there that  
10 everybody knows that you don't, and that's not the case.

11 Q. Thank you. All right, to me it connotes  
12 subleasing like a subtenant or if I rented an apartment  
13 and I sublet it.

14 A. Right.

15 Q. So if that's not right --

16 A. Yeah, it --

17 Q. -- or there's something different --

18 A. No, that's --

19 Q. Okay.

20 A. That's a good way of looking at it too.

21 CHAIRWOMAN SHOWALTER: Thanks.

22

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

24 BY DR. GABEL:

25 Q. Mr. Spinks, I just want to follow up on one



01634

1 response you gave in response to a question from the  
2 Chairwoman. I understood you to say that if the  
3 Commission was to establish a non-zero price for the  
4 high frequency portion of the loop that you should --  
5 that the Commission should look at the costs that are  
6 included in the approved loop price. Is that a fair  
7 characterization of your testimony?

8 A. Yes.

9 Q. And, Mr. Spinks, you participated in Phase 1  
10 of the Commission's generic cost docket?

11 A. Yes, I did.

12 Q. And are you familiar with their ruling on  
13 load coils in that proceeding?

14 A. Yes.

15 Q. And in that Phase 1 order, did the Commission  
16 make any findings that the cost of removing load coils  
17 raises the cost of an unbundled loop?

18 A. I believe they did.

19 Q. And did the Commission make any findings  
20 saying that load coils need to be provided in order to  
21 provide advanced telecommunications services?

22 A. That they needed to be removed.

23 Q. Yes.

24 A. Yes.

25 Q. All right. So is that a cost that's

01635

1 reflected in the TELRIC price of the loop, the removal  
2 of load coils, based upon your understanding of the  
3 Commission's Phase 1 order?

4 A. Yes, it would be, but I don't know, I guess,  
5 in the context of thinking about how one would develop a  
6 rate for the upper bandwidth. Well, I guess -- well, if  
7 that's the only purpose that the removal of the load  
8 coils serves, then it might be appropriate to that --  
9 that would not be an incorrect approach to developing a  
10 cost either.

11 DR. GABEL: Thank you.

12 JUDGE BERG: Ms. Anderl.

13

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

15 BY MS. ANDERL:

16 Q. Mr. Spinks, one clarification. Did I  
17 understand you correctly to say that it would be  
18 appropriate to include the investment in the startup OSS  
19 costs in a recurring charge for the UNE itself?

20 A. Well, it would seem to me that if that  
21 investment that -- first of all, that investment is  
22 capitalized in account 2124, computers. If the company  
23 is going to develop -- when the company goes to develop  
24 a charge for OSS, it would look to the investment that  
25 it has to provide the OSS. And I guess implicit in my

01636

1 assumption is that the 16 million would be a part of  
2 that investment and probably may include other  
3 investment besides that.

4 Q. And what about the expense piece?

5 A. I don't understand.

6 Q. Would that be appropriate to include as well,  
7 or is it just the investment piece?

8 A. No, actually I was just thinking about it in  
9 terms of the investment.

10 Q. And then my question was, is it appropriate  
11 to include the expense part of it as well?

12 A. No.

13 Q. Why not?

14 A. Well, they're one time expenses. What you  
15 include in the recurring, a monthly recurring charge for  
16 service, are recurring costs. They're not recurring  
17 costs.

18 Q. Are you aware of whether or not Qwest has  
19 proposed a UNE rate for OSS in this docket?

20 A. That would be a subject, I think, of part B,  
21 and I'm not familiar with what has been proposed there.

22 Q. There's no such rate proposed here in part A,  
23 is there?

24 A. No, we're not at that stage yet.

25 Q. And if there were to have such a rate

01637

1 proposed in part B, would that change your testimony  
2 with regard to the appropriate recovery of the capital  
3 costs?

4 A. Yes. If there's not going to be a -- if the  
5 investment isn't going to be used subsequently to, then  
6 it could be recovered as part of the one time costs. It  
7 would be like the expenses.

8 Q. And when you say if it's not going to be  
9 used, you mean if it's not going to be used in the  
10 development --

11 A. I mean in the cost sense.

12 MS. ANDERL: Thank you, I will leave on that  
13 since we agree. That's all I have, thank you.

14 MS. MCCLELLAN: No questions.

15 JUDGE BERG: All right.

16 Mr. Butler.

17

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

19 BY MR. BUTLER:

20 Q. Clarifying question, Mr. Spinks. When you  
21 were discussing with Dr. Gabel the issue of whether the  
22 cost of removing load coils was included as part of the  
23 TELRIC cost of the loop, by that did you mean in  
24 UT-960369 the TELRIC price was based upon an assumed  
25 network design in which there were no load coils

01638

1 utilized?

2 A. Yes.

3 Q. As opposed to a network design in which there  
4 were load coils, correct?

5 A. Yes.

6 Q. Meaning that there would not be any loops  
7 longer than I believe it's 18 kilifeet; is that correct?

8 A. Well, I --

9 Q. Copper loops longer than 18 kilifeet.

10 A. Yes, in the network without the load coils.

11 Q. But you're not saying that there was, in  
12 fact, a specific cost for physically removing a load  
13 coil?

14 A. Included, no.

15 MR. BUTLER: All right, thank you.

16 JUDGE BERG: Redirect?

17 MS. SMITH: No.

18 JUDGE BERG: All right, Mr. Spinks, that  
19 completes your testimony here today. Thank you very  
20 much for being present.

21 THE WITNESS: Thank you.

22 JUDGE BERG: Mr. Griffith.

23

24 (The following exhibits were identified in  
25 conjunction with the testimony of David

01639

1 Griffith.)  
2 Exhibit T-360 is Direct Testimony (DEG-T1).  
3 Exhibit 361 is Witness Qualifications (DEG-2). Exhibit  
4 C-362 is Power Cable Frequency Percentages (DEG-3C).

5

6 Whereupon,

7

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

10

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

12

13 BY MS. SMITH:

14

15 Q. Mr. Griffith, could you state your name and

16 give your business address, please.

17

18 A. Yes, my name is David E. Griffith, and my  
19 business address is 1300 South Evergreen Park Drive  
20 Southwest, Olympia, Washington 98504.

21

22 Q. And do you have before you what's been marked

23 in this proceeding as Exhibits T-360 through C-362?

24

25 A. Yes, I do.

26

27 Q. Did you file or cause to be filed that

28 testimony in this docket?

29

30 A. Yes, I did.

31

32 Q. And did you prepare the testimony in this

33 docket?

01640

1 A. Yes, I did.

2 Q. Are there any changes to your testimony?

3 A. Yes, I have three changes. The first change  
4 is on page 9, and on line 12 at the end of the word  
5 lengths and before the numeral 2, insert the word and.

6 And down at line 14, add a period after  
7 installations, and delete the rest of the sentence.

8 MS. BRADLEY: Can you repeat the second one,  
9 please.

10 A. On line 14, place a period after  
11 installations, and then delete everything else from  
12 installations to the end of the sentence.

13 On page 10 at line 16, insert the words at  
14 the beginning of the sentence, in the absence of  
15 verifiable data.

16 Q. Are there any more changes to your testimony?

17 A. There's one more, yes. On page 13 on line 2,  
18 delete the words building account, and substitute the  
19 words, the equipment to which it is connected. Those  
20 are all the changes I have.

21 Q. With the exception of those changes, if I  
22 were to ask you the same questions as in your testimony,  
23 would your answers be the same today?

24 A. Yes.

25 MS. SMITH: I would offer the witness for

01641

1 cross-examination.

2 Oh, I would move for the admission of  
3 Exhibits T-360 through C-362.

4 JUDGE BERG: Hearing no objection, Exhibits  
5 T-360 through C-362 are admitted.

6 Mr. Romano.

7 MR. ROMANO: Thank you, Your Honor.

8

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

10 BY MR. ROMANO:

11 Q. Good afternoon, Mr. Griffith.

12 A. Good afternoon, Mr. Romano.

13 Q. If you could please turn to your direct  
14 testimony, which is marked as T-360, specifically to  
15 page 6, lines 11 to 12.

16 A. (Complies.)

17 Q. On those lines, do you see the recommendation  
18 that charges should be based on actual experience in  
19 Washington and not use hypothetical calculations?

20 A. Yes, I do.

21 Q. When you use the phrase actual experience  
22 there, do you refer to the costs that would currently be  
23 incurred in providing co-location?

24 A. I would say yes, rather than trying to  
25 estimate what that is, to the extent that's available,



01642

1 yes.

2 Q. Okay. If you could please turn to the next  
3 page, page 7, lines 7 through 9.

4 A. (Complies.)

5 Q. There you make the recommendation that  
6 Verizon prepare co-location prices to provide a 45 day  
7 installation interval; is that right?

8 A. Yes.

9 Q. Would this interval be applicable to all  
10 forms of co-location?

11 A. At this time it would, yes.

12 Q. And would it be for all central offices that  
13 Verizon would provide co-location in?

14 A. That would be correct, yes.

15 Q. You would agree, wouldn't you, that there are  
16 factors other than cost that impact whether an ILEC can  
17 meet a provisioning interval, wouldn't you?

18 A. Yes, I do.

19 Q. Okay. On the same page, line 16 through 17,  
20 you refer to the RS means data for the average of 3 to 5  
21 minutes per foot of installation of power cabling.

22 Well, I guess that's where this discussion begins, and  
23 then it carries on to the next page. But is that a fair  
24 description of where the 3 to 5 minute factor comes?

25 A. I would say that some of it comes from the RS

01643

1 means electrical cost data. I think someone else in  
2 this proceeding mentioned that that was the starting  
3 point, and I have tried to use it as a starting point.

4 Q. Do you know if the data from RS means is  
5 based on pulling power cable through a conduit?

6 A. I'm not aware of how they derive the data.

7 Q. Would it make a difference if it was based on  
8 pulling it through conduit?

9 A. There may be differences depending on how  
10 it's pulled or where it's pulled, but I don't know  
11 whether that means it's going to be more or less. It  
12 depends on the -- I think the -- what's in these tables  
13 are to be used as guidelines.

14 Q. So you don't know if that amount of time  
15 would include the amount of time it would take to  
16 install a conduit; is that right?

17 A. No, I don't.

18 Q. Now on page 11, lines 1 through 2, there you  
19 recommend that Verizon be directed to use Washington  
20 specific data for computing anticipated power cable  
21 lengths. That's a carryover from the previous page.

22 A. Yes.

23 Q. Are you recommending that Verizon study the  
24 actual cable lengths currently used by Verizon for  
25 co-location in central offices in Washington?

01644

1           A.     I would like to have Washington data used in  
2 this proceeding as much as possible, and I would say  
3 that having a correct data base with those cable lengths  
4 in it would be what I'm looking for, and I think those  
5 lengths are going to need to include both caged and  
6 cageless co-location examples.

7           Q.     And those examples would be actual cable  
8 lengths currently used in central offices by Verizon for  
9 co-location?

10          A.     That's correct.

11          Q.     Okay. On the next page, page 11, lines 8  
12 through 9, or basically on this page in general you  
13 criticize Verizon's proposal to recover certain  
14 nonrecurring costs through monthly recurring charges; is  
15 that right?

16          A.     Yes, that's correct.

17          Q.     And you make an alternative proposal down on  
18 line 16 in which you state that:

19                   The estimated number of CLECs  
20                   anticipated to co-locate in Washington  
21                   central offices should be used in your  
22                   proposal.

23                   Is that right?

24          A.     Yes, I see that, yes.

25          Q.     Would you recommend a true up if the

01645

1 estimated number of CLECs turns out to be an incorrect  
2 estimate at some time in the future?

3 A. Maybe I need to try to understand what you're  
4 asking here. Are you saying there would be an  
5 anticipated number used in this case, and then it would  
6 be adjusted later on?

7 Q. Yes, I was just asking --

8 A. Or was it the case where this particular  
9 docket would adjust what's in an existing tariff in this  
10 state?

11 Q. The former, in that if the monthly recurring  
12 charge were to be calculated using the estimated number  
13 of CLECs in this proceeding, and then a year or two down  
14 the road, it turns out that that estimate was not  
15 accurate, would you suggest any adjustment at that time  
16 to the amount of the monthly recurring charge?

17 A. I would say the company could certainly come  
18 in and make an adjustment at that time if they felt it  
19 were necessary. I don't think we're requiring that it  
20 has to be done every so often. The intent here is to  
21 have that number estimated at this time rather than  
22 coming back later.

23 Q. And my last question, on page 10 on the one  
24 insertion that you just made at line 16, you inserted  
25 the phrase, in the absence of verifiable data.

01646

1 A. That's correct.

2 Q. How would you define verifiable data?

3 A. Verifiable data would be a number that would  
4 be provided to us that we can verify. It could be, at  
5 least in this case, in the form of some time and motion  
6 studies where people have actually sat down and made a  
7 list of how much time it took on different projects and  
8 what those particular projects encompassed.

9 I think in the absence of being able to do a  
10 time and motion study, going through a list of the  
11 company's costs on co-location projects in particular  
12 offices involving power cables might also bring us  
13 something that would be verifiable.

14 I mean it's a question of trying to get the  
15 costs that are provided in the cost study related back  
16 to what's actually happening during the installation  
17 intervals.

18 MR. ROMANO: No more questions, Your Honor.

19

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

21 BY MS. ANDERL:

22 Q. Good afternoon, Mr. Griffith.

23 A. Good afternoon, Ms. Anderl.

24 Q. Let me ask you a question about the last  
25 question and answer in your testimony first on page 13.

01647

1 A. Does this conclude my testimony?

2 Q. Thank you, that's a very good answer. You  
3 listened to my question, and you gave me my answer.

4 The second to the last question and answer  
5 regarding the placement of line splitters on the IDF.  
6 Your testimony here that Qwest should or could locate  
7 splitters on the IDF, is that consistent with what your  
8 understanding of what Qwest's proposal is in the docket?

9 A. Well, I think there was some testimony  
10 somewhere about not being able to place splitters on the  
11 IDF, and I think there has been some discussions of  
12 parties that would like to place those somewhere else.  
13 But I -- it does sound like you listened to what's been  
14 going on for the last couple weeks is that is an option  
15 that Qwest is offering.

16 Q. Good, thank you. And let me just ask you,  
17 this question came up last week and there were no  
18 engineers on the stand at the time to ask this, so let  
19 me ask you.

20 A. All right.

21 Q. To the extent that a splitter is located on a  
22 shelf in a separate relay rack or bay, do you have an  
23 opinion from an engineering standpoint as to whether or  
24 not it would be appropriate to have that bay grounded?

25 A. Well, the impact on the splitters is not

01648

1 going to be affected whether there's grounding or not.  
2 The only reason that they might need grounding would be  
3 from a safety standpoint. In other words, it could have  
4 some stray currents on it that's picking up in the room.  
5 But, you know, it wouldn't be grounding it for the  
6 splitters themselves. It would be for safety reasons.

7 Q. And is that because the splitters themselves  
8 are, as we have heard, passive?

9 A. They are passive devices, yes.

10 Q. Okay, thank you. Let's go back and talk then  
11 about some of the other specific recommendations you  
12 have with regard to Qwest's co-location proposal. And  
13 as I understand it, you have three general problems with  
14 the up front nonrecurring charge, and that is that,  
15 first, that you would like to see the charge based on a  
16 Washington only example; is that right?

17 A. Are you on a specific page?

18 Q. Oh, yeah, I'm sorry, page four.

19 A. Okay.

20 Q. So your first concern is that you would like  
21 to see the charges developed on a Washington specific  
22 basis?

23 A. That's correct.

24 Q. And then the second is your issue with DC  
25 power, which we will talk about in a minute; is that

01649

1 correct that your second issue is the DC power?

2 A. Right.

3 Q. And then third, you have taken issue with the  
4 proposed engineering charges?

5 A. That's correct.

6 Q. And on the proposed engineering charges,  
7 going over to page five in the middle question and  
8 answer there, is it correct that there are also kind of  
9 three subissues with regard to the engineering charge,  
10 and the first one being that you would like them to be  
11 Washington specific?

12 A. That's correct.

13 Q. And the second one being that you want the  
14 calculation computed on an average engineering cost per  
15 co-locator?

16 A. That's correct.

17 Q. And then the first would be to remove  
18 misapplied installation labor?

19 A. That's correct.

20 Q. In Mr. Thompson's rebuttal testimony, he  
21 proposed reducing the nonrecurring charges by  
22 approximately \$2,000 from \$56,000 and change to \$54,000  
23 and change for a caged co-location and from \$33,000 to  
24 approximately \$31,000 for cageless. Is that your  
25 recollection of his testimony?



01650

1           A.     I remember there was a reduction.  I don't  
2 remember the actual figures that were in there, but the  
3 differences sound about right.

4           Q.     And to the extent that you misidentified, or  
5 that you misidentified, to the extent that you  
6 identified misapplied installation labor, is it your  
7 recollection that removal of that misapplied  
8 installation labor would, in fact, have resulted in an  
9 approximately \$2,000 reduction?

10          A.     I did a calculation that was just for the  
11 Washington specific offices, but it was somewhere around  
12 \$2,000.

13          Q.     Okay, thank you.  Let me ask you then about  
14 some DC power issues, so we will be going over to page,  
15 I think, nine of your testimony.  In your estimation, is  
16 it correct to assume that a caged co-location would  
17 generally require more power on average than a cageless  
18 co-location which might be as small as two bays?

19          A.     Based on the assumption that there would be  
20 more bays in a caged area, that would be correct.

21          Q.     And you're reasonably familiar with the  
22 layout and equipment inside Qwest's central offices,  
23 aren't you?

24          A.     I have been in several Qwest offices, yes.

25          Q.     U S West offices?

01651

1 A. Right.

2 Q. And are you specifically familiar with the  
3 BDFB or the battery distribution frame board, and that's  
4 what you call it, I have also heard it called a battery  
5 distribution fuse board?

6 A. Well, I'm familiar with it from our  
7 discussions here, yes.

8 Q. Okay. Would you agree with me that typically  
9 the BDFBs that are employed in Qwest's central offices  
10 are not designed to accept fuses larger than 60 or 70  
11 amps?

12 A. I have seen that in the rebuttal testimony  
13 that Qwest offered, but it appears that the BDFBs that  
14 Verizon are using accept larger ones, but that will  
15 depend on who the supplier is.

16 Q. Okay. And is it also true that the amperage  
17 on the fuse is generally larger than the actual amperage  
18 on the power cable that connects to the fuse, for safety  
19 reasons that the fuse is larger?

20 A. Well, I would say that the cables themselves  
21 have to be designed so that they don't overheat due to  
22 the amount of power that's being drawn. Is that what  
23 you're --

24 Q. Well, let me ask it this way. Is it your  
25 understanding generally that a 40 amp power cable would

01652

1 use a 60 amp fuse typically?

2 A. No, it would be the other way around, or you  
3 wouldn't put a 60 amp fuse on a power cable that's  
4 designed for only 40.

5 Q. You're saying that they would match directly,  
6 a 40 amp fuse and a 40 amp cable?

7 A. Well, the cables are designed for a certain  
8 -- for a certain power drop, and it's also based on  
9 distance. So there wouldn't be what you're calling a 40  
10 amp cable. It would be a cable with a certain size  
11 that's providing 40 amps.

12 Q. Okay, thanks for that clarification. If  
13 there were a cable of a certain size that were providing  
14 40 amps, what size fuse would it be connected to?

15 A. It would be connected to a 40 amp fuse.

16 Q. And if U S West's or Quest's engineering  
17 practices oversize the fuse for safety purposes, you  
18 would not have any awareness of that?

19 A. Well, I understand Qwest is designing the  
20 cables for a certain voltage drop. That may be -- there  
21 may be a different requirement for the CLECs as far as  
22 what that actual voltage is. So that would be a, you  
23 know, an engineering standard that Qwest is designing  
24 too, and it might not be the same for a co-locator.

25 Q. Okay. On page 9 of your testimony still, on

01653

1 lines 4 and 5, you talk about the caged power design  
2 including an assumption that the cables extend all the  
3 way back to the main power board. Do you see that?

4 A. Yes, I do.

5 Q. Isn't it true, Mr. Griffith, from what we  
6 have just discussed, if a caged co-location has 100 amps  
7 of power and the Qwest central office BDFB doesn't  
8 accommodate fuses larger than 60 or 70 amps, that cable  
9 would, in fact, in real life have to go all the way back  
10 to the main power board?

11 A. Yes, based on the design of Qwest BDFB, that  
12 would be the case.

13 MS. ANDERL: Okay, that's all that I have,  
14 Your Honor, thanks.

15 JUDGE BERG: Any questions, commissioners?

16 CHAIRWOMAN SHOWALTER: I've got one.

17

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

19 BY CHAIRWOMAN SHOWALTER:

20 Q. On page 12 of your testimony, lines 9 through  
21 13, you state that you don't have an opinion or a  
22 position on whether pricing of cages entrance facilities  
23 or securities should be changed at this time, and you  
24 make reference to the last phase of this case. What  
25 phase do you mean?

01654

1 A. Oh, these came up previously in Phase 2 of  
2 this case.  
3 Q. We did have a phase 3.  
4 A. Well, I think it was phase 2 that --  
5 Q. I'm hoping it was, because I --  
6 A. It wasn't Phase 3.  
7 Q. -- don't remember it. So you mean that  
8 prices were established in Phase 2?  
9 A. Well, we discussed the prices during Phase 2.  
10 Q. Okay.  
11 A. And they have changed since then. But my  
12 feeling is that there are other parties who are probably  
13 more familiar with those particular items than staff is,  
14 and we will be taking a neutral position at this time.  
15 Q. Why is that? I mean first of all, is it an  
16 issue that we need to decide in this --  
17 A. Well, it is an issue --  
18 Q. -- part A?  
19 A. It is an issue that needs to be decided. I  
20 think one of the issues on the cage is there is an  
21 option of not using the cages.  
22 Q. Which means it's less important --  
23 A. Which means --  
24 Q. -- for us? Don't we still -- does this  
25 Commission still nevertheless have to determine what the

01655

1 price is?

2 A. Oh, yes, yes, it should.

3 Q. Well, I'm going to ask you anyway.

4 A. Okay.

5 Q. Did you hear the discussion yesterday that I  
6 had where the average cost in Texas was trued up to  
7 national standards and combined with the same for  
8 California and divided by two to get something that was  
9 proposed? Do you have any problems with that  
10 methodology?

11 A. Well, I have seen that methodology used  
12 before, and it's been confusing, and I haven't really  
13 developed a way to offer something else. But I think  
14 it's problematic in the way it's being used, because of  
15 the fact that it's taking some specific state results  
16 and trying to come up with something that would happen  
17 in another state, and I'm not sure if there's a good  
18 correlation for it.

19 I noticed that there's one average on those  
20 numbers that when you total everything up on a statewide  
21 basis and yet there's a big difference on the labor  
22 side. And we have been discussing, at least in this  
23 hearing, items that have a fairly high labor component.  
24 So I think if you try and take averages there, and one  
25 of the big differences is labor cost, the actual results

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1 that are being offered may not be very good.

2 Q. I would think that if the Texas figures were  
3 adjusted upward for Washington state's labor costs, that  
4 might take care of that problem, but it doesn't seem to  
5 take care of the problem that apparently Texas has a  
6 different set of inherent costs, I guess, compared to  
7 California to the point where the costs were quite  
8 different, even when adjusted. And my problem is I  
9 don't know what to make of that, because if one state is  
10 very different from another as Texas is from California,  
11 it gives me no clue as to where Washington would or  
12 should stand.

13 A. Yeah, and I don't have a good answer to that,  
14 and I think that's one reason staff has been asking for  
15 Washington specific numbers, because it's difficult for  
16 us to understand why something that goes on in another  
17 state can actually be -- would actually be appropriate  
18 in this state.

19 Q. But to your sentence staff is not taking a  
20 position on whether pricing of cages' entrance  
21 facilities or security should be changed at this time,  
22 can you just tell me, since I do lack the history of  
23 this proceeding, is there a price that's set now?

24 A. Oh, well, we were --

25 Q. What is change, I mean it says should be

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1 changed, but are we -- is there something to change?

2 A. I think probably the word change may not be  
3 appropriate there. I think it may be -- because they  
4 aren't -- they aren't really set. I think we were just  
5 not offering something different from what the parties  
6 were offering.

7 CHAIRWOMAN SHOWALTER: Thank you.

8 THE WITNESS: Okay.

9 JUDGE BERG: Mr. Romano.

10 MR. ROMANO: Yes, Your Honor.

11

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

13 BY MR. ROMANO:

14 Q. In the conversation with Chairwoman Showalter  
15 just now, you all were discussing the Texas average and  
16 the California average. Those were for material costs  
17 in the GTE study, weren't they?

18 A. I don't think so. What I was, you know,  
19 hearing yesterday was the full cost of the cage, so the  
20 cage would include material and the amount of hours it  
21 cost to put it up.

22 Q. Well, you would agree though that Verizon  
23 utilized Washington specific labor rates, wouldn't you?

24 A. I'm not sure what labor rates they used. I  
25 mean they may have taken those rates and -- actually,



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1 strike that.

2 I don't know what rates they used.

3 MR. ROMANO: No more questions.

4 MS. ANDERL: Nothing, Your Honor.

5 MS. SMITH: No redirect.

6 JUDGE BERG: Mr. Griffith, thank you for  
7 being here and testifying today.

8 THE WITNESS: Thank you, Judge Berg.

9 JUDGE BERG: That concludes testimony and  
10 cross-examination in the part B proceeding. We will  
11 adjourn this hearing at this time.

12 (Hearing adjourned at 2:30 p.m.)

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