

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the)
 Investigation into)
 4)
 U S WEST COMMUNICATIONS, INC.'s) Docket No. UT-003022
 5)
 Compliance with Section 271 of) Volume XXV
 6 the Telecommunications Act of) Pages 3458 to 3554
 1996)
 7 -----)
 In the Matter of)
 8)
 U S WEST COMMUNICATIONS, INC.'s) Docket No. UT-003040
 9)
 Statement of Generally) Volume XXV
 10 Available Terms Pursuant to) Pages 3458 to 3554
 Section 252(f) of the)
 11 Telecommunications Act of 1996)
 _____)
 12

13 A Workshop in the above matters was held on
 14 April 24, 2001, at 1:15 p.m., at 900 Fourth Avenue,
 15 Suite 2400, Seattle, Washington, before Administrative
 16 Law Judge ROBERT WALLIS.

17 The parties were present as follows:

18 THE WASHINGTON UTILITIES AND TRANSPORTATION
 COMMISSION, by PAULA STRAIN and BETH REDFIELD, 1400
 19 South Evergreen Park Drive Southwest, Post Office Box
 40128, Olympia, Washington, 98504-0128.

20 WORLDCOM, INC., by ANN HOPFENBECK, Attorney
 21 at Law, 707 - 17th Street, Suite 3600, Denver, Colorado
 80202.

22 AT&T, by RICHARD WOLTERS, Attorney at Law,
 23 1875 Lawrence Street, Suite 1575, Denver, Colorado
 80202.

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

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1 QWEST CORPORATION, by JOHN L. MUNN and
2 CHARLES W. STEESE, Attorneys at Law, 1801 California
3 Street, Suite 4900, Denver, Colorado, 80202, and by LISA
4 ANDERL, Attorney at Law, 1600 Seventh Avenue, Suite
5 3206, Seattle, Washington 98191.

4

5 ELECTRIC LIGHTWAVE INC.; ADVANCED TELECOM
6 GROUP, INC.; and XO COMMUNICATIONS, INC.; by GREGORY J.
7 KOPTA, Attorney at Law, Davis, Wright, Tremaine, LLP,
8 1501 Fourth Avenue, Suite 2600, Seattle, Washington
9 98101.

8 THE PUBLIC, by ROBERT W. CROMWELL, JR.,
9 Assistant Attorney General, 900 Fourth Avenue, Suite
10 2000, Seattle, Washington 98164-1012.

10 COVAD COMMUNICATIONS COMPANY AND METRONET,
11 INC., by BROOKS E. HARLOW, Attorney at Law, Miller Nash,
12 LLP, 601 Union Street, Suite 4400, Seattle, Washington
13 98101.

12

ALSO PRESENT:

13

14 KAREN STEWART, Qwest
15 LORI SIMPSON, Qwest
16 RACHEL TORRENCE, Qwest
17 NANCY LUBAMERSKY, Qwest
18 KENNETH WILSON, AT&T
19 MICHAEL HYDOCK, AT&T
20 DAVE DITTEMORE, Staff

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2		INDEX OF EXHIBITS	
3	-----	-----	-----
4	EXHIBIT:	MARKED:	ADMITTED:
5		KENNETH WILSON	
6	630	3461	
7	631	3461	3513
8		MICHAEL HYDOCK	
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1 (The following exhibits were identified in
2 conjunction with the testimony of KENNETH WILSON.)
3 Exhibit 630 is Diagrams of Dedicated
4 Transport. Exhibit 631 is GR-303 Interface Diagram.

5

6 (The following exhibits were identified in
7 conjunction with the testimony of MICHAEL HYDOCK.)
8 Exhibit 656 is 12.2.9.3 Redlined - more than
9 two pages.

10

11 (The following exhibits were identified in
12 conjunction with the testimony of LORI SIMPSON.)
13 Exhibit 701 is the SGAT Lite. Exhibit 702 is
14 Proposal for GR-303 Interface Access. Exhibit 703 is
15 Performance Indicator Definitions. Exhibit 704 is
16 Washington Performance Results for UNE Platform.

17

18 (The following exhibits were identified in
19 conjunction with the testimony of KAREN STEWART.)
20 Exhibit 705 is 45 Day Stipulation. Exhibit
21 706 is Finished Services Definition. Exhibit 707 is
22 Chart-Summary Bill and Rate Implementation Process for
23 Established CLECs - Evidences Commitment. Exhibit 708
24 is Service Interval Tables Exhibit C. Exhibit 709 is
25 12.2.9.3, two pages.

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P R O C E E D I N G S

JUDGE WALLIS: This is the April 24, 2001, session in the matter of Commission Docket Numbers UT-003022 and 003040. This hearing is being held at Seattle, Washington pursuant to due and proper notice to all interested persons, and my name is C. Robert Wallis, the assigned administrative Law Judge.

I believe we're ready to proceed with Qwest; is that correct, Mr. Munn?

MR. MUNN: Correct, Judge. I would propose we have our witness Lori Simpson to address the switching and UNE-P issues to begin this afternoon's session, and I would just propose that we walk through the issues log that Paula sent out and address any issues that aren't closed or at impasse. And if there is something to add, we can just add to them.

For example, I think that Switching 1 is closed. I don't think there's anything to discuss, so we would move to Switching 2, the AIN issue. I think we developed the record on the AIN issues in the first workshop for Switching 2. A couple of things I would like to point out before Ms. Simpson addresses this. There is a listing here of a Record Requisition Number 6. You will recall that was withdrawn on the record. It isn't noted here, but there wasn't a record

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1 requisition that we actually had to respond to from
2 that, so just so we're clear on that piece of it.

3 MS. STRAIN: I just gave my issues log to
4 Mr. Cromwell to make copies of.

5 MS. SIMPSON: It's on page 22.

6 MR. MUNN: There is a take back listed there
7 that says, if CLECs use AIN platform and the other three
8 items, would Qwest pursue a patent infringement claim,
9 and it's listed as a Qwest take back. The answer to
10 that take back, and we have discussed this in other
11 jurisdictions, is that patent law would certainly apply
12 in this instance. It would be up to the CLEC to develop
13 their own AIN features in a way that was not infringing
14 to patents validly held by certainly Qwest or any other
15 entity. I mean there's no magic wand that makes patent
16 law not apply. So our answer to that take back is that
17 patent law would apply.

18 So I think at that point, we can turn it over
19 to Ms. Simpson to address a few AIN issues, and then we
20 can see if there's any more we need to discuss.

21 MS. SIMPSON: I think that we fully discussed
22 this issue, and it's at impasse, I believe, on the
23 record last time in Washington. But just to briefly
24 recap in case we missed any points, and I will be brief.
25 Qwest believes that it complies with Paragraph 419 of

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1 the UNE Remand Order, which allows an ILEC not to
2 unbundle its AIN features if it unbundles its AIN
3 platform and provides certain other elements to CLECs
4 such that they can develop their own AIN features. And
5 specifically, Qwest is required to then unbundle its AIN
6 platform, which it does, and which it has memorialized
7 in Section 9.14.1.2 of the SGAT.

8 We also then under Paragraph 419 of the UNE
9 remand are required to unbundle access to the SMS, which
10 is the service management systems, and the STP, which
11 are signaling transfer points, and we do that through
12 Section 9.13.1.1 of the SGAT. And then finally we're
13 required to unbundle access to the service creation
14 environment, which is done in Section 9.14.1.1 of the
15 SGAT. And even though it doesn't use the words in that
16 section service creation environment or SCE, what we do
17 say is that a CLEC is allowed to use Qwest's AIN service
18 application development process to develop new AIN
19 services or features, et cetera, and that those are
20 other words for service creation environment.

21 So again, Qwest through its SGAT does make
22 available to CLECs all of the elements that it would
23 need to develop its own AIN features. And it's our
24 reading of the FCC's orders that Qwest then does not
25 have to make its own deployed AIN features available to

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1 CLECs with unbundled switching and with unbundled or
2 with UNE-P.

3 Just a final summation, we believe we're in
4 the -- the CLECs are in the same position that Qwest is
5 in with regard to access to and development of AIN
6 features and vertical switch features in general.
7 Specifically, we, of course, offer access to all
8 activated switch features to CLECs. We offer access to
9 all unactivated switch features in that a CLEC can
10 request us to activate unactivated switch features.

11 We offer access to unloaded switch features.
12 As you will recall, Paragraph 218, and the issues list
13 says 219 but I think the correct citation is 218 of the
14 Louisiana II order from the FCC says that, in fact, an
15 ILEC doesn't have to make unloaded features available to
16 a CLEC, unloaded switch features, but we are voluntarily
17 offering to do that, and we will load unloaded switch
18 features for a CLEC.

19 And finally, we will retain on our switches
20 any features that we migrate to our AIN platform. We
21 will retain on our switches the capability for a CLEC to
22 use those features for its own purposes. So that when
23 we migrate a feature to our AIN platform, we don't shut
24 out a CLEC from its use of those features. It may
25 already have them in use, and they would be able to

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1 continue using those or to activate them or use them in
2 the future.

3 So again, in summary, we think that we're in
4 compliance with the FCC's rules and orders, and we think
5 that CLECs are in the same position that Qwest is in
6 concerning access to AIN features.

7 MR. MUNN: There is a discussion here of the
8 proprietary nature of AIN features, and just from a
9 legal perspective, Qwest does not believe that an AIN
10 feature has to be proprietary in order for it to comply
11 or be available for this statement in Paragraph 419 of
12 the UNE Remand Order that AIN features do not need to be
13 unbundled.

14 But having said that, every one of Qwest's
15 AIN features that are deployed in the Qwest network have
16 patents and/or patents pending which are identified in
17 the exhibits in Ms. Simpson's rebuttal testimony for
18 those AIN features. But then it's also important to
19 remember that in order to be proprietary, an AIN feature
20 doesn't have to be patented. Just the fact that we
21 brought out that these are patented is just one example,
22 a piece of evidence to show they're proprietary, but
23 there are other ways for them to be proprietary.

24 There are certainly things within the company
25 that don't have a patent on them that are considered

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1 proprietary. And, in fact, there are other intellectual
2 property issues like copyright protection that would
3 apply as well. And I think each of these AIN features
4 would be protected by copyright, because they're
5 created. We don't use any off the shelf AIN features.
6 There was a question in another jurisdiction of whether
7 we just buy an AIN feature from a vendor and plug it
8 into our network and use it just kind of as is or off
9 the shelf, and that's not the case. We don't have any
10 features like that deployed in our network. We develop
11 them ourselves, so they were -- not only do we not feel
12 they have to be proprietary, they are all proprietary,
13 they're each covered by patents, they're also protected
14 by copyright laws and potentially other intellectual
15 property laws as well.

16 MR. WILSON: Very briefly, the problem with
17 the Qwest position is that it leaves a gap in the
18 features that are available to the CLECs when they want
19 to use either unbundled switching or the unbundled
20 platform to serve customers. So if a customer wanted to
21 migrate from Qwest to a CLEC and they had one of these
22 features, the CLEC would be unable to offer it.

23 The problem with Qwest's position further is
24 saying that the CLEC could develop its feature, this
25 feature or these features on their own, is a very time

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1 consuming and expensive proposition. Typically the
2 development cycle for features such as this is about two
3 years in my experience, and that feature development is
4 quite expensive. So the problem the CLEC faces is a
5 long delay to get similar features up and running and
6 large investments that it would have to make to be able
7 to provide these features.

8 I had looked at Lucent and other telecom web
9 sites, I have not been able to find features for the
10 switches that would replace these AIN features, so it
11 seems the only alternative would be for the CLEC to
12 redevelop these same types of features. And even if we
13 did that, it's not clear Qwest would then say we were in
14 infringement of patent rights and would therefore
15 actually prevent us from using similar features.

16 So the biggest issue, however, is the time
17 delay that it would take for CLECs to replicate these
18 features, and we don't think that is the way to get into
19 the market in a timely manner.

20 MR. WOLTERS: I think one other point, Lori,
21 excuse me, I think you made this clear before, but I
22 just want to make sure it's on the record here, is that
23 my understanding is that for the AIN features that you
24 have, there's no functionally equivalent switch features
25 that we could use to replicate those same services; is

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1 that correct?

2 MS. SIMPSON: We did compare the deployed AIN
3 features to switch features, and that is correct, that
4 we find no correlating feature on a switch for our
5 deployed AIN features. What we don't know, however, is
6 whether there is any unloaded switch feature that a CLEC
7 could ask us to load that would match an AIN feature.
8 That's not an analysis that we have been able to
9 undertake.

10 MR. WOLTERS: One other thing, I tend to
11 disagree with Mr. Munn's characterization of what it
12 takes to be considered proprietary under the FCC's
13 definition of proprietary. However, without debating
14 that issue on the record, we can take care of that in
15 our briefs, I just wanted to make it understood that by
16 not saying anything, I don't necessarily agree with --
17 that I agree with what he said.

18 JUDGE WALLIS: So noted.

19 MS. STRAIN: Could you clarify why the Record
20 Requisition Number 6 is now void; is that true,
21 Mr. Wolters?

22 MR. WOLTERS: Are you --

23 MS. STRAIN: Ms. Simpson referred to the
24 issues log and the Record Requisition Number 6
25 pertaining to this issue where you had asked for a

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1 matrix of switch based features that are functionally
2 equivalent. Is it your recollection that that's pretty
3 much mainly because they said the records were provided,
4 they had no records they could provide in response of
5 that?

6 MR. WOLTERS: Since this request, I think she
7 has said that there's no switched features that are
8 activated or loaded on the switch that would replicate
9 the AIN features. However, she did say that they didn't
10 look at unloaded, and I think the requisition request as
11 stated is broader than just loaded and activated. I'm
12 curious what it would take for Qwest to go back and do
13 the follow up and find out if there's any unloaded
14 features that would replicate the AIN features, because
15 I think that would come within the Request 6. So I
16 think it's partly answered, but not completely answered.

17 MR. MUNN: Okay. I think that's certainly
18 something -- what you're talking about, it's not even on
19 our network. I mean we don't have these. I mean these
20 are I think equally accessible to AT&T or any other
21 party to be able to -- you would just simply be trying
22 to poll vendors of vertical switch software to find out
23 what features they have and if their features that they
24 have for sale may match up in some fashion with an AIN
25 feature of Qwest, and I don't -- I mean we have

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1 certainly searched our network, and we have answered
2 that question for Qwest.

3 MR. WOLTERS: Do you have the latest generics
4 on your switches?

5 MS. SIMPSON: Rachel might want to answer
6 this too, but I, as a general matter, I think the answer
7 to that is yes, and I don't know that we ever would not
8 have the latest generics.

9 MR. WOLTERS: Well, let me ask it this way.
10 For some of your switches, you do have the latest
11 generics?

12 MS. SIMPSON: Yes.

13 MR. WOLTERS: And your testimony is that
14 having looked at those switches that have the latest
15 generics, there is nothing that is functionally
16 equivalent to your AIN features?

17 MS. SIMPSON: To the best of our knowledge,
18 that's correct.

19 MS. TORRENCE: And I'm not completely sure I
20 agree with your assumption that every feature that has
21 been developed is a part of a generic. It's conceivable
22 that there are things that have been developed that are
23 not incorporated into the latest software packages
24 simply because it's not something that is widely
25 requested. I don't know that for a fact though, but as

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1 I said, I just kind of disagree with the assumption.

2 MR. WOLTERS: My understanding with generics
3 is that, Ken can correct me if I'm wrong, but I
4 understood that manufacturers incorporate the generics
5 in your switch, and then you determine which features
6 that you want activated. But they don't go and put only
7 portions of the switch, they just load the whole
8 package. So if it's in the package, it would be there
9 but not activated.

10 MS. TORRENCE: Right, but I'm not sure that
11 everything they have is incorporated into the packages.

12 MS. SIMPSON: She's suggesting there might be
13 some unloaded switch features that a CLEC might want
14 that aren't loaded in our switch.

15 MR. WOLTERS: That aren't included in the
16 normal generics?

17 MS. SIMPSON: Generics, right.

18 MR. WILSON: To the best of my knowledge,
19 software generics do include all software features that
20 are generally offered by the manufacturer, that you turn
21 on what you want, and you don't turn on what you don't
22 want. The only thing that would not be included would
23 be features developed specifically for an RBOC under
24 contract that would not be for sale to another RBOC.

25 MS. SIMPSON: I don't think we disagree with

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1 that, and I think what we're saying is to the extent
2 something is technically feasible, we're willing to put
3 it on a switch for you. We have done everything we
4 think we're legally obligated to do and that we're
5 willing to go the distance with you to make everything a
6 switch can do available to a CLEC.

7 MR. WOLTERS: And I think AT&T's concern is
8 we're trying to just foreclose whether there's any
9 possibility that there is, in fact, some representation
10 is subsequently made that an AIN feature has a
11 corresponding functionally equivalent switch based
12 feature on a Qwest switch. And everything I have heard
13 says there isn't, but I have this little gap where you
14 say, well, there may be something we just haven't loaded
15 and. I think Mr. Wilson has said is he has looked, and
16 he can't find anything, so I guess we will just have to
17 stay with that, that from our representation there is
18 none.

19 And I think with that, I mean if we're just
20 going to have to probably close this Requisition 6,
21 because I have a feeling that Qwest believes that they
22 have looked at everything, and they wouldn't be able to
23 look for anything more.

24 MS. STRAIN: So would you consider that
25 requisition withdrawn then?

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1 MR. WOLTERS: No, I wouldn't withdraw it. I
2 would just say I think it's complied with to the best
3 that Qwest believes they can comply with.

4 MR. MUNN: I don't have the transcript here,
5 but I have a note that it was withdrawn in the last
6 workshop anyway.

7 MS. SIMPSON: That's my recollection too, but
8 I don't have the transcript.

9 MR. MUNN: Well, if it is, then --

10 MS. SIMPSON: Because you asked us a
11 question, and we were able to come back and answer it
12 during the workshop, and I thought then what you said
13 was I withdraw it.

14 MR. WOLTERS: Well, don't -- I don't think we
15 need to get hung up with this.

16 MS. SIMPSON: Yes.

17 MR. WOLTERS: Because I have essentially said
18 we can just show it's been complied with to the best of
19 Qwest's ability. Whether it was previously withdrawn, I
20 don't think is all that important how it's reflected.
21 We're not asking any more be provided under this
22 requisition.

23 MS. SIMPSON: So that issue is at impasse,
24 Switching Issue 2.

25 And with that, we could move on to the next,

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1 what I show as the next open switching issue. If no one
2 has anything in between, it's Switching Issue 16, which
3 is actually Rachel's issue to discuss.

4 MR. MUNN: Switching Issue 16 is the GR-303
5 discussion, and Rachel will be using Exhibit 702, if you
6 turn in your programs to that.

7 MS. TORRENCE: Exhibit 702 is a proposal that
8 we put together in response to a very specific request
9 by AT&T. What they had requested was that they be able
10 to place their own remote terminals and in essence have
11 Qwest host those terminals in the network. They would
12 be supplying in essence the last mile of the loop to the
13 end user. This was in response to their request that
14 they have some type of access to the features and
15 functionalities that are available via a GR-303 switch
16 interface.

17 Their initial request was for an unbundled
18 access to that interface, which we feel is not
19 technically feasible or administratively or
20 operationally feasible at this time. In a fall back
21 position, they --

22 MR. MUNN: If I could interject, it's also
23 not legally required, because that would mean unbundling
24 the switch fabric, actually providing access to the
25 GR-303, and we believe the FCC has not required

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1 unbundling of the switch fabric itself.

2 Sorry.

3 MS. TORRENCE: Oh, no problem.

4 The initial concerns that we held in
5 unbundling the GR-303 interface was that we were subject
6 to compromising the service of -- levels of service
7 quality. We were looking at compromising switch
8 integrity. We were looking at serious security issues
9 within both the switch and in our operational systems,
10 in our provisioning systems, our alarming and
11 performance monitoring systems. And we felt at this
12 point, there was no way that we could go in and fire
13 wall access to some of the systems that the GR-303 would
14 make available to anyone using that unbundled feature.

15 When AT&T requested that we look into hosting
16 their remote terminal, we realized that a lot of those
17 issues and a lot of those concerns were alleviated if
18 they were deployed under -- if this architecture was
19 deployed under very limited conditions, under very
20 specific conditions which are outlined in Exhibit 702.
21 Under this proposal, AT&T or any one of the CLECs can
22 place its own remote digital terminal and the loops
23 behind the terminal to the end user. They can either
24 provide the transport back to Qwest's central office, or
25 they can purchase that transport from Qwest.

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1 And the only limitation would be that
2 whatever equipment that they deployed was compatible
3 with anything that was existing in the Qwest central
4 office. And actually, that there was, first off, that
5 the GR-303 was existing in the central office and that
6 there would be spare capacity for that interface to
7 handle it. The transport, if provided by Qwest, the
8 demarcation point would be at a physical cross connect
9 at the RT. If the transport is provided by the CLEC,
10 then the demarcation point would be at the Qwest central
11 office at some physical cross connect point.

12 The concentration levels of the RT would be
13 in keeping with what Qwest is using now. At our
14 switches, we're using a four to one concentration, which
15 is fairly standard. If there are any concentration
16 ratios to be negotiated based on the type of customers
17 that will be handled in the carrier serving area, that
18 would have to be negotiated on a specific location and
19 case-by-case basis.

20 The TR-57 interface would have to be
21 disabled. The interface enables the universal DLC
22 applications since this is an integrated application,
23 and this interface offers access to OSS provisioning and
24 performance monitoring systems where Qwest felt they had
25 a very significant risk as far as network security. By

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1 disabling this particular interface, we retain full
2 provisioning and the physical and logical administration
3 of the GR-303 interface.

4 The traffic would be delivered at a 64 clear
5 channel, which means there we weren't really looking at
6 accepting any voice compression on the traffic being
7 delivered. And at this point with the GR-303 being
8 designed for the delivery of service switched traffic,
9 we are not willing to accept any packetized traffic at
10 this point. Qwest would not be responsible for traffic
11 management. While we would retain full provisioning
12 control of the DLC system, it would be AT&T's
13 responsibility to monitor their monitoring or their call
14 blocking and their traffic levels. And if the links
15 needed to be augmented, then they would send an order to
16 Qwest, and we will provision. But we will not be doing
17 the traffic monitoring. And this could be accomplished
18 via man to machine interface at their RT. And they
19 would be able to view but not change any of the
20 provisioning aspects.

21 The parties would be responsible for the
22 repair and maintenance of facilities on their side of
23 the demark, and since this is a fairly new offering on
24 our part, there's still a lot of issues that need to be
25 resolved, and the manner in which we would be dealing

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1 with the maintenance and repair in this one particular
2 instance still has yet to be worked out.

3 We need to make clear here that we still feel
4 that we are under no obligation to unbundle the digital
5 loop carrier, and we do not feel we are obligated to
6 offer up the switch fabric as a result. This proposal
7 maintains that advocacy by Qwest. We still see this as
8 a single network element, and we are in control of this
9 network element regardless of the fact that AT&T would
10 own a subcomponent of that one particular element.

11 What we're asking here also is that this be
12 dealt with, this particular flavor which was very
13 specifically architected to a very specific request and
14 is very technology and location specific, be dealt with
15 via the special request process. Any other type of
16 access to the GR-303 interface would still be dealt with
17 via the BFR process.

18 MR. MUNN: I think that this is obviously a
19 very complex area, at least it is to me, to get your
20 hands around. And I think the reason for the proposal,
21 Qwest outlined in the first workshop two primary areas
22 of concern, other than any legal concerns, but just
23 practical concerns of unbundling the GR-303. And that
24 centered around one topic was sort of the concentration
25 level issue and how do you police the concentration

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1 level. And the second area was around network security
2 concerns that there could be, I mean all the way up to
3 somebody coming in and being able to SLAM without
4 Qwest's knowledge, but a myriad of concerns of network
5 security that were laid out.

6 Those really are Qwest's concerns, and as
7 proof of that, we have made this proposal, because this
8 proposal we view and certainly intend for this proposal
9 to provide the functionality that AT&T is seeking, while
10 addressing to our satisfaction the concentration level
11 concern and the security issues. So when we can
12 eliminate those issues, we have agreed in this proposal
13 to provide the functionality under the terms of this
14 proposal that AT&T is seeking.

15 MR. WILSON: Maybe if everyone turns to
16 Exhibit 631, which is a diagram that we passed out a few
17 moments ago, it would give you a little idea of what
18 we're talking about here. Actually, in one of the
19 workshops, we collaborated on this diagram. It shows
20 the switch, the Qwest switch, on the left-hand side of
21 the picture and telephones on the right-hand side.

22 And what AT&T actually meant in the -- in our
23 original request to have an interface to the switch at
24 the GR-303 level was, in fact, what is depicted on this
25 picture, which is a CLEC remote terminal that would then

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1 be interfaced to the Qwest switch at this GR-303
2 interface.

3 It's analogous or similar to saying, if you
4 look at the bottom part of this diagram, it shows a DS1
5 or ISDN PRI interface into the switch from, for example,
6 a PBX, and there we say we have a DS1 interface to the
7 switch. And so what we're doing with the GR-303 is that
8 the CLEC has a remote terminal that it would install out
9 in a neighborhood, and that would be interfaced to the
10 Qwest switch directly over what is either called a
11 virtual interface group, VIG, or via DS1 or DS3 trunks.

12 And we have worked through this issue in
13 other jurisdictions, and we have just seen the Qwest
14 proposed language, but it tracks fairly well with
15 discussions we have had in some detail in other states,
16 and I think we're pretty close to an agreement on how
17 SGAT language should be resolved for Washington.

18 We are not asking for unbundling of the
19 maintenance and operations channel at this time, which
20 would get into issues of security and other potential
21 problems that Qwest has mentioned. At some point in the
22 future, a CLEC might want to do that, but that's
23 probably more appropriate for a BFR kind of process, to
24 figure out how to maintain security and yet give a CLEC
25 direct access to do its own provisioning. So I think

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1 that in principle we are agreed that Qwest would do all
2 the provisioning once this interface is set up, and the
3 CLEC would send in orders for additional provisioning as
4 needed to Qwest, as we would for other kinds of
5 additional lines, et cetera.

6 Having said that, I have a few questions on
7 Qwest's language, which is their Exhibit 702. I think
8 the first issue, which we will hear more about later in
9 this workshop, is a difference in interpretation between
10 the CLECs and Qwest in what it means to build additional
11 capacity.

12 You see the first bullet point on the Qwest
13 Exhibit 702 says that Qwest must already have existing
14 GR-303 capability with spare port capacity available for
15 use by the CLEC. And I think it's the clause that says
16 spare port capacity available that is troubling, because
17 this is really just the installation of additional cards
18 in the switch, similar to adding additional cards for
19 DS1 or DS3 type of interface. So I think that is our
20 problem with the first paragraph, that we consider the
21 addition of cards to be within the scope of what the FCC
22 was discussing when they said Qwest needs to make
23 reasonable accommodations and preparations for CLEC
24 access to these elements. So I think that is one issue
25 that we have with this.

03483

1 Then I would go to the fourth bullet point
2 talks about concentration levels, and we had discussed
3 with Qwest abiding by their current standard of four to
4 one, the concentration, and what this means is basically
5 how many telephones do you have attached to the remote
6 terminal. If you're connecting the remote terminal to
7 the switch with say a single DS1, that would normally
8 provide 24 voice channels. Rule of thumb for four to
9 one concentration, let's say you can have 100 telephones
10 actually connected to a remote terminal, because not
11 everyone picks up the phone at the same time to make a
12 call. Some years ago, that concentration level was
13 higher, but because of Internet dial up and other
14 factors, it's been decreased by Qwest and others to
15 about four to one, which is what they're saying.

16 The one thing I don't quite understand in
17 this fourth bullet is the second sentence, which says,
18 concentration ratios to be applied to the RTs will be
19 wire center specific. We did discuss special
20 circumstances where we could discuss with Qwest maybe a
21 different, a slightly different concentration ratio
22 would be appropriate. Is that what you were
23 anticipating?

24 MS. TORRENCE: Right, and maybe it would be
25 better just location specific. And your concentration

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1 levels may vary if you're going into say a municipal
2 building where you want to make sure that you have
3 enough lines to cover capacity, you could go to a one to
4 one concentration. If it's a rural area where you don't
5 have as much going on, it could be a four to one
6 concentration. And that's kind of what I was meaning,
7 and I guess maybe location specific would be a little
8 bit more -- a little more accurate, but.

9 MR. WILSON: Maybe just the specific
10 concentration ratios to be applied.

11 MS. TORRENCE: Okay.

12 MR. WILSON: Et cetera.

13 MS. TORRENCE: Yeah.

14 MR. WILSON: Okay, I wasn't sure if you were
15 asking for something different. Now I understand, so
16 that's fine.

17 MR. WOLTERS: Well, before you move on, Ken,
18 I think we referred to the special request process
19 earlier for this, and now you're talking about the
20 individual case basis process for determining
21 concentration ratios. Wouldn't that be determined
22 during the special request process, what the ratios --

23 MS. TORRENCE: Well, this is part of why
24 we're looking at a special request process. I didn't
25 mean individual case basis as far as the process itself.

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1 I was looking at it as you have to see it on a
2 case-by-case basis, because you can't make this a
3 blanket application. As I said, it's very location
4 specific, and you have to look at it in those terms, so
5 it's on a case-by-case scenario.

6 MR. WOLTERS: But isn't this whole proposal
7 you have made is on a special request basis, so in
8 essence --

9 MS. TORRENCE: On a special request basis,
10 yes.

11 MR. WOLTERS: In essence, it is case-by-case
12 basis.

13 MS. TORRENCE: Right, are we -- yeah, I think
14 I agree.

15 MR. WOLTERS: But you didn't mean individual
16 case basis as we have used ICB in other contexts?

17 MS. TORRENCE: Right, no, no.

18 MR. WILSON: Okay, I understand that.

19 Then moving down to the bullet point that
20 says GR-303 was designed for the delivery of circuit
21 switched voice traffic, I think that's understood. We
22 were not imagining packets, some packet switching
23 application here, but I would like to point out that
24 dial up Internet traffic is part of circuit switched
25 voice traffic.

03486

1 MS. TORRENCE: Right.

2 MR. WILSON: And can not be predicted or
3 avoided, predicted to some extent.

4 MS. TORRENCE: And that's understood.

5 MR. WILSON: Okay.

6 MS. TORRENCE: As long as it's not clearly
7 packetized. What we're looking at here is kind of
8 trying to keep within the confines of what the GR-303
9 was designed to do, and it was not a packet, it was not
10 designed for a packet environment.

11 MR. WILSON: And I have no disagreement with
12 that.

13 I think then going down to the bullet second
14 from the bottom on maintenance and repair, I don't
15 disagree with that statement, but it does raise the
16 interesting question. I was listening to the discussion
17 on scheduling this morning, and there has never been a
18 discussion on maintenance and repair for anything. It
19 is a section in the SGAT, and we have not had any
20 discussion on how maintenance -- whether the SGAT is
21 appropriately addressing those issues for any unbundled
22 element. So I just pose that as a long-term question
23 for when that will be dealt with in a workshop or
24 whatever.

25 And then the final bullet point, which

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1 discusses the special request process, I think at this
2 time it probably is appropriate for this to be a special
3 request process rather than a "product" of Qwest. This
4 is something that a CLEC would order or discuss with
5 Qwest when a CLEC is setting up a new neighborhood,
6 putting in their own home wiring, et cetera. It's not
7 something you need to order overnight, so I think that
8 is appropriate contingent on our discussion of the SRP
9 process which I understand to not include technical
10 feasibility, and that's already kind of assumed, but it
11 does look at network feasibility, meaning does the
12 switch -- is the switch capable of it and, for instance,
13 the concentration ratios, et cetera, for a specific
14 neighborhood implementation.

15 So I think that being said, we would expect
16 Qwest to provide SGAT language which will allow the
17 GR-303 interface to be provided Qwest switches
18 contingent on the special request process.

19 MS. TORRENCE: I guess I would just kind of
20 like to go back to the first bullet point and the issue
21 of the spare port capacity, and this does kind of go
22 back to our obligation to build unbundled elements. We
23 have no disagreement, we do agree that if it's just a
24 card that needs to be placed, that's not an issue, we
25 will do that. But if it means going in there and doing

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1 a switch augment, putting in switch mods or another
2 GR-303 interface, that's -- that goes beyond just
3 carding up. And what this was intended to do was
4 establish that first, the switch is capable. And
5 second, that there is spare capacity that we can offer
6 up. We won't go into a central office and equip it
7 solely for your benefit.

8 MR. WILSON: Well, let me just briefly say
9 what I -- I will be fine with what you just said or
10 interpret it. If a switch already is -- already has
11 GR-303 terminals on it, I would assume that would then
12 pass the capable test.

13 MS. TORRENCE: Right.

14 MR. WILSON: Is that --

15 MS. TORRENCE: Right.

16 MR. WILSON: Okay. And then the question of
17 not say growing the switch for just for the CLEC's
18 request, this brings up an interesting issue, which we
19 might as well do for switching now. It will come up
20 later for transport. But Qwest's obligation to
21 construct or provide capacity for unbundled elements, if
22 you apply that obligation to switching, it would be my
23 opinion that it would be very difficult for Qwest to
24 show that they will never augment a switch for GR-303 or
25 any other application. Switches grow all the time. I

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1 mean for essentially Qwest to deny a CLEC GR-303 access
2 on a switch that already has such access would be
3 tantamount to saying they will never add to their own
4 GR-303 capability on that switch. If that's true, I
5 guess then they wouldn't have to provide it, but I would
6 say that's pretty unlikely.

7 MS. TORRENCE: And again, we're -- my thought
8 is never say never. I would never say we're never going
9 to augment the switch, but if it's a question of at that
10 time we have no spare capacity, and within the time
11 frame that a CLEC would come in and ask for that
12 capacity we don't have any plans to augment that, then
13 we wouldn't. If they want to come back six months, a
14 year later when we have gone through our build or our
15 augment that had already been looked at in our future
16 planning or something that came up as a need we had as a
17 corporation, then, you know, of course, we would offer
18 it up if we had it. It's just it goes back to the fact
19 that if there is no capacity and we don't see the need
20 to add it within the course of our business, we wouldn't
21 see the need to build just for a request by AT&T.

22 MR. WILSON: Thank you.

23 MS. STRAIN: Where does that leave it with
24 respect to this SGAT section?

25 MS. TORRENCE: I suppose we need to come up

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1 with language.

2 MR. WOLTERS: Yeah, I think the issue now is
3 that they have responded to our request, outlined a
4 general proposal, and the next step I think is whether
5 Qwest can in essence compile SGAT language that's
6 consistent with what we have discussed.

7 MR. WILSON: And if you want to keep it out
8 of impasse, leave the capacity available provision to
9 the general sections where it's amply addressed and it
10 will be at impasse. I don't think we need that both
11 places. I think we can essentially close this issue
12 with SGAT language that pretty much comes from their
13 proposal with that one exception, which I don't think is
14 necessary to capture Qwest's position.

15 MR. MUNN: So if what I'm hearing, the first
16 bullet point we can address the capacity availability
17 issue there. If we have SGAT language that just
18 otherwise follows these bullet point proposals, that
19 would close the issue?

20 MR. WILSON: Yes, and you could even --

21 MR. MUNN: I don't know that we can -- I mean
22 we're going to have to talk over, of course, a break on
23 this, but I just want to make sure I know what you're
24 asking.

25 MR. WOLTERS: My feelings are if you feel

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1 strongly you need an obligation to build paragraph, that
2 you have no obligation to build language, then I think
3 what we do is we have to look at the other language as a
4 whole, say except for that paragraph it closes this
5 issue.

6 MR. MUNN: The obligation to build piece can
7 be deferred to wherever we talk about the obligation to
8 build generally, brief with all of that, and otherwise
9 the issue is closed.

10 MR. WOLTERS: That or I think we would be
11 comfortable with that. Come up with some language. If
12 you want to leave this issue in here, that's fine. I
13 think you ought to make explicit though that it doesn't
14 encompass port, I mean the cards.

15 MS. TORRENCE: Right, it doesn't, and we have
16 already discussed that in previous workshops, that if
17 it's just a question of carding up, that's not an issue,
18 we will do that. If it's a question of having to go in
19 and place a whole new rack for the card, that is a whole
20 different issue.

21 MR. MUNN: That is in the SGAT. I was on
22 vacation last week, so my mind is a little bit out of
23 it, but I'm trying to think of the provision, but we do
24 specifically say that adding cards is something we do.
25 We don't consider --

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1 MS. TORRENCE: For example, carding up I
2 think is the term.

3 MR. MUNN: So we're in agreement on that
4 piece.

5 MR. DITTEMORE: Dave Dittimore for Staff. I
6 would like to explore maybe a little bit to clarify the
7 concentration question. It seems to me the
8 concentration would solely apply to the level of service
9 that AT&T, for example, would be granting their
10 customers served by this remote, so it seems like it
11 wouldn't affect the service in your switch. Further, to
12 figure concentration, they would have to tell you how
13 many customers they would be serving, which for me, I
14 would think competitively they wouldn't want to give you
15 that information. So it would seem to me they would
16 just want to give you a figure of how many links they
17 want to that remote, and I would think that would be
18 sufficient knowledge for you to provide that. I know
19 you're used to figuring --

20 MS. TORRENCE: The concentration is actually
21 configured as part of the digital loop carrier. That
22 has to be configured. It's a hard configure. It's not
23 a dynamic option.

24 MR. DITTEMORE: Oh, okay.

25 MS. TORRENCE: So we are looking at an

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1 industry standard pretty much of a 4 to 1 concentration
2 at the central office. It can go as high as 16 to 1.

3 MR. DITTEMORE: Right.

4 MS. TORRENCE: But we have chosen to keep it
5 at generally four to one or below.

6 MR. DITTEMORE: Yeah, I understand. I'm
7 saying it's very specific, of course, to what type of
8 customer they would be serving, as you discussed. And
9 I'm just thinking that's competitive information that
10 maybe they don't want to disclose.

11 MS. TORRENCE: Right, and --

12 MR. DITTEMORE: And I just think it would be
13 reasonable for them to say they want that level of
14 concentration ordered.

15 MS. TORRENCE: Right, and we're saying they
16 can do whatever they would like at the RT end of it, and
17 that would be determined on a location basis. But
18 standard for Qwest, we want to keep it at a four to one
19 or below at the central office. We can negotiate that
20 at some point, but we're looking at a location specific.

21 MR. DITTEMORE: Thank you.

22 MR. WOLTERS: So going back to your original
23 question I think was, can you provide language within a
24 certain amount of time that we can get it into the
25 record as part of this proceeding?

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1 MR. MUNN: Let me ask just a question.

2 Yeah, I think that's something that we can
3 look at trying to get together language that captures
4 what is in these bullets, sort of make it into the SGAT
5 language type format with the same substance here and
6 just track this, and I think we can do that overnight.

7 MS. TORRENCE: And again, I would kind of
8 like to make clear here that this is sort of a fluid
9 process, I won't say process necessarily, but this is
10 not really a product, per se. It's a framework that
11 we're working within to try and develop something that's
12 going to satisfy both of our concerns, and it eventually
13 might become a product, and it might expand. But at
14 this point, none of the processes behind it have been
15 developed in the administration of the data base, you
16 know, the billing issues, all of that has yet to be
17 worked out, which is why we want to look at it through
18 the SRP process until all of that can be worked out.
19 And it's not a product that you can go out and order
20 tomorrow.

21 MR. WILSON: And I think on our side that at
22 least it will be in the SGAT, and so if we ask for it,
23 we won't get a complete negative response.

24 MS. TORRENCE: Not a flat out no, never a
25 complete negative response.

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1 JUDGE WALLIS: Does that conclude the
2 discussion on this point?

3 Let's take a five minute break.

4 (Brief recess.)

5 JUDGE WALLIS: Mr. Munn.

6 MR. MUNN: I think that concludes our
7 Switching 16, and then Ms. Simpson will address the
8 remaining switching issues now.

9 MS. SIMPSON: Switching Issue 17 is the next
10 one that I show that was open, and it concerns Section
11 9.11.1.5 of the SGAT, and we have modified that section
12 of the SGAT to include language that acknowledges that
13 trunk ports may be ordered at the DS3 and the OCN
14 levels. And this is in page -- the new language is in
15 the SGAT Lite, Exhibit 701, page 26. And we have
16 reached agreement on this language in other states.

17 MR. WOLTERS: Okay, with the representation
18 that this is the same language that was brought in from
19 other states, I think it does close this issue.

20 MS. SIMPSON: Mr. Wolters, we did, just to be
21 clear because maybe it's looking confusing, we did
22 expand after it says special request process, we just
23 added those words, as provided for in Exhibit F to this
24 agreement. That may be the first time you're seeing
25 this, so it may look a little different, but the

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1 substance is the same.

2 MR. WOLTERS: Okay, I believe that closes 17
3 for AT&T's purposes.

4 MS. SIMPSON: Moving on then to Switching
5 Issue 20, the next open issue, Qwest has modified
6 language in the SGAT at Section 9.11.1.12 to address
7 AT&T's concern that I believe was that we had not
8 adequately described analog trunk ports as being
9 available with unbundled switching, and this is actually
10 a fairly total rewrite, a new language in this section.
11 And we did reach agreement on this language in other
12 states, and we agreed that this issue was closed in
13 other states.

14 MR. WOLTERS: I believe that closes the take
15 back on the digital trunk ports and the discussion of
16 the analog trunks ports in 9.11.1.12.

17 MR. MUNN: So Switching 20 is closed.

18 MS. STRAIN: I have a question regarding the
19 notation in the log that Qwest also agrees to fix 9.11.1
20 through 11.1.6 for PBXs.

21 MS. SIMPSON: I saw that.

22 MS. STRAIN: Lori is just looking at me.

23 MS. SIMPSON: Well, I am, because I saw that,
24 and I'm just so sure we did it.

25 MR. WOLTERS: I know, because we did raise --

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1 MS. SIMPSON: Right.

2 MR. WOLTERS: -- a PBX issue --

3 MS. SIMPSON: Right.

4 MR. WOLTERS: -- and I thought we closed
5 these issues.

6 MS. SIMPSON: Right, I think -- could --
7 because I think we -- 9.11.1.10, 9.11.1.11, and
8 9.11.1.12 I believe did address in their totality all of
9 your concerns. Now I can't point to a specific thing
10 that we changed concerning PBX, but I think that it's
11 there in 9.11.1.11, and it's mentioned in 9.11.1.12 in
12 the new language, and maybe that -- maybe that's where
13 we thought we captured it, 9.11.1.12.5, the last new
14 section.

15 MS. STRAIN: Okay.

16 MS. SIMPSON: If we missed anything, we're
17 still willing to add it. I think we just think we got
18 it all.

19 MR. WILSON: I think what happened is there
20 were some other additions like 9.11.1.5 now has DIDs,
21 PBX trunk port. I think there were some other small
22 changes in the earlier sections. I think on total, the
23 changes have been made to take care of PBX trunks. If
24 Qwest knows of any other features or functions we need,
25 please let us know.

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1 MS. SIMPSON: It was not our intention to
2 leave anything out, so to the extent you don't see any
3 omissions, we aren't aware of any, and we think we have
4 got it all covered.

5 MS. STRAIN: Thank you.

6 MS. SIMPSON: I saw -- I noticed that too.

7 So if that's closed, moving on to Switching
8 Issue 21, 9.11.5 is the section of the SGAT. And what
9 we did to resolve this issue, which concerned usage
10 billing info, as I recall, WorldCom had actually
11 proposed some language in another state that Qwest had
12 really in error agreed to add to the SGAT, and you can't
13 see it here, because it's no longer included. And upon
14 further consideration internally in Qwest, we realized
15 we couldn't add the language, at least we believed we
16 couldn't, because it implied that we would provide
17 terminating local usage information to CLECs that
18 purchased unbundled switching and UNE-P. And in point
19 of fact, we can't. We don't have the technical
20 capability to provide terminating local usage
21 information, and we don't charge CLECs for terminating
22 local usage. We only charge for originating.

23 So what we all agreed as a result of that
24 language being proposed by WorldCom was to revise
25 Section 9.11.5.3 to reflect what I just said, that we

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1 will provide originating local usage information but not
2 terminating, and that we would not add the WorldCom
3 language, and we all agreed that that resolved this
4 issue.

5 MR. MUNN: Ann Hopfenbeck is not here, but
6 she did indicate to me that I could represent that she
7 is in agreement that this issue is closed.

8 MR. WOLTERS: And AT&T is comfortable with
9 that too.

10 MS. SIMPSON: If that's closed, then that's
11 all we have for switching, and we would move on to
12 UNE-P.

13 Just to start before we get into the SGAT,
14 just to tell you why we handed out Exhibits Number 703
15 and 704, which concern UNE-P, Exhibit 703 is the correct
16 set of PIDs, performance indicator definitions, that
17 relate to UNE-P. Karen Stewart, whose testimony I
18 adopted, which was filed in December, did include some
19 PIDs. But upon closer inspection, those PIDs really
20 relate more to OSS and other things, but certainly
21 impact UNE-P, but these PIDs that we're handing out now
22 in Exhibit 703 are really the UNE-P PIDs.

23 So just to make the record clean and to
24 correct the record, so to speak, we wanted to offer
25 those PIDs as an exhibit. They don't -- they are not

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1 the subject of any discussion that I anticipate us
2 having. We just wanted to make the record complete. We
3 have offered these in other states with our UNE-P
4 testimony, so we wanted to do the same thing in
5 Washington.

6 MR. WILSON: Is there a version associated
7 with this printout?

8 MS. SIMPSON: Yes, it would be the, oh, I was
9 going to say the Arizona one, which would be a problem.
10 It is -- they are certainly the most recent version from
11 the ROC, but I'm afraid I can't cite you the name of the
12 most recent version. We can check on that.

13 MR. WOLTERS: I think it would -- I think,
14 you know, they had like version 2.1 and --

15 MS. SIMPSON: Right, 2.2 and --

16 MR. WOLTERS: I think it would be helpful to
17 know that, because then people could use it as a base
18 line --

19 MS. SIMPSON: Okay.

20 MR. WOLTERS: -- of where you're at.

21 MS. SIMPSON: Okay.

22 MR. WOLTERS: And another thing, does this
23 include all the PIDs or just selective PIDs?

24 MS. SIMPSON: It includes all the PIDs that
25 go to the installation and maintenance of UNE-P. It

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1 doesn't include things like, if you look at the ones
2 that were filed with Karen's testimony, flow through or
3 something like that that really in our view is part of
4 the OSS testimony, but strictly speaking do include some
5 aspects of UNE-P. I think billing timeliness is in the
6 set that were filed with Karen's testimony, but which we
7 think are the subject of OSS and not strictly speaking
8 the checklist item, so.

9 MR. WOLTERS: So like collocation PIDs,
10 interconnection PIDs.

11 MS. SIMPSON: Resale PIDs.

12 MR. WOLTERS: Are not included?

13 MS. SIMPSON: Well, this is OP-3, for
14 example, if you look at the first page, it measures
15 UNE-P, but it does measure resale, as I recall. So the
16 PID itself covers more than one product or service. The
17 results which are in Exhibit 704 are only UNE-P results
18 under these PIDs. But if you read the definition of the
19 PID, it isn't limited to UNE-P. It does cross into
20 other products and services. In application, you would
21 -- you would pare it down to only the service you're
22 concerned with.

23 MR. WOLTERS: So let me ask it another way
24 just so --

25 MS. SIMPSON: Okay.

03502

1 MR. WOLTERS: My understanding is that you
2 didn't include the total set of performance indicator
3 definitions that ROC established. For example, there's
4 not -- you didn't include number portability PIDs in
5 this case?

6 MS. SIMPSON: Well, I will have to say again,
7 you would have to look, for example, at OP-3, look at
8 page two where it says product reporting.

9 MR. WOLTERS: Well, I think what I mean is --
10 let's try it again.

11 MS. SIMPSON: It's a PID, it's not a result,
12 performance result, no.

13 MR. WOLTERS: But there are some PIDs that
14 are specifically related to number portability.

15 MS. SIMPSON: Those are not included here.

16 MR. WOLTERS: And some that are specifically
17 related to collocation, and they're not included?

18 MS. SIMPSON: The reason I'm having trouble
19 responding, I'm not the witness for those subjects.

20 MR. WOLTERS: Okay, that's good.

21 MS. SIMPSON: What I put together here in
22 this package was what I see as UNE-P performance
23 results. And I think it would -- no, I didn't put stuff
24 in here that relates only to number portability.

25 MR. WOLTERS: Yeah, and I guess to express

03503

1 what I'm trying to get at is I don't want the record to
2 reflect or somebody to understand that this is
3 necessarily a complete package of ROC PIDs, so if
4 somebody wanted to know what ROC PIDs there were, they
5 could go to here and think this is a complete set of
6 performance indicator definitions. That's all I'm
7 trying to get at, and so we can end this line of
8 questioning.

9 MS. SIMPSON: It's definitely not a complete
10 set of the PIDs. Exhibit 704 is the performance results
11 that relate to UNE-P under the PIDs that are filed in
12 Exhibit 703.

13 And with that, we can move on to open issue
14 UNE-P-5. This concerns -- Mr. Munn is going to answer
15 this.

16 MR. MUNN: Just on B, the question was, can a
17 CLEC pick and choose a resale provision to apply to
18 UNE-P, and the answer there is that we can not make a
19 blanket statement. Qwest will evaluate whether it will
20 agree to let a resale provision be incorporated into a
21 UNE-P section of an agreement. That will be evaluated
22 on a case-by-case basis.

23 And I think C you have.

24 MS. SIMPSON: Oh.

25 MR. MUNN: Unless you want me to do it.

03504

1 MS. STRAIN: Mr. Munn, when you say on a
2 case-by-case basis, do you mean if you decide to let one
3 CLEC pick and choose, then any CLEC could pick and
4 choose that provision for resale?

5 MR. MUNN: Correct, it wouldn't be --

6 MS. STRAIN: A resale provision?

7 MR. MUNN: That's correct, it wouldn't be

8 a --

9 MS. STRAIN: So it's case-by-case based on
10 the provision, not on who is asking?

11 MR. MUNN: Thank you, that's correct.

12 MS. STRAIN: Okay.

13 MS. SIMPSON: Part C asks whether if there is
14 a provision in the Sprint interconnection contract and a
15 CLEC picks and chooses that provision whether it would
16 last longer in the pick and choose arrangement than it
17 would have lasted or does last under the Sprint
18 agreement, and the answer to that is no, depending on
19 which way you ask it. The pick and choose provision
20 would expire upon the expiration of the original
21 contract from which it was taken.

22 MR. WOLTERS: Which I think is, from a
23 practical standpoint, is not a realistic position to
24 take. I mean if you're going to pick and choose from
25 somebody else's contract and if you're getting into the

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1 market and you're going to pick and choose from somebody
2 else's contract, their contract is already going to have
3 a term to it, and it's already likely going to be into
4 that term.

5 And so to say that you can pick and choose a
6 contract that you might want for three years, but you
7 pick from somebody's contract and the term is only for
8 two and a half years or two years or one year, and to
9 say automatically now those provisions will expire in
10 your contract when they expire in the other contract
11 even though you supposedly have a three year term
12 contract, is just unrealistic and impractical for CLECs
13 to monitor.

14 And I just think that if that's their
15 position, I really think we would have to take this
16 almost to impasse, because that's just an unrealistic
17 way of applying contract law. I mean once you agree to
18 implement a provision within your contract, I think you
19 should be able to keep it. And then the corollary is is
20 that you would not be able to pick and choose it,
21 because it may expire earlier. Well, then again,
22 everybody's provisions may expire before yours, in which
23 case you can't pick and choose any provisions.

24 So I just think this is not a situation you
25 can put a company in, because it's unworkable, and it's

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1 detrimental to the CLECs. So if that's the position, I
2 mean we would have to just disagree with that. It's
3 just not, I think, acceptable.

4 MR. MUNN: If I could respond to that. One,
5 I think that picking -- when you're picking and
6 choosing, you pick and choose the provision, and a part
7 of the provision is the term or life of that provision,
8 so I think it's certainly appropriate that that term for
9 the provision continue. Otherwise, you would be
10 creating some superior right than the entity that you
11 were picking and choosing from.

12 And secondly, what in essence you're asking
13 would mean that the Commission could never change its
14 mind on a topic, because if the Commission took a stance
15 and decided an issue one way and said yes two years ago,
16 and now they have evaluated it in the context of an
17 arbitration and say no, people would just simply pick
18 and choose from the old Commission position, incorporate
19 it into their new agreement under the pick and choose
20 rules, and the Commission could never change its mind,
21 because you pick and choose language that was an old
22 provision.

23 MR. WOLTERS: You have a change --

24 MR. MUNN: That doesn't --

25 MR. WOLTERS: You have a change of law

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1 provision. Let's make it a little simpler. Let's say I
2 bought a contract or negotiate a contract and I want to
3 have resale. And I say, okay, I want to take paragraph
4 whatever the resale paragraph is, six or whatever it is,
5 and I agree to take those provisions. Those are just
6 words. And now to say that somehow those words have an
7 independent life because they are contained in another
8 contract doesn't make any sense.

9 Because all we're saying is you will provide
10 resale under these terms and conditions, and instead of
11 negotiating those independently and getting the exact
12 same language, which would extend for the term of my
13 contract, instead of going through that, I just say,
14 we'll just take this paragraph out of this contract.
15 And now to say that somehow that has a shorter life
16 because I took those words out of a contract instead of
17 negotiating them doesn't make any sense, because they're
18 just -- it's just language.

19 As far as the Commission changing a legal
20 precedent, you go under the change of law provision and
21 say, you don't have -- there's a change of law, and
22 we're now going to change your three year contract to
23 make the language consistent with the change of the law,
24 whatever the terms of the change of law are in the SGAT.

25 So I think this is just -- you're trying to

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1 resolve something that I think you're being overly
2 cautious, but at the same time make it almost impossible
3 for the CLECs to do a pick and choose, because you have
4 different portions of your contract expiring at
5 different times.

6 MR. MUNN: Under your scenario though, you
7 would nullify the change of law provision of the
8 agreement, because you're saying even though the
9 Commission has changed its mind, and obviously this is a
10 hypothetical we're discussing, but if the Commission
11 changed its mind on a particular topic, you would still
12 be allowed to pick and choose and incorporate that. We
13 would be agreeing, if we agreed to what the question is
14 here, we would be agreeing to allow you to pick that up
15 and incorporate it, breathe new life into it for the
16 term of your contract, and I mean we're agreeing to
17 that, so there's no change in law provision. We have
18 agreed to now allow you to do that.

19 MR. WOLTERS: But if --

20 MR. MUNN: And that's not appropriate.

21 MR. WOLTERS: But if we have to take it to
22 the Commission for approval, they could reject it,
23 because they said we just changed our position, that's
24 no longer our position, so we're not going to approve
25 the contract unless you use language consistent with our

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1 new position, so you have a safeguard for that
2 situation.

3 MR. MUNN: But you're asking -- I'm assuming
4 in this scenario that Qwest didn't like the first
5 decision, but in an arbitration or some other fashion,
6 it was ordered that way. The second decision we liked
7 better. And so you're asking me to say, okay, I will
8 agree, even though I like the current Commission
9 decision, I will agree to go with the old one and just
10 hope the Commission doesn't -- I mean we're not going to
11 agree to perpetuate a provision like that. That's not
12 -- and plus, and I think it's inherit in pick and choose
13 that you get what you're picking and choosing from. You
14 get the life of the provision that you're picking and
15 choosing.

16 JUDGE WALLIS: Is it just safe to say that
17 there's impasse here?

18 MR. MUNN: I think that's fair.

19 MR. WILSON: And maybe I can be helpful. The
20 natural issue here is a condition or a statement in the
21 Judge's draft, I'm not sure what we call it here, but
22 the Judge's draft ruling in resale in Washington said
23 that we did not need to add to the SGAT a provision
24 which prevents Qwest from talking to CLEC end users when
25 they call in error to a business or maintenance office,

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1 et cetera. AT&T had wanted to tack on some language to
2 the SGAT that would prevent such calls as being used as
3 marketing opportunities. The judge in resale, I
4 believe, said that we did not need to add that clause,
5 because a similar clause was available in a Sprint
6 interconnection agreement. And the same issue came up
7 in the language in the SGAT in this section, and we
8 wanted to test out the workability of the solution that
9 was proposed by the judge in resale.

10 And I think our concern is that it's not
11 workable, because the contract that was being referred
12 to may already be expired. I don't know the term of it,
13 but it certainly probably doesn't have much term left.
14 So I think it's our position that we want the additional
15 language that we discussed in the first workshop added
16 in this provision 9.23.3.17, and that that would be the
17 solution for us.

18 So I think probably discussion on pick and
19 choose is a terms and condition general discussion that
20 we need to have, and this will come up again, making
21 that an even more lively workshop. I would like to say
22 that --

23 MS. SIMPSON: Longer anyway.

24 MR. WILSON: -- I'm a little perplexed about
25 how an evergreen provision would work with these various

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1 dates when provisions expire and Qwest's conditions
2 here. If I adopt a -- if you pick and choose something
3 that has just a six month life left on it and my
4 contract is two years and my contract has evergreen in
5 it, will I get evergreen as a six month provision too?
6 Anyway, interesting discussion.

7 JUDGE WALLIS: I think the parties' positions
8 are relatively clear for the record, and I would suggest
9 we move on.

10 MS. SIMPSON: Moving on to UNE-P-7, this
11 concerns Section 9.23.5.5 of the SGAT, and we talked at
12 great length about this issue in every state where it
13 came up, and we had finally reached a resolution, which
14 we have incorporated into the SGAT Lite, Exhibit 701, at
15 page 56 and 57. And with this change, we did actually
16 resolve this issue and close it in other states.

17 JUDGE WALLIS: Which item is this?

18 MS. SIMPSON: It is UNE-P-7.

19 JUDGE WALLIS: 7?

20 MS. SIMPSON: 9.23.5.5 of the SGAT.

21 JUDGE WALLIS: Do others agree?

22 MR. WOLTERS: I'm pretty sure -- I mean if
23 this closed the issue for AT&T, although I think that
24 this issue was argued more strenuously by WorldCom than
25 AT&T at the time. So I think we can close it, but I

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1 think, like I said, it was very strenuously argued by
2 WorldCom, and I don't know whether -- I can't speak for
3 WorldCom.

4 MS. SIMPSON: Actually, Mr. Menezes was also
5 another party with whom I had a lot of back and forth,
6 but originally I believe it was raised by WorldCom.

7 MR. WOLTERS: So I mean looking at it, it's
8 consistent with what my memory of the issue was, so for
9 AT&T it's closed. I can't speak for WorldCom, although
10 I do believe it closed it for all the parties.

11 MR. MUNN: And what Ms. Hopfenbeck said to me
12 at least, if there's some other issue she may have we
13 certainly don't object when she gets back in the room if
14 she wants to bring it up, but it's our understanding
15 that it's closed for WorldCom too.

16 MR. WOLTERS: Okay.

17 MR. MUNN: I mean in other states.

18 MS. SIMPSON: Okay, the last UNE-P issue that
19 I have is UNE-P-10, and this is Section 9.23.5.6 of the
20 SGAT, and we were able to resolve this in other states
21 by adding the words that you see underlined in the last
22 section or the last sentence, sorry, of that section.
23 So the last sentence now reads:

24 Qwest shall not provide CLEC or Qwest
25 retail personnel with the name of the

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1 other service provider selected by the
2 end user customer.

3 And with the addition of the reference to
4 Qwest retail personnel, we closed this issue in other
5 states.

6 MR. WOLTERS: This is closed.

7 MR. MUNN: Judge, at this time, Qwest would
8 move for the admission of Exhibits 701, 702, 703, and
9 704.

10 JUDGE WALLIS: Is there objection?

11 MR. WOLTERS: No.

12 JUDGE WALLIS: There being no objection, the
13 exhibits are received.

14 MR. WOLTERS: And AT&T would also like to
15 move the admission of Exhibit 631.

16 MR. MUNN: No objection.

17 JUDGE WALLIS: 631 is received.

18 MS. SIMPSON: Those are all the issues we
19 have on switching and UNE-P.

20 MR. MUNN: So unless anybody else has any
21 other issues, I would like to go ahead and let
22 Ms. Simpson be released.

23 MS. STRAIN: Mr. Munn, would you mind --

24 JUDGE WALLIS: Let's be off the record for
25 just a minute.

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1 (Discussion off the record.)

2 JUDGE WALLIS: After a brief recess, just to
3 summarize the status of the discussions, the remaining
4 impasse items in switching are items 2, 7, 10-A, 10-B,
5 and 16 with the understanding that the parties are
6 working to bring language back tomorrow that may close
7 item 16. In the UNE-P section, item 5-A is at impasse,
8 item 5-C is deferred to the discussion on general terms
9 and conditions, and UNE-P-12 is at impasse. Now we're
10 shifting gears and shifting topics, and we're going to
11 take up with transport issues, which are at the
12 beginning of the Washington outstanding issues log.

13 Mr. Munn.

14 MR. MUNN: I think we will begin with the
15 transport issues in TR-1, and Ms. Stewart will address
16 the outstanding issues there.

17 MS. STEWART: Okay. The first one is TR-1.
18 Qwest believes that in 9.6.1.1 of the SGAT, we have made
19 all technically feasible and future bandwidths available
20 for EUDIT. In addition, at the request of the parties,
21 Qwest has made an agreement in other states and will
22 make the agreement here in Washington that within 45
23 days of closing a workshop, we will update our technical
24 publications and other CLEC wholesale documentation to
25 be consistent with commitments made in the SGAT. Qwest

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1 believes with the combinations of these two things that
2 this issue should be closed between the parties.

3 MR. WILSON: I have a question. I don't --
4 AT&T doesn't disagree that the stipulation closes this
5 issue in principle, but as far as implementing that
6 stipulation, is it Qwest's intention to, for example,
7 send by E-mail or hard copy or both to the parties in
8 this workshop the revised technical publications and
9 other documents as they are revised?

10 I ask this because I received an E-mail
11 request from AT&T a few weeks ago based on a CICMP
12 proposal by Qwest to address the dark fiber tech pub,
13 and they gave the web site address for the tech pub to
14 review it, and I went in over the weekend and looked at
15 the web site, and it still had the old version on it. I
16 just want to make sure we have the wheels in good motion
17 here to do this.

18 MS. STEWART: Qwest's intent --

19 MR. WOLTERS: I think another way to ask
20 that, Karen, before you respond, I think what would be
21 helpful is that as long as these proceedings are going,
22 if possible to make sure that like the attorneys and
23 witnesses for AT&T and all the parties get notice in
24 addition to your CICMP notice, because that way we're
25 assured we would get it as soon as you send it to CICMP.

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1 As it is now, it goes to CICMP, and our
2 internal and CLEC organizations have to somehow keep up
3 with those CICMP notices to know -- to get back to the
4 witnesses and attorneys in the 271 case that these
5 things are happening, and it would probably be helpful
6 for purposes of review and for Ken's purposes if we got
7 direct notice to the parties as part of the proceeding,
8 271 proceeding, in addition to that.

9 MS. HOPFENBECK: And I second that only
10 because the other thing about those CICMP notices, which
11 I now get directly from our account manager is, and all
12 of your notices about all of your changes in tech pubs
13 and policies and everything, that there's no way for me
14 based on those notifications to identify what you
15 changed and whether the changes that you have
16 implemented in those are in response to activities that
17 have been occurring in the 271 process or whether
18 they're independent of that. And that's -- I mean I
19 need to be able to relate them together, so I pull those
20 up and I go, well, what caused this, and I don't know
21 whether it's in response to an agreement we have made
22 here. Sometimes I can tell, sometimes I can't.

23 MS. STEWART: Okay. Just to clarify, our
24 original intent was that we would use the CICMP process
25 for notification. We would consider for a limited

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1 period of time doing a service list notification of
2 changes, and I guess I just need to be clear, would it
3 be the technical publications in particular you're
4 interested in? Because there are going to be, you know,
5 other product documentation and et cetera, and I don't
6 know if we want to get into a huge volume or whether if
7 really the issue is is the tech pubs truly memorializes
8 the technical parameters of the products which are
9 primarily the issues that we have addressed in the
10 workshops.

11 MR. WOLTERS: How problematic would it be for
12 the tech pubs and the IRRG?

13 MS. STEWART: Those two?

14 MR. WOLTERS: Those two.

15 MS. STEWART: Okay, let me check.

16 Qwest would be willing to distribute to the
17 service list for each workshop the tech -- the new draft
18 tech pubs that are being released to CICMP and the IRRG
19 things that are being released to CICMP. And it would
20 probably be a new kind -- at the same time we would do
21 both. It wouldn't necessarily be a commitment of
22 prenotification, but more of you would get it two
23 routes. You would get it the formal route, then you
24 would get the regulatory route for those two items.

25 MS. LUBAMERSKY: And we will attempt based on

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1 Ann's request to provide during this three, four month
2 -- during the pendency of the workshop process to
3 include a decoder ring so that the CICMP notification
4 would be the attachment, but we will attempt to assure
5 that you know the reason this is being sent to you is
6 Washington item TR-1. I'm making that commitment. I
7 will need to go home to determine how to implement it,
8 but I think the decoder ring request is a reasonable
9 one.

10 MR. WOLTERS: Yeah, and I think that's in
11 everybody's interest, because the way the stipulation is
12 worded, we have some responsibility to come back and say
13 if there's a problem with it. And I think during the
14 workshop process, this would really help us out if you
15 would do that. Then it would go directly to the people
16 that are involved with it on a daily basis, I can get it
17 immediately to Ken, and I don't have to worry about the
18 CICMP people understanding what the significance of
19 these documents are and necessarily knowing that they're
20 supposed to come to me, so it really would be a help.

21 MS. LUBAMERSKY: Well, now perhaps your CICMP
22 people need that in any event, Rick, but.

23 MR. WOLTERS: Well, we can deal with that
24 over a cup of coffee.

25 MS. HOPFENBECK: Can I ask one further

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1 clarification. AT&T has made a request that you do this
2 with respect to the tech pubs and the IRRG. Does that
3 encompass changes that are being made to the product
4 catalog and product documentation? Because that's
5 another aspect of this, and it comes up, for example,
6 with EELs. There was a recent change in the EELs
7 product description that was distributed at the last
8 workshop. Parties have identified continuing
9 inconsistent or identified at that time inconsistencies
10 there. I assume that's being updated, and there was a
11 representation that was being updated.

12 That kind of notice, like I'm looking at one
13 right now, tends to come to WorldCom through their
14 account manager. I'm looking at one, for example, on
15 forecasting LIS and collocation changes that are made.
16 Now I don't know why these changes have been made, but I
17 assume that, for example, with the EELs change, I
18 understand you're making changes in response to issues
19 that we have raised in this process. And I would
20 request that those changes also be distributed.

21 I mean basically to the extent you're making
22 changes in the tech pubs, the product catalog, the
23 product documentation, the things that are covered by
24 our stipulation in the CICMP that are in response to
25 activities that have occurred in the 271 process, that

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1 all of those be circulated to the service list, at least
2 during the pendency of this proceeding.

3 MS. STEWART: First of all, I do want to
4 clarify that the IRRG and the PCAT or the product
5 catalog are for all intents and purposes the same thing.
6 To a great extent, the pieces that you would want to see
7 are the IRRG or PCAT product catalog, and that's what
8 we're saying that we are going to send. I am reluctant
9 to say you will get every piece of product changes,
10 because what's going to happen is you've got the tech
11 pubs that are talking about the product and how it's
12 going to work, you've got the PCAT defining the product
13 and terms and conditions to the CLECs. Everything under
14 that are going to be pieces that just implement those
15 commitments, and I would be hesitant to make a
16 commitment that we would catch all of those.

17 MS. LUBAMERSKY: But my commitment was that
18 we would notice any CICMP related changes that are the
19 result of workshop discussions.

20 MS. STEWART: The other thing I don't think I
21 said officially for the record, when I was talking about
22 we have made a commitment to update technical
23 publications and related catalog items and other product
24 documentation, it's Exhibit 705, and I just wanted to
25 get that officially on the record that TR-1 is

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1 associated, that closing TR-1 is this exhibit.

2 With that clarification, are we closed on

3 TR-1?

4 MR. WOLTERS: Yes.

5 MS. STEWART: TR-2 is at impasse. I don't
6 believe there's any new information to share relative to
7 that one.

8 MR. WOLTERS: I just wanted to add -- ask a
9 question. I was going through some of the other we will
10 call them matrixes in some of the other jurisdictions,
11 and the issue of lighting dark fiber for purposes of
12 dedicated transport I show was under TR-2 in some
13 jurisdictions. Did we discuss -- I want to make sure
14 that that's an issue that we have discussed and captured
15 in the matrix. I couldn't find it here.

16 MS. STEWART: I just did a real quick on
17 going through the open issues, and I sure didn't see it
18 as an open issue, but I was focusing on open issues, and
19 I know we -- if it's here, it would be at impasse.

20 MR. WOLTERS: I just want to make sure we
21 understand this. My understanding is that for purposes
22 of the dark fiber issues, I mean dedicated transport
23 issues --

24 MS. STEWART: Right.

25 MR. WOLTERS: -- not dark fiber issues --

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1 MS. STEWART: Right, I know what you mean.

2 MR. WOLTERS: -- it's our feeling that if
3 there's dark fiber that you can't claim that facilities
4 are not available, that you would be obligated to light
5 the dark fiber and make it available as dedicated
6 transport. That's my understanding what the issue is,
7 and that Qwest does not believe it has to make its dark
8 fiber available and light that dark fiber to make it
9 available from Qwest when people ask for dedicated
10 transport, and they consider it falling under the
11 provision that the FCC said we don't have an obligation
12 to build.

13 MS. STEWART: Yes. I do not believe that it,
14 at least in the amount of the issues list that I was
15 able to review just in the last 30 minutes or so, I do
16 not believe that issue is specifically identified.

17 We have two options. If we want to create an
18 issue or clarify that it's in one of the transport
19 issues. The second option would be we do have in one of
20 the CL-1s our new language at 9.1.2.1 where we talk
21 about if facilities are actually -- specifically I'm
22 thinking 9.1.2.1.2 talks about the incremental steps we
23 will take to make a UNE available, and for clarity, we
24 have added a last sentence that says:

25 Incremental facility work will not

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1 include the upgrade of electronics for
2 the purpose of augmenting network
3 capacity.

4 And that's exactly the issue that you have
5 just said, that if we -- we won't put electronics to
6 create additional UDIT capacity on either dark fiber or
7 upgrade the electronics on existing fiber, and that
8 issue is enumerated later in one of the sections. So we
9 can either place.

10 MR. WOLTERS: Do you know which one it is so
11 I can be sure we capture it when we get there?

12 MS. STEWART: If you wanted to capture it
13 specific in transport, we could, but I was just saying
14 we could reference this SGAT language as being language
15 that is disagreement between the parties, but let me
16 find it real quick. One reference is EEL-5. The other
17 one would be CL-2-14. I don't know that's necessarily a
18 fit, if I understand your position, because I think your
19 position is that's not a build.

20 MR. WOLTERS: Correct. Ken suggested we just
21 go ahead and add a CL issue and make it 18, and we can
22 refer to that paragraph. But I -- how's that, and then
23 we'll just add it as CL-2-18?

24 MS. STEWART: Yep.

25 MR. WOLTERS: We can use that section

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1 reference 9.1.2.1.2, and I guess the issue is the adding
2 or upgrading of electronics for the purpose of providing
3 dedicated transport.

4 MS. STEWART: (Nodding head.)

5 MR. WOLTERS: Okay, thanks.

6 MS. STEWART: Thank you. Okay, so that issue
7 recapped, TR-2 is at impasse between the parties.

8 TR-3, we had a take back whether a commitment
9 we could make it feasible for EUDIT and UDIT to be on a
10 single order. Qwest has agreed to that and is putting
11 the processes in place, has memorialized this at SGAT
12 Section 9.6.4.1.1. And by May 31, Qwest will have a
13 process in place where a CLEC can order a UDIT/EUDIT
14 with a single ASR.

15 MR. WOLTERS: I believe there were some
16 conditions; can you enumerate those conditions?

17 MS. STEWART: The only condition that I
18 believe would be significant, we're -- the condition we
19 currently have is that a UDIT and EUDIT ordered at the
20 same time on a single ASR because of additional manual
21 work involved at this point in time has a three day
22 interval beyond whatever the regular UDIT interval would
23 be for that circuit. And in the future if Qwest is able
24 to upgrade its systems to eliminate that manual step,
25 then the service intervals would fall back to being the

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1 same for a UDIT.
2 MR. WOLTERS: I understand --
3 MR. MUNN: I think there's a condition of
4 being the same bandwidth and that's --
5 MS. STEWART: Oh, is that -- I'm sorry.
6 MR. WOLTERS: And there can't be any MUXing.
7 MS. STEWART: That is correct, I'm sorry.
8 The anticipation to be on a single service order is it's
9 the same bandwidth and does not include MUXing. If you
10 were going to have a DS3 to a MUX with individual DS1
11 UDITs coming in on the low side of the MUX, those indeed
12 would take two service orders.
13 Qwest believes that closes the issues between
14 the parties.
15 MR. WILSON: Yes.
16 MS. HOPFENBECK: That closes it from
17 WorldCom's perspective.
18 MS. STEWART: Okay. Issue --
19 MR. HARLOW: I have a question before we move
20 on. Should the notation in the matrix, issues matrix,
21 under TR-3, the notation following Covad, does that go
22 to TR-3 perhaps, not TR-2?
23 MR. WILSON: I don't have Covad in there.
24 MS. STEWART: Oh, it does, it is, you're
25 correct.

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1 MR. HARLOW: At the top.
2 MS. STEWART: I would agree. It was --
3 MR. WOLTERS: No, the Covad note gets moved
4 down to TR-3.
5 MS. STEWART: Correct, in fact, it was the --
6 MR. HARLOW: Yeah, I think that closes it for
7 Covad as well, but since I don't have my SME here, I
8 will have to check.
9 MS. STEWART: It did in previous workshops.
10 MR. HARLOW: Yeah.
11 MS. HOPFENBECK: The issue there was whether,
12 not just a single service order. I thought the issue
13 there whether the two circuits would have a single
14 circuit ID.
15 MS. STEWART: Correct, there was a specific
16 question. I had answered that at this point in time, we
17 anticipated there would be a single circuit ID. If as
18 we got further down the road there became any indication
19 that would continue with two circuit IDs, then we would
20 immediately notify the parties. But our intent in our
21 current design of the process is it should be a single
22 service order.
23 MS. HOPFENBECK: Okay.
24 MS. STEWART: Excuse me, a single circuit ID.
25 TR-6 at impasse, and Qwest does not have any

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1 update at this point.

2 Down to TR-11, this is an issue that I think
3 the parties have made tremendous strides in resolving,
4 and we have memorialized our commitment on when a CLEC
5 can cancel an order. I'm just going to summarize the
6 key point is in 9.6.4.1.5, and if the original -- if
7 Qwest delays the due date by more than ten business days
8 from the original due date, then the CLEC does have an
9 option to cancel without cancellation charges. And I
10 believe this closes the issue between the parties.

11 MR. WOLTERS: That's correct, this closed the
12 issue for AT&T.

13 MS. STEWART: TR-12 was the question about
14 what type of standardized testing, and would it be
15 memorialized in the SGAT. I believe we have answered
16 the questions for the parties about the standardized
17 testing. We have memorialized that in the SGAT and have
18 agreed that standardized testing would be set forth in
19 Technical Publication 77389. That SGAT reference of
20 9.6.4.5 Qwest believes closes the issue of UDIT testing
21 between the parties.

22 MR. WOLTERS: That closed the issue for AT&T.

23 MS. STEWART: TR-14, Qwest does not currently
24 provide the electronics on the CLEC end of the EUDIT.
25 It still believes that that's in the best interest of

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1 all parties. Qwest will not build electronics or put
2 electronics in place to make a UNE available for a CLEC,
3 and so Qwest believes this provides the CLEC the
4 flexibility of providing the electronics on the end of
5 an EUDIT. And that's my report on TR-14, and I will
6 turn it over to the other side.

7 MS. LUBAMERSKY: TR-14 should have the word E
8 before UDIT at the end.

9 MS. STEWART: Oh, I'm sorry.

10 MS. LUBAMERSKY: Karen spoke that, but it's
11 regarding our obligation to provide electronics at the
12 CLEC end of EUDIT.

13 MR. WOLTERS: This was really a take back, I
14 mean impasse issue now, I believe.

15 MS. STEWART: Okay.

16 MR. WOLTERS: I have done some research on
17 this for a brief in Colorado, and I think I found some
18 specific language that addresses this and expresses the
19 FCC's position that you have to provide electronics for
20 dedicated transport to both ends. So if you would like
21 to have that, I would be more than happy to provide it
22 to you. Maybe you will reassess your position. But I
23 believe it's pretty explicit that you have to do that if
24 you read the FCC's orders. I just don't have the cite
25 with me, but I will get it for you tomorrow.

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1 MS. STEWART: We would appreciate having it.
2 The issue is currently -- is at impasse. We appreciate
3 the heads up on the cite though.
4 Qwest does not have any other open issues on
5 transport. So do the parties, whether they have any
6 other open issues on transport?
7 MR. DITTEMORE: AT&T also.
8 MR. WOLTERS: More than happy to.
9 MS. STEWART: I'm sorry?
10 MR. WOLTERS: There is a provision I think on
11 the local use restrictions for dedicated transport
12 generally.
13 MS. STEWART: That is correct.
14 MR. WOLTERS: What provision is that; do you
15 know off hand?
16 MS. STEWART: I would have to look it up, but
17 it originally had a restriction for local use on both
18 UDIT and EUDIT. Qwest has agreed to remove the local
19 use restriction on UDIT but has retained per FCC
20 guidelines the local use restriction on EUDIT.
21 MR. WOLTERS: And where is that captured in
22 our matrix? I think that's still an impasse issue, and
23 I thought as a general transport issue, but --
24 MS. STRAIN: What's the SGAT section?
25 MR. WOLTERS: That's what we're looking for.

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1 I think it's 9.6.2.4; is that right, Karen?

2 MS. STEWART: That is correct.

3 MR. WOLTERS: Now do we have that captured on
4 the matrix? I don't believe so.

5 MS. STEWART: I don't believe so, at least
6 not -- we do have the issue of local use restriction I
7 believe in one of the UNE-Cs, but it's not specific to
8 transport.

9 MR. WOLTERS: Since this is a general
10 transport section, it might be a good idea to add a
11 section TR-15 and just refer to 9.6.2.4, and the local
12 use restriction I think now is limited to EUDIT.

13 MS. STEWART: And E dark fiber, and I do have
14 a report back. I can provide additional information on
15 this.

16 MR. WOLTERS: I think --

17 MS. STEWART: When I --

18 MR. WOLTERS: No, why don't you -- if you
19 want to give an explanation, go ahead. I think if you
20 could in the context of your explanation try to explain
21 how the local use restrictions that are contained in the
22 Supplemental Order Clarification of the FCC would apply
23 to a situation of EUDIT.

24 MS. STEWART: Okay.

25 MR. WOLTERS: Just say for the sake of

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1 argument that one was to agree that the FCC said you
2 could not use dedicated transport from say the IXC's
3 point of presence to the Qwest serving wire center for
4 purposes of providing special access. Let's assume that
5 there's that string. How would you apply these
6 provisions to that situation? It does not appear that
7 these provisions are really applicable to a UDIT, what
8 you call the UDIT situation, but more applicable to a
9 loop to loop transport combination.

10 MS. STEWART: Yep.

11 MR. WOLTERS: So let's say for the sake of
12 argument I wanted to accept your constraint, I don't
13 know how this applies so I could say this would be
14 acceptable.

15 MS. STEWART: I will step back and do a
16 little bit of history piece. Specifically in the UNE
17 Remand at Paragraph 489, the FCC stated:

18 We conclude that the record in this
19 phase of the proceeding is insufficient
20 for us to determine whether or how our
21 rule should apply in the discreet
22 situation involving the use of dedicated
23 transport links between the incumbent
24 LEC's serving wire center and an
25 exchange carrier's switch or point of

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1 presence (or entrance facility). We
2 believe that we should fully explore the
3 policy ramifications of applying our
4 rules in a way that potentially could
5 cause a significant reduction of the
6 incumbent LEC's special access revenues
7 prior to the full implementation of
8 access service and universal service
9 reform. Therefore, we set certain
10 discreet issues for further comment
11 below.

12 And for all intents and purposes, that's
13 exactly the definition of an EUDIT. It is the dedicated
14 transport links between a LEC's serving wire center and
15 exchange carrier switch or point of presence. So we
16 believe very specifically in this language of 489, local
17 use restriction applies.

18 However, following discussion of this issue
19 in another jurisdiction, Qwest has more fully explored
20 the ramifications of now applying the local use
21 restrictions to EUDITs that were installed just prior to
22 that supplemental order coming back, and making a long
23 story short, Qwest believes it's appropriate, it could
24 and does believe that the local use restrictions should
25 apply. But since this issue is currently before the

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1 FCC, in fact I believe this week reply comments on this
2 very issue have been filed, Qwest is willing for all
3 intents and purposes to grandfather in existing EUDITs
4 pending the resolution of the issue before the FCC.

5 So we will waive with one caveat, and that
6 caveat being that, of course, we would continue to
7 maintain that EUDITs, the intent is to serve an end user
8 customer you're providing local exchange service to, and
9 it's not a sole intent to bypass switched access service
10 and to replace special access entrance facilities. So
11 with the caveat, with that type of understanding and
12 language inserted in the SGAT, Qwest would be willing to
13 waive, basically would agree to grandfather EUDIT
14 pending the results of the FCC.

15 MS. HOPFENBECK: Is that a temporary
16 grandfathering just until the FCC's orders on the
17 further --

18 MS. STEWART: Correct, and the reason is
19 because this wasn't there, then the supplemental order
20 came out putting the local use restriction there, and
21 now to go back to people who may have put EUDITs in to
22 build their network and say, you know, the rules have
23 changed when in fact this issue is currently before the
24 FCC didn't seem particularly in the best interest of all
25 parties.

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1 When I said temporary grandfathering, to the
2 extent of the FCC order. We have no plans to change it
3 between now and an FCC order being rendered.

4 MS. HOPFENBECK: And what I -- my
5 clarification was, does Qwest expect that if the FCC
6 were to come out and affirm the position that it has
7 taken in the Supplemental Order of Clarification at some
8 point, would Qwest go back and essentially rerate those
9 EUDITs that did not meet the local use restrictions?

10 MS. STEWART: Qwest has no plans to go back
11 retroactively and change the rates, but it is correct
12 that Qwest will update its SGATs, its rates, whatever is
13 necessary once that order comes out on a going forward
14 basis.

15 MR. WOLTERS: Qwest, existing EUDIT, my
16 understanding is basically there's no restrictions on
17 the use of those EUDITs if they're in a period of
18 consideration by the FCC.

19 MS. STEWART: Correct.

20 MR. WOLTERS: They don't have to be used for
21 local use or anything like that?

22 MS. STEWART: Well, there is an underlying
23 assumption, of course, that what you're talking about
24 here with the UNEs is that they're providing local
25 exchange service.

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1 MR. WOLTERS: Some local exchange service.
2 MS. STEWART: Right, yes.
3 MR. MUNN: We wouldn't contemplate this UNE
4 being used to provide 100% non-local traffic.
5 MS. STEWART: Right, you couldn't just come
6 in and change all of your interstate POP entrance
7 facilities to EUDITs.
8 MR. WOLTERS: Well, let's stop a minute.
9 First you said grandfather existing, now you just said
10 you couldn't come in and change. So I want to make sure
11 that, one, existing EUDITs will stay in place as long as
12 there's some local exchange traffic going over those
13 circuits.
14 MS. STEWART: Correct.
15 MR. WOLTERS: You can not order, but can you
16 order any more EUDITs under those same terms and
17 conditions until the FCC order comes out?
18 MS. STEWART: Yes, you can continue to order
19 them. We will grandfather existing, and once they're
20 ordered within we believe it's going to be a relatively
21 short period of time.
22 MR. WOLTERS: And so you can augment existing
23 also?
24 MS. STEWART: Correct.
25 MR. WOLTERS: So you're going to change this

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1 language then that you have in 9.6.2.4 to reflect that?
2 MS. STEWART: If it would settle the issue
3 between the parties, Qwest would be willing to put
4 language in to the extent of matching this commitment
5 and to clarify that if your intent is to serve your
6 customer that you're providing end user local exchange
7 service to in that process in which the EUDIT is going
8 to be used that we would do this not -- grandfather in
9 the existing and EUDITs that would be installed until
10 the FCC resolves the issue.

11 MR. WOLTERS: I guess the next question is
12 that I'm happy with what you're saying. I guess taking
13 it a step farther, I mean I might have a DS3 EUDIT that
14 goes to my office. I might have multiple DS1s being
15 MUXed onto DS3s in my office. Some may be totally long
16 distance, some may be totally local, some may be a mix.
17 But once I get it on a DS3, some portion of it is going
18 to be local, so I hope that meets your grandfathering.

19 MS. STEWART: We believe the example that you
20 described is within the guidelines. The reason that
21 we're being hesitant here is because there is a point
22 where you cross over to true EELs, and EELs are going to
23 carry that local restriction. So in continuing to
24 mingle and put traffic in that manner, you may be facing
25 a regrooming situation, so I'm --

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1 MR. WOLTERS: If the --

2 MS. STEWART: You would have to knowingly
3 know if you continued and put things in in that manner
4 and if the FCC were to retain this local use restriction
5 that you might face network regrooming later.

6 MR. WOLTERS: If we purchased a UDIT from you
7 and then made an EEL, then, of course, the EEL
8 restrictions at that point apply.

9 MS. STEWART: Correct.

10 MR. WOLTERS: That's what you're saying?

11 MS. STEWART: Right.

12 MR. WILSON: And I think that does
13 potentially close this issue as long as we see the
14 language and it does what you say. My only hesitation
15 is where do we go if the FCC doesn't clearly resolve the
16 issue. Because I mean as it is now for this issue, the
17 parties have differing interpretations of what the FCC
18 has already said. So my only concern is if they don't
19 give us all the answers, where will that leave us,
20 because we've already asked the Commission to make a
21 judgment on its own.

22 MS. STEWART: And one of the primary reasons
23 that Qwest is making this offer to be able to settle the
24 issues between the parties is in reviewing the questions
25 that are before the FCC and the kind of comments that

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1 have already been filed, because I believe this is in
2 the reply comments phases, Qwest felt comfortable in
3 that review that this issue will be resolved, that it's
4 sufficiently numerated in the comments, that it will be
5 resolved. I'm not promising or saying Ken doesn't have
6 a point there. I'm just saying we are confident it will
7 be resolved.

8 MR. WOLTERS: Well, why don't we leave this
9 issue then instead of as an impasse, let's kind of put
10 it as an open then waiting for language.

11 MS. STEWART: (Nodding head.)

12 MR. WOLTERS: Let the record reflect that she
13 is nodding her head and waving her hands.

14 MS. STEWART: We would be able to have the
15 language available tomorrow morning, so we would agree
16 to leave it open only until tomorrow morning.

17 MR. WOLTERS: That's fine.

18 MS. STEWART: Okay, any other transport
19 issues?

20 JUDGE WALLIS: Let's be off the record for a
21 moment.

22 (Discussion off the record.)

23 MS. STEWART: The parties will next go to
24 issues general checklist item two. They're identified
25 in the issues log as CL-2. The first one, CL-2-1 will

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1 be addressed tomorrow morning.

2 Qwest has no additional report on CL-2-5-B.

3 That's still an issue of impasse between the parties.

4 MR. WOLTERS: One second, please. Yeah,
5 that's fine, I was just making sure we had captured all
6 the issues on 5.

7 MS. STEWART: Okay.

8 MR. WOLTERS: Go ahead.

9 MS. STEWART: CL-2-11, still an impasse issue
10 between the parties.

11 CL-2-14 --

12 MR. WILSON: The only -- maybe on CL-2-11,
13 the only thing I would like to point out is that the
14 Judge did rule on this in the collocation workshop, and
15 this is really the same type of issue, that it's really
16 the same issue in regeneration at the collocation.

17 MS. HOPFENBECK: That was the ruling in
18 connection with the ICT on collocation, wasn't that?

19 MR. WILSON: Regeneration was also.

20 MS. HOPFENBECK: Right, it was part of the
21 EICT issue.

22 MR. WILSON: Yes, I believe that's true.

23 MR. WOLTERS: Well, there was a -- I looked
24 at the order the other day, there was a separate heading
25 on the regeneration, but I still intend to brief them.

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1 MS. STEWART: Moving down to CL-2-14, we have
2 had general discussions in the prior workshop. We
3 clarified that in 9.19, Qwest did not mean the first
4 sentence as we were concerned that WorldCom had thought
5 that it meant we would make an individual assessment of
6 the CLEC prior to deciding whether to build. We
7 clarified that Qwest upon receiving a request from a
8 CLEC to build UNEs would make a financial assessment of
9 the request and make a determination on whether based on
10 that financial assessment of the actual request whether
11 Qwest would build or not.

12 In addition, at the request of the parties,
13 Qwest has added new language, the last sentence of 9.19,
14 clarifying that any UNEs constructed under the terms and
15 conditions of 9.19 would be a UNE and be treated as such
16 for other provisions of the SGAT. Qwest believes it's
17 made reasonable steps available to the CLECs to be able
18 to request the constructions of UNEs. Qwest believes
19 it's under no obligation to build those UNEs and has the
20 right to take and make an assessment of each and every
21 request. Qwest has to provide its existing network
22 available, not an unbuilt network. We really only have
23 the requirement per the FCC to provide -- make available
24 the UNEs that exist in our network.

25 I believe the issue is at impasse between the

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1 parties.

2 MS. HOPFENBECK: That's what WorldCom

3 believes.

4 MR. WOLTERS: Just to ask a question before
5 we close this for AT&T, my understanding is this section
6 addresses more the dispute issue, not the obligation to
7 build issue.

8 MS. STEWART: That is correct. I believe we
9 have the obligation to build issue captured. Let's
10 check.

11 MS. HOPFENBECK: That may change our view on
12 it.

13 MS. STEWART: Yes.

14 MS. HOPFENBECK: Because I have the
15 obligation to build issue as being --

16 MS. STEWART: Is in 2-15.

17 MS. HOPFENBECK: -- in dispute, and I was
18 going to say is that the same as 2-15?

19 MS. STEWART: No, CL-2-15 is a more direct
20 hit, that we don't believe we have an obligation to
21 build other than potentially in some limited case
22 unbundled loops, and which we will talk about more
23 thoroughly in a moment.

24 MR. WOLTERS: With that understanding then,
25 we have no objection if WorldCom wants to close.

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1 MS. STEWART: Close or --

2 MS. HOPFENBECK: We can close 14 if 15 is
3 open and impasse.

4 MS. STEWART: Okay.

5 MS. STRAIN: I didn't catch that.

6 MS. HOPFENBECK: We can close 14. It will be
7 15, CL-2-15 will remain at impasse and capture I think
8 the critical issue, which is the extent of Qwest's
9 obligation to build.

10 MS. STEWART: And at this time, I would
11 direct -- we do have in the SGAT Section 9.19
12 referenced, I believe we have a better reference that we
13 can use for this, and it's 9.1.2.1, and I would
14 recommend that we replace the SGAT section as identified
15 for CL-2-15.

16 MS. HOPFENBECK: That section was referenced
17 in the previous issue.

18 MS. STEWART: Correct. And in 9.1.2.1, Qwest
19 makes clear its policies as it relates to its
20 obligations to build. Qwest believes that it does not
21 have any obligation to build UNEs for CLECs. However,
22 to the extent that Qwest has an obligation to an end
23 user to construct typically a DS0 unbundled loop, Qwest
24 would make that -- extend that commitment to CLECs.
25 Qwest, however, did also clarify in 9.1.2.1.2 that it

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1 would take incremental facility steps to make UNES
2 available for CLECs and has enumerated those incremental
3 facility work that Qwest would do. And then Qwest has
4 previously -- as I previously mentioned has stated in
5 this section as the last sentence that incremental
6 facility work does not include upgrading the electronics
7 for the purposes of augmenting network capacity.

8 I believe the issue is at impasse.

9 MR. MUNN: And just one point on this before
10 you move it on, the 9.2.1.1 where we say Qwest will
11 build facilities dedicated to end user customer, what's
12 contemplated there is a loop and a line port.

13 MS. STEWART: Right, although it's -- the
14 chances that a telephone company in today's environment
15 would have to build to provide a line port is unlikely,
16 but it is true that it's the network elements directly
17 assigned to a particular end user customer. So in
18 theory, it could be a line port also.

19 MR. WOLTERS: Does it include dedicated
20 transport? I mean it includes transport for those
21 customers, correct?

22 MS. STEWART: To the extent that shared
23 transport might be required. It's once again unlikely
24 that adding one or two customers is going to add any
25 incremental need to add shared transport. But in

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1 theory, it could be shared transport.

2 MR. KOPTA: Let me ask something about
3 9.1.2.1.2. In the parenthetical, you use i.e., is that
4 -- do I take that to mean that this is the exhaustive
5 list of what Qwest will do?

6 MS. STEWART: Yes.

7 MR. KOPTA: And in the last sentence when
8 you're talking about upgrading of electronics, I'm
9 assuming that that means that if, for example, you have
10 maxed out an OC48, then you would need to put in
11 another, an OC3 or 48 or 12 or whatever, that that's
12 what this is referring to, not the insertion of a line
13 card in the OC48 to give -- to maximize or to use some
14 of the excess capacity that's in the OC48.

15 MS. STEWART: I will clarify. If we had an
16 OC48 that had capacity that a card needed to be inserted
17 to utilize that capacity, we would insert the card,
18 okay. If it is an OC48 let's say on some fiber, and it
19 is totally at capacity, and it would take totally new
20 electronics, remove that electronics off, put on new
21 electronics that would increase the capacity of that
22 fiber to OC192, we would not do that. That would be
23 putting on new electronics. You're not talking just the
24 card. You would be putting on totally new MUX
25 equipment. We would not do that. But we will card to

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1 get the maximum capability of the electronics.

2 MR. KOPTA: Although it is possible that you,
3 rather than substituting an OC192, for example, you
4 might put in another OC12 because you anticipate that
5 much more growth at some point. Would that also be
6 included, just the addition of another OC unit, whatever
7 capacity that is, not upgrading the electronics, but
8 just expanding, essentially expanding the capacity of
9 the existing facility?

10 MS. STEWART: To the extent that utilizing
11 expanding the capacity is putting in cards, completing
12 out, filling out card slots that are there, Qwest will
13 do that work. Qwest will not install all new
14 electronics, whether it's to augment, to grow capacity,
15 whatever.

16 MR. KOPTA: Okay, thanks.

17 MR. WOLTERS: Let me ask another question.
18 If you look at 9.1.2.1.2, it talks about providing all
19 of this work, and then there is the end of the sentence
20 says, in order to complete facilities to the customer
21 premise. Why is that language in there, because it
22 doesn't necessarily -- the cable doesn't always
23 necessarily go to the customer premise, so that would
24 appear to me to be a limitation on the obligation that's
25 contained in there to complete incremental facility

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1 work. So this doesn't apply to just any cable, this
2 only applies to cable that complete facilities -- that
3 complete facilities to the customer premise? Because
4 cable facilities may go between central offices.

5 MS. STEWART: Yeah, we just -- I'm not
6 disagreeing. Can I just take a second?

7 On looking at that language that has been
8 pointed out by AT&T, Qwest would agree to make a change
9 in that it does appear to be limiting and using the
10 words customer premise in that sentence. After the
11 parenthetical, Qwest would recommend putting, in order
12 to complete the UNE(s), because it could be a
13 combination of UNES -- excuse me, strike that sentence,
14 I have had it corrected.

15 In order to make the UNE(s) available, we
16 just felt that since it's in the context of what's
17 available versus not available that using the same word
18 might be --

19 MR. WOLTERS: Okay, this raises a couple of
20 questions I want to ask. The first one, let's go back,
21 step back for a second to 9.19 I believe is the
22 construction paragraph.

23 MS. STEWART: Right.

24 MR. WOLTERS: Now it's my understanding,
25 correct me if I'm wrong, but the process that you used

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1 under 9.19 is not the same process you may use to
2 determine a build or construction for say special access
3 or private line.

4 MS. STEWART: Let me see if I can walk
5 through this. They may be similar processes, but it is
6 correct that 9.19 does not obligate or commit that Qwest
7 will provide identical to retail its commitment -- or
8 let me restate this.

9 In 9.19, what it says under the construction
10 of UNES, that Qwest will evaluate the request of the
11 CLEC to build a UNE, and Qwest will make the decision
12 whether to proceed to construct that UNE. And then it
13 does go on to say in 9.19 that:

14 When the CLEC orders the same or
15 substantially similar service available
16 to Qwest end user customers, nothing in
17 this section shall be interpreted to
18 authorize Qwest to charge CLEC for
19 special construction where such charges
20 are not provided for in a tariff or
21 where such charges would not be applied
22 to a Qwest end user customer.

23 So -- and it's a -- it's a -- it's a fine
24 point, and I do want to make sure we're clear, and if
25 you don't think the SGAT is clear, we can make it clear,

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1 but we will decide whether we build the UNE or not. We
2 are not committing that that commitment of whether we
3 build or not is identical to the assessment we would
4 make to an end user customer to build or not.

5 MR. WOLTERS: So the process, what I'm
6 getting at is the assessments may be different.

7 MS. STEWART: Correct.

8 MR. WOLTERS: Between a UNE and special
9 access, private line, or retail.

10 MS. STEWART: Right, different process. But
11 once that has been determined that we will build for
12 you, then you fall back to this commitment that it would
13 be on the same terms and conditions for retail.

14 MR. WOLTERS: Okay, let's step back now to
15 9.1.2.1.2.

16 MS. STEWART: Correct.

17 MR. WOLTERS: Okay, let's say, go back to
18 Greg Kopta's example, you've got dedicated facilities
19 between two central offices, which I think it would be
20 cable capacity as described under this section, and
21 let's say it's at OC48 and it's maxed out, can't provide
22 any more transport for UNE purposes. Let's say you're
23 using that say -- let's say you had this transport
24 between two central offices, and you're using it for
25 your retail customers or for any other service besides

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1 UNEs and it's maxed out, you have to make some
2 evaluation for deciding whether to implement or augment
3 that transport between those two central offices for
4 your own customers, correct?

5 MS. STEWART: Correct.

6 MR. WOLTERS: Now I have UNEs, would you use
7 the same assessment in determining whether you want to
8 increase the transport for UNE purposes?

9 MS. STEWART: No, we are not committing that
10 we will take the exact same assessment whether we would
11 build for a CLEC or whether we would build for an end
12 user customer. In reality, our individual case based
13 pricing mechanism uses similar underlying programs. As
14 large a company as we are, we can't necessarily -- we
15 have to have standard processes to look at how to assess
16 and make decisions to build, and we use the same process
17 for both.

18 But in the ultimate analysis, we are not
19 committing that we would make identical assessments for
20 end user customers as we would make for CLECs, that
21 there may be situations where we would make a different
22 decision for an end user customer than we would make for
23 a CLEC. If we make the decision to build for a CLEC,
24 then we are committing that those rate terms and
25 conditions would be what we would offer to an end user

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1 customer, the second part of 9.19.

2 MR. KOPTA: Let me ask one other question
3 while we're talking about 9.1.2.1.2. Is this applicable
4 only to those services and facilities that are
5 identified in 9.1.2.1? In other words, does this apply
6 if a CLEC is ordering a DS1 private line, which I'm
7 assuming would not fall within the provider of last
8 resort or carrier of last resort or IFC obligations.

9 MS. STEWART: What applies to 9.1.2.1 is
10 whatever would apply to Qwest as part of its provider of
11 last resort or carrier of last resort. To the extent
12 the state only addresses primary residential service in
13 those requirements, it would be only primary
14 residential. To the extent the state adds business
15 service, it would apply to whatever extent they have
16 added business service. I'm not aware of any state
17 where we have a carrier of last resort obligation around
18 DS1 service, so I think the net is going to be no, it
19 would not apply to that service, but you would really
20 have to do an individual case assessment about what our
21 carrier of last resort obligations are.

22 MR. KOPTA: And putting that aside, just --

23 MS. STEWART: Can I say one more thing. The
24 only other place that in the unlikely event we had a
25 carrier of last resort obligation around transport,

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1 typically you would not see transport at DS0. You would
2 see transport at a higher, DS1, DS3, or above. So
3 that's why I'm saying it's not impossible, but it would
4 be more if we had some type of interoffice facility
5 carrier obligation as carrier of last resort, then
6 that's not totally impossible that that could occur.

7 MR. KOPTA: Well, let's in my example take a
8 DS1 private line that for whatever reason doesn't fall
9 within the carrier of last resort or provider of last
10 resort obligations. Does 9.1.2.1.2 apply so that if you
11 just need to insert a card into the OC48 to be able to
12 provision that DS1, Qwest would do that?

13 MS. STEWART: Okay, I think what you're
14 trying to say, let me see if I can understand it, you're
15 saying -- well, first of all, this -- everything that's
16 in the SGAT applies to UNEs. It doesn't apply to
17 private line and decisions around building private line.
18 But if your question is because 9.1.2.1.2 is a subset of
19 9.1.2.1, are you saying it only applies if 9.1.2.1
20 applies?

21 MR. KOPTA: That's my --

22 MS. STEWART: I think that was our original
23 intent, but we became clear that parties desired some
24 clarification within the SGAT, what did we mean by
25 facilities not available, or what would we do to make

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1 facilities available, so perhaps when we --
2 MS. LUBAMERSKY: Unindented.
3 MS. STEWART: Unindented.
4 MR. MUNN: Exactly.
5 MR. WOLTERS: Maybe you need to make it 9.1.3
6 and get it out of the 9.1.2 section.
7 MS. STEWART: Or perhaps repeat it or
8 somehow, but you're bringing up a good point. By the
9 indent, the way we have modified 9.1.2.1.2, we had meant
10 it to be a general paragraph.
11 MR. KOPTA: I hoped that that was the answer,
12 just one of those moving the numbers out, sort of a
13 lawyerly thing.
14 JUDGE WALLIS: Does that conclude the
15 discussion?
16 MS. HOPFENBECK: I have a question on 9.1.9.
17 MS. STRAIN: 9.1.9?
18 MS. STEWART: Can I just kind of finish this
19 issue?
20 MS. HOPFENBECK: Yeah.
21 MS. STEWART: We will take an opportunity
22 over the evening to see what would be the most logical
23 way to address this issue and to get it moved over as a
24 general term and condition around availability.
25 MR. MUNN: General applicability to UNEs, and

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1 we will plug it in somewhere and let you know tomorrow.

2 MR. KOPTA: Great, thanks.

3 JUDGE WALLIS: Ms. Hopfenbeck.

4 MS. HOPFENBECK: I just want to make sure I'm
5 clear on this. As I understand your responses to
6 Mr. Wolters' questions, when Qwest says it will conduct
7 an individual financial assessment of a request
8 requiring construction of facilities, and that this
9 first of all applies to when 9.1.2.1 does not apply.

10 MS. STEWART: Correct.

11 MS. HOPFENBECK: Okay. Now the individual --
12 Qwest is not committing to perform this same individual
13 financial assessment when UNEs are involved as it does
14 when private line or special access is involved; is that
15 right?

16 MS. STEWART: That is correct.

17 MS. HOPFENBECK: Okay. Is it also fair to
18 say that essentially in 9.19, Qwest intends to retain
19 unfettered discretion to make the decision to build or
20 not to build?

21 MS. STEWART: That is correct.

22 MS. HOPFENBECK: Okay, thanks.

23 MR. MUNN: It's Qwest's position that under
24 -- you're proceeding under 9.19, there is no obligation
25 to build.

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1 MS. HOPFENBECK: So the only real purpose of
2 9.19 is to set forth the obligation that if Qwest
3 decides to build for whatever reason, it won't do so
4 under terms that are different, it won't assess special
5 construction charges under different terms than it does
6 under --

7 MS. STEWART: That is correct.

8 MS. HOPFENBECK: That's really what the
9 purpose of that is?

10 MS. STEWART: Correct.

11 MS. HOPFENBECK: So it doesn't give CLECs the
12 right to claim that the decision not to build was an
13 unreasonable decision; there's really no standard,
14 reasonableness standard?

15 MS. STEWART: That is correct.

16 JUDGE WALLIS: Okay, so this concludes the
17 discussion in --

18 MS. STEWART: CL-2-15 with the correct SGAT
19 reference of 9.1.2.1, and Qwest believes it's still at
20 impasse. We would love to put closed on it, but.

21 JUDGE WALLIS: Okay, well, that brings us to
22 an appropriate time to break for the day, and we will
23 pick up tomorrow morning at 8:30 in this room, and we
24 will be adjourned until then.

25 (Hearing adjourned at 4:30 p.m.)

