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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
) Volume XXVI
Compliance with Section 271 of) Pages 3555 to 3654
the Telecommunications Act of)
1996)

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In the Matter of)
) Docket No. UT-003040
U S WEST COMMUNICATIONS, INC.'s) Volume XXVI
) Pages 3555 to 3654

9

Statement of Generally)
10 Available Terms Pursuant to)
Section 252(f) of the)
11 Telecommunications Act of 1996)
_____)

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A Workshop in the above matters was held on

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April 25, 2001, at 8:30 a.m., at 900 Fourth Avenue,

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Suite 2400, Seattle, Washington, before Administrative

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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, Attorney
2 at Law, 1801 California Street, Suite 4900, Denver,
3 Colorado, 80202, and by LISA ANDERL, Attorney at Law,
4 1600 Seventh Avenue, Suite 3206, Seattle, Washington
5 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 ALSO PRESENT:

11 KAREN STEWART, Qwest
12 NANCY LUBAMERSKY, Qwest
13 KENNETH WILSON, AT&T
14 MICHAEL HYDOCK, AT&T

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INDEX OF EXHIBITS

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5 EXHIBIT:

MARKED:

ADMITTED:

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KENNETH WILSON

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P R O C E E D I N G S

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1 JUDGE WALLIS: Let's be on the record,
2 please, for our April 25, 2001, session in the matter of
3 Commission Dockets UT-003022 and 003040. This morning
4 we will begin with a couple of take backs from Qwest.

5 In conjunction with those, I'm marking as
6 Exhibit 710 for identification a single page document
7 designated Exhibit 710 and beginning with SGAT Section
8 9.1.2.1.2. I'm marking as Exhibit 711 for
9 identification a single page document designated SGAT
10 number 9.6.2.4.

11 Mr. Munn.

12 MR. MUNN: I think with that, Ms. Stewart
13 will just explain the SGAT changes that are reflected on
14 Exhibits 710 and 711.

15 MS. STEWART: Okay. In the SGAT, Qwest has,
16 within Section 9, Qwest has several references to where
17 facilities are available. CLECs were concerned that
18 that was rather not explanatory about what would make
19 facilities available, and so Qwest has clarified what it
20 believes to be its carrier of last resort obligations,
21 which is its obligations where it would build UNEs, and
22 in addition has Section 9.19 that talks about if a CLEC
23 would request that Qwest consider building UNEs.

24 It's still left after our discussion
25 yesterday not a clear definition removed from within

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1 carrier of last resort obligations of what work Qwest
2 would do to make a UNE available, and so we have
3 basically taken Section 9.1.2.1.2, modified it so that
4 it does not only talk about facilities to a customer
5 premises, but talks about all facilities, and then we
6 took down and basically copied that section, brought it
7 down, indented it over so it would be general and apply
8 to all UNEs, and it's Section 9.1.3 that had previously
9 been reserved for future use.

10 As far as identifying within our issues log,
11 one of the significant places this exhibit would be
12 applicable would be UNE-C-11. And in UNE-C-11, it's one
13 of the references to when facilities are available. It
14 happens to be a combinations reference, but by putting
15 this language into 9.1, it would apply to all the
16 sections of Section 9, be it switching, transport,
17 combinations. So I would recommend that we would for
18 UNE-C-11 add the additional SGAT reference of 9.1.11 and
19 reference Exhibit 710.

20 MR. MUNN: The SGAT reference would be 9.1.3
21 you would be adding.

22 MS. STEWART: I'm sorry.

23 MR. WOLTERS: UNE-C-11?

24 MR. MUNN: Correct.

25 MR. WOLTERS: And we haven't discussed this

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1 issue yet?

2 MS. STEWART: No, but I just -- there's
3 several references to where facilities available, and in
4 my quick look, that seemed to be the most appropriate
5 for this actual specific.

6 MR. MUNN: And this SGAT, you will recall,
7 this SGAT change was made in response to Greg's inquiry
8 yesterday that 9.1.2.1.2 should probably not be indented
9 where it would appear that it just applied to the
10 provisions that fall under 9.1.2.1, so we just -- 9.1.3
11 was reserved for future use, we just copied the
12 substance there so it's not indented. I think that
13 should resolve Mr. Kopta's issue from yesterday.

14 MR. KOPTA: It does address that particular
15 issue, although the way that you have done this raises
16 another issue, which is the following Section 9.1.2.1.3,
17 does that just apply in circumstances in which you are
18 ordering UNEs that would fall under the carrier of last
19 resort or provider of last resort obligation?

20 MS. STEWART: The provisions in 9.1.2.1.3
21 would potentially apply in all UNE orders also.

22 MR. KOPTA: Which is why it would seem to me
23 that you may, rather than doing what you have done here,
24 just move everything out to the margin and make this --
25 make the first -- if you're looking at Exhibit 710, what

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1 is now 9.1.2.1.2, make that 9.1.2.2, then the following
2 one, the following paragraph would be 9.1.2.3, and then
3 just sort of move everything one number over to make it
4 clear that this, all of this subsection of 9.1.2 and
5 therefore applicable to all UNEs.

6 MS. STEWART: So 9.1.2.1 would become 9.1.3,
7 because it's not really a subsection of 9.1.2. How
8 about we -- why don't we do the intent, and we will
9 figure out the logistics.

10 MR. KOPTA: Okay. I was going to suggest if
11 we were going to talk about this, we could go off the
12 record.

13 MR. MUNN: Right.

14 MR. KOPTA: It's not something that --

15 MR. MUNN: Why don't we talk about this on a
16 break, how to capture. We have done the specific one,
17 and then I think you have made a good point here, so we
18 will work with you on that on a break.

19 MR. KOPTA: Okay, that would be great.

20 MS. STEWART: We also had another take back
21 to do with issue TR-15, and that's the local use
22 restrictions for EUDIT. And Qwest has agreed pending
23 resolution by the FCC of the local use restrictions
24 which are currently in the comment stage. Qwest has
25 distributed an amended 9.6.2.4, and we have marked it as

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1 Exhibit 711, and Qwest would tender this exhibit if it
2 could resolve and remove the impasse issue associated
3 with TR-15.

4 MR. WOLTERS: Our initial reaction is it
5 looks fine, but I think now that I have seen the
6 language, I would kind of like to talk to somebody back
7 at the office to make sure that it's okay with them.
8 But I think it does resolve TR-14, but I really can't
9 give a definitive response until I talk to my people.

10 MR. MUNN: Just to be clear, that's TR-15.

11 MR. WOLTERS: Correct, I apologize. So let's
12 just show that as a tentative close.

13 MR. MUNN: How about it's closed subject to
14 you coming back?

15 MR. WOLTERS: That's fine.

16 MS. HOPFENBECK: Well, I want to weigh in,
17 WorldCom wants to weigh in on this also. Question, can
18 you all at the conclusion of this workshop E-mail these
19 new provisions to us or to the service list to
20 facilitate our distributing the new language to people
21 who need to look at the language?

22 MR. MUNN: Yes.

23 MS. STEWART: That was all of the take backs
24 other than an issue to do with GR-303, and we're still
25 having some communications concerns, and we're

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1 attempting to still see if we can get that out today,
2 and we will give a progress report later in the morning.

3 And then I believe that completed all of the
4 TR transport issues. We had next gone to CL-2, the
5 general checklist item 2 issues, and we had the CL-2-1
6 that we agreed would be done this morning. And then
7 after that, I believe we put down CL-2-18, but I'm not
8 sure we completed our discussion. And then those would
9 be the two remaining issues of CL-2, and we would
10 propose to go to those now, CL-2-1 first.

11 MR. MUNN: I think the CL-2-1 has been at
12 impasse probably in other jurisdictions, but we want to,
13 you have Mr. Hydock here, and if there's some additional
14 points to address, we can go ahead and address those
15 now.

16 MR. WOLTERS: I think we have discussed the
17 issue at the last workshop, but we didn't have language.
18 And I think the purpose was to come back and discuss
19 that language, so I'm not even sure that Qwest had their
20 language available at the last one.

21 MS. LUBAMERSKY: Correct.

22 MR. WOLTERS: So do you want to go first and
23 then explain your language, and then have Mr. Hydock go
24 next?

25 MS. LUBAMERSKY: Yes. Exhibit 709 reflects

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1 Qwest's proposal to codify our commitment to provide
2 testing capabilities to CLECs, Section 12.2.9.3. Three
3 portions of the testing have existed for some time,
4 connectivity testing, interoperability testing, and
5 controlled production. This language also captures our
6 commitment to creation of a stand alone testing
7 environment.

8 The three veteran testing options are being
9 observed and analyzed as part of the 13 state ROC OSS
10 third party test. Hewlett Packard and a pseudo CLEC and
11 KPMG through observation will analyze the entire testing
12 environment as it exists today and will file reports on
13 whether it, in fact, allows an efficient competitor a
14 meaningful opportunity to compete.

15 For that reason, we do not believe that
16 language changes are appropriate at this time for the
17 SGAT and would suggest that we capture the current
18 commitment of testing, allow it to be observed,
19 analyzed, and reported by the third party test vendors,
20 and as a result of that test, we may or may not need to
21 improve, change, modify our test process.

22 To assure accuracy though, the stand alone
23 testing environment has not yet been added to the third
24 party test, and it is an issue currently before the ROC
25 tag.

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1 AT&T in Exhibit 656 has proposed a number of
2 pages, six pages single spaced, of SGAT language. And
3 at this point, Qwest is not in a position to agree to
4 the proposed language. The CLECs participating in our
5 changed management process have voted to move forward on
6 the stand alone testing environment as we have captured
7 in our language, Exhibit 709. And for that reason,
8 we're not comfortable making modifications.

9 Three brief examples of problems. We don't
10 have CORBA, so AT&T's suggestion to add the language
11 EDI/CORBA really can't happen. We're reluctant, second
12 example, to agree to commitments of yet unknown or
13 nonexistent application to application opportunities.
14 And thirdly, there's a statement at the end of their
15 stand alone test environment where they wanted to add
16 preorder queries, and again, the stand alone test
17 environment that is moving forward through CICMP does
18 not match that. Preorders are not subject to the same
19 edits, because the stand alone testing environment does
20 not use Legacy systems. Just three brief examples, not
21 wholly complete, but illustrative of our concerns and
22 unwillingness at this time to consider the detailed
23 language proposed by AT&T.

24 MR. MUNN: And that was Exhibit 656, the AT&T
25 exhibit.

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1 MS. LUBAMERSKY: AT&T, yes.

2 MR. HYDOCK: Okay. What the conflict boils
3 down to is two parts of it, and Qwest just went through
4 a discussion of their proposed testing language and
5 AT&T's attempts to clarify some of the responsibilities
6 of Qwest. I think Qwest has brought up some points
7 where further negotiations on the language might be
8 possible, but there are some clear differences as to how
9 far it appears Qwest wants to go with the language.

10 With AT&T 656, 12.2.9.3.2, the stand alone
11 testing environment, AT&T has proposed language which
12 clarifies what Qwest will provide in the test
13 environment, but more importantly makes sure that Qwest
14 will update that test environment for changes resulting
15 from OSS changes, changes for new offerings, new OSS
16 capabilities, new services, et cetera. So it puts it in
17 more of a dynamic perspective as opposed to one stand
18 alone test environment at the get go and no
19 modifications after that, and that's kind of what AT&T
20 was driving at there.

21 The three main testing agreements, I think,
22 or testing arrangements, both parties are in consensus
23 on in terms of a concept, the connectivity testing, the
24 stand alone test environment, and the controlled
25 production testing. AT&T has basically proposed a

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1 fourth test, which is a comprehensive production
2 testing, AT&T's 656, 12.2.9.3.5. Essentially it's an
3 extension of the controlled production testing without
4 some of the limitations that Qwest has put on the
5 controlled production testing.

6 Controlled production testing is limited to
7 anywhere from two to four dozen lines in a testing
8 environment. The tests are comprised of actual
9 customers or friendly employees, but it's limited to the
10 two to four dozen lines. The second issue which limits
11 it is that the scenarios that are placed through the
12 production testing are controlled, both parties agree on
13 certain scenarios, and those scenarios are tracked
14 through the system. Controlled production testing is
15 valuable, because it gives you the first cut to make
16 sure your systems are talking to one another, and both
17 parties can complete orders, but it's not reflective of
18 real world scenarios.

19 AT&T is examining entering the residential
20 marketplace using UNE platform. In New York state, AT&T
21 has entered the marketplace and there's literally
22 thousands of orders per day that run through the systems
23 there. AT&T is urging Qwest to adopt a comprehensive
24 production testing system so that we can essentially
25 have a premarket entry type test with non-controlled

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1 scenarios with more lines than is offered through
2 controlled production testing and allow AT&T to
3 basically market test the product before we enter the
4 marketplace in some sort of mass scale. I think
5 controlled production testing works. It is sufficient
6 for certain applications, but for a mass market entry
7 with thousands of orders per day, AT&T would like the
8 comfort of having a more comprehensive production
9 testing environment.

10 MS. LUBAMERSKY: Just one point perhaps in
11 response. Qwest believes that AT&T's suggestion of
12 comprehensive production testing in 12.2.9.3.5 is
13 redundant with the ROC OSS third party test. But as
14 always, we stand ready to negotiate unique terms and
15 conditions with any CLEC for their individual
16 interconnection agreement. This appears to be more
17 appropriate as an individual CLEC request, hardly that
18 which all CLECs in all 14 states would be interested in,
19 and not appropriate for a statement of generally
20 available terms, but instead be designed to meet a
21 unique CLEC's complex and comprehensive testing request.
22 But I think this is at impasse.

23 MS. HOPFENBECK: Nancy, I have a question,
24 not about this specific issue, but about a statement you
25 just made about Qwest, you know, as always Qwest stands

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1 ready to negotiate individual terms that a CLEC may
2 require. And I want to know, I guess I would like to
3 flag that commitment and perhaps identify it as
4 something that we should deal with in general terms and
5 conditions.

6 Because WorldCom is not experiencing that
7 willingness, has really been running into problems with
8 it, and specifically ran into problems with that in
9 connection with negotiating their UNE-P amendment. That
10 pretty much Qwest walked in and said, take or leave the
11 SGAT, and basically said, you know, you agreed to this
12 in the context of 271 negotiations. And I think it's
13 been our position all along that in the 271 process,
14 there have been a lot of issues that we have let go and
15 allowed to close, because we were under the impression
16 that we could negotiate our own individualized deals,
17 and so there -- I just want to raise that.

18 MS. LUBAMERSKY: I would be happy to bring
19 that over to general terms and conditions. I'm
20 unequivocal in my statement that we stand ready for
21 unique negotiation, and evidence of that is with a
22 number of very innovative and unlike anything in the
23 industry agreements with a number of firms in the last
24 -- since Qwest became a new and bigger company.

25 MS. HOPFENBECK: The only reason why I think

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1 we ran into this is that I'm -- it seemed to me that
2 those agreements that you're referring to, and I assume
3 that that's with Eschelon and McLeod, some of those.

4 MS. LUBAMERSKY: Those are two examples of
5 public documents, yes.

6 MS. HOPFENBECK: That those documents, it's
7 my impression that those were entered into before the
8 271 process got well underway.

9 MS. LUBAMERSKY: Oh, no.

10 MS. HOPFENBECK: And then as this --

11 MS. LUBAMERSKY: Oh, no.

12 MS. HOPFENBECK: Okay, I guess --

13 MS. LUBAMERSKY: They were overlaid into a
14 300 page SGAT in understanding our ability to meet
15 Eschelon's, illustratively, Eschelon and McLeod's unique
16 needs, and we are in the midst of a number of others
17 with other CLECs, and again, broad, completely separate
18 from the SGAT.

19 MR. HYDOCK: And I guess to follow up from
20 WorldCom with respect to Qwest's statement that they
21 stand ready to negotiate, we essentially have 12.2.9.3.5
22 in our current Minnesota ICA, and Qwest was unwilling to
23 negotiate those test arrangements, essentially told us
24 to go pound sand. And we have since filed a complaint
25 with the Minnesota PUC. We had a hearing last week

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1 where we were granted temporary relief, and Qwest is
2 required to install the test lines that will be part of
3 the AT&T desired test. So I question whether without
4 such language Qwest would be interested in negotiating
5 something further than what they're putting on paper
6 today.

7 MS. LUBAMERSKY: Briefly I would like to
8 suggest that the relief was partial in Minnesota, and
9 that to me is evidence of the process working. There
10 was a disagreement. If there's a disagreement in
11 reaching -- in the interconnection agreement, that goes
12 to arbitration. If there is a disagreement on the
13 intent of the contract, it goes before the body
14 recognized by that state. It's working, that's how it
15 should be.

16 MR. HYDOCK: But it's only because we --

17 MS. LUBAMERSKY: We happen to disagree --

18 MR. HYDOCK: -- have this language.

19 MS. LUBAMERSKY: This language is not intact
20 in your interconnection agreement in Minnesota. Your
21 interconnection agreement in Minnesota is not this
22 comprehensive.

23 MR. HYDOCK: It's pretty close.

24 MR. WOLTERS: Well, I guess what our point
25 is, Nancy, that we feel that it's important to have some

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1 ability for CLECs to do this kind of testing in the
2 SGAT, and I think what you're saying is you want to
3 negotiate on an individual CLEC by CLEC basis, but it's
4 our feeling that the language should be in agreement so
5 that there is an option for the CLECs to do this type of
6 testing.

7 So that I think what WorldCom is saying is
8 that when we start negotiating, if Qwest believes we
9 have to start at the SGAT and that's the beginning and
10 end all, then there is no negotiation. And, in fact,
11 Qwest has stated on the record in a number of states
12 that they will not agree to this type of language to be
13 in the SGAT. That doesn't give us much hope that they
14 would agree to do it as part of an interconnection
15 either.

16 There's been no willingness to do this kind
17 of testing, whether through the SGAT or through
18 language, excuse me, whether present language in an
19 interconnection agreement. So I think that's our
20 underlying basis for making sure that there is some kind
21 of language like this in the SGAT, because there is an
22 unwillingness on Qwest's part to do it.

23 MS. LUBAMERSKY: And I think we have defined
24 it as an impasse issue, because we believe the ROC OSS
25 third party test is sufficient.

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1 MR. HYDOCK: Is it Qwest's position then that
2 the ROC OSS test would stand as the basis forever as a
3 certification that Qwest's systems work fine? I'm
4 thinking about three years down the road, AT&T wants to
5 roll out a product but wants to do some testing of the
6 scale laid out here. Qwest's argument has been the ROC
7 has tested everything and it's fine.

8 MS. LUBAMERSKY: It will be fine.

9 MR. HYDOCK: Okay.

10 MS. LUBAMERSKY: I believe part of the ROC
11 test includes processes to assure continued compliance.
12 And at that point, I believe it would be possible for
13 two things. Findings based on the ROC test may result
14 in additional commitments in this section and many other
15 sections of the SGAT. So as the test is run and issues
16 are discovered, changes may result in both proposals to
17 change our business process and the SGAT. So that's one
18 piece, the test itself may cause additional commitments
19 to need to be codified.

20 MR. HYDOCK: And those would be discussed in
21 this venue when we discuss the ROC OSS at some --

22 MS. LUBAMERSKY: I believe it would be --

23 MR. HYDOCK: -- future workshop?

24 MS. LUBAMERSKY: No, I believe it would be
25 part of the 13 state effort. And then if a state wanted

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1 to deal with it uniquely, they could do that as well.
2 But we intend to deal with that issue as a full
3 collaborative of the ROC tag. So are changes needed
4 based on the test and the test results? If yes, then
5 the SGAT may need to be modified.

6 Second, at the end of the test, part of the
7 test says what is in place to assure continued
8 satisfaction of the requirements. That may yield again
9 business process change and possible SGAT language
10 additions to prove the commitment. At that point in
11 time, I would predict the possibility of CLECs
12 suggesting additional options for future assurance of
13 commitment.

14 MR. HYDOCK: See, it's been Qwest's issue
15 that the ROC will bless the OSS, and everything is fine,
16 and if there are issues, they will pop up in the
17 performance matrix. AT&T really wants to address the
18 question before it gets to the point where the matrix
19 are reporting bad data.

20 If, for example, we rolled out a UNE-P
21 offering and we find a maintenance issue, we don't want
22 our customers to be finding out about those maintenance
23 issues before they have come up in a performance
24 appraisal matrix. We would like to check that out
25 beforehand, and that's essentially where AT&T is coming

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1 from, that it wants to provide a quality offering. It
2 doesn't want to wait for the performance matrix to show
3 that there's an issue, but it wants to find out
4 beforehand within a testing environment.

5 MR. WOLTERS: Nancy, I've got a couple of
6 questions.

7 I just want to point out, Judge, that our
8 language that's in 656 was provided and drafted prior to
9 the change that Qwest made to their language at
10 12.2.9.4.2 and that if our language was adopted, we
11 would also recommend that that additional paragraph be
12 added to our exhibit, which basically says that though
13 the stand alone testing environment will be available
14 prior to the release of upgrades in the production
15 environment, so we would suggest that that also would be
16 added to 656.

17 MS. LUBAMERSKY: Rick, that deals then with
18 the point that Michael made that said you haven't
19 committed to it being a live and current test stack,
20 right?

21 MR. WOLTERS: Well, that --

22 MS. LUBAMERSKY: Well, that was our intent.

23 MR. WOLTERS: That's for the test stack.

24 MS. LUBAMERSKY: Right.

25 MR. WOLTERS: So that would be to make sure

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1 that it meets the FCC requirement that that be available
2 prior to the release.

3 MS. LUBAMERSKY: Okay, good.

4 MR. WOLTERS: Now what is your expected date
5 for your stand alone test to be available?

6 MS. LUBAMERSKY: The CICMP process had an
7 August to December commitment. At this point, it stands
8 in the July to August time frame, and we're continuing
9 to try to bring it up.

10 MR. WOLTERS: Okay. Last I talked to some
11 Qwest people, they said there was no firm commitment
12 date, and they couldn't commit that it would even be
13 done this year.

14 MS. LUBAMERSKY: Well, again, the CICMP date
15 showed August to December, and we removed that date
16 because we do not believe December is soon enough. So
17 we have not yet committed to a new date, and when we do
18 that, it will be sent through CICMP. My knowledge as of
19 last night was we're aiming for July, and we have a
20 current internal commitment of August.

21 MR. WOLTERS: Okay. So is it your plan to
22 have this in place before you file any of your
23 applications for 271 relief with the FCC?

24 MS. LUBAMERSKY: Yes.

25 MR. WOLTERS: Now, Nancy, I know you went

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1 through a couple of issues regarding the CORBA issue,
2 the language in here that says other application
3 advocates interfaces, and you mentioned preorder, but as
4 far as some of the other language, for example, stand
5 alone testing environment, Section 12.2.9.3.2, there is
6 additional language in there. Have you reviewed this
7 language in general to see if you have any problems with
8 any of this language, or are you just going to point out
9 -- when you point out these three issues, are you
10 comfortable with the other changes in here?

11 MS. LUBAMERSKY: No, we do not endorse AT&T's
12 two paragraphs and would, again, take to impasse the
13 variance.

14 MR. WOLTERS: So any changes to your
15 connectivity testing section, your stand alone testing
16 environment section, and interoperability testing, and
17 controlled production testing, all the language that
18 AT&T proposed, you're not willing to make any of those
19 changes?

20 MS. LUBAMERSKY: There were three words I was
21 willing to add and decided that that probably wasn't
22 very useful. For example, in controlled production, you
23 added ANSI, and that's correct, it is ANSI X.12, but I
24 decided perhaps that the attorneys could brief the
25 variance and not add the three phrases that did add

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1 clarification.

2 MR. MUNN: So at this time, we're not willing
3 to accept the language you have proposed in 656. Nancy
4 has pointed out some concerns, and then I think she has
5 made it very clear that's not an exhaustive list, but
6 she is bringing it up for illustrative purposes. We
7 stand behind the language that is in Exhibit 709 and
8 believe that's the language that should be included in
9 the SGAT on this topic. And I think we have probably
10 identified an impasse issue.

11 JUDGE WALLIS: Sounds like it.

12 Mr. Wolters, for our convenience, could you
13 provide a substitute Exhibit 656 with the paragraph that
14 you would like to add?

15 MR. WOLTERS: I would be more than happy to
16 do that.

17 JUDGE WALLIS: Thank you.

18 MR. WOLTERS: I don't think I can do it
19 today.

20 JUDGE WALLIS: That's fine.

21 MR. WOLTERS: I will file it as a late
22 filing.

23 JUDGE WALLIS: Fine.

24 MS. HOPFENBECK: Rick, can you E-mail that to
25 the parties too?

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1 MR. WOLTERS: Oh, that's what I was planning
2 to do.

3 MS. HOPFENBECK: Great, thanks.

4 MR. MUNN: Okay. So then I think Karen had
5 mentioned CL-2-18 we added yesterday, but I think we
6 already identified it as an impasse issue and discussed
7 it, and we were just saying I don't know that we
8 officially got there in the CL-2 discussion yesterday,
9 but we did -- we added it to CL-2 when we were talking
10 about I believe it was the transport piece.

11 MS. STEWART: That is correct, and basically
12 my understanding of the issue is that AT&T believes that
13 Qwest is obligated to light dark fiber to make UDIT
14 available or to replace electronics to expand the
15 capacity of existing network facilities to make UDIT
16 available. Qwest disagrees. Qwest believes that very
17 strongly the FCC identified dark fiber as that, dark
18 fiber, without any electronics.

19 And in addition, within the UDIT section
20 Qwest is under no obligation to build facilities. It
21 just has to make its existing facilities available.
22 Qwest strongly believes that the replacement or placing
23 of new electronics on fiber optic equipment is the
24 equivalent of building facilities.

25 We have in our new Exhibit 710, which we have

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1 agreed that we're going to do some modifications to
2 bring all -- to get rid of the indenting, and we will be
3 resubmitting 710 in light of those new changes. The net
4 result is that the language contained in 9.1.2.1.2, the
5 last sentence, incremental facility work will not
6 include the upgrade of electronics for the purposes of
7 augmenting network capacity is the Qwest position on
8 this issue, and I believe it's at impasse between the
9 parties.

10 MR. WILSON: So that would include, for
11 instance, if there was no more dark fiber, there was the
12 only fiber existing on a route was being used, that you
13 also would not upgrade say from OC12 to OC48 or higher;
14 is that true?

15 MS. STEWART: That is correct.

16 MR. WOLTERS: I think with 9.1.3, we still
17 have some concerns about the limiting factors, the i.e.
18 language in the parenthetical, as being too limiting. I
19 think the FCC was clear that, one, that they had to
20 modify their facilities to make them available. I think
21 there is a classic example of having to modify your
22 facilities to make UNEs available, so we do disagree
23 with them generally on this whole obligation to build
24 issue. And I think this is a clear case where you have
25 facilities that are, in fact, available, but because of

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1 the electronics are not capable of the increased
2 capacity that there should be some modification to the
3 network to allow for that increased capacity.

4 So while we -- that there's an attempt at
5 9.1.3 to address the issue, we don't think it goes far
6 enough, and we still have this whole issue of whether
7 they have the obligation to build. So it really is at
8 impasse, and I just wanted to make sure we had an issue
9 for this on the brief relating to coil, so this will go
10 to impasse.

11 MR. MUNN: I think that concludes our CL-2
12 issues. It certainly does from Qwest's perspective, so
13 unless there are any other general checklist item 2
14 issues, we can move on to our two remaining topics.

15 JUDGE WALLIS: Are there any other matters?

16 MR. WOLTERS: I just wanted to check, how did
17 we deal with CL-2-15? I still show it as a WorldCom
18 take back.

19 MS. STEWART: At impasse.

20 MS. LUBAMERSKY: It went to impasse.

21 MS. STEWART: We changed the reference in the
22 SGAT from 9.19 to 9.1.2.1, and then it's at impasse.

23 MS. HOPFENBECK: I actually would prefer that
24 we leave the reference to both provisions.

25 MS. STEWART: Oh, both, okay.

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1 MS. HOPFENBECK: Because I think both 9.19
2 and 9.1.2.1 have to be referenced in addressing that
3 issue completely.

4 MS. STEWART: And previously I guess there
5 had been a request that we delay discussions of EELs to
6 make sure that there wasn't going to be a representative
7 from either ELI or XO, so Qwest would be amenable to
8 going to UNE-C issues if that's okay for the parties.

9 MR. KOPTA: That works for me, and actually,
10 I'm going to be it, so we can either do EELs or UNE-Cs,
11 whichever is your preference.

12 MS. STEWART: We could do UNE-C first.
13 UNE-C-1, we had had an issue between WorldCom and AT&T
14 as it related to our product questionnaires. Qwest had
15 had a comprehensive questionnaire that included
16 everything that you ever needed to fill out for various
17 products, and it was perceived to be too long and a
18 little challenging for the CLECs to figure out what
19 section to fill out for various products. Qwest has
20 changed its product questionnaire and now has gone to
21 more of a focus where there is the complete
22 questionnaire for a new CLEC who is not established with
23 Qwest. Then there are smaller, a much more target
24 product focused questionnaires when a CLEC wants to add
25 a particular product.

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1 The one product that had been of interest to
2 CLECs in particular, making sure they knew what to fill
3 out for the minimal amount of information on a
4 questionnaire, was UNE-P or UNE-P combinations using the
5 unbundled network element platform. Qwest has presented
6 these different questionnaires in previous workshops,
7 and that, the new questionnaires, have solved or closed
8 this issue in previous jurisdictions.

9 MS. HOPFENBECK: It's closed here.

10 MS. STEWART: Okay, great.

11 MS. STRAIN: Are the new questionnaires part
12 of the record here? Did you offer those as exhibits?

13 MS. HOPFENBECK: I don't know, we did put
14 questionnaires in.

15 MS. STEWART: But I think we might have put
16 the old one, the big one.

17 MS. HOPFENBECK: I think that's right.

18 MS. STRAIN: We should probably put the new
19 ones in there.

20 MS. STEWART: Qwest will do a late filed
21 exhibit. If we have -- we will confirm if we have filed
22 it in my rebuttal, and if we did not, we will do a late
23 filed exhibit.

24 MS. LUBAMERSKY: Not here, you're right
25 thanks. Should we do an exhibit number for it?

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1 MS. HOPFENBECK: There will be two exhibits.
2 One would be the new CLEC questionnaire just to see the
3 comparison, and then one would be an example of the --

4 MS. LUBAMERSKY: We could do one as an
5 example of the amendment. There are nine.

6 MS. HOPFENBECK: I know.

7 MS. LUBAMERSKY: Because if you want UNE-C,
8 you want EEL, you want -- but we could do
9 illustratively --

10 MS. HOPFENBECK: Would you like -- do you
11 want to see all of the different iterations of the
12 streamlined questionnaire that is focused on just a
13 particular product when you have already -- and that's
14 how we resolved this issue is that they have -- whereas
15 the questionnaires we filed at the last workshop were
16 the main questionnaire that the CLEC fills out who is a
17 new CLEC, and then the subsequent questionnaire or an
18 amendment which is where WorldCom had their problems,
19 and we have resolved our issues with respect to that
20 second questionnaire, because Qwest has now agreed to do
21 a number of very focused, more streamlined
22 questionnaires. Do you want a sample of one of those or
23 all of them?

24 MS. STRAIN: I think a sample of one of the
25 focused questionnaires will be fine.

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1 MS. LUBAMERSKY: So we will file the new, and
2 we will file one amendment for UNE-P.

3 JUDGE WALLIS: We will call those exhibits
4 712 and 713.

5 MS. STEWART: 712 and 713?

6 JUDGE WALLIS: Yes.

7 MR. MUNN: Why don't we say that the new will
8 be 712, and the UNE-P illustrative example will be 713.

9 MS. STEWART: UNE-C-2, WorldCom had been
10 concerned that when new BAN numbers were required,
11 particularly for augmenting for an established CLEC to
12 be able to add additional product or UNES that they
13 would like to purchase, that the length of time that it
14 took to add and create the BAN numbers and billing
15 numbers required for them to place orders, they were
16 concerned about that amount of time.

17 Qwest has taken the steps to decrease that
18 amount of time, and as Exhibit 707, Qwest has tendered
19 its new streamlined process for CLEC's, and
20 Ms. Lubamersky will just briefly be available to answer
21 any questions that the parties may have on this new
22 process. It has closed the issue in other
23 jurisdictions.

24 MS. HOPFENBECK: And closes it here as well.

25 MS. LUBAMERSKY: Perfect, so Exhibit 707 is

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1 the evidence of that commitment.

2 MS. STEWART: Okay. UNE-C-4, Exhibit 706,
3 Qwest had -- in UNE-C-4, there was a couple of different
4 issues. The primary focus of this issue is that Qwest
5 did not allow UNEs or UNE combinations to be connected
6 to finished services, so there was a request that Qwest
7 would define finished services. Qwest has done that in
8 the SGAT Lite that was distributed as Exhibit 701.

9 Subsequent to the SGAT in 701, however, Qwest
10 has made a commitment that its definition of finished
11 services would not include local interconnection
12 services, and this was at the request and settled and
13 that focused small issue with the CLECs in another
14 jurisdiction. So in Exhibit 706, Qwest is proposing to
15 replace the definition of finished services in 701 with
16 this new definition, which then would allow UNEs and
17 interconnection trunks to be combined.

18 The critical implication for that of ELI and
19 XO, because this request was actually -- Qwest has made
20 this response -- made this change in response to ELI and
21 XO, was this would allow the same multiplexer to be used
22 both for unbundled loops and for LIS trunking, and that
23 was a critical issue in the networking configurations of
24 those two CLECs. So 706 solves part of the issue, but I
25 believe we may -- I will turn it over to the CLECs then

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1 of the final resolution of this issue.

2 MR. WOLTERS: One question. In your
3 Paragraph 9.23.1.2.2 that you reference in the issues
4 list, it talks about attaching UNE combinations directly
5 to finished services.

6 MS. STEWART: Correct.

7 MR. WOLTERS: I have looked through your
8 SGAT, and I can't find your language that says you can't
9 attach UNES to finished service. Your statements just
10 now, you said you couldn't attach UNES or UNE
11 combinations to finished services, but I can't find any
12 prohibition in the SGAT regarding UNES individually.

13 MS. STEWART: I will have to take a minute to
14 find it. I don't have a reference on my sheet here.

15 MR. WOLTERS: Okay.

16 MS. HOPFENBECK: Isn't it 9.23.1.2.2?

17 MR. WOLTERS: 9.23 you said?

18 MS. HOPFENBECK: You were saying UNES as
19 distinct from UNE combinations?

20 MR. WOLTERS: Right.

21 MS. HOPFENBECK: Oh, I'm sorry.

22 MR. WOLTERS: And so I think there was --
23 this was the only place I could find a reference to
24 prohibiting a connection to finished services, and it's
25 a UNE combination section.

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1 MS. HOPFENBECK: I misunderstood.

2 MR. WOLTERS: Not that there should be a
3 section, because there would be a conflict with the FCC
4 rules, but you keep saying that you can't. In fact, the
5 added language in one of the other areas, you state
6 specifically that you couldn't put any prohibitions on
7 the use of the UNEs, and it's my understanding that that
8 language would, in fact, conflict with any attempt to
9 prohibit a connection of finished services to UNEs.

10 MS. STEWART: At this time, we're unable to
11 find the reference within the UNE section. Qwest would
12 recommend that we put one in the UNE section, and we
13 appreciate AT&T pointing out the oversight there. And
14 Qwest is not prohibiting a CLEC from doing anything with
15 their collocation space with the UNE, but as far as it's
16 clear that Qwest is under no obligation to combine UNEs
17 with its finished services, and various services have
18 been challenged and have been found to be okay, that
19 Qwest doesn't have to do those combinations. So we will
20 add a section within 9.1.

21 MR. WOLTERS: And explain to me where it says
22 that we can't connect UNEs to finished services other
23 than the EELs section.

24 MS. STEWART: It has been in the -- now this
25 is admittedly a UNE-P example, which is a combination

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1 example.

2 MR. WOLTERS: Yeah, I don't want any UNE-P
3 examples, I want a UNE example where the FCC in its
4 rules or in orders says you can not attach UNEs to
5 tariffed or finished services as you define them.

6 MS. STEWART: We will have to get that cite
7 for you. We can do that after the break if that's okay.

8 MR. WILSON: At this time, I would like to
9 turn your attention to Exhibit 630. It's a set of three
10 diagrams.

11 MS. LUBAMERSKY: Ken, what issue is this? I
12 have an exhibit that --

13 JUDGE WALLIS: Let's be off the record for a
14 minute.

15 (Discussion off the record.)

16 MR. WILSON: I created this set of three
17 diagrams to go through this issue of connection of
18 combinations to what Qwest calls finished services or
19 tariffed services. It also touches on some other issues
20 and maybe explains a couple of other issues that we also
21 had addressed in this workshop.

22 The first page of Exhibit 630 shows a picture
23 of a transport connecting a CLEC wire center to a number
24 of Qwest wire centers. And the conception that we
25 believe the FCC espoused in its unbundling of network

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1 elements was to have a single dedicated transport
2 element that would be ordered by a CLEC from its wire
3 center to any number of Qwest wire centers in a
4 metropolitan area, for example. So what I'm showing
5 here is the dedicated transport would be a single
6 element that would go from the CLEC wire center to any
7 of the Qwest wire centers. And this is the issue
8 between UDIT and EUDIT that we discussed a bit
9 yesterday.

10 If you turn to the second page, we look at
11 the picture really is, it is in the SGAT proposal, which
12 is the fact that Qwest has split this single element as
13 we feel the FCC described it into essentially four
14 elements. For the connection of -- for the use of
15 interconnection trunks, you have the Qwest entrance
16 facilities and direct trunk transport, splitting that
17 into two elements. And then for the unbundling of
18 transport, dedicated transport, you have the EUDIT and
19 the UDIT.

20 And up until two weeks ago, you could not
21 combine those types of - those -- the interconnection
22 trunks and the UDIT onto one facility. Qwest has
23 relinquished that position, so now we are going to be
24 finally allowed to put entrance facilities or
25 interconnection trunks together with dedicated transport

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1 on a single underlying facility. And this is indeed
2 progress and part of the problem that CLECs have been
3 facing.

4 We still have the issue that EUDIT and UDIT
5 are two elements, but we know that's an impasse issue,
6 so we won't go into that further.

7 If we go to the third page, I have put in a
8 set of red trunks, and this is really representing
9 private line facilities or special access, whatever you
10 want to call them. And Qwest still will not allow the
11 CLECs to connect or to use the same underlying facility
12 for placing private line trunks as well as
13 interconnection and unbundled element trunks. And so
14 while I'm showing on this diagram three different
15 networks that the CLECs had to put in place because of
16 Qwest policies, with the new change it will be two
17 networks instead of three that we would have to put in
18 place, but it's still not efficient.

19 What the CLECs are asking for is to be able
20 to use the same underlying transport facilities to put
21 both the interconnection and dedicated transport trunks
22 on it as well as private line trunks. This makes very
23 good sense from an engineering point of view and from a
24 network efficiency point of view. It uses network
25 facilities much more effectively. Today essentially the

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1 CLEC has to put in place two sets of facilities, one for
2 each of these types of trunks, and sometimes facilities
3 are not even available to do that. But at the very
4 least it wastes trunk capacity for both the CLEC and for
5 Qwest, and it's quite inefficient.

6 The CLECs would, I think, be amenable to
7 looking at pricing this in a way which was fair. We're
8 not trying to do Qwest out of its just costs or payments
9 for these facilities. We merely want to be efficient.
10 These issues are also clouded by the fact, as you will
11 hear and have heard on the EEL issue, that the CLECs,
12 since they were not able to order EELs in the past,
13 ordered many trunks that should have been dedicated
14 transport and EELs as private line. They now have the
15 label of private line, but they really would meet the
16 standards of local traffic, but we still have to
17 separate and segment these into different types of
18 facilities.

19 So for those reasons, we think that the
20 Washington Commission should require Qwest to remove the
21 prohibition of putting private line and unbundled
22 transport onto the same base facilities. And when I say
23 dedicated transport, I would be including EELs, which we
24 will get to in a bit. It's the same general problem; we
25 can't efficiently use the facilities.

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1 So that's what I tried to represent here.
2 Hopefully that will make the issue a little clearer.

3 MS. HOPFENBECK: Ken, can I ask you a
4 question. Is it -- would you agree with me that this
5 illustrates the commingling issue that has been
6 addressed in a number of other workshops, the
7 interconnection workshop? We also addressed it in
8 workshop one in talking about reciprocal compensation.

9 MR. WILSON: Yes.

10 MS. HOPFENBECK: And this is the same issue
11 again, isn't it?

12 MR. WILSON: It's the same issue. This is
13 where it pops up. In UNE-C-4 is where it popped up in
14 another phase. It's the same issue. And here again, we
15 are not suggesting the commingling of traffic at a DS1
16 level. We are merely suggesting that DS1s efficiently
17 be placed on the same underlying facility.

18 MS. STEWART: Qwest --

19 MR. KOPTA: Might as well have everybody pile
20 on before you respond.

21 MS. STEWART: Okay.

22 MR. KOPTA: First of all, let me say we
23 appreciate Qwest's shift in position on the LIS issue.
24 I think that that does get us part of the way there and
25 does address some of the concerns that ELI and XO have

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1 expressed, and so I do want to say we appreciate that
2 change in position.

3 With that having been said, we certainly
4 agree with what Mr. Wilson was just saying, that there's
5 still the issue of private line, and as long as that's
6 defined as a finished service, the inability to combine
7 those private lines with UNEs continues to be a problem.
8 And I think that the diagrams that Ken has put together
9 and his explanation really pretty well illustrate that
10 particular point.

11 And just for clarity, I would say that there
12 are two examples of "underlying facilities". One is a
13 DS3, which is a big pipe that has capacity of 28 DS1s.
14 Ken, correct me if I'm wrong. So you're dealing with,
15 for example, if you have 10 DS1s that are private line
16 and 10 DS1s that you want as UNEs, theoretically you
17 could combine them onto a single DS3 for efficiency
18 purposes. If you can't do that, then you have to have
19 two separate DS3s, each with 10 circuits on them, and so
20 you're paying double for what could be done on a single
21 facility.

22 The other example is multiplexing, which we
23 will talk about later. But it essentially allows you to
24 plug a DS3 into one end and multiple DS1s coming out of
25 it on the other end. And again, if you have some of the

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1 DSIs that are going into this multiplexer that are
2 private line and some that are UNEs, you can't use the
3 same multiplexer, you need to use something else.

4 And so if all you're doing is getting
5 multiplexing from Qwest and providing your own DS3
6 transport and you have DS1 private lines and DS1 UNEs
7 coming in that you want to MUX onto that DS3, the
8 restriction that Qwest has here would preclude you from
9 using that multiplexer for both private line and DS1s,
10 again requiring multiple, at least two multiplexers, one
11 dedicated to the DS1 services, and one private line DS1
12 service and one to the UNEs.

13 So that I think crystallizes the issue from
14 our perspective with respect to how we disagree with
15 what Qwest's position is.

16 MS. STEWART: I would just note that this
17 issue that we're discussing as part of UNE-C-4 is
18 indeed, as already identified by WorldCom, crosses over
19 to EEL-13. I would just recommend that this whole
20 discussion that we have had and will have would apply to
21 both of those sections.

22 MR. WOLTERS: That's fine.

23 MS. STEWART: And basically AT&T, regardless
24 of the position that the parties have taken, the FCC has
25 spoken very strongly on this issue, that Qwest is not

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1 obligated to comingle its UNE and its tariffed special
2 access type services.

3 And in the Supplemental Order of
4 Clarification released on June 2nd, 2000, this is FCC
5 order 00-183, I would like to read Paragraph 28. Also
6 prior on the record, previously on the record I was
7 asked by AT&T, where is our cite for not combining just
8 UNEs to tariffed services. This cite to Paragraph 28 is
9 in response to that question also. I would like to read
10 it real briefly and then discuss this paragraph.

11 So Paragraph 28, Supplemental Order of
12 Clarification:

13 We further reject the suggestion that we
14 eliminate the prohibition on commingling
15 (i.e., combining loops or loop transport
16 combinations with tariffed special
17 access services) in the local usage
18 options discussed above. We are not
19 persuaded on this record that removing
20 this prohibition would not lead to the
21 use of unbundled network elements by
22 IXCs solely or primarily to bypass
23 special access services. We emphasize
24 that the commingling determinations that
25 we make in this order do not prejudge

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1 any final resolution on whether
2 unbundled network elements may be
3 combined with tariffed services. We
4 will seek further information on this
5 issue in the public notice that we will
6 issue in early 2001.

7 This issue is solidly and clearly before the
8 FCC. Reply comments on this issue are being filed this
9 very week. Qwest would recommend that the Commission
10 take no steps to add additional confusion to an issue
11 that the FCC is in the process of resolving. Qwest
12 would recommend that we keep our prohibitions in the
13 SGAT that are consistent with the Supplemental Order.
14 At the time the FCC releases any orders and findings as
15 it relates to commingling, Qwest will make its SGAT
16 consistent with those orders.

17 MR. WILSON: A couple of -- just a brief
18 comment on how I read the same paragraph. Obviously the
19 FCC was interested in waiting to allow the big carriers,
20 AT&T and WorldCom, to do mass migrations of their long
21 distance traffic onto UNEs, and that's clearly what they
22 were trying to prevent. But what Qwest has put in place
23 is preventing small and large CLECs from running their
24 local businesses effectively. So their prohibition has
25 gone far afield, we think, from the FCC's intent. And

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1 what we are trying to do is to put in place some
2 sensible language that would allow CLECs for local
3 traffic to do something that's efficient.

4 And the problem that we are facing is any
5 companies that we are supplying local services to, they
6 do have some long distance mixed in their traffic. It's
7 unavoidable. But we are not looking to set in place
8 something that would allow a mass change of long
9 distance trunks onto UNEs. We simply want to
10 efficiently let different facilities ride on the same
11 underlying fiber for DS3 transport.

12 MS. HOPFENBECK: And I want to just add to
13 that is that it's been WorldCom's position from the very
14 beginning on this issue that we are not seeking this
15 modification to the SGAT and seeking this modification
16 in Qwest's stated position to date to avoid having to
17 pay the appropriate rate associated with the traffic
18 that's carried on those facilities. I mean WorldCom is
19 -- and so therefore the arbitrage concern that was at
20 the heart of the Supplemental Order of Clarification is
21 not -- is not at issue here.

22 Nobody in this room is arguing that when
23 you're using the pipe, I mean it's our idea that a pipe
24 is a pipe is a pipe, and you should be able to use the
25 same pipe segmented into portions to carry all of this

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1 different traffic and pay the appropriate rate, whether
2 that be the TELRIC UNE rate or the special access rate,
3 the private line rate. So that's our perspective.

4 MR. WOLTERS: Also if you go to Paragraph 28,
5 it has a parenthetical, and it was -- first goes to the
6 commingling, and the first thing that it says, i.e.,
7 combining loops or loop transport combinations with
8 tariffed special access services. It doesn't say all
9 UNEs. And even your own use of the word i.e. in your
10 SGAT said in the way of exclusivity, and we just
11 discussed that in your 9.1.3, that i.e. reflects all the
12 examples. And I think in this same case, they're
13 talking about two very distinct possibilities here, not
14 the connection of all UNEs, whatever they are, to
15 finished services.

16 MS. STEWART: They --

17 MR. WOLTERS: So I think your interpretation
18 is way broader than what they're referring to, and I
19 think, I agree with Ken, I think they're looking at a
20 specific issue here with IXCs and not CLECs.

21 MR. MUNN: The subject as is shown in the
22 second to last sentence and the last sentence in that
23 paragraph says the subject of the FNPRM, which
24 Ms. Stewart has pointed out pending before the FCC, and
25 we think the FCC should be allowed to make a

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1 determination specifically as whether unbundled network
2 elements may be combined with tariffed services. This
3 was an example of a commingling issue that they have
4 identified in the first sentence, but the FNPRM which is
5 pending before the FCC and we believe the FCC should be
6 allowed to determine is the issue outlined in the second
7 to last sentence, which is whether unbundled network
8 elements may be combined with tariffed services.

9 And there's certainly no dispute that in
10 Washington private line, which is where this discussion
11 began, is a tariffed service, so we think this squarely
12 falls within what is before the FCC, and the FCC should
13 be given an opportunity to make the determination.

14 And I think we have identified an impasse
15 issue here that will need to be briefed.

16 JUDGE WALLIS: Very well.

17 MS. STRAIN: I have a couple of questions.

18 Mr. Wilson, on your Exhibit 630 on page two, if you were
19 to modify that schematic for the modification that Qwest
20 made in its SGAT to allow -- to change the definition of
21 finished services, does that mean that the blue line and
22 the black line would just be one line?

23 MR. WILSON: They still have different
24 products identified for all four of these elements, but
25 probably the better way to show it would be the black

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1 line and the blue line being right next to each other
2 riding on the same facility. So that's -- if I was
3 going to redraw it, I would probably draw it with a side
4 by side like maybe two lines of an interstate highway
5 rather than two separate highways.

6 And then on the diagram on page three, I
7 would put again the black and the blue together as two
8 lanes, but then the red is still separate as a separate
9 highway.

10 MS. STRAIN: Okay. And with respect to the
11 discussion about the pricing and people would be willing
12 to pay the prices, are you saying that you would be
13 willing to pay private line DS1 rates for the DS1s in
14 the pipe that you're using for private line and UNE
15 combination DS1 rates for the price that you're paying
16 for the DS1s in the DS3 that you're using for UNE
17 combinations?

18 MR. WILSON: The fair way to do it would be
19 to prorate the charge. Because what happens is if you
20 buy DS1 by DS1, it's a pretty high price. I'm not sure
21 in Washington what the breakover is, but probably if you
22 get up six or seven DS1s, you're better off buying a
23 full DS3. What we're saying is, let's use the DS3
24 efficiently. If we have, as Mr. Kopta's example, ten
25 UNE DS1 trunks on it and ten private lines, let's split

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1 the -- let's prorate it half -- half of the -- the DS3
2 should be priced halfway between the UNE rate and the
3 private line rate. That would be fair.

4 MS. STRAIN: So your answer to my question is
5 no, you wouldn't be willing to pay the DS1 rates
6 prorated for the DS1s in the DS3 that you're using for
7 two different purposes?

8 MR. WILSON: I think there may be cases where
9 CLECs are desperate enough that they would be willing to
10 do that. You would essentially be paying a much higher
11 price. But when the facilities run out and you can't
12 even get the transport, we might be willing to do that,
13 but it would be a very high penalty to pay.

14 MS. STRAIN: When your company needs a number
15 of DS1s that is slightly over the break even point for a
16 DS3, do you just buy a DS3 and not use the part that you
17 don't need?

18 MR. WILSON: Yes.

19 MS. STRAIN: Because it's cheaper?

20 MR. WILSON: That's true.

21 MS. STRAIN: Ms. Hopfenbeck, are you on the
22 same page as Mr. Wilson on that?

23 MS. HOPFENBECK: I don't know the answer to
24 the question. I mean certainly what Mr. Wilson
25 articulated in terms of the proration idea makes sense,

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1 sounds logical, but I don't know what our company's
2 position is. But I could find out like in an answer to
3 a Bench request or something and give you that answer.

4 MS. STRAIN: Okay.

5 MS. HOPFENBECK: Which if you wanted -- do
6 you want me to do that?

7 MS. STRAIN: I don't know if I can articulate
8 a Bench request. I guess what I was --

9 MS. HOPFENBECK: The question, as I
10 understood the question, is --

11 MS. STRAIN: Well, my question was in answer
12 to your discussion where you said, you know, we're
13 willing to pay an appropriate price for what we're
14 using. And so my question is, you know, what do you
15 believe is the appropriate price. Is it the DS1 price
16 for the number of -- if all you're, you know, if
17 efficiency is the question, then are you willing to pay
18 the DS1 prices for the, you know, 5 DS1s that you're
19 using for private line and the 23, and the UNE combo
20 rate for the 23 DS1 lines that you're using for UNE
21 combos.

22 MS. HOPFENBECK: And I guess what I think is
23 the thing -- the reason why I thought Mr. Wilson's
24 articulation of it was a good one, and I would be
25 willing to confirm whether we agree with this but it

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1 does make sense to me, is that what we're talking about
2 is -- and when I said we're willing to pay the
3 appropriate price is that we're purchasing a facility,
4 and we're getting, by purchasing that facility, let's
5 say it's a very large facility that carries a lot of
6 DSIs, we're purchasing that facility and willing to pay
7 the prorata share of that facility associated with the
8 usage for private line purposes or special access
9 purposes at special access rates and the share of the
10 facility that's used for local service at TELRIC rates.
11 And that seems to make sense to me.

12 It doesn't seem to make sense -- I mean that
13 would basically further the efficiency of the facility,
14 I mean the most efficient use of the facility. And I
15 mean it doesn't seem to me that that raises the same
16 arbitrage issue as the situation where you're basically
17 attempting to put your long distance traffic down in UNE
18 and pay TELRIC rates for it. I mean we're not trying to
19 do that.

20 MS. STRAIN: Okay.

21 MR. WOLTERS: Just one point, you know when I
22 asked you about the language, it's really the last
23 sentence in 9.1.5.

24 MR. KOPTA: While we're still on this
25 subject --

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1 MS. HOPFENBECK: Can I add just a little bit,
2 which is just that, you know, if you're using a large
3 pipe that has multiple DS3s on it, I mean the thing is
4 that the electronics associated -- the reason why that
5 costs less as an entire facility is because the
6 electronics at each end are electronics for that higher
7 capacity facility as opposed -- you're not buying 5 DS1s
8 and 24 DS1s. You're buying -- it's just that you're
9 using it in that -- I mean you're using it in that way,
10 you're not buying it that way, so that's why it seems to
11 make sense to me, and I think that would be my company's
12 position that prorating that is better, is an
13 appropriate way.

14 Now with respect to the entrance facility
15 issue where this came up, I mean when we talked about in
16 that context, we were talking about the use of spare,
17 being able to use the spare capacity on those LIS trunks
18 to carry special access services. And in that context,
19 you know, in terms of doing the proration, we were
20 willing to agree -- actually it was spare capacity on
21 special access facilities for interconnection, and in
22 that context in doing the proration, we would only -- if
23 we were using 20% for local, only 20% would be paid for
24 at TELRIC rates, and the capacity that was -- continued
25 to be spare would still be paid for at special access

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1 rates so that -- I mean that's a conservative way of
2 doing the proration, and that's why.

3 MR. KOPTA: Just to put in our two cents on
4 your question, we generally would agree with what Ken
5 said as well. And to put this in context, if my memory
6 serves correctly, in the cost docket, Qwest has proposed
7 a break for DS1 UNEs at around \$75. DS3, I believe, is
8 at around \$900. So there you've got a break even, a
9 break over point of somewhere around 11 or 12 DS1s
10 before it would make more sense to buy DS3. Obviously
11 the private line or special access rates for those same
12 circuits are going to be higher. So when you're talking
13 about prorating, you would say, okay, we've got in my
14 example 10 DS1s that are UNEs and 10 DS1s that are
15 private lines, you would price half of that DS3 at half
16 of the private line rate and then half of it at half
17 the --

18 MS. STRAIN: Right. No, I understand the
19 proration concept, and I understand --

20 MR. KOPTA: And that, from a theoretical
21 standpoint, that's what we think would be appropriate.

22 From a practical standpoint, if a CLEC has
23 got a DS3 that has two or three DS1s that are at a
24 private line or using private lines and the rest of it
25 is being used for local, to avoid any grooming, not only

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1 just the charges but just the potential service
2 disruptions, then that may be something in which we
3 would be willing to say, okay, we will pay the full DS1
4 rate for those three just because it's cheaper than
5 having a whole separate DS3 facility for those three DS1
6 circuits, and it would avoid the cost and potential
7 customer disruption of grooming them off to a separate
8 circuit.

9 So from a practical standpoint, there are
10 circumstances where we would say, if that's our only
11 option, if we're not going to do a prorated kind of
12 approach, then we would be willing to do that just to be
13 able to use the same facility, because it would still be
14 cheaper than two DS3s for each of those same types of
15 circuits.

16 MS. STRAIN: Okay.

17 MS. STEWART: Qwest realizes that the CLECs
18 do not like the law of the land as it is in the existing
19 rules of the Supplemental Order of FCC 00-183. Qwest
20 believes it's clear, Qwest is prepared to brief this
21 issue, and would only note that part of the reason, if
22 not the reason, the FCC is going out to seek further
23 proposed rules and the reason that they have put the
24 Supplemental Order of Clarification prohibiting
25 commingling in place is because the tremendous dollar

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1 amount of revenues to the ILECs that are associated with
2 special access services, and without the proper
3 mechanisms in place to replace those revenues, be it
4 through universal service funding or some other
5 mechanism, this is a serious issue to the ILECs such as
6 Qwest, and we're solidly at impasse, and we're prepared
7 to brief this issue.

8 MR. WILSON: Just one question, under the
9 prorata scheme that we're proposing, how would you lose
10 access revenue? I don't understand. That's your
11 concern, you said that's the FCC's concern, how would
12 you lose access revenue?

13 MS. STEWART: Well, we're back to the whole
14 prorata thing and how it's going to work. You make it
15 sound that it's so simple to ratchet and we're going to
16 be held harmless. When you really get into some of
17 these big pipes where there is a tremendous amount of
18 capacity going across it, it would be pretty easy in a
19 "ratcheting scheme" where we would be receiving net a
20 lot less revenues than we currently receive for those
21 special access services, and so Qwest is just not
22 required nor willing to go into any type of commingling
23 associated ratcheting.

24 MR. WILSON: Well, I don't think you can
25 prove that mathematically. I think this is simply

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1 gauging the CLECs. If you can show that mathematically,
2 I think we could discuss it, but I don't see it.

3 MS. STEWART: As I stated before, Qwest is
4 aware, the whole industry on a national level is aware
5 that this is an issue of concern and dispute. It's
6 solidly before the FCC. Qwest would recommend we allow
7 the FCC to sort out the so what implications of all of
8 their various orders.

9 JUDGE WALLIS: It sounds like there is
10 impasse.

11 MS. LUBAMERSKY: Yes.

12 JUDGE WALLIS: How about we take a 15 minute
13 break at this time.

14 (Recess taken.)

15 JUDGE WALLIS: UNE-C-5.

16 MS. STEWART: We're at UNE-C-5. This was an
17 issue where WorldCom was concerned that a CLEC may have
18 all the individual UNEs in their interconnection
19 agreement, may have combination language in their
20 interconnection agreement, but not have the specific
21 "combination products" that Qwest has in its SGAT in
22 their interconnection agreement and just wanted to
23 confirm if they have all the parts to make a
24 combination, that they were not required to have the
25 magic, for illustrative purposes here, UNE-P language in

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1 their amendment. Qwest has agreed. Qwest has put
2 language into 9.23.2 to attempt to address this issue as
3 it relates to the SGAT and to make a section that can be
4 imported into other agreements.

5 MS. HOPFENBECK: You have also deleted
6 9.23.5.1.1 and 9.23.5.1.2 to address this as well; isn't
7 that correct?

8 MS. STEWART: That is correct. So Qwest
9 believes with these change that this issue is closed
10 between the parties.

11 MS. HOPFENBECK: This issue is closed as it
12 relates to UNE combinations and the UNE platform. The
13 issue is closed as it relates to this narrow issue.
14 We're satisfied that the changes that Qwest has made
15 allows us to close this issue.

16 I do want to note that we do expect to
17 address in the general terms and conditions workshops
18 again just the broader issue of circumstances under
19 which CLECs will be required to amend their
20 interconnection agreements to accommodate new product
21 offerings.

22 MS. STRAIN: Thanks for the clarification.

23 MS. STEWART: Then we're at UNE-C-11. We
24 have talked briefly about UNE-C-11 in the context of the
25 new Exhibit 710 where we attempted to unindent a correct

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1 paragraph to make it applicable to all UNEs. We have a
2 revised Exhibit 10 in production, and we will make it
3 available to the parties as soon as it's completed.
4 Basically it clarifies that when Qwest says that just if
5 assuming that facilities are available, what are the
6 incremental steps Qwest would take to make facilities
7 available, and then as we have already mentioned several
8 times this morning, the steps we will not take, which is
9 to build new capacity by attaching new electronics.

10 Qwest feels that its position is clear. I
11 believe the issue is at impasse, or is this a correct
12 place to impasse this issue of the build?

13 MR. KOPTA: I agree that we have discussed
14 this, and the issue is at impasse. We can do it either
15 way, either just declare this particular issue and these
16 provisions at impasse, or if Qwest wanted to focus the
17 dispute on the provisions that we talked about earlier,
18 if it can provide something other than this language
19 "provided that facilities are available" and have a
20 cross reference instead to these provisions, then we can
21 get it out of picking and choosing different places in
22 the SGAT where this issue arises because of that phrase,
23 then we could do it that way.

24 But I'm just not sure what Qwest wants to do
25 in terms of SGAT language. If it wants to leave this

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1 provided that facilities are available, then we can just
2 leave it here. If they're willing to just simply cross
3 reference the section where they're talking about their
4 obligation to provide or build, then we can focus it on
5 those.

6 MS. STEWART: Can we take a minute.

7 Qwest conceptually agrees with the concept
8 that instead of, if where facilities exist are in
9 various sections of the SGAT instead of trying to kind
10 of brief every place it turns up, maybe we ought to go
11 to a certain place. However, we're concerned about two
12 things.

13 One is that the obligations to build Qwest
14 believes actually are potentially slightly different
15 between some of the UNEs. For example, Qwest believes
16 that it's absolutely clear that Qwest has no obligation
17 to build UDITs and, in fact, has even been recognized by
18 other parties. And then secondly Qwest believes it's
19 absolutely under no obligation to build dark fiber
20 facilities. And so there are various places where the
21 reference that Qwest would rely upon for not being
22 required to build may be different.

23 So we will take a look over the lunch hour,
24 and at this point we think it may be difficult to just
25 do a blanket replacement of wherever facilities exist to

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1 this other section, but we would be willing to
2 definitely take a quick look at all the issues list, see
3 if we can point them all, not deferred, but say this
4 issue is at impasse but will be briefed with issue, so
5 maybe we can in essence create one issue for you to
6 brief, but you would still have your record of having
7 challenged it in each of these at various sections.

8 MR. KOPTA: And I understand it is a
9 logistical as well as a conceptual dilemma and outside
10 the context of what we're talking about here, which is
11 the combinations, and I was just looking strictly at
12 9.23.1.4 and subsequent sections.

13 MS. STEWART: Right.

14 MR. KOPTA: And thinking that rather than
15 using the phrase, provided that facilities are
16 available, something to the effect that subject to the
17 restrictions in Section 9.1.2.

18 MS. STEWART: Right.

19 MR. KOPTA: And that would sort of kill two
20 birds with one stone in that it would focus the issue on
21 that section rather than sprinkling it throughout and
22 would also crystallize exactly what is meant by provided
23 that facilities are available.

24 MS. STEWART: Right.

25 MR. KOPTA: So that's why I thought that that

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1 might be, at least in the context of this particular
2 provision that we're talking about in conjunction with
3 UNE-C-11, that might be a possibility. Whereas maybe it
4 wouldn't work in the transport or dark fiber section.
5 So if you will take a look at that and see what you
6 think.

7 MR. MUNN: We will take a look at that and
8 get back to you.

9 MS. STEWART: So I believe in summary,
10 UNE-C-11 is at impasse, and Qwest will be looking at
11 seeing if it can do some modifications to its language
12 to sharpen the issues in this section about what do we
13 mean by where facilities are available, and we will do a
14 cross reference for briefing purposes.

15 JUDGE WALLIS: Thank you.

16 MS. STEWART: UNE-C-15, this is an issue
17 where the parties have requested a standard product of a
18 combination of a loop and multiplexing. We had a pretty
19 extensive discussion on the record before. Qwest is
20 agreeing that it will make unbundled multiplexing
21 available with loops. Qwest does not believe it's truly
22 a combination in the sense that multiplexing is not a
23 UNE, so you really have a feature functionality of
24 transport being combined with a feature functionality of
25 loops. So where we are in the final analysis of this is

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1 Qwest will agree to develop and clarify the process in
2 which a CLEC will order a MUX associated with an
3 unbundled loop.

4 For purposes of provisioning and ease of
5 provisioning, we may have to use a "combination process
6 flow", but we really believe it is not a combination and
7 in this context would recommend that the issue of how do
8 you specifically order this loop associated with what
9 type of MUXing should be deferred to the unbundled loop
10 workshop. Qwest believes in doing research on this
11 issue since last we met that there perhaps will be loop
12 NCI codes that can be used to facilitate this type of
13 ordering.

14 So I will once again just go on the record
15 saying Qwest will make this available. We believe the
16 appropriate place to address our commitments would be in
17 the loop section and not in the combination section.

18 MR. KOPTA: A couple of clarifications.
19 First, there was some discussion in the last workshop
20 that I, and I believe Qwest's position has changed on
21 this in other workshops, as to what exactly the
22 combination of a loop and multiplexing is, whether
23 that's an EEL or whether it's not. So if you can
24 clarify what Qwest's current position is on that issue,
25 that would be helpful.

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1 MS. STEWART: Actually, the issue I think
2 you're addressing and which is related is UNE-C-24, and
3 this was an issue where Qwest believed and to the extent
4 that a loop, excuse me, that a loop, a multiplexer, and
5 an ITP pair to a collocation cage was the equivalent of
6 an EEL because it had the equivalent of a transport
7 component. Qwest has agreed in settlement discussions
8 with the parties to remove our local use restriction on
9 any such service or facilities that would be connected
10 in that manner and has memorialized that commitment at
11 9.23.3.7.1.

12 Let me read that section, because it is
13 integral to obviously resolving the issues that we have
14 in UNE-C-15, and I will read the relevant section of
15 9.23.3.7.1.

16 The significant amount of local use
17 requirement does not apply to
18 combinations of loop and multiplexing
19 when the high side of the multiplexer is
20 connected via an ITP to CLEC's
21 collocation.

22 So we believe in combination with our
23 commitment to clarify within the loop section of the
24 SGAT how you order loop and multiplexing and our
25 commitment as I have just read, that we have closed,

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1 excuse me, not closed, deferred UNE-C-15 to loops and
2 have closed UNE-C-24.

3 MR. KOPTA: And from your discussion earlier,
4 am I correct that Qwest does not view the "combination"
5 of multiplexing in the loop as a combination, so it
6 wouldn't be a UNE-C?

7 MS. STEWART: What the -- Qwest does -- Qwest
8 does not believe it's a UNE combination. The MUX is not
9 a UNE, and so you can not have a multiplexer. You can't
10 have a combination of UNEs if you don't have more than
11 one UNE. And in this case, you've got the loop is a
12 UNE, and the MUX is some other thing.

13 However, to be able to facilitate a quick,
14 easy implementation and provisioning within our systems,
15 using a combination type process flow as currently used
16 for special access services where individual loops come
17 in to multiplexer might aid in a cleaner, faster
18 provisioning process for the CLECs. So that is what
19 Qwest is currently evaluating and determining. But in
20 any regards of how the provisioning process flow is
21 resolved, Qwest believes that addressing this issue in
22 the loop section is appropriate.

23 And, in fact, I apologize, I do not remember
24 off the top of my head, but in Section 9.2 of unbundled
25 loops is already a reference to multiplexing, but that

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1 reference refers back to the assumption that you are
2 somehow going to order unbundled transport. So we
3 realized within the loop workshop we need now to take
4 that reference and to make it clearer.

5 So I'm not trying to muddy the water. I'm
6 just trying to be up front and honest. Even if it's not
7 legally a combination, for ease in provisioning and
8 process flow, we may have to use a "combination" for
9 internal process flow, but we still should in the SGAT
10 properly place it within the legal context of it not
11 being a combination.

12 MR. KOPTA: Well, let me be up front as well,
13 and I certainly appreciate that. The concern I guess
14 that I have is that the only place that multiplexing is
15 really discussed in the SGAT is in the transport
16 section, specifically 9.6.1.2, and --

17 MS. LUBAMERSKY: That's not true.

18 MR. KOPTA: -- the first sentence, it talks
19 about an unbundled multiplexer is offered as an optional
20 stand alone element associated with UDIT. And I guess
21 the concern that I have is to clarify in the SGAT that
22 the combination of multiplexing either with UDIT or with
23 a loop is not going to be a UNE-C, because there are
24 other things that are applicable to UNE-C from a legal
25 standpoint. And on a going forward basis, there may be

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1 other things that happen with combinations that we
2 wouldn't want multiplexing and loops when combined to be
3 subject to.

4 So what I would suggest is if there was some
5 sentence that could be added here to say that the
6 combination of multiplexing and UDIT is not a UNE-C for
7 purposes of this agreement, maybe a corresponding
8 section in the loop section or a combination of loop and
9 multiplexing, then that would ease my concern.

10 MS. STEWART: I think you brought up a good
11 point and observation as it relates to 9.6.1.2, because
12 I do believe within the loop section of 9.2 it does
13 refer you back into the UDIT 9.6.1.2. At least it
14 refers you back into 9.6. The reason it does that is
15 because the correct NCI codes, the technical parameters
16 around multiplexing within technical publications is
17 combined within the transport technical pubs, and so
18 there is a cross reference.

19 What we could do is take a look at inserting
20 as if your suggestion or at least inserting as a result
21 of the observations and suggestions you're making that
22 in 9.6.1.2 that the unbundled multiplexer is offered as
23 an optional stand alone element associated with UDIT
24 and/or loops, unbundled loops.

25 MR. KOPTA: Yeah, that --

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1 MS. STEWART: Then we can at least make sure
2 that any -- you aren't going to get caught in a cross
3 reference problem as it relates to the picking up MUXing
4 just for a loop.

5 MR. WOLTERS: Just one other point though.
6 When we were discussing 9.6.1.2 in earlier workshops, we
7 made a point of putting unbundled multiplexer in lower
8 case letters and also referring to an element instead of
9 a network element or not a UNE, so it was supposed to be
10 clear here that by the use of the word element it
11 wasn't meant to be considered a network element or a
12 UNE. There was some concern at that time about making
13 sure the way we phrased it in the first sentence we
14 weren't saying multiplexing with a UNE.

15 MS. LUBAMERSKY: Right.

16 MR. WOLTERS: Because there was some concern
17 initially about that.

18 MS. LUBAMERSKY: And, Greg, Section 9 --

19 MR. MUNN: I don't think this should trip a
20 concern.

21 MS. LUBAMERSKY: No, it's consistent with --

22 MR. MUNN: A loop is a UNE, but we're not
23 saying anything about the categorization of loops.

24 MR. KOPTA: Yeah, I think what Rick was doing
25 was sort of addressing my second concern, which is that

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1 since it's not a UNE, then the combination of that
2 multiplexing with either a loop or transport would not
3 be a UNE-C, so. And I understand your concern of we may
4 need to process it that way, so we can't just make a
5 blanket statement that it's not UNE-C. And it may be
6 that with Rick's clarification, it's certainly on the
7 record here, that everyone's understanding is that it's
8 not a UNE-C.

9 MS. LUBAMERSKY: It is not a UNE-C.

10 MR. KOPTA: That that's sufficient --

11 MS. LUBAMERSKY: I think we just said that.

12 MR. KOPTA: -- to address that section.

13 JUDGE WALLIS: Let's be off the record for
14 just a minute.

15 (Discussion off the record.)

16 MS. STEWART: Within 9.6.1.2, at the end of
17 the first sentence where it says that it's a stand alone
18 element associated with UDIT, Qwest would be willing to
19 insert the words, or unbundled loop, to codify its
20 commitment that you can indeed obtain multiplexing as a
21 stand alone feature functionality to be associated with
22 the unbundled loop. In addition, Qwest believes that
23 the details of how you would order an unbundled loop
24 with multiplexing should be deferred to the loop
25 workshop and anticipates that this issue would be

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1 resolved with wording inside of SGAT Section 9.2.2.10.
2 MR. KOPTA: Thank you, I think that addresses
3 the issue that we had with this particular provision,
4 and so from our perspective, we could say that it's
5 closed.

6 MS. STEWART: Would you prefer just for
7 clarity on the record to put that it's deferred, that
8 UNE-C-15 is deferred to loops, and then UNE-C-24 is
9 closed?

10 MR. KOPTA: That would be fine.

11 MS. STEWART: I'm at UNE-C-20. UNE-C-20,
12 this is an issue where AT&T has requested that in
13 certain circumstances, the particular example that we
14 dealt with was DS1 loops, that the CLEC have an option
15 to determine the underlying network infrastructure that
16 would provide that unbundled network element,
17 particularly DS1 loops. That issue has been deferred to
18 the loop workshop in subsequent jurisdictions where we
19 have addressed this issue. Qwest would recommend that
20 also here in Washington this issue be deferred to the
21 Washington loop workshop.

22 MR. WILSON: And that's fine, and I believe
23 we even have a solution to the issue in the loop
24 workshops.

25 MS. STEWART: UNE-C-21, what this issue was

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1 where in certain circumstances XO knew that if they,
2 well, in certain circumstances if XO was required to
3 order a facility, I think the example was a DS1 loop,
4 through the retail process for whatever reason,
5 particularly if Qwest -- if there was no facilities
6 available and Qwest would have to construct within our
7 retail offerings, Qwest does have options for
8 construction as it relates to DS1 loops, but XO asks
9 that it be determined to be a UNE for purposes of
10 combinations and any commingling efforts.

11 Qwest is unable to agree at this time to
12 allow any commingling of circuits and is truly unable to
13 determine and track that a particular circuit was put in
14 place for the various reasons of construction, for
15 example, for reasons such as construction. What Qwest
16 would point out and ask as a SGAT section reference for
17 UNE-C-21 is that to address some of the concerns of XO
18 in Section 9.19, Qwest has clarified that if a CLEC
19 would use Section 9.19 of the SGAT as the vehicle for
20 construction of a new existing -- to construct a new
21 element, that that element constructed under 9.19 would
22 indeed be a UNE.

23 So in summary, Qwest is unable to agree to
24 the request of XO; however, Qwest would recommend that
25 in the future if XO is in a situation where facilities

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1 are not available and a facility would have to be
2 constructed, rather than seeking to order a retail
3 service, Qwest would recommend that XO use the process
4 outlined in 9.19. By utilizing that process, the UNE
5 would retain its UNE status and would not be an issue as
6 it relates to commingling with tariffed services.

7 MR. KOPTA: And I think this was an effort on
8 our part to try and be creative in reaching a middle
9 ground on the limitations on constructing facilities.
10 And as I understand a discussion late yesterday, as a
11 matter of fact, there still may be some distinction
12 between how a retail service and a UNE will be looked at
13 in terms of the process that you have outlined in
14 Section 9.19. So at least there's a possibility that
15 the CLEC could get the facility constructed as a private
16 line where Qwest would decline to construct it as a UNE,
17 and so it still kind of raises the issue of could we
18 creatively do something that would allow Qwest to
19 comfort -- to go ahead and construct the facility and
20 allow it to be used on the same overall facilities that
21 are used for the UNEs. And as I understand it, Qwest is
22 not willing to do that.

23 So at this point, I think it kind of rolls
24 into the general facilities construction issue, which is
25 at impasse.

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1 MS. STEWART: Qwest would agree.
2 MS. STRAIN: So impasse?
3 MS. STEWART: Impasse.
4 MR. KOPTA: Yes.
5 MS. STRAIN: Obligation to build?
6 MR. KOPTA: Yes.
7 MS. STEWART: Yes.
8 We briefly discussed UNE-C-24. I just wanted
9 to clarify that SGAT section that resolved and moved
10 this issue from impasse to closed was 9.23.3.7.1.
11 MR. KOPTA: Yes, that closes the issue.
12 MS. STEWART: UNE-C-25.
13 MS. STRAIN: Can you just -- can we go off
14 the record for just a minute.
15 JUDGE WALLIS: Let's be off the record,
16 please.
17 (Discussion off the record.)
18 MS. STEWART: UNE-C-25, this was an issue
19 wherein SONET tech pubs that were not specifically
20 addressed as either retail or wholesale tech pubs, there
21 were additional interfaces available. Qwest has agreed
22 to incorporate those different interfaces within its
23 Tech Pub 77346. There's been an understanding in other
24 workshops that depending on the type of interface,
25 particularly as it's associated with multiplexing is

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1 ordered, there may be additional charges associated with
2 that multiplexing, and with those understanding believes
3 that UNE-C-25 is closed between the parties.

4 MR. WILSON: That does close the issue for
5 AT&T. We will, however, need to review the tech pub
6 when it's supplied to us in its revised form.

7 MS. STEWART: Qwest has no other additional
8 issues under the general category of UNE combinations
9 and we would see if --

10 MR. WOLTERS: I have a question on UNE-C-23.
11 We have dealt with 9.1.2, I know in some of the
12 jurisdictions we, I think, we kicked over
13 indemnification to general terms, and I'm just wondering
14 if 9.1.2 is being discussed in general terms.

15 MS. STEWART: Can I take a second to -- can
16 we go off the record?

17 JUDGE WALLIS: Let's be off the record.
18 (Discussion off the record.)

19 MR. WOLTERS: So I think we agreed that
20 UNE-C-23 would be deferred to terms and conditions and
21 discussed with CL-2-5.

22 MR. MUNN: Sure.

23 MR. WOLTERS: And that would be what we would
24 agree as a resolution.

25 MS. STEWART: Yes, Qwest agrees.

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1 Qwest did not have any other general UNE
2 combination issues, and we would open it up to the
3 parties if there are any other issues.

4 MR. MUNN: That moves us to EELs.

5 MS. STEWART: As previously discussed, Qwest
6 does not have any additional information to add to the
7 impasse issues of EEL-1 and EEL-2 or EEL-4.

8 We did in EEL-5 talk about the fact that we
9 have now codified in 9.1.2.1 the information about what
10 Qwest believes it needs to do from an incremental
11 standpoint to make facilities available. This is an
12 exact example of the issue Mr. Kopta had raised earlier
13 about their -- the words provided facilities are
14 available are in various sections of the SGAT, including
15 the EELs section.

16 So Qwest would recommend that we identify
17 SGAT Section 9.1.2.1 also as an SGAT section in here and
18 believes then the issue is also at impasse as it is --
19 the issues of obligation to build are in other sections
20 of the SGAT.

21 MR. KOPTA: That seems like where we are.

22 MS. STEWART: EEL-9, this was an issue where
23 the parties had been concerned the first time that an
24 established CLEC would order an EEL that there would be
25 a delay in loading the appropriate rates for

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1 provisioning and billing. Qwest has distributed Exhibit
2 707. In addition, Qwest has made a commitment in
3 9.23.5.1.5 that the process would take two to three
4 weeks. Qwest believes with these activities that this
5 issue is now closed between the parties.

6 MR. KOPTA: Yes, we agree that it was
7 discussed in the context of the other issue and that it
8 is closed.

9 MS. STEWART: I believe EEL-11 was a general
10 discussion around the provisioning of the EELs and
11 whether indeed Qwest had the processes in place to
12 provision EELs for CLEC's. Qwest I believe has answered
13 that in my rebuttal testimony where we have confirmed
14 that we do have the process to implement EELs. I wasn't
15 sure whether there was an additional issue at this point
16 in time within EEL-11 that the parties felt we needed to
17 discuss.

18 MS. HOPFENBECK: My principal question to you
19 is that as part of this discussion at the last workshop,
20 Qwest introduced in the product description for EELs,
21 and I think we had gone through and WorldCom identified
22 a number of issues with respect to that product
23 description. That's a relatively new product
24 description, but I think it's still -- there are a
25 number of areas in which that product description

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1 appears to be inconsistent with the process that was
2 outlined in the last workshop.

3 So my question to you is whether Qwest is in
4 the process of making some modifications to that product
5 description, and I think this has to really stay, well,
6 at this point probably has -- I don't know where we
7 would put it. I mean ideally it stays open although,
8 you know, now that I think about it, I mean it could --
9 first of all, why don't you just answer whether you're
10 in the process of making changes.

11 MS. STEWART: Qwest is in the process of
12 augmenting the product description for enhanced extended
13 loops or EELs within its IRRG/PCAT. Qwest is committed
14 to making this product description consistent with its
15 commitments in its workshops within 45 days of the
16 closing of a workshop and is in the process of meeting
17 that commitment for other workshops that have been
18 closed.

19 MS. HOPFENBECK: Right, and I think that I am
20 content to close this issue here and then to raise any
21 problems with the product description that might
22 continue to exist once product description has been
23 amended and circulated, and I assume that will be
24 circulated to the parties to this workshop consistent
25 with the agreement we reached yesterday about the IRRG

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1 changes being circulated to the service list.

2 MS. STEWART: That is correct. Qwest
3 committed yesterday that any technical publication
4 changes and IRRG/product catalog "PCAT" changes would be
5 submitted to the service list of this workshop so that
6 they would have in essence a record of the activities
7 that have been taken to address the commitments within
8 the workshops separate from the official CICMP process.

9 MS. HOPFENBECK: Then my only other question
10 is, is Qwest clear about the changes that need to be
11 made to that product description from WorldCom's
12 perspective to make it consistent with the process?

13 MS. STEWART: I know that we have extensive
14 notes from the last time that we met on this product
15 description. I believe we do know. We do have the
16 transcript available to us from the first workshop where
17 I believe you did take, and we appreciate it, took an
18 opportunity to highlight some of their key points.

19 If WorldCom is interested in providing
20 additional input, Qwest would be very happy to perhaps
21 receive a marked up version of this from WorldCom, and
22 it will take that marked up version from WorldCom into
23 consideration as it finalizes its changes to this
24 section. In fact, that would be very helpful.

25 MS. HOPFENBECK: I think we can close this

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1 issue, and WorldCom and Qwest will work on this off
2 line.

3 JUDGE WALLIS: Thank you.

4 MS. STEWART: I believe we discussed that
5 EEL-13, the commingling issue, was discussed within the
6 context of another section we had already discussed.

7 I'm on EEL-14. This is an issue -- this is
8 an issue where in our initial definitions of finished
9 services, you could not combine an unbundled loop with a
10 LIS trunk. Qwest has agreed to remove that definition
11 out of its finished services definition. That new
12 commitment has been distributed as Exhibit 706. Qwest
13 believes this very narrow issue only as it relates to
14 finished services and connecting with EELs or other
15 unbundled network elements is closed between the parties
16 with that commitment in Exhibit 706. And once again, I
17 am clarifying it's a very narrow issue, and that's the
18 issue of being able to combine unbundled network
19 elements with LIS trunking.

20 MR. WOLTERS: So the question answer would be
21 no.

22 MS. STEWART: That would be -- I think the
23 correct answer is no to the question.

24 MR. MUNN: I have the issue phrased when I
25 wrote it down, can you combine UNEs with LIS trunking,

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1 which I think is --

2 MR. WOLTERS: Yeah, I think that's a broader
3 issue.

4 MR. MUNN: And the answer to that is yes.

5 MR. WOLTERS: Yes, with that understanding, I
6 believe it closes this issue for AT&T.

7 MR. KOPTA: We agree.

8 MS. HOPFENBECK: So do we.

9 MS. STEWART: EEL-15, this was a request of
10 ELI and XO, and again in a -- and it's been
11 characterized as an attempt to be creative, which we
12 appreciate any attempts to be creative, is there a way
13 that Qwest within its systems could identify that some
14 special access circuits are eligible for conversion but
15 for whatever reason the CLEC is unable, be it a TLA or
16 whatever, to make that conversion, that they would be
17 treated perhaps as counting toward the local service
18 obligation.

19 Qwest is unable to agree that it can somehow
20 segregate that some special access circuits are special
21 special access circuits and recommends that we move it
22 from Qwest take back to perhaps impasse between the
23 parties.

24 However, Qwest would identify that in the
25 NPRM before the FCC that we have discussed with

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1 commingling that the issue of TLAs and their
2 applicability is also squarely teed up within that FCC
3 process and would recommend that this issue be resolved
4 consistent with however the FCC ultimately rules on the
5 issue of TLAs.

6 MR. KOPTA: We agree that this is an issue
7 that we need to brief, and so we will just leave it at
8 that at this point.

9 MR. WOLTERS: Just one point. I think if you
10 go back and look at the discussions, there was really
11 two scenarios that were discussed on this issue, and I
12 think this kind of captures them to a narrow key, but I
13 think for purposes of a brief, I was going to brief both
14 of those issues. I think one was the conversion of
15 retail. Let's see, they're both -- I think in both
16 situations they qualify. One -- well, let me think a
17 second.

18 Never mind, just withdraw that. I look at my
19 notes and off hand I can't find a distinction. I know
20 we talked about two different scenarios in some of the
21 jurisdictions, and I will just have to look at the
22 transcript. But if there's more than one scenario that
23 incorporated in with this number, I will just deal with
24 it like that in the brief.

25 MS. STRAIN: Ms. Stewart, could you just

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1 repeat for me what FCC order was going to address the
2 termination liability question? Was it the order on
3 clarification or the FNPRM coming down with that?

4 MS. STEWART: That is correct.

5 MR. MUNN: Do you need the number for the
6 Supplemental Order of Clarification?

7 MS. STRAIN: I've got that, thank you.

8 MR. MUNN: Sure.

9 MS. STEWART: That was the EEL issues that
10 Qwest had at this point, and we would open it up to the
11 parties if there were different or EEL issues that have
12 not been identified.

13 MR. WOLTERS: I think we did have one
14 question about how you're going to treat ISP traffic for
15 purposes of the significant local use restriction. Do
16 you consider it local for that purpose when determining
17 whether you have sufficient amount of local traffic. I
18 think there was some -- we had some question about that
19 in another jurisdiction, and I think it -- looking at
20 the order at footnote 64, it says:

21 Traffic is local if it is defined as
22 such in a requesting carrier's state
23 approved local exchange tariff and/or it
24 is subject to a reciprocal compensation
25 arrangement between the requesting

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1 carrier and the incumbent LEC.

2 So I'm just curious, in Washington, is it
3 going to be treated as local traffic for purposes of
4 determining whether you qualify for one of the three
5 options?

6 MS. STEWART: I would recommend that we open
7 this as an additional EEL issue, as EEL-16, and I would
8 paraphrase the question as, in Washington, does ISP
9 traffic count as local traffic for purposes of meeting
10 the local use requirements. Oversight by my legal
11 counsel in the back.

12 MS. STRAIN: Can I ask what SGAT section we
13 would put on the log for that?

14 MS. STEWART: I would -- just a second.

15 MS. STRAIN: Would it be the significant
16 local use one?

17 MS. STEWART: Correct, but let me find the --
18 it would be 9.23.3.7.2.

19 JUDGE WALLIS: Let's be off the record,
20 please.

21 (Discussion off the record.)

22 MS. STEWART: In Washington, my understanding
23 is that the Washington Commission has ordered that ISP
24 traffic is local traffic. Therefore, in the state of
25 Washington currently as it exists, ISP traffic would be

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1 considered as local traffic. I would note that the FCC
2 has recently on April 19 released a press release
3 identifying that its reciprocal comp order will now -- I
4 will just read briefly:

5 The Commission concluded that
6 telecommunications traffic delivered to
7 an ISP is interstate access traffic,
8 specifically information access, thus
9 not subject to reciprocal compensation.

10 Qwest nor any of the other parties have had
11 an opportunity to review this order, and upon the review
12 of this order, Qwest will determine whether there will
13 be a change in the treatment of ISP traffic in the state
14 of Washington for meeting the percentage of local use
15 requirement.

16 MR. MUNN: And in connection with that, the
17 FCC announced the adoption of new rules that would
18 clarify and just lay out this structure of the proper
19 intercarrier compensation for telecommunications traffic
20 delivered to Internet service providers. So their --
21 Qwest believes that we need to see those rules and the
22 Commission order that will address and incorporate those
23 rules, but we do note that it's certainly possible that
24 the way that this will be written would be preemptive of
25 the particular state's determination.

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1 We don't -- we haven't seen this yet, so we
2 don't know what our position will be. And we know today
3 that the state of Washington has said this is local
4 traffic, and we understand that that is what the
5 Commission has said, so that's what we will be doing.
6 We just need to see these rules in this order to know
7 whether it's preemptive of the states or not. We can't
8 prejudge that.

9 MS. STRAIN: Do you have a docket number or
10 order number for that, John?

11 MR. MUNN: Yeah, I'm looking for the order
12 number.

13 MR. WOLTERS: There's no order released yet.

14 MS. STRAIN: Oh, okay.

15 MR. MUNN: Yeah, it's not an actual order.
16 This is a press release that says, this is what our
17 order is going to say.

18 MS. STRAIN: Oh, okay.

19 MS. LUBAMERSKY: Its' just in 96-98.

20 MS. STEWART: We could enter a copy of the
21 press release into the record if that would add clarity.

22 MS. STRAIN: No, that's fine, because when
23 the order comes out -- I just -- I hadn't noticed an
24 order coming out, so I was --

25 MR. MUNN: The Docket Number is 96-98.

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1 MS. STRAIN: Right.
2 MR. MUNN: And then 99-68.
3 MS. STRAIN: Okay, thank you.
4 MR. MUNN: We wish we knew more.
5 MS. STRAIN: They're just teasing us.
6 MR. MUNN: Yes.
7 MS. HOPFENBECK: The press release I don't
8 think is the epitome of clarity.
9 MS. LUBAMERSKY: Nor was the open meeting.
10 MR. MUNN: I actually think there might be an
11 order number even though we don't have the order. In
12 the press release it says, action by the Commission,
13 April 19, 2001, by order on remand and report and order
14 (FCC 01-131).
15 MR. WILSON: One comment here, if the
16 determination by the FCC is directed at reciprocal
17 compensation, I'm not sure that it will really determine
18 whether or not Internet traffic should be included or
19 excluded from consideration of the EEL local use
20 restrictions. I think those are really two separate
21 issues. One doesn't necessarily mean that the other one
22 is eliminated.
23 So I would caution Qwest once again to take
24 what may be an FCC order written to solve one issue and
25 use it to preclude other things that CLECs may

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1 legitimately have a right to do.

2 MR. MUNN: Well, I understand the point that
3 you're making. I think the -- it's my understanding
4 that the Washington Commission decisions deal with the
5 local determination for this traffic in the same context
6 as this FCC order. So if you're relying on that to say
7 that it's local, I think the same can be said for
8 relying on this to say that it's interstate.

9 I don't believe there has been a state
10 Commission decision, and you can correct me if I'm
11 wrong, Commission, that addresses whether in the EEL
12 context in the local use restriction whether that
13 Internet service provider traffic is local or
14 interstate.

15 So I mean I think you make a valid point. I
16 don't think that this decision -- I wouldn't anticipate
17 this to address the EEL local use restriction, but I
18 don't think the state Commission decisions did either.

19 MS. HOPFENBECK: I will just add to what Ken
20 said. This comes up in a number of different contexts.
21 It comes up in the terms of a local use restriction
22 applicability to EELs. It comes up again in terms of
23 pricing of interconnection facilities. We will be
24 briefing many of these issues in the context of a cost
25 docket that's currently pending, and those briefs will

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1 be taking into consideration the FCC's recent order
2 either because it will come out soon and we will address
3 it in our briefs as currently scheduled, or there will
4 be a supplemental briefing or something, and we will all
5 be addressing these issues in our briefs. So I'm
6 anticipating that we're going to have some indication
7 from this Commission as to how they think all of these
8 issues overlap and should be resolved.

9 MS. STRAIN: So is this issue impassed for
10 now?

11 MS. STEWART: Yes.

12 MR. WILSON: And maybe one more quick comment
13 on this particular issue. I think I mean it's pretty
14 clear that what the FCC was doing in the EELs was to
15 eliminate the use of an EEL for strictly toll traffic,
16 and I don't think there's any indication that the FCC is
17 going to make ISP traffic toll traffic. So I think
18 that's -- I mean that's where I'm really coming from is
19 that the EEL exclusion was to exclude totally toll
20 traffic, and I think it would be incorrect to exclude
21 Internet traffic from the calculation of local. It's
22 definitely not going to convert to toll.

23 MS. STEWART: If that closes the EEL issues
24 between the parties, Qwest does have a couple of
25 exhibits to address some take back issues,

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1 particularly --
2 MS. LUBAMERSKY: Ken has something.
3 MS. STEWART: I'm sorry, Ken.
4 MR. WILSON: I thought we had it as an issue
5 here, but maybe we didn't, the TLA, that TLA should be
6 waived for conversion.
7 MS. STRAIN: We just talked about that.
8 MS. LUBAMERSKY: That's just what we did.
9 MR. WILSON: Well, no, EEL-15 isn't exactly
10 that, I don't think.
11 MS. STEWART: If for ease of clarity for the
12 parties, Qwest would be willing to have an additional
13 EEL-17, or did you find it, Ken?
14 MR. KOPTA: EEL-6.
15 MR. WILSON: What's that?
16 MR. KOPTA: EEL-6.
17 JUDGE WALLIS: Let's be off the record,
18 please.
19 (Discussion off the record.)
20 MR. MUNN: So I believe we have concluded the
21 EEL issues, and Qwest does have a few take backs to wrap
22 up, but I think that resolves all of the issues that are
23 on the log we have addressed. We have just handed out a
24 couple of SGAT changes to reflect some agreements we
25 have made this morning. There's one that is 9.6.1.2.

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1 We can mark that as Exhibit 714.

2 JUDGE WALLIS: Yes.

3 MR. MUNN: And then the page that's 9.1.3.

4 MR. WOLTERS: There already is a 9.1.3.

5 MR. MUNN: I will address that in just a
6 second, but the page that says 9.1.3 at the top will be
7 715.

8 JUDGE WALLIS: So marked.

9 MR. MUNN: That's just the numbering. And
10 then the exhibit which Rick was just mentioning, Exhibit
11 710, we would simply propose to withdraw that exhibit,
12 which was the fix that Greg had mentioned about the
13 indentions in 9.1.2.1.2, because we have agreed on a
14 solution, and we can kind of read what the solution
15 would be and then assign it a number, that copies aren't
16 actually going to be back until probably 1:00, and I
17 think we will be done, so we can just have a late filed
18 exhibit and assign it a number. But the reason I can't
19 just do a replacement is because I don't have the new
20 exhibit to replace 710, and Exhibit 715 is new language
21 for 9.1.3. So if 710 is still on the record and it has
22 something else for 9.1.3, it will be a little confusing.

23 JUDGE WALLIS: Very well, why don't you mark
24 your new document 710 replacement.

25 MR. MUNN: Okay, and so 710 will not be

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1 considered.

2 JUDGE WALLIS: The original 710 will not be
3 considered.

4 MR. MUNN: Okay. Then these exhibits
5 shouldn't be stepping on each other, and Ms. Stewart can
6 discuss these, 714, 715, and then the changes that we
7 have agreed to make to the replacement 710.

8 JUDGE WALLIS: Thank you.

9 MS. STEWART: In issue UNE-C-15, ELI has
10 agreed to defer this issue to loops, but only felt
11 comfortable in that deferral if somehow they didn't get
12 caught crossways with it not being clear within the SGAT
13 that an unbundled loop would be an optional stand alone
14 feature functionality with unbundled loops. In Exhibit
15 714, Qwest has modified 9.6.1.2 to clarify that an
16 unbundled multiplexer is offered as an optional stand
17 alone element associated with UDIT or unbundled loops.
18 Qwest hopes with the tendering of Exhibit 714, we indeed
19 can keep UNE-C-15 officially deferred to loops.

20 MR. KOPTA: And that reflects our discussion,
21 and that's acceptable to us.

22 MS. STEWART: Okay. Then in the replacement
23 of 710, it had been identified to Qwest that a change
24 could be made within 9.1.2.1 to address the issue of
25 making sure all of the discussion around making

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1 facilities available and the normal assignment process
2 relating to all UNES. That change will be as such, and
3 Qwest will provide a new 710 replacement as a late filed
4 exhibit. It will just indicate that SGAT Section
5 9.1.2.1 would stay 9.1.2.1. SGAT Section 9.1.2.1.1
6 would become 9.1.2.2. SGAT Section 9.1.2.1.2 would
7 become SGAT Section 9.1.2.3. SGAT Section 9.1.2.1.3
8 would become 9.1.2.4. And then the subtending sections
9 would still say subtended to 9.1.2.4. They would now be
10 9.1.2.1.3.1 would be replaced with 9.1.2.4.1. And that
11 Section 9.1.2.1.3.2 would be replaced with 9.1.2.4.2.

12 In making this numbering replacement, Qwest
13 will still retain the change in the old 9.1.2.1.2. That
14 has been renamed as 9.1.2.3. That's identifies that the
15 incremental facility work would apply to all network
16 elements and not just to facilities that terminate at a
17 customer premises.

18 With these changes, Qwest believes it
19 clarifies the dispute issue. But once again, these
20 numbering changes will not resolve the fundamental
21 impasse issue between the parties.

22 MR. KOPTA: And that accurately reflects the
23 discussion that we had and addresses the concerns that I
24 had with -- just with respect to how the SGAT was set up
25 and how it was applicable, and so that all of these

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1 paragraphs that basically, if you will excuse the
2 expression, subtend Section 9.1.2 all do it directly
3 rather than go through this other provision that would
4 seem to limit it. So that makes sense to us, and I
5 think it accurately reflects what Qwest's intent is, and
6 as Karen said, crystallizes the issue that's in dispute.

7 MS. STEWART: We also earlier on the record
8 had had a discussion that AT&T was concerned that our
9 language in 9.1.5 at the very end where it talks about
10 -- I will read the sentence.

11 Qwest shall not in any way restrict
12 CLEC's use of any element or combination
13 of elements (regardless of whether such
14 combination of elements is ordered from
15 Qwest in combination or as elements to
16 be combined by CLEC) except as Qwest may
17 be expressly permitted or required by
18 existing rules.

19 AT&T had recommended that that did not add
20 the level of clarity --

21 MR. WOLTERS: I disagree, I'm going to stop
22 you right here. I think you're saying a lot of things I
23 didn't say.

24 MS. STEWART: Okay.

25 MR. WOLTERS: What I said initially is that I

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1 didn't understand under what basis you were arguing that
2 we couldn't connect UNEs. When I further looked at
3 this, I realized that we had put a section, that's what
4 I said, 9.1.5 did address that under the existing rules
5 phrase. So this issue went way back to TR-2 when we had
6 a sub A and B, and we had a problem that there wasn't an
7 affirmative statement that we could use UNEs as an
8 element for what we wanted to do, and this was the
9 language that we agreed to, that there wouldn't be any
10 restrictions except existing rules. So that really
11 closed the issue on what you could do with UNEs.

12 And I think now you're just creating a
13 problem by a new exhibit that I don't think is
14 necessary. If you're going to put it in, then we're
15 going to have to make an issues list and put it at
16 impasse. Because I think this language was added by
17 AT&T to address the very issue that I discussed, and I
18 just missed it when we were talking about it.

19 I still had the question of where in the FCC
20 order you claimed there was a so-called existing rule,
21 but I never asked that anything needed to be added to
22 this to clarify anything. I think 9.1.5 is very clear
23 that we can do -- what we can do with UNEs and
24 combinations unless we're prohibited by existing FCC
25 orders. I think it covers the issue.

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1 Now like I said, if you want to add 9.1. or
2 715, it's not an AT&T request, so it's not to clear
3 anything up for us. It's really --

4 MR. MUNN: That's a fair statement, and I
5 think that Exhibit 715, Qwest believes that it was
6 already stated that you couldn't combine UNEs with
7 finished services in the SGAT, but when the point was
8 brought up, we thought it may as well be held in
9 suspenders, so we have submitted Exhibit 715, which is a
10 new provision 9.1.3, to state again UNEs will not be
11 directly connected to Qwest finished services. And we
12 understand that Exhibit 715 is something we're
13 submitting to put in the SGAT and that I would imagine
14 we can assign it a new general checklist item 2 issue
15 number and show it as impasse.

16 MR. WOLTERS: That's fine if you want to make
17 it CL-2 --

18 MS. STEWART: 19.

19 MR. MUNN: Yeah, can we do CL-2-19.

20 MR. WOLTERS: What I wanted to make clear is
21 that the reason we were able to get around this problem
22 and address this issue that was initially at impasse was
23 by the language we put in 9.1.5. Now what you're doing
24 is essentially reinserting language that now creates the
25 impasse that we thought we had negotiated away.

03648

1 MR. MUNN: Okay, let us huddle for just a
2 second.

3 I think for Exhibit 715, Qwest will agree to
4 withdraw this exhibit.

5 MR. WOLTERS: Well, we have had some off line
6 discussions here with the CLECs, and we would much
7 rather have it in there so we have something to brief,
8 because we don't want the snake laying in the grass.

9 MR. MUNN: Well, I think we can withdraw this
10 exhibit. The impasse issue is 9.1.5. Qwest is very up
11 front with our interpretation of the sentence in 9.1.5
12 is that you can not -- Qwest will not connect UNEs with
13 finished services. This doesn't eliminate the fact that
14 the CLECs themselves could combine UNEs with finished
15 services in their collo cage, but Qwest will not combine
16 UNEs with finished services. And we consider that --
17 and I will just expressly state on the record that the
18 9.1.5 section that we have addressed, that is our
19 position and our interpretation of that issue. So we
20 can still tee it up as an impasse issue to address in
21 brief, we're just withdrawing Exhibit 715.

22 MR. WOLTERS: Well, here's the dilemma --

23 MR. MUNN: In the existing rule that we would
24 be incorporating, at least one of the existing rules,
25 not briefing at this point, but would be Paragraph 28 of

03649

1 the Supplemental Order of Clarification that we
2 addressed before.

3 MR. WOLTERS: However we do this, it's got to
4 be reflected at an impasse.

5 MR. MUNN: Correct.

6 MR. WOLTERS: If I change 9.1.5, I still have
7 to show an issue at impasse.

8 MR. MUNN: I agree with you. That's why I'm
9 just saying we still show it at impasse, and it's simply
10 the SGAT section will be listed as 9.1.5, this issue is
11 at impasse.

12 MR. WOLTERS: CL-2-19?

13 MR. MUNN: Correct.

14 MR. WOLTERS: And then what I probably would
15 want to do is have 715 remarked as an AT&T exhibit and
16 submitted so I can use it as a reflection of Qwest's
17 interpretation of 9.1.5.

18 MS. HOPFENBECK: Well, let me just before we
19 go back on the record, John, I'm going to really
20 encourage you to not withdraw --

21 JUDGE WALLIS: Let's be off the record.

22 (Discussion off the record.)

23 JUDGE WALLIS: There was some discussion
24 about the treatment of the document that was marked as
25 Exhibit 715 for identification at the request of Qwest.

03650

1 Qwest is withdrawing that document as its proposed
2 exhibit, and AT&T is offering it as an illustration of
3 Qwest's interpretation of other portions of the SGAT.

4 Is that an accurate statement?

5 MR. WOLTERS: Yes.

6 MR. MUNN: Correct.

7 JUDGE WALLIS: Does anything else need to be
8 said about it?

9 MR. WOLTERS: I would just like to verify
10 with Ms. Stewart that Section 9.1.3 that had been
11 previously marked as 715 by Qwest and had been withdrawn
12 by Qwest is Qwest's interpretation on the FCC's orders
13 on how and whether UNEs can be connected to tariffed
14 services. Is this Qwest's interpretation of the FCC's
15 order?

16 MS. STEWART: Yes.

17 MR. WOLTERS: Okay.

18 MR. MUNN: We think that Qwest has been --
19 has stated in multiple workshops that UNEs can't be
20 combined with finished services. This is not a new or
21 unique position that we're discussing today. It's
22 something we have discussed from at least my involvement
23 in these workshops beginning in January and February of
24 this year.

25 JUDGE WALLIS: And, of course, you will be

03651

1 able to brief that at the appropriate time.

2 MR. WOLTERS: Judge, with that understanding,
3 I think CL-2-6 needs to be changed from closed to
4 impasse, that I would be offering that as an exhibit to
5 show their intent and not for the purposes of adding
6 additional language to the SGAT.

7 JUDGE WALLIS: Is there any objection?

8 Let the record show there is none, and the
9 document is received.

10 Does AT&T have any other exhibits that have
11 been presented but not offered and received?

12 MR. KOPTA: Before we move to that, Your
13 Honor, may I just ask one clarifying question?

14 JUDGE WALLIS: Please proceed.

15 MR. KOPTA: In Exhibit 701, Section 9.1.3 is
16 labeled as reserved for future use. And in Exhibit 710
17 9.1.3 was used for some substantive provisions which we
18 have addressed in a revised Exhibit 710. Now with
19 Exhibit 715, 9.1.3 was proposed to be revised and is now
20 not proposed to be revised. Is my understanding correct
21 that we're back to the original in Exhibit 701 that
22 9.1.3 is reserved for future use?

23 MR. MUNN: Yes, that's our understanding.

24 MS. STRAIN: Would it be possible to perhaps
25 modify Exhibit 710 just to cross off that paragraph?

03652

1 MS. STEWART: Yes, Qwest will provide a new
2 replacement late filed 710 consistent with the various
3 discussions we have had.

4 MS. STRAIN: Thank you.

5 JUDGE WALLIS: Very well.

6 MS. HOPFENBECK: I have one additional
7 question on Exhibit 715.

8 JUDGE WALLIS: Ms. Hopfenbeck.

9 MS. HOPFENBECK: Ms. Stewart, is it true that
10 the language that's reflected on Exhibit 715 reflects
11 Qwest's interpretation of provision 9.1.5 as currently
12 stated in Exhibit 701?

13 MS. STEWART: Yes, as it relates to the
14 existing rules provision in the last part of that
15 section.

16 MS. HOPFENBECK: That's all I have.

17 JUDGE WALLIS: Now Mr. Wolters.

18 MR. WOLTERS: Judge, we had three exhibits
19 630, 631, and 656. I believe one of them was admitted,
20 but I would just at this time ask that all three of
21 those be admitted to make sure I have covered the
22 appropriate exhibits, so it would be 630, 631 and 656.

23 JUDGE WALLIS: I show 631 as being admitted,
24 and we will take that as an offer of 630 and 656 and ask
25 if there is an objection.

03653

1 MR. MUNN: No objection.
2 JUDGE WALLIS: There is no objection, and
3 those documents are received.
4 I do not show 632 as having been received.
5 MR. WOLTERS: And what is 632?
6 JUDGE WALLIS: That's 12.2.9.3 redlined, the
7 longer than two pages version.
8 MR. WOLTERS: We had marked that as a
9 Mr. Hydock Exhibit 656.
10 JUDGE WALLIS: All right, thank you.
11 MR. MUNN: So Judge.
12 JUDGE WALLIS: All right.
13 MR. MUNN: The exhibits of Qwest you have
14 admitted 701 through 704 previously, and we would just
15 tender Exhibits 705 through 714.
16 JUDGE WALLIS: Is there objection?
17 Let the record show that there is none, and
18 these documents are received.
19 All right, is there anything further?
20 MR. MUNN: I guess that would include the
21 replacement 710.
22 JUDGE WALLIS: Yes, that includes not the
23 original but the replacement 710 pursuant to the
24 discussion on the record, and the replacement will be a
25 late filed exhibit.

03654

1 MR. MUNN: Thank you, Your Honor.

2 JUDGE WALLIS: All right, thank you all very
3 much, and we will certainly look forward to seeing you
4 again soon.

5 (Hearing adjourned at 12:10 p.m.)

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