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(COLLOQUY)

272

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

2 JUDGE CANFIELD: This hearing will please  
3 come to order. This is a continuation of the hearing  
4 in docket numbers U-89-2698-F and U-89-3245-P.  
5 Today's date is Friday, July 2, 1993. We're  
6 continuing the hearing that was commenced yesterday.  
7 It was not concluded yesterday and as agreed we're  
8 continuing the hearing this morning to take the  
9 remaining witnesses.

10 I don't know whether there are any  
11 preliminary matters before we get started but maybe we  
12 can just start by getting appearances of those who are  
13 here. Some are not going to be appearing but it would  
14 be helpful for the record to have indication of who is  
15 present.

16 MR. SHAW: Ed Shaw for US West  
17 Communications.

18 JUDGE CANFIELD: Okay, thanks.

19 MR. SMITH: Steve Smith, assistant attorney  
20 general for the Commission staff.

21 JUDGE CANFIELD: Okay.

22 MR. ADAMS: Charles Adams, public counsel.

23 JUDGE CANFIELD Okay.

24 MS. WEISKE: Sue Weiske for MCI.

25 MS. MacNAUGHTON: Ruth MacNaughton for AT&T  
(COLLOQUY)

273

1 Communications of the Pacific Northwest, Inc.

2 MR. BUTLER: Arthur A. Butler on behalf of  
3 TRACER.

4 JUDGE CANFIELD Okay, thank you. And as  
5 indicated yesterday, Mr. Simpson of the Department of  
6 Defense would not be appearing today, and I believe  
7 Mr. Finnigan indicated that he would be appearing a  
8 little later on this morning.

9 Any other preliminary type matters before  
10 we proceed? I believe the first witness was going to  
11 be from AT&T as was agreed yesterday, but other than  
12 that, any initial matters to discuss?

13 MS. MacNAUGHTON: Your Honor, perhaps it  
14 would be appropriate at this time for me to mention  
15 that I will be offering today for admission into  
16 evidence prefiled testimony that is in the nature of  
17 corrected testimony. We filed corrected testimony on  
18 June 29, 1993, and as we explained in a cover letter  
19 to Mr. Curl the purpose of filing the corrected  
20 testimony was to correct an error in statutory  
21 references made in the June 21 testimony which we have  
22 asked everyone to discard. Because the hearings were  
23 beginning Thursday, we did serve the corrected  
24 testimony by Federal Express.

25 JUDGE CANFIELD: Maybe you can briefly

(COLLOQUY)

274

1 indicate the differences, just the nature of the  
2 current corrected testimony from that that was earlier  
3 filed.

4 MS. MacNAUGHTON: Yes. I would be happy  
5 to. In the Commission's notice of hearing the  
6 Commission asked the parties to address the following  
7 issue, whether the AFOR approved for US WEST still  
8 satisfies the conditions contained in RCW 80.36.135(3)  
9 (a) through (g). If you look at that statute you will  
10 see that there are two subsections that contain the  
11 items (a) through (g).

12 There's a subsection (2) and there's a  
13 subsection (3). Regrettably AT&T addressed the (a)  
14 through (g) as they appear in subsection (2) in its  
15 initially filed testimony. When we realized this  
16 error we decided that it would be better to prepare  
17 and file, even though technically late, corrected  
18 testimony so that AT&T's testimony would be precisely  
19 responsive to the question presented by the  
20 Commission. Otherwise, we thought there might be  
21 confusion both to the Commission and to the parties.  
22 And on that basis we are requesting leave of the  
23 Commission to accept the corrected testimony.

24 JUDGE CANFIELD: Okay. And you're going to

25 be calling Patricia Parker to present that testimony?

(COLLOQUY)

275

1 MS. MacNAUGHTON: Yes, I am.

2 JUDGE CANFIELD: Okay. Let me go ahead and

3 assign a number to it and then we can discuss it

4 further. I'll mark the corrected testimony as the

5 next exhibit number in order, and that's Exhibit

6 T-1050. And while we're at it, let me swear the

7 witness in.

8 (Marked Exhibit No. T-1050.)

9 Whereupon,

10 PATRICIA PARKER,

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

12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MS. MacNAUGHTON:

16 Q. Good morning. Would you please state for

17 the record your name and business address.

18 A. My name is Patricia Parker and my business

19 address is 1875 Lawrence, Denver, Colorado.

20 Q. Ms. Parker, by whom are you employed and in

21 what capacity?

22 A. I'm employed by AT&T in the Western region

23 local exchange pricing and costing group.

24 Q. Ms. Parker, do you recognize the document

25 marked as T-1050 as your prefiled corrected testimony

(PARKER - DIRECT BY MacNAUGHTON)

276

1 dated June 29, 1993?

2 A. Yes.

3 Q. Was this testimony prepared by you or under  
4 your direction?

5 A. Yes.

6 Q. If I were to ask you the same questions  
7 contained in this exhibit today, would your answers be  
8 the same?

9 A. Yes.

10 MS. MacNAUGHTON: At this time I would like  
11 to move into evidence Exhibit T-1050 on behalf of AT&T  
12 Communications of the Pacific Northwest, Inc.

13 JUDGE CANFIELD: Any objections? None?  
14 Let the record reflect there are no objections. The  
15 Exhibit T-1050 is so entered into the record.

16 (Admitted Exhibit No. T-1050.)

17 MS. MacNAUGHTON: Ms. Parker is available  
18 for cross-examination.

19 JUDGE CANFIELD: Okay, thank you. Mr.  
20 Shaw.

21 MR. SHAW: Thank you.

22

23 CROSS-EXAMINATION

24 BY MR. SHAW:



25 Q. Good morning, Ms. Parker. Would it be fair

(PARKER - CROSS BY SHAW)

277

1 to say that the primary interest of AT&T in US WEST's  
2 rates is its carrier access rates?

3 A. Yes.

4 Q. AT&T pays US WEST substantial sums of money  
5 for local network access to originate and complete its  
6 long distance services?

7 A. Yes.

8 Q. Are you familiar with the Commission's 18th  
9 Supplemental Order in Docket U-85-23 where the  
10 Commission set forth how access charges are to be  
11 computed?

12 A. Yes.

13 Q. Has AT&T ever considered filing a petition  
14 as a regulated telecommunications company in the state  
15 of Washington to change -- to ask the Commission to  
16 change the outstanding rules on how access charges are  
17 computed in the state of Washington?

18 A. Actually, up until yesterday when that same  
19 question was addressed to MCI, I had not thought about  
20 it, but AT&T believes that those current rules need to  
21 be changed and specifically the rules in and of  
22 themselves is an FDC approach to developing access  
23 charges, and the FDC approach can produce some unusual  
24 pricing results.

25                   And as an example, recently, I think it was

(PARKER - CROSS BY SHAW)

278

1   a year ago, as a result of these unusual and arbitrary  
2   allocations the US WEST transport rates increased by  
3   17 percent. And from a market standpoint the  
4   transport rates should be more indicative of what's  
5   going to be happening into the market as competition  
6   enters the market and the price increase was clearly  
7   not warranted nor should have that been instituted,  
8   but that's clearly what happened as a result of those  
9   FDC rules.

10           Q.    So the fact is that the level of access  
11   charges under the current rules in the state of  
12   Washington are not driven by US WEST's earnings so  
13   much as they are driven by the specific costing  
14   allocations that are required for the establishment of  
15   those rates, correct?

16           A.    I would have to say yes in part.

17           Q.    In fact, in this last reprice of access  
18   charges by US WEST pursuant to the settlement  
19   agreement the computation, the calculation of where  
20   those access charges should be, resulted in an  
21   increase in access charges which the company did not  
22   implement, correct?

23           A.    I would like to clarify something in that  
24   do you mean the last computation meaning earlier this

25 year or what you are referring to was that in 1992?

(PARKER - CROSS BY SHAW)

279

1 Q. Perhaps it would be best to lay a little  
2 foundation. You understand that under the current  
3 AFOR the company has obligated itself to recalculate  
4 its level of access charges every year and if that  
5 calculation discloses that the rates should be  
6 reduced, the rates are reduced, but if the calculation  
7 discloses that the rates should be increased under the  
8 Commission's rules the increase is not filed?

9 A. The increase is not filed if the rates  
10 exceed the rates that were instituted during the AFOR  
11 and they were capped, I believe.

12 Q. That's correct. In this last measurement  
13 period which US WEST made that calculation, it came up  
14 with an increase and so it didn't change the rate at  
15 all, is that correct?

16 A. Yes. This is true. And the increase was a  
17 direct result of the way those FDC costs are  
18 calculated and the changes in the factors used.

19 Q. So even in a situation where the company is  
20 earning well the Commission's rules as to how access  
21 charges are calculated can still result in those  
22 access charges being increased?

23 A. That's correct.

24 Q. Now, under the Commission's imputations

25 rules where the company, US WEST, is required to

(PARKER - CROSS BY SHAW)

280

1 impute carrier access charges to its own toll rates,  
2 those level of access charges drive the level of toll  
3 rates in turn, do they not?

4 A. Yes, they do.

5 Q. So as a result of the long-standing  
6 Commission rules about how access charges are to be  
7 set, access rates and toll rates are kept higher than  
8 they otherwise would be under a marginal cost  
9 approach, correct?

10 A. That is very correct. And in fact, because  
11 of the way those rules are developed there's a great  
12 deal of artificial subsidies built into them.

13 Q. Artificial subsidies to what? Local  
14 exchange rates?

15 A. That -- I would like to answer that  
16 twofold. One is the -- historically the CCLC rate has  
17 always presumed to subsidize local rates. However,  
18 because of proper costing which is total service  
19 long run incremental cost has not been done, there's  
20 really no foundation in which to determine whether or  
21 not the CCLC actually does subsidize local rates.

22 Q. Will you agree that under traditional  
23 regulation the company is regulated on a total revenue  
24 requirements basis, that is, a revenue requirement is

25 established through traditional approaches and then

(PARKER - CROSS BY SHAW)

281

1 that revenue requirement is distributed through the  
2 tariffs of the company, correct?

3 A. Yes.

4 Q. And if some services like access and toll  
5 are priced far above their long run incremental cost  
6 therefore other rates have to be priced lower than  
7 they otherwise would be if they stood off on their  
8 own, correct?

9 A. I'm sorry. Could you repeat that.

10 Q. Yes. If in fact the traditional regulatory  
11 rules require access and toll to be priced far above  
12 their long run incremental cost where the company is  
13 regulated on a toll revenue requirements basis, the  
14 other rates -- the residual rates by definition have  
15 to be priced lower than they otherwise would be  
16 relative to their costs, correct?

17 A. If access charges are priced above the TS  
18 LRIC cost and depending on the level it's priced above  
19 the TS LRIC cost, it is presumed that those access  
20 charges are subsidizing a service, another service or  
21 groups of services. That in and of itself may or may  
22 not be true. It could be subsidizing what AT&T  
23 sometimes refers to as uneconomic costs of the firm.

24 And because the TS LRIC has not been done

25 on every one of these services or groups of services

(PARKER - CROSS BY SHAW)

282

1 or building blocks, there really can be no assessment  
2 made until that occurs.

3 Q. Is it your assertion that the fully  
4 distributed costing methodology currently used to set  
5 access charges and in turn toll rates is far above the  
6 total service long run incremental costs of those  
7 services?

8 A. I cannot address whether or not it's above  
9 the total service long run incremental cost of the  
10 providing services again because those studies have  
11 not been completed in Washington. However, having  
12 seen some what I would call long run incremental cost  
13 studies which are LRICs in other states which are  
14 state specific, I would have to say based on those if  
15 you looked at the US WEST other states LRIC cost I  
16 would have to say, yes, the access charges are well  
17 above those LRIC costs. So I would have to presume  
18 that the state of Washington's LRIC costs are  
19 producing or the rates in Washington are far above the  
20 LRIC costs.

21 Q. Are you aware that there are two facilities-  
22 based alternative access providers currently in  
23 service in the state of Washington primarily in the  
24 greater Seattle area?

25 A. Yes.

(PARKER - CROSS BY SHAW)

283

1 Q. And those companies are attracted to the  
2 market by the fact that US WEST's rates are priced far  
3 beyond total service long-run incremental costs, are  
4 they not?

5 A. I would say that was one of the factors for  
6 the special access competitive alternative providers.

7 Q. And those companies have willing customers  
8 and carriers like AT&T for alternatives to US WEST's  
9 access services, do they not?

10 A. I'm sorry. Say it again.

11 Q. Yes. Those carriers, ELI and DDS, have  
12 willing customers in carriers like AT&T for  
13 alternative access services alternative to those  
14 provided by US WEST, correct?

15 A. Yes. And I do believe that it is not only  
16 perhaps AT&T but it could be prices. Businesses  
17 clearly want redundancy in the network for these  
18 alternative access providers. I mean, the customer  
19 picks for quality purposes for redundancy and also  
20 price and responsiveness to the customer.

21 Q. And a large customer is very much  
22 interested in gaining access to its long distance  
23 carriers at the most economical rates possible,  
24 correct?

25 A. Yes.

(PARKER - CROSS BY SHAW)

284

1 Q. And in fact AT&T in the state of Washington  
2 actively markets to large business users like  
3 Microsoft and Boeing and dedicated access that  
4 bypasses US WEST access charges, does it not?

5 A. I cannot actually speak to what we are  
6 purchasing from some competitive access providers in  
7 the state of Washington. I will say, though, that of  
8 -- and this is a nationwide figure. AT&T is dependent  
9 on the local exchange carrier for 99 percent of its  
10 access services.

11 Q. Your testimony asserts, if I understand it  
12 correctly, that an absolutely necessary component of  
13 any AFOR would be unbundling of the US WEST local  
14 exchange network, is that correct?

15 A. Yes.

16 Q. And AT&T is very much interested in seeing  
17 a competitive local exchange marketplace, correct?

18 A. Yes.

19 Q. Not only so that it can avoid high access  
20 charge rates, but so that it can also provide local  
21 exchange service, correct?

22 A. Did I understand you to say that AT&T wants  
23 to be in the local exchange business?

24 Q. Yes.



25           A.     The answer is no.  I think -- I will say  
             (PARKER - CROSS BY SHAW)

285

1     no, emphatically no.  We do not want to be in the  
2     local exchange business.

3           Q.     So you're not interested at all in this  
4     Commission unbundling the local exchange network  
5     except insofar as you can buy unbundled components of  
6     long distance access service?  Is that your testimony?

7           A.     No.  I think that we are interested in  
8     allowing the local customer to have choices in the  
9     local exchange market because we recognize that if  
10    that does occur there will be some efficiencies and  
11    the economic costs -- uneconomic costs of the local  
12    exchange provider will be squeezed out of that  
13    particular cost structure.  When the prices start to  
14    decrease in local exchange services that gives the  
15    consumer much more dollars to spend on other services  
16    and hopefully they will spend it in our long distance  
17    services, so what we're trying to do is lower all of  
18    the prices in order for the consumer to spend its  
19    telecommunications dollar hopefully with AT&T.

20          Q.     And we discussed earlier in this proceeding  
21    with other witnesses the fact that AT&T has invested  
22    billions of dollars in McCaw Cellular.  Were you here  
23    when we raised that issue earlier?

24                 MS. MacNAUGHTON:  Again I would like to

25 object to the phrasing of the question. It assumes

(PARKER - CROSS BY SHAW)

286

1 facts not in evidence. Would you rephrase that again.

2 JUDGE CANFIELD Okay, yes. I think we did  
3 touch upon that earlier and I did get it rephrased.

4 Q. Has AT&T invested billions of dollars or  
5 proposed to invest billions of dollars into McCaw  
6 Cellular?

7 A. I believe there is a proposal to do that  
8 very thing, with the exception of I'm not quite sure  
9 the agreement has been finalized.

10 Q. As far as you know, AT&T fully intends to  
11 go through with that if the antitrust review and so  
12 forth is -- does not forbid the transaction?

13 A. Yes.

14 Q. McCaw provides local exchange  
15 telecommunications service via wireless technology,  
16 does it not?

17 A. I believe that some of their traffic could  
18 be classified as local exchange or within the  
19 exchange. I think an important point, and this is for  
20 all cellular carriers, not only McCaw but New Vector,  
21 but those same cellular carriers rely on 98 -- I  
22 believe -- percent of the local exchange carrier's  
23 facilities to complete and originate calls.

24 Q. If a participant in any conversation on

25 cellular is calling from a wire line phone the

(PARKER - CROSS BY SHAW)

287

1 cellular company has to interconnect with the wire  
2 line company in order to complete that call, is that  
3 the thrust of your last answer?

4 A. Yes.

5 Q. And a local call from a cellular phone to a  
6 cellular phone need not involve the wire line  
7 facilities at all, need it?

8 A. I don't believe so.

9 Q. And in fact with the combination of AT&T  
10 and McCaw Cellular, AT&T on the one hand being the  
11 largest carrier in the country, wire line carrier in  
12 the country, and McCaw on the other hand being the  
13 largest wireless carrier in the country, that joint  
14 venture can provide extensive communication services  
15 to the public without the use of local exchange  
16 facilities, can it not?

17 A. No. As I stated earlier, AT&T is dependent  
18 as well as every cellular carrier is dependent on the  
19 local exchange carrier to originate and terminate  
20 calls, so we are right now dependent on the local  
21 exchange carrier.

22 Q. You're aware aren't you, Ms. Parker, of  
23 the projections that wireless technology can provide a  
24 virtual replacement for wire line local exchange

25 service?

(PARKER - CROSS BY SHAW)

288

1 A. I don't ever remember reading that.

2 Q. The FCC is currently actively engaged in  
3 promoting and establishing personal communication  
4 service, a low power wire line service, correct?

5 A. Yes.

6 Q. And McCaw plans to be in that business,  
7 correct?

8 A. I can't speak to that. I don't know.

9 Q. You don't have any reason to believe that  
10 they are not going to be in that business, do you?

11 A. I don't know.

12 Q. They are a wireless telecommunications  
13 company, correct?

14 A. Yes.

15 Q. And AT&T plans to develop, according to the  
16 public pronouncements, a seamless network nationwide  
17 network using wireless technology at the local level  
18 and AT&T's extensive fiberoptic wire line network for  
19 the national traffic?

20 MS. MacNAUGHTON: I'm going to object to  
21 that question. It certainly assumes many facts not in  
22 evidence.

23 MR. SHAW: I'm asking her if these are  
24 facts.

25 JUDGE CANFIELD: I agree we're getting a  
(PARKER - CROSS BY SHAW)

289

1 bit beyond as well, but I would like to limit it as  
2 much as we can to the facts on this record. I know  
3 that it's hard to totally cut off that, but I would  
4 like to get back on track as much as possible.

5 MR. SHAW: Well, your Honor, I do believe I  
6 am on track. This witness has testified that AT&T has  
7 no interest in local exchange competition except as to  
8 how it will benefit the public at large generally and  
9 not them specifically. I think that there are clearly  
10 other motivations of AT&T's interest in local exchange  
11 competition and I think we're entitled to bring  
12 those facts out.

13 MS. MacNAUGHTON: I would like to know,  
14 your Honor, how Mr. Shaw believes that question  
15 relates to the question presented by the Commission in  
16 these hearings, namely, whether the current AFOR should  
17 be terminated or continued with modification.

18 MR. SHAW: It relates, your Honor, to the  
19 testimony of this witness to page 6, line 10. She  
20 makes the statement, "In the state of Washington  
21 effective competition has not yet been introduced into  
22 the local exchange marketplace," and that generally  
23 that's an absolute requirement for any AFOR to meet  
24 the statutory criteria in the state is to create that

25 local exchange competition. And I think we're

(PARKER - CROSS BY SHAW)

290

1 entitled to find out what AT&T's interest is in that  
2 local exchange competition.

3 JUDGE CANFIELD: I would like it to be tied  
4 to her testimony, and if you would give, like you just  
5 did, a specific reference, I think everyone can follow  
6 more specifically what your question pertains to. So  
7 with that, I'll certainly go ahead and allow the  
8 question.

9 Q. Do you recall the question, Ms. Parker?

10 A. Could you repeat it, please.

11 Q. AT&T and McCaw have announced that their  
12 intent of their merger is to create a seamless  
13 national network using wireless technology for local  
14 service and AT&T's advanced fiberoptic network for  
15 connecting those local services, is that correct?

16 MS. MacNAUGHTON: I'm sorry. This is a new  
17 question. It misstates facts. There is no announced  
18 merger. Could you rephrase the question.

19 JUDGE CANFIELD: Okay, yes. Again that was  
20 the problem we were having before, assuming facts  
21 that we don't particularly have here. And if you're  
22 going to ask a hypothetical, so indicate or rephrase  
23 that question.

24 Q. Is AT&T proposing to buy majority ownership

25 of McCaw Cellular, Ms. Parker?

(PARKER - CROSS BY SHAW)

291

1 A. I don't believe it's the majority. You're  
2 asking me something that -- you know, I read the same  
3 press releases you probably do. I don't have any  
4 in-depth knowledge of the terms and conditions of the  
5 sale, I'm sorry.

6 JUDGE CANFIELD: Okay. These questions are  
7 to your knowledge, so if you don't know, just so  
8 indicate.

9 Q. In whatever relationship McCaw and AT&T are  
10 going to have after they consummate this transaction,  
11 has it been their announced intent and the purpose for  
12 the transaction is to create the seamless network that  
13 I described in my previous question?

14 A. I think what it is is a strategic alliance  
15 to build on both companies' strength, and one is where  
16 McCaw is the interexchange toll carrier for wireless  
17 and AT&T is the wire line, if you will, long distance  
18 provider.

19 Q. Is reductions in local exchange company  
20 access charges an exogenous factor to AT&T that it  
21 flows through dollar for dollar into its rates?

22 A. We did not from a pricing standpoint -- and  
23 again I must clarify my position. I am not in the  
24 pricing group, however, from an observation, we try to

25 respond to the market relative to the competitive

(PARKER - CROSS BY SHAW)

292

1 pressures in providing our services. As to a dollar  
2 for dollar flow through, in the state of Washington  
3 and I will -- and I may have to clarify this once I  
4 check the record, we've reduced prices \$24 million  
5 since about 1990, however, our access prices have only  
6 been reduced by \$11 million, so from that aspect I  
7 cannot say that we flow through dollar for dollar.

8 Q. If AT&T is truly operating in an  
9 effectively competitive environment in the state of  
10 Washington and the local exchange companies reduce  
11 their access charges to all carriers, that market will  
12 force AT&T to flow those access charges through, will  
13 it not?

14 A. The pricing of toll services in an  
15 effective competitive market and it -- clearly the IXC  
16 market is more than effectively competitive, if that  
17 could be true -- a more true statement, it's based on  
18 the customer and it's based on what the customer needs  
19 are and what they expect. In other words, if our  
20 prices are far too high they will go to our  
21 competitors so we respond by introducing new products,  
22 new services, new pricing plans.

23 I think within the last couple months if  
24 you've been watching the press releases we're clearly



25 in a price war with some of our major competitors and  
(PARKER - CROSS BY SHAW)

293

1 we're rolling out pricing plans to meet our  
2 competitors. So the response is to the market, the  
3 costs clearly, you know, they play a role. We try not  
4 to price -- well, we do not price below those costs  
5 but we do respond to the market changes.

6 Q. If the local exchange companies in  
7 Washington reduce costs to all carriers and that  
8 market is competitive, one of those carriers is going  
9 to flow those savings through, are they not, and all  
10 other carriers will have to follow suit in an  
11 effectively competitive market?

12 A. I don't believe that -- again, our pricing  
13 is a response to our customers and our competitors.  
14 If the price or the cost does decrease, we respond. I  
15 mean, we look at those things relative to the unit  
16 price when we set those rates, and again, as I stated  
17 previously, we've had \$11 million reduction in access  
18 charges but we've reduced rates \$24 million. Now, if  
19 we only considered costs we would only reduce the  
20 rates by \$11 million.

21 Q. So AT&T would then have no problem making a  
22 commitment to flow through reduced access charges that  
23 come out of any US WEST AFOR through to its Washington  
24 customers?

25           A.     I can't speak to that because I am not the  
              (PARKER - CROSS BY SHAW)

294

1     pricing or policy person on that issue.  I just can  
2     point to our historical track record.

3           Q.     You understand that at least historically  
4     this Commission staff and Commission has been very  
5     reluctant to reduce or to allow the reduction of US  
6     WEST's access charges without any assurances that  
7     that's going to result in benefits to the consumers of  
8     the state of Washington?

9           A.     I do understand that and from -- based on  
10    comments filed in other cases I believe the problem in  
11    there in that fact is that US WEST has experienced  
12    some reduction in access charges and it has not  
13    reduced its toll rate.  However, that was a historical  
14    phenomenon.  The recent earnings filing has proposed  
15    to reduce not only access rates but the toll rates for  
16    US WEST.

17          Q.     This Commission has not only been concerned  
18    about US WEST's flowing through reductions in access  
19    charges, but it's also been concerned about AT&T  
20    flowing through reductions in access charges, has it  
21    not?

22          A.     I am unaware of that, and as I stated  
23    before, we've had \$11 million in access reductions  
24    and we have reduced rates by \$24 million, so if

25 there's concern, I'm not aware of it.

(PARKER - CROSS BY SHAW)

295

1 Q. You will agree, will you not, that for US  
2 WEST to come up with an AFOR plan that's going to be  
3 acceptable to all the interests that must be  
4 satisfied, that that is going to be one major issue?  
5 If the proposal is to reduce substantially access  
6 charges it's going to have to be some demonstrated  
7 benefit to the consumers of the state of Washington in  
8 order to get this Commission to approve of that kind  
9 of approach? Would you agree with that?

10 A. I know that that was an issue. I mean, I'm  
11 not quite sure that's a part of the future AFOR. I  
12 think the exogenous cost change discussion would  
13 probably have to be dealt with in any revisions,  
14 future revisions to a new AFOR plan.

15 Q. Well, as I read your testimony a goodly  
16 portion of it is focused on the need for unbundling of  
17 the local exchange network based upon total services  
18 long run incremental cost, and that is going to reduce  
19 access charges if implemented, is it not?

20 A. That's not necessarily true. I think --  
21 what needs to be done is that they have to unbundle  
22 the basic network functions and what there should be  
23 done is a test of those functions and groups of  
24 services to ensure or to identify what services are

25 subsidizing which services. And until that -- those  
(PARKER - CROSS BY SHAW)

296

1 costs and that test is done, we won't know what will  
2 happen with access prices.

3 Q. So AT&T has no confidence that unbundling  
4 access allowing AT&T to pick and choose the pieces  
5 that it wants to use and which it wants to provide  
6 itself and pricing those bits and pieces in relation  
7 to total service long run incremental costs will  
8 reduce access charges, that's not AT&T's expectation?

9 A. The unbundling -- and let me explain why  
10 AT&T is interested in unbundling. Right now AT&T is  
11 purchasing things that they may not want, so our --  
12 what we're buying is inflated. We don't have the  
13 choice to pick and choose.

14 I will give you an example. Right now in  
15 the state of Washington intrastate we buy transport  
16 from US WEST, and right now if you look at the way --  
17 what we use, we buy dedicated transport. Inherent in  
18 the current pricing plan or the prices of transport is  
19 transport to the tandem, the tandem office. We  
20 currently are paying for the use of the tandem when in  
21 fact we aren't using it in some of -- in most -- the  
22 majority of the cases. So I'm buying something I  
23 shouldn't have to.

24 That's -- and the other example I can give

25 is in switching. Switching has a great deal of

(PARKER - CROSS BY SHAW)

297

1 features and functions in it and in some cases AT&T is  
2 buying things that they don't want. And what we want  
3 to do is have the ability, like the local customer,  
4 should have the ability to pick and choose the  
5 features that they do want and not pay inflated prices  
6 for things that they don't want.

7 Q. In fact, AT&T is capable of providing all  
8 of its own transport and most of its switching and the  
9 only thing that it actually needs from the local  
10 exchange companies are the loops, isn't that correct?

11 A. No.

12 Q. You have large switches in place in the  
13 state of Washington today?

14 A. We have switches in the state of  
15 Washington. I believe there's about, and I may be  
16 incorrect, ten to twelve switches.

17 Q. And that is where you perform or can  
18 perform your own tandem switching function?

19 A. I guess I've never considered AT&T's  
20 switches as tandems. They -- we take a lot of the --  
21 well, all of our exchange -- the traffic from the  
22 local exchange company and move them into these what I  
23 call points of presence, which are POPS. It's kind of  
24 an aggregator, and then we use our own facilities from

25 then on.

(PARKER - CROSS BY SHAW)

298

1 Q. You just testified that AT&T doesn't need  
2 to buy tandem switching capability from US WEST so you  
3 perform that function yourself or are able to perform  
4 that function yourself, correct?

5 A. No. As a matter of fact, one of the things  
6 that is interesting that just recently came about is  
7 800 portability, and with 800 portability we have to  
8 buy US WEST's tandem, if you will, access charges in  
9 order for our customers or for them to query and  
10 identify which interexchange carrier has what 800  
11 number. In that case AT&T is required to buy that  
12 element from US WEST so they can do that query charge.  
13 In that case, it goes to the tandem in most cases, so  
14 we have to purchase it at that point.

15 Q. Well, if you have to use US WEST's tandem  
16 switching service and you have to use US WEST's  
17 transport service, then there's no purpose in  
18 unbundling the access charges, is there?

19 A. No. I would disagree with you. Unbundling  
20 of the network and that includes the local exchange  
21 for the local exchange customer, is the idea is  
22 clearly so the customer can pick and choose the  
23 features.

24 One of the features of, like, local switching

25 is A N I, ANI. In some cases the toll carrier may

(PARKER - CROSS BY SHAW)

299

1 want that feature, or they may not want it, depending  
2 on the service that they offer. The only way we have  
3 -- the only way we can get that ANI if we choose to  
4 take it is from the local exchange carrier.

5 Q. So you just want ANI unbundled?

6 A. I guess I could go through a great deal of  
7 lists of services and features and functions that AT&T  
8 would like to unbundle, but I mean that would take a  
9 great deal of time.

10 Q. Well, and we don't have that time. Is it  
11 reasonable to say that AT&T wants the local network  
12 unbundled so that it can pick and choose what it wants  
13 out of the local network because, one, it can provide  
14 bits and pieces itself or, two, it doesn't need bits  
15 and pieces?

16 A. Yes.

17 Q. You would agree that there's nothing in  
18 this AFOR or in any of the modifications that have  
19 been proposed that prohibits in any way AT&T  
20 undertaking an initiative in the state of Washington  
21 to create a docket to unbundle the network?

22 A. I'm presuming -- based on the way you  
23 stated your question, I'm presuming that AT&T can  
24 initiate a case. I don't know the legal procedures on

25 that.

(PARKER - CROSS BY SHAW)

300

1 Q. AT&T is a regulated telecommunications  
2 carrier in the state of Washington subject to the  
3 jurisdiction of this Commission, isn't it?

4 A. Yes.

5 Q. And it can bring a complaint against US  
6 WEST or petition for a change or for rule making  
7 before this Commission, correct?

8 MS. MacNAUGHTON: I object to questions of  
9 this witness about Commission procedures. I don't  
10 think that's appropriate.

11 JUDGE CANFIELD In view of her prior  
12 response that wasn't her area, I tend to sustain the  
13 objection.

14 Q. Do you think that US WEST should be subject  
15 to a higher standard of proof for competitive --  
16 effectively competitive environment than AT&T was  
17 subjected to when it was classified as effectively  
18 competitive?

19 A. I'm -- I can't speak to the AT&T case. I  
20 wasn't clearly involved.

21 MR. BUTLER: I also object to the question  
22 in the sense that it presumes that the legal standards  
23 for both companies are exactly the same, when in fact  
24 the Regulatory Flexibility Act contains a legal



25 presumption of the existence of competition once equal

(PARKER - CROSS BY SHAW)

301

1 access has been achieved.

2 MS. WEISKE: MCI would concur in that  
3 objection, and I would also like to know how some of  
4 these questions are relevant to the question in the  
5 notice about whether the continuation of this AFOR is  
6 in the public interest.

7 Q. Ms. Parker, page 7 you set forth a  
8 three-prong test for effective competition that you  
9 believe US WEST should be held to, do you not?

10 A. Yes.

11 Q. Is that the same test to your knowledge  
12 that AT&T was held to when it was classified  
13 effectively competitive in the state of Washington?

14 A. I have no knowledge of the test that was  
15 used for AT&T.

16 Q. And you would agree, wouldn't you, that it  
17 would not be fair to apply one test to AT&T and  
18 another test to US WEST as to whether or not the  
19 services are effectively competitive, wouldn't you?

20 A. I would have to say since AT&T -- US WEST  
21 clearly owns and controls the bottleneck facilities, I  
22 think there has to be a more stringent test because  
23 effective competition -- in other words, I think  
24 certain things have to be put in place and there has

25 to be a showing of effective competition before any

(PARKER - CROSS BY SHAW)

302

1 relaxed regulation occurs.

2           The threat of competition versus the actual  
3 competition, actual competition clearly is the test.

4 The effective test. The consumer should have choices  
5 and that choice includes whether or not if I was  
6 living in Washington, if I can call up the cable  
7 company or the local exchange company or perhaps NWG  
8 and say I want you to provide my local services, and  
9 that can and it feasibly can happen.

10           Q. Do you know whether in some parts of the  
11 state of Washington AT&T remains the only 1 plus  
12 interexchange carrier serving those localities?

13           A. Yes. And sadly that is something that AT&T  
14 is concerned on a nationwide basis. One of the things  
15 that we have found, even after ten years of  
16 divestiture in some rural communities there is not  
17 equal access even though the offices are equipped for  
18 it. And AT&T clearly would like those rural  
19 communities to be equal access.

20           One, the customer does have choices, the  
21 other, it -- because of the entrance of competition in  
22 those areas we've also noticed there is an increase in  
23 minutes of use, tremendous increase in minutes of use,  
24 so that makes the network that much more efficient and

25 that eventually lowers the price to everyone. So,

(PARKER - CROSS BY SHAW)

303

1 yes, I am aware that in some rural communities in the  
2 state of Washington there AT&T is the only 1 plus  
3 carrier.

4 Likewise, that is true, if you will, for  
5 the intraLATA piece where the customer only has one  
6 option to dial a long distance carrier on under a 1  
7 plus scenario.

8 JUDGE CANFIELD: Can I get a revision in  
9 your estimate of how much more you have, Mr. Shaw?

10 MR. SHAW: I'm just about finished.

11 JUDGE CANFIELD Okay. Because we're  
12 running a little over and we do have a couple more  
13 witnesses that we're looking at this morning.

14 MR. SHAW: I think that'll do it. Thank  
15 you.

16 JUDGE CANFIELD Okay. Mr. Smith,  
17 questions?

18 MR. SMITH: I have no questions.

19

20 CROSS-EXAMINATION

21 BY MR. ADAMS:

22 Q. Just one quick question, Ms. Parker. I  
23 think you had indicated that one of the benefits you  
24 saw of competition in the local access market was

25 driving out or driving down uneconomic costs. I think

(PARKER - CROSS BY ADAMS)

304

1 those were your words.

2 A. Yes.

3 Q. Do you believe that the introduction of  
4 competition into the local exchange market will  
5 increase or decrease local exchange rates?

6 A. I don't think I can make an assessment of  
7 that, simply because I think one of the things I don't  
8 know is how much there might be uneconomic cost and  
9 how you deal with them.

10 For example, when AT&T started facing  
11 competition we took a large write-off on investment  
12 and let the stockholders pay. So I mean, there was  
13 uneconomic costs in that structure and we responded to  
14 that by trying to lower our cost structure. So do I  
15 think that the local -- I think it's going to depend  
16 on where the costs are today and where the prices are.  
17 In other words, if the local rate is below TS LRIC  
18 it's obviously going to have to come up and over to  
19 even get local exchange competition in that  
20 marketplace. If it's priced way above, I suspect the  
21 rate will drop very quickly.

22 Q. You have no opinion as to Washington on  
23 that?

24 A. No, I do not.

25 JUDGE CANFIELD: Okay. Ms. Weiske.

(PARKER - CROSS BY ADAMS)

305

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2

CROSS-EXAMINATION

3

BY MS. WEISKE:

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Q. Ms. Parker, did I recall your facts correctly when you were talking to Mr. Shaw about the reductions in rates that AT&T had passed on were \$24 million? You were talking about a reduction in rates and you used the figure 24 million, is that correct?

10

A. AT&T has reduced its prices by \$24 million.

11

Q. Over what time frame?

12

A. Since 1990.

13

14

15

16

Q. And was the 11 million that AT&T had experienced from reductions in switched access services from US WEST of 11 million, was that over the same time period?

17

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24

A. Yes. And I would like to correct myself on one thing. The reductions have taken place since 1987. I misspoke there. And the reduction and access charges are the same time period and that is 1987. From 1990 we've received roughly I think it's \$1.3 million temporary reduction in access charges. And AT&T also responded with a \$1.3 million price reduction temporary reduction.

25 Q. Notwithstanding the fact that switched

(PARKER - CROSS BY WEISKE)

306

1 access rates were only reduced during that time frame  
2 by \$11 millions AT&T still reduced its rates to  
3 customers by \$24 million?

4 A. Yes.

5 Q. Thus it appears that the market at least in  
6 that instance is clearly driving it and there would be  
7 no need for a mandatory switched access flow through  
8 reduction?

9 A. That's quite true.

10 Q. In addition, is it your experience in  
11 watching both Washington and other states that when  
12 AT&T would reduce its rates, for example, MCI and Sprint  
13 would respond immediately with a similar reduction?

14 A. I would say they better.

15 Q. You said yes? Was that a yes, they better?

16 A. Yes.

17 Q. In addition, you engaged in a conversation  
18 with Mr. Shaw over the issue of transport rates and  
19 alluded at least to some level of bypass. Is it your  
20 understanding, given the recent ELI decision, that ELI  
21 could carry AT&T's switched access traffic today?

22 A. No.

23 Q. Is it your understanding that any  
24 competitive access provider could carry AT&T's

25 switched access traffic today?

(PARKER - CROSS BY WEISKE)

307

1 A. No. No competitor -- no competitive access  
2 provider can carry AT&T's switched access. It is only  
3 special access and special access in relativity of all  
4 of the switched and special is very, very small for  
5 every LEC that we buy access from.

6 Q. You also engaged in a conversation with Mr.  
7 Shaw about AT&T's reasons behind your unbundling  
8 recommendation. Is it your understanding that one of  
9 AT&T's hopes for unbundling is to remove use and user  
10 restrictions, in other words, the same function would  
11 be priced identically regardless how that function was  
12 used in offering a particular service?

13 A. That was one of the key parts of the AT&T  
14 proposal, is that the customer pays the same price no  
15 matter what they use that feature and function and  
16 that they have the same terms and conditions as any  
17 other customer so there clearly is no discrimination  
18 between customer class.

19 Q. And that would be a great interest of AT&T  
20 in terms of the building block philosophy regardless  
21 of whether AT&T currently has plans to get into the  
22 local exchange market, is that correct?

23 A. Yes.

24 Q. And finally, you engaged in the end of your

25 conversation with Mr. Shaw in a discussion about the  
(PARKER - CROSS BY WEISKE)

308

1 level of equal access in Washington. Do you know the  
2 percentage of interexchange equal access currently in  
3 the state of Washington?

4 A. I believe US WEST is close to if not 100  
5 percent equal access, and I think it's around 99,  
6 maybe 100. It is the other carriers, local exchange  
7 carriers, where it clearly has not occurred.

8 Q. And I don't think you meant to imply this,  
9 but I thought the record was a bit confused in your  
10 last comment about the fact that intraLATA toll is  
11 clearly not a competitive service today in the state  
12 of Washington. I assume the monopoly you were  
13 alluding to is the fact that 1 plus can only be  
14 carried by US WEST in terms of a consumer making that  
15 call?

16 A. Yes, that's quite true.

17 MS. WEISKE: Thank you. That's all I have.

18 JUDGE CANFIELD: Okay. Mr. Butler.

19

20 CROSS-EXAMINATION

21 BY MR. BUTLER:

22 Q. Can a wire line company provide local  
23 exchange service to someone traveling in a car?

24 A. Yes.



25 Q. How do they do that?

(PARKER - CROSS BY BUTLER)

309

1 A. How do they do that?

2 Q. Yes.

3 A. A wire line.

4 Q. How does a wire line company originate and  
5 terminate traffic to someone driving down the street  
6 in his car?

7 A. Are you referring to, and let me ask for  
8 clarification, are you referring to a wire line  
9 cellular carrier?

10 Q. No. A wire line company like US WEST  
11 Communications, not New Vector.

12 A. Oh, how can they?

13 Q. Can they?

14 A. Well, clearly the facility, depending on  
15 the call originating out of the car or going to a land  
16 based, it's clearly using a US WEST facility. In  
17 other words, if I'm in the car and I happen to dial my  
18 mother who's at home, I'm going to be using the  
19 cellular carrier originating facilities and then I  
20 will be using the LEC's terminating facilities.

21 Q. I'm asking about the connection between the  
22 person traveling in the car and central office or  
23 whatever. I'm trying to get at the question of  
24 whether cellular and land line local exchange services

25 are really pure substitutes for one another.

(PARKER - CROSS BY BUTLER)

310

1                   And the question is, can a land line  
2 company like US West Communications provide that  
3 connection to someone traveling in a car?

4           A.    No.  Not only do I not think they are --  
5 they are not even priced the same and clearly I don't  
6 think they are cross elastic with each other right  
7 now.

8           Q.    Are you aware of any evidence that  
9 customers give up their wire line connection either to  
10 their home or to their business location when they get  
11 a cellular phone?

12          A.    I don't know any statistics about that but  
13 I have lots of friends and that never -- they have  
14 never unhooked their local phone.

15                   MR. BUTLER:  Thank you.  I have no further  
16 questions.

17                   JUDGE CANFIELD  Okay, thank you.  
18 Commissioners,  questions for Ms. Parker?

19                   CHAIRMAN NELSON:  Just one clarification.

20

21                                   EXAMINATION

22 BY CHAIRMAN NELSON:

23           Q.    Ms. Parker, your discussion with Mr. Shaw  
24 on 800 portability and the ANI feature I think you

25 said "we are required to have the ANI feature from the  
(PARKER - EXAMINATION BY NELSON) 311

1 RBOC."

2 A. No, we are not required. That's one of the  
3 things that we would like to have that option to  
4 purchase, the interexchange market would like to have  
5 that option to purchase ANI or not to purchase ANI.  
6 The 800 portability is to identify an 800 call to  
7 the particular company that has the customer.

8 Q. All right. The feature or function,  
9 whatever its name is, are you required by the  
10 architecture of the network, by RBOC tariffs, or by  
11 FCC order? That's where I was confused. How does  
12 requirement get imposed on you so you don't have the  
13 choice to pick what you would like?

14 A. Under ANI -- and that's part of the federal  
15 ONA -- the interexchange carrier has the choice of  
16 buying that or not. Relative to the 800 portability,  
17 I think that's a technical -- not only technical, but  
18 an FCC requirement that all LECs file that 800  
19 portability tariff. In other words, they have the  
20 database. They are the only ones that can identify  
21 which 800 number belongs to which carrier. So --

22 Q. So there is an interstate, an FCC  
23 regulatory component here as well?

24 A. Yes.

25 CHAIRMAN NELSON: Thank you.

(PARKER - EXAMINATION BY NELSON)

312

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EXAMINATION

4 BY COMMISSIONER CASAD:

5 Q. I just have a couple in response to Mr.  
6 Butler's question about cellular versus wire line  
7 companies and operations. I judged the thrust of his  
8 question and your response to be essentially that you  
9 view cellular as a supplemental service rather than  
10 fundamental service. Would that be correct?

11 A. I think currently that is true.

12 Q. But you think that in the future that's  
13 subject to change?

14 A. I think that depends on how a local  
15 exchange network pricing is done. In other words, if  
16 things don't get unbundled, nothing will occur.

17 Q. You do not or do you believe that cellular  
18 or wireless service is viable in the absence of the  
19 public switched network?

20 A. In the absence? Right now even cellular  
21 has to use that local exchange network, so I would  
22 have to say no.

23 Q. Thank you. I'll ask you a question I asked  
24 of the MCI witness yesterday. In several places in

25 your testimony you refer to excess earnings by US

(PARKER - EXAMINATION BY CASAD)

313

1 WEST. In order to try to get an idea of what you  
2 believe might be fair and reasonable earnings, what is  
3 AT&T earning? What kind of rate of return are they  
4 earning in the state of Washington?

5 A. I do not know. And I -- and from a -- in a  
6 competitive market? Because a customer has choices,  
7 rate of return is not terribly important. Unlike in  
8 the local exchange or monopoly market where the  
9 control things, the control -- or the customer has no  
10 choices, the rate of return is important, but in a  
11 competitive market the customer drives the company's  
12 costs.

13 For example, and again I'm going to point  
14 to AT&T, when we got very competitive we decided we  
15 cannot obviously charge our customer for old plant, so  
16 what we did was we took a massive writedown and let  
17 the stockholders pay for it. So in a competitive  
18 environment what you do is it's the customer that  
19 decides the price and your cost structure is driven  
20 internally by decisions to remain economically viable.

21 Q. Of course that's not my question and the  
22 answer really wasn't responsive to my question.

23 A. I don't know what the earnings are in  
24 Washington.

25 Q. So AT&T doesn't maintain that type of

(PARKER - EXAMINATION BY CASAD)

314

1 information as to what the earnings are in a  
2 particular state, what their rate of return is in a  
3 particular state?

4 A. I can't answer that. I'm not on that side  
5 of the house. I do know in some cases, and I could  
6 not point to the states, that we do file annual  
7 reports in some jurisdictions, but I don't know which  
8 jurisdictions those are.

9 Q. There's no way for you to easily determine  
10 what your earnings are in the state or what your rate  
11 of return is in the state?

12 A. I -- can I? Not that I -- no, I cannot. I  
13 think also something else that's kind of interesting  
14 in the cost structure of an interexchange carrier.  
15 Rate of return -- if you looked at the cost structure  
16 of an interexchange carrier, the expenses are here,  
17 they are very, very large, and the investment base is  
18 very, very small, and the large expenses are clearly  
19 the access charges. To the extent that -- and rate of  
20 return can fluctuate greatly because of that  
21 fluctuation in the large operating expenses, so -- and  
22 this was -- and I think I looked at this in about  
23 1984. You could have a swing of 100 points in one  
24 month because that investment base is so small

25 compared to the operating expenses.

(PARKER - EXAMINATION BY CASAD)

315

1 Q. A phenomena which is not unknown to this  
2 Commission or others. We witnessed a similar  
3 situation in garbage companies -- well, in garbage  
4 companies we have a substantially different return on  
5 investment than we do in more capital intensive  
6 utilities.

7 But my question really is, what are the  
8 earnings of AT&T in this state? And it's my  
9 observation that MCI and AT&T seem very reluctant to  
10 provide that information or certainly are not  
11 volunteering to try to come up with some method of  
12 providing that. Could you do that?

13 A. I would be -- I really don't know. I'm not  
14 on that side of the house. I mean -- I -- it's not my  
15 area of subject matter. I mean, I don't know what  
16 AT&T has to provide.

17 Q. If local exchange companies were to  
18 unbundle their services then believing or taking a  
19 position that open competition is a desirable  
20 situation, you would welcome the RBOCs entering the  
21 long distance marketplace if those conditions were  
22 met?

23 A. I think if those conditions proved and  
24 there was a true market test that there is effective

25 competition in the local exchange market. And

(PARKER - EXAMINATION BY CASAD)

316

1 effective as opposed to threat are two vastly  
2 different things.

3 Q. You know, and if -- in view of the fact  
4 that you believe that there is effective competition  
5 in the long-haul market, why in your view has not  
6 there been a more significant shift in market share?  
7 I think that market share has been relatively static  
8 now for at least -- there was a shift initially, a  
9 substantial shift over the first few years post  
10 divestiture but I think in the last year or two there  
11 really hasn't been much of a shift in market share.  
12 Can you tell me why that hasn't occurred?

13 A. AT&T is spending a lot of money to keep our  
14 customers. I mean, the toll competition between the  
15 companies has really heated up and we are advertising,  
16 I'm sure you've seen all the advertising and all of  
17 the plans that are coming up. We're trying to  
18 maintain our market share and it's -- I mean, it's  
19 very -- that kind of attributes if our market share  
20 has been laying pretty flat, we're pretty thrilled  
21 that we've managed to maintain that.

22 Q. Even with all the pricing competition  
23 that's taking place and the head-to-head pricing  
24 competition, you've still been able to maintain



25 profitability apparently as your competitors have,

(PARKER - EXAMINATION BY CASAD)

317

1 unlike the airline industry and maintained your market  
2 share?

3 A. Well, we've been able to -- we've spent a  
4 lot of dollars to maintain that, our market share, in  
5 advertising not only in introducing new pricing plans  
6 and new services but I think what is key and critical  
7 to this competitiveness in the market is AT&T has  
8 really cut its costs internally and that's downsizing  
9 employees, writing off investment, things like that,  
10 so, yeah, we've managed to maintain our profitability,  
11 but it's been at what I would say some cost.

12 COMMISSIONER CASAD: Thank you very much.

13 COMMISSIONER HEMSTAD: I have no questions.

14 JUDGE CANFIELD Ms. MacNaughton, any  
15 redirect?

16 REDIRECT EXAMINATION

17 BY MS. MacNAUGHTON:

18 Q. Ms. Parker, Commissioner Casad asked you  
19 just now some questions about market share. Do you  
20 recall those questions?

21 A. Yes, I do.

22 Q. And yesterday he asked Dr. Bryant of MCI  
23 some similar questions and in response, Dr. Bryant  
24 testified that he believed AT&T had an approximately

25 65 percent of the interexchange market, that MCI had  
(PARKER - REDIRECT BY MacNAUGHTON)

318

1 approximately 10 to 15 percent, and Sprint  
2 approximately 8 percent. Do you recall that  
3 testimony?

4 A. Yes, I do.

5 Q. Do you have any different or updated  
6 information on market share?

7 A. Yes, I do.

8 Q. What is that information?

9 A. First, I would like to explain that our  
10 market share varies by jurisdiction depending on how  
11 many competitors are there and exactly what they are  
12 doing in those states. On the interstate side we're  
13 roughly around 60 percent. In the state of Washington  
14 we're less than 55 percent. And there is another  
15 state which I won't name that happens to be one of  
16 mine, we're down to about 30 percent. So, yeah, it  
17 varies, but on -- and it depends on how aggressive  
18 some of the carriers are within those states.

19 Q. Would you have any way to explain why your  
20 numbers seem to differ from Dr. Bryant's?

21 A. I think probably in the market share --  
22 now, I don't know what Dr. Bryant was using for the  
23 data source, but the data source that I'm using is  
24 year -- as of year-end '92 so it might be -- I would

25 have to say it's probably more recent.

(PARKER - REDIRECT BY MacNAUGHTON)

319

1 MS. MacNAUGHTON: I have no further  
2 questions.

3 JUDGE CANFIELD: Okay. Mr. Shaw.  
4

5 RECROSS-EXAMINATION

6 BY MR. SHAW:

7 Q. Ms. Parker, you mentioned several times  
8 AT&T has taken a massive writedown in its older plant.  
9 It's true, is it not, that those writedowns took place  
10 on its financial books or its FR books and did not  
11 take place on its MR books or its books used for  
12 regulatory oversight, and AT&T's posture is that where  
13 its rates are regulated it is entitled to recover that  
14 unrecovered depreciation expense in its rates?

15 A. I don't know that to be true.

16 Q. Do you have any reason to believe that not  
17 to be true?

18 A. Well, I don't know of very -- no.

19 Q. In fact, before the FCC where you're under  
20 a modified price cap plan, the expenses of the company  
21 continue to reflect that old plant?

22 A. I don't know if that's true at all. I  
23 don't.

24 MR. SHAW: Well, as a Record Requisition

25 Number 1, your Honor, could AT&T supply to the record

(PARKER - RECROSS BY SHAW)

320

1 a statement on whether it has taken any writedowns for  
2 regulatory purposes, especially those jurisdictions  
3 where it's regulated?

4 MS. MacNAUGHTON: I would like to know what  
5 is the relevance of that request to this proceeding.

6 MR. SHAW: Your Honor, the witness brought  
7 this up herself and she has testified that she does  
8 not know what is the actual case of that writedown. I  
9 think it's important that the record reflect the  
10 actual fact and not be left with an inference that  
11 AT&T has taken down writedowns for regulatory  
12 purposes.

13 MS. MacNAUGHTON: Mr. Shaw, that subject  
14 came up in response to questions that really were  
15 going quite far afield and dealt with AT&T's  
16 competitive responses. Ms. Parker did not bring up  
17 that reference in connection with US WEST's AFOR and I  
18 just, you know, think there's no point to expanding  
19 this proceeding into such areas. I don't know that it  
20 would add anything to the record.

21 JUDGE CANFIELD: In view of the format that  
22 the question and answer that we had earlier and in  
23 view of the objection, I'm going to sustain the  
24 objection. I don't want to get -- you can certainly

25 object and assign -- I'll certainly look at that as

(PARKER - RE CROSS BY SHAW)

321

1 far as what weight to give that sort of thing, but in  
2 the nature that it was brought up I don't see that  
3 this record, this inquiry that we're involved in now,  
4 is going to be helped by that request, so I'll deny  
5 the request for Record Requisition Number 1.

6 Q. One further question, Ms. Parker. You  
7 mentioned that it is not appropriate to measure  
8 effective competition by the threat of competition or  
9 the fact that entrants are poised to enter the market.  
10 In fact, AT&T argued before this Commission when it  
11 was classified as effectively competitive that the  
12 threat of competition warranted that classification,  
13 did it not?

14 A. I have no knowledge of that case.

15 MR. SHAW: Thank you. I have nothing  
16 further.

17 JUDGE CANFIELD: Any additional questions  
18 for Ms. Parker?

19 CHAIRMAN NELSON: I have one.

20

21 EXAMINATION

22 BY CHAIRMAN NELSON:

23 Q. There was some allusion to the FCC switched  
24 access rule making by someone. Just since you're here

25 and this is rather far afield, do the interexchange  
(PARKER - EXAMINATION BY NELSON)

322

1 carriers or FCC watchers know, given the change of  
2 administrations, whether that switched access rule  
3 making is going to becoming on on time? Do you have  
4 any knowledge of that?

5 A. I don't. I really don't.

6 MS. WEISKE: I can probably help that  
7 actually.

8 RE CROSS-EXAMINATION

9 BY MS. WEISKE:

10 Q. Ms. Parker, were you in Utah on Monday when  
11 Mr. Reynolds spoke to that issue of when there may be  
12 some results from the switched access NOPR on  
13 co-location?

14 A. Yes.

15 Q. Do you recall that Mr. Reynolds said at  
16 least US WEST is hopeful there would be something in  
17 November from the FCC?

18 A. Yes, that is true.

19 MS. WEISKE: Thank you.

20 CHAIRMAN NELSON: Thank you.

21

22 EXAMINATION

23 BY JUDGE CANFIELD:

24 Q. Maybe I can just clarify. Ms. Parker, on

25 your discussion on market share, does it show any

(PARKER - EXAMINATION BY JUDGE)

323

1 variation by class of customer?

2 A. The data that we received we don't have it  
3 by class of customer or by service. In other words,  
4 it's aggregated data.

5 Q. Do you have any opinion of one way or the  
6 other whether there would be any variation by class?

7 A. I would think, yes, that would -- are you  
8 saying class, are you talking residential versus  
9 business? I'd think so. In fact, I would even argue  
10 that it's probably by geographic location. I looked  
11 at some market share data a couple years ago and in,  
12 like, retirement areas AT&T has a very strong market  
13 share, but if you go to a resort area with younger  
14 people it drops dramatically, so I think there's a  
15 buying difference also between age probably, income,  
16 that type of thing.

17 JUDGE CANFIELD: Anything further from Ms.  
18 Parker? Thank you, Ms. Parker. We'll take a ten  
19 minute break before the next witness which is Mr.  
20 Damron.

21 (Recess.)

22 JUDGE CANFIELD We're back on the record  
23 after our morning break and as indicated, the next up  
24 on the schedule was Mr. Damron. Is that correct, Mr.

25 Smith?

(COLLOQUY)

324

1 MR. SMITH: Yes.

2 JUDGE CANFIELD: Okay. And just briefly  
3 before coming back on the record I premarked the  
4 direct testimony of Mr. Damron as Exhibit T-1051 and  
5 then the accompanying exhibits I consecutively  
6 numbered those 1052 through 1060. That's ending with  
7 RLCD-9 as the prefiled number of Mr. Damron. I  
8 believe that was the last accompanying exhibit. So  
9 those are so premarked.

10 (Marked Exhibits Nos. T-1051, 1052 through  
11 1060.)

12 Whereupon,

13 ROBERT L. C. DAMRON,  
14 having been first duly sworn, was called as a witness  
15 herein and was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. SMITH:

19 Q. Would you please state your name and give  
20 us your business address for the record.

21 A. My name is Robert L. C. Damron, D A M R O

22 N. My business address is Chandler Plaza Building,  
23 1300 South Evergreen Park Drive Southwest, Olympia,  
24 Washington, 98504.



25 Q. Where are you employed and in what

(DAMRON - DIRECT BY SMITH)

325

1 capacity?

2 A. I am employed by the Washington Utilities  
3 and Transportation Commission as a revenue requirement  
4 specialist 5.

5 Q. You have before you what has been marked  
6 for identification as Exhibit T-1052?

7 A. I do.

8 JUDGE CANFIELD: T-1051 I believe is the  
9 number I gave.

10 MR. SMITH: I'm sorry. 1051?

11 JUDGE CANFIELD: Yes.

12 Q. And do you recognize T-1051 as your  
13 prefiled testimony in this proceeding?

14 A. I do.

15 Q. Do you have any corrections or additions to  
16 make at this time?

17 A. I have a few minor corrections, yes.

18 Q. Could you make those, please.

19 A. Beginning at page 14, line 17 through 21,  
20 beginning with the "Ms. Stumpf" and ending with  
21 "Docket No. U-85-52," I wish to strike that sentence.

22 Also at page 16, line 1 and 2 --

23 MR. FINNIGAN: Excuse me. Could you back  
24 up a minute. He said strike that sentence or the two

25 sentences? I just got confused.

(DAMRON - DIRECT BY SMITH)

326

1 THE WITNESS: The sentence that begins with  
2 "Ms. Stumpf" and ends with "Docket No. U-85-52."

3 JUDGE CANFIELD Mr. Finnigan indicates that  
4 that's two sentences. So strike both sentences?

5 THE WITNESS: All right. Yes. I'm sorry.

6 MR. FINNIGAN: Thank you.

7 A. The second revision is at page 16 and again  
8 at line 1 and 2 strike where it starts "Ms. Stumpf"  
9 and ends with "ceiling" At page 18, line 19, please  
10 replace the word "renegotiated" with "modified."

11 At page 38, lines --

12 Q. It's on line 6, I believe.

13 A. Oh, thank you. Line 6, the reference there  
14 states "lines 63 through 98." That should be revised  
15 to lines "63 through 110."

16 And I believe the last revision is at page  
17 46, and that should read rather than "and part of 92"  
18 it should read just simply --

19 JUDGE CANFIELD What line number, please?

20 THE WITNESS: I'm sorry. Line 5.

21 A. That should read simply "and 1992," rather  
22 than "and part of 1992." Those are all the  
23 revisions.

24 Q. With those revisions, if I were to ask

25 you the questions contained in Exhibit T-1051, would

(DAMRON - DIRECT BY SMITH)

327

1 you give the answers contained in that exhibit?

2 A. I would, yes.

3 Q. Are they true to the best of your

4 knowledge?

5 A. They are.

6 Q. Do you also have before you what have been

7 marked for identification as Exhibit 1052, 1053, 1054,

8 1055, 1056, 1057, 1058, and 1059?

9 A. Yes, I do, and 1060.

10 JUDGE CANFIELD: You might have left off

11 where you started the numbering earlier.

12 MR. SMITH: Your Honor, I have RLCD-1 as

13 1052.

14 JUDGE CANFIELD: Yes.

15 MR. SMITH: And 1060. All right.

16 A. Yes, I do have those before me.

17 Q. And are those exhibits referred to in your

18 direct testimony?

19 A. They are.

20 Q. Are they true and correct to the best of

21 your knowledge?

22 A. They are.

23 Q. Do you have any corrections or additions to

24 make to those?

25           A.     None.

(DAMRON - DIRECT BY SMITH)

328

1           MR. SMITH:  Your Honor, I'll move for  
2 admission of Exhibits T-1051 and 1052 through 1060.

3           JUDGE CANFIELD:  Any objections?  Let the  
4 record reflect there are none.  So Exhibit T-1051  
5 being the testimony is so entered into the record, and  
6 the accompanying exhibits, 1052 through 1060, are so  
7 entered into the record.

8                     (Admitted Exhibits Nos. T-1051, 1052  
9 through 1060.)

10          MR. SMITH:  Mr. Damron is available for  
11 cross-examination.

12          JUDGE CANFIELD  Thank you.  Mr. Shaw.

13

14                               CROSS-EXAMINATION

15  BY MR. SHAW:

16          Q.     Good morning, Mr. Damron.

17          A.     Good morning.

18          Q.     I take it in the three weeks we had to  
19 prepare testimony for this case that you didn't have  
20 time to prepare short testimony?

21          A.     This was a hasty revision of my October '92  
22 testimony.

23          Q.     Let's clear up something that was left over  
24 from Ms. Stumpf's testimony, and directing your

25 attention to pages 41 and 42. Do you recall that the  
(DAMRON - CROSS BY SHAW)

329

1 confusion that resulted over whether or not the  
2 numbers that you give on those pages as to 1990 and  
3 1991 results of operations were after sharing achieved  
4 rates of return or not? Directing your attention to  
5 line 23, line 22 and 23 of page 41, it is true, is it  
6 not, that the number you give there, 11.79, is your  
7 computation of the company's achieved rate of return  
8 taking into account its share of the sharing amounts  
9 in 1990?

10 A. Yes. That's the overall return. And on  
11 the following page the return on equity of 15.2 is  
12 cited for that measurement period.

13 Q. And the same thing on page 42, the actual  
14 ultimate achieved return of the company as you  
15 calculate it for 1991 was 11.95?

16 A. The overall return, yes.

17 Q. And the overall return would not be higher  
18 than those numbers because of the company's share of  
19 the sharing?

20 A. No. That is the calculation of what's left  
21 over for the company.

22 Q. And you haven't done such a calculation for  
23 1992 yet as you recite on page 43 because the  
24 Commission has not yet issued its order disposing of

25 the shared revenues for the 1992 measurement period?

(DAMRON - CROSS BY SHAW)

330

1 A. Well, I have. At Exhibit 1056, page 1,  
2 line 18 shows an after tax sharing return of 12.62  
3 percent. That figure would change if the Commission  
4 avails itself of the depreciation reserve option and  
5 the company is required to match some funds that would  
6 require that the return go down, but with that  
7 exception, this would be the return after sharing.

8 Q. And that's what you meant by your statement  
9 at lines 3 through 5 of page 43, "Since there is no  
10 way of predicting what the ultimate disposition of  
11 these 1992 revenues might be I have not included a  
12 page 2 in this exhibit"?

13 You have reference to you do not know  
14 whether the Commission is going to allocate any monies  
15 to the depreciation reserve?

16 A. That's correct.

17 Q. I take it as Ms. Stumpf testified that your  
18 testimony is not meant to suggest any modifications to  
19 the current AFOR other than those testified to by Ms.  
20 Stumpf?

21 A. She is the policy and recommendation  
22 witness. I have critiqued the program and offered my  
23 opinion as to some improvements, but they are more in  
24 the nature of suggestions rather than recommendations.

25 Q. So you in fact are, as a member of the

(DAMRON - CROSS BY SHAW)

331

1 staff, recommending that further modifications be made  
2 to the current AFOR beyond those recommended by Ms.  
3 Stumpf?

4 A. I believe Ms. Stumpf's testimony was that  
5 staff found the proposed modifications of the  
6 Commission to be acceptable in the interim until we  
7 can redesign another AFOR, and I'm not adding to those  
8 recommendations, no. I stand by my testimony in terms  
9 of what I consider to be the defects and what I  
10 consider to be means of improving those defects.

11 Q. I take it from your testimony that you do  
12 not believe that Ms. Stumpf is correct that the AFOR  
13 as modified by her recommendations constitutes an  
14 adequate AFOR even on an interim basis?

15 A. I believe it represents a significant  
16 improvement over the present one. I would prefer to  
17 see when we renegotiate an AFOR that improved over  
18 that.

19 Q. Is your preference that there be no AFOR  
20 after the expiration of this one whether or not it's  
21 modified?

22 A. Well, it's been fairly clear in the last  
23 few years that I have a great deal of skepticism about  
24 incentive regulation. And I do recognize that being a

25 minority and not only locally but nationally on that

(DAMRON - CROSS BY SHAW)

332

1 view I have stated in my testimony I would like to see  
2 something we are -- we can verify ratepayer benefits  
3 and I would be much more persuaded by this method of  
4 regulation if we could find that type of method or at  
5 least find some type of yardstick that would allow us  
6 to reward the company according to its achievements  
7 rather than an assumption that all excess earnings are  
8 the product of internal efficiencies.

9 Q. You state at page 3 of your testimony, line  
10 5, that AFOR is a concept without any practical  
11 application, that it may be -- take it you believe  
12 that regardless of the design of an AFOR traditional  
13 rate of return regulation is the best regulatory  
14 approach for the foreseeable future in Washington?

15 A. That's a twofold question, I think. I  
16 would respond that my meaning in that statement was in  
17 terms of practical application, I think it becomes  
18 practical at the time that we can measure and verify  
19 ratepayer benefits. I do believe that on monopoly  
20 services which is that rate of return on rate based  
21 regulation is an acceptable process.

22 I think rate of return on rate based  
23 regulation in one form or another is with us. It's  
24 with us nationally. Virtually every incentive



25 regulation program that I have reviewed keys off of

(DAMRON - CROSS BY SHAW)

333

1 some sort of sharing and price caps and rate caps and  
2 rates of return, and my assumption is that rate of  
3 return is still very definitely with us. It's simply  
4 a part of the process rather than the whole process.

5 Q. I take it from that statement that you are  
6 opposed to an alternative form of regulation that  
7 would consist of price cap and quality of service  
8 regulation without reference to the rate of return of  
9 the company?

10 A. I wouldn't say I'm opposed to it. I don't  
11 see how you can have a price cap. A price cap just  
12 doesn't stay at one level forever, and the question is  
13 had do you move that price cap, how do you do that  
14 and how do you measure that. And I think when you  
15 start moving the price cap you're back to rate of  
16 return analysis.

17 Q. An AFOR that had a concept of a price cap  
18 with an automatic adjustment formula for inflation and  
19 productivity would then be acceptable as a concept in  
20 your mind?

21 A. I haven't formed an opinion on that. I  
22 think we've reviewed this. I would -- I think it  
23 should be a round-table discussion of all the players  
24 and the staff and I would like to see what the total

25 package looks like, and in particular whether there's  
(DAMRON - CROSS BY SHAW)

334

1 measurable verifiable benefits to ratepayers.

2 Q. So despite the tenor of your testimony  
3 about what a follow-on AFOR should look like, you do  
4 not reject the concept of a price cap in service  
5 quality regulation as I outlined in my last question?

6 A. No. I think the price cap -- I think the  
7 down side of that is that many have asserted that  
8 we're looking at a declining cost industry, and I  
9 question the value of price caps in that scenario if  
10 price caps do nothing if costs are going down. They  
11 don't allow those reductions of cost to be passed on  
12 to ratepayers.

13 In terms of quality of service, that  
14 certainly could be included in the equation of coming  
15 up with a means of rewarding a company under an  
16 incentive regulation program. It might provide some  
17 means of quantifying a benefit to ratepayers.

18 Q. Is it your position that traditional rate  
19 of return regulation as experienced and practiced in  
20 the state of Washington works well to capture on a  
21 timely basis declining costs for the benefit of  
22 ratepayers?

23 A. Well, I think it would work much better if  
24 the Commission had show cause authority. We could get

25 a rate case down within about a six month period.

(DAMRON - CROSS BY SHAW)

335

1 Without that show cause authority, as we're learning  
2 presently with so many AOS analysis, it could drag on  
3 a couple of years. At that point I think I've lost  
4 your question.

5 Q. Okay. I think you've answered it. Let me  
6 follow up on that. As one staff witness observed from  
7 their stand in a previous hearing, if wishes were  
8 horses, beggars would ride.

9 In regard to show cause authority, did this  
10 Commission attempt to gain show cause authority for  
11 AOSs in this past legislature?

12 A. That's my understanding, yeah.

13 Q. That was not successful?

14 A. It was not, unfortunately.

15 Q. And you personally and the Commission  
16 are bogged down in traditional rate of return rate  
17 case with an AOS today?

18 A. Hopefully this is not traditional but we  
19 are certainly bogged down.

20 Q. Traditional rate of return regulation  
21 doesn't work very well in a multi-vendor competitive  
22 environment, does it, Mr. Damron?

23 A. Well, as I've indicated in my testimony, I  
24 don't think you can blame rate of return on rate base

25 regulation, or as you've characterized it as

(DAMRON - CROSS BY SHAW)

336

1 traditional regulation, on the Commission's lack of

2 show cause authority. It's two separate items.

3 Q. The fact is that the Commission doesn't

4 have show cause authority and it has no realistic

5 prospect of gaining show cause authority, does it?

6 A. Yes to the first question. I don't know to

7 the second question.

8 Q. It was unsuccessful as for a very limited

9 purpose in this last legislative session, wasn't it?

10 A. Again, unfortunately, yes.

11 Q. By show cause authority you mean what you

12 would like to see as staff analyst is that the

13 Commission could just simply direct a company to prove

14 why its rates should not go down, and if the company

15 failed that purpose, the rates would go down, correct?

16 A. Yes. I believe that it should be incumbent

17 on any company serving the public in a regulated

18 environment to have the burden of proof to justify

19 their own rates rather than some handful of staffers.

20 Q. Now, do you agree that over the last

21 several years that there has been an ever increasing

22 entry of new providers of telecommunications services

23 in the state of Washington?

24 A. Well, I haven't personally tracked it but

25 I'm certainly aware that there is a lot of activity on  
(DAMRON - CROSS BY SHAW)

337

1 that front, yes.

2 Q. There's many, many interexchange carriers;  
3 there's many, many payphone providers; there's many  
4 AOS providers; there's now alternative access  
5 providers; there's resellers; many more participants,  
6 providers of service than there was traditionally in  
7 the old Bell system days, correct?

8 A. There are many more players today, yes.

9 Q. And in the old Bell system days when  
10 Pacific Northwest Bell and its predecessor company and  
11 AT&T together overwhelmingly provided all of the  
12 telecommunications services in the state, the  
13 traditional rate of return regulation worked  
14 relatively easily, didn't it?

15 A. I don't know I would call it easy. We used  
16 to get into 11-month rate cases. I think it worked  
17 more smoothly simply because we were in an environment  
18 where we were looking at in some occasions  
19 double-digit inflation, double-digit prime rates, and  
20 in more cases than not the utility was filing for a  
21 rate increase. And under that situation the burden of  
22 proof was on the company. And when the burden of  
23 proof is on the company, as I've stated earlier, I  
24 think that works fairly well.

25                   It's when you have a situation where things

(DAMRON - CROSS BY SHAW)

338

1   are turned around and suddenly telecommunications  
2   appears to be becoming very lucrative and you don't  
3   have a lot of general rate case filings which you have  
4   as earnings in excess of authorized returns and in  
5   that I think the old laws are again that puts the  
6   Commission and staff at a disadvantage, and then I  
7   again I would reiterate that I think the lack of show  
8   cause authority has nothing to do with the merits of  
9   traditional regulation.

10           Q.    Traditional regulation only works well in  
11   your mind if the Commission has show cause authority?  
12   That's your testimony, isn't it?

13           A.    In the present environment it would  
14   certainly work better.  I don't know that -- in my  
15   view I think it would probably work better than the  
16   present program as I've stated in my testimony.  I  
17   don't think the present program is better than  
18   traditional regulation.  We're unable to verify any  
19   benefits.  We've found ourselves extremely busy year  
20   after year.  I don't see where it's reduced a lot of  
21   regulatory costs, et cetera.

22           Q.    Is it your testimony that the staff would  
23   be less busy prosecuting a yearly rate case against US  
24   WEST as well as all the other providers of

25 telecommunications services in this supposedly

(DAMRON - CROSS BY SHAW)

339

1 declining cost industry, than it is by monitoring a  
2 well-designed AFOR?

3 A. Well, if the rate cases were annual, it  
4 would be simply -- we would be very busy but I  
5 wouldn't anticipate we would have a show cause rate  
6 case in each and every year.

7 Q. But we don't have show cause, do we, Mr.  
8 Damron, so the alternative today to this AFOR under  
9 what you have testified to is a yearly rate case  
10 against the company, isn't it?

11 A. Well, I think if the outcome of a rate case  
12 complaint case is a permanent rate reduction and that  
13 sticks, then I don't see any reason why there would  
14 have to be a yearly rate case.

15 Q. In those rate cases, leaving aside their  
16 frequency, we would need to litigate whether or not  
17 the Commission has jurisdiction to impute \$66 million  
18 yearly of Yellow Page revenues to the company's  
19 regulated rates, would we not?

20 A. Well, I think it's a legal question. I  
21 would anticipate the company would raise that issue.  
22 My understanding is the regulators have fared fairly  
23 well on that front.

24 Q. Washington Natural Gas case that is

25 currently pending, has the Commission staff taken the  
(DAMRON - CROSS BY SHAW)

340

1 position that it's inappropriate for that company to  
2 provide unregulated services such as furnaces and  
3 storm windows as integrated part of its provision of  
4 natural gas utility service?

5 A. I have not reviewed the Washington Natural  
6 Gas testimony and am aware that there is a definite  
7 concern about regulated and non-regulated operations  
8 of that company and the allocations involved in  
9 equitably splitting up that operation between  
10 regulated and nonregulated.

11 I have audited in my career Washington  
12 Natural Gas, but things have changed considerably  
13 since the last time I audited that company.

14 Q. And US WEST's publishing operations,  
15 advertising publishing operations are not regulated  
16 telecommunications services in the state of  
17 Washington, are they?

18 A. I believe that's a legal question. I pass  
19 on that.

20 Q. Also in these frequent rate cases we would  
21 have to litigate the level of unrecovered depreciation  
22 expense that the company would need to get on a timely  
23 basis, would we not?

24 A. I think we would have to litigate whatever



25 the Commission -- or whatever the company brings

(DAMRON - CROSS BY SHAW)

341

1 forward as the issues. I think we would be litigating  
2 some of the more material issues that are  
3 materializing now as the FASB 106, 112, depreciation  
4 issues. I certainly believe that the cost of capital  
5 would be a definite issue that would be looked at and  
6 quite possibly could offset the effects of any of  
7 these depreciation and FASB 106 effects.

8 Q. And in that cost of capital litigation a  
9 very big issue would be the significantly higher risk  
10 that the company faces now that it no longer has a  
11 local exchange and access service monopoly, would it  
12 not?

13 A. That's beyond my expertise.

14 Q. So you don't have any ability to give an  
15 opinion that a rate case is going to result in a  
16 reduced rate of return for US WEST, do you?

17 A. Well, I'm aware that most all regulated  
18 utilities are now asserting a certain amount of  
19 competitive impact and I believe Dr. Lurito came in  
20 with a recommended return in the Puget case below nine  
21 percent.

22 Q. Is there any comparability between US WEST  
23 and Puget? Does Puget have the competitive threats  
24 that US WEST has?

25           A.     I have no idea.

(DAMRON - CROSS BY SHAW)

342

1           Q.     In fact, you do not have any way to offer a  
2 meaningful opinion to this Commission today that US  
3 WEST's authorized rate of return would be lowered in a  
4 fully contested rate case?

5           A.     My only recommendation is I think it's time  
6 to look at it again.

7           Q.     At page 6 of your testimony, lines 23  
8 through 25, you express an opinion that competition in  
9 telecommunications has been of a questionable success.  
10 Do you see that reference?

11          A.     Yes, I do.

12          Q.     And then at page 78 of your testimony you  
13 seem to argue at lines 3 through 5 that the  
14 introduction of more competition for the company's  
15 services would be in the public interest. I'm  
16 confused, Mr. Damron, whether you think competition is  
17 good or bad for the public interest in  
18 telecommunications.

19          A.     Well --

20          Q.     Could you explain the apparent conflict  
21 between the two statements in your testimony?

22          A.     I don't think there's any conflict but I'm  
23 certainly willing to explain this. Page 78 I'm  
24 talking about the pressures that the threat of

25 competition would have on the company and the

(DAMRON - CROSS BY SHAW)

343

1 incentive that would have to cause them to do some  
2 belt tightening or cost reduction.

3           At page 6 the gist of my questionable  
4 success is related to the fact that on a couple of  
5 fronts, number one, competition introduced in the toll  
6 market has produced what many have called an  
7 oligopoly, rather than a pure competition where we  
8 have maybe three or four dominant toll carriers that  
9 have the majority of the market and then the rest of  
10 the multitude of smaller companies have the leftovers.  
11 So in terms of inspiring complete competition I don't  
12 think that's been achieved.

13           The other meaning of that is that in terms  
14 of the preservation of local service and/or rather  
15 universal service, the introduction of competition has  
16 certainly caused the pressure of shifting costs to the  
17 intrastate jurisdiction and caused a pressure on local  
18 rates, which I perceive to be an adverse effect. If  
19 it is the interest of regulators in the public  
20 interest to preserve universal service I think when  
21 we're looking at competition and if competition and  
22 universal service find themselves at odds, I would  
23 suggest universal service should win.

24           Q.     Let's talk about some of those subjects

25 that you've raised. I take it it's your opinion,

(DAMRON - CROSS BY SHAW)

344

1 contrary to Ms. Parker on behalf of AT&T and Dr.  
2 Bryant on behalf of MCI, that the intrastate  
3 Washington interexchange markets are not effectively  
4 competitive because they are dominated by an oligopoly  
5 of three facilities-based carriers?

6 A. In terms of the legal definition of  
7 effective competition this Commission has used to  
8 determine whether that environment exists, I can't  
9 speak to that. I am simply suggesting that you  
10 certainly don't have a pure competitive market where  
11 you have equal players out there. I don't believe the  
12 competition is as fierce as it might be.

13 Q. So should those carriers be regulated on a  
14 rate of return basis in the state of Washington?

15 A. I have not formed an opinion on that. I do  
16 believe that competition and high rates of return are  
17 mutually exclusive and that perhaps regulators should  
18 be looking at those returns on occasion and if they  
19 find out that some of these supposed competitors have  
20 runaway returns that they might want to rethink  
21 whether they are indeed subject to effective  
22 competition. But it's more of a monitoring process  
23 than a going straight to rate of return on regulation.

24 Q. Has the staff exercised its power and

25 authority to require those carriers to provide

(DAMRON - CROSS BY SHAW)

345

1 information on their chief rates of return in the  
2 state of Washington?

3 A. The -- they have been granted competitive  
4 status and regulatory oversight has been considerably  
5 lessened. We have made occasional inquiries. Those  
6 inquiries have been labeled confidential.

7 Q. So the staff is aware of what the achieved  
8 rates of return are of those carriers in the state of  
9 Washington?

10 A. The staff is aware of some recent returns  
11 achieved by the AT&T and we're aware of some recent  
12 press in which AT&T was -- it was stated that they had  
13 been achieving some record returns lately.

14 Q. And AT&T and MCI are telecommunications  
15 companies regulated by this Commission and are subject  
16 to the oversight and data request authority of the  
17 Commission staff, correct?

18 A. I assume so.

19 Q. Do you think it's important then for the  
20 staff to monitor those carriers and make sure that  
21 they are not earning excessive rates of return?

22 A. I think we're still in a transitional  
23 period and some monitoring is in order, yes.

24 Q. Because you believe in the beneficial

25 results of traditional regulatory oversight, you

(DAMRON - CROSS BY SHAW)

346

1 believe that those carriers should continue under  
2 those oversight notwithstanding their classification  
3 as competitive carriers?

4 A. I believe that the mandate of this  
5 Commission is to protect the public from price abuse,  
6 and in that vein I believe that any company under its  
7 jurisdiction they should -- if a concern is raised,  
8 they should investigate that concern.

9 Q. That same consideration would apply to all  
10 the AOSs and all the payphone companies, all the  
11 resellers that are providing telecommunications  
12 services to the public in this state?

13 A. That's a fairly broad question. If there's  
14 effective competition, my answer would be no. Again,  
15 I think the Commission should be looking at protecting  
16 the public against price abuse wherever it may happen  
17 and --

18 Q. And under your approach the fact that any  
19 one of those carriers might be returning -- earning  
20 returns above a competitive level would indicate that  
21 there is price abuse, correct?

22 A. I think the company could have a good year.  
23 I think we're talking about sustained rates of return.

24 Q. Under traditional regulation you spent a

25 great deal of time and effort in your testimony

(DAMRON - CROSS BY SHAW)

347

1 demonstrating that US WEST and its predecessor  
2 companies have consistently earned over authorized  
3 rate of return since the middle 80s, correct?

4 A. Yes.

5 Q. I take it, for example, page 12 where you  
6 express your approval of putting all of the sharing  
7 every year on depreciation because that operates  
8 to cap the company's achievable rate of return, that  
9 you believe the purpose of any AFOR is to assure that  
10 the company not earn over an allowed rate of return?

11 A. No, that's absolutely wrong. I think the  
12 purpose of an AFOR is to reward the company according  
13 to its achievements and the problem that I have  
14 critiqued here is that we don't seem to be able to  
15 measure those.

16 Q. You want a total factor productivity study  
17 done every year, correct?

18 A. Well, there's a multitude of productivity  
19 analysis. There's one factor, two factor, four  
20 factor, and any number of factors. I believe the FCC  
21 in their price cap docket, CC docket 92135, reviewed  
22 quite a number of various productivity analysis, not  
23 necessarily total factor.

24 Q. At page 58 of your testimony you seem to

25 endorse the total factor productivity studies that  
(DAMRON - CROSS BY SHAW)

348

1 have been done by this company in the past, done by  
2 Mr. D. L. Miller in particular. Do you have that  
3 reference?

4 A. I have that reference.

5 Q. Is that the study that you want done every  
6 year under any AFOR by the company?

7 A. I don't know about every year and whether  
8 it would have to be this steady, but I think a more  
9 definitive study could be done. I think one of the  
10 things that appears to be lacking in my view is a  
11 yardstick. Under traditional rate of return  
12 regulation you have an authorized rate of return and  
13 you examine a company's operations, measure it against  
14 that authorized return, and make a decision. In this  
15 case we could perform any type of productivity study  
16 and we come out with a figure of five percent  
17 productivity. The question is what do you do with  
18 that figure. If you have no yardstick to bounce it  
19 against, it's very difficult to make a decision. I  
20 think you have to, if you're going to get into that  
21 area, what you have to do is develop some type of  
22 yardstick such as looking at average national  
23 telecommunications productivity, compare that to what  
24 the company is achieving. If all they're doing is



25 achieving average telecommunications productivity I  
(DAMRON - CROSS BY SHAW)

349

1 don't think that's deserving of a reward. To the  
2 extent they may excel that, then perhaps they do.

3 Q. Let's return to my question. The question  
4 is to what kind of study you want done. You don't  
5 want the old kind of productivity study done, you want  
6 some other kind of productivity study done?

7 A. The point of my testimony here was that  
8 something much more sophisticated than what the  
9 company produced is available and can be done. I have  
10 not formed an opinion as to specifically if we got  
11 into an AFOR that called for a productivity study  
12 whether that would be done annually or whether it  
13 would be total factor or whatnot. I think that would  
14 require a workshop and some sit-down sessions between  
15 staff and company to work something out and I'm not  
16 here to make that recommendation today.

17 Q. The studies that were historically done in  
18 any event in no way indicate what productivity the  
19 company's management is responsible for versus  
20 productivity that just happened, do they?

21 A. Total factor productivity doesn't identify  
22 internally generated productivity, that's true. It,  
23 like I said, you might be able to develop a yardstick  
24 that said this company's productivity is X percent

25 above some national average as a second best

(DAMRON - CROSS BY SHAW)

350

1 substitute.

2 Q. Rather than attempting to perform some  
3 unknown productivity study of unknown methodology,  
4 wouldn't a much more direct and simple approach be the  
5 inflation factor minus productivity adjustment, the  
6 concept outlined by TRACER's witness in this case?

7 A. I have no opinion on that. I would have to  
8 take a great deal more time to examine what was  
9 proposed, how that would operate, what inflation  
10 factors might be used, how that's relevant to the  
11 telecommunications industry, how that's relevant to US  
12 WEST.

13 Q. The current AFOR allows no upward  
14 adjustment in rates for inflation, does it?

15 A. Not -- certain prices are capped. There is  
16 a safety net if the company's rate of return falls  
17 below nine two five in which case the company can file  
18 a rate increase.

19 Q. Just back up to nine two five, correct?

20 A. Right.

21 Q. Do you agree that it's appropriate that if  
22 the company is to flow through 100 percent exogenous  
23 cost reductions that it cannot claim responsibility  
24 for, it should be able to also net against that or

25 flow through the ratepayers exogenous cost increases

(DAMRON - CROSS BY SHAW)

351

1 that it had no ability to prevent?

2 A. As I understand your question, you were  
3 saying that in the pass through of exogenous costs  
4 that that should be netted? No, I don't agree with  
5 that and I think that you have to look at that -- I  
6 mean, if you look at it at the outside it seems  
7 unequitable to only look at exogenous cost changes  
8 that are going in one direction but not the other, but  
9 I think you have to look at that in terms of the  
10 context in which we are using that particular vehicle,  
11 and what we're talking about here in this program is  
12 we're talking about the disposition of excess revenues  
13 and how -- what is the most equitable way to take  
14 these excess revenues and split them between the  
15 company's stockholders and the ratepayers. We're not  
16 talking about anything else.

17 Obviously an exogenous cost effect that  
18 drives the company's rate of return down is not the  
19 type of effect that's going to cause this company to  
20 achieve a return above 11 percent. It is those  
21 exogenous cost effects that are favorable to the  
22 company's rates of return that drive them above an 11  
23 percent return. And to the extent that those  
24 exogenous cost changes drive the company's return

25 down, that's already counted, and I think if you start

(DAMRON - CROSS BY SHAW)

352

1 netting I would be looking very carefully at the fact

2 that we may be in effect double counting that effect.

3 Q. Let's use a concrete example. Let's assume

4 that the Federal government raises corporate tax rate

5 and puts additional tax expense on the company, and

6 that through some miracle the state of Washington

7 reduces its taxes that it places on the company. In

8 the AFOR that you envision the company should not be

9 able to net that tax increase and that tax decrease

10 but just flow through the tax decrease and eat the tax

11 increase, is that correct?

12 A. That's correct, because to the extent that

13 the tax effect reduced the company's rate of return

14 below 11 percent, at that point they don't have to

15 share one dime with the ratepayers, and if that effect

16 drives them down to nine two five they have a safety

17 net in which they can file for a rate increase. If

18 the net -- if the effect of the favorable tax

19 reduction drives the company's return above 11 percent

20 obviously that effect had nothing to do with any type

21 of internal decision. It's not -- the source of those

22 revenues was not derived from internal efficiencies

23 and it's not something that the company deserves a

24 reward from.

25 Q. The company should take all the risk of

(DAMRON - CROSS BY SHAW)

353

1 earning a suboptimal rate of return for exogenous cost  
2 increases but the ratepayer should bear no risk at all  
3 or share the benefits of cost decreases? That is the  
4 result?

5 A. I don't agree with that characterization at  
6 all. I think that the risk is balanced. The  
7 ratepayers certainly have experienced a considerable  
8 amount of risk in the last three years in terms of the  
9 amount of excess revenues they have paid the company  
10 without any verification that they received one dime  
11 of benefit, and the company in turn has that safety  
12 net where it can file for a rate increase if its rate  
13 of return deteriorates to nine two five. I see  
14 nothing imbalanced in that proposal.

15 Q. Let's take how this current AFOR is panning  
16 out. If the company had not been able to achieve an  
17 11 percent rate of return and there was no sharing but  
18 the company did not fall all the way to 9.25, you  
19 would see that as totally appropriate and nothing  
20 should be changed about that AFOR, the company should  
21 be held to its bargain, and if that condition lasted  
22 for the whole five years, that's a totally appropriate  
23 result, that's the risk the company took when it  
24 entered into the AFOR agreement, right?

25           A.     I guess if you want to call it a risk. I

(DAMRON - CROSS BY SHAW)

354

1 believe if the company stays within the range of its  
2 authorized return I don't see where the company is  
3 injured.

4           Q.     The company's not injured by making a rate  
5 of return approaching 9.25 when the Commission has  
6 just found that an appropriate mid range is 10.53?

7           A.     Well, a range is a range. I don't know  
8 that any specific figure in that range is the magical  
9 return. If they thought that 10.53 was where the  
10 company should be, it seems rational when you pick a  
11 range to set rates somewhere in the middle of that  
12 range.

13          Q.     So if the company -- if it turned out that  
14 the company had earned 79 basis points or 95 basis  
15 points below 10.53, there should be no modification or  
16 changes to this AFOR, correct?

17          A.     Of course not. In turn -- well, let me  
18 withdraw that. As a result of that specific  
19 consequence, no, but I certainly stand by my testimony  
20 as to the defects in this program and the need to  
21 modify those problems.

22          Q.     Well, in fact what's happened, Mr. Damron,  
23 is that rather than being unsuccessful the company has  
24 been successful in earning 79 basis points in 1990 and

25 95 basis points in 1991 over its authorized 11 percent

(DAMRON - CROSS BY SHAW)

355

1 maximum rate of return, correct?

2 A. It didn't surprise me. I think it  
3 surprised some, yes.

4 Q. That's not the question. That's in fact  
5 what happened, isn't it?

6 A. That is what happened.

7 Q. And as a result of that success, your  
8 position is that the AFOR immediately needs to be  
9 changed to make sure that that can't happen, correct?

10 A. Well, I think your question is too narrow  
11 and disregards the bulk of my testimony. My testimony  
12 is not that simply a high return is necessarily bad or  
13 wrong or requires a withdrawal of this program. My  
14 point is that the high returns that the company has  
15 sustained from day one of this program without any  
16 verification that there has been any ratepayer  
17 benefits and certain indications that other areas  
18 of quality of service and availability of new services  
19 has not improved, which is the substance of Ms.  
20 Stumpf's testimony, it's a combination of, it's not  
21 simply because the company earned a high return that  
22 I'm up here recommending that the Commission should  
23 modify or rescind.

24 Q. The customer sharing experience in '90, 91

25 and now in '92 is of no benefit to consumers, is that

(DAMRON - CROSS BY SHAW)

356

1 your testimony?

2 A. I explained that in my testimony. It's not  
3 a matter of whether it's no benefit. It's a matter of  
4 there's no way that we can verify one way or the other  
5 whether there's a benefit. I described in fair detail  
6 a problem we encountered there and what the benefit  
7 test is. And I liken the dollars being returned to  
8 ratepayers as simply a taxpayer receiving a refund for  
9 overpayments. I don't see where that's a benefit.  
10 It's simply a return of dollars that they deserved to  
11 receive.

12 Q. Reducing the depreciation reserve,  
13 restructuring and lowering rates, providing new  
14 facilities and plant that otherwise would not be  
15 provided, subsidizing and fostering E-911 rates, none  
16 of these things are of any benefit to ratepayers?

17 A. Well, I reviewed the four available options  
18 for the disposition of excess revenues. They are all  
19 paid for by the ratepayer, by the ratepayers' money.  
20 Whether there's a 911 subsidy as stated yesterday,  
21 apparently is not a fact of record.

22 Q. Monies and benefits that the ratepayer  
23 would not otherwise timely see unless we had perfect  
24 rate of return regulation with show cause authority,



25 correct?

(DAMRON - CROSS BY SHAW)

357

1 A. Well, I don't know that I subscribe to  
2 your characterization that this specific set of  
3 circumstances has to exist. It's simply an unknown.

4 Q. If this Commission approves the takeover of  
5 toll originated in General Tel territory by General  
6 Tel which action results in a significant revenue loss  
7 to US WEST, should that be flowed through as an offset  
8 to the reductions in independent access charges, if  
9 any, as an exogenous factor or should the company just  
10 be required to eat that?

11 A. If it has a revenue requirement impact on  
12 the company's financial results of operations, under  
13 the present program that becomes a part of the  
14 equation in measuring the company's results of  
15 operation, its return in the amount of sharing.

16 Q. And so any required expense or revenue  
17 reduction that legitimately impacts the company's  
18 results of operations should be taken into  
19 consideration in evaluating the effectiveness of any  
20 AFOR, correct?

21 A. Well, I guess my problem is it is taken  
22 into consideration. I'm a little apprehensive about  
23 what you mean by taken into consideration.

24 Q. Well, for example, for an appropriate AFOR

25 legitimate depreciation expense of the company should

(DAMRON - CROSS BY SHAW)

358

1 not be ignored in calculating the company's achieved

2 results of operation, should it?

3 A. I would accept that statement as legitimate

4 depreciation obviously shouldn't be ignored. I think

5 it certainly is subject to debate as to what is

6 legitimate depreciation charges.

7 Q. And that will have to be litigated in your

8 traditional regulatory model, correct?

9 A. I don't know. I know that when the company

10 filed for a revision in depreciation methodology to

11 ELG that ended up being litigated whether -- I believe

12 it's my understanding that there have been

13 depreciation representations that have occurred since

14 the implementation of the program that were not

15 litigated.

16 Q. And those expense increases should be

17 recognized and not eaten by the company, correct?

18 A. Certainly. If they are approved and

19 legitimate expenses they belong in the revenue

20 requirement equation.

21 Q. So in your AFOR model only some legitimate

22 expenses of the company should be ignored for the

23 period of the AFOR?

24 A. I'm afraid I don't follow your question.

25 If it's a legitimate ratemaking expense I wouldn't

(DAMRON - CROSS BY SHAW)

359

1 confine it to "some." I think all legitimate ratemaking  
2 expenses find their way above the line and go into the  
3 sharing calculation.

4 Q. At page 67 and more at page 85 you discuss  
5 the company's investment in plant.

6 A. Yes.

7 Q. Now, you were the analyst that prepared the  
8 revenue requirements analysis of the company when the  
9 Commission filed its complaint against the company in  
10 1989, were you not?

11 A. I was the lead analyst in that case, yes.

12 Q. One of the big adjustments that the staff  
13 was sponsoring was a big disallowance of investment in  
14 outside plant of the company, correct?

15 A. I had forgotten the name of how we  
16 characterized that adjustment but it amounted to what  
17 we considered to be an excess capacity adjustment,  
18 yeah.

19 Q. Do you remember what the figure was related  
20 to that proposed adjustment?

21 A. It's somewhere in one of these statutes. I  
22 can get a number for you if you need it.

23 Q. It was in the millions of dollars, was it  
24 not?

25           A.     Yes, I believe it was.

(DAMRON - CROSS BY SHAW)

360

1           Q.     It was the staff's position, at least your  
2 position at that time, that the company had  
3 imprudently overinvested in outside plant beyond its  
4 needs to provide quality service in the state of  
5 Washington, correct?

6           A.     It certainly wasn't my position. That was  
7 not my area. We retained ETI to examine that  
8 particular issue. Imprudent, I don't know, that may  
9 be a strong word. It's a matter of I believe a  
10 question of used and useful. If the plan is out  
11 there, it's simply there, it's excess, it's not  
12 providing service to anyone, it becomes a question of  
13 should the ratepayers pay for that. It may have been  
14 a very prudent business decision on the part of the  
15 company but it may not have been an appropriate thing  
16 for ratepayers to bear.

17          Q.     But it should be disallowed as imprudent  
18 for rate making purposes?

19          A.     Well, I'm not going to launch into a battle  
20 with you, Mr. Shaw, in excess capacity. That's far  
21 beyond my expertise.

22          Q.     The testimony you filed here today seems to  
23 suggest that you believe that the company is  
24 overinvested, has too much plant out there, and in a

25 properly conducted rigorous rate of return case there  
(DAMRON - CROSS BY SHAW)

361

1 would be a further disallowance of the company's  
2 outside plant expense. Am I misreading your  
3 testimony?

4 A. I think you've very definitely misread it.  
5 I don't see anywhere where I've said that. I have  
6 simply suggested that US WEST Washington operation the  
7 fill ratios are such that there is a good deal of  
8 capacity there and that they in my estimation can  
9 achieve revenues by simply increasing their fill. It  
10 has nothing to do with imprudency. That's a separate  
11 issue.

12 Q. You're aware of Ms. Stumpf's testimony that  
13 in her opinion, staff's opinion, that the company  
14 doesn't deserve to continue with its AFOR because it  
15 failed by having excessive held orders?

16 A. I read her testimony. I don't remember a  
17 word of it, sorry. I'm aware generally that that was  
18 one of the substances of her testimony. I'm certainly  
19 not aware of the details of that. That was not my  
20 area of assignment.

21 Q. Which is it, Mr. Damron, has the company  
22 failed to put out sufficient plant in order to meet  
23 current demands for service or does the company have  
24 excessive plant with too low fill levels which would

25 require a disallowance in a contested rate case?

(DAMRON - CROSS BY SHAW)

362

1 A. That's beyond the scope of my testimony.

2 It goes far beyond the meaning of my testimony.

3 Q. Do you think that if the staff is going to

4 continually threaten disallowances from operating

5 expense of investment in outside plant that the

6 company is going to be incented to invest --

7 MR. SMITH: Your Honor --

8 Q. -- in a construction budget that

9 -- minimizing held orders?

10 MR. SMITH: I'm going to object. There's

11 nothing to suggest that the staff is threatening

12 disallowances. There is nothing in Mr. Damron's

13 testimony, I think.

14 MR. SHAW: Your Honor, in the case that was

15 settled that produced this AFOR, that in fact was the

16 staff's position in the very last rate proceeding. I

17 have to assume from Mr. Damron's criticism of our low

18 fill factors that that will again be a contested

19 issue.

20 JUDGE CANFIELD: I'll sustain the objection

21 to the extent of your characterization of that. Maybe

22 you could just rephrase the question, Mr. Shaw.

23 Q. Has the staff in the last contested rate

24 case sponsored a large outside plant disallowance?

25           A.     In the last contested rate case we examined  
(DAMRON - CROSS BY SHAW)

363

1     that issue.  That contested rate case was negotiated  
2     and resolved.  It was not litigated.  It's the only  
3     case that I'm aware of in which the staff has taken  
4     that position so I don't know about your earlier  
5     characterization about continually challenging your  
6     plant construction.  We looked at it one time.  It  
7     wasn't litigated.  There was no decision from the  
8     Commission one way or the other as to whether the  
9     adjustment was appropriate or not.

10           Q.     Did the staff and its consultants take the  
11     position in previous rate cases that the company's  
12     modernization of its switches was inappropriate and  
13     should be disallowed for ratemaking purposes?

14           A.     I certainly don't recall that.  I do recall  
15     myself having some concerns about the conversion to  
16     digital and the effects that would have in terms  
17     of the shifting of cost to intrastate because of the  
18     non-traffic portion of those costs being much higher  
19     with the new digital switching.

20           Q.     Do you recall Mr. Buckelew on behalf of the  
21     staff arguing that the conversion by the company from  
22     step-by-step switches to electronic switches was  
23     unnecessary to provide its services?

24           A.     We're into the area of conjecture.  I would

25 suspect his testimony related to timing rather than  
(DAMRON - CROSS BY SHAW)

364

1 whether it was inappropriate or not.

2 Q. With this history of the staff challenging  
3 the company's level of plant investment in the state  
4 of Washington, do you believe that the company given  
5 that history is incented under traditional regulation  
6 to aggressively invest in the state of Washington?

7 A. As I've detailed in some detail in my  
8 testimony, I believe there is a potential in the  
9 Washington market, and I think that US WEST recognizes  
10 that potential, and I don't think regulation is going  
11 to do anything to discourage that, and I think  
12 regulation and legislature has done everything they  
13 can to encourage new technology, new services, et  
14 cetera.

15 JUDGE CANFIELD: Can I get an estimate, Mr.  
16 Shaw? We're a little beyond the estimates now and  
17 maybe I could just update them because for planning  
18 purposes we've got another witness to get into. Maybe  
19 I could get an idea of how much more for Mr. Damron.

20 MR. SHAW: I have just less than 15  
21 minutes, another series of questions.

22 JUDGE CANFIELD: And Mr. Butler had ten  
23 minutes. Is that still close?

24 MR. BUTLER: Yes.



25 JUDGE CANFIELD And Mr. Adams, 15?

(DAMRON - CROSS BY SHAW)

365

1 MR. ADAMS: Yes.

2 JUDGE CANFIELD: And Ms. Weiske, five?

3 MS. MacNAUGHTON: She stepped out, I  
4 believe.

5 JUDGE CANFIELD She stepped out. And Mr.  
6 Finnigan had five to ten?

7 MR. FINNIGAN: Probably five minutes.

8 JUDGE CANFIELD: Five, okay. I'm just  
9 trying to -- we did hope to conclude the witnesses  
10 this morning. We do have a public session at 1:30, so  
11 with that in mind maybe we could proceed then and  
12 confine the questions maybe a little briefer and the  
13 responses maybe a little briefer. It might facilitate  
14 getting through with the scheduling.

15 MR. SHAW: I understand, your Honor. I  
16 have over 95 pages of testimony and exhibits here by  
17 Mr. Damron that I'm trying to cover as quickly as I  
18 can.

19 Q. Mr. Damron, you understand that US WEST  
20 believes that it will be faced with significant  
21 competition by carriers such as cable TV companies  
22 that will be offering integrated broad band video and  
23 voice telecommunications services in the state of  
24 Washington?

25           A.     I don't know that -- they have apparently

(DAMRON - CROSS BY SHAW)

366

1     made some moves to avoid that competition by joining  
2     in a joint venture.  I don't know whether that's going  
3     to be competition.

4           Q.     The joint venture with Time Warner under  
5     current law will not provide services in US WEST's  
6     current services territory, will it?

7           A.     That's my understanding.  Laws change.

8           Q.     And you understand that at least US WEST  
9     believes that other joint venturers like US WEST's  
10    joint venture with Time Warner will come in and  
11    operate in Washington?

12          A.     They will.  I examined that issue in a --

13          Q.     As a result, does your testimony mean that  
14    you expect and fully approve of US WEST rapidly  
15    rebuilding its network with broad band capability in  
16    Washington to meet that competitive threat?

17          A.     I think that's a business decision.

18          Q.     And you wouldn't expect regulation to  
19    disallow that expense?

20          A.     I think regulation and legislature wants to  
21    see a wide dissemination of a wide variety of services  
22    and I think that will encourage -- not only provide  
23    services but will provide jobs in the state of  
24    Washington.  I don't think that's something that the

25 legislature or the Commission is going to discourage.

(DAMRON - CROSS BY SHAW)

367

1 I think the question becomes who shall pay and who's  
2 going to benefit from fiberoptic and so forth and so  
3 on.

4 Q. And if the company does rapidly replace its  
5 outside plant with broad band capability, that's going  
6 to result in accelerated obsolescence of its existing  
7 plant and put great upward pressure on depreciation  
8 expense, is it not?

9 A. That could follow, but again depending on  
10 who is going to benefit from fiberoptic. The anthem  
11 of the company for years has been put the cost on the  
12 cost causer, and I think the Commission might want to  
13 look at that issue very carefully.

14 Q. Despite how that expense might be allocated  
15 across the company's rates and services, under  
16 traditional regulation the company is absolutely  
17 entitled to recover that depreciation reserve expense,  
18 is it not?

19 A. As long as it's judged to be prudently  
20 incurred to the benefit of ratepayers by this  
21 Commission, certainly. The answer is yes.

22 Q. So you do expect regulation to attempt to  
23 disallow from the results of operations the company's  
24 efforts to upgrade its network with broad band

25 capability?

(DAMRON - CROSS BY SHAW)

368

1                   MR. BUTLER: Your Honor, seems to me that  
2 we're getting way far afield here from the issues in  
3 this proceeding and the witness is being asked to  
4 testify about things that are not in his prefiled  
5 testimony and that call for extreme amount of  
6 speculation on his part. Asking him to make judgment  
7 about cases that are going to be extremely complicated  
8 and about which there's going to have to be a lot of  
9 information developed. I don't see how this is really  
10 related to the issues that are before the Commission  
11 today.

12                   MR. SHAW: Your Honor, the thrust of this  
13 hundred pages of testimony is that traditional rate of  
14 return regulation is superior in this witness's  
15 viewpoint to alternative forms of regulation,  
16 including the current alternative form of regulation.  
17 I think it's totally relevant on what the likely  
18 consequences to the public are going to be of sticking  
19 to traditional rate of return regulation in the state  
20 of Washington.

21                   MR. BUTLER: The question of whether this  
22 particular AFOR plan should be terminated, allowed to  
23 continue for its plan duration, i.e., the end of 1994,  
24 or somehow modified is in no way going to relate to

25 what regulatory treatment may or may not be given to  
(DAMRON - CROSS BY SHAW)

369

1 investment to provide broad band services including  
2 entertainment video services. If that sort of an  
3 issue comes before this Commission and we have a  
4 regulatory structure that empowers this Commission to  
5 deal with those issues, it's going to be a long time  
6 past the time when this AFOR plan has been terminated.

7 MR. SHAW: Your Honor, this testimony  
8 has been admitted and the great bulk of it talks about  
9 Mr. Damron's opinion on what an AFOR is going to have  
10 to look like and his -- it's safe to say that his  
11 opinion of -- in view of what an AFOR would look like  
12 are very negative. The alternative is traditional  
13 rates of return regulation. That's all within the  
14 scope of this testimony and the company's entitled to  
15 cross-examine this testimony.

16 MR. SMITH: Your Honor, if I may pipe in  
17 here. As I indicated yesterday, given the nature of  
18 this proceeding I hesitated to object as I might in  
19 other cases, but even after listening to Mr. Shaw's  
20 explanation, I don't see the relevance of this. Ms.  
21 Stumpf testified yesterday that the staff is  
22 recommending either termination of the plan or  
23 continuation with the modifications proposed by the  
24 Commission in the proposed order. Mr. Damron's

25 opinion of what another AFOR should look like is

(DAMRON - CROSS BY SHAW)

370

1 irrelevant to that.

2 MR. SHAW: Then why was the testimony  
3 introduced by the staff?

4 MR. SMITH: Why didn't the company object?  
5 And I can explain why it was admitted. To the extent  
6 most of it relates to the criticism or critique of the  
7 current plan, much more of it relates to the  
8 modifications proposed by the Commission. Some goes  
9 beyond the modifications by the Commission, it's  
10 true. But the notice of hearing wasn't limited to  
11 those. However, as Ms. Stumpf indicated staff's  
12 recommendation is based on the modifications proposed  
13 by the Commission.

14 JUDGE CANFIELD: I agree with the  
15 objection. I'm going to sustain it. We're getting  
16 into areas of undue speculation. I know to some  
17 extent we're going to have to get into that, but I  
18 mean in view of the series of steps, we've gone afield  
19 a bit. I'm going to sustain the objection.  
20 We're dealing with matters here not necessarily in  
21 evidence. I know the underlying testimony we've got  
22 before us. I'm going to allow cross-examination on  
23 that, and I think I have, but as far as getting into  
24 these tangential areas and then asking Mr. Damron to

25 speculate on it, I think we're getting a bit far

(DAMRON - CROSS BY SHAW)

371

1 afield, so I'll sustain the objection.

2 MR. SHAW: Well, in that case, I have no  
3 further questions.

4 JUDGE CANFIELD: Okay. Mr. Adams.

5

6 CROSS-EXAMINATION

7 BY MR. ADAMS:

8 Q. Mr. Damron, first of all I just want to ask  
9 you some questions concerning some of the rate of  
10 return figures that you've given. I'm trying to  
11 reconcile what some of the implicit assumptions are in  
12 some of those numbers. At pages 41, and let me just  
13 give you a general reference of page 41 and 42 in your  
14 testimony in Exhibit 1054 through 1056.

15 As I understand the figures that you report  
16 for earned returns on a rate of total rate of return  
17 basis that is before sharing, I believe you've  
18 indicated figures of for 1990 of 13.03 percent; '91,  
19 13.7; and '92, 14.01. And I believe those are  
20 consistent with the testimony of Ms. Stumpf at page 6.  
21 Now, are those figures on a Commission basis? As a  
22 reported basis? What is the basis of those numbers?

23 A. Those are, from my recollection -- this  
24 program has gone on now for 3 and a half years. My

25 recollection is that those are the uncontested

(DAMRON - CROSS BY ADAMS)

372

1 adjustments or what I would characterize as the  
2 prescribed adjustments of the settlement agreement, so  
3 it's more of a settlement basis adopted by the  
4 Commission more than a Commission basis I think.

5 Q. Okay. And for those respective years and I  
6 understand -- as I understand it, the implicit --  
7 again, this is on a before-sharing basis -- the  
8 implicit rates of return are 17.53 percent, 18.79  
9 percent, and 20.09 percent for '90 through '92  
10 respectively, because those are the numbers  
11 specifically pointing to Ms. Stumpf's testimony.

12 A. Are you referencing the returns on equity?

13 Q. Yes. I'm sorry if I was unclear.

14 A. Yeah.

15 COMMISSIONER CASAD: Might I ask what's the  
16 reference to it?

17 MR. ADAMS: Ms. Stumpf's testimony, page I  
18 believe it's 6. Yes, those are from the top  
19 paragraph, lines -- actually it starts on page 5, the  
20 very last paragraph, line 23, and carrying over to  
21 line 8, top of page 6.

22 Q. Now, in your testimony going back to pages  
23 41 and 42, as I understand it, you have reported  
24 after-sharing rates of return for '90 and '91 of 11.79



25 percent and 11.95 percent. Could you give us a 1992  
(DAMRON - CROSS BY ADAMS)

373

1 figure assuming that any sharing is not given to  
2 depreciation, in other words, that it is either  
3 negative surcharge, rate restructure, or whatever? Do  
4 you have a number of what that would produce as an  
5 equivalent number for 1992?

6 A. Yes. As I discussed with Counselor Shaw  
7 earlier on Exhibit 1056, page 1, line 18, the overall  
8 return there after sharing is shown to be 12.62  
9 percent. I have assumed a weighted cost of debt of I  
10 believe about 3.73 percent. It has varied slightly  
11 but not much in the last few years. If you subtract  
12 that from the 12.26, divide that by .53 you derive a  
13 return on equity of after sharing of 16.09 percent.

14 Q. That was not a number that you supplied as  
15 part of your direct testimony, is that correct?

16 A. No, I didn't. The 12.62 is in my exhibit  
17 but the equity equivalent is not.

18 Q. Okay. And maybe this is the same number,  
19 but at page 68 of your testimony you indicated there  
20 you were discussing what the return of equity would be  
21 at the bottom of the range, that is, at the 9.25  
22 percent overall rate of return level. You indicated  
23 the calculation would be 10.4 percent return on  
24 equity?

25           A.     That is correct.  That's at line 24, page  
             (DAMRON - CROSS BY ADAMS)

374

1     68.

2           Q.     Okay.  For that calculation I note that you  
3     indicated that you used the 1991 weighted cost of  
4     debt.  Do you see that testimony?

5           A.     Yes.

6           Q.     Okay.  Are today's debt costs at that level  
7     higher or lower, do you know?

8           A.     Well, today's as in 1992 or today's as in  
9     today?

10          Q.     Well, end of '90, '92 or any more current  
11     than that.

12          A.     I don't think they varied considerably  
13     through '92.  You are aware that there is considerable  
14     of refinancing going on, and I believe as we speak  
15     July 1 they were going to turn over a considerable  
16     amount of debt and go to a lower debt cost, and I  
17     don't have any figure as to what that will put them  
18     at, but that certainly should bring them to a lower  
19     cost of debt.

20          Q.     Am I correct then that to the extent they  
21     are able to lower their debt cost the, if you will,  
22     implicit return on equity would go up?

23          A.     It would.

24          Q.     And for purposes of the calculations that

25 you've already discussed at page 41 through 42 and in  
(DAMRON - CROSS BY ADAMS)

375

1 your exhibits 1054 through 1056, are those all based  
2 on using that '91 weighted cost of debt figure?

3 A. I believe I used the '90 and the '91, and  
4 you're testing my memory. As I said in those two  
5 years it didn't vary by more than .1 percentage  
6 points, so it really didn't have a tremendous effect  
7 on the answer.

8 Q. Do you know -- you've indicated that  
9 approximately 10.4 percent return on equity is the low  
10 end of the band. Do you know what the implicit return  
11 is, return on equity is at 11 percent?

12 A. I believe that is in my testimony. But I  
13 have forgotten where.

14 MR. BUTLER: Page 18?

15 A. Yes. At page 18, lines 9 through 13, the  
16 11 percent upper end of the return range equates to a  
17 13.7 percent return on equity.

18 Q. Would you agree then again to the extent  
19 that the company is able to refinance debt at lower  
20 cost that upper end would be higher as well?

21 A. It would be.

22 Q. Okay. I want to change to one other area.  
23 And that is briefly the circularity issue that you  
24 have commented about. If the Commission had made

25 permanent rate reductions through rate restructures

(DAMRON - CROSS BY ADAMS)

376

1 for each of the periods '90, '91 and '92, would that  
2 have cured your concerns about circularity?

3 A. Yes. In other words, the circularity  
4 issue, as I characterize it, is a situation where you  
5 -- rates do not change, you collect it, you refund a  
6 portion of it, you collect it, you refund a portion of  
7 it. If you have a permanent rate reduction somewhere  
8 in there, that eliminates a great deal of my concern.  
9 I think I state that at the very last page of my  
10 testimony at page 86.

11 Q. And by doing that all again all you are  
12 permanently putting into permanent rate reductions is  
13 the ratepayers' share of the excess earnings, correct?

14 A. I think that would be the result, yes.

15 Q. Do you have any idea of what kind of a  
16 scenario the AFOR would have presented from its  
17 inception to date had permanent rate reductions been  
18 put into place through rate restructures? And when I  
19 say the scenario, I mean in terms of earnings of the  
20 company or overearnings?

21 A. Well, I guess we could get into a  
22 considerable number of variables, but all else held  
23 constant, the ratepayers who enjoyed the lowering of  
24 rates would enjoy those lower rates, there would be

25 less sharing, but they would be paying less rates.

(DAMRON - CROSS BY ADAMS)

377

1 Q. And in effect that is one of the  
2 recommendations I understand staff is making for the  
3 prospective remaining period?

4 A. For the '92 sharing, yes.

5 Q. And also for '93 and '94, is it not?

6 A. I was involved in other matters and the  
7 staff -- the disposition of excess revenues issue was  
8 handled by other people so I'm not intimately aware of  
9 staff's recommendation in that area.

10 Q. I'm really going to the recommendations for  
11 the continuation of the AFOR.

12 A. Yes.

13 MR. ADAMS: Thank you. That's all I have.

14 JUDGE CANFIELD Ms. Weiske, questions?

15

16 CROSS-EXAMINATION

17 BY MS. WEISKE:

18 Q. Just one, Mr. Damron. On page 17 of your  
19 testimony you recommend that competitive services not  
20 share in the disposition of excess revenues. Could  
21 you give me an idea of what you had in mind there in  
22 terms of specific services when you referred to  
23 competitive services?

24 A. I'm referring to those services that the

25 statute provides that if a company can demonstrate

(DAMRON - CROSS BY WEISKE)

378

1 that a service is a competitive service that it can be  
2 declared so and receive pricing flexibility. Centrex,  
3 for example, and the Centrex line of services. And  
4 the substance of my testimony is that those are  
5 priced, they are priced competitively, presumably, and  
6 they don't receive the same risk to the ratepayer, I  
7 believe.

8 Q. Is Centrex service the only service you had  
9 in mind there when you wrote that?

10 A. There are other services but that is the  
11 one that I think generates the most revenues to the  
12 company in terms of competitive services.

13 MS. WEISKE: Thank you. That's all I have.

14 JUDGE CANFIELD: Okay. Ms. MacNaughton.

15 MS. MacNAUGHTON: I have no questions.

16 JUDGE CANFIELD None? Mr. Butler?

17

18 CROSS-EXAMINATION

19 BY MR. BUTLER:

20 Q. Mr. Damron, to follow up on the question  
21 that Ms. Weiske just asked you, with regard to your  
22 testimony on page 17 regarding whether competitive  
23 services should receive any of the benefits associated  
24 with disposition of excess revenues, you indicated

25 that Centrex services in your opinion should not. By

(DAMRON - CROSS BY BUTLER)

379

1 that statement did you intend to include the  
2 noncompetitive portions of Centrex services or only  
3 the competitive portions?

4 MR. SHAW: Your Honor, I'm going to object  
5 on exactly the same basis Mr. Butler objected and Mr.  
6 Smith objected. This cross-examination is not  
7 directed at the issues in this case which is should  
8 the AFOR be modified as proposed by Ms. Stumpf in  
9 terms of the staff. This supposed recommendation of  
10 Mr. Damron apparently is his personal opinion about  
11 what a follow-on AFOR should contain. Since I was cut  
12 off from cross-examining Mr. Damron on his ideas about  
13 follow-on AFORs, I don't think any other party should  
14 be able to waste the hearing time with that  
15 cross-examination either.

16 MR. BUTLER: I'll accept that if I could  
17 just ask a question of Mr. Damron.

18 Q. Is it your recommendation that this AFOR be  
19 modified to include a provision to prevent competitive  
20 services from sharing in disposition of excess  
21 revenue?

22 A. As I said, my testimony is more in the  
23 nature of suggestions rather than recommendations.  
24 Ms. Stumpf is our policy witness and responsible for

25 staff's recommendations.

(DAMRON - CROSS BY BUTLER)

380

1 Q. So it is not the staff's recommendation  
2 that this plan be modified in a way that would  
3 preclude competitive services from sharing in excess  
4 earnings?

5 A. It's not a formal staff recommendation, no.

6 Q. And would the same be true for contract  
7 services?

8 A. The same answer.

9 Q. You indicated in your testimony at page 13  
10 that the modifications the staff recommends should be  
11 made before this AFOR plan is allowed to continue  
12 beyond December 31, 1993. Do -- am I correct in  
13 assuming that it is then staff's recommendation that  
14 unless modified, the AFOR plan be terminated effective  
15 at the end of calendar 1993 and that the 1993 excess  
16 earnings, if there are any, be disposed of according  
17 to the terms of the present AFOR plan?

18 A. Yes. I believe we're far into 1993 at  
19 this time and to terminate it mid year without some  
20 other plan in place or some other vehicle I think  
21 would be a windfall to the company.

22 Q. If the Commission were to order that all of  
23 the 19 -- the ratepayers' portion of the 1992 excess  
24 earnings be applied to permanent rate reductions, do



25 you know what the resulting achieved return for the  
(DAMRON - CROSS BY BUTLER)

381

1 company would be?

2 MR. SHAW: Object to the form of the  
3 question. There is no ability of the Commission to  
4 order entirety of the sharing to be applied to  
5 permanent rate reductions. It can be applied to rate  
6 restructures that may involve rate reductions.

7 MR. BUTLER: I'll accept that change.

8 JUDGE CANFIELD: Okay.

9 A. As a matter of fact, no, I do not know.  
10 There was some what-if analysis that was contained  
11 in the staff's reports -- I don't know that I have  
12 that at hand -- but under certain assumptions there  
13 would still be a certain amount of dollars available  
14 for sharing at the end of this year.

15 Q. So am I correct in interpreting your answer  
16 as saying that if the entirety of the ratepayers'  
17 portion of 1992 excess revenues were disposed of in  
18 the form of rate restructures that involved permanent  
19 rate reductions, that there would still be excess  
20 earnings in '93, all else being equal?

21 A. That was based on a what-if analysis that  
22 staff prepared and the assumptions of that analysis  
23 that are stated in our report that was our belief.  
24 We obviously can't predict the future.

25 Q. Assuming again that all else remains equal

(DAMRON - CROSS BY BUTLER)

382

1 in 1993, do you know the answer to that question when  
2 you consider the effects of the implementation of SFAS  
3 106 effective January 1, 1993?

4 A. That will have the effect of depressing the  
5 company's rate of return, but there certainly could be  
6 offsetting factors such as additional reductions in  
7 force levels, et cetera, that would have the effect of  
8 mitigating that impact.

9 Q. Assuming all else were equal, would there  
10 be any excess earnings left considering the  
11 implementation of FAS 106 if the '92 earnings were  
12 returned in the form of rate restructures involving  
13 permanent rate reductions?

14 A. I don't know. I have not made that  
15 analysis.

16 Q. At page 12 of your testimony, line 16 --  
17 well, actually beginning at line 14 and running  
18 through 18, you talk about the depreciation option and  
19 you indicate there that if rates are not re-based,  
20 -- you make a statement if rates are not re-based,  
21 then what difference does it make what the level of  
22 depreciation reserve is. Does that mean that in your  
23 opinion ratepayers don't receive any direct benefit by  
24 the choice of the depreciation option until rates are

25 rebased?

(DAMRON - CROSS BY BUTLER)

383

1           A.     I think they receive a benefit, perhaps,  
2 but in terms of the amount of money they take out of  
3 their pocket and pay to US WEST they are not going to  
4 realize any change until rates are rebased and they  
5 pay the, presumably, the lesser rates, all else being  
6 equal.

7           Q.     Am I correct that in 1990 of 1990 excess  
8 revenues some substantial portion of those excess  
9 revenues were devoted towards the depreciation option  
10 and that is one reason why the after-sharing achieved  
11 return was the 11.79 percent?

12          A.     Yes.  If you look at Exhibit 1054, page 2  
13 at line 9, you will see the ratepayers' share portion  
14 of the ratepayers' share that was applied and -- let  
15 me back up.  At page 2, line 6 is the ratepayers'  
16 share which was \$5 million.  The company's share then,  
17 proportional share, was the 5,158,000.  Combine those  
18 you have 10,158,000.  I believe the number that the  
19 company has used is ten million six.

20          Q.     And line 16 of that page, the 11.79 percent  
21 is the after-sharing achieved return enjoyed by US  
22 WEST, is that correct?

23          A.     It shows after all sharing including the  
24 impacts to the reserve, the overall return on line 16,

25 and the return on equity on line 20 under the

(DAMRON - CROSS BY BUTLER)

384

1 assumption of a 53 percent equity ratio and a weighted  
2 cost of debt of 3.74.

3 Q. If the depreciation option had not been  
4 chosen and one of the other options had been chosen in  
5 1990, would the company's after-sharing achieved  
6 return have been 12.03 percent as indicated on line 18  
7 of page 1 of that exhibit?

8 A. That's correct.

9 Q. And I take it from your testimony on page  
10 12, lines 14 through 15, that if the entire amount of  
11 money available for sharing were devoted to the  
12 depreciation option every year, that the company would  
13 effectively be held to an achieved after-sharing  
14 return of 11 point -- of 11.0 percent, is that  
15 correct?

16 A. That's true. They would be realizing  
17 fairly accelerated depreciation charges and would be  
18 held to that return, yes.

19 Q. But the rates paid by ratepayers would  
20 still generate revenues that were equivalent to what  
21 you've referred to as the before-sharing levels, is  
22 that correct?

23 A. Right. As I pointed out in my testimony,  
24 the Commission should take note of what the company's

25 present tariffs are generating in terms of a return

(DAMRON - CROSS BY BUTLER)

385

1 before sharing.

2 MR. BUTLER: Thank you. I have no further  
3 questions.

4 JUDGE CANFIELD: Okay. And Mr. Finnigan.

5 (Discussion off the record.)

6 JUDGE CANFIELD: Mr. Finnigan.

7 MR. FINNIGAN: Thank you.

8

9

CROSS-EXAMINATION

10 BY MR. FINNIGAN:

11 Q. Mr. Damron, one of the interests of WITA in  
12 this case is that there are WITA member companies that  
13 are interested in proposing their own alternative  
14 forms of regulation and so they are interested in  
15 seeing the types of recommendations the staff has to  
16 make as to what an alternative form of regulation  
17 should look like. In looking through your  
18 recommendations is it staff's position that the types  
19 of things that are recommended here for US WEST should  
20 apply in every case no matter what size of company is  
21 involved in proposing an alternative form of  
22 regulation?

23 A. I was following you right up to the last  
24 part, sir.

25 Q. Is it your position, is it staff's position

(DAMRON - CROSS BY FINNIGAN)

386

1 that the types of recommendations -- and I'll pick a  
2 couple just to make it easier -- that there should be  
3 continued monitoring of an alternative form of  
4 regulation on a rate of return result and that there  
5 should be a productivity type of analysis made?  
6 Should those types of standards apply to any form of  
7 alternative form of regulation proposed by any company  
8 even a company that has 2,000 or 3,000 access lines?

9 A. I cannot speak for the staff. I can speak  
10 for myself on that and my opinion would be, no, I think  
11 the differences between a company like US WEST that  
12 covers 36 percent of the continental United States and  
13 Tenino Telephone Company is considerably different.  
14 I'm aware that the FCC has recently initiated dockets  
15 to look at alternative forms of regulation for small  
16 and mid size LECs, and I have taken an interest in  
17 that. Certainly the smaller the company, the less  
18 resources you have available to do the sophisticated  
19 analysis, but again this is my own opinion. This is  
20 not something I've discussed with management or the  
21 staff.

22 Q. Then in your opinion, for example, it might  
23 be possible for a small company to come in and propose  
24 co-location and expanded interconnection but in

25 exchange receive some freedoms from traditional

(DAMRON - CROSS BY FINNIGAN)

387

1 regulation?

2 A. I have not formed an opinion on that, sir.

3 MR. FINNIGAN: Thank you.

4 JUDGE CANFIELD: Thank you, Mr. Finnigan.

5 Let's take our lunch break. Obviously we didn't  
6 conclude in the morning session as we had hoped to so  
7 we will continue this after the scheduled public  
8 hearing at 1:30 this afternoon. Following that we  
9 will continue with Mr. Damron and then on to Mr.  
10 Moran. So we're in recess.

11 (Lunch recess taken at 11:55 a.m.)

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(DAMRON - CROSS BY FINNIGAN)

388

1

AFTERNOON SESSION

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1:33 p.m.

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JUDGE CANFIELD: We're back on the record in Docket Numbers U-89-2698-F and U-89-3245-P. This is a matter being heard before the Washington Utilities and Transportation Commission. Specifically the Commission scheduled this time 1:30, Friday, July 2, 1993, to receive testimony and exhibits, if any, from witnesses on behalf of the public.

So I would like to turn it over to Mr. Adams who is public counsel and ask if there are any witnesses on behalf of the public to present at the public hearing today.

MR. ADAMS: I see lots of volunteers but they are all staff. At this point no one has come forward. What I would suggest that we might do is adjourn the public hearing portion of it and then pick up a little bit later on just to make sure no one has come in.

In the meantime, I indicated to you off the record the Commission received a letter, one letter, that has addressed the issue, and I have made copies of it. I think you ought to perhaps establish it as a ratepayer exhibit. There may be some other copies of



25 letters received by the Commission, but I have not

(DAMRON - CROSS BY FINNIGAN)

389

1 been given them nor am I aware of them, but I would  
2 ask if we could determine there are any other similar  
3 letters received by the Commission that they be added  
4 to an illustrative consumer or public exhibit.

5 JUDGE CANFIELD: When would you know  
6 whether there were additional exhibits to be added to  
7 that?

8 MR. ADAMS: I should know -- I don't know  
9 if Ms. Simmons is here this afternoon. I tried to  
10 catch her at the lunch break, but I did not see her.  
11 Normally she hands them to me when they arrive and she  
12 would have them if they have them at the Commission.  
13 And perhaps we could mark this one letter at least as  
14 a public exhibit.

15 JUDGE CANFIELD: Okay. Why don't you go  
16 ahead and distribute that then.

17 For the record, Mr. Adams has distributed  
18 the document he was requesting to have marked as an  
19 illustrative public exhibit, and I'll mark it as the  
20 next exhibit number in order which is Exhibit Number  
21 1061.

22 And the request was if there are additional  
23 letters, that you would want to supplement this  
24 exhibit, Mr. Adams?

25 (Marked Exhibit No. 1061.)

(DAMRON - CROSS BY FINNIGAN)

390

1 MR. ADAMS: Yes, your Honor. As I say, I'm  
2 not aware of any and I think I could verify in very  
3 short order whether there are any more. I know that  
4 our office has not received any and they would have to  
5 be here at the Commission if they've been received at  
6 all.

7 JUDGE CANFIELD: Okay. And you would be  
8 able to let us know later today if there's going to be  
9 any supplementation of the exhibit?

10 MR. ADAMS: Yes, that's correct.

11 JUDGE CANFIELD Okay. Any objections to an  
12 illustrative public Exhibit No. 1061? Let the record  
13 reflect there are none. That exhibit is so entered  
14 into the record, and Mr. Adams will let us know later  
15 on if there was a request to supplement that exhibit.  
16 So that Exhibit 1061 is so entered into the record.

17 (Admitted Exhibit 1061.)

18 JUDGE CANFIELD: And I'll just ask for the  
19 record whether there are any members of the public  
20 wishing to offer testimony at this time. Let the  
21 record reflect there are none, and should someone come  
22 in later and make their presence known and desire to  
23 offer testimony we can certainly entertain a request  
24 at that time to resume the public hearing portion.

25 But as of this time I'll let the record reflect there  
(DAMRON - CROSS BY FINNIGAN)

391

1 are no members of the public wishing to offer  
2 testimony on the matter.

3 So with that, we'll adjourn the public  
4 testimony portion, and as indicated earlier we were  
5 going to then get back into the testimony as it was  
6 interrupted by the lunch break, and at which time we  
7 had Mr. Damron on the stand, and we had just concluded  
8 the questioning from counsel and we were going to get  
9 to questions of the Commissioners for Mr. Damron.

10

11 EXAMINATION

12 BY CHAIRMAN NELSON:

13 Q. Mr. Damron, your testimony at page 14  
14 prompted a question I have which I probably should  
15 have asked Ms. Stumpf but I didn't have it in mind  
16 then. It's particularly with respect to the sentence  
17 that starts at line 8 where you say a basis upon which  
18 to rebase rates needs to be developed.

19 I guess I had assumed that if we went  
20 forward with the proposals the Commission issued in  
21 the initial order and US WEST did not agree to them, I  
22 guess I would assume that a traditional kind of  
23 complaint case with rate base rate of return analysis  
24 would be filed shortly thereafter. And I guess that I

25 assumed there would be some test year basis for then a

(DAMRON - EXAMINATION BY NELSON)

392

1 rebasing of rates. Is there anything faulty in any of  
2 that assumption?

3 A. Well, certainly that would be an option  
4 that the staff would anticipate that the Commission  
5 might file a complaint, but I guess I don't know how  
6 to respond to that other than, yes, if a complaint is  
7 issued we would proceed along the traditional rate of  
8 return on rate base regulation calculation.

9 My testimony or the substance of my  
10 testimony here was that there ought to be some -- I  
11 think the feeling was that if we have a program that  
12 proceeds for five years, at the end of the five years  
13 that we ought to be looking at rebasing rates before  
14 we proceed with another five years, but if the  
15 Commission rescinds the program then I guess it's a  
16 whole new ball game and proceed from there.

17 Q. So this sentence then would be something  
18 that in either a new AFOR or as a modification to this  
19 one you would suggest an explicit basis for rebasing  
20 rates on a periodic basis going forward in the future.  
21 Is that what all of this was about?

22 A. Well, essentially, yeah. I think the  
23 Commission stated at the inception of this thing that  
24 an examination of the company's rate was essential as

25 a beginning and starting point to an AFOR, and my

(DAMRON - EXAMINATION BY NELSON)

393

1 assumption is that if you renew that and proceed with  
2 another program, at some point that another look-see  
3 at the company's rates would be an appropriate place  
4 to start.

5 Q. Let's assume a hypothetical I just  
6 mentioned does carry out, but that the initial order's  
7 proposals are accepted by the company and we finish  
8 out the next 18 calendar months or so under this AFOR  
9 as modified. If we were to prepare then for a new  
10 AFOR, how would we proceed?

11 And I guess what I'm trying to ask is in a  
12 situation parallel to this in the Puget case, for  
13 example, where we have an experimental regulatory  
14 system going on, the staff found that they couldn't  
15 engage in collaboratives with the company at the same  
16 time as it was engaging in a rate case with Puget,  
17 couldn't do the parallel things at the same time.

18 Would you see there being an impediment to  
19 getting a new look-see -- if I can use your words --  
20 at rates in preparation for a follow-on AFOR? Would  
21 there be any administrative or staff resource kind of  
22 impediment to doing both at the same time?

23 A. There's certainly a staff resource problem.  
24 I believe at the beginning of this AFOR there was a

25 parallel proceeding. There was an earnings complaint  
(DAMRON - EXAMINATION BY NELSON)

394

1 that was going down one track, and then at some point  
2 the negotiations began with the AFOR. The two  
3 proceedings were merged and we came up with a  
4 conclusion. So I don't see that one or the other is  
5 an impediment. Certainly requires more effort.

6 CHAIRMAN NELSON: I thank you for that  
7 answer. Thank you. That's all I have.

8

9

EXAMINATION

10 BY COMMISSIONER CASAD:

11 Q. I would like to extend a little bit beyond  
12 that. I have two questions. I have not heard anyone  
13 project that this AFOR will be terminated by the  
14 Commission and we will return permanently to rate base  
15 regulation. Virtually every witness has talked about  
16 almost a presumption that there will be a follow-on  
17 AFOR.

18 If there is a follow-on AFOR and there are  
19 18 months remaining for this one to run, it would seem  
20 essential that there be some kind of an -- I don't  
21 want -- I guess I would use the term "collaborative,"  
22 but that has connotations on the electric side that  
23 may or may not fit well with everybody.

24 But there needs to be some kind of a joint

25 effort prior to the expiration of the AFOR so that

(DAMRON - EXAMINATION BY CASAD)

395

1 something could be implemented so there wouldn't be a  
2 large gap and we would then be in a default position  
3 for a certain period of time. Would you agree with  
4 that?

5 A. Absolutely. I think there's a need very  
6 soon to hopefully get Commission management and the  
7 company and whatever other players are involved in  
8 that to sit down and start talking about what comes  
9 after December of '94.

10 Q. Have you read Mr. Moran's testimony?

11 A. I have.

12 Q. Mr. Moran's testimony indicates a  
13 willingness on the company's part to accept or  
14 participate in a number of adjustments to this AFOR.  
15 In your view, what are the remaining differences  
16 between the staff and the company? What outstanding  
17 issues that the company has not indicated they could  
18 accommodate are remaining?

19 A. I really haven't made a detailed  
20 comparison. I think that -- is your question a  
21 comparison of the proposed Commission changes compared  
22 to what the company is willing to accept?

23 Q. Yes.

24 A. It's my anticipation that before this

25 record is closed and when Mr. Moran takes the witness  
(DAMRON - EXAMINATION BY CASAD)

396

1 stand, that will be clarified. And I'm uncertain  
2 as to what that -- his answers will be.

3 COMMISSIONER CASAD: I will ask Mr. Moran  
4 that question during the course of his testimony.  
5 Thank you.

6 COMMISSIONER HEMSTAD: I have no questions.

7 JUDGE CANFIELD Okay. Thank you. Mr.  
8 Smith, any redirect for Mr. Damron?

9 MR. SMITH: Just a few, your Honor.

10

11 REDIRECT EXAMINATION

12 BY MR. SMITH:

13 Q. Mr. Damron, Mr. Shaw was seeking out your  
14 views about AFORs generally, I think, and I want to  
15 ask you a couple questions on that. I guess your  
16 critique of the existing plan is in the record  
17 already, but are you opposed to AFORs or incentive  
18 regulation across the board?

19 A. No. Absolutely not. In fact, I hoped  
20 I had made that clear in my testimony. I do have a  
21 certain amount of skepticism as to how one applies  
22 measures and monitors such a program but, no, I am not  
23 adamantly opposed to all incentive regulation, no.

24 Q. And would you conclude flatly that any AFOR



25 that resulted in a high rate of return for the company  
(DAMRON - REDIRECT BY SMITH) 397

1 would be bad?

2 A. No. As I clarified with Counselor Shaw, my  
3 problem is a high rate of return without any way of  
4 monitoring or verifying that that return is  
5 accompanied by the performance that the Commission  
6 desired to see.

7 Q. One last question. Mr. Shaw had some  
8 questions to you about outside plant. Let me pose a  
9 hypothetical to you. If the company were to build  
10 some outside plant in an area where growth was  
11 projected but the growth never occurred and at the  
12 same time had to build plant in an area where growth  
13 wasn't projected but did occur, could that result in  
14 excess capacity and held orders at the same time?

15 A. Yes. Apparently that is precisely what has  
16 happened in the last couple three years. The company  
17 has a low -- has capacity out there. The apparent  
18 problem is it isn't in the right place as far as held  
19 orders are concerned.

20 MR. SMITH: Those are all my questions.

21 JUDGE CANFIELD: Okay. Any questions on  
22 recross? Nobody from the parties? Commissioner.

23

24 EXAMINATION

25 BY COMMISSIONER HEMSTAD:

(DAMRON - EXAMINATION BY HEMSTAD)

398

1 Q. That exchange did trigger a question that I  
2 had in the back of my mind. You have a very  
3 substantial concern about the lack of measurement of  
4 productivity is one of your criticisms of the AFOR  
5 process. Is that a fair statement?

6 A. I would broaden that to a verification of  
7 benefits under some method, whether productivity  
8 measurement or some other measurement.

9 Q. Could you give me a brief definition of  
10 productivity in this context?

11 A. Well, the standard definition of  
12 productivity is it's an input/output measurement.  
13 Productivity I think that we're looking for in terms  
14 of verification here is to determine whether  
15 internally generated productivity that is within the  
16 control of management was produced as a result of the  
17 program, and that's very difficult to measure or  
18 verify.

19 Q. Well, let's take an example like -- I'm  
20 sure it could be much more refined than this, but the  
21 replacement of copper with fiber in the system.  
22 That's a technological advance. When the company  
23 replaces copper with fiber and the output from that is  
24 more productive, would you subscribe that to an

25 increase in productivity that is attributable to the  
(DAMRON - EXAMINATION BY HEMSTAD)

399

1 company's actions and, therefore, promotes benefit?

2 A. I think the technological advance is not  
3 necessarily the result of any single company's  
4 efforts, and to that extent I don't think that's  
5 something you could say was internally generated  
6 productivity.

7 Q. So you would reject that kind of change or  
8 advance, or however you would describe it, as not  
9 something that would be -- should be taken into  
10 account in measuring productivity?

11 A. I don't think I could give you an absolute  
12 yes or no to that. In my reading there's -- as these  
13 studies can become very complex and very  
14 sophisticated. And I've read some of the FCC's  
15 consideration on this. In the area of technological  
16 advance they've judged that technological improvement  
17 has always been a part of this industry, and so it  
18 depends on the school of thought.

19 Q. But now some management teams, for example,  
20 could be much more aggressive about this, those kinds  
21 of changes than others.

22 Now, how would you measure the dimension of  
23 management skills having an impact on the application  
24 of technological change?

25           A.     I think you put your finger on the problem

(DAMRON - EXAMINATION BY HEMSTAD)

400

1     that staff faces and that's the quantification of  
2     benefits.

3           Q.     But are you driven from that to the  
4     conclusion that you can't measure it?

5           A.     I am driven to the conclusion that if there  
6     is a way to measure internally generated productivity  
7     solely as the product of internal efficiencies  
8     obtained by management that I don't think anyone has  
9     found that method yet.

10          Q.     Now, Mr. Moran's testimony sort of picks  
11     that up when he says it's impossible to prove either  
12     way. Are you forced to that same position?

13          A.     I think, yes. I mean, the reverse is true,  
14     I think, but when we're talking about rewarding the  
15     company with millions of dollars that it would be  
16     incumbent on that company to make some showing that  
17     there's some benefit accruing to the ratepayer.

18          Q.     On the other hand, in your testimony you're  
19     saying that we need some kind of measurement in order  
20     to go down this road at all?

21          A.     Well, I believe in my discussion with  
22     Counselor Shaw if we can't find a direct measurement,  
23     that perhaps that there is a need for a yardstick of  
24     some type, that I think that just simply assuming that

25 all excess revenues are the product of internal

(DAMRON - EXAMINATION BY HEMSTAD)

401

1 efficiencies and sharing, that is far too simplistic.

2 I think there should be some sort of yardstick either

3 comparing individual company performance with a

4 national index or something of that nature where the

5 Commission has some sort of objective yardstick to

6 evaluate the company's performance, either compare it

7 to a national index or compare it to the company's

8 prior performance, say, at a predivestiture time or --

9 Q. I don't want to beat this to the ground,

10 but if you had a national index, of course, the

11 national index would suffer from the same kinds of

12 problems that you are asserting we have here?

13 A. Well, yeah. It's an imperfect world. But

14 I think this program could be made better, at least

15 give you some sort of objective. As I state in my

16 testimony, any type of productivity study would be

17 better than nothing at all. I mean, some assurance

18 that indeed there is some positive productivity going

19 on here, whatever the source, would certainly be

20 better than no verification at all.

21 COMMISSIONER HEMSTAD: That's all I have.

22 JUDGE CANFIELD: Any others? No? Okay,

23 thank you, Mr. Damron. You're excused. And if my

24 list is current, the next one up is Mr. Moran.

25 MR. SHAW: Call Mr. Moran to the stand.

(DAMRON - EXAMINATION BY HEMSTAD)

402

1 (Discussion off the record.)

2 Whereupon,

3 MIKE MORAN,

4 having been first duly sworn, was called as a witness  
5 herein and was examined and testified as follows:

6 JUDGE CANFIELD: During the break I did go  
7 ahead and preassign numbers to the prefiled testimony  
8 and exhibits of Mr. Moran. Let me just briefly  
9 indicate those for the record.

10 Assigned exhibit number of T-1062 for the  
11 prefiled testimony, and the two accompanying exhibits  
12 I have assigned the numbers of 1063 and 1064. Mr.  
13 Shaw.

14 (Marked Exhibits Nos. T-1062, 1063 and  
15 1064.)

16 MR. SHAW: Thank you.

17

18 DIRECT EXAMINATION

19 BY MR. SHAW:

20 Q. Mr. Moran, can you state your name and  
21 address and employer for the record, please.

22 A. My name is Mike Moran. My address is Room  
23 3008, 1600 Bell Plaza, and I work for US West  
24 Communications.

25 Q. Mr. Moran, do you have in front of you

(MORAN - DIRECT BY SHAW)

403

1 what's been marked as T-1062 and Exhibit 1063 and  
2 1064?

3 A. Yes, I do.

4 Q. Do you have any changes or corrections to  
5 make in that prefiled testimony and exhibits?

6 A. Yes, I have a couple. On page 11, line 7,  
7 after the word "decrease" should be added the words "per  
8 access line." And on page 27, line 13, there's a  
9 number there that shows as "22 percent." It should be  
10 "14.64 percent."

11 MR. BUTLER: Could you repeat that, please.

12 MR. ADAMS: Could you recite it again.

13 THE WITNESS: Page 27, line 13, there's a  
14 number "22 percent." It should be "14.64 percent."

15 MR. SHAW: Do those complete your changes?

16 A. Yes, they do.

17 Q. Mr. Moran, when you prepared this  
18 testimony, did you, like the initial testimony of Ms.  
19 Parker on behalf of AT&T, reference the organization  
20 of your testimony to RCW 80.36.135 sub (2)(a) through  
21 (g) instead of 80.36.135 sub (3)(a) through (g)?

22 A. Yes, I did format it in that manner.  
23 Although most of the points are addressed they are not  
24 addressed exactly the format of subsection (3).

25 Q. Do you intend your testimony to address the  
(MORAN - DIRECT BY SHAW) 404

1 requirements of both subsection (2) and subsection (3)  
2 of RCW 80.36.135?

3 A. Yes.

4 MR. SHAW: With that understanding, your  
5 Honor, I would move the admission of the three  
6 exhibits.

7 JUDGE CANFIELD: Any objections?

8 MR. SMITH: No objection.

9 JUDGE CANFIELD: None? Okay. Let the  
10 record reflect there are none. Exhibit T-1062 and  
11 Exhibits 1063 and 1064 are so entered into the record.

12 (Admitted Exhibits Nos. T-1062, 1063 and  
13 1064.)

14 MR. SHAW: Thank you, your Honor. The  
15 witness is available for testimony.

16 JUDGE CANFIELD: Okay. Thank you. Mr.  
17 Smith, questions for Mr. Moran?

18 MR. SMITH: Yes.

19

20 CROSS-EXAMINATION

21 BY MR. SMITH:

22 Q. Mr. Moran, just in light of that last  
23 exchange, am I correct the company's position is that  
24 the criteria in subsection (3) control this



25 proceeding?

(MORAN - CROSS BY SMITH)

405

1           A.     Well, I guess I would defer that to the  
2 lawyer. I think the statutory criteria is what I felt  
3 controlled it and I looked at the whole section. Most  
4 of the things that are referred in there kind of  
5 overlap so as to exactly what paragraphs may control  
6 and which paragraphs don't apply I guess I would  
7 leave that to counsel.

8           Q.     Page 24 and 25 of your testimony you give a  
9 qualified yes, as you put it, to the question of  
10 whether the plan can be modified and you list several  
11 of the modifications that the company has either  
12 agreed to already or could live with. Do you see  
13 that?

14          A.     Yes, I do.

15          Q.     Then on page 26 you list the concerns you  
16 still have with the modifications proposed by the  
17 Commission. And your first concern has to do with the  
18 tie-in with the quality of service rule. Now, under  
19 the current AFOR the company makes monthly service  
20 quality reports to the Commission, is that right?

21          A.     That's correct.

22          Q.     And the current AFOR doesn't establish any  
23 standards for determining whether the service quality  
24 reports meet any acceptable level, does it?

25 A. No, not explicitly, I don't think so.

(MORAN - CROSS BY SMITH)

406

1 Q. And there are no, at least in the plan,  
2 there's no consequences set forth for the company if  
3 their quality of service doesn't meet any particular  
4 level, is there?

5 MR. SHAW: Could counsel clarify whether  
6 he's talking about the existing AFOR or the proposed  
7 modifications of the initial order?

8 MR. SMITH: I'm speaking of the current  
9 AFOR.

10 MR. SHAW: Thank you.

11 THE WITNESS: And that's the context I've  
12 been answering it.

13 Q. Yes. Okay. But there are no consequences  
14 from the service quality reports required by the  
15 existing AFOR, are there?

16 A. No.

17 Q. And your concern with the proposed  
18 modifications, or at least one of them, is you're not  
19 sure what the consequences might be of failing to meet  
20 some of the standards or requirements of the quality  
21 of service rule, is that accurate?

22 A. Yes. In part.

23 Q. Okay. And are there some consequences you  
24 have in mind other than perhaps a penalty assessment

25 from the Commission?

(MORAN - CROSS BY SMITH)

407

1           A.     Well, it's unclear.  There's two things  
2 that we are concerned about it.  What kind of a  
3 showing do we make, and I think in one of our comments  
4 we listed all the aspects of the quality rule and  
5 there are 50 or 60 specific items, some of which can  
6 be quantified, some of which can't, and our concern is  
7 in terms of what kind of a showing do we come forth  
8 with and what opens up, does that allow for parties to  
9 come in and argue something based on that one of those  
10 doesn't pass or two of those don't pass.  What does it  
11 do to the follow-on sharing?  What does it do to the  
12 administration of the plan?  What does it do in terms  
13 of what procedures do we have to put in place in order  
14 to do enough monitoring to make a showing?

15                     I related back to this productivity  
16 question that we may get into later, the initial plan  
17 didn't have any requirements for any -- for  
18 productivity and I can discuss how that came about,  
19 but then all of a sudden came in this requirement that  
20 we demonstrate where each sharing dollar came from and  
21 demonstrate that it was the result of management  
22 efficiencies.  So we put a report together and people  
23 resoundingly keep saying you haven't demonstrated  
24 anything.  And I don't know, we put together a fairly

25 sophisticated report we thought. It took a long time

(MORAN - CROSS BY SMITH)

408

1 to put it together and it took a lot of work by a lot  
2 of people to put it together. Obviously in the minds  
3 of the people who have been around the table it didn't  
4 speak for anything.

5           So the question is are we opening up  
6 another one of those. That no matter what we bring  
7 forth it's not going to be enough, there's going to be  
8 something to say, there's some isolated components of  
9 service, and be it held orders or be it the tone of  
10 the operator answer, that didn't meet its standards,  
11 so what happens? That's the concern.

12           The Commission has the ability to handle  
13 service. It's got its new quality rule. It has the  
14 ability to impose fines. It has the ability to open  
15 up investigations. It has lots of tools in place to  
16 deal with quality. And it just was -- it's just  
17 unclear why it drops into the process this way, and it  
18 just raises our concerns in part, as I said, because  
19 of the history that we have with this plan.

20           Q.     But the history with the current quality of  
21 service reports on this plan has not been negative,  
22 has it?

23           A.     No. And that's why I don't know why that  
24 isn't satisfactory just to continue the plan the way

25 it has in that area.

(MORAN - CROSS BY SMITH)

409

1 Q. But if the tie-in to the quality of service  
2 rule were a monitoring or reporting requirement such  
3 as under the current plan, would you still have  
4 concerns or objections about the relationship to that  
5 rule?

6 A. No. We have no problem with the  
7 monitoring. The rule itself has some monitoring. As  
8 a matter of fact, we made our first report I believe  
9 last month under the current rule, so there's already  
10 monitoring in place under the current rule and that  
11 current rule was adopted over a period of about two  
12 years with all the industry players developing on  
13 what's the right standards, what's the right language,  
14 and what's the right monitoring. So as I say, it  
15 seems like something more is in mind by sticking this  
16 into the AFOR this way and I'm not clear what it is.

17 Q. If nothing more were in mind, would you  
18 still object to it?

19 A. No. If that's just a reaffirmation of the  
20 -- an emphasis on the fact that the quality rule  
21 is -- applies to us under an AFOR as well as to  
22 anybody else who isn't under an AFOR, I have no  
23 problem with that.

24 Q. Another one of your concerns relates to the

25 treatment of exogenous cost factors, and on page 27, I  
(MORAN - CROSS BY SMITH)

410

1 believe it's beginning on line 1, you indicate that  
2 litigation will result from the exogenous cost change  
3 proposal because no standard is prescribed. Do you  
4 have any particular standard in mind that would allay  
5 your concerns in regard to this proposed modification?

6 A. Yes, I do. And that is what we've  
7 recommended and that is that we specifically define  
8 the nature of the exogenous factors as we did in the  
9 original plan, and we've agreed because there's been a  
10 real concern about the relationship in the independent  
11 company access charges. That list could be expanded  
12 to include the independent company access charges as  
13 long as they included the net impact which would  
14 include any impacts of an independent company becoming  
15 a primary toll carrier.

16 Q. So when you say specifically to define, are  
17 you talking about making a laundry list or some  
18 definition into which a particular situation could be  
19 applied?

20 A. I'm talking about a laundry list and the  
21 reason I'm doing that is just relate back to the  
22 testimony that just took place on the stand when the  
23 discussion was with the staff regarding the deployment  
24 of fiber, as to whether that's an exogenous factor or

25 not. Now that's just one of literally thousands and  
(MORAN - CROSS BY SMITH)

411

1 tens of thousands of things that we do.

2 My office is all torn up because they are  
3 putting energy efficient lights above my head. They  
4 -- I asked them why they are doing that and they are  
5 saying because that will cut the electric bill in half  
6 for the building I'm in. Is that an exogenous factor?

7 Somebody talked earlier about the fact that  
8 interest costs gone have down. And we've aggressively  
9 gone out and tried to refinance. Is somebody going to  
10 come in and say that's an exogenous factor? And if  
11 they come in and say it, who decides and how do they  
12 decide whether it is or not? I mean, you can debate  
13 those issues for a long time.

14 And I've just given you some examples and I  
15 think you could go on and on. There's literally  
16 thousands and hundreds of thousands of transactions  
17 that take place in the company and if we've got to  
18 have some kind of a standard, it's almost like going  
19 back to fair value rate base where we used to send  
20 people out and fair value the poles and the cars and  
21 each switch in order to decide what, you know, what  
22 the right rates were. That's the concern I have with  
23 what's in the initial order.

24 Q. In the initial order proposes the addition

25 of significant exogenous cost factors, wouldn't that

(MORAN - CROSS BY SMITH)

412

1 modification alone pare your list down quite a bit?

2 A. I don't know how long we could debate about  
3 what significant means for a company like US WEST, and  
4 there's a lot -- I wouldn't say a lot, there's not  
5 tens of thousands of significant factors that happen  
6 in our company, but there's probably thousands of them  
7 that happen in our company, and I don't know how long  
8 you would debate just the one that was discussed,  
9 whether the deployment of fiber is an exogenous factor  
10 or not.

11 And I guess I don't know what standard one  
12 would use. As I've said, we've fought long and hard  
13 about this. I've looked around at other states trying  
14 to look at how they do it, and I guess there's a Z  
15 factor thing in California, I'm told, that that  
16 involves a fair amount of litigation to decide what  
17 the Z factor is.

18 And so I just think at this stage with this  
19 much left in this plan that opening up the list to be  
20 -- an exogenous factor to be what anybody wants to  
21 propose is a problem. That's not the only problem I  
22 have with exogenous factors. I have a problem with  
23 the netting. I don't know whether you'll get to that  
24 or not.



25 Q. If the Commission included a specific  
(MORAN - CROSS BY SMITH)

413

1 standard or some laundry list for exogenous cost  
2 factors in the proposed modifications, would the  
3 company find that acceptable?

4 A. From that aspect it would be -- certainly  
5 be more acceptable. A specific list is what I think  
6 is workable. A standard, I guess we would be happy to  
7 take a look at a standard, but I think defining a  
8 standard depending on how it's defined, I can -- it's  
9 a difficult subject. I'm trying to think of what  
10 standard one would define that would make it easy to  
11 decide whether the deployment of fiber in the loop and  
12 the certain places and in the right place turns out to  
13 be an exogenous factor or management initiative.

14 Q. Okay. You just mentioned another of your  
15 concerns is that increases are not offset by decreases  
16 in the proposed modification. It's correct that if  
17 costs increase that sharing will be reduced, isn't  
18 that correct?

19 A. Yes. If costs increase, sharing will be  
20 reduced.

21 Q. And if costs drive the company below 11  
22 percent rate of return under the current plan there  
23 will be no sharing at all for that year, is that  
24 correct?

25           A.     That's right.

(MORAN - CROSS BY SMITH)

414

1           Q.     On page 8 of your testimony at the top you  
2     have a chart depicted.  And at line 6 there's a line  
3     labeled Net Gain.  Could you explain for me what goes  
4     into that net gain category?

5           A.     I'm sorry.  Which page again?

6           Q.     Page 8.

7           A.     That's the net gain and access lines.  It's  
8     essentially the difference between the inward movement  
9     and the outward movement of access lines.

10          Q.     So that would include the movement of your  
11     existing customers in that figure?

12          A.     Well, it gets netted out.  If a customer  
13     moves across town in Olympia, they are an inward  
14     movement when they move in their new house, and they  
15     are an outward movement when they move out of their  
16     old house, so it nets out like exogenous factors could  
17     net out.

18                   MR. SMITH:  Thank you.  That's all my  
19     questions.

20                   JUDGE CANFIELD:  Okay.  That's it, Mr.  
21     Smith.  Mr. Adams, do you have questions for Mr.  
22     Moran?

23                   MR. ADAMS:  Yes, just a few.

24

(MORAN - CROSS BY ADAMS)

415

1 BY MR. ADAMS:

2 Q. First of all, Mr. Moran, if you would  
3 look at page 3 of your testimony, line 3 where you say  
4 it was never the intent of paragraph 8 of the  
5 agreement that the review period would be a time to  
6 insert touch-up adjustments into the plan. Do you see  
7 that testimony?

8 A. Yes.

9 Q. Does US WEST take the position that it has  
10 a right to opt out of any modifications to the plan?

11 A. As I read paragraph 8, and I'll qualify  
12 this with the answer I'm not a lawyer, so I'm not  
13 going to make the -- I'll give you my layman's view.  
14 That paragraph 8 is what I've testified to. If we  
15 intended to modify it, I think it would have said  
16 that. We spent a lot of time discussing this when we  
17 put it together.

18 Paragraph 8 was an opportunity to terminate  
19 the plan if it isn't working and I liken that to what  
20 they use at Cape Canaveral when they send a rocket up  
21 and it looks like it's going off course, they press a  
22 button and blow it up. They don't send a repairman  
23 up.

24 This is the way that my view of paragraph 8

25 was, and that this plan would have to be terminated.

(MORAN - CROSS BY ADAMS)

416

1 Now, as I've said also in my testimony that doesn't  
2 preclude another AFOR almost like this one with some  
3 minor changes being proposed as a new AFOR.

4 Q. But so it's your interpretation that  
5 basically the Commission has an all-or-nothing  
6 proposition in front of it?

7 A. On this AFOR, yes. Yes. I think that's  
8 -- they don't have all or nothing, because as has been  
9 discussed here they can make an offer of a revised  
10 AFOR, but I don't think the Commission has the ability  
11 to say US WEST must accept these changes. We didn't  
12 sign up for a situation that we could go along and  
13 somebody could just unilaterally impose changes on.  
14 That isn't what we who negotiated it had in mind when  
15 we signed it.

16 Q. Okay. Assuming the Commission does propose  
17 changes, is it your position that you can refuse  
18 to accept those changes, I call it opt out?

19 A. Well, the way I read the statute the  
20 Commission on its own motion can investigate and  
21 develop an AFOR through a hearing. They then can  
22 issue an order, and the company according to the  
23 statute, as I read it, has 60 days as to whether they  
24 want to take that AFOR or not, and I would think that

25 we would have that statutory right on any new AFOR, be  
(MORAN - CROSS BY ADAMS) 417

1 it one that looks a little bit like this one with a  
2 few changes or be it a completely different one as may  
3 be TRACER has proposed.

4 Q. You're drawing a distinction between  
5 modifying the existing plan versus a new AFOR that may  
6 essentially be nothing but a modification of the  
7 existing one?

8 A. Well, the distinction I think -- the  
9 distinction is as to whether we have an ability to opt  
10 out. I thought that's where you were focusing and I  
11 was trying to clarify where we had the ability to opt  
12 out and where we didn't.

13 Q. That is, assume modifications are proposed  
14 to the existing plan. Do you believe under the  
15 statute you can opt out of that if you don't choose to  
16 accept that?

17 A. Yes.

18 Q. So whether it would be a new plan or a  
19 modification to an existing plan, in either case the  
20 company reserves or believes it has the right to opt  
21 out?

22 A. Yes.

23 Q. Would you turn to page 25 just as a point  
24 of reference and to the paragraph that begins at line

25 7. I'm trying to frankly determine what the company  
(MORAN - CROSS BY ADAMS)

418

1 is agreeing to when we deal with permanent rate  
2 restructures. Please define for me a rate  
3 restructure.

4 A. A rate restructure is a rate change that is  
5 made for some other reason than just simply to give  
6 revenues back or across the board. A rate restructure  
7 is when you are changing rate groups you are  
8 realigning rates because they are not reflective of  
9 their costs. There are some anomaly that you have,  
10 the same service might be offered in two different  
11 tariffs at different rates and you want to bring those  
12 in line to rationalize are rate structure. The kinds  
13 of things that have been testified around here by Mr.  
14 King and others that needs to be done to rationalize  
15 the rate structure in those areas. That's what I  
16 think in my mind is a rate restructure.

17 And in the negotiation process I think what  
18 people had in mind was we periodically get these needs  
19 to do these and they are difficult because every time  
20 you maybe try to restructure something to get rates in  
21 line, it means increases to some customers. You've  
22 got rates going up and going down but they don't  
23 balance usually.

24 And the way you make them balance on a

25 revenue neutral is you have to go along and you have  
(MORAN - CROSS BY ADAMS)

419

1 to raise somebody's rates and that tends to be the  
2 sticking point. Because even if you do a rate  
3 restructure that makes a lot of sense, it usually  
4 doesn't make sense to the person whose rate has been  
5 abnormally low, a la term loops, if you want, for a  
6 wide example we've just filed live, and they don't  
7 like that.

8           So the thinking was when you get the ups  
9 and downs and maybe you're \$5 million off, rather than  
10 raise somebody's rates 5 million someplace, maybe some  
11 sharing money could be used to do that and then we  
12 could get the restructuring done.

13           The idea that people who designed the plan  
14 knew that for five years we didn't think we would have  
15 big rate proceedings, and traditionally big rate  
16 restructures were done as part of the rate  
17 proceedings, and if we're going to be in the AFOR the  
18 idea of being -- we're going to want to make some  
19 restructures along the way and if there's some sharing  
20 money turning up maybe it's a surrogate for those big  
21 rate proceedings that you have every two or three  
22 years and you can pick off some of the sharing money  
23 and go ahead and use it to balance the rate  
24 restructure out.

25                   And the recognition was that, yes, it would

(MORAN - CROSS BY ADAMS)

420

1   probably be permanent because you wouldn't undo it the  
2   next year if there weren't any sharing. And that's  
3   why in the testimony by both Mr. Cook and I we said  
4   you had to handle them carefully because of the  
5   permanent effects. If you weren't careful, if you had  
6   a big huge rate restructure you could easily drive us  
7   below 9.25 perhaps, and you have to file a rate case.

8                   It's a tool that has to be handled  
9   carefully. That's the understanding I had with rate  
10  restructures and that's the understanding I still have  
11  with it.

12                  Q.   Well, rate restructures over the last three  
13  years seems to be in the eye of the beholder, and I'm  
14  trying to get at what it is that the company is  
15  agreeing to as any kind of modification in this area.  
16  So let me ask you a hypothetical which may sound  
17  somewhat familiar.

18                  Assume you've got \$33 million of money to  
19  share -- that's the ratepayers' share of it -- and  
20  assume -- and I'm not asking you to agree with whether  
21  you would endorse this particular recommendation, but  
22  for instance, if one were to remove all EAS additives  
23  with that money, which would be a permanent reduction,  
24  is that a restructure, a rate restructure the company



25 would call a rate restructure?

(MORAN - CROSS BY ADAMS)

421

1 A. Yes.

2 Q. What about a consolidation of rate groups  
3 similar to the way when we started this AFOR, you may  
4 recall, we went from six rate groups to three, if  
5 we're going to take it to two or one. Is that a rate  
6 restructure?

7 A. Yes.

8 Q. What about a reduction in the differential  
9 between rates, as an example, business, residential,  
10 which is currently I think a little bit above two to  
11 one. Let's assume you took it to 1.9. Is that a rate  
12 restructure?

13 A. That's the only one, as I say in my  
14 testimony, that we took exception to, and that's a --  
15 we said we didn't think it was, because it looked more  
16 like an across the board reduction.

17 I think one like that has to be looked at  
18 as to what's the primary reason it's being done. Is  
19 it being done simply to pass out revenues or is it  
20 being done to move -- to move things closer to their  
21 cost or to accomplish some other reason.

22 And the way it came across first it was an  
23 across the board, and our fear was if you use the  
24 theory that it simply changes the relationship between

25 two rates then anything except an across the board to  
(MORAN - CROSS BY ADAMS)

422

1 all customers could be a rate restructure because any  
2 change in one rate or any group of rates without  
3 changing all rates proportionately could be said, well,  
4 that changes a relationship, so on the basis that it's  
5 just simply a change in relationship, I would say, no,  
6 it's not a rate restructure.

7           If cases can be made because of an anomaly  
8 or we've even refiled for a restructure based on those  
9 business rates that says they need to be changed for  
10 other reasons than just simply to reduce revenues and  
11 get a different percentages of something else, then it  
12 could qualify for a rate restructure but it would have  
13 to be looked at carefully.

14       Q.     Aren't we back to exactly where we were  
15 when the AFOR went into effect, that every time  
16 various parties made proposals on how to share various  
17 revenues there was a debate, and this debate I think  
18 the Commission didn't get any sort of unanimity on  
19 these issues because everyone had their pet rate  
20 reduction in mind, and I think the Commission was left  
21 with a major dispute in front of it?

22           How do we avoid that with what I -- I'm not  
23 sure what you're proposing that the company is willing  
24 to live with in the area of rate restructures, but how

25 is this process simplified by your testimony today?

(MORAN - CROSS BY ADAMS)

423

1 And I'm just addressing rate restructures.

2 A. Well, to answer this, and I'm sorry for a  
3 long answer, but I've got to challenge a little bit  
4 the characterization of your question. Your inference  
5 is that all this debate and difficulty is because of  
6 the position we've taken on rate restructures.

7 I'll submit to you that the only position  
8 that we have said was rate restructures are not an  
9 across the board reduction and of all the rate  
10 restructures that have been proposed and there have  
11 been many, and there have been several that we don't  
12 like and we've objected to them, and we feel that it's  
13 not inconsistent with the AFOR to argue, for instance,  
14 that a reduction of residence rates is a poor rate  
15 restructure.

16 Now, if you read our comments we didn't say  
17 that that was outside the realm of the AFOR. We  
18 argued against WITA's community saver plan. We didn't  
19 argue that it was not contrary to the AFOR. The  
20 Commission couldn't do it. We just simply said it was  
21 a bad idea and the only one -- only one case that we  
22 argued that we thought it was beyond the AFOR plan and  
23 that had to do with the business restructure simply on  
24 the basis to change its relationship to something

25 else. And so all the debate around rate restructures  
(MORAN - CROSS BY ADAMS)

424

1 I think is just typical when you have as many  
2 interested parties as you do and when you use a rate  
3 restructure with a permanent rate reduction you pass  
4 out the money to a selected group and some get it  
5 and some don't, and I don't think you can blame all  
6 that debate on the position we've taken on rate  
7 restructures.

8 Q. Regardless of, you know, if there is any  
9 party at fault or whatever, regardless who starts the  
10 debate, under the existing AFOR and under any change  
11 that I think I hear you saying you could live with as  
12 to this element, there will be a rather contentious  
13 proceeding at least for the next two sharing periods  
14 if they are allowed to continue? Would you agree with  
15 that?

16 A. Well, I guess you have to say contentious  
17 proceeding along what lines? The sharing proceedings  
18 are not formal hearings. They are comments. I don't  
19 see us going to court if the Commission picks one of  
20 those rate restructures that we didn't like, I don't  
21 see any other party going to court if they pick one of  
22 the rate restructures that they don't like.

23 The only -- as I said, the only thing we  
24 say is a rate restructure is not an across the board

25 decrease, and I don't see any across the board

(MORAN - CROSS BY ADAMS)

425

1 decreases proposed. I think there was only the one  
2 and that's the one I said was proposed. All the other  
3 rate restructures we've had I think it's healthy to  
4 have it, I thought it was healthy to have the option,  
5 with a qualifier, I think it's a good facet of the  
6 plan. And maybe on retrospect, you know, people  
7 cannot come together on the restructure so maybe in  
8 retrospect it isn't that good and maybe it shouldn't  
9 be used, but I'm not prepared to say that it ought to  
10 be removed. I guess I wouldn't object if the  
11 Commission wants to take the rate restructure option  
12 out of the plan. That's a modification that I think  
13 we would accept. I don't recommend it but I think we  
14 would accept it.

15 MR. ADAMS: Thank you. That's all I have.

16 JUDGE CANFIELD: Okay. Ms. Weiske,  
17 questions for Mr. Moran?

18 MS. WEISKE: Just a few. Actually, most of  
19 mine have already been asked and answered.

20

21 CROSS-EXAMINATION

22 BY MS. WEISKE:

23 Q. Mr. Moran, it appears to me from careful  
24 reading of your testimony at pages 25 and 26 that you

25 still have a real difficulty with sharing beginning at  
(MORAN - CROSS BY WEISKE)

426

1 11 percent rather than having 100 basis points where  
2 everything would be returned to the company. Is that  
3 a correct paraphrase of one of your concerns?

4 A. Yes.

5 Q. Are you in your capacity in Washington  
6 familiar with other AFOR plans that US WEST currently  
7 operates under?

8 A. I have some familiarity. I am not an  
9 expert on all the other plans, but I try to keep up on  
10 them.

11 Q. Are you familiar with the fact that the  
12 Colorado AFOR that US WEST recently agreed to does  
13 begin sharing at the authorized rate of return and  
14 that there is no 100 basis-point spread where 100  
15 percent would be returned to the company prior to any  
16 sharing?

17 A. Yes, I think that one does. I didn't say  
18 they all have a dead zone in there. I'm saying that  
19 most of them do, a good share of them do. I think the  
20 Colorado plan also begins at an authorized rate of  
21 return. It's somewhere around 11 percent and does not  
22 have a hypothetical capital structure embedded in it.

23 Q. Are you aware of the fact that the Utah  
24 AFOR plan that US WEST withdrew from, which was their

25 option under the statute, also began sharing

(MORAN - CROSS BY WEISKE)

427

1 immediately at the authorized rate of return? Yes or  
2 no would be helpful, given the time, if you can do  
3 that.

4 A. No, I'm not that familiar with that point  
5 in that plan.

6 Q. Talking a little bit about the service  
7 quality standards that you also refer to on those same  
8 pages. It appeared that you're stating that US WEST  
9 would not be adverse to service quality measurements  
10 being built into a future AFOR plan, but you question  
11 service quality standards having to be met for the  
12 remainder of this plan. Is that a correct paraphrase  
13 of that testimony?

14 A. Well, not exactly.

15 Q. You say particularly factors at line 17 on  
16 page 26 and has suggested that any successor AFOR have  
17 quality standards built in. What did you mean by that  
18 if you didn't mean that any future AFOR would have  
19 service quality standards built in that would impact  
20 your portion of overearnings?

21 A. That wasn't the part of your question I was  
22 referring to when I said not exactly.

23 Q. If you can answer my question, then I'll  
24 give you a chance to go back and explain your "not

25 exactly."

(MORAN - CROSS BY WEISKE)

428

1 A. I don't have any problem with what you just  
2 said. That's a correct characterization as to a  
3 future AFOR.

4 Q. Okay. What did you mean by not exactly?

5 A. Well, if you can refresh my memory, you had  
6 a reference to what would happen in this current plan,  
7 so could you tell me again --

8 Q. I'm trying to understand if you're willing  
9 to potentially live with service quality standards  
10 impacting overearnings in a future AFOR. And US WEST  
11 has also agreed to similar standards in the AFOR they  
12 are now operating under in Colorado. Is your problem  
13 with this simply the timing as to the continuation of  
14 this plan? And if that's not your problem, then what  
15 is your problem with that application?

16 A. Okay. The problem with the application is  
17 the way it was defined in the initial order that it's  
18 vague and we don't -- it's not clear to us what kind  
19 of a showing we're to give and how that showing is  
20 going to be judged by what standards and what happens.

21 If the Commission -- if we want to sit down  
22 and design a formula along the lines recommended by  
23 TRACER that's well defined, that has the standards  
24 laid out which ones they are, how they are to be



25 graded, and how that directly impacts the sharing

(MORAN - CROSS BY WEISKE)

429

1 formula, if we want to take that time to work  
2 something out and insert it in this AFOR, I would not  
3 be opposed in principle to doing that. I would be  
4 pleased to work in that -- work through that process,  
5 and depending upon the final result if it was fair, I  
6 think that that would be an option that would be a  
7 potential modification that we would accept.

8 Q. So, for example, if the staff were able to  
9 take their current service quality rules and put  
10 qualitative objective numbers to each one of those  
11 requirements, you would not be adverse to that being  
12 tacked on to the continuation of this AFOR in terms of  
13 impacting your portion of the overearnings?

14 A. I would not be adverse. I would reserve  
15 the right to look to see what tacked on means.

16 Q. How about incorporated within the current  
17 plan? Do you like that language better?

18 A. I'm sorry. I didn't want to be cute with  
19 your language. What I meant to say was, how is the  
20 formula balanced? Does above standard performance  
21 offset below standard performance? Does it impact the  
22 sharing by 100 basis points or 300 basis points? Does  
23 it impact the sharing in only one direction or another  
24 direction? Those are some of the things I meant I

25 would want to -- that I thought you wrapped up in your

(MORAN - CROSS BY WEISKE)

430

1 words "tacked on," and that's what I meant.

2 Q. And it appears that you also have a great  
3 deal of difficulty with that portion of the  
4 Commission's 18th Supplemental Order that requires 100  
5 percent of the excess earnings be retained by  
6 consumers between 10.53 and 11 percent. Is that a  
7 fair paraphrase?

8 A. Yes.

9 Q. And do you have an opinion on whether those  
10 would be the easiest incentives or efficiencies to  
11 achieve compared to efficiencies that US WEST might  
12 attain impacting 12.25 to 13 percent, for example?

13 A. Well, I'm not sure what you mean by the  
14 easiest to obtain. It's a big basket of operations,  
15 and whether you sort them out and supposing we have --  
16 we earn 12 percent, I'm not sure whether it was easy  
17 getting from 11.5 to 12 or to get from 10.53 to 11 in  
18 a scenario like that. I guess you would have to help  
19 me out, what do you mean by easiest.

20 Q. Well, I thought since -- maybe I'm making  
21 an assumption that's not fair. I thought since the  
22 company was willing to live with a reverse taper  
23 mechanism, which is what this methodology is commonly  
24 called, that you were in agreement with testimony that

25 Dr. Cornell has filed in other places on behalf of MCI

(MORAN - CROSS BY WEISKE)

431

1 that have adopted a reverse taper, agreeing that more  
2 of the earlier efficiencies in the rate bands a  
3 greater percentage of that is returned to ratepayers  
4 because of the easier efficiencies to attain and,  
5 therefore, the company would be more properly incented  
6 to reach the more difficult efficiencies by giving  
7 them a greater percentage of the rate bands further  
8 away from the authorized.

9 A. I'm not sure if I heard a question. Do you  
10 want me to comment on that?

11 Q. Well, I was asking if you have a different  
12 reason for being willing to go along with the reverse  
13 taper on page 16 of the supplemental order that you  
14 agreed in your testimony US WEST could live with.

15 A. Yes, I have a different reason. I seldom  
16 find myself agreeing with Dr. Cornell.

17 Q. And Dr. Cornell seldom finds herself  
18 agreeing with you, Mr. Moran.

19 A. When we did the initial AFOR plan, I think  
20 we've testified before that I didn't necessarily  
21 endorse everything in it. The -- it was a package. I  
22 don't think anybody that signed it would say that this  
23 item in isolation is one that I agree with. If that's  
24 the case, we could have some more cross maybe of some

25 of the other matters, but it was a balanced package  
(MORAN - CROSS BY WEISKE)

432

1 and that's what put it together, there were enough  
2 things on the table so that we accepted it in total.  
3 Some things we agreed with more than others.

4 But I don't think you could take it out of  
5 context and say that since Dr. Cornell advocates that  
6 and we signed up an AFOR that had it in it we  
7 necessarily subscribed to that rationale. We agreed  
8 to accept that formula because that formula, balanced  
9 with all the other things in the AFOR, looked to us  
10 like it was worth a go at the time we signed it.

11 MS. WEISKE: That's all I have. Thank you.

12 JUDGE CANFIELD: Thank you. Ms.

13 MacNaughton, questions for Mr. Moran?

14

15 CROSS-EXAMINATION

16 BY MS. MacNAUGHTON:

17 Q. Good afternoon, Mr. Moran.

18 A. Good afternoon.

19 Q. Mr. Moran, I believe in response to  
20 questions from Mr. Adams you testified that in your  
21 opinion the Commission at this point has two options,  
22 either to continue the AFOR without change or to  
23 terminate it, is that correct?

24 A. Not exactly. No.

25 Q. What is your problem with that

(MORAN - CROSS BY MacNAUGHTON)

433

1 characterization?

2 A. Well, they had a third option which is  
3 to offer another AFOR.

4 Q. Does the Commission in your opinion have  
5 the option of modifying the current plan even if US  
6 WEST doesn't go along with each and every element of  
7 the Commission's proposed modification?

8 A. Well, US WEST has to accept the package if  
9 it's changed. As I testified before, the Commission  
10 can terminate this AFOR on its own motion. It can put  
11 another AFOR out there and file the statutory  
12 directive which would give us the choice of accepting  
13 that new AFOR or returning to rate of return  
14 regulation. They have that ability.

15 Q. So you do not believe the Commission has  
16 the authority at this point to order modifications?

17 A. If by order modifications -- anything the  
18 Commission does is by order. If you mean by that  
19 order modifications and we have to accept them and  
20 have no alternatives, I don't believe they have that  
21 authority, no.

22 Q. Do you have available to you a copy of the  
23 statute? If not, I have an extra copy.

24 A. I think I have one in my book here if you

25 give me just a minute.

(MORAN - CROSS BY MacNAUGHTON)

434

1 Q. I'm referring specifically to section  
2 80.36.135 subsection (3) which is the subsection  
3 referred to in the Commission's notice of hearing. Do  
4 you find that section?

5 A. Yes, I do.

6 Q. Specifically I would like to refer you to  
7 the last two sentences before the (a) through (g)  
8 subsections and those two sentences provide quote, The  
9 Commission may also initiate consideration of  
10 alternative forms of regulation for a company or  
11 companies on its own motion. The Commission may  
12 approve the plan or modified plan and authorize its  
13 implementation if it finds after notice and hearing  
14 that the plan or modified plan, end quote, and then  
15 subsections (a) through (g) follow. Do you see that  
16 passage, Mr. Moran?

17 A. Yes, I do.

18 Q. Doesn't that quoted passage give the  
19 Commission the authority to approve a modified plan if  
20 it finds after notice and hearing that the modified  
21 plan fits the statutory criteria (a) through (g)  
22 without regard to US WEST's opinion on the subject?

23 A. No, I don't think so, because I think  
24 there's another place in the statute -- and I was

25 looking for it -- where the company has 60 days, I

(MORAN - CROSS BY MacNAUGHTON)

435

1 believe, to accept or reject.

2 MR. SHAW: Sub (4).

3 A. Not later than 60 days the company may file  
4 with the Commission an election not to proceed with  
5 the alternative form of regulation as authorized by  
6 the Commission, and I think subsection (4) refers to  
7 what happens pursuant to subsection (3).

8 Q. Would you please turn to your testimony,  
9 Mr. Moran, and specifically pages 5 and 6. Beginning  
10 on page 5 and continuing onto page 6 there's a list  
11 of 56 items. Do you see those items?

12 A. Yes.

13 Q. Is it US WEST's position that this list of  
14 56 items represents a list of new technologies  
15 introduced by US WEST since commencement of the AFOR  
16 in 1990?

17 A. I don't think I said it was new  
18 technologies. What the list is is a list of tariff  
19 filings that include new service offerings ranging all  
20 the way from some which are minor modifications of  
21 other offerings that we've had, some pretty new stuff  
22 like SONET, caller ID, transparent land service,  
23 switch multi megabit data service. Some of those are  
24 fairly big and significant. Signaling Systems 7

25 things are pretty significant. Call trace and others

(MORAN - CROSS BY MacNAUGHTON)

436

1 are, one could say, are a minor rearrangement of some

2 feature capability that we may have added.

3 Q. Has US WEST introduced all or many of these

4 services in the other 14 states or other 13 states in

5 which it serves?

6 A. Many of them in many of the states.

7 Q. Is it generally, to your knowledge, US

8 WEST's practice when it rolls out services to roll out

9 those services in all of its 14 states?

10 A. No, that's not the practice.

11 Q. To your knowledge have most or many of

12 these 56 items been introduced in Montana?

13 A. I don't have specific knowledge of Montana.

14 I can give you what my impression is if you want that.

15 Q. Please do.

16 A. I think that many of them have, in terms

17 of the numbers of things, some of the significant

18 ones. Like I don't know that Montana has any SONET.

19 I'm not sure that it has any ACS transparent land

20 services. I'm not sure where Montana is on caller ID.

21 So the answer is some of these have and some of them

22 haven't.

23 Q. And what knowledge do you have regarding

24 whether many or most of these items have been



25 introduced in Arizona?

(MORAN - CROSS BY MacNAUGHTON)

437

1 A. Arizona I think probably has a good share  
2 of these. Arizona is a big state, and US WEST is  
3 proceeding on the assumption that our large states are  
4 going to make a successful transition to the kind of  
5 market and competition and improved forms of  
6 regulation, and so we are trying to at this time keep  
7 all of our big states in big markets technologically  
8 as up to date as we possibly can.

9 Q. Isn't it true that there is no AFOR today  
10 in Arizona?

11 A. There's one under discussion. And I think,  
12 as I say, US WEST is in this thing for the long term.  
13 US WEST and its predecessor has been around 100 years  
14 and we hope to be around another 100 years. Seems  
15 like some of us have been around that long on this  
16 project. But at any rate, we're in it for the long  
17 term, and so I believe there are discussions down in  
18 Arizona right now about going into an AFOR plan.

19 Q. But in any event, you testified, did you  
20 not, that a large number, if not substantially all, of  
21 these services have been introduced in Arizona and  
22 that introduction did not follow the introduction of  
23 an AFOR in that state?

24 A. That's a correct statement.

25 Q. Mr. Moran, is it true that US WEST has

(MORAN - CROSS BY MacNAUGHTON)

438

1 participated in this window review proceeding since it  
2 commenced in approximately April of 1992 and has  
3 participated in the various filings requested by the  
4 Commission, the prehearing conference, et cetera?

5 A. Yes.

6 Q. Isn't it true that US WEST had notice of  
7 the Commission's possible interest in modifying the  
8 sharing bands in the AFOR as early as 1992,  
9 specifically no later than the time of the  
10 Commission's November 10, 1992 bench request?

11 A. Well, the pleadings and the letters from  
12 the Commission can speak for themselves. I think some  
13 of their early letters, and I'm not sure when that  
14 first letter came out, which asked for the parties to  
15 comment on potential modifications, we were certainly  
16 aware of it when that -- whatever the date of that  
17 letter is.

18 Q. Would you accept, subject to check, that  
19 that letter was in fact the Commission's bench request  
20 of November 10, 1992?

21 A. Yes, I'll accept that.

22 Q. And isn't it also the case that US WEST had  
23 notice in 1992 of the Commission's interest in the  
24 possibility of accruing interest on the ratepayers'

25 share of the sharing funds?

(MORAN - CROSS BY MacNAUGHTON)

439

1 A. You're saying in 1992?

2 Q. Right.

3 A. Or as of the date of that letter?

4 Q. Specifically I'm referring to that letter.

5 A. If that's in the letter, and I think it may  
6 be, so the answer would be yes if it's in the letter.

7 MS. MacNAUGHTON: I have no further  
8 questions.

9 JUDGE CANFIELD: Okay, thank you. Mr.  
10 Butler, questions?

11

12 CROSS-EXAMINATION

13 BY MR. BUTLER:

14 Q. Mr. Moran, you had a discussion with Mr.  
15 Adams about the rate restructure option for disposing  
16 of the ratepayers' share of excess earnings. Do you  
17 recall that?

18 A. Yes, I do.

19 Q. Would you agree that under the existing  
20 AFOR plan, without modification of that plan the  
21 Commission could dispose of the ratepayers' share of  
22 1992 excess earnings by ordering that that money be  
23 applied towards the elimination or reduction of rate  
24 groups?

25           A.     Yes, they could.  They have that authority.

(MORAN - CROSS BY BUTLER)

440

1           MR. BUTLER:  Thank you.  No further  
2 questions.

3           JUDGE CANFIELD:  Thank you.  Mr. Finnigan,  
4 questions?

5

6                               CROSS-EXAMINATION

7 BY MR. FINNIGAN:

8           Q.     Thank you, Mr. Moran.  Would you look at  
9 page 8 of your testimony, please.

10          A.     Yes, I have it.

11          Q.     And the entry that begins on line 9 related  
12 to access minutes.

13          A.     Yes.

14          Q.     The rate of growth in access minutes  
15 appears to be declining significantly between 1989 and  
16 1992.  Do you have an explanation for the cause for  
17 the decline in the rate of growth?

18          A.     I don't have a specific explanation.  I  
19 know there are some factors, but I haven't seen a  
20 specific analysis.  I have some suspicions as to what  
21 it is but --

22          Q.     What factors have you seen?

23          A.     Well, I think as the carriers -- these are  
24 access minutes which come off the switched access.

25 Carriers have the ability to go to dedicated access,

(MORAN - CROSS BY FINNIGAN)

441

1 so that would have a tendency to reduce the number of  
2 minutes.

3 Q. Is that the only factor of which you're  
4 aware?

5 A. That's the only one right now. I don't  
6 know whether the economy -- and I've testified other  
7 places, the economy is slow and so whether -- without  
8 seeing the volumes from the other carriers to know  
9 whether that is impacting them or not, I just don't  
10 know.

11 MR. FINNIGAN: Thank you.

12 JUDGE CANFIELD: Thank you. Commissioners,  
13 questions for Mr. Moran?

14 CHAIRMAN NELSON: Yes, a few.

15

16 EXAMINATION

17 BY CHAIRMAN NELSON:

18 Q. Mr. Moran, to follow on a question of Mr.  
19 Adams. As I understand the company's definition of  
20 rate restructures now, let me ask the hypothetical if  
21 the Commission had decided to change the ratio between  
22 the business flat rate and residential flat rate but  
23 gave as its reason not that it was an across the board  
24 reduction, but gave as its reason that it wanted to

25 enable the company to meet incipient competition for  
(MORAN - EXAMINATION BY NELSON)

442

1 business customers, would that have been a rate  
2 restructure the company would have objected to?

3 A. That's a close call. If the reason -- I  
4 think if there was some reason, business rates being  
5 maybe above their cost and moving closer to their cost  
6 and the threat of competition, that's a close call,  
7 but more than likely would fall inside the realm of a  
8 restructure rather than outside.

9 Q. So inside the realm of a restructure  
10 meaning a permissible restructure?

11 A. Yes.

12 Q. Reference has been made to the Colorado  
13 plan, and I am wondering if the Commission in the  
14 19th supplemental order -- is that the next one --  
15 if it were to adopt -- wholesale adopt and adapt the  
16 Colorado quality reporting and showing requirements  
17 and adopt and adapt the Colorado consequences, would  
18 that be acceptable to the company? Would that lessen  
19 the vagueness argument?

20 A. It certainly would lessen the vagueness. I  
21 guess I have not read in depth the Colorado quality  
22 pieces. And I know it was the result of at least a  
23 year, if not more, of negotiating to the Colorado  
24 quality aspects. When the Commission decided to take

25 the Colorado plan, it did so with a lot of

(MORAN - EXAMINATION BY NELSON)

443

1 reservations. It was concerned about many aspects of  
2 the plan.

3 My recollection, it wasn't concerned about  
4 the fact that there was a quality index per se. I  
5 think it had some concerns with some pieces of the  
6 quality index, and I'm not close enough to be able to  
7 tell you what those were, but when it accepted the  
8 whole thing, it did accept -- it accepted the package  
9 which included the sharing points and all the pluses  
10 and minuses of the plan, so I can't give you a  
11 definitive yes or no without making an analysis of the  
12 Colorado plan.

13 MR. SHAW: Mr. Moran, when you stated when  
14 the "commission" accepted the plan, did you mean when  
15 the "company" accepted the plan?

16 THE WITNESS: I'm sorry. When the company  
17 agreed to accept the plan.

18 CHAIRMAN NELSON: Thank you, Mr. Shaw.

19 Q. Well, let me ask then I guess the ultimate  
20 question. If the Commission issued its 19th  
21 supplemental order with pretty much the same language  
22 proposing modifications that we proposed in the 18th  
23 order, will the company reject that?

24 A. I can't say for sure. I would say because

25 of some significant concerns that we have around the

(MORAN - EXAMINATION BY NELSON)

444

1 exogenous factors and the 100 percent sharing point at  
2 10.53, probably yes. But one can never say never in  
3 this business.

4 Q. Very well. One last question. Are you  
5 aware of any plans the company may have with respect  
6 to legislative changes in Washington?

7 A. The company -- with respect to legislative  
8 changes, the company is aware of some of the committee  
9 chair work that's gone on and some of the proposals.  
10 The company expects there will be some kind of  
11 proceedings over there. The company fully intends to  
12 participate in those proceedings over there that would  
13 affect the telecommunications environment markets in  
14 this state, and the company would certainly have its  
15 ideas in the event that legislation starts getting up  
16 on the table or people start putting bills together,  
17 proposed bills together. I think the company would  
18 hope to have some ideas.

19 The company now is certainly trying to talk  
20 among the industry to see what ideas others have  
21 because we have monumental changes with the monopoly  
22 situation, the loss of the monopoly with the emergence  
23 of the competition with the desire to have building  
24 blocks by many of the people, the desire for



25 unbundling, some desires for a number of portability,

(MORAN - EXAMINATION BY NELSON)

445

1 some desires for mutual compensation. There are some  
2 very significant issues on the horizon now that are  
3 going to get dealt with whether they get dealt with  
4 here or whether they get dealt with in the legislature  
5 or FCC or in Congress or whatever, and US WEST plans  
6 to try to get a seat at every table where they are  
7 going to be discussed and make our points and make our  
8 advocacy.

9 Q. It's clear from the cross-examination and  
10 the pleadings and the testimony here that local  
11 exchange competition is very much on your mind. As a  
12 follow-on to that, can you share the ideas that you  
13 might have about legislative changes specific to  
14 Washington at this time?

15 A. I don't think we're far enough along in the  
16 process, and it's a question of whether it's, as I  
17 say, legislative or Commission, I think it's no secret  
18 that US WEST believes that the next iteration of the  
19 change in regulation is not deregulation, as some  
20 think we are advocating, but simply price regulation  
21 to take another step away from -- further away from  
22 the traditional rate of return regulation that we get  
23 tangled up in. So US WEST has advocated that.

24 It's not clear at this time what specific

25 things will be on the table and how extensive the

(MORAN - EXAMINATION BY NELSON)

446

1 legislation might be, whether it deals with just a  
2 portion of the environment or whether it attempts to  
3 deal with the total environment. So I think what we  
4 would like to do is, there's a lot of players, try to  
5 take the temperature inside our business as well as  
6 outside of our business to see if there's any kind of  
7 consensus positions, because it's our feeling that in  
8 this environment in the legislature, if the  
9 legislature is going to have time in the next session  
10 to take up these issues, which is questionable in  
11 itself, you know, how extensive will it be, and to the  
12 extent that parties can achieve some consensus around  
13 some of these issues gives them some possibility. An  
14 issue that is singly identified by any of the parties  
15 including US WEST with no consensus probably doesn't  
16 have much of a chance.

17 CHAIRMAN NELSON: Very well. Thank you.

18

19 EXAMINATION

20 BY COMMISSIONER CASAD:

21 Q. Mr. Moran, there's an old political axiom  
22 that reality is not really important because  
23 perception is important because perception becomes  
24 reality, or I guess you could phrase that another way

25 and say one man's treasure is another man's junk,

(MORAN - EXAMINATION BY CASAD)

447

1 because our view of the settlement agreement differs  
2 substantially.

3 I didn't participate in the settlement  
4 discussions where it was crafted, but I sure as a  
5 dickens participated in reviewing the presentation  
6 that was made to the Commissioners, and my perception  
7 of that discussion was that the Commission was allowed  
8 the greatest, the broadest latitude in applying the  
9 ratepayers' share of the excess earnings.

10 I was more than mildly surprised to see  
11 over time my thoughts and my view of what this  
12 settlement provided substantially change by the  
13 litigation that took place. Everybody else had a  
14 different view about what the Commission's authority  
15 was and it certainly didn't subscribe to what mine  
16 was.

17 I'm not anxious to go through that exercise  
18 again. I was convinced that the Commission had  
19 absolute authority to order rate reductions without  
20 question. And that became a contentious item as time  
21 went on. So I guess I would preface my remarks by  
22 saying that I don't know whether it's possible to  
23 craft a detailed mechanism that everybody is going to  
24 perceive the same way, do away with litigation, so I

25 guess the best we can do is try to minimize the amount

(MORAN - EXAMINATION BY CASAD)

448

1 of contention that's going to take place, and I guess  
2 I have to assume from here on in that these things are  
3 going to be contentious.

4           The alternatives, it seems to me, under the  
5 scenario that you discuss is that the Commission can  
6 either take this window -- and your analogy of, you  
7 know, you fire a rocket and you destroy the rocket,  
8 you don't send somebody up to fix it, I would say is a  
9 little bit in error, because people have been in the  
10 air recently fixing rockets, and I view this window as  
11 exactly that, an opportunity to take a look at this  
12 thing, see if it's working, and if it's not working,  
13 to make some changes similar to what we've been doing  
14 with another regulatory initiative, the Puget Sound  
15 Power & Light case.

16           So with all that in mind, I guess the  
17 options would be pretty simple. We could say we're  
18 going to end this thing and then we could -- staff  
19 could recommend that we complain against the company  
20 for overearnings, and then we could either support  
21 that complaint and file an action or not.

22           Or I guess we could issue an order that  
23 says these are the changes that we think need to be  
24 made, and I guess somebody becomes very lawyer like

25 and they say either, well, this is a new AFOR, or  
(MORAN - EXAMINATION BY CASAD)

449

1 somebody else says, well, this is a modification of  
2 the existing one. I don't think it makes a damn bit  
3 of difference, quite frankly, if the company decides  
4 to accept it. So I think that's a distinction without  
5 a difference.

6 One thing I would like to clarify also is a  
7 number of references have been made to the competitive  
8 environment, you know, how far are we along in the  
9 competitive environment. And I would like to point  
10 out that Judge Lasnik's decision in the ELI case is  
11 under appeal. That has not been finally resolved at  
12 this point in time and I would suspect that it would  
13 be prudent to wait until that appeal process was  
14 finished before we accepted as engraved in stone that  
15 a particular climate existed in the local exchange.

16 But all that aside, down to the only  
17 question and the question I asked Mr. Damron, and a  
18 question I'll ask you, reading your testimony and  
19 reading the staff's testimony, reading everybody  
20 else's testimony, my view is that there's been a  
21 significant narrowing of the differences.

22 I think that most people have recognized  
23 it's better to have an AFOR of some type for this  
24 remaining period than not to have one. And in view of

25 that narrowing of differences what are the

(MORAN - EXAMINATION BY CASAD)

450

1 outstanding, the really gut-cutting outstanding issues  
2 between you and the staff, the ones that you think are  
3 absolutely critically important? That's probably no  
4 more than two or three of them, I wouldn't think.

5 A. Yes. I heard you articulate that question  
6 to Mr. Damron before the lunch and so I wrote down a  
7 list and --

8 Q. It's more than two or three, huh?

9 A. Not many. And perhaps based on what I  
10 heard from the staff cross and inferred, maybe one was  
11 taken off. But one of them was the quality and that  
12 one is probably the easiest one to get around if the  
13 Commission emphasizes that the quality is a  
14 reaffirmation of the rule or if we have some kind of a  
15 proceeding or procedure to put together a specific  
16 formula, a la TRACER or whatever, so I think that is  
17 one concern.

18 Then we get down to what I consider the  
19 most difficult couple of areas that we differ, and  
20 there are an awful lot of areas to this thing so  
21 you're right the list isn't very long. One of them is  
22 starting sharing at 10.53 and taking 100 percent.  
23 That is a significant concern and unprecedented as far  
24 as I know in the country. There are reverse tapers,

25 that's true. We have one. But a reverse taper that

(MORAN - EXAMINATION BY CASAD)

451

1 takes 100 percent is one that I'm not familiar with.

2 Another one, and that's a precedent that US

3 WEST is very, very concerned about, the only other

4 area is in the area of the exogenous factors, and the

5 two concerns we have there are, one, that the list is

6 undefined as -- and with undefined standards as Mr.

7 Smith explored with me.

8 The other one which nobody has explored

9 with me but is the one about the exogenous factors not

10 netting, the fact that a tax increase and tax decrease

11 don't offset, and that's another area of our concern.

12 That's -- those are the differences as I see them,

13 Commissioner Casad.

14 Q. The last one, the exogenous factors not

15 netting, it is your position that exogenous factors

16 somehow have to net?

17 A. Yes. And maybe if you would allow me to

18 explain. It takes a little, so if you will allow me a

19 couple minutes.

20 Q. Please do.

21 A. When you are thinking of exogenous factors,

22 exogenous factors come in to play only when they are

23 sharing, and the only impact exogenous factors have is

24 in the apportionment of the sharing. So if you assume

25 for a minute there's \$20 million that comes up as

(MORAN - EXAMINATION BY CASAD)

452

1 excess revenues that are on the table for distribution  
2 to apportion to the company and apportion to the  
3 ratepayers, that's the only time you even go to talk  
4 about exogenous factors.

5           And the only thing exogenous factors  
6 impact -- exogenous factors have impacted there in the  
7 operation to get to the 20 million. I mean,  
8 everything is in. Things that were 100 percent  
9 management initiatives, tax increases, tax decreases,  
10 so when the calculation is done in the sequence of  
11 things you come up with, we either exceeded or didn't  
12 exceed 11 percent.

13           Then you get up and you find out lo and  
14 behold we exceed the 11 percent by some \$20 million  
15 that is identified in the calculation as subject to  
16 sharing. Then in order to determine per the existing  
17 agreement where the 20 million goes, you go to the  
18 formula and it says the first thing you do is look for  
19 the net exogenous factors, and if there are net  
20 benefiting exogenous factors you would quantify that  
21 and the ratepayers get that amount of money 100  
22 percent.

23           So take an example, if we had 20 million of  
24 excess and there had been a \$20 million tax reduction



25 by itself, then all 20 million would go to the

(MORAN - EXAMINATION BY CASAD)

453

1 ratepayers per the existing formula. That's what it  
2 calls for. If we look at the -- if we look -- and  
3 this is what's happened. If we have 20 million for  
4 sharing, we're trying to decide how to apportion it  
5 out and there are no exogenous factors, of course you  
6 just do the formula calculation, 60 percent in the  
7 first band and you divide up to 20 million.

8           The way the existing agreement works now,  
9 if you have 20 million on the table, and let's say we  
10 take a look and we find out that lo and behold the  
11 company has had the benefit or has had the poor  
12 fortune to have a \$25 million tax increase, then  
13 that's a net -- that's a net negative exogenous  
14 factor. That doesn't count so we would still -- the  
15 company isn't going to go in and take the 20 million.  
16 The net negatives don't accrue to our benefit, as far  
17 as dividing the 20 million. The 20 million then gets  
18 split again according to the formula.

19           Now, here's the case where we have the  
20 problem where the Commission's proposing this. The  
21 way the formula works now, let's suppose there's a 20  
22 million -- we have the same \$20 million and we're  
23 examining where it came from and we find that lo and  
24 behold there's a \$20 million tax decrease in the state

25 of Washington and there's a \$20 million tax increase

(MORAN - EXAMINATION BY CASAD)

454

1 from the feds.

2           So we would look at that and say that the  
3 net exogenous factors are zero. We would, therefore,  
4 under the existing agreement divide the 20 million up  
5 according to the formula. And that's the way it's in  
6 the agreement now. We haven't had an exogenous factor  
7 yet to go through this, but this is the way it works.

8           Now, let me -- I'll conclude in just a  
9 second just by saying what the Commission's proposal  
10 appears to be. It appears to take the situation where  
11 you put all exogenous factors and everything in, you  
12 come up taking everything into consideration and lo  
13 and behold we got 20 million of sharing. And we go to  
14 look at our exogenous factors and we've got the two  
15 exogenous factors there. We've got the federal -- we  
16 got the federal tax increase and the state tax  
17 decrease.

18           The Commission's proposal would say you  
19 have to ignore the federal tax increase and,  
20 therefore, your exogenous factor is \$20 million and we  
21 would give the whole \$20 million back to the  
22 ratepayers and the company would get nothing, under  
23 the Commission's proposal as I read it.

24           And that's where our concern is. You've

25 got two factors -- and I've used the example where

(MORAN - EXAMINATION BY CASAD)

455

1 they are virtually identical just to simplify the  
2 discussion, but you've got two things at exactly  
3 -- that exactly offset and it doesn't seem like -- it  
4 seems like they should offset.

5           Now, if we're earning below 11 percent they  
6 do offset. If we're earning -- so there's our  
7 concern. I'll stop now.

8       Q.    Okay. Well, it's an area worth exploring,  
9 but my impression of why exogenous factors would even  
10 be considered in the first place was because they were  
11 a factor which was beyond the control of the company,  
12 that the only reason that one would look at an  
13 exogenous factor was for the perspective either an  
14 exogenous factor is not something that the company has  
15 achieved through its good management practice, it's  
16 something out beyond the control of the company. So  
17 one needs to make that definition of an exogenous  
18 factor and so one would have to be in that mode before  
19 you would even look at an exogenous factor.

20           And I suspect that I might be saying the  
21 same thing as you're saying, but I'm not really quite  
22 sure. But you look at the exogenous factors are  
23 important only because the company cannot control them  
24 and they cannot be used as a demonstration as good

25 performance by the company because the company cannot

(MORAN - EXAMINATION BY CASAD)

456

1 control them.

2           Conversely, I guess you would not take them  
3 into consideration as a detriment to the company's  
4 management practice either because again they cannot  
5 be controlled by the company. But the only reason  
6 they are looked at is because there is a specific  
7 environment, i.e., above 11 percent, we are in the  
8 sharing mode when they're even considered.

9           A. That's exactly right. And that's our --  
10 our position and as we put this together, people said  
11 it's not fair if you get another big tax decrease and  
12 there's 20 million sharing. And I mean, there's \$20  
13 million above 11, there's -- no, it's not fair that  
14 the company gets half of that because they didn't do  
15 anything. We would like to think we might have done  
16 some lobbying or something.

17           But realistically they are saying that  
18 qualifies, so then all of it to the extent that the  
19 sharing revenues are caused by exogenous factors then  
20 all those sharing revenues go back to the ratepayer.  
21 I don't disagree with that, Commissioner Casad.

22           Q. I'm trying to understand. Let's take  
23 another example of an exogenous factor other than tax  
24 increase or decrease. Say there's a storm, an act of

25 God. That would be an exogenous factor, would it not?

(MORAN - EXAMINATION BY CASAD)

457

1 A. Yes.

2 Q. How do you net that out?

3 A. Well, first place, it's not defined. It's  
4 an exogenous factor but it's not one that has been  
5 defined for special treatment. And when we negotiated  
6 the agreement we defined a list and so a storm is  
7 something we just eat and we don't -- we're not -- it  
8 just happens.

9 If there's a tax decrease of 20 million and  
10 a storm that cost us 20 million, we're out of luck.  
11 We have to give -- you know, if we have 20 million of  
12 sharing and somebody identifies a tax decrease that  
13 gave us \$20 million of additional revenue and we come  
14 forward and say, yeah, but that storm cost us 25  
15 million, it doesn't work, because the agreement  
16 doesn't let us put the storm in the formula to  
17 calculate net exogenous factors. It only lets us put  
18 in tax, accounting, and separation changes.

19 And there's a lot of things beyond that  
20 that people can claim are exogenous factors, and some  
21 of them are to one degree or another, but in order to  
22 make this thing manageable, the idea was to pick off  
23 the ones that are clearly obvious and the rest of them  
24 they offset.

25 Q. Okay. That's your problem, you want to put  
(MORAN - EXAMINATION BY CASAD) 458

1 the storm in?

2 A. No. I'm not proposing to put the storm in.  
3 I'm saying we made an agreement. I guess the only way  
4 I would want to put the storm in is if somebody came  
5 on and redefined it and said weather conditions, and  
6 said that if we have unseasonally good weather some  
7 year and we have less maintenance and somebody looks  
8 and takes the temperature average for the year and  
9 snow average and says, you know, you guys had extra  
10 revenues, but it was because you had such good weather  
11 and 10 million of that 20 million are due to the fact  
12 that you had good weather out there, and that's an  
13 exogenous factor, so we're going to take the whole 10  
14 million. If you try to do that, I will try to say,  
15 yeah, but, you know, there was some weather earlier in  
16 the year that offset it.

17 Q. You also might want to change your name to  
18 Puget Sound Power and Light Company. Thank you.

19

20 EXAMINATION

21 BY COMMISSIONER HEMSTAD:

22 Q. I suppose that reflects the radical  
23 distinction between acts of God and the acts of the  
24 legislature.

25

I had a series of cross or procedural

(MORAN - EXAMINATION BY HEMSTAD)

459

1 questions but they have essentially all been answered  
2 except for perhaps one. It's your position under the  
3 statute that you have the right to not accept proposed  
4 changes or modifications to this AFOR.

5 Let's take the hypothetical that you do  
6 accept proposed changes from the Commission. How does  
7 that relate to the settlement agreement and the fact  
8 that other parties are involved in that signed that  
9 settlement agreement. Do they have the right not to  
10 accept it?

11 A. I'll give you my layman's understanding  
12 of how that would work. In some respects it would  
13 depend how the Commission frames it. In my view, if  
14 the Commission frames it as a new AFOR developed  
15 pursuant to the Commission's motion, it's already had  
16 its hearing. This is its hearing. I don't think that  
17 it's a new AFOR and I don't think the signators of --  
18 the other parties are required of a predecessor AFOR  
19 to adopt a new AFOR if it's framed that way.

20 Q. So it would be your position that any  
21 modification would be the substantial equivalent or  
22 the identity with the new AFOR?

23 A. Yes.

24 COMMISSIONER HEMSTAD: That's all I have.

1 EXAMINATION

2 BY JUDGE CANFIELD:

3 JUDGE CANFIELD: Okay. Let me just ask a  
4 couple questions, Mr. Moran. Following up on Ms.  
5 MacNaughton's questions on your pages 5 and 6 of your  
6 testimony -- I don't think you'll need to turn to it  
7 -- where you list the new services that have been  
8 introduced since the current AFOR began. Have you got  
9 that in mind?

10 A. Yes.

11 Q. Do you know in terms of months or years  
12 what the average product development cycle is for  
13 those services? Do you have information on that?

14 A. Well, it varies. It varies by service.  
15 Some of them go sooner and some of them, like  
16 Signaling Systems 7, for example, if you go from the  
17 start of when the technology was developed, it goes  
18 back quite a ways. If you call the product  
19 development cycle, you say, well, that begins when the  
20 technology is available, and then we take the  
21 technology and convert it into features and functions  
22 for sale, then that's a much shorter cycle.

23 Q. Any idea from the -- like in general from  
24 the concept stage to actual introduction in the



25 marketplace, is there any average or time frame

(MORAN - EXAMINATION BY JUDGE)

461

1 involved there?

2           A.     Well, some -- in terms of when the  
3 technologies are available, some of the feature  
4 functions that come in a generic can be as short as a  
5 few months. Some, like caller ID, it took longer to  
6 get all the blocking options around that one than it  
7 did some of the technologies of it, but take one like  
8 that Signaling System 7 took a long time, and it was  
9 maybe a couple years on the caller ID so the product  
10 -- I just can't -- our products are so varied across  
11 the -- I think it's very hard for us to have a product  
12 cycle much shorter than, say, six months.

13                     And one of our major corporate objectives  
14 is and are to make the product development cycle much,  
15 much shorter than it is now if we're going to be  
16 effectively competitive, so it's some number but it's  
17 too long right now.

18           Q.     With that list in mind on pages 5 and 6, I  
19 was wondering whether it was possible that the product  
20 development for some of those on the list began the  
21 development before the existing AFOR was in place.

22           A.     Definitely.

23           Q.     And do you know how many that might affect  
24 of those on the list or what proportion?

25           A.     If you say the product development, I

(MORAN - EXAMINATION BY JUDGE)

462

1     don't know for sure, probably a fair amount of them  
2     did.  The ones that we've been putting in on short  
3     notice are the advanced communications services, the  
4     transparent land services.  Those are some of the  
5     products we've done on very short cycles that have  
6     been very significant products along with our  
7     objectives.

8           Once we develop a product, developing a  
9     product in US WEST and choosing which states and where  
10    to deploy it is not the same cycle.

11          Q.     And another area.  I've heard testimony on  
12    discussion of other AFOR plans around the country and  
13    some comparison of their features as they compare to  
14    this Commission's AFOR.  Having looked at those and  
15    compared them, would you agree that a number of them  
16    place an absolute cap on the level of excess earnings  
17    that the company can earn, above which all further  
18    earnings are returned to ratepayers or is a rate  
19    proceeding to examine the rate levels initiated?

20          A.     A number of them -- you're right, a number  
21    of them do, and I might add that the cap that I've  
22    seen there are well in excess of anything that US WEST  
23    has achieved in this state.

24          For example, I think it's like 16 percent

25 in Oregon, and if you go down through them most caps  
(MORAN - EXAMINATION BY JUDGE)

463

1 are quite significant. There may be a few all over,  
2 but by and large most of them are in that range.  
3 California has a cap. I believe the FCC has a cap.  
4 And I believe those are in the 14, 15, 16 percent  
5 range.

6 Q. But we don't have a cap here?

7 A. That's correct, we don't.

8 Q. Let me refer you back to your testimony at  
9 page 20, line 26, and maybe you don't have to refer to  
10 it, I'll just read the portion that I'm going to ask  
11 about where you state that the primary problem with  
12 the current AFOR plan is that it is still rate of  
13 return regulation.

14 And similarly, on the next page, it's page  
15 21, lines 22 and 23, you state that we still seem to  
16 be mired in the traditional rate of return process.  
17 With those statements in mind, I'm wondering whether  
18 from that is it a fair conclusion that any significant  
19 focus on rate of -- would you disagree with any  
20 significant focus on rate of return from those  
21 statements?

22 A. In what context? If you're talking about  
23 the existing AFOR, I don't think it's possible to  
24 modify it, given the time we have to take a

25 significant focus away from rate of return regulation,

(MORAN - EXAMINATION BY JUDGE)

464

1 and we have not insisted on that.

2 Q. I'm trying to focus on a measure of company  
3 performance, is what I'm getting to.

4 A. Again I'm a little confused as a measure of  
5 company performance. In terms of sharing for this  
6 AFOR or future AFOR? I need a context.

7 Q. Maybe in terms of earnings, if that would  
8 clarify it at all.

9 A. Well, I guess if -- as far as this AFOR is,  
10 I have said you're going to have rate of return in it  
11 because of the way it's built. As far as the next  
12 AFOR out, if you will, where we would like to get in  
13 the next transition to price and quality regulation,  
14 we would like to lessen, if not eliminate, the  
15 doubling back to get into the rate of return  
16 regulation, because once you do, you're into, is R and  
17 D cost okay? What about this affiliated interest  
18 transaction? How do you allocate this cost from here  
19 and there? And you bring up all those old issues.

20 And so to the extent -- and I think many of  
21 the states around the country are moving towards a  
22 price cap type regulation -- that avoids those tough  
23 issues and that's where we would like to see to go in  
24 the next one but I emphasize I haven't proposed that

25 as part of this one.

(MORAN - EXAMINATION BY JUDGE)

465

1 Q. Do you have any idea or opinion on how the  
2 board of directors of US WEST measures performance of  
3 the company? And I'm focusing on return on equity.

4 A. The board of directors certainly looks at  
5 over the long term and does look at the earnings of  
6 the company. The shareholders look at -- and that's  
7 who the board represents, of course, are shareholders  
8 -- and they look at our stewardship of the investment  
9 and whether the investment is earning and being  
10 invested properly or not.

11 I think the focus of my recommendation on  
12 the price caps is that it's our feeling that the  
13 customers focus not on our earnings, but the customers  
14 focus on price and quality. And most customers, I can  
15 tell you as a Puget Power customer, I would be  
16 delighted if Puget Power were earning 20 percent and I  
17 could have my rate that I had from Puget Power in 1989  
18 plus a little sharing thrown in through the last three  
19 years. They could have 20 percent.

20 Q. And last year do you have any opinion on  
21 how the US WEST board might react to a suggestion that  
22 it ignore a return on equity as a performance measure  
23 for the company?

24 A. Well, they have their money invested. I

25 would suspect they would not ignore a financial

(MORAN - EXAMINATION BY JUDGE)

466

1 calculation.

2 JUDGE CANFIELD: Thank you, Mr. Moran. Mr.  
3 Shaw, questions on redirect for Mr. Moran?

4 MR. SHAW: No.

5 JUDGE CANFIELD: No? Okay. I understand  
6 that short response. That would conclude the  
7 testimony portion then.

8 We do have a few matters hanging still.  
9 One was the public. Mr. Adams, were any members of  
10 the public going to testify or did that resolve itself  
11 in the negative?

12 MR. ADAMS: I think it resolved itself in  
13 the negative. No one has appeared.

14 JUDGE CANFIELD: Any supplement to that  
15 public exhibit?

16 MR. ADAMS: Unfortunately, we haven't taken  
17 a break and I haven't been able to catch Terry  
18 Simmons. Perhaps if we could ask that if, you know,  
19 if subsequent to this, and I could get it this  
20 afternoon, and I'll circulate to counsel, if there's  
21 no disagreement.

22 MR. SHAW: Just as long as it's understood  
23 that it's letters received as of today and not a week  
24 from now or something like that, I don't care.

25 MR. ADAMS: Right. We're not going to

(MORAN - EXAMINATION BY JUDGE)

467

1 contact the Chamber of Commerce.

2 JUDGE CANFIELD: I think that's fair, but a  
3 cutoff date as of today I would agree with that that  
4 would be fair, and copies would be circulated to all  
5 if those are received.

6 And you requested earlier, Mr. Adams, to be  
7 able to state your position on the matter in view of  
8 the fact that your witness was not available at this  
9 scheduled session and you had not filed testimony and  
10 presented testimony. And there was some initial  
11 discussion about doing that in letter form, and I  
12 think it was mentioned yesterday to go ahead and take  
13 a position statement from you today on the record.

14 MR. ADAMS: That would be fine. I think  
15 counsel for the company perhaps was concerned that  
16 somehow it would show up on a brief and he would have  
17 no opportunity to rebut.

18 JUDGE CANFIELD: Right. We did have  
19 limited briefs that didn't include those sorts of  
20 matters.

21 MS. WEISKE: Is there a date certain on  
22 that brief? I heard discussion yesterday of one week  
23 and two weeks, so I wasn't sure.

24 JUDGE CANFIELD: Let me indicate that. We

25 just did indicate two weeks which -- two weeks from  
(MORAN - EXAMINATION BY JUDGE)

468

1 today would be Friday, July 16, so let's adopt that as  
2 the filing date with the Commission for those briefs  
3 on the limited issues that were discussed yesterday.

4 MS. WEISKE: And do you have a page  
5 limitation or would your Commission like a page  
6 limitation?

7 JUDGE CANFIELD: There's a rule dealing  
8 with page limitations but I would certainly hope we  
9 wouldn't even be approaching that in this case. I  
10 don't --

11 MS. WEISKE: I was thinking more like a  
12 10-page limit or something.

13 JUDGE CANFIELD: If you're proposing that  
14 and the parties would agree to it --

15 MS. WEISKE: I am.

16 COMMISSIONER HEMSTAD: Ten pages would be  
17 very ample for this issue.

18 MS. WEISKE: I thought that would be  
19 generous now for other counsel who are concerned about  
20 the issue.

21 COMMISSIONER CASAD: We try to extend all  
22 possible courtesies to counsel if they want to wax  
23 enthusiastic. It depends on how the meter runs.

24 MS. WEISKE: I wasn't trying to unduly



25 extend this. If you have a page limit and no one

(MORAN - EXAMINATION BY JUDGE)

469

1 wants one, that's fine. I just didn't think the  
2 issue warranted 50 pages.

3 JUDGE CANFIELD: I likewise don't either.  
4 I would anticipate the short briefs but no limit  
5 except for the outside limit in the rule which I don't  
6 think we'll be addressing or even proposing.

7 We're getting back to Mr. Adams.

8 MR. ADAMS: Yes, your Honor. I just want  
9 to briefly say our witness, had he been in the  
10 country, would have been presented. There are a lot  
11 of issues that have been discussed in this session,  
12 but focusing very bottom line issue on the AFOR and  
13 the Commission modifications, we would support the  
14 modifications of the 18th -- the proposed order of the  
15 18th Supplemental Order of the Commission.

16 I guess I would like to make one comment.  
17 As one of the signers of the original AFOR agreement,  
18 I believe that in general the AFOR is well designed  
19 and basically well conceived as a first effort.  
20 There's obviously a learning curve for all concerned.  
21 And that although there could have been certainly  
22 improvements made to it, it generally would have  
23 worked very well or quite well anyway but for two  
24 factors.

25                   And the two factors are, one, rate of

(MORAN - EXAMINATION BY JUDGE)

470

1    return which the Commission has at least in the  
2    proposed order addressed.  And that concern I think  
3    was one of those returns were somewhat generous.  In  
4    the first instance, the Commission modified those in  
5    its acceptance of the settlement, but I think they  
6    still were somewhat generous.  And in the rate of  
7    return area there's been subsequent declines in  
8    capital cost, substantial declines.

9                   Secondly, is the circularity issue which  
10   has been discussed.  And again just to reiterate, it  
11   has been public counsel's view as a signer and  
12   consistently through all of the sharing proceeding  
13   that the Commission had the authority to do rate  
14   restructures to permanently reduce rates.

15                  We agree with the company that a 5 percent  
16   across the board reduction was not a rate restructure  
17   but that that option has been there throughout.  Had  
18   rate restructures been done with savings throughout  
19   that time we would have been looking at substantially  
20   lower excessive earnings through this period of time  
21   and we would not have had 15, 18, 20 percent returns,  
22   I don't believe.  I think we would have still had --  
23   we would have been up in the sharing bands, but they  
24   would have been considerably lower.

25                   So in light of I think these two issues the

(MORAN - EXAMINATION BY JUDGE)

471

1   Commission I think in its proposed order addresses  
2   both at least for the duration of the basically two  
3   years that remain. I would say that 10.53 is still,  
4   in light of today's rates of return, a very generous  
5   return, so that I do not -- the company may not desire  
6   that. Obviously, there is still plenty of opportunity  
7   for the company to return generously at those levels.

8                   And so finally, as between just because  
9   perhaps -- Commissioner Casad, you have raised this  
10  several times -- as between the current operation of  
11  the AFOR, not the proposed modifications but the  
12  current operation of the AFOR and a reversion, if you  
13  will, to traditional rate of return regulation, I  
14  would submit we are better off with traditional  
15  regulation. With the modifications, I think that it's  
16  appropriate two-year continuation of the existing  
17  experiment.

18                  Those are all the comments I wanted to  
19  make.

20                  JUDGE CANFIELD: Okay. Thank you. And the  
21  only other thing, just to make sure the exhibit  
22  numbering and exhibit status is clear, we've entered  
23  Exhibits T-1036 through T-1041 and 1043 through 1064.  
24  The early exhibits 1 through 35 being renumbered and

25 they were renumbered T-1001 through 1035 and they were

(MORAN - EXAMINATION BY JUDGE)

472

1 not entered, and also not entered, rejected, was

2 Exhibit 1042. So I want to make that clear just so

3 everybody was on board as far as the status of the

4 exhibit numbers and their admitting into the record.

5 MR. SHAW: I want to make an objection for

6 the record that one counsel out of many has been given

7 the opportunity to present an oral argument and

8 uncross-examined testimony as to the cost of money of

9 this company. I don't think Mr. Adams' opinions count

10 for anything, particularly when they are unexamined,

11 uncross-examined.

12 And to the extent the Commission considers

13 Mr. Adams' remarks as evidence in any way, shape, or

14 form, it's a violation of this company's due process.

15 MR. ADAMS: Your Honor, if I might just

16 respond, you can obviously accept my comments for what

17 you think they are worth, but if you listened to the

18 evidence that was presented in cross-examination

19 questions, rate of return questions I have asked

20 consistently of a number of witnesses to put in the

21 record some of the kinds of returns not only of what

22 the companies earned but in the case of Mr. King, for

23 instance, what he recommended is a fair rate of return

24 in California. They are in the record. You don't

25 have to take my comments as some kind of evidence of  
(MORAN - EXAMINATION BY JUDGE)

473

1 that. All that was just sake of argument.

2 JUDGE CANFIELD: Mr. Shaw's objections are  
3 so noted. And we did accommodate public counsel in  
4 view of the situation that his witness was not  
5 available and he was so kind as to not request that we  
6 continue this to another date. So I think it was a  
7 fair compromise in that respect. But your comments  
8 and objections are so noted, Mr. Shaw.

9 As we indicated earlier, the briefs on  
10 those limited issues are due to be filed on or before  
11 Friday, July 16, with the Commission, and copies to  
12 all other parties. Thank you. This hearing is  
13 adjourned.

14 (Adjourned at 3:35 p.m.)

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