

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Petition of)
INTERNATIONAL PACIFIC, INC.,) No. UT-920546
4 For classification as a) VOL. V
Competitive Telecommunications) PAGES 471 - 585
5 Company,)
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7 A hearing in the above matter was held on
8 April 6, 1993 at 9:30 a.m., at 1300 South Evergreen
9 Park Drive Southwest, Olympia, Washington, before
10 Administrative Law Judge ROSEMARY FOSTER.

11 The parties were present as follows:

12 WASHINGTON UTILITIES AND TRANSPORTATION
13 COMMISSION STAFF, by SALLY G. BROWN, Assistant
Attorney General, 1400 South Evergreen Park Drive
14 Southwest, Olympia, Washington 98504.

15 INTERNATIONAL PACIFIC, INC., by DOUGLAS N.
16 OWENS, Attorney at Law, 520 East Denny, Seattle,
Washington 98122.

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24 Cheryl Macdonald, CSR, RPR

25 Court Reporter

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I N D E X

VOIR

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	JUDGE	DIRE
T. WILSON			495	509	475	539
			535		476	
S. STILLWELL	537	555	578	583		
EXHIBIT	MARKED	ADMITTED				
43	473	473				
44	474	475				
45	534	534				
46	534	535				
T-47	537	555				
48	537	555				
49	537	555				
50	537	555				
51	556	559				

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

2 JUDGE FOSTER: Let's be back on the record.
3 Today's date is April 6, 1993 and we are again convened
4 in Commission's hearing room in Olympia, Washington in
5 the matter of the IPI classification petition. This is
6 docket No. UT-920546 and the administrative law judge
7 and the parties' counsel are the same today as they were
8 yesterday. We left off yesterday evening with questions
9 for the staff witness Mr. Wilson, and I have some more
10 questions for him today, but before we went on the
11 record, a copy of an item that I had requested was
12 distributed and I will go ahead and mark at this time as
13 the exhibit next in order, 43, a press release from
14 Impact Telecommunications Corporation. That's a
15 two-page exhibit and the date on the front is March 29,
16 1993.

17 (Marked Exhibit 43.)

18 JUDGE FOSTER: Any objections to including
19 Exhibit 43 in the record?

20 MR. OWENS: No.

21 MS. BROWN: No.

22 JUDGE FOSTER: Exhibit 43 will be admitted.

23 (Admitted Exhibit 43.)

24 MR. OWENS: Your Honor, if I might also

25 take up a housekeeping matter which was left over from

(PROCEEDINGS)

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1 yesterday. The staff kindly made copies of the order
2 of the Georgia Public Service Commission which
3 Mr. Wilson had quoted in his testimony which was
4 supplied to us as attachment 18 in response to our
5 first data request and you had indicated that it would
6 be helpful to have that as a part of the record, too.
7 I take that back. I believe I wanted it as an exhibit
8 because there was some question as to whether what I
9 represented in a question was accurate.

10 JUDGE FOSTER: So this represents Oregon?

11 MR. OWENS: Georgia.

12 JUDGE FOSTER: Okay, Georgia position about
13 AOS.

14 MR. OWENS: Yes.

15 (Marked Exhibit 44.)

16 JUDGE FOSTER: Let's identify then as the
17 next exhibit, Exhibit 44, is the order from the
18 Georgia Public Service Commission. The caption on the
19 front page is: In re Generic Hearings to Establish
20 Rules and Regulations Relating to Providers of
21 Alternative Operator Services and it's dated received
22 November 14, 1988. That's a 38-page exhibit. Any
23 objections to including Exhibit 44 in the record?

24 MS. BROWN: No.

25 JUDGE FOSTER: Exhibit 44 will be admitted.

(WILSON - EXAM BY JUDGE FOSTER)

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1 (Admitted Exhibit 44.)

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EXAMINATION

4 BY JUDGE FOSTER:

5 Q. We left off and I was asking you some
6 questions last night about a position that was taken
7 by the intervenor Northwest Payphone Association on
8 the motion to dismiss and at the time I asked you the
9 question I didn't have in front of me a copy of the
10 submission by Mr. Harlow. Perhaps I could show it to
11 you and you could read it over quickly and then just
12 tell me if you disagree or agree with that analysis
13 and why.

14 A. Okay. In the first paragraph of their
15 motion, the Northwest Payphone Association asked the
16 Commission to take care to confine its rulings to the
17 issue of competitiveness of the AOS marketplace as
18 distinguished from the pay phone marketplace, and the
19 way that I've presented staff's recommendations and
20 analysis in this case I think is concurrent with that
21 position. We have only analyzed the competitiveness
22 of International Pacific, an AOS company and not a pay
23 phone company. As they continue to talk about how
24 they see those two markets as different relying

25 apparently on the fact that they feel a significant

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1 portion of the pay phone business involves coin paid
2 calls or sent paid calls and this does not involve
3 operator services at all, I would concur with that as
4 well and see the Northwest Payphone Association pay
5 phone marketplace as not necessarily damaged if
6 International Pacific were found not to be
7 competitive, and I think that that could be done in
8 this case and that's the way we've been proceeding.

9 Q. In your answer you mentioned the notion of
10 damage to the marketplace, and you also referred to
11 that yesterday, damage presumably brought about by
12 International Pacific's high rates and their
13 bargaining practices for want of a better term. Can
14 you address that a little bit more specifically
15 because I am not understanding why it is that that's a
16 problem in the AOS marketplace as a whole.

17 A. Yes, I would like to, because I think that
18 it's an important factor that many people aren't aware
19 of. I've become aware of it through my job which
20 includes responsibility for assisting new companies
21 with entering the market in Washington through
22 registration process and I have made -- I've had many
23 conversations with such potential registration
24 applicants. They have often expressed their dismay at

25 past practices and even current practices of companies

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1 like International Pacific that have given their
2 industry a black eye. The rates that are charged by
3 companies with high prices make it difficult for a new
4 entrant that wants to charge regular rates, AT&T and
5 US West level rates, to enter the market because they
6 approach an aggregator location to provide service and
7 that aggregator location may have had some bad
8 experiences in the past with consumers getting ripped
9 off with too high of prices and it makes it very
10 difficult for them to say "but we're not like that.
11 Our prices are fair and we would like the opportunity
12 to provide service here instead of AT&T," for example.
13 And so that's one harm that I see happening to the
14 marketplace and it should be addressed. There's also
15 the issue of violations of blocking and consumer
16 branding notices. I've used an International Pacific
17 phone and the operator answered, "Hi, this is Mary.
18 How can I help you?", instead of branding the call
19 International Pacific. There's those kind of
20 deceptive practices too that abuse customers or
21 consumers.

22 Q. You mentioned in your answer the commissions
23 that are paid to the aggregators. Can you talk about a
24 comparison between the commissions paid for AT&T and US

25 West pay phones and then for some of the other ones that

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1 are using AOS or International Pacific services, say the
2 NCS witness that we had back in December would be an
3 example, and just kind of give me a dollar figure
4 comparison if you could about what the aggregator would
5 receive if they had, say, a US West pay phone, an AT&T
6 one and say one from NCS.

7 A. Yes.

8 MR. OWENS: Your Honor, this raises an
9 issue that I thought we were going to be able to avoid
10 in this case and that is the Commission's -- the
11 Washington Utilities and Transportation Commission's
12 commission survey.

13 JUDGE FOSTER: There's too many
14 "commissions" here, right.

15 MR. OWENS: Right. We had asked for that
16 in discovery in this case and based on after seeing
17 the staff's or learning that the staff was not going
18 to be relying on that in the case and we withdrew the
19 request. Notwithstanding that, General Telephone
20 obtained an injunction forbidding the Commission from
21 disclosing the information.

22 JUDGE FOSTER: This is information from the
23 survey that the Commission did about commissions that
24 are paid to aggregators?

25 MR. OWENS: Yes, by various AOS providers.

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1 JUDGE FOSTER: If I asked the question to
2 the witness in a hypothetical, would that take care of
3 the problem?

4 MR. OWENS: It's up to you. I'm just
5 informing you that we haven't had the opportunity,
6 because we understood that that specific issue would
7 not be addressed in the staff's testimony in this
8 case, to examine the data and therefore be able to
9 prepare cross-examination for testimony that's going
10 to be elicited by your question, apparently.

11 JUDGE FOSTER: Well, I didn't mean to
12 blunder into this.

13 MR. OWENS: I just wanted to alert you to
14 this.

15 THE WITNESS: Your Honor --

16 JUDGE FOSTER: Could I frame the question
17 in terms of a hypothetical and then we will stay away
18 from the results of any specific study that the
19 Commission may have done.

20 MR. OWENS: That's fine.

21 THE WITNESS: I am prepared to answer your
22 question with facts that are publicly known that are
23 not the product of that commission fee survey.

24 JUDGE FOSTER: All right. Go ahead.

25 A. The FCC in the appendix N that Mr. Owens

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1 has entered as an exhibit, Exhibit No. 36, at page 13
2 of that exhibit reported that the three largest
3 carriers in the operator services provider market paid
4 out about 3.8 percent of their commissions, their
5 revenues as commissions. That's 3.8 percent for the
6 three largest. And it's my understanding that they
7 include companies like AT&T, MCI and Sprint in that
8 analysis. This says that the smaller operator service
9 providers paid out an average of about 21 percent of
10 billed revenues as commissions.

11 Q. So smaller would include a company like
12 International Pacific?

13 A. That's my assumption. Then another fact
14 that's on the record in this case is that
15 International Pacific was providing to Mr. Coulson's
16 company, Digital Access, a commission fee payment of
17 \$1.75 per call. I believe that in my testimony I have
18 provided a brief numerical analysis of that
19 transaction at page 31 of my testimony in footnote 27
20 where I used the average duration of a call as
21 recorded by Mr. Coulson for his company of just over
22 four minutes and rated that call, assuming that it was
23 a typical operator-handled collect call of the same
24 distance and duration that I've assumed in other rate

25 comparison analyses, and I found that that call would

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1 cost about \$4.12 and if International Pacific gave
2 him, as it's been testified, \$1.75 for that call as a
3 commission fee payment, then that results in a
4 commission fee payment of about 43 percent.

5 And I think that that demonstrates using
6 publicly known facts that International Pacific has
7 coupled their high rates with the ability to pay high
8 commission fee payments and retain what they
9 themselves have described, as Mr. Soumas has
10 described, as a commanding share of the pay phone
11 market in Washington. And I think that the fact that
12 they're able to do that with high prices resulting in
13 abnormally high consumer complaints really results in
14 additional damages to the marketplace. And I don't
15 see where paying high commission fees to aggregators
16 is the kind of an economic price signal that a
17 competitive market would see happening. They're not
18 saying we have cheaper services, we have faster,
19 better services, higher quality services. The quality
20 is regulated by Commission rule. The way that they're
21 getting their success in the market is through high
22 commission fee payments that they derive from high
23 prices from unsuspecting consumers. And this has
24 resulted in continued business success over the last

25 several years. Their revenues are growing rapidly all

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1 the time.

2 Q. There was some testimony earlier about a 50
3 percent of customers are able or are dialing around.

4 Is it your position, then, that those -- the remaining
5 50 percent who cannot or for whatever reason don't
6 dial around, are captive customers?

7 A. Yes, it is. And again that relates back to
8 our discussion yesterday afternoon on my understanding
9 of the economic theory of consumer behavior.

10 Q. Can you tell us when the Commission first
11 put into effect the rule forbidding blocking in
12 480-120-141? I think there was a reference at one
13 time to July of 1991.

14 A. Well, I think that the rule forbidding
15 blocking was actually adopted earlier than that. I
16 can look it up in my rule book. The original rule
17 under that same section number was filed with the code
18 revisor's office in January 1989, which I would note
19 actually precedes the Commission's order in U-89-2603.
20 That supports one of my claims that nothing has
21 changed since the last time International Pacific
22 filed for competitive status, the blocking rule was in
23 effect then. Commission also noted the FCC's rules
24 that were available and known at that time. So to

25 rely on changes to consumer protection rules and say

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1 that means that now International Pacific is
2 competitive is a mistake.

3 MR. OWENS: Your Honor, maybe I should ask
4 that official notice be taken of the version of the
5 rule because that testimony is just contrary to what
6 Mr. Wilson stated in earlier cross-examination. So,
7 this is the version that existed as a result of order
8 R 293 in docket U-88-1882-R filed January 31 of 1989.
9 The rule is the best evidence of what it says.

10 JUDGE FOSTER: Can you make some copies of
11 that at our next break?

12 MR. OWENS: I have it right here.

13 JUDGE FOSTER: If you would make a copy of
14 it at the next break and distribute it, we will put it
15 in the record so it can be considered in connection
16 with Mr. Wilson's testimony.

17 Q. My recollection is that at the December
18 hearing the IPI witnesses or the witnesses who
19 appeared on behalf of IPI indicated that there wasn't
20 very much in the way of blocking going on. Is it your
21 testimony that there is more and if it is how much
22 more?

23 A. Well, the evidence that I have includes
24 what Ms. Stillwell will present to you after I'm off

25 the stand and she has found blocking violations. I

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1 also refer to the FCC's report to Congress again,
2 Exhibit 38 now in the record. At page 16 there is a
3 table of compliance review results, and the FCC says
4 that as late as July of 1992, 95 percent of telephones
5 were unblocked to 800 access, 85 percent were
6 unblocked to 950 numbers and 81 percent were blocked
7 to 10 triple X access arrangements.

8 MR. OWENS: Excuse me, I believe you meant
9 unblocked?

10 THE WITNESS: I said unblocked.

11 MR. OWENS: You said blocked.

12 THE WITNESS: Well, if I did I meant
13 unblocked.

14 A. That means that 19 percent are blocked, one
15 fifth of the phones are blocked.

16 Q. These are national figures?

17 A. That's right.

18 Q. Do you have anything specific to
19 Washington?

20 A. No, I don't. Not other than what
21 Ms. Stillwell has provided. I wouldn't be surprised
22 but what the national averages follow in states.

23 MR. OWENS: I am going to object to that.

24 THE WITNESS: Well, how can a phone be

25 unblocked --

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1 JUDGE FOSTER: There's a pending objection.
2 I need to rule on it. I asked Mr. Wilson if he had
3 any specific information on Washington and he said no,
4 so I will sustain the objection because speculation
5 won't really do the record any good.

6 MR. OWENS: Thank you.

7 Q. Let me take a look at the IPI tariff and
8 see if I have any questions about that. I don't see
9 any more questions on the tariff.

10 Let me look at the last set I have which
11 have to do with your testimony. At page 6, line 16,
12 you refer to attempting to solve the puzzle presented
13 by the issues in the industry. What are you referring
14 to when you say puzzle?

15 A. The puzzle is the continued high price
16 problem in the AOS market.

17 Q. So this isn't just specific to
18 International Pacific?

19 A. That's right. They are one of the oldest
20 AOS companies in the state with grandfathered prices,
21 however, and they also serve probably the majority of
22 the pay phones that use AOS companies in Washington.
23 They have, according to Mr. Soumas, commanding
24 presence in Washington state for companies of their

25 type. Also, their revenues are as large or larger in

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1 Washington than virtually any other AOS in the state,
2 and I think that this means that when we talk about
3 solving the high price puzzle, we're talking about
4 primarily International Pacific. Also Phone America
5 is another player that has in the past been important.
6 They went bankrupt last year and they're still around.
7 They may become important again in solving the puzzle.
8 Payline Systems was another. However, they've dropped
9 their rates to equal AT&T and US West. International
10 Telecharge is a problem but we do have a complaint
11 pending against them now and so I think that when we
12 talk about solving the puzzle we have to figure out
13 who the major players are and how to go about solving
14 it with the resources we have as efficiently as
15 possible.

16 Q. In December Mr. Soumas testified about his
17 position that three things -- my recollection is three
18 things -- had changed since the first International
19 Pacific classification petition was denied several
20 years ago. Do you recall what he said changed? I
21 believe one was he said federal legislation, and
22 actually I can look back at his testimony and find
23 that, if that would be helpful.

24 A. Actually I am afraid it would be helpful to

25 me, your Honor.

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1 JUDGE FOSTER: Let's be off the record for
2 a minute.

3 (Recess.)

4 JUDGE FOSTER: Let's be back on the record.
5 While we were off the record, assistant attorney
6 general gave me a citation to page 202 of the previous
7 transcript.

8 Q. And just in looking at that page and the
9 couple of pages that follow it, I believe Mr. Soumas
10 referred to the 1990 Telephone Operator's Consumer
11 Protection Act as a difference and also the phenomenon
12 of dial around. Yet you, Mr. Wilson, are saying that
13 nothing has changed. Can you explain the difference
14 in position here, why you're saying that nothing has
15 changed since the first IPI petition and why
16 Mr. Soumas is telling us that these dial around and
17 these events or legislation on the federal level are
18 assuring consumers more protection.

19 A. Well, again, with regard to the federal
20 level, the Commission already had in place rules that
21 applied to International Pacific. The industry was
22 working on correcting blocking problems, the industry
23 was working on all of the issues that Mr. Soumas
24 believes actually didn't occur until after the

25 Commission denied his company's earlier petition. I

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1 just don't think it's true to say that up until then
2 everything was wrong, now it's been fixed.

3 I think that with regard to dial around, I
4 haven't seen any persuasive evidence that is specific
5 to Washington that has any weight on proving that dial
6 around has either increased or decreased over the last
7 several years. There's assumptions that people are
8 making but they're without basis. They're
9 speculative. And the evidence that we do have from
10 International Pacific's own witness and data from
11 their own witness shows that only 50 percent of the
12 people who use the pay phones that International
13 Pacific serves do dial around. I have exhibits
14 attached to my testimony that show that using their
15 hard data from just last fall. I don't think that 50
16 percent is good enough, frankly, when the prices are
17 as high as they are.

18 Q. So your concern then, is focusing on the
19 other 50 percent who are still paying that rate?

20 A. Yes, ma'am.

21 Q. At page 8, line 20, you refer to the
22 consequences of granting International Pacific
23 competitive status. You say that it would perpetuate
24 an uneven playing field. Can you explain that a

25 little more?

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1 A. Yes. I was referring specifically to the
2 fact that International Pacific's high rates enable
3 them to pay higher commission fees than their
4 competitors, and I've used public record data to
5 support that conclusion, referring again to the \$1.75
6 they pay Digital Access and so forth, and that enables
7 them to, in effect, erect a barrier to entry. Makes it
8 very difficult for competitors to beat them with fair
9 prices and allows International Pacific to continue to
10 earn high revenues.

11 Q. At page 13 you cited a portion of
12 U-89-2603-P, the first IPI petition, and up at the top
13 of page 13 you have a paragraph that states "The fact
14 that AOS companies charge consumers rates that are up
15 to 99 percent higher than those of US West," my
16 question is, is that still the case? Are these rates
17 still 99 percent higher than those of US West?

18 A. Yes, it is. I could give you a numerical
19 example that follows from the exhibit that we reviewed
20 yesterday afternoon concerning rates, and a collect
21 local call is a good example. Many times people find
22 themselves without a quarter, they need to call home
23 and they wind up making it a collect call. With US
24 West, you pay a quarter and they charge you 65 cents

25 for the operator handling on the collect call. With

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1 International Pacific they will charge you a quarter
2 and they will charge you \$2.25 for the operator
3 handling. If my math is not wrong that probably
4 exceeds 99 percent.

5 Q. So that's 25 cents plus \$2.25?

6 A. Yes, with International Pacific, versus 25
7 plus 65 cents with US West. I think Ms. Stillwell has
8 many examples of consumers complaining to her office
9 about that problem when they get their bill.

10 Q. Is it your testimony that if International
11 Pacific were to reduce its rates to those of the
12 dominant carriers being AT&T and US West that then the
13 staff would have no objection to them being classified
14 as competitive or would there still remain objections?

15 A. We have recommended approval of stipulated
16 settlements of that nature in the matter of Wiltel,
17 One Call, One-to-One, and I think I've got probably a
18 couple more on my desk or that have already been
19 approved that I haven't thought of off the top of my
20 head. The problem is, though, that we would also
21 expect that competitive status is in fact something
22 that is to be earned and deserved. If a company is in
23 flagrant violation of the Commission's rules, then
24 we're certainly going to take that into account and

25 attempt to incorporate that condition into a

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1 settlement as well, and expect that a company with
2 violations on blocking and branding and stickering
3 would present us, for example, with a program to
4 rectify that problem and show us how they would
5 address that as well, because we think that that's
6 important also, but in my view prices are certainly a
7 very heavy factor to consider and we have recommended
8 approval in the past with companies that had clean
9 records.

10 Q. Turning then to your attached exhibit, your
11 4, I believe that's No. 22. Can you just walk me
12 through that and explain again how that was prepared.

13 A. Let me collect my thoughts just for a
14 minute, please. May I refer your Honor to my Exhibit
15 5 as well, please, just for one second to set the
16 stage for my explanation. That's Exhibit 23 in this
17 record. This is a pie chart showing the distribution
18 of all the different kinds of calls that go through.
19 Mr. Schrader's pay telephones as determined by a
20 random sampling of his locations. And this was done
21 during a certain period of time last fall. It shows
22 that many calls that are placed at pay phones by the
23 traveling public are local calls, the vast majority of
24 them -- well, not vast but a large majority of them,

25 62 percent. Then we see all the other kinds of calls

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1 that people place when they're at pay phones. They
2 call for information, help from 911. They dial around
3 to AT&T or MCI or Sprint through the various access
4 dial around arrangements. They place calls to 1-800
5 for flowers or to Hertz or whatever. And the pay
6 phone itself calls home automatically for repair work,
7 too. Also, we do see 1.2 percent of the calls that
8 happened at these phones were placed for putting in
9 quarters and getting three minutes, the dollar for
10 three minutes deal. That's the last one on the upper
11 right.

12 That describes the different kind of calls
13 that I've analyzed in Exhibit 22 and attempted to
14 derive from that data the best estimate I could of
15 International Pacific's market share of the kinds of
16 calls that it competes for primarily. And I used, to
17 the best of my ability, the same sort of methodology
18 that Mr. Schrader used in his exhibits attached to his
19 testimony. I don't have any quarrel with that. There
20 was one assumption I will talk about in a minute
21 regarding 800 calls that I am not certain about. But
22 this exhibit just totaled up all of the minutes of use
23 on the pay phone and just running from the top, let's
24 just look at the Ivar's call if you will, please. We

25 see 466 minutes of use were local. Moving on down we

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1 had a few incoming calls. There weren't any 911 calls
2 on that pay phone. Next there were some information
3 calls at rows 7 and 8. That's the 555 XXX designation
4 there at row 7 and 8. At row 9 it says 10 triple X
5 and in Mr. Schrader's analysis he assumed that was
6 calling to AT&T's 10288 access arrangement. At row 10
7 the phone counts 93 minutes of use on 1-800 calling.
8 Later you will see that I adopted his assumption that
9 25 percent of those 1-800 minutes went to someone
10 other than an interexchange carrier. They went to
11 flowers or restaurant reservations or something.

12 Next we have 950 triple X at line 11, seven
13 minutes of that. We assumed that's dial around
14 calling. Then the phone can automatically call
15 repair.

16 Row 13 is the phone is programmed when
17 people hit zero to dial up International Pacific and
18 so 136 minutes were rerouted under its function No. 2
19 to International Pacific's operator center in Spokane.

20 So what I needed to do was figure out what
21 share of the relevant market the 136 minutes provided
22 by International Pacific constitutes. So my first
23 task is to add up all of the minutes that are long
24 distance calls. Now, right there I've made an

25 assumption that we're not talking about local to some

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1 extent because we know from above that 466 minutes
2 were local but down here some of those minutes that
3 International Pacific carried may have been local
4 collects also.

5 Anyway, at line 17, I've added up -- I've
6 taken all of the minutes on the phone and I've
7 subtracted out local. At line 1 and line 5 I've
8 subtracted out incoming calls. I've taken away the
9 information calling and I've taken out -- let's see,
10 911 and information. So I've reduced my pie that I am
11 going to analyze to just the long distance.

12 Then at line 18 to find out how much of
13 that market share was International Pacific's I had to
14 figure out what the dial around was and so I added the
15 1-800, the 10288 and the 950 to get 153 minutes at
16 line 18. I had to take out of that 25 percent of the
17 800 calls at line 19, leaving me at line 20 with the
18 preferred carrier dial around activity at that phone
19 of 129 minutes.

20 So 129 minutes of preferred carrier dial
21 around, plus the International Pacific minutes we
22 found at row 13 of 136 gave me the total AOS pie that
23 International Pacific is competing for at line 21, 265
24 minutes. Then all I have to do is divide to get

25 International Pacific's market share. 136 is 51

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1 percent of the total AOS pie.

2 So I did that for all the locations. I
3 averaged the market share at all of those locations to
4 find International Pacific's market share at all those
5 randomly selected locations, and then I compared that
6 to AT&T's share of the total AOS pie, their 10288
7 dialing, and I found that they had 19 percent, which
8 is interesting, given they have about 60 percent
9 nationally of the total long distance market.

10 Q. Thank you.

11 JUDGE FOSTER: That concludes my questions
12 and I appreciate your explanations. Do you have
13 redirect?

14 MS. BROWN: Just a little bit.

15

16 REDIRECT EXAMINATION

17 BY MS. BROWN:

18 Q. Regarding IPI's rate changes in January
19 1990, is it true the Commission issued a complaint
20 against IPI's rates in January of 1992?

21 A. Yes, it is.

22 Q. Regarding the questions asked by Mr. Owens
23 concerning Central Telephone, were the rates he
24 discussed with you sent paid rates?

25 A. I found out that the sheet immediately

(WILSON - REDIRECT BY BROWN)

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1 preceding the one that he offered me defines those
2 rates as sent paid rates, not nonsent paid or
3 operator-handled rate.

4 Q. With a sent paid rate is it customary for
5 the operator to come on the line in a minute or so to
6 inform the caller to insert more coins?

7 A. Yes, it is.

8 Q. And does this tend to shorten the duration
9 of that call?

10 A. Yes, it does.

11 Q. In terms of revenues what were Central
12 Telephone's reported revenues in 1991 for Washington
13 intrastate, do you know?

14 A. According to Central Telephone's annual
15 report filed with the Commission in April 1992,
16 Central Telephone's total intrastate revenues were
17 153,000 and their total company revenues were 255,000.
18 I talked with Rich Stevens, the president of Central
19 Telephone, not long ago and he indicated to me --

20 MR. OWENS: I am going to object to any
21 hearsay as to what Mr. Stevens said. He's not here
22 for me to cross-examine.

23 JUDGE FOSTER: Ms. Brown.

24 MS. BROWN: Well, I think the figure is on

25 the record. I don't think it's necessary.

(WILSON - REDIRECT BY BROWN)

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1 JUDGE FOSTER: I will sustain the
2 objection.

3 Q. What were IPI's reported 1991 Washington
4 intrastate gross revenues, do you know?

5 A. Did you say 1991?

6 Q. 1991.

7 A. They were quite a lot larger than Central
8 Telephone's. They were 9,885,459, and I got that
9 through discovery in the complaint case.

10 Q. That's the total company figure?

11 A. That's my understanding, as opposed to
12 255,000 from Central.

13 Q. Washington intrastate figure is about 2.9?

14 MR. OWENS: Objection, leading.

15 JUDGE FOSTER: I'm not sure I heard the
16 question.

17 MR. OWENS: She gave him the number.

18 JUDGE FOSTER: Well, can you rephrase the
19 question?

20 MS. BROWN: I will just show him the
21 document. We'll get that, your Honor. I will
22 continue with the questions I have.

23 Q. Is there any information that you are aware
24 of that would indicate that nonIPI site providers add

25 additional charges but IPI site providers do not add

(WILSON - REDIRECT BY BROWN)

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1 such charges?

2 A. No. As far as I know it could happen
3 regardless who the AOS is.

4 Q. In general are IPI's hospitality services a
5 large portion of their overall business?

6 A. I was reviewing some of that data provided
7 by International Pacific pursuant to our discovery
8 requests in the other case and it's my understanding
9 that pay phone is the vast, vast majority of their
10 business. I don't have the numbers off the top of my
11 head. I should have brought them to the stand with me
12 but I didn't. They did break out, though, pay phone
13 and hospitality and hospitality was a very small
14 portion of their business.

15 Q. Does the Commission regulate the site
16 providers?

17 A. No.

18 Q. Of the AOS companies, how large is IPI
19 in relation to other AOS companies registered in
20 Washington?

21 MR. OWENS: I am going to object to the
22 form of the question, "how large" is vague. If it can
23 be quantified in terms of revenues, sites served,
24 something else, I wouldn't object.

25 Q. In terms of gross revenues.

(WILSON - REDIRECT BY BROWN)

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1 A. In terms of gross revenues, you will find
2 some analysis in an exhibit we entered yesterday. It
3 was my attachment 28 to a response to International
4 Pacific's data request, which I believe may have been
5 entered as Exhibit 31 in the record -- excuse me, it's
6 Exhibit 30 -- wherein I reviewed the annual reports
7 filed by all of the telecommunications companies that
8 the Commission regulates, those reports filed that
9 were due May 1 of 1992. They reported calendar year
10 1991 results of operations, and I find that
11 International Pacific reported there the largest gross
12 intrastate operating revenues of any AOS company at
13 \$1.8 million, as they reported it there -- I
14 understand that they didn't include certain other
15 revenues they paid out as commission fees in that
16 figure -- except for another company, Paytel
17 Northwest. However, I would tend to believe that
18 Paytel Northwest's number, because they, like
19 International Pacific, don't comply with uniform
20 system of accounts, may have overstated their
21 intrastate revenues significantly by failing to
22 separate interstate revenues. The 1.8 million
23 reported by International Pacific is quite a lot
24 larger than the next AOS after that, International

25 Telecharge by about a million dollars as reported

(WILSON - REDIRECT BY BROWN)

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1 there. I would expect that that kind of a
2 relationship would continue across all the companies.

3 A review of attachment 28 would show that
4 they are as of 1991 one of the most significant
5 presences in the state in terms of revenues, and
6 again, I would refer to Mr. Soumas' comments that his
7 company enjoys a commanding share of the pay phone
8 market in Washington.

9 Q. You testified yesterday that in a
10 competitive market profits are theoretically zero.
11 Did you mean by that that any excess profits are zero?

12 MR. OWENS: I am going to object. This is
13 her witness. She's cross-examining her own witness.

14 Q. What did you mean yesterday when you
15 testified that in a competitive market profits are
16 theoretically zero?

17 A. What I meant was that after all of the same
18 sorts of expenses that every competitor has to pay,
19 after a returned investment is included in the
20 equation, that excess profits would be zero, because
21 if they had excess profits in a competitive
22 marketplace, competitors would have stolen it away.

23 Q. In a competitive market, would a
24 competitive company have to charge rates that reflect

25 the prevailing costs of the industry, including the

(WILSON - REDIRECT BY BROWN)

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1 costs of capital?

2 MR. OWENS: Objection, leading.

3 MS. BROWN: It is not suggestive of the

4 answer.

5 JUDGE FOSTER: I will overrule the

6 objection. I don't believe it is either. Do you have

7 the question in mind?

8 THE WITNESS: Yes.

9 A. And I think the answer should be yes.

10 Q. Have the AOS companies filed their 1992

11 annual reports?

12 A. No, they haven't. We just mailed them out

13 last month. They will be due on May 1. I do have

14 some figures that are forecast in their budget reports

15 that we received this January on estimated revenues,

16 but we do not have their annual reports for calendar

17 year 1992 yet.

18 Q. In light of what you just said for the

19 carriers listed on Exhibit 30, do you know what the

20 actual operations would look like for 1992?

21 MR. OWENS: Objection to the form of the

22 question. I don't know what "actual operations" mean.

23 Does she mean how many calls are processed?

24 Q. Actually booked and recorded.

25 MR. OWENS: I am still objecting to the

(WILSON - REDIRECT BY BROWN)

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1 form of the question. Booked and recorded what?

2 JUDGE FOSTER: I guess the question is
3 whether the witness understands the question. Do you
4 understand the question?

5 A. Well, the way I was understanding --

6 MR. OWENS: Well, the form of the question
7 is objectionable because it's vague.

8 JUDGE FOSTER: Well, Ms. Brown clarified
9 it. She added some more details to the question.
10 You're still saying it's vague?

11 MR. OWENS: Yes.

12 JUDGE FOSTER: I guess if the witness
13 doesn't understand it, he can say he doesn't; and he
14 can answer if he does.

15 A. Well, I believe that I understand it. The
16 numbers in Exhibit 30 are not actuals. Those are what
17 they've reported to us based on their interpretation
18 of the form. I do have International Pacific's total
19 company gross operating revenue and that's an actual
20 figure for 1991 and that was \$9.8 million.

21 MR. OWENS: I would object as
22 nonresponsive. She asked about 1992.

23 THE WITNESS: I have 1992 budgeted revenues
24 for International Pacific.

25 MR. OWENS: The question asked for actual

(WILSON - REDIRECT BY BROWN)

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1 1992.

2 MS. BROWN: That's fine, I am just going to
3 move on.

4 Q. Mr. Wilson, the issue of IPI's rates and of
5 course the level of those rates about which you have
6 testified as being very high, come up again and again,
7 do you see anything inconsistent in your economic
8 opinion to discussing high rates and competitive
9 classification for the same company in the same case?

10 A. Well, in my analysis, the ability to charge
11 higher prices than competitors and maintain those high
12 prices over a long period of time is an indicator of
13 market power, but as a regulator on Commission staff
14 here, I think that it's inconsistent to address their
15 high rates through a petition brought by International
16 Pacific. The way to address it is as we have done and
17 file a complaint against their rates which is before
18 the Commission in UT-911482.

19 MR. OWENS: I am going to object to that
20 answer as argumentative. There's no evidence in this
21 case other than Mr. Wilson's speculation as to the
22 supposed linkage between this petition and the rate
23 case.

24 JUDGE FOSTER: Any comments, Ms. Brown?

25

MS. BROWN: Well, I think that Mr. Wilson

(WILSON - REDIRECT BY BROWN)

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1 has testified that he believes that IPI's ability to
2 sustain high rates over a period of years is an
3 indicator of market power. So to the extent that
4 we're talking about the level of IPI's rates, against
5 which there has been a Commission complaint, I think
6 there is somewhat of a linkage.

7 JUDGE FOSTER: Allow the response to stand.
8 The objection is overruled.

9 Q. Yesterday you were asked questions by
10 Mr. Owens regarding availability of pay phones. When
11 you go into a restaurant, you expect to find a chair
12 to sit in?

13 A. Yes.

14 Q. Do you expect to find a restroom?

15 A. Often I really hope there's one.

16 Q. Do you also expect to find not only menus
17 but a pay phone?

18 A. Yes.

19 Q. Do consumer expectations influence a
20 restaurant owner's decisions as to what to make
21 available to those consumers, in your opinion?

22 A. I would think so. Relying on fundamental
23 principles of economic theory we understand that
24 demand is a function of taste and preferences as well

25 as other factors, and restaurant owners being pretty

(WILSON - REDIRECT BY BROWN)

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1 good students of economics would anticipate consumers'
2 expectations, I believe.

3 Q. In your experience, have you ever asked to
4 be directed to a pay phone and had the restaurant
5 owner respond by saying we have no phones but here is
6 an extra chair where the phone is not located?

7 A. No, that's never happened to me.

8 Q. In your opinion, do you think it would be a
9 wise economic decision for a restaurant owner not to
10 have a pay phone on his premises?

11 A. Well, given our earlier discussion about
12 what a restaurant owner would expect, would anticipate
13 what a consumer would want to see when they came in
14 their restaurant, I suppose it would not be a good
15 idea not to have the full range of services available
16 including restaurant and pay phones.

17 Q. Do you think that would also be true of
18 hotels or motels?

19 A. Absolutely.

20 Q. To your knowledge, was the competitive
21 classification of AT&T universally endorsed or
22 supported by Commission staff?

23 A. You have to consider the times when that
24 petition came before us. It was shortly after

25 divestiture and at that time we had some resellers, we

(WILSON - REDIRECT BY BROWN)

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1 had some facility-based providers of service. We
2 didn't have as many as we have now and there was some
3 concern that the evidence showing AT&T's high market
4 power indicated that perhaps -- high market share
5 might have indicated market power. I think that's one
6 reason why Mr. Cabe recommended four conditions on
7 approval of the petition.

8 Q. Yesterday Mr. Owens showed you some graphs
9 compiled by the FCC. The assumptions in those graphs
10 included the assumption that the calls were
11 eight-minute calls; is that right?

12 A. Yes.

13 Q. Do you recall what the record in this case
14 indicates regarding the average duration of an IPI
15 call?

16 A. It was closer to four minutes.

17 Q. When you talk about 25 percent of product
18 development as being regulatory cost, wouldn't you
19 need to know also what the total cost is? For
20 example, 25 percent of \$20 would be only \$5?

21 A. That's right. That's why I mentioned what
22 I knew about International Pacific's revenues and as I
23 understood Judge Foster's question about Mr. Soumas'
24 statements about 25 percent of his budget going to

25 development of voice mail capabilities, I was quickly

(WILSON - REDIRECT BY BROWN)

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1 referencing the company's revenue figures and what I
2 know about their investment and expenses and I just
3 off the top of my head guessed that 25 percent might
4 reflect -- might correlate to some number in excess of
5 perhaps several million dollars. For example, the
6 company's budget that they just filed in January shows
7 1993 budgeted revenues of over \$22 million. I don't
8 know exactly what all of their expenses and
9 investments for 1993 are budgeted to be, but if
10 they're making \$22 million in revenue and he's saying
11 25 percent of his budget is going to developing voice
12 mail, that's quite a lot of money potentially. And
13 it's my understanding that voice mail can be had and
14 implemented by a company like International Pacific
15 for under a million dollars.

16 Q. In a report filed in a part 32 form would
17 you make any assumptions or what would you assume
18 about how the company maintained its books and
19 records?

20 MR. OWENS: I am going to object to the
21 form of the question as vague. Also, the witness has
22 testified that he's not an expert at revenue
23 requirements.

24 JUDGE FOSTER: Ms. Brown?

25 MS. BROWN: Well, I can make the question

(WILSON - REDIRECT BY BROWN)

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1 less vague, I suppose. I think that Mr. Wilson while
2 he testified that he wasn't intimately familiar with
3 which figures belong in which accounts but that he was
4 and is familiar with uniform system of accounts part
5 32 generally.

6 MR. OWENS: Okay, we can make this long.

7 MS. BROWN: I think he can respond to my
8 question.

9 JUDGE FOSTER: Do you have the question in
10 mind?

11 A. Yeah, repeat it.

12 Q. In a report filed in a part 32 format,
13 would you assume that the company would maintain or
14 keep its books and records in a part 32 format in
15 order to file an accurate annual report?

16 A. Yes, I would, because to maintain
17 day-to-day records in accordance with generally
18 accepted accounting principles or gap and then once a
19 year file a report in uniform system of accounts
20 format, in many cases is going to involve assumptions
21 about allocations and entry of figures based upon some
22 guesswork.

23 Q. You were asked a question about an even
24 playing field by Judge Foster earlier today. In your

25 testimony, are you comparing IPI to carriers that are

(WILSON - REDIRECT BY BROWN)

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1 under the Commission's price cap AOS rule effective
2 January 31, 1989?

3 A. Well, yes. I'm comparing International
4 Pacific to companies that have registered subject to
5 the price cap which is AT&T and US West rates.
6 There's also companies that registered before then
7 that have rates that are at or below AT&T and US West.

8 Q. I want to go back to the question I asked
9 you earlier about IPI reported 1991 Washington
10 intrastate gross revenues. We were able to locate
11 them. What were those revenues for 1991?

12 A. \$2,981,766.

13 Q. Thank you.

14 MS. BROWN: I have nothing further.

15 JUDGE FOSTER: Let's take our morning break
16 at this time. Let's be off the record. And we will
17 reconvene at 11:00.

18 (Recess.)

19 JUDGE FOSTER: Let's be back on the record
20 after our morning break. Mr. Owens, do you have
21 further questions for this witness?

22 MR. OWENS: I do, your Honor.

23

24 RE-CROSS-EXAMINATION

25 BY MR. OWENS:

(WILSON - RECROSS BY OWENS)

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1 Q. Mr. Wilson, you stated in response to
2 redirect that the rates that I had asked you about in
3 comparing a call made under Central Telephone's tariff
4 to a call using your assumptions, the same assumptions
5 as in your Exhibit 1989, were sent paid rates. Is
6 that your testimony?

7 A. It's my understanding that that's what the
8 preceding page says.

9 Q. And you say the preceding page. Tell me,
10 please, specifically -- I'm handing you Exhibit 25 and
11 also the Commission's copy of Central Telephone's
12 tariff. Tell me, please, specifically what page you
13 had in mind.

14 A. What page of the Central tariff was the
15 exhibit that you handed me yesterday?

16 Q. I handed you the whole exhibit. I gave
17 you --

18 A. You asked me to compare rates of Central
19 and I want to know which sheet that came from.

20 Q. Original sheet 19.

21 A. All right. Perhaps if you look at original
22 sheet 18 you will see A sent paid, B sent paid, C,
23 sent paid.

24 Q. That's the answer that you had in mind when

25 you said the preceding page qualifies the rates on

(WILSON - RE CROSS BY OWENS)

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1 original sheet 19?

2 A. You asked me about rates on sheet 19, and I
3 said that the preceding page indicates those are sent
4 paid rates. The preceding page would of course be 18.

5 Q. But that's the only basis on which you
6 relied to assert that I, in effect, gave you the wrong
7 rates to do the calculation?

8 A. Yes, it is. I think both of us should
9 probably carefully examine the entire tariff before
10 jumping to the wrong conclusion but that's the one I
11 made.

12 Q. But you don't have any other basis as you
13 sit here under oath to testify that I gave you the
14 wrong rates to make the calculation; is that right?

15 A. Other than that you asked me to accept
16 other things subject to check and yet they were wrong,
17 no.

18 Q. I'm asking you about this calculation. Do
19 you have any other basis, as you sit here today
20 testifying under oath, that I gave you the wrong
21 rates?

22 A. Why am I looking at sheet 16 which you just
23 handed me?

24 Q. I'm just asking you to answer if you have

25 any other basis for that calculation to assert that I

(WILSON - RE CROSS BY OWENS)

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1 gave you the incorrect rate?

2 A. No. My answer was quite complete before.

3 I was referring to the previous page which says sent

4 paid.

5 Q. Now, would you look on original sheet 16,

6 paragraph 4.2.

7 A. Now I know why you handed me that.

8 Q. Doesn't that paragraph describe that there

9 is a class of call under the Central tariff for

10 nonsent paid calls which involves an operator service

11 handling charge?

12 A. Yes. And it continues on page 17.

13 Q. And doesn't original sheet 24 contain the

14 sent paid rate table for intraLATA and interLATA under

15 Central's tariff?

16 A. Yes.

17 Q. Is there anything on original sheet 19 that

18 says that it applies to sent paid calls?

19 A. Nope. I was just reading their tariff

20 the way I read most of them and I guess you're right.

21 Q. Isn't original sheet 18, paragraph 4.2,

22 simply a classification of the types of sent paid

23 calls that are capable of being made under the Central

24 tariff?

25 A. Could you repeat that.

(WILSON - RE CROSS BY OWENS)

513

1 Q. Isn't original sheet 18 which you relied on
2 as saying that I had given you incorrect figures
3 simply a classification of the types of sent paid
4 calls that users can make under the Central tariff?

5 A. It looks like it. I don't know if that
6 continues on or not. I don't know if it's modified by
7 sheet 2 or 3 or whatever. But that's what 18 appears
8 to be. Like I say, I guess I made a mistake.

9 Q. So now, as you sit there, is it your
10 testimony that the figures I gave you yesterday with
11 regard to comparing a call made under the same
12 assumptions that you made in Exhibit 19 under
13 Central's tariff were accurate?

14 A. Yes, but I think it's misleading because
15 Central's revenues are so much smaller than your
16 clients.

17 Q. Is the answer to my question yes?

18 A. I said yes and explained.

19 Q. Now, you compared International Pacific's
20 rates with those of US West and AT&T in response to
21 Judge Foster's questions yesterday and you stated that
22 International Pacific's rates that you used in the
23 example would apply during the evening and weekend
24 periods. Was that your testimony?

25 A. That's my understanding.

(WILSON - RE CROSS BY OWENS)

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1 Q. Would you look at Exhibit 16, sheets 18 and
2 19 and --

3 A. What is Exhibit 16, please.

4 Q. That's the International Pacific tariff.

5 A. At what pages?

6 Q. 18 and 19. Second to last because
7 apparently the copy that the Commission has the
8 numbers seem to be clipped off at the top.

9 A. What's the paragraph numbers on those?

10 Q. 2.2 and 2.3.

11 A. I have those.

12 Q. Don't those specify rates for evening and
13 night and weekend respectively?

14 A. Yes, they do, but if I'm not mistaken
15 there's a preceding condition earlier in the tariff
16 that indicates the C rates don't change for time of
17 day discounts. I learn something new and surprising
18 about International Pacific's tariff all the time. I
19 would have to look. Here it is. If you would care to
20 look at paragraph 1.3 under description of call rating
21 and charges.

22 Q. So calls placed from other than semi-public
23 coin telephones, pay telephones and subscriber
24 properties under D and F rates would have the discounts

25 for time of day under the C rate; is that right?

(WILSON - RE CROSS BY OWENS)

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1 A. Right. It's my understanding that there's
2 been a problem with International Pacific not making
3 the time of day discounts available. Also, they have
4 proposed that no time of day discounts be -- plus 1.50
5 be the appropriate rate cap for them in the future.

6 MR. OWENS: I am going to object. It's not
7 responsive. I simply asked him if calls made from
8 properties other than semi-public pay phones and
9 subscriber properties under D and F rates would have
10 the discount under the tariff and I am very concerned
11 that it appears to be that some discussions that were
12 of a settlement nature may have just been brought into
13 this proceeding.

14 A. No, I was referring to legislation.

15 JUDGE FOSTER: Wait a minute, Mr. Wilson.
16 If that occurred, Counsel, I am not aware of it.

17 MR. OWENS: I am not aware of it either
18 because I wasn't party to the settlement discussions.

19 MS. BROWN: I want to object to the
20 characterization. I think we should protect the
21 record and make every effort to make the record as
22 accurate as possible.

23 MR. OWENS: I just heard Mr. Wilson explain
24 some kind of a proposal which I am not privy to.

25

JUDGE FOSTER: I didn't really read it that

(WILSON - RE-CROSS BY OWENS)

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1 way. I thought you asked this witness about IPI
2 discounts and he gave you an answer that related to
3 that. I will allow the answer to remain in the
4 record. If it relates to settlements it's not
5 something -- or any settlement proposals it's not
6 something that I am aware of. Go ahead with your
7 question.

8 MS. BROWN: I want the record to reflect
9 that Mr. Wilson's testimony does not relate to a
10 settlement discussion.

11 JUDGE FOSTER: All right. The record will
12 so reflect.

13 MS. BROWN: Thank you.

14 JUDGE FOSTER: Go ahead, Mr. Owens.

15 Q. You testified yesterday that International
16 Pacific's rates have remained the same for six years.
17 Do you recall that testimony?

18 A. Yes.

19 Q. International Pacific's tariff bears an
20 earliest filed date of September 26, 1988; is that
21 right?

22 A. What sheet is that on? I see it on 2.

23 Q. Do you see any earlier date than -- well,
24 there's September 23 filed or issued effective

25 September 26.

(WILSON - RECROSS BY OWENS)

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1 A. That's right. They were authorized to
2 operate September 1, 1988 and filed their tariff
3 evidently on the 23rd.

4 Q. Six years after that would be September of
5 1994, correct?

6 A. Well, I don't know if I said six years or
7 not. If I did, it was an error.

8 Q. In response to Judge Foster's question, you
9 recited an occasion where you called International
10 Pacific and you said that the operator answered "Hi,
11 this is Mary," and you characterized that as being
12 deceptive. Did you enter a called number in that
13 call?

14 A. No, I dialed zero.

15 Q. And therefore you didn't enter any billing
16 information in that call?

17 A. I could have given her some next.

18 Q. Did you enter any billing information?

19 A. No. I was testing to see if your client is
20 in compliance with our rules so I would have personal
21 knowledge. Unfortunately, the personal knowledge I
22 gained was they weren't. I expected a brand.

23 Q. Now, by my count you mentioned Mr. Soumas'
24 statement that International Pacific had what you

25 characterized or what he characterized as a commanding

(WILSON - RECROSS BY OWENS)

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1 share of the pay phone market four times in your
2 response to Judge Foster. In making that statement,
3 did you also take into account what you testified to
4 in response to Judge Foster that Digital Access is not
5 an International Pacific customer any more?

6 A. No. I was referring to the statement
7 Mr. Soumas made. He made that before Digital Access
8 jumped ship to Phone America.

9 Q. But you relied on Mr. Soumas' statement to
10 support your conclusion that International Pacific has
11 a dominant share of the pay phone market; isn't that
12 right?

13 A. Yes, I did. Mr. Soumas' comment in the
14 press release, Exhibit 43, also bears on my thinking
15 where he shows tremendous growth in revenues.

16 Q. Now, when you talk about this commanding
17 share, that's an aggregator relevant market, correct?

18 A. However he intended it. I think that's how
19 he meant it.

20 Q. That's how you understand that he meant it;
21 is that right?

22 A. I understand that he also considers himself
23 as having a commanding share of the relevant market
24 from the consumer's point of view.

25 Q. Well, what gives you that understanding?

(WILSON - RE-CROSS BY OWENS)

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1 What did he say?

2 A. I understand it from the market share data
3 in the case.

4 Q. But you don't understand that he puts that
5 interpretation on it?

6 A. He's spoken glowingly of his company's
7 services and believes that consumers are just wild
8 about them.

9 Q. So it's your understanding that when he
10 used the phrase "commanding share" he meant both from
11 the end user consumer standpoint and from the
12 aggregator standpoint; is that right?

13 A. Yes, I think he believes his company is
14 extremely successful.

15 Q. Would the loss of Digital Access represent
16 a decline in the market share of International Pacific
17 from the aggregator standpoint?

18 A. That depends on whether or not
19 International Pacific subsequently picked up some
20 other customer of equal or greater size that I haven't
21 read about in the pay phone press.

22 Q. You're not aware of any such increase; is
23 that correct?

24 A. International Pacific doesn't report much

25 at all to me.

(WILSON - RE-CROSS BY OWENS)

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1 Q. Answer yes or no.

2 A. Answer is no, they don't tell me very much
3 at all.

4 Q. So as far as you know, based on the
5 information available to you, International Pacific
6 has lost a substantial number of its aggregator
7 locations and hasn't increased from other sources
8 aggregator locations sufficient to offset that; is
9 that right?

10 A. I don't know. I kind of suspect that
11 something else is going on that I haven't learned
12 about yet through whatever sources I can glean.

13 MR. OWENS: I am going to object to your
14 suspicions.

15 Q. I asked you what you know. Can you answer
16 what you know?

17 A. Ask me again.

18 Q. As far as you know, International Pacific
19 has lost substantial number of its aggregator
20 locations and it hasn't increased aggregator locations
21 from another source to offset those?

22 A. As far as I know, no.

23 Q. And would that, to the extent of your
24 knowledge, represent a decline in International

25 Pacific's market share from the aggregator point of

(WILSON - RE CROSS BY OWENS)

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1 view?

2 A. You asked me to the extent of my knowledge
3 and I rely also on intuition and what I learn from
4 other sources, Mr. Owens. I'm very good at that.

5 Q. I'm asking you what you know, not what you
6 intuit. What you know is evidence; your intuition is
7 not evidence. Can you answer my question please?

8 A. I'm sorry, I'm not a lawyer and I am not a
9 wordsmith like you. I don't know anything else.

10 Q. The answer to my question, then, is that as
11 far as you know International Pacific has lost market
12 share in the aggregator market as a result of Digital
13 Access Communications leaving; is that right?

14 A. Market share in terms of aggregator
15 locations?

16 Q. Yes.

17 A. It would appear to be, based on those
18 facts.

19 Q. So, your testimony about the efficacy of
20 International Pacific's high commissions in enticing
21 aggregators to stay with International Pacific, at
22 least with regard to Digital Access, would seem not to
23 be warranted; is that right?

24 A. I don't know how you get to that

25 conclusion.

(WILSON - RECROSS BY OWENS)

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1 MS. BROWN: I would object, your Honor. I
2 think there's a complete lack of foundation.

3 MR. OWENS: Well, Mr. Wilson testified
4 voluntarily, brought it up in his answer to your Honor
5 that Digital Access had left International Pacific.

6 JUDGE FOSTER: I will allow the question.

7 MS. BROWN: There's no emphasis as to why.

8 JUDGE FOSTER: I will allow the question.
9 The objection is overruled.

10 MR. OWENS: Thank you.

11 A. I already answered you. I said I don't
12 know how you get to that conclusion. I don't know why
13 Mr. Coulson and Mr. Follett decided to go and talk to
14 Mr. Jacobs at Phone America. There could be a lot of
15 different reasons.

16 Q. If the high commissions, as you put it,
17 were sufficient reason for Digital Access to remain
18 with International Pacific, then they would not have
19 left; is that right?

20 A. Under that set of assumptions, I guess
21 that's the conclusion.

22 Q. Now, you haven't obtained any evidence from
23 the 50 percent of consumers that you answered Judge
24 Foster you believe are captives in terms of asking

25 them what they knew about International Pacific's

 (WILSON - RE CROSS BY OWENS)

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1 availability or alternatives to International Pacific

2 had they made their calls; is that right?

3 A. Yes, I have.

4 Q. You have interviewed customers and asked
5 them what their knowledge was?

6 A. Yes, I have. I speak to people on the
7 street all the time and I ask them about pay phones,
8 believe it or not. I ask them what they know about
9 the services that they get when they go to them.

10 Q. Who did you speak to and when?

11 A. Strangers on the street, all the time for
12 the last several years.

13 Q. At this time you're not able to tell me who
14 you spoke to and when they they may have called on
15 International Pacific and where?

16 A. No, I cannot give you the names, dates and
17 places, but I can tell you that I have spoken to
18 strangers on the street, gas station attendants,
19 whoever I do business when I'm out of the office or
20 away from home. And I talk to people all the time
21 about it, and they're just very unaware of the issues
22 that face them when they're at a pay phone. Many of
23 them do have horror stories about getting ripped off.

24 Q. In terms of people, in Judge Foster's

25 question to you, who are making the 50 percent of

(WILSON - RE CROSS BY OWENS)

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1 calls at International Pacific pay phones, you haven't
2 done any kind of an attempt to contact those people
3 intentionally, those who are actually calling at
4 International Pacific pay phones; is that right?

5 A. No, I haven't. I have no way of doing
6 that. Ms. Stillwell does have quite a bit of evidence
7 about problems at International Pacific phones from
8 people who would represent that 50 percent. You can
9 ask her some questions about that.

10 Q. But you haven't; is that right?

11 A. You've asked me and I've answered it. No.

12 Q. Now, you stated in answer to Judge Foster's
13 question about the puzzle that the issues were not
14 specific to International Pacific. And it's true,
15 isn't it, that of the approximately 7.9 million
16 dollars in revenues that your Exhibit 30 shows as
17 having been collected by the AOS industry, aside from
18 the hybrids, that approximately 7.5 million of that
19 was collected by the companies that you characterize
20 as having higher than normal rates? Is that a fair
21 statement?

22 A. I will accept your math subject to check.

23 Q. You also answered Judge Foster in reference
24 to your Exhibit 20 in which you characterized the

25 numbers on line 22 as being International Pacific's

(WILSON - RECCROSS BY OWENS)

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1 share of the relevant market, and my recollection of
2 your definition of the relevant market is the vicinity
3 of the pay telephone that is described in those
4 calculations; is that right?

5 A. Yes.

6 Q. And when we asked what you meant by "the
7 vicinity" in discovery you said within reach, within
8 sight or within a city block. Is that a fair
9 characterization?

10 A. That's a fair characterization of my
11 definition of vicinity for purposes of that question.
12 Obviously, when I characterized line 22 as
13 International Pacific's share of the relevant market I
14 did not include calling at any possible phones that
15 were within the vicinity of the phones analyzed here
16 in the exhibit. But in my opinion this represents the
17 best market share estimate available. It's the same
18 estimate that your client has provided as testimony
19 and evidence in this case.

20 Q. That's your conclusion, isn't it?

21 A. Yes.

22 Q. Aren't you aware from the discussions that
23 preceded the selection of at least one of these
24 locations that there were other pay phones actually

25 operated by NCS that were prescribed to AT&T at that

(WILSON - RE CROSS BY OWENS)

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1 AGC building location within sight?

2 A. I remember some testimony by Mr. Schrader
3 about that, but he also offered conflicting testimony
4 leaving me confused as to whether he knew what his
5 phones were doing, really.

6 Q. But you didn't think it worthwhile in
7 determining that these were the market shares to
8 investigate whether even in that location there was a
9 pay phone that met your definition of one within the
10 relevant market; is that right?

11 A. No, I didn't. And that's because I think
12 that the primary thesis is that consumers are not
13 aware of those alternatives, and if there was an AT&T
14 phone next to the NCS phone where an ignorant
15 customer, I mean ignorant of the choices before them,
16 used the NCS phone that was prescribed to IPI, 50
17 percent of them did, if there was an AT&T phone right
18 there next to them, why on earth would they do that
19 and pay more if they were aware of their choices.

20 MR. OWENS: I am going to object to the
21 rhetorical question. It's not a responsive answer. I
22 simply asked Mr. Wilson if he had not considered
23 investigating whether or not there was a pay phone
24 that met his definition of the relevant market

25 associated with any of these locations.

(WILSON - RECROSS BY OWENS)

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1 JUDGE FOSTER: Ms. Brown, any comments?

2 MS. BROWN: Well, Mr. Wilson could rephrase
3 it as a statement, as a statement of his opinion if
4 the question is offensive to Mr. Owens.

5 JUDGE FOSTER: I will allow the response to
6 remain in the record. You can ask him questions on it
7 if you want to.

8 Q. Are you aware of any testimony by any
9 witness for International Pacific that defines the
10 relevant market as the vicinity of the pay phone?

11 A. There may be. There's a lot of testimony
12 in record here. I would have to search it to find it.
13 I am aware that Mr. Soumas considers the relevant
14 market to include residential customers and the entire
15 state of Washington.

16 Q. Can you answer the question yes or no?

17 A. Well, I would have understood that to be a
18 no, I'm sorry.

19 Q. Thank you. And I would be correct, would I
20 not, that aside from the AGC building where at least
21 Mr. Schrader indicated there was another pay phone or
22 may have been another pay phone within sight and
23 reach, that you didn't do any investigation even to
24 the extent of asking whether there were other pay

25 phones within sight and reach of the Ivar's, Cutter's,

(WILSON - RECROSS BY OWENS)

528

1 Barnaby's, Anthony's and A.J.'s pay phones on Exhibit
2 20; is that right?

3 A. That's right. In my analysis, I think the
4 relevant market is as I have defined it in my
5 exhibits.

6 Q. But your response to the data request
7 indicated that it was also the vicinity of the pay
8 phone within sight and reach of a city block.

9 A. Which data request are you referring to?
10 Maybe we better check what I answered and how I
11 answered it. I think it's your fourth set, No. 24.
12 And you will see that that references my testimony
13 where I use the term vicinity of the telephone
14 instrument IPI serves at page 10 of my testimony,
15 lines 5 through 6.

16 Q. Right. That's your definition of the
17 relevant geographic market, correct?

18 A. Yes. I think that IPI enjoys market power
19 in the vicinity of the telephone instruments it
20 serves. When we analyzed International Pacific's
21 market share I did the best I could with the data I
22 was given.

23 Q. Now, you were asked by counsel as to
24 whether you would expect to find a restroom in a

25 restaurant. Are you aware of whether the restaurant

(WILSON - RE CROSS BY OWENS)

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1 industry is required, by law, to have restrooms?

2 A. No, I'm not.

3 Q. You were also asked about whether you
4 should be entitled to make an assumption that a
5 company filing a report in a form -- part 32 format
6 would keep its records in a part 32 format. Are you
7 an accountant?

8 A. You've seen my educational experience. No.

9 Q. So are you testifying as an expert in the
10 field of accounting?

11 A. No, I'm testifying as a staff member with
12 the education and experience that's stated in my
13 testimony and you've explored it thoroughly. You've
14 looked at all the books I've read and everything else.
15 However, my experience and education, as I've
16 described it in my testimony, does indicate attendance
17 at several seminars the National Association of
18 Regulatory Utility Commissioners has sponsored, with
19 the University of Utah and the Michigan State, and I
20 have worked here for six years. All of my work and
21 experience has revolved around the regulation of the
22 telecommunications industry. The uniform system of
23 accounts is a rule that was, until the recent court of
24 appeals decision, viewed by everyone I've been

25 involved with in my work as in place at the time that

(WILSON - RE CROSS BY OWENS)

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1 every single company that has registered was
2 registered. And I have worked, while not intimately,
3 I have worked with the application of the uniform
4 system of accounts for reporting purposes.

5 I was the lead staff analyst assigned to
6 implementing our oversight of the annual reporting
7 requirement. I worked with my colleagues who are
8 experts in the uniform system of accounts in preparing
9 those reports, and I can't tell you off the top of my
10 head where to put a specific entry into a four digit
11 account code in uniform system of accounts. I would
12 turn to one of my colleagues for that, but I am
13 familiar with it.

14 Q. Can you tell me what specific number and
15 description of expense International Pacific had to
16 make guesswork about in your testimony in order to
17 file its annual report?

18 MS. BROWN: Well, I am going to object to
19 the question. I think that we've been over this
20 yesterday, your Honor. Mr. Wilson has already
21 testified that he's not an accountant and that in his
22 capacity as a staff economist he's working on this
23 case, he's the lead analyst. He's familiar with the
24 uniform system of accounts.

25

MR. OWENS: I am entitled to examine into

(WILSON - RE-CROSS BY OWENS)

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1 that familiarity. He's just testified that he's
2 attended all of these seminars, that he's worked with
3 the uniform system of accounts. He was allowed, over
4 my objection, to give an opinion about what people
5 should be able to expect based on the filing of an
6 annual report. I am entitled to cross-examine the
7 foundation for that opinion.

8 JUDGE FOSTER: I will allow the question.
9 The objection is overruled.

10 A. As I recall you were asking me to give you
11 a specific number and an account code where
12 International Pacific, I believe, probably had to make
13 guesswork, fill out their annual report?

14 Q. Yes.

15 A. Okay. One of them that I know they didn't
16 know what to do with was their legal expenses and
17 their lobbying expenses and when they filed their
18 report they had to call us up and find out. They
19 didn't know if it went above the line or below the
20 line or which account to put it into. They've called
21 up and asked questions about, well, what about our --
22 what is construction work in progress. They didn't
23 know what that was and where to put it. Those are
24 references that I have off the top of my head. They

25 have said that they're losing money when they talk

(WILSON - RE CROSS BY OWENS)

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1 about for tax purposes, but when we look at their
2 books and records under uniform system of accounts we
3 find them at a huge profit. That leads me to believe
4 that they don't know how to take and put their numbers
5 in there because they haven't been keeping them in
6 uniform system of accounts format.

7 Q. Isn't it true that they've told you that
8 they're operating at a loss on Washington intrastate
9 basis?

10 A. They've told me that but I don't believe
11 it.

12 Q. That's what they told you; isn't it?

13 A. They could tell me the moon was made of
14 green cheese and I am not going to buy it.

15 Q. Can you answer yes or no to the question?

16 A. Yes, I can answer yes or no to the
17 question.

18 Q. Is the answer yes?

19 A. Repeat it.

20 Q. They have told you that they are losing
21 money on a Washington intrastate basis; isn't that
22 correct?

23 A. I already answered that. I said yes but I
24 don't believe them.

25 Q. I didn't ask you what you believed, I just

(WILSON - RECROSS BY OWENS)

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1 asked you what they told you.

2 A. I am entitled to answer yes or no and
3 explain, sir.

4 JUDGE FOSTER: Let's move on.

5 Q. What account should switching expenses
6 made to nonaffiliated long distance carriers be put
7 into?

8 MS. BROWN: Object. I think Mr. Wilson can
9 probably stipulate that he does not know which figures
10 belong in which accounts. He doesn't purport to be an
11 accountant.

12 JUDGE FOSTER: I will allow the witness to
13 answer if he knows.

14 A. I don't know. I would refer to a uniform
15 system of accounts expert.

16 Q. Would your answer be the same for billing
17 validation expenses?

18 A. It will be the same for any expense or
19 revenue item you wish to choose. That's a yes.

20 MR. OWENS: Nothing further, thank you.

21 JUDGE FOSTER: Anything else for this
22 witness?

23 MR. OWENS: I need to supply a copy of WAC
24 480-120-141 as it existed pursuant to R 293.

25

JUDGE FOSTER: Let's identify that as

(WILSON - RECROSS BY OWENS)

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1 Exhibit 45 and the witness may be excused. Thank you
2 for your testimony.

3 (Marked Exhibit 45.)

4 MS. BROWN: I'm sorry, I have questions.

5 JUDGE FOSTER: I'm sorry, I guess you're
6 not done. Ms. Brown has some more questions for you.
7 Any objections to including Exhibit 45 in the record?

8 MS. BROWN: No objection.

9 JUDGE FOSTER: That's the January 31, 1989
10 version or revision of 480-120-141 that was referred
11 to previously.

12 All right. Exhibit 45 will be admitted.

13 (Admitted Exhibit 45.)

14 MS. BROWN: While you're admitting exhibits
15 there's been so much discussion about Central
16 Telephones' tariff I would ask that a copy of the
17 tariff be admitted into the record.

18 JUDGE FOSTER: We had a portion of it
19 yesterday as Exhibit 25.

20 MS. BROWN: I don't think that's sufficient
21 in light of the questioning today.

22 JUDGE FOSTER: Identified as Exhibit 46
23 is the entire tariff of Central Telephone.

24 (Marked Exhibit 46.)

25

(WILSON - REDIRECT BY BROWN)

535

1 REDIRECT EXAMINATION

2 BY MS. BROWN:

3 Q. One question. You were asked a series of
4 questions about IPI's commanding share of the AOS
5 market. In relation to gross revenues, what has been
6 IPI's history since 1990 from IPI's reports to this
7 Commission?

8 A. I don't have their report to this
9 Commission for the results of 1990 handy, but I do
10 have the results of a field audit showing their 1990
11 revenues for their total company and that was over
12 \$6 million. In 1991 it was over 9.8 million. In
13 1992 it was over \$15 million and their budget for 1993
14 indicates \$22 million, and that's a pretty rapid
15 growth compared to competitive companies.

16 Q. Thank you.

17 JUDGE FOSTER: Anything else?

18 MS. BROWN: No.

19 JUDGE FOSTER: Do you want to move the
20 admission of 46?

21 MS. BROWN: Yes, please.

22 JUDGE FOSTER: Any objections, Mr. Owens?

23 MR. OWENS: No objection.

24 JUDGE FOSTER: Exhibit 46 will be admitted.

25 (Admitted Exhibit 46.)

(WILSON - REDIRECT BY BROWN)

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1 JUDGE FOSTER: Anything else for this
2 witness?

3 MS. BROWN: I have nothing else for
4 Mr. Wilson but I do want the record to reflect the
5 Court of Appeals has not rendered its decision in the
6 IPI appeal challenging.

7 MR. OWENS: I will stipulate that the
8 witness intended to refer to Superior Court.

9 JUDGE FOSTER: All right, thank you. I
10 will accept that stipulation for the record.

11 Are we ready to go ahead with the next
12 witness?

13 Ms. Stillwell can go ahead and take the
14 stand. What I would suggest that we plan to do is go
15 until 12 and take a half hour break and do our best to
16 finish with her by two. Any problems with that?

17 MR. OWENS: No.

18 MS. BROWN: I have no problem with that
19 although I understand that the room is available for
20 the entire day.

21 JUDGE FOSTER: Well, let's still try and
22 finish by two. I can go ahead and mark Ms.
23 Stillwell's testimony. Identified as Exhibit T-47 is
24 the prefiled testimony of Susan L. Stillwell. That

25 testimony has 16 pages. Identified as Exhibit 48 is

(WILSON - REDIRECT BY BROWN)

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1 an exhibit associated with the testimony. That's
2 SLS-1 and it shows AOS company complaint statistics
3 for 1987 through 1992.

4 MS. BROWN: Excuse me, your Honor. I am
5 sorry to interrupt. SLS-1 and SLS-2 has been revised
6 and I have additional copies of those and I would like
7 to withdraw what was prefiled as SLS-1 and SLS-2.

8 JUDGE FOSTER: Then identified as Exhibit
9 48 is SLS-1. That is a sheet showing AOS complaint
10 statistics for 1987 through 1992.

11 Identified as Exhibit 49 is SLS-2 and that
12 shows SOS complaint statistics for 1991 and 1992.

13 Identified as Exhibit 50 is SLS-3 and that
14 shows complaints for International Pacific. It's a
15 two-page exhibit. And it shows for the time period
16 June 7 of 1989 through December 1 of 1992. That's all
17 I have for Ms. Stillwell.

18 (Marked Exhibits T-47, 48, 49, 50.)

19 Whereupon,

20 SUSAN STILLWELL,

21 having been first duly sworn, was called as a
22 witness herein and was examined and testified as
23 follows:

24

(STILLWELL - DIRECT BY BROWN)

1 BY MS. BROWN:

2 Q. Could you please state your name for the
3 record, spelling your last?

4 A. Susan L. Stillwell, S T I L L W E L L.

5 Q. What is your business address?

6 A. 1300 South Evergreen Park Drive Southwest,
7 Olympia, Washington 98504.

8 Q. And what is your occupation and by whom are
9 you employed?

10 A. I am a utilities services examiner with the
11 Washington Utilities and Transportation Commission.

12 Q. In preparation for your testimony here
13 today, did you prefile testimony and exhibits?

14 A. Yes.

15 Q. Do you have those before you now?

16 A. Yes.

17 Q. Are there any changes to either your
18 testimony or exhibits that you would like to make
19 today?

20 A. Yes. There are a few minor changes. On
21 page 3, line 1, simply delete the first two words
22 "cases, expand."

23 On page 5 -- excuse me -- yeah, that's
24 right. Page 5, line 2, change the number from 52 to

25 55.

(STILLWELL - DIRECT BY BROWN)

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1 And on page 15.

2 JUDGE FOSTER: Excuse me, what page was
3 that again?

4 THE WITNESS: 5, line 2.

5 A. Page 15, line 25, please change 23 phones
6 to 22 phones and the exhibits that we talked or that
7 you just replaced.

8 Q. Other than those changes that you've just
9 described, if I were to ask you the questions set
10 forth in your prefiled direct testimony today, would
11 your answers be the same?

12 A. Yes.

13 MS. BROWN: Your Honor, move the admission
14 of Exhibits 47 through 50.

15 MR. OWENS: I would like to ask some voir
16 dire in aid of an objection.

17 JUDGE FOSTER: Go ahead.

18

19 VOIR DIRE EXAMINATION

20 BY MR. OWENS:

21 Q. Ms. Stillwell, are you testifying as an
22 expert?

23 A. No.

24 MR. OWENS: On the basis of that answer I

25 would object to the part of the answer that begins on

(STILLWELL - VOIR DIRE BY OWENS)

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1 page 1, line 25 and actually goes through line 5 on
2 page 2 and page 12, the answer beginning on line 5
3 through line 18 and line 22 --

4 MS. BROWN: Could you please repeat that.

5 MR. OWENS: Sure. Page 12, line 5 through
6 18 and page 12, line 22 through the end of the page
7 and going over on to page 13 through line 12. And
8 page 16, lines 11 through 18. The witness has
9 testified she's not testifying as an expert. The
10 portions of the testimony that I've objected to are
11 opinion testimony. Only experts are permitted to give
12 opinion testimony. I have no objection to her
13 testifying to facts, to the results of her
14 investigation of facts, but there's no basis for her
15 to render opinion in this case.

16 MS. BROWN: Well, I agree that
17 Ms. Stillwell is a fact witness. As such she may be
18 authorized to render opinions. Contrary to what
19 Mr. Owens asserts not every fact or lay witness is
20 denied the opportunity to render opinions. There's no
21 dispute that she is not testifying as an economist or
22 as an attorney, obviously.

23 JUDGE FOSTER: I'm correct in assuming that
24 the testimony she's giving is related to her

25 day-to-day experiences as a service examiner for this

(STILLWELL - VOIR DIRE BY OWENS)

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1 Commission; is that correct?

2 MS. BROWN: Correct.

3 JUDGE FOSTER: So it is factual material
4 that she sees on a day-to-day basis as a result of the
5 work that she performs for the Commission?

6 MR. OWENS: It goes considerably beyond
7 that. She's asked on page 12 to provide an example
8 where a consumer might be a captive. That's not a
9 fact issue based on day-to-day experience and she's
10 asked whether consumers normally pay rates higher than
11 normal. That's not a fact issue based on day-to-day
12 experience. That's a question of expert opinion.
13 She's being asked questions that go beyond fact
14 issues. She's being asked a question of expert
15 opinion and she volunteers an expert opinion.

16 MS. BROWN: I think that as a lay witness
17 she's authorized to testify to an opinion. Well,
18 first off, of course her testimony is based on
19 personal perception and most of what is contained in
20 her testimony, but also the types of opinions that she
21 renders are opinions that normal persons would form
22 constantly and correctly and certainly Ms. Stillwell
23 does in the course of performing her duties here with
24 the Commission.

25

Additionally, this testimony, the testimony

(STILLWELL - VOIR DIRE BY OWENS)

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1 that Mr. Owens finds objectionable can only be given
2 in the form of an opinion because the inferences or
3 conclusions that are drawn are so intimately connected
4 with what she does on a day-to-day basis as she comes
5 into constant contact with consumers of the state of
6 Washington that her opinions can be given in no other
7 way.

8 MR. OWENS: I don't believe that that's
9 correct. I can't believe that counsel seriously
10 suggests that people in their ordinary walks of life
11 routinely form opinions about whether consumers are
12 captive to something. And also whether consumers
13 normally pay rates higher than normal. It was the
14 subject of your extended discussion with Mr. Wilson
15 who was intended to be an expert.

16 JUDGE FOSTER: Any other comment on this
17 motion to strike, Counsel?

18 MS. BROWN: Well, only that as referred to
19 on page 12 of Ms. Stillwell's testimony, she's
20 responding to portions of Mr. Schrader's testimony as
21 well and he was allowed to opine as to the extent of
22 dial around activity and how children were able or
23 unable to dial around.

24 JUDGE FOSTER: What I will do is take this

25 motion to strike under advisement. It's 12:00. I

(STILLWELL - VOIR DIRE BY OWENS)

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1 would suggest that we take our lunch break at this
2 time. Let's be off the record. And plan to reconvene
3 at 12:30 p.m.

4 (Luncheon recess.)

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(STILLWELL - VOIR DIRE BY OWENS)

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1

AFTERNOON SESSION

2

12:30 p.m.

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JUDGE FOSTER: Let's be back on the record after our all too brief lunch break.

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MR. OWENS: Before you rule, Judge Foster, there was one part that I inadvertently omitted from my objection and that was page 7, line 23 through page 8, line 9. It is in the same vein as in the other areas and I apologize for that omission.

JUDGE FOSTER: 7 line 23 and through page 8?

MR. OWENS: Line 9.

JUDGE FOSTER: Considering the motion to strike portions of this testimony, I believe Mr. Owens is correct that this is a lay witness and since she's not an expert witness we cannot consider her opinions on some of this as part of the testimony in this matter. However, she's a Commission employee and she does work with complaints and as a nonexpert witness she's allowed to testify about her day-to-day observations and in the course of her performance of her duties here at the Commission. What I would like to have counsel do is recognizing that distinction I

25 will go off the record for a few minutes and give you

(STILLWELL - VOIR DIRE BY OWENS)

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1 a chance to sort through the portions of the testimony
2 that Mr. Owens has raised the objection on and you can
3 either modify it or strike it, but as I say, the
4 opinion portion, since she's not an expert witness,
5 can't be considered part of the testimony. So I will
6 grant the motion to strike in part but I would like to
7 have both of you sit down and work out the deletions
8 or whatever so that the balance of the testimony can
9 be considered. So with that, let's be off the record.

10 (Recess.)

11 JUDGE FOSTER: Let's be back on the record.

12 While we were off the record, counsel had an
13 opportunity to discuss the ruling and apply it to
14 Ms. Stillwell's testimony. Would one of you volunteer
15 to tell me where we stand with respect to the
16 corrected version?

17 MR. OWENS: I will. On the three that
18 we've reached agreement on, at least to start with.
19 On page 1 beginning at line 25 and going over to page
20 2, through line 5, we've agreed that that should be
21 stricken. Passing the matter on pages 7 and 8, moving
22 to page 12, we've agreed that the question that begins
23 on line 3 is to be reworded as follows:

24 "QUESTION: Please provide an example where

25 a customer may be unable to dial around."

(STILLWELL - VOIR DIRE BY OWENS)

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1 And we further agreed that beginning on
2 line 15 with the phrase "in this situation" through
3 line 18, that testimony will be stricken.

4 JUDGE FOSTER: Excuse me, line 15?

5 MR. OWENS: 15, sentence that begins "in
6 this situation" through line 18 will be stricken.

7 We further agreed that beginning on line 20
8 the question will be reworded as follows:

9 "QUESTION: Can you provide examples of
10 situations where consumers unknowingly paid rates
11 higher than those consumers expected?"

12 Beginning on line 22 "not usually" is
13 stricken and the word "yes" is substituted.

14 On page 13, beginning at line 8, at the end
15 of the line the word "A" is stricken and on line 9 the
16 words "consumer" and "would" are stricken and there is
17 substituted the following phrase: "Consumers have
18 told me they".

19 Beginning on line 10 the matters --
20 beginning on line 10 through line 12 are stricken and
21 the following sentence is substituted: "Consumers
22 have told me they would not make a local
23 operated-assisted call with IPI's services in those
24 circumstances if they knew the charges were so high."

25 JUDGE FOSTER: Would not make a local what?

(STILLWELL - VOIR DIRE BY OWENS)

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1 MR. OWENS: "Operator-assisted call with
2 IPI's services in those circumstances if they knew the
3 charges were so high." And on page 16 the question
4 and answer beginning at line 9 running through line 18
5 are stricken.

6 Now, we have not managed to reach agreement
7 about the matter beginning at line 23 of page 7 and
8 going through line 9 of page 8. I understand counsel
9 is going to propose an alternative question and answer
10 to which I may or may not have an objection after I
11 hear it.

12 JUDGE FOSTER: You haven't heard it yet.

13 MR. OWENS: Well, I've heard what I think
14 is going to be said. I believe I have an objection to
15 it but I will wait.

16 MS. BROWN: Don't count on my modifying
17 it since the discussion. In the question itself,
18 beginning at line 20, the sentence beginning "do you
19 believe," ending with "1992", that should be deleted.
20 In its place add: "Are you aware of any studies which
21 show that the potential number of dissatisfied
22 customers exceed the number of complaints actually
23 received by the Commission".

24 JUDGE FOSTER: You're going to have to read

25 that again. "Are you aware of any studies that" --

(STILLWELL - VOIR DIRE BY OWENS)

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1 MS. BROWN: "Any studies that would show
2 that the potential number of dissatisfied customers
3 exceeds the number of complaints received?"

4 And then in line 23 the answer "no" should
5 read "yes."

6 JUDGE FOSTER: So strike "no" and substitute
7 "yes"?

8 MS. BROWN: Yes. Delete the next sentence
9 beginning with the word "there" and ending with the
10 word "complaint" on line 25. Change the word "show"
11 appearing on line 25 -- actually keep "show." It
12 should read "the studies I have reviewed show". So
13 actually we're inserting those three words "I have
14 reviewed".

15 If you turn the page -- well, that's it.
16 That's the proposal.

17 JUDGE FOSTER: All right. So the rest of
18 that answer would remain unchanged?

19 MS. BROWN: That's correct.

20 JUDGE FOSTER: Well, when we left off Mr.
21 Owens had requested an opportunity to voir dire the
22 witness on this and then made a motion to strike and I
23 made a ruling on the motion and, Mr. Owens, do you
24 have an objection to this question and answer that

25 begins on page 7 as restated by Commission staff?

(STILLWELL - VOIR DIRE BY OWENS)

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1 MR. OWENS: Yes, your Honor. The basis for
2 this objection is hearsay. The authors of these
3 studies aren't in the hearing room. The studies are
4 being offered for the truth of the matters asserted
5 and this is no different from the witness testifying
6 to what she read in the newspaper in terms of
7 evidence. The question and answer ask her to testify
8 as to information that supports the claim that the
9 potential number of dissatisfied customers exceeds the
10 number of complaints received. There's simply no
11 basis to admit that testimony.

12 JUDGE FOSTER: Just a question about this.
13 Ms. Brown, do you have available these studies in the
14 hearing room?

15 MS. BROWN: I have them right here. I have
16 a copy of it right here.

17 JUDGE FOSTER: Has that been part of the
18 discovery that's been made available to International
19 Pacific?

20 MS. BROWN: Yes.

21 MR. OWENS: I am not claiming that we
22 haven't received the studies. I am claiming that
23 they're hearsay.

24 JUDGE FOSTER: Well, Counsel, I guess I

25 would point out that hearsay is admissible in

(STILLWELL - VOIR DIRE BY OWENS)

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1 administrative proceedings. It's a question of what's
2 done with the hearsay once it's admitted. It seems
3 to me your objection is more one of an inability to
4 cross-examine the authors of these various studies.
5 Any comments about that, Ms. Brown?

6 MS. BROWN: Well, I think we are all aware
7 that hearsay is admissible under the APA in any
8 administrative proceeding, and as you pointed out,
9 generally goes to the weight to be accorded the
10 evidence rather than the admissibility of the evidence
11 itself, and I do have a copy of the study which is
12 probably a millimeter in thickness available if you
13 would like to have it made a part of the record.

14 JUDGE FOSTER: I guess what I was asking
15 for was any comment that you might have on Mr. Owens'
16 inability to cross-examine the authors of this study
17 or these studies.

18 MS. BROWN: Well, as we discussed at the
19 break, I see no difference between this and many of
20 the other exhibits that have already been admitted
21 into evidence through the cross-examination of
22 Mr. Wilson. There were many reports of the FCC and
23 other authors that were made a part of this record and
24 I have been unable to cross-examine any of those

25 authors. So I suppose that under the APA it's the

(STILLWELL - VOIR DIRE BY OWENS)

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1 fact that the rule -- the statute specifically states
2 that hearsay is admissible is what I would rely upon.

3 MR. OWENS: I could respond briefly to
4 that. Mr. Wilson introduced portions of the FCC's
5 report and under the complete document rule I am
6 entitled to introduce other portions of his document
7 or the document he sponsored. I don't believe that
8 that's any kind of a basis to admit this, and
9 secondly, objections are waived if they're not made.
10 If Ms. Brown had an objection to a document and didn't
11 make it, that's not any basis to estop International
12 Pacific to make a proper objection.

13 JUDGE FOSTER: Okay. If this question
14 and answer were stricken, would you have an objection
15 to including the studies themselves in the record by
16 stipulation or have we just --

17 MR. OWENS: Yes. At that point it seems to
18 me we've got a relevance issue. It seems to me that
19 the apparent purpose of this is to allow the staff to
20 argue on the brief that there's some astronomical
21 number of customers out there that is obtained by
22 multiplying the facts of 48 complaints by something to
23 represent massive consumer unhappiness with
24 International Pacific. However you get there, that

25 appears to be the reason why the staff wants these

(STILLWELL - VOIR DIRE BY OWENS)

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1 documents to be made evidence. Having them come into
2 the record without any identification doesn't solve
3 International Pacific's objection to that. The basis
4 of our original objection was that they haven't
5 produced an expert who would be entitled to rely on a
6 study by another expert originally. If we eliminate
7 the issue of a sponsoring witness, then I guess you
8 are coming to the question of is this something with
9 which the Commission could take official notice and I
10 don't really think that it is.

11 JUDGE FOSTER: Well, seems to me I have two
12 options. One is to grant your motion to strike it and
13 then have the exhibit admitted without this question
14 and answer. The other possibility would be to include
15 it but not consider it, not consider it in reaching
16 any findings or conclusions. That way if somebody
17 like the Commission or reviewing court later on sees
18 this and decides well, it should have been in to look
19 at, I could include it in the record but not consider
20 it for purposes of making a decision in this case.

21 MS. BROWN: Your Honor, I think you could
22 take official notice of this document.

23 MR. OWENS: I disagree with that.

24 JUDGE FOSTER: I believe the Commission's

25 rules 480-09, there's a section that addresses the

(STILLWELL - VOIR DIRE BY OWENS)

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1 items that are the proper subject of official notice.

2 Mr. Owens, do you happen to have that handy?

3 MR. OWENS: Yes, I'm just looking for it.

4 An official rule, report, order, record or other
5 document, prepared and issued by any governmental
6 authority, when admissible for any purpose, may be
7 evidenced by a certified copy. When such official
8 records, otherwise admissible, are obtained in
9 official publications or publications by nationally
10 recognized reporting services which are in general
11 circulation and readily accessible to all parties,
12 they may be introduced by reference." That's the
13 evidentiary aspect of it -- procedural aspect of it.

14 The rules of evidence are "official notice
15 may be taken of any judicially cognizable fact.

16 Examples of judicially cognizable facts
17 are: Rules, regulations, administrative rulings and
18 orders, exclusive of findings of fact, of the
19 Commission and other governmental agencies; contents
20 of certificates, permits and licenses issued by the
21 Commission; and tariffs, classifications, and
22 schedules regularly established by or filed with the
23 Commission as required or authorized by law; technical
24 or scientific facts within the Commission's

25 specialized knowledge; and codes or standards that

(STILLWELL - VOIR DIRE BY OWENS)

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1 have been adopted by an agency of the United States,
2 or this state or of another state, or by a nationally
3 recognized organization or association. In addition,
4 the Commission may, in its discretion, upon the
5 request of all parties to a proceeding, take official
6 notice of the results of its own inspection of the
7 physical conditions at issue.

8 MS. BROWN: I had one thing. Just that the
9 cover study -- the cover to the study indicates that
10 the study was performed by Technical Assistance
11 Research Programs Institute for member agencies of the
12 Consumer Affairs Council under request of the United
13 States Office of Consumer Affairs. And on the second
14 page to the study it indicates that the study was
15 funded and developed cooperatively by the Office of
16 the Special Advisor to the President of Consumer
17 Affairs and the following members of the Consumer
18 Affairs Council: Consumer Information Center of the
19 General Services Administration, Consumer Products
20 Safety Commission, Department of Health and Human
21 Services, Federal Trade Commission and the United
22 States Postal Service.

23 MR. OWENS: The problem with that is that
24 it didn't fall within any of the categories listed in

25 WAC 480-09-750 and there's not a certified copy.

(STILLWELL - VOIR DIRE BY OWENS)

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1 MS. BROWN: It could clearly come in under
2 the APA.

3 JUDGE FOSTER: Counsel, I am going to go
4 ahead and grant the motion to strike that question and
5 answer. I don't believe that this study falls within
6 the category of items described under the rule as ones
7 which the Commission can take official notice of, and
8 I am concerned about Mr. Owens' inability to examine
9 the authors of this document and so for that reason I
10 will grant the motion to strike the question which
11 begins on page 7, line 18 and the response that
12 continues on through page 8, line 9. The balance of
13 the document, I believe, had been offered for admission.
14 Any other objections to including this in the record?

15 MR. OWENS: No, your Honor.

16 JUDGE FOSTER: Then T-47, 48, 49 and 50
17 will be admitted.

18 (Admitted Exhibits T-47, 48, 49 and 50.)

19 JUDGE FOSTER: Any other direct for this
20 witness, Ms. Brown?

21 MS. BROWN: No.

22

23 CROSS-EXAMINATION

24 BY MR. OWENS:

25 Q. Good afternoon, Ms. Stillwell. The

(STILLWELL - CROSS BY OWENS)

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1 Commission supplied in response to IPI's request for
2 discovery copies of the informal complaint filed
3 pertaining to, among others, International Pacific
4 for, among other periods, 1992; is that right?

5 A. Yes.

6 MR. OWENS: Like a multi-page document
7 purporting to be a computer printout with the first
8 person's name on the front of Gena Rust with the
9 number 19208 be marked for identification as Exhibit
10 51.

11 (Marked Exhibit 51.)

12 JUDGE FOSTER: Identified as Exhibit 51 is
13 the multi-page document. And I wasn't really sure,
14 Mr. Owens, these are the complaint themselves.

15 MR. OWENS: I believe that the witness will
16 identify this as the Commission's computerized record
17 of the complaints which may not include all of the
18 information. For example, if there were letters or
19 something of that nature written they're not included,
20 but I intend to explore that with Ms. Stillwell.

21 JUDGE FOSTER: So it's a portion of the
22 Commission's computerized complaints.

23 MR. OWENS: No. As I understand it, it's
24 all of the computerized complaint information

25 pertaining to International Pacific for the year

(STILLWELL - CROSS BY OWENS)

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1 1992. However that computer information may not be
2 all of the information.

3 JUDGE FOSTER: It's the computerized
4 complaint information for IPI for 1992, is that
5 correct, counsel?

6 MR. OWENS: That's what I understand.

7 JUDGE FOSTER: And you're going to address
8 with this witness anything else that the Commission
9 may have that's not part of this document?

10 MR. OWENS: That's right.

11 Q. Ms. Stillwell, have you had a chance to go
12 through Exhibit 51? I knows it's a thick document.

13 A. Briefly.

14 Q. Do you recognize that as the pages or
15 copies of the pages pertaining to International
16 Pacific for 1992 that were supplied to us in discovery
17 when we asked for the Commission's records of
18 complaints against AOS companies?

19 A. Assuming they're all there, yes.

20 Q. That was my intent. It's not a trick
21 question.

22 MR. OWENS: I would offer 51.

23 JUDGE FOSTER: Any objections?

24 MR. OWENS: Subject to your right to

25 confirm that it's complete with your own copy of the

(STILLWELL - CROSS BY OWENS)

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1 printout.

2 JUDGE FOSTER: Any objections.

3 MS. BROWN: I don't know. I'm wondering
4 where we're going to go with this if we're going to be
5 trying the complaint case within the context of this
6 case.

7 MR. OWENS: Let me clarify this.

8 Q. Is it correct that there are 48 complaints
9 that you recorded in your Exhibit 48 concerning
10 International Pacific during the year 1992?

11 A. Yes.

12 Q. Three of those complaints were the result
13 of Commission staff field investigations; is that
14 right?

15 A. Yes.

16 Q. And those three complaints in turn were
17 made the basis of the formal complaint in docket UT-
18 920341.

19 MS. BROWN: 1340.

20 MR. OWENS: 1340.

21 Q. Is that right?

22 A. Partially. There's one other complaint, a
23 consumer, Margaret Lloyd.

24 Q. I understand.

25 A. That pertains to the compliance complaint.

(STILLWELL - CROSS BY OWENS)

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1 Q. But that Margaret Lloyd complaint is also
2 included within the 48 that is on Exhibit 48; is that
3 right?

4 A. Yes.

5 MR. OWENS: It's not my intention by
6 introducing this document to litigate issues that are
7 in another docket. I am simply going to examine the
8 witness about the particulars of the incidents that
9 she has accumulated in Exhibit 48.

10 MS. BROWN: Okay. With that representation
11 I have no objection to Exhibit 51.

12 JUDGE FOSTER: All right. Exhibit 51 will
13 be admitted.

14 (Admitted Exhibit 51.)

15 Q. Ms. Stillwell, it's correct, isn't it, that
16 International Pacific didn't change its rates in 1992?

17 A. Correct.

18 Q. And it's also correct that International
19 Pacific didn't change its rates in 1991; is that
20 right?

21 A. Yes, I believe so.

22 Q. And would I be correct in saying that if
23 you compare the number of complaints under the column
24 of 1991 on your Exhibit 48 to that for 1992, for the

25 industry as a whole, the AOS industry, there's

(STILLWELL - CROSS BY OWENS)

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1 approximately a 100 percent increase from 1991 to
2 1992?

3 A. Yes.

4 Q. And would I also be correct in
5 understanding that none of the companies listed on
6 Exhibit 48 increased their rates in 1992?

7 A. I don't have the right information on all
8 the companies so I wouldn't know about it.

9 Q. Directing your attention to page 12 of your
10 testimony. It would be Exhibit 47. You state
11 "generally children do not know how to dial around."
12 Would you agree that when a child is at an amusement
13 parlor or game establishment such as you referred to
14 in that connection that you would at least sometimes
15 expect that an adult would be with the child?

16 A. Not necessarily.

17 Q. Not ever?

18 A. Possibly, yes, but not typically or not
19 necessarily.

20 Q. Do you know how many children have
21 telephone calling cards?

22 A. I don't know that.

23 Q. Do you know how many have credit cards?

24 A. No.

25 Q. Did you review the exhibit that was

(STILLWELL - CROSS BY OWENS)

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1 introduced in the record concerning the Zones location
2 in preparing your testimony?

3 A. Yes, but what are you referring to?

4 Q. It was Exhibit 8 that was introduced during
5 cross-examination of Mr. Schrader; did you review
6 that?

7 A. Yeah. I would have to see it again.
8 Actually, I did not review that particular exhibit,
9 no.

10 Q. So you would not know, then, whether that
11 exhibit in fact shows dial around activity at the
12 Zones location?

13 A. Repeat it.

14 Q. So you would not know whether that exhibit
15 in fact shows dial around activity at the Zones
16 location?

17 A. Correct.

18 Q. And as to the calls that are made without
19 being dialed around, you wouldn't know whether
20 children made those calls or adults who might be with
21 the children made those calls; is that right?

22 A. I used this as an example because --

23 Q. Just, can you answer yes or no and then
24 explain?

25 A. Could you please repeat the question.

(STILLWELL - CROSS BY OWENS)

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1 Q. You wouldn't know whether any calls that
2 are shown as not being dialed around were made by
3 children or made by adults who might be with those
4 children?

5 A. I do not know that.

6 Q. Now, you say that on page 12 of Exhibit 47
7 that IPI charges \$1.80 and \$2.50 for a local
8 operator-assisted call depending on whether it's
9 customer dialed or live operator-assisted. Have you
10 ever received any complaints from people who think
11 that the charge that the local exchange company
12 imposes for a local operator-assisted call is too
13 high?

14 A. Have I ever received a complaint about a
15 local exchange company --

16 Q. Yes.

17 A. -- that their rates are too high?

18 Q. For a local operator-assisted call.

19 A. Not that I can recall.

20 Q. So we heard from Mr. Wilson's testimony
21 that the local exchange company imposes an operator
22 handling charge of 50 cents for a local operator-
23 assisted call in addition to the 25 cent rate that
24 would apply if it were paid for with a coin; is that

25 right?

(STILLWELL - CROSS BY OWENS)

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1 A. I will have to rely on the earlier
2 testimony. I believe he was referring to a collect
3 call.

4 Q. So for a collect call the charge would be
5 \$1.25; is that right?

6 A. From what Mr. Wilson's testimony or --
7 maybe back up and start your example over.

8 Q. It would be 30 cents added to each local
9 message for a calling card and 65 cents for collect or
10 third number and that would be from US West's tariff?

11 A. That sounds correct.

12 Q. Now, the 25 cents for a coin sent paid
13 local call is an alternative to using anybody's
14 operator services, including the local exchange
15 company's, correct?

16 A. Sure.

17 Q. You also use as an example at pages 12 and
18 13 the consumer who may be the receiver of a collect
19 call and you state, "this person's choice is to either
20 accept or reject the call." At the bottom of page 12
21 of Exhibit 47; is that right?

22 A. Yes.

23 Q. Didn't you tell a complainant named
24 Mrs. Edwards -- I believe it was on November 17, 1992

25 -- that she could refuse the call and have the

(STILLWELL - CROSS BY OWENS)

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1 operator tell the caller to call back using the
2 preferred carrier AT&T? This is I believe in --

3 A. Yes, Mr. Owens, I may have told her that.
4 On a going forward basis I do describe the
5 alternatives that consumers have when using a pay
6 phone or when receiving collect calls.

7 Q. So there is an alternative that's not
8 included in your testimony for a customer who has a
9 collect call come to them if it's being processed by
10 International Pacific; is that right?

11 A. As I said, on a going forward basis those
12 consumers are educated what they can do. Yes, you can
13 call it another alternative. Typically people do not
14 reject phone calls that come in collect.

15 Q. You also told Mrs. Edwards that she could
16 obtain a rate quote from the carrier before accepting
17 the call, didn't you?

18 A. I may have also advised her to do that on a
19 going forward basis.

20 Q. I would like to go through the informal
21 complaint file which has been admitted as Exhibit 51.
22 And we've already established that three out of the 48
23 complaints were initiated by the staff; is that right?

24 A. I thought I mentioned the Margaret Lloyd

25 complaint -- well, yes, excuse me, you're right.

(STILLWELL - CROSS BY OWENS)

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1 Q. The fourth.

2 MS. BROWN: Just for the record I want to
3 know what is meant by initiated.

4 MR. OWENS: Let's lay a foundation then.

5 Q. Each of your complaint documents has a
6 serial number on it; is that right?

7 A. An identification number.

8 Q. And so when a complaint is received by your
9 organization from a consumer you assign one of these
10 identification numbers to it. Would that be correct?

11 A. Yes. If we make a judgment that it is to
12 receive an informal complaint status then we log it
13 into the computer and the computer generates an
14 identification number.

15 Q. And one of the complaints that received
16 that treatment during 1992 was a complaint from
17 Mrs. Lloyd, L L O Y D; is that right?

18 A. Yes.

19 Q. That complaint resulted in an investigation
20 of some telephones at a Job Corps site in Sedro
21 Woolley; is that right?

22 A. Yes.

23 Q. And certain information pertaining to that
24 investigation was recorded under the serial number for

25 the complaint that had originally come into the

(STILLWELL - CROSS BY OWENS)

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1 Commission from Mrs. Lloyd; is that right?

2 A. Yes. We would call it an ID number.

3 Q. An ID number, that's good. Then there
4 were three other ID numbers which resulted from
5 Commission staff field investigations of pay phones
6 that were prescribed to International Pacific; is that
7 right?

8 A. Yes.

9 Q. And those were, as I recall your answer to
10 your discovery, made pursuant to direction from
11 Ms. Dutton to you?

12 A. The investigation, yes.

13 Q. And that was related to the filing of
14 International Pacific's petition for competitive
15 classification?

16 A. Yes.

17 Q. Now, some of the complaints that are
18 included in the 48 relate to interstate calls; is that
19 correct?

20 A. Some of them, yes.

21 Q. Would you accept subject to check that ID
22 numbers 19309 and 19503 related to two ID numbers by
23 the same person relating to the same incident which
24 was an interstate call?

25 A. Say again.

(STILLWELL - CROSS BY OWENS)

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1 Q. Could you accept subject to check that two
2 ID numbers 19309 and 19503 related to the same person
3 with the same calls which were interstate?

4 A. Before I could comment, I would have to see
5 them.

6 Q. I'm asking you to accept subject to check
7 which means you can check it after we're done with
8 the hearing and provide your response. We don't have
9 to use the time now.

10 A. Well --

11 Q. If you want to, we can.

12 A. If you've got them handy there.

13 Q. You have them there.

14 A. 19309 and 19503.

15 JUDGE FOSTER: Counsel, that was 19309 and
16 what was the other number?

17 MR. OWENS: 19503.

18 A. I guess what I would need to see is the
19 letter. I would want to thoroughly investigate it
20 before I -- it appears as if it is the same person.
21 It may be the same calls. There were two different
22 examiners that investigated this woman's two different
23 complaints. They were a month apart.

24 Q. That's what subject to check means. If you

25 can accept it and check it and it turns out not to be

(STILLWELL - CROSS BY OWENS)

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1 correct, you just say so.

2 A. Okay, subject to check.

3 Q. Could you also accept subject to check that
4 there were four additional ID numbers that were about
5 interstate calls?

6 A. Yes. I explained our policy in responses
7 to the data requests regarding the intra versus
8 interstate calls complaints.

9 Q. Would you accept subject to check that two
10 of the remaining ID numbers were about Oregon
11 intrastate calls?

12 A. Subject to check.

13 Q. Could you accept subject to check that on
14 one of the remaining complaints, No. 19208, the staff
15 was not even able to substantiate that the calls in
16 question were made?

17 A. I would have to see the complaints and
18 investigate them.

19 Q. Can you accept subject to check?

20 A. I am not going to comment without
21 investigating the complaint.

22 Q. I am asking you, can you accept subject to
23 check what the printout shows is that the staff was
24 not even able to substantiate that the person who is

25 complaining had actually made the calls?

(STILLWELL - CROSS BY OWENS)

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1 A. Subject to check.

2 Q. Could you accept subject to check that ID
3 number 19452, which is one of the remaining ID
4 numbers, involved a coin sent paid call where there
5 was a ring, no answer and the customer received a
6 refund, based on the complaint?

7 A. Again, subject to check. I will also
8 explain, we handle the complaints from the consumers
9 in Washington regardless of -- if a company is not
10 registered in Washington then we do not process the
11 complaint but if they are registered with the
12 Commission to do business with the Commission we will
13 carry on the complaint and investigate the complaint.

14 Q. Let me see if I can cut through this,
15 Ms. Stillwell. You've stated in your testimony that
16 you have a concern about the increase year to year
17 from 1991 to 1992 in the number of complaints
18 attributable to International Pacific. All I am
19 trying to do with these questions is to find out what
20 the particulars were about those complaints. I mean,
21 we have a number of 48 and I want the record before
22 the Commission to know what those complaints consisted
23 of so they can decide whether that number is
24 significant or not. I am not impugning your doing of

25 your duties by asking these questions, okay?

(STILLWELL - CROSS BY OWENS)

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1 So could you simply accept that that ID
2 number that I asked you about 19452 involved a coin
3 sent paid call where there was a ring, no answer and
4 as a result of the complaint International Pacific
5 refunded the charge?

6 A. Again, subject to check. I would need to
7 see the complaint.

8 Q. Could you accept subject to check that ID
9 number 19806, which is one of the remaining ID numbers
10 involved two calls from the same phone for the same
11 duration, similar distances, and different prices with
12 International Pacific's being lower than the other
13 carrier's price which was Global Telecoin?

14 A. Again, subject to check.

15 Q. Could you accept subject to check that ID
16 number 2012 involved the customer who initially
17 claimed she had used automated calling card service
18 and then later admitted she had used a live operator
19 and the charge was proper?

20 A. Mr. Owens, I really -- I would like to see
21 the complaints or review the complaints before I --

22 Q. You can't accept that subject to check?

23 A. Subject to check. There may be other
24 circumstances. Was she advised by the company that

25 this occurred and then acknowledged it?

(STILLWELL - CROSS BY OWENS)

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1 Q. All right. I guess we'll do it the hard
2 way. You didn't supply any additional documents to
3 the printout in response to our request; is that
4 right?

5 A. We advised you in the first data request
6 No. 7 response that typically informal complaints
7 contain all the pertinent facts and information
8 although some will contain additional backup letters,
9 such as a written complaint letter, copy of an
10 invoice, company-provided information, et cetera.
11 However, since the backup material was unduly
12 burdensome, we did further say that after your review
13 we can send backup material that is specific to your
14 needs upon request.

15 Q. Would you look at ID number 2012. Isn't
16 this a situation where a customer complained about
17 receiving a charge for an operator-assisted call and
18 later admitted she didn't remember whether she talked
19 to an operator?

20 A. This is an example, yes.

21 Q. Is it correct or can you accept subject to
22 check that ID number 20121, which is one of the
23 remaining ID numbers, involved a consumer who thought
24 the US West rate was 40 percent lower than it actually

25 was?

(STILLWELL - CROSS BY OWENS)

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1 A. Can you repeat the question.

2 Q. Sure. Can you accept subject to check that
3 No. 20121 involved a consumer who thought the US West
4 rate was 40 percent lower than it actually was? In
5 other words, the basis for her complaint that
6 International Pacific's rate was too high was a
7 misunderstanding of what US West's rate was?

8 A. That's not her complaint at all. Her
9 complaint is very specifically the high cost of the
10 calling card call. She's not satisfied with the
11 billing agent's response to her dispute. She's happy
12 to pay the prevailing rates, not \$2.74, which she
13 thinks is way too high compared -- you're comparing it
14 to a US West quote from someone of 67 cents. And so
15 her complaint copy very clearly to me is she's not
16 satisfied with the high rate of \$2.74 for that call.

17 Q. But she misunderstood, according to what's
18 listed here, what the actual US West rate was. She
19 thought it was 67 cents when it actually was \$1.07; is
20 that right?

21 A. She apparently got some information from US
22 West that may not have been correct or from someone --
23 she could have gotten that information from the
24 billing agent also.

25 Q. All that I'm asking, is that what the

(STILLWELL - CROSS BY OWENS)

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1 complaint record of the Commission shows?

2 A. The record shows that but her primary
3 purpose in calling was disputing the high cost of the
4 calling card call of \$2.74.

5 Q. Is it correct or could you accept subject
6 to check four of the remaining complaints involved
7 consumers who disputed either making a call or
8 accepting the collect call involved?

9 A. Who disputed --

10 Q. Either making the call at all or accepting
11 the collect call for which they were being billed?

12 A. That the remaining four complaints --

13 Q. No, four out of the remaining complaints,
14 other than the ones we have already discussed, were
15 for customers that disputed either that they had made
16 the call that they were being billed for or that they
17 had accepted the collect call they were being billed
18 for?

19 A. Subject to check. They call us usually
20 with a bill in their hand and that's why they're
21 unhappy because it's so high.

22 Q. Well, would you agree that a customer who
23 believed he didn't make the call wouldn't care how
24 high it was, anything would be objectionable; is that

25 right?

(STILLWELL - CROSS BY OWENS)

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1 A. I can't answer that.

2 Q. Would you accept subject to check that two
3 out of the remaining complaints involved questions of
4 whether a call was properly rated as long distance
5 instead of local?

6 A. That's possible, again subject to check.

7 Q. Could you accept subject to check that
8 three of the remaining complaints involved disputes
9 between the customer and the vendor about whether
10 access to AT&T has been blocked or whether a live
11 operator as opposed to an automated operator had been
12 used?

13 A. That's possible, too. The consumers
14 complain about all sorts of things, but usually they
15 have a bill in their hand when they're calling.

16 Q. Just asking you to accept what the file
17 shows. I am not asking for anything beyond that.

18 Is it correct or could you accept subject
19 to check that in 21 out of the 48 cases partial or
20 full refunds or credits were given by International
21 Pacific?

22 A. I would have to look at the complaint.
23 Subject to check.

24 Q. And could you further accept subject to

25 check that in some of these cases in which

(STILLWELL - CROSS BY OWENS)

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1 International Pacific gave refunds the charges were
2 accurate as billed under the tariff?

3 A. That's not -- absolutely, but that's not
4 what we're disputing. They have been billed in most
5 cases accurately.

6 Q. Could you accept subject to check that of
7 the complaints that mentioned International Pacific's
8 rates 12 involved local calls either calling card or
9 collect?

10 A. Subject to check.

11 Q. You state in your testimony, Exhibit 47,
12 that, on page 16, the phones that you discuss on the
13 previous page where you state you identified numerous
14 violations of the Commission rules were brought back
15 into compliance; is that right?

16 A. Yes.

17 Q. And did that occur prior to the time when
18 International Pacific's direct evidence was received
19 on the record in this case in December?

20 A. Were the phones brought in to compliance
21 prior to then?

22 Q. Yes.

23 A. Yes.

24 MR. OWENS: Nothing further. Thank you.

25

JUDGE FOSTER: Just a few questions.

(STILLWELL - EXAM BY JUDGE FOSTER)

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E X A M I N A T I O N

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BY JUDGE FOSTER.

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Q. Looking at page 2 of your testimony, and on line 21, you talk about the Commission seeking additional powers to regulate AOS companies. Can you explain that a little more?

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A. Yes. It's primarily -- I've been with the Commission just a year, a little over a year. From my understanding of what has occurred I came on board after the AOS rules were revised and this was the period when the legislature and the Commission -- what I'm referring to is when the Commission rules were revised as of July of 1991, the AOS rules pertaining to AOS and pay phones.

16

17

18

19

Q. And why was that necessary?

A. Apparently because of continuing consumer complaints to the Commission and I believe to the legislature.

20

21

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24

Q. Looking at page 5, line 18, in that question and answer you are asked to describe a typical complaint or inquiry. Item 4 in your answer is consumers complain they are confused about billing agents. What does that mean?

25 A. Okay. Typically -- well, let me back up.

(STILLWELL - EXAM BY JUDGE FOSTER)

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1 The smaller AOS companies will typically hire
2 -- contract with a billing agent to perform the
3 billing functions. The billing agent -- what you see
4 in your bill that is received is a bill from -- say,
5 International Pacific hires Zero Plus Dialing and
6 that's what you see on your bill is a bill from Zero
7 Plus Dialing.

8 Q. And that's the billing agent?

9 A. Right. It's the billing agent and they
10 also handle -- it's their contact for questions that
11 consumers have.

12 Q. So consumers are seeing a different name on
13 the bill?

14 A. Right.

15 Q. And that is confusing to them?

16 A. Right. And prior to -- I don't know how
17 long the time period has been but not all of the local
18 exchange companies had the technical capability to
19 enter the AOS name onto the bill. So oftentimes
20 consumers received bills that just showed the billing
21 agent's name and not the AOS's name so they're getting
22 a strange name on their bill. Even today, I can hand
23 you a stack of my message slips where we referenced
24 the company name, it references the billing agent. So

25 they think it's a problem with the billing agent when

(STILLWELL - EXAM BY JUDGE FOSTER)

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1 in reality it's a dispute with the AOS company.

2 Q. And looking at page 11, the question at the
3 top of the page talks about a situation where access
4 to the preferred carrier is blocked. Would it be your
5 view in this situation the customer would be captive?

6 A. Yes. If I am a consumer and my normal
7 method of dialing my preferred carrier is a 10 triple
8 X number and that number is blocked I am virtually
9 blocked. I am captive to that AOS.

10 Q. Unless you went to a different phone?

11 A. Uh-huh.

12 JUDGE FOSTER: I don't believe I have any
13 other questions. Ms. Brown, redirect?

14 MS. BROWN: Five minutes, please.

15 JUDGE FOSTER: Let's take a break and be
16 off the record.

17 (Recess.)

18 JUDGE FOSTER: Let's be back on the record
19 after a brief break. Ms. Brown, do you have redirect
20 for this witness?

21 MS. BROWN: Just a few.

22

23 REDIRECT EXAMINATION

24 BY MS. BROWN:

25 Q. Ms. Stillwell, I would like to direct your

(STILLWELL - REDIRECT BY BROWN)

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1 attention to Exhibit 48, please. How many complaints
2 are shown on that exhibit for the year 1991 against
3 International Pacific?

4 A. 13.

5 Q. And for 1992?

6 A. 48.

7 Q. And what is the percentage of increase
8 between 13 and 48 in those years?

9 A. 370 percent, approximately.

10 Q. Do customers who receive rate quotes know
11 what the other carriers' rates are?

12 A. Not generally.

13 Q. Would that also be true of a collect call
14 situation?

15 A. Yes.

16 Q. You testified that field visits were
17 initiated by the Commission in conjunction with the
18 competitive classification. Were there other reasons?

19 A. Field visits, one of the field visits was
20 initiated due to a consumer complaint, the Margaret
21 Lloyd complaint which was referenced earlier, and
22 based on that complaint we identified numerous
23 violations of blocking, posting and branding on ten
24 phones up in Sedro Woolley. And the other field

25 investigations you're referring to, upon directions

(STILLWELL - REDIRECT BY BROWN)

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1 from my manager I was asked to continue on to
2 investigate the phones served by International
3 Pacific. And we continued to find violations
4 pertaining to blocking, posting and branding on an
5 additional 12 phones totaling 22 phones.

6 Q. Of the complaints logged against IPI in the
7 Commission's CTS computer and provided to IPI, are all
8 of those complaints logged in the same manner by the
9 Commission for all AOS companies, to your knowledge?

10 A. Are the complaints logged in the same
11 manner? Yes.

12 Q. Do you recall Mr. Wilson's testimony when
13 he discussed the possibility of a Washington resident
14 calling home collect from out of state and in this
15 situation the caller also becomes the billed party?
16 Were you present in the room when Mr. Wilson
17 testified?

18 A. Yes.

19 Q. Would this be a situation in which a
20 Washington customer complained about a call that
21 originated in Oregon --

22 MR. OWENS: I am going to object.

23 Q. -- out of state?

24 A. Yes.

25

MR. OWENS: Mr. Wilson testified that he

(STILLWELL - REDIRECT BY BROWN)

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1 didn't know whether he would be the billed party in
2 that situation or not. Witness is being asked to
3 assume that he answered that question.

4 MS. BROWN: Well, if my recollection is
5 correct, I recall Mr. Wilson testifying about the
6 possibility of his being away from home and placing a
7 collect call and then arriving home and describing
8 that as a situation in which he, as the caller, would
9 also be the billed party.

10 MR. OWENS: The point of that exchange was
11 I was asking him about a footnote in the FCC's billed
12 party preference notice in which it stated that
13 according to AT&T the caller is the billed party 80
14 percent of the time. He stated that it was ambiguous
15 to him whether in such a situation he would be
16 included in the 80 percent.

17 JUDGE FOSTER: And your objection is?

18 MR. OWENS: That the witness is being asked
19 to assume that he resolved that ambiguity when he
20 didn't.

21 JUDGE FOSTER: Can you rephrase the
22 question, Ms. Brown?

23 MS. BROWN: It seems common sensical that
24 if a caller is calling from out of state and calling

25 home that they would be the billed party. I will move

(STILLWELL - REDIRECT BY BROWN)

582

1 on.

2 Q. You were asked about in some complaints
3 that were labeled interstate rather than intrastate
4 calls, do you recall that?

5 A. Yes.

6 Q. Even though the call may be an interstate
7 call, was the complaint received from a Washington
8 resident?

9 A. In most cases, a majority of cases, the
10 complainants are from Washington and that collect call
11 example that was used earlier could be any collect
12 call from another state to a Washington resident.
13 That would be an example of one of the complaints that
14 may have been interstate in nature. The company that
15 it was served -- well, these would have been
16 International Pacific, Exhibit 51 or International
17 Pacific complaints, and yes, they would be a
18 Washington resident typically receiving an interstate
19 collect call as an example. And we handle complaints,
20 even if they are interstate in nature, from our
21 Washington consumers, if the company is registered
22 with the Commission. We will try and resolve a
23 complaint, if it's not to the consumer's satisfaction
24 they certainly have every right to go on to the FCC

25 and dispute it with the FCC.

(STILLWELL - REDIRECT BY BROWN)

583

1 Q. Under what circumstances would you log a
2 complaint from a resident of another state on an
3 interstate call?

4 A. Mrs. Lloyd is a good example. Margaret
5 Lloyd is a resident from back east. Can't remember
6 the city at the time.

7 MR. OWENS: Baltimore.

8 A. Baltimore. And the phones that she was
9 complaining about were served by International
10 Pacific. They were bills that she was receiving
11 charged by International Pacific. Her daughter was
12 attending or is attending a school that these phones
13 are located in, so there's a good example.

14 JUDGE FOSTER: And the school is in this
15 state?

16 THE WITNESS: School is in Sedro Woolley.

17 MS. BROWN: Thank you. Nothing further.

18 MR. OWENS: Very briefly.

19

20 RE-CROSS-EXAMINATION

21 BY MR. OWENS:

22 Q. In response to Judge Foster's question, you
23 stated that if 10 triple X access was blocked that the
24 consumer was virtually blocked. In fact, if 800

25 access is available, that customer can gain access to

(STILLWELL - RE CROSS BY OWENS)

584

1 the preferred carrier, can he or she not?

2 A. Let's use an example of a consumer is
3 familiar --

4 Q. Can you answer yes or no?

5 A. Yes, but an example of a consumer that has
6 used his 10 triple X number for years, doesn't have
7 a card, doesn't know the 800 number and 10 triple X is
8 blocked, then that consumer cannot -- is virtually
9 blocked from that phone.

10 Q. Virtually blocked isn't the same thing as
11 blocked, is it?

12 A. I would assert that that consumer is
13 blocked.

14 Q. You would?

15 A. Unless there are instructions on the phone
16 that tell him specifically to do something otherwise.

17 Q. Do you know how many customers don't have
18 their cards?

19 A. I don't have any formal analysis on that,
20 but there are a lot of people -- I've asked people
21 even recently, do you even have a calling card? A lot
22 of people deny calling cards.

23 JUDGE FOSTER: Anything else for this
24 witness?

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Then the witness may be excused. Thank you
(STILLWELL - RE-CROSS BY OWENS) 585

for your testimony. Anything else that we need to
take up this afternoon?

MS. BROWN: I have a question. Mr. Owens

--

JUDGE FOSTER: Does this need to be on the
record?

MS. BROWN: No.

JUDGE FOSTER: Then we'll stand adjourned
at this time. We're off the record.

(Hearing adjourned at 2:20 p.m.)

