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1 JUDGE MACE: Let's be back on the record.  
2 We're not at this point on the confidential record  
3 any longer. The conference bridge is back on. And  
4 the next cross-examiner is Ms. Friesen.

5 MS. FRIESEN: Thank you, Your Honor.

6

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

8 BY MS. FRIESEN:

9 Q. Mr. Teitzel, I think, to help in this  
10 cross-examination and make it quicker, it would be  
11 advantageous for you to have a copy of Mr. Reynolds'  
12 Exhibit 2, which is a list of the basic exchange  
13 services for which Qwest seeks reclassification in  
14 this proceeding. Do you have that?

15 A. I think I do. Give me just one moment,  
16 please.

17 Q. It's attached as MSR-2 to his direct  
18 testimony.

19 A. I do have that.

20 JUDGE MACE: Ms. Friesen, I need to ask you  
21 to speak up.

22 MS. FRIESEN: I'm sorry.

23 JUDGE MACE: And make sure the microphone is  
24 close to you. Thank you.

25 MS. FRIESEN: Okay. Is that better?

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1 JUDGE MACE: Yeah.

2 Q. Mr. Teitzel, what I'd like to do now,  
3 instead of talking about customer opinion, is to talk  
4 about actual customer conduct. And instead of  
5 talking about customers in states other than  
6 Washington, I'd like to talk about Washington  
7 business customers and their actual conduct in this  
8 state, okay?

9 A. That's fair.

10 Q. And when I use the term substitute, what I  
11 mean is a complete substitute, not an augmentation of  
12 a wireline service or a partial substitute, but a  
13 complete substitute of wireless service for wireline  
14 service, okay. Do you understand?

15 A. Yes, I do.

16 Q. Now, if you take Exhibit 2 of Mr. Reynolds'  
17 MSR-2 to his direct testimony, and you look at the  
18 left-hand column, you'll see a list of basic business  
19 local exchange services, Centrex services, private  
20 branch exchange trunks. That, would you agree, is a  
21 summary of sort of the basic services absent the  
22 features that Qwest seeks reclassification upon in  
23 this docket; is that correct?

24 A. I would agree with that.

25 Q. Now, of the Washington business customers of

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1 Qwest that purchase these kinds of wireline services,  
2 what I would like you to tell me is, for each  
3 exchange in the state of Washington, how many of  
4 those customers have actually substituted their  
5 wireless or wireline service for -- of any of this  
6 type, for wireless service?

7 Now, I understand that there are over 80  
8 exchanges, but let's begin with a few examples. So  
9 let's talk about the Aberdeen exchange, okay. How  
10 many Washington business customers for any of these  
11 types of services have actually substituted their  
12 wireless -- wireline service for wireless in the  
13 exchange of Aberdeen, do you know?

14 A. I do not know that, nor --

15 Q. Okay. Now, let's move on to the Auburn  
16 exchange. How many --

17 MR. SHERR: Your Honor, I'm going to object.  
18 Mr. Teitzel was trying to explain his answer and was  
19 cut off.

20 MS. FRIESEN: Your Honor, may I respond?

21 JUDGE MACE: Go ahead.

22 MS. FRIESEN: I understand that we are under  
23 time constraints, and I believe that, to the extent  
24 any explanation is necessary, his attorney can offer  
25 up redirect, but really, what is going on here is I'm

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1 trying to ascertain whether Mr. Teitzel, as he sits  
2 here today, has actual knowledge of actual customer  
3 conduct. If he does not, we don't need further  
4 explanation.

5 JUDGE MACE: Well, number one, I'd say you  
6 can probably ask that question preliminarily as to  
7 all the exchanges in Washington. If he doesn't know  
8 with regard to all the exchanges, then you don't need  
9 to go through them one-by-one.

10 MS. FRIESEN: No, I don't intend to go  
11 through them one-by-one. I did intend to offer up a  
12 few examples of the kind of question I'm asking  
13 within a few exchanges, then ask him about the  
14 remainder of exchanges, which there are over 80 some,  
15 but I wanted the record to have at least an example  
16 of what I am asking him specifically.

17 JUDGE MACE: Having said that, I think he is  
18 entitled to give a brief explanation of his answer.  
19 If it goes beyond the scope of your question, then  
20 there may be a problem, but I think he is entitled to  
21 give a brief explanation if he answers yes or no  
22 preliminarily.

23 MS. FRIESEN: Okay.

24 JUDGE MACE: Let's go back to the initial  
25 question, if you would.

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1 Q. Okay. The initial question is, in the  
2 exchange of Aberdeen, does Qwest or do you, as you  
3 sit here today, have actual knowledge of real  
4 customers that have substituted their wireline  
5 service for wireless service?

6 A. We do not have that information for  
7 Aberdeen, but I think I can shorten the line of cross  
8 here possibly by offering we do not have that data on  
9 an exchange-specific basis in any of Qwest's  
10 exchanges. We do, however, have a disconnect  
11 tracking report, and I believe that that's not in  
12 evidence yet, it will be soon, it is one of the  
13 exhibits in the exhibits list, that shows that  
14 customers have, in fact, disconnected Qwest wireline  
15 service in lieu of wireless, and that is tracked and  
16 recorded.

17 Q. All right. We'll get to that exhibit.  
18 Well, why don't we get to that exhibit now. Can you  
19 pull that exhibit for the record, please?

20 A. I don't recall the precise exhibit number.  
21 Mr. Sherr, can you direct me?

22 MR. SHERR: I think it's Exhibit 82.

23 JUDGE MACE: I want to note that my copy of  
24 that exhibit is marked confidential.

25 THE WITNESS: It is Exhibit 82, and that's

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1 Qwest's response to Public Counsel Data Request  
2 03-025.

3 Q. Thank you. Now, if you will look at that  
4 exhibit and then look at Mr. Reynolds' list of  
5 services?

6 A. Yes.

7 Q. Can you tell me how many of those services  
8 that are listed on Mr. Reynolds' Exhibit 2 have been  
9 substituted for wireless service? Assuming that  
10 those started out as wireline, how many have been  
11 substituted for wireless service?

12 A. The reports can't be correlated in that  
13 fashion. The disconnect report simply reports that  
14 business customers have disconnected Qwest wireline  
15 service within Qwest's service territory and  
16 substituted wireless for that, but it is not class of  
17 service specific within that business category.

18 Q. Okay. Then it's true, is it not, that as  
19 you sit here today, you have offered no evidence for  
20 this record that the class of services for which  
21 Qwest seeks reclassification have been substituted  
22 with wireless service in any exchange in the state;  
23 isn't that correct?

24 A. The disconnect evidence, I would say you are  
25 correct.

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1 Q. Thank you.

2 A. The disconnect evidence is not arrayed in  
3 that fashion.

4 Q. Now, setting aside for a minute the CLEC  
5 UNE-P offerings, what might be considered nondigital  
6 CLEC services that Qwest has considered as  
7 competitive alternatives to Qwest service, basic  
8 analog business service, looking only at other  
9 alternatives, the only other two alternatives that  
10 Qwest identifies for this record are VoIP services  
11 and wireless services; correct?

12 A. Beyond --

13 JUDGE MACE: VoIP, you mean VoIP?

14 Q. VoIP, yes. That's correct?

15 A. Beyond traditional wireline services, those  
16 are the two services, wireless and VoIP; that's  
17 correct.

18 Q. And if customers are to enjoy either of  
19 those substitute services, and you want this  
20 Commission to believe that those are indeed  
21 substitutes for basic analog business service,  
22 customers have to purchase additional equipment or  
23 have equipment that can accommodate the various  
24 provisioning methodologies? In other words, for  
25 VoIP, they have to have equipment, customer premises

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1 equipment that can handle the digital service and a  
2 service offered over the Internet. For wireless,  
3 they have to have wireless phones and subscribe to a  
4 wireless plan; isn't that correct?

5 A. I have to beg to differ. I don't -- I think  
6 you mischaracterized my testimony. I don't believe I  
7 testified that wireless service or VoIP service are  
8 substitutes in each and every instance in the  
9 business market, but they are substitutes for a  
10 subset of the market. With that qualification, I  
11 would say that you're correct.

12 Q. Okay.

13 A. For wireless service, you have to have a  
14 wireless telephone or handset. For VoIP, you  
15 typically require some kind of an adapter that  
16 converts the analog signal presented from the  
17 telephone to the network into a digital signal before  
18 it hits the Internet. That's called an ATA adapter,  
19 typically.

20 Q. Thank you. Turning to the wireless  
21 alternative proposal, in your testimony you identify,  
22 and talked about this with Ms. Singer Nelson,  
23 2,800,000 and more wireless units. By units, what do  
24 you mean?

25 A. Those would be wireless -- individual



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1 wireless services or individual wireless handsets  
2 that are active.

3 Q. So those are all active handsets, as opposed  
4 to all active accounts?

5 A. Those are handsets. That's my understanding  
6 of the count.

7 Q. And is it possible for one account to have  
8 numerous handsets?

9 A. It is possible.

10 Q. When I looked at your testimony, your direct  
11 testimony at page 18, line 17, where you're  
12 discussing Cingular as a substitute for wireline  
13 basic business service, I went on the Website for  
14 Cingular, and the only offering I could find that  
15 matched the information provided in your testimony  
16 was something called Super Home Family Talk. Is that  
17 the one you looked at?

18 A. I don't recall the precise name of the plan.  
19 As I sit here, I don't have that documentation with  
20 me on the stand.

21 JUDGE MACE: What page of his testimony are  
22 you referring to, if you would tell us?

23 MS. FRIESEN: Direct testimony, at page 18,  
24 line 17.

25 JUDGE MACE: And your answer, Mr. Teitzel,

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1 was?

2 THE WITNESS: I don't recall the precise  
3 name of the plan. I don't have that documentation on  
4 the stand with me. However, as I testified earlier,  
5 wireless service is class of service agnostic. It's  
6 generic. It can be used for home application or  
7 business application.

8 Q. And I would agree with that, having  
9 investigated that Web site, whether I go in through  
10 the business solution or I go in through a consumer  
11 solution, I end up with the same plan entitled --

12 CHAIRWOMAN SHOWALTER: Ms. Friesen, you are  
13 beginning to have questions that sound a lot more  
14 like testimony, and I am not that interested in what  
15 you did. Ask the questions.

16 MS. FRIESEN: Yeah, I'm just trying to make  
17 sure we're talking about the same plan and he's  
18 comfortable with what I'm about to say.

19 Q. Anyway, this thing was called Super Home  
20 Family Talk, for 39.99 per month, 600 minutes. The  
21 plan that you looked at, did it have 600 anytime  
22 minutes, meaning roughly 10 hours of work week talk  
23 time?

24 A. That's my recollection.

25 Q. And it offered maybe 5,000 nights and

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1 weekends minutes?

2 A. I'm not certain of the night and weekend  
3 level.

4 Q. Okay. And the plan you looked at, the 600  
5 work week minutes, if you exceed that, isn't it true  
6 that the per-minute rate is 49 cents per minute, or  
7 was it something like that?

8 A. There typically is a usage charge for usage  
9 over and beyond the allocation of minutes in the core  
10 plan.

11 Q. And do you agree with Mr. Reynolds'  
12 testimony yesterday, and I know you were in the room,  
13 wherein he suggested an average business number of  
14 minutes during the work week was 1,000?

15 A. I do recall that testimony.

16 Q. Okay. Would you agree that a business might  
17 use more than 600 minutes in a month? I'm sorry.

18 A. Yes, they could use more, they could use  
19 less. That 1,000 minute number was an average. For  
20 those that use less, I would submit this would be an  
21 attractive plan.

22 Q. Do you know of any businesses that actually  
23 use less?

24 A. Certainly. There's a wide range. Again,  
25 the 1,000 minute average was an average. That

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1 suggests there's some above that, some below that.

2 Q. Do you know of any other restrictions with  
3 respect to this Cingular offer that would be imposed  
4 on these businesses?

5 A. Not that I recall.

6 Q. Okay. I'd like to turn now to your  
7 discussion of VoIP, or voice over Internet protocol.  
8 And you'd agree with me, would you not, that VoIP is  
9 a digital service?

10 A. It's a digital service from the point at  
11 which it exits the ATA adapter and enters the  
12 Internet. At that point, it is a packetized service  
13 over the Internet.

14 Q. And so if the service is converted from  
15 digital to analog anywhere along the phase, are you  
16 suggesting it's not digital?

17 A. I don't think I said that. I said that the  
18 analog signal from the telephone to the adapter is  
19 converted, then, to digital, and it goes out over the  
20 Internet as digital Internet message.

21 Q. On page 23 of your direct testimony, around  
22 roughly lines 10 through 17, you're discussing an  
23 exhibit to your testimony, which is DLT-7. Are you  
24 there?

25 A. Give me just one moment. Yes, I have that.

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1 Q. And this is a discussion of an AT&T trial,  
2 is it not?

3 A. Give me a moment just to refresh myself on  
4 the exhibit. As I read this press release by AT&T, I  
5 was not led to believe this was a trial. This  
6 appeared to me to be an announcement of the  
7 availability of the service.

8 Q. I'd direct your attention to the second  
9 paragraph in this press release, and the second  
10 sentence within the second paragraph begins with the  
11 word trials, does it not?

12 A. It does, but it goes on to say with service  
13 introduction across AT&T's VoIP portfolio expected  
14 during the third quarter. We're now in the third  
15 quarter.

16 Q. We're now in the third quarter, but when you  
17 filed this, was this not in trial phase?

18 A. I would agree, at that point, it would have  
19 been.

20 Q. Okay. And when you offered it to the  
21 Commission at that point, did you anticipate that the  
22 Commission should rely on this as evidence of AT&T's  
23 VoIP offering in the state of Washington?

24 A. Again, I can't offer a strict yes or no, but  
25 let me say that this was offered not as evidence the

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1 Commission should rely on to show that competition  
2 exists in the VoIP space for business customers;  
3 rather, a directional piece to show that this is an  
4 evolving market, options are expanding, both in the  
5 wireless and in the VoIP arena, and that with AT&T's  
6 announcement, it would suggest that VoIP options are  
7 coming online in the larger business customer  
8 segment, not simply smaller business.

9 Q. So your intent is not to suggest to this  
10 Commission that AT&T's VoIP trial and potential  
11 offering is in any way, shape or form an actual  
12 substitute today here in Washington for any basic  
13 business customer, wireline user; right?

14 A. Clearly, when this press release was  
15 released, it was a in-trial phase with launch in  
16 third quarter, so from that perspective, it's  
17 evidence that the market's evolving very quickly in  
18 this phase.

19 Q. And with respect to this particular service,  
20 it's true that it is a service offered to high-speed  
21 dedicated access lines to corporations in general;  
22 wouldn't you agree with that?

23 A. I would agree with that.

24 Q. You would also agree, would you not, that  
25 Cisco IP Telephony is offering a service called AVID,

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1 or architecture for voice, video and integrated data,  
2 and that is a carrier class packet voice product and  
3 solution. You would agree with that, wouldn't you?

4 A. I would agree with that, also.

5 Q. You would also agree that, in this press  
6 release, AT&T offers an admonishment to anybody that  
7 reads it suggesting that this is a forward-looking  
8 proposal and discussion and that action shouldn't  
9 necessarily be based upon this. Wouldn't you agree  
10 with that?

11 A. I believe that was a qualifier.

12 CHAIRWOMAN SHOWALTER: Ms. Friesen, you tend  
13 to drop the ends of your sentences. Keep projecting.

14 MS. FRIESEN: Okay. I should take acting  
15 classes.

16 Q. So you would agree with that, that AT&T  
17 warns folks not to rely on this as a basis for making  
18 any kind of action?

19 A. I would agree. I need to say that, again,  
20 similar to my discussion on wireless, this is a  
21 directional piece. It builds on the fact that VoIP  
22 is available in the market today for residential and  
23 business customers, and it's evolving quickly, more  
24 options will come online. This is a suggestion that  
25 that, in fact, is occurring.

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1 Q. Right, and you're not suggesting that this  
2 Commission take any action based upon this press  
3 release of AT&T's; isn't that correct? You're saying  
4 it's instructional, but that's about it?

5 A. I'm saying the Commission can rely on it  
6 whatever weight they choose to give to it.

7 Q. Through your discussion of this VoIP  
8 product, beginning on page 24 at around lines 21 and  
9 continuing on, you discuss the evolving quality of  
10 Internet protocol technology, don't you?

11 A. Yes, I do.

12 Q. And do you have any evidence to offer this  
13 Commission today, as you sit there, that any  
14 Washington basic business customer of Qwest has  
15 actually substituted its wireline services, any of  
16 the wireline services listed in Mr. Reynolds' Exhibit  
17 2, for a VoIP offering?

18 A. I have no direct evidence. It's a totally  
19 deregulated market. I think I testified earlier VoIP  
20 providers are not parties to this docket.

21 Q. Okay.

22 A. The data doesn't exist.

23 Q. Okay. And it's fair to say, then, based  
24 upon that, that if we were to go through each of the  
25 exchanges, there would be no evidence that any



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1 customer has actually substituted its wireline  
2 service for any VoIP offering; isn't that correct?

3 A. That is correct.

4 Q. Okay. On page 26 of your direct testimony,  
5 at line 17, you state that it's clear that the  
6 competitive paradigm is changing in the business  
7 local exchange market. Are you there?

8 A. Yes, I am.

9 Q. And again, this is an instructive type  
10 statement for this Commission, upon which it's not to  
11 base any particular action; isn't that true?

12 A. Yes, I think this is directional evidence.  
13 I think it's a framework the Commission can view as  
14 they think about the evidence in this market. Our  
15 evidence is based largely on the evidence of  
16 wholesale-based competition, but it is clear that  
17 VoIP is an option for at least some customers today.  
18 VoIP providers are marketing their services in this  
19 state today. To that extent, that should be  
20 considered and give the Commission some comfort that  
21 the market will continue to evolve and options will  
22 continue to come online.

23 Q. And the conclusion that you have drawn that  
24 it is an option or it is a substitute product is  
25 based solely upon the marketing that you've seen;

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1 isn't that correct?

2 A. That would be correct, marketing, industry  
3 literature, press releases, et cetera.

4 Q. And it's not based upon actual conduct or  
5 understanding of any particular customer actually  
6 having acted; isn't that correct?

7 A. Customer-specific tracking is not available.

8 Q. That's all I have, Mr. Teitzel. Thank you.

9 A. Thank you.

10 JUDGE MACE: Mr. Levin. I have you down for  
11 90 minutes for this witness.

12 MR. LEVIN: It will be lengthy.

13 JUDGE MACE: You've used some of your  
14 cross-examination time earlier, so it should be a  
15 little less than that. Go ahead.

16 MR. LEVIN: I believe I would have stayed  
17 within my time the last time had the witness just  
18 answered the question and not given speeches. You  
19 recall a couple of times I said, So your answer is  
20 no, and the witness said yes, after a formative  
21 explanation. I have no control over that.

22 CHAIRWOMAN SHOWALTER: But let's clarify  
23 this point. Often a cross-examiner wants only a yes  
24 or no answer. It's our policy that they should give  
25 a yes or no answer, but they are entitled to give an

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1 explanation. There are short explanations and long  
2 explanations, and the witnesses should be careful not  
3 to go further than is required, but by the same  
4 token, if the witness feels that something more than  
5 a yes or no answer is required to help us understand,  
6 they should be -- they will be allowed to do it,  
7 because it is more efficient for that answer to be  
8 given at that time than to wait for redirect and get  
9 back into the same conversation.

10 MR. LEVIN: Thank you.

11 JUDGE MACE: Go ahead.

12

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

14 BY MR. LEVIN:

15 Q. Mr. Teitzel, have you ever heard the term  
16 vaporware?

17 JUDGE MACE: Vapor -- is the word vaporware?

18 Q. Vaporware.

19 A. I have heard the term.

20 Q. That's a term that came out of the software  
21 industry, where a software firm announces with great  
22 vigor its newest product offering that will be rolled  
23 out in six months, and then, lo and behold, not only  
24 is it not rolled out in six months, but it never  
25 appears?

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1 A. I believe that has happened.

2 Q. And that would be consistent with your  
3 understanding of the term vaporware?

4 A. Yes.

5 Q. Vaporware also sometimes applies to  
6 telecommunications announcements, doesn't it? In  
7 other words, you have companies that announce great  
8 new technology, and somehow it never really hits the  
9 street?

10 A. I don't have a specific instance in mind,  
11 but I would concur that it probably has happened.

12 Q. Do you recall AT&T's Project Angel, which  
13 was where the customer was going to have a single  
14 telephone and a single number for wireline and  
15 wireless service, and the phone would automatically  
16 switch rates when the customer got within so many  
17 feet of their home base?

18 A. I recall Project Angel, yes.

19 Q. And AT&T announced it with great fanfare and  
20 said it would be rolled out within a couple of years?

21 A. Yes.

22 Q. And within 18 months to two years announced  
23 the technology didn't work and cancelled it?

24 A. I recall that.

25 Q. Yesterday, when I was speaking with Mr.

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1 Reynolds, I asked him if, in effect, I'm not sure  
2 what the words were, but I asked him if, in the arena  
3 of wireless service, the service that you were  
4 comparing to your own, that is, that Qwest was  
5 comparing to its own, included both analog and  
6 digital wireless. And ultimately, I think you said  
7 it was only the analog wireless. Is that your  
8 position?

9 A. I recall the discussion yesterday, and I  
10 would have to testify, in the context of my  
11 testimony, I was considering wireless service both in  
12 the digital and the analog versions as options to  
13 Qwest local exchange service.

14 Q. You're aware that many of the new generation  
15 of cell phones don't work in analog areas at all?

16 A. Yes, I am.

17 Q. And that, at this point, a very small  
18 minority of the areas are covered by analog service?

19 A. The preponderance of the cellular technology  
20 out there, I believe, is digital today.

21 Q. And so when you provide maps and testimony  
22 about the coverage of wireless companies, you're  
23 talking about both analog and digital service?

24 A. Yes.

25 Q. And by digital service, we don't mean that

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1 the user has a digital voice; we mean that the cell  
2 phone or the receiving equipment for the cell phone  
3 converts the analog voice into digital?

4 A. That's my understanding of digital cellular  
5 service, yes.

6 Q. I mean, voice is always analog; right?

7 A. Correct.

8 Q. And it's just a question of where it's  
9 converted, whether it's converted on the phone or  
10 between the phone and the network or somewhere in the  
11 network?

12 A. That's fair.

13 Q. Now, you mentioned that Qwest has a  
14 proceeding in Idaho in which it's seeking  
15 deregulation of services. In that proceeding, is  
16 Qwest seeking only deregulation of its analog  
17 services?

18 A. No, it is analog and digital services in the  
19 relevant market, as I defined. It was several  
20 markets in the southern Idaho -- in parts of southern  
21 Idaho.

22 Q. And Qwest is using wireless as the competing  
23 service?

24 A. It is.

25 Q. And it's Qwest's position that the analog

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1 and digital wireless service combined compete with  
2 its analog and digital services; is that right?

3 A. That's correct.

4 Q. And Qwest has not differentiated in that  
5 case an analog submarket and a digital submarket for  
6 its services, has it?

7 A. We have not.

8 Q. So you consider them in Idaho to be a single  
9 market?

10 A. Again, in the context of the Idaho market,  
11 we're considering these to be a single market. As I  
12 mentioned, in Idaho, the wireless evidence is our  
13 sole evidence in that proceeding. And we're  
14 suggesting that wireless service in that context, in  
15 those markets, is a direct substitute for Qwest local  
16 exchange service.

17 Q. And in your response, I could also say and  
18 is a substitute for Qwest analog and digital local  
19 exchange service, couldn't I?

20 A. For local exchange services, that would be  
21 true. We're not suggesting that wireless be a  
22 substitute for a DSS service, if you will, but for  
23 the local exchange traditional services, we contend  
24 that it is.

25 CHAIRWOMAN SHOWALTER: What is DSS?

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1           THE WITNESS: I'm sorry, digital switch  
2 service. It's a digital service served on a DS1  
3 facility.

4           Q. So if wireless service is a substitute for  
5 Qwest analog service and for Qwest digital business  
6 service, isn't it necessarily true that Qwest analog  
7 and digital service are also substitutes for each  
8 other?

9           A. I apologize. I missed the last part of that  
10 question, I think. Would you restate that?

11          Q. Yes. If it's true that Qwest -- that  
12 competitors' wireless services are competitors for  
13 both Qwest analog and digital services, isn't it  
14 necessarily true that Qwest's analog and digital  
15 services are competitors with each other, that  
16 they're substitutable?

17          A. I would disagree with that, and that's not  
18 the line of questioning that I believe I was  
19 answering. We were talking about analog and digital  
20 wireless service compared to Qwest local exchange  
21 service in Idaho. In this proceeding, we're not  
22 making a distinction between analog and digital  
23 wireless as compared to local exchange service in  
24 this docket that we're asking for flexibility on.  
25 We're simply suggesting that wireless service is



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1 another option the Commission should be aware of when  
2 serving business customers in local exchange market.  
3 Not all business customers, but certainly a subset of  
4 those.

5 Q. Well, let's go back and talk about Idaho and  
6 the way you framed your case there. In Idaho, you  
7 are saying, I think you've said, that wireless  
8 substitutes both for Qwest analog business service  
9 and for Qwest digital business service, voice  
10 service?

11 A. That's true.

12 Q. And therefore, in Idaho, it's fair to say  
13 that you can substitute Qwest digital voice service  
14 for Qwest analog voice service, because they both can  
15 be substituted for by wireless service?

16 A. The case is entirely different, the context  
17 is different.

18 Q. I'm asking you about in Idaho.

19 A. We're not suggesting that an analog wireline  
20 service and a digital wireline service are  
21 substitutes for one another. We're suggesting in  
22 that docket, in that context, limited to Idaho, that  
23 that is a market for which wireless services are  
24 functionally equivalent.

25 Q. To both Qwest's analog and digital local

0441

1 services?

2 A. Yes.

3 Q. Now, in Idaho, you're not suggesting that  
4 UNE-P and resale are competitors for Qwest analog or  
5 digital local service?

6 A. We are not. In Idaho, again, our sole  
7 evidence is wireless-based competition.

8 Q. But you do have companies like MCI and AT&T  
9 that are providing UNE-P service in Idaho, don't you?

10 A. Yes, there are CLECs providing service on a  
11 UNE basis in Idaho to a smaller extent than exists in  
12 this state.

13 Q. But that's not part of the presentation  
14 you're making to the Idaho Commission?

15 A. It is not.

16 Q. Now, in response to AT&T's questions, you  
17 said that, as I understand it, that voice over IP by  
18 its nature is a digital service. Analog voice  
19 becomes digitized; is that right?

20 A. Analog voice becomes digitized at the  
21 adapter, typically, and then goes out as a packetized  
22 message.

23 Q. And the reason why you bring that up is  
24 because you think that that digitized voice service  
25 is interchangeable for some customers with Qwest

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1 analog services?

2 A. I believe, for a subset of customers in this  
3 state that have access to broadband connectivity to  
4 the network, to the Internet, I should say, VoIP is  
5 an option today.

6 Q. And it's that interchangeability that's kind  
7 of the hallmark of why Qwest believes that it's  
8 losing its -- in other words, its share of business  
9 lines is diminishing; is that right?

10 A. I have not quantified the impact of VoIP per  
11 my discussion earlier with Ms. Friesen, so I do not  
12 know with specificity how much that impacts Qwest's  
13 base --

14 Q. Give me a -- go ahead. I'm sorry.

15 A. -- rather than just to assert to the  
16 Commission and inform the Commission that the  
17 services are available.

18 Q. Can you tell me what the factors are, in  
19 your opinion, that are causing Qwest's business line  
20 counts to diminish, as you've testified?

21 A. There's a variety of factors driving Qwest's  
22 access line counts. It's my firm belief that the  
23 primary reason for the decline in our access line  
24 base is competition, and the subset of competition  
25 that is the largest factor in that reason, I believe,

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1 is CLEC-based competition. But I also firmly believe  
2 that wireless services and VoIP now, on an emerging  
3 basis, are contributing to that decline. Again,  
4 that's not the only factor driving Qwest access line  
5 counts. Certainly, the economy has been sour for the  
6 last couple of years. That's had some impact, as  
7 well, and I recognize that.

8 Q. Any other factors?

9 A. Certainly there are a variety of reasons  
10 that customers disconnect lines. They may be leaving  
11 the state entirely, may be going out of business,  
12 retiring, a variety of reasons.

13 Q. Okay. Can you think of any others right  
14 now?

15 A. I'm sure, given sufficient time, I could  
16 come up with a fairly long list, but certainly a  
17 variety of reasons, a migration to CLEC, obviously  
18 the CLEC-based competition is a major issue,  
19 bankruptcies may be a factor, those reasons I listed.  
20 You know, bankruptcies, leaving the state, et cetera,  
21 have been reasons that customers take out lines for  
22 years. It's not a recent phenomenon.

23 JUDGE MACE: Mr. Levin, I'm noticing that  
24 it's noon. The Commissioners have to adjourn for the  
25 --

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1           MR. LEVIN:  Might I ask one more question  
2 before we break?

3           JUDGE MACE:  Surely.

4           MR. LEVIN:  Because this is the culmination  
5 of the line of questioning.

6           JUDGE MACE:  Surely.

7           Q.  I have here a couple of excerpts that I  
8 found on the Internet from Qwest's annual reports to  
9 its investors.  I'd like to read you a paragraph and  
10 ask you if you would change your testimony based on  
11 what Qwest is telling the SEC and its investors?

12           MR. SHERR:  Excuse me, I'm going to object.  
13 Does Counsel have a copy for Mr. Teitzel?  This was  
14 not identified.

15           JUDGE MACE:  I think you need to provide a  
16 copy to the witness and you need to show the copy to  
17 Counsel.

18           MR. LEVIN:  Okay.  I only -- because I had  
19 limited ability this morning when I found that  
20 Kinko's at 6:00 to generate copies, they're not a  
21 very good quality.

22           JUDGE MACE:  I know that you want to  
23 complete this line of questioning right now, but it  
24 would be helpful if the witness at least had a copy  
25 of that so the witness could take a look at it.

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1           MR. LEVIN: Okay. I think I've got  
2 something he can look at.

3           CHAIRWOMAN SHOWALTER: Isn't this going to  
4 be easier to do this question after lunch?

5           MR. FFITCH: Yeah.

6           CHAIRWOMAN SHOWALTER: And it is  
7 appropriate, if you are going to be using documents  
8 to cross-examine, first and foremost, why aren't they  
9 cross-examination exhibits, but there are some  
10 reasons, but if not, if you know and you knew this  
11 morning that you were going to use this document, you  
12 should provide it to everybody here, and I would say  
13 including the Bench. It does not help to keep us in  
14 the dark.

15           JUDGE MACE: All right. We'll adjourn now  
16 for a lunch recess, and we'll resume at 1:30. Thank  
17 you.

18           (Lunch recess taken.)

19           JUDGE MACE: Very well, then. Let's proceed  
20 with Mr. Teitzel. And Mr. Levin, I believe you were  
21 cross-examining. We have before us on the bench here  
22 two pages that you were referring to from the Qwest  
23 annual report. Why don't you go ahead.

24           MR. LEVIN: Thank you.

25           Q. Each of these pages, Mr. Teitzel, is from a

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1 different annual report. One of them actually  
2 printed with the date, which is a 2001 annual report  
3 in tiny print in the lower left corner. The other  
4 one didn't, but it's identified as page 31 in letters  
5 that only copied very faintly on the right side of  
6 the page.

7 MR. SHERR: Your Honor, I'm sorry, I'm going  
8 to object. I apologize for interrupting, but just --  
9 I want to introduce an objection to the use of these  
10 documents at all, and I thought I would raise my  
11 objection before we get too far down the road.

12 These appear to be documents, as represented  
13 by Mr. Levin, from 2000 and 2001. They clearly could  
14 have been identified as cross exhibits, so that is  
15 the first basis of our objection.

16 They're obviously incomplete documents, as  
17 they're only one page each, and so we don't have the  
18 context, we obviously haven't had an opportunity to  
19 review them for possible redirect, and as I look at  
20 it closely or quickly for the first time, I see there  
21 are revenue figures in here. If these are Qwest  
22 revenue figures, they are likely subject to  
23 restatement, as well.

24 So we feel very disadvantaged by the use of  
25 these documents at this point and in this manner.

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1           MR. LEVIN: Your Honor, there would have  
2 been no need to use these documents at all if, when I  
3 asked Mr. Teitzel for the list of exactly what the  
4 sources of line loss which has been reported by Qwest  
5 in its testimony and in discovery since 1999, what  
6 the sources of that was. I asked -- I gave him an  
7 opportunity to explain -- to give me a list of  
8 everything, and he didn't mention the one thing that  
9 their annual report mentions as a significant source,  
10 so this is just impeachment.

11           JUDGE MACE: Just a moment.

12           CHAIRWOMAN SHOWALTER: Why don't -- you were  
13 clearly trying to elicit something, I don't know  
14 what, but why don't you simply ask him what about X  
15 as a reason. Only if he says X is not a reason, I  
16 think, would you be impeaching him with something  
17 that says it is a reason.

18           MR. LEVIN: Okay. We can do it that way.

19           Q. Mr. Teitzel, is an additional reason, beyond  
20 the reasons that you've already given for access line  
21 loss, is it attributable to businesses converting  
22 their multiple single access lines to a lower number  
23 of high-speed, high-capacity lines allowing for  
24 transport of multiple simultaneous telephone calls  
25 and data transmissions at higher rates of speed?



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1 A. That certainly does happen.

2 Q. And if those -- if that source of line loss  
3 were taken into account and the total number of DSO  
4 equivalents for the company were looked at, would  
5 that show an increase or a decrease?

6 A. As I sit here, I can't honestly testify  
7 whether it would increase or decrease the numbers.  
8 Certainly, some customers, as they grow in size as a  
9 business, may go from a 10-line business to a 20-line  
10 business, and at that point, a DS1 type service may  
11 make economic sense. To that extent, those sorts of  
12 things do happen certainly in the market and have.

13 Q. Is the information on DSO equivalents  
14 available should the Commission wish to see it?

15 A. I believe it is. I don't have it with me  
16 here today, but I believe the company does have that  
17 data.

18 MR. LEVIN: Can we then make a record  
19 request for the voice grade equivalent basis growth  
20 or decline in number of access lines sold to  
21 businesses in the --

22 JUDGE MACE: I think you're going to have to  
23 slow down a little bit. Could you --

24 MR. LEVIN: Sure.

25 JUDGE MACE: -- state your question a little

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1 bit more slowly?

2 MR. LEVIN: Yes. We would request that  
3 Qwest provide, on a voice grade equivalent basis, the  
4 company's access lines sold to businesses over -- for  
5 each year from 1999 to the present.

6 JUDGE MACE: Thank you.

7 MR. SHERR: Your Honor.

8 JUDGE MACE: Mr. Sherr.

9 MR. SHERR: I'm not sure I understand the  
10 request, and since we'll obviously have to compile  
11 the response, I want to make sure I understand it.  
12 What I wrote down is, on a voice grade equivalent  
13 basis, Qwest's access lines sold to business for  
14 1999, 2000, 2001 and 2002. I didn't hear any  
15 distinction between analog and digital, for what  
16 class of service. Do you just mean total lines?

17 MR. LEVIN: That's right. I mean the way in  
18 which it is reported in this document to which you've  
19 objected, we want that number for the state of  
20 Washington for that period.

21 THE WITNESS: If I could, Your Honor?

22 JUDGE MACE: Well, just a moment.

23 MR. SHERR: Thank you, again, for your  
24 indulgence, Your Honor. Qwest would object to this  
25 record requisition from the perspective that it's

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1 asking for information that is well beyond the scope  
2 of this docket. We're asking for competitive  
3 classification of certain services and, as best as I  
4 understand the counts in this document, seeing it for  
5 the first time, this is well beyond -- it's well  
6 beyond the services we're asking for competitive  
7 classification for. It probably includes -- it  
8 likely includes others, as well, DS1s and DS3s and  
9 private lines, other things, as well. And so we  
10 think it will muddy the record to include information  
11 on Qwest's access lines beyond the scope of what  
12 we're asking for competitive classification for.

13 JUDGE MACE: Mr. Levin.

14 MR. LEVIN: Yes, Your Honor, that is Qwest's  
15 version of the case, and the point is that's  
16 contested. Qwest's version of the case is that the  
17 only market that's relevant here is the analog  
18 market. The position of my client and the other  
19 intervenors is that the market is all services that  
20 are interchangeable with those services to provide  
21 the same functionality to customers. And that is  
22 certainly something which Qwest acknowledges  
23 implicitly in its filing in Idaho and its filing in  
24 Iowa. There's certainly no reason why we shouldn't  
25 be able to pursue our theory of the case here. We

0451

1 should not be limited by the fact that Qwest has  
2 arbitrarily defined a market that's smaller than the  
3 market that it's defined in other states.

4 CHAIRWOMAN SHOWALTER: Why didn't you seek  
5 this in discovery?

6 MR. LEVIN: Well, two reasons. First of  
7 all, I expected that we might get this kind of  
8 response from Mr. Teitzel on the stand that we would  
9 have this information or this type of information,  
10 that he would acknowledge the source of the problem,  
11 because it's been asked about. Public Counsel has  
12 actually done some discovery on related issues, which  
13 I'm sure they'll be talking about. It's my  
14 understanding that their discovery, though, they were  
15 unsuccessful in getting things boiled down to this  
16 point. I think perhaps I should let Public Counsel  
17 speak to that, because it was their discovery. But  
18 there has been discovery done on very closely related  
19 issues.

20 JUDGE MACE: Mr. ffitch, did you have  
21 anything you wanted to add to that?

22 MR. FFITCH: Well, I would agree that we  
23 have asked something of a similar request. However,  
24 I'd also agree with Mr. Levin that we don't have  
25 exactly the same information refined or narrowed down

0452

1 in the same way that he's asking for it, so we do  
2 have that -- we do have the response that we did get  
3 in one of our cross exhibits that's identified for  
4 Mr. Teitzel.

5 CHAIRWOMAN SHOWALTER: Just a question to  
6 Qwest. You're objecting to this on relevance, but is  
7 there, as a practical matter, in terms of producing  
8 the evidence, is it very difficult to do?

9 MR. SHERR: Quite frankly, we don't know,  
10 because sitting here looking at it the first time, I  
11 don't know from what source this information came. I  
12 don't know if we still report information this way.  
13 I simply don't know. We could ask, but as I sit  
14 here, I don't have any idea how this number was  
15 compiled, these numbers, whichever numbers they are,  
16 were compiled and if we still do things that way.

17 MR. LEVIN: If Qwest is unable to comply, we  
18 would simply, as an alternative, propose that this  
19 document we have here be admitted and be given such  
20 weight as the Commission deems appropriate to give  
21 it.

22 JUDGE MACE: We'll permit you, Mr. Levin, to  
23 have this exhibit marked, these two pages marked as  
24 an exhibit, because it represents information that  
25 you want to have in the record with regard to this

0453

1 number of access lines, but give Qwest the option, if  
2 they want to provide something more accurate and up  
3 to date, to provide that in addition.

4           So this will be marked -- the other thing I  
5 want to say is there is a concern that there have  
6 been several requisition requests -- I'd ask you all  
7 to make sure that your cell phones are shut off at  
8 this point -- that there have been several  
9 requisition requests of information that the Bench is  
10 concerned may more appropriately have been asked on  
11 discovery in the discovery phase of this case. So I  
12 want you to bear that in mind when you're making your  
13 records requisition requests in the future.

14           Let me revisit this. What we'd like to do  
15 is have you, Qwest, supply the answer to the record  
16 requisition question, to the best of your ability,  
17 and if you have --

18           CHAIRWOMAN SHOWALTER: I'm sorry. We'll  
19 grant the requisition records request, which can be  
20 supplied in the form of the entire document from  
21 which this comes identified. These two pages mean  
22 nothing, because they're not identified, unless you  
23 also want to supplement it with something different  
24 or more accurate than whatever this document  
25 represents. So in other words, it's up to Qwest to

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1 provide the answer, either in the full version of  
2 this document or some alternative.

3 MR. SHERR: These are, if I can just ask a  
4 clarifying question, these are from two separate  
5 reports; is that correct?

6 MR. LEVIN: Yes.

7 MR. SHERR: One for 2000 and one for 2001.

8 MR. LEVIN: Yes, they came directly off the  
9 Qwest Website.

10 MR. SHERR: Okay. And so we would comply  
11 with the records requisition by filing the complete  
12 reports for these two years. Thank you.

13 MR. LEVIN: I'm going to try to move rapidly  
14 through the rest of my questions.

15 CHAIRWOMAN SHOWALTER: Which, again, we have  
16 just taken up something like half an hour because  
17 there was a failure to request this information in  
18 discovery and get all of this worked out before the  
19 hearing date, before the hearing time. That's one  
20 reason we have discovery processes going on. We've  
21 allowed it because it is relevant to the arguments at  
22 hand.

23 MR. LEVIN: Thank you.

24 Q. Mr. Teitzel, on your direct testimony, which  
25 is -- I think it's 51-T, isn't it, Exhibit 51-T, page

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1 16, lines -- line 14, through page 17, line one?

2 A. Yes, sir, I have that.

3 Q. And you mentioned Ascendant Telecom as  
4 offering systems that enable integration of wireless  
5 phones into a PBX system?

6 A. That's correct.

7 Q. Now, it's true, is it not, that, according  
8 to the Ascendant Website, that the Ascendant  
9 equipment requires an additional T-1 from the telco?

10 A. I believe that is correct.

11 Q. And the Website also says that it does not  
12 act as a redundant PBX, that is, the wireless phones  
13 that are added?

14 A. No, it's an augmentation to an existing PBX.  
15 It's not redundant to the PBX.

16 Q. And by hooking the wireless cell phones into  
17 the PBX, it actually could result in greater use of  
18 the PBX; isn't that true? Because all of a sudden  
19 the PBX is now being used by people in the field?

20 A. To the extent additional users were using  
21 the PBX common equipment, I would say that you  
22 probably are correct. There could be more usage  
23 coming through the PBX switch.

24 Q. So in the aggregate, if you had enough, it  
25 could lead to the ordering of additional trunks?



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1           A.    It's a matter of scale and degree, but I  
2 would say that certainly would be possible.

3           Q.    Now, coin and coinless phones are not  
4 included in Qwest's petition, are they?

5           A.    They are not.

6           Q.    And therefore, they're not included in the  
7 market share analysis?

8           A.    That's also correct.

9           Q.    But you would agree with me, wouldn't you,  
10 that coinless phones, in particular, are widely used  
11 by business travelers?

12          A.    Yes, they are.

13          Q.    And they're used in lieu of alternatives  
14 that a business traveler might use, such as a  
15 wireless phone?

16          A.    I'd say that's fair. I've seen in airports  
17 some business travelers use a coin telephone, others  
18 use a wireless phone, side-by-side.

19          Q.    And there's no reason why a competitor  
20 couldn't provide a -- what Qwest calls a public  
21 access line to service a coin or coinless phone, is  
22 there?

23          A.    Well, that certainly could be provided by a  
24 competitor.

25          Q.    The competitor could either do it by resale

0457

1 or by UNE-P or by buying partial UNEs and providing  
2 some of the equipment itself?

3 A. I believe that's true.

4 Q. Let's -- I want to move now through the  
5 exhibits that we've identified, and I'm going to go  
6 through them fairly quickly and ask you a few  
7 questions about each one, and I think that will  
8 pretty close to finish my questioning.

9 A. That's fair.

10 Q. Please look at Exhibit 64.

11 A. I have that exhibit.

12 Q. We've included in Exhibit 64 some documents  
13 that appear continuously in the Qwest tariff, which  
14 is a semi-public telephone service and then an  
15 extension for that semi-public telephone service.  
16 You're acquainted with that service?

17 A. Yes, I am.

18 Q. And that service permits a business,  
19 probably typically a small business, to have a coin  
20 phone or a coinless phone in its business place and  
21 use it as a second outgoing line for the business; is  
22 that right?

23 A. A semi-public telephone could be used, for  
24 example, in a restaurant, near the back of the  
25 restaurant by the restrooms, is where they're

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1 typically located. And certainly it does have a  
2 telephone number associated with it, can be used for  
3 outbound calls, in addition to whatever line the  
4 business -- the restaurant might have on a coin  
5 basis.

6 Q. And the extension service that goes with it  
7 that's also in these pages allows them to put that  
8 line into their existing telephone equipment; isn't  
9 that right?

10 A. The extension service that's offered here,  
11 my understanding of that service would be that they  
12 could answer incoming calls to that semi-public phone  
13 from a remote location.

14 Q. Moving on to Exhibit 65, this is the Tenant  
15 Solutions product that Qwest has; is that correct?

16 A. Yes, it is.

17 Q. This is a service that is on the list of  
18 services here for which Qwest is seeking competitive  
19 classification; is that right?

20 A. Give me a moment. I don't believe Tenant  
21 Solutions was on the list of services, if you're  
22 referring to Mr. Reynolds' Attachment A.

23 Q. Yes.

24 A. Give me just a moment to review. I  
25 apologize. It is on that list.

0459

1 Q. So you're saying, then, it's an analog  
2 service?

3 A. Tenant Solutions is a -- it's a program, not  
4 necessarily a service, if you will, that is offered  
5 as a -- provides a set of incentives to multi-tenant  
6 property owners to encourage those owners to position  
7 Qwest as the preferred provider of service to the  
8 tenants in that location. So it's not necessarily a  
9 service; it's a grouping of service and discounts on  
10 those services.

11 Q. Are all of the services that are listed in  
12 the group the subject of Qwest's petition for Tenant  
13 Solutions?

14 A. In terms of the menu of services on the  
15 first page, as I scan down here briefly, many of  
16 these services do appear on Mark Reynolds' Exhibit A  
17 to his testimony. I see other services in addition  
18 to Mr. Reynolds' list on Exhibit A. I would suggest  
19 that to the extent that the services that show up on  
20 this tariff that don't appear on Mr. Reynolds'  
21 Exhibit A would be excluded from our application.

22 Q. So the Tenant Solutions would be a different  
23 product or set of products than currently appears in  
24 Qwest tariffs?

25 A. I would suggest that were we to receive

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1 pricing flexibility on these services we request  
2 flexibility on, they would apply only to the set of  
3 services identified specifically in Mr. Reynolds'  
4 Exhibit A. To the extent other services appear here,  
5 flexibility would not apply to those services.

6 Q. Have you provided an identification anywhere  
7 of which portions of this group of services would  
8 drop out, other than by reference to the list of  
9 services which are included in general in the  
10 petition?

11 A. Well, for example, on this list I do see  
12 ISDN service, high-capacity DS1 and DS3 services.  
13 Those would be on the list of services we would call  
14 services that are digital in nature and not subject  
15 to this application.

16 Q. Now, the services are grouped together  
17 because they're a group of services that somebody who  
18 has a multi-tenant building might want to buy?

19 A. Not necessarily. These are services that  
20 may be provided at a particular multi-tenant  
21 building, and this range of services would be --  
22 would include those that would qualify for discounts  
23 under this program. It doesn't suggest that all  
24 these services would be provided at any particular  
25 location, just that these are the qualifying services

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1 for the program.

2 Q. Okay. Thank you. Moving on to Exhibit 66.

3 A. I have that exhibit.

4 Q. This is the PBX trunks. Are the PBX trunks  
5 in this portion of the tariff all analog trunks?

6 A. We would define these as being analog trunks  
7 and being included in our application, yes, with the  
8 exception of the toll access trunk, which I believe  
9 Mr. Reynolds addressed as being a screening type  
10 trunk that is excluded specifically.

11 Q. Okay. And down below in the same page, you  
12 have the hotel message trunk service, and I believe  
13 Mr. Reynolds talked about this as being different, as  
14 you were just saying, than the toll trunks for the  
15 hotels?

16 A. Hotel message trunk is a message-rated  
17 service where it's physically a PBX trunk and we keep  
18 track of the number of outbound messages on that  
19 trunk, and the hotel owner in this instance would pay  
20 on a per-message basis per each call.

21 Q. And the hotel message trunks are included in  
22 your market share analysis?

23 A. Yes, they are.

24 Q. Moving on to Exhibit 67, direct inward dial  
25 service. Direct inward dial service can be provided

0462

1 either over a digital facility or an analog facility;  
2 is that correct?

3 A. That's correct.

4 Q. And this was the only description that I  
5 could find in the Qwest tariffs of direct inward  
6 dial. So presumably, unless I missed something, this  
7 is the description for both digital and analog?

8 A. Yes, DID service is provided to the end user  
9 functionally identical. There's no difference in  
10 terms of the way the service functions to the PBX  
11 stations behind the PBX. It is a trunk-side  
12 connection which allows DID, or direct inward  
13 dialing, to individual stations behind a PBX. Works  
14 identically in a digital or analog mode.

15 Q. Thank you. Moving to Exhibit 68, let me see  
16 if I can summarize what I think your testimony will  
17 be, because I'm going to ask you -- I was going to  
18 ask you the same questions here that I asked you  
19 about Tenant Solutions.

20 Both on Exhibit 68 and 69, which 68 is  
21 Centrex 21 and 69 is Centrex Prime, those products  
22 include some services that have been identified as  
23 digital services, and for purposes of -- I take it  
24 that if I ask you these questions for purposes of  
25 this petition, you would drop out the digital

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1 services and they would no longer be part of Centrex  
2 21 and Centrex Prime for purposes of  
3 reclassification; is that right?

4 A. To the -- we're asking for price listing or  
5 pricing flexibility on a specific range of services.  
6 To the extent a service appears as a subcomponent in  
7 Centrex 21 or Centrex Prime, such as ISDN, Qwest  
8 would agree that we would not be seeking pricing  
9 flexibility for that particular subcomponent.

10 Q. And if you look at the first page of Exhibit  
11 68, the last sentence, where it says, A Centrex  
12 customer has a choice of having the features  
13 delivered by an analog --

14 JUDGE MACE: Just a little more slowly.

15 MR. LEVIN: I'm sorry.

16 Q. Has a choice of having the features  
17 delivered by analog lines and/or 2B+S digital  
18 voice-only ISDN lines. So the customer would not  
19 have that choice if -- under this product if your  
20 petition were granted?

21 A. That's a difficult question, because 2B+S is  
22 -- it's a voice-only application; it's not a data  
23 application. In that instance, there are two voice  
24 channels used for voice telephone calls and an S  
25 channel, which is a signaling channel, not a data



0464

1 channel, as would be 2B+D in the data application.  
2 So this is, in fact, a very direct voice type service  
3 provided over a digital functionality, if you will.  
4 But from the customer's perspective, it's treated,  
5 it's received, it's used as an analog type service.

6 So I'm conflicted with my answer here a bit,  
7 as you can tell. It is a form of ISDN.  
8 Functionally, it looks exactly like analog service to  
9 the user.

10 Q. What do the letters ISDN stand for?

11 A. Integrated switched digital network.

12 Q. Is it integrated switched or integrated  
13 services?

14 A. My recollection is switched, but I -- I  
15 could stand corrected.

16 Q. We have an exhibit which will clarify that.

17 A. Thank you.

18 Q. Exhibit 70 is that exhibit. At the top it  
19 says Integrated Services Digital Network.

20 A. Thank you. I do stand corrected.

21 Q. Okay. And it says at the top of page one of  
22 Exhibit 70, Integrated services digital network is a  
23 digital architecture that provides an integrated  
24 voice data capability to the customer premises  
25 facility. So it is a digital capability, is it not?

0465

1 A. It is a digital capability; that's true.

2 Q. In its -- in Qwest's market share analysis,  
3 has it included ISDN basic rate service voice lines  
4 in that analysis?

5 A. It has not.

6 Q. Now, the PRS version of ISDN is essentially  
7 a T1-based ISDN application; is that right?

8 A. That's correct.

9 Q. Or DS1?

10 A. That is correct.

11 Q. And it provides 1.544 megabytes of capacity?

12 A. It does, and that consists of 24 separate  
13 channels.

14 Q. And typically that's divided up into 23 B,  
15 or bearer channels, and a single D channel, for data  
16 channel?

17 A. My understanding is that it can be provided  
18 in that manner or with 24 channels, voice channels.

19 Q. And it might be provided with 24 channels  
20 where you ordered more than one PRS and a D channel  
21 and one of the PRS's could control both?

22 A. That's one application.

23 Q. The -- a typical application of a PRS would  
24 be to provide connectivity to a digital PBX; is that  
25 right?

0466

1 A. Yes.

2 JUDGE MACE: Could you tell us again what  
3 PRS is?

4 MR. LEVIN: Let's see.

5 JUDGE MACE: Unless you haven't already.

6 MR. LEVIN: It's in the -- primary rate  
7 service.

8 JUDGE MACE: Thank you.

9 MR. LEVIN: And the reference to that is  
10 page 29 of this exhibit.

11 JUDGE MACE: Thank you.

12 Q. So the PRS is, again, a digital service, as  
13 described in the tariff?

14 A. Yes, it is.

15 Q. But when it provides service to a PBX, it  
16 provides a voice functionality?

17 A. Yeah, it certainly can provide voice or  
18 data.

19 Q. And it provides essentially the same  
20 functionality to a digital PBX that analog trunks  
21 provide to an analog PBX; isn't that right?

22 A. That's a reasonable statement.

23 Q. There might be some additional features, but  
24 it's basically the same functionality?

25 A. The core functionality is the same, but you

0467

1 are right. There are some additional features that  
2 digital services provide that analog does not.

3 Q. So the digital is what the analog is, plus  
4 some extra features?

5 A. That's fair.

6 Q. Now, I think you've already said that  
7 neither the ISDN basic rate service, nor the primary  
8 rate service are part of the Qwest petition?

9 A. That is correct.

10 Q. And that includes the application of the PRS  
11 for PBX. That is not part of the petition?

12 A. That is correct, and I believe an analog to  
13 that might be -- if I can use the term analog --  
14 would be the DSS, digital switched service  
15 functionality, which is also a T1 connected to a  
16 digital PBX.

17 Q. We have an exhibit on that, as well.

18 A. Okay.

19 Q. And you did not include the PRS numbers as  
20 voice channels when you did your market share  
21 analysis, did you?

22 A. We did not include PRS in either the  
23 wholesale data nor the West retail data.

24 Q. Exhibit 71 is digital switched service,  
25 which I think you just alluded to.

0468

1           JUDGE MACE: Mr. Levin, can I ask you to  
2 speak more directly into the microphone? There may  
3 be people in the back that can't hear you.

4           Q. And again, digital switched service is  
5 another digital service that provides the basic  
6 channels that a digital PBX needs to function; is  
7 that right?

8           A. Yes.

9           Q. And these are channels that are commonly  
10 used for voice service?

11          A. They're commonly used for voice service  
12 that's provided via digital PBX at the end user's  
13 premises.

14          Q. And as with the PRS that's used for PBX, it  
15 provides the functionality of an analog PBX trunk,  
16 plus some additional features?

17          A. That's fair.

18          Q. Exhibit 72 is something called Uniform  
19 Access Solution. And this is, I take it, another  
20 digital service, because it's provided over DS1. And  
21 it allows you to have a single number with multiple  
22 channels?

23          A. That's correct.

24          Q. So this might be used, let's say, by a  
25 telemarketing group that wanted a single number out

0469

1 there but had lots of operators?

2 A. That's one application I can think of, yes.

3 Q. And again, this capability is something  
4 which is similar to what you get out of an analog  
5 PBX, but, again, it has some additional features,

6 A. Yes this is a digital feature that would  
7 provide a voice service, typically, to an end user  
8 location. And once again, since this was a DS1  
9 service specifically, it was not included in Qwest's  
10 petition nor in the wholesale data.

11 Q. So it's not part of your market share  
12 analysis?

13 A. It is not.

14 Q. Let's skip Exhibit 74. I don't think we're  
15 going to ask to introduce that into evidence.  
16 Exhibit 75 is a data request, and it asked you  
17 whether Mr. -- whether, in your testimony, your  
18 totals for Qwest business access lines included  
19 services provided over digital facilities?

20 A. I see --

21 Q. Excuse me. You've just told us that there's  
22 some services provided over digital facilities you  
23 didn't include, but the answer to this is yes. Can  
24 you explain what you meant when you said yes?

25 A. Certainly. Let me review page four. The

0470

1 question asked about page four, line 12 of my  
2 testimony. Just for the court reporter, let me  
3 briefly read. My answer says, Yes, from December  
4 2001 to December 2002, Qwest business local exchange  
5 retail access line base in Washington declined from  
6 approximately 706,000 lines to about 615,000, a  
7 decline of 13 percent.

8 Now, that number references all business  
9 lines offered by Qwest in the state, including  
10 analog, digital, everything. That's a combined look  
11 at our market and is offered for perspective to  
12 demonstrate that we are facing continued competition,  
13 our base has declined in the state.

14 Q. So should that include all DSO equivalents?

15 A. Yes, it included DSO, DS1, DS3, any service  
16 provided on a switched basis to the business market.

17 Q. When you say on a switched basis, what's the  
18 difference between -- in other words, is a PRS a  
19 switched basis?

20 A. Yes. If you're talking about ISDN primary  
21 rate; is that your question?

22 Q. Yes.

23 A. Yes, that would be a switched service, and  
24 that would be included in this total.

25 Q. And the DSS Centrex?

0471

1           A.    Yes.  Again, this was offered for context.  
2   This is the entire business market.  Then, as my  
3   testimony proceeds, we talk about the specific market  
4   as we defined it in this state, which is a subset of  
5   this total.

6           Q.    Exhibit 76 is the question I just asked you,  
7   and you said, yes, it is provided in a DSO-equivalent  
8   basis, based on active channels in multi-channel  
9   facilities; is that right?

10          A.    That's right.  We're talking about in  
11   service access lines on an equivalent basis.

12          Q.    Now, you haven't done a comparison of market  
13   shares with the competitors, with the CLECs on this  
14   particular point, have you?

15          A.    No, we've not.  We've defined market share  
16   on the market as we define it, the relevant market,  
17   which is the range of Qwest analog services in Mr.  
18   Reynolds' Exhibit A, as contrasted against the  
19   wholesale services also provided on an analog basis.

20                MR. LEVIN:  Thank you.  Due to your answers  
21   to my questions, I can skip Exhibit 77 and 78.  And  
22   at this time, that concludes my cross-examination of  
23   this witness.  I would move the admission of, let's  
24   see, Exhibit --

25                JUDGE MACE:  Sixty-four through 78, but you



0472

1 indicated you were not going to offer 75; is that  
2 correct?

3 MR. LEVIN: Seventy-four was not offered,  
4 and 77 and 78 were not offered.

5 JUDGE MACE: Seventy-four, 77 and 78. Is  
6 there any objection to the admission of the remaining  
7 exhibits?

8 MR. SHERR: No objection.

9 JUDGE MACE: I'll admit those exhibits. And  
10 Mr. ffitch?

11 MR. FFITCH: Thank you, Your Honor.

12

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

14 BY MR. FFITCH:

15 Q. Good afternoon, Mr. Teitzel.

16 A. Good afternoon, sir.

17 Q. As you know, I'm Simon ffitch, from Public  
18 Counsel Office.

19 A. How are you?

20 Q. Fine, thank you. Initially, Your Honor, I'd  
21 like to offer by stipulation Public Counsel Exhibit  
22 79. I believe Qwest has no objection to the  
23 admission of that exhibit.

24 JUDGE MACE: Seventy-nine. You've also had  
25 marked 80 and 81. Is that --

0473

1           MR. FFITCH: That's correct. I'm not  
2 offering those yet.

3           JUDGE MACE: All right.

4           MR. FFITCH: I'm just offering 79 by  
5 stipulation.

6           MR. SHERR: Qwest has no objection.

7           JUDGE MACE: Thank you.

8           Q. Now, if you could turn to Exhibit 80, Mr.  
9 Teitzel, and that's a response to a Public Counsel  
10 data request; correct?

11          A. Yes, it is.

12          Q. And in Part A of that data request, Qwest is  
13 asked whether customers of Qwest's business local  
14 exchange service ever migrate from local exchange  
15 services to other Qwest products; right?

16          A. That is the question; that's correct.

17          Q. That's the question. And the answer given  
18 down below in Response A is, It is possible that  
19 customers migrate from Qwest business local exchange  
20 services to other Qwest products; correct?

21          A. That is correct.

22          Q. And if we then go to subpart E of the  
23 answer, there's some further explanation, where you  
24 state that as part of Qwest's disconnection survey,  
25 customers have offered migration as a reason for

0474

1 disconnection. That is the response there; correct?

2 A. Yes, it is. That is the response.

3 Q. And as you've already talked a little bit  
4 about the disconnect survey, and we'll get to that in  
5 a moment, that's the disconnect survey you already  
6 addressed with Mr. Levin or prior counsel; right?

7 A. That's my recollection, yes.

8 Q. And also in Part E, we ask whether Qwest has  
9 conducted any studies within the past five years  
10 examining business customers' substitution of other  
11 Qwest products and services for the services listed  
12 in Attachment A to the Qwest petition. In other  
13 words, the services that are a subject of this  
14 petition in this case. That's the question; correct?

15 A. Yes, it is.

16 Q. And the answer on page two in Part E is, To  
17 Qwest's knowledge, neither Qwest nor anyone on behalf  
18 of Qwest has conducted any other studies within the  
19 past five years; correct?

20 A. That is the answer; that's correct.

21 Q. Now, let's turn, if you would, to Exhibit  
22 82. I am skipping 81. As I prepared my cross, I  
23 realized I didn't have quite the right order here,  
24 but we are skipping 81. We'll come back to that.  
25 Going ahead to 82, in here, Exhibit 82, this is

0475

1 another Public Counsel data request in which we asked  
2 a number of questions about disconnection of  
3 customers from Qwest services. Is that generally  
4 correct?

5 A. Yes, it is.

6 Q. And we asked a number of questions. Part A,  
7 the reasons for the disconnect; Part B, the quantity  
8 of disconnects associated with the reasons, and then  
9 there was a breakdown in C, D and E, disconnects  
10 resulting from customers calling Qwest, D is CLECs  
11 calling to make the disconnection request, and E is  
12 any that are initiated by Qwest directly, e.g, for  
13 nonpayment of bills. Is that a fair statement of the  
14 request?

15 A. That is fair.

16 Q. So if we go to page two of the exhibit,  
17 that's your answer. And you have already discussed  
18 this a little bit with prior counsel. This contains  
19 those different disconnection reports. You've  
20 indicated that there is shown on page two of the  
21 exhibit here a number, and these are confidential  
22 numbers, but there's a number that's shown for  
23 disconnects due to competition; correct?

24 A. Yes, there is.

25 Q. And that's sort of in the top third of the

0476

1 page, I think hopefully everybody can find that, I  
2 won't read the number out loud. If we go to the  
3 bottom of the far right-hand column, we see the grand  
4 total of disconnects on this chart, and that is the  
5 total number of disconnects, which indicates, does it  
6 not, that there are a significant number of  
7 disconnects for reasons other than competition;  
8 correct?

9 A. Yes, it does.

10 Q. And to just generally represent the  
11 proportion, a minority of the disconnects are for  
12 competition, rather -- I don't want to get into  
13 confidential numbers here, but a minority, a minor  
14 fraction is the result of comparing those two  
15 numbers; correct?

16 A. I would not necessarily agree with the  
17 characterization minor fraction. I would say less  
18 than 50 percent for that reason, certainly.

19 Q. Okay. I was trying to not get too specific,  
20 but I would agree with that. People can do the math.  
21 If we turn to page five of the exhibit, these are the  
22 Qwest-initiated disconnects; correct?

23 A. Yes, they are.

24 Q. And I notice, isn't it true that none of the  
25 reasons given in the far right-hand column on page

0477

1 five is product migration; correct?

2 A. That is true.

3 Q. Now, here's a general question for you, Mr.  
4 Teitzel. If a Qwest customer simply changes from one  
5 Qwest service to another, that isn't necessarily  
6 characterized as a disconnect, is it?

7 A. No, it's not. And I would say, in many  
8 instances, that order would come through as a change  
9 order, where it's changing from one type of service  
10 to another, not as a disconnect order.

11 Q. Okay. So this exhibit doesn't show the  
12 total universe of customers changing from one kind of  
13 service to another?

14 A. No, it would not.

15 Q. Let's turn now to Exhibit 81. Do you have  
16 that?

17 A. Yes, I do.

18 Q. Now, this, again, is a Public Counsel data  
19 request which has three parts, and just sort of  
20 summarizing the request, we refer to Qwest quarterly  
21 report and ask Qwest to provide the total voice grade  
22 equivalent access lines for business customers for  
23 Qwest in Washington for a three-year period; correct?

24 A. That is correct.

25 Q. Now, and you've provided that answer in

0478

1 confidential attachment page three to the exhibit;  
2 correct?

3 A. Yes, we have.

4 Q. And let's take a look at that. This exhibit  
5 describes the answer. Is the label at the top  
6 confidential? Is it possible to read that -- for me  
7 to read that out loud, the description of what the  
8 data is?

9 MR. SHERR: That's fine.

10 JUDGE MACE: I'm sorry, the answer was?

11 MR. SHERR: I'm sorry. The answer was yes,  
12 it's fine to read the title.

13 Q. Okay. Again, this is the total voice grade  
14 equivalent access lines for business customers in  
15 Washington for the years 1999, 2000, 2001 and 2002.  
16 And the grand totals are shown in the bottom row;  
17 correct?

18 A. Yes, they are.

19 Q. And if we go from left to right across that  
20 page, we see an increase of approximately a  
21 threefold, or 300 percent increase in those total  
22 access line equivalents, do we not?

23 A. Yes, but here I need to clarify, and maybe  
24 you're going to get to this question with the next  
25 page, but these -- this is very important. These

0479

1 access lines are not Qwest retail local exchange type  
2 access lines. These lines include, as we mentioned  
3 earlier, DSO equivalents from DS1 and DS3 services,  
4 they include UNE-P lines that are sold to CLECs, they  
5 include unbundled loops that are sold to CLECs.  
6 Those lines are all counted as, quote unquote,  
7 business lines for this definition, so there's not a  
8 direct corollary there.

9 Q. And you're referring to page four of the  
10 exhibit, and if you turn to that, that lists the  
11 voice grade equivalent product categories; correct?

12 A. That is correct.

13 Q. And if we go down that list in both columns,  
14 we can see some services that are subject of a  
15 petition -- of this petition in this case; correct?

16 A. I would agree with that.

17 Q. And this includes both analog and digital  
18 services; correct?

19 A. Yes, it does, in addition to the wholesale  
20 services we discussed.

21 MR. FFITCH: All right. May I just have a  
22 moment, Your Honor?

23 JUDGE MACE: Okay.

24 MR. FFITCH: No further questions, Your  
25 Honor. Thank you, Mr. Teitzel.



0480

1 THE WITNESS: Thank you, sir.

2 JUDGE MACE: And how about your exhibits?

3 MR. FFITCH: I would like to offer the  
4 exhibits. Exhibits 80 through 82, please, for Public  
5 Counsel.

6 JUDGE MACE: Any objection to the admission  
7 of those exhibits?

8 MR. SHERR: No objection.

9 JUDGE MACE: I will admit those. Next we  
10 turn to Mr. Melnikoff.

11 MR. MELNIKOFF: Thank you, Your Honor.

12

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

14 BY MR. MELNIKOFF:

15 Q. Good afternoon, Mr. Teitzel.

16 A. Good afternoon, sir.

17 Q. My name is Stephen Melnikoff, as you know,  
18 and I represent the consumer interests of the  
19 Department of Defense and all other federal executive  
20 agencies. I'd like to go over --

21 JUDGE MACE: Excuse me, Mr. Melnikoff, would  
22 you please speak right into the microphone?

23 MR. MELNIKOFF: I'm sorry.

24 Q. I'd like to clarify a couple of numbers of  
25 -- the amount of competitors seems to ebb and flow,

0481

1 depending on where you read. On Exhibit Number 51,  
2 your direct testimony, I believe it's page 6, lines  
3 three through seven, you indicate, as of April 30th,  
4 2003, a total of 78 carriers purchase wholesale  
5 services from Qwest to serve their Washington  
6 customers; is that correct?

7 A. That is correct.

8 Q. How did you obtain that information?

9 A. Qwest, on a monthly basis, tracks all  
10 wholesale services that we provide to CLECs in this  
11 state and others, and we track every type of  
12 wholesale service we sell, including the UNE loops,  
13 the UNE platform loops we've talked about in this  
14 docket, also including local interconnection service  
15 trunks, collocation, number portability, every  
16 category of wholesale service that we offer. So this  
17 total represents the CLECs that are buying one of  
18 those wholesale services, not only the services we're  
19 talking about here in this specific proceeding  
20 relative to UNEs or UNE-P.

21 Q. So the 70 -- as I understand your response,  
22 the 78 identified competitors would be providing more  
23 than just local voice grade business service?

24 A. Possibly.

25 Q. Now, in Mr. Reynolds' direct testimony, I

0482

1 believe it's Exhibit Number 1, he indicated that --  
2 and in his testimony yesterday, he indicated that as  
3 of January 12th, 2002, I believe it was, he had  
4 identified 37 competitors?

5 A. Mr. Reynolds identified 37 competitors were  
6 buying stand-alone UNE loops or UNE platform from  
7 Qwest. That would be a subset of this number.

8 Q. And in Mr. Wilson's testimony, which is  
9 Exhibit Number 201, page 12, he indicated that the  
10 response from CLECs to the data request pursuant to  
11 Commission Order Number 6, he got 24, I believe,  
12 responses?

13 A. I believe I recall he had 24 responses at  
14 that time. Some CLECs apparently had not responded.

15 Q. Or did not exist?

16 A. My understanding was he sent data requests  
17 to CLECs that actually did exist, but some of those  
18 CLECs did not respond, but you can ask Mr. Wilson  
19 that question.

20 Q. I intend to. Thank you. How do you  
21 reconcile your 78 with Mr. Wilson's 24? Or I'm  
22 sorry.

23 A. There was no reconciliation done. It was  
24 simply a report by me, a factual report of the total  
25 number of CLECs who were purchasing wholesale

0483

1 elements from Qwest.

2 Q. Do you still contend that there are  
3 currently competing in Washington State for Qwest  
4 provision of local business service 78 competitors?

5 A. I'm not sure of the precise number at this  
6 point, and I'm not even asserting that all of the 78  
7 are, in fact, competing actively with Qwest. I  
8 simply asserted that there were 78 CLECs buying  
9 wholesale services from Qwest, and that is very  
10 factual.

11 Q. And when you say competing with Qwest, you  
12 mean competing with Qwest for business local exchange  
13 service?

14 A. That's correct. In fact, some of these  
15 CLECs may be only providing service to residential  
16 customers, as an example.

17 Q. If we could go to your -- I'd like to go to  
18 a different area. And I want to get a clarification  
19 on your definition of an open market and effective  
20 competition. On page 12 of Exhibit 51, lines 19  
21 through -- I believe it's 20.

22 A. Yes.

23 Q. Yeah, lines 19 through 20, you say, The  
24 business, and I'm quoting -- I'm sorry, The open  
25 competitive market in Washington represents effective

0484

1 competition for Qwest's local exchange business  
2 service.

3           When you say on line 20 effective  
4 competition, do you mean the statute's definition of  
5 effective competition? And let me read you that.  
6 This is from 80.36.330. Effective competition means  
7 that customers of the service have reasonably  
8 available alternatives and that the service is not  
9 provided to a significant captive customer base.

10          A. I think it's fair to say that I had that  
11 definition in mind when I wrote this sentence, and I  
12 believe this sentence to be true.

13          Q. Is the basis for your conclusion that the  
14 market is open to competition based on the FCC's  
15 approval of Qwest's Section 271 application in  
16 Washington?

17          A. Well, said another way, the Section 271  
18 approval in this state was preconditioned on the  
19 market being open and Qwest having processes in place  
20 to provide service to meet the requirements of the  
21 Section 271 of the act, and that the markets will  
22 remain open. I've talked about that in my testimony,  
23 as well. So certainly markets are open demonstrably  
24 in this state, and I believe that competition is now  
25 in place in large part because of that openness.

0485

1 Q. Is it your view that because of the Section  
2 271 finding of open competition, that that represents  
3 effective competition within the meaning of the  
4 statute, and that Qwest has met its burden under the  
5 reclassification statute?

6 A. It's my opinion and my testimony that  
7 effective competition is here because markets are  
8 open, so they are certainly related. I'm not  
9 testifying that Section 271 approval equals effective  
10 competition. It doesn't, but it sets the stage for  
11 effective competition that is now here.

12 Q. Section 271 doesn't distinguish between  
13 large business and small business, is that correct,  
14 when the approval's given?

15 A. It does not, other than that there is a  
16 requirement in the track A section of Section 271  
17 that there must be competition both in the business  
18 and residential marketplaces.

19 Q. And the 271 approval doesn't make a  
20 distinction between business and residential; is that  
21 correct?

22 A. Let me try to respond. I do not believe  
23 that Section 271 approval would have been granted  
24 were there not any residential competition, so I  
25 think, to that extent, there is a distinction and

0486

1 Qwest satisfied that distinction.

2 Q. Does the 271 approval, the approval itself,  
3 indicate that there's an open market in Washington?

4 A. I apologize. I'm trying to answer your  
5 question directly. Are you talking about the FCC's  
6 order approving Section 271 in Washington?

7 Q. Yes, the fact that you -- that Qwest  
8 obtained 271 approval in Washington?

9 A. And your question was do they recognize?

10 Q. Does that --

11 A. I'm sorry.

12 Q. I apologize. Does the approval, the fact  
13 that Qwest has obtained approval for Washington, 271  
14 approval, does that indicate that the market is --  
15 the market is competitively open in Washington?

16 A. 271 approval means that markets are open,  
17 that Qwest has met the competitive checklist to the  
18 FCC's satisfaction, so it means the market is open  
19 and that that approval does not mean the market is  
20 effectively competitive, if that was your question.

21 Q. No, it wasn't my question. And there's no  
22 distinction made by the FCC with that approval that  
23 they're only speaking about business market or large  
24 business market or small business market or  
25 residential market? It means that the market in

0487

1 Washington is open?

2 A. Yes.

3 Q. Is it your view that Section 271 approval --  
4 that given the Section 271 approval, there is, by  
5 definition, an open market for residential local  
6 service throughout Qwest's territory, Washington  
7 territory?

8 A. It's my contention that markets are open in  
9 the residential market, as well as the business  
10 market. In this proceeding, we're not presenting any  
11 residential evidence, and I would assert that we  
12 don't have as much competition on a percentage basis  
13 in the residential market, but those markets are  
14 open.

15 Q. Everywhere throughout Washington State?

16 A. Yes. And -- pardon me, in Qwest's service  
17 territory in the state of Washington.

18 Q. Is it your belief that the residential  
19 market is effectively competitive, based on the fact  
20 that there is an open market everywhere throughout  
21 Qwest's territory in Washington State?

22 A. I frankly haven't assessed the degree of  
23 residential competition on a granular wire center by  
24 wire center basis, as we have done here in this  
25 proceeding, so I can't honestly testify that there is



0488

1 competition certainly to the degree we see in  
2 business in every wire center.

3 JUDGE MACE: Mr. Melnikoff, I'm not sure  
4 where you're going with your questions about the  
5 residential market. I'm not sure how beneficial the  
6 answers are to the record. If you have a way of  
7 tying it up, I'd be happy to have you ask them, but  
8 --

9 MR. MELNIKOFF: That was my last question in  
10 that area.

11 Q. I'd like to go to one area very quickly,  
12 wireless VoIP.

13 A. Yes, sir.

14 Q. Is it true that wireless services introduce  
15 problems or at least issues for a customer with  
16 regard to security, with regard to interoperability,  
17 with regard to survivability, and with regard to  
18 quality and accuracy in transmission?

19 MR. SHERR: Your Honor, I'm going to object.  
20 That was a compound question.

21 MR. MELNIKOFF: All right. I'll ask them  
22 one at a time.

23 Q. Is it true that wireless services introduce  
24 problems or at least issues that need to be  
25 considered by customers on the basis -- with regard

0489

1 to security issues?

2 A. I apologize. When you say security, are you  
3 talking about the security of the transmission,  
4 security of the call?

5 Q. That's correct.

6 A. Wireless services, unless there's special  
7 encoding, which some providers offer, can be subject  
8 to intercept in certain applications, I'm aware of  
9 that, if that addresses the question.

10 Q. Do they also -- wireless services introduce  
11 problems with interoperability with other equipment,  
12 communications equipment that the customer may have?

13 A. I'm not sure I fully understand that  
14 question, either. If you're asking about can  
15 wireless services operate as an extension or an  
16 adjunct service to a wireline customer service, can  
17 that be done, my response to that question would be  
18 yes, it can be done. I talked about some CPEs, some  
19 customer premises equipment called a Vox Link that  
20 allows a wireless phone to work as a bay station.

21 Q. But the customer would have to be careful  
22 that the signals are appropriately transmitted and  
23 that the characteristics of the transmission are not  
24 distorted; is that not true?

25 A. I think that's reasonable.

0490

1 Q. Are there quality considerations in accuracy  
2 and transmission that are different than analog  
3 equipment when you introduce wireless transmission --  
4 or wireless services?

5 A. That's a difficult question, because there's  
6 so many versions of wireless in the market at this  
7 point. The latest versions of wireless have  
8 certainly overcome many, if not all of those  
9 concerns. The older versions of wireless, the more  
10 analog services in nature, if you will, that have not  
11 been upgraded, would have more of those issues. So  
12 it depends on the carrier and their network.

13 Q. Now I'll ask you the same series of  
14 questions with the voice over Internet protocol. Are  
15 there issues raised by security -- or with security?

16 A. I'm not sure what those issues would be for  
17 VoIP, frankly. I think that it's fairly comparable  
18 to a single flat business line in terms of security.

19 Q. If it's connected to the Internet, doesn't  
20 that add an additional port that's open to hackers?

21 A. That's a potential.

22 Q. So then that would be a security issue?

23 A. Well, in terms of balance and equivalency  
24 between the two, certainly a flat business line could  
25 be tapped into by someone who is determined to do so.

0491

1 The same could be said of voice over Internet.

2 Q. Is there interoperability issues introduced  
3 by voice over Internet?

4 A. Again, it depends on the application. If  
5 we're talking about a very simple example, a single  
6 party flat business line, if a customer chose to  
7 remove the single party flat business line and use  
8 the voice over Internet service, the service would  
9 work very much the same. Local calls could be made,  
10 long distance calls could be made, features can be  
11 used as offered by the VoIP provider, so I think  
12 there's a lot of comparability.

13 Q. Survivability of virus and terrorists and  
14 blackouts, is that an issue that is introduced by  
15 VoIP?

16 A. Once again, frankly, I'm not sure that VoIP  
17 has more of those issues than does the local exchange  
18 network. If a switch, a 5-E switch offered by Qwest  
19 or a CLEC was hit by a terrorist bomb, God forbid, it  
20 would certainly have an impact on the customer, as  
21 would an attack on the Internet.

22 Q. But a blackout or a virus attack against an  
23 Internet portal or router?

24 A. That certainly is a possibility.

25 Q. Would it surprise you that post-9/11, that

0492

1 business customers like DOD and the federal executive  
2 agencies, both as its -- in its large user capacity  
3 and its small business capacity, prohibit or severely  
4 restrict the use of wireless?

5 A. I was not aware of that, frankly.

6 Q. Are you aware of the same -- the possibility  
7 of the same restrictions or prohibitions with the use  
8 of VoIP?

9 A. I'm frankly not aware, nor have I seen the  
10 prohibitions if they exist. That would surprise me,  
11 however, if there was a strict prohibition against  
12 the use of that service.

13 Q. Let me go to one other area of your  
14 testimony. That's page 12 of your rebuttal  
15 testimony, and I believe your rebuttal testimony is  
16 marked Exhibit Number 60. Looking at line -- page  
17 12, line 17 through, I guess, 20.

18 A. I have that cite.

19 Q. Where you suggest that it's not surprising  
20 that states with Independents, capital I  
21 Independents, serving significant largely rural areas  
22 within a state will have a lower statewide CLEC  
23 market share value than more densely populated larger  
24 urban states?

25 A. That's correct.

0493

1 Q. Is that -- and that's in a comparison  
2 between one state to another; correct?

3 A. Yes, it is.

4 Q. Is the same true within a state? In other  
5 words, disregarding any independent telephone company  
6 operations in generally more densely populated areas  
7 should have greater CLEC market share than rural  
8 areas in that same state?

9 A. I think it's fair to say that in the CLEC  
10 industry, there are a greater number of CLECs and a  
11 greater proliferation of CLECs in the more densely  
12 populated areas. That's where the opportunities are,  
13 the margins are, and obviously where more of the  
14 customers are. However, having said that, our  
15 evidence in this case, and I think it's corroborated  
16 by Staff, is that CLECs are now dispersed virtually  
17 throughout the state. The degrees vary of  
18 dispersion, but they're there.

19 MR. MELNIKOFF: Thank you, Mr. Teitzel.  
20 That's all I have.

21 JUDGE MACE: Thank you. Mr. Butler. Well,  
22 let me just check. Okay. Mr. Butler.

23

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

25 BY MR. BUTLER:

0494

1 Q. I have a few questions regarding direct  
2 inward dialing service, DID service.

3 A. Okay.

4 Q. First off, the Qwest Washington intrastate  
5 tariff for DID service is found in Exhibit 67; is  
6 that correct?

7 A. That is correct.

8 Q. In your discussion with Mr. Levin, I believe  
9 you testified that DID trunk circuit terminations are  
10 available pursuant to this tariff for both analog and  
11 digital trunks; is that correct?

12 A. Yes.

13 Q. DID service is one of the services listed in  
14 the Qwest petition for competitive classification; is  
15 that correct?

16 A. It is.

17 Q. If the Commission were to grant the  
18 company's petition in this case, would DID trunk  
19 connections for digital trunks also be competitively  
20 classified, or just for analog trunks?

21 A. The DID service doesn't designate digital  
22 applications, as would Centrex primary rate, as we  
23 discussed earlier, which has a specific ISDN  
24 component, so as I sit here, I couldn't make that  
25 concession on behalf of the company. I think the

0495

1 service is characterized in a different way here in  
2 the tariff. There's not a digital element to delete,  
3 if you will, in the service.

4 Q. Okay. So if I understood your answer, it is  
5 that DID service would be competitively classified,  
6 whether it's provided in connection with digital  
7 trunks or analog trunks; is that correct?

8 A. I don't have the authority to make a  
9 representation other than that on behalf of the  
10 company as I sit here.

11 Q. Excuse me, but maybe I'm a little dense.  
12 What representation are you making?

13 A. That some portion of DID could be fragmented  
14 out, as we discussed previously, with ISDN, primary  
15 rate and Centrex. In this case, there is no digital  
16 identifier in the tariff. It's strictly a DID  
17 function that allows inward dialing to stations  
18 behind a PBX.

19 Q. It is correct, is it not, that in your  
20 digital switched service tariff there are references  
21 to DID services for digital switched service trunks,  
22 and that those prices and terms and conditions are to  
23 be found in Section 5.3.4 of WNU-40?

24 A. I believe that tariff cross-references this  
25 one, as does the analog local exchange tariff for PBX



0496

1 trunks.

2 MR. BUTLER: Could I ask as a record  
3 requisition a commitment from the company one way or  
4 the other about whether DID service that is ordered  
5 in connection with digital trunks would be covered by  
6 this petition or not?

7 JUDGE MACE: That would be Record  
8 Requisition Number 8. Are you clear about the  
9 question?

10 MR. SHERR: Yes, I am. Thank you.

11 Q. It is the case, isn't it, Mr. Teitzel, that  
12 a number of Qwest business customers, larger  
13 customers, order blocks of DID numbers, and some of  
14 those blocks of numbers can be as large as 10,000  
15 numbers?

16 A. I believe that to be correct.

17 Q. Okay. And they do so in order to intermesh  
18 their switches, to direct traffic to various  
19 facilities, allows them to do least cost routing and  
20 administer their networks; is that correct?

21 A. That's fair.

22 Q. If these customers were not able to reserve  
23 entire blocks of numbers, it would require a large  
24 number of switch entries in order to sort out calls,  
25 or it certainly would be logistically and

0497

1 economically difficult for them; would you agree with  
2 that?

3 A. Would you ask me that question again,  
4 please, in terms of the administrative difficulty.

5 Q. If they were not able to order these blocks  
6 of numbers, it would be logistically and economically  
7 difficult for these customers in administering their  
8 networks?

9 A. Again, I think it may be a matter of degree.  
10 I think, in terms of administering DID numbers in  
11 context of a PBX switch, an electronic PBX switch,  
12 it's a matter of the numbers being programmed in.  
13 With DID, typically the programming can be done  
14 sequentially with numbers in ascending order, for  
15 example. I'm not sure if it's any more difficult to  
16 program in numbers sequentially or nonsequentially,  
17 so it depends on the application, I think.

18 Q. Customers certainly perceive that there is  
19 value in ordering entire blocks of numbers; isn't  
20 that correct?

21 A. Customers do see value in that and we do  
22 sell them on that basis.

23 Q. And in fact, they pay -- I believe the rate  
24 is 15 cents per number per month; is that correct?

25 A. That's my recollection.

0498

1 Q. Okay. Would the price for numbers be  
2 subject to pricing flexibility, as well, if your  
3 petition were granted?

4 A. Yes.

5 Q. I'd like now to direct your attention to  
6 what has been marked for identification as Exhibit  
7 62, please.

8 A. I have that exhibit.

9 Q. And that is the Qwest response to Public  
10 Counsel Data Request 05-030, and you are indicated as  
11 being the individual that answered this request; is  
12 that correct?

13 A. That is correct.

14 MR. BUTLER: Okay. I'd move the admission  
15 of Exhibit 62 at this time.

16 JUDGE MACE: Any objection to the admission?  
17 I'll admit it.

18 Q. In your response in Exhibit 62, you indicate  
19 that the Qwest Washington SGAT specifies that a  
20 party, in this case, Qwest, shall offer number  
21 portability for any portion of an existing DID block  
22 without being required to port the entire block of  
23 DID numbers, and then you go on to indicate that this  
24 is consistent with Qwest's local number portability  
25 policy, which provides for number portability only

0499

1 for working telephone numbers.

2 A. That's correct.

3 Q. Are the numbers in a DID block which are not  
4 associated with a trunk circuit termination  
5 considered working telephone numbers or nonworking  
6 telephone numbers?

7 A. If they're not active and not capable of  
8 being -- having calls directed to them, they'd be  
9 considered nonworking.

10 Q. Okay. So if I understand correctly, if a  
11 business customer that orders a block of DID numbers  
12 were to decide to change its DID service from Qwest  
13 to an alternative provider, that they would not be  
14 able to port the, for convenience purposes, I'll  
15 refer to the nonworking reserved numbers; is that  
16 correct?

17 A. That is correct. That's consistent with the  
18 SGAT.

19 Q. And so if that customer felt it were  
20 important to be able to have access to an entire  
21 block of numbers, in order to move its DID service to  
22 an alternative provider, it would have to give up its  
23 existing numbers; is that correct?

24 A. The CLEC would have to forgo their right to  
25 use the DID numbers that were not yet working or not

0500

1 yet assigned. Then they would be certainly free to  
2 take the working DID phone numbers with them to the  
3 alternate provider.

4 Q. But the customer would then have to use, if  
5 they felt it was important to have an entire DID  
6 block, they would have to change all of their numbers  
7 to move to a CLEC; correct?

8 A. I'm not sure I fully tracked that entire  
9 question. I think I responded that the customer, the  
10 PBX customer that uses DID can port or take all of  
11 their working DID phone numbers with them if they  
12 leave Qwest for a CLEC.

13 Q. Well, my question is if that customer  
14 believed that it was important for the administration  
15 of its network to have access to an entire block of  
16 sequential numbers, in order to have that capability  
17 and to -- if it were to switch its DID service to an  
18 alternative carrier, it would, in effect, have to  
19 give up its existing numbers, is that correct,  
20 because it would no longer be able to have access to  
21 the reserved nonworking numbers that are in that DID  
22 block?

23 A. I think, to use your term, the customer  
24 would rescind the right to use the numbers that are  
25 not currently working that may be held in reserve.

0501

1 Q. And would you agree that for a business to  
2 have to change historic numbers could be very  
3 expensive for them? For example, they would have to  
4 change switch entries, they would have to change  
5 directories, numbers in service manuals, numbers in  
6 catalogs, business cards, all that sort of thing?  
7 That can be expensive.

8 A. Well, I would not agree with your  
9 characterization entirely. If a customer that, for  
10 example, had 100 DID numbers that were working were  
11 to leave Qwest for a CLEC, let's say the customer had  
12 50 numbers in reserve, that entire block of 100  
13 numbers would go with the customer to the CLEC, and  
14 typically business customers would have the lead  
15 number in that PBX listed on the business card. If  
16 they had individual station numbers on the business  
17 cards, those would also go with the customer. It  
18 would strictly be a matter of any future telephone  
19 numbers being added to that system, and in my mind,  
20 those would be different numbers from any active  
21 numbers the customer currently has in any respect.

22 Q. Let's use a hypothetical example of an  
23 airplane manufacturer that orders blocks of 10,000  
24 numbers and has DID numbers in its airline service  
25 manuals and catalogs that are distributed throughout

0502

1 the world. It could be expensive, in that case, if  
2 they had to change those numbers. Would you agree  
3 with that?

4 A. I'm suggesting to you, Mr. Butler, that if  
5 the customer had those numbers as active DID numbers  
6 when they leave Qwest, those numbers would not  
7 change. That customer takes those numbers with him  
8 or her.

9 Q. And again, if they had to -- if they felt it  
10 was important for administration of their network to  
11 have an entire block of sequential numbers, that if  
12 they were to move to a CLEC, they would, in effect,  
13 have to forgo those working numbers in order to  
14 retain access to an entire block; isn't that correct?

15 A. If they wished to have a brand new DID  
16 number block that was unbroken, they would have to  
17 forgo the numbers that were working in that example,  
18 but that would be an option.

19 Q. Okay. I think we got where I needed to get  
20 on that. One final question. You talked about voice  
21 over IP service for use in business networks. Isn't  
22 it the case that a large business with a private  
23 network, maybe they implement voice over IP for that  
24 internal corporate network, but if they want members  
25 of the public to be able to dial in to employees,

0503

1 they are still going to have to have trunk  
2 connections to the public switched telephone network  
3 and DID numbers?

4 A. I'm not sure that's necessarily true in all  
5 cases. Thinking of the Vonage example that we talked  
6 about earlier, in a more small business application,  
7 but certainly that could be integrated into a larger  
8 business application also on a single line basis if  
9 broadband access was available. In that case, there  
10 is no DID.

11 Q. Let me put this in the context of the large  
12 corporate customer that has a large network. Even if  
13 they were to implement voice over IP within their  
14 internal network, but they're still going to have to  
15 maintain connections to the public network and DID  
16 numbers if they want members of the public to be able  
17 to call directly to the employees, and --

18 A. I think, in very large business application,  
19 that would probably be true.

20 MR. BUTLER: Okay. I have no further  
21 questions. Thank you.

22 JUDGE MACE: Let's turn to the Commissioners  
23 at this point.

24

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



0504

1 BY CHAIRWOMAN SHOWALTER:

2 Q. Yes, regarding Mr. Butler's questions about  
3 DID customers, does the customer pay based on the  
4 number of working lines or does the customer pay, in  
5 effect, for a whole block of 10,000 and get to add  
6 additional lines for free?

7 A. The customer would pay on the DID  
8 application for the trunk itself that would serve the  
9 PBX trunk and every DID number that's actually in  
10 service. They're not charged on a per-number basis  
11 until the numbers are activated.

12 Q. All right. But in order to use additional  
13 lines, there is an additional charge, additional  
14 number?

15 A. Yes.

16 Q. There is an additional charge?

17 A. Yes.

18 Q. Also, I have a question regarding Exhibit  
19 81-C.

20 A. I have that.

21 Q. Page three. I'm trying to square these  
22 numbers with some of the many other numbers that  
23 we've had so far, and I understand that these are  
24 voice grade equivalents, and I understand these are  
25 both wholesale and retail lines?

0505

1 A. That's correct.

2 Q. But still, relative to the other numbers  
3 we've been discussing, these are very large numbers,  
4 so I want to ask you whether certain other numbers  
5 we've discussed are subsets of this group, and then  
6 what else may be a subset of this group. So for  
7 example, if you would turn to Exhibit 24-C.

8 A. I have that.

9 Q. Page two.

10 A. I have that.

11 Q. The far right column has a basic exchange  
12 business access lines, and I'm going to look at the  
13 one for January 2003, since that's quite close to the  
14 end of December --

15 A. Sure.

16 Q. -- 2002. All right. Is that number a  
17 subset of the number in Exhibit 81-C? I guess let's  
18 look at the 2002 year, and I recognize there's a  
19 one-month difference.

20 A. Yes, it would be a subset of that number.

21 Q. All right. So I'm going to -- that's  
22 roughly X percent of that number, and we'll keep that  
23 in mind. Then there were some numbers that Mr.  
24 Reynolds discussed yesterday, and I've got to  
25 remember, but I don't believe those numbers were

0506

1 confidential. Remember we were talking about the  
2 CLEC number of lines?

3 MS. SINGER NELSON: Oh, yeah.

4 CHAIRWOMAN SHOWALTER: The digital number of  
5 lines. That was not confidential?

6 MS. SINGER NELSON: No.

7 Q. I'm remembering the number 3,300, which  
8 translated to a voice equivalent of 80,000. Those  
9 were digital lines. So is that a subset of the  
10 figures on -- in 81-C?

11 A. Yes, it is.

12 Q. Now, then, I also recall another number,  
13 which was Qwest digital, and I believe it was about  
14 175,000 voice grade equivalent. Is that a subset of  
15 this number?

16 A. Yes, it is.

17 Q. And then there was a number of about  
18 104,000, which I believe is the -- I hope that's not  
19 confidential. No, which is the number of resale  
20 UNE-P and UNE loop lines, I believe, sold from Qwest  
21 to the CLECs?

22 A. That's also --

23 Q. Is that a subset of this -- of the -- of  
24 Exhibit 81-C?

25 A. Yes, resale, UNE-P and UNE loop are also in

0507

1 these numbers.

2 Q. And so far have I identified mutually  
3 exclusive groups of numbers?

4 A. I believe you have.

5 Q. Okay. Well, now, then, there was one more  
6 figure. The 3,300 was compared to 3,500, so that was  
7 200 times 24, I think, would be about 48,000 voice  
8 grade equivalents. But do you recall when Mr.  
9 Reynolds was discussing that number?

10 A. I do recall that, yes.

11 Q. So is that an additional subset of these  
12 numbers of Exhibit 81-C?

13 A. I'm trying to recall. I believe that value  
14 was associated with high-capacity services provided  
15 to CLECs, so if my recollection is correct, that  
16 would also be a subset of these numbers --

17 Q. All right.

18 A. -- in Exhibit 81.

19 Q. Now, not all of these numbers are public, I  
20 don't believe, because the number for basic exchange  
21 business access lines in January of 2003, is that  
22 confidential or not?

23 MR. SHERR: That one actually is not. The  
24 remaining information on the page is confidential.

25 Q. Well, that number was 517,564. So if I add

0508

1 all of those up, and I don't have a calculator up  
2 here --

3 MR. FFITCH: Your Honor, could I just  
4 interject?

5 CHAIRWOMAN SHOWALTER: Yes.

6 MR. FFITCH: If you're going to be adding  
7 them, I believe you said that the 200 lines --

8 CHAIRWOMAN SHOWALTER: Why don't you speak  
9 into the microphone. Not everyone can hear you.

10 MR. FFITCH: I think you mismultiplied one  
11 of the factors. I believe it was the -- comparing  
12 the 3,300 and the 3,500.

13 CHAIRWOMAN SHOWALTER: Mm-hmm.

14 MR. FFITCH: You've multiplied the  
15 additional 200 times 24, and I believe you said  
16 48,000, and I think that should be 4,800.

17 Q. Okay. So wait a minute. Do you have a  
18 calculator with you?

19 A. I do.

20 Q. All right. Then I'm going to give you what  
21 I've calculated so far. It's 517,564 is Qwest's  
22 basic business.

23 A. Okay.

24 Q. 175,000, which was Qwest's digital voice  
25 grade equivalent, rough ballpark.

0509

1 A. Okay.

2 Q. 104,000 for the CLEC resold UNE, UNE-P.

3 A. Okay.

4 Q. 80,000 for voice grade equivalent CLEC  
5 digital, and then 4,800 for that additional 200, and  
6 I've kind of forgotten what it is, but it's CLEC  
7 digital. All right?

8 A. Yes.

9 Q. what does that add up to?

10 A. 881,364.

11 Q. All right. So actually, that's close enough  
12 here. Is there any other -- when I compare that  
13 figure to the figure on page -- Exhibit 81-C, page  
14 three -- oh, no, it's way off. That's the problem.  
15 I'm having a hard time figuring out -- it's off by an  
16 order of magnitude, isn't it?

17 A. Well, I think the total -- I'm not sure.  
18 Can I read it?

19 MR. SHERR: No.

20 Q. You don't need to read the total, but what  
21 -- if everything that I listed is a subset of Exhibit  
22 81-C, what am I missing?

23 A. I can help you, I think.

24 Q. Okay.

25 A. Notice the public coin lines are in this

0510

1 data in Exhibit 81-C, and public coin lines have not  
2 been identified in any of your numbers so far.

3 Q. Is that a major component of --

4 A. I don't have the precise number,  
5 unfortunately, with me at the stand, but it is  
6 several thousand, I would assert.

7 Q. Well, okay.

8 A. And then also I believe that the data in  
9 Exhibit 81 includes Qwest official company lines,  
10 which are not offered on a retail basis, obviously,  
11 to customers. And we have in this state several  
12 thousand Qwest official company lines, also.

13 Q. All right. But am I misreading something?  
14 It just seems like there's some huge gap between my  
15 short list of numbers and this total, and something  
16 must explain it.

17 MR. SHERR: At the risk of being  
18 inappropriate, can I try to help a little bit?

19 CHAIRWOMAN SHOWALTER: Yes, I think that  
20 would speed things along.

21 MR. SHERR: Okay. I apologize. Should I do  
22 it in the form of a question or should I just offer  
23 you a possible explanation?

24 CHAIRWOMAN SHOWALTER: I think it's  
25 permissible to ask this witness a fairly leading

0511

1 question because I just need the explanation.

2

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

4 BY MR. SHERR:

5 Q. Okay. Mr. Teitzel, if you could look at  
6 page four of Exhibit 81, which is the page with the  
7 list of --

8 A. Yes, I have that page.

9 Q. Okay. If you look in the right-hand column  
10 of that, do you see services that are digital  
11 services that are not -- have not been included in  
12 any of the totals that we've talked about so far?

13 A. Yes, I do.

14 Q. Could you read some of those services?

15 A. Some examples would be frame relay, port,  
16 DS0, DS1, DS3, or subsets of frame relay, I see SHNS  
17 port, that stands for self-healing network service,  
18 that's a fiber-based service, and that is also broken  
19 into subcategories, DS1, DS3, OC12, OC3, OC48, and  
20 there are others, also.

21 Q. Are some of these services also that are in  
22 the right-hand column, for instance, in the FCC  
23 tariff, as opposed to being intrastate services?

24 A. Yes, they are.

25 Q. Do you know what some of those are or could



0512

1 you identify those?

2 A. I believe I know, but I'm reluctant to offer  
3 an answer on the record, because I'm not absolutely  
4 certain.

5 Q. Okay. Well, let me try this. How many  
6 voice grade equivalents are there in a DS1?

7 A. There are 24.

8 Q. How many voice grade equivalents are there  
9 in a DS3?

10 A. Twenty-four times 24, whatever that number  
11 is.

12 Q. You have a calculator. Is it 24 times 28 or  
13 24 times 24?

14 A. I should know this, and unfortunately I  
15 don't. It is one or the other, I believe.

16 Q. Okay. Well, what is 24 times 28?

17 A. Six-seventy-two.

18 Q. Okay. Do you know how many voice grade  
19 equivalents there are on an OC3?

20 A. OC3 is an order of magnitude once again  
21 beyond that. I'm not sure of the precise number in  
22 the OC3. It's an optical service based on fiber.

23 Q. Does that mean roughly 24 times 24 times 24,  
24 or 24 times 28 times 28?

25 A. I think so.

0513

1 Q. When you say an order of magnitude?

2 A. It's a logarithmic increase in the channel  
3 capacity.

4 Q. I've never done this before, but would you  
5 accept subject to check --

6 A. That is leading.

7 Q. -- just to kind of cut to the chase here,  
8 that an OC48 would --

9 MR. FFITCH: Objection.

10 Q. -- would equate to 32,256 voice grade  
11 equivalents?

12 A. I'd accept that subject to check.

13 Q. And there are at least three, or there are  
14 three OC48 type services listed on this exhibit, are  
15 there not?

16 A. Yes, there are.

17 MR. SHERR: Your Honor, I don't think I've  
18 gone through all of these, but I think that's the  
19 flavor of what's missing.

20 CHAIRWOMAN SHOWALTER: No, thank you for  
21 clarifying that. Thanks. I think that does explain  
22 that.

23

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

25 BY CHAIRWOMAN SHOWALTER:

0514

1 Q. Is there anywhere in this record where it's  
2 stated the number of wireless lines that Qwest has as  
3 of the end of December 2002?

4 A. Number of wireless lines that our Qwest  
5 Wireless subsidiary has, I don't believe that number  
6 is in the record.

7 Q. Okay. I would like that. That would be a  
8 bench request.

9 JUDGE MACE: That would be Bench Request  
10 Number 1. And that's as of the end of 2002, or from  
11 the end of 2002?

12 CHAIRWOMAN SHOWALTER: My intent is to make  
13 it as comparable in time to the other relevant  
14 information that we're looking at.

15 MR. SHERR: And for the state of Washington?

16 CHAIRWOMAN SHOWALTER: Yes.

17 Q. I believe you answered a question about  
18 VoIP, tell me if it wasn't, in which you said an ATA  
19 adapter would be needed. Is that for VoIP?

20 A. Yes, it is, and a --

21 Q. What's the approximate cost of that  
22 equipment?

23 A. I can tell you that was specifically with  
24 the Vonage service, which is one of the premiere VoIP  
25 services I've seen advertised in this state, the

0515

1 nonrecurring charge for that, I believe, is 29.99,  
2 and that would include everything you'd need to get  
3 set up with VoIP, including the adapter.

4 Q. Dollars, thousands, what?

5 A. I'm sorry, \$29.99. And then the recurring  
6 price, I believe, is \$49 for that service.

7 Q. That's all the questions I have. Thank you.

8 A. Thank you.

9 JUDGE MACE: Commissioner Oshie.

10

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

12 BY COMMISSIONER OSHIE:

13 Q. Mr. Teitzel, I would want to just be clear  
14 on what Qwest is requesting here as far as its  
15 petition for competitive classification, because I  
16 guess you could say that I'm -- if I sat down right  
17 now to go through the list that was provided, I think  
18 in the exhibit, is it Exhibit 2 of Mr. Reynolds'  
19 testimony?

20 A. I believe it was Exhibit A, as I recall.

21 MS. ANDERL: Two.

22 THE WITNESS: Two? It was Two.

23 Q. Well, if I walked through that list and  
24 would break down each listed service or program,  
25 apparently within at least some of them, there are

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1 analog services and digital services, and Qwest, if I  
2 understand your testimony, is only asking within  
3 these features and services that are listed on  
4 Exhibit 2, competitive classification for analog  
5 based services.

6 Now, do I misunderstand that? I mean, in  
7 other words, I can take it on its face what's on  
8 Exhibit 2, but if we wanted to make a decision right  
9 now, we'd have to break down each service into its  
10 components. Someone would have to tell us which one  
11 of those would be digital and which one would be  
12 analog, and then we would know that -- what Qwest is  
13 actually asking for here.

14 A. Thank you. And I think I can help. in  
15 Qwest's application, we're asking for local exchange  
16 service competitive classification. As we look at  
17 some of these services, such as business basic flat  
18 service, that's a service that is presented to the  
19 customer as an analog service. We market the service  
20 that way, the customer buys it that way, that is not  
21 a digital service. In some cases, it can be  
22 delivered with a digital pipe, if you will, or a  
23 connection from the central office to some location  
24 that is split up as an analog service to the  
25 customer.

0517

1           So using that as an example, a very basic  
2     example, there is no digital aspect of that at all.  
3     In other examples we talked about, like Centrex  
4     Prime, the customer can select to have that service  
5     delivered as an ISDN service, data-related service,  
6     or as an analog service. And as a point of  
7     information on Centrex Prime, I can tell you that the  
8     preponderance of our customer base is, in fact,  
9     analog. There are some customers that choose to have  
10    the ISDN digital version of that service. So I think  
11    in that example it's quite clear where the analog  
12    split and the digital split is in --

13       Q.    So you would be asking for reclassification  
14    of Centrex Prime analog, but not the digitally-based  
15    service?

16       A.    That would be correct.

17       Q.    And that would be dependent, of course, upon  
18    the customers?

19       A.    Choice.

20       Q.    It's what their choice would be?

21       A.    That's correct.

22       Q.    And their interest. Okay. And then private  
23    branch exchange trunks, I mean, let's move down the  
24    list.

25       A.    Sure. PBX trunks in the PBX trunk tariff

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1 that we talked about earlier with Mr. Levin are  
2 analog trunks as they're presented to the customer.  
3 We do offer digital PBX services like digital  
4 switched service, which is provided on a T1 or DS1  
5 facility all the way from the Qwest switch to the PBX  
6 of the customer's premises. DSS service is truly a  
7 digital PBX service. That is not included in our  
8 petition at this point. Only the analog services in  
9 the local exchange PBX analog trunk tariff are.

10 Q. And that would be true under basic business  
11 features, as well? You can see why I'm confused, I  
12 guess, Mr. Teitzel, because it seems as if, at least  
13 based on some of the cross questions, perhaps it was  
14 Mr. Levin, that there were features within the --  
15 within the services that were being offered to  
16 customers that were digitally based and others that  
17 were analog.

18 So if I understand your testimony, then, is  
19 that so long as it's delivered in an analog manner to  
20 the customer, then that would be within your petition  
21 for reclassification?

22 A. I think that's fair. It's delivered that  
23 way, the customer orders the service that way,  
24 they're not ordering a digital service in that  
25 application. And again, as we defined what our

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1 retail market was, we only included those services  
2 that are analog by definition of our tariff. And  
3 comparably, we only included the services through  
4 UNE-P or UNE-L that were provided as analog type  
5 services to CLECs, and excluded any digital type  
6 services like DSS or primary rate interface.

7 Q. Okay. Thank you.

8 A. Thank you.

9 JUDGE MACE: Redirect?

10 MR. SHERR: Yes, thank you.

11

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

13 BY MR. SHERR:

14 Q. Good afternoon again, Mr. Teitzel.

15 A. Good afternoon, sir.

16 Q. Way back when, early this morning, Ms.

17 Singer Nelson was asking you some questions about

18 wireless services. Do you remember that generally?

19 A. I do recall those, yes.

20 Q. Ms. Singer Nelson asked you a question

21 whether wireless and wireline services are packaged

22 differently. Do you recall that question?

23 A. Yes, I do.

24 Q. And I believe you answered yes. Is that --

25 is that how you answered that question?



0520

1           A.    I think there was more to the answer than  
2   that.  I believe I was drawing a parallel between a  
3   stand-alone flat business line and a wireless service  
4   offered as a package, and certainly those are not  
5   directly comparable, they're not priced comparably.  
6   The package includes additional services, obviously.  
7   But to the extent Qwest offers packages, some of our  
8   packages, like our Business Unlimited package, for  
9   example, includes features and long distance service  
10  that would be very comparable to a wireless service  
11  that would include those services.  Wireless often  
12  typically includes a range of features and some block  
13  of calling in it, so I think, as we think about  
14  services on a package basis, there certainly is  
15  comparability.

16           MR. SHERR:  I have no other redirect  
17  questions.

18           JUDGE MACE:  Ms. Singer Nelson.

19           MS. SINGER NELSON:  I have nothing, Your  
20  Honor.  Thank you.

21           JUDGE MACE:  Ms. Friesen.

22           MS. FRIESEN:  Nothing, Your Honor.  Thanks.

23           JUDGE MACE:  Mr. Levin.

24           MR. LEVIN:  Nothing.  Thank you.

25           JUDGE MACE:  Mr. ffitich.

0521

1 MR. FFITCH: I just have one question.

2

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

4 BY MR. FFITCH:

5 Q. Directing you back to Exhibit 81 again, Mr.

6 Teitzel.

7 A. Yes, sir.

8 Q. If you look at the first paragraph at the  
9 narrative, after the bold language on page one of the  
10 exhibit, midway through the paragraph, it says, Voice  
11 grade equivalent is the outcome of measuring all  
12 residential and business and private line channel  
13 terminations; correct?

14 A. Yes, it does.

15 Q. And just to clarify again, the numbers that  
16 we have in this exhibit are business only, however;  
17 correct? That's certainly how they're labeled by  
18 Qwest.

19 A. That is how they're labeled. I assume that  
20 is correct.

21 Q. Let's go down to Part B of the question.  
22 Qwest is asked to describe circumstances in which  
23 Qwest private lines can be a substitute for Qwest  
24 business access lines; correct?

25 A. Yes.

0522

1 Q. And the answer is on page two of the  
2 exhibit, Letter B, and Qwest says they are unable to  
3 describe every known circumstance where private lines  
4 can substitute. That's a way of saying there are  
5 some circumstances, correct, is that correct, and in  
6 fact your answer goes on to state that there are some  
7 circumstances where private lines can substitute for  
8 business access lines. Is that a fair paraphrase of  
9 this answer?

10 A. That's a fair paraphrase.

11 MR. FFITCH: Thank you. No further  
12 questions.

13 JUDGE MACE: Mr. Melnikoff.

14 MR. MELNIKOFF: None, Your Honor.

15 JUDGE MACE: And Mr. Butler.

16 MR. BUTLER: None.

17 JUDGE MACE: I would like to address one  
18 other exhibit that was marked with regard to this  
19 witness, and that's MCI cross. I marked it 83. Ms.  
20 Singer Nelson?

21 MS. SINGER NELSON: Unless the Commission  
22 wants it in the record, I had no intention to offer  
23 it as an exhibit at this point.

24 JUDGE MACE: I think we would like to have a  
25 copy of that. We marked it, I remember you had

0523

1 cross-examination questions on it, and I think there  
2 were some concerns about it, so I would appreciate it  
3 if you would provide copies.

4 MS. SINGER NELSON: Okay.

5 JUDGE MACE: And we'll bring it into the  
6 record.

7 MS. SINGER NELSON: Okay. That's fine.  
8 I'll do that.

9 JUDGE MACE: All right. Let's take a break  
10 now for -- till 4:00. Mr. Teitzel, you're excused.  
11 Thank you.

12 THE WITNESS: Thank you.

13 (Recess taken.)

14 JUDGE MACE: Let's be back on the record and  
15 next address the testimony of Mr. Shooshan. Would  
16 you please stand and raise your right hand?  
17 Whereupon,

18 HARRY M. SHOOSHAN, III,  
19 having been first duly sworn by Judge Mace, was  
20 called as a witness herein and was examined and  
21 testified as follows:

22 JUDGE MACE: Please be seated. Go ahead and  
23 introduce the witness.

24 MR. SHERR: Thank you.

25

0524

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

2   BY MR. SHERR:

3       Q.   Good afternoon, Mr. Shooshan.

4       A.   Good afternoon.

5       Q.   Could you state your name for the record,  
6 please?

7       A.   Yes, my name is Harry M. Shooshan.

8       Q.   And can you provide your business address,  
9 please?

10      A.   Yes, it is 7979 Old Georgetown Road,  
11 Bethesda, Maryland, 20814.

12      Q.   Do you have before you your direct testimony  
13 in this case, which has been marked as Exhibit 101,  
14 and the exhibit to that testimony, which has been  
15 marked as Exhibit 102?

16      A.   Yes, I do.

17      Q.   Do you have in front of you your rebuttal  
18 testimony in this case, which has been marked as  
19 Exhibit 103?

20      A.   Yes, I do.

21      Q.   Were those pieces of testimony and that  
22 exhibit prepared and assembled by you or at your  
23 direction?

24      A.   Yes, they were.

25      Q.   Besides the corrections that were prefiled

0525

1 before today, do you have any corrections to your  
2 direct testimony?

3 A. Yes, Mr. Sherr, I do. First, on page seven  
4 of my direct testimony, line 15, I'd like to correct  
5 the number 36 percent to read 33 percent. That  
6 correction corresponds to the correction that Mr.  
7 Reynolds made in his testimony yesterday, and this is  
8 a reference directly to his testimony. Just to avoid  
9 any misunderstanding, that correction should be made  
10 there, as well.

11 Q. Do you have any other corrections in your  
12 direct testimony?

13 A. Yes, I do. On page 14 of my direct,  
14 footnote 11, inadvertently we left off a couple  
15 syllables of the author's name of the piece, the  
16 article that's cited there. It's Smetnikof. You  
17 need to add i-k-o-f at the end of his name to be  
18 completely accurate there, and that's it.

19 Q. Any other corrections?

20 A. No.

21 Q. Any corrections to your rebuttal testimony?

22 A. No, other than the ones that have been  
23 prefiled, I don't.

24 Q. And with those corrections you've made  
25 today, do you believe your testimony and the exhibit

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1 is true and correct?

2 A. Yes, I do.

3 MR. SHERR: Your Honor, Qwest offers for  
4 admission Exhibits 101, 102 and 103.

5 JUDGE MACE: Any objection to the admission  
6 of those exhibits? Hearing no objection I'll admit  
7 those exhibits.

8 MR. SHERR: Mr. Shooshan is available for  
9 cross.

10 JUDGE MACE: Now, I understand that there  
11 was going to be very limited, if any, cross of this  
12 witness, but that there was going to be some way to  
13 address the cross exhibits. There's two cross  
14 exhibits that are proposed. I'll just go through the  
15 list, and if you have cross-examination, please  
16 indicate. MCI indicated no cross-examination.

17 MS. SINGER NELSON: No cross-examination,  
18 thank you, Judge.

19 JUDGE MACE: AT&T.

20 MS. FRIESEN: No cross-examination.

21 JUDGE MACE: ATG.

22 MR. LEVIN: We said no cross-examination  
23 with the understanding that the cross exhibits would  
24 be admitted into evidence so that they could be used  
25 in briefing.

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1 JUDGE MACE: And you offer your ATG Cross  
2 Number 1, which is Exhibit 105?

3 MR. LEVIN: Yes.

4 JUDGE MACE: Is there any objection to the  
5 admission of that exhibit?

6 MR. SHERR: No, Your Honor.

7 JUDGE MACE: I'll admit that exhibit. Mr.  
8 Ffitch.

9 MR. FFITCH: No cross-examination, Your  
10 Honor.

11 JUDGE MACE: Mr. Melnikoff.

12 MR. MELNIKOFF: No cross-examination, Your  
13 Honor.

14 JUDGE MACE: And Mr. Butler.

15 MR. BUTLER: Again, no cross-examination on  
16 the understanding that Exhibit 104 be admitted.

17 JUDGE MACE: Is there any objection to the  
18 admission of proposed 104?

19 MR. SHERR: There is not.

20 JUDGE MACE: I'll admit it. So then we turn  
21 to the Commissioners.

22 CHAIRWOMAN SHOWALTER: Thank you.

23

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

25 BY CHAIRWOMAN SHOWALTER:



0528

1           Q.    My questions have to do with how to evaluate  
2 HHI in connection with a dominant provider that is  
3 required to sell its services wholesale to its  
4 competitors, and you appear to be somewhat expert on  
5 HHI.  I'm not, but it strikes me that in the classic  
6 case, a dominant provider that has a high HHI has no  
7 obligations to its competitor, competitors, and  
8 that's one scenario.  But this is a different  
9 scenario, so it would seem, at a minimum, that the  
10 obligation to interconnect and sell and open a  
11 network to its competitors mitigates against a high  
12 HHI, but that's just directional.

13                 And I'm wondering if you can pick up from  
14 here with my thoughts and if you have any insights on  
15 how to look at HHI with respect to a telecom dominant  
16 provider, let me know, and maybe there's been, you  
17 know, expert -- experts writing about this very  
18 thing, or maybe you have, looking at your vitae.

19           A.    Let me respond and try to be helpful here.  
20 I think, generally speaking, and where we most see  
21 the HHI, the Herfindahl Index, is in antitrust cases  
22 where the issue is evaluating a merger, for example,  
23 consolidation of some kind.  There are sort of three  
24 steps that are typically used in evaluating the  
25 merger.

0529

1           First is the definition of the relevant  
2 market. That -- you know, and again, I'll try, where  
3 I can, to draw parallels to this case. The relevant  
4 market here usually has several dimensions. There's  
5 the product involved and then there's a geographical  
6 dimension. In this case, Qwest has identified the  
7 product market as analog basic exchange services. By  
8 the way, I think that's appropriate, because it is  
9 typically -- a market is defined by the demand side  
10 of the market, looking at customers in the market and  
11 how they acquire a product or a service, and since  
12 there's a large installed base of analog customers in  
13 Qwest's -- in Washington State, to me a perfectly  
14 appropriate way of defining the product market.

15           Then there's a question of the geographic  
16 market. What's the scope of the geographic market.  
17 And here, in this case, Qwest has identified the  
18 market as being statewide, although they've offered  
19 proof, exchange by exchange, the market for business  
20 exchange services is the state or its service  
21 territory within the state. And again, I would say  
22 that's a perfectly defensible, in my view, definition  
23 of the geographic market, because there are many  
24 multiple location businesses, including medium  
25 businesses, that have locations throughout the state,

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1 and that, among other reasons, is an appropriate  
2 thing.

3           So you identify the market first. Then  
4 there's an exercise of measuring, in effect, market  
5 power within that market, and that can be done a  
6 variety of ways. HHI's one of them, there's a Lerner  
7 Index, there are a variety of ways that you can do  
8 that.

9           And then, and this is an important part,  
10 there's a third aspect of it, too, and that is having  
11 measured market power or concentration or whatever it  
12 is that you're measuring in the exercise, there's a  
13 question of determining the extent of that market  
14 power or the significance of that concentration  
15 index, and that's what I think your question goes to.

16           For example, let me give you an example.  
17 Here, quite frankly, what I see from the outside  
18 looking in is that whether it's measured -- if you  
19 look at market share, for example, competitors have a  
20 significant market share in Washington State. That  
21 share appears, by whatever calculation one makes, to  
22 be growing, but nevertheless, Qwest has, as the  
23 intervenors have suggested, a, quote, high market  
24 share. Well, that, in and of itself, doesn't  
25 complete the analysis of the market, because then you

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1 have to look at the extent to which that market share  
2 or a high concentration index, if you're using HHI,  
3 really connotes market power.

4           And in a situation where there is -- there  
5 are products outside the market that can be easily  
6 substituted, I would argue there are plenty of  
7 examples just from the last day and a half here where  
8 that's the case, digital services, that is voice  
9 services provided by digital means, I would argue  
10 wireless and voice over Internet protocol, that's not  
11 in the market that Qwest has defined it, but they're  
12 in adjacent markets and they can be substituted for.

13           So on the demand side, there are things  
14 outside the relevant market that customers could  
15 substitute for if Qwest were to abuse its position in  
16 the relevant market. And then, on the production  
17 side, there's the issue of whether ease of entry --  
18 there's relative ease of entry, whether barriers to  
19 entry are low, whether it is easy for competitors to  
20 expand their capacity in the event that Qwest would  
21 attempt to exercise whatever market power it has.

22           And that's where I think your question or  
23 your hunch goes to, and that is that, in a market  
24 like this, where, on the wholesale side, Qwest is  
25 required to unbundle its network and make resold

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1 network elements, UNE-P, or resale of its wholesale  
2 services available to competitors, it goes, in my  
3 view, and I think in any fair antitrust analysis, to  
4 mitigate substantially whatever market power one  
5 measures in doing the mathematical calculation,  
6 whether it's an HHI, a market share analysis, or  
7 whatever.

8           So again, there are three elements, just to  
9 sum up. The definition of the market, the  
10 measurement of market share or concentration, and  
11 then the issue of what that means, and that's a  
12 question of are there reasonably available  
13 substitutes outside the market, as defined, and are  
14 there -- is there capacity that competitors could  
15 utilize to easily expand their presence if Qwest were  
16 to, or whatever the incumbent would be, abuse its  
17 position in the market.

18           Q. Okay. Well, thank you for that explanation.  
19 That is the kind of explanation I was looking for.  
20 But you have raised something that perhaps gets at  
21 the tension in this case, which is you are positing  
22 conceptually one thing called the relevant market,  
23 which in this case Qwest is saying is analog services  
24 --

25           A. Yes.

0533

1           Q.    -- as distinct from the threat of  
2 substitution.  And as I -- I think the flavor of this  
3 proceeding so far is that the -- your opponents are  
4 saying that you can't cite substitution on the one  
5 hand without including it as the relevant market on  
6 the other, and if there's something like wireless or  
7 like digital that is, in effect, a competitor of  
8 analog, then it's not correct to segment the market.

9                   And if I've paraphrased their point of view,  
10 I apologize.  I'm just -- maybe I'll say this is how  
11 I perceive one of the issues of the case to be.  So  
12 can you respond to that challenge?

13           A.    Well, I must say I think you've  
14 characterized it.  I've been listening to the same  
15 testimony you have.  I think you've characterized it  
16 correctly.  I'm not quite sure what point they've  
17 been driving at, but I would say this; that the  
18 thinking that I'm most persuaded by, and I think most  
19 people who look at antitrust analysis, they are  
20 persuaded by, is that if you do everything properly  
21 that I've said, if you go through the three steps of  
22 analysis that I discussed a moment ago, it doesn't  
23 matter whether one defines the relevant market  
24 broadly or whether they define it narrowly.

25                   The question is if they define it narrowly,

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1 as Qwest has done here, which may, as Mr. Reynolds  
2 had said yesterday, actually be to their  
3 disadvantage, that had they defined the market more  
4 broadly, their share would actually be smaller than  
5 it is of the market as defined narrowly, which is --  
6 and the competitors have a pretty significant share  
7 of that narrowly defined market.

8           But if you define the market narrowly, if  
9 you choose to do that, then you have to admit that  
10 there are substitutes outside that market that  
11 customers could go to if market power in the market  
12 as defined were abused.

13           And the examples that have been presented in  
14 the course of this hearing have been digital services  
15 that provide the same function, i.e., voice. Qwest  
16 certainly has argued, although they haven't  
17 introduced them into the case officially or in terms  
18 of dispositively, as far as evidence, that wireless  
19 and voice over Internet protocol, that is, other  
20 platform competition can be substituted for the  
21 analog voice services that are the subject of this  
22 case.

23           So -- and let me just finish by saying the  
24 other alternative in an antitrust case, typically the  
25 firms trying to merge tend to want to define the

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1 market broadly, because then their share will be  
2 smaller or their concentration ratio will be lower,  
3 if you define the market broadly, that also, given  
4 current economic thinking, is permissible to do; it's  
5 just that then you can't say that there are all these  
6 things just outside the market that are substitutes  
7 for the product involved.

8           So as long as you -- the point being as long  
9 as you take all three steps in the analysis, it  
10 really doesn't matter whether one defines the market  
11 narrowly or broadly.

12       Q. All right. But supposing, hypothetically --  
13 let's make it very simple.

14       A. Yes.

15       Q. Let's say there were -- there was no  
16 wireless, no VoIP, and all we had was digital versus  
17 analog. And supposing the dominant provider had a  
18 very large share of the digital business. And so if  
19 you examine the universe of digital plus analog, the  
20 dominance would be greater, not lesser. And I'm not  
21 saying that's this case; I just -- for academic  
22 purposes, what difference does it make if one of the  
23 services outside the request is provided in a  
24 significant way by the competitor -- by the company  
25 requesting the classification?



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1           A.    That would obviously be taken into  
2   consideration.  I think what mitigates against that  
3   in this kind of case is what you started your line of  
4   questioning of me on, which is the fact that, in that  
5   market, too, that at least Qwest, anyway, leaving  
6   aside the question of whether or not they are, in  
7   your hypothetical, the dominant firm or not, are  
8   required to unbundle their wholesale services there,  
9   as well.

10                So there is a fundamental issue about -- and  
11   typically, that's not something that you would see,  
12   but certainly if in a traditional antitrust analysis,  
13   the firm's merging also controlled a product in an  
14   adjacent market that was a substitute, that would be  
15   weighed in the third phase of the analysis to  
16   determine the significance of that market power.

17           Q.    All right.

18           A.    But, again, that --

19           Q.    Or alternatively, if you included digital in  
20   the request, then you'd get a higher HHI at stage  
21   two, you would -- at stage one, your product would be  
22   broader; at stage two, you might, under my  
23   hypothetical --

24           A.    You might.

25           Q.    -- get a higher HHI, but that's just

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1 hypothetical. But if you got a higher HHI, you then  
2 would go to step three --

3 A. Correct.

4 Q. -- and have to evaluate in a fairly  
5 subjective way, I gather you're urging, how  
6 significant it is?

7 A. No, it's not -- well, it's not subjective, I  
8 mean in the sense that -- let's put it this way.

9 Q. Well, maybe nonquantitatively?

10 A. Nonquantitatively, yes. In other words, for  
11 example, the economic literature would say you have  
12 to look at elasticity of demand. If there's a high  
13 elasticity of demand, that is if it's easy for people  
14 to substitute outside of the relevant product market,  
15 then you don't have to be as concerned about the HHI.  
16 Typically, in lots of instances, we don't know, we  
17 can't measure or quantify elasticity of demand.

18 But in this case, what I'm saying is, going  
19 back to your initial point, in both the analog and  
20 the digital market, the underlying wholesale  
21 facilities that Qwest controls are required to be  
22 offered on an unbundled or resold basis to its  
23 competitors, and that would mitigate in both  
24 instances against a high market share or HHI number.

25 Q. Okay. And I want to get back to the issue

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1 of the product definition, i.e., analog. You said  
2 you thought it was appropriate because you should  
3 look at the product from the consumer's point of view  
4 when there's a large base of customers that already  
5 have analog equipment?

6 A. Yes.

7 Q. And I'm following that, but why is that  
8 correct in theory?

9 A. Well, it's correct in theory because that is  
10 a -- it seems to me a relevant economic market. I  
11 think that if the sort of shoe were on the other  
12 foot, so to speak, and Qwest had come in and put, you  
13 know, digital on the table in this proceeding, that  
14 some of the lines of questioning their witnesses  
15 might have gotten would have been, Well, how can a  
16 digital service be a substitute for someone who has  
17 analog equipment and has invested all that money in  
18 analog equipment? They can't substitute digital  
19 easily. So how can that be in the same market, so to  
20 speak.

21 So I think that -- all I'm saying is that  
22 reasonable people could differ as to how the product  
23 market is defined. I believe it's reasonable to  
24 define it as the analog voice market.

25 I also believe that, and I've heard this

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1 myself from Qwest over and over in the hearing, that  
2 another reason they did that is because the data that  
3 they could present to this Commission, and I say  
4 they, supplemented by the Staff, because the Staff  
5 has undertaken the same exercise, is the most  
6 objective form of evidence that could be provided,  
7 because, for example, it doesn't involve making  
8 assumptions as to equivalency. It doesn't have to  
9 involve questions about what a particular CLEC might  
10 actually be using a digital facility for.

11 By simply taking that out of both the  
12 numerator and the denominator, it seems to me they've  
13 been able to put before you a -- the most objective  
14 form of evidence possible. And I think the Staff did  
15 a good job of filtering out even more digital from  
16 the -- from the evidence that's being presented here.

17 So I think there's an advantage there, as  
18 well, in terms of the case that's been presented here  
19 to you, and as Mr. Reynolds said yesterday, it sounds  
20 like you're going to get, at some point reasonably  
21 soon, the digital services case, at which time you  
22 can consider the evidence that's presented there, as  
23 well.

24 Q. Another aspect of this, there's -- aside  
25 from whether digital is or isn't competing with

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1 analog, there's some lack of symmetry that I'm trying  
2 to define, and I believe it's that, over time, people  
3 seem to be going to digital, because it offers more,  
4 and that analog will dwindle for that reason alone.  
5 I don't want to jump to conclusions. That's kind of  
6 a lay sense, but do you agree that's true? And if  
7 it's true, how does it play into this, if it even  
8 does?

9 A. Let's put it this way. I believe you're  
10 right, generally speaking. I think that digital,  
11 particularly packet switched digital delivery of  
12 voice, data and video is the way that things are  
13 going, and I think that over time you will find that  
14 customers will -- or many customers, not all, but  
15 many, will see the advantages and make that switch.

16 Having said that, I don't think it's  
17 inappropriate for Qwest to have presented this case  
18 to you in the context of analog because there is  
19 still a substantial, in fact, the predominant, it  
20 sounds to me from -- and certainly what I've seen in  
21 other areas of the country, in the basic business  
22 exchange services, most people are buying and selling  
23 those services or buying those services from Qwest or  
24 from CLECs on a -- certainly from Qwest, on an analog  
25 basis today. And they have equipment that they've

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1 invested in that is analog, that won't work with  
2 digital.

3           And so I think that it's -- if you look at  
4 sort of a slice out of the pie, that's what Qwest has  
5 brought to you here today and said, Give us  
6 competitive classification for that. We'll come back  
7 and get the digital slice later, but I think the --  
8 you know, whether you want to call it you've got to  
9 crawl before you can walk or whatever, I think the  
10 importance was to bring a case to you where the  
11 numbers that support it, which I think has been  
12 refined from what Qwest presented by the Staff, are  
13 the most objective numbers possible and show, it  
14 seems to me, a very significant market share by  
15 competitors that's growing.

16           And that, among other things, is evidence of  
17 effective competition, which is what the statute asks  
18 you to find. So I don't think the two are  
19 inconsistent; I think this is, you know, a slice out  
20 of the pie, so to speak, a layer off the onion, and  
21 it's a perfectly appropriate one in economic terms.

22           Q. Another question I have is how to think  
23 about wireless. There's clearly been a very large  
24 growth in the number of wireless lines.

25           A. Yes.

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1           Q.    And assume -- assume that it's not a perfect  
2   substitute for many people, for many businesses, but  
3   if it is a partial substitute or addition that is a  
4   substitute for a second or third line or whatever --  
5   the next marginal line, or if it is an overlapping  
6   service, how do -- how should we think of that when  
7   evaluating this petition?

8           A.    When I think -- how you should evaluate it,  
9   going back to my three phases, is you should evaluate  
10  it when you consider the third set of issues.  That  
11  is, how to interpret the market share of the  
12  incumbent or the HHI numbers that have been presented  
13  by Public Counsel.  Because, if for some customers,  
14  business customers, for some subset of their full  
15  business needs wireless is -- is a substitute today,  
16  could be a substitute today.

17                   And I believe, by the way, based on the work  
18  that I've done, not here in Washington, but in six or  
19  seven states around the country, that we are seeing  
20  that substitution.  It's occurring.  And we may  
21  quibble about differences in the way the services are  
22  provided, but the fact of the matter is wireless  
23  usage and wireless lines are increasing.

24                           So the key point I'd like to make, and I  
25  made it in my testimony, is that it doesn't have to

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1 be a perfect substitute for all of the business  
2 exchange services that Qwest has in its exhibit here  
3 in this case. It can be in the mix of options or  
4 things that can be substituted for by customers who  
5 are buying services off that list today. It doesn't  
6 have to be in the market; it could be, as Qwest would  
7 define it, in an adjacent market, but it's something  
8 that you look at when you interpret the extent of  
9 market power that's reflected by any market share  
10 number.

11 So in my view, the number, the market share  
12 number in and of itself in this case is evidence that  
13 the market is competitive, that competition is  
14 growing, and that I would, again, say to you I would  
15 discount whatever weight you might want to afford to  
16 the relatively high number Qwest has to its  
17 competitors by the fact that there are substitutes  
18 outside of the market, including, as you've suggested  
19 for some customers, for some applications, wireless.

20 It's just an -- it is a subjective way of  
21 looking at the question, which is the third question  
22 you have to answer. What is the significance of the  
23 number that's calculated when you do a market share  
24 or concentration ratio, and that's an important part  
25 of it, too.



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1           Q.    All right.  You have taken me through an  
2 antitrust analysis.  Do you think that that is the  
3 same analysis that we should be going through under  
4 our statute?  That is, the term effective  
5 competition.  Now, we have some criteria we must  
6 consider, but in terms of the bottom line conclusion,  
7 do you think that we should be engaged in the same  
8 analysis as antitrust or are there differences?

9           A.    Oh, I think there are differences.  I think  
10 here you're not applying the Sherman Act or the  
11 Clayton Act; you're applying the statute here in  
12 Washington.  The Washington statute sets out a test  
13 of effective competition that this Commission has to  
14 apply.

15                    There obviously are -- it's a judgment call  
16 that you have to make.  I think your judgment can be  
17 informed by antitrust analysis.  You can look at  
18 tools that are otherwise used in antitrust cases, but  
19 I think the test is the test laid out in the statute,  
20 and that is whether there's effective competition.  
21 And it seems to me that, by virtue of the fact that  
22 competitors are nearly everywhere, I think there's  
23 maybe one exchange that we've identified where  
24 they're -- it was the famous example we were talking  
25 about yesterday where there apparently is nobody

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1 actually --

2 Q. Elk.

3 A. Elk, exactly. Although I must admit, as I  
4 went and looked at Elk on the map, it's like the hole  
5 in a donut. I mean, it's a little, tiny area  
6 surrounded by a lot of much more intense competition.  
7 So I'm not sure I'd be troubled by that, but all I'm  
8 saying is there, it seems to me, the test is a test  
9 laid out in the statute and that you can, as part of  
10 your analysis, look to tools that are used in  
11 antitrust, but not put, you know, excessive weight on  
12 any of those tools. You really want to just see  
13 whether the terms of the statute have been met. If  
14 they are, then you grant the classification.

15 Q. All right. In terms of the test, effective  
16 competition means, first, that customers of the  
17 service have reasonably available alternatives.  
18 There's evidence about that.

19 A. Yes.

20 Q. And then, second, that the service is not  
21 provided to a significant captive customer base. Is  
22 it the second prong that this analysis largely goes  
23 to?

24 A. The antitrust analysis?

25 Q. The antitrust analysis?

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1           A.    No, I think the problem is the concept of  
2 captive customer, and I did a little research on this  
3 before filing testimony here, is really not a term  
4 that's used anywhere outside the public utility  
5 regulation, and so I don't know that captive  
6 customer, you know, has a meaning in terms of  
7 antitrust analysis.

8                    What it suggests to me is that it's a  
9 customer that has no option.  Not, by the way,  
10 someone who has an option and elects for various  
11 reasons not to take it; i.e., says, Look, I know I  
12 have a choice, but I'm going to stay with the  
13 incumbent, but someone who has no choice.

14                   And it seems to me that, again, as I look at  
15 it, there's evidence in this case that there are  
16 literally no captive customers, certainly not a  
17 significant number of captive customers, if any, in  
18 the state; that they have options by virtue of the  
19 universal availability of unbundled network elements  
20 and wholesale resale.

21           Q.    Do you agree that the price at which those  
22 alternatives are available is relevant to determining  
23 whether there's a captive base if the price of the  
24 alternatives were five times higher than even those  
25 alternatives existed, you might find there's a

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1 captive base who couldn't afford the alternatives?

2       A. Well, I think that's -- that may be a  
3 slippery slope, Madam Chairwoman. I think that it's  
4 very difficult in an area like telecommunications,  
5 where the prices that we observe are prices that have  
6 been set subject to regulation, and what prices we  
7 might see in the -- in a competitive marketplace.  
8 Certainly you want to make certain that, for  
9 something to be a substitute, it obviously has to be  
10 priced close to a -- the service that you're  
11 comparing it with, but I think you have to look at  
12 all the dimensions. For example, not only price, but  
13 quality, features, sort of what's included.

14             You know, I know that, for example, in many  
15 cases in the long distance arena, the role that  
16 resellers played and why they were able to capture  
17 such a significant share of the market is they  
18 provided a bill to customers that was much easier to  
19 read than the bill that they would typically get from  
20 AT&T and MCI. That was value added.

21             So again, I think you have to look at all  
22 the dimensions along which you would consider a  
23 substitute. Price is one of them, but not the only  
24 one.

25             CHAIRWOMAN SHOWALTER: Okay. Thank you. I

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1 have no further questions.

2 COMMISSIONER OSHIE: No questions.

3 JUDGE MACE: Qwest.

4 MR. SHERR: No, I have no redirect.

5 JUDGE MACE: Well, insofar as the  
6 Commissioners -- well, the Chairwoman asked  
7 questions, I'd ask if any of the CLECs have anything  
8 that they'd like to address with regard to those  
9 questions? Anyone? No. All right. Then, let's  
10 see. We have already addressed all of Mr. Shooshan's  
11 exhibits, and I believe that completes your  
12 cross-examination. Thank you very much. You're  
13 excused.

14 THE WITNESS: Thank you.

15 JUDGE MACE: I believe, according to the  
16 agreement of the parties, then, the next witness  
17 would be Mr. Williamson; is that correct? Or am I  
18 missing --

19 MR. FFITCH: Your Honor, we had suggested  
20 that we just proceed in order until the end of the  
21 day, and then -- today's session, and then break the  
22 order in the morning with Ms. Baldwin.

23 JUDGE MACE: So then that would be Mr.  
24 Wilson?

25 MR. THOMPSON: Correct.

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1 Whereupon,

2 THOMAS L. WILSON, JR.,

3 having been first duly sworn by Judge Mace, was

4 called as a witness herein and was examined and

5 testified as follows:

6 JUDGE MACE: All right. Please be seated.

7 And will it be Mr. Thompson?

8 MR. THOMPSON: Thompson.

9 JUDGE MACE: Thank you.

10

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

12 BY MR. THOMPSON:

13 Q. Good afternoon, Mr. Wilson. Would you

14 please state your full name for the record?

15 A. Thomas L. Wilson, Junior.

16 Q. And by whom are you employed?

17 A. I'm employed by the Washington Utilities and

18 Transportation Commission.

19 Q. Did you cause to be prefiled in this case

20 the testimony that has been marked for identification

21 as Exhibit 201-T and rebuttal testimony that has been

22 marked as Exhibit 210-TC, and the associated exhibits

23 marked as 202 through 212?

24 A. Yes, I did.

25 Q. Besides the errata sheet that was filed last

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1 Friday, September 12th, do you have any additions or  
2 changes or corrections to make to your testimony or  
3 exhibits?

4 A. No, I do not.

5 Q. And if I were to ask you the questions set  
6 out in the 201-T and 210-TC, would your answers be as  
7 set forth in those?

8 A. Yes, they would.

9 Q. And are they true and correct to -- oh,  
10 excuse me. Were the exhibits prepared by you or  
11 under your supervision and direction?

12 A. Yes, they were.

13 Q. And are they true and correct, to the best  
14 of your knowledge?

15 A. Yes.

16 MR. THOMPSON: Staff would offer Exhibits  
17 201-T, 210-TC, 202, 203, 204-C, 205-C, 206-C, 207-C,  
18 208-C, 209-C, and 211 and 212 into evidence.

19 JUDGE MACE: Any objection to the admission  
20 of those proposed exhibits?

21 MR. FFITCH: Your Honor, Public Counsel  
22 would wish to interpose an objection at this time,  
23 and I'd like to address that, if I might.

24 JUDGE MACE: Please.

25 MR. FFITCH: Thank you, Your Honor. Public

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1 Counsel objects to the admission of Staff testimony  
2 and exhibits that are derived from Staff's analysis  
3 of CLEC data produced pursuant to Order Number 06,  
4 the so-called raw CLEC data, and I'll specify the  
5 exhibit numbers in a moment. This restates the  
6 objection we made in the prehearing phase to denial  
7 of access to Public Counsel to raw CLEC data produced  
8 per Order Number 06, and the objection was renewed at  
9 the prehearing conference last Friday, September  
10 12th.

11           Subsequent to that hearing, an order was  
12 issued directing Staff to produce the raw CLEC data  
13 by -- excuse me, the raw CLEC data to Public Counsel.  
14 And Staff sent the data via overnight delivery  
15 service to Susan Baldwin at her Boston area home  
16 address. The CLEC data was not received at Ms.  
17 Baldwin's address until Monday September 15th. At  
18 that time, she was en route to Olympia for the  
19 hearing.

20           The information sent initially was also  
21 incomplete in that the data from one of the CLECs --  
22 responding CLECs was missing. That was subsequently  
23 supplied by Staff also on Monday through my office.  
24 Ultimately, Ms. Baldwin did not receive the  
25 information until Monday, early evening, when I



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1 provided it to her at her hotel in Olympia.

2           The basis for our objection is that Public  
3 Counsel did not have this information available to  
4 assist our office in preparation of direct testimony,  
5 rebuttal testimony, conduct of discovery or in  
6 preparation of cross-examination or identification of  
7 cross-examination exhibits prior to the deadline  
8 established for the prehearing conference on  
9 September 12th.

10           Public Counsel's ability to prepare its case  
11 and to prepare to cross-examine Staff and company  
12 witnesses was significantly harmed by lack of access  
13 to the raw data.

14           The order allowing access last Friday, with  
15 all respect to the Bench, has not remedied this  
16 disadvantage to Public Counsel. As a practical  
17 matter, the information was not received in time to  
18 be of material use to us in this proceeding.

19           And we also restate the grounds for  
20 objection set forth in our earlier filings and  
21 arguments. Therefore, we raise a continuing  
22 objection to admission of the following exhibits.  
23 Exhibit 201-C, Exhibit 203-C, the revised version,  
24 and to the extent it's in the record, also the  
25 original filed version, Exhibit 204-C, 205-C, the

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1 revised Exhibit 210-C. Thank you, Your Honor.

2 JUDGE MACE: Mr. Thompson.

3 MR. THOMPSON: Well, I'm not sure what Staff  
4 plays in this, because Staff was simply complying  
5 with the Commission orders. It's a small matter, but  
6 we did also overnight the materials on Friday evening  
7 to Mr. Ffitch at his home. I understand that he  
8 received them on Saturday.

9 MR. FFITCH: That is correct.

10 CHAIRWOMAN SHOWALTER: I have a question.  
11 If -- how long do you need to review the information?

12 MR. FFITCH: Well, Your Honor, I guess I  
13 would need to consult with my expert on that. I --  
14 certainly the history of the proceeding is that Mr.  
15 Wilson required a significant period of time to  
16 review the data and produced two different  
17 aggregations of it because of the complexity of the  
18 data. Obviously, Staff has had a period of time  
19 since the beginning of the proceeding to crystallize  
20 that into both direct and rebuttal testimony and  
21 conduct discovery on it. So as a practical matter, I  
22 don't think it's possible for us to sort of replace  
23 that lost time.

24 CHAIRWOMAN SHOWALTER: Well, obviously, if  
25 we take a -- if we come back in a month, I presume

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1 you have the time. There's some amount of time that  
2 you could do it, and that's an option we have. We  
3 can reconvene on another day if it's necessary, but  
4 I'm wondering if it is necessary.

5           The other thing to keep in mind here is that  
6 we potentially could not finish tomorrow, and if we  
7 don't, we would necessarily have to take another day.  
8 Now, that could be Saturday, which is close in time,  
9 that could be another day that's further away in  
10 time, which would put substantial pressure on the  
11 deadline here, but it's not the case that there's  
12 only one option, go ahead today, either -- you know,  
13 grant your motion or deny your motion. We might be  
14 able to accommodate what you need to do, so  
15 therefore, we need to understand how much time would  
16 be required.

17           MR. FFITCH: Thank you, Your Honor. I had  
18 been speaking within the limitations of our statutory  
19 deadline and the schedule that we have. I had not  
20 considered the possibility that we would have sort of  
21 an open-ended period of time to build back into the  
22 case for review of this data.

23           Frankly, we were advised by Commission order  
24 at the beginning of the proceeding that we were not  
25 to have access to the data, and to be offered access

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1 on the eve of hearing simply, as I indicated, is not  
2 an adequate remedy for us in proceeding in the case.

3 Now, again, I can talk with my witness and  
4 see what kind of time frame she would require. I had  
5 intended, also, to ask Mr. Wilson some questions  
6 during cross about his -- the amount of time that he  
7 required to do this analysis. So that I haven't had  
8 a chance to do that yet, but --

9 CHAIRWOMAN SHOWALTER: Well --

10 MR. FFITCH: -- that would also be useful, I  
11 think.

12 CHAIRWOMAN SHOWALTER: It does not seem to  
13 be -- I don't think it's necessary for you to ask  
14 this witness under oath, as a witness in this case,  
15 how much time he took. If you want to take a break  
16 and consult with your client and if part of that is  
17 asking Mr. Wilson how long he had, but how long he  
18 had is a different question from how long she needs.

19 MR. FFITCH: Well, Your Honor, I'd like to  
20 have on the record how much time Staff had preparing  
21 its case in this proceeding, including Mr. Wilson's  
22 analysis.

23 CHAIRWOMAN SHOWALTER: Let's get to that  
24 later. Why don't we take a break when you consult  
25 with your client as to what you need, what you say

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1 you need to digest this information. Let's take a  
2 10-minute break.

3 JUDGE MACE: Ten-minute recess.

4 (Recess taken.)

5 JUDGE MACE: Let's be back on the record.

6 Mr. ffitch.

7 MR. FFITCH: Thank you, Your Honor.

8 Appreciate the opportunity to confer. We've spoken  
9 with -- I've spoken with my consultant and also with  
10 Staff Counsel and Witness Mr. Wilson. Public Counsel  
11 would require -- well, let me back up a little bit.

12 The context of my comments is we're placed  
13 in a difficult position by the late availability of  
14 this data. We had not been planning to review it or  
15 conduct additional analysis or prepare additional  
16 testimony based on the earlier rulings of the  
17 Commission. Our consultant has other commitments  
18 over the next few weeks for testimony in other  
19 states.

20 The data is complex. We estimate, based on  
21 our own estimates and conferring with Staff, that the  
22 analysis time here is approximately 40 to 50 hours,  
23 with an additional two to three long work days to  
24 prepare a written analysis in the form of  
25 supplemental testimony, and we would ask for a time

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1 period of three to four weeks to have time to get  
2 that work done by Ms. Baldwin, fitting it in with her  
3 other prescheduled obligations. Then we would submit  
4 that testimony and she would be available for further  
5 cross.

6 At this time, we would recommend going  
7 forward with the cross-examination of Ms. Baldwin and  
8 Mr. Wilson subject to the objection, which could  
9 then, if he could be brought back after the analysis  
10 in a subsequent hearing opportunity when Ms. Baldwin  
11 would also be available for cross on her  
12 supplemental, then we could have an opportunity to do  
13 additional cross on Mr. Wilson if we develop that  
14 after review of the raw data.

15 JUDGE MACE: How much raw data is there?  
16 Has anybody determined, Well, there's three boxes or  
17 10 pages or -- what's the volume of that material?

18 MR. FFITCH: The stack of data is  
19 approximately an inch thick, Your Honor, and then  
20 there's electronic. Mr. Wilson is holding a stack  
21 there. There's electronic versions of that, as well.

22 MR. THOMPSON: If I could just add  
23 something. I'm not sure what the Commission  
24 envisions as coming up with additional analysis based  
25 on the data or whether it's just a matter of, you

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1 know, checking the creation of a spreadsheet that  
2 aggregates the information received from the 24  
3 CLECs, just to make sure that it was done accurately  
4 and so forth. I think that would be helpful to have  
5 that clarification.

6 Certainly, if Public Counsel wants to  
7 submit, you know, supplemental testimony that, you  
8 know, that addresses aspects of the information that  
9 are, you know, below the aggregate level, Staff  
10 endeavored not to do that, and if that were -- if  
11 that were something Public Counsel wanted to do, I  
12 think we would certainly want to have the opportunity  
13 to respond to that.

14 MR. FFITCH: That's, I think, a valid point  
15 to raise. I'm not suggesting that we would be  
16 including that kind of analysis in our testimony.  
17 However, Staff essentially did two things with the  
18 data that it had access to, and one was -- one major  
19 thing was to prepare its direct and rebuttal  
20 testimony. And so it's not sufficient for us to just  
21 have a look at the information to use to  
22 cross-examine Mr. Wilson; we need to have the  
23 opportunity to actually have Ms. Baldwin provide  
24 testimony of her own about the data consistent with  
25 the protections that the Commission has adopted.

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1           JUDGE MACE: Mr. ffitch, I understood from  
2 the argument that we had prior to you being provided  
3 with this that the main reason you wanted the data  
4 was to be able to conduct cross-examination. That  
5 was what you mentioned in your argument. I don't  
6 recall that you talked about providing additional  
7 testimony with regard to it.

8           MR. FFITCH: I suspect you're absolutely  
9 correct, Your Honor. We had no anticipation whatever  
10 that we would actually be provided with this data at  
11 the last minute on the eve of trial given the prior  
12 rulings of the Commission. And my intention in  
13 raising this matter was to simply preserve our  
14 record, that we had objected to exclusion from the  
15 data. I did not expect to have that be reversed.  
16 And while we can't complain about the ruling on the  
17 merits, it certainly, as I've indicated, does not  
18 help us at the time of the hearing.

19           JUDGE MACE: If all you were to do would be  
20 to prepare for cross-examination of Mr. Wilson, would  
21 it still take you three to four weeks?

22           MR. FFITCH: It would not take that long,  
23 Your Honor. That includes both an analysis of the  
24 data and the preparation of a testimonial document.  
25 We've estimated the data review would take 30 to 35



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1 hours, and so that period of time would then also  
2 have to fit in with Ms. Baldwin's schedule. If we  
3 were simply doing that in order to prepare for cross,  
4 two weeks, Ms. Baldwin indicates that would be  
5 adequate. Again, I would have to say that I don't  
6 think that fully would meet our objections.

7 CHAIRWOMAN SHOWALTER: I guess I just wanted  
8 to observe that, in my memory of the many motions and  
9 orders in this case, was that originally we did hold  
10 off limits this information except for Staff. Public  
11 Counsel requested reconsideration on a particular  
12 point, which we granted. You did not request  
13 reconsideration of this point. And had you done so  
14 at an earlier point, I think we probably would have  
15 granted it in the same manner. That is, ultimately  
16 our order, I think, was consistent for both sorts of  
17 information.

18 And you didn't raise this issue till just  
19 now, not Monday or the beginning of the proceeding.  
20 So there is some aspect of your -- of lying in wait  
21 to spring these orders -- motions upon us. That's  
22 your right, but it makes it more difficult for us to  
23 accommodate you when these are raised later, rather  
24 than earlier.

25 Now, perhaps you didn't think about it in

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1 the original petition to reconsider, and that's okay,  
2 but I believe this Commission has responded as  
3 promptly as it could to all the motions in front of  
4 it, including that latest one.

5 Now, what does this mean in practice? Does  
6 it mean that we can proceed with the case as is, with  
7 all of the witnesses, and then if there is a need by  
8 Public Counsel to do further cross-examination of Mr.  
9 Wilson and if there is a need for later or  
10 supplemental testimony, we cross that bridge when we  
11 come to it, maybe marking out a day when we would try  
12 to do that. Is that where we are?

13 MR. FFITCH: I believe so, Your Honor. And  
14 of course, the statutory deadline is an issue.

15 CHAIRWOMAN SHOWALTER: That's right. And we  
16 haven't heard from Qwest yet about the whole matter,  
17 but we probably could find a day, but the day is --  
18 if it's going to be that far away, it's going to  
19 obviously run up against the statutory deadline. We  
20 could probably find a day closer, but not a lot.

21 MS. ANDERL: I understand that, Your Honor,  
22 and obviously we've been thinking about this. We've  
23 been thinking about it in the context of, even absent  
24 this motion, not being done tomorrow, and I need to  
25 consult with Mr. Nelson, who is not in the room right

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1 now.

2 I cannot say that we are completely rigid  
3 with regard to the statutory deadline. We obviously  
4 would like to see this case wrapped up within some  
5 reasonable proximity to the statutory deadline, and  
6 if we were able to get some more certainty in terms  
7 of how long people were looking for, I'm sure I can  
8 have an answer for you later this evening or first  
9 thing in the morning. Something quick.

10 CHAIRWOMAN SHOWALTER: Well, there are some  
11 possible dates. One is -- would be -- I assume we  
12 wouldn't need more than a day; is that right? Well,  
13 we don't know that, but let's say we need a day. But  
14 October 1st, spilling over into the 2nd, if  
15 necessary, is one possibility. And October 20th and  
16 21st is another. And after that, this is November  
17 24th and 25th. I suspect that's Thanksgiving. I  
18 don't know.

19 MR. FFITCH: Your Honor, my witness advises  
20 that the 20th and 21st would work. She's not  
21 physically available before October 9th, she advises  
22 me. So the 20th and 21st would work for us.

23 CHAIRWOMAN SHOWALTER: Well, then, that  
24 would of course require an extension, so -- of the  
25 deadline.

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1 MS. ANDERL: Right, and --

2 CHAIRWOMAN SHOWALTER: So maybe we should  
3 hold all this in abeyance until you figure out what's  
4 the best thing to do, and meanwhile we'll just  
5 proceed with the case. But for right now, I think,  
6 Mr. Wilson, you did -- you did correct your testimony  
7 and all that kind of thing, didn't you? Yes.

8 THE WITNESS: Yes.

9 CHAIRWOMAN SHOWALTER: We were just on  
10 cross-examination. My sense is that it would be  
11 better to stop now. We, of course, don't have any  
12 break starting at 6:00, so we need to get a little  
13 bite. So I think it would be better to break for  
14 dinner, come back at 7:00, and we'll start up again  
15 for as long as we can stand it.

16 MR. BUTLER: If that's the test --

17 MR. MELNIKOFF: We would have adjourned a  
18 long time ago.

19 MS. FRIESEN: Chairwoman, is there somewhere  
20 we could put all our materials so we don't have to  
21 lug them all out?

22 JUDGE MACE: The little room back there, if  
23 there's --

24 CHAIRWOMAN SHOWALTER: I guess my -- I would  
25 say we ought to just leave everything right where it

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1 is. The citizens will be sitting in the audience and  
2 we can set up a podium behind this table. Maybe we  
3 could even take the curtain here on this side of the  
4 table and flip it over onto your stuff. I think it's  
5 not necessary to clean it all up. After all, they're  
6 coming to comment in this case, which is ongoing.

7 JUDGE MACE: Very well, then. We're  
8 adjourned, then, until 6:00. Pardon me, 7:00. And  
9 those who are coming to the public hearing, it's at  
10 6:00.

11 MS. ANDERL: Your Honor, there have been  
12 arrangements made to make sure the front door stays  
13 unlocked?

14 JUDGE MACE: I believe so. I think that  
15 Penny Hansen has addressed that.

16 MS. ANDERL: Thank you.

17 (Recess taken.)

18 (A public hearing was held at this time, and  
19 the transcript is contained in Volume IV,  
20 pages 565 through 605.)

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