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5 20 LBB 20 - TCG Responses to Qwest Data Requests  
6 21 LBB 21 - ATI Responses to Qwest's First Set of  
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10 23 LBB 23 - Executive Summary February 2, 2007  
11 24T LBB 24T - Rebuttal Testimony filed March 20,  
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13 25 LBB 25 - Relative Washington Traffic -  
14 Qwest/Pac-West (2005-06)  
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16 26 LBB 26 - Relative Washington Traffic -  
17 Qwest/Level3 (2005-06)  
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19 27 LBB 27 - Relative Washington Traffic -  
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22 28C LBB 28C - Relative Washington Traffic -  
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24 29 LBB 29 - OneFlex Routing  
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1    ATI Cross Exhibits

2    30        1 - Reciprocal Compensation Agreement for

3                Internet Bound Traffic

4    31        2 - Qwest Response to ATI 03-0081

5    32        3 - Qwest Response to ATI 03-011I

6    33        4 - Qwest Response to ATI 03-012I

7    34        5 - Qwest Response to ATI 03-013I

8    35        6 - Qwest Responses to ATI 03-006A through ATI

9                03-012A

10   Level 3 Cross Exhibits

11   36        2 - Hearing Transcript in UT-063006, Vol VII,

12                Oct 26, 2006 (Brotherson) pp. 733-736 and

13                801-845

14   37        4 - Direct Testimony of Larry B. Brotherson,

15                UT-023042

16   38        9 - Presentation of John Richardson, March 6,

17                2007

18   39        10 - August 4, 2000 reply comments of Qwest

19                Corp, In the Matter of Implementation of the

20                Local Competition Provisions in the

21                Telecommunications Act of 1996, Inter-Carrier

22                Compensation for ISP-Bound Traffic, CC Docket

23                Nos. 96-98 and 99-68

24   40        11 - April 12, 1999 - Comments of US West

25                Communications, Inc. - Inter-Carrier

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1 Compensation for ISP-Bound Traffic, CC Docket  
2 No. 99-68  
3 41 12 - Order, Petition of Core Communications,  
4 Inc. for Forebearance Under 47 U.S. C. Sec.  
5 160(c) from Application of the ISP Remand  
6 Order, FCC 04-241, WC Docket No. 03-171,  
7 Adopted October 8, 2004, Released October 18,  
8 2004  
9 42 15 - Qwest's Responses to Broadwing's First  
10 Set of Data Requests, Request Nos. 1-18, dated  
11 September 12, 2006, WUTC Docket UT-063038  
12 43 16 - Qwest's Supplemental Responses to  
13 Broadwing's First Set of Data Requests,  
14 Request NOs. 3 and 6, dated September 14,  
15 2006, in WUTC Docket UT-063038  
16 44 17 - Qwest's Responses to Broadwing's Second  
17 Set of Data Requests, Request Nos. 19-30,  
18 dated October 24, 2006 in Docket UT-063036  
19 Joint CLEC Cross Exhibits  
20 45 Response to Pac-West DR No. 3  
21 46 Response to Pac-West DR No. 4  
22 47 Response to Pac-West DR No. 9  
23 48 Response to Pac-West DR No. 10  
24 49 Response to Pac-West DR No. 17  
25 50 Response to Pac-West DR No. 19

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1 51 Response to Pac-West DR No. 20  
2 52 Response to Pac-West DR No. 21  
3 53 Response to Pac-West DR No. 22  
4 54 Response to Pac-West DR No. 23  
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6 56 Response to Pac-West DR No. 26  
7 57 Response to Pac-West DR No. 27  
8 58 Response to Pac-West DR No. 28  
9 59 Response to Pac-West DR No. 29  
10 60 Response to Global Crossing DR. No. 2  
11 61 Response to Global Crossing DR No. 3  
12 QWEST - DR. WILLIAM L. FITZSIMMONS  
13 101T WLF 1T - Direct Testimony filed November 20,  
14 2007  
15 102 WLF 2 - Dr. Fitzsimmons Vitae  
16 103T WLF 3 - Rebuttal Testimony filed March 20,  
17 2007  
18 Joint CLEC Cross Exhibits  
19 104 Response to Pac-West DR No. 12  
20 105 Response to Pac-West DR No. 13  
21 106 Response to Pac-West DR No. 14  
22 QWEST - PHILIP LINSE  
23 171T PL 1T - Direct Testimony filed November 20,  
24 2007  
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1 172T PL 2T - Rebuttal Testimony filed March 20,  
2 2007  
3 173 PL 3 - QC Local Customer Call to Level 3 ISP  
4 174 PL 4 - Access numbers  
5 175 PL 5 - Welcome to Tel3  
6 176 PL 6 - Local Access Numbers to Call  
7 Internationally From  
8 177 PL 7 - Make Your Call  
9 178 PL 8 - Call Anywhere on the Planet Now  
10 179 PL 9 - Industry Number Committee (INC) Issue  
11 Identification Title: Number Assignment  
12 Assumption  
13 COMMISSION STAFF - ROBERT WILLIAMSON  
14 201T RW 1T Direct Testimony filed November 20,  
15 2006  
16 202 RW 2 - Vitae  
17 203T RW 3T - Rebuttal Testimony filed March 20,  
18 2007  
19 Level 3 Cross Exhibits.  
20 204 1 - Deposition Transcript of Robert Williamson  
21 in WUTC Docket UT-063038, dated January 16,  
22 2007  
23 205 3 - Seventh Supplemental Order: Affirming  
24 Arbitrator's Report and Decision, Docket  
25 UT-023043

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1 206 5 - Verizon v. Peevey, 462 F.3d 1142

2 207 6 - Decision Approving Arbitrated Agreement

3 Pursuant to Section 252, Subsection (e), of

4 the Telecommunications Act of 1996,

5 Application 02-06-024 (Filed June 12, 2002),

6 Decision 03-05-075, May 22, 2003, Before the

7 Public Utilities Commission of the State of

8 California

9 208 7 - FCC's ISP Remand Order, Order on Remand

10 and Report and Order, Adopted April 18, 2001,

11 Released April 27, 2001

12 209 8 - July 21, 2000 - Comments of SBC

13 Communications, INC. - In the Matter of the

14 Implementation of the Local Competition

15 Provisions of the Telecommunications Act of

16 1996, Inter-Carrier Compensation for ISP-Bound

17 Traffic, CC Docket Nos. 96-98 and 99-68

18 210 13 - WUTC Staff Response to Pac-West Data

19 Requests 21-28 in WUTC Docket UT-063038

20 211 14 - Qwest webpages

21 Joint CLEC Cross Exhibits

22 212 Response to Pac-West DR No. 5

23 213 Response to Pac-West DR No. 6

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11	226	Response to Pac-West DR No. 23
12	227	Response to Pac-West DR No. 25
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14	229	Response to Pac-West DR No. 28
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16	230	1 - Ninth Supplemental Order in Docket
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18	BROADWING/FOCAL - DANIEL E. MELDAZIS	
19	241T	DEM 1T - Direct Testimony filed November 20,
20		2006
21	242	DEM 2 - Order Approving Adoption of Previously
22		Approved Interconnection Agreement, March 10,
23		1999
24	243	DEM 3 - Order Approving Negotiated Third
25		Amended Agreement Revising Intercarrier

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1                   Compensation and Reciprocal Compensation  
2                   Arrangements, July 29, 2002  
3   244T           DEM 4T - Rebuttal Testimony filed March 20,  
4                   2007  
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6   245C           1 C - Broadwing's Responses to Qwest's 4th Set  
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9   246            2 - Broadwing's Responses to Qwest's 4th Set  
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11   247C           3 C - Broadwing's Responses to Qwest's 4th Set  
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13                  attachments  
14   248C           4 C- Broadwing's Responses to Qwest's 4th Set  
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21   BROADWING/FOCAL - RHONDA J. EVANS MCNEIL  
22   301T           RJEM 1T - Direct Testimony filed November 20,  
23                   2006  
24   302            RJEM 2 - Bill to Qwest dated October 28, 2006  
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1 303 RJEM 3 - Letter to Marnie Fetters dated  
2 February 3, 2006  
3 304 RJEM 4 - Bill to Qwest dated February 4, 2005  
4 305T RJEM 5 T - Rebuttal Testimony filed March 20,  
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6 306C RJEM 6C - Amount Due By Billing Element  
7 4/28/03-10/28/06  
8 BROADWING/FOCAL - SCOTT D. KELL  
9 351T SDK 1T - Direct Testimony filed February 2,  
10 2007 ADOPTED BY MACK GREENE  
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14 353 2 - Broadwing's Response to Qwest's Third Set  
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16 354 3 - Broadwing's Responses to Qwest's 5th Set  
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18 355 4 - Broadwing's Response to Qwest's 4th Set of  
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21 401T GB 1 T - Direct Testimony filed February 2,  
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24 421T DER 1T - Direct Testimony filed February 2,  
25 2007



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1 422 DER 2 - Qwest Interconnects for NW Washington  
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3 423 DER 3 - Qwest Interconnects for NW Washington  
4 State Second Map  
5 424 DER 4 - Qwest website - What is a virtual  
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7 425 DER 5 - Qwest OneFlex Integrated Access  
8 426 DER 6 - Qwest Wholesale Dial  
9 427 DER 7 - Qwest Large Business Market Expansion  
10 Line  
11 428 DER 8 - Industry Numbering Committee  
12 Contribution  
13 Qwest Cross Exhibits  
14 429 1 - ELI's Responses to Qwest's First Set of  
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16 430 2 - ELI's Responses to Qwest's First Requests  
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18 431 3 - ELI's Responses to Qwest's Second Set of  
19 Data Requests -Nos. 15-16 and 19  
20 432 4 - ELI's Responses to Qwest's Third Set of  
21 Data Requests - Nos. 22-27  
22 433 5 - ELI FX Price List Excerpt  
23 434 6 - Excerpts from Interconnection Agreement  
24 Between Qwest and ELI for State of Washington  
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1 435 7 - Integra/ELI ISP & Data Support Website  
2 materials  
3 GLOBAL CROSSING - DIANE PETERS  
4 441T DP 1T - Direct Testimony filed February 2,  
5 2007  
6 442 DP 2 - Qwest Reciprocal Compensation Amounts  
7 Owed to Global Crossing Jan 31, 2007  
8 (Confidential designation withdrawn.)  
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10 443 1 - Response to WITA Data Request No. 15  
11 Qwest Cross Exhibits  
12 444 1 - Global Crossings' Responses to Qwest's  
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15 445 2 - Global Crossings' Responses to Qwest's  
16 Second Set of Data Requests - Nos. 15, 16, 18  
17 446 3 - Excerpts from Global Crossings' Price  
18 Lists for Washington State  
19 447 4 - Excerpts from Interconnection Agreement  
20 Between Qwest and Level 3 for the State of  
21 Washington  
22 LEVEL 3 - MACK D. GREENE  
23 451T MDG 1T - Direct Testimony filed February 2,  
24 2007  
25 452C MDG 1C - Washington Rate Center Coverage

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1 453 MDG 2 - Level 3/Qwest Interconnection  
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3 454 MDG 3 - QCC Wholesale Dial/Level 3 Managed  
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5 455 MDG 4 - Qwest Response to Broadwing Data  
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11 459 4 - Response to WITA Data Request No. 27  
12 460 5 - Response to WITA Data Request No. 28  
13 461 6 - Response to WITA Data Request No. 29  
14 462 7 - Response to WITA Data Request No. 30  
15 463 8 - Response to WITA Data Request No. 32  
16 464 9 - Response to WITA Data Request No. 33  
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18 466 11 - Response to WITA Data Request No. 35  
19 467 12 - Response to WITA Data Request No. 37  
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23 469C 2 - Level 3's Confidential Response to Qwest's  
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1 470C 3 - Level 3's Confidential Response to Qwest's  
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3 471C 4 - Level 3's Confidential Response to Qwest's  
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5 472 5 - Level 3's Responses to Qwest's Second Set  
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7 473 6 - Level 3's Responses to Qwest's Third Set  
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11 475 8 - Level 3 Managed Modem information (from L3  
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13 476 9 - Level 3 VOIP information (from L3 website)  
14 477 10 - Excerpts from Interconnection Agreement  
15 between Qwest and Level 3 for the State of  
16 Washington  
17 PAC-WEST - JOHN F. SUMPTER  
18 501T JFS 1T - Response Testimony filed February 2,  
19 2007  
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21 502 JFS 2 - Comparison of FX and VNXX Services  
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23 503 JFS 3 - Comparison of FX and VNXX Services  
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1 504 JFS 4 - Comparison of FX and VNXX Services,  
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4 after 1996  
5 506 JFS 6 - Comparison of FX and VNXX Services  
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7 507 JFS 7 - Comparison of Pac-West and Qwest FX  
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11 509 2 - Response to WITA Data Request Nos. 14-15  
12 510 3 - Response to WITA Data Request Nos. 25 and  
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14 511 4 - Local Traffic Bills for Rainier Connect  
15 and Local Access  
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19 513 2 - Pac-West Responses to Qwest's Second Set  
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21 514 3 - Pac-West Responses to Qwest's Third Set of  
22 Data Requests Nos. 20 and Requests for  
23 Admissions - Nos. 12-13  
24 515 4 - Pac-West Responses to Qwest's Fourth Set  
25 of Data Requests - No. 22

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1 516 5 - Pac-West Managed Modem, VoiceSource, PSTN  
2 On Ramp, and Intelligent Foreign Exchange  
3 documents from website  
4 517 6 - Pac-West VoiceSource and Intelligent FX  
5 Tariff (pp. 112-144)  
6 518 7 - Pac-West Price List Tariff Excerpts (pp.  
7 1-13, 18-26, 46-91, 100-102  
8 519 8 - Excerpts from Interconnection Agreement  
9 between Pac-West and Qwest for the State of  
10 Washington  
11 TCG - MARK NEINAST  
12 541T MN 1T - Direct Testimony filed February 2,  
13 2007  
14 WITA Cross Exhibits  
15 542 1 - Response to WITA Data Request No. 3  
16 543 2 - Response to WITA Data Request No. 27  
17 Qwest Cross Exhibits  
18 544 1 - TCG's Responses to Qwest's First Set of  
19 Data Requests -Price List material bate  
20 stamped 00001 to 000012 attached to RFI No.  
21 1-2, plus RFI 1-9 and 1-10  
22 545 2 - TCG's Responses to Qwest's Requests for  
23 Admissions RFA Nos. 1-1,1-5, 1-6, 1-7 and 1-9  
24 546 3 - TCG's Responses to Qwest's Second Set of  
25 Data Requests: RFI Nos. 2-12, 2-13 and 2-14

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1 547 4 - TCG's Responses to Qwest's Third Set of  
2 Data Requests: RFI Nos. 3-17 to 3-21  
3 548 5 - Excerpts from Interconnection Agreement  
4 between TCG and Qwest for the State of  
5 Washington  
6 VERIZON/MCI - DON PRICE  
7 551T DP 1T - Response Testimony filed February 2,  
8 2007 ADOPTED BY MR. VASINGTON  
9 552 DP 2 - Verizon response to Qwest Data Request  
10 No. 1  
11 Stipulated Qwest Cross Exhibit - NTI  
12 560 NTI Response to Qwest's 1st set of data  
13 requests no. 10 and Qwest 2nd set of data  
14 requests nos. 12, 13, 15-20  
15 Stipulated Qwest Cross Exhibit - Eschelon  
16 561 Excerpts from ICA between Qwest and Eschelon  
17 for Washington  
18 Stipulated Qwest Cross Exhibit - MCI  
19 562 Excerpts from ICA between Qwest and MCI for  
20 Washington  
21 570 Settlement Agreement between Qwest and  
22 MCI/Verizon (Redacted)  
23 571C Settlement Agreement between Qwest and  
24 MCI/Verizon (Confidential)  
25

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1 572 Amendment to Interconnection Agreement between  
2 Qwest and MCI/Verizon, required under  
3 settlement agreement

4 BENCH REQUESTS

5 BR - 1 Diagram drawn by Mr. Best, ELI counsel

6 BR - 2 Amounts remitted to WECA by Broadwing, to be  
7 submitted by May 3, 2007

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

2 JUDGE MACE: This is the Complaint of Qwest  
3 Corporation against Level 3 Communications, Pac-West  
4 Telecomm, Northwest Telephone, TCG Seattle, Electric  
5 Lightwave, Advanced Telecom d/b/a Eschelon Telecom,  
6 Focal Communications, Global Crossing, MCI Worldcom  
7 which is now Verizon. And we are here today to begin  
8 the evidentiary hearing in this case. My name is  
9 Theodora Mace, I'm the Administrative Law Judge who has  
10 been assigned to hold the hearings in this case.

11 I'm going to ask for the oral appearances of  
12 counsel who are in the hearing room in the short form,  
13 and then we'll turn to those on the conference bridge,  
14 so those on the conference bridge if you would just be  
15 patient.

16 First, why don't we start with Qwest.

17 MS. ANDERL: Thank you, Your Honor, Lisa  
18 Anderl, in-house attorney representing Complainant Qwest  
19 Corporation.

20 MR. SMITH: My name is Ted Smith, I'm outside  
21 counsel for Qwest, address 201 South Main Street, Suite  
22 11, Salt Lake City, Utah.

23 MR. FINNIGAN: Rick Finnigan on behalf of the  
24 Washington Independent Telephone Association.

25 MR. BEST: Charles Best on behalf of Electric

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1 Lightwave LLC.

2 MR. KOPTA: Gregory J. Kopta of the law firm  
3 Davis Wright Tremaine LLP on behalf of Pac-West  
4 Telecomm, Global Crossing Local Services, Inc., and  
5 Northwest Telephone.

6 MR. STRUMBERGER: Gregg Strumberger on behalf  
7 of Level 3 Communications, LLC.

8 JUDGE MACE: Gregg Strumberger?

9 MR. STRUMBERGER: Strumberger.

10 JUDGE MACE: Have you already entered an  
11 appearance in this case orally?

12 MR. STRUMBERGER: Not orally, no.

13 JUDGE MACE: Would you enter a long form of  
14 your appearance, we need all the identification  
15 information, the address, the telephone, the fax,  
16 E-mail, all of that, if you would be so kind.

17 MR. STRUMBERGER: Absolutely. Gregg  
18 Strumberger, Regulatory Counsel with Level 3  
19 Communications, LLC, 1025 Eldorado Boulevard,  
20 Broomfield, Colorado 80021, telephone (720) 888-1780,  
21 fax (720) 888-5134, E-mail is  
22 gregg.strumberger@level3.com.

23 JUDGE MACE: Thank you.

24 Anyone else for Level 3.

25 MR. ROGERS: Also appearing on behalf of

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1 Level 3 is Greg Rogers.

2 JUDGE MACE: Okay, thank you. Is Mr. Pena  
3 here today?

4 MR. ROGERS: He's not.

5 JUDGE MACE: He's not, thank you.

6 MR. ROMANO: Good morning, Gregory Romano on  
7 behalf of Verizon Access.

8 JUDGE MACE: Thank you.

9 MR. THOMPSON: And Jonathan Thompson  
10 representing the Commission Staff.

11 JUDGE MACE: And in the bleachers.

12 MR. CASTLE: Thank you, Your Honor, Gregory  
13 Castle on behalf of TCG Seattle.

14 JUDGE MACE: Thank you.

15 MR. WILEY: David Wiley of the law firm of  
16 Williams Castner and Gibbs on behalf of TCG Seattle.

17 JUDGE MACE: Thank you.

18 MR. AHLERS: Dennis Ahlers on behalf of ETI.

19 JUDGE MACE: Thank you.

20 Let me turn now to the conference bridge, is  
21 there anyone who wants to enter an appearance who has  
22 phoned in on the conference bridge?

23 All right, thank you, I hear no response.

24 Well, the first witness I show on our list of  
25 witnesses is Dr. Fitzsimmons, and is he ready, or is

0088

1 there anything preliminary we need to address before we  
2 begin with him?

3 MS. ANDERL: Thank you, Your Honor, we don't  
4 have any preliminary matters, so we would call  
5 Dr. Fitzsimmons to the stand.

6

7 Whereupon,

8 WILLIAM L. FITZSIMMONS,  
9 having been first duly sworn, was called as a witness  
10 herein and was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MS. ANDERL:

14 Q. Good morning, Dr. Fitzsimmons.

15 A. Good morning.

16 Q. Would you please --

17 JUDGE MACE: One of the things I have found  
18 about these microphones too, and it's good for any  
19 witness who is in the room, is that you need to speak  
20 directly into the mike. Otherwise we lose it and people  
21 on the conference bridge won't be able to hear you or in  
22 the back of the room.

23 THE WITNESS: Thank you.

24 BY MS. ANDERL:

25 Q. Would you please state your name and your

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1 business address for the record.

2 A. My name is William Fitzsimmons, I work at  
3 LECG at 2000 Powell Street, Suite 600, Emeryville,  
4 California.

5 Q. And, Dr. Fitzsimmons, did you cause to be  
6 prepared and filed in this case direct and rebuttal  
7 testimony along with your vitae that have been marked as  
8 Exhibits 101, 102, and 103 in this case?

9 A. Yes.

10 Q. And do you have any changes or corrections to  
11 make to any of that testimony?

12 A. No.

13 MS. ANDERL: Your Honor, with that, we would  
14 offer Exhibits 101, 102, and 103 into the record and  
15 tender Dr. Fitzsimmons for cross.

16 JUDGE MACE: Is there any objection to the  
17 admission of Exhibits 101, 102, and 103?

18 Hearing no objection, I will admit those  
19 exhibits.

20 And, Mr. Kopta.

21 MR. KOPTA: Thank you, Your Honor.

22

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

24 BY MR. KOPTA:

25 Q. Good morning, Dr. Fitzsimmons.

0090

1 A. God morning, Mr. Kopta.

2 Q. First of all, I have to apologize, and if you  
3 would look at Exhibits 104 through 106, do you have  
4 those in front of you, the cross-examination exhibits  
5 that we have designated?

6 A. No, I do not.

7 Q. Well, then you will have to wait for my  
8 apology.

9 MS. ANDERL: Your Honor, if I may just  
10 provide my witness with a copy of those, we will do  
11 that.

12 JUDGE MACE: Certainly.

13 MS. ANDERL: Here they are.

14 THE WITNESS: Thank you.

15 A. I do now.

16 BY MR. KOPTA:

17 Q. All right, thank you. If you would turn to  
18 Exhibit 104, which is Qwest's response to Pac-West  
19 Telecomm's Data Request Number 12.

20 A. I have it.

21 Q. And the apology is getting your middle  
22 initial wrong, I understand from one of these exhibits  
23 that it is actually L not R, so my apologies for that.

24 But you prepared the response to this data  
25 request; is that correct?

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1 A. Yes.

2 Q. And the request asked for all cost studies,  
3 analyses, or other evidence to support the existence and  
4 amount of the portion of Qwest's traffic sensitive costs  
5 in Washington that are caused by dial-up Internet  
6 access; is that correct?

7 A. That's what it says.

8 Q. All right. And am I also correct in assuming  
9 since you did not provide any such cost studies,  
10 analyses, or other evidence that no such cost studies,  
11 analyses, or evidence exists?

12 A. As I say in my answer, none were required  
13 since it's self-evident that there are costs involved in  
14 providing switched services and there are upwards to 30%  
15 of the households of Washington on dial-up service, any  
16 sort of reasonable or conservative estimate of the  
17 minutes per household would lead you to the conclusion  
18 of anywhere from 4 to 6 billion minutes of dial-up  
19 service in Washington, and to me no study is needed to  
20 further that point.

21 Q. But the question I just asked you is whether  
22 there were any such studies; were there to your  
23 knowledge?

24 A. Not to my knowledge.

25 Q. And would Qwest have informed you if there

0092

1 were such studies in response to this data request?

2 A. I think that's a reasonable assumption.

3 Q. Would you turn, please, to Exhibit 105, which  
4 is Qwest's response to Pac-West's Data Request Number  
5 13.

6 A. I have it.

7 Q. And again you provided the response to this  
8 data request?

9 A. That's correct.

10 Q. And I will ask you the same question here,  
11 which is this data request also asks for cost studies,  
12 analyses, or other evidence in this case to demonstrate  
13 that Qwest's local service prices do not recover any  
14 additional switching costs that Qwest incurs to enable  
15 its local service customers to obtain dial-up Internet  
16 access from the ISP of their choice regardless of the  
17 physical location of that ISP, and my question again is,  
18 to your knowledge are there any such studies, analyses,  
19 or other evidence that Qwest has prepared?

20 A. First, the answer to that is no. But I think  
21 you can also see from my response that I find the  
22 question itself to be implying something that's not in  
23 my testimony. I certainly never implied that there is a  
24 meaningful relationship between the revenues that Qwest  
25 receives for local service and the cost that Qwest



0093

1 incurs to provide non-local service. So not only is  
2 there not a study, I don't see why any study of such  
3 would have any meaning.

4 Q. Well, let me follow up on that answer so that  
5 I understand. Are you saying that the cost that Qwest  
6 incurs to allow its local customers, let's say  
7 residential customers, to access the Internet through a  
8 dial-up connection, that those are not included in the  
9 rates for residential service?

10 A. The rates for residential service, as I state  
11 in my testimony, are designed to recover the cost of  
12 providing local services. They're not designed to  
13 recover the cost of toll services, switched access  
14 services, special access services, they're designed to  
15 recover one type of cost, and those are the costs that  
16 are attributed to local.

17 Q. And would you include in that dial-up  
18 Internet access when the modem of the ISP is in the same  
19 local calling area as the customer who's making the  
20 call?

21 A. That would be defined as a local call, and  
22 when customers pay their flat rate price for local  
23 service, they compensate Qwest for their local calls, so  
24 yes.

25 Q. And do you know when Qwest's residential

0094

1 basic local exchange rate was established in Washington?

2 A. No. I don't find that relevant to my answer  
3 either, I don't know.

4 Q. Okay. Would you accept subject to check that  
5 it was established in 1998?

6 A. Certainly.

7 Q. And in your testimony you do discuss the rise  
8 in number of households that have access to the Internet  
9 from I believe beginning in 1998; is that correct?

10 A. That's correct.

11 Q. So would it be your expectation that the  
12 rates established in 1998 would reflect the costs of  
13 dial-up Internet access at least locally as you have  
14 defined it?

15 A. When prices are set such as the price of  
16 local service, they're set with the understanding that  
17 some types of usage will grow and some types will  
18 decline. Whether it was contemplated in 1998 that the  
19 number of Internet households in the state of Washington  
20 would grow from what looks like on my figure 1 in my  
21 direct testimony from somewhere around 40% to 74%, I  
22 can't speak to that. Whether there are other services  
23 that have declined in usage because of substitution from  
24 wireless, I can't speak to that. What I can say is that  
25 the prices are set specifically to compensate Qwest for

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1 any call that originates and terminates in the same  
2 local calling area. Now if things become out of  
3 balance, which you're suggesting maybe they have been  
4 though I don't know that as a fact, then it's Qwest's  
5 right I guess is the right word for it to come in and  
6 ask for different rates. I haven't seen them do that,  
7 so that's all I have information on it.

8 Q. Well, that does lead to my next question,  
9 which is, are you familiar with Qwest's filing in this  
10 state for an alternative form of regulation or AFOR?

11 A. I know nothing about that.

12 Q. Would you turn, please, to Exhibit 106, and  
13 this is Qwest's response to Pac-West Data Request Number  
14 14.

15 A. 14?

16 Q. 14.

17 A. Yes.

18 Q. And you prepared the response to this  
19 request?

20 A. Yes.

21 Q. And this like the other two asks for any and  
22 all research studies or analysis in this case that Qwest  
23 has undertaken on the financial impact on and the  
24 availability of competitive alternatives to consumers  
25 who rely on dial-up Internet access if the Commission

0096

1 were to prohibit VNXX as that term is used in the  
2 testimony. And I will ask you as I have for the other  
3 two documents whether to your knowledge Qwest has  
4 undertaken any such research, studies, or analysis?

5 A. Not to my knowledge. However, this is once  
6 again, the question I believe sort of cuts across the  
7 heart of the Telecom Act and the ISP Remand Order. We  
8 are involved in a transformation, an experiment  
9 possibly, with letting competitive markets determine  
10 what are the competitively available services, and the  
11 ISP Remand Order focuses on how to eliminate distortions  
12 in such a way that the competitive market can accomplish  
13 that. So the studies and the analyses are really basic  
14 to the economic underpinnings of the Act and the FCC's  
15 concerns as expressed in the ISP Remand Order with  
16 distorting the market. If you take away the  
17 distortions, then we need to see what happens in the  
18 market. And as I state in my rebuttal testimony, if at  
19 the end of the day there is a concern for some customers  
20 who can't afford access to the Internet who could have  
21 otherwise, who could today, then we should address that  
22 explicitly, not address it behind the closed door of  
23 pretending that non-local services are local.

24 MR. KOPTA: Thank you, Dr. Fitzsimmons, those  
25 are all my questions.

0097

1 THE WITNESS: Thank you.

2 JUDGE MACE: And who cross-examines next?

3 MR. STRUMBERGER: That will be me.

4 JUDGE MACE: Mr. Strumberger.

5 MR. STRUMBERGER: Gregg Strumberger.

6 JUDGE MACE: Go ahead.

7

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

9 BY MR. STRUMBERGER:

10 Q. Good morning, Dr. Fitzsimmons.

11 A. Good morning, Mr. Strumberger?

12 Q. Strumberger, yes.

13 A. Thank you.

14 Q. It's I guess the latter of the Gregs that are  
15 in the room, we've got a lot of us.

16 Are you familiar with a 1999 ex parte that  
17 Qwest filed by William Taylor entitled, An Economic and  
18 Policy Analysis of Efficient Intercarrier Compensation  
19 Mechanisms for ISP-Bound Traffic?

20 A. I know that it exists.

21 Q. Okay. Dr. Fitzsimmons, in that ex parte, it  
22 was described by Qwest as their argument being:

23 Under an economically efficient system  
24 of compensation, the ISP as the agent of  
25 the cost causer who --

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1 JUDGE MACE: Mr. Strumberger.

2 MR. STRUMBERGER: Yes, ma'am.

3 JUDGE MACE: I just want to make sure that  
4 you're speaking a little more slowly. I think the  
5 reporter needs to have enough time to record what you're  
6 saying, and when you read sometimes you speak more  
7 quickly.

8 MR. STRUMBERGER: My apologies.

9 MS. ANDERL: And, Your Honor, if I might ask  
10 Mr. Strumberger to clarify whether the document from  
11 which he's reading has been identified as a  
12 cross-examination exhibit.

13 MR. STRUMBERGER: The document has been  
14 identified in an exhibit, it's part of a footnote of  
15 Exhibit 36. I'm not entering the -- I'm sorry, Exhibit  
16 39. I'm not entering the exhibit at this point,  
17 however.

18 MS. ANDERL: Well, Your Honor, I will  
19 interpose an objection at this point. If  
20 Mr. Strumberger is going to read to the witness and ask  
21 him questions about what he's read, I believe it's fair  
22 that he be presented the entire document on which he's  
23 going to be cross-examined.

24 JUDGE MACE: Does the witness have copies of  
25 the cross-examination exhibits for Mr. Brotherson? I

0099

1 think what I did here was to mark your exhibits  
2 according to your correspondence under the name of the  
3 witness, the first witness that you mentioned, and this  
4 is just a convention that I used because I didn't know  
5 what else to do, I didn't know how you were going to  
6 craft your cross-examination. So it seems to me that we  
7 can at least refer to these cross-exhibits, and maybe  
8 the witness can even identify them and we can have them  
9 admitted, but I did it that way just for a practical  
10 reason, it's not his doing.

11 MR. STRUMBERGER: Your Honor, my apologies, I  
12 believe we were unclear in our letter, and I planned to  
13 use it here but was trying to not interject it. But if  
14 we can, that would be fine, and Mr. Rogers has a copy  
15 that we could distribute right now if that would be  
16 okay.

17 JUDGE MACE: You have not distributed copies  
18 of your cross-exhibits to the other parties at this  
19 point?

20 MS. ANDERL: Your Honor, if I can clarify, I  
21 think what Mr. Strumberger is saying is that he  
22 distributed Exhibit 39, which is a cross-exhibit, it's a  
23 set of comments filed by U S West Communications in  
24 1999. The document that he is reading from is noted in  
25 a footnote in this exhibit, Cross-Exhibit 39, but was

0100

1 not separately provided, and that's the nature of my  
2 objection.

3 JUDGE MACE: I see. Well, let's do this, I  
4 still think you can ask this witness this question. I  
5 want to hear whether the witness can answer the  
6 question. He's clearly an expert in the area, and I  
7 think he should be allowed to respond if he can. But  
8 you need to show him the document if he doesn't have it,  
9 you need to provide it to him, and we need to look at  
10 the footnote.

11 MR. STRUMBERGER: Thank you, Your Honor.

12 MS. ANDERL: I will provide my witness with a  
13 copy of Cross-Exhibit 39.

14 MR. STRUMBERGER: We've got a copy, the  
15 parties should have it electronically, we brought extra  
16 paper copies to help along.

17 BY MR. STRUMBERGER:

18 Q. Mr. Fitzsimmons, this is an August 2008  
19 document.

20 A. 2008, all right.

21 Q. August 2000. Time flies when we're in here.  
22 It's marked as Exhibit 39, and the footnote I'm  
23 referring to, and I apologize, we were not able to find  
24 the original document, that's what I would like to  
25 discuss with you, is on page 5, Footnote 3, and Qwest



0101

1 footnotes to the William Taylor study, and their  
2 description is:

3 Under an economically efficient system  
4 of compensation, the ISP --

5 A. I'm sorry, I'm kind of lost, I have a couple  
6 things here and I'm not real swift at this, take me a  
7 moment.

8 Q. My apologies.

9 A. Okay, I got the right document, sorry, so  
10 Footnote 3.

11 JUDGE MACE: The quote is at the end of that  
12 footnote that he's reading right now. Go ahead.

13 BY MR. STRUMBERGER:

14 Q. The quote continues:

15 As the agent of the cost causer would  
16 pay the ILEC user charges analogous to  
17 carrier access charges paid by IXCs.

18 And although this is turning into much more  
19 than I was getting at, my question being, is that  
20 similar to the argument that you're advancing at this  
21 time?

22 A. To the extent that what Dr. Taylor is  
23 expressing here is that cost responsibility should  
24 follow cost causation, that's correct. So if the ISP  
25 end user establishes a connection, that is the ultimate

0102

1 cost causer, and you want to have compensation that  
2 flows back towards the cost causer so that the cost  
3 causer pays prices or somehow others engage in  
4 commercial relationships that he bears the  
5 responsibility, he or she bears the responsibility for  
6 the costs, correct.

7 Q. Okay. And do you know if either the FCC or  
8 the Commission has ever assessed access charges on  
9 locally dialed ISP service?

10 A. You sort of lost me with your terminology,  
11 locally dialed ISP service, are we talking about ISP  
12 service that is originated and terminated within the  
13 same local calling area?

14 Q. For the moment, let's say that's correct.

15 A. Certainly that's a local call, so there would  
16 be no access charge on a local call.

17 Q. Okay. And in terms of what Qwest defines as  
18 VNXX, the same question?

19 A. No, I don't know of any case where the FCC  
20 has wrestled this issue all the way to the ground and  
21 decided the proper compensation.

22 Q. Thank you, sir.

23 A. You're welcome.

24 Q. And, Dr. Fitzsimmons, I would like to turn  
25 your attention to page 5, line 14, of your testimony.

0103

1 A. Would this be direct?

2 Q. Yes, on your direct testimony, you state that  
3 when an end user --

4 JUDGE MACE: Can you repeat the reference,  
5 I'm sorry, I missed it.

6 MR. STRUMBERGER: Certainly, it's page 5,  
7 line 14.

8 JUDGE MACE: Thank you.

9 BY MR. STRUMBERGER:

10 Q. Of your direct testimony, and the line is:  
11 When an end user establishes the  
12 connection with its ISP, the end user is  
13 acting as a customer of the services  
14 offered by the ISP.

15 I would like to explore that statement in a  
16 little more detail. Is it correct that your testimony  
17 concludes that the ISP is the cost causer when a Qwest  
18 end user dials an ISP in an arrangement with what Qwest  
19 defines as VNXX?

20 A. I'm sorry, could you repeat your question, I  
21 turned to the wrong page.

22 Q. That's quite all right. My question is, is  
23 it your position that an ISP is a cost causer when a  
24 Qwest end user dials that ISP through a VNXX dialing  
25 arrangement?

0104

1           A.     Well, let's define our terms properly.  You  
2     say it's a Qwest end user.  If a end user dials an ISP,  
3     it's an ISP end user.  So when an ISP end user, a  
4     customer, dials the number to reach his ISP, the ISP  
5     then becomes an agent for that end user.  And as I state  
6     I hope clearly in my rebuttal testimony if not in my  
7     direct testimony, there's a chain of cost causation and  
8     cost responsibility.  So the ISP in that case would be  
9     taking responsibility for the costs that were caused by  
10    the ultimate cost causer, which is their end user.

11          Q.     Thank you.  And for clarity on this next  
12    question, we'll define end user as a person who  
13    purchases services from Qwest to conduct local calling  
14    and an ISP customer as the person who has a service  
15    contract or some service arrangement with the ISP.  And  
16    my next question is, is there any difference in your  
17    opinion if the ISP is under Qwest's definition local, so  
18    let's say the ISP is located in the same local calling  
19    area as the end user?

20          A.     No, that becomes -- it is different.  It's  
21    for instance if you have a friend that lives on the next  
22    block in my local calling area and I have another friend  
23    that lives in another state, they're different.  
24    Certainly one is a local call and one is not.  The call  
25    that you described would be a local call where the call

0105

1 is originated and delivered within the same local  
2 calling area.

3 Q. However, would that end user or the ISP's  
4 customer in your view still be the cost causer?

5 A. Certainly, the cost causer is always the  
6 person who initiates the call, the ultimate cost causer.

7 Q. Okay. And Qwest in this proceeding doesn't  
8 contend that it should not pay compensation when an ISP  
9 does have a presence in the local calling area; is that  
10 correct?

11 A. I don't believe that's an issue in this  
12 proceeding. Maybe you can tell me differently, but I  
13 believe we're talking about VNXX traffic here.

14 Q. Okay. And I would like to discuss a little  
15 bit an analogy. If I'm hungry after the hearing and I  
16 decide to call Joe's Pizza, I order a large cheese pizza  
17 and a salad, who is the cost causer?

18 A. You have initiated the call, you're the cost  
19 causer.

20 Q. Okay. Should I have to pay toll charges to  
21 call Joe's Pizza if it's a local call?

22 A. No, if you call Joe's Pizza in Olympia. If  
23 you call Joe's Pizza in Seattle, it would be a different  
24 kind of call. But if your Joe's Pizza is in Olympia,  
25 I'm assuming that's the same local calling area.

0106

1 Q. But under your testimony, if I'm the cost  
2 causer, even if Joe's is local, shouldn't I be paying?

3 A. You are, right. I mean when you have local  
4 service, you're paying. I'm assuming you're going to  
5 use your cell phone, and I assume you pay for your cell  
6 phone. So it's a matter of how you compensate the ILEC  
7 for local calls, and the way most people on their home  
8 phone compensate the ILEC for local calls is flat rate  
9 local pricing.

10 MR. STRUMBERGER: Okay. And I had one more  
11 analogy, but I'm going to hold off at this point, thank  
12 you, Dr. Fitzsimmons.

13 THE WITNESS: You're welcome, thank you.

14 JUDGE MACE: Next.

15 MR. KOPTA: Your Honor, may I interject at  
16 this point. I neglected to ask for admission of  
17 Exhibits 104 through 106, which I would like to do at  
18 this time.

19 JUDGE MACE: That's a good idea.

20 MS. ANDERL: No objection.

21 JUDGE MACE: Is there any objection to the  
22 admission of those exhibits?

23 MS. ANDERL: There's not.

24 JUDGE MACE: All right, I will admit them.

25 So ATI, who's cross-examining this witness

0107

1 next?

2

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

4 BY MR. AHLERS:

5 Q. Good morning, Mr. Fitzsimmons.

6 A. Good morning.

7 Q. I just have a couple questions for you.

8 First of all, in the scenario that you just discussed  
9 with counsel, wouldn't it be simpler in that scenario if  
10 it was a VNXX call for Qwest to just charge its end user  
11 for that call?

12 A. Simpler, I'm not -- I don't know about  
13 simpler. I mean I don't see simple as a standard for me  
14 in this case any more than would be any simpler if Qwest  
15 just charged its end users for interLATA calls when  
16 someone else carries those calls, when someone else is  
17 the facilitator of the communications on those calls.  
18 So I don't -- I don't really know how to respond to  
19 whether it's simpler or not.

20 Q. Well, wouldn't it be directly charging the  
21 cost causer?

22 A. It's not their customer. When the ISP end  
23 user makes a call, it's acting as a customer of its ISP  
24 just as when I make a long distance call and if Sprint  
25 is my long distance provider, I'm acting as a customer

0108

1 of Sprint. And I mean you could work out some kind of a  
2 relationship, I mean for years I received my long  
3 distance bill along with my local bill all in one  
4 envelope, and I'm sure that a lot of people thought they  
5 were paying their local company for their long distance  
6 charges. But the right way to do it as far as having  
7 cost responsibility follow cost causation is to have it  
8 flow through the firm, if you will, that has the  
9 business relationship with the end user. That way when  
10 they make decisions, they're recognizing their costs.

11 Q. And wouldn't the most direct way to recognize  
12 that cost for a Qwest end user be to be charged directly  
13 for any additional cost?

14 A. It certainly, you know, would be one option  
15 to have Qwest bill for CLECs and ISPs, but it's the ISP  
16 that acts as the agent of the end user in that case, and  
17 therefore they then have to look for their most  
18 efficient way or the way that they want to pass those  
19 fees on, if you will, or costs back to their end user.  
20 It may be for instance that if this Commission were to  
21 put a charge on the Level 3 or on the other CLECs and  
22 the CLEC would turn around and pass that charge back to  
23 the ISP that the ISP may or may not pass that charge on  
24 to its end users. It's their commercial relationship.

25 It's a big deal to AOL to have a lot of



0109

1 subscribers. It's a big deal to every ISP to have a lot  
2 of subscribers. You know, subscriber revenue tends to  
3 be dropping for a lot of ISPs, advertising revenue is  
4 increasing, and they have to make those business  
5 decisions. They have to look at the costs themselves  
6 and decide what costs to pass through to their end users  
7 and what costs to internalize and what costs to go to  
8 their advertisers. I mean that's how an efficient  
9 market works is the cost responsibility flows back  
10 through the agents to the end user, and that way  
11 everybody can make efficient decisions.

12 MR. AHLERS: Thank you, I don't have anything  
13 further.

14 THE WITNESS: You're welcome, thank you.

15 JUDGE MACE: All right, thank you.

16 And, Mr. Best.

17 MR. BEST: Thank you.

18

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

20 BY MR. BEST:

21 Q. Good morning, Dr. Fitzsimmons, my name is  
22 Charles Best or Chuck as people who know me call me, I'm  
23 representing Electric Lightwave in this case.

24 Do you have your direct testimony in front of  
25 you?

0110

1 A. Yes, I do.

2 Q. I would like to refer you to page 2.

3 JUDGE MACE: Mr. Best, can you move the mike  
4 a little bit closer to you.

5 MR. BEST: Appreciate it. And I will  
6 apologize to the court reporter, I tend to speak fast,  
7 just stop me when I do.

8 BY MR. BEST:

9 Q. I noticed, Doctor, that you quote the Telecom  
10 Act, specifically you state the preamble, which states,  
11 on line 5 of your direct on page 2:

12 An act to promote competition and reduce  
13 regulation in order to secure lower  
14 prices and higher quality services for  
15 American telecommunications customers  
16 and encourage the rapid deployment of  
17 new telecommunications technologies.

18 Do you agree with that goal, Doctor?

19 A. I agree that it is the goal, and I agree that  
20 moving to competitive markets will achieve that goal as  
21 long as everything is held in perspective. For  
22 instance, I noticed you emphasized lower prices, lower  
23 prices than what, you know, lower prices is a quality  
24 price continuum. So in some sense the goal is a bit  
25 simplistic, but I believe it's the spirit of it is

0111

1 correct.

2 Q. Now, Doctor, I assume you quoted this in the  
3 context of your cost causation principles?

4 A. Yes, the reason it's there is to emphasize  
5 the point that what we're trying to do here is to move  
6 to competitive markets, and we need to remove  
7 distortions and let competitive markets make decisions  
8 rather than us try to force decisions with regulatory  
9 distortions.

10 Q. Let's assume the following scenario, that you  
11 have a CLEC who is interconnected with Qwest in such a  
12 way that it does not cause it any additional costs in  
13 providing VNXX. Would you agree that there's nothing  
14 wrong with that kind of service, and in fact it might  
15 actually meet the goals of the Telecom Act?

16 A. I'm hoping you can become more explicit as to  
17 how that happens.

18 Q. Well, let's just assume that the costs for a  
19 VNXX call to Qwest that Electric Lightwave provides,  
20 Electric Lightwave provides VNXX, the cost to Qwest is  
21 exactly the same as any other local call. Based on your  
22 testimony and the goals of the Act, would you agree that  
23 if that is the case, there should be nothing wrong with  
24 that?

25 A. Let me restate to make sure we're both

0112

1 talking about the same thing. You're saying ELI has end  
2 users that make phone calls to a local calling area  
3 outside of where the call is originated, and that  
4 doesn't cost Qwest any more. Well, of course it costs  
5 Qwest. Every call costs Qwest. I mean there's a cost  
6 associated with every call. The question is where is  
7 the responsibility for that cost, does it belong in  
8 local or does it belong in non-local. So if you're  
9 saying that ELI has somehow managed a way to find a way  
10 to get VNXX traffic that's costless, then that would be  
11 something of a miracle I think if I'm understanding your  
12 question correctly. And I don't mean to be, you know,  
13 flippant about it, but it seems there's costs involved,  
14 the question is how do we recover the costs.

15 Q. Well, let's take a local call, okay. You  
16 would assume -- I assume that you agree with the current  
17 regime for local calls, how they're compensated?

18 A. Do I agree? I would say that the answer to  
19 that question -- first, I don't believe that's the issue  
20 in this case about local calls, but to the extent it is,  
21 I agree a lot of what was said in the ISP Remand Order,  
22 which is about local calls, that there's a real concern  
23 with the possibility of distortion of economic  
24 incentives when you have a CLEC, group of CLECs that are  
25 providing traffic that's going in one direction and you

0113

1 get this imbalance. And I think the FCC was right that  
2 there are some real distortions involved in reciprocal  
3 compensation, for instance, or terminating compensation,  
4 excuse me, even at the local level. But I'm not really  
5 here to discuss that right now. So no, I don't  
6 necessarily agree that there's no distortion in how we  
7 price local service.

8 Q. Well, isn't it true that the real difference  
9 between foreign exchange and VNXX is essentially that  
10 foreign exchange is treated as local and VNXX Qwest does  
11 not want to have treated as local?

12 A. Mr. Brotherson is really the right one to  
13 address that, but I can -- I don't want to sidestep your  
14 question either. The real difference between FX,  
15 foreign exchange service, and VNXX is the compensation.  
16 When a customer purchases foreign exchange service, they  
17 compensate the local company, Qwest in this case, for  
18 that. They compensate Qwest it's my understanding for  
19 the cost of originating the call and for transporting  
20 the call. If it's VNXX traffic, they do not.

21 Q. Who is they?

22 A. Whoever, well, in this case let's take a real  
23 concrete example. You're a CLEC and you want to provide  
24 someone in Seattle with an Olympia phone number. Well,  
25 if you want to do that through FX traffic, through FX

0114

1 service, and once again I will tell you I'm not the  
2 expert on FX service, but it's my understanding that you  
3 would pay Qwest some amount for the originating cost of  
4 that call, and you would take responsibility for the  
5 cost of transporting that call to Olympia, I'm sorry, to  
6 Seattle from Olympia. With VNXX, you would take no  
7 responsibility for those costs.

8 Q. And you're talking about the originator of  
9 the call, correct?

10 A. The originator of the call is the initial  
11 cost causer, the ultimate cost causer. In this case you  
12 would have a CLEC who is taking responsibility for that  
13 cost on behalf of the end user, would be an agent for  
14 the end user. Usually in this case I think we're  
15 comparing what ELI would do in the two different  
16 situations. One, if it wants to do very much like what  
17 QCC does, which orders services and compensates Qwest,  
18 land line service for those, or what ELI wants to do,  
19 which is not compensate Qwest. So the cost may be  
20 similar, but the cost responsibility is very dissimilar.

21 Q. Doctor, let's jump actually right into that  
22 on page 3 of your testimony, lines 9 through 19, I  
23 believe you make a fairly general statement about cost  
24 causation and shifting it to other firms.

25 A. Could you tell me the lines again on page 3?

0115

1 Q. 9 through 19, page 3 of your direct, please  
2 take a minute to read it if you would like.

3 A. (Reading.)

4 Okay.

5 Q. You made some general statements about CLECs  
6 shifting costs to Qwest, can I ask you specifically did  
7 you study at all the Electric Lightwave network or how  
8 it might be shifting costs to Qwest?

9 A. I have not looked at the Electric Lightwave  
10 network.

11 Q. Did you look at any cost causation or  
12 shifting that Electric Lightwave has allegedly done?

13 A. To the extent that Electric Lightwave is  
14 using VNXX, the answer to that is yes, and my testimony  
15 lines 9 through 19 addresses that.

16 Q. Okay, so you don't think you need to know  
17 anything about our network to answer that, to say yes we  
18 are shifting cost if we use VNXX?

19 A. I don't need to know the specifics to know  
20 that VNXX traffic is not local traffic, and I don't need  
21 to know the specifics to be able to state that if you  
22 are engaging in VNXX that you are not compensating Qwest  
23 for the costs that Qwest incurs to provide you with a  
24 non-local service.

25 Q. Okay. So if you were to identify the costs

0116

1 that Qwest incurs to provide ELI the non-local service  
2 you call VNXX, what are those costs, what do they  
3 include?

4 A. Basically switching and transport.

5 Q. Okay, so if switching and transport are  
6 provided, would you agree that those costs are not  
7 basically part of that equation?

8 A. Provided by whom?

9 Q. Qwest.

10 A. Qwest provides the switching and transport.

11 Q. Okay. So in your analogy, in your scenario,  
12 VNXX really by definition Qwest has to provide the  
13 switching and transport because those are the costs  
14 you're trying to make sure they don't eat; isn't that  
15 right?

16 A. Qwest incurs the costs of switching and  
17 transport.

18 Q. Okay. In all cases?

19 A. All is a dangerous term, I don't know.

20 Q. You have lumped everyone together, Doctor, I  
21 guess that's what I'm trying to get at here.

22 A. Well, maybe if you could be specific as to  
23 what you think the exception to the rule is.

24 Q. Well, what I'm trying to understand is the  
25 rule. I'm trying to have you tell me what costs it is



0117

1 that Electric Lightwave is shifting to Qwest, that's all  
2 I'm asking you.

3 A. Okay. The word shifting I think maybe is  
4 what I'm having trouble with here. I usually wouldn't  
5 use the word shifting in that case. What I'm saying is  
6 Qwest incurs costs, and Qwest is not compensated for  
7 those costs.

8 Q. Well, Doctor, at line 9 you say, if firm A is  
9 allowed to shift the costs, I'm using your terms, am I  
10 not?

11 A. Okay.

12 Q. What's a better term?

13 A. That's fine, let's stay with that. So what  
14 I'm saying here --

15 JUDGE MACE: Let's go off the record for a  
16 moment.

17 (Discussion off the record.)

18 A. So in this case we're saying the end user  
19 wants to reach the end user's ISP. In order to do that,  
20 ELI in this example would ask Qwest to collect the  
21 traffic and provide it to ELI. ELI would then hand the  
22 traffic off to the ISP. So the chain of cost causation,  
23 you know, flows as I just described. Now what I'm  
24 saying is cost responsibility needs to flow the opposite  
25 direction of cost causation. Qwest indeed will incur

0118

1 costs to do that. If the ISP is in the same local  
2 calling area, then we're saying that Qwest has been  
3 compensated for that cost by the price that the end user  
4 has paid for local service. If, however, the ISP is not  
5 in the same local calling area, then it is not a local  
6 call, and Qwest has not been compensated for the costs  
7 it incurs. That's what I'm saying.

8 BY MR. BEST:

9 Q. Okay, so we did talk about transport, we  
10 talked about switching, and now you've talked about  
11 collecting the calls to give to ELI, correct?

12 A. I'm not trying to introduce a new cost. To  
13 me that's whether there's switching and transport or  
14 whatever it is, I'm saying that's what Qwest is doing,  
15 switching and transport and then delivering the call to  
16 ELI.

17 Q. Okay.

18 All right, let's move to page 4 of your  
19 testimony. Boy, we're making great progress here,  
20 aren't we. Lines 21 through 23 you define VNXX I  
21 believe as follows if I can -- I will read from line 21  
22 starting there:

23 VNXX is typically defined as the  
24 situation where a telephone number with  
25 an NPA-NXX associated with one local

0119

1 calling area is assigned by a CLEC to a  
2 customer physically located outside of  
3 the calling area to which the NPA-NXX is  
4 associated. Thus, while the calling  
5 party appears to be making a local call,  
6 the call is actually transported to and  
7 terminated in another local calling area  
8 (or perhaps even a different state).

9 Now, Doctor, ignoring the situation where  
10 it's transported to a different state, wouldn't you  
11 agree that definition would also fit foreign exchange?

12 A. Once again, I think you're better served  
13 asking your questions about foreign exchange of  
14 Mr. Brotherson, and I think we have gone through this at  
15 some length that I'm not here to contend foreign  
16 exchange is the same or different. What I'm saying is  
17 the compensation is what's at issue here, that cost  
18 causation and cost responsibility need to be linked.  
19 And in FX type service, it's my understanding that they  
20 remain linked, that costs are caused and Qwest is  
21 compensated for those costs, but with VNXX service,  
22 that's not true.

23 Q. In a foreign exchange call, isn't Qwest  
24 compensated by its own customer, the originator of the  
25 call?

0120

1           A.     Once again, you're not talking to the right  
2 person about VNXX service.  It's compensated, doesn't  
3 have to be, in the case somebody can work as an agent  
4 for the end user and get them VNXX service.

5                    JUDGE MACE:  Dr. Fitzsimmons, you have said a  
6 couple of times that this is not your area, and just in  
7 the interests of time I'm wondering if you could direct  
8 your questions to Mr. Brotherson.  I don't want to  
9 foreclose your cross-examination but just want to ask  
10 you if it's possible.

11                   MR. BEST:  Thank you, Your Honor, I  
12 understand, and I'm absolutely fine with that.  My only  
13 point is this is all his testimony, it's not something  
14 I'm creating out of whole cloth.

15           A.     Are you saying that I talk about FX service  
16 in my testimony?

17 BY MR. BEST:

18           Q.     You talk about VNXX and you talk about the  
19 definition of it, so I assume you know something about  
20 it.

21           A.     I do know about VNXX.

22           Q.     But you don't know about foreign exchange?

23           A.     What I have told you about foreign exchange  
24 is what I know.

25           Q.     Okay.



0122

1 BY MR. SMITH:

2 Q. Mr. Linse, would you please state your name  
3 and your business address.

4 A. My name is Philip Linse, my business address  
5 is 700 West Mineral Avenue in Littleton, Colorado 80120.

6 Q. And could you describe by whom you are  
7 employed and briefly what your duties are.

8 A. I am employed by Qwest Corporation, and I  
9 work in the network policy organization.

10 Q. In this proceeding, Mr. Linse, did you  
11 prepare two sets of testimony, and let me describe them,  
12 the first is marked Exhibit 171T which is your direct  
13 testimony, and then Exhibit 172T which is your rebuttal  
14 testimony, and then attached to your rebuttal testimony  
15 would be Exhibits 173 through 179.

16 A. Yes.

17 Q. Is that correct?

18 A. Yes, that is correct.

19 Q. And I understand you have one correction you  
20 need to make, could you describe that?

21 A. Yes, on my direct testimony on page 4, line  
22 21, at the end of that.

23 Q. Why don't you wait until everybody gets  
24 there.

25 A. Okay.

0123

1 Q. Why don't you go ahead now.

2 A. Okay. On page 4, line 21, at the end of that  
3 line the words seven or needs to be replaced with a.

4 JUDGE MACE: With 8?

5 THE WITNESS: With A as in apple.

6 BY MR. SMITH:

7 Q. So it would read, first 6 digits of a 10  
8 digit telephone number?

9 A. Correct.

10 Q. Okay.

11 JUDGE MACE: Thank you.

12 BY MR. SMITH:

13 Q. With that correction, Mr. Linse, do the  
14 exhibits that I just described, 171T through 179,  
15 represent the testimony now as corrected?

16 A. Yes.

17 MR. SMITH: Your Honor, we would submit or  
18 offer Exhibits 171T through 179 subject to  
19 cross-examination.

20 JUDGE MACE: Is there any objection to the  
21 admission of the exhibits?

22 Hearing no objection, I will admit those  
23 exhibits.

24 And who will cross-examine this witness  
25 first?

0124

1

2

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

3

BY MR. STRUMBERGER:

4

Q. Good morning, Mr. Linse, nice to see you

5

again.

6

A. Good morning, nice to see you.

7

Q. You have a very extensive experience in the

8

technological field, so it's correct to say that you're

9

a technical witness in this proceeding?

10

A. For the most part.

11

Q. Okay. Are you familiar with the central

12

office code assignment guidelines, the COCAG?

13

A. Yes.

14

Q. Okay.

15

A. I have provided some testimony on that.

16

Q. Okay. And is it your testimony that the

17

COCAG prohibits VNXX but not FX?

18

A. FX is specifically culled out in the COCAG as

19

an exception to the geographical nature of telephone

20

numbers.

21

Q. Okay, thank you. And is VNXX then

22

specifically prohibited?

23

A. It's not identified in the COCAG.

24

Q. Okay, so it wouldn't surprise you that --

25

it's not mentioned anywhere in the COCAG; is that



0125

1 correct?

2 A. That's correct, I wouldn't expect it to be.

3 Q. Okay. Isn't it true from a numbering  
4 perspective that VNXX and FX are very similar in what  
5 their functionality is?

6 A. I think their function may be similar,  
7 however the -- how it's provided, where it's provided --  
8 or let me back up. Where it's provided and how it's  
9 provisioned and how it's routed are significantly  
10 different.

11 Q. So aside from its provisioning, the function  
12 is similar, correct?

13 A. I don't believe so. FX typically is within  
14 the LATA, and VNXX could be anywhere from interstate to  
15 anywhere in the world.

16 Q. Are you familiar with the Level 3 network,  
17 Mr. Linse?

18 A. I'm familiar with Level 3's network to the  
19 extent it's interconnected with Qwest.

20 Q. Okay. And in Level 3's case, our network  
21 generally is the -- what Qwest would define as VNXX is  
22 still within the LATA, so if the presence or customer  
23 were in the LATA, then would you say that FX and VNXX  
24 have similar functionality?

25 A. From purely just an intraLATA functionality

0126

1 perspective if the call is within the LATA, it would be  
2 similar. But again, it's not provisioned the same, and  
3 VNXX is not defined as intraLATA, so it's -- there is no  
4 restriction to how VNXX is provided.

5 Q. And it would still be your testimony that the  
6 numbering rules would treat those separately although  
7 the functionality is similar?

8 A. I'm sorry, how the numbering rules treat what  
9 separately?

10 Q. That under your testimony they allow one  
11 service and disallow another.

12 A. Well, really what the numbering rules do is  
13 they provide what is allowed, not necessarily what isn't  
14 allowed.

15 Q. Okay.

16 A. And so the nature of numbering and how  
17 numbers are utilized and the fact there is  
18 non-geographic numbers and geographic based numbers  
19 tends to contradict the whole use of VNXX as being  
20 appropriate.

21 Q. Okay. And, Mr. Linse, in your rebuttal  
22 testimony you discuss 800 services, are you familiar  
23 with how 800 services work?

24 A. Yes, I am familiar for the most part.

25 Q. Thank you. And your testimony is that VNXX

0127

1 is like 800 service; is that correct?

2 A. With slight differences in how the  
3 information is obtained for routing, they're basically  
4 identical.

5 Q. Okay. And this is described in what's marked  
6 as Exhibit 173?

7 A. That's correct.

8 Q. Okay. Now I'm not a technical expert, so I'm  
9 going to ask for your help on some of this. What's the  
10 first step when a customer dials an 800 number?

11 MR. SMITH: Are we referring to Exhibit 173?

12 MR. STRUMBERGER: Yes, we are.

13 A. An 800 number, as you can see on my Exhibit  
14 173, the end user customer dials an 800 number, the end  
15 office switch that receives those digits from an end  
16 user would identify that it is an 800 number and look up  
17 to determine how that call needs to be routed.

18 BY MR. STRUMBERGER:

19 Q. Okay. And does the customer dial 7 digits,  
20 10 digits, 1 plus?

21 A. It would typically be a 1 plus 800 telephone  
22 number, but wouldn't necessarily have to be preceded by  
23 a 1.

24 Q. Okay. And what does Qwest do to find out  
25 where that call should be routed, what database does it

0128

1 go to?

2 A. There's an SMS database, and that would  
3 identify how that call is to be routed, so what carrier  
4 needs to handle that call would -- that data base would  
5 provide a carrier identification, and then the switch  
6 would determine based on a carrier identification a  
7 trunk or a connection to which it would send that  
8 traffic to a particular long distance carrier.

9 Q. That you. And that's the service management  
10 system 800 you're referring to?

11 A. That's correct.

12 Q. Okay. And does Qwest pay a dip charge for  
13 that SMS lookup?

14 A. I believe Qwest provides that themselves for  
15 their own SMS, they would not pay themselves for the SMS  
16 that they provide.

17 Q. Okay. And when Qwest does the SMS lookup,  
18 what information comes back to Qwest?

19 A. The carrier identification LATA information,  
20 and I think there's some other information that I just  
21 don't recall right now.

22 Q. Okay. And carrier identification means the  
23 CIC code, correct?

24 A. Yeah, there's a carrier identification code  
25 that's provided.

0129

1 Q. And what does a CIC code relate to in the  
2 telecom industry?

3 A. It's kind of what it says, it identifies the  
4 carrier, it's called a carrier identification code.

5 JUDGE MACE: And CIC, just for the record,  
6 that's C-I-C.

7 BY MR. STRUMBERGER:

8 Q. And when you say carrier in terms of a CIC  
9 code, you're talking about an interexchange carrier, an  
10 IXC, correct?

11 A. Yes, that is what a carrier identification  
12 code provides for.

13 Q. Okay. And wouldn't an IXC then, my  
14 understanding an IXC acts as kind of an intermediary,  
15 there would be an originating carrier and a terminating  
16 carrier, but I'm curious on your bottom diagram I don't  
17 see any terminating carrier; is that correct?

18 A. Actually, there are interexchange carriers  
19 that often provide direct connections to their end users  
20 that are looking for 800 service.

21 Q. What type of -- can you provide an example?

22 A. So the example that I'm showing here where if  
23 Level 3 is a long distance provider and their end user  
24 ISP would subscribe to their 800 service, Level 3 could  
25 provide a direct connection to their ISP for the

0130

1 purposes of delivery of 800 traffic.

2 Q. But here we're not talking about if Level 3  
3 were acting as some kind of interexchange carrier which  
4 typically doesn't, but you're talking about under what  
5 Qwest identifies as VNXX; is that correct?

6 A. Actually, if we're still talking about the  
7 same call flow, which is the 800 call flow, Level 3  
8 would be the long distance provider in this call.

9 Q. But the subject of what we're talking about  
10 now is VNXX, that's what I was getting at; is that  
11 correct?

12 MR. SMITH: Well, are you talking about the  
13 bottom part of the chart or the top part of the chart?

14 JUDGE MACE: Try not to talk over each other  
15 if you can.

16 All right, are you talking about the top or  
17 the bottom of the chart, there's two parts here?

18 MR. STRUMBERGER: I will just withdraw the  
19 question, it's easier, thank you, Your Honor.

20 BY MR. STRUMBERGER:

21 Q. Mr. Linse, I would like to refer to the top  
22 diagram. Now this is what you call a VNXX call,  
23 correct?

24 A. Yes, this is what would typically occur with  
25 a VNXX call.

0131

1 Q. And the purpose of your diagram is to show  
2 that a VNXX call and an 800 call have some similarities?

3 A. Well, they're essentially identical when you  
4 look at the call flows.

5 Q. Okay. Isn't it true that the top diagram  
6 except for on the left there being an LCA-A and on the  
7 right there being LCA-B, let's say on the right it were  
8 LCA-A as well, wouldn't that then be identical to the  
9 call flow of a local call, what everybody agrees is a  
10 local call?

11 A. That would be typically a local call if you  
12 would -- if your local calling area -- if your calls are  
13 originated and terminated in the same local calling  
14 area, yes, that would be a local call.

15 Q. And if this were a local call, Qwest would be  
16 bringing this to the same Level 3 point of  
17 interconnection, POI; is that correct?

18 A. Most likely. I mean it all depends on the  
19 different, you know, where Level 3 is connected.

20 JUDGE MACE: You used the term POI, P-O-I,  
21 point of interconnection, I just want to make sure that  
22 that's clear on the record.

23 BY MR. STRUMBERGER:

24 Q. And so if this call is a VNXX call or if it's  
25 a local call, your testimony is that Qwest brings that

0132

1 call to the same point, correct?

2 A. My testimony is that just because Level 3  
3 doesn't use an 800 service to appropriately route this  
4 call that it does not change the fact that it's a long  
5 distance call.

6 Q. But let me clarify a little bit more,  
7 Mr. Linse. My question is, in the top diagram Qwest  
8 starts with its end user caller, what I see as a  
9 telephone on this diagram. It brings the call to what  
10 looks like some filing cabinets, which is identified as  
11 Level 3, I'm presuming that means to the POI. Whether  
12 this call is VNXX under Qwest's definition or whether  
13 it's local under Qwest's definition, Qwest transports  
14 the call or carries it to the same spot, correct?

15 A. Qwest does carry it to the same spot.

16 Q. Okay.

17 A. However, what's important here is that just  
18 because a call is made to look like a local call and is  
19 delivered like a local call does not necessarily mean it  
20 should be treated as such.

21 Q. But what Qwest actually does with that call  
22 is the same, correct?

23 A. Unfortunately with VNXX that is the case.

24 Q. Okay. I would like to talk a little bit  
25 about FX if I can. When a customer of another LEC calls



0133

1 a local number of a Qwest FX customer, does Qwest pay  
2 access charges to that local exchange carrier?

3 A. No, not that I'm aware of.

4 Q. Okay. Does Qwest act as an IXC or is it an  
5 IXC in that capacity?

6 A. You know, I mean I think I'm probably better  
7 off kind of describing what it is that Qwest does get or  
8 does provide to an FX customer, which is Qwest provides  
9 the local switching in the foreign exchange, and then  
10 Qwest would provide a private line that would be between  
11 exchanges. So as far as the regulatory nature of  
12 whether that would be classified or should receive, you  
13 know, access charges for is kind of out of my technical  
14 background, so.

15 MR. SMITH: But I believe Mr. Brotherson  
16 addresses that issue at length or would be prepared to  
17 respond to questions on that.

18 Q. And let's talk a little bit about Qwest.  
19 Qwest has a wholesale dial product; is that correct?

20 A. Yes, that's my understanding.

21 MR. STRUMBERGER: Okay. And I would like to  
22 refer you to, and, Your Honor, I apologize, the exhibit  
23 list got a little bit out of order again, but this is  
24 Exhibit 211, do you have a copy of that? I can provide  
25 that.

0134

1 THE WITNESS: I will momentarily.

2 JUDGE MACE: This is an exhibit of  
3 Mr. Williamson's under that same convention I talked  
4 about earlier.

5 MR. STRUMBERGER: It is, and this is a copy  
6 of some of the Qwest web pages, I'll give you a chance  
7 to take a look at that briefly.

8 MR. SMITH: Your Honor, if I could just  
9 quickly interject in the interests of time, these web  
10 pages have been the subject of a number of hearings in  
11 the current round of Level 3-Qwest arbitrations that  
12 have been going on in a number of states, and there may  
13 be things here that are appropriate for Mr. Linse, but  
14 Mr. Brotherson has typically addressed these services in  
15 detail, so.

16 JUDGE MACE: Well, what I would ask is if it  
17 looks like Mr. Brotherson is the one who should address  
18 your questions, maybe Mr. Linse can let us know, and  
19 then we can have you ask Mr. Brotherson, but let's see  
20 where your cross-examination goes, if that's  
21 appropriate.

22 MR. STRUMBERGER: Thank you, Your Honor, I  
23 intend to stay just very technical on this.

24 BY MR. STRUMBERGER:

25 Q. Mr. Linse, in the web pages roughly two

0135

1 thirds of the way down the first page you say that  
2 dial-up Internet infrastructure, it says it's covering  
3 84% of the U.S. local population with a local call.  
4 From a technical perspective, how does Qwest do that  
5 when it's out of region?

6 A. I'm not familiar with the out of region  
7 operation for this, so I mean --

8 Q. Would it be through a VNXX arrangement?

9 A. It shouldn't be through a VNXX arrangement.

10 JUDGE MACE: I didn't hear the last part of  
11 your response.

12 THE WITNESS: It should not be a VNXX  
13 arrangement.

14 BY MR. STRUMBERGER:

15 Q. So is Qwest's customer physically located in  
16 every local calling area throughout 84% of the U.S.  
17 population?

18 A. I'm sorry, could you repeat that.

19 Q. Is the Qwest customer, their technical  
20 presence, in 84% of the U.S. population?

21 MR. SMITH: I object, the witness already  
22 said he wasn't sure what's going on out of region, so  
23 given that, it's impossible for him to answer the  
24 question I believe.

25 Q. Okay, let me, we'll discuss something in

0136

1 region. MSN is a major customer of Qwest in Washington;  
2 is that correct?

3 A. I am not sure.

4 Q. Okay. If you had a major customer in  
5 Washington that were Internet based or an Internet  
6 company, is it your testimony that that company would  
7 have a modem bank or a physical location in every local  
8 calling area?

9 A. They would need to purchase the tariff  
10 product that would allow them to obtain that presence  
11 within each local calling area, yes.

12 Q. And what is that tariff product?

13 A. You could either establish a local loop from  
14 a switch within the local calling area, or you may also  
15 then apply FX tariff in order to provide it to more of a  
16 centralized location within the LATA or -- and within  
17 the state.

18 MR. STRUMBERGER: Your Honor, I have a  
19 printout here from an exhibit that's already on the  
20 record, it's MDG-3 from Mack Greene's testimony, would  
21 it be okay to distribute that to discuss for a moment?

22 JUDGE MACE: Surely.

23 BY MR. STRUMBERGER:

24 Q. Mr. Linse, what I'm sending around is a  
25 comparison of the Qwest wholesale dial product and the

0137

1 Level 3 managed modem. I will give you a second to take  
2 a look at that.

3 JUDGE MACE: Do you have the number of that  
4 Exhibit MDG-3, it's 454, thank you.

5 MR. STRUMBERGER: Thank you very much.

6 BY MR. STRUMBERGER:

7 Q. Mr. Linse, have you had an opportunity to  
8 look at the diagram?

9 A. Yes, I have.

10 Q. Okay, thank you. So in this diagram we have  
11 the local calling area, and then so it's your testimony  
12 that what we see in the upper part, that PRI backhaul on  
13 private line to the QCC ESP network access server,  
14 that's typically referred to as a NAS, N-A-S; is that  
15 correct?

16 A. Yes, that is correct.

17 Q. Okay. So this is how a Qwest QCC gets access  
18 to that local calling area; is that correct?

19 A. This is typically how an ISP would typically  
20 connect to Qwest's network.

21 Q. Okay. And that would create a presence in  
22 that local calling area; is that correct?

23 A. They provide a -- they would purchase a PRI,  
24 and then the transport associated with that PRI, the PRI  
25 being the service within the local, that's provided

0138

1 within the local calling area.

2 JUDGE MACE: Can you tell me again what does  
3 PRI stand for?

4 THE WITNESS: It's called a primary rate  
5 interface.

6 JUDGE MACE: Thank you.

7 BY MR. STRUMBERGER:

8 Q. And so when the ESP or the ISP, whichever  
9 would be the case, purchases that PRI, it's paying Qwest  
10 for that PRI, correct?

11 A. It's purchasing that local service, yes.

12 Q. Okay. And that creates its local presence in  
13 the local calling area, correct?

14 A. That is purchased out of our tariffs, yes.

15 Q. Okay. And so let's turn to the Level 3  
16 managed modem comparison, and that would be just below  
17 that kind of diagonal, do you see the Level 3 media  
18 gateway and the Internet connection there?

19 A. Yes, I see it.

20 Q. Okay. And so when you transfer, when Qwest  
21 brings a call to a Level 3 POI that's within the local  
22 calling area let's say, and that's the Level 3 POI with  
23 the Level 3 MUX, and that's M-U-X, and then Level 3  
24 hauls that traffic to the ISP or the media gateway via  
25 private line, is that the same thing?

0139

1           A.     It's my understanding that the media gateway  
2 is not the ISP.

3           Q.     It could be.

4           A.     Then I'm not quite sure exactly what kind of  
5 service Level 3 is really providing other than a  
6 transport service for an ISP, which is there is no  
7 switching involved.

8           Q.     Well, allow me to guide you in that. Level  
9 3, part of its services are collocation services, so  
10 often an ISP will collocate in a Level 3 media gateway.  
11 Presuming that's the case in point here, isn't this  
12 really the same thing as what Qwest is doing?

13          A.     That's a very interesting concept that you  
14 just kind of revealed, because, you know, we were under  
15 the understanding that Level 3 was providing a switching  
16 service to its customers, and what you have just  
17 described is merely a transport service of an end user  
18 into Qwest's central office, where it then attempts to  
19 connect it with our switch for services, which doesn't  
20 seem like a carrier to carrier type connection, which is  
21 what typically we have with carriers like Level 3, and  
22 which is the real significant difference between the  
23 example on the bottom that contains the Level 3 media  
24 gateway connection to the Qwest switch and the example  
25 up above where there's a PRI connecting with the QCC ESP

0140

1 network access server. And the significance there is  
2 one is an end user connection, the other is a carrier to  
3 carrier connection. What you have just explained is a  
4 end user connection into a Qwest central office, which  
5 isn't the purpose of what I understand interconnection  
6 between Qwest and Level 3 is for.

7 Q. And maybe I misspoke a little, that's going  
8 from a Qwest network to the Level 3 POI, the Level 3  
9 POI, and then out onto the Level 3 network to the ISP  
10 via private line or some type of Level 3 transport?

11 MR. SMITH: Excuse me, did you say ESP or  
12 ISP?

13 MR. STRUMBERGER: ISP.

14 A. Okay, so you're saying the Level 3 media  
15 gateway there is the ISP?

16 BY MR. STRUMBERGER:

17 Q. I'm saying that's the Level 3 network.

18 A. So I'm not quite sure, because first you said  
19 it was the ISP, and now you're saying it's the Level 3  
20 network. I need to find, in order to really answer any  
21 questions on this, I need to find out whether or not  
22 this configuration is a carrier to carrier configuration  
23 or it's a -- and when I say carrier to carrier, I mean  
24 Level 3 to Qwest connection versus an ISP to Qwest or an  
25 end user to Qwest configuration with Level 3.



0141

1 Q. That's all right, I'm going jump here to does  
2 Qwest offer --

3 JUDGE MACE: Can I just interject here, I  
4 just want to make sure that some of the lingo on this  
5 document is clear for the record.

6 The letters STP appear on this document, what  
7 does STP stand for?

8 THE WITNESS: Signaling transfer point.

9 JUDGE MACE: Thanks.

10 And MUX?

11 THE WITNESS: Multiplexing or multiplexor.

12 JUDGE MACE: And when you use QCC ESP as  
13 opposed to ISP, what's the ESP?

14 THE WITNESS: ESP is the enhanced service  
15 provider.

16 JUDGE MACE: And IP?

17 THE WITNESS: Internet protocol.

18 JUDGE MACE: And TDM?

19 THE WITNESS: Time division multiplexing.

20 JUDGE MACE: Thanks.

21 Sorry for interrupting.

22 MR. STRUMBERGER: Oh, that's quite all right.

23 BY MR. STRUMBERGER:

24 Q. Okay, continuing on the Qwest web pages, and  
25 we'll try to stick to that when we do this, there's

0142

1 discussion that Qwest --

2 JUDGE MACE: Are you back to your  
3 cross-examination exhibit, where are you?

4 MR. STRUMBERGER: Correct, I'm on Exhibit  
5 211.

6 JUDGE MACE: Thank you.

7 BY MR. STRUMBERGER:

8 Q. Qwest discusses virtual numbers.

9 A. I'm sorry?

10 MR. SMITH: What page?

11 A. 211 isn't really marked on --

12 Q. It is page 4 of 4 of the first, second  
13 document.

14 A. Is this 211?

15 Q. Yes.

16 A. I just want to make sure I've got the right  
17 one.

18 Q. It would be on the eighth page, I have  
19 everything double sided, I apologize for any confusion.

20 A. You say it's page number 8 or -- and is it  
21 numbered 8 or -- okay, thank you.

22 Q. It would look like this if that helps any.

23 Mr. Linse, is this the page we're both on?

24 A. If I can see that far, yeah, that's quite a  
25 challenge there, but I think so based on the

0143

1 configuration of the page.

2 Q. So it's a small page, it says virtual number  
3 at the top, and then it provides a description of the  
4 virtual number.

5 A. Yes, I see that.

6 Q. Okay, would you read that description for us,  
7 please.

8 JUDGE MACE: Well, do you want him to read it  
9 silently and then you're going to ask questions on it?  
10 Because it will be in the record if it's not already.

11 MR. STRUMBERGER: That's fine, Your Honor,  
12 thank you.

13 MR. SMITH: Is there a question pending?

14 JUDGE MACE: Well, he's reviewing, he asked  
15 the witness to review that paragraph.

16 MR. SMITH: Okay.

17 JUDGE MACE: And your question is?

18 BY MR. STRUMBERGER:

19 Q. My question is, how does Qwest do this, it  
20 sounds awfully a lot like VNXX?

21 A. Actually, I think you need to speak with  
22 Mr. Brotherson on that subject, he's the expert on this  
23 particular product.

24 Q. But from a technical perspective, would you  
25 know?

0144

1           A.     I don't know how it's -- again, I think you  
2 should talk to Mr. Brotherson on that, he could probably  
3 give you a better idea.

4           Q.     Okay, we will do that.

5                     And then, Mr. Linse, just jumping back very  
6 quickly to the Qwest wholesale dial Level 3 managed  
7 modem comparison, so VNXX and FX look quite a bit alike,  
8 if CLECs were prohibited from providing VNXX but Qwest  
9 were still able to do what it does here, what it calls  
10 FX, would that give Qwest a competitive advantage?

11                    MR. SMITH: I object, I don't believe  
12 Mr. Linse purports to be the policy or regulatory  
13 witness, and so I think it's beyond the scope of his --

14                    MR. STRUMBERGER: Okay, and in the interests  
15 of time, Your Honor, that will be all the questions for  
16 me, thank you.

17                    JUDGE MACE: Thank you.

18                             And who will cross-examine next?

19                             Mr. Kopta.

20                    MR. KOPTA: Yes, thank you, Your Honor.

21

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

23 BY MR. KOPTA:

24           Q.     Good morning, Mr. Linse.

25           A.     Good morning, Mr. Kopta.

0145

1 Q. If you would please turn in your rebuttal  
2 testimony Exhibit 172T to page 3.

3 A. Okay, I'm there.

4 Q. And drawing your attention specifically to  
5 the testimony that starts on line 11, and at that point  
6 you are discussing the fact that Qwest FX service is  
7 two-way in nature. Do you see where I'm referring?

8 A. Yes, I see where you are.

9 Q. Okay. Now am I correct that Qwest does not  
10 track the number of calls or the number of minutes to or  
11 from its foreign exchange customers?

12 A. That's correct.

13 Q. So what is your basis for the statement  
14 beginning on line 13 that the FX customer may and often  
15 does call customers in the foreign exchange?

16 A. One second, I have to get to my point, I  
17 thought it was around this part, but, around this  
18 portion of my testimony, it may be in my direct, where I  
19 discuss how FX has historically been provided, you know,  
20 to customers that often engage in two-way  
21 communications. The significance is that with VNXX it's  
22 typically mostly provided to ISP customers, as is the  
23 case with the respondents in this case.

24 Q. So it would be more accurate to say that the  
25 customer can call either way with FX service as opposed

0146

1 to it does?

2 A. Yeah, I suppose that might be, I mean that is  
3 a function of FX.

4 Q. But at this point, because you don't track or  
5 Qwest does not track the information, you wouldn't know  
6 to what extent FX customers actually place calls into  
7 foreign exchange?

8 A. Only to the extent that any business would  
9 receive calls and then make calls from their business.

10 Q. In your direct testimony on page 10, Exhibit  
11 171T.

12 A. I'm sorry, would you repeat that reference,  
13 I'm sorry.

14 Q. Sure, page 10 of your direct testimony,  
15 Exhibit 171T.

16 A. Okay, I think I'm there.

17 Q. And specifically beginning on line 14 where  
18 you're discussing how FX services have historically been  
19 provided to customers by Qwest, do you see where I'm  
20 referring?

21 A. Yes.

22 Q. Okay. And the specific example you give is  
23 for customer service centers; is that correct?

24 A. Yes, that is one.

25 Q. And would you agree with me that customer

0147

1 service centers are predominantly inbound calling  
2 customers as opposed to outbound calling customers?

3 A. Not necessarily.

4 Q. Not necessarily?

5 A. No.

6 Q. Are you aware of customer service centers  
7 that make a predominance of outgoing calls?

8 A. I think if they have a recording capability  
9 to where they return calls at different times of the  
10 day, then they could use that same connection for  
11 two-way calls for maybe afterhour calls or things like  
12 that, so I don't --

13 Q. Well I'm not saying it's --

14 A. -- see the --

15 Q. I'm not asking whether it's possible, I'm  
16 asking whether it would predominantly be more inbound  
17 calls than outbound calls, or do you know, do you have  
18 any basis to know?

19 A. I mean it's like any other business that's  
20 taking calls. If it's a call center that also returns  
21 calls, then it would be two-way and not predominantly  
22 one-way.

23 Q. Are you familiar with any specific customers  
24 of Qwest FX service in Washington?

25 A. No, I don't have any identified.

0148

1 Q. If you would please turn in your rebuttal  
2 testimony, Exhibit 172T, to page 14.

3 A. Okay.

4 Q. And specifically draw your attention to the  
5 testimony beginning on line 15 where you're talking  
6 about a service that you are saying Pac-West provides to  
7 a company called Free Call Planet, do you see where my  
8 reference is?

9 A. Yes, I see that.

10 Q. Are you aware that Free Call Planet is a  
11 voice over Internet protocol or VoIP provider?

12 A. Not based on the test calls that I have made  
13 with -- or we didn't make test calls, we -- this  
14 particular service does not restrict a TDM to TDM type  
15 call completion, so I can't really say that it is a  
16 voice over IP service.

17 Q. Or that are you aware that Free Call Planet  
18 calls itself a voice provider?

19 A. If it's completing TDM to TDM calls, I can't  
20 imagine that it could.

21 Q. Would you accept subject to check that on the  
22 web site from which you extract pages, there is also a  
23 page in which Free Call Planet identifies itself as  
24 being a VoIP provider?

25 A. Who's going to check?



0149

1 Q. I can give you a copy of the printout of the  
2 web page or since you --

3 A. That's fine, if you want to give me that  
4 copy.

5 Q. Okay.

6 Do you know, assuming that Free Call Planet  
7 is a VoIP provider, do you know where its point of  
8 presence or POP is?

9 A. I can't assume that they are a VoIP provider  
10 since the only dealings I had with them is TDM to TDM  
11 type calls.

12 Q. So you're not willing to assume that Free  
13 Call Planet is a VoIP provider?

14 A. Since there's nothing really -- I mean the  
15 testimony is fundamentally based on the fact that we're  
16 talking about TDM to TDM calls.

17 JUDGE MACE: And TDM is again?

18 THE WITNESS: Time division multiplex.

19 JUDGE MACE: Thank you.

20 THE WITNESS: It's the protocol of the public  
21 switched telephone network.

22 BY MR. KOPTA:

23 Q. So then how would you characterize what Free  
24 Call Planet is?

25 A. Long distance.

0150

1 Q. An IXC?

2 A. It would fall into the IXC or wholesale long  
3 distance category.

4 Q. Okay. Would you accept subject to check that  
5 Free Call Planet is not registered as a long distance  
6 provider in the state of Washington?

7 A. I don't know that.

8 Q. Would you accept it subject to check?

9 A. I don't know where to check.

10 JUDGE MACE: Well, this is just a -- it's the  
11 way we sometimes ask questions at a regulatory agency  
12 like this because the areas are so complex. And what  
13 happens is that the witness is given an opportunity to  
14 check the information out and then may come back if it's  
15 appropriate and indicate whether or not it is, you know,  
16 the answer is what counsel has indicated it is. So you  
17 would have an opportunity to check that information out.

18 MS. ANDERL: And, Your Honor, I think we have  
19 the ability to check that or at least work with  
20 Mr. Kopta on it.

21 JUDGE MACE: Great.

22 He's not trying to trick you, it's just the  
23 way -- it's sort of the method of asking questions here.

24 THE WITNESS: I understand.

25 JUDGE MACE: At least I don't think he's

0151

1 trying to trick you.

2 MR. KOPTA: Always good to be wary of  
3 lawyers, I certainly advise my clients of that.

4 BY MR. KOPTA:

5 Q. So do you know where Free Call Planet's  
6 physical location is in the state of Washington, however  
7 you might define physical location?

8 A. No, all I know is based on the traffic flows  
9 that the traffic to the telephone numbers that are  
10 identified in my exhibit, I think it's 178, oh, I'm  
11 sorry, let me make sure that's correct, it is 176 on the  
12 last page, the numbers associated with the Seattle and  
13 Tacoma calling areas, that traffic is destined from  
14 Qwest or there is traffic destined from Qwest to a  
15 Pac-West switch.

16 Q. And do you know the location of the Pac-West  
17 switch in Washington?

18 A. I know they're interconnected I believe in  
19 Seattle.

20 Q. Okay.

21 A. And the switch that it is going to, and of  
22 course I just turned away from the page, is the Tukwila  
23 TKWLWALDDS0 is the switch that it's destined for.

24 Q. And if the Free Call Planet physical  
25 location, however that's defined, is in Seattle and the

0152

1 Pac-West switch is in Seattle, that would not be a VNXX  
2 call, would it?

3 A. Under this type of an arrangement, it is the  
4 call originates and terminates in two different local  
5 calling areas and is originated using a local telephone  
6 number versus, you know, a long distance calling pattern  
7 and utilizing a long distance carrier from -- that's  
8 subscribed to an access service to the local carrier  
9 that originates the call, specifically Qwest, so I don't  
10 know if it -- it really -- it could be VNXX, but it  
11 doesn't necessarily have to be VNXX. It's regardless of  
12 its VNXX architecture, it's long distance.

13 Q. But I guess the point that I'm making is that  
14 this particular service, whether you think it's  
15 appropriate or not, is not VNXX if the phone number  
16 doesn't ring at a telephone in London, correct?

17 A. Can you repeat the question, please.

18 Q. Sure. You have access numbers here, given  
19 your testimony, if those numbers are delivered by  
20 Pac-West, calls to that number are delivered by Pac-West  
21 to a physical location of a customer within the local  
22 calling area, however, wherever else they go beyond that  
23 point, that's not VNXX, is it?

24 A. Are you saying -- where's the calling and  
25 called parties?

0153

1 Q. Well, for purposes of determining whether a  
2 particular call is VNXX.

3 A. I guess I'm not clear on the call flow, if  
4 you could restate it, please.

5 Q. Sure. A Qwest customer dials the Seattle  
6 number that you have listed in your exhibit for Free  
7 Call Planet. That number is then routed from the Qwest  
8 switch to the Pac-West switch. Pac-West then delivers  
9 that to the physical location of Free Call Planet in the  
10 Seattle local exchange. That's all Pac-West does. Is  
11 that a VNXX call?

12 A. Well, if the Qwest customer is in a different  
13 local calling area, then I mean I guess I need more  
14 information on where is the Qwest customer versus where  
15 is the called customer?

16 Q. Well, we're assuming the Qwest customer is in  
17 Seattle.

18 A. Okay.

19 Q. And makes a local call to this telephone  
20 number, and Pac-West delivers the call to Free Call  
21 Planet at a physical location in Seattle.

22 A. Okay.

23 Q. So that's not VNXX, is it?

24 A. If Pac-West is delivering that call to Call  
25 Planet within the local calling area, it would appear to

0154

1 be not a VNXX call, but it would still be a long  
2 distance call.

3 Q. Well, as I say, we can discuss whether or not  
4 that's an appropriate use of local exchange service, but  
5 for purposes of this proceeding it's not VNXX?

6 A. I don't, again, I don't know, I don't know  
7 where CallPlanet.com is.

8 Q. All right.

9 And you also use an example with Level 3 of  
10 Tel3.com, and again we'll go back to your rebuttal  
11 testimony, Exhibit 172T, I think this time rather than  
12 on page 14 I think the discussion begins on page 13.  
13 And to the extent that Level 3's switch and Tel3.com's  
14 physical location, however that's defined, are in the  
15 same local calling area, that would not be VNXX either,  
16 would it?

17 A. To the extent that they're delivering, it  
18 wouldn't be VNXX, no.

19 Q. Do you have a copy of Mr. Brotherson's  
20 exhibits to his testimony?

21 MR. KOPTA: And if you don't, might I ask  
22 counsel to provide that?

23 MR. SMITH: I can, which --

24 MR. KOPTA: Well, specifically the exhibit I  
25 am referring to is Exhibit LBB-3, which is Exhibit 3.

0155

1 MR. SMITH: Is that direct testimony?

2 MR. KOPTA: Yes, that's an exhibit to his  
3 direct testimony.

4 MR. SMITH: We're there.

5 MR. KOPTA: Looks like this.

6 THE WITNESS: Yes, I have it.

7 BY MR. KOPTA:

8 Q. And drawing your attention to the description  
9 of foreign exchange service down at the bottom of that  
10 exhibit; do you see where I'm referring?

11 A. Yes, I see it.

12 Q. Okay. Now from a technical perspective, does  
13 Qwest actually construct a line from the switch in the  
14 Olympia calling area directly to the Qwest FX customer  
15 in Seattle?

16 A. Yes, that would be a true statement.

17 Q. But as a practical matter, doesn't Qwest  
18 actually use existing transport facilities between the  
19 Olympia switch and the serving Seattle switch and then  
20 the loop between that Seattle switch and that customer  
21 to create that private line?

22 A. Yeah, at one point, we had to build that  
23 circuit or that facility, those facilities, and then  
24 pursuant to their request then we may have to configure  
25 additional capacity into that facility, so that would be

0156

1 the construction aspect of it.

2 Q. Okay. Now as I understand this diagram as  
3 well as your testimony and Mr. Brotherson's testimony,  
4 Qwest defines foreign exchange service as the  
5 combination of local exchange service in one calling  
6 area combined with a private line that connects that  
7 local exchange service to the customer located in a  
8 different local calling area; is that correct, as  
9 inartfully stated as it was? It's a combination of  
10 local exchange service and private line service; is that  
11 correct?

12 A. As far as the services go, you may want to  
13 talk to Mr. Brotherson about that. But as far as the  
14 architecture, Qwest does construct a private line or a  
15 transport and then the local service out of the switch  
16 such as a PRI, or it could even be an flat rated  
17 business line, 1FB.

18 JUDGE MACE: I'm sorry, you used some  
19 initials, and I need to know what they are.

20 THE WITNESS: 1FB is a flat rated business  
21 line.

22 JUDGE MACE: And you said something about a  
23 PRI line?

24 THE WITNESS: Primary rate interface.

25 JUDGE MACE: Thank you.



0157

1 MR. KOPTA:

2 Q. Are you familiar with CLEC architectures in  
3 the state of Washington, network architectures?

4 A. I'm familiar with how they interconnect with  
5 Qwest for the most part.

6 Q. Are you familiar with the fact that a CLEC  
7 often only has a single switch to serve an entire LATA?

8 A. That's my understanding. Sometimes they may  
9 have a single switch serving multiple states.

10 Q. And from a technical perspective, could you  
11 tell me how it would be possible for a CLEC with a  
12 single switch to provide foreign exchange service as  
13 Qwest defines foreign exchange service?

14 A. Well, there's probably a couple different  
15 ways they could do that. If they placed a switch in the  
16 local calling area, they could build private line from  
17 that switch to an end user.

18 Q. But that would simply be providing local  
19 service in that exchange, wouldn't it, that wouldn't be  
20 foreign exchange service?

21 A. They could then provide the transport, the  
22 private line or a transport between that exchange and  
23 other exchanges directly to the customer. The  
24 significance here with VNXX and FX is when VNXX is  
25 provisioned, they merely assign telephone numbers to

0158

1 their customer. So if I'm an ISP and I say, well, I  
2 want local service in 10 different local calling areas,  
3 all the CLEC VNXX provider would have to do is say,  
4 well, I'll just give you those 10 telephone numbers.  
5 Where if they came to Qwest and they said, I want that  
6 same local service or similar local service in those 10  
7 local calling areas, Qwest would have to charge them for  
8 private line into each of the 10 local calling areas.  
9 That is the significance between FX and VNXX.

10 Q. I understand that's your testimony, but  
11 that's not my question. Let's use specifically then the  
12 diagram that we were referring to here with the customer  
13 that is located in Seattle but wants to have an Olympia  
14 telephone number. Can you tell me how if the customer  
15 is physically located in Seattle that a CLEC with a  
16 single switch could provide foreign exchange service as  
17 Qwest defines it to that Seattle customer?

18 A. Well, actually I don't think we're dictating  
19 that they -- how they provide service to their end  
20 users. You know, they could use 800 service, or they  
21 could use an FX service, and I have already explained to  
22 you how they could provision the FX service. They could  
23 also use an 800 service if they so chose.

24 Q. Well, but I'm asking you how physically from  
25 a network perspective, I'm asking you as a network

0159

1 witness, if a CLEC came to you and said, I need to  
2 design an FX service, provide a Seattle customer with an  
3 Olympia telephone number, can you tell me as you sit  
4 here today how you would do that?

5 MR. SMITH: I object to the question, I mean  
6 the question of how a CLEC would design its own FX  
7 service is not something they would normally consult  
8 with a Qwest network person.

9 MR. KOPTA: I'm asking him as a --

10 JUDGE MACE: Well, this is a witness on, as I  
11 understand it, technical aspects of architecture, and if  
12 he can answer the question, he should.

13 A. And I thought I have already answered that  
14 question. To the extent that they can place a -- they  
15 desire to place a switch in the local calling area, they  
16 can then provision a transport facility from that switch  
17 to their customers.

18 JUDGE MACE: So they would provision a switch  
19 in Qwest's local calling area?

20 A. Or like a switched module. So like they may  
21 have a decentralized type switching where they can put a  
22 portion of that switch in one local calling area and due  
23 to the scalability of switching technology today, you  
24 can clearly distribute the connection, the switch  
25 modules that connect your customers to your switch.

0160

1 BY MR. KOPTA:

2 Q. So as I understand it, the CLEC if it wanted  
3 to provide foreign exchange service as Qwest defines it  
4 would have to deploy some form of switching in the  
5 Olympia local calling area?

6 A. What I described is that's typically how  
7 Qwest provides it. How else a CLEC would like to  
8 provide it, I guess they would have to do something  
9 similar to that.

10 Q. I see.

11 A. And I don't know if there's necessarily a  
12 requirement to have a physical switch there.

13 Q. But that is as you sit here today the only  
14 way that you're aware of that a CLEC could do it?

15 A. All I'm speaking from is how Qwest does it.

16 Q. Right, I understand, but I'm asking you as a  
17 network engineer, you're not aware of any other way to  
18 do it other than what you just described?

19 A. That's the basic way that I understand. Now  
20 I haven't had time to go through and determine whether  
21 or not other methods may exist.

22 MR. KOPTA: Thanks, that's all I have.

23 JUDGE MACE: All right, Mr. Ahlers and  
24 Mr. Best and Mr. Castle, you have all signed up for  
25 cross-examination of this witness. Mr. Ahlers.

0161

1 MR. AHLERS: I don't have any questions.

2 JUDGE MACE: No questions, thank you.

3 Mr. Best.

4 MR. BEST: Thank you, Your Honor. Your  
5 Honor, thank you by the way for the paper here, I'm  
6 actually going to use it.

7 JUDGE MACE: If you would be so kind as to  
8 turn it so that I can see it as well.

9 MR. BEST: I will do that, I'm not sure the  
10 best way to do this.

11

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

13 BY MR. BEST:

14 Q. Mr. Linse, I'm assuming you're going to keep  
15 me honest here, because I am not a technical expert.  
16 I'm going to say this is Olympia since that's your  
17 example. I apologize to the crowd in advance for my  
18 handwriting as well. And let's say this is the Qwest  
19 end office in Seattle, Qwest end office in Olympia, ELI  
20 end office in Seattle and switch, and ELI comes down  
21 here and collocates with Qwest.

22 JUDGE MACE: Now, Mr. Best, what I'm going to  
23 ask you to do, it's probably not the perfect solution,  
24 is to put down Bench Request 1 at the bottom of that  
25 page so that I can --

0162

1 MR. BEST: BR-1, would that be --

2 JUDGE MACE: BR-1 so that I can have that  
3 page and if it's necessary refer to it.

4 MR. BEST: Thank you.

5 BY MR. BEST:

6 Q. Mr. Linse, are you familiar somewhat with the  
7 Electric Lightwave network?

8 A. I'm just familiar to the extent that they are  
9 connected with Qwest.

10 Q. Okay. In this example here in the Qwest  
11 network, you have a switch in the central office here,  
12 right, you have interoffice transport that connects to  
13 your Qwest central office in Olympia; is that right?

14 A. Yes.

15 Q. And in your switch, in each of these switches  
16 in Olympia you have only Olympia numbers; isn't that  
17 right?

18 A. Yes, that is correct.

19 Q. And in the Seattle switch you have only  
20 Seattle numbers, correct?

21 A. That's correct.

22 Q. Okay. And I'm going to draw over here on the  
23 right-hand side here kind of a diagram of let's say this  
24 is the ELI switch, and the ELI switch actually has  
25 Olympia numbers in it, it has Seattle, it has Tacoma, it

0163

1 might have a variety of local calling areas, correct; is  
2 that your understanding of how it works?

3 A. That's what I have been -- that's what I  
4 heard.

5 Q. Okay. And let's hang a -- we'll hang a Qwest  
6 customer here off of the local calling area in Olympia,  
7 and let's hang a Qwest FX customer off of the Seattle  
8 switch, and we're going to hang an ELI we'll call it  
9 VNXX, that's the term you used, we're going to hang that  
10 customer off the ELI switch. Now so in foreign exchange  
11 as I understand it, and I apologize to those of you who  
12 can't see, with foreign exchange, the Seattle customer  
13 wants an Olympia number in our example, correct? Let's  
14 just take that if it makes sense.

15 A. Okay.

16 Q. Okay, so to do that, they need to get a  
17 number out of this switch; isn't that right?

18 JUDGE MACE: Out of the Olympia switch?

19 BY MR. BEST:

20 Q. Out of the Olympia switch.

21 A. They would need an Olympia number in order to  
22 obtain Olympia service.

23 Q. Okay. In the ELI example though, since the  
24 Olympia numbers resides here, the actual provisioning of  
25 those numbers comes out of the ELI switch in Seattle,

0164

1 does it not?

2 A. That's what I understand.

3 Q. Okay. And isn't it true that for a Qwest  
4 foreign exchange customer to get an Olympia number, you  
5 have to provide a private line because there's no way  
6 this customer can get a number out of this switch  
7 otherwise?

8 A. They have to purchase both the local service  
9 in the Olympia switch and the transport.

10 Q. Isn't that because when a customer down here  
11 calls an Olympia number, your switch just assumes that  
12 person is in this local calling area, isn't that right,  
13 because that's where all those numbers are?

14 A. From a switch logic, the switch doesn't know  
15 any different.

16 Q. Okay. In fact, there's no way it could know  
17 unless you programmed it specifically for each customer  
18 that that person is actually sitting up here; isn't that  
19 right?

20 A. Correct.

21 Q. Okay. And that's why you build a dedicated  
22 facility, what you call a private line, to this  
23 customer?

24 A. That's correct.

25 Q. And you have to do it this way, correct,



0165

1 there's no other way to do it?

2 A. No, no, I don't see of any other way to do  
3 it.

4 Q. Okay. But you would agree, would you not,  
5 that in the ELI example if the Qwest customer in Olympia  
6 calls an ELI VNXX customer, again this transport here is  
7 also owned by ELI, and it's purchased collocation from  
8 Qwest in Olympia, correct?

9 A. That's correct.

10 Q. Okay. When the Olympia customer calls an ELI  
11 VNXX customer, the call goes to the Qwest central  
12 office, and the Qwest switch says, oh, that's an ELI  
13 number; isn't that right?

14 A. Correct.

15 Q. And then it's routed over here like any local  
16 call to ELI's facilities for ELI to do what it's going  
17 to do with it, correct?

18 A. That's my understanding, yeah.

19 Q. Okay. So ELI then puts that facility on its  
20 transport, transports it up to the switch, and the  
21 switch says, aha, this is an Olympia number, goes to the  
22 Olympia section of the switch, and it says, well, that's  
23 now assigned to this customer down here, and then the  
24 call is completed; isn't that right?

25 A. That's my understanding.

0166

1 Q. Okay. Now in this example ELI does not need  
2 a private line, does it?

3 A. In which example, sorry?

4 Q. In the ELI VNXX example, ELI doesn't need a  
5 private line, does it?

6 A. I guess I'm not sure what --

7 Q. Well, to complete the call, again we're  
8 assuming a Qwest customer is calling an ELI foreign  
9 exchange or VNXX customer in Seattle, this customer  
10 picks up the phone, goes to the --

11 JUDGE MACE: And the customer is in Olympia?

12 BY MR. BEST:

13 Q. Customer is in Olympia, thank you, picks up  
14 the phone, the call goes to the Olympia switch, says  
15 aha, that's an ELI number, sends it to the ELI  
16 facilities, and then ELI picks it up and transmits it  
17 all the way up to Seattle and says aha, it's a foreign  
18 exchange customer over here, and then they complete the  
19 call, correct?

20 A. Correct.

21 Q. There is no need for ELI to use a private  
22 line in this scenario; isn't that right?

23 A. They may.

24 Q. Why would we have to?

25 A. The better question would be the VNXX

0167

1 customer doesn't need a private line because ELI  
2 provides it through a local interconnection in Olympia  
3 rather than having either the customer -- or the private  
4 line from the customer into Olympia.

5 Q. Well, I guess, and maybe you're hitting on it  
6 and I'm missing it, I'm trying to understand why ELI  
7 needs to buy a private line, why does it have to buy a  
8 private line to provide this service?

9 A. I'm not saying -- I don't believe that I said  
10 that ELI needs a private line.

11 Q. Well, so to provide what you call foreign  
12 exchange service, what does ELI need to do?

13 A. The customer needs to be located in -- well,  
14 then they need to -- excuse me. The customer needs  
15 private line into the local calling area and potentially  
16 switching.

17 Q. Why?

18 A. Because that's FX.

19 Q. Is it because it's what you say FX is?

20 You would agree in this scenario I don't need  
21 it, right?

22 A. I think that's how FX is defined.

23 Q. The way the --

24 A. VNXX uses the telephone numbers and a carrier  
25 connection, and there's a difference between a carrier

0168

1 connection and an end user connection to provide that  
2 service.

3 Q. Let me ask you another question. Let's  
4 assume ELI has customers in Olympia, do you believe that  
5 to be true?

6 A. I'm sorry?

7 Q. ELI has customers in Olympia?

8 A. I don't know.

9 Q. Let's just assume --

10 A. I assume so since --

11 JUDGE MACE: You need to avoid talking over  
12 one another, the reporter can't record both of you at  
13 once.

14 MR. BEST: I apologize, Your Honor.

15 BY MR. BEST:

16 Q. Let's assume ELI has customers in Olympia.  
17 Do you agree that what happens is the ELI customer is  
18 served probably from a Qwest office since we're not  
19 built out everywhere. We buy from you local transport,  
20 UNEs, et cetera, to get the customer to the central  
21 office. Again your switch looks at that number, says  
22 that's an ELI local Olympia customer, hits the ELI  
23 network, goes up to ELI here, and if that customer is  
24 calling another Olympia customer, ELI sends it all the  
25 way back to be terminated again in the local calling

0169

1 area; isn't that right?

2 A. Yeah, that's the typical CLEC architecture  
3 for --

4 Q. You're not --

5 A. -- providing competitive local service, yes.

6 Q. My understanding is Qwest does not dispute  
7 that that is a valid way to handle local traffic?

8 A. That's correct.

9 Q. Okay.

10 A. That's based on the CLEC's choice to have a  
11 centralized switching architecture, yes.

12 Q. Now doesn't Qwest consider foreign exchange a  
13 local service?

14 A. You better talk to Mr. Brotherson about that,  
15 I think he might have a better idea on the --

16 Q. Let's assume --

17 A. -- jurisdiction of that.

18 Q. Let's assume that --

19 JUDGE MACE: Again, I need to remind you,  
20 counsel, you need to let the witness finish before you  
21 begin your next question.

22 BY MR. BEST:

23 Q. Let's assume it's a local service, that it's  
24 defined as local, local traffic.

25 MR. SMITH: I object, I mean he just

0170

1 indicated he doesn't know the answer, so I think it's  
2 improper to hypothesize when we have a witness who can  
3 address the very question.

4 MR. BEST: Well, Your Honor, this is the  
5 technical witness, all I'm asking the witness to do is  
6 make one assumption.

7 JUDGE MACE: Well, I'm going to allow, if the  
8 witness can't answer, he can say so.

9 MR. BEST: Yeah, if you don't know, just say  
10 you don't know.

11 BY MR. BEST:

12 Q. Let's assume that it is a local call, that  
13 Qwest considers it local, the Commission considers it  
14 local. If it's okay for ELI to serve local customers  
15 off this switch up here all the way down here, do you  
16 know what the difference is as to why ELI would not be  
17 able to use the same switch in the same pattern to  
18 provide foreign exchange?

19 A. Now the first assumption you told me to make  
20 was assume that FX was local.

21 Q. It's deemed a local call.

22 A. Okay. And then your example then states that  
23 is there any reason to believe that a call that is VNXX  
24 shouldn't be considered local?

25 Q. That's another way of putting it, why would

0171

1 the call be any different than a foreign exchange call?

2 A. Because first of all it's provisioned, it's  
3 offered differently. So in other words, VNXX can be  
4 offered worldwide or at least interstate, so that VNXX  
5 customer that's located in Seattle could potentially be  
6 located in New York.

7 Q. Well, what's different --

8 A. FX does not provide that functionality.

9 Q. Let's stick --

10 A. Secondly --

11 Q. -- with the example --

12 MR. SMITH: Let him finish.

13 JUDGE MACE: Again, counsel, you need to let  
14 the witness finish.

15 A. Secondly, the provisioning of it, because the  
16 customer provides the private line back to the local  
17 calling area where in ELI's example there is no private  
18 line back to the local calling area. Thirdly, Qwest has  
19 switching facilities which may or may not be necessarily  
20 provide FX for CLECs. And then thirdly, typically with  
21 the CLEC arrangement when we -- arrangement where it's  
22 ISP type traffic rather than voice traffic.

23 BY MR. BEST:

24 Q. I'm going to come to the ISP issue in a  
25 minute, but I want you to assume, this is the only

0172

1 issue, that this is what the issue is is that there's --  
2 this is not somewhere in Timbuktu, this is in fact in  
3 Seattle. I understand what your point is about it could  
4 be anywhere, but let's assume this for now.

5 JUDGE MACE: And the assumption is that the  
6 ELI switch is in Seattle.

7 BY MR. BEST:

8 Q. The ELI switch is in Seattle, the VNXX  
9 customer is in Seattle, and they're getting foreign  
10 exchange or VNXX out of Olympia.

11 A. The problem is you can't make that  
12 assumption, because VNXX by nature doesn't provide that  
13 limitation.

14 Q. Well, you could build a private line  
15 virtually anywhere else in any other local calling,  
16 couldn't you?

17 A. But the way we provision FX doesn't extend  
18 beyond the state.

19 Q. That's the way you do it, what if I told you  
20 the way we did it, it doesn't extend beyond the state  
21 either?

22 A. That's not what VNXX is.

23 Q. Okay, so we would agree if it does not extend  
24 beyond the state of Washington it would not be VNXX?

25 A. I didn't say that.



0173

1 Q. What did you say?

2 A. I said the capability does not exclude VNXX  
3 from being provisioned outside the state.

4 Q. Right, but you also agreed that Qwest could  
5 provision private lines going virtually anywhere,  
6 couldn't they?

7 A. No.

8 Q. You can't do that?

9 A. Not based on our LATA restrictions.

10 Q. Well, you physically could do it though,  
11 couldn't you?

12 A. Well, yeah, but I suppose that would be --  
13 yeah, theoretically.

14 Q. All right. So you're saying as I understand  
15 it though that because ELI does not use a private line  
16 even though it doesn't need it that that's not foreign  
17 exchange?

18 A. Even though that ELI doesn't need it?

19 Q. Doesn't need the private line.

20 A. I guess I'm distinguishing the difference  
21 between a carrier to carrier connection and a end user  
22 connection here. The difference is that ELI is  
23 connected to Qwest via local interconnection, which is a  
24 carrier to carrier relationship, versus a FX PRI which  
25 is local service provided to the end user with a

0174

1 transport.

2 Q. Okay, well, let's talk about that, let's talk  
3 about the private line that Qwest would use to get to  
4 from the Olympia central office to the Qwest central  
5 office in Seattle. Now as it's been described, it's a  
6 dedicated facility, correct?

7 A. Yes.

8 Q. And --

9 A. It's a dedicated circuit.

10 Q. Dedicated circuit. And when you say that the  
11 customer has to buy local exchange service in Olympia,  
12 what they're really doing is only buying a presence on  
13 your switch; isn't that right?

14 A. They're buying local service.

15 Q. Well, the customer is here obviously, right?

16 JUDGE MACE: And that's in Seattle?

17 MR. BEST: Seattle, thank you Your Honor.

18 BY MR. BEST:

19 Q. The customer is in Seattle, buying local  
20 service here is a little bit of a fiction, isn't it,  
21 aren't they really just buying a connection here?

22 A. Well, they're buying the local service out of  
23 the Olympia exchange.

24 Q. Okay.

25 A. I don't know what else -- how else to --

0175

1 Q. Okay, well, obviously they're not sitting out  
2 here in Olympia, there's no -- you're not provisioning  
3 them a loop, are you?

4 A. We are provisioning them a transport between  
5 Seattle and Olympia.

6 Q. That's not the same thing as a loop, isn't  
7 that the private line?

8 A. That would be the private line.

9 Q. Okay. But you may combine the service, I  
10 understand that, but they're really only buying a  
11 connection here to get them from Olympia to Seattle;  
12 isn't that right?

13 A. They're buying the local service.

14 Q. Okay, you're the technical expert, right,  
15 what all do they buy down here then, tell me what --

16 A. It would be the logic within the switch that  
17 provides them local service.

18 Q. Okay. Now the private line, I know it's  
19 always drawn as a separate line, but isn't the truth  
20 that it really rides the interexchange, I'm sorry, the  
21 interoffice trunking?

22 A. Typically that's the path that it would  
23 follow.

24 Q. Okay. So when it's dedicated let's say in  
25 TDM, time division multiplex, isn't it actually only

0176

1 just getting a time slot like all other traffic?

2 A. It would ride that facility using a time  
3 slot.

4 Q. Okay. And to the degree it's digital or over  
5 fiber, again, it's converted and it's -- there's really  
6 no hard wired facility, is there?

7 A. Well, there is a facility between the two  
8 switches, and it's hard wired either through a fiber  
9 optic cable or copper.

10 Q. But down here in Olympia it's changed, isn't  
11 it, into digits or whatever?

12 A. Yeah, there's probably a digital conversion  
13 at some point in the transmission.

14 Q. And it rides the interoffice trunking?

15 A. It would probably ride the same facility that  
16 interoffice circuits would also ride.

17 Q. So I don't know if it's you or  
18 Mr. Brotherson, but someone makes the point that the  
19 thing that's wrong with ELI the way they do it is that  
20 this is common transport.

21 JUDGE MACE: And Mr. Best is pointing to a  
22 line between the Qwest central office in Olympia and his  
23 facility for ELI in Seattle.

24 BY MR. BEST:

25 Q. Are you aware of the criticism of this, this

0177

1 being interoffice transport?

2 A. I'm not 100% sure what you're talking about  
3 now.

4 Q. Okay, well, let me ask you this, let me put  
5 it a different way. Why doesn't this work?

6 A. Why doesn't --

7 Q. That's again the line from the Qwest central  
8 office from ELI's collocate transporting on ELI's  
9 facilities to ELI's switch, how is this different from  
10 what Qwest does?

11 A. Because it's not providing local service in  
12 the local calling area.

13 Q. So what?

14 MR. SMITH: Was that a question?

15 Q. So what is a question, what's the  
16 distinction, why is that important?

17 MR. SMITH: Is that a technical question? I  
18 mean I think the area, it's gone into a discussion of  
19 the regulatory treatment, I think those questions are  
20 better addressed to Mr. Brotherson.

21 MR. BEST: Your Honor, I disagree, this is  
22 all technical stuff. I mean I'm trying to understand  
23 the distinctions they're drawing.

24 JUDGE MACE: I would like to know that  
25 distinction. If you understand the distinction, I would

0178

1 like to hear from you what that is.

2 A. Well, I understand the distinction is the  
3 line on the left that runs between the two Qwest  
4 switches is a private line connection, where the  
5 connection between the Qwest switch and the ELI switch  
6 is a carrier to carrier connection. And they are, you  
7 know, one is a trunk for intermachine trunking, which is  
8 between two switch type trunking, that's what they call  
9 an intermachine trunk, and the connection between -- and  
10 really I would kind of modify the drawing on the left to  
11 be more of a direct connection to the FX customer,  
12 because it doesn't necessarily -- it doesn't pass  
13 through the switch in Seattle, so this particular  
14 drawing is kind of -- seems to create some perceptions  
15 that may not exist in reality, so.

16 JUDGE MACE: Thank you.

17 BY MR. BEST:

18 Q. Mr. Linse, I'm assuming you're not suggesting  
19 that there's a hard nailed actual pair of wires that  
20 goes to the customer, is there?

21 A. Yeah, it's basically a circuit that connects  
22 the switch in Olympia with that FX customer.

23 Q. So your testimony is it's two wires that  
24 physically leave here and go to the customer?

25 A. Absolutely not. You know, theoretically,

0179

1    yeah, it's a circuit that could potentially ride over  
2    two wires.  In reality it probably doesn't, there's  
3    probably a combination of fiber optics and other type of  
4    equipment that it may pass through, but it doesn't pass  
5    through another switch.

6           Q.     From a technical perspective, why is that  
7    distinction important?

8           A.     Because that's the definition of what FX is.

9           Q.     Any other reason?

10          A.     And local service is being provided from  
11    within the local calling area.

12          Q.     Okay.  But again, we talked about the local  
13    service, obviously the customer is up here, right?

14          A.     Correct.

15                   MR. BEST:  I may be back, Your Honor.

16   BY MR. BEST:

17          Q.     Mr. Linse, again down in the bottom of BR-1  
18    where the Qwest switch is located, to the extent  
19    Electric Lightwave provides local service in Olympia and  
20    Qwest hands it off to ELI in the collocate at the Qwest  
21    central office, is there any additional cost associated  
22    with ELI providing local service and local traffic down  
23    there and VNXX traffic?

24          A.     Well, and I think Mr. Fitzsimmons maybe  
25    addressed some of this, and it's almost like saying is

0180

1 there the same cost in providing a local service  
2 connection at that point as there is to providing -- or  
3 providing a connection to ELI as well as a long distance  
4 provider at that same switch, but the traffic is dealt  
5 with in two completely different ways, so I don't know  
6 if the cost is really all that relevant.

7 Q. Okay. But to your knowledge, are there any  
8 other facilities that are consumed by the VNXX traffic  
9 in this example?

10 A. Not that I'm aware of.

11 MR. BEST: Your Honor, if you would give me a  
12 second to catch up here, I'm going to also try to weave  
13 in Mr. Kopta's cross and everybody else so that I don't  
14 spend more time than I need to.

15 JUDGE MACE: Well, here's a thought, we're 5  
16 to 12:00 now, we usually break at noon, I was going to  
17 suggest that you look at your notes, and maybe we could  
18 resume at 25 after 1:00 with your continuation, and then  
19 I think we still have two other cross-examiners, TCG and  
20 WITA, so if everyone is all right with that, we can  
21 resume at 1:25. Is there anyone who has a problem with  
22 that?

23 No, all right, thank you.

24 (Luncheon recess taken at 11:55 a.m.)

25 A F T E R N O O N S E S S I O N



0181

1 (1:25 p.m.)

2 JUDGE MACE: Mr. Best, are you ready to  
3 proceed?

4 MR. BEST: I am.

5

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

7 BY MR. BEST:

8 Q. Mr. Linse, I want to draw your attention back  
9 to BR-1. I want you to assume the following. I want  
10 you to assume that the Commission for reasons unknown  
11 says, you know, Qwest, you're absolutely right, ELI to  
12 do this service has got to provide a private line from  
13 here to here.

14 JUDGE MACE: Mr. Best, can you slow down just  
15 a little bit.

16 MR. BEST: I apologize, Your Honor.

17 BY MR. BEST:

18 Q. Have you got that in mind?

19 A. As a carrier or as an end user?

20 Q. Well, I assume a carrier, aren't we?

21 A. I don't know if you're connecting as a  
22 carrier or an end user, you could do it either way.

23 Q. Well, let me throw it to you, you're the one  
24 or Qwest is the one suggesting that ELI has to use a  
25 private line here, correct?

0182

1 A. I'm not suggesting you have to use anything.

2 Q. Well, to provide foreign exchange, isn't one  
3 of the positions that Qwest is taking is that ELI or  
4 whoever needs to use a private line?

5 A. I think my suggestion is that in order to  
6 provide the long distance service that ELI and the other  
7 complainants or respondents in the case are proposing or  
8 are performing through the VNXX that, you know, we're  
9 not proposing any specific technology.

10 Q. Well, haven't you said that to be foreign  
11 exchange it has to use a private line?

12 A. Yes, but --

13 Q. Okay.

14 A. -- if we talk about the overall issue here,  
15 which is VNXX, which is not specific to FX, it's a long  
16 distance service, they could use FX or they could use a  
17 long distance service such as 800.

18 Q. Okay.

19 A. So I'm not saying that you have to use FX to  
20 do what you want to do.

21 Q. Let's assume for purposes of this analogy  
22 that we want to use FX, okay?

23 A. Okay.

24 Q. Got to use a private line, right?

25 A. That's how FX has been typically provisioned,

0183

1 yes.

2 Q. Okay. So let's assume that back on BR-1 that  
3 from the ELI central office in Seattle we run a private  
4 line to our collocate in the Qwest central office in  
5 Olympia, okay, fair, are you with me?

6 A. Again, is it as an end user, or is it as a  
7 carrier?

8 Q. Well, ELI is buying it, so wouldn't that be  
9 as a carrier?

10 A. You know, carriers can also buy end user type  
11 services as well.

12 Q. Is there a difference?

13 A. How they're using it, absolutely.

14 Q. Okay, well, let's assume we're going to use  
15 this private line to serve a foreign exchange customer,  
16 we want to provide foreign exchange, okay?

17 A. So is that the end user or ELI?

18 Q. I don't know, tell me what it needs to be and  
19 I will make it whatever it needs to be.

20 A. It's your question, I'm sorry, I don't know  
21 what you're getting at.

22 Q. What I'm getting at is your testimony and  
23 Mr. Brotherson's testimony which basically says it's not  
24 foreign exchange unless you use a private line, right?

25 A. That's typically how FX is provisioned.

0184

1 Q. So if I want to provide FX, you tell me what  
2 I need to provide here to have this be the private line  
3 that will satisfy Qwest.

4 A. You would have to provide it just like Qwest  
5 would provide it.

6 Q. Okay. Now let me ask you this, let's assume  
7 that we do that, and we have now we'll call this a  
8 foreign exchange customer because I guess we're using a  
9 private line, is that fair, or do you still want to call  
10 it VNXX?

11 A. I'm sorry, repeat that.

12 Q. We have an end user that wants to order what  
13 I'm calling foreign exchange, it's an ELI customer, we  
14 have dedicated a private facility for that customer to  
15 here, and now an Olympia customer wants to call this  
16 customer, okay, on the foreign exchange line. When the  
17 Olympia customer picks up the phone, they dial the NPA  
18 area code in the NXX, and that goes to the Qwest switch,  
19 does it not?

20 A. That's correct.

21 Q. Okay. And when the Qwest switch sees that,  
22 what does it see, do you know, what does it recognize?

23 A. It recognizes the digits dialed.

24 Q. Okay, and does it recognize it to be an ELI  
25 number?

0185

1           A.     Well, it would associate those digits with a  
2 trunk group that would correspond to either ELI or --

3           JUDGE MACE:  Mr. Linse, I'm sorry to  
4 interrupt, but you need to speak into the microphone.

5           THE WITNESS:  My apologies.

6           JUDGE MACE:  Thank you.

7           A.     It would either route it to ELI trunk groups  
8 as a carrier or if ELI -- or if the ELI customer were to  
9 have an FX type arrangement with -- through ELI, then it  
10 would be the trunk associated with the customer.

11 BY MR. BEST:

12          Q.     Well, the Qwest switch recognizes it as an  
13 ELI number, correct?

14          A.     If it's ELI, an ELI number.

15          Q.     Right.

16          A.     Like I said, if it identifies it as an ELI  
17 number, it would route it to ELI.  If it determines that  
18 it's a ELI customer that has an FX type service from  
19 Qwest, then it would route it to that service.

20          Q.     Okay, well, let's talk about that, the FX  
21 service.  So what you're telling me is that the switch  
22 magically knows when an FX number is dialed that it's  
23 FX?

24          A.     It routes the call based on the digits  
25 dialed.

0186

1 Q. Right, and it routes it to ELI, does it not?

2 A. Again, if it's an ELI -- if it's an ELI  
3 telephone number, yes, it will route it to ELI.

4 Q. Okay, let's go back to the private line.

5 What I want to know is when a customer in Olympia calls  
6 the ELI foreign exchange VNXX customer, tell me how the  
7 switch knows to put it on the private line?

8 A. And I guess I'm not clear as to what you mean  
9 by the private line.

10 Q. I'm trying to get the call, and you tell me,  
11 you're the technical expert, I'm trying to get this  
12 call, goes to Qwest, has to, right, goes to Qwest's  
13 switch, and somehow we have dedicated this private line,  
14 I've now got to get that call on that line, how does  
15 Qwest do that?

16 A. You have dedicated the private line to what  
17 and using what kind of service?

18 Q. Well, you tell me, all I'm asking you --

19 A. Well, there's --

20 Q. What I'm asking you is explain to me how the  
21 Qwest switch knows rather than to route this to the ELI  
22 trunk group on the common transport, how does this Qwest  
23 switch know that now there's a dedicated private line  
24 that it should go to?

25 A. Based on the dialed digits.

0187

1 Q. And so doesn't that have to be programmed  
2 into the switch?

3 A. Typically that's how switches work.

4 Q. Okay. So for every foreign exchange customer  
5 we would have, we would have to dedicate a private line,  
6 and you would then have to also go into your switch and  
7 program it so that it knew to route that number to the  
8 dedicated facility; isn't that right?

9 A. I don't think so.

10 Q. Do you know how switches work?

11 A. Yeah, I would say I'm pretty familiar with  
12 them.

13 Q. Okay, well, then you tell me. I mean I'm  
14 violating all the rules of cross-examination here by  
15 asking you an open-ended question. You tell me how this  
16 call originated down here, how Qwest will route it to  
17 the private line if we buy one or if we provision one  
18 ourselves.

19 A. Well, there's two types of private lines.  
20 You can buy a private line or at least in this scenario  
21 you could purchase a private line with a PRI connection  
22 for your like a resold type service for their FX  
23 customer and provision that private line directly to  
24 their end user.

25 Q. But that's not my question, my question is

0188

1 how does the switch get it here?

2 A. It routes it based on the digits associated  
3 with the PRI. So primary rate interface is a trunk  
4 interface on the switch, and a PRI can have typically a  
5 23 basically voice grade circuit. And let's say this  
6 particular customer has a need for 23 voice grade  
7 circuits. That customer, that Qwest customer at the  
8 bottom would dial a telephone number associated with  
9 that PRI, that switch, the Qwest switch, would see that  
10 those digits were dialed and would associate those  
11 dialed digits to the PRI circuit to which then ELI then  
12 transports that call over a private line facility to its  
13 customer up there identified as VNXX.

14 Q. So if I understand you, Mr. Linse, we now  
15 have to buy something else, not just private line, but  
16 we have to buy a PRI?

17 A. You're asking me how it would get there or  
18 how it could get there.

19 Q. All right.

20 A. That's one way for it to get there.

21 Q. What other ways?

22 A. ELI could have a connection with Qwest down  
23 in that same -- in the Olympia calling area, and Qwest  
24 could route it to ELI's switch located in Olympia, and  
25 then ELI provision a private line to the customer up in



0189

1 the right-hand corner.

2 Q. Now that's if ELI had a switch in Olympia,  
3 right?

4 A. That's another way to do it.

5 Q. All right. Those about the only two ways?

6 A. Those are two ways that I know of right now.  
7 Like I said, I haven't had -- in order to honor the  
8 local calling area, which is the way that Qwest is  
9 basically -- and if I may back up to a previous question  
10 that you asked.

11 Q. Well, let's stick with the question that I  
12 ask, Mr. Linse. You have a question before you, let's  
13 finish that. Your attorney will go back and do  
14 redirect, so let's stick with the question before you.

15 A. Then what's the question, please?

16 Q. You were in the middle of answering.

17 A. I'm done.

18 Q. Okay. So assuming that -- as it stands today  
19 though, would you agree that this Qwest switch has no  
20 way to see a private line unless we provision a bunch of  
21 different stuff?

22 A. Private line is irrelevant to the switch.  
23 Private line is a transport service. It has nothing to  
24 do with the switch. You can take a 1FB, which is what I  
25 said before was a flat rate business service, which is a

0190

1 voice grade service between two locations, and you can  
2 -- the 1FB is provisioned on the switch. The transport  
3 or a private line would take that 1FB service and  
4 transport it to the customer. So a private line has  
5 really nothing to do with the switch and the  
6 functionality of a switch. It's merely a transport  
7 mechanism.

8 Q. Okay. And would you agree that as it stands  
9 today, unless we provide a switch in this local calling  
10 area and apparently buy additional PRIs that there is no  
11 way for this customer to actually get on the private  
12 line?

13 A. To honor the local calling areas, that's --  
14 those are the two ways that I know of.

15 Q. And by honoring the local calling areas, what  
16 do you mean by that?

17 A. Calls that originate and terminate within the  
18 local calling area to services that are within the local  
19 calling area.

20 Q. All right. But would you agree foreign  
21 exchange doesn't originate and terminate in the local  
22 calling area?

23 A. And I think we have previously discussed  
24 through the COCAG there is an exception to that.

25 Q. Well, there are a number of exceptions, are

0191

1 there not?

2 A. I don't understand what you're saying, I  
3 don't understand the question.

4 Q. You're saying that there are exceptions such  
5 as foreign exchange?

6 A. Yeah, the only other exception I could even  
7 think of is maybe a feature group A.

8 Q. So you think you know all the exceptions?

9 A. Well --

10 MR. SMITH: I don't believe that's what he  
11 said.

12 MR. BEST: He says the only exception he  
13 could think of.

14 BY MR. BEST:

15 Q. Do you know what the other exceptions are?

16 A. Well, as I said, the only exception, other  
17 exception than FX would be like a feature group A.

18 Q. And that's the universe?

19 A. I didn't say that.

20 Q. Do you know what the universe is?

21 A. It's bigger than you and me.

22 Q. Of exceptions?

23 A. Well, universe is bigger than you and me.

24 Q. The universe of exceptions is foreign  
25 exchange?

0192

1 A. I'm sorry.

2 Q. The universe of exceptions --

3 MR. SMITH: I object, Your Honor, he has  
4 indicated that he knows of FX, and he indicated feature  
5 group A and there may be others.

6 MR. BEST: I didn't hear that, that's great,  
7 if that's the statement, then I will take that and run.

8 THE WITNESS: well, I didn't say that there  
9 was others, I just said those were the two I know of.

10 MR. SMITH: I said there may be others I  
11 believe is what I said.

12 JUDGE MACE: You know, I'm troubled in this  
13 exchange on both sides. I have a sense that you're  
14 arguing back and forth, and it's really not appropriate.  
15 I need to have you answer counsel's questions, and I  
16 think what he's getting at here is there's a phrase in  
17 that COCAG, I remember reading a quote that says  
18 exceptions such as foreign exchange, and does that mean  
19 to you that there may be more exceptions than just the  
20 named exception?

21 A. It means that there are more than the  
22 exceptions within the context of the COCAG, which is an  
23 inherently geographically based document as far as how  
24 it defines telephone numbers as geographic and  
25 non-geographic.

0193

1                   MR. BEST: I think I have made my point, Your  
2 Honor, thank you.

3 BY MR. BEST:

4           Q.     Mr. Linse, from a technical perspective,  
5 let's ignore cost and let's ignore subsidies and all  
6 that, from a technical perspective do you think it's  
7 more efficient for Electric Lightwave to have to use a  
8 private line here?

9           A.     I don't know what efficiencies ELI realizes  
10 with its private line network.

11          Q.     Well, you would agree, would you not, that as  
12 it stands today with VNXX, we just use the common trunk  
13 group, right?

14          A.     I think typically that's one method of doing  
15 it.

16          Q.     Okay. And if we did a private line, we would  
17 actually have to do more than we're doing today, would  
18 we not?

19          A.     I don't know what -- if you are using private  
20 line today.

21          Q.     Well, if we weren't using private line today  
22 but we were forced to go to private line, it would be an  
23 additional step that we would have to be involved in to  
24 provide the service, wouldn't it?

25          A.     Based on what you described, yeah, it would

0194

1 take an additional step.

2 Q. And to the extent that we're required to put  
3 switches in every local calling area, that would be an  
4 additional step too, would it not?

5 A. Well, it was a step that could have been  
6 implemented when you initialized your network.

7 Q. So basically --

8 A. So it's not necessarily something that would  
9 be addition, it would be something that, okay, I didn't  
10 plan on before I deployed my network, so based on the  
11 way I deployed my network, now, yeah, there now needs to  
12 be something different that needs to be done.

13 Q. Okay, so if I'm understanding you correctly,  
14 please correct me if I'm wrong, what you're saying is  
15 that essentially if we want to provide foreign exchange,  
16 we have to do it like Qwest does?

17 A. Not -- when you look at the Qwest network,  
18 that has potentially several switches in the local  
19 calling area, and so any FX service that Qwest provides,  
20 it could provide it from one of those switches within  
21 the local calling area. We're not proposing that the  
22 CLECs duplicate Qwest's network, so for every switch  
23 that Qwest has in the local calling area, it's not like  
24 we are looking to have other, you know, a duplicate  
25 switch of a CLEC be placed alongside of a Qwest switch.

0195

1 That's, you know, not really necessary in order to  
2 provide the FX type service. So adding switching  
3 functionality with private line into a local calling  
4 area where there's multiple Qwest switches is not  
5 necessarily I would say a burden type requirement to  
6 provide an FX service.

7 Q. You mean requiring a switch in every local  
8 calling area is not a burden?

9 A. Not for what FX provides, no.

10 Q. It wouldn't be a burden on the CLECs?

11 A. That's a decision they have to make. They  
12 don't have to use FX. See, that's the whole -- that's  
13 the whole key here is they have to make the business  
14 decision as to how they want to provide the service  
15 within the -- in order to honor the local calling area  
16 boundaries.

17 Q. Well, I guess we have made that decision,  
18 haven't we, and Qwest is saying that's illegal?

19 A. By using VNXX, I don't think that VNXX honors  
20 the local calling area boundaries, as does the other  
21 local services that other carriers provide.

22 Q. And is that because Qwest claims that the  
23 private line is provisioned in the local calling area?

24 A. It is provisioned within the local calling  
25 area because that's the local calling areas that are

0196

1 defined.

2 Q. So that's the physical presence that the  
3 customer has?

4 A. That's the service that the customer  
5 purchases, yes.

6 Q. Why isn't it true that at ELI's collocation  
7 spot that's a physical presence for our customer?

8 A. Because it's the presence of ELI and not  
9 their customer.

10 Q. Doesn't the customer have to use it?

11 A. Well, it's ELI's collocation. I guess I  
12 don't -- I have never seen an end user customer obtain a  
13 collocation.

14 Q. Well, you would agree that the customer has  
15 to use a collocation, correct?

16 A. I have never seen a customer request a  
17 collocation with Qwest.

18 Q. Well, for the service to be provided, the  
19 customer has to actually use this facility, does it not?

20 A. Well, ELI may provision service to its  
21 customer using that facility.

22 Q. But you're saying that what we're doing down  
23 here is different than what you're doing here? You're  
24 provisioning facility here, and you have to do that,  
25 correct?



0197

1           A.     And that's an end user service that we're  
2 provisioning from our switch to that end user.

3           Q.     It's just a hard wired connection, isn't it?

4           A.     It's a hard wired end user connection.

5                   MR. BEST:   Just about done here, Your Honor,  
6 I apologize.

7 BY MR. BEST:

8           Q.     Mr. Linse, were you involved in the study of  
9 traffic patterns that helped determine the VNXX traffic  
10 in this case?

11          A.     No, I was not.

12          Q.     Okay, that's good.

13                   I would like to direct you to page 24, I  
14 think it's of your rebuttal, let me look real quickly  
15 here.

16                   JUDGE MACE:   If you would use your  
17 microphone, if you can sit down for the next series of  
18 questions, that would be helpful.

19                   MR. BEST:   Thank you, Your Honor.

20 BY MR. BEST:

21          Q.     I'm going to direct you to the question and  
22 answer, lines 7 through 14.

23          A.     And that's page?

24          Q.     I'm sorry, 24 of your rebuttal.

25          A.     And the lines again, I'm sorry?

0198

1 Q. 7 through 14.

2 Did you find it?

3 A. Yes, I did.

4 Q. You state specifically at line 13, it says,

5 The POI, point of interconnection or

6 interface, has never been relied upon as

7 a relevant location for determining call

8 jurisdiction.

9 Do you see that?

10 A. Yes.

11 Q. And are you familiar with OneFlex routing

12 that Qwest provides?

13 A. No, I'm not.

14 MR. BEST: That's all I have, Your Honor.

15 JUDGE MACE: Is it Mr. Castle or Mr. Wiley?

16 MR. CASTLE: Mr. Castle, Your Honor, I have

17 nothing additional at this point.

18 JUDGE MACE: Thank you.

19 Redirect?

20 Oh, I'm sorry, Mr. Finnigan, I didn't mean to

21 overlook you, I have you on my list here.

22 MR. FINNIGAN: Thank you.

23

24

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

0199

1 BY MR. FINNIGAN:

2 Q. Mr. Linse, I'm Rick Finnigan, we have met  
3 before in Oregon.

4 A. Yes.

5 Q. Here in Washington I'm representing the  
6 Washington Independent Telephone Association.

7 A. Nice to see you again.

8 Q. Good to see you.

9 Would you please look at Mr. Brotherson's  
10 Exhibit 2, it's the VNXX routing diagram.

11 A. Sure, I have it.

12 Q. Okay, thank you. As a preliminary matter, I  
13 want to set the stage for you a little bit. Tenino is a  
14 community a little bit south of here that's served by  
15 Tenino Telephone Company, and Tenino has extended area  
16 service or EAS between it and Olympia. So if you can  
17 take this VNXX routing diagram, and you've got the  
18 Olympia local calling area there, and just imagine  
19 another little I guess it's a heptagon down to the side  
20 that says Tenino.

21 A. Okay.

22 Q. Are you generally familiar about how EAS  
23 networks are configured?

24 A. Yeah, generally, yes.

25 Q. And an EAS area is considered a local calling

0200

1 area; is that correct?

2 A. Yeah, it expands the essentially local  
3 calling, yes.

4 Q. All right. In provisioning the EAS network  
5 between Tenino and Olympia, there would be a set of  
6 trunks between the two companies; is that correct?

7 A. That is correct.

8 Q. Would you take the assumption that the CLEC  
9 that's up here in the Seattle local calling area with  
10 the CLEC ISP/VNXX customer; do you see that?

11 A. Yes, I do.

12 Q. Okay. Instead of having assigned an Olympia  
13 number, they assign a Tenino number.

14 A. Okay.

15 Q. How would you expect that call to get from a  
16 customer in Tenino to the ISP in Seattle, also assuming  
17 that there's no direct trunking between Tenino and the  
18 CLEC?

19 A. Qualification there, that would -- a call  
20 like that would typically route from Tenino to Qwest  
21 typically like to a local tandem switch, which would  
22 then connect it to a trunk group of the CLEC, and then  
23 that trunk would route to the CLEC switch and then to  
24 the ISP/VNXX customer of the CLEC.

25 Q. In today's environment, who bears the cost

0201

1 for that transport?

2 A. Which portion of the transport?

3 Q. Let's break it down.

4 A. Okay.

5 Q. The transport from Tenino to Qwest's switch  
6 in Olympia.

7 A. And I think the transport is typically  
8 divided between the two companies on a meet point  
9 arrangement where each prospective carrier is assigned  
10 the cost or the building requirements of the facility  
11 between the two networks.

12 Q. And when you say two companies in that  
13 context, you mean Tenino Telephone and Qwest?

14 A. That's correct.

15 Q. Okay. Then once it reaches the Qwest switch,  
16 who bears the cost of transport from that point on?

17 A. Typically Qwest would provide the transport  
18 with potentially a relative use that's applied to that  
19 facility.

20 Q. Would the traffic be routed over the access  
21 trunks?

22 A. This would look like a local call, so there  
23 would not be an access type configuration as far as  
24 access service, I'm assuming feature group type  
25 trunking.

0202

1 Q. Let me ask you this question, to provide VNXX  
2 service in Olympia from an ISP that's in Seattle, does  
3 the CLEC have to be collocated with Qwest in Olympia?

4 MR. KOPTA: Your Honor, at this point I'm  
5 going to interpose an objection. This is friendly cross  
6 from what I can determine. This is Mr. Finnigan making  
7 use of Mr. Linse as a witness for WITA as opposed to  
8 questioning any testimony that Mr. Linse has offered in  
9 terms of any adversity that WITA has to Qwest's position  
10 in this docket, and so I would move to object to this  
11 and to strike the entire line of questioning that  
12 Mr. Finnigan has had with Mr. Linse.

13 JUDGE MACE: Your response, Mr. Finnigan.

14 MR. FINNIGAN: Well, I don't think we have an  
15 identity of interest between Qwest and WITA. Certainly  
16 there are some areas where our interests align, but  
17 clearly one of the areas that's different is the area of  
18 transport from independent company territory in EAS  
19 arrangements, and whether it's Mr. Linse or whether it's  
20 CLEC witnesses that I will be questioning later, I  
21 certainly feel I have a right to inquire into that area  
22 as it relates to that particular part of the transport  
23 chain.

24 JUDGE MACE: I'm going to allow the answers  
25 to come in, but if you feel the need to conduct some

0203

1 additional examination, I will allow you to do that.

2 BY MR. FINNIGAN:

3 Q. The question I had asked and I'm not sure  
4 that -- I don't know whether the answer got in the  
5 record, I think you answered it, but let's go back. The  
6 question was whether for a CLEC to provision a VNXX  
7 service for an ISP in Seattle with a number in Olympia,  
8 do they have to be collocated with Qwest in Olympia?

9 A. No, that's not necessarily a requirement.

10 Q. And if the CLEC was not collocated with Qwest  
11 in Olympia, what trunk groups would Qwest use to get  
12 that traffic to the CLEC's point of interconnection or  
13 POI?

14 A. Typically that would be the interoffice trunk  
15 groups between like an end office or like the, I'm  
16 sorry, I forgot the name of the carrier.

17 Q. Tenino.

18 A. Tenino, Tenino's switch and the access tandem  
19 is how that would route.

20 MR. FINNIGAN: Okay, thank you, that  
21 completes my examination.

22 JUDGE MACE: Mr. Kopta, do you have anything  
23 that you wanted to ask?

24 MR. KOPTA: One question.

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

0204

1 BY MR. KOPTA:

2 Q. Mr. Linse, all of the intercarrier  
3 provisioning that you were just discussing with  
4 Mr. Finnigan would apply also to a CLEC customer that is  
5 physically located within the Olympia-Tenino EAS service  
6 area, would it not?

7 A. Typically for a local call into Olympia, that  
8 would also, under that same configuration, would also go  
9 through the access tandem.

10 MR. KOPTA: Thank you, that's all I have.

11 JUDGE MACE: Redirect?

12 MR. SMITH: Yes, Your Honor.

13

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

15 BY MR. SMITH:

16 Q. I have just three brief areas. The first one  
17 is one really of clarification. Earlier, and I believe  
18 it was when Mr. Kopta was cross-examining you, you made  
19 reference to calls that you referred to as TDM to TDM,  
20 and I believe you have already defined TDM as time  
21 division multiplexing, which isn't all that helpful in  
22 terms of what it really means, and I'm just wondering if  
23 you could clarify what you mean by a, in more lay  
24 person's terms, a TDM to TDM call?

25 A. And I thought I was perfectly clear.



0205

1 Q. For an engineer.

2 A. Yes, exactly. TDM to TDM is basically a call  
3 that is within the public switched telephone network, so  
4 in other words it originates and terminates within the  
5 public switching network.

6 Q. And is it true, and if I could ask one  
7 leading question, TDM is the language, if you will, of  
8 the public switched network as opposed to an IP Internet  
9 protocol network?

10 A. Absolutely. If you hear the words TDM,  
11 that's typically, when you hear the terminology TDM or  
12 time division multiflexing, that is essentially the  
13 language of the public switched telephone network.

14 Q. And that's for the most part the type of  
15 network that Qwest operates in the state of Washington?

16 A. That is correct.

17 Q. Okay. Earlier Mr. Best and you had some  
18 lengthy discussions about the chart, let me ask you this  
19 question. Is it true that Qwest is physically compelled  
20 to offer Olympia FX out of the Olympia switch?

21 A. No, not physically. However, when I -- when  
22 the conversation went to where is this the only  
23 configuration that Qwest can use to provide FX or to  
24 provide service to the customer in Seattle, and an  
25 additional way that Qwest could do that is to use the

0206

1 same VNXX architecture, which would be to program the  
2 Qwest switch in Seattle with Olympia telephone numbers  
3 and then just assign telephone numbers to that FX  
4 customer out of the switch located in Seattle.

5 Q. And why is it Qwest does not do that?

6 A. Qwest does not do that because it is required  
7 to honor the local calling area boundaries.

8 Q. Okay, one final area, earlier I believe again  
9 it was Mr. Kopta asked you some questions about the  
10 exhibits attached to your testimony relating to  
11 Tel3.com, I wonder if you could turn to Exhibit 175,  
12 which is also marked Exhibit PL-5, at least initially it  
13 was.

14 A. Yes, I see it.

15 Q. Would you look, let me make sure everyone  
16 gets there first, in the middle of the page, well, first  
17 of all in the middle of the page there's a bunch of  
18 trunk trees, and to the left of that there's a column  
19 that is entitled why is Tel3 a superior long distance  
20 service, I wonder if you would read the third and fourth  
21 bullets there.

22 A. The third bullet reads, use from any phone,  
23 even your cell. And the fourth bullet reads, no need to  
24 switch phone companies.

25 Q. Now is that language, from a technical

0207

1 perspective, is that language indicative of a company  
2 that is providing VoIP or voice over Internet protocol  
3 service?

4 A. No, it is not.

5 Q. Why is that?

6 A. Well, basically if you say it's used from any  
7 phone, and most people have either a land line phone or  
8 a cell phone, and which would make me believe that I  
9 could originate calls from those types of phones.

10 Q. And is that under your understanding a VoIP  
11 service, would that be a VoIP call?

12 A. No, that would not, because your cell phone  
13 and your land line phones are essentially TDM based  
14 phones. In other words, they talk the language of the  
15 PSTN, then that would not be an Internet protocol type  
16 communication.

17 Q. Okay. Just very quickly, if you could go to  
18 the prior exhibit, it's Exhibit 174, it's a two-page  
19 exhibit, and I would like you to look at the second page  
20 under disclaimer, and there if you would just read the  
21 second sentence, if you will.

22 A. Second sentence under disclaimer, right?

23 Q. Right.

24 A. It says: Tel3 long distance service can be  
25 used with your home --

0208

1 JUDGE MACE: Slowly please.

2 THE WITNESS: I'm sorry.

3 A. (Reading.)

4 Tel3 long distance service can be used

5 with your home phone, cell phone, and

6 with any other private touch-tone

7 phones.

8 BY MR. SMITH:

9 Q. Now isn't it true that, well, is it true that  
10 in order to provide -- to make a VoIP call, it requires  
11 something more than a typical touch-tone telephone?

12 A. Typically a VoIP call would require an ISP  
13 type customer equipment that would originate the traffic  
14 in IP, in Internet protocol.

15 Q. Now lastly, is a cell call a call that's an  
16 IP or voice over IP traffic?

17 A. No, they use kind of a -- it's a TDM based  
18 type technology, so it's a public switched telephone  
19 network type technology.

20 MR. SMITH: That's all, Your Honor.

21 JUDGE MACE: Recross, Mr. Strumberger,  
22 anything?

23 MR. STRUMBERGER: I do.

24

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

0209

1 BY MR. STRUMBERGER:

2 Q. Mr. Linse, when we were talking about virtual  
3 numbers, you said you weren't familiar with that, but  
4 that seems to be what you just testified to. How are  
5 the virtual numbers that Qwest has any different from  
6 what we were just talking about here?

7 MR. SMITH: I object to that, I think you  
8 would be very hard pressed to look at the exhibit we  
9 just looked at and talk --

10 JUDGE MACE: Yes, I agree.

11 BY MR. STRUMBERGER:

12 Q. Now in discovery, Qwest questioned whether  
13 3Tel was a Level 3 customer, do you know what Level 3's  
14 response was to that?

15 A. I believe they said no.

16 Q. That's correct.

17 A. But I'm not 100% sure without looking at the  
18 request.

19 Q. Okay. And it's again your testimony you  
20 don't know anything about Qwest virtual numbers?

21 MR. SMITH: I will object --

22 Q. Whether or not it's a VoIP service --

23 JUDGE MACE: Now, number one, you two can't  
24 talk over each other. And number two, that wasn't part  
25 of his redirect, he didn't have anything -- if you're

0210

1 referring to that item about virtual numbers, that  
2 paragraph, he didn't talk about that in his redirect,  
3 and I'm not going to allow you to ask that question if  
4 that's what you're aiming at.

5 MR. STRUMBERGER: The only thing I was aiming  
6 at is it seems to be a very similar service to the  
7 virtual numbers, and I was trying to --

8 JUDGE MACE: I'm sustaining the objection.

9 MR. STRUMBERGER: Okay, thank you, that would  
10 be all.

11 Mr. Kopta.

12 MR. KOPTA: Thank you, Your Honor.

13 JUDGE MACE: Mr. Kopta.

14 MR. KOPTA: Oh, now thank you, Your Honor.

15 JUDGE MACE: Actually -- yes, Mr. Kopta,  
16 sorry.

17 MR. STRUMBERGER: Sorry.

18

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

20 BY MR. KOPTA:

21 Q. Mr. Linse, I was intrigued by your colloquy  
22 with counsel in terms of whether Qwest could provide  
23 VNXX type service, and my question really has to go with  
24 has Qwest considered providing VNXX service as opposed  
25 to foreign exchange service?

0211

1           A.     I don't believe so, because it doesn't adhere  
2 to the local calling areas that have been well  
3 established.

4           Q.     And have you been privy to discussions within  
5 Qwest about that particular issue where that issue was  
6 considered?

7           A.     There is no consideration as far as I know.

8           Q.     So when you say that it requires or in  
9 Qwest's view it would violate Qwest's obligation to  
10 honor the local calling area, that's your own opinion,  
11 it's not something that has been debated within Qwest as  
12 far as you know?

13          A.     If it was debated within Qwest, I would be  
14 probably one of the people they would consult in order  
15 to determine if that would be a viable avenue for Qwest,  
16 and I have not received any kind of communication as to  
17 whether or not Qwest wanted to provide a VNXX service.

18          Q.     Okay. You also discussed with Mr. Smith a  
19 more expansive meaning of TDM, which is you referred to  
20 as the language of the PSTN; is that correct?

21          A.     That is correct.

22          Q.     Are you aware that Verizon in the state of  
23 Washington has deployed a soft switch that has replaced  
24 a circuit switch?

25          A.     I think I have heard of it, but I don't know

0212

1 any details about it, so.

2 Q. Are you aware that it is possible to provide  
3 local exchange service with just a soft switch as  
4 opposed to a circuit switch?

5 A. I don't know, you should probably ask Verizon  
6 about that one.

7 Q. Well, the reason I ask is, if you know about  
8 that, would that switch be using TDM, or would it be  
9 using an IP protocol?

10 A. I don't know if it uses a TDM interface or  
11 not. Soft switches can offer TDM interfaces and just  
12 have an IP switch fabric. In other words, the  
13 intercommunications of the switch may be IP, but the  
14 outward interfaces could be TDM. So I, you know, I  
15 haven't looked at their architecture or their switching  
16 configuration, so I couldn't tell you.

17 Q. But Qwest or QCC, I'm not sure which,  
18 provides a digital voice type product in Washington,  
19 does it not?

20 MR. SMITH: I'm going to object, the question  
21 was simply earlier to make it clear what he meant by a  
22 TDM to TDM call, and this is far afield of the scope of  
23 the redirect that I asked.

24 MR. KOPTA: Well, I don't believe it is  
25 because he explained not only TDM but that it was the



0213

1 language of the PSTN and implied that a TDM to TDM call  
2 precludes any kind of Internet protocol in terms of  
3 completing the call, and all I'm exploring is whether  
4 that is in fact the case.

5 MR. SMITH: If I may.

6 JUDGE MACE: Go ahead.

7 MR. SMITH: Well, I don't believe he implied  
8 that, I think he was merely trying to clarify the  
9 record.

10 JUDGE MACE: I agree, I'm going to sustain  
11 the objection.

12 MR. KOPTA: That's all I have, thank you.

13 JUDGE MACE: Mr. Best.

14

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

16 BY MR. BEST:

17 Q. Mr. Linse, you testified that Qwest really  
18 hasn't looked at providing a VNXX --

19 JUDGE MACE: Again, can you speak into the  
20 mike, it would be real helpful, because I'm sure they're  
21 not hearing anything you're saying on the conference  
22 bridge.

23 MR. BEST: Thank you for reminding me.

24 BY MR. BEST:

25 Q. Mr. Linse, you have indicated that Qwest has

0214

1 really never considered providing a VNXX like service  
2 but that it is possible; is that right?

3 A. It would be technically possible. It just  
4 doesn't adhere to the -- doesn't honor the local calling  
5 area boundary, so I don't see why Qwest would consider  
6 that since it's not consistent with the local calling  
7 area boundaries.

8 Q. So that's the primary reasons, honoring the  
9 local calling area boundaries?

10 A. I mean I think that's the main difference  
11 between a local and a long distance call.

12 Q. Okay.

13 A. I think that's a big aspect of it, yeah.

14 Q. If Qwest were to decide to examine that, what  
15 kind of an undertaking would it be for Qwest to actually  
16 change to that type of setup?

17 A. Well, I think that it would probably take  
18 quite a bit.

19 Q. You would actually have to decommission your  
20 switch in Olympia, would you not?

21 A. No, not necessarily.

22 Q. Well, where would the Olympia numbers go,  
23 when an Olympia customer makes a call, where would the  
24 traffic go?

25 A. Well, essentially you could program numbers

0215

1 into the Seattle switch and the Olympia switch with  
2 Olympia numbers.

3 Q. Wouldn't that be a pretty significant  
4 undertaking?

5 A. Probably for the most part.

6 MR. BEST: That's all I have.

7 JUDGE MACE: Mr. Finnigan.

8 MR. FINNIGAN: No.

9 JUDGE MACE: All right, thank you very much,  
10 you are excused, Mr. Linse.

11 THE WITNESS: Thank you.

12 MR. SMITH: I did offer the exhibits, did I  
13 not?

14 JUDGE MACE: I believe you did, but let me  
15 double check.

16 I show that Exhibits 171 to 179 have been  
17 admitted.

18 MR. SMITH: Okay, thank you.

19 JUDGE MACE: We now can begin with  
20 Mr. Brotherson if he's here.

21

22

23

24 Whereupon,

25 LARRY B. BROTHERSON,

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

3

4 DIRECT EXAMINATION

5 BY MR. SMITH:

6 Q. Mr. Brotherson, would you give your name,  
7 business address, and just briefly describe your current  
8 duties.

9 A. My name is Larry Brotherson, my business  
10 address is 1801 California Street, Denver, Colorado  
11 80202. I currently work in the wholesale organization,  
12 and my primary duties or responsibilities are to  
13 represent Qwest in disputes with CLECs, primarily with  
14 CLECs, sometimes independents, over interconnection  
15 matters.

16 Q. And you are an employee of Qwest Corporation?

17 A. I am an employee of Qwest Corporation.

18 Q. Mr. Brotherson, in connection with this  
19 proceeding, I believe you have filed, have you not,  
20 three different pieces of testimony?

21 A. Correct.

22 Q. The first is your direct testimony marked  
23 Exhibit 1T, and attached to that are 20 exhibits,  
24 several of which, 4C through 12C, have been marked as  
25 confidential; is that correct?

0217

1           A.     I'm checking on which ones are marked  
2 confidential, but I believe that's correct.

3           Q.     And I may have said 20, 21 --

4           A.     21 was my next comment.

5           Q.     It goes through 21.

6           A.     Okay.

7           Q.     And then your second piece of testimony has  
8 been marked as 22T, and it's entitled response testimony  
9 to which there is 1 attached exhibit marked Exhibit 23,  
10 correct?

11          A.     Correct.

12          Q.     And then the final piece of testimony is one  
13 entitled your rebuttal testimony marked as 24T, there  
14 are 5 exhibits, 4 of which, 25 through 28C, are marked  
15 as confidential, and then a final one that's marked as  
16 29; is that correct?

17          A.     I believe so.

18          Q.     The final one being the one --

19          A.     29 is my final exhibit, I'm looking, you said  
20 they were confidential, and I'm looking.

21          Q.     Well, I'm talking about 25 through 28.

22          A.     Yes.

23          Q.     Mr. Brotherson, I understand you had a couple  
24 of corrections to make, could you identify them?

25          A.     On Exhibit LBB-1T, which was my direct

0218

1 testimony, on page 16 is a Footnote 13, and going first  
2 to the indented paragraphs, the third one down that  
3 begins, local service is exchange access service  
4 furnished between customer premises located within the,  
5 it should read, same local service area.

6           And then the final paragraph, which is not  
7 indented, starting with the words consistent, insert the  
8 word with, consistent with the Commission's rules, the  
9 focus of these tariffs are on the geographic area  
10 defined as the local exchange area and the relevant  
11 points for call rating are between customer premises  
12 located with, and then insert the word in, within the  
13 same LCA.

14           Q.     Do you have other corrections anywhere else  
15 in your testimony?

16           A.     None that I found.  Someone may point one out  
17 to me, but none that I have found.

18           MR. SMITH:  At this point, Your Honor, then  
19 we would offer Exhibits 1T through 29, which is  
20 Mr. Brotherson's direct, response, rebuttal testimony  
21 plus the attached exhibits.

22           JUDGE MACE:  Is there any objection to the  
23 admission of the exhibits?

24           MR. BEST:  Your Honor, Electric Lightwave  
25 objects to the admission of Exhibit LBB-24RBT, which I

0219

1 believe is the rebuttal testimony of Mr. Brotherson, to  
2 portions of it. And the reason I think I kind of hinted  
3 at in our call not too long ago, but we are objecting  
4 essentially to the inclusion of any references to the  
5 settlement between Qwest and Verizon. You will note  
6 that on page 21 of LBB-24RBT there is a reference on  
7 lines 8 and 9, and also there's then a reference --

8 JUDGE MACE: I need you to repeat that  
9 reference again, please.

10 MR. BEST: The reference is page 21, lines I  
11 guess it's 8 through 10, one sentence.

12 MR. SMITH: We're in the rebuttal, correct?

13 MR. REBUTTAL: Rebuttal, correct, just  
14 rebuttal.

15 And we're also objecting later on in that  
16 same testimony on page 48, line 16, I think it  
17 continues, let's see, all the way until page 52, and  
18 we're okay beyond page 52, or at 52 and beyond.

19 And the reason for our objection, Your Honor,  
20 is that this is not proper rebuttal. This is new  
21 evidence, it's a new issue that was introduced in the  
22 case late in the game. The parties, especially Electric  
23 Lightwave, have not had an opportunity to provide  
24 evidence on this topic, and we believe that it does not  
25 belong in the case in chief. I understand that the

0220

1 Commission does have to approve such a settlement, we're  
2 fine with that, but we just don't want the record in  
3 this case being clouded by this settlement, which is  
4 what we believe all this does.

5 JUDGE MACE: And your response?

6 MR. SMITH: Ms. Anderl.

7 MS. ANDERL: Thank you.

8 Our response is that that is not a legitimate  
9 objection. The Commission rules anticipate, even  
10 require, settlements to be filed at the appropriate time  
11 in a docket with a request that the Commission consider  
12 the settlement and file a narrative as well. It gives  
13 the parties the option to file testimony in support of  
14 that settlement. It does not require that that  
15 testimony be in a separate document or be designated in  
16 any particular way. We believe that Qwest and Verizon  
17 have complied with the Commission's rules regarding  
18 settlement and have not violated the procedural rules  
19 governing this docket in any way either in the substance  
20 or the timing of the submission of this testimony in  
21 connection with the settlement, and we therefore ask  
22 that that evidence and testimony be admitted.

23 JUDGE MACE: A concern that I have is that as  
24 I recall some of Mr. Williamson's testimony also  
25 addresses the settlement; is that right, Mr. Thompson?



0221

1 MR. THOMPSON: Yes, that's correct.

2 JUDGE MACE: I'm not sure of other witnesses  
3 just off hand.

4 MR. BEST: Your Honor, Chuck Best again for  
5 Electric Lightwave, you're correct, we would make the  
6 same objection once that testimony comes in and for the  
7 same reason, it injects again a bunch of new issues into  
8 the case. So we're expecting that to come up again, but  
9 I believe Staff and Qwest testimony are the only ones  
10 that involve it I believe in the evidentiary part of the  
11 case. I can't swear that I caught everything, but I  
12 think I have.

13 JUDGE MACE: Do you have anything that you  
14 wanted to add on this, Mr. Thompson, since it may affect  
15 your witness eventually?

16 MR. THOMPSON: Well, I was not actually  
17 anticipating it, and one reaction is just that this was  
18 not brought to my attention. One remedy might have been  
19 that the parties might have had a further opportunity to  
20 submit testimony from their witnesses responding, if  
21 that's the alleged harm is an inability to respond to  
22 this new, assertedly new testimony. You know, if the  
23 objection were made closer in time with the filing of  
24 the testimony, then it might have been possible to  
25 handle it all at a single hearing. Just that's my

0222

1 thought off the cuff. But as I say, I wasn't aware this  
2 objection was going to be made.

3 JUDGE MACE: Anyone else want to address  
4 this?

5 Anything else, Mr. Best?

6 MR. BEST: No, Your Honor.

7 JUDGE MACE: Well, I'm going to -- I'm not  
8 going to strike this testimony. I recognize that there  
9 is some perhaps slight murkiness with regard to the  
10 division between considering the settlement per se and  
11 some of this testimony that comes into the record, but I  
12 think the way we're handling the case we can make those  
13 distinctions, and you will have certainly an opportunity  
14 to brief matters. And, you know, if you make a case for  
15 it and you need to provide some testimony on the issues,  
16 you can certainly make that request. So I'm not  
17 convinced that there is a problem with having this  
18 testimony as it is right now in the record, so I'm not  
19 going to strike.

20 MR. SMITH: Your Honor, then --

21 JUDGE MACE: So having said that, are there  
22 any other objections to those exhibits?

23 I will admit the Exhibits 1 through 29.

24 MR. SMITH: And Mr. Brotherson is available  
25 for cross.

0223

1 JUDGE MACE: Mr. Rogers, thank you.

2

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

4 BY MR. ROGERS:

5 Q. Good afternoon, Mr. Brotherson.

6 A. Mr. Rogers.

7 Q. We have met before, but for the record I am

8 Greg Rogers and I represent Level 3 in this matter.

9 Qwest brought this complaint seeking the  
10 prohibition of virtual NXX in Washington, the outright  
11 prohibition is one of the things that Qwest is seeking  
12 in this case, is it not?

13 A. Yes.

14 Q. And in your testimony you effectively say  
15 that the complaint was brought effectively at the  
16 invitation of the Washington Commission; is that fair to  
17 say?

18 A. That would be one characterization. Clearly  
19 we relied upon the Commission's decisions where they  
20 said they had not made a final resolution of some of the  
21 issues as the basis for bringing our complaint to seek  
22 answers and clarification.

23 Q. And specifically it said those things in the  
24 orders that it released in the Level 3 and Pac-West Core  
25 forbearance contract cases; is that your understanding?

0224

1           A.     Yes.  I'm not sure what the case caption was,  
2  but they were the Pac-West and Level 3 complaint cases.

3           Q.     Which had to do with seeking implementation  
4  or a change in law in their respective interconnection  
5  agreements; is that right?

6           A.     Yes, the Core -- well, the Core forbearance  
7  decision necessitated the parties entering into an  
8  amendment to incorporate new minutes that would be  
9  compensable, and as an outgrowth of that, the parties  
10 got into a dispute over whether the new minutes included  
11 VNXX minutes, yes.

12          Q.     And you testified in those cases, or was  
13 there any testimony provided in those particular cases?

14          A.     There was testimony, and I testified.  Or was  
15 it done on the briefs?  I apologize, we had a number of  
16 complaint cases with Level 3, but I can't remember in  
17 Washington if they were done on brief or on the record  
18 or there was testimony filed.  I would have to go back  
19 and look at the docket.

20          Q.     Okay, but you state in your testimony that  
21 you have testified numerous times on the issue of  
22 virtual NXX?

23          A.     I have.

24          Q.     In Qwest's region?

25          A.     I have.

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1 Q. That also includes testimony that you have  
2 filed in Washington in the past, correct?

3 A. I know it involved testimony that was filed  
4 in the arbitration with Level 3, and I would have to  
5 check the record to see if I also filed testimony in the  
6 Level 3 complaint case regarding Core forbearance, but  
7 I may well have, I'm not saying I didn't. I filed it,  
8 yes, I have filed it in numerous cases.

9 Q. You would agree that the issue and the debate  
10 about virtual NXX is not new to this Commission?

11 A. Correct.

12 Q. They have had a number of cases in addition  
13 to the cases that we have just talked about, the Core  
14 forbearance cases, that have been conducted here at the  
15 Commission on the issue of virtual NXX, you would agree  
16 with that?

17 A. I would agree that it was addressed in the  
18 Pac-West complaint, the Level 3 complaint, it was also  
19 an issue in the Level 3 arbitration, and also I believe  
20 came up at least tangentially in the AT&T arbitration.  
21 I think there was also a Century Tel case that Qwest was  
22 not involved in that touched on some of these issues as  
23 well.

24 Q. Are you also familiar with a docket that the  
25 Commission opened in 2003 to investigate virtual NXX

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1 where comments were received in a virtual NXX  
2 proceeding?

3 A. Not off the top of my head, I'm not familiar.

4 Q. You're not familiar with that investigation?

5 A. No. I may have filed testimony in it, I just  
6 don't recollect it right now.

7 Q. Okay. But in going back and preparing for  
8 this hearing, you weren't thinking of that proceeding  
9 that also addressed virtual NXX in the state of  
10 Washington in addition to the proceedings that you have  
11 just identified?

12 A. I don't have any immediate recollection of  
13 that proceeding right now, so I can't tell you that I  
14 relied upon it in my testimony, no.

15 Q. Now the other one that I think is worth  
16 mentioning where you and I got to know each other a  
17 little bit is the arbitration that preceded the current  
18 arbitration with Level 3 over an interconnection  
19 agreement. The issue, the sole issue in that  
20 arbitration was the assignment of costs between the  
21 parties for the cost of the facilities to carry  
22 ISP-bound traffic; would you agree with that, and do you  
23 remember that case?

24 A. I remember the case, I remember that was  
25 certainly the primary issue, I think we may have had a

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1 few others, but essentially it was a RUF relative use  
2 factor dispute over who would bear the cost of LIS  
3 trunking.

4 Q. Can you describe --

5 JUDGE MACE: And when you say LIS, that's  
6 L-I-S, is that --

7 THE WITNESS: That is L-I-S.

8 JUDGE MACE: And that stands for?

9 THE WITNESS: Local interconnection service.

10 JUDGE MACE: Thank you.

11 BY MR. ROGERS:

12 Q. So the local interconnection service trunks,  
13 the cost, who was to bear the cost of the trunks was  
14 really the key issue in that arbitration that we had in  
15 the 2003 time frame; is that accurate?

16 A. Yeah, I would say that was a key issue in  
17 that arbitration.

18 Q. And the principal argument was over the fact  
19 that the vast majority of the traffic that was being  
20 terminated by Level 3 was locally dialed ISP-bound  
21 traffic; you would agree with that?

22 A. Yes.

23 Q. So over the course of those years and all of  
24 those proceedings, the Washington Commission has come to  
25 its understanding of what virtual NXX is, correct? In

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1 fact, you present in your testimony that they have  
2 defined virtual NXX.

3 A. Yes, they have addressed it numerous times.

4 Q. And yet in your testimony you introduce your  
5 own definition of what virtual NXX is; is that because  
6 you disagree with the Washington Commission's  
7 definition, what they have defined in these cases  
8 previously?

9 A. I'm not sure I was inconsistent with them,  
10 could you refer me to my definition?

11 Q. Well, I think your definition, if it's not  
12 the first place it appears it's one of the places it  
13 appears, and it's at page 4 of your testimony, your  
14 direct testimony, at line 17, and it is at the end of  
15 that, I think it's -- maybe it's 18, sorry, it's at line  
16 17 at the end of that line beginning with, I define.

17 A. This is a summary that talks about what I do  
18 later in the testimony where I state, I then define VNXX  
19 and note that the Commission's and the FCC's use of the  
20 term is consistent with Qwest's definition of the term.  
21 I think the actual definition though is perhaps about  
22 page 6.

23 Q. Page 6 is the definition that you would  
24 prefer us to use, is that what you're saying?

25 A. I'm not sure, let me -- if that's where it's



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1 located, but let me find it.

2 MR. SMITH: Maybe I can help, try the bottom  
3 of 7.

4 A. Oh, the question is, what is VNXX traffic,  
5 yes, that would be the definition beginning it looks  
6 like on line 23.

7 Q. So this is the definition that you would  
8 prefer the parties to use as Qwest's chosen definition  
9 in this proceeding; is that right?

10 A. That's fine.

11 Q. But you would agree it's not the exact  
12 definition the Washington Commission has used and you  
13 have presented as the Washington's Commission's  
14 definition of virtual NXX?

15 A. I think where I used the Washington  
16 definition I put quotations around the portions that I  
17 took from the Washington Commission.

18 Q. One of the key differences that I note,  
19 perhaps you do too, is that the definition that you  
20 present is a definition that says:

21 Virtual NXX is an arrangement where a  
22 CLEC --

23 JUDGE MACE: Can you slow down a just a  
24 little bit, please.

25 MR. ROGERS: Yes.

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1 JUDGE MACE: Thank you.

2 BY MR. ROGERS:

3 Q. (Reading.)

4 Virtual NXX or VNXX is an arrangement  
5 where a CLEC assigns a telephone number.

6 Is that part of the Washington Commission's  
7 definition?

8 A. I don't recall if that was in their  
9 definition as well. It's not in any of the portions  
10 that I quote and perhaps was not.

11 Q. At page 9 of your testimony, your direct  
12 testimony, at the bottom of page 9, about line 16, you  
13 say that the FCC has also described virtual NXX; do you  
14 see where I'm at?

15 A. I have that.

16 Q. And so is it accurate to say that the FCC has  
17 also defined virtual NXX in addition to the Washington  
18 Commission having defined it in the past?

19 A. Yes.

20 Q. And nowhere in the definition that you've got  
21 in your testimony does it say that it is a CLEC that  
22 assigns telephone numbers, is it, there's nothing in the  
23 FCC's definition that specifies that it's a CLEC  
24 activity, correct?

25 A. Correct.

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1 Q. At that point in your testimony, you also  
2 have a footnote to when the FCC defined virtual NXX,  
3 Footnote Number 6, and it is a case at the FCC, the  
4 docket is In The Matter of Developing a Unified  
5 Intercarrier Compensation Regime, and the date that you  
6 have provided in that citation is April 27th of 2001; do  
7 you see that?

8 A. I do.

9 Q. And so the FCC has defined virtual NXX going  
10 all the way back to 2001, we can take that from your  
11 testimony, correct?

12 A. They were certainly aware of it back in 2001.

13 Q. Sufficiently aware to be able to define it?

14 A. Sufficiently aware to describe it in that  
15 order.

16 Q. In that docket, that's a docket that has been  
17 opened for a long time, you would agree, this docket  
18 that we have just mentioned in Footnote 6?

19 A. Seven years coming up.

20 Q. That docket followed the ISP Remand or the  
21 ISP --

22 A. Six years, excuse me.

23 Q. -- Intercarrier Compensation docket, correct?

24 A. Correct.

25 Could you repeat that?

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1 Q. The docket that we have just cited to, In The  
2 Matter of Developing a Unified Intercarrier Compensation  
3 Regime, followed the Intercarrier Compensation for  
4 ISP-Bound Traffic docket at the FCC, correct?

5 MR. SMITH: Are you saying it was later in  
6 date?

7 MR. ROGERS: Yes, later in time.

8 MR. SMITH: I think if you will check it out,  
9 you will find they were both issued the same day.

10 MR. ROGERS: Okay, so point well taken.

11 BY MR. ROGERS:

12 Q. That case has remained open while the ISP  
13 intercarrier compensation docket was litigated and  
14 ultimately came to a close, correct?

15 A. Correct.

16 MR. SMITH: I object to the characterization  
17 of the ISP docket having come to a close, because I  
18 think it's incorrect, it was remanded by the Worldcom  
19 decision, and no decision has been rendered.

20 MR. ROGERS: Well, so I guess we can debate  
21 that in briefs about where it stands and what it stands  
22 for.

23 JUDGE MACE: I would appreciate it if you  
24 would do that.

25 BY MR. ROGERS:

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1 Q. So I guess my question, Mr. Brotherson, is  
2 that it has culminated as it stands today in an order  
3 that the FCC released generally referred to as the ISP  
4 Remand Order; are you familiar with the ISP Remand  
5 Order?

6 A. I'm generally familiar with the ISP Remand  
7 Order. The first part of your question was, it has  
8 culminated in, and I'm not sure I understood the context  
9 in which you made that reference.

10 Q. You know, the context I guess is I'm trying  
11 to respond to the objection from your counsel, which was  
12 that the docket, and I will provide a docket number,  
13 which is FCC Docket Number 96-98, and it is In The  
14 Matter of Implementation of the Local Competition  
15 Provisions in the Telecommunications Act of 1996,  
16 Intercarrier Compensation for ISP-Bound Traffic, the  
17 state of that docket today is that there is an order,  
18 there's a final order from the FCC after a number of  
19 appeals and prior events in that docket that is  
20 generally known as the ISP Remand Order. Would you  
21 agree with all that; do you know what I'm referring to  
22 when I go through all that?

23 A. I do know what you're referring to, and I  
24 would say that in virtually all of our states, setting  
25 aside the VNXX disputes, parties are compensating each

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1 other based on that order. Beyond that, its status of  
2 remand and appeals and all of that, I would defer to my  
3 counsel. But I'm aware of the order, and I believe the  
4 parties are operating under the terms of that order,  
5 although we disagree on some of the terms.

6 Q. You would agree, however, that the issue of  
7 what compensation, terminating compensation, would be  
8 was argued over the course of that docket going back in  
9 time to 1998, 1999?

10 A. I don't know when that docket was opened.

11 Q. Okay. Are you familiar with ex partes that  
12 Qwest has filed in that docket when it was open and --

13 A. Are you talking now about the ISP Remand  
14 Order?

15 Q. Yes.

16 A. I know we filed, I'm not disputing or  
17 debating with you, I mean I know we filed comments, I  
18 just wasn't sure what the date was that the docket was  
19 opened.

20 Q. Okay.

21 A. But it's been open for some time, and it  
22 culminated in that decision, yes.

23 Q. Okay.

24 If I can have you turn to page 8 of your  
25 testimony.

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1 MR. SMITH: Mr. Rogers, I missed the page  
2 number.

3 MR. ROGERS: Page number 8.

4 MR. SMITH: Of the direct?

5 MR. ROGERS: Of your direct, correct.

6 BY MR. ROGERS:

7 Q. At line 9, and we're talking about, you know,  
8 what is virtual NXX traffic at this point in your  
9 testimony, at line 9 you state:

10 Indeed, the only thing remotely local  
11 about the calls is that the telephone  
12 number called makes them appear to be  
13 local.

14 Do you see where I am?

15 A. I have that, yes.

16 Q. And when you say the only thing remotely  
17 local, have you contemplated that they will be exchanged  
18 via local interconnection that is established with a  
19 local exchange co-carrier?

20 A. By virtue of the assigning of the VNXX,  
21 they're routed over a local interconnection service or a  
22 LIS trunk rather than an IXC trunk, yes.

23 Q. Which means that those are two local exchange  
24 carriers exchanging traffic on a local basis, correct?

25 A. Well, I would not agree that those were local

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1 calls, if that's your question. The traffic is going  
2 from one local exchange carrier to another local  
3 exchange carrier, if that is your question.

4 Q. Over local interconnection service trunks?

5 A. Over LIS trunks.

6 Q. Okay. There is no interexchange carrier in  
7 that call flow that we have just talked about where it's  
8 a locally dialed ISP-bound call between two LECs,  
9 there's no IXC in that call flow, correct?

10 A. Not under this dialing pattern, no.

11 Q. Now going to the ISP Remand Order, wasn't all  
12 this debated at length at the FCC about is it local, is  
13 it long distance, how shall we classify it, you would  
14 agree that that debate was carried on over a number of  
15 years in the ISP reciprocal compensation intercarrier  
16 compensation docket?

17 A. I don't believe so.

18 Q. You're disagreeing with that general  
19 characterization of how the issue of terminating  
20 compensation for ISP-bound traffic was conducted?

21 A. Well, when you talk about over all the years,  
22 there was -- this has gone through several phases. In  
23 the early rounds, there was the issue of first who has  
24 jurisdiction, is this a local call. And when you dial  
25 up your ISPs, and set aside VNXX, I think there was very



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1 little, if any, discussion of VNXX in the early dockets,  
2 but when you dial up the ISP and the call continues on  
3 out over the Internet, was that interstate in nature and  
4 therefore under the jurisdiction of the FCC, or was that  
5 simply a local call and therefore under the jurisdiction  
6 of the state commissions. There was what they called a  
7 one call-two call argument, was it one call to reach the  
8 ISP which was local in nature and a second call to go  
9 out over the Internet. There were a lot of issues over  
10 -- that were debated. Your characterization seemed to  
11 say that the VNXX issue was debated there, and I'm not  
12 sure I would agree that that issue was directly in front  
13 of them to the extent that the jurisdictional question  
14 was.

15 MR. ROGERS: Your Honor, if I may approach  
16 the witness, and then I will refer you, Mr. Brotherson,  
17 to what we have identified as our cross exhibit, well, I  
18 have to get that number, let me get this to you first,  
19 and then we'll find the right number.

20 JUDGE MACE: Is this something that you have  
21 already provided?

22 MR. ROGERS: Yes, Your Honor, we have.

23 JUDGE MACE: And what is this exactly, if you  
24 can identify it.

25 MR. ROGERS:

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1 Q. Mr. Brotherson, I have just handed you what  
2 is labeled as the comments of SBC Communications, Inc.  
3 in the intercarrier compensation for ISP-bound traffic  
4 docket, and it is date stamped as having been received  
5 at the Federal Communications Commission on July 21st of  
6 2000.

7 JUDGE MACE: Let's go off the record for a  
8 moment.

9 (Discussion off the record.)

10 JUDGE MACE: Mr. Brotherson, do you have that  
11 exhibit in front of you, 209?

12 THE WITNESS: Mine is not numbered, but I  
13 have --

14 JUDGE MACE: The comments of SBC --

15 THE WITNESS: I have the comments of SBC in  
16 front of me.

17 JUDGE MACE: Okay.

18 THE WITNESS: Or at least the excerpts of the  
19 comments.

20 JUDGE MACE: Go ahead.

21 BY MR. ROGERS:

22 Q. If I can have you turn to, and these are just  
23 excerpts as you said, page 43 of those comments, and the  
24 second paragraph on that page, if you can take a moment  
25 to read that.

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1 A. (Reading.)

2 I have read it.

3 Q. So you just testified that you didn't know  
4 whether the issues that are before the Commission in  
5 this case were ever raised in the ISP intercarrier  
6 compensation docket, correct?

7 A. Correct.

8 Q. And so having read this, would you want to  
9 change your answer?

10 A. It would appear that SBC filed comments  
11 addressing the assigning of NNX codes to switches  
12 nowhere near the customer or nowhere near the local  
13 calling area.

14 Q. And, in fact, they used the language, they  
15 say:

16 It has become routine practice for CLECs  
17 to assign NXX codes to switches that are  
18 nowhere near the calling area in which  
19 that NXX is associated.

20 So at least from SBC's perspective in 2000,  
21 it was routine practice to have virtual NXX  
22 arrangements; would you dispute that that's what this  
23 says?

24 MR. SMITH: Your Honor, I do object, I mean  
25 these are comments made by a company that is not Qwest,

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1 never has been Qwest, it is what it is, but to ask  
2 Mr. Brotherson to attempt to characterize these comments  
3 that aren't Qwest's and that he had no hand in preparing  
4 I think is improper cross.

5 JUDGE MACE: Mr. Rogers.

6 MR. ROGERS: Your Honor, my point is that  
7 this debate has been going on for years and years and  
8 years, and Mr. Brotherson can, as an expert for Qwest,  
9 can be expected to be familiar with the debate over the  
10 years, and this is simply one example of this debate  
11 having come up a number of years ago, and the question  
12 is, was he familiar with it.

13 JUDGE MACE: Right, and I think we get that.  
14 I'm not sure where you're heading with this.

15 MR. ROGERS: Well, simply that he denied that  
16 -- he did not know whether it was in fact raised, and so  
17 we're pointing out that it was in fact raised.

18 JUDGE MACE: I think you have accomplished  
19 that purpose. I mean I think this accomplishes the  
20 purpose.

21 MR. ROGERS: Okay, so I don't know what the  
22 objection is at this point.

23 MR. SMITH: Well, there was a question  
24 pending asking Mr. Brotherson I believe to characterize  
25 what he thought it meant, and I thought that was -- that

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1 was what I was objecting to given the fact that, number  
2 one, it was drafted by another company.

3 JUDGE MACE: If your point is that it was  
4 brought up in some way in the proceeding, I think you  
5 have accomplished that at this point.

6 MR. ROGERS: Okay, then I'm happy to move on  
7 at this point.

8 JUDGE MACE: Very well.

9 BY MR. ROGERS:

10 Q. So in addition to SBC filing comments in that  
11 docket, Qwest filed multiple comments and ex partes,  
12 correct?

13 A. That's correct.

14 Q. Would you agree that Qwest's fundamental  
15 argument was that Internet, dial-up Internet access  
16 services were interstate long distance calls, would you  
17 agree that that was one of the fundamental arguments  
18 that Qwest made?

19 A. Right, at that point in time, yes.

20 MR. SMITH: And if I could ask, what specific  
21 time period are you talking about, Mr. Rogers, in your  
22 question?

23 MR. ROGERS: Well, I guess that's -- I'm not  
24 talking about a specific time, I'm talking about the  
25 years of 1999 through 2001 I guess.

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1                   MR. SMITH: Prior to the ISP Remand Order, is  
2 that what --

3                   MR. ROGERS: Yes.

4 BY MR. ROGERS:

5           Q.     And the arguments that Qwest and other ILECs  
6 made at that time were also that the ISP is the cost  
7 causer in a locally dialed ISP-bound call, correct?

8           A.     Yes, I would say that would also have been  
9 some of the comments made, although I wasn't directly  
10 involved in preparing any of those comments, but I have  
11 reviewed those files over the years, and so that's  
12 probably a fair characterization, the cost causer issue  
13 was definitely discussed in those dockets.

14          Q.     If I can have you turn to page 11 of your  
15 direct testimony, at line 17, and I think my sense is  
16 that people have been talking in this docket about  
17 ISP-bound traffic in large part because of the statement  
18 that you make here at line 17, which says:

19                   By far the most common use of virtual  
20                   NXX is to provide what appears to be  
21                   local numbers to ISPs.

22          A.     Right.

23          Q.     You would agree that there are other services  
24 that have the same type of functionality as what you  
25 have defined to be virtual NXX and what the Washington

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1 Commission has defined to be virtual NXX, there are  
2 other services that can use that functionality, correct,  
3 besides ISP-bound services?

4 A. By functionality, are you saying that there  
5 are other uses of VNXX besides assigning numbers to  
6 ISPs?

7 Q. That is my question to you, are there others,  
8 other services out there that you're aware of?

9 A. It's certainly possible. I can't think of  
10 any just immediately at hand, but I would agree.

11 Q. FX doesn't spring to mind when you're  
12 thinking about others that provide --

13 A. No.

14 Q. -- similar functionality?

15 JUDGE MACE: And your answer to that is?

16 A. No, it doesn't spring to mind if you're  
17 asking me about VNXX, but I thought when I asked for the  
18 clarification I asked were there other uses of VNXX than  
19 for dial-up ISP, and I believe there could be other uses  
20 for VNXX besides dial-up ISP, but apparently that was  
21 not your question.

22 Q. The question is that if you take a general  
23 definition of virtual NXX as being a telephone number  
24 being assigned to an entity that is outside of the local  
25 calling area where that telephone number is associated

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1 with the rate center it's associated, can that  
2 arrangement apply to other services besides dial-up ISP  
3 services?

4 A. It could apply to 800 service, intraLATA  
5 toll, interLATA toll, interstate and intrastate toll, as  
6 well as FX, if we're talking about the functionality of  
7 going from one local calling area to another local  
8 calling area.

9 Q. Well, but that isn't exactly what I said, and  
10 so generally speaking I can agree with you, but I said  
11 you would assign a telephone number from the rate  
12 center, and perhaps I didn't say it clearly, but where a  
13 number, a call flow would be considered local between an  
14 originating telephone number from that rate center to  
15 that terminating telephone number even if the  
16 terminating telephone number party is not physically  
17 located in that rate center.

18 A. What you have just described could apply to  
19 an FX call.

20 Q. Would you agree that it could apply to a  
21 number of different kinds of voice over IP services that  
22 are offered in the marketplace today?

23 A. I'm not sure I could agree to that, perhaps  
24 if I could have an example.

25 Q. We earlier distributed a number of web pages



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1 that Qwest has on its web site, I don't know if you have  
2 a copy of that, but I think everybody else does, so we  
3 can get you a copy.

4           And if I can have you turn and -- excuse me,  
5 for the record let me identify the number of that, it's  
6 Exhibit 211. If I can have you turn to the page that is  
7 labeled at the top residential broadband voice/VoIP, and  
8 on the top right-hand corner says page 1 of 1 at that  
9 point.

10          A.     Approximately it looks like the third page  
11 in, is that the third page?

12          Q.     I think page 4 on my copy, are you there?

13          A.     I am.

14          Q.     Okay. Are you familiar with the Qwest  
15 OneFlex service?

16          A.     I am.

17          Q.     Are you aware that on Qwest's web site Qwest  
18 advertises virtual number capability with its OneFlex  
19 service?

20          A.     Correct.

21          Q.     And so when I asked you if there were other  
22 services that might be out there in the marketplace that  
23 have a virtual NXX capability where the telephone number  
24 that is used is not necessarily associated with a  
25 physical presence in the rate center that that telephone

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1 number represents, you didn't think to mention the  
2 virtual number capability of OneFlex that Qwest offers?

3 A. I wouldn't agree that OneFlex is not  
4 physically associated with the local calling area to  
5 which the telephone number is associated.

6 Q. What is it, maybe the best thing I guess to  
7 ask at this point is what you understand virtual  
8 numbering to be that Qwest is advertising on its web  
9 site?

10 A. The Qwest OneFlex is an Internet product or  
11 an IP product where a call is delivered to the customer  
12 -- let me back up. An Internet provider is not or an  
13 Internet phone is not able to obtain telephone numbers  
14 directly. In order to have a telephone number for an IP  
15 phone, you have to get it from a public telephone  
16 company, be that a CLEC, an ILEC, an independent  
17 telephone company, someone who has been assigned  
18 telephone numbers under the LERG. They then can give  
19 those telephone numbers out to their end user customers.

20 The end user customer who obtains those  
21 telephone numbers and who purchases the connection to  
22 the public switched telephone network is the IP  
23 provider, be it Vonage or Skype or whoever it is that  
24 buys a connection to the public telephone network and  
25 obtains the numbers from a telephone company for their

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1 use. Then they can assign those numbers on the  
2 Internet, they can associate those telephone numbers  
3 with IP addresses so that calls will route to an IP  
4 address.

5 But the call, it's like say a law firm or a  
6 business that has a PBX and gets a block of numbers,  
7 they can assign it to this person in the office, and if  
8 that person leaves maybe someone else in the office gets  
9 the number, but the customer who obtains telephone  
10 numbers is the person that buys the connection to the  
11 public telephone network, the IP provider, in this case  
12 it would be the Qwest OneFlex provider.

13 Q. I'm at this point kicking myself for asking  
14 an open-ended question, and I will try not to do that  
15 again, but --

16 MR. SMITH: Could I interject, I don't  
17 believe Mr. Brotherson -- were you finished answering  
18 the open-ended question?

19 MR. ROGERS: Well, I think at this point I'm  
20 interrupting because I think he is no longer answering  
21 the question, even though it was a relatively open-ended  
22 question.

23 JUDGE MACE: Well, let's go on to the next  
24 question.

25 BY MR. ROGERS:

0248

1 Q. You have not answered, the question was,  
2 isn't Qwest providing numbers that are being dolled out  
3 to people with a voice over IP service in a  
4 non-geographic manner?

5 A. And my answer was no.

6 Q. And so let's just stop there if we may. If I  
7 can turn you to further in that same document that we  
8 have marked as 211, there's a page that says virtual  
9 number in the top left corner, in the top right corner  
10 is page 4 of 4.

11 A. I have it.

12 Q. Okay, you're there with me?

13 A. I am.

14 Q. This to me describes a service where if  
15 you're in Omaha, Nebraska, you can get a Denver  
16 telephone number, and you as an end user of the Qwest  
17 OneFlex VoIP service can call your friends and family in  
18 Denver or receive calls from your friends and family in  
19 Denver on a local basis. Would you agree that that's  
20 what this effectively describes, that is the example  
21 that Qwest provides in this page, this paragraph on its  
22 web site?

23 A. It's a characterization of the paragraph, but  
24 yes, I would agree that that's a close characterization.

25 Q. Okay, thank you. If I can --

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1                   JUDGE MACE: Mr. Rogers, I would like to take  
2 a recess now for 15 minutes, and we'll come back at  
3 quarter after 3:00.

4                   (Recess taken.)

5                   JUDGE MACE: Mr. Rogers, go ahead.

6                   MR. ROGERS: Thank you, Your Honor.

7 BY MR. ROGERS:

8           Q.     Mr. Brotherson, I had asked you to turn to  
9 page 13 of your direct testimony just before we broke,  
10 can you do that?

11          A.     I certainly can.

12          Q.     At least I think I did, I could be wrong, but  
13 that's where I would like you to be, page 13 at line 3.

14 You state:

15                   As telecommunications has evolved, there  
16                   are two basic types of calls from an end  
17                   user's perspective, local calls and long  
18                   distance calls.

19                   Do you see that?

20          A.     I do.

21          Q.     Now to me that doesn't sound like evolution,  
22 that sounds like the way it's always been from the very  
23 beginning of a telecommunications system, there have  
24 been local calls and there have been long distance  
25 calls. I'm not sure I understand the evolution that

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1 you're referring to.

2 A. Poetic license perhaps, I may have not worded  
3 that as artfully as I could. I think maybe another way  
4 to state it is from an end user's perspective, there are  
5 two basic types of calls.

6 Q. You would agree though I assume that there is  
7 in fact an evolution occurring now with the transition  
8 into IP communications, would you agree that we're kind  
9 of in the midst of that in the telecommunications  
10 industry today?

11 A. From an end user's perspective or from an  
12 industry?

13 Q. Let's say an end user's perspective.

14 A. I think end users still think in terms of  
15 local and long distance.

16 Q. So would you say that from an industry  
17 perspective that is occurring then, there is a  
18 transition in evolution occurring?

19 A. I think that we mentioned the earlier FCC  
20 docket on intercarrier compensation, the FCC is starting  
21 to tackle with the fact that the compensation structure  
22 is set up to address local and long distance calls as  
23 the two categories. I don't think it's evolved anywhere  
24 yet, it's been laying open a long time and they have not  
25 moved off of that structure.

0251

1                   MR. ROGERS: Your Honor, I have an exhibit  
2 that I would like to distribute and approach  
3 Mr. Brotherson with, and it is Exhibit Number 38, the  
4 presentation of John Richardson.

5 BY MR. ROGERS:

6           Q.     Mr. Brotherson, if you could turn I think  
7 it's to page 3 of that document, let me be certain. I  
8 would like you to look if you could at the page that  
9 says, Qwest is structured to capitalize on the industry  
10 shift to data/IP. Are you on that page?

11          A.     I have it.

12          Q.     Okay. And so this to me is a slide, let me  
13 go back and identify what it is, this is a presentation  
14 as I understand it that was given by John Richardson,  
15 who is Senior Vice President at Qwest, at the Raymond  
16 James Investors Conference on March 6th of this year,  
17 and in his presentation he speaks about the shift in the  
18 industry or the transition or the evolution that I was  
19 inquiring about earlier. Would you agree that that's  
20 what this slide appears to be addressing?

21          A.     Well, I mean I think the slide speaks for  
22 itself. I don't know if it's addressing what you're  
23 talking about in evolution, but it talks about an  
24 industry shift to data and IP, expansion of key business  
25 data products.

0252

1 Q. Well, and so the first bullet under the  
2 future says, continue to optimize voice business while  
3 evolving into a leading data/IP services company, right?

4 A. Right.

5 Q. So as I look at this, it's a presentation to  
6 the financial public, investing public, that says Qwest  
7 is trying to evolve to the next step in the  
8 telecommunications industry, which is data/IP services.

9 A. Well, when Qwest, what we tend to refer to  
10 internally as classic Qwest, merged with the old U.S.  
11 West telephone company, you had then the merger of a  
12 company that was a fiber-optic Internet provider focused  
13 company with a traditional local exchange telephone  
14 company, and I think Qwest is continuing to try and  
15 leverage its fiber-optic Internet backbone, worldwide  
16 Internet backbone network.

17 Q. Well, but it's also trying to leverage its  
18 incumbent network, is it not; isn't that what this also  
19 says, continue to optimize voice business?

20 A. Well, we want to continue to grow our voice  
21 business as well, yes.

22 Q. And optimize your ILEC network to the extent  
23 that you can; would you agree with that?

24 A. Optimize our ILEC, absolutely, we want to  
25 utilize our local telephone network to its most



0253

1 efficient uses.

2 Q. But you have just said that Qwest is out  
3 there competing in the marketplace and that you would  
4 agree it sounds to me that it's undergoing a transition  
5 to IP communications, and Qwest is embracing that and  
6 competing in that marketplace; is that accurate?

7 A. Yes, we sign up for example business  
8 customers with IP phones, and they make -- they use the  
9 Internet to make calls.

10 Q. Would you agree that the transition from a  
11 dial-up Internet service to a broadband Internet  
12 connection is representative of this evolutionary shift  
13 that we're seeing today?

14 A. Well, it would certainly be one of our goals  
15 to sell more broadband to our customers.

16 Q. Would you agree that whether it be broadband  
17 or dial-up Internet, the Internet represents a shift in  
18 and of itself in the communications industry as to how  
19 information is shared with end users through the  
20 Internet?

21 MR. SMITH: Your Honor, may I just interpose  
22 a sort of a general objection, I don't -- I'm not real  
23 clear what portion of Mr. Brotherson's testimony or  
24 Qwest's positions in this case as articulated by the  
25 witness that this line of questioning is really going

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1 to.

2 MR. ROGERS: This goes to the Internet and  
3 how it's changed the interconnection relationships  
4 between parties and the industry in general.

5 MR. SMITH: Well, I just -- I mean I don't  
6 know that Qwest has denied that proposition, and I'm not  
7 quite sure what I see that that general issue has to do  
8 with the whole proposition of whether VNXX is a good or  
9 a bad thing or is lawful or illegal.

10 JUDGE MACE: Mr. Rogers.

11 MR. ROGERS: Well, if I may be allowed to  
12 continue, I think if it's a simple question, then it  
13 should be a pretty simple answer, and I can move on to  
14 where I'm going with it. But fundamentally if  
15 Mr. Brotherson can agree that the Internet represents a  
16 major shift in the industry in how people communicate,  
17 then we can move on.

18 JUDGE MACE: So, Mr. Brotherson, can you  
19 agree with that proposition?

20 A. Well, it's a pretty general proposition. I  
21 know I communicate all the time now, unbelievably so,  
22 with my E-mail and all of the documents and spreadsheets  
23 that are attached, and we're obviously on broadband, and  
24 the people that are sending me these documents are on  
25 broadband, and this stuff is flowing back and forth in

0255

1 IP protocol. I mean the Internet is growing, and the  
2 use of the Internet is growing, and the access to  
3 information on the Internet is growing. I would agree  
4 to all of those aspects. I don't see the way that local  
5 phone companies providing local telephone service in the  
6 manner in which they interconnect has changed, however.

7 BY MR. ROGERS:

8 Q. So if I can turn your attention to page 14 of  
9 your direct testimony, you provide a citation at line 4  
10 to Washington Administrative Code 480-120-265(2).

11 JUDGE MACE: If you can wait until we get  
12 there.

13 Mr. Brotherson, do you have that page?

14 THE WITNESS: I do.

15 JUDGE MACE: Sorry.

16 THE WITNESS: It was just one page over for  
17 me, but thank you, Your Honor.

18 BY MR. ROGERS:

19 Q. Now you just testified that you don't  
20 understand how the Internet might change the  
21 relationship between local exchange carriers and how  
22 they exchange traffic, yet you have provided this cite  
23 that says the -- and you state just above this site:

24 The Commission must approve that process  
25 based on a variety of factors, the

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1           central factor being community of  
2           interest concerns.

3           Correct?

4           A.     The local calling area, how to define local  
5 calling area boundaries?

6           Q.     Yes.

7           A.     I would say yes, the community of interest  
8 would be a primary factor.

9           Q.     Would you agree that the Internet changes the  
10 analysis of what a community of interest is, that the  
11 community of interest is no longer readily defined by a  
12 local calling area because of Internet calling; would  
13 you agree with that?

14          A.     I'm afraid I don't follow you.

15          Q.     Well, so you have said that --

16          A.     My community --

17          Q.     -- the Internet --

18          A.     I'm sorry.

19          Q.     You said that the Internet does nothing to  
20 change the relationship between local exchange carriers  
21 in exchanging local traffic.

22          A.     Local telephone traffic, yes.

23          Q.     So my question is, does dial-up ISP and  
24 communications on the Internet change that community of  
25 interest analysis that goes into determining what is an

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1 appropriate local calling area?

2 A. To the extent that you dial up and surf on  
3 the Net, does that change a community of interest to  
4 something more worldwide, I don't think so, not in terms  
5 of the use of my local telephone. Certainly when I'm on  
6 broadband on the Internet and surfing the Internet, I am  
7 going all over the country or the world, but I don't  
8 notice my -- I mean I watch 24 hour news now, and I  
9 guess in some sense I'm watching stuff all over the  
10 world, but my community of interest in terms of my local  
11 calling area is at least today Denver. Commissions  
12 could take different directions and go a different way,  
13 they could have LATAwide local calling some day. I'm  
14 not sure that we're there yet.

15 Q. If you were on a dial-up connection, that  
16 would all hold true as well, correct, it just might be a  
17 little slower, your communication on the Internet?

18 A. Yes, I can surf on a dial-up as well.

19 Q. And, in fact, the FCC in its ISP Remand Order  
20 recognized this concept that when somebody places a  
21 dial-up call through their local exchange carrier,  
22 they're communicating out on the worldwide web with end  
23 users who really don't have any identifiable place, but  
24 it is in fact a communication that's occurring through a  
25 locally dialed call, correct?

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1           A.     I'm not disagreeing with you, I don't recall  
2     the FCC making that statement, but it could very well be  
3     in one of their orders, it sounds very -- it sounds like  
4     something the FCC would have said, particularly when  
5     they were looking at the jurisdictional issue of whether  
6     or not this was something that was beyond a local call  
7     and something that they could assert jurisdiction over.

8           MR. ROGERS: Your Honor, if I may approach,  
9     I'm going to hand the witness a copy of the ISP Remand  
10    Order, which we have I guess identified in  
11    Mr. Williamson's cross-exhibits as Exhibit Number 208.  
12    BY MR. ROGERS:

13          Q.     And, Mr. Brotherson, if I can have you turn  
14    to paragraph 59 in that order. Do you see the sentence  
15    that says:

16                   Consumers would be perplexed to learn  
17                   regulators believe they are  
18                   communicating with ISP modems rather  
19                   than the buddies on their E-mail lists.  
20                   And then on beyond that.

21          A.     I see that, yes.

22          Q.     And so at that point in this order, do you  
23    think that's consistent with what I just said is that  
24    through a dial-up local call, you have the opportunity  
25    to communicate with people and end users on the Internet

0259

1 that really have no readily available ability to define  
2 a physical location of the other person that you're  
3 communicating with?

4 A. On the Internet I think that would be a true  
5 statement, not on the public telephone network.

6 Q. You would agree that dial-up Internet  
7 services have peaked, the number of minutes that are  
8 exchanged or originated has peaked and is now in  
9 decline, you would agree that that generally is true of  
10 the dial-up Internet access business today?

11 A. I would say yes, we have seen a dropoff from  
12 perhaps three or four years ago. There are still  
13 significant minutes, in the billions, but yes, it is  
14 less than it was say three years ago.

15 Q. Would you say you think generally about three  
16 years ago was when traffic probably peaked in a dial-up  
17 access format?

18 A. I would be guessing three years, four years  
19 ago, I'm not sure when the peak was, but we saw it  
20 ramping up as more and more people got involved in the  
21 Internet and their first choice or their first venture  
22 was in dial-up, but now people are moving to broadband  
23 or to cable telephone service or broadband service  
24 rather, and so the dial-up business is giving way to  
25 faster broadband service.

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1 Q. And we have already talked about the fact  
2 that the ISP Remand Order was released in 2001, and much  
3 debate occurred about the proper reciprocal compensation  
4 rate for ISP-bound traffic before 2001, correct?

5 A. The rate?

6 Q. The rate and the debate about the proper rate  
7 preceded 2001, went back to I think we said earlier  
8 about 1999 at the very latest?

9 A. The docket was opened, the debate was over  
10 the arbitrage situation, I don't -- yeah, the rate in  
11 the sense of should it be entitled recip comp or not  
12 would be in essence a rate debate, and the FCC in a  
13 sense came out with a number rather than an all or  
14 nothing, and so it was rate in that sense, yes.

15 Q. Okay.

16 If I can have you turn to page 17 of your  
17 direct testimony at line 8. Are you there,  
18 Mr. Brotherson?

19 A. I am.

20 Q. You state at the end of line 8 going into  
21 line 9:

22 The long-term implications of allowing  
23 virtual NXX are significant.

24 And so in light of the fact that dial-up  
25 Internet traffic is on the decline, and you testified



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1 earlier that dial-up Internet traffic is the bulk of  
2 virtual NXX, what could possibly be the long-term threat  
3 that you're identifying here?

4 A. Well, I would say that by permitting calls  
5 between exchanges to be designated as local and  
6 therefore exempting them from what otherwise would be a  
7 compensation mechanism applicable to interexchange  
8 traffic, whether it's dial-up Internet traffic or it is  
9 voice traffic or it is some use that we haven't thought  
10 of, it is nevertheless -- it is doing away with  
11 traditional local boundaries, local calling boundaries,  
12 and the various mechanisms used for compensation  
13 associated with those boundaries. So the consequences  
14 are important if you ignore local calling areas, whether  
15 ISP minutes taper off or not.

16 Q. But at the very outset of your  
17 cross-examination we established that we have been  
18 exchanging this traffic and we have been debating this  
19 issue for a number of years already, and now the traffic  
20 that's at issue is in decline, why should we believe  
21 that there's now a new threat that somehow we need to  
22 develop a new regulatory rule to address?

23 A. Well, I'm not sure you need a new regulatory  
24 rule, you need to address what is the regulatory rule  
25 specifically, are these local calls or not, and I'm not

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1 sure that's asking for necessarily a new regulatory  
2 rule, but --

3 Q. Well, the Century Tel decision in Washington,  
4 for example, adopted Level 3's proposed language on the  
5 issue of virtual NXX, and in that interconnection  
6 agreement would have been allowed to terminate ISP-bound  
7 calls via local interconnection and receive terminating  
8 compensation for virtual NXX calls. You would agree  
9 that that is a fundamental part of that order from the  
10 Washington Commission?

11 A. That was the decision in Century, I think  
12 some of the underlying rationale for the decision has  
13 been challenged.

14 Q. It may have been challenged, but nothing has  
15 changed in Washington from that point forward, has it?

16 MR. SMITH: I do object, I mean he and I can  
17 get in an argument, but there was a recent federal  
18 district court case that just came down that I would  
19 consider to be a fairly significant change in the state  
20 of Washington.

21 MR. ROGERS: Well, again, I think we can  
22 debate about what the final decision is, and so that is  
23 now remanded back and has not yet taken effect in any  
24 fashion, so.

25 MR. SMITH: Well, but you're asking the

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1 witness, has something significant changed legally.  
2 He's not here purporting to be an attorney, and the fact  
3 of the matter is there was a significant decision  
4 recently, and it's heated, at addressing the scope of  
5 the ISP Remand Order. So I object to the question  
6 because the premise of it is just simply not true.

7 JUDGE MACE: My concern is that a lot of this  
8 really does hinge on interpretations of orders, and they  
9 speak for themselves. I'm not sure how much farther  
10 forward you're going to be getting if you try to do that  
11 on the record. That's what briefs are for in my  
12 estimation.

13 MR. ROGERS: Okay, I understand, Your Honor.

14 BY MR. ROGERS:

15 Q. Just a quick point, Mr. Brotherson, you are a  
16 lawyer, right?

17 A. By degree, yes.

18 Q. All right, thank you.

19 A. I am not an attorney for Qwest Corporation.

20 Q. So is it Qwest's position that they're not  
21 advocating for a new direction in this case for the  
22 Washington Commission?

23 A. Well, we believe that the direction -- we  
24 believe that it's an enforcement of the existing rules  
25 and the existing orders. That may not be consistent

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1 with the Century Tel decision, so you may view that as a  
2 change of direction. But clearly we believe VNXX is not  
3 local, and other parties do, and, you know, which one of  
4 us thinks they're on the status quo position versus  
5 advocating a change is maybe something for the lawyers  
6 to address.

7 Q. Well, but we started off our  
8 cross-examination talking about why Qwest brought this  
9 complaint in the first place.

10 A. Yes.

11 Q. And if Qwest didn't think that a change was  
12 necessary, why would it have brought the complaint?

13 A. You know, again, I will defer to the lawyers  
14 to a certain extent, but I think what the Washington  
15 Commission said is, we have not yet addressed the  
16 question of VNXX, and it was an invitation to address  
17 it. I don't think they said we want to change it so  
18 much as we're going to address it. But that's  
19 semantics, I'm not trying to get into a debate, but just  
20 that's why the action was brought, to address it.

21 Q. If I can turn your attention to page 23 of  
22 your direct testimony, and at the very top there you've  
23 got a question that says, the VNXX definition -- I'm  
24 sorry, I'm carrying over from the other page, but we  
25 need not look at the question or read it into the

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1 record, the first sentence in your answer says:

2           In regard to defining VNXX traffic, ISP  
3           traffic should be treated no differently  
4           than voice traffic.

5           The question is, isn't that a complete  
6 reversal from what Qwest was arguing before the FCC in  
7 1999 and 2000 during the ISP reciprocal compensation  
8 case, that ISP-bound traffic was unique because it's  
9 inherently interstate, and therefore they should not be  
10 paying reciprocal compensation rates was the fundamental  
11 argument that we talked about earlier today that Qwest  
12 was advocating before the FCC?

13         A.     That was what Qwest was advocating.  However,  
14 this sentence doesn't relate to that advocacy.  This  
15 says when you're looking at VNXX, who you're calling  
16 should not be an issue, whether it's a voice call or a  
17 dial-up ISP call, the VNXX issue is, is it within the  
18 local calling area or is it interexchange.  And it was  
19 my testimony in this sentence and in this question was  
20 to say it really does not change whether I'm dialing up  
21 an ISP or I'm dialing up the Sears and Roebucks store on  
22 a VNXX number.

23         Q.     But wasn't it the unique nature and  
24 characteristics of ISP-bound traffic that the ILECs were  
25 complaining about in trying to argue that there was an

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1 arbitrage occurring that needed to be corrected by the  
2 FCC and that reciprocal compensation that the states had  
3 ordered was inappropriate?

4 A. There was an advocacy that said that the  
5 one-way long holding time dial-up ISP business did not  
6 accurately reflect the reciprocal comp rates established  
7 based on two-way shorter hold time voice type  
8 conversations, that this did result in an arbitrage, and  
9 in fact the FCC came out with a lower rate in part based  
10 on that advocacy and was stepping it down through some  
11 timetable set out in that order. That is a different  
12 concept than the point I was making in this Q&A.

13 Q. Well, but if I understood you correctly, what  
14 you're saying in this Q&A is there's nothing unique  
15 about ISP-bound traffic, and you just said in fact there  
16 is, there's a great deal that's unique about it, that  
17 you argued previously it should mean a different rate  
18 structure.

19 A. What I'm saying in this sentence is for  
20 purposes of VNXX, when you place a call using a VNXX  
21 number, there is nothing unique whether it goes to an  
22 ISP or a voice or a grocery store or a hardware store,  
23 it is either local or interexchange in terms of the VNXX  
24 numbering issue. I think that's a different, well,  
25 that's different than I believe what the advocacy before

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1 the FCC on the arbitrage issues of dial-up ISP were.

2 Q. Moving along in your testimony, if I could  
3 have you turn to page 38, please. In the middle of that  
4 page you have a comparison of VNXX service versus Qwest  
5 FX service, correct?

6 A. Correct.

7 Q. And in the left-hand column, you have  
8 identified costs that you indicate are associated with a  
9 VNXX service, and then in the right-hand column under  
10 the heading Qwest FX service you have identified a  
11 different set of costs; is that accurate?

12 A. That's accurate.

13 Q. But in looking at the right-hand column under  
14 Qwest FX service, you're not talking about costs that  
15 are incurred by carriers, each box in that diagram says  
16 the FX customer buys something. That to me isn't  
17 identifying a cost, what you're identifying there is a  
18 revenue that Qwest gets.

19 MR. SMITH: Is there a question?

20 Q. Is that accurate, would you agree with that,  
21 that if we're talking about Qwest customers buy, that's  
22 really a revenue to Qwest, is it not?

23 A. I suppose you could cast this in terms of  
24 revenue, local origination revenue on the right-hand  
25 side, local origination revenue on the left-hand side,

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1 transportation revenues on the right, transportation  
2 revenues on the left, termination revenues on the right,  
3 and termination revenues on the left would work in that  
4 scenario.

5 Q. And so effectively what you're advocating  
6 here is that the left-hand column should be more like  
7 the right-hand column where CLECs become customers of  
8 Qwest and they buy service from Qwest in the same way  
9 that an FX customer would buy service from Qwest; is  
10 that right?

11 A. No, I was not advocating that they buy FX  
12 service. The comparison was to show when the CLEC said  
13 that the VNXX is just like FX, I pointed out the  
14 difference between FX and VNXX.

15 Q. Now you were here in the room while Mr. Best  
16 cross-examined Mr. Linse, correct?

17 A. I was.

18 Q. And they went through quite a bit of back and  
19 forth about what is it that Qwest would have CLECs do to  
20 satisfy your test in offering a virtual NXX service; do  
21 you remember that back and forth that they had?

22 A. In offering an FX service you mean?

23 Q. Well, I think it was a virtual NXX scenario.  
24 The question as I understood it was what would be  
25 allowed, how could we accomplish to Qwest's satisfaction



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1 a virtual NXX service was effectively the line of  
2 questioning. Did you understand it differently?

3 A. I thought he was asking how would a CLEC like  
4 ELI offer an FX service, but maybe this is semantics.

5 Q. Well, I think fundamentally he was asking,  
6 you know, how can we qualify so that you are complaining  
7 about CLEC services.

8 A. All right.

9 Q. And in your testimony it appears that you  
10 have provided us with that answer, which is as long as  
11 you just buy, become a customer of ours, then that will  
12 satisfy our complaint. Would you agree that that's  
13 effectively what Qwest is advocating in this case?

14 A. No, I would not agree that was the advocacy.  
15 The advocacy was to lay out the differences between VNXX  
16 and FX in the example. Now if your question is if we  
17 bought FX, would that comply with the numbering  
18 guidelines, the answer is it would, but I would suspect  
19 that CLECs would rather offer the service themselves  
20 than resell a Qwest service.

21 Q. And I think then we got to the point where  
22 Mr. Best and Mr. Linse just couldn't come to a common  
23 understanding, which was how do you do that, what is it  
24 that we would have to do to satisfy Qwest. And my  
25 understanding of their back and forth was effectively

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1 you would need to buy private line or PRI services from  
2 us. Was that your understanding of that exchange as  
3 well?

4 A. I would say that was not the only way to do  
5 it, but I believe that when asked if that would, if  
6 buying those services would comply, I believe Mr. Linse  
7 said yes.

8 Q. Okay.

9 A. I think they talked about switching, using  
10 switching equipment, they talked about some other  
11 alternatives.

12 Q. Mr. Brotherson, I want to let you know I'm  
13 going to have a bit of a change in direction, I'm going  
14 to draw your attention to your response testimony  
15 generally speaking at this point. Can you give me your  
16 understanding or definition or description of local  
17 number portability?

18 A. You know, in layman's terms it's the ability  
19 of an end user to keep their telephone number as they  
20 move from one local telephone service provider to  
21 another. The number is ported to the next telephone  
22 company's switch.

23 Q. You would agree that that is a -- it's a  
24 fundamental tenet of a competitive marketplace that end  
25 users be allowed to choose their provider and keep their

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1 telephone number; would you agree with that?

2 A. Yeah, I'm not sure what fundamental tenet is,  
3 but it's certainly very important to customers,  
4 particularly business customers, to keep numbers that  
5 they have had for a very long time.

6 Q. It would be a disincentive to change carriers  
7 if you couldn't keep your telephone number?

8 A. Absolutely, it's important to customers to  
9 keep those numbers if they change.

10 Q. Is it accurate that subsequent to the  
11 implementation of LNP that carriers for billing purposes  
12 can no longer rely on a called party's number to  
13 determine the local exchange provider that provides  
14 service to a given end user?

15 A. Yes, you would have to do a lookup and say,  
16 all right, for this given telephone number, who is now  
17 providing them with local service.

18 Q. And how do they do that, what is the routing  
19 functionality or the term?

20 A. Well, there's an LRN or local routing number,  
21 and we're venturing into Mr. Linse's field now, but it  
22 is a database essentially that if Level 3 signs up a  
23 customer that previously was an ELI customer, they will  
24 update the database to say this is now a Level 3  
25 customer, and if you want to complete a call to this

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1 customer, you now need to send it to the Level 3 switch,  
2 no longer send it to the ELI switch, because the  
3 customer is our customer, the Level 3 customer, and is  
4 connected to the Level 3 switch.

5 Q. After LNP, LNP local number portability, is  
6 implemented, is it necessary to do an LRN lookup on all  
7 calls, or is it only done if you actually know the  
8 number has been ported; can you describe how that works?

9 A. You're testing me now. There are certain NNX  
10 codes that are marked as not available for porting, and  
11 so if you knew what those NNX codes are, you would not  
12 have to do any lookups on those. But virtually 99% of  
13 NNX codes are identified as portable. Once they have  
14 been identified as a portable number, yes, you have to  
15 look up virtually every number to make sure you know who  
16 that customer is currently purchasing their service  
17 from.

18 Q. In your testimony, in your response  
19 testimony, you state that you believe that Broadwing has  
20 included transit traffic in its calculations of the  
21 three to one traffic exchange ratio that was in its  
22 interconnection agreement.

23 MR. SMITH: Could you give us a page number  
24 here.

25 A. Yeah.

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1 Q. Yeah, just a minute here.

2 A. I apologize, I had flipped to my rebuttal, I  
3 though we were --

4 Q. No, the response testimony, so it's about the  
5 Broadwing billing dispute.

6 A. All right. And the page was what?

7 Q. Well, I'm looking for the page, I had asked a  
8 general question about debating whether or saying that  
9 it's possible that transit traffic was included in the  
10 traffic that's counted in the three to one ratio. Do  
11 you recall that you make that general -- here we go,  
12 page 8 of your response testimony at line 14, you state:

13 Qwest suspects that the issue here  
14 relates to the misbilling of Qwest of  
15 transit traffic.

16 And so in this general area you're talking  
17 about the inclusion of transit traffic.

18 A. The line number was what?

19 Q. Line number 14.

20 A. All right, I've got it, Qwest suspects the  
21 issue here, yes.

22 Q. And so when you say you suspect or you  
23 believe, is that based on actual evidence, or are you  
24 just guessing?

25 A. The numbers that -- it's based on the

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1 evidence that Qwest has of the minutes it sent to  
2 Broadwing, which do not match the minutes that Broadwing  
3 billed Qwest. Now this is tied back to the three to one  
4 issue, which is a kind of a separate but related issue  
5 that says for determining how many minutes to bill Qwest  
6 at the voice rate versus how many minutes to bill Qwest  
7 at the ISP rate, there's a three to one formula. And if  
8 you improperly include local calls to Broadwing that  
9 were not Qwest originated, then you will increase by a  
10 factor of three the minutes that Broadwing bills back to  
11 Qwest since using the three to one ratio they would look  
12 at the Qwest minutes to Broadwing, multiply that by  
13 three, bill that back to Qwest at the voice rate and the  
14 balance to be billed at the ISP rate. So I was just  
15 pointing out there's a magnifying effect that we thought  
16 based upon the data that we have in our system could  
17 explain the reason Broadwing's numbers did not match the  
18 Qwest numbers.

19 Q. So I'm not sure I follow how that relates to  
20 whether transit traffic is included in that calculation  
21 that you just went through or not or how Qwest knows  
22 whether it's included or not?

23 A. Well, Qwest knows the calls that Qwest  
24 delivered to Broadwing. Qwest also knows that Broadwing  
25 buys from Qwest the capability, as do other CLECs, to

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1 reach each other. So an ELI customer can reach a  
2 Broadwing customer, and unless they have a direct  
3 connection between their two switches, they often look  
4 to Qwest to deliver the call from the ELI customer to  
5 the Broadwing customer end user.

6 Q. But so my question --

7 A. And that would be a transit call.

8 Q. Right. So my question is, you said they  
9 often look to Qwest and bill Qwest for that traffic, how  
10 do you know if they're looking to Qwest and billing  
11 Qwest or whether they're billing the other CLEC on the  
12 other side of the transit service?

13 A. The minutes that they billed Qwest exceed the  
14 minutes that Qwest records show were delivered to  
15 Broadwing from Qwest, and we know we delivered other  
16 minutes to Broadwing that were not Qwest minutes, and we  
17 assumed then that the reason for the discrepancy was the  
18 additional minutes.

19 Q. And did you or is it possible to produce a  
20 record or a written report that shows this is the amount  
21 of transit traffic that we have identified in our  
22 systems?

23 A. That's possible, yes.

24 Q. Has that been done to your knowledge?

25 A. You can purchase transitting records, and I

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1 believe starting at about 2005 or 6 Broadwing started  
2 purchasing those records from Qwest. I don't believe  
3 they purchased any such records prior to that.

4 Q. So as it relates to our discussion about the  
5 LRN, does your system, I think it's the CROSS7,  
6 C-R-O-S-S-7, System, does it capture the LRN of the  
7 called party in a call flow?

8 A. Well, it captures the calling number and  
9 called number. I think you've got to go through a  
10 second step to then take the calling number and identify  
11 who the service provider, who the telephone company is  
12 that is providing service to that calling number at that  
13 point in time.

14 Q. And does your CROSS7 System do that?

15 A. I don't -- I think you have to go through a  
16 second step, but the transit records will do that and  
17 provide that information. I don't think the data on the  
18 VSS7 screen, just identifies say my home telephone  
19 number is the number that called you, it won't tell you  
20 until you go through the second step who is providing  
21 local service associated with my home telephone number.  
22 But once you go through those two steps, you can then  
23 create a record that says this call was originated by  
24 Larry Brotherson, he buys his lower call service from  
25 ELI, and the call was completed to an end user that



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1 purchases service from Broadwing.

2 Q. Now in your testimony you have asked the  
3 question why Core felt a need to seek forbearance from  
4 the application of growth caps that were to end in less  
5 than six months if that were in fact the case; do you  
6 recall that question or that line of argument?

7 A. Could you refer me to the --

8 Q. Well, let me go back a little bit I guess and  
9 give you a sense of where I'm going. The Broadwing  
10 dispute that it has with Qwest is due in part to the  
11 fact that the contract, the interconnection agreement  
12 that the parties had, the intercarrier compensation  
13 clause said that the intercarrier compensation for  
14 ISP-bound traffic would expire at the end of the year of  
15 2003, and so, excuse me, 2004, and so January 1 of 2005  
16 the parties' contract as it related to intercarrier  
17 compensation for ISP-bound traffic was no longer in  
18 effect. Do you understand that that's effectively the  
19 arguments that have been made by Broadwing in the  
20 billing dispute that you have with Broadwing?

21 A. I can't say that I did understand that. I  
22 mean is that in the testimony? I'm sure I went through  
23 all of the testimony, and I don't have Broadwing's  
24 witnesses' testimony here.

25 Q. Are you familiar with the dispute with

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1 Broadwing?

2 A. Yes.

3 MS. ANDERL: Your Honor, may we approach.

4 JUDGE MACE: Yes.

5 MS. ANDERL: To provide the witness with

6 Broadwing's testimony.

7 JUDGE MACE: Which witness is this?

8 MR. ROGERS: Well, the witnesses are going to  
9 be Mr. Meldazis and Ms. McNeil, and it would be in  
10 Mr. Meldazis's testimony where the position is set out  
11 that the contract that the two parties had effectively  
12 expired as of January 1, 2005.

13 BY MR. ROGERS:

14 Q. And so the question is, in arguing about the  
15 applicability of the Core forbearance Order and how it  
16 did or did not go into effect, do you know how the Core  
17 interconnection agreements related to Broadwing's  
18 interconnection agreements, do you have any sense of  
19 that whatsoever?

20 A. I'm not sure I understand the question, how  
21 the Core order would affect an expired agreement or a  
22 current agreement about to expire?

23 Q. Let me step back. So Core Communications  
24 filed a forbearance petition at the FCC.

25 A. Correct.

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1 Q. Seeking forbearance of certain parts of the  
2 ISP Remand Order, correct?

3 A. Correct, they wanted the cap on minutes  
4 lifted and the new markets lifted.

5 Q. Are you --

6 A. New market minutes lifted.

7 Q. Are you familiar with the interconnection  
8 agreements that Core Communications had in place and  
9 operated under at the time that it sought that  
10 forbearance?

11 A. Generally, yes.

12 Q. And so have you done a comparison of those  
13 contracts to the contract that Qwest had with Broadwing?

14 A. A comparison of which contracts?

15 Q. The Core Communication interconnection  
16 agreements.

17 A. No.

18 MR. SMITH: Maybe I misunderstood, did you  
19 say that Core had interconnection agreements with Qwest?

20 MR. ROGERS: I did not say that.

21 And I have nothing further at this time, Your  
22 Honor.

23 JUDGE MACE: Thank you.

24 Mr. Kopta, are you the next designated  
25 cross-examiner?

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1 MR. KOPTA: I am.

2

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

4 BY MR. KOPTA:

5 Q. Good afternoon, Mr. Brotherson.

6 A. Mr. Kopta.

7 Q. Would you turn to your rebuttal testimony,  
8 Exhibit 24T, specifically page 4, and I'm drawing your  
9 attention to the testimony on lines 8 through 18, and  
10 first specifically with respect to the language that you  
11 quoted from Qwest's tariff, am I correct that this is  
12 from the tariff that governs residential local exchange  
13 service for Qwest in Washington?

14 A. This portion?

15 Q. The quoted portion.

16 A. Yes, probably so, but I would have to check,  
17 but I will take that subject to check.

18 Q. Okay. Well, the reason I ask is because on  
19 line 18 you state, Qwest FX service for business  
20 customers is described in the same way, so I was  
21 assuming that.

22 A. Yeah.

23 Q. Okay.

24 A. And I'm assuming that's where I got it, I  
25 just don't have an immediate recollection, but I will

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1 take subject to check that's where I got it.

2 Q. All right, fair enough.

3 Does Qwest have a tariff for business FX  
4 service in Washington?

5 A. I think it's just, well, you would buy the  
6 local portion of the service out of a business tariff if  
7 you were a business customer or a residential tariff if  
8 you were a residential customer if someone wanted an FX  
9 type product for their home. The private line tariff I  
10 don't think makes a distinction between res and bus,  
11 it's in the interexchange tariffs I believe.

12 Q. And I guess that raises two questions. One  
13 is, is foreign exchange service as it's offered by Qwest  
14 a discreet product that one can go to the tariff and say  
15 here's what my rate is going to be for FX service in  
16 Washington?

17 A. I'm not sure what you mean by discreet  
18 product, because there are things like the distance of  
19 the private line that you would purchase, the size of  
20 the pipe that you would purchase, but you should be able  
21 to build the price of the product by using the various  
22 elements in the tariffs.

23 Q. But you might have to do that by looking at  
24 several different tariffs, I was trying to understand  
25 what you were saying?

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1           A.     The private line tariff.  You would purchase  
2     the local exchange piece.  If you wanted and FX out of  
3     Olympia, you would look first at the price of local  
4     service in Olympia, which, I'm going to confess I don't  
5     know this answer, may be different than in Seattle,  
6     different exchanges depending upon the size of the  
7     community oftentimes have different local rates in some  
8     states.  But you would look to the local rates in the  
9     exchange where you wish to purchase the connection, and  
10    of course res and bus would carry different rates.  So  
11    if it was a 1FB flat rate business or 1FR flat rate res,  
12    those prices would be in the local exchange tariff.

13                 In addition, if you then needed transport,  
14    and you would for an FX product, to your business, your  
15    location, you would look to the tariffs for the private  
16    line rate based on the size of the private line, DS1  
17    versus a DS3, the size of the pipe, and the mileage,  
18    because in many instances, most instances, they are  
19    distance sensitive.  They're not usage sensitive,  
20    they're flat rated but mileage sensitive.  And then  
21    those elements would result in the price of the FX  
22    service for the particular type of customer.

23           Q.     So there's no section in the Qwest tariff  
24    that says FX service and underneath it there's a, you  
25    know, local exchange service Y dollars, private line Z

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1 dollars depending on mileage, there's no one place that  
2 somebody could look in your tariff and say here's FX  
3 service and here are all the prices that go into the  
4 making up of FX service?

5 A. I don't believe so, but the tariffs will  
6 obviously say what they say, but I'm pretty sure you  
7 have to go to multiple locations.

8 Q. And the reason I'm asking for that is because  
9 are you aware that most if not all Qwest business  
10 services in the state of Washington are competitively  
11 classified?

12 A. I am aware of that. I'm not sure I  
13 understand all of the ramifications of that, I would  
14 maybe defer to my counsel on that, but yes.

15 Q. So would you accept subject to check that one  
16 of the ramifications is that those services would no  
17 longer be tariffed but instead would be at least maybe  
18 until July in a price list?

19 A. I would accept that subject to check.

20 Q. And as we sit here today, you don't know  
21 which, if any, or if any of the components of business  
22 FX service have been taken from the tariff, in other  
23 words they're no longer tariffed in Washington?

24 A. No, I wouldn't speculate on that.

25 Q. Okay. So you also don't know whether -- let

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1 me back up a minute.

2 Are you aware that under Washington law price  
3 lists are no longer filed with the Commission?

4 I can see by the look on your face that the  
5 answer is no.

6 Okay, so at this point as far as you know or  
7 you don't know whether business or the components of  
8 business FX service are tariffed in Washington?

9 A. Tariffed or price listed I guess would be a  
10 more appropriate response.

11 Q. Well, tariffed for one, I guess the other  
12 component of that is that if it's price listed and the  
13 price list has been withdrawn, then there's nothing?

14 A. Correct.

15 Q. So at this point --

16 A. For the local exchange piece, that's true. I  
17 don't know if the private line leg is also price listed  
18 or withdrawn, I can't answer that question.

19 Q. Okay. But in any event, Qwest's foreign  
20 exchange service is comprised of local service plus a  
21 private line at a customer location in a foreign  
22 exchange; is that a fair summary of what --

23 A. That is.

24 Q. Do you have the exhibits that have been  
25 designated by Pac-West at all for cross-examination in



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1 front of you?

2 A. I'm sure my counsel has them, I don't have  
3 them up here at the desk.

4 Q. And I would direct your attention to what has  
5 been marked for identification as Exhibit 55, which is  
6 the response of Qwest to Pac-West's Data Request Number  
7 25.

8 A. I have it, it's numbered PWTOT-025, is that  
9 the --

10 Q. Yes, that's the one.

11 A. -- number, okay.

12 Q. And you prepared the response to this  
13 request; is that correct?

14 A. Yes.

15 Q. And do I accurately characterize your  
16 response to this data request as agreeing or Qwest  
17 states that a CLEC can provide local service in a local  
18 calling area other than where its switch is located?

19 A. Yes.

20 Q. And in the response you are specifically  
21 referring to a Qwest product for lack of a better word  
22 called single point of presence or SPOP?

23 A. Yes.

24 Q. But an SPOP would not be required to enable a  
25 CLEC to provide local service in an exchange in which

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1 its switch is not located, would it?

2 A. Well, they can obviously provide local  
3 service and handle calls between their own customers  
4 through that switch. Then the next question is if one  
5 of their customers wanted to call one of our customers  
6 or if one of our customers wanted to call their  
7 customer, we would have to have a point where our two  
8 switches connected, either a single point or multiple  
9 points I guess.

10 Q. And so I'm, you know, using Mr. Best's  
11 helpful diagram with Mr. Linse, BR-1, that would show at  
12 least one option, which would be to have a direct  
13 interconnection between Qwest and the CLEC in the local  
14 calling area as opposed to some other point?

15 A. If that is in fact the representation of that  
16 drawing, and I'm -- I thought I followed all of  
17 Mr. Best's cross-examination, but at some points he  
18 would refer to that as a private line, and then other  
19 times he would refer to it as trunks going to the ELI  
20 switch from the Qwest switch. And so if in fact they  
21 were trunks riding on a private line and it was  
22 connecting to switches, then I would say yes, that's a  
23 true statement. I can answer my question that way, I  
24 can't tell you what that picture represents in all  
25 cases.

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1           Q.     I understand, there was quite a bit of  
2 discussion about that diagram.  But in my reference to  
3 it in my question to you, I too am assuming that we're  
4 not talking about a private line that is dedicated to an  
5 end user.

6           A.     Okay.

7           Q.     We are talking about facilities that are  
8 constructed between the Qwest wire center in Olympia and  
9 the ELI switch in Seattle.

10          A.     Oftentimes referred to as interoffice trunks  
11 or trunks between two central offices.

12          Q.     Correct.  And those trunks presumably could  
13 be used among other things for the exchange of traffic  
14 between Qwest and ELI.

15          A.     Indeed.

16          Q.     And if that's all those facilities were used  
17 for with respect to the relationship between Qwest and  
18 ELI, I take it that Qwest considers that to -- well, I  
19 won't say that, let me take a step back.

20                     Expanding on that drawing and referring to  
21 the VNXX or the customer labeled VNXX off of the ELI  
22 switch, am I correct that a call from a Qwest customer  
23 in Olympia to the ELI customer labeled VNXX in Seattle  
24 that is routed over those facilities would be considered  
25 a VNXX call in Qwest's view?

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1 A. Yes.

2 Q. And would that be the case if the ELI VNXX  
3 customer, for lack of a better term, were charged a  
4 certain amount for a dedicated facility between the  
5 Qwest central office in Olympia and the ELI central  
6 office or the ELI switch I should say?

7 A. I don't believe so, but let me make sure  
8 we're talking about the same configuration. If, in  
9 fact, ELI -- if Qwest in the Olympia local calling area  
10 had a presence, if Qwest delivered the call to ELI in  
11 Olympia, if ELI put that call, the VNXX customer's call  
12 we're talking about, on a dedicated private line, which  
13 in essence is a very long loop up to some address in  
14 Seattle for their end user, that in fact would be an FX  
15 call. They would have picked it up in the local calling  
16 area, they would have handed it off to their end user,  
17 and their end user on a private line/long loop would  
18 have taken that call to wherever it was they chose to  
19 take it.

20 Q. But as was discussed with Mr. Best and  
21 Mr. Linse, that would require some means of routing the  
22 traffic from the Qwest wire center onto that private  
23 line, which as I understand it would require some form  
24 of either ELI deploying switching in the Olympia local  
25 calling area or obtaining some services included PRI for

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1 example from Qwest; is that correct?

2 A. Yeah, now we're getting into some of the  
3 confusion on the question, let's leave PRI out of it.

4 Q. Fine.

5 A. Because that would be reselling a Qwest  
6 product.

7 Q. Sure.

8 A. Yes, it would involve ELI receiving that call  
9 and switching or putting the call onto their customer's  
10 long loop or long private line loop to wherever their  
11 customer's address was. And so you would need some  
12 piece of equipment, some piece of hardware in Olympia  
13 where the call could be delivered to you and it could be  
14 put on that equipment. You know, in a virtual collo it  
15 would be I'm sure a small box that would recognize a  
16 certain number of calls that would be those type of  
17 VNXX. Everything else I guess would go on the common or  
18 interoffice trunks to the ELI switch for any customers  
19 that they were offering local service to in Olympia. By  
20 local I mean that the call was coming back to Olympia.

21 Q. And do you know whether Qwest would permit  
22 ELI to collocate a switching module in its central  
23 office in Olympia?

24 A. I believe they could, yes.

25 Q. If you would turn to page --

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1           A.     I mean we have not had these requests,  
2 because up until now it's been we don't need to offer FX  
3 that way, we can just assign a VNXX number, so I'm not  
4 -- I don't want to represent that it's gone through all  
5 of the network procedures that you go through to say  
6 what's the equipment and is it approved and, you know,  
7 NPA compliant and all that, I'm not trying to represent  
8 that I know everything that would be involved. But yes,  
9 I believe they could put the equipment in.

10          Q.     Well, you were involved in the Section 271  
11 and Statement of Generally Available Terms or SGAT here  
12 in Washington on behalf of Qwest, were you not?

13          A.     I was.

14          Q.     And are you aware that one of the issues was  
15 the extent to which a CLEC could collocate switching  
16 equipment in a Qwest central office?

17          A.     I am aware of that.

18          Q.     So that's the reason I asked whether  
19 switching equipment is something that at least as we sit  
20 here today is permissible to be collocated in a Qwest  
21 central office?

22          A.     As we sit here today, we're discussing  
23 whether or not a piece of hardware could be collocated  
24 to enable a CLEC to offer an FX product, which I think  
25 is a different scenario than a CLEC choosing to

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1 collocate their switching equipment inside a central  
2 office. I'm making a distinction in my answer between  
3 putting your switch in a Qwest central office in Olympia  
4 in order to offer local service to people in Olympia. I  
5 think Qwest's position there was you can put your switch  
6 across the street. But your question to me this morning  
7 is, is there a way that equipment could be placed in a  
8 central office that would enable the call to be put onto  
9 a customer's private line loop to dedicate it to that  
10 customer in order for a CLEC to offer FX service, and I  
11 believe that that's a possibility, that that could be  
12 done.

13 Q. That raises another question, which is  
14 dangerous always, but am I hearing you correctly that  
15 Qwest would at least entertain the idea of permitting a  
16 CLEC to collocate switching equipment in a Qwest central  
17 office in order to provide local service in Olympia to a  
18 customer who actually resides outside of Olympia but not  
19 to provide local service in Olympia to a customer who  
20 actually resides in Olympia?

21 A. We flipped the exception over top of the  
22 general rule here. I would take as a general rule that  
23 a CLEC offering local service in a community could have  
24 a switch and offer local service to that community up in  
25 -- they could have their switch in Seattle, not be

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1 required to have switches in every community, but locate  
2 their switch in Seattle and simply serve these various  
3 communities out of that single switch. This was  
4 something the CLECs came and asked for, and it's  
5 something that Qwest has agreed to, which involves us  
6 hauling all of their traffic up to Seattle.

7           Then the question was, but how could a CLEC  
8 offer this FX exception or this FX product, and I  
9 responded by saying I think we could put through a  
10 virtual collo or something, a piece of equipment that  
11 would enable them to put that traffic on a private line  
12 to get it to the end user's address up in Seattle. And  
13 somehow we have gotten to a question now about would we  
14 allow switching in all central offices rather than a  
15 single switch in Seattle, and I'm not sure how we got  
16 there, but I'm not agreeing that that's Qwest's  
17 position. I was trying to just address a very narrow  
18 response to maybe more Mr. Best's question than yours  
19 about is it possible to do this in some way and put that  
20 traffic on a private line.

21           Q. I understand that, I'm just -- as I'm sure  
22 you are aware, this whole proceeding is rife with thorny  
23 issues, and this just seems to be one of them, and I  
24 would wonder how much economic sense it would make for a  
25 CLEC to collocate switching equipment in a Qwest central



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1 office solely to be able to provide FX service as  
2 opposed to also being able to provide local exchange  
3 service within that exchange. From an economic  
4 perspective, wouldn't you think that that would be a  
5 rather expensive proposition if you couldn't use that  
6 equipment for multiple purposes?

7 A. Well, if we start with the premise that this  
8 is an interexchange service, not a local service, and it  
9 is a means to not have to pay access on calls between  
10 two exchanges, between a customer in one exchange and a  
11 customer in another exchange, because the call has been  
12 put onto this private line loop that goes to the  
13 customer's distant address, there may be financial  
14 incentives to want to do that.

15 And so you're saying, well, maybe it would  
16 make more sense to do a lot of switching in that town  
17 now. And, you know, Qwest's position was early on, you  
18 ought to put the switches in all of those towns, and it  
19 was the CLECs who said it was more financially viable to  
20 go with a single switch in a large metro area like  
21 Seattle.

22 And then the question was, but is there a way  
23 to offer FX, and I laid that out. And you're saying,  
24 but it would be better than if it was all there. You  
25 know, I don't know the costs. I know we're not talking

0294

1 about dropping a 5E in every central office if you're  
2 talking, you know, a nominal amount of customers who  
3 have these telephone numbers, it would be a, you know,  
4 but we're getting outside of my -- I'm certainly not  
5 somebody who can tell you about the cost of switching.

6 Q. Okay, and I don't want to go there, I'm sure  
7 nobody else does either, we have done that in cost  
8 dockets. But while we're talking about cost, whether or  
9 not, again we're talking about the same example, whether  
10 or not the CLEC were to collocate some extra switching  
11 equipment, whatever it might be, in the Qwest central  
12 office, Qwest's costs to give this traffic to ELI would  
13 be the same whether or not there's a switch in the  
14 Olympia wire center or it's taken over the trunking  
15 facility that ELI provided all the way to the switch in  
16 Seattle?

17 A. Well, I guess I have two reactions to that.  
18 I'm not sure the cost to transport across the central  
19 office to a piece of equipment would be the same as the  
20 cost of transporting it from Olympia up to Seattle on  
21 Qwest's facilities. But the second thing is it's really  
22 not so much which one costs more, it is what is the  
23 regulatory treatment for an interexchange call, what is  
24 the regulatory treatment for a local call, and then the  
25 next question is what's it take to make the call local

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1 versus interexchange.

2 Q. I understand that, and I'm actually sort of  
3 stepping back and looking at it from a practical  
4 perspective, which is one assumes that whatever  
5 switching equipment it is that would be required to  
6 enable ELI to provide those foreign exchange services as  
7 Qwest has defined it would presumably be in their  
8 collocation space, yes?

9 A. Yes. When you say collocation space, you  
10 don't have to have a cage any more, you can have a  
11 virtual, and basically it's just a bay on a rack where  
12 you slide equipment in.

13 Q. Right, although my understanding of ELI's  
14 network is that they usually have caged collocations.

15 A. And they may already have collo located in  
16 Olympia, in which case it would be just putting another  
17 piece of equipment in that location.

18 Q. So Qwest essentially would have a facility  
19 that connects its switch with this switching module in  
20 the collocation space for ELI, correct?

21 A. Correct.

22 Q. If there was no switching module, then Qwest  
23 to exchange traffic with ELI would connect its switch to  
24 some other piece of equipment in the ELI collocation  
25 space, correct?

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1 A. Correct.

2 Q. And if ELI pays for the transport to get from  
3 the Olympia wire center to the ELI switch, Qwest is  
4 indifferent from a cost perspective whether or not  
5 there's a switching module in the ELI collocation space  
6 or not?

7 A. I'm not sure we're indifferent, I think  
8 that's a misstatement. We could also hand the call off  
9 to AT&T in downtown Olympia, and they could be hauling  
10 the call off to Chicago. But if AT&T said, you know,  
11 it's not costing you any more to hand the call off to us  
12 right here in downtown Olympia than to ELI right here in  
13 downtown Olympia, why don't you just waive the access  
14 charges, we would say it's not a matter of what is the  
15 cost, it is a matter of what is the regulatory  
16 treatment. Our costs are recovered through different  
17 regulatory sources, and in the case of interexchange  
18 calls, the regulatory treatment is that we would be able  
19 to recover certain costs if, you know, from AT&T based  
20 on the fact that it was a call bound for Chicago or in  
21 the state and it was an interexchange call, irrespective  
22 of whether they said but we'll pick it up right here  
23 right next to ELI's location and haul it ourselves on  
24 our own private line. It's the regulatory treatment  
25 issue, not the cost issue.

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1                   Is irrespective a word, I'm not sure.

2           Q.       Something like that.

3                   While we're discussing compensation, if you  
4 would turn in your rebuttal testimony, Exhibit 24T, to  
5 the next page, this is page 5, and I will direct your  
6 attention to the testimony on lines 13 through 20, and  
7 even more specifically to the sentence that begins at  
8 the end of line 15:

9                   The entity that purchases the FX service  
10                   from Qwest includes toll-free calling as  
11                   a service to its customers, et cetera.

12                   Do you see where my reference is?

13           A.       Right.

14           Q.       Okay. Now by providing toll-free calling, is  
15 FX at least functionally similar to 800 service?

16           A.       I would say yes, it's a flat price to toll  
17 product, if you will, the private line used to be called  
18 special access.

19           Q.       And --

20           A.       It's not a switched product, it's a, you  
21 know, so in that sense it would be different than 800 to  
22 a certain degree. But yes, it's a functional  
23 equivalent.

24           Q.       Well, the private line portion is not  
25 switched, but the switching that one obtains in the

0298

1 local calling area --

2 A. To put it on, yes, to put it on the private  
3 line in the local calling area it's switched, and then  
4 it goes to a dedicated location.

5 Q. Now again going back to our drawing, if there  
6 is an ELI customer that's physically located in the  
7 Olympia calling area.

8 A. We don't have one drawn right now, but I will  
9 make that assumption.

10 Q. And that customer calls a Qwest foreign  
11 exchange customer who actually physically resides in  
12 Seattle, the left-hand part of that drawing.

13 A. All right.

14 Q. That customer, or Qwest receives reciprocal  
15 compensation from ELI for that call; is that correct?

16 A. Yes, that would be treated as a local call  
17 from an ELI Olympia customer to a Qwest Olympia  
18 customer, that is to say a customer that bought Olympia  
19 local service and then in addition a private line or  
20 long loop up to their business address. I don't agree  
21 with the way that picture is drawn, because it would not  
22 go through the Seattle switch, and I know Mr. Best and  
23 Mr. Linse had a lot of debate about data and bits and  
24 what have you, but in fact it is not switched twice and  
25 would go to the residence of the FX customer or business

0299

1 location, but yes.

2 Q. Although just to clarify that point, it may  
3 not be switched, and yet the facilities may actually go  
4 into the Qwest central office where they are then  
5 crossconnected through the loop to the customer location  
6 without switching but yet routed through the Qwest  
7 central office?

8 A. They are, but they are dedicated facilities,  
9 they are that end user's loop, they are not the common  
10 facilities between two telephone companies or in this  
11 case common facilities between two Qwest central office  
12 switches.

13 Q. As you said, it's essentially a very long  
14 loop?

15 A. Correct.

16 Q. And if you would please turn to Exhibit 45,  
17 which is a cross-examination exhibit.

18 A. You know, I don't have --

19 MR. SMITH: It's the first one I think.

20 Q. Yes, it is, it's Qwest's response to  
21 Pac-West's Data Request Number 3, and this asks you  
22 basically the question I just asked you with respect to  
23 the application of reciprocal compensation for calls  
24 made to --

25 A. I'm going to apologize, Mr. Kopta, is this

0300

1 your -- are we still on Pac-West exhibits or have we  
2 moved?

3 Q. Yes.

4 JUDGE MACE: Let's be off the record for a  
5 minute.

6 (Discussion off the record.)

7 BY MR. KOPTA:

8 Q. And you provided the response to this  
9 request; is that correct?

10 A. I did.

11 Q. Okay. And as we were discussing, this asks  
12 essentially the same question I asked you before, which  
13 is that reciprocal compensation applies to calls made to  
14 Qwest FX customers by a customer of a different carrier,  
15 a CLEC for example.

16 A. All right.

17 Q. And in your response under sub (a) you state,  
18 for purposes of this question, this is the second  
19 sentence, Qwest assumes that the Qwest FX customer is  
20 not an ISP.

21 A. Yes.

22 Q. And could you -- do I assume correctly that  
23 in that case the compensation would not be reciprocal  
24 compensation but whatever compensation applies in light  
25 of the ISP Remand Order?



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1 A. Yeah, it would be the ISP rate.

2 Q. Okay.

3 A. I have been dutifully corrected by my  
4 attorney not to use recip comp to describe both. One is  
5 for voice at one rate, the other is the ISP rate for ISP  
6 compensation.

7 Q. I just wanted to make sure I understood that  
8 you weren't somehow excluding those customers.

9 And if you would turn to the next exhibit,  
10 Exhibit 46, which is the Qwest response to Pac-West Data  
11 Request Number 4, you prepared this one as well?

12 A. Okay.

13 Q. And this asks whether Qwest currently  
14 provides FX service to any ISP in Washington. And in  
15 your response, you said that Qwest historically has  
16 provided that service, but you're investigating whether  
17 it still provides any such service. Have you conducted  
18 or --

19 A. Well, I did make inquiries based on USOC  
20 codes, and I don't have an answer right now if we still  
21 have any current ISP's other than QCC. A number of them  
22 have elected to go with VNXX.

23 Q. Okay.

24 Now back to your testimony, if you would turn  
25 to Exhibit 3.

0302

1 MR. SMITH: Is this the direct?

2 Q. It's Exhibit 3, which is Exhibit LBB-3, which  
3 is to the direct.

4 A. Direct, yes.

5 Q. And specifically the portion of this diagram  
6 at the very bottom labeled foreign exchange service, and  
7 to the left you have a notation:

8 Between the customer telephone and the  
9 Qwest switch, no reciprocal  
10 compensation.

11 In light of our discussion, that's not  
12 accurate, is it?

13 A. It is. Are we talking about the one labeled  
14 foreign exchange service?

15 Q. Yes, we are.

16 A. This is simply stating -- and can we assume  
17 where it says Qwest FX customer that's an ISP?

18 Q. I'm not assuming that it's an ISP. We can  
19 assume that it is not an ISP, because we don't want to  
20 mix up reciprocal compensation with ISP Remand Order  
21 compensation, so let's say it's American Airlines.

22 A. All right. Well, in this example there is no  
23 recip comp because both are customers of Qwest on a  
24 Qwest switch.

25 Q. So you're assuming that the little telephone

0303

1 in the foreign exchange service diagram belongs to a  
2 Qwest residential or business subscriber; is that  
3 correct?

4 A. Right, it's labeled Qwest FX customer.

5 Q. Right, but the person initiating the call may  
6 not be a Qwest customer, may be an ELI customer?

7 A. If we had drawn an additional customer, an  
8 ELI customer, they wouldn't of course be connected to  
9 the Qwest switch, but if we had drawn an additional  
10 customer, there is a recip comp function for the type of  
11 call you have just described, and it would be based on  
12 treating both parties as local customers completing a  
13 local call on the left-hand side of that diagram even  
14 though the loop, the private line, takes it into the  
15 Seattle local calling area.

16 Q. Okay, well, I'm just trying to understand the  
17 diagram then. So each of the little telephones on the  
18 left-hand side in each of the three different types of  
19 scenarios represents a Qwest local exchange customer.

20 A. Yes.

21 Q. Is that correct?

22 A. Correct.

23 Q. Okay. But at least with respect to foreign  
24 exchange service, if that little telephone belongs to an  
25 ELI subscriber, then reciprocal compensation would

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1 apply?

2 A. Yes, if the ELI subscriber is in the Olympia  
3 local calling area on the left-hand side, yes.

4 Q. All right.

5 Now if you would please turn back to your  
6 rebuttal testimony, Exhibit 24T, and this time I would  
7 like you to look at page 13.

8 JUDGE MACE: Did you say this was the  
9 rebuttal or --

10 MR. KOPTA: This is the rebuttal, Exhibit  
11 24T.

12 JUDGE MACE: And what page again?

13 MR. KOPTA: 13.

14 JUDGE MACE: Thank you.

15 BY MR. KOPTA:

16 Q. And specifically the sentence that begins on  
17 line 19 where you are identifying that Qwest has only  
18 4,047 FX lines in service in Washington; do you see  
19 where my reference is?

20 A. Yes.

21 Q. Now that number, is that DS0 or analog  
22 equivalent lines?

23 A. I'm going to say I believe so. It is,  
24 because I double checked this, and we do have 4,047 FX  
25 customers, and I maybe didn't ask the question precise,

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1 but I said is this how many customers we have and the  
2 answer was yes. And now is that a DS0 level or do some  
3 of the customers have a DS3 is your question, and I  
4 wasn't specific in the way I double checked it, so I'm  
5 somewhat hesitant to answer that for you.

6 Q. I see. So more accurately this would be  
7 Qwest has 4,047 FX customers in Washington?

8 A. I think I feel very safely saying that.

9 Q. Okay.

10 A. And I don't know if it also represents lines  
11 or not.

12 Q. But if, for example, you were providing FX  
13 service to American Airlines for customer service, they  
14 may very well have more than 1 DS0 equipment line?

15 A. Correct. And ISP's tend to have a large  
16 pipe, you know, a DS3 or higher.

17 Q. Right. So at least in terms of your  
18 comparison with the number of FX lines with the total  
19 number of lines, we can't make that comparison as we sit  
20 here today because it's customers versus lines; is that  
21 correct?

22 A. It's still a pretty good comparison. If you  
23 assume 4,000 customers, they may own more than that in  
24 lines, but if you assume 4,000 customers against the 1.8  
25 million lines, I think it's still a ball park comparison

0306

1 of less than 1%, because we're down to .22 of 1% here.

2 Q. Okay. And am I also correct that, and I can  
3 show you the exhibit but I'm trying to save some time,  
4 that Qwest doesn't track the number of calls or the  
5 number of minutes either to or from its FX customers?

6 A. You're correct. Let me qualify that, but  
7 you're correct, because the customer typically buys a  
8 flat rated local service, and as we discussed earlier  
9 private line is not measured, it's distance sensitive  
10 but it's not measured, so there's no bill to the  
11 customer based on usage. I started to say CROSS7 would  
12 capture the calls going to that customer from third  
13 parties, but it wouldn't capture any of the Qwest calls  
14 going to that party, so no, it doesn't measure the  
15 usage.

16 Q. Thank you.

17 Then later in your rebuttal testimony,  
18 Exhibit 24T, on page 46, you discuss Qwest's market  
19 expansion line or MEL product, and let me see if I  
20 understand this correctly. If I am a business in  
21 Seattle and I want a local presence in Olympia, if I  
22 ordered a MEL product, would that enable me to  
23 essentially have a local telephone number in Olympia to  
24 which my customers can place calls from Olympia that  
25 would then be forwarded to my Seattle telephone number?

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1           A.     Yes, it's not very high tech.  You would  
2     simply buy local service in Olympia, also buy the  
3     business call forwarding capabilities of MEL, and you  
4     could forward that phone call to your office, and then  
5     if you wanted to forward those same -- and to the people  
6     in Olympia who would be a local call to reach, you know,  
7     Mr. Kopta.  And if later you wanted to forward those to  
8     your cell phone if you were going golfing or whatever,  
9     they would be forwarded.  But wherever that was  
10    forwarded, if it was forwarded within the local calling  
11    area it would be treated as a local call, if it was  
12    forwarded to Seattle to your office for example, it  
13    would be treated as a toll call and toll charges would  
14    apply.

15           Q.     And to the extent that it's forwarded to my  
16    telephone number in Seattle, it provides again a  
17    functionality equivalent to 800 service?

18           A.     Yeah.

19           Q.     Okay.

20           A.     Yes, it gets you those calls.  It's, you  
21    know, it doesn't have a flat monthly sign up fee and  
22    some other things that come with 800, which for a small  
23    business limited usage has a market niche.

24           Q.     Okay.  And if the ELI customer that's  
25    physically located in Olympia calls the number that is

0308

1 forwarded up to my number in Seattle, then Qwest would  
2 receive reciprocal compensation for that call from the  
3 ELI customer to the Olympia telephone number, correct?

4 A. Correct, it would be just a call to the local  
5 number, it doesn't measure the call forwarding  
6 capability.

7 Q. All right, now if you would turn to Exhibit  
8 60, which is another cross-examination exhibit we have  
9 designated.

10 A. I'm having problems with my numbering, I've  
11 got the exhibits, just not your numbering, so if you  
12 could tell me what it is.

13 Q. I understand, it's Qwest's response to Global  
14 Crossing's second data request.

15 MR. SMITH: Second from the last in Pac-West.

16 A. Oh, it's still Pac-Qwest?

17 Q. Yes, it's still in the exhibits that we had  
18 designated.

19 A. Is it 01-02?

20 Q. Yes.

21 A. Okay.

22 Q. GC01-002.

23 A. I have it.

24 Q. All right. And in that data request I'm  
25 really focusing on the second paragraph, which discusses



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1 how Qwest determines the amount of or the existence of  
2 and the amount of VNXX traffic.

3 A. All right.

4 Q. And I believe you also discuss this in your  
5 direct testimony around page 47. Am I correct that  
6 Qwest calculates VNXX as out of balance traffic between  
7 the CLEC switch and the Qwest switch when the telephone  
8 number is not associated with a local calling area in  
9 which the CLEC switch is located?

10 A. Yes, that would be the red flag indicator.  
11 We would sit down with the CLEC. If they said, well,  
12 let me explain to you, we really do have a long loop  
13 going back to Olympia, and if they can establish that  
14 it's in fact traditional local service, that would not  
15 be billed as VNXX if the parties could agree. But it is  
16 our basis for flagging the traffic as VNXX.

17 Q. So you just at least initially make the  
18 assumption that the customer is located in the same  
19 local calling area as the CLEC switch and ask the CLEC  
20 to basically come back and say no, that's not the case?

21 A. I wouldn't say we make that assumption,  
22 because when the traffic is in balance, that tends to  
23 indicate people with the same community of interest  
24 making calls back and forth, and that is probably a  
25 strong indication of someone offering local service in a

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1 local calling area. It's a red flag that we flag it,  
2 and then we try and sit down and talk to the CLEC about  
3 it, many of whom just take the position they're all  
4 local and we don't get any farther with the  
5 conversation.

6 Q. Right. But I mean, again we'll use our  
7 American Airlines example, a CLEC may provide a customer  
8 service lines or lines to American Airlines that would  
9 be predominantly inbound calling and yet have a long  
10 loop, if you will, to that service center in the other  
11 local calling area, so it's certainly possible?

12 A. It is conceivable that you could provision --  
13 that American Airlines could in fact be in Olympia and  
14 that all of that one-way traffic from our Olympia  
15 customers to your customer are in fact being hauled back  
16 into Olympia. Our experience has shown otherwise 99% of  
17 the time, but I would not, you know, I would not  
18 foreclose the ability for the CLEC to say no, our  
19 customer is there. And if their customer is there, we  
20 have no dispute with it being a local call.

21 Q. And you are aware that CLECs have often  
22 deployed facilities in local calling areas where their  
23 switch is not located; is that correct?

24 A. Depends upon the CLEC, but yes.

25 Q. For example, there are no or are you aware of

0311

1 whether there are any CLEC switches that are actually  
2 located in Olympia?

3 A. No, I'm not aware. I started to say I don't  
4 believe so, but I'm not aware for sure.

5 Q. Okay. And yet as we discussed earlier, Qwest  
6 has competitive classification for many business  
7 services in Olympia; are you familiar with what it --

8 A. I'm aware that there are CLECs serving  
9 Olympia customers out of distant switches, and that's  
10 legitimate local service competing with Qwest, that's  
11 never been an issue with Qwest.

12 Q. And, in fact, several of the parties to this  
13 proceeding are those that Qwest listed as being  
14 competitors in areas including Olympia?

15 A. Yes. Well, I'm not sure where that was  
16 represented. I'm telling you I know that there are  
17 CLECs who compete with us in Olympia. Your next  
18 sentence was, we represented it somewhere, and I guess I  
19 don't want to go that far, because I don't know where --  
20 I didn't think I represented it, and I don't know where  
21 it was represented, but yes.

22 Q. Okay, then we'll ask my infamous subject to  
23 check.

24 A. Yes.

25 Q. Would you accept subject to check --

0312

1 A. Yes.

2 Q. -- that in Qwest's --

3 A. Don't change the question on me.

4 Q. Well, I will make it specific so that you can  
5 check it easily. In fact, I've got a piece of paper  
6 here that I will even show you that in Qwest's latest  
7 petition for competitive classification in Docket  
8 UT-050258 that among the competitors that Qwest  
9 identified for its digital business services in areas  
10 including Olympia were ATI, ELI, MCI-Metro, and TCG  
11 Seattle.

12 A. Those all sound familiar, they're all major  
13 competitors in all of our states. The reason I  
14 hesitated the first time was I couldn't recollect  
15 anywhere in our testimony that we made that  
16 representation. And when you said that Qwest  
17 represented that, I thought wait a minute, I don't know  
18 as we did.

19 Q. I understand, remember I said it's okay to be  
20 paranoid about lawyers asking you questions even when  
21 you are a lawyer or trained as a lawyer.

22 A. Recovering attorney.

23 Q. Good for you.

24 JUDGE MACE: Mr. Kopta, we are going to stop  
25 at 5:00, I just don't want to interrupt you in the

0313

1 middle of you starting another train of questions.

2 MR. KOPTA: I only have a few left, but I  
3 only had one left in this particular area, so if we want  
4 to ask one question, and I can do my ten minutes  
5 tomorrow morning, then we can do that.

6 JUDGE MACE: Okay.

7 BY MR. KOPTA:

8 Q. And, Mr. Brotherson, we're going back to  
9 Exhibit 60, which was specifically directed toward some  
10 testimony that you gave with respect to Global Crossing,  
11 and my question is whether you have conducted any  
12 research on Global Crossing's network deployment or  
13 purchase of Qwest's special access services in the local  
14 calling areas of where you claim that Global Crossing is  
15 providing VNXX service?

16 A. No, we would have knowledge of Global  
17 Crossing's switch location because obviously our switch  
18 is connected to their switch and we both provide CLLI  
19 codes or address codes, but we would not have direct  
20 knowledge of the loops coming out of their switch  
21 serving their customers, we would only have traffic  
22 patterns to give us indices and would sit down and work  
23 with Global Crossing if we were wrong.

24 MR. KOPTA: Okay, that's it for that  
25 particular line of questioning.

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1 JUDGE MACE: Thank you.

2 The one thing I wanted to mention before we  
3 leave for the day is that I think Level 3 that you or  
4 Mr. Rogers and Mr. Strumberger too to the extent it's  
5 applicable is you alluded to some cross-exhibits, and if  
6 you want to have those admitted, you need to offer  
7 those.

8 MR. ROGERS: Yes, Your Honor, I realized that  
9 after I completed my questioning, and I would if I could  
10 at this time move to admit the exhibits that I have  
11 introduced during my cross-examination.

12 JUDGE MACE: Well, can you number them for me  
13 so that I can refer to them on my list.

14 MR. ROGERS: We can start at the lowest  
15 number which was Number 38.

16 JUDGE MACE: All right.

17 MR. ROGERS: And then we jump up into the  
18 200's, and we also introduced Exhibit Numbers 208, 209,  
19 and 211 as I recall.

20 JUDGE MACE: Is there any objection to the  
21 admission of those exhibits?

22 MR. SMITH: No objection.

23 JUDGE MACE: All right, we'll admit them,  
24 thank you.

25 We are adjourned now until 9:30 tomorrow

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1 morning, thank you.

2 (Hearing adjourned at 5:00 p.m.)

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