

BEFORE THE ARIZONA CORPORATION COMMISSION  
PROCEEDINGS IN ARBITRATION

IN THE MATTER OF THE PETITION OF )  
ESCHELON TELECOM OF ARIZONA, INC. FOR) DOCKET NOS.  
ARBITRATION WITH QWEST CORPORATION, ) T-03406A-06-0572  
PURSUANT TO 47 U.S.C. § 252 OF THE ) T-01051B-06-0572  
FEDERAL TELECOMMUNICATIONS ACT OF )  
1996. )  
)

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By: MICHELE E. BALMER  
Prepared for: Certified Reporter  
Certificate No. 50489

1	INDEX TO EXAMINATIONS		
2	WITNESSES		PAGE
3	RENÉE ALBERSHEIM		
4	Direct Examination by Mr. Topp		13
	Cross-Examination by Mr. Merz		16
5	Examination by Arbitrator Rodda		76
	Redirect Examination by Mr. Topp		78
6	Recross-Examination by Mr. Merz		86
	Further Redirect Examination by Mr. Topp		90

## CURTIS ASHTON

8	Direct Examination by Mr. Roselli		99
9	Cross-Examination by Mr. Merz		102
	Redirect Examination by Mr. Roselli		118
10	Recross-Examination by Mr. Merz		121
11	TERESA MILLION		
12	Direct Examination by Mr. Topp		121
	Cross-Examination by Mr. Merz		124
13	Examination by Arbitrator Rodda		158
	Redirect Examination by Mr. Topp		161
14	Recross-Examination by Mr. Merz		163

## INDEX TO EXHIBITS

17	NO.	DESCRIPTION	IDENTIFIED	ADMITTED
18	Q-1	Prefiled direct testimony of Renée Albersheim	14	14
19	Q-2	Prefiled rebuttal testimony of Renée Albersheim - Public	14	14
20	Q-3	Prefiled rebuttal testimony of Renée Albersheim - CONFIDENTIAL	14	14
21	Q-4	Prefiled surrebuttal testimony of Renée Albersheim	14	14
22	Q-5	Prefiled direct testimony of William Easton	96	97

1	INDEX TO EXHIBITS			
2	No.	DESCRIPTION	IDENTIFIED	ADMITTED
3	Q-6	Prefiled rebuttal testimony of William Easton - CONFIDENTIAL	96	97
4	Q-7	Prefiled rebuttal testimony of William Easton - Public	96	97
5	Q-8	Prefiled surrebuttal testimony of William Easton	97	97
6	Q-9	Prefiled direct testimony of Robert J. Hubbard	97	97
7	Q-10	Prefiled rebuttal testimony of Robert J. Hubbard	97	97
8	Q-11	Prefiled surrebuttal testimony of Robert J. Hubbard	97	97
9	Q-12	Prefiled rebuttal testimony of Curtis Ashton	99	100
10	Q-13	Prefiled surrebuttal testimony of Curtis Ashton	99	100
11	Q-14	Prefiled direct testimony of Teresa Million	122	122
12	Q-15	Prefiled rebuttal testimony of Teresa Million	122	122
13	Q-16	Prefiled surrebuttal testimony of Teresa Million	122	122
14	E-1	Exhibit N and O to Proposed ICA	34	48
15	E-2	Qwest Compliance filing re Minnesota 616 case	48	49
16	J-1	Multi-state ICA	13	98
17	J-2	Issues matrix	98	98

1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on to be heard before the Arizona  
3 Corporation Commission, 1200 West Washington Street,  
4 Phoenix, Arizona, commencing at 10:17 a.m. on the 19th day  
5 of March, 2007.

6 BEFORE: JANE L. RODDA, Arbitrator

## APPEARANCES:

8 For Eschelon Telecom of Arizona:

9 GRAY PLANT MOOTY  
10 By Mr. Gregory Merz  
11 500 IDS Center  
12 80 South 8th Street  
13 Minneapolis, Minnesota 55402

14 For Qwest Corporation:  
15 QWEST CORPORATION LEGAL DEPARTMENT  
16 By Mr. Jason D. Topp  
17 200 South Fifth Street, Suite 2200  
18 Minneapolis, Minnesota 55402

19 QWEST CORPORATION LEGAL DEPARTMENT  
20 By Mr. Norman G. Curtright  
21 20 East Thomas Road, 16th Floor  
22 Phoenix, Arizona 85012  
23 KAMLET, SHEPHERD & REICHERT, L.L.P.  
24 By Mr. Philip J. Roselli  
25 1515 Arapahoe Street, Suite 1600  
Denver, Colorado 80202

MICHELE E. BALMER  
Certified Reporter  
Certificate No. 50658

1 ARBITRATOR RODDA: Let's get started and go on  
2 the record. So this is the time for the arbitration in  
3 Dockets T-03406A-06-0572 and T-01051B-06-0572, which is  
4 the arbitration between Eschelon Telecom of Arizona and  
5 Qwest Corporation.

6 Good morning everyone. I'm Jane Rodda, and I'm  
7 the Arbitrator in this matter. And so the first thing I  
8 would like to do is take appearances of the parties.  
9 So on behalf of Eschelon?

10 MR. MERZ: Good morning, Your Honor. Greg Merz,  
11 M-E-R-Z, representing Eschelon. And also here with me is  
12 Karen Clauson who is in-house counsel with Eschelon,  
13 Bonnie Johnson who is one of our witnesses, and then Doug  
14 Denney who is another one of Eschelon's witnesses.

15 ARBITRATOR RODDA: Okay. Great. It's nice to  
16 put faces to all of these names. So it's nice to meet  
17 you.

18 And on behalf of Qwest?

19 MR. TOPP: Hello, Your Honor. Jason Topp  
20 representing Qwest. I've got Mr. Norm Curtright here with  
21 me. Our witnesses that are here are we have Terry Million  
22 second from the right, Renée Albersheim in the middle, and  
23 Bill Easton, who decided to come down despite the fact no  
24 one had any questions.

25 ARBITRATOR RODDA: I recognize Mr. Easton, too.

1 Well, good. Someone else I know.  
 2 MR. TOPP: So that is who we have here. We will  
 3 also -- I've got two other lawyers that are working on  
 4 this case. One is Phil Roselli who will be handling  
 5 collocation issues, and he'll be here when we present the  
 6 testimony of Mr. Curtis Ashton, and then John Devaney who  
 7 is dealing with Section 9 issues in the agreement. He  
 8 will be here when we present the testimony of Ms. Karen  
 9 Stewart.

10 And just to let you know, Mr. Devaney tweaked  
 11 his back last night and apparently again this morning.  
 12 And I'm not sure how quickly we're going to move today,  
 13 but he did request although he could make it here if he  
 14 needed to, that if we got to the point where we would get  
 15 to Ms. Stewart's testimony that we try and do that  
 16 tomorrow as opposed to late today.

17 ARBITRATOR RODDA: So he's having a worse Monday  
 18 than me?

19 MR. TOPP: Yeah. He didn't look good.

20 ARBITRATOR RODDA: I feel better. I'm sorry,  
 21 Mr. Devaney but -- okay. All right. So was there  
 22 anything else that you wanted to discuss preliminarily  
 23 before getting started?

24 MR. MERZ: Well, there's the issue of the Qwest  
 25 motion that we hadn't gotten a ruling on.

1 ARBITRATOR RODDA: You didn't?

2 MR. MERZ: I didn't.

3 MR. TOPP: No. We did get a ruling.

4 MR. MERZ: You did?

5 MR. TOPP: Yeah. It was e-mailed out and --

6 MR. MERZ: I'm sorry. I didn't receive it. I  
 7 left Minneapolis yesterday morning so --

8 ARBITRATOR RODDA: Well, it should have come out  
 9 before then. And I thought I sent it to you and it didn't  
 10 come back to me. I mean, I didn't get one of those -- but  
 11 basically I deferred ruling on it because I needed to put  
 12 it through an order of the Commission, and I didn't know  
 13 how to get an order of the Commission quick enough. So  
 14 we'll allow testimony on that issue or those issues.

15 MR. MERZ: I appreciate that. And I don't know  
 16 if there was a mix-up and it came and I didn't see it or  
 17 what had happened so --

18 ARBITRATOR RODDA: Okay. Maybe it's in my back  
 19 at me, but sorry about that.

20 MR. TOPP: One other issue on that topic, given  
 21 the limbo sort of in which that issue sits, is we have  
 22 presented some generalized testimony about rate issues.  
 23 And we have contract language that we think would handle  
 24 how those things would be decided in the future, and  
 25 that's something that the decision is going to be made on

1 as a part of this arbitration.

2 But with respect to the rates themselves, while  
 3 there's generalized testimony, there is not the cost  
 4 studies and the type of testimony that you would normally  
 5 see as a part of a cost proceeding, and that's something  
 6 that we could put in the record. We have not up to this  
 7 point. We're probably not in a position to put it in the  
 8 record today, and we just ask for direction as to how you  
 9 would like us to handle that.

10 MR. MERZ: Well, Your Honor, could I be heard on  
 11 that point?

12 ARBITRATOR RODDA: Yeah.

13 MR. MERZ: You know, the parties have -- this is  
 14 a case where the parties have prefiled their testimony.  
 15 It certainly wasn't any secret that these issues were part  
 16 of the case. They were issues that were negotiated all  
 17 along. They were issues that were identified in the  
 18 arbitration. They're issues that we put our testimony in.  
 19 And I think that we would be inappropriately prejudiced if  
 20 Qwest is going to now somehow supplement the prefiled  
 21 testimony to put in evidence that should have been put in  
 22 in the first instance.

23 ARBITRATOR RODDA: Right. I think we can proceed  
 24 with how it's -- with the evidence that -- I don't know  
 25 what else is going to come out in the arbitration, but

1 with the prefiled the way the case is positioned right  
 2 now.

3 MR. TOPP: Okay.

4 ARBITRATOR RODDA: But it sort of depends on what  
 5 the ultimate resolution is. My problem is just the way  
 6 that the Arizona Commission works is to dismiss a major  
 7 portion -- issue of the case without a Commission order  
 8 presumes a lot on my part, and also I could be wrong.

9 MR. TOPP: Okay.

10 ARBITRATOR RODDA: And then we're back at square  
 11 one. You know, so let's proceed, see how it goes, and  
 12 we'll just go forward. Which raises another issue that I  
 13 forgot to ask you all during the prearbitration  
 14 conference, and that is where are we with the timeclock on  
 15 this matter? Has it been waived? Because I know we've  
 16 had extended -- I mean, extended schedule with filing of  
 17 testimony, but was there an agreement.

18 MR. MERZ: We've agreed to extend deadlines.  
 19 Now, I don't know where we are in terms of that. What the  
 20 ultimate -- I don't know that we agreed on an ultimate  
 21 deadline. We've agreed on the schedule that brought us  
 22 here today, and I don't think we have any problem allowing  
 23 you, obviously, and the Commission whatever time you need  
 24 to make the decision that you have to make.

25 ARBITRATOR RODDA: Is that your understanding as

1 well, Mr. Topp?  
 2 MR. TOPP: Yeah. We're comfortable with that  
 3 approach.  
 4 ARBITRATOR RODDA: All right. Anything else?  
 5 MR. MERZ: No.  
 6 ARBITRATOR RODDA: Okay. Is Qwest is going first  
 7 in this?  
 8 MR. TOPP: That's correct. And just to give you  
 9 sort of the preview, we've got Renée Albersheim as our  
 10 first witness. Bill Easton is our second, although our  
 11 intention is just to put his testimony on the record and,  
 12 you know, have it marked and that's it. Jeff Hubbard  
 13 would be third, which is the same situation as Mr. Easton.  
 14 Fourth is Curtis Ashton, fifth Terry Million, and sixth  
 15 Karen Stewart.  
 16 All right. And did you want to make an opening  
 17 this morning?  
 18 MR. TOPP: It is up to the court as to whether  
 19 you would like to hear from us beforehand or not. We're  
 20 perfectly comfortable just going forward with our  
 21 witnesses.  
 22 ARBITRATOR RODDA: Were the witnesses planning on  
 23 giving summaries?  
 24 MR. TOPP: Yes.  
 25 ARBITRATOR RODDA: At least briefly, at least the

1 subject matter of their very -- I have to say, I don't  
 2 know how other states are reacting to this arbitration,  
 3 but this is an amazing number of issues that you all  
 4 haven't been able to agree on.  
 5 MR. MERZ: It's a large number of issues, but  
 6 they -- I guess what I would say, not entirely in jest, is  
 7 it's not as bad as it looks. We did try this case in  
 8 Minnesota.  
 9 ARBITRATOR RODDA: It depends on your point of  
 10 view. And you have got three lawyers, two or three  
 11 lawyers, each with your own subject matters.  
 12 MR. MERZ: Well, I'm the guy here. But in all  
 13 events, it's not as bad as it looks. And I think as you  
 14 hear the evidence, you'll see that there are some kind of  
 15 unifying themes that you can latch onto. Like I said, we  
 16 did try this case in Minnesota. There were actually more  
 17 issues at that point.  
 18 And so it looks like a lot, but I was involved in  
 19 the very first arbitration between AT&T and MCI and then  
 20 U S WEST, and there were, I think, 99 issues in that case.  
 21 So it's a big contract. The parties have resolved a lot  
 22 of issues, but there are quite a few that remain.  
 23 ARBITRATOR RODDA: So here's my most recent  
 24 issues matrix. That's a lot.  
 25 All right. Okay. Mr. Merz, did you want to

1 waive an opening, too?  
 2 MR. MERZ: We would be happy to waive an opening  
 3 and just get to the witness testimony.  
 4 ARBITRATOR RODDA: Okay. So I guess we're with  
 5 Ms. Albersheim. Is that how you pronounce your name?  
 6 MR. TOPP: And we have had premarked her  
 7 exhibits, her testimony, Ms. Albersheim's direct, and I  
 8 have copies here for you.  
 9 ARBITRATOR RODDA: You probably win for --  
 10 THE WITNESS: No. I think there was some bigger  
 11 but --  
 12 MR. TOPP: I have got copies here for you, Your  
 13 Honor, if you would like more paper.  
 14 MR. CURTRIGHT: Would you like them there now,  
 15 Your Honor?  
 16 ARBITRATOR RODDA: Yes, please. At least they're  
 17 all clean probably, or all organized. Thank you, Norm.  
 18 MR. TOPP: And the bottom -- well, I'll just go  
 19 through them. Ms. Albersheim's direct is marked as  
 20 Exhibit 1.  
 21 ARBITRATOR RODDA: Qwest-1.  
 22 MR. TOPP: Qwest-1, yes. Her rebuttal, public  
 23 rebuttal is marked as Qwest Exhibit 2. Her confidential  
 24 rebuttal is marked as Qwest Exhibit 3, and her surrebuttal  
 25 testimony is marked as Qwest Exhibit 4.

1 And then we've also given you, following up on  
 2 our conversation last week, the multistate contract which  
 3 has been marked as Joint Exhibit 1, and it contains  
 4 language proposals for all of the states in which we  
 5 operate, as well as the results of the Minnesota  
 6 proceeding. And the language resulting from the Minnesota  
 7 proceeding is not finalized. It's a compliance filing  
 8 process, and there are some disputes regarding what that  
 9 language might be. So I just wanted to make that clear  
 10 for you from the outset.  
 11 ARBITRATOR RODDA: I'm sorry. Did you swear in  
 12 the witness?  
 13 COURT REPORTER: Not yet.  
 14  
 15 RENÉE ALBERSHEIM,  
 16 called as a witness on behalf of Qwest, having been first  
 17 duly sworn by the Certified Reporter to speak the truth  
 18 and nothing but the truth, was examined and testified as  
 19 follows:  
 20  
 21 EXAMINATION  
 22  
 23 Q. (BY MR. TOPP) Ms. Albersheim, have you prepared  
 24 testimony related to this proceeding?  
 25 A. Yes, I have.

1 Q. Okay. And my understanding is that your direct  
2 is marked as Qwest Exhibit 1; is that correct?

3 A. Yes.

4 Q. And your public version of your rebuttal  
5 testimony is marked as Qwest Exhibit 2?

6 A. Yes.

7 Q. And the confidential version of your rebuttal  
8 testimony is marked as Qwest Exhibit 3?

9 A. Yes.

10 Q. And your surrebuttal is marked as Qwest  
11 Exhibit 4?

12 A. Yes.

13 Q. And at this time, are there any modifications to  
14 the testimony that you would like to make?

15 A. No.

16 Q. And would the answers to the questions be the  
17 same today as they were at the time that you prepared the  
18 testimony?

19 A. Yes.

20 MR. TOPP: Qwest would offer Exhibits 1, 2, 3  
21 and 4.

22 ARBITRATOR RODDA: Any objections to those?

23 MR. MERZ: No objections.

24 ARBITRATOR RODDA: Then Qwest-1, 2, 3, and 4 are  
25 admitted.

1 (Exhibit Nos. Qwest-1, Qwest-2, Qwest-3, and  
2 Qwest-4 were admitted into evidence.)

3 Q. (BY MR. TOPP) Ms. Albersheim, have you prepared  
4 a summary for the court today?

5 A. Yes, I have.

6 Q. All right.

7 A. First, I would like to introduce myself. I'm  
8 Renée Albersheim. I work in the Qwest wholesale witness  
9 team, so I participate in a variety of dockets on a  
10 variety of subjects. I also serve in a negotiation  
11 capacity because of my expertise in OSS, and I also  
12 provide inputs for OSS cost studies when those are  
13 prepared for cost dockets.

14 In this case, my testimony covers issues on  
15 Section 1 of the interconnection agreement on service  
16 intervals and Section 12 of the interconnection agreement  
17 on access to operations support systems, also known as  
18 OSS, including such things as expedited orders and  
19 jeopardy notices. Qwest's proposals implement Qwest's  
20 current processes as developed in its change management  
21 process or CMP.

22 Qwest proposals also provide the flexibility to  
23 change processes consistently for all CLECs through the  
24 CMP. Consistency for all CLECs is valuable because it  
25 improves training for Qwest and CLEC employees, reduces

1 the potential for error, and increases efficiency.

2 Eschelon's proposals create many concerns for  
3 Qwest. First, in many instances Eschelon is seeking to  
4 change Qwest's current processes. This is true for all of  
5 the issues covered by my testimony.

6 Second, Eschelon seeks to take away any  
7 flexibility to make changes in these procedures via the  
8 CMP in the event that any such changes are necessary.

9 Third, Eschelon's proposed modifications are  
10 efforts to be treated better than other CLECs and better  
11 than Qwest retail customers. Eschelon's proposals  
12 undermine the CMP, which was developed out of the Qwest  
13 271 proceedings and has proven to be an effective vehicle  
14 for managing the systems and process changes. And that's  
15 my opening.

16 MR. TOPP: Ms. Albersheim is ready for  
17 cross-examination.

18 ARBITRATOR RODDA: Mr. Merz.

19 MR. MERZ: Thank you, Your Honor.

20

21 CROSS-EXAMINATION

22

23 Q. (BY MR. MERZ) I would like to start just talking  
24 a little bit generally about CMP, and I believe that you  
25 did talk about that in your summary.

1 And as I understand it, one of the concerns that  
2 you have is that the language that Eschelon has expressed,  
3 has proposed, will set certain processes in stone?

4 A. Yes.

5 Q. And, in fact, set in stone is something that you  
6 say kind of throughout your testimony; correct?

7 A. Yes, because then it will be necessary to  
8 approach Eschelon for an amendment to their contract if a  
9 change is introduced in the CMP that is contrary to  
10 Eschelon's language.

11 Q. So that's the set in stone argument?

12 A. Yes.

13 Q. Then you have what I think you refer to in your  
14 testimony as the one-off argument; correct?

15 A. If you mean a different process for Eschelon,  
16 yes.

17 Q. And you use the phrase one-off --

18 A. Yes.

19 Q. -- throughout your testimony; correct?

20 A. I have used it, yes.

21 Q. Now, I want to talk with about a few issues  
22 actually that have closed. Issue 12-75 related to tagging  
23 of the demarcation point. Do you recall that?

24 A. Yes.

25 Q. And you recall that Eschelon proposed certain

1 language regarding Qwest's obligation to tag the  
 2 demarcation point between the Qwest network and the  
 3 customer's network; is that right?  
 4 A. Yes. Now, I really testified on that in a very  
 5 limited basis. The details of tagging at the demarc were  
 6 handled by a network witness.  
 7 Q. And the testimony, the limited testimony that you  
 8 made concerning that issue was that Eschelon's language  
 9 would set certain processes in stone?  
 10 A. Yes. It would require us to get an amendment  
 11 from Eschelon before any change to that process could be  
 12 made through the CMP.  
 13 Q. In fact, I think you use the phrase in your  
 14 testimony, "set in stone." Do you recall that?  
 15 A. On that topic, I don't know if I did. It  
 16 wouldn't surprise me if I did.  
 17 Q. And you also said that Eschelon's proposal,  
 18 because it would require Qwest to handle requests for  
 19 tagging in a certain way, would create a one-off process.  
 20 Do you recall that?  
 21 A. I'm not so sure. It depends on if the proposal  
 22 was different from our current process, and I don't recall  
 23 if that one was.  
 24 Q. Was it not part of your objection that Eschelon  
 25 was trying to get some kind of special deal with respect

1 to tagging at the demarc?  
 2 A. I don't recall the details of that issue. Since  
 3 it was closed, I'm not really prepared to discuss that.  
 4 Q. You are aware that since you filed your testimony  
 5 in Minnesota that issue has closed?  
 6 A. Right.  
 7 Q. And it has closed with the procedures and  
 8 processes that Eschelon had proposed regarding tagging at  
 9 the demarc; is that right?  
 10 A. I believe that's correct, yes.  
 11 Q. Now, do you believe that that resolution sets  
 12 processes in stone?  
 13 A. I do. I believe that if a change is proposed in  
 14 the CMP counter to what was agreed to in that language, we  
 15 will not be able to make that change in the CMP without  
 16 first obtaining an amendment to the interconnection  
 17 agreement. So yes, that's true.  
 18 Q. That was something that was acceptable to Qwest  
 19 with respect to that issue; correct?  
 20 A. The management at Qwest decided that it was  
 21 reasonable to settle that issue.  
 22 Q. And was it your view that that process that was  
 23 agreed to created a one-off process for Eschelon?  
 24 A. Again, I don't believe that's the case, unless  
 25 what Eschelon asked for is different than what we do

1 today, and I don't recall that being the case with that  
 2 particular issue. But, again, since it's settled, I did  
 3 not go back and review that.  
 4 Q. Well, let's talk about service order  
 5 notifications. You're familiar with those? Pending  
 6 service order notifications?  
 7 A. Yes.  
 8 Q. Sometimes referred to as PSONs?  
 9 A. Yes.  
 10 Q. That was an issue that you did address in your  
 11 direct testimony; is that correct?  
 12 A. Yes.  
 13 Q. That's issue 12-70. Do you recall that?  
 14 A. I assume that's the correct number.  
 15 Q. Your testimony with respect to PSONs -- well, let  
 16 me take a step back. Eschelon proposed that contract  
 17 language be included in the interconnection agreement that  
 18 would describe certain information that had to be  
 19 contained in the PSON. Do you recall that?  
 20 A. Right.  
 21 Q. And your objection to Eschelon's proposal was  
 22 that that language would set in stone what had to be  
 23 contained in the PSON; is that right?  
 24 A. That's correct.  
 25 Q. And that is another issue that has since settled;

1 is that right?  
 2 A. That's correct.  
 3 Q. And it is settled with Qwest agreeing to the  
 4 language proposed by Eschelon; is that correct?  
 5 A. I believe the language was modified some from its  
 6 original proposal which went beyond what was contained in  
 7 the PSON. Eschelon made a modification to the language,  
 8 and ultimately we decided that we would agree to put that  
 9 language in the contract. But, again, if a change comes  
 10 into the CMP that is contrary to that language, we will  
 11 not be able to make a change to the PSON now without  
 12 Eschelon first amending its agreement.  
 13 Q. So you still have the set in stone concern?  
 14 A. Oh, yes.  
 15 Q. But that was a concern that Qwest was apparently  
 16 willing to put in the background in order to resolve that  
 17 issue; correct?  
 18 A. I don't know if I would phrase it that way, but  
 19 it was settled, yes.  
 20 Q. And it was settled with an agreement that certain  
 21 language would be included in the contract that would  
 22 require information to be contained in the PSON?  
 23 A. Yes.  
 24 Q. Now, fatal rejection notices is another systems  
 25 notice that was at issue in this case; is that correct?

1 A. Yes, it was.  
 2 Q. You filed direct testimony on that issue; is that  
 3 right?  
 4 A. Yes, I did.  
 5 Q. And it was your direct testimony that the  
 6 language that Eschelon was proposing was objectionable  
 7 because it would set in stone what had to be contained in  
 8 the fatal rejection notices; is that right?  
 9 A. I believe this was more about the procedures for  
 10 fatal rejection notices rather than the contents of the  
 11 notices, but yes. That was one of the issues, yes.  
 12 Q. You recall that Eschelon proposed language  
 13 relating to fatal rejection notices that described what  
 14 had to be contained in those notices?  
 15 A. I recall that the language was about procedures  
 16 for fatal rejection notices.  
 17 Q. In all events, the issue has settled?  
 18 A. Yes, it has.  
 19 Q. Now, did that settlement set in stone those  
 20 processes and procedures?  
 21 A. Yes, it does.  
 22 Q. And that was something that was acceptable to  
 23 Qwest?  
 24 A. For settlement purposes it was. But we are still  
 25 now going to have to pass any CMP changes through, compare

1 to Eschelon's language, and if it is not consistent with  
 2 Eschelon's contract, we would have to seek an amendment  
 3 for that before that change could go through the CMP.  
 4 Q. I'm going to ask you now about loss and  
 5 completion reports. Do you recall that issue?  
 6 A. Yes, I do.  
 7 Q. And your direct testimony regarding loss and  
 8 completion reports was that Eschelon's language was  
 9 unacceptable because it would set in stone certain  
 10 processes relating to those reports; is that right?  
 11 A. In that case it set the fields to be contained in  
 12 the loss and completion reports, yes.  
 13 Q. And that issue has since been settled; correct?  
 14 A. Yes, it has.  
 15 Q. It's been settled with Qwest agreeing to  
 16 Eschelon's language?  
 17 A. Yes, it has.  
 18 Q. Closing trouble reports is another issue that you  
 19 discussed in your direct testimony; is that right?  
 20 A. Yes.  
 21 Q. And Qwest's proposal with respect to closing  
 22 trouble reports was that there should just be in the  
 23 contract a reference to Qwest's product catalog its PCAT;  
 24 is that right?  
 25 A. Yes.

1 Q. And Eschelon actually had substantive language  
 2 that it had proposed for that provision?  
 3 A. Again, the detailed procedures for closing  
 4 trouble reports.  
 5 Q. And your concern as it was expressed in your  
 6 direct testimony was that the Eschelon language would set  
 7 in stone the processes that were described in Eschelon's  
 8 language?  
 9 A. Yes. And again, now, because that language has  
 10 been settled, if a change comes to the change management  
 11 process asking to change those processes and procedures,  
 12 we will not be able to without first going to Eschelon for  
 13 an amendment.  
 14 Q. Qwest agreed to Eschelon's language to resolve  
 15 that issue, closing trouble reports?  
 16 A. Yes, we did.  
 17 Q. If you turn to your surrebuttal.  
 18 A. Okay.  
 19 Q. At Page 12.  
 20 A. Now I need a copy.  
 21 That would be No. 4. I have it.  
 22 Q. Okay. I'm looking at Page 12, Lines 8 through  
 23 12. Actually, just 8 through 10.  
 24 A. Okay.  
 25 Q. You talk there about Eschelon talking about a few

1 isolated examples and holding them out as the rule in the  
 2 CMP rather than the exception; is that right?  
 3 A. Yes. In Mr. Starkey's testimony, yes.  
 4 Q. Those are the examples you're talking about, the  
 5 ones in Mr. Starkey's testimony?  
 6 A. Yes.  
 7 Q. Now, you are familiar with the Minnesota ALJs'  
 8 report in the arbitration; correct?  
 9 A. Yes.  
 10 Q. And that report is something that you rely on  
 11 throughout your testimony in places where you believe that  
 12 report supports Qwest's position; correct?  
 13 A. Yes. I have quotes from that, yes.  
 14 MR. MERZ: And, Your Honor, this is already part  
 15 of Mr. Starkey's testimony, but I did have a couple of  
 16 questions I wanted to ask Ms. Albersheim, and I just have  
 17 a copy of the report if I could give that to her.  
 18 ARBITRATOR RODDA: Okay.  
 19 Q. (BY MR. MERZ) Ms. Albersheim, would you go to  
 20 Paragraph 22 of the arbitrator's report, please.  
 21 A. Okay.  
 22 Q. Paragraph 22. Are you there?  
 23 A. Yes.  
 24 Q. The conclusion of the Minnesota ALJs in  
 25 Paragraph 22 was that Eschelon has provided convincing

1 evidence that the CMP process does not always provide  
2 CLECs with adequate protection from Qwest making important  
3 unilateral changes in the terms and conditions of  
4 interconnection. Do you see that?

5 A. Yes.

6 Q. And that conclusion was one that was based on the  
7 same, what you have characterized as isolated examples  
8 described by Mr. Starkey; is that right?

9 A. Presumably, yes.

10 Q. Now, Qwest did not file any exceptions in the  
11 Minnesota case to that conclusion of the Minnesota ALJs;  
12 is that right?

13 A. We did file exceptions. I don't know that our  
14 attorneys made an exception to this paragraph, but we did  
15 file exceptions to this report.

16 Q. You don't know if those exceptions addressed this  
17 particular conclusion of the Minnesota ALJs?

18 A. I don't know, but I would not agree with this  
19 conclusion.

20 Q. I want to talk with you now about intervals,  
21 which is Issue 1-1 and its subparts. That's an issue that  
22 you talk about in your testimony; right?

23 A. Yes.

24 Q. An issue here is whether changes in provisioning  
25 intervals should be reflected in an amendment to the ICA

1 as Eschelon has proposed, or whether Qwest should be able  
2 to change intervals through CMP without making any changes  
3 in the contract.

4 A. Which is our current process.

5 Q. And I have generally described the issue  
6 correctly?

7 A. Yes.

8 Q. Now, intervals are how long it takes for a CLEC  
9 to get a particular product and service; is that right?

10 A. Generally, yes.

11 Q. And you would agree with me that an interval is  
12 something that is particularly important to a CLEC in  
13 terms of its ability to provide prompt service to its  
14 customers?

15 A. Well, I would agree that it's important for CLECs  
16 to know how much time it will take to provision a product,  
17 yes.

18 Q. And you would agree with me that if an interval  
19 is lengthened, that means that the CLEC's customer would  
20 end up waiting longer for service; is that right?

21 A. That's correct. And we have the process through  
22 the CMP which has been used once to lengthen an interval,  
23 and that was done with no objection from any CLECs.

24 Q. I would like you to go to your surrebuttal at

25 Page 15. And then going over to Page 16, Page 15 begins

1 at Line 23 through Page 16, Line 2. Just tell me when  
2 you're there.

3 A. I'm there.

4 Q. And you say in your testimony there, "When  
5 evaluating this issue..." And there you're referring to  
6 the intervals issue; correct?

7 A. Yes.

8 Q. When evaluating this issue, the Commission should  
9 weigh the relative benefits of locking intervals in place  
10 as part of a proceeding involving Qwest and Eschelon  
11 versus the value of having service intervals resolved  
12 through the CMP. Do you see that?

13 A. Yes.

14 Q. Okay. Now, this is another issue where you're  
15 making the set in stone and one-off arguments, as I  
16 understand it; is that right?

17 A. Yes.

18 Q. Now, Eschelon has made two different proposals  
19 relating to intervals. You're aware of that?

20 A. Yes.

21 Q. Now, one of Eschelon's proposals would allow  
22 Qwest to shorten intervals through the CMP process;  
23 correct?

24 A. Right. Without allowing Qwest to lengthen them,  
25 so it's certainly to Eschelon's advantage.

1 Q. Qwest has, since getting 271 approval, changed  
2 intervals 40 times; is that right?

3 A. I think that's right, yes.

4 Q. And 39 times --

5 A. It shortened the interval.

6 Q. -- it shortened the interval; correct?

7 A. Yes. Through the industry forum, that is the  
8 CMP, yes.

9 Q. And Eschelon's proposed language, the first  
10 proposal that Eschelon has made with respect to intervals  
11 would not have interfered with Qwest to shorten any of  
12 those 39 intervals; is that right?

13 A. Not really. Because the way Eschelon proposes to  
14 do this, we would have to have Eschelon's agreement first  
15 essentially through this amendment that Eschelon proposes  
16 to use.

17 Q. To shorten intervals?

18 A. To shorten intervals. That is in part of the  
19 process today through the CMP.

20 MR. MERZ: And, Your Honor, I just had actually a  
21 question of Ms. Albersheim about that issue, and if I  
22 could just hand her the contract here.

23 Q. (BY MR. MERZ) And if you could refer, ma'am, to  
24 Section 1.7.2.

25 A. Yeah, I'm there. Oh, you're speaking of the



1 proposal where Eschelon would not have to do its advice  
2 adoption letter if it was a shortened interval.

3 Q. Let's look at what is labeled as Eschelon  
4 Proposal No. 1. Do you see that?

5 A. Yes.

6 Q. And do you see and we're looking at the Arizona  
7 language? Do you have that there?

8 A. Yeah. Arizona, Colorado, Utah, Oregon,  
9 Washington, okay.

10 Q. And then if you look at Section 1.7.2.1. Do you  
11 have that?

12 A. Yes.

13 Q. And it says there, notwithstanding any other  
14 provision in this agreement, the intervals in Exhibit C  
15 those are the intervals we're talking about; right?

16 A. Right.

17 Q. The intervals in Exhibit C may be shortened  
18 pursuant to the change management process, paren, CMP,  
19 without requiring the execution or filing of any amendment  
20 to the agreement. Do you see that?

21 A. That's right. Right, yes, I see that.

22 Q. And that's your understanding of Eschelon's  
23 proposal; right?

24 A. Yes. So we still have to use the advice adoption  
25 letters to increase an interval, yes.

1 Q. But off of the 39 or 40 interval changes that  
2 Eschelon has or that Qwest has implemented since getting  
3 271 approval, if the Commission adopted this language at  
4 1.7.2.1, all of those changes could have gone through just  
5 as they did?

6 A. Yes. Which makes the language from Eschelon in  
7 their contract unnecessary, because the change management  
8 process is working effectively.

9 Q. Without that language, there's no -- well,  
10 actually let me talk about lengthening intervals.

11 A. Yes.

12 Q. You have talked about this advice adoption  
13 process.

14 A. Eschelon's Exhibits N and O.

15 Q. Yes. Now, one of the things that you say in your  
16 testimony, and I'm looking at your rebuttal, Page 35, Line  
17 6 through 9.

18 A. The public or confidential?

19 Q. You know, I don't know that it matters. Why  
20 don't you look at the confidential.

21 A. Oh, okay. I need a copy of No. 2 or No. 3.  
22 Which page?

23 Q. I'm looking at Page 35 of your rebuttal beginning  
24 at Line 6. The sentence that begins there.

25 A. Okay.

1 Q. You say there: But in addition to requiring the  
2 party to execute time and resource consuming amendments,  
3 Eschelon wants to require Qwest to use specific forms  
4 attached as Exhibit N and O to the ICA to implement  
5 service interval changes. Do you see that?

6 A. Yes.

7 Q. You understand, do you not, that those Exhibits N  
8 and O are to be used in lieu of a formal amendment, not in  
9 addition; correct?

10 A. Yes.

11 Q. So when you say that in addition, to require the  
12 parties to execute time and resource consuming amendments,  
13 Eschelon wants to also use these other exhibits?

14 A. This presumes that Eschelon is going to agree to  
15 the interval change.

16 Q. And if Eschelon doesn't agree, would it be  
17 Qwest's position that it ought to be able to just go to  
18 CMP and increase the interval without -- over Eschelon's  
19 objection?

20 A. Eschelon should object through the standard  
21 process we've established in the CMP to allow input on  
22 interval changes. This intervenes in that process.

23 Q. The Exhibits N and O are modeled on another  
24 couple of exhibits that are actually agreed upon as part  
25 of the contract; is that right?

1 A. That is Eschelon's position.

2 Q. You disagree with that?

3 A. I agree they're modeled on them. I don't  
4 believe they function in the same way.

5 Q. I mean, the language is almost identical between  
6 Exhibits L and N and M and O; isn't that right?

7 A. And L and M are for allowing Eschelon to take  
8 advantage of new products offered by Qwest that were not  
9 available when the original contract was agreed to. And I  
10 believe that's a different function than whether or not a  
11 service interval should change.

12 Q. Exhibits L and M are something called advice  
13 adoption letters; is that right?

14 A. That sounds right, yes.

15 Q. And that's a process that Qwest uses regularly to  
16 allow CLECs to obtain new products without formally  
17 amending their contract; is that right?

18 A. That's correct.

19 Q. Those are documents that Qwest came up with;  
20 isn't that right?

21 A. I don't know their origin. I don't know if they  
22 were negotiated or completely established by Qwest.

23 Q. Would you agree with me that the mechanisms that  
24 use those advice adoption letters were developed for the  
25 purpose of streamlining the process by which CLECs could

1 obtain new products?  
 2 A. Yes. I agree.  
 3 Q. And?  
 4 A. But I don't agree that the same can be said if  
 5 you interject an additional process into the CMP for the  
 6 management for changing intervals.  
 7 Q. What additional process are you talking about?  
 8 A. This adoption letter which we would have to have  
 9 from Eschelon in order to proceed in the CMP with an  
 10 interval change. And the presumption is we would have  
 11 to -- you would have to presume that Eschelon would agree,  
 12 and if they do not, we have a contract issue impeding the  
 13 process of the CMP to make interval changes.  
 14 MR. TOPP: Your Honor, I have Exhibits N and O to  
 15 the contract. I wonder if I could just have them marked  
 16 as an exhibit, please.  
 17 ARBITRATOR RODDA: Okay. Did you have any  
 18 premarked so -- I don't know where we were.  
 19 MR. MERZ: This would be Eschelon 1.  
 20 ARBITRATOR RODDA: Okay.  
 21 Q. (BY MR. MERZ) Ms. Albersheim, you have there  
 22 what's been marked as Eschelon Exhibit 1; correct?  
 23 A. Yes.  
 24 Q. And what Eschelon Exhibit 1 is Exhibits N and  
 25 O to the proposed interconnection agreement; correct?

1 A. Yes.  
 2 Q. And these are the things that Qwest is objecting  
 3 to as creating an unreasonable burden; is that right?  
 4 A. It creates interference with the normal operation  
 5 of the CMP. Without this signed letter from Eschelon, the  
 6 CMP cannot proceed, because then Qwest has the issue of  
 7 dealing with being in violation of Eschelon's contract.  
 8 Q. You mentioned there were 39 times when Qwest  
 9 shortened intervals?  
 10 A. Yes.  
 11 Q. There was one time when Qwest lengthened  
 12 intervals; correct?  
 13 A. Yes.  
 14 Q. And in that one time where Qwest lengthened  
 15 intervals, no CLEC apparently objected to that; is that  
 16 right?  
 17 A. That's correct.  
 18 Q. Would you agree about with me that if Eschelon  
 19 didn't object to lengthening an interval, it would sign  
 20 Exhibit N and it would adopt that lengthened interval?  
 21 A. If Eschelon did not object. But if Eschelon  
 22 objects, then we have an additional impediment to the  
 23 normal process of the CMP.  
 24 Q. But in the case of the one interval that was  
 25 lengthened Eschelon didn't object?

1 A. No. Nobody objected.  
 2 Q. Okay. And presumably Eschelon would have signed  
 3 Exhibit N, and that would have been the end of the story;  
 4 right?  
 5 A. Possibly. I don't know for sure that that would  
 6 have happened, but we would have had to have that step  
 7 first.  
 8 Q. And the one time, there was one time when Qwest  
 9 proposed lengthening an interval that CLECs did object to;  
 10 correct?  
 11 A. Right. And the interval was not lengthened.  
 12 Q. Would you agree with me that it is generally in  
 13 the CLECs' interest to have shorter intervals rather than  
 14 longer ones?  
 15 A. That's probably true.  
 16 Q. Are you aware of any time when any CLEC has  
 17 requested a longer interval?  
 18 A. No, I'm not.  
 19 Q. Then go back to the ALJs' report, the Minnesota  
 20 report, paragraph 22 again.  
 21 A. I'm there.  
 22 Q. And looking at the middle of that paragraph, the  
 23 Minnesota ALJs concluded that Qwest has identified no  
 24 compelling reason why inclusion of the current intervals  
 25 in the ICA would harm the effectiveness of the CMP process

1 or impair Qwest's ability to respond to industry changes.  
 2 Do you see that?  
 3 A. Yes, I see that.  
 4 Q. And do you know whether Qwest took an exception  
 5 to that conclusion by the Minnesota ALJs?  
 6 A. I don't recall if that was in our exceptions or  
 7 not.  
 8 Q. Do you know what the Minnesota Commission did  
 9 with this issue?  
 10 A. I haven't seen the Commission written order.  
 11 I've only heard there were oral arguments, so I don't know  
 12 the final conclusion on this.  
 13 Q. I want to talk with you now about the issue of  
 14 acknowledgement of mistakes and root cause analysis.  
 15 A. Okay.  
 16 Q. Those are Issues 12-64 and its subparts. Do you  
 17 recall that?  
 18 A. Yes.  
 19 Q. Now, the issue here is contract language  
 20 regarding Qwest's obligations to investigate and  
 21 acknowledge mistakes; is that right?  
 22 A. Yes.  
 23 Q. Now, this is another issue that the Minnesota  
 24 ALJs addressed; is that right?  
 25 A. I believe so.

1 Q. And in your surrebuttal testimony at Page 20,  
 2 Line 1 --  
 3 A. Okay.  
 4 Q. -- you criticized Mr. Starkey for inaccurately  
 5 reflecting the conclusion of the ALJs; is that right?  
 6 A. Yes.  
 7 Q. And so you have there in your testimony a quote  
 8 from the ALJs' conclusions; is that right?  
 9 A. Yes. I do.  
 10 Q. And that quote begins at Line 6 of Page 20 and  
 11 goes through Line 11; is that right?  
 12 A. Yes.  
 13 Q. And that is a quote, a partial quote from  
 14 Paragraph 208 of the order; is that right?  
 15 A. Yes.  
 16 Q. Would you turn to Paragraph 208.  
 17 A. Yes.  
 18 Q. Now, you begin your quote with the second  
 19 sentence of Paragraph 208; is that right?  
 20 A. Yes, I do.  
 21 Q. Your quote begins, "Eschelon's language," and  
 22 then you've got three ellipses. And then you go on to say  
 23 "does expand the scope from mistakes in processing  
 24 wholesale orders to mistakes relating to the products and  
 25 services provided under this agreement." Is that right?

1 Q. Now, focusing on the words that those three  
 2 ellipses stand for, is it your view that your partial  
 3 quote of the ALJs' report at Paragraph 208 accurately  
 4 reflects the sense of what the ALJs held?  
 5 A. I was responding to Mr. Starkey's testimony which  
 6 claimed that the result was completely consistent, and I  
 7 was pointing out that even the ALJ felt that Eschelon's  
 8 language expanded the original intent of the order.  
 9 Q. You characterize Mr. Starkey as inaccurately  
 10 reflecting the ALJs' decision; is that right?  
 11 A. I believe so on that account, too, because  
 12 Mr. Starkey went to the ALJs' first language, that is  
 13 Eschelon's language, and not his recommended language  
 14 which limited the scope to wholesale orders.  
 15 Q. Would you agree with me that one might also  
 16 criticize your testimony here at Line 6 through 11,  
 17 Page 20 of your surrebuttal as inaccurately characterizing  
 18 the ALJs' report?  
 19 A. I wasn't trying to accurately characterize the  
 20 entire ALJ report. I was pointing out that Mr. Starkey  
 21 did not acknowledge that the ALJ saw that Eschelon's  
 22 language went beyond the original order. That was my  
 23 whole intent.  
 24 Q. And you believe that your quotation then  
 25 accurately reflects the average's holding at Paragraph

1 A. Yes.  
 2 Q. I want to talk now about what is not in this  
 3 quote, what those ellipses stand for.  
 4 A. Uh-huh.  
 5 Q. The full quote says: Eschelon's language is not  
 6 vague or burdensome, parentheses, to acknowledge a mistake  
 7 Qwest has to determine that one was made and why, close  
 8 parentheses, and it is more consistent with the  
 9 Commission's order.  
 10 A. Yes.  
 11 Q. But it does expand the scope, and then it goes  
 12 on.  
 13 A. Yes.  
 14 Q. So the language I just read was the language that  
 15 you left out of your quote; is that right?  
 16 A. Yes.  
 17 Q. And the ALJs also conclude that either the  
 18 alternative proposed by Eschelon or one that focused  
 19 specifically on wholesale orders, either of those would be  
 20 consistent with the record in the public interest; is that  
 21 right?  
 22 A. Yes.  
 23 Q. And you leave that out of your quote as well; is  
 24 that right?  
 25 A. I believe I discuss that later, but --

1 208; is that right?  
 2 A. It accurately reflects that even the ALJ  
 3 acknowledged that Eschelon's language went beyond  
 4 wholesale orders.  
 5 Q. Okay. Now, one of your criticisms of Eschelon's  
 6 language is that it's based on a decision by the Minnesota  
 7 Public Utilities Commission in a complaint case brought by  
 8 Eschelon. Do you recall that?  
 9 A. Well, that's a bit generalizing my position a  
 10 bit.  
 11 Q. Well, maybe we'll get to it. That case I'll just  
 12 refer to as the 616 case. Is that the way you refer to  
 13 it?  
 14 A. I can.  
 15 Q. Okay. Now, one of your criticisms is that  
 16 Eschelon's language goes beyond what the Commission  
 17 intended in the 616 case; isn't that right?  
 18 A. Yes.  
 19 Q. And what you believe is that it goes beyond what  
 20 the Commission intended, because it goes beyond mistakes  
 21 that are made when relating to orders; is that right?  
 22 A. There's part of it yes.  
 23 Q. And you say at your rebuttal testimony Page 37 --  
 24 A. My rebuttal?  
 25 Q. Yes. I think the public version will be just

1 fine. Will you look at Page 37?  
 2 A. Page 37. Okay. I'm there.  
 3 Q. And I'm looking at Lines 11 through 14.  
 4 A. Okay.  
 5 Q. You say there that Eschelon's proposed language  
 6 expands the scope of the Minnesota Commission's orders to  
 7 include mistakes in all circumstances, not just the  
 8 processing of wholesale orders and to require root cause  
 9 analyses in all circumstances; is that right?  
 10 A. Yes, that's what it says.  
 11 Q. You are aware, are you not, that the Minnesota  
 12 Commission documented Eschelon's position with respect to  
 13 these issues?  
 14 A. Well, again, we don't have a written order, so it  
 15 is not clear to me whether our acceptance of the ALJs'  
 16 alternative language was considered or not. I don't know.  
 17 Q. And I think that you answered my question, but I  
 18 just want to make sure. Are you aware of that the  
 19 Minnesota Commission has adopted Eschelon's proposed  
 20 language on this issue?  
 21 A. I'm not clear on that because we don't have a  
 22 written order.  
 23 Q. Do you know whether the Minnesota Commission has  
 24 defined the phrase "processing wholesale orders" to  
 25 include preorder, ordering, provisioning, maintenance or

1 repair, and billing?  
 2 A. That I don't know.  
 3 Q. Now, you refer in your testimony in a number of  
 4 places to the 616 case as a settlement. Do you recall  
 5 that?  
 6 A. Well, ultimately it was essentially settled based  
 7 on compliance filings.  
 8 Q. So you refer to it as a settlement; is that  
 9 right?  
 10 A. Yes.  
 11 Q. You understand that -- well, let me ask you this:  
 12 The compliance filings were filings that Qwest made to  
 13 comply with the Commission's order that Qwest change  
 14 certain processes and procedures relating to root cause  
 15 analysis and acknowledgement of mistakes?  
 16 A. Right. Which Qwest did do.  
 17 Q. And it actually made three separate compliance  
 18 filings; isn't that right?  
 19 A. I think it's right, yes.  
 20 Q. The reason it did that is the first two were  
 21 rejected by the Minnesota Commission as inadequate;  
 22 correct?  
 23 A. Yes.  
 24 ARBITRATOR RODDA: I'm sorry, can you remind me  
 25 what the 616 case is?

1 MR. MERZ: That was a complaint case actually  
 2 brought by Eschelon relating to a mistake that Qwest had  
 3 made in the handling of an order.  
 4 ARBITRATOR RODDA: Thank you.  
 5 Q. (BY MR. MERZ) now, you say in your surrebuttal  
 6 testimony well let me ask you this. You talk about the  
 7 616 case as a case involving a settlement; right?  
 8 A. Yes. The Commission accepted the compliance  
 9 filing as a settlement of the case. It closed the case.  
 10 Q. Well, are you saying that it was a settlement  
 11 because Qwest agreed to comply with what the Commission  
 12 ordered? Is that what made it a settlement?  
 13 A. Well, I think we're using a term of art that  
 14 could be interpreted in a different way. The point was  
 15 that the case was closed because of the Commission's  
 16 acceptance of Qwest's third compliance filing.  
 17 Q. Well, you're a lawyer; correct, ma'am?  
 18 A. Yes, I am a lawyer.  
 19 Q. And you know what a settlement is; correct?  
 20 A. Yes.  
 21 Q. Okay. In what sense did the Commission's orders  
 22 in the Minnesota 616 case reflect a settlement? How, in  
 23 what way was that a settlement?  
 24 A. The Commission was satisfied based on the  
 25 compliance filing that the situation was resolved and

1 there were not going to be further issues of this kind.  
 2 Now, this wouldn't be like a settlement between  
 3 the parties, which is normally how you would use this  
 4 term, say, between Qwest and Eschelon. It was Qwest  
 5 settling with the Commission.  
 6 Q. Well, you know, that's a good point. Go to your  
 7 rebuttal testimony at Page 37, Lines 15 through 17.  
 8 A. Rebuttal, Page 37.  
 9 Line?  
 10 Q. 15 through 17. Yes.  
 11 The question there is: Are there other ways in  
 12 which Eschelon attempts to expand the settlement terms  
 13 beyond what was agreed to by the parties in the Minnesota  
 14 case?  
 15 A. Yes.  
 16 Q. And what I understood you to just tell me was  
 17 that this was not a settlement between the parties;  
 18 correct?  
 19 A. Well, actually, it was, if you think about it,  
 20 because not only did the Commission accept the compliance  
 21 filing, but Eschelon did not object. It agreed to the  
 22 compliance filing as resolving the case. This did not  
 23 continue. So it really was.  
 24 Q. If you go to Page 18 of your surrebuttal.  
 25 A. Page 18, surrebuttal. Okay.

1 Q. You say there, Page 18, Lines 20 through 21. You  
2 say: This process is not one that requires Qwest to alter  
3 its procedures overall, nor does it apply to all CLECs.  
4 Do you see that?

5 A. Yes.

6 Q. Now, this process is the process that Qwest was  
7 ordered to implement by the Minnesota Commission in the  
8 616 case. That's the process that you're talked about  
9 there; correct?

10 A. I'm talking about the requirement of a letter to  
11 Eschelon's customer if Qwest makes a mistake, yes.

12 Q. And I think you answered a question that's  
13 different than the one I asked. When you talk about this  
14 process, you are referring, are you not, to the process  
15 that the Minnesota Commission ordered Qwest to put in  
16 place as a result of the 616 case?

17 A. Well, actually there were several different  
18 things that were done as a result of the Commission order.  
19 Several processes and procedures that were undertaken by  
20 Qwest. Here I'm speaking of Eschelon's defining of the  
21 process for preparing a letter for its customers, so that  
22 it's a little bit different.

23 Q. So you're talking about the process by which  
24 Qwest would prepare a letter that acknowledged its  
25 mistakes?

1 A. Because this order was specific to Eschelon and  
2 it impacts Eschelon's service manager, as I said in my  
3 testimony above. It's what you would call a one-off, but  
4 it was not required of us for all CLECs. It was only  
5 required in Eschelon.

6 Q. Did it you look at Qwest's compliance filing  
7 either before or after you made that statement that we've  
8 been talking about in your testimony?

9 A. Which compliance filing?

10 Q. The compliance filing that Qwest made in order to  
11 comply with the Commission's order in the Minnesota 616  
12 case.

13 A. I haven't looked at it in awhile, no. I have  
14 looked at it before.

15 MR. MERZ: Your Honor, I would I want the mark  
16 the compliance filing as an exhibit. So this would be  
17 Eschelon 2.

18 Before I get to Eschelon 2, I think I forgot to  
19 offer Eschelon 1, so I will do that at this time.

20 MR. TOPP: No objection.

21 ARBITRATOR RODDA: Then Eschelon-1 is admitted.  
22 (Exhibit No. Eschelon-1 was admitted into  
23 evidence.)

24 Q. (BY MR. MERZ) You have now what has been marked  
25 as Eschelon Exhibit 2; correct?

1 A. And this is defined in Eschelon's proposed  
2 language for the contract. So I'm not talking about all  
3 of the processes and procedures that Qwest undertook in  
4 response to the Commission order. Those were different.

5 Q. But the process for acknowledging Qwest's  
6 mistakes is the one that you're referring to in the  
7 language that we just looked at; correct?

8 A. I'm referring to Eschelon's proposed language.

9 Q. Well, you say this process is not one that  
10 requires Qwest to alter its procedures overall, nor does  
11 it apply to all CLECs. Do you see that?

12 A. Right.

13 Q. I'm just trying to understand what do you mean by  
14 the phrase, this process?

15 A. The requirement that we must provide a letter to  
16 Eschelon's customer if we make a mistake and acknowledge  
17 that we made the mistake.

18 Q. All right.

19 A. That.

20 Q. So that's the process that you're talking about?

21 A. Yes.

22 Q. What is the basis, then, for the statement that  
23 we just read? This process is not one that requires Qwest  
24 to alter its procedures overall, nor does it apply to all  
25 CLECs?

1 A. Yes.

2 Q. And you recognize Eschelon Exhibit No. 2 as at  
3 least one of Qwest's compliance filings in the Minnesota  
4 616 case; correct?

5 A. Yes.

6 MR. MERZ: Your Honor, Eschelon offers Eschelon  
7 Exhibit No. 2.

8 ARBITRATOR RODDA: Any objection to Eschelon 2?

9 MR. TOPP: No objection.

10 ARBITRATOR RODDA: All right. Then Eschelon 2 is  
11 admitted.

12 Q. (BY MR. MERZ) I would like you to refer now to  
13 Page 3 of the compliance filing, Eschelon Exhibit No. 2.

14 A. Yes.

15 Q. Page 3, and I'm looking at the heading:  
16 Procedures for extending the error acknowledgement  
17 procedures set forth in Part E to all Qwest errors in  
18 processing wholesale orders.

19 Do you see that?

20 A. Yes.

21 Q. And underneath there Qwest describes the error  
22 acknowledgement process that it's going to implement in  
23 order to comply with the Minnesota Commission's order;  
24 correct?

25 A. Right.

1 Q. And this process that's described here is the  
2 process by which Qwest is going to prepare a letter to  
3 acknowledge its mistakes.

4 A. And actually, I believe Qwest has documented that  
5 process in the service manager's PCAT.

6 Q. The process that's described in the Minnesota  
7 compliance filing that you have here is not a process  
8 that's limited to Eschelon?

9 A. No. You're correct. And as I said, that is  
10 documented in the service manager's PCAT.

11 Q. And it's not a process -- it is a process that  
12 requires Qwest to alter its procedures overall?

13 A. That's already been done.

14 Q. It has been done?

15 A. That's already been done.

16 Q. And this is what did it?

17 A. Right.

18 Q. This compliance filing is what altered Qwest's  
19 procedures overall relating to the acknowledgement of  
20 mistakes?

21 A. Yes. And as I said, that was all done as a part  
22 of the compliance with the Minnesota order, yes. We  
23 changed quite a number of procedures.

24 Q. Just to focus, though, the discussion that we're  
25 talking about on Page 3 under the heading F that we read,

1 is the process by which Qwest is going to provide  
2 acknowledgement of error letters?

3 A. And I think our confusion here that's -- yes.  
4 And I think our confusion here is that we're talking, I  
5 talked in my testimony about language in Eschelon's  
6 contract which Eschelon is requiring in its contract for  
7 itself.

8 Q. Well, and I understood when we were talking about  
9 Page 18, Lines 20 through 21 of your surrebuttal testimony  
10 that the process that you were referring to is the process  
11 by which Qwest acknowledges its errors. Isn't that what  
12 you just told me?

13 A. This is -- again, I was referring to the language  
14 proposed by Eschelon for inclusion in its contract.

15 Q. And so your criticism is that Eschelon's language  
16 for its contract relates only to Eschelon? Is that what  
17 you're saying here in your testimony?

18 A. Well, that is part of it. Again, what we're --  
19 what Eschelon is asking us to do is set in stone, if you  
20 will, in its contract, procedures we already have in our  
21 service manager PCATs, in our maintenance and repair  
22 PCATS, for dealing with mistakes, but asks for more than  
23 we already do, which we established in response to the  
24 Minnesota 616 case.

25 Q. And I guess what I'm struggling with is, again,

1 the sentence: This process is not one that requires Qwest  
2 to alter its procedures overall, nor does it apply to all  
3 CLECs.

4 In what sense is that sentence accurate?

5 A. It doesn't apply to all CLECs, because what  
6 Eschelon is proposing applies to Eschelon in its contract  
7 and then anybody who opts in, but not all other CLECs.

8 Q. Well, aren't you talking about the Minnesota 616  
9 order when you're talking about this process?

10 A. No. I'm talking about Eschelon's proposed  
11 language.

12 Q. Well, I'm looking at two sentences before that  
13 beginning at Line 16. You say the settlement was between  
14 Qwest and Eschelon. So we're talking about the Minnesota  
15 616 case; right?

16 A. Uh-huh.

17 Q. Right?

18 A. Yes. And it concerned one error in one order in  
19 one state.

20 Q. And then you say -- and so all of that discussion  
21 is about the Minnesota 616 case?

22 A. Uh-huh.

23 Q. Yes?

24 A. Yes.

25 Q. And what Qwest had to do in order to comply with

1 the Commission's order in the Minnesota 616 case?

2 A. In terms of the settlement, yes.

3 Q. Okay. And then the sentence that starts, "This  
4 process," you're no longer talking about the Minnesota 616  
5 case. You're talking about Eschelon's contract proposal.  
6 Is that your testimony?

7 A. You're actually skipping a sentence here.  
8 Eschelon is the only CLEC to request this process, and it  
9 should have been expanded via contract language. And the  
10 account manager at Eschelon is charged with responding to  
11 a request from Eschelon to acknowledge a mistake. So  
12 Eschelon is taking the process we established, putting its  
13 language in its contract. That's my point. It could have  
14 been better phrased, certainly.

15 Q. I mean, it seems to me that the way to better  
16 phrase it is to say this process is one that requires  
17 Qwest to alter its procedures overall and does apply to  
18 all CLECs. Would that be a better phrasing?

19 A. No. I would not agree with that, because we  
20 already did. In response to the 616 case, we already did.

21 Q. I'm going to talk with you now about expedites.  
22 So we'll change gears here.

23 This is issue 12-67 and its subparts; is that  
24 right?

25 A. That sounds right.

1 Q. Expedites are when Qwest provides Eschelon with  
2 service more quickly than would otherwise be the case; is  
3 that right?

4 A. Not just Eschelon, but any provider.

5 Q. Okay. Now, one of the issues relating to --  
6 there are a lot of issues related to expedites; right?

7 A. Yes.

8 Q. One of the issues is whether Qwest is required to  
9 provide expedites at cost-based rates as Eschelon  
10 proposes, or a tariffed rate which is what Qwest has  
11 proposed; is that right?

12 A. That's one of the issues.

13 Q. And the reason why Qwest believes that it's not  
14 required to provide expedites at TELRIC rates is because  
15 Qwest believes that expedites are a superior service; is  
16 that right?

17 A. Yes.

18 Q. Now, in your rebuttal at Page 49, Lines 10  
19 through 12 --

20 ARBITRATOR RODDA: I'm sorry. I missed the page  
21 number.

22 MR. MERZ: It's rebuttal Page 49, Lines 10  
23 through 12.

24 THE WITNESS: I'm there.

25 Q. (BY MR. MERZ) You say there that providing a

1 service in a shorter time frame than that set forth in a  
2 standard interval is a premium service. Do you see that?

3 A. Yes.

4 Q. Are you using premium there as synonymous with  
5 superior?

6 A. Yes.

7 Q. And so as I understand it, that's the basis for  
8 your claim that this is a superior service, that Eschelon  
9 is asking to be provided with service more quickly than  
10 the standard interval?

11 A. That's part of it. There are two reasons we  
12 believe that this is a superior service. First of all,  
13 Qwest is measured on its performance based on standard  
14 intervals, and the standard intervals are whether or not  
15 Qwest provides service that allows a CLEC a meaningful  
16 opportunity to compete. And so when we're asked to  
17 provide the service faster than the standard interval,  
18 that is superior.

19 Also, in some of our situations our standard  
20 intervals for retail customers are actually longer than  
21 the standard intervals for our wholesale customers. And I  
22 believe there it was an example that was in my testimony.

23 Q. Okay. And that arises because a state commission  
24 has ordered that that interval be established in the way  
25 it is; correct?

1 A. Either it was ordered or agreed to.

2 ARBITRATOR RODDA: And when you say that, you  
3 meant the retail?

4 THE WITNESS: Not wholesale.

5 MR. MERZ: There's a discrepancy between the  
6 retail interval and the wholesale interval.

7 ARBITRATOR RODDA: Right. I understood that  
8 part. And then you said and that interval, or I can't  
9 remember the words she used, and I didn't know which one  
10 you were referring to.

11 MR. MERZ: The wholesale interval.

12 Q. (BY MR. MERZ) Some commission has said to Qwest  
13 the wholesale interval needs to be shorter in order to  
14 give Eschelon a meaningful opportunity to compete. Is  
15 that your understanding?

16 A. I don't know if all of them were ordered or if  
17 some of them were agreed to.

18 Q. You would agree with me that whether a service is  
19 a superior is determined based on whether the ILEC  
20 provides that service to itself; is that right?

21 A. I'm not sure I would phrase it quite that way.  
22 One of the measures is whether Qwest provides service to  
23 its CLEC customers in the manner, equivalent manner that  
24 it provides service to itself. Is that what you're  
25 saying?

1 Q. Well, I'm not sure. The Eighth Circuit talked  
2 about superior service; is that right?

3 A. I believe they did, yes.

4 Q. And you talk about the Eighth Circuit's order, in  
5 fact, in your testimony?

6 A. Yes.

7 Q. And what the Eighth Circuit said is ILECs are not  
8 required to provide superior service.

9 A. Correct.

10 Q. What the Eighth Circuit said is ILECs are not  
11 required to provide service that is superior to the  
12 service they provide themselves?

13 A. Yes.

14 Q. And so the way you decide whether or not a  
15 service is superior is you have to figure out is that a  
16 service that the ILEC provides to itself. Fair enough?

17 A. That is part of it, yes.

18 Q. Well, that's the Eighth Circuit's definition of  
19 superior. Is that your understanding?

20 A. Yeah, but I don't believe they were talking about  
21 intervals completely there. I think that that was whether  
22 or not we were required to provide services beyond  
23 services we already provide to ourselves. And part of my  
24 argument is that if we're being asked to provide service  
25 at an interval shorter than we even provide to our retail

1 customers, that is superior.  
 2 Q. Go to your surrebuttal testimony, Page 20.  
 3 A. 20.  
 4 Q. And I'm looking at Line 19 right at the end of  
 5 that line where you say expedites are not UNEs. Do you  
 6 see that?  
 7 A. Line -- we're on Page 20?  
 8 Q. Page 20, Line 19 of your surrebuttal testimony.  
 9 A. Oh, yes, I see that.  
 10 Q. Expedites are not UNEs. Then you go on to say:  
 11 The United States Court of Appeals for the Eighth Circuit  
 12 made it clear that the Telecommunications Act does not  
 13 require ILECs to provide services superior in quality to  
 14 that which it provides itself?  
 15 A. Correct.  
 16 Q. Then you have a footnote and you cite the Iowa  
 17 Utilities Board decision of the Eighth Circuit; right?  
 18 A. Yes.  
 19 Q. Now, you would agree with me that Qwest provides  
 20 itself with expedites; correct?  
 21 A. Yes.  
 22 Q. It provides them to its customers; correct?  
 23 A. Yes.  
 24 Q. And it does that as a regular part of its  
 25 business; correct?

1 A. When it is feasible, yes.  
 2 Q. You also testified in Eschelon's Arizona  
 3 expedites complaint case; correct?  
 4 A. Yes.  
 5 Q. And one of the issues in that case that the  
 6 Arizona Staff addressed was whether or not expedites are  
 7 required to be provided on a cost-based rates; correct?  
 8 A. That's one of the issues in the case.  
 9 Q. And you recall that this was the conclusion of  
 10 the Arizona Staff, that yes, in fact, Qwest is required to  
 11 provide expedites at cost-based rates?  
 12 A. There's one of their conclusions yes. The case  
 13 is still pending.  
 14 Q. Shifting gears now to jeopardies, and jeopardies  
 15 is Issues 12-71, 12-72 and 12-73; is that right?  
 16 A. Yes.  
 17 ARBITRATOR RODDA: This might be a good time for  
 18 a break.  
 19 MR. MERZ: Sure.  
 20 ARBITRATOR RODDA: Let's take 10 minutes.  
 21 (A recess was taken from 11:25 a.m. to  
 22 11:35 a.m.)  
 23 ARBITRATOR RODDA: Okay. Let's go back on the  
 24 record. And I forget what topic you were on.  
 25 MR. MERZ: We were going to start with

1 jeopardies, which is Issues 12-71, 72 and 73.  
 2 Q. (BY MR. MERZ) And just to kind of get on the  
 3 same page with some terminology, Qwest gives a jeopardy  
 4 notice when a due date for an order is in danger of being  
 5 missed; is that right?  
 6 A. That's correct.  
 7 Q. The due date is the date that the CLEC is  
 8 supposed to expect delivery of the circuit; correct?  
 9 A. Correct.  
 10 Q. A jeopardy that is caused by Qwest is a Qwest  
 11 jeopardy; right?  
 12 A. Yes.  
 13 Q. And one kind of Qwest jeopardy might be a Qwest  
 14 facilities jeopardy; correct?  
 15 A. Yes.  
 16 Q. A Qwest facilities jeopardy is when there aren't  
 17 facilities sufficient there to provide the service that  
 18 the CLEC has ordered on the date that it's to be  
 19 delivered; is that correct?  
 20 A. Correct. There may not be -- the jeopardy isn't  
 21 a certainty from a miss. It is a warning that a miss is  
 22 possible.  
 23 Q. A jeopardy that is caused by a CLEC or the CLEC's  
 24 customers is classified as a customer-not-ready jeopardy;  
 25 is that right?

1 A. Yes. On the due date for the order, if the CLEC  
 2 is not able to receive the circuit, that is considered a  
 3 customer-not-ready jeopardy.  
 4 Q. And a customer-not-ready jeopardy is sometimes  
 5 referred to as a CNR jeopardy; is that right?  
 6 A. Yes.  
 7 Q. Now, if the jeopardy is a CNR jeopardy, the CLEC  
 8 has to implement its order and request a new due date?  
 9 A. That's the normal procedure.  
 10 Q. And for a loop order, the earliest new due date  
 11 that the CLEC can get is three days from the date that the  
 12 supplemental order is placed; is that right?  
 13 A. As a result of the supplement, yes.  
 14 Q. And what that all means is that the CLEC is going  
 15 to be delayed in its ability to provide service to the  
 16 customer; is that right?  
 17 A. That is the potential. But Qwest still attempts  
 18 to deliver the service on the original due date, even in  
 19 the case of an order put in jeopardy.  
 20 Q. And with respect to the jeopardies issue, you  
 21 again are making your set-in-stone argument; correct?  
 22 A. That is part of it, but also we are objecting to  
 23 Eschelon's language because it does not reflect our  
 24 current jeopardy process.  
 25 Q. You're also making the one-off argument then;



1 correct?

2 A. That is the potential. We either have to -- if  
3 the language is adopted, we either have to handle  
4 jeopardies for Eschelon differently, or potentially change  
5 our jeopardy process for everybody.

6 Q. Qwest's proposal for these provisions that are  
7 covered by issues 12-71, 72 and 73 is just to refer to  
8 Qwest's website; is that right?

9 A. To our PCAT where the procedures are laid out,  
10 yes.

11 Q. But Qwest's view is that the contract itself  
12 shouldn't contain any substantive provisions; is that  
13 right?

14 A. It should not contain the jeopardy procedures,  
15 no.

16 Q. Now, look at your direct testimony, Page 73.

17 A. I'm going to need a copy of my direct. That  
18 would be No. 1. Which page?

19 Q. Page 73.

20 A. I'm there.

21 Q. At Page 73 you set out there the language that  
22 Eschelon has proposed for this provision with one  
23 adjustment; is that right?

24 A. With one adjustment being that -- what do you  
25 mean with one adjustment?

1 Q. Well, what I was going to say is with respect to  
2 12.2.7.2.4.4.1, where it says for these two types of  
3 jeopardies, Qwest will not characterize a jeopardy as a  
4 CNR or send -- I've got to get closer -- for these two  
5 types of jeopardies. Qwest will not characterize the  
6 jeopardies as CNR or send a CNR jeopardy to CLEC if a  
7 Qwest jeopardy exists, Qwest attempts to deliver the  
8 service, and Qwest has not sent an FOC to the CLEC at  
9 least a day -- oh, here, I'm -- I have got to start over.  
10 I apologize.

11 Let's pick up where it says Qwest will not  
12 characterize a jeopardy as a CNR or send a CNR jeopardy to  
13 CLEC if a Qwest jeopardy exists, Qwest attempts to deliver  
14 the service, Qwest has not sent an FOC notice to CLEC  
15 after the jeopardy occurs, but at least a day before Qwest  
16 attempts to deliver the service.

17 A. Yes. And that should be in there now. I know  
18 that there were some exchanges of language at this time  
19 that the testimony was being prepared, and I did not have  
20 the "at least the day before" language at that time.

21 Q. And I'm not necessarily faulting you for not  
22 having that in your testimony. The point I just wanted to  
23 make is you understand that "at least a day" is Eschelon's  
24 proposal?

25 A. That's right. And that is not our current

1 process.

2 Q. Let's look at the section that comes right before  
3 that 12.2.7.2.4.4; is that right?

4 A. Yes.

5 Q. Eschelon's proposal there is a jeopardy caused by  
6 Qwest will be classified as a Qwest jeopardy, and a  
7 jeopardy caused by CLEC will be classified as customer not  
8 ready, paren, CNR, close parens. Is that right?

9 A. Yes.

10 Q. That's Qwest's process; correct?

11 A. I believe that is.

12 Q. And can you imagine any circumstances under which  
13 a CLEC might want something different than that?

14 A. No.

15 Q. Then go to -- let's skip the middle section  
16 because we'll talk about that separately. But section  
17 12.2.7.2.4.4.2. Do you have that?

18 A. Yes.

19 Q. Eschelon's proposal there is if CLEC establishes  
20 to Qwest that a jeopardy was not caused by CLEC, Qwest  
21 will correct the erroneous CNR classification and treat  
22 the jeopardy as a Qwest jeopardy. Do you see that?

23 A. Yes.

24 Q. That's Qwest's process as well; correct?

25 A. Yes.

1 Q. And can you imagine a circumstance under which a  
2 CLEC might not want to have that?

3 A. No. And that is defined in our PCAT where our  
4 jeopardy procedures are outlined.

5 Q. Let's go to your surrebuttal now at Page 28.  
6 Okay?

7 A. Okay.

8 Q. There you set out a hypothetical series of facts;  
9 correct?

10 A. A sequence of events.

11 Q. First, second, third, fourth, fifth, sixth;  
12 correct?

13 A. Yes.

14 Q. Now I'm going to -- actually, before I get to  
15 that, let's talk about the Section 12.2.7.2.4.4.1. As I  
16 understand it, the triggering circumstances for the  
17 language that Eschelon's proposed for that section are  
18 there's a Qwest jeopardy, Qwest attempts to deliver  
19 service, Qwest hasn't sent an FOC after the jeopardy  
20 occurs, but at least a day before Qwest attempts to  
21 deliver service. Those are the triggering events for  
22 Eschelon's proposed language; correct?

23 A. I believe that's correct.

24 Q. Okay. Now, with that in mind, what I want to do  
25 is change your hypothetical series of events just a little

1 bit. So imagine a series of events where first Qwest --  
 2 first, Eschelon places an order for service; second, Qwest  
 3 sent an FOC indicating the due date for the order; third,  
 4 Qwest sends a jeopardy notice indicating a Qwest jeopardy  
 5 lack of facilities; fourth, Qwest clears the jeopardy and  
 6 tries to deliver the circuit but doesn't send an FOC;  
 7 fifth, Eschelon's not ready and can't accept delivery of  
 8 the circuit.

9 Would you agree that under those circumstances  
 10 that should not be treated as a CNR jeopardy?

11 A. Okay. I'm going to -- I'm presuming I have  
 12 remembered all of your steps here. I don't believe that  
 13 is completely true. The FOC is the formal system notice  
 14 that you get with a new due date after a jeopardy. The  
 15 original due date is still what everyone shoots for, and  
 16 Qwest technicians are in contact with Eschelon's  
 17 technicians at this time.

18 So if it is possible to deliver the service on  
 19 the original due date, which is what all of the parties  
 20 want, that is what should be accomplished whether or not  
 21 the FOC has been sent.

22 Q. Isn't it true that there are certain kinds of --  
 23 let me ask it this way. There are a number of different  
 24 types of jeopardies; correct?

25 A. Yes.

1 Q. And those types are different causes for the  
 2 jeopardy; right?

3 A. Yes.

4 Q. And there are certain kinds of jeopardies that  
 5 Qwest has told CLECs if you get this kind of jeopardy  
 6 notice, don't expect us to be there on the due date  
 7 because we're not likely to do it?

8 A. Our jeopardies never say that you cannot expect  
 9 the service. They say that the due date is in jeopardy,  
 10 but they don't say absolutely that the service will not be  
 11 delivered the original due date.

12 Q. All right. And I'm asking a different question.

13 A. Okay.

14 Q. Isn't it the case that Qwest has told Eschelon  
 15 and other CLECs if you get certain kind of jeopardies, you  
 16 shouldn't expect that the circuit will be delivered on the  
 17 due date?

18 A. I don't believe that's how we have explained the  
 19 jeopardies, that you shouldn't expect. We always attempt  
 20 to deliver on the original due date whenever possible.  
 21 Sometimes jeopardies will prevent that.

22 Q. So if Eschelon gets a Qwest facilities jeopardy,  
 23 isn't it the case that what that jeopardy is telling  
 24 Eschelon is that don't expect us to be there for the due  
 25 date, don't schedule, don't plan to accept the circuit

1 because we're likely miss that due date?

2 A. I wouldn't phrase it that way. I would say that  
 3 there is a potential for us to miss the due date. That's  
 4 what the purpose of jeopardies is. It isn't absolutely  
 5 we're not going to be there, no.

6 Q. So is the case that if Eschelon receives a Qwest  
 7 facilities jeopardy, it should expect Qwest to deliver the  
 8 circuit on that due date?

9 A. It should expect Qwest to try, yes.

10 Q. And so Eschelon --

11 A. But it has to understand that the potential is  
 12 there that the due date will be missed. That's the point  
 13 of jeopardies.

14 Q. But Eschelon should have personnel standing by  
 15 and available. It should complete everything it needs to  
 16 complete in order to accept the circuit, even though it  
 17 has received a Qwest facilities jeopardy?

18 A. I believe it should complete everything it needs  
 19 to complete by the due date. I don't know that its  
 20 personnel has to be standing by. That would depend on  
 21 what's been communicated from Qwest technicians. I do  
 22 believe that they should be ready to accept the circuit on  
 23 the original due date in case Qwest is able to provide the  
 24 circuit on the original due date.

25 Q. Well, you should assume that what's been

1 communicated by the Qwest technicians is a Qwest facility  
 2 jeopardy.

3 A. And the Qwest technicians are trying to resolve  
 4 that jeopardy as quickly as possible. Yes.

5 Q. And so if Eschelon receives a Qwest facilities  
 6 jeopardy, does it need to have personnel standing by to  
 7 accept the circuit on the due date?

8 A. By personnel standing by, if you mean there at  
 9 the circuit, not necessarily. But the potential is still  
 10 there that Eschelon could receive the circuit on the  
 11 original due date, because that is what Qwest's goal is  
 12 all along. We have not said we won't provide it. We've  
 13 said it may not be provided.

14 Q. Well, I guess I'm trying to quantify, if it's  
 15 possible, what the level of likelihood is that a circuit  
 16 is going to be provided on the due date when a Qwest  
 17 facilities jeopardy has been provided.

18 A. Well, all right. Let's look at the data that was  
 19 in your exhibit BJJ-23. That was 100 orders with Qwest  
 20 facility jeopardies. 76 percent of those orders were  
 21 delivered on the original due date and accepted by  
 22 Eschelon on the original due date.

23 Q. And then on your hypothetical series of events,  
 24 just to make sure that I understand what you're talking  
 25 about here, you have a number of steps. And the fifth

1 step is Qwest is supposed to send an FOC with a new due  
 2 date?  
 3 A. Yes.  
 4 Q. Does that assume this Qwest has sent the FOC with  
 5 a new due date or that it hasn't?  
 6 A. Qwest is supposed to.  
 7 Q. And let's assume that it doesn't.  
 8 A. The formality is that Qwest is supposed to, but  
 9 the technicians are in touch with each other. If it's  
 10 possible to get the circuit in place on the service date,  
 11 that is what should happen. It should not be dependent on  
 12 whether or not that system notice has been sent.  
 13 Q. The contract requires the FOC; correct?  
 14 A. The PCAT requires the FOC. Your contract  
 15 proposal requires the FOC.  
 16 Q. And Qwest's current process is to provide the  
 17 FOC?  
 18 A. That is the process.  
 19 Q. And that FOC is to be provided in advance of the  
 20 due date; correct?  
 21 A. In advance of delivery of the circuit.  
 22 Q. Not in advance of the due date?  
 23 A. Not in advance of the due date.  
 24 Q. Is there any amount of time in advance of  
 25 delivery of the circuit that you think is reasonable for

1 Eschelon to expect?  
 2 A. We have not set a specific time. I don't want to  
 3 speculate on what that time should be.  
 4 Q. The purpose of the FOC is to give the CLEC  
 5 advanced notice; correct?  
 6 A. The purpose of the FOC is a formal system notice.  
 7 The CLEC also gets notice via communication with the Qwest  
 8 technician who's installing the circuit.  
 9 Q. The formal notice that Eschelon is supposed to  
 10 rely on is the FOC; correct?  
 11 A. It is the formal notice. I don't think it should  
 12 be the only thing that Eschelon relies on, because there  
 13 is communication between the technicians going on at the  
 14 same time.  
 15 Q. Do you know who within Eschelon receives the FOC?  
 16 A. No, I don't.  
 17 Q. You say that Eschelon's proposed language would  
 18 prevent Qwest from -- I'm sorry -- that Eschelon's  
 19 proposed language forces extra time into the process; is  
 20 that right?  
 21 A. If we adhere to the provision requiring an FOC at  
 22 least a day before it can do that, yes.  
 23 Q. Now, isn't it the case that Eschelon's language  
 24 would provide that even when Qwest hasn't provided an FOC  
 25 at least a day before delivery, that it will still use its

1 best effort to accept the service when Qwest attempts to  
 2 deliver?  
 3 A. That's what the language says.  
 4 Q. And you would agree with me that that language  
 5 does not force additional time into the process; correct?  
 6 A. That part of the language, no.  
 7 Q. And you would agree with me that Eschelon's  
 8 language doesn't say that if Qwest doesn't provide the  
 9 FOC, what it should do is delay delivery in order to  
 10 provide the FOC before delivery. That's not what Eschelon  
 11 has proposed, is it?  
 12 A. No. What it does do, though, is eliminate the  
 13 categorization of a subsequent jeopardy on the basis of a  
 14 customer not ready.  
 15 Q. And Eschelon's language also provides that if  
 16 necessary the parties will attempt to set a new  
 17 appointment time on the same day; correct?  
 18 A. Eschelon -- I think it says that. Yes, it does  
 19 say that.  
 20 Q. Again, that language would not force additional  
 21 time into the process?  
 22 A. No. That's not what your language does. That  
 23 language simply says they will still try and meet the due  
 24 date.  
 25 Q. So what you're saying is Qwest always tries to

1 make the due date if it can?  
 2 A. It does.  
 3 Q. And Eschelon's language is saying the parties  
 4 should try to make the due date if they can; correct?  
 5 A. It does.  
 6 Q. And it also describes what will happen if that  
 7 doesn't happen, notwithstanding the parties' best efforts,  
 8 and Eschelon hasn't received the advanced notice that's  
 9 provided by an FOC?  
 10 A. And that's where we have a problem with the  
 11 language. Because it is basing the requirement on an FOC,  
 12 which isn't the only means of communications between the  
 13 parties. And so it takes away one of the options for  
 14 clarification of jeopardies as a result, when really FOCs  
 15 and classification of jeopardies are not related topics.  
 16 Q. Why have the FOCs if you can just rely on the  
 17 technicians to be talking to one another and work this all  
 18 out among themselves?  
 19 A. I believe it's a recordkeeping device.  
 20 Q. It doesn't serve any notice function?  
 21 A. Well, that depends on how it's used.  
 22 Q. Are you saying it shouldn't serve a notice  
 23 function?  
 24 A. I don't believe it should be the sole notice  
 25 function, because it isn't. The technicians are calling

1 each other.

2 Q. Let's talk a little bit about control  
3 production --

4 A. Okay.

5 Q. -- which is issue 12-87. What control production  
6 is is the testing of electronic interfaces that Eschelon  
7 uses to order products and services from Qwest by placing  
8 actual orders; is that right?

9 A. In parallel with Qwest's monitoring of those  
10 orders, yes.

11 Q. You would agree with me that Eschelon has a  
12 strong interest in having the electronic interfaces that  
13 it uses to place orders work correctly?

14 A. Yes. As does Qwest.

15 Q. You would agree with me that Eschelon's proposed  
16 language provides that control production is not required  
17 for recertification unless the parties agree otherwise;  
18 correct?

19 A. Correct.

20 Q. Recertification involves updating existing  
21 systems; is that right?

22 A. Recertification involves a circumstance in  
23 testing where the CLEC has already certified given product  
24 and activity types, and they're moving to a new release  
25 where Qwest has determined that control production testing

1 is not required?

2 Q. Eschelon's proposed language defines  
3 recertification as not including new implementations such  
4 as new products and/or activity types; correct?

5 A. That's right.

6 Q. Now, Eschelon is not saying that it shouldn't  
7 participate in recertification testing, is it?

8 A. No.

9 Q. There's a separate section of the contract that  
10 specifically governs recertification testing; right?

11 A. Well, recertification is -- I think we're mixing  
12 pieces of this language. Because recertification is a  
13 type of testing, whereas control production is a phase of  
14 testing. So it's confusing.

15 Q. Fair enough. Recertification is a type of  
16 testing?

17 A. Yes.

18 Q. And the parties have agreed on language regarding  
19 Eschelon's participation in recertification testing;  
20 correct?

21 A. Yes.

22 Q. And what that language provides is that new  
23 releases of the EDI interface may require recertification;  
24 correct?

25 A. Yes.

1 MR. MERZ: I don't have anything further.

2 ARBITRATOR RODDA: Okay. Let's go back to the  
3 topic right before this which was -- I don't know.

4 THE WITNESS: Jeopardies.

5 ARBITRATOR RODDA: Jeopardies.

7 EXAMINATION

8  
9 Q. (BY ARBITRATOR RODDA) So just so I'm clear, the  
10 problem -- what is the problem that you have with  
11 Eschelon's proposal? It had something to do with it takes  
12 away the technician communications or it relies too much  
13 on the FOC or --

14 A. Yes. They put in a stipulation on when the FOC  
15 should be provided in a jeopardy situation that is not  
16 consistent with our current process today in that it  
17 requires the FOC be provided at least a day before. And  
18 if it is not provided at least a day before, then we're  
19 not able to perform a subsequent jeopardy if the customer  
20 is not ready. That is their -- the consequence that they  
21 establish there.

22 Q. Okay. And so going back to the change management  
23 and the interval issue, can Qwest -- under the change  
24 management process can Qwest increase intervals over CLEC  
25 objections?

1 A. A CLEC can object to an interval increase. Qwest  
2 might decide to go forward, but the CMP process allows a  
3 lot of mechanisms for objection. And with the one  
4 increase where CLECs did object, Qwest did not go forward.  
5 It would not be incumbent upon Qwest to ignore CLEC  
6 objections to an interval increase.

7 Q. With the multitude of interconnection agreements  
8 you must have existing in this world, are there different  
9 intervals for different CLECs, or does it all sort of come  
10 down to the smallest common denominator because that's  
11 easier for Qwest?

12 A. I don't believe there are different intervals for  
13 different CLECs because we established the service  
14 interval guide as the common document, and it is an  
15 exhibit to the interconnection agreements. And so it is  
16 managed -- changes to that are managed through the CMP, so  
17 I don't believe that we have different intervals for  
18 different CLECs anymore. It probably did exist in the  
19 past, but we have attempted standardize that process.

20 Q. So in an interconnection agreement could a CLEC  
21 negotiate a specific interval or --

22 A. I believe we would object to that as inconsistent  
23 with our service interval guide.

24 ARBITRATOR RODDA: Okay. All right. Did you  
25 have any redirect?

1 MR. TOPP: I do.

2

3 REDIRECT EXAMINATION

4

5 Q. (BY MR. TOPP) Ms. Albersheim, let's start with a  
6 number of the closed issues that Mr. Merz brought up at  
7 the start of his cross-examination. And the first one he  
8 brought up was an issue called tag at the demarcation  
9 point.

10 A. Uh-huh.

11 Q. And he asked you -- his questions were, number  
12 one, was one of our objections to their proposed language  
13 the fact that it would set in stone the process associated  
14 with this item; is that correct?

15 A. Yes.

16 Q. And eventually we wound up agreeing to this  
17 provision despite that concern; correct?

18 A. That's correct.

19 Q. What happened in between the time period in which  
20 we raised that objection and we agreed to the language  
21 that Eschelon proposed?

22 A. We received the proposed order from the ALJ in  
23 the Minnesota docket and decided not to continue with some  
24 of those issues and agreed to settle on those issues.

25 Q. So is it, in fact -- and because this issue wound

1 asked to change the process in agreeing to those terms.

2 Q. Moving to the interval issue, Eschelon is  
3 objecting to having intervals determined as a part of the  
4 change management process. Is that your understanding?

5 A. Yes. They would rather have them as part of  
6 their contract.

7 Q. And has Qwest attempted to make the intervals  
8 that it provides to CLECs uniform?

9 A. Yes.

10 Q. And why is that?

11 A. Well, it allows for standardization of the  
12 training and the procedures followed by both Qwest and by  
13 CLECs in providing of these services. It allows for  
14 consistency in the provisioning and allows us, therefore,  
15 to provision without the likelihood of errors. And if you  
16 complicate the process by having different requirements  
17 for different CLECs, the probability of -- possibility of  
18 errors is increased. So it improves our performance in  
19 provisioning our services to our customers.

20 Q. Eschelon's concern is that Qwest would go off in  
21 a unilateral fashion on its own and unfairly increase the  
22 intervals under which it provides service to Eschelon. Is  
23 that a reasonable concern in your view?

24 A. No, it's not. Intervals can only be increased  
25 through a Level 4 change in the CMP, which contains quite

1 up -- would it be fair to say that at least in Minnesota  
2 the process for tagging the demarc, as it pertains to  
3 Eschelon, wound up getting set in stone by virtue of the  
4 ALJ report?

5 A. Yes.

6 Q. And if we went through each of the other items  
7 that Mr. Merz raised, PSON, fatal reject notices, loss and  
8 completion reports, and closing trouble reports, wouldn't  
9 that all -- the same sort of analysis apply?

10 A. Yes.

11 Q. In other words, these became set in stone by  
12 virtue of a decision putting those into a contract?

13 A. Yes.

14 Q. And does Qwest generally vary its processes on  
15 items like this from state to state?

16 A. No. No. We operate region wide.

17 Q. And so, therefore, once it's set in one spot, you  
18 know, that might be a factor that would influence the  
19 decision of that Qwest should make regarding whether it  
20 was worthwhile to continue this fight?

21 A. Yes.

22 Q. Now, moving to --

23 A. May I add something to that? We also determined  
24 in those situations that that is our current process.

25 That was part of our equation there. So we weren't being

1 a few mechanisms to prevent such a change from happening.

2 Q. Let's assume that it did happen, and that Qwest  
3 ramrodded an interval change through. Would Eschelon have  
4 any avenues available to it to deal with that situation?

5 A. Yes. The CMP provides for dispute processes to  
6 object to a change that Qwest tries to ramrod through.

7 Q. And one of those would be to go to this  
8 Commission, wouldn't it?

9 A. Absolutely, yes.

10 Q. Let's move to expedites, which is issue 12-67.

11 Mr. Merz asked you questions about the Minnesota  
12 Commission's decision regarding whether expedites  
13 constitute a superior service.

14 Have any states concluded that expedites are, in  
15 fact, superior service?

16 A. Yes. In my testimony I believe I identified  
17 Kentucky and Florida as having considered expedites a  
18 superior service.

19 Q. Okay.

20 A. I think that was the right states.

21 Q. Now let's move to jeopardies. Eschelon's  
22 position, as I take it, is that if they have no idea that  
23 service is going to be delivered, it's not fair to label  
24 or to code their inability to accept that service as a  
25 customer not ready?

1 A. Yes.

2 Q. Would you say that if Eschelon knows Qwest is  
3 going to try and deliver the service that it might, in  
4 fact, be fair for Eschelon to be labeled as customer not  
5 ready?

6 MR. MERZ: Objection. Foundation.

7 THE WITNESS: Yes.

8 ARBITRATOR RODDA: Can you read the question  
9 prior to that.

10 (The record was read back by the Reporter as  
11 requested.)

12 ARBITRATOR RODDA: You can answer.

13 THE WITNESS: Yes.

14 Q. (BY MR. TOPP) And I think you testified on  
15 cross-examination that communication occurs through the  
16 FOC, but that there's also informal communication that  
17 takes place?

18 A. Yes.

19 Q. Is there in the record, did you analyze and give  
20 some description as to how this communication process  
21 takes place?

22 A. Well, it's illustrated in my analysis of their  
23 Exhibit BJJ-6. And I don't remember the exhibit number in  
24 this state, but included in my analysis were our  
25 technicians' notes. And in those notes it says e-mailed

1 Eschelon, contact or phoned Eschelon contact, heard back,  
2 did not hear back. That kind of communication is  
3 documented in our technician's notes.

4 Q. And, in fact, attached to your surrebuttal  
5 testimony is Exhibit RAR-6. Actually, your rebuttal  
6 testimony as Exhibit RAR-6.

7 A. Okay.

8 Q. If you could take a look at that and confirm for  
9 me that that is the information that you gleaned from  
10 those technician notes.

11 A. Okay. Rebuttal. Here it is. Yes. But that's  
12 where we got this information, yes.

13 Q. So, for example, and I'm certainly not going to  
14 go through each of these examples, but in the first one it  
15 talks about Qwest started working with Adam at Eschelon  
16 prior to 5:00 p.m.

17 A. Yes.

18 Q. And so in that instance Qwest and Eschelon are  
19 working together?

20 A. Yes.

21 Q. And in the second example there's a description  
22 of calling Eschelon and leaving a voicemail.

23 A. Yes.

24 Q. And in the third example there's a discussion of  
25 a phone call that is, in fact, taking place?

1 A. Yes.

2 Q. Now, Eschelon has -- they asked you some  
3 questions as to whether their proposal would slow down  
4 provisioning for their customers. First of all, what is  
5 Qwest's priority with respect to getting service  
6 provisioned in these situations?

7 A. To whenever possible meet the original due date  
8 for the order.

9 Q. And failing that, to get service up as quickly as  
10 possible?

11 A. Yes.

12 Q. Does Eschelon's proposal in any way speed up the  
13 time at which that ultimate provision of service is going  
14 to take place?

15 A. No.

16 Q. Now, Eschelon is going to say that Qwest's  
17 processes, if we label Eschelon as customer not ready,  
18 that they have to supp the order, and that there will be a  
19 due date three days out which could slow down the process.

20 First of all, if we label something as customer  
21 not ready is it, in fact, the case that the official  
22 processes is for Eschelon to supplement the order.

23 A. That's the official process.

24 Q. And the due date, in fact, would be three days  
25 out?

1 A. For a design service, yes.

2 Q. But to look at how that works in the real world,  
3 again, your Exhibit RAR-6 would give a description of  
4 whether, in fact, the supplemental order slowed things  
5 down or not?

6 A. Yes.

7 Q. And often it is in fact the case that service is  
8 provided well in advance of the supplemental due date. Is  
9 that not true?

10 A. Yes.

11 Q. So when Eschelon focuses on the FOC as the be all  
12 and end all as to whether it is fair to categorize service  
13 as their fault or as Qwest's fault, do you agree with  
14 their position on that?

15 A. No, I don't. I don't believe that -- because  
16 we -- as we have explained that there are other modes of  
17 communication going on with the installation of service, I  
18 don't believe that it's appropriate to try and use the FOC  
19 as the arbiter of things of how things should proceed.

20 MR. TOPP: I have no more questions.

21 ARBITRATOR RODDA: Okay.

22 MR. MERZ: Just a couple of follow-up.

23 ARBITRATOR RODDA: Okay.

24

25

REXCROSS-EXAMINATION

1  
2  
3 Q. (BY MR. MERZ) We were talking about tagging at  
4 the demarc. My recollection is that was an issue that was  
5 settled during the hearing itself. Is that not your  
6 recollection?  
7 A. Honestly, I can't recall.  
8 Q. And it was issue 12-75, and 12-75 isn't in the  
9 ALJs' --  
10 A. Several issues were settled during the course of  
11 the hearing, yes.  
12 Q. And if that issue was settled during the course  
13 of the hearing, you would agree with me, obviously, that  
14 Qwest didn't make its decision about whether to set in  
15 stone that process as a result of the ALJs' order?  
16 A. In that case, if it was settled during the  
17 hearing, Qwest came to that determination independently of  
18 the arbitrator's report.  
19 Q. Now, you have described Qwest's desire to have  
20 uniform processes from state to state; is that right?  
21 A. Yes.  
22 Q. And as I understand it, however, Qwest does  
23 not -- is not willing to implement the root cause analysis  
24 requirement that's in place in Minnesota in Arizona, or in  
25 any of the other states outside of the Minnesota; isn't

1 that right?  
2 A. That's correct. Because we believe we have  
3 processes in place that cover these situations.  
4 Q. And Qwest is also not willing to implement the  
5 process in place in Minnesota for acknowledging errors in  
6 any other state; correct?  
7 A. Correct. We don't want that language in the  
8 contract. Again, we already have processes in place  
9 through our PCATs for dealing with errors.  
10 Q. You had some questions from Mr. Topp regarding  
11 intervals and what Qwest could or could not do. And as I  
12 understand what you said is as the CMP document exists,  
13 Qwest could implement an interval change over objections  
14 from Qwest or, I'm sorry, from Eschelon and other CLECs;  
15 correct?  
16 A. What I said was we could. It would not be  
17 incumbent on us to do so.  
18 Q. The CMP document in all events would allow for  
19 that to happen?  
20 A. Ultimately. But there is recourse if we do that  
21 for the CLECs.  
22 Q. And as I understand it, one avenue of recourse is  
23 Eschelon could bring a complaint to the Arizona  
24 Commission?  
25 A. Yes.

1 Q. And in that complaint, Eschelon would be asking  
2 the Commission to undo a longer interval than Qwest has  
3 already implemented; correct?  
4 A. That would presume that they bring the complaint  
5 after the change has been implemented, but yes.  
6 Q. If Qwest wanted to implement the change, there  
7 would be nothing stopping it unless it got an order from  
8 the Arizona Commission; correct?  
9 A. I don't believe Qwest would behave in that manner  
10 if there was sufficient objection to the increase in  
11 interval. So Qwest would be making that decision  
12 unwisely, I think, given, presumably, that the CLECs have  
13 objected to the interval increase.  
14 Q. And what I'm really focusing on is what Qwest  
15 could do under the CMP process as it exists. Qwest could  
16 implement that change, and then it would be Eschelon's  
17 problem to go to the Commission to get that change undone;  
18 correct?  
19 A. That is the potential.  
20 Q. We've talked about jeopardies, and I think you  
21 have told us that the process as described by Eschelon's  
22 proposed language is the same as Qwest's existing process  
23 but with one exception, and that is it is, as I understand  
24 your testimony, not Qwest's process to provide the FOC at  
25 least a day before delivery?

1 A. That's correct.  
2 Q. Now, Qwest's existing process, then, doesn't rely  
3 on these informal communications between technicians;  
4 correct?  
5 A. No. I would say it does.  
6 Q. Well, if Qwest has a process that requires  
7 providing the FOC, then that's a process that doesn't rely  
8 on informal communications between technicians; correct?  
9 A. The provisioning of the FOC is not dependent on  
10 the communication between the technicians, but really  
11 they're not related.  
12 Q. You had answered some questions about your  
13 Exhibit RAR-6. And if you just look at the first example,  
14 the due date was January 11, 2005, and the circuit was  
15 installed January 17, 2005; correct?  
16 A. No. It was installed on January 12th.  
17 Q. Oh, I'm sorry. I see it, yes.  
18 Then, if you go to the next example, the due date  
19 was February 9th, and Qwest installed on the 14th.  
20 A. Correct.  
21 Q. And we could look -- I'm not going to go through  
22 each one, but we could look at each of these and figure  
23 out when the circuit should have been installed according  
24 to the original due date and when was it actually  
25 installed?

1 A. Yes. And, for example, the supp due date was the  
2 17th, but it was still installed on the 14th.  
3 Q. Before the supplemental due date?  
4 A. Before the supplemental due date, yes.  
5 Q. After the original due date?  
6 A. Yes.  
7 MR. MERZ: I don't have anything further.  
8 ARBITRATOR RODDA: Okay. Did you have anything,  
9 Mr. Topp?  
10 MR. TOPP: Just real briefly.

11  
12 FURTHER REDIRECT EXAMINATION

13  
14 Q. (BY MR. TOPP) On this exhibit RAR-6.  
15 A. Yes.  
16 ARBITRATOR RODDA: You guys would pick the  
17 smallest print just to annoy me; right? Because you  
18 haven't annoyed me enough.  
19 Q. (BY MR. TOPP) What is the earliest date on which  
20 Qwest could theoretically send an FOC, an updated FOC?  
21 A. Okay. I'm not sure I follow your question.  
22 Q. Well, I mean, they can't send an FOC before a  
23 jeopardy is cleared or --  
24 A. No. That's correct. The earliest date is on the  
25 date the jeopardy clears.

1 Q. And so to see whether -- you know, and that's  
2 also the first time at which Qwest could be in a position  
3 to actually install the service?  
4 A. Yes.  
5 Q. And so this exhibit, if you went through each of  
6 these examples, I mean, the date at which the problem was  
7 fixed would be the date to look at in determining how  
8 quickly the current process works for getting service in a  
9 timely fashion?  
10 A. Yes.  
11 Q. And does the categorization of customer not ready  
12 or Qwest jeopardy, does that have anything to do under the  
13 current process with whether an FOC has been sent?  
14 A. No.  
15 Q. And that is what Eschelon's proposing be injected  
16 into this process here?  
17 A. Yes.  
18 MR. TOPP: No further questions.  
19 ARBITRATOR RODDA: Okay. Well, thank you.  
20 THE WITNESS: Thanks.  
21 ARBITRATOR RODDA: That went better than I  
22 expected. All right. So you're not annoying me anymore,  
23 but let's take a lunch break. Is 1:30 okay with you all?  
24 THE WITNESS: Actually, didn't we need more time?  
25 MR. TOPP: Could we go an hour and a half?

1 Because we've got to go to Mr. Curtright's office.  
2 ARBITRATOR RODDA: Okay.  
3 MR. CURTRIGHT: At least an hour and 15, Your  
4 Honor.  
5 ARBITRATOR RODDA: Yeah. Let's do -- let's see.  
6 MR. CURTRIGHT: Quarter to 2:00.  
7 ARBITRATOR RODDA: Okay.  
8 (A recess was taken from 12:24 p.m. to 1:50 p.m.)  
9 ARBITRATOR RODDA: Let's go back on the record.  
10 And before we start with Mr. Easton, let me ask  
11 you this. In another docket, in a complaint docket, an  
12 Eschelon complaint docket against Qwest, I think there's  
13 some -- I mean, obviously involving the existing  
14 interconnection agreement as opposed to negotiating a new  
15 one. I understand that difference.  
16 There was some -- there was a settlement that was  
17 then -- that did not include Staff. And Staff, my  
18 understanding -- and you can correct me if I'm wrong --  
19 did the parties here know about that docket, or are they  
20 not involved? When I say parties, I mean the lawyers.  
21 MR. ROSELLI: Tangentially involved, I would say.  
22 It's not these lawyers in front of you that have been  
23 responsible for that. I believe you're referring to the  
24 complaint matter referring to expedites.  
25 ARBITRATOR RODDA: Yeah. It was an issue that we

1 discussed earlier this morning.  
2 MR. ROSELLI: Yes.  
3 ARBITRATOR RODDA: And I know Staff was a party  
4 to that docket. They're not a party to this arbitration.  
5 And they're making some recommendations in that other  
6 docket that you may or may not be familiar with.  
7 MR. MERZ: These are the same people. They've  
8 got more lawyers than we do.  
9 MS. CLAUSON: The recommendations are in the  
10 record. The recommendations are an exhibit in this case.  
11 ARBITRATOR RODDA: They're an exhibit in this  
12 case.  
13 MS. CLAUSON: To Mr. Denney's testimony.  
14 ARBITRATOR RODDA: So I'm just wondering if the  
15 parties -- do we need Staff to be a party to this case?  
16 Or, I mean, since I'm not sure how they arose in  
17 Mr. Denney's testimony, or are you comfortable going -- I  
18 mean, I just don't want two decisions from the Commission  
19 that are in conflict. And I want to minimize that, and I  
20 want to make the whole process as easy as possible on as  
21 many people as possible.  
22 MR. MERZ: And procedurally where that other  
23 docket is is Staff, of course, had commented on the  
24 parties' settlement agreement, which was expressly  
25 conditional on the Staff commenting. They had made some



1 recommendations with respect to the settlement. Eschelon  
2 opted out, but with the notion that if those  
3 recommendations were included as part of the settlement  
4 agreement, then we would be back on board. Qwest has also  
5 opted out, and I think where we are now is that the matter  
6 has to be set for a procedural conference. I mean, I  
7 think that's the next procedural step that has to happen.

8 It was our understanding that Staff didn't  
9 necessarily want to be participating in this docket. We  
10 put the evidence in on the issue of cost-based rates for  
11 expedites, which was one of the conclusions that they had  
12 made. So that's the reason we thought it would be  
13 appropriate to put that in here, because that's an issue  
14 we have here as well.

15 ARBITRATOR RODDA: But what -- I mean, so you're  
16 familiar with the -- there's that issue, but then there's  
17 also they have some other recommendations. And I don't  
18 know. And I'm probably going to end up with this other  
19 case as well.

20 MR. TOPP: Our view would be move forward with  
21 this case. That's going to be set back, probably, for a  
22 procedural conference. And to the extent it makes sense  
23 to do something, you will have the record here in  
24 whatever position it is.

25 ARBITRATOR RODDA: That's true. Okay.

1 MR. CURTRIGHT: Your Honor, if I may speak from  
2 over here. Our view of the complaint case is that could  
3 resolve the issues under the old or the existing ICA and  
4 would not have any forward-looking prospect, because this  
5 arbitration will settle issues prospectively. That's  
6 Qwest's thought process.

7 MS. CLAUSEN: And Eschelon doesn't agree with  
8 that. We're not going to argue it here, but the  
9 recommendations go beyond that contract. For example,  
10 there's a recommendation to develop a PID. That would not  
11 be limited to the old contract necessarily. So there's  
12 just some, you know, debate as to what that case means.  
13 Of course, that's why it's back in front of a judge.

14 ARBITRATOR RODDA: Thanks for your input. We  
15 can proceed this afternoon and I'll look into it. I just  
16 wanted to know if Staff was making recommendations, if  
17 they're making recommendations about something has to  
18 happen in the public interest in that case, why wouldn't  
19 it apply also to their feelings on a new agreement.

20 And it's just Staff's view. I mean, it hasn't  
21 been -- they're not here, and they're not participating,  
22 and we have to go forward because we're all here, but it's  
23 just kind of -- I don't know. I just throw that out there  
24 as kind of an issue or a concern of mine for what it's  
25 worth.

1 All right. So is it Mr. Easton that's going  
2 to --

3 MR. TOPP: We have -- Eschelon has indicated they  
4 do not have cross-examination questions for Mr. Easton or  
5 Mr. Hubbard. And so with the court's indulgence, what we  
6 thought we would do is put both of their testimony into  
7 the record and offer it into evidence right now.

8 ARBITRATOR RODDA: Okay. Can I ask a question?  
9 Are all of the issues that they discuss in their  
10 testimony, are they still at issue, or there's some issues  
11 that they discuss that aren't at issue any longer?

12 MR. MERZ: I believe that all of the issues they  
13 discuss in their testimony are still live issues that have  
14 to be determined in the case.

15 ARBITRATOR RODDA: Okay.

16 MR. TOPP: I believe that's true as well. I  
17 haven't gone back to double-check, but we certainly can  
18 make that clear.

19 ARBITRATOR RODDA: Okay. So you handed it all to  
20 me. And it's not that big a table here. But maybe you  
21 could just identify for the record what you have marked,  
22 starting with, I guess, Q-5.

23 MR. TOPP: Yeah. Qwest-5 is Mr. William Easton's  
24 direct testimony. Qwest-6 is his rebuttal testimony, the  
25 confidential version. Qwest-7 is the rebuttal version,

1 the public version. And Qwest-8 is his surrebuttal  
2 testimony. I guess we would offer that testimony at this  
3 time.

4 ARBITRATOR RODDA: All right. So no objection?

5 MR. MERZ: No objection.

6 ARBITRATOR RODDA: So Qwest-5, 6, 7, and 8 are  
7 admitted.

8 (Exhibit Nos. Qwest-5, Qwest-6, Qwest-7, and  
9 Qwest-8 were admitted into evidence.)

10 MR. TOPP: And then for Mr. Hubbard's testimony,  
11 his direct has been marked as Hubbard -- or Qwest  
12 Exhibit 9. His rebuttal has been marked Qwest Exhibit 10,  
13 and his surrebuttal has been marked as Qwest Exhibit 11.  
14 And we would offer Exhibit 9, 10, and 11 into evidence.

15 ARBITRATOR RODDA: Okay.

16 MR. MERZ: No objection, Your Honor.

17 ARBITRATOR RODDA: Okay. Qwest-9, 10, and 11 are  
18 admitted.

19 (Exhibit Nos. Qwest-9, Qwest-10, and Qwest-11  
20 were admitted into evidence.)

21 MR. TOPP: One other issue that Mr. Merz and I  
22 spoke about before we got started today is we were not  
23 certain whether Joint Exhibits 1 and 2 had been offered or  
24 been admitted, and we would like to offer those as well.

25 ARBITRATOR RODDA: All right. So Joint-1 is the

1 multi-state ICA?  
 2 MR. TOPP: Correct.  
 3 MR. MERZ: Yes.  
 4 ARBITRATOR RODDA: What is Joint-2?  
 5 MR. MERZ: It's the issues matrix.  
 6 ARBITRATOR RODDA: And is that the -- I lost my  
 7 cover sheet now. Is that the one that was just filed last  
 8 week?  
 9 MR. MERZ: Yes. I think the 12th or thereabouts  
 10 it was filed.  
 11 ARBITRATOR RODDA: So we just need a copy of  
 12 Joint-2 for the court reporter. And so we will admit  
 13 Joint-1 and Joint-2.  
 14 (Exhibit Nos. Joint-1 and Joint-2 were admitted  
 15 into evidence.)  
 16 MR. TOPP: And at this time I would turn it over  
 17 to Mr. Roselli who will introduce the testimony of  
 18 Mr. Curtis Ashton.  
 19 ARBITRATOR RODDA: Okay.  
 20 MR. ROSELLI: Thank you. Philip Roselli of  
 21 Kamlet, Shepherd & Reichert, LLP in Denver representing  
 22 Qwest. I believe I've been admitted pro hac vice in this  
 23 proceeding.  
 24 Qwest would next call Mr. Curtis Ashton to the  
 25 stand.

1 CURTIS ASHTON,  
 2 called as a witness on behalf of Qwest, having been first  
 3 duly sworn by the Certified Reporter to speak the truth  
 4 and nothing but the truth, was examined and testified as  
 5 follows:  
 6  
 7 DIRECT EXAMINATION  
 8  
 9 Q. (BY MR. ROSELLI) Could you please state your  
 10 name and address for the record.  
 11 A. My name is Curtis Ashton, and my business address  
 12 is 700 West Mineral Avenue in Littleton, Colorado.  
 13 Q. And by whom are you employed, Mr. Ashton?  
 14 A. I'm employed by Qwest.  
 15 Q. And in what capacity?  
 16 A. My official title is the senior staff tech  
 17 support engineer. Technically, I'm the lead power guy at  
 18 Qwest.  
 19 Q. You should have a couple of exhibits that have  
 20 been placed in front of you marked Exhibits 12 and 13. Do  
 21 you see those?  
 22 A. My testimony?  
 23 Q. Yes.  
 24 A. Yes, I do.  
 25 Q. And is this testimony that you prepared?

1 A. Yes.  
 2 Q. Okay. And if I ask you the same questions today,  
 3 would you give me the same answers to the questions that  
 4 are put to you in that testimony?  
 5 A. Yes, I would.  
 6 Q. And can you please identify what specifically is  
 7 Exhibit 12 and what specifically is Exhibit 13.  
 8 A. Exhibit 12 is my rebuttal testimony in this  
 9 proceeding, and Exhibit 13 is my surrebuttal testimony in  
 10 this.  
 11 Q. Did you file direct testimony in this proceeding?  
 12 A. I did not. I adopted the power portions of the  
 13 direct testimony of Mr. Jeff Hubbard.  
 14 Q. Okay. Do you have any revisions or modifications  
 15 today to your rebuttal or surrebuttal testimony that you  
 16 would like to address?  
 17 A. I do not.  
 18 MR. ROSELLI: With that, we move the admission of  
 19 Exhibits 12 and 13.  
 20 ARBITRATOR RODDA: Okay.  
 21 MR. MERZ: No objection.  
 22 ARBITRATOR RODDA: Great. 12 and 13 are  
 23 admitted.  
 24 (Exhibit Nos. Qwest-12 and Qwest-13 were admitted  
 25 into evidence.)

1 Q. (BY MR. ROSELLI) Mr. Ashton, I think each  
 2 witness has been asked to provide a brief overview or  
 3 summary of their testimony, and if you could do that now  
 4 that would be appreciated.  
 5 A. Sure. Primarily, my testimony addressed issues  
 6 raised by Mr. Starkey as a witness for Eschelon. And so  
 7 the gist of my testimony covers the fact that power plant  
 8 and power usage are two completely separate items, and  
 9 that's why there's two separate charges for them. Power  
 10 usage is electricity that is consumed, whereas power plant  
 11 consists of durable items such as batteries and rectifiers  
 12 that are not consumed.  
 13 The second point that I would like to make is  
 14 that usage, in and of itself doesn't drive power plant  
 15 investment. Especially from a CLEC perspective, they give  
 16 us a power order, we make sure that that's what we provide  
 17 for them. We have no idea what they're going to use  
 18 beforehand. Because I need to make decisions about sizing  
 19 the capacity of my power plant up front and make sure I  
 20 have that capacity available, I go ahead and put the  
 21 capacity in before I even know what their usage is.  
 22 Mr. Starkey makes a lot of -- or goes into a long  
 23 discussion about List 1 and List 2 drains and usage and  
 24 busy hour and so on and so forth, and I just wanted to  
 25 make the point that even -- we don't know what the List 1

1 drain of the CLECs are. And even if we did know it,  
2 that's not how the rate is set up, and that's not how it's  
3 been ordered to be charged. And the usage that  
4 Mr. Starkey claims Eschelon wants to be charged on is not  
5 even a List 1 drain, which he claims is how we should  
6 build our power plant.

7 And I think that sort of sums it up.

8 MR. TOPP: Thank you. With that, we would make  
9 Mr. Ashton available for cross-examination.

10 ARBITRATOR RODDA: Okay, Mr. Merz.

11 MR. MERZ: Thank you, Your Honor.

12

13 CROSS-EXAMINATION

14

15 Q. (BY MR. MERZ) Good afternoon, Mr. Ashton.

16 A. Good afternoon.

17 Q. You have talked about this difference between  
18 power usage and power plant. It's your understanding that  
19 the parties have agreed upon language that would allow  
20 Eschelon to elect to be charged for power usage based on  
21 the measurement of its actual usage of power; correct?

22 A. For orders of power larger than 60 amps, that's  
23 correct.

24 Q. And under that option what happens is Qwest  
25 measures the power usage a maximum of four times a year

1 and charges based on those measurements; is that right?

2 A. Charges for electric usage, yes.

3 Q. And so it's not like my electric meter at home  
4 which is always spinning. You're just measuring snapshots  
5 in time four times a year?

6 A. That's correct. So from the point that we take  
7 the measurement until the next measurement, that's the  
8 amount that is used as the basis for the charges.

9 Q. Okay. Now, the issue that we're grappling with  
10 here, which is issue 8-1 and its subparts, is whether  
11 there should be a similar measured charge option for the  
12 power plant charge; correct?

13 A. That's the issue.

14 Q. Now, you mention in your summary some  
15 terminology, List 1 drain, List 2 drain. I want to talk  
16 with you a little bit about that.

17 List 1 drain is the amount of power drawn by the  
18 equipment during the busiest hour of the busiest day of  
19 the year; is that right?

20 A. List 1 drain is specific to individual shelves of  
21 equipment that are fully carded during the busiest hour of  
22 the busiest day of the year at normal operating voltages.

23 Q. Okay. And so that's sometimes referred to as the  
24 peak drain?

25 A. Mr. Starkey referred to it as the peak drain. I

1 would never refer to it as the peak drain, because the  
2 peak drain is the List 2 drain.

3 Q. Okay. Fair enough.

4 Usage under normal operating conditions

5 fluctuates, and some days it's going to be higher and some  
6 days it's going to be lower.

7 A. That's correct.

8 Q. And that fluctuation may vary depending on the  
9 carrier; correct?

10 A. That's correct.

11 Q. And I think one of the things that you mention in  
12 your testimony is that Eschelon serves businesses, and so  
13 it may not have the same usage pattern as a company like  
14 Qwest that serves residential customers. Fair enough?

15 A. That's fair.

16 Q. Now, List 2 drain is the amount of power drawn by  
17 the equipment under worst case operating conditions; is  
18 that right?

19 A. That's correct.

20 Q. And List 2 drain is significantly higher than  
21 List 1 drain; isn't that right?

22 A. Generally.

23 Q. And because of manufacturers' requirements,  
24 cables that carry power to the collocated equipment are  
25 engineered to List 2 drain; is that right?

1 A. At the minimum, yes.

2 Q. Now, I want you to refer to your rebuttal  
3 testimony at Page 9.

4 A. Okay.

5 Q. And I'm looking at Line 17 through 21.

6 A. Is that the one that starts with the question?

7 Q. I'm looking at your -- let's see here, your  
8 rebuttal, Page 9, List 17, or Line 17, there's the  
9 sentence: Qwest designs and engineers power plant  
10 capacity.

11 A. Maybe our page numbers don't match up.

12 Q. I have a question. How does Qwest determine when  
13 to augment power plant at a central office? I have that  
14 question on Page 9 at Line 14.

15 A. Okay. That's on my Page 10.

16 Q. Okay.

17 A. I'm with you.

18 Q. Do you see the sentence then that says: Qwest  
19 designs and engineers power plant capacity sufficient to  
20 meet the total busy hour load of all equipment present in  
21 the central office, plus all CLEC ordered amounts of  
22 power, plus the anticipated busy hour drain of expected  
23 future Qwest equipment additions.

24 Do you see that testimony?

25 A. Yes, I do.

1 Q. Now, when you're talking about the busy hour load  
2 of all of the equipment present in the central office,  
3 you're talking about both CLEC equipment and Qwest  
4 equipment; is that right?

5 A. That's correct.

6 Q. And is that the List 1 drain that we've been  
7 talking about?

8 A. It's not. It's actually going to be somewhat  
9 less than the List 1 drain, because the List 1 drain is  
10 measured on an individual equipment shelf basis. Assuming  
11 the shelf is fully carded, which a lot of shelves in a  
12 building are not, or even in a CLEC cage.

13 So it serves as a reasonable underestimate proxy  
14 of the List 1 drain, but it's not the List 1 drain.

15 Because it would be nearly impossible to find out the  
16 List 1 drain for every shelf that's been put in over the  
17 last 100 years, it serves as a proxy.

18 Q. You're talking about the busy hour load for the  
19 office in the aggregate?

20 A. Yes.

21 Q. And so for any particular office, there is an  
22 hour on a particular day when that busy load is expected;  
23 correct?

24 A. I wouldn't say expected, because we don't  
25 necessarily know when to expect it. It might happen to be

1 Mother's Day, depending on the usage profile of the  
2 office, it might not.

3 Q. On that busy hour for that office, not all of the  
4 CLECs will be at their highest drain for that year. Do  
5 you understand what I mean?

6 A. That's correct.

7 Q. So if the busy hour for a particular office is  
8 10:00 a.m. on Mother's Day, for example, but that isn't  
9 the busy hour for Eschelon, then Eschelon's List 1 drain  
10 isn't really part of this calculation, is it?

11 A. Eschelon's List 1 drain is never a part of the  
12 calculation for power plant capacity.

13 Q. Let me ask it a different way. If the busy hour  
14 for a particular office is 10:00 a.m. on Mother's Day, and  
15 that isn't the busy hour for Eschelon, then Eschelon's  
16 peak drain, the highest drain they would experience during  
17 that year, wouldn't be part of that calculation?

18 A. A portion of it would because they're still  
19 drawing power, but the overall peak that they would draw  
20 would not, no. However, what is part of the calculation  
21 is the amount that they've ordered so that we make sure  
22 that we have enough power.

23 Q. I'm going to come to that in a second. What is  
24 used for purposes of engineering the size of the power  
25 plant -- I'm sorry. Let me ask this a different way.

1 What is used for purposes of determining the size  
2 of the power plant is the draw by Eschelon's equipment on  
3 the busy hour for that office; right?

4 A. No.

5 Q. No. Why not?

6 A. Because for a CLEC we have no idea what their  
7 List 1 drain is. We have no idea what their anticipated  
8 usage is. And because we want to be able to provide them  
9 with the power that they've ordered, we use the power that  
10 they've ordered that -- the ordered amount as the amount  
11 of capacity in the power plant that we provision.

12 Q. But isn't it the case that you know how much your  
13 central office -- each of your central offices is drawing  
14 on that office's busy hour? I mean, that's something that  
15 you're able to measure; correct?

16 A. Yes, but then I have to -- because I can't grow  
17 power plant as quickly as load can grow. Load can grow  
18 minute to minute as cards are added. I can't grow a power  
19 plant that quickly. I have to add rectifiers and  
20 batteries, which takes months and months, and engines and  
21 so forth. So I have to be ahead of the curve.

22 Q. And that's why you add in the CLEC ordered  
23 amounts of power; is that correct?

24 A. Correct.

25 Q. And when you're talking about the CLEC ordered

1 amounts of power, what you're really referring to is the  
2 size of the power cables that the CLEC orders. Is that  
3 how the amount of power is determined?

4 A. No. It's the number that they put on their order  
5 form is the amount of power they want.

6 Q. And what blank are they filling in when they put  
7 that down on their order form? What is the question  
8 they're answering?

9 A. I don't have the order form in front of me, but I  
10 believe it's how much power do you want or what size  
11 feeders do you want. I don't know the exact wording.

12 Q. Well, is it what size feeders or how much power,  
13 or do you not know?

14 A. I don't know without the order form.

15 Q. If the question were what size feeders do you  
16 want, what would that mean to you? The size of the power  
17 cables; correct?

18 A. Yeah. But I doubt that we ask the question that  
19 way because we size the cables. So without looking at the  
20 order form, I couldn't say exactly how we ask the  
21 question.

22 Q. And that's not something that you have attached  
23 to your testimony, the order form?

24 A. I don't believe I have attached it to my  
25 testimony, no.

1 Q. Now, if you're counting the busy hour load, which  
2 would include the drain of all of the CLECs, and you're  
3 also counting the List 2 drain of the CLEC equipment,  
4 aren't you counting that CLEC's drain twice?

5 A. We're counting a small portion of the CLEC's  
6 drain twice. It's not all of the CLEC's drain twice.

7 Q. Okay. And what do you mean by a small portion?

8 A. Well, I mean, whatever the CLEC is drawing at the  
9 minute we take the busy hour reading, that portion, that  
10 is added, obviously, along as part of the aggregate along  
11 with their order.

12 Q. And it could happen that the CLEC's busy hour  
13 drain happens at the same time as the central office's  
14 busy hour drain.

15 A. That's theoretically possible.

16 Q. And if that were the case, you would be counting  
17 all of the CLEC's busy hour drain twice, because the busy  
18 hour drain plus the List 2 drain is actually more than  
19 twice the busy hour drain; correct?

20 A. Probably, depending on how the CLEC uses it.  
21 There are CLECs who actually use more power than what  
22 they've ordered.

23 Q. Explain to me how that happens.

24 A. Okay. There's -- in any order there's an -- and  
25 it states so right on the order form that if you order the

1 quantify of one feeder set, you're going to get an A  
2 feeder set and a B feeder set. So if a CLEC orders 100  
3 amps, Qwest is going to use its sizing rules and the same  
4 rules that are you used in the National Electric Code to  
5 size the feed at least 125 percent of the order. That's  
6 the A feed. The B feed then becomes the redundant backup  
7 feed, so to speak, even though they normally share power.  
8 So in reality on a 100 amp order, the CLEC has the  
9 capability to draw at least 250 amps before they blow  
10 their fuses.

11 Q. So the CLEC, at least in theory, can draw on both  
12 the A feed and the B feed simultaneously?

13 A. Correct.

14 Q. Up to the maximum of the size of the cable?

15 A. Of the fuse.

16 Q. Of the fuse.

17 A. The cable is usually going to be much larger in  
18 terms of ampacity than the fuse size.

19 Q. List 2 drain for Qwest equipment is not part of  
20 the calculation for sizing the power plant of a central  
21 office; is that right?

22 A. Not for the power plant, no.

23 Q. Why not?

24 A. Because Qwest knows its List 1 drain for each  
25 piece of equipment that we're going to add to the office.

1 Q. Does Qwest as part of its power ordering  
2 requirements ask CLECs to state what their List 1 drain  
3 is?

4 A. No, we don't. Because even if we did, we would  
5 have no way of knowing how correct it is.

6 Q. Well -- I'm sorry. I don't mean to cut you off.

7 A. Even with our own equipment, we don't just take a  
8 manufacturer's word as to what the List 1 drain is. We  
9 have lab experience and field experience with it that  
10 shows us here is what the List 1 drain is, here is what it  
11 normally draws.

12 Q. Well, do you assume that CLECs are not as able as  
13 Qwest to determine what their List 1 drain is?

14 A. In my experience, most CLECs, yes, they're not as  
15 able.

16 Q. Why do you say that?

17 A. Because most CLECs don't have the power  
18 engineering expertise that Qwest does.

19 Q. Going to your rebuttal at Page 3.

20 A. Under which question is it? So I make I'm on the  
21 right page.

22 Q. Sure. Good question. Let's see here. Page 3.  
23 How does Qwest design a power plant?

24 A. Okay.

25 Q. I'm looking at -- let's see here. For example,

1 when a CLEC provides.

2 A. Yes.

3 Q. For example, when a CLEC provides Qwest with an  
4 order for power feed, paren, sometimes referred to as  
5 power distribution or power cables, Qwest provisions the  
6 feed at the requested amount and insures the power plant  
7 has sufficient spare capacity to provide that ordered  
8 amount of power.

9 Do you see that?

10 A. Yes.

11 Q. And I had interpreted that to mean that what the  
12 CLEC is ordering is power cables, the size of the power  
13 cables. That's not what you intended, I take it?

14 A. It's not really the size of the power cables,  
15 because the size of the power cables is not only amperage  
16 dependent, it's distance dependent. And so that's due to  
17 the low voltages at which telecommunications equipment  
18 operates.

19 Q. Under what circumstances would CLEC equipment be  
20 expected to draw List 2 drain?

21 A. Assuming that they actually sized based on List 1  
22 and List 2 drain, the List 2 event is going to occur after  
23 batteries have been fully discharged to the lowest  
24 possible voltage, operating voltage of each piece of  
25 equipment. As the equipment restarts, as power is brought

1 back, as the equipment restarts, fans are going to start  
 2 up, capacitors are going to draw extra power. So not only  
 3 will the equipment be drawing its normal power, it will be  
 4 drawing its normal power at a low voltage, which means  
 5 higher current. And it will also be having start-up  
 6 currents for capacitors and fans and things like that.  
 7 Q. Under what circumstances are batteries fully  
 8 discharged?  
 9 A. Typically there's two different circumstances.  
 10 And I've been involved with many, many outages. Although  
 11 it doesn't happen that often, it happens.  
 12 The two major circumstances in which it happens  
 13 are, let's say, for example, a major natural disaster  
 14 where I can't get fuel to a generator. AC power is out  
 15 for days, my generator runs out of fuel, and the batteries  
 16 eventually run out of voltage, so to speak.  
 17 Q. And just to interrupt you a second, that's a  
 18 circumstance that you're aware of having happened?  
 19 A. Oh, yeah. Yes.  
 20 Q. All right.  
 21 A. The other circumstance that happens is there are  
 22 times when accidents happen. Let's say, for example, that  
 23 an electrician is putting some new lights and they have a  
 24 run of conduit, metallic aluminum conduit, and they happen  
 25 to get it across ground and a hot bus. The entire office

1 at that point is going to go to zero volts, and it's going  
 2 to take down most of the equipment, if not all. And as  
 3 that equipment -- I still have power to the office, but  
 4 because I had a temporary short, the equipment stopped  
 5 working. The equipment is going to come back up with a  
 6 List 2 drain.  
 7 Q. How frequently does a List 2 drain happen? I  
 8 mean, it's an unlikely event, is that fair to say?  
 9 A. It is. I would say on average across, you know,  
 10 a couple of thousand central offices, maybe five times a  
 11 year.  
 12 Q. Would you agree with me that it would be  
 13 impossible for a CLEC's equipment to simultaneously draw  
 14 List 1 drain and List 2 drain?  
 15 A. Yes. They're mutually exclusive of each other.  
 16 List 2 drain is -- List 1 drain is part of the List 2  
 17 drain. The List 2 drain is just more.  
 18 Q. Now, your rebuttal, Page 13 maybe. I'm looking  
 19 at the question that says: Why can't Qwest just measure  
 20 Eschelon's peak usage and bill for power plant on that  
 21 basis?  
 22 A. Okay.  
 23 Q. And what I understand you to be saying is you  
 24 can't charge for power plant based on measurement, because  
 25 measurement at random times is unlikely to capture the

1 peak usage; is that correct?  
 2 A. It's unlikely to capture the busy hour usage.  
 3 Q. That's because the measurement is just a snapshot  
 4 in time?  
 5 A. Correct.  
 6 Q. Now, is the concern that the measurement might  
 7 result in Qwest being undercompensated?  
 8 A. I would say the primary concern is that we would  
 9 not have enough power available to serve the CLEC as well  
 10 as ourselves. Because the power plant, as Mr. Starkey  
 11 pointed out, is a shared resource. So if I run out of  
 12 capacity, everybody goes down. Not just the CLEC, but  
 13 Qwest as well.  
 14 Q. I'm not sure if you answered my question. I'm  
 15 going to try it again.  
 16 A. Okay.  
 17 Q. When you talk about not measuring based on a  
 18 snapshot in time, what I would assume is at least part of  
 19 the issue was that if the measurement turns out to be less  
 20 than average use during the period that that measurement  
 21 is going to apply, Qwest ends up not being fully  
 22 compensated. I thought you were going to say that was  
 23 part of the issue. Is it not part of the issue?  
 24 A. That's not really part of the issue, because if I  
 25 take random measurements in time over time, randomly,

1 they're going to average out. So yes, I may be  
 2 undercompensated for a three-month or six-month period,  
 3 but I may be slightly overcompensated for the next three-  
 4 or six-month period.  
 5 Q. The measured usage charge options available for  
 6 power usage is one that happens based on a snapshot in  
 7 time?  
 8 A. That's correct.  
 9 Q. And what I understand you to be saying is the  
 10 concern is different, because here you're concerned with  
 11 whether -- when you're talking about power plant, you're  
 12 concerned whether the power plant is going to be  
 13 adequately sized?  
 14 A. Well, I was speaking -- in my previous answer I  
 15 was speaking specifically of usage in terms of recovering  
 16 costs for electricity. The power plant, we want to make  
 17 sure that there's enough power plant there so if the CLEC  
 18 ever draws the amount of power that they ordered, it would  
 19 be available to them 24 hours a day, seven days a week.  
 20 MR. MERZ: I don't have anything further.  
 21 ARBITRATOR RODDA: Okay. I don't have any  
 22 questions.  
 23 MR. ROSELLI: Just very briefly.  
 24  
 25

## REDIRECT EXAMINATION

1  
2  
3 Q. (BY MR. ROSELLI) Mr. Merz asked you some  
4 questions about what numbers or what factors go into  
5 planning power plant augments for Qwest. Can you go over  
6 those again, please?  
7 A. Yes. There's three numbers that go into a power  
8 plant decision. When equipment is going to be added to a  
9 central office, whether it's Qwest's or a collocator's  
10 equipment when we get an order for collocation, at that  
11 point the power engineer takes a look at the busy hour,  
12 busy day load for approximately the past year that  
13 happened in that office. That's one number.  
14 They add to that all expected Qwest equipment  
15 additions over the planning horizon, whatever the planning  
16 horizon is for that office. They add the List 1 drains of  
17 those equipment additions, and then they add the CLEC  
18 power order. They then take that combined number, compare  
19 it to the capacity of the power plant, and see if the  
20 power plant has enough spare capacity. If it does, no  
21 equipment is added. If it doesn't, then we have to add  
22 equipment.  
23 Q. Is the CLEC's usage that would be captured  
24 through these random measurements, is that any part of  
25 that planning of power plant augments?

1 A. No.  
2 Q. Is the CLEC's List 1 drain of their equipment,  
3 even if they gave it to you, is that any part of the  
4 planning for power plant augments?  
5 A. It's not. It's their order, because that's what  
6 we've been ordered to charge on.  
7 Q. Is the CLEC's order the only number that comes  
8 from the CLEC that is part of planning for power plant  
9 augments in the central office?  
10 A. That's correct.  
11 Q. I want to talk a little bit about this issue of  
12 double counting that Mr. Merz asked you about. Why can't  
13 Qwest just back out when it's looking at the one component  
14 that goes into power plant planning, the busy hour, busy  
15 load for all equipment in the central office? Why can't  
16 Qwest simply back out the CLEC components of that number?  
17 A. There's a couple of different reasons. Number  
18 one, it would be labor intensive to go around and measure  
19 every CLEC every time a piece of equipment was going to be  
20 added to the office and back out those numbers.  
21 But even more importantly, the CLEC is only  
22 paying for what they ordered. It doesn't matter if it  
23 gets double counted from our perspective -- if we put too  
24 much power plant capacity in, our fault -- as long as we  
25 only charge the CLEC for the amount that they've ordered.

1 We're not charging them for -- let's say, for example,  
2 that their measured usage was 47 amps on a 100 amp order.  
3 I'm not charging them for 147 amps of power, even if I did  
4 double count that. I'm charging them for 100. That's  
5 what they ordered.  
6 Q. When Qwest looks at that number, it's one of the  
7 components in planning power plant augments, and the  
8 number being the busy hour -- busy day, busy hour load in  
9 the central office, is that an aggregated number, or is it  
10 disaggregated by Qwest, CLEC A, CLEC B, CLEC C?  
11 A. That's an aggregate number.  
12 Q. Okay.  
13 A. It's an aggregate number.  
14 Q. And, therefore, it doesn't tell Qwest anything  
15 about what Eschelon may be using at that point in time or  
16 McLeod may be using at that point in time, et cetera?  
17 A. No.  
18 Q. So there's no discrete number for Qwest to back  
19 out of that calculation; is that correct?  
20 A. Correct.  
21 MR. ROSELLI: I don't have anything further.  
22 ARBITRATOR RODDA: Did you have anything?  
23 Mr. Merz?  
24 MR. MERZ: Maybe just a couple.  
25

## RE-CROSS-EXAMINATION

1  
2  
3 Q. (BY MR. MERZ) Qwest knows how much of the busy  
4 hour load is its load; right?  
5 A. No.  
6 Q. It doesn't?  
7 A. No. There are literally tens of thousands of  
8 shelves of equipment in the central office. To determine  
9 how much is Qwest load, Qwest would literally have to  
10 measure every single one of the feeds to every piece of  
11 equipment and add them up.  
12 MR. MERZ: Nothing further.  
13 ARBITRATOR RODDA: All right. Well, thank you.  
14 MR. TOPP: Qwest calls Teresa Million.  
15  
16 TERESA MILLION,  
17 called as a witness on behalf of Qwest, having been first  
18 duly sworn by the Certified Reporter to speak the truth  
19 and nothing but the truth, was examined and testified as  
20 follows:  
21  
22 EXAMINATION  
23  
24 Q. (BY MR. TOPP) Would you introduce yourself,  
25 please.

1 A. Certainly. My name is Teresa Million, and I work  
2 for Qwest Services Corp., and I'm here appearing on behalf  
3 of Qwest Corporation.

4 Q. And you have before you documents entitled or  
5 labeled as Qwest Exhibits 13, 14 and 15; is that correct?

6 A. 14, 15, and 16.

7 Q. And Exhibit 14 is your direct testimony?

8 A. Yes. That's correct.

9 Q. And Exhibit 15 is your rebuttal testimony?

10 A. Yes.

11 Q. And Exhibit 16 is your surrebuttal testimony?

12 A. That's correct.

13 Q. Do you have any changes to that prefiled  
14 testimony as you sit here today?

15 A. No. I do not.

16 MR. ROSELLI: Qwest would offer Exhibits 14, 15  
17 and 16.

18 MR. MERZ: No objection.

19 ARBITRATOR RODDA: Then 14, 15, and 16 are  
20 admitted.

21 (Exhibit Nos. Qwest-14, Qwest-15, and Qwest-16  
22 were admitted into evidence.)

23 Q. (BY MR. TOPP) Ms. Million, would you please  
24 provide us with your summary of your testimony.

25 A. Certainly. As I said, my name is Teresa Million,

1 and I work at Qwest in their public policy department,  
2 which is also the department where our cost organization  
3 works. And part of my responsibility is to provide  
4 direction and guidance to some of our cost analysts when  
5 they put studies together, and then I also have  
6 responsibility for testifying in front of the various  
7 public utility commissions about those cost studies.

8 And so the focus of my testimony in this  
9 proceeding is fairly narrow. It has been to address some  
10 of the specific issues that Eschelon has brought up with  
11 respect to Qwest's rates in the proceeding, and so I have  
12 testimony on a variety of things.

13 The power plant rate that was just discussed with  
14 Mr. Ashton, some QPF rates, which are quote preparation  
15 fees, that Qwest has with respect to some of the power  
16 products. I also talk about conversion charges, expedite  
17 charges, and the design change charge, and then I also  
18 have some rebuttal of Mr. Denney on approved rates that  
19 are part of this proceeding.

20 MR. TOPP: Ms. Million is available for cross.

21 ARBITRATOR RODDA: All right, Mr. Merz.

22 MR. MERZ: Thank you.

23  
24  
25

CROSS-EXAMINATION

1  
2

3 Q. (BY MR. MERZ) Good afternoon.

4 A. Hello.

5 Q. I want to talk with you first about design  
6 changes, which is issue 4-5. And the issue here is that  
7 Eschelon has proposed interim rates for loop design  
8 changes and CFA changes; is that right?

9 A. That's correct.

10 Q. And CFA means connecting facility assignment  
11 changes?

12 A. Yes.

13 Q. It's Qwest's position that the Commission has  
14 already set a rate for design changes, and that that rate  
15 applies equally to unbundled transport, loops, and CFA  
16 changes; is that correct?

17 A. Yes. The study that we presented in the cost  
18 docket where those rates were set had a cost study that  
19 was intended to address design changes with respect to all  
20 of the different types of products that it applied to, as  
21 well as all of the different circumstances it might apply  
22 under.

23 Q. And I believe what you have said in your  
24 testimony is that the rate for design changes for  
25 transport, loops, and CFA changes should be the same for

1 all of those things?

2 A. Well, what I said is that the rate that we  
3 developed in our cost study was based on -- one of the  
4 things that you have to understand is that a nonrecurring  
5 charge, when we develop a study for that, what we do is we  
6 look at the particular provisioning that's going to happen  
7 and the different centers that are involved in that. So,  
8 for example, the interconnect service center, which is  
9 where the order comes in for a design change, and the  
10 design center itself and their involvement.

11 And we identify those centers, and then we talk  
12 to the experts that are resident in those centers and that  
13 do that work on a daily basis. And we ask them to give us  
14 an average estimate of time, and the probability that a  
15 particular activity or task is going to happen. And we  
16 identify the tasks that will happen when an order is  
17 handled on the manual basis.

18 So, for example, if a basic loop installation is  
19 going to come in and 85 percent of the time it's handled  
20 mechanically, then there's no assumption in the study for  
21 manual processing of that. It's just the 15 percent of  
22 the time that that falls out and it has to be processed  
23 manually. And so the steps that are involved in that and  
24 the times associated with that.

25 So for the design change that was submitted in



1 the cost docket, those steps were all laid out and  
2 averages were given for all of those steps without regard  
3 to which of the types of design changes were occurring.

4 And so I guess to answer your question, when we  
5 proposed the rate for that, as I said before, it was  
6 intended to address all of the different circumstances.  
7 It's an average time for a task, receiving an order,  
8 processing an order for a design change, or reinitializing  
9 the information for the order that's already in process if  
10 the design change happens during the days of provisioning,  
11 and the average times for those tasks regardless of what  
12 kind of design change comes through.

13 Q. The cost study that you are referring to has not  
14 been filed in this case; is that right?

15 A. It hasn't been filed in this case. It's based on  
16 an approved rate from the cost docket, the 0194 docket. I  
17 can only remember the last four numbers, but it was the  
18 generic cost case in this state.

19 MR. MERZ: Your Honor, I have an exhibit actually  
20 for Mr. Denney's testimony that I wanted to ask  
21 Ms. Million about. I don't need to number it separate  
22 since it's already part of his testimony, but if it's all  
23 right with you I'll just hand a copy to her.

24 ARBITRATOR RODDA: That's okay.

25 Q. (BY MR. MERZ) Ms. Million, I have handed you

1 there Exhibit DD-23 to the surrebuttal testimony of  
2 Douglas Denney. Do you recognize that document?

3 A. Well, I can identify it as steps out of an,  
4 evidently, Washington study that was conducted. It looks  
5 to me as though it was a compliance study that was done in  
6 Part D of the Washington case. This is one of hundreds  
7 and hundreds of pages, so I don't -- I can't say that -- I  
8 mean, I recognize what it is. I can't say that I  
9 recognize --

10 Q. These two pages --

11 A. -- the document.

12 Q. -- concern cost studies for design changes; is  
13 that right?

14 A. This is a piece of a study, yes. It's not the  
15 entire thing, because it only identifies the direct costs.  
16 It doesn't provide for any of the loaded -- loadings on  
17 that. So you can't look at this and see what the final  
18 cost or -- excuse me. Well, yeah, the final cost or rate  
19 is for this element. You can only see what the direct  
20 costs are in this instance based on this compliance  
21 filing.

22 Q. Now, when you say there are hundreds of pages,  
23 are you saying that there are hundreds of pages relating  
24 to design changes or --

25 A. No. I'm saying that a nonrecurring cost study

1 can have many hundreds of elements in it, and each element  
2 has several pages associated with it, and so a  
3 nonrecurring cost study can be size of this binder here.

4 And what we've got is two pages that don't represent the  
5 entire cost for either one of these identified services.

6 It's just a part of the cost.

7 Q. The first page says design change mechanized;  
8 correct?

9 A. Yes, it does.

10 Q. Let me ask you this. Are these two pages similar  
11 to part of what would have been the cost study that was  
12 submitted in Arizona? Do you know?

13 A. The assumptions in this would be different,  
14 because this is a compliance filing based on what we were  
15 ordered to do by the State of Washington, the commission  
16 in the State of Washington. So it includes assumptions  
17 that they have imposed on us as a result of their order.

18 Q. The assumption that they have imposed is found in  
19 Probability No. 4; is that right?

20 A. Yes. It's the .7 probability reflects a  
21 30 percent reduction to work time estimates.

22 Q. And so what the Washington Commission was saying  
23 is we're going to reduce the amount of time that you have  
24 estimated by 30 percent, and the way you get to that is  
25 this .7 adjustment; is that right?

1 A. Yes, that's correct.

2 Q. The second page of the document is design change  
3 manual; is that right?

4 A. Yes, it is.

5 Q. What do those two things mean, design change  
6 manual and design change mechanized?

7 A. In Washington they make a distinction between  
8 orders that will be processed mechanically via some sort of  
9 computer interface versus orders that they presume are  
10 processed manually. In other words, they come to Qwest in  
11 a fax format or something of that nature.

12 And they've made -- in that state they've made a  
13 distinction between those two things. In the beginning  
14 when we -- and you have to remember this is -- I think the  
15 date on this study is 2001.

16 In the beginning when we first started receiving  
17 orders from CLECs, we had a tremendous number of CLECs  
18 that were still sending fax orders to us, and we were  
19 calculating an average time. And in Washington they said  
20 we would like to split this out between those you receive  
21 manually and those you receive in a mechanized fashion.  
22 That is true in Washington, New Mexico. I don't know that  
23 there's any other state that's made that distinction, and  
24 it certainly was not a part of the distinction that  
25 determined the rate for design changes here in Arizona.

1 Q. Does Washington have two separate design change  
2 charges, one for mechanized and one for manual orders?

3 A. Yes, it does.

4 MR. TOPP: I'm going to object to this line of  
5 questioning about a rate in another state at another time  
6 as not relevant, or certainly confusing.

7 ARBITRATOR RODDA: Could you enlighten me?

8 MR. MERZ: I can't. What I really want to get at  
9 is the notion that the charge that the Arizona Commission  
10 approved was an average charge. What I understand is that  
11 this study, at least, is similar to the sort of study that  
12 Ms. Million says was offered to the Washington  
13 Commission -- I'm sorry. The Arizona Commission.

14 And what I want to get to is what are these  
15 various tasks, how was the average determined. If the  
16 Arizona study is completely different than this one, then  
17 I can move on. But my understanding is they were similar.

18 ARBITRATOR RODDA: So I still don't understand  
19 why we're not talking about the Arizona study.

20 MR. MERZ: Because the Arizona study, we don't  
21 have it. It's not been filed in this case and we don't  
22 have it.

23 ARBITRATOR RODDA: But it's filed somewhere;  
24 right? I mean, if it was part of a --

25 MR. MERZ: Okay. It's my understanding that the

1 studies that were filed were proprietary. We asked for  
2 them in this case, and they weren't given to us because  
3 they weren't willing to give us cost studies for any  
4 approved rates, or rates that they claim had been  
5 approved.

6 ARBITRATOR RODDA: You didn't give them cost  
7 studies?

8 MR. TOPP: I'm not aware that we refused to give  
9 them cost studies on approved rates and that there was  
10 something that prevented them from accessing them.

11 MS. CLAUSON: It's well-documented and we can  
12 supplement the record with that. We cited the same rule  
13 that we cited in the cost case filings saying that you  
14 have a duty when negotiating in good faith to provide the  
15 cost information necessary for any rate that might be  
16 arbitrated. And Qwest said, well, that's established. We  
17 refuse to give you any cost studies for approved rates.

18 So we could -- we got some cost studies for  
19 unapproved rates, but in the negotiations -- and this is  
20 well-documented. If you want us to supplement the e-mails  
21 from Qwest, we can -- they would not give us the cost  
22 studies for any rate that was approved, even where we're  
23 disputing what that's about. And that's certainly not  
24 part of this record after the three rounds of testimony.

25 ARBITRATOR RODDA: I'm going to let you continue.

1 Q. (BY MR. MERZ) Looking at the first page of the  
2 document, the one that's design change mechanized, you  
3 have lines that say add service delivery coordinator and  
4 design. What did those refer to?

5 A. Those are the two centers that are being studied  
6 as part of the design change, and in this study it's  
7 called service delivery coordinator. It essentially is  
8 the interconnect service center that I mentioned before.

9 So at a high level we're talking about two  
10 centers that are involved in the processing of a design  
11 change. One is the center that either receives the order  
12 from the CLEC when they request the design change, or, if  
13 the CLEC doesn't request a design change and submit an  
14 order, then it's the center that's involved in updating  
15 all of the customer records that need to be changed as a  
16 result of a design change. For example, when a CFA  
17 happens. And then the design center, which is the other  
18 one that actually goes out and determines what the new  
19 design or the new CFA is going to be.

20 Q. Now, under service delivery coordinator it says  
21 .75 probability is percent ASRs for new trunk groups  
22 versus trunk group augmentations. Do you see that?

23 A. Yes.

24 Q. And ASR is access service request; is that  
25 correct?

1 A. That's correct.

2 Q. Now, that doesn't include orders for design  
3 changes for loops; correct?

4 A. That's not true in terms of the averages that are  
5 represented here. As I explained, I think in my  
6 surrebuttal testimony, at the time that this study was  
7 first put together, and that would have been in about the  
8 2000 or 2001 time frame, what our cost analysts did was go  
9 out and make use of the fact that we already had a study  
10 existing for private line services. And private lines are  
11 always processed on ASRs, and so we followed the same  
12 process that we followed for ASRs for private lines at the  
13 time for a design change.

14 In other words, we had a template that existed in  
15 our nonrecurring on the retail side, or on the wholesale  
16 side for private lines that we were providing to other  
17 carriers, interexchange carriers and so forth, and we had  
18 a design change charge there. And so we simply pulled the  
19 template from that and made use of that.

20 So the reference to ASRs is because private lines  
21 are always processed on ASRs. UNEs are processed on both  
22 ASRs and LSRs. But the steps that are laid out here are  
23 essentially the same basic steps that you go through  
24 whether it's for a private line or for a UNE. And so we  
25 simply used those same steps and estimated the time based

1 on processing these for the CLECs as in the UNE world.  
2 Q. And just to now finally bring this back to this  
3 case. Was the same template used for the Washington study  
4 and the study that was filed with the Arizona Commission?

5 A. It could well have been, yes. I would have to  
6 look at that study to know for sure, but I would presume  
7 that it probably was. Because I think the Arizona study  
8 was developed at about the same time and would have been  
9 based on that same assumption that we were going to use  
10 the existing template for a design change and simply put  
11 in the correct times for UNEs.

12 Q. When you say existing template, what do you mean  
13 by that exactly?

14 A. Well, as I explained, these are a couple of pages  
15 out of a normal nonrecurring study that can be as thick as  
16 this binder or that binder, so many, many pages.

17 And this was a template of -- in other words, for  
18 every single element that we do a nonrecurring study for,  
19 the same process is gone through. You determine which of  
20 the centers are going to be involved, you lay out times,  
21 you lay out probabilities, and the costs, the labor rate  
22 for that, and you determine a cost. And then there's  
23 another part that's missing from here that gets you to a  
24 final cost or a final rate that also includes the loadings  
25 on that.

1 And we already had this set of steps and  
2 processes laid out for an existing design change charge  
3 that we had on the private line side, and so that's what I  
4 mean by template. It was simply already laid out in  
5 another nonrecurring study someplace, and we pulled it  
6 over to make use of it in the nonrecurring for the UNEs.

7 Q. Under service delivery coordinator, you have got  
8 a bunch of lines: Validate exact, validate TIRKS, assign  
9 new TSC, TGMR. Do you see those?

10 A. Uh-huh.

11 Q. Yes?

12 A. Excuse me. Yes.

13 Q. Those are the tasks, I take it, that the service  
14 delivery coordinator performs when he or she does a design  
15 change?

16 A. Yes. That's correct.

17 Q. Who identified these tasks?

18 A. The service delivery coordinator subject matter  
19 expert, who is an employee in Qwest who works in this area  
20 and has responsibility for the interconnect service center  
21 or the service delivery coordinators, and who is someone  
22 who's got a great deal of experience in the area.

23 Q. What was the question that person was asked?

24 A. Estimate the times for -- first of all, lay out  
25 the tasks for us. When they were originally asked this,

1 lay out the tasks for us that are involved in processing a  
2 design change, and estimate the times for us that those  
3 tasks take when any of those tasks have to be processed  
4 manually, and estimate for us the probability that those  
5 tasks are going to happen on a manual basis.

6 Q. And was that person at the time this study was  
7 done asked to estimate design changes for what? Design  
8 changes for what? I'll just leave it at that.

9 A. For UNEs. Design changes for any UNEs that were  
10 going to require design changes, and under the various  
11 circumstances of a design change.

12 I think if you read in the nonrecurring cost  
13 study -- and I believe that I have information about that  
14 perhaps in my rebuttal testimony -- what the executive  
15 summary of the nonrecurring study says is design changes  
16 of service that happens in these, and these, and these  
17 circumstances. And it lists out several different things,  
18 and it talks about the end user premises, and it talks  
19 about channel terminations which are related to CFA  
20 change, and it talks about transport circumstances.

21 And it lays out all of the different types of  
22 design changes that were contemplated when these time  
23 estimates were put together. And that was a part of the  
24 record in the cost case where the rate for design changes  
25 was ordered by the Commission.

1 Q. How do we know that?

2 A. Well, because I tell you that in my testimony,  
3 and I promise I'm not lying. And number two, you can go  
4 to the cost docket and the record in the cost docket, and  
5 you can see it it's all on file as part of the cost case  
6 in this state.

7 Q. Is there anything on this piece of paper, either  
8 of these pieces of paper that we have in front of us that  
9 we can look at to conclude that this sort of averaging  
10 that you have discussed actually happened?

11 A. There isn't anything that indicates that on the  
12 paper itself, but that's why I have pointed out that I  
13 believe that if there's concern about rates, that they  
14 need to be discussed in a cost proceeding where you can go  
15 through the studies and see the detail and discuss what  
16 goes into them and understand all of that. And I have  
17 certainly suggested that with respect to the unapproved  
18 rates.

19 But this rate went through all of that process  
20 and the rate for design change in Arizona has already been  
21 through that process in a contested case where all of  
22 those questions got asked and answered.

23 Q. These tasks that are under service delivery  
24 coordinator all look to me like administrative kinds of  
25 functions. Would that be a fair characterization?

1 A. Well, under service delivery coordinator you're  
2 certainly talking about taking an order into the system.  
3 Remember that when a design change happens, the CLEC has  
4 already submitted an order once. And whether they were  
5 requesting a design change in the middle of the process or  
6 whether they are getting to due date and the CFA needs to  
7 be changed at that date, someone in Qwest has to go back  
8 through. And in a process like this, because it's an  
9 interruption of an existing order, it typically is a more  
10 manual type of process. You have to go back and loop back  
11 and reinitialize, essentially, all of the information to  
12 make sure that all of the systems that carry the circuit  
13 information, for example, have been updated.

14 And you have to -- if it's a design change  
15 requested by the CLEC, then you have an order that you  
16 actually process from them. If it's a design change that  
17 happens because of circumstances during provisioning, then  
18 Qwest has to still go back through and update the customer  
19 records and the information in TIRKS and everything else  
20 that carries the information about that circuit in order  
21 to make it match the new information about the design.

22 Q. My only question was whether or not the tasks  
23 that are identified under service delivery coordinator are  
24 fairly characterized as administrative tasks.

25 A. I believe that that's fairly administrative in

1 purpose, yes, because of those things that need to be  
2 done.

3 Q. The tasks under design, then, are the actual  
4 designing, if you will; correct?

5 A. They are the actual working in the design center,  
6 somebody going out and checking that design or making a  
7 new design.

8 Q. And that's the bulk of the time that we have  
9 here; correct?

10 A. It appears to me in the study to be. Now,  
11 that's -- don't forget, this is an ordered compliance  
12 filing. I don't know if that matches in terms of times  
13 and estimates in the study that was filed in and approved  
14 in Arizona --

15 Q. No. I understand that.

16 A. -- without looking at it.

17 Q. I'm just trying get a sense of what we're taking  
18 a look at here.

19 A. Yes.

20 Q. And so the first time line under design says name  
21 and log facilities, and the time under there is  
22 35 minutes; correct?

23 A. Yes. That's correct.

24 Q. And so was there a time and motion study that was  
25 used to come up with this 35 minutes? Was it a kind of --

1 I don't know. Tell me how this 35 minutes gets come up  
2 with.

3 A. I explained that earlier. And that is that a  
4 subject matter expert, in this case somebody that works in  
5 the design field in that organization who is familiar with  
6 our processes and how we provision services, actually made  
7 estimates of the amount of time on average across all 14  
8 states, because a nonrecurring study is developed for the  
9 14-state region across all of the different types of  
10 design changes that could come through. On average, this  
11 step took 35 minutes.

12 Q. And then probability is one. So every time it's  
13 anticipated to take 35 minutes; is that correct?

14 A. On average. Because sometimes it will take less,  
15 depending on what the service is or the particular  
16 circumstances of the design change. Sometimes it takes  
17 hours. And depending on what they have to track down and  
18 what is involved, it can range. And so they've given one  
19 number for that task that is their estimate on average of  
20 what it takes when you do a design change.

21 Q. And if I'm looking at this right, what I have  
22 described as the administrative functions, according to  
23 this, take, on average, 12.6 minutes; correct?

24 A. Well, that is 12.6 minutes according to the State  
25 of Washington, who has assumed a 30 percent reduction in

1 our time.

2 Q. And using the same kind of caveats, the design  
3 related functions are 38.5 minutes; is that right?

4 A. That's correct.

5 Q. Now, do you know what is involved in the actual  
6 design functions associated with changing the design of a  
7 UDIT circuit, unbundled interoffice transport?

8 A. I'm not someone who works in the design center,  
9 so I don't have any idea.

10 Q. Okay. And similarly you wouldn't have any idea  
11 what is involved in actually making a change to the design  
12 of an unbundled loop?

13 A. No. I rely on my experts who do work in those  
14 areas and who have experience to estimate what these times  
15 should be and what the tasks are.

16 Q. Do you know what is involved in doing a CFA  
17 change?

18 A. I do not.

19 Q. Would you expect -- or maybe you wouldn't have a  
20 basis to know, but would you expect that all three of  
21 those things would take on average the same amount of time  
22 in terms of the design functions that have to be  
23 performed?

24 A. Well, I think on average they do take -- I mean,  
25 we have a single average that we estimate that we have

1 made for this, and that's the way the study was presented  
2 and that's the way it was approved. And I'm presuming  
3 that the person that made that average estimate was asked  
4 to take into effect all of the different circumstances  
5 under which a design change might occur, and these are the  
6 numbers that they came up with.

7 Q. Now, you have talked about this study that I  
8 assume was quite a lot of work to put together. Would  
9 that be fair?

10 A. Yes.

11 Q. And at least in Arizona, the rate that was  
12 developed for design changes took effect on June 12th of  
13 2002. That's your rebuttal testimony; correct?

14 A. That's correct.

15 Q. And Qwest began charging the design change rate  
16 for unbundled transport as soon as it was approved in June  
17 of 2002; correct?

18 A. I don't know when they began charging for it.

19 Q. Well, you would expect that Qwest, as soon as it  
20 got a rate approved, would then go about implementing that  
21 rate so it could charge CLECs; correct?

22 A. You would presume that, but that does not always  
23 happen. Sometimes Qwest has rates approved and they  
24 don't, for whatever reason, get implemented right away.

25 Q. And, in fact, in this particular case, Qwest

1 didn't begin charging for design changes for loops until  
2 more than three years later, October 1, 2005; is that  
3 right?

4 A. I believe that's what I have seen in the  
5 testimony, yes.

6 Q. And so it's your testimony that even though Qwest  
7 went to all of the trouble to do a cost study calculating  
8 an average, getting a rate, getting the rate approved, it  
9 just decided not to apply that rate to loops for, let's  
10 see, three years?

11 A. It doesn't just decide not to charge a rate, but  
12 there are circumstances under which because of our own  
13 internal difficulties with billing processes and that sort  
14 of thing, we don't always implement rates right away.

15 And I can give you an example that I'm intimately  
16 familiar with, because I fought for this for several years  
17 internally to get the OSS rates implemented. We had  
18 approved rates dating back to 2001 and before in both  
19 Washington and New Mexico, New Mexico's on an interim  
20 basis. And it took several years to get the funds  
21 internally.

22 You know, we can't -- we're like anybody else.  
23 We have budgets and we have constraints. We can't do  
24 everything that we want to do every single time it comes  
25 across the desk for OSS kinds of updates, and billing

1 updates are included in that. And for the OSS, it took us  
2 four or five years of Ms. Albersheim and myself fighting  
3 tooth and nail with the people internally to get them to  
4 actually implement that rate, even though we had an  
5 approved rate.

6 So I guess what I'm telling you is that there are  
7 a number of different circumstances, including some like  
8 that, where rates are approved and we don't begin charging  
9 them because either we can't or because we've made a  
10 determination internally not to charge for something.

11 And so I don't know what the circumstances are,  
12 but I do know that we did not charge for the loops in the  
13 CFA changes initially.

14 Q. And all of those things that you have described  
15 relating to OSS and relating to fighting tooth and nail  
16 and all of those things that you just talked about, you  
17 don't know that any of those things have anything at all  
18 to do with design changes; correct?

19 A. I do not. I just am giving you an example of why  
20 sometimes a rate is approved and we don't implement it  
21 right away.

22 Q. And you don't know why Qwest didn't begin  
23 charging for design changes for loops?

24 A. I believe I just said I don't have any idea why  
25 we didn't charge the design change for loop in CFA, but we

1 did have an approved rate for those.

2 Q. Now, you have also testified that you believe  
3 it's not necessary to develop separate charges for various  
4 types of design changes; correct?

5 A. That's correct.

6 Q. And so what you're saying is it's okay to have an  
7 average for loop transport and CFAs?

8 A. That's my belief. If we tried to have separate  
9 rate elements for every single different nuance of every  
10 single different thing that we provide the CLECs in terms  
11 of provisioning, that hundreds of rates would expand to  
12 probably more than a thousand rates.

13 So there are -- I'm sorry. There are averages  
14 that are necessarily, then, a part of our provisioning  
15 charges.

16 Q. Qwest has five different loop installation  
17 options; correct?

18 A. That's correct.

19 Q. Each of those options has a separate rate?

20 A. Yes. That's correct.

21 Q. You don't have an average rate for all of your  
22 installation options?

23 A. That's true.

24 Q. Qwest has still another installation rate for  
25 UDIT; correct?

1 A. Yes. That's correct.  
 2 ARBITRATOR RODDA: I'm sorry, what was that?  
 3 MR. MERZ: UDOT. Unbundled dedicated interoffice  
 4 transport.  
 5 ARBITRATOR RODDA: Thank you.  
 6 THE WITNESS: I've said there are several hundred  
 7 nonrecurring rates that we provide.  
 8 Q. (BY MR. MERZ) In your surrebuttal at Page 20,  
 9 Lines 1 through 4 -- actually, that's not the right place.  
 10 I'm sorry. I'm looking at your rebuttal, not your  
 11 surrebuttal. Page 20.  
 12 A. Give me just a moment to find that.  
 13 Q. Sure.  
 14 A. I have that.  
 15 Q. You say there beginning at Line 1: Nor would it  
 16 be appropriate to micromanage Qwest's product offerings by  
 17 requiring it to provide costs and processes to address  
 18 every possible "flavor" of provisioning activity in an  
 19 increasingly competitive environment.  
 20 Do you see that?  
 21 A. That's correct.  
 22 Q. Now, for unbundled loops and unbundled transport,  
 23 there is not competition; correct?  
 24 A. I wouldn't agree with you. We have the TRRO  
 25 proceedings that are determining right now that for some

1 unbundled loops and some unbundled transport there's a  
 2 great deal of competition.  
 3 Q. For loops and transports for which Qwest is  
 4 required to provide those elements on an unbundled basis,  
 5 the FCC has made a determination that there's not  
 6 competition; correct?  
 7 A. That's correct.  
 8 Q. And that's the reason why Qwest is required to  
 9 provide unbundled loops and transport at cost-based rates;  
 10 correct?  
 11 A. That's correct.  
 12 Q. I want to talk with you now about collocation  
 13 availability inventory, which is issues 8-20 and 8-20(a).  
 14 A. Okay.  
 15 Q. And the issue here is whether Qwest should have  
 16 to pay a quote preparation -- I'm sorry. Whether Eschelon  
 17 should have to pay a quote preparation fee when it  
 18 requests a collocation available inventory site. Are you  
 19 familiar with that issue?  
 20 A. Yes.  
 21 Q. And just to get the terminology straight, a  
 22 collocation available inventory site is a site that's been  
 23 returned by a CLEC to Qwest, and it is then posted on  
 24 Qwest's website and is available for another CLEC to  
 25 purchase; correct?

1 A. Yes. That's correct.  
 2 Q. Now, in those instances when Qwest gets back a  
 3 collocation site, a quote preparation fee has already been  
 4 paid in connection with the site at the time it was quoted  
 5 to the first CLEC; is that right?  
 6 A. For the collocation effort that that CLEC would  
 7 like to have Qwest undertake, yes.  
 8 Q. And it's Eschelon's position that Qwest has  
 9 already been paid, and so Qwest shouldn't be allowed to  
 10 recover another fee; is that right?  
 11 A. Well, that's Eschelon's position. Qwest's  
 12 position is that now a new CLEC is coming in, and it may  
 13 or may not have the same needs or different needs. And so  
 14 Qwest needs to manage the new collocation project and find  
 15 out what that CLEC needs and do the engineering and the  
 16 processing that are entailed in getting that CLEC into  
 17 that collocation space.  
 18 Q. At Page 19 of your surrebuttal, Lines 15 through  
 19 20, you describe a number of activities associated with  
 20 the QPF.  
 21 A. Could you tell me what lines you're talking about  
 22 again?  
 23 Q. I can. It's Page 19 of your surrebuttal,  
 24 beginning at Line 15 and following through the end of  
 25 Line 20.

1 A. Yes. I have that.  
 2 Q. Okay. And my question is, those activities there  
 3 are activities that you say are associated with the QPF  
 4 for available inventory; correct?  
 5 A. Yes. That's correct. In this instance, you have  
 6 a new order coming in from the CLEC that's going to take  
 7 over the available inventory. And there is project  
 8 management and verification and inventory of the reusable  
 9 elements and so forth, a new design that may need to take  
 10 place as a part of provisioning that collocation site for  
 11 the new CLEC.  
 12 Q. The purpose of all of the activities that are  
 13 described there in your testimony is to verify space and  
 14 to develop a quote; isn't that right?  
 15 A. Well, there are a number of steps that I have  
 16 laid out here that are a part of that process.  
 17 Q. Those are the steps, but the purpose overall is  
 18 to verify space and to develop a quote; isn't that right?  
 19 A. Well, it's -- no. It also includes the project  
 20 management of bringing the new collocator into the space,  
 21 and all of that goes along with processing the order. And  
 22 I mean, it's the same -- it's not just developing a quote  
 23 and checking on the site. It's also the order processing  
 24 and everything that goes along with bringing a new  
 25 collocator into that space.

1 Q. I think you have a copy of the proposed contract  
2 in front of you there in the big binder. And I would like  
3 you to go to Section 8.3.1.3.  
4 ARBITRATOR RODDA: Do you have a page number for  
5 that?  
6 MR. MERZ: 151, I hope.  
7 ARBITRATOR RODDA: Well, at least I'll narrow in  
8 on it.  
9 Q. (BY MR. MERZ) Are you there, Ms. Million?  
10 A. Yes.  
11 Q. And 8.3.1.3 contains agreed upon language;  
12 correct?  
13 A. You know, I'm not all that familiar with all of  
14 the language. I'll take your word for it that that's what  
15 it is.  
16 Q. This language in particular relates to the QPF  
17 for available inventory; correct?  
18 A. Well, no. It says rate elements, all  
19 collocation, where I'm reading at 8.3.1.3. That's all  
20 collocation, and it's the quote preparation fee for all  
21 collocation.  
22 Q. And this isn't the quote preparation fee that  
23 applies to available inventory?  
24 A. Not that I'm aware of.  
25 Q. Do you know what one does apply to available

1 inventory?  
2 A. The quote preparation fee for available  
3 inventory.  
4 Sorry. I didn't mean that to come out the way  
5 that it sounded, but I believe that there is a separate  
6 rate. I don't know what the number of it is off the top  
7 of my head.  
8 ARBITRATOR RODDA: 8.3.11?  
9 MR. MERZ: Yes. That's right. Page 163.  
10 THE WITNESS: I'm sorry. What page?  
11 Q. (BY MR. MERZ) 8.3.11.2.1(a). Page 163.  
12 A. Okay.  
13 Q. And that provision --  
14 I'm sorry, are you there?  
15 A. Yes.  
16 Q. -- says quote preparation fee. The quote  
17 preparation fee is identified in Exhibit A.  
18 A. Yes, it does.  
19 Q. But this relates specifically to collocation  
20 available inventory; right?  
21 A. Yes, it does.  
22 Q. This doesn't tell us what that fee covers, but  
23 would it be reasonable to assume that that fee covers many  
24 of the same things as the quote preparation fee for all  
25 collocation that we were looking at just a minute ago,

1 8.3.1.3?  
2 A. Well, I think it's interesting that you pointed  
3 me originally to the all collocation rate, because here it  
4 does say nonrefundable charge for the work required to  
5 verify space and develop a price quote.  
6 But this is the quote preparation fee that  
7 applies when you initially establish a collocation, and  
8 so -- or it can apply when you initially establish a  
9 collocation for the first time. And there's a tremendous  
10 amount of engineering and work that goes into assessing  
11 what the collocation site looks like and what is available  
12 in the central office and all of the -- and I'm not an  
13 engineer, so I don't know all of the piece parts that go  
14 into that. But I do know that there's a great deal of  
15 work that goes into establishing a collocation, and yet  
16 we've described it here as verify space and develop a  
17 price quote.  
18 There's taking in the order. There's processing  
19 what the CLEC wants. There's an inventory of the kind of  
20 equipment that they want to put in there and whether it's  
21 going to be caged or cageless or virtual collocation. I  
22 mean, there's a lot of activity that goes into  
23 establishing that.  
24 And so is it the same kind of thing that's in the  
25 quote preparation fee for available inventory? Sure.

1 There's a lot of activity that goes into taking that order  
2 and determining what is there and how that's going to fit  
3 what the CLEC wants that's coming in, wants to put in  
4 terms of its own collocation needs.  
5 ARBITRATOR RODDA: Can I ask the lawyers a  
6 question? So on Joint-1 where you have got highlighted  
7 language but there's no Eschelon/Qwest proposal, that  
8 means that you agree on that language?  
9 MR. MERZ: Right. The reason it's highlighted is  
10 because it's some state specific language.  
11 MR. TOPP: Right.  
12 ARBITRATOR RODDA: All right.  
13 Q. (BY MR. MERZ) For a collocation available  
14 inventory site, there wouldn't be any need to verify  
15 space; correct?  
16 A. You know, I'm the wrong person to ask. Like I  
17 said, I'm not an engineer. What I know is that the  
18 engineers have estimated similarly to the nonrecurring  
19 cost study the steps that they go through and the time it  
20 takes to do those steps to prepare, to put the information  
21 together to process the order and prepare a quote.  
22 Q. Would you agree with me that the task -- and  
23 maybe you just said you don't know. And if you don't,  
24 that's fine.  
25 Would you agree with me that the tasks associated

1 with a quote preparation fee for a brand new site are  
2 going to be different than the tasks associated with the  
3 quote preparation fee for an available inventory site  
4 that's already there?

5 A. I would assume that the tasks could be different,  
6 yes. I don't know that, and you would have to ask one of  
7 our engineers to answer that question.

8 Q. Would you also assume that for an available  
9 inventory site where you have the site already in  
10 existence that you would expect that there would be less  
11 work associated with the quote preparation fee?

12 A. You know, I wouldn't necessarily agree with you  
13 there, because it depends on whether -- what kind of  
14 modifications the CLEC is asking for. And I think that's  
15 probably individual case by individual case whether  
16 it's -- whether a CLEC wants a lot of changes to a space  
17 or not.

18 I really am -- and you know, to your question  
19 before, I think there's probably overlap between a new  
20 collocation and an available inventory in terms of the  
21 kinds of things -- you have to check for what kind of  
22 power needs there are. I mean, I'm not an engineer, so  
23 all I know is what I have learned about collocations in  
24 the costing process. But I think that there could be a  
25 lot of activity or there might not be much. It depends on

1 inventory site is returned to Qwest, Qwest will post the  
2 quote that it originally did for that site on its website,  
3 and then that would be available for acceptance by a CLEC;  
4 right?

5 A. I don't understand that that's -- you know, I'm  
6 here only testifying about the costs. So what the fine  
7 points are of the proposals? I'm simply arguing that  
8 there are costs involved and that they should be something  
9 we're entitled to charge.

10 Q. Just on the issue of the costs, if the quote has  
11 already been prepared, would Qwest perform tasks to  
12 prepare the quote again?

13 A. Again, the cost for a quote preparation fee isn't  
14 just preparing the quote. It's processing the order and  
15 managing the collocation for the new CLEC and doing any  
16 assessment of anything that needs to be done. And so yes,  
17 there are costs associated every single time somebody  
18 comes in and wants to buy a product, whether it's an  
19 existing product or whether it's a brand new product.

20 Q. I'm going to change gears here now and talk with  
21 you about expedites.

22 A. Okay.

23 Q. Issue 12-67 and its subparts.

24 A. Yes.

25 Q. One issue that is related to expedites --

1 the individual circumstance probably.

2 Q. You understand, though, that Eschelon's proposal  
3 is that the quote preparation fee would be waived when  
4 Eschelon buys an available inventory site as is; there  
5 aren't going to be any changes. You understand that;  
6 correct?

7 A. I don't know that, no. That's not my  
8 understanding. My understanding is that Mr. Denney  
9 testified that there should never be a quote preparation  
10 fee apply.

11 Q. Unless Qwest can establish a change in  
12 circumstances that would cause one to think that the price  
13 would change.

14 A. Well, regardless of whether it's an as-is or not,  
15 Qwest still has to process the order and manage the  
16 collocation. And so there are costs every single time  
17 whether Eschelon is buying a site as is or not.

18 And Qwest has established, again, an average rate  
19 for a quote preparation fee that applies to lots of  
20 different circumstances. Sometimes they come in without  
21 needing much change, and sometimes they come in and they  
22 want the whole thing redone. And so this is a quote  
23 preparation fee that represents all of those  
24 circumstances.

25 Q. Eschelon's proposal is that when an available

1 ARBITRATOR RODDA: Is this a long area? I think  
2 it might be time for a break.

3 MR. MERZ: Now would be a fine time for a break.

4 ARBITRATOR RODDA: Okay. Let's take like  
5 15 minutes.

6 (A recess was taken from 3:21 p.m. to 3:43 p.m.)

7 ARBITRATOR RODDA: Let's go back on the record.

8 And Mr. Merz, you were changing subjects.

9 MR. MERZ: Yes. I was ready to go to expedites.

10 And as I look over my notes, I think I can be very brief  
11 on this issue. Probably no one is going to complain about  
12 that.

13 Q. (BY MR. MERZ) You testified, obviously, in the  
14 Minnesota arbitration case with Eschelon; correct?

15 A. Yes, I did.

16 Q. And you're familiar with what the ALJs said with  
17 respect to cost-based rates for expedites?

18 A. Yes.

19 Q. And you're aware that the ALJs held in that case  
20 that Qwest should provide expedites to Eschelon at  
21 cost-based rates; correct?

22 A. Yes.

23 Q. And are you aware that the Minnesota Commission  
24 voted four-zero to adopt that recommendation?

25 A. I don't know what the vote was. I am not



1 involved in that so --

2 Q. Aside from whether or not you know what the vote  
3 was, do you know whether the Commission voted to adopt the  
4 recommendation?

5 A. Yes.

6 Q. You're aware of that?

7 A. Yes.

8 MR. MERZ: Nothing further, Your Honor.

9 ARBITRATOR RODDA: And I just -- I think I saved  
10 you some time there with that break.

11 THE WITNESS: Yes, you did.

12 ARBITRATOR RODDA: But anyway, I just have a  
13 couple of questions.

14

15 EXAMINATION

16

17 Q. (BY ARBITRATOR RODDA) I just have a couple of  
18 questions. Earlier you were talking about -- I guess it  
19 was loop design, and it took a while -- maybe it was in  
20 the context of taking a while to implement, or there  
21 wasn't a rate for loop design and then -- do you remember  
22 your testimony? I can't understand my notes to myself.

23 A. I think what I was probably explaining was that  
24 we didn't have a design change rate for UNEs initially.  
25 UNEs didn't come along until 1996 and beyond. But we had

1 a design change charge already in existence for private  
2 line services which we were providing long before the  
3 Telecom Act of 1996.

4 And so it might have been in the context of  
5 talking about the fact that that template or the  
6 information that we had for design changes for private  
7 lines was what we then used when we started doing design  
8 changes for UNEs, which include the transport and the loop  
9 and the CFA changes, as well as some other.

10 Q. Yeah. I remember that, but you helped me  
11 remember what my question was specifically, so thank you.

12 A. Okay.

13 Q. And that was: Did you not do loop design  
14 changes, or you just -- or did you not charge for them?

15 A. I understand that we didn't charge for them. We  
16 got ordered rates in a number of states for this design  
17 change charge that was intended to apply to all different  
18 types of design changes, and we didn't charge for them for  
19 every different circumstance in which they could apply.

20 Q. Okay. And then you also had some testimony about  
21 how Qwest doesn't always implement -- Qwest can get  
22 approved rates but might not always implement them  
23 immediately?

24 A. That can be true for a number of different  
25 reasons. And we can get an approved rate, and we can make

1 a determination as a corporation not to charge that rate  
2 as well, because circumstances of our business change, or  
3 there are a number of different reasons why, and I think  
4 that's what I was testifying to.

5 Q. But that would be where there would be no rate  
6 and you're not charging, and then you get an approved rate  
7 and you still wouldn't be charging?

8 A. That happens, that's correct.

9 Q. But there could be various circumstances -- or  
10 maybe this isn't what you were saying at all. But where  
11 you might have an interim rate and a Commission approved a  
12 permanent rate that was lower, you weren't testifying that  
13 you wouldn't immediately charge a lower rate, would you?

14 A. No, I wasn't. What I was testifying was that  
15 there are circumstances where we seek a rate in a  
16 proceeding, and for whatever circumstances, and sometimes  
17 it's an inability in our own systems to bill for it, we  
18 may not charge the CLECs even though we've gotten an  
19 approved rate.

20 Once a rate is implemented and in the systems and  
21 we're billing for it, then if a commission either raises  
22 or lowers that rate, then certainly whatever the new rate  
23 is will be charged. But that assumes that we've  
24 implemented it and we're actually billing for the rate.

25 Q. So your testimony went from where there is no

1 rate to when there is a rate?

2 A. To when there is rate. And that would have been  
3 in the circumstance of design change. And I don't know  
4 why we didn't bill for all of the various circumstances  
5 that it could apply in. I really -- as I told Mr. Merz, I  
6 have no idea for design change why that didn't happen.  
7 All I know is that I have seen circumstances, and one in  
8 particular that I was involved in, where we didn't have  
9 the ability to bill it. And until we could program our  
10 systems to identify a way to bill it, we just simply  
11 didn't, even though we had an approved rate for something.

12 ARBITRATOR RODDA: Okay. Mr. Topp.

13 MR. TOPP: All right.

14

15 REDIRECT EXAMINATION

16

17 Q. (BY MR. TOPP) Ms. Million, could you turn to  
18 your rebuttal testimony, Page 19. And this is again on  
19 this design changes issue 4-5.

20 A. I have that.

21 MR. MERZ: Rebuttal or surrebuttal, Jason?

22 MR. TOPP: It is rebuttal.

23 ARBITRATOR RODDA: And the page number?

24 MR. TOPP: 19.

25 Q. (BY MR. TOPP) First of all, this design change

1 charge, it's Qwest's position that that is an approved  
 2 rate from the Commission?  
 3 A. Oh, absolutely.  
 4 Q. And in your testimony on Page 19, you give the  
 5 specific cost study that supports Qwest's position?  
 6 A. Yes, I do.  
 7 Q. And in your testimony you describe some aspects  
 8 of that cost study and the resulting rate that would lead  
 9 one to conclude that that rate encompasses the issue we're  
 10 dealing with here?  
 11 A. Yes.  
 12 Q. And you filed this testimony on February 9th of  
 13 2007?  
 14 A. Yes, I did.  
 15 Q. Were you ever asked to provide this study to  
 16 Eschelon between February 9th and now?  
 17 A. No.  
 18 Q. Were you ever advised -- well, no further  
 19 questions on that.  
 20 Changing to the collocation available issue,  
 21 which is 8-20 and 8-20(a), you were asked a few questions  
 22 about, you know, the relationship between a quote  
 23 preparation fee for a new site as well as a quote  
 24 preparation fee for an already existing site.  
 25 Are there examples where there could be more work

1 in a used site versus a new site?  
 2 A. Well, as I explained to Mr. Merz, I'm certainly  
 3 not an engineer and so I'm not involved in those, but I  
 4 would certainly imagine that there are circumstances where  
 5 there's more work involved. I know that there are changes  
 6 that are made to the site: Old equipment that's taken  
 7 out, new equipment that's needed, power that's different.  
 8 But I don't know the specifics of any of that. But I  
 9 would certainly think that there are circumstances where  
 10 it could actually be more work to identify in an available  
 11 inventory than in a new.  
 12 MR. TOPP: Okay. No further questions.  
 13 ARBITRATOR RODDA: Okay. Did you have anything  
 14 further, Mr. Merz?  
 15 MR. MERZ: Maybe just a couple.  
 16  
 17 RE-CROSS-EXAMINATION  
 18  
 19 Q. (BY MR. MERZ) You were aware, Ms. Million, when  
 20 you filed your testimony in this case that there was an  
 21 issue regarding design changes for loops and CFA changes;  
 22 right?  
 23 A. Yes. I was aware of that.  
 24 Q. And you were aware that it was Eschelon's  
 25 position that the rate that the Arizona Commission had

1 approved did not cover loops and design changes?  
 2 A. Yes. And that's why I filed the testimony that I  
 3 did explaining that it was clearly laid out in what we  
 4 filed in the cost docket, that it was, in fact,  
 5 anticipated.  
 6 Q. And because I misspoke, I actually have to ask  
 7 the question again.  
 8 You were aware that it was Eschelon's position  
 9 that loops and CFA changes were not covered by the design  
 10 change rate that had been previously approved by the  
 11 Arizona Commission?  
 12 A. Yes, that was Eschelon's position. And my  
 13 position is that it is covered, and that's what my  
 14 testimony says.  
 15 MR. MERZ: Okay. Nothing further.  
 16 ARBITRATOR RODDA: Okay. That's --  
 17 MR. TOPP: Nothing further.  
 18 ARBITRATOR RODDA: Okay. Just so you get the  
 19 last shot at it, so you can beat that horse. All right.  
 20 Thank you, Ms. Million.  
 21 MR. TOPP: Your Honor, our next witness would be  
 22 Karen Stewart. But as we talked at the beginning of the  
 23 day, if we could start with her tomorrow morning, that  
 24 would be ideal.  
 25 ARBITRATOR RODDA: Okay. And that's your last

1 witness; right?  
 2 MR. TOPP: Yes.  
 3 ARBITRATOR RODDA: So Mr. Merz, do you want  
 4 to -- it's 4:00. I mean, we could stop for the day.  
 5 MR. MERZ: I think that makes more sense.  
 6 Mr. Starkey is our first-witness, and he'll be here  
 7 tomorrow to begin whenever we're done with Ms. Stewart. I  
 8 mean, I think that we're going to be fine on time, so I  
 9 don't think that would be a problem.  
 10 ARBITRATOR RODDA: I am impressed with the time.  
 11 I have to say, I was worried coming in, but you all have  
 12 surprised me.  
 13 All right. So we'll break for the day and pick  
 14 up tomorrow with Ms. Stewart; right?  
 15 MR. MERZ: This doesn't necessarily have to be on  
 16 the record, or it could be, but I only shipped two copies  
 17 of our witness testimony from Minnesota. They end up  
 18 being two pretty big boxes. So I had one for the witness  
 19 and one for me. I didn't necessarily anticipate that you  
 20 would need another one.  
 21 ARBITRATOR RODDA: I don't need one. So the  
 22 witness one can be the one that we mark for the court  
 23 reporter.  
 24 MR. MERZ: Yeah. That's what I had in mind. I  
 25 just wanted to make sure that you got what you needed.

1 ARBITRATOR RODDA: I won't feel slighted that  
2 Qwest is overwhelming me with paper. But they might know  
3 me better and know that they have to make sure that I have  
4 everything I'm supposed to have.

5 All right. Thank you all. I'll see you all  
6 tomorrow at 9:00.

7 (The Arbitration recessed at 3:55 p.m.)  
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1 STATE OF ARIZONA )  
 ) ss.  
2 COUNTY OF MARICOPA )  
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7 I, MICHELE E. BALMER, Certified Reporter  
8 No. 50489 for the State of Arizona, do hereby certify that  
9 the foregoing printed pages constitute a full, true and  
10 accurate transcript of the proceedings had in the  
11 foregoing matter, all done to the best of my skill and  
12 ability.

13  
14 WITNESS my hand this 29th day of March, 2007.  
15  
16  
17  
18

19 MICHELE E. BALMER  
20 Certified Reporter  
21 Certificate No. 50489  
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24  
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A				
<b>ability</b> 27:13 37:1 61:15 161:9 167:12	<b>additions</b> 105:23 118:15,17	<b>agreeing</b> 21:3 23:15 78:16 80:1	120:2,3	<b>Arapahoe</b> 4:20
<b>able</b> 11:4 19:15 21:11 24:12 27:1 32:17 61:2 68:23 76:19 108:8,15 112:12,15	<b>address</b> 20:10 99:10,11 100:16 123:9 124:19 126:6 146:17	<b>agreement</b> 6:7 9:17 15:15,16 19:17 20:17 21:12,20 29:14 30:14 30:20 34:25 38:25 77:20 92:14 93:24 94:4 95:19	<b>analyses</b> 42:9 <b>analysis</b> 37:14 43:15 79:9 82:22,24 86:23	<b>arbitrator</b> 85:19
<b>above-entitled</b> 4:1	<b>addressed</b> 26:16 37:24 59:6 101:5	<b>agreements</b> 77:7,15	<b>analysts</b> 123:4 133:8	<b>arbitrated</b> 131:16
<b>absolutely</b> 67:10 68:4 81:9 162:3	<b>adequate</b> 26:2	<b>ahead</b> 101:20 108:21	<b>analyze</b> 82:19	<b>arbitration</b> 1:2,5 5:2,4 8:1,18,25 11:2,19 25:8 93:4 95:5 157:14 166:7
<b>AC</b> 114:14	<b>adequately</b> 117:13	<b>Albersheim</b> 2:3,18,20 2:21,23 5:22 10:9 12:5 13:15,23 15:3,8 16:16 25:16,19 29:21 34:21 78:5 144:2	<b>and/or</b> 75:4	<b>Arbitrator</b> 2:5,13 4:6 5:1,7,15,25 6:17,20 7:1,8,18 8:12,23 9:4 9:10,25 10:4,6,22,25 11:9,23 12:4,9,16,21 13:11 14:22,24 16:18 25:18 34:17,20 43:24 44:4 48:21 49:8,10 54:20 56:2,7 59:17 59:20,23 76:2,5,9 77:24 82:8,12 85:21 85:23 90:8,16 91:19 91:21 92:2,5,7,9,25 93:3,11,14 94:15,25 95:14 96:8,15,19 97:4,6,15,17,25 98:4 98:6,11,19 100:20,22 102:10 117:21 120:22 121:13 122:19 123:21 126:24 130:7,18,23 131:6,25 146:2,5 150:4,7 151:8 153:5 153:12 157:1,4,7 158:9,12,17 161:12 161:23 163:13 164:16,18,25 165:3 165:10,21 166:1
<b>accept</b> 45:20 66:7 67:25 68:16,22 69:7 72:1 81:24	<b>adjustment</b> 62:23,24 62:25 128:25	<b>Albersheim's</b> 12:7,19	<b>annoy</b> 90:17	<b>arbitrator's</b> 25:20 86:18
<b>acceptable</b> 19:18 22:22	<b>administrative</b> 137:24 138:24,25 140:22	<b>ALJ</b> 40:7,20,21 41:2 78:22 79:4	<b>annoyed</b> 90:18	<b>area</b> 135:19,22 157:1
<b>acceptance</b> 42:15 44:16 156:3	<b>admission</b> 100:18	<b>ALJs</b> 25:7,24 26:11,17 36:19,23 37:5,24 38:5,8 39:17 40:3,4 40:10,12,18 42:15 86:9,15 157:16,19	<b>annoying</b> 91:22	<b>areas</b> 141:14
<b>accepted</b> 44:8 69:21	<b>admit</b> 98:12	<b>allow</b> 7:14 28:21 32:21 33:16 87:18 102:19	<b>answer</b> 82:12 117:14 126:4 154:7	<b>argue</b> 95:8
<b>access</b> 15:17 132:24	<b>admitted</b> 2:17 3:2 14:25 15:2 48:21,22 49:11 97:7,9,18,20 97:24 98:14,22 100:23,24 122:20,22	<b>allowed</b> 148:9	<b>answered</b> 42:17 46:12 89:12 116:14 137:22	<b>arguing</b> 156:7
<b>accessing</b> 131:10	<b>adopt</b> 35:20 157:24 158:3	<b>allowing</b> 9:22 28:24 33:7	<b>answering</b> 109:8	<b>argument</b> 17:11,14 57:24 61:21,25
<b>accidents</b> 114:22	<b>adopted</b> 31:3 42:19 62:3 100:12	<b>allows</b> 55:15 77:2 80:11,13,14	<b>answers</b> 14:16 100:3	<b>arguments</b> 28:15 37:11
<b>accomplished</b> 66:20	<b>adoption</b> 30:2,24 31:12 33:13,24 34:8	<b>alter</b> 46:2 47:10,24 50:12 52:2 53:17	<b>anticipate</b> 165:19	<b>arises</b> 55:23
<b>account</b> 40:11 53:10	<b>advance</b> 70:19,21,22 70:23,24 85:8	<b>altered</b> 50:18	<b>anticipated</b> 105:22 108:7 140:13 164:5	<b>Arizona</b> 1:1,4,10,20,22 4:2,4,8,18 5:4 9:6 30:6,8 59:2,6,10 86:24 87:23 88:8 128:12 129:25 130:9 130:13,16,19,20 134:4,7 137:20 139:14 142:11 163:25 164:11 167:1
<b>accurate</b> 52:4 167:10	<b>advanced</b> 71:5 73:8	<b>alternative</b> 39:18 42:16	<b>anybody</b> 52:7 143:22	
<b>accurately</b> 40:3,19,25 41:2	<b>advice</b> 30:1,24 31:12 33:12,24	<b>aluminum</b> 114:24	<b>anymore</b> 77:18 91:22	
<b>acknowledge</b> 37:21 39:6 40:21 47:16 50:3 53:11	<b>advised</b> 162:18	<b>amazing</b> 11:3	<b>anyway</b> 158:12	
<b>acknowledged</b> 41:3 46:24	<b>afternoon</b> 95:15 102:15 102:16 124:3	<b>amending</b> 21:12 33:17	<b>apologize</b> 63:10	
<b>acknowledgement</b> 37:14 43:15 49:16,22 50:19 51:2	<b>aggregate</b> 106:19 110:10 120:11,13	<b>amendment</b> 17:8 18:10 19:16 23:2 24:13 26:25 29:15 30:19 32:8	<b>apparently</b> 6:11 21:15 35:15	
<b>acknowledges</b> 51:11	<b>aggregated</b> 120:9	<b>amendments</b> 32:2,12	<b>Appeals</b> 58:11	
<b>acknowledging</b> 47:5 87:5	<b>ago</b> 151:25	<b>amount</b> 70:24 103:8,17 104:16 107:21 108:10,10 109:3,5 113:6,8 117:18 119:25 128:23 140:7 141:21 152:10	<b>appearances</b> 4:7 5:8	
<b>Act</b> 1:6 58:12 159:3	<b>agree</b> 11:4 21:8 26:18 27:11,15,18 32:14,16 33:3,23 34:2,4,11 35:18 36:12 40:15 53:19 56:18 58:19 66:9 72:4,7 74:11,15 74:17 85:13 86:13 95:7 115:12 146:24 153:8,22,25 154:12	<b>amounts</b> 105:21 108:23 109:1	<b>appearing</b> 122:2	
<b>activities</b> 148:19 149:2 149:3,12	<b>agreed</b> 9:18,20,21 19:14,23 24:14 32:24 33:9 44:11 45:13,21 56:1,17 75:18 78:20 78:24 102:19 150:11	<b>amps</b> 111:8 120:2	<b>appears</b> 139:10	
<b>activity</b> 74:24 75:4 125:15 146:18 152:22 153:1 154:25		<b>ampacity</b> 111:18	<b>applied</b> 124:20	
<b>actual</b> 74:8 102:21 139:3,5 141:5		<b>amperage</b> 113:15	<b>applies</b> 52:6 124:15 150:23 152:7 155:19	
<b>Adam</b> 83:15		<b>amps</b> 102:22 111:3,9	<b>apply</b> 46:3 47:11,24 52:2,5 53:17 79:9 95:19 116:21 124:21 143:9 150:25 152:8 155:10 159:17,19 161:5	
<b>add</b> 79:23 108:19,22 111:25 118:14,16,17 118:21 121:11 132:3			<b>approval</b> 29:1 31:3	
<b>added</b> 108:18 110:10 118:8,21 119:20			<b>approved</b> 123:18 126:16 130:10 131:4 131:5,9,17,22 139:13 142:2,16,20,23 143:8 143:18 144:5,8,20 145:1 159:22,25 160:6,11,19 161:11 162:1 164:1,10	
<b>addition</b> 32:1,9,11			<b>approximately</b> 118:12	
<b>additional</b> 34:5,7 35:22 72:5,20				

167:8 arose 93:16 art 44:13 Ashton 2:7 3:12,14 6:6 10:14 98:18,24 99:1 99:11,13 101:1 102:9 102:15 123:14 Aside 158:2 asked 19:25 46:13 55:16 57:24 78:11 80:1 81:11 84:2 101:2 118:3 119:12 131:1 135:23,25 136:7 137:22 142:3 162:15,21 asking 24:11 51:19 55:9 67:12 88:1 154:14 asks 51:22 aspects 162:7 ASR 132:24 ASRs 132:21 133:11,12 133:20,21,22 assessing 152:10 assessment 156:16 assign 135:8 assignment 124:10 associated 78:13 125:24 128:2 141:6 148:19 149:3 153:25 154:2,11 156:17 assume 20:14 68:25 70:4,7 81:2 112:12 116:18 142:8 151:23 154:5,8 assumed 140:25 assumes 160:23 Assuming 106:10 113:21 assumption 125:20 128:18 134:9 assumptions 128:13,16 as-is 155:14 attached 32:4 83:4 109:22,24 attempt 67:19 72:16 attempted 77:19 80:7 attempts 45:12 61:17 63:7,13,16 65:18,20 72:1 attorneys 26:14 AT&T 11:19 augment 105:13 augments 118:5,25	119:4,9 120:7 132:22 availability 147:13 available 33:9 68:15 81:4 101:20 102:9 116:9 117:5,19 123:20 147:18,22,24 149:4,7 150:17,23,25 151:2,20 152:11,25 153:13 154:3,8,20 155:4,25 156:3 162:20 163:10 avenue 87:22 99:12 avenues 81:4 average 115:9 116:20 117:1 125:14 126:7 126:11 129:19 130:10,15 140:7,10 140:14,19,23 141:21 141:24,25 142:3 143:8 145:7,21 155:18 averages 126:2 133:4 145:13 average's 40:25 averaging 137:9 aware 19:4 28:19 36:16 42:11,18 114:18 131:8 150:24 157:19 157:23 158:6 163:19 163:23,24 164:8 awhile 48:13 a.m 4:4 59:21,22 107:8 107:14	128:14 133:25 134:9 basic 125:18 133:23 basically 7:11 basing 73:11 basis 18:5 47:22 55:7 72:13 103:8 106:10 115:21 125:13,17 136:5 141:20 143:20 147:4 batteries 101:11 108:20 113:23 114:7 114:15 beat 164:19 began 142:15,18 beginning 31:23 52:13 129:13,16 146:15 148:24 164:22 begins 27:25 31:24 38:10,21 behalf 5:9,18 13:16 99:2 121:17 122:2 behave 88:9 belief 145:8 believe 16:24 19:10,11 19:13,24 21:5 22:9 25:11 33:4,10 37:25 39:25 40:11,24 41:19 50:4 55:12,22 57:3 57:20 64:11 65:23 66:12 67:18 68:18,22 73:19,24 77:12,17,22 81:16 85:15,18 87:2 88:9 92:23 96:12,16 98:22 109:10,24 124:23 136:13 137:13 138:25 143:4 144:24 145:2 151:5 believes 54:13,15 benefits 28:9 best 72:1 73:7 167:11 better 6:20 16:10,10 53:14,15,18 91:21 166:3 beyond 21:6 40:22 41:3 41:16,19,20 45:13 57:22 95:9 158:25 big 11:21 96:20 150:2 165:18 bigger 12:10 bill 5:23 10:10 115:20 160:17 161:4,9,10 billing 43:1 143:13,25 160:21,24 binder 128:3 134:16,16	150:2 bit 16:24 41:9,10 46:22 66:1 74:2 103:16 119:11 BJJ-23 69:19 BJJ-6 82:23 blank 109:6 blow 111:9 board 58:17 94:4 Bonnie 5:13 bottom 12:18 boxes 165:18 brand 154:1 156:19 break 59:18 91:23 157:2,3 158:10 165:13 brief 101:2 157:10 briefly 10:25 90:10 117:23 bring 87:23 88:4 134:2 bringing 149:20,24 brought 9:21 41:7 44:2 78:6,8 113:25 123:10 budgets 143:23 build 102:6 building 106:12 bulk 139:8 bunch 135:8 burden 35:3 burdensome 39:6 bus 114:25 busiest 103:18,18,21,22 business 58:25 99:11 160:2 businesses 104:12 busy 101:24 105:20,22 106:1,18,22 107:3,7 107:9,13,15 108:3,14 110:1,9,12,14,17,17 110:19 116:2 118:11 118:12 119:14,14 120:8,8,8 121:3 buy 156:18 buying 155:17 buys 155:4	cageless 152:21 calculating 129:19 143:7 calculation 107:10,12 107:17,20 111:20 120:19 call 48:3 83:25 98:24 called 13:16 33:12 78:8 99:2 121:17 132:7 calling 73:25 83:22 calls 121:14 capability 111:9 capacitors 114:2,6 capacity 15:11 99:15 101:19,20,21 105:10 105:19 107:12 108:11 113:7 116:12 118:19,20 119:24 capture 115:25 116:2 captured 118:23 carded 103:21 106:11 cards 108:18 carrier 104:9 carriers 133:17,17 carries 138:20 carry 104:24 138:12 case 3:22 6:4 8:14,16 9:1,7 11:7,16,20 15:14 19:24 20:1 21:25 23:11 26:11 35:24 41:7,11,12,17 43:4,25 44:1,7,9,9 44:15,22 45:14,22 46:8,16 48:12 49:4 51:24 52:15,21 53:1 53:5,20 54:2 59:3,5,8 59:12 61:19 67:14,23 68:6,23 71:23 84:21 85:7 86:16 93:10,12 93:15 94:19,21 95:2 95:12,18 96:14 104:17 108:12 110:16 126:14,15,18 127:6 130:21 131:2 131:13 134:3 136:24 137:5,21 140:4 142:25 154:15,15 157:14,19 163:20 catalog 23:23 categorization 72:13 91:11 categorize 85:12 cause 37:14 42:8 43:14 86:23 155:12
	<b>B</b>			
	B 111:2,6,12 120:10 back 6:11 7:10,18 9:10 20:3,16 36:19 59:23 76:2,22 82:10 83:1,2 92:9 94:4,21 95:13 96:17 114:1 115:5 119:13,16,20 120:18 134:2 138:7,10,10,18 143:18 148:2 157:7 background 21:16 backup 111:6 bad 11:7,13 BALMER 1:23 4:22 167:7,19 based 26:6 41:6 43:6 44:24 55:13 56:19 102:20 103:1 113:21 115:24 116:17 117:6 125:3 126:15 127:20			
	<b>C</b>			
			C 30:14,17 120:10 cable 111:14,17 cables 104:24 109:2,17 109:19 113:5,12,13 113:14,15 cage 106:12 caged 152:21	

<p><b>caused</b> 60:10,23 64:5,7 64:20 <b>causes</b> 67:1 <b>caveats</b> 141:2 <b>center</b> 4:10 125:8,10 132:8,11,14,17 135:20 139:5 141:8 <b>centers</b> 125:7,11,12 132:5,10 134:20 <b>central</b> 105:13,21 106:2 108:13,13 110:13 111:20 115:10 118:9 119:9 119:15 120:9 121:8 152:12 <b>certain</b> 17:3,25 18:9,19 20:18 21:20 23:9 43:14 66:22 67:4,15 97:23 <b>certainly</b> 8:15 28:25 53:14 83:13 96:17 122:1,25 129:24 130:6 131:23 137:17 138:2 160:22 163:2,4 163:9 <b>certainty</b> 60:21 <b>Certificate</b> 1:24 4:23 167:20 <b>certified</b> 1:24 4:22 13:17 74:23 99:3 121:18 167:7,19 <b>certify</b> 167:8 <b>cetera</b> 120:16 <b>CFA</b> 124:8,10,15,25 132:16,19 136:19 138:6 141:16 144:13 144:25 159:9 163:21 164:9 <b>CFAs</b> 145:7 <b>change</b> 15:20,23 16:4 17:9 18:11 19:13,15 21:9,11 23:3 24:10 24:10,11 27:2 30:18 31:7 32:15 33:11 34:10 43:13 53:22 62:4 65:25 76:22,23 80:1,4,25 81:1,3,6 87:13 88:5,6,16,17 123:17 125:9,25 126:8,10,12 128:7 129:2,5,6 130:1 132:2,6,11,12,13,16 133:13,18 134:10 135:2,15 136:2,11,20</p>	<p>137:20 138:3,5,14,16 140:16,20 141:11,17 142:5,15 144:25 155:11,13,21 156:20 158:24 159:1,17 160:2 161:3,6,25 164:10 <b>changed</b> 29:1 50:23 132:15 138:7 <b>changes</b> 16:7,8,14 22:25 26:3,24 27:2 31:1,4 32:5,22 34:13 37:1 77:16 122:13 124:6,8,8,11,14,16 124:19,24,25 126:3 127:12,24 129:25 133:3 136:7,8,9,10 136:15,22,24 140:10 142:12 143:1 144:13 144:18,23 145:4 154:16 155:5 159:6,8 159:9,14,18 161:19 163:5,21,21 164:1,9 <b>changing</b> 34:6 141:6 157:8 162:20 <b>channel</b> 136:19 <b>characterization</b> 137:25 <b>characterize</b> 40:9,19 63:3,5,12 <b>characterized</b> 26:7 138:24 <b>characterizing</b> 40:17 <b>charge</b> 103:11,12 115:24 117:5 119:6 119:25 123:17 125:5 130:9,10 133:18 135:2 142:21 143:11 144:10,12,25 152:4 156:9 159:1,14,15,17 159:18 160:1,13,18 162:1 <b>charged</b> 53:10 102:3,4 102:20 160:23 <b>charges</b> 101:9 103:1,2 103:8 123:16,17 130:2 145:3,15 <b>charging</b> 120:1,3,4 142:15,18 143:1 144:8,23 160:6,7 <b>check</b> 154:21 <b>checking</b> 139:6 149:23 <b>circuit</b> 57:1,7,10 58:11 58:17 60:8 61:2 66:6</p>	<p>66:8 67:16,25 68:8 68:16,22,24 69:7,9 69:10,15 70:10,21,25 71:8 89:14,23 138:12 138:20 141:7 <b>Circuit's</b> 57:4,18 <b>circumstance</b> 65:1 74:22 114:18,21 155:1 159:19 161:3 <b>circumstances</b> 42:7,9 64:12 65:16 66:9 113:19 114:7,9,12 124:21 126:6 136:11 136:17,20 138:17 140:16 142:4 143:12 144:7,11 155:12,20 155:24 160:2,9,15,16 161:4,7 163:4,9 <b>cite</b> 58:16 <b>cited</b> 131:12,13 <b>claim</b> 55:8 131:4 <b>claimed</b> 40:6 <b>claims</b> 102:4,5 <b>clarification</b> 73:14 <b>classification</b> 64:21 73:15 <b>classified</b> 60:24 64:6,7 <b>Clauson</b> 5:12 93:9,13 95:7 131:11 <b>clean</b> 12:17 <b>clear</b> 13:9 42:15,21 58:12 76:9 96:18 <b>cleared</b> 90:23 <b>clearly</b> 164:3 <b>clears</b> 66:5 90:25 <b>CLEC</b> 15:25 27:8,12 35:15 36:16 53:8 55:15 56:23 60:7,18 60:23 61:1,7,11,14 63:6,8,13,14 64:7,13 64:19,20 65:2 71:4,7 74:23 76:24 77:1,5 77:20 101:15 105:21 106:3,12 108:6,22,25 109:2 110:3,8,20 111:2,8,11 113:1,3 113:12,19 116:9,12 117:17 118:17 119:8 119:16,19,21,25 120:10,10,10 132:12 132:13 138:3,15 147:23,24 148:5,6,12 148:15,16 149:6,11 152:19 153:3 154:14</p>	<p>154:16 156:3,15 <b>CLECs</b> 15:23,24 16:10 26:2 27:15,23 33:16 33:25 36:9,13 46:3 47:11,25 48:4 52:3,5 52:7 53:18 67:5,15 77:4,9,13,18 80:8,13 80:17 87:14,21 88:12 102:1 107:4 110:2,21 112:2,12,14,17 129:17,17 134:1 142:21 145:10 160:18 <b>CLEC's</b> 27:19 60:23 110:4,5,6,12,17 115:13 118:23 119:2 119:7 <b>close</b> 39:7 64:8 <b>closed</b> 17:22 19:3,5,7 44:9,15 78:6 <b>closer</b> 63:4 <b>closing</b> 23:18,21 24:3 24:15 79:8 <b>CMP</b> 15:21,24 16:8,12 16:24 17:9 18:12 19:14,15 21:10 22:25 23:3 25:2 26:1 27:2 27:22 28:12,22 29:8 29:19 30:18 32:18,21 34:5,9,13 35:5,6,23 36:25 77:2,16 80:25 81:5 87:12,18 88:15 <b>CNR</b> 61:5,7 63:4,6,6,12 63:12 64:8,21 66:10 <b>code</b> 81:24 111:4 <b>collocated</b> 104:24 <b>collocation</b> 6:5 118:10 147:12,18,22 148:3,6 148:14,17 149:10 150:19,20,21 151:19 151:25 152:3,7,9,11 152:15,21 153:4,13 154:20 155:16 156:15 162:20 <b>collocations</b> 154:23 <b>collocator</b> 149:20,25 <b>collocator's</b> 118:9 <b>Colorado</b> 4:20 30:8 99:12 <b>combined</b> 118:18 <b>come</b> 5:23 7:8,10 8:25 77:9 107:23 115:5 125:19 129:10 139:25 140:1,10</p>	<p>151:4 155:20,21 158:25 <b>comes</b> 21:9 24:10 64:2 119:7 125:9 126:12 143:24 156:18 <b>comfortable</b> 10:2,20 93:17 <b>coming</b> 148:12 149:6 153:3 165:11 <b>commencing</b> 4:4 <b>commented</b> 93:23 <b>commenting</b> 93:25 <b>commission</b> 1:1 4:3 7:12,13 9:6,7,23 28:8 31:3 37:8,10 41:7,16 41:20 42:12,19,23 43:21 44:8,11,24 45:5,20 46:7,15,18 47:4 55:23 56:12 81:8 87:24 88:2,8,17 93:18 124:13 128:15 128:22 130:9,13,13 134:4 136:25 157:23 158:3 160:11,21 162:2 163:25 164:11 <b>commissions</b> 123:7 <b>Commission's</b> 39:9 42:6 43:13 44:15,21 48:11 49:23 53:1 81:12 <b>common</b> 77:10,14 <b>communicated</b> 68:21 69:1 <b>communication</b> 71:7 71:13 82:15,16,20 83:2 85:17 89:10 <b>communications</b> 73:12 76:12 89:3,8 <b>company</b> 104:13 <b>compare</b> 22:25 118:18 <b>compelling</b> 36:24 <b>compensated</b> 116:22 <b>compete</b> 55:16 56:14 <b>competition</b> 146:23 147:2,6 <b>competitive</b> 146:19 <b>complain</b> 157:11 <b>complaint</b> 41:7 44:1 59:3 87:23 88:1,4 92:11,12,24 95:2 <b>complete</b> 68:15,16,18 68:19 <b>completely</b> 33:22 40:6 57:21 66:13 101:8</p>
--	--	--	--	---

130:16 <b>completion</b> 23:5,8,12 79:8 <b>compliance</b> 3:21 13:7 43:7,12,17 44:8,16 44:25 45:20,22 48:6 48:9,10,16 49:3,13 50:7,18,22 127:5,20 128:14 139:11 <b>complicate</b> 80:16 <b>comply</b> 43:13 44:11 48:11 49:23 52:25 <b>component</b> 119:13 <b>components</b> 119:16 120:7 <b>computer</b> 129:9 <b>concern</b> 21:13,15 24:5 78:17 80:20,23 95:24 116:6,8 117:10 127:12 137:13 <b>concerned</b> 52:18 117:10,12 <b>concerning</b> 18:8 <b>concerns</b> 16:2 17:1 <b>conclude</b> 39:17 137:9 162:9 <b>concluded</b> 36:23 81:14 <b>conclusion</b> 25:24 26:6 26:11,17,19 37:5,12 38:5 59:9 <b>conclusions</b> 38:8 59:12 94:11 <b>conditional</b> 93:25 <b>conditions</b> 26:3 104:4 104:17 <b>conducted</b> 127:4 <b>conduit</b> 114:24,24 <b>conference</b> 9:14 94:6 94:22 <b>confidential</b> 2:21 3:3 12:23 14:7 31:18,20 96:25 <b>confirm</b> 83:8 <b>conflict</b> 93:19 <b>confusing</b> 75:14 130:6 <b>confusion</b> 51:3,4 <b>connecting</b> 124:10 <b>connection</b> 148:4 <b>consequence</b> 76:20 <b>considered</b> 42:16 61:2 81:17 <b>consistency</b> 15:24 80:14 <b>consistent</b> 23:1 39:8,20	40:6 76:16 <b>consistently</b> 15:23 <b>consists</b> 101:11 <b>constitute</b> 81:13 167:9 <b>constraints</b> 143:23 <b>consumed</b> 101:10,12 <b>consuming</b> 32:2,12 <b>contact</b> 66:16 83:1,1 <b>contain</b> 62:12,14 <b>contained</b> 20:19,23 21:6,22 22:7,14 23:11 <b>contains</b> 13:3 80:25 150:11 <b>contemplated</b> 136:22 <b>contents</b> 22:10 <b>contested</b> 137:21 <b>context</b> 158:20 159:4 <b>continue</b> 45:23 78:23 79:20 131:25 <b>contract</b> 7:23 11:21 13:2 17:8 20:16 21:9 21:21 23:2,23 27:3 29:22 31:7 32:25 33:9,17 34:12,15 35:7 37:19 47:2 51:6 51:6,14,16,20 52:6 53:5,9,13 62:11 70:13,14 75:9 79:12 80:6 87:8 95:9,11 150:1 <b>contrary</b> 17:9 21:10 <b>control</b> 74:2,5,16,25 75:13 <b>conversation</b> 13:2 <b>conversion</b> 123:16 <b>convincing</b> 25:25 <b>coordinator</b> 132:3,7,20 135:7,14,18 137:24 138:1,23 <b>coordinators</b> 135:21 <b>copies</b> 12:8,12 165:16 <b>copy</b> 24:20 25:17 31:21 62:17 98:11 126:23 150:1 <b>Corp</b> 122:2 <b>corporation</b> 1:1,5 4:3 4:13,14,16 5:5 122:3 160:1 <b>correct</b> 10:8 14:2 17:6 17:14,19 19:10,19 20:11,14,24 21:2,4 21:17,25 23:13 25:8 25:12 27:21 28:6,23	29:6 32:9 33:18 34:22,25 35:12,17 36:10 43:22 44:17,19 45:18 46:9 47:7 48:25 49:4,24 50:9 55:25 57:9 58:15,20 58:22,25 59:3,7 60:6 60:8,9,14,19,20 61:21 62:1 64:10,21 64:24 65:9,12,22,23 66:24 70:13,20 71:5 71:10 72:5,17 73:4 74:18,19 75:4,20,24 78:14,17,18 87:2,6,7 87:15 88:3,8,18 89:1 89:4,8,15,20 90:24 92:18 98:2 102:21,23 103:6,12 104:7,9,10 104:19 106:5,23 107:6 108:15,23,24 109:17 110:19 111:13 112:5 116:1,5 117:8 119:10 120:19 120:20 122:5,8,12 124:9,16 128:8 129:1 132:25 133:1,3 134:11 135:16 139:4 139:9,22,23 140:13 140:23 141:4 142:13 142:14,17,21 144:18 145:4,5,17,18,20,25 146:1,21,23 147:6,7 147:10,11,25 148:1 149:4,5 150:12,17 153:15 155:6 157:14 157:21 160:8 <b>correctly</b> 27:6 74:13 <b>cost</b> 8:3,5 15:12,13 123:2,4,7 124:17,18 125:3 126:1,13,16,18 127:12,18,18,25 128:3,5,6,11 131:3,6 131:9,13,15,17,18,21 133:8 134:22,24 136:12,24 137:4,4,5 137:14 143:7 153:19 156:13 162:5,8 164:4 <b>costing</b> 154:24 <b>costs</b> 117:16 127:15,20 134:21 146:17 155:16 156:6,8,10,17 <b>cost-based</b> 54:9 59:7 59:11 94:10 147:9 157:17,21	<b>counsel</b> 5:12 <b>count</b> 120:4 <b>counted</b> 119:23 <b>counter</b> 19:14 <b>counting</b> 110:1,3,4,5 110:16 119:12 <b>COUNTY</b> 167:2 <b>couple</b> 25:15 32:24 85:22 99:19 115:10 119:17 120:24 134:14 158:13,17 163:15 <b>course</b> 86:10,12 93:23 95:13 <b>court</b> 1:21 10:18 13:13 15:4 58:11 98:12 165:22 <b>court's</b> 96:5 <b>cover</b> 87:3 98:7 164:1 <b>covered</b> 16:5 62:7 164:9,13 <b>covers</b> 15:14 101:7 151:22,23 <b>create</b> 16:2 18:19 <b>created</b> 19:23 <b>creates</b> 35:4 <b>creating</b> 35:3 <b>criticism</b> 51:15 <b>criticisms</b> 41:5,15 <b>criticize</b> 40:16 <b>criticized</b> 38:4 <b>cross</b> 123:20 <b>cross-examination</b> 2:4 2:9,12 16:17,21 78:7 82:15 96:4 102:9,13 124:1 <b>current</b> 15:20 16:4 18:22 27:4 36:24 61:24 63:25 70:16 76:16 79:24 91:8,13 114:5 <b>currents</b> 114:6 <b>Curtis</b> 2:7 3:12,14 6:6 10:14 98:18,24 99:1 99:11 <b>Curtright</b> 4:17 5:20 12:14 92:3,6 95:1 <b>Curtright's</b> 92:1 <b>curve</b> 108:21 <b>customer</b> 27:19 46:11 47:16 61:16 64:7 72:14 76:19 81:25 82:4 84:17,20 91:11 132:15 138:18	<b>customers</b> 16:11 27:14 46:21 55:20,21 56:23 58:1,22 60:24 80:19 84:4 104:14 <b>customer's</b> 18:3 <b>customer-not-ready</b> 60:24 61:3,4 <b>cut</b> 112:6
<b>D</b>				
<b>D</b> 4:14 127:6 <b>daily</b> 125:13 <b>danger</b> 60:4 <b>data</b> 69:18 <b>date</b> 1:11 60:4,7,7,18 61:1,8,10,11,18 66:3 66:14,15,19 67:6,9 67:11,17,20,25 68:1 68:3,8,12,19,23,24 69:7,11,16,21,22 70:2,5,10,20,22,23 72:24 73:1,4 84:7,19 84:24 85:8 89:14,18 89:24 90:1,3,4,5,19 90:24,25 91:6,7 129:15 138:6,7 <b>dating</b> 143:18 <b>day</b> 4:4 63:9,15,20,23 65:20 71:22,25 72:17 76:17,18 88:25 103:18,22 106:22 107:1,8,14 117:19 118:12 120:8 164:23 165:4,13 167:14 <b>days</b> 61:11 84:19,24 104:5,6 114:15 117:19 126:10 <b>DD-23</b> 127:1 <b>deadline</b> 9:21 <b>deadlines</b> 9:18 <b>deal</b> 18:25 81:4 135:22 147:2 152:14 <b>dealing</b> 6:7 35:7 51:22 87:9 162:10 <b>debate</b> 95:12 <b>decide</b> 57:14 77:2 143:11 <b>decided</b> 5:23 7:24 19:20 21:8 78:23 143:9 <b>decision</b> 7:25 9:24 40:10 41:6 58:17 79:12,19 81:12 86:14 88:11 118:8				

<b>decisions</b> 93:18 101:18 <b>dedicated</b> 146:3 <b>deferred</b> 7:11 <b>defined</b> 42:24 47:1 65:3 <b>defines</b> 75:2 <b>defining</b> 46:20 <b>definition</b> 57:18 <b>delay</b> 72:9 <b>delayed</b> 61:15 <b>deliver</b> 61:18 63:7,13 63:16 65:18,21 66:6 66:18 67:20 68:7 72:2 82:3 <b>delivered</b> 60:19 67:11 67:16 69:21 81:23 <b>delivery</b> 60:8 66:7 70:21,25 71:25 72:9 72:10 88:25 132:3,7 132:20 135:7,14,18 135:21 137:23 138:1 138:23 <b>demarc</b> 18:5 19:1,9 79:2 86:4 <b>demarcation</b> 17:23 18:2 78:8 <b>Denney</b> 5:14 123:18 127:2 155:8 <b>Denney's</b> 93:13,17 126:20 <b>denominator</b> 77:10 <b>Denver</b> 4:20 98:21 <b>department</b> 4:14,16 123:1,2 <b>depend</b> 68:20 <b>dependent</b> 70:11 89:9 113:16,16 <b>depending</b> 104:8 107:1 110:20 140:15,17 <b>depends</b> 9:4 11:9 18:21 73:21 154:13,25 <b>describe</b> 20:18 148:19 162:7 <b>described</b> 22:13 24:7 26:8 27:5 50:1,6 86:19 88:21 140:22 144:14 149:13 152:16 <b>describes</b> 49:21 73:6 <b>description</b> 2:17 3:2 82:20 83:21 85:3 <b>design</b> 85:1 112:23 123:17 124:5,7,14,19 124:24 125:9,10,25	126:3,8,10,12 127:12 127:24 128:7 129:2,5 129:6,25 130:1 132:2 132:4,6,10,12,13,16 132:17,19 133:2,13 133:18 134:10 135:2 135:14 136:2,7,7,9 136:10,11,15,22,24 137:20 138:3,5,14,16 138:21 139:3,5,6,7 139:20 140:5,10,16 140:20 141:2,6,6,8 141:11,22 142:5,12 142:15 143:1 144:18 144:23,25 145:4 149:9 158:19,21,24 159:1,6,7,13,16,18 161:3,6,19,25 163:21 164:1,9 <b>designing</b> 139:4 <b>designs</b> 105:9,19 <b>desire</b> 86:19 <b>desk</b> 143:25 <b>despite</b> 5:23 78:17 <b>detail</b> 137:15 <b>detailed</b> 24:3 <b>details</b> 18:5 19:2 <b>determination</b> 86:17 144:10 147:5 160:1 <b>determine</b> 39:7 105:12 112:13 121:8 134:19 134:22 <b>determined</b> 56:19 74:25 79:23 80:3 96:14 109:3 129:25 130:15 <b>determines</b> 132:18 <b>determining</b> 91:7 108:1 146:25 153:2 <b>Devaney</b> 6:6,10,21 <b>develop</b> 95:10 125:5 145:3 149:14,18 152:5,16 <b>developed</b> 15:20 16:12 33:24 125:3 134:8 140:8 142:12 <b>developing</b> 149:22 <b>device</b> 73:19 <b>difference</b> 92:15 102:17 <b>different</b> 17:15 18:22 19:25 28:18 33:10 44:14 46:13,17,22 47:4 64:13 66:23	67:1,12 77:8,9,12,13 77:17,18 80:16,17 107:13,25 114:9 117:10 119:17 124:20,21 125:7 126:6 128:13 130:16 136:17,21 140:9 142:4 144:7 145:9,10 145:16 148:13 154:2 154:5 155:20 159:17 159:19,24 160:3 163:7 <b>differently</b> 62:4 <b>difficulties</b> 143:13 <b>direct</b> 2:4,8,12,18,24 3:7,15 12:7,19 14:1 20:11 22:2,5 23:7,19 24:6 62:16,17 96:24 97:11 99:7 100:11,13 122:7 127:15,19 <b>direction</b> 8:8 123:4 <b>disaggregated</b> 120:10 <b>disagree</b> 33:2 <b>disaster</b> 114:13 <b>discharged</b> 113:23 114:8 <b>discrepancy</b> 56:5 <b>discrete</b> 120:18 <b>discuss</b> 6:22 19:3 39:25 96:9,11,13 137:15 <b>discussed</b> 23:19 93:1 123:13 137:10,14 <b>discussion</b> 50:24 52:20 83:24 101:23 <b>dismiss</b> 9:6 <b>dispute</b> 81:5 <b>disputes</b> 13:8 <b>disputing</b> 131:23 <b>distance</b> 113:16 <b>distinction</b> 129:7,13,23 129:24 <b>distribution</b> 113:5 <b>docket</b> 1:4 78:23 92:11 92:11,12,19 93:4,6 93:23 94:9 124:18 126:1,16,16 137:4,4 164:4 <b>dockets</b> 5:3 15:9,13 <b>document</b> 77:14 87:12 87:18 127:2,11 129:2 132:2 <b>documented</b> 42:12 50:4 50:10 83:3 <b>documents</b> 33:19 122:4	<b>doing</b> 141:16 156:15 159:7 <b>double</b> 119:12,23 120:4 <b>double-check</b> 96:17 <b>doubt</b> 109:18 <b>Doug</b> 5:13 <b>Douglas</b> 127:2 <b>drain</b> 102:1,5 103:15 103:15,17,20,24,25 104:1,2,2,16,20,21 104:25 105:22 106:6 106:9,9,14,14,16 107:4,9,11,16,16 108:7 110:2,3,4,6,6 110:13,14,17,18,18 110:19 111:19,24 112:2,8,10,13 113:20 113:22 115:6,7,14,14 115:16,16,17,17 119:2 <b>drains</b> 101:23 118:16 <b>draw</b> 107:19 108:2 111:9,11 113:20 114:2 115:13 <b>drawing</b> 107:19 108:13 110:8 114:3,4 <b>drawn</b> 103:17 104:16 <b>draws</b> 112:11 117:18 <b>drive</b> 101:14 <b>due</b> 60:4,7 61:1,8,10,18 66:3,14,15,19 67:6,9 67:11,17,20,24 68:1 68:3,8,12,19,23,24 69:7,11,16,21,22 70:1,5,20,22,23 72:23 73:1,4 84:7,19 84:24 85:8 89:14,18 89:24 90:1,3,4,5 113:16 138:6 <b>duly</b> 13:17 99:3 121:18 <b>durable</b> 101:11 <b>duty</b> 131:14	<b>Easton's</b> 96:23 <b>easy</b> 93:20 <b>EDI</b> 75:23 <b>effect</b> 142:4,12 <b>effective</b> 16:13 <b>effectively</b> 31:8 <b>effectiveness</b> 36:25 <b>efficiency</b> 16:1 <b>effort</b> 72:1 148:6 <b>efforts</b> 16:10 73:7 <b>Eighth</b> 57:1,4,7,10,18 58:11,17 <b>either</b> 39:17,19 48:7 56:1 62:2,3 128:5 132:11 137:7 144:9 160:21 <b>elect</b> 102:20 <b>electric</b> 103:2,3 111:4 <b>electrician</b> 114:23 <b>electricity</b> 101:10 117:16 <b>electronic</b> 74:6,12 <b>element</b> 127:19 128:1 134:18 <b>elements</b> 128:1 145:9 147:4 149:9 150:18 <b>eliminate</b> 72:12 <b>ellipses</b> 38:22 39:3 40:2 <b>employed</b> 99:13,14 <b>employee</b> 135:19 <b>employees</b> 15:25 <b>encompasses</b> 162:9 <b>ends</b> 116:21 <b>engineer</b> 99:17 118:11 152:13 153:17 154:22 163:3 <b>engineered</b> 104:25 <b>engineering</b> 107:24 112:18 148:15 152:10 <b>engineers</b> 105:9,19 153:18 154:7 <b>engines</b> 108:20 <b>enlighten</b> 130:7 <b>entailed</b> 148:16 <b>entire</b> 40:20 114:25 127:15 128:5 <b>entirely</b> 11:6 <b>entitled</b> 122:4 156:9 <b>environment</b> 146:19 <b>equally</b> 124:15 <b>equation</b> 79:25 <b>equipment</b> 103:18,21 104:17,24 105:20,23
---	---	---	--	--



106:2,3,4,10 108:2 110:3 111:19,25 112:7 113:17,19,25 113:25 114:1,3 115:2 115:3,4,5,13 118:8 118:10,14,17,21,22 119:2,15,19 121:8,11 152:20 163:6,7 <b>equivalent</b> 56:23 <b>erroneous</b> 64:21 <b>error</b> 16:1 49:16,21 51:2 52:18 <b>errors</b> 49:17 51:11 80:15,18 87:5,9 <b>Eschelon</b> 1:4 4:8 5:4,9 5:11,12 16:3,6 17:2,8 17:15,25 18:11,24 19:8,23,25 20:16 21:4,7,12 22:6,12 24:1,6,12,25 25:25 27:1 28:10,18 29:10 29:13,15 30:1,3 31:2 31:6 32:3,13,14,16 32:20 33:7 34:9,11 34:19,22,24 35:5,18 35:21,21,25 36:2 39:18 41:8 44:2 45:4 45:12,21 48:1,5,17 48:18,19,25 49:2,6,6 49:8,10,13 50:8 51:6 51:14,16,19 52:6,6 52:14 53:8,10,11,12 54:1,4,9 55:8 56:14 62:4,22 66:2 67:14 67:22,24 68:6,10,14 69:5,10,22 71:1,9,12 71:15 72:10,18 73:8 74:6,11 75:6 78:21 79:3 80:2,22 81:3 82:2,4 83:1,1,15,18 83:22 84:2,16,17,22 85:11 87:14,23 88:1 92:12 94:1 95:7 96:3 101:6 102:4,20 104:12 107:9,15 120:15 123:10 124:7 147:16 155:4,17 157:14,20 162:16 <b>Eschelon's</b> 5:14 16:2,9 16:11 17:10 18:8,17 20:21 23:1,2,8,16 24:7,14 28:21,25 29:9,14 30:22 31:14 32:18 33:1 35:7	38:21 39:5 40:7,13 40:21 41:3,5,16 42:5 42:12,19 46:11,20 47:1,8,16 48:2 51:5 51:15 52:10 53:5 59:2 61:23 63:23 64:5,19 65:17,22 66:7,16 71:17,18,23 72:7,15 73:3 74:15 75:2,19 76:11 80:20 81:21 84:12 88:16,21 91:15 107:9,11,15 108:2 115:20 148:8 148:11 155:2,25 163:24 164:8,12 <b>Eschelon-1</b> 48:21,22 <b>Eschelon/Qwest</b> 153:7 <b>Especially</b> 101:15 <b>essentially</b> 29:15 43:6 132:7 133:23 138:11 <b>establish</b> 76:21 152:7,8 155:11 <b>established</b> 32:21 33:22 51:23 53:12 55:24 77:13 131:16 155:18 <b>establishes</b> 64:19 <b>establishing</b> 152:15,23 <b>estimate</b> 125:14 135:24 136:2,4,7 140:19 141:14,25 142:3 <b>estimated</b> 128:24 133:25 153:18 <b>estimates</b> 128:21 136:23 139:13 140:7 <b>et</b> 120:16 <b>evaluating</b> 28:5,8 <b>event</b> 16:8 113:22 115:8 <b>events</b> 11:13 22:17 65:10,21,25 66:1 69:23 87:18 <b>eventually</b> 78:16 114:16 <b>everybody</b> 62:5 116:12 <b>evidence</b> 8:21,24 11:14 15:2 26:1 48:23 94:10 96:7 97:9,14 97:20 98:15 100:25 122:22 <b>evidently</b> 127:4 <b>exact</b> 109:11 135:8 <b>exactly</b> 109:20 134:13 <b>Examination</b> 2:4,5,5,6	2:8,9,12,13,13 13:21 76:7 78:3 90:12 99:7 118:1 121:22 158:15 161:15 <b>EXAMINATIONS</b> 2:1 <b>examined</b> 13:18 99:4 121:19 <b>example</b> 55:22 83:13 83:21,24 89:13,18 90:1 95:9 107:8 112:25 113:3 114:13 114:22 120:1 125:8 125:18 132:16 138:13 143:15 144:19 <b>examples</b> 25:1,4 26:7 83:14 91:6 162:25 <b>exception</b> 25:2 26:14 37:4 88:23 <b>exceptions</b> 26:10,13,15 26:16 37:6 <b>exchanges</b> 63:18 <b>exclusive</b> 115:15 <b>excuse</b> 127:18 135:12 <b>execute</b> 32:2,19 <b>execution</b> 30:12 <b>executive</b> 136:14 <b>exhibit</b> 3:20 12:20,23 12:24,25 13:3 14:2,5 14:8,11 15:1 30:14 30:17 32:4 34:16,22 34:24 35:20 36:3 48:16,22,25 49:2,7 49:13 69:19 77:15 82:23,23 83:5,6 85:3 89:13 90:14 91:5 93:10,11 97:8,12,12 97:13,14,19 98:14 100:7,7,8,9,24 122:7 122:9,11,21 126:19 127:1 151:17 <b>exhibits</b> 2:16 3:1 12:7 14:20 31:14 32:7,13 32:23,24 33:6,12 34:14,24 97:23 99:19 99:20 100:19 122:5 122:16 <b>exist</b> 77:18 <b>existed</b> 133:14 <b>existence</b> 154:10 159:1 <b>existing</b> 74:20 77:8 88:22 89:2 92:13 95:3 133:10 134:10 134:12 135:2 138:9	156:19 162:24 <b>exists</b> 63:7,13 87:12 88:15 <b>expand</b> 38:23 39:11 45:12 145:11 <b>expanded</b> 40:8 53:9 <b>expands</b> 42:6 <b>expect</b> 60:8 67:6,8,16 67:19,24 68:7,9 71:1 106:25 141:19,20 142:19 154:10 <b>expected</b> 91:22 105:22 106:22,24 113:20 118:14 <b>expedite</b> 123:16 <b>expedited</b> 15:18 <b>expedites</b> 53:21 54:1,6 54:9,14,15 58:5,10 58:20 59:3,6,11 81:10,12,14,17 92:24 94:11 156:21,25 157:9,17,20 <b>experience</b> 107:16 112:9,9,14 135:22 141:14 <b>expert</b> 135:19 140:4 <b>expertise</b> 15:11 112:18 <b>experts</b> 125:12 141:13 <b>Explain</b> 110:23 <b>explained</b> 67:18 85:16 133:5 134:14 140:3 163:2 <b>explaining</b> 158:23 164:3 <b>expressed</b> 17:2 24:5 <b>expressly</b> 93:24 <b>extend</b> 9:18 <b>extended</b> 9:16,16 <b>extending</b> 49:16 <b>extent</b> 94:22 <b>extra</b> 71:19 114:2 <b>e-mailed</b> 7:5 82:25 <b>e-mails</b> 131:20 <b>E-1</b> 3:20 <b>E-2</b> 3:21	57:5 59:10 78:13,25 81:15 82:4 83:4,25 84:21,24 85:4,7 101:7 133:9 142:25 159:5 164:4 <b>factor</b> 79:18 <b>factors</b> 118:4 <b>facts</b> 65:8 <b>failing</b> 84:9 <b>fair</b> 57:16 75:15 79:1 81:23 82:4 85:12 104:3,14,15 115:8 137:25 142:9 <b>fairly</b> 123:9 138:24,25 <b>faith</b> 131:14 <b>falls</b> 125:22 <b>familiar</b> 20:5 25:7 93:6 94:16 140:5 143:16 147:19 150:13 157:16 <b>fans</b> 114:1,6 <b>fashion</b> 80:21 91:9 129:21 <b>faster</b> 55:17 <b>fatal</b> 21:24 22:8,10,13 22:16 79:7 <b>fault</b> 85:13,13 119:24 <b>faulting</b> 63:21 <b>fax</b> 129:11,18 <b>FCC</b> 147:5 <b>feasible</b> 59:1 <b>February</b> 89:19 162:12 162:16 <b>FEDERAL</b> 1:6 <b>fee</b> 147:17 148:3,10 150:20,22 151:2,16 151:17,22,23,24 152:6,25 154:1,3,11 155:3,10,19,23 156:13 162:23,24 <b>feed</b> 111:5,6,6,7,12,12 113:4,6 <b>feeder</b> 111:1,2,2 <b>feeders</b> 109:11,12,15 <b>feeds</b> 121:10 <b>feel</b> 6:20 166:1 <b>feelings</b> 95:19 <b>fees</b> 123:15 <b>felt</b> 40:7 <b>field</b> 112:9 140:5 <b>fields</b> 23:11 <b>fifth</b> 4:15 10:14 65:11 66:7 69:25 <b>fight</b> 79:20
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<p><b>fighting</b> 144:2,15  <b>figure</b> 57:15 89:22  <b>file</b> 26:10,13,15 100:11  137:5  <b>filed</b> 1:12 19:4 22:2  98:7,10 126:14,15  130:21,23 131:1  134:4 139:13 162:12  163:20 164:2,4  <b>filing</b> 3:21 9:16 13:7  30:19 44:9,16,25  45:21,22 48:6,9,10  48:16 49:13 50:7,18  127:21 128:14  139:12  <b>filings</b> 43:7,12,12,18  49:3 131:13  <b>filling</b> 109:6  <b>final</b> 37:12 127:17,18  134:24,24  <b>finalized</b> 13:7  <b>finally</b> 134:2  <b>find</b> 106:15 146:12  148:14  <b>fine</b> 42:1 153:24 156:6  157:3 165:8  <b>first</b> 5:7 8:22 10:6,10  11:19 13:16 15:7  16:3 19:16 21:12  24:12 29:9,14 36:7  40:12 43:20 55:12  65:11 66:1,2 78:7  83:14 84:4,20 89:13  91:2 99:2 121:17  124:5 128:7 129:16  132:1 133:7 135:24  139:20 148:5 152:9  161:25 165:6  <b>fit</b> 153:2  <b>five</b> 115:10 144:2  145:16  <b>fixed</b> 91:7  <b>flavor</b> 146:18  <b>flexibility</b> 15:22 16:7  <b>Floor</b> 4:17  <b>Florida</b> 81:17  <b>fluctuates</b> 104:5  <b>fluctuation</b> 104:8  <b>FOC</b> 63:8,14 65:19  66:3,6,13,21 70:1,4  70:13,14,15,17,19  71:4,6,10,15,21,24  72:9,10 73:9,11  76:13,14,17 82:16</p>	<p>85:11,18 88:24 89:7  89:9 90:20,20,22  91:13  <b>FOCs</b> 73:14,16  <b>focus</b> 50:24 123:8  <b>focused</b> 39:18  <b>focuses</b> 85:11  <b>focusing</b> 40:1 88:14  <b>follow</b> 90:21  <b>followed</b> 80:12 133:11  133:12  <b>following</b> 13:1 148:24  <b>follows</b> 13:19 99:5  121:20  <b>follow-up</b> 85:22  <b>footnote</b> 58:16  <b>force</b> 72:5,20  <b>forces</b> 71:19  <b>foregoing</b> 167:9,11  <b>forget</b> 59:24 139:11  <b>forgot</b> 9:13 48:18  <b>form</b> 109:5,7,9,14,20  109:23 110:25  <b>formal</b> 32:8 66:13 71:6  71:9,11  <b>formality</b> 70:8  <b>formally</b> 33:16  <b>format</b> 129:11  <b>forms</b> 32:3  <b>forth</b> 49:17 55:1  101:24 108:21  133:17 149:9  <b>forum</b> 29:7  <b>forward</b> 9:12 10:20  77:2,4 94:20 95:22  <b>forward-looking</b> 95:4  <b>fought</b> 143:16  <b>found</b> 128:18  <b>Foundation</b> 82:6  <b>four</b> 102:25 103:5  126:17 144:2  <b>fourth</b> 10:14 65:11  66:5  <b>four-zero</b> 157:24  <b>frame</b> 55:1 133:8  <b>frequently</b> 115:7  <b>front</b> 92:22 95:13  99:20 101:19 109:9  123:6 137:8 150:2  <b>fuel</b> 114:14,15  <b>full</b> 39:5 167:9  <b>fully</b> 103:21 106:11  113:23 114:7 116:21  <b>function</b> 33:4,10 73:20</p>	<p>73:23,25  <b>functions</b> 137:25  140:22 141:3,6,22  <b>funds</b> 143:20  <b>further</b> 2:6 45:1 76:1  90:7,12 91:18 117:20  120:21 121:12 158:8  162:18 163:12,14  164:15,17  <b>fuse</b> 111:15,16,18  <b>fuses</b> 111:10  <b>future</b> 7:24 105:23</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G</b> 4:17  <b>gears</b> 53:22 59:14  156:20  <b>generalized</b> 7:22 8:3  <b>generalizing</b> 41:9  <b>generally</b> 16:24 27:5  27:10 36:12 79:14  104:22  <b>generator</b> 114:14,15  <b>generic</b> 126:18  <b>getting</b> 6:23 29:1 31:2  79:3 84:5 91:8 138:6  143:8,8 148:16  <b>gist</b> 101:7  <b>give</b> 10:8 25:17 56:14  71:4 82:19 85:3  100:3 101:15 125:13  131:3,6,8,17,21  143:15 146:12 162:4  <b>given</b> 7:20 13:1 74:23  88:12 126:2 131:2  140:18  <b>gives</b> 60:3  <b>giving</b> 10:23 144:19  <b>gleaned</b> 83:9  <b>go</b> 5:1 9:12 12:18 20:3  23:3 25:19 27:24  32:17 36:19 38:22  45:6,24 58:2,10  59:23 64:15 65:5  76:2 77:2,4 80:20  81:7 83:14 88:17  89:18,21 91:25 92:1  92:9 95:9,22 101:20  115:1 118:4,5,7  119:18 133:8,23  137:3,14 138:7,10,18  142:20 150:3 152:13  153:19 157:7,9  <b>goal</b> 69:11</p>	<p><b>goes</b> 9:11 38:11 39:11  41:16,19,20 101:22  116:12 119:14  132:18 137:16  149:21,24 152:10,15  152:22 153:1  <b>going</b> 6:12 7:25 8:20,25  10:6,20 22:25 23:4  24:12 27:25 32:14  45:1 49:22 50:2 51:1  53:21 59:25 61:14  62:17 63:1 65:14  66:11 68:5 69:16  71:13 76:22 81:23  82:3 83:13 84:13,16  85:17 89:21 93:17  94:18,21 95:8 96:1  101:17 104:5,6 106:8  107:23 111:1,3,17,25  112:19 113:22 114:1  114:2 115:1,1,5  116:15,21,22 117:1  117:12 118:8 119:19  125:6,15,19 128:23  130:4 131:25 132:19  134:9,20 136:5,10  139:6 149:6 152:21  153:2 154:2 155:5  156:20 157:11 165:8  <b>good</b> 5:6,10 6:1,19 45:6  59:17 102:15,16  112:22 124:3 131:14  <b>gotten</b> 6:25 160:18  <b>governs</b> 75:10  <b>grappling</b> 103:9  <b>GRAY</b> 4:9  <b>great</b> 5:15 100:22  135:22 147:2 152:14  <b>Greg</b> 5:10  <b>Gregory</b> 4:10  <b>ground</b> 114:25  <b>group</b> 132:22  <b>groups</b> 132:21  <b>grow</b> 108:16,17,17,18  <b>guess</b> 11:6 12:4 51:25  69:14 96:22 97:2  126:4 144:6 158:18  <b>guidance</b> 123:4  <b>guide</b> 77:14,23  <b>guy</b> 11:12 99:17  <b>guys</b> 90:16</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>hac</b> 98:22</p>	<p><b>half</b> 91:25  <b>hand</b> 29:22 126:23  167:14  <b>handed</b> 96:19 126:25  <b>handle</b> 7:23 8:9 18:18  62:3  <b>handled</b> 18:6 125:17  125:19  <b>handling</b> 6:4 44:3  <b>happen</b> 70:11 73:6,7  81:2 87:19 94:7  95:18 106:25 110:12  114:11,22,24 115:7  125:6,15,16 136:5  142:23 161:6  <b>happened</b> 7:17 36:6  78:19 114:18 118:13  137:10  <b>happening</b> 81:1  <b>happens</b> 102:24 110:13  110:23 114:11,12,21  117:6 126:10 132:17  136:16 138:3,17  160:8  <b>happy</b> 12:2  <b>harm</b> 36:25  <b>head</b> 151:7  <b>heading</b> 49:15 50:25  <b>hear</b> 10:19 11:14 83:2  <b>heard</b> 4:2 8:10 37:11  83:1  <b>hearing</b> 86:5,11,13,17  <b>held</b> 40:4 157:19  <b>Hello</b> 5:19 124:4  <b>helped</b> 159:10  <b>he'll</b> 6:5 165:6  <b>high</b> 132:9  <b>higher</b> 104:5,20 114:5  <b>highest</b> 107:4,16  <b>highlighted</b> 153:6,9  <b>holding</b> 25:1 40:25  <b>home</b> 103:3  <b>Honestly</b> 86:7  <b>Honor</b> 5:10,19 8:10  12:13,15 16:19 25:14  29:20 34:14 48:15  49:6 92:4 95:1 97:16  102:11 126:19 158:8  164:21  <b>hope</b> 150:6  <b>horizon</b> 118:15,16  <b>horse</b> 164:19  <b>hot</b> 114:25  <b>hour</b> 91:25 92:3 101:24</p>
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103:18,21 105:20,22 106:1,18,22 107:3,7 107:9,13,15 108:3,14 110:1,9,12,14,17,18 110:19 116:2 118:11 119:14 120:8,8 121:4 <b>hours</b> 117:19 140:17 <b>Hubbard</b> 3:8,9,11 10:12 96:5 97:11 100:13 <b>Hubbard's</b> 97:10 <b>hundred</b> 146:6 <b>hundreds</b> 127:6,7,22 127:23 128:1 145:11 <b>hypothetical</b> 65:8,25 69:23	88:5 142:24 143:17 160:20,24 <b>implementing</b> 142:20 <b>important</b> 26:2 27:12 27:15 <b>importantly</b> 119:21 <b>imposed</b> 128:17,18 <b>impossible</b> 106:15 115:13 <b>impressed</b> 165:10 <b>improves</b> 15:25 80:18 <b>inability</b> 81:24 160:17 <b>inaccurately</b> 38:4 40:9 40:17 <b>inadequate</b> 43:21 <b>inappropriately</b> 8:19 <b>include</b> 42:7,25 92:17 110:2 133:2 159:8 <b>included</b> 20:17 21:21 82:24 94:3 144:1 <b>includes</b> 128:16 134:24 149:19 <b>including</b> 15:18 75:3 144:7 <b>inclusion</b> 36:24 51:14 <b>inconsistent</b> 77:22 <b>increase</b> 30:25 32:18 76:24 77:1,4,6 80:21 88:10,13 <b>increased</b> 80:18,24 <b>increases</b> 16:1 <b>increasingly</b> 146:19 <b>incumbent</b> 77:5 87:17 <b>independently</b> 86:17 <b>INDEX</b> 2:1,16 3:1 <b>indicated</b> 96:3 <b>indicates</b> 137:11 <b>indicating</b> 66:3,4 <b>individual</b> 103:20 106:10 154:15,15 155:1 <b>indulgence</b> 96:5 <b>industry</b> 29:7 37:1 <b>influence</b> 79:18 <b>informal</b> 82:16 89:3,8 <b>information</b> 20:18 21:22 83:9,12 126:9 131:15 136:13 138:11,13,19,20,21 153:20 159:6 <b>initially</b> 144:13 152:7,8 158:24 <b>injected</b> 91:15 <b>input</b> 32:21 95:14	<b>inputs</b> 15:12 <b>install</b> 91:3 <b>installation</b> 85:17 125:18 145:16,22,24 <b>installed</b> 89:15,16,19 89:23,25 90:2 <b>installing</b> 71:8 <b>instance</b> 8:22 83:18 127:20 149:5 <b>instances</b> 16:3 148:2 <b>insures</b> 113:6 <b>intended</b> 41:17,20 113:13 124:19 126:6 159:17 <b>intensive</b> 119:18 <b>intent</b> 40:8,23 <b>intention</b> 10:11 <b>interconnect</b> 125:8 132:8 135:20 <b>interconnection</b> 15:15 15:16 19:16 20:17 26:4 34:25 77:7,15 77:20 92:14 <b>interest</b> 36:13 39:20 74:12 95:18 <b>interesting</b> 152:2 <b>interexchange</b> 133:17 <b>interface</b> 75:23 129:9 <b>interfaces</b> 74:6,12 <b>interfered</b> 29:11 <b>interference</b> 35:4 <b>interim</b> 124:7 143:19 160:11 <b>interject</b> 34:5 <b>internal</b> 143:13 <b>internally</b> 143:17,21 144:3,10 <b>interoffice</b> 141:7 146:3 <b>interpreted</b> 44:14 113:11 <b>interrupt</b> 114:17 <b>interruption</b> 138:9 <b>interval</b> 27:11,18,22 29:5,6 30:2,25 31:1 32:5,15,18,22 33:11 34:10,13 35:19,20,24 36:9,11,17 55:2,10 55:17,24 56:6,6,8,11 56:13 57:25 76:23 77:1,6,14,21,23 80:2 81:3 87:13 88:2,11 88:13 <b>intervals</b> 15:16 26:20 26:25 27:2,8 28:6,9	28:11,19,22 29:2,10 29:12,17,18 30:14,15 30:17 31:10 34:6 35:9,12,15 36:13,24 55:14,14,20,21 57:21 76:24 77:9,12,17 80:3,7,22,24 87:11 <b>intervenes</b> 32:22 <b>intimately</b> 143:15 <b>introduce</b> 15:7 98:17 121:24 <b>introduced</b> 17:9 <b>inventory</b> 147:13,18,22 149:4,7,8 150:17,23 151:1,3,20 152:19,25 153:14 154:3,9,20 155:4 156:1 163:11 <b>investigate</b> 37:20 <b>investment</b> 101:15 <b>involved</b> 11:18 92:20 92:21 114:10 125:7 125:23 132:10,14 134:20 136:1 140:18 141:5,11,16 156:8 158:1 161:8 163:3,5 <b>involvement</b> 125:10 <b>involves</b> 74:20,22 <b>involving</b> 28:10 44:7 92:13 <b>in-house</b> 5:12 <b>Iowa</b> 58:16 <b>isolated</b> 25:1 26:7 <b>issue</b> 6:24 7:14,20,21 9:7,12 17:22 18:8 19:2,5,19,21 20:2,10 20:13,25 21:17,25 22:2,17 23:5,13,18 24:15 26:21,21,24 27:5 28:5,6,8,14 29:21 34:12 35:6 37:9,13,19,23 42:20 53:23 61:20 74:5 76:23 78:8,25 80:2 81:10 86:4,8,12 92:25 94:10,13,16 95:24 96:10,11 97:21 103:9,10,13 116:19 116:23,23,24 119:11 124:6,6 147:15,19 156:10,23,25 157:11 161:19 162:9,20 163:21 <b>issues</b> 3:24 6:5,7 7:14 7:22 8:15,16,17,18	11:3,5,17,20,22,24 15:14 16:5 17:21 22:11 37:16 42:13 45:1 54:5,6,8,12 59:5 59:8,15 60:1 62:7 78:6,24,24 86:10 95:3,5 96:9,10,12,13 98:5 101:5 123:10 147:13 <b>item</b> 78:14 <b>items</b> 79:6,15 101:8,11
<b>I</b>				
ICA 3:20,23 26:25 32:4 36:25 95:3 98:1 <b>idea</b> 81:22 101:17 108:6,7 141:9,10 144:24 161:6 <b>ideal</b> 164:24 <b>identical</b> 33:5 <b>identified</b> 2:17 3:2 8:17 36:23 81:16 128:5 135:17 138:23 151:17 <b>identifies</b> 127:15 <b>identify</b> 96:21 100:6 125:11,16 127:3 161:10 163:10 <b>IDS</b> 4:10 <b>ignore</b> 77:5 <b>ILEC</b> 56:19 57:16 <b>ILECs</b> 57:7,10 58:13 <b>illustrated</b> 82:22 <b>imagine</b> 64:12 65:1 66:1 163:4 <b>immediately</b> 159:23 160:13 <b>impacts</b> 48:2 <b>impair</b> 37:1 <b>impediment</b> 35:22 <b>impeding</b> 34:12 <b>implement</b> 15:19 32:4 46:7 49:22 61:8 86:23 87:4,13 88:6 88:16 143:14 144:4 144:20 158:20 159:21,22 <b>implementations</b> 75:3 <b>implemented</b> 31:2 88:3	88:5 142:24 143:17 160:20,24 <b>implementing</b> 142:20 <b>important</b> 26:2 27:12 27:15 <b>importantly</b> 119:21 <b>imposed</b> 128:17,18 <b>impossible</b> 106:15 115:13 <b>impressed</b> 165:10 <b>improves</b> 15:25 80:18 <b>inability</b> 81:24 160:17 <b>inaccurately</b> 38:4 40:9 40:17 <b>inadequate</b> 43:21 <b>inappropriately</b> 8:19 <b>include</b> 42:7,25 92:17 110:2 133:2 159:8 <b>included</b> 20:17 21:21 82:24 94:3 144:1 <b>includes</b> 128:16 134:24 149:19 <b>including</b> 15:18 75:3 144:7 <b>inclusion</b> 36:24 51:14 <b>inconsistent</b> 77:22 <b>increase</b> 30:25 32:18 76:24 77:1,4,6 80:21 88:10,13 <b>increased</b> 80:18,24 <b>increases</b> 16:1 <b>increasingly</b> 146:19 <b>incumbent</b> 77:5 87:17 <b>independently</b> 86:17 <b>INDEX</b> 2:1,16 3:1 <b>indicated</b> 96:3 <b>indicates</b> 137:11 <b>indicating</b> 66:3,4 <b>individual</b> 103:20 106:10 154:15,15 155:1 <b>indulgence</b> 96:5 <b>industry</b> 29:7 37:1 <b>influence</b> 79:18 <b>informal</b> 82:16 89:3,8 <b>information</b> 20:18 21:22 83:9,12 126:9 131:15 136:13 138:11,13,19,20,21 153:20 159:6 <b>initially</b> 144:13 152:7,8 158:24 <b>injected</b> 91:15 <b>input</b> 32:21 95:14	<b>inputs</b> 15:12 <b>install</b> 91:3 <b>installation</b> 85:17 125:18 145:16,22,24 <b>installed</b> 89:15,16,19 89:23,25 90:2 <b>installing</b> 71:8 <b>instance</b> 8:22 83:18 127:20 149:5 <b>instances</b> 16:3 148:2 <b>insures</b> 113:6 <b>intended</b> 41:17,20 113:13 124:19 126:6 159:17 <b>intensive</b> 119:18 <b>intent</b> 40:8,23 <b>intention</b> 10:11 <b>interconnect</b> 125:8 132:8 135:20 <b>interconnection</b> 15:15 15:16 19:16 20:17 26:4 34:25 77:7,15 77:20 92:14 <b>interest</b> 36:13 39:20 74:12 95:18 <b>interesting</b> 152:2 <b>interexchange</b> 133:17 <b>interface</b> 75:23 129:9 <b>interfaces</b> 74:6,12 <b>interfered</b> 29:11 <b>interference</b> 35:4 <b>interim</b> 124:7 143:19 160:11 <b>interject</b> 34:5 <b>internal</b> 143:13 <b>internally</b> 143:17,21 144:3,10 <b>interoffice</b> 141:7 146:3 <b>interpreted</b> 44:14 113:11 <b>interrupt</b> 114:17 <b>interruption</b> 138:9 <b>interval</b> 27:11,18,22 29:5,6 30:2,25 31:1 32:5,15,18,22 33:11 34:10,13 35:19,20,24 36:9,11,17 55:2,10 55:17,24 56:6,6,8,11 56:13 57:25 76:23 77:1,6,14,21,23 80:2 81:3 87:13 88:2,11 88:13 <b>intervals</b> 15:16 26:20 26:25 27:2,8 28:6,9	28:11,19,22 29:2,10 29:12,17,18 30:14,15 30:17 31:10 34:6 35:9,12,15 36:13,24 55:14,14,20,21 57:21 76:24 77:9,12,17 80:3,7,22,24 87:11 <b>intervenes</b> 32:22 <b>intimately</b> 143:15 <b>introduce</b> 15:7 98:17 121:24 <b>introduced</b> 17:9 <b>inventory</b> 147:13,18,22 149:4,7,8 150:17,23 151:1,3,20 152:19,25 153:14 154:3,9,20 155:4 156:1 163:11 <b>investigate</b> 37:20 <b>investment</b> 101:15 <b>involved</b> 11:18 92:20 92:21 114:10 125:7 125:23 132:10,14 134:20 136:1 140:18 141:5,11,16 156:8 158:1 161:8 163:3,5 <b>involvement</b> 125:10 <b>involves</b> 74:20,22 <b>involving</b> 28:10 44:7 92:13 <b>in-house</b> 5:12 <b>Iowa</b> 58:16 <b>isolated</b> 25:1 26:7 <b>issue</b> 6:24 7:14,20,21 9:7,12 17:22 18:8 19:2,5,19,21 20:2,10 20:13,25 21:17,25 22:2,17 23:5,13,18 24:15 26:21,21,24 27:5 28:5,6,8,14 29:21 34:12 35:6 37:9,13,19,23 42:20 53:23 61:20 74:5 76:23 78:8,25 80:2 81:10 86:4,8,12 92:25 94:10,13,16 95:24 96:10,11 97:21 103:9,10,13 116:19 116:23,23,24 119:11 124:6,6 147:15,19 156:10,23,25 157:11 161:19 162:9,20 163:21 <b>issues</b> 3:24 6:5,7 7:14 7:22 8:15,16,17,18	11:3,5,17,20,22,24 15:14 16:5 17:21 22:11 37:16 42:13 45:1 54:5,6,8,12 59:5 59:8,15 60:1 62:7 78:6,24,24 86:10 95:3,5 96:9,10,12,13 98:5 101:5 123:10 147:13 <b>item</b> 78:14 <b>items</b> 79:6,15 101:8,11
<b>J</b>				
J 3:8,9,11 4:19 Jane 4:6 5:6 January 89:14,15,16 Jason 4:14 5:19 161:21 Jeff 10:12 100:13 jeopardies 59:14,14 60:1 61:20 62:4 63:3 63:5,6 66:24 67:4,8 67:15,19,21 68:4,13 69:20 73:14,15 76:4 76:5 81:21 88:20 jeopardy 15:19 60:3,10 60:11,13,14,16,20,23 60:24 61:3,4,5,7,7,19 61:24 62:5,14 63:3,6 63:7,12,12,13,15 64:5,6,7,20,22,22 65:4,18,19 66:4,4,5 66:10,14 67:2,5,9,22 67:23 68:7,17 69:2,4 69:6,17 72:13 76:15 76:19 90:23,25 91:12 jest 11:6 John 6:6 Johnson 5:13 Joint 13:3 97:23 Joint-1 97:25 98:13,14 153:6 Joint-2 98:4,12,13,14 judge 95:13 June 142:12,16 J-1 3:23 J-2 3:24				
<b>K</b>				
Kamlet 4:19 98:21 Karen 5:12 6:8 10:15 164:22 Kentucky 81:17 kind 11:14 17:6 18:25 45:1 60:2,13 67:5,15				

83:2 95:23,24 126:12 139:25 141:2 152:19 152:24 154:13,21 <b>kinds</b> 66:22 67:4 137:24 143:25 154:21 <b>know</b> 6:1,10 7:12,15 8:13,24 9:11,15,19 9:20 10:12 11:2 18:15 21:18 26:13,16 26:18 27:16 31:19,19 33:21,21 34:18 36:5 37:4,8,11 42:16,23 43:2 44:19 45:6 56:9 56:16 63:17 68:19 71:15 76:3 79:18 91:1 92:19 93:3 94:18 95:12,16,23 101:21,25 102:1 106:25 108:12 109:11,13,14 115:9 128:12 129:22 134:6 137:1 139:12 140:1 141:5,16,20 142:18 143:22 144:11,12,17 144:22 150:13,25 151:6 152:13,14 153:16,17,23 154:6 154:12,18,23 155:7 156:5 157:25 158:2,3 161:3,7 162:22 163:5 163:8 166:2,3 <b>knowing</b> 112:5 <b>known</b> 15:17 <b>knows</b> 82:2 111:24 121:3	40:8,12,13,13,22 41:3,6,16 42:5,16,20 47:2,7,8 51:5,13,15 52:11 53:9,13 61:23 62:3,21 63:18,20 65:17,22 71:17,19,23 72:3,4,6,8,15,20,22 72:23 73:3,11 74:16 75:2,12,18,22 78:12 78:20 87:7 88:22 102:19 150:11,14,16 153:7,8,10 <b>large</b> 11:5 <b>larger</b> 102:22 111:17 <b>latch</b> 11:15 <b>late</b> 6:16 <b>lawyer</b> 44:17,18 <b>lawyers</b> 6:3 11:10,11 92:20,22 93:8 153:5 <b>lay</b> 134:20,21 135:24 136:1 <b>lays</b> 136:21 <b>lead</b> 99:17 162:8 <b>learned</b> 154:23 <b>leave</b> 39:23 136:8 <b>leaving</b> 83:22 <b>left</b> 7:7 39:15 <b>LEGAL</b> 4:14,16 <b>lengthen</b> 27:22 28:24 <b>lengthened</b> 27:19 35:11 35:14,20,25 36:11 <b>lengthening</b> 31:10 35:19 36:9 <b>letter</b> 30:2 34:8 35:5 46:10,21 47:15 50:2 <b>letters</b> 30:25 33:13,24 51:2 <b>let's</b> 5:1 9:11 20:4 30:3 59:20,23 63:11 64:2 64:15 65:5,15 69:18 70:7 74:2 76:2 78:5 81:2,10,21 91:23 92:5,5,9 105:7 112:22,25 114:13,22 120:1 143:9 157:4,7 <b>level</b> 69:15 80:25 132:9 <b>lieu</b> 32:8 <b>lights</b> 114:23 <b>likelihood</b> 69:15 80:15 <b>limbo</b> 7:21 <b>limited</b> 18:5,7 40:14 50:8 95:11 <b>line</b> 28:1,1 31:16,24 38:2,10,11 40:16	45:9 52:13 58:4,5,7,8 105:5,8,14 130:4 133:10,24 135:3 139:20 146:15 148:24,25 159:2 <b>lines</b> 24:22 42:3 45:7 46:1 51:9 54:18,22 132:3 133:10,12,16 133:20 135:8 146:9 148:18,21 159:7 <b>List</b> 101:23,23,25 102:5 103:15,15,17,20 104:2,16,20,21,25 105:8 106:6,9,9,14 106:14,16 107:9,11 108:7 110:3,18 111:19,24 112:2,8,10 112:13 113:20,21,22 113:22 115:6,7,14,14 115:16,16,16,17 118:16 119:2 <b>lists</b> 136:17 <b>literally</b> 121:7,9 <b>little</b> 16:24 46:22 65:25 74:2 103:16 119:11 <b>Littleton</b> 99:12 <b>live</b> 96:13 <b>LLP</b> 98:21 <b>load</b> 105:20 106:1,18 106:22 108:17,17 110:1 118:12 119:15 120:8 121:4,4,9 <b>loaded</b> 127:16 <b>loadings</b> 127:16 134:24 <b>locking</b> 28:9 <b>log</b> 139:21 <b>long</b> 27:8 101:22 119:24 157:1 159:2 <b>longer</b> 27:20 36:14,17 53:4 55:20 88:2 96:11 <b>look</b> 6:19 30:3,10 31:20 42:1 48:6 62:16 64:2 69:18 83:8 85:2 89:13,21,22 91:7 95:15 118:11 125:6 127:17 134:6 137:9 137:24 139:18 157:10 <b>looked</b> 47:7 48:13,14 <b>looking</b> 24:22 30:6 31:16,23 36:22 42:3 49:15 52:12 58:4 105:5,7 109:19	112:25 115:18 119:13 132:1 139:16 140:21 146:10 151:25 <b>looks</b> 11:7,13,18 120:6 127:4 152:11 <b>loop</b> 61:10 124:7 125:18 138:10 141:12 144:25 145:7 145:16 158:19,21 159:8,13 <b>loops</b> 124:15,25 133:3 143:1,9 144:12,23 146:22 147:1,3,9 163:21 164:1,9 <b>loss</b> 23:4,7,12 79:7 <b>lost</b> 98:6 <b>lot</b> 9:8 11:18,21,24 54:6 77:3 101:22 106:11 142:8 152:22 153:1 154:16,25 <b>lots</b> 155:19 <b>low</b> 113:17 114:4 <b>lower</b> 104:6 160:12,13 <b>lowers</b> 160:22 <b>lowest</b> 113:23 <b>LSRs</b> 133:22 <b>lunch</b> 91:23 <b>lying</b> 137:3 <b>L.L.P</b> 4:19	138:10 <b>manually</b> 125:23 129:10,21 136:4 <b>manufacturers</b> 104:23 <b>manufacturer's</b> 112:8 <b>March</b> 1:11 4:5 167:14 <b>MARICOPA</b> 167:2 <b>mark</b> 48:15 165:22 <b>marked</b> 10:12 12:19,23 12:24,25 13:3 14:2,5 14:8,10 34:15,22 48:24 96:21 97:11,12 97:13 99:20 <b>match</b> 105:11 138:21 <b>matches</b> 139:12 <b>matrix</b> 3:24 11:24 98:5 <b>matter</b> 1:4 4:2 5:7 9:15 11:1 92:24 94:5 119:22 135:18 140:4 167:11 <b>matters</b> 11:11 31:19 <b>maximum</b> 102:25 111:14 <b>ma'am</b> 29:23 44:17 <b>MCI</b> 11:19 <b>McLeod</b> 120:16 <b>mean</b> 7:10 9:16 17:15 33:5 47:13 53:15 62:25 69:8 90:22 91:6 92:13,20 93:16 93:18 94:6,15 95:20 107:5 108:14 109:16 110:7,8 112:6 113:11 115:8 127:8 129:5 130:24 134:12 135:4 141:24 149:22 151:4 152:22 154:22 165:4 165:8 <b>meaningful</b> 55:15 56:14 <b>means</b> 27:19 61:14 73:12 95:12 114:4 124:10 153:8 <b>meant</b> 56:3 <b>measure</b> 108:15 115:19 119:18 121:10 <b>measured</b> 55:13 103:11 106:10 117:5 120:2 <b>measurement</b> 102:21 103:7,7 115:24,25 116:3,6,19,20 <b>measurements</b> 103:1 116:25 118:24 <b>measures</b> 56:22 102:25
---	--	--	--	---

<p>measuring 103:4 116:17 mechanically 125:20 129:8 mechanisms 33:23 77:3 81:1 mechanized 128:7 129:6,21 130:2 132:2 meet 5:16 72:23 84:7 105:20 mention 103:14 104:11 mentioned 35:8 132:8 Merz 2:4,6,9,10,12,14 4:10 5:10,10 6:24 7:2 7:4,6,15 8:10,13 9:18 10:5 11:5,12,25 12:2 14:23 16:18,19,23 25:14,19 29:20,23 34:19,21 44:1,5 48:15,24 49:6,12 54:22,25 56:5,11,12 59:19,25 60:2 76:1 78:6 79:7 81:11 82:6 85:22 86:3 90:7 93:7 93:22 96:12 97:5,16 97:21 98:3,5,9 100:21 102:10,11,15 117:20 118:3 119:12 120:23,24 121:3,12 122:18 123:21,22 124:3 126:19,25 130:8,20,25 132:1 146:3,8 150:6,9 151:9,11 153:9,13 157:3,8,9,13 158:8 161:5,21 163:2,14,15 163:19 164:15 165:3 165:5,15,24 metallic 114:24 meter 103:3 Mexico 129:22 143:19 Mexico's 143:19 MICHELE 1:23 4:22 167:7,19 micromanage 146:16 middle 5:22 36:22 64:15 138:5 Million 2:11 3:15,17,18 5:21 10:14 121:14,16 122:1,23,25 123:20 126:21,25 130:12 150:9 161:17 163:19 164:20 mind 65:24 165:24</p>	<p>mine 95:24 Mineral 99:12 minimize 93:19 minimum 105:1 Minneapolis 4:11,15 7:7 Minnesota 3:22 4:11 4:15 11:8,16 13:5,6 19:5 25:7,24 26:11 26:11,17 36:19,23 37:5,8,23 41:6 42:6 42:11,19,23 43:21 44:22 45:13 46:7,15 48:11 49:3,23 50:6 50:22 51:24 52:8,14 52:21 53:1,4 78:23 79:1 81:11 86:24,25 87:5 157:14,23 165:17 minute 108:18,18 110:9 151:25 minutes 59:20 139:22 139:25 140:1,11,13 140:23,24 141:3 157:5 missed 54:20 60:5 68:12 missing 134:23 misspoke 164:6 mistake 39:6 44:2 46:11 47:16,17 53:11 mistakes 37:14,21 38:23,24 41:20 42:7 43:15 46:25 47:6 50:3,20 51:22 mixing 75:11 mix-up 7:16 modeled 32:23 modelled 33:3 modes 85:16 modification 21:7 modifications 14:13 16:9 100:14 154:14 modified 21:5 moment 146:12 Monday 6:17 monitoring 74:9 months 108:20,20 MOOTY 4:9 morning 5:6,10 6:11 7:7 10:17 93:1 164:23 Mother's 107:1,8,14 motion 6:25 139:24</p>	<p>move 6:12 81:10,21 94:20 100:18 130:17 moving 74:24 79:22 80:2 multistate 13:2 multitude 77:7 multi-state 3:23 98:1 mutually 115:15 M-E-R-Z 5:11</p> <hr/> <p style="text-align: center;">N</p> <p>N 3:20 31:14 32:4,7,23 33:6 34:14,24 35:20 36:3 nail 144:3,15 name 12:5 99:10,11 122:1,25 139:20 names 5:16 narrow 123:9 150:7 National 111:4 natural 114:13 nature 129:11 nearly 106:15 necessarily 63:21 69:9 94:9 95:11 106:25 145:14 154:12 165:15,19 necessary 16:8 17:7 72:16 131:15 145:3 need 9:23 24:20 31:21 62:17 69:6 91:24 93:15 98:11 101:18 126:21 132:15 137:14 139:1 149:9 153:14 165:20,21 needed 6:14 7:11 163:7 165:25 needing 155:21 needs 56:13 68:15,18 138:6 148:13,13,14 148:15 153:4 154:22 156:16 negotiate 77:21 negotiated 8:16 33:22 negotiating 92:14 131:14 negotiation 15:10 negotiations 131:19 network 18:2,3,6 never 67:8 104:1 107:11 155:9 new 33:8,16 34:1 61:8 61:10 66:14 70:1,5 72:16 74:24 75:3,4</p>	<p>75:22 92:14 95:19 114:23 129:22 132:18,19,21 135:9 138:21 139:7 143:19 143:19 148:12,14 149:6,9,11,20,24 154:1,19 156:15,19 160:22 162:23 163:1 163:7,11 nice 5:15,16 night 6:11 nonrecurring 125:4 127:25 128:3 133:15 134:15,18 135:5,6 136:12,15 140:8 146:7 153:18 nonrefundable 152:4 Norm 5:20 12:17 normal 35:4,23 61:9 103:22 104:4 114:3,4 134:15 normally 8:4 45:3 111:7 112:11 Norman 4:17 North 1:22 Nos 1:4 15:1 97:8,19 98:14 100:24 122:21 notes 82:25,25 83:3,10 157:10 158:22 notice 21:25 60:4 63:14 66:4,13 67:6 70:12 71:5,6,7,9,11 73:8,20 73:22,24 notices 15:19 21:24 22:8,10,11,13,14,16 79:7 notifications 20:5,6 notion 94:2 130:9 notwithstanding 73:7 nuance 145:9 number 11:3,5 20:14 43:3 50:23 54:21 66:23 69:25 78:6,11 82:23 109:4 118:13 118:18 119:7,16,17 120:6,8,9,11,13,18 126:21 129:17 137:3 140:19 144:7 148:19 149:15 150:4 151:6 159:16,24 160:3 161:23 numbered 4:2 numbers 105:11 118:4 118:7 119:20 126:17</p>	<p>142:6</p> <hr/> <p style="text-align: center;">O</p> <p>O 3:20 31:14 32:4,8,23 33:6 34:14,25 object 32:20 35:19,21 35:25 36:9 45:21 77:1,4,22 81:6 130:4 objected 35:15 36:1 88:13 objecting 35:2 61:22 80:3 objection 18:24 20:21 27:23 32:19 48:20 49:8,9 77:3 78:20 82:6 88:10 97:4,5,16 100:21 122:18 objectionable 22:6 objections 14:22,23 76:25 77:6 78:12 87:13 objects 35:22 obligation 18:1 obligations 37:20 obtain 33:16 34:1 obtaining 19:16 obviously 9:23 86:13 92:13 110:10 157:13 occur 113:22 142:5 occurring 126:3 occurs 63:15 65:20 82:15 October 143:2 offer 14:20 48:19 96:7 97:2,14,24 122:16 offered 33:8 97:23 130:12 offerings 146:16 offers 49:6 office 92:1 105:13,21 106:2,19,21 107:2,3 107:7,14 108:3,13 111:21,25 114:25 115:3 118:9,13,16 119:9,15,20 120:9 121:8 152:12 offices 108:13 115:10 office's 108:14 110:13 official 84:21,23 99:16 oh 21:14 29:25 31:21 58:9 63:9 89:17 114:19 162:3 okay 5:15 6:21 7:18 9:3 9:9 10:6 11:25 12:4</p>
--	---	--	---	--

14:1 24:18,22,24 25:18,21 28:14 30:9 31:21,25 34:17,20 36:2 37:15 38:3 41:5 41:15 42:2,4 44:21 45:25 53:3 54:5 55:23 59:23 65:6,7 65:24 66:11 67:13 74:4 76:2,22 77:24 81:19 83:7,11 85:21 85:23 90:8,21 91:19 91:23 92:2,7 94:25 96:8,15,19 97:15,17 98:19 100:2,14,20 102:10 103:9,23 104:3 105:4,15,16 110:7,24 112:24 115:22 116:16 117:21 120:12 126:24 130:25 141:10 145:6 147:14 149:2 151:12 156:22 157:4 159:12,20 161:12 163:12,13 164:15,16,18,25 old 95:3,11 163:6 once 27:22 79:17 138:4 160:20 ones 25:5 36:14 one-off 17:14,17 18:19 19:23 28:15 48:3 61:25 opening 10:16 12:1,2 16:15 operate 13:5 79:16 operates 113:18 operating 103:22 104:4 104:17 113:24 operation 35:4 operations 15:17 opportunity 55:16 56:14 opposed 6:16 92:14 opted 94:2,5 option 102:24 103:11 options 73:13 117:5 145:17,19,22 opts 52:7 oral 37:11 order 7:12,13 9:7 20:4 20:6 21:16 34:9 37:10 38:14 39:9 40:8,22 42:14,22 43:13 44:3 46:18	47:4 48:1,10,11 49:23,23 50:22 52:9 52:18,25 53:1 56:13 57:4 60:4 61:1,8,10 61:12,19 66:2,3 68:16 72:9 74:7 78:22 84:8,18,22 85:4 86:15 88:7 101:16 109:4,7,9,14 109:20,23 110:11,24 110:25,25 111:5,8 113:4 118:10,18 119:5,7 120:2 125:9 125:16 126:7,8,9 128:17 132:11,14 138:2,4,9,15,20 149:6,21,23 152:18 153:1,21 155:15 156:14 ordered 44:12 46:7,15 55:24 56:1,16 60:18 102:3 105:21 107:21 108:9,10,10,22,25 110:22 113:7 117:18 119:6,22,25 120:5 128:15 136:25 139:11 159:16 ordering 42:25 112:1 113:12 orders 15:18 38:24 39:19 40:14 41:4,21 42:6,8,24 44:21 49:18 69:19,20 74:8 74:10,13 102:22 109:2 111:2 129:8,9 129:17,18 130:2 133:2 Oregon 30:8 organization 123:2 140:5 organized 12:17 origin 33:21 original 21:6 33:9 40:8 40:22 61:18 66:15,19 67:11,20 68:23,24 69:11,21,22 84:7 89:24 90:5 originally 135:25 152:3 156:2 OSS 15:11,12,18 143:17,25 144:1,15 ought 32:17 outages 114:10 outlined 65:4	outset 13:10 outside 86:25 overall 46:3 47:10,24 50:12,19 52:2 53:17 107:19 149:17 overcompensated 117:3 overlap 154:19 overview 101:2 overwhelming 166:2	<hr/> <p style="text-align:center"><b>P</b></p> <hr/> <p>page 2:2 24:19,22 27:25,25,25 28:1 31:16,22,23 38:1,10 40:17 41:23 42:1,2 45:7,8,24,25 46:1 49:13,15 50:25 51:9 54:18,20,22 58:2,7,8 60:3 62:16,18,19,21 65:5 105:3,8,11,14 105:15 112:19,21,22 115:18 128:7 129:2 132:1 146:8,11 148:18,23 150:4 151:9,10,11 161:18 161:23 162:4 pages 1:16 127:7,10,22 127:23 128:2,4,10 134:14,16 167:9 paid 148:4,9 paper 12:13 137:7,8,12 166:2 paragraph 25:20,22,25 26:14 36:20,22 38:14 38:16,19 40:3,25 parallel 74:9 paren 30:18 64:8 113:4 parens 64:8 parentheses 39:6,8 part 8:1,5,15 9:8 18:24 25:14 28:10 29:18 32:24 41:22 49:17 50:21 51:18 55:11 56:8 57:17,23 58:24 61:22 72:6 79:25 80:3,5 94:3 107:10 107:11,17,20 110:10 111:19 112:1 115:16 116:18,23,23,24 118:24 119:3,8 123:3 123:19 126:22 127:6 128:6,11 129:24 130:24 131:24 132:6</p>	134:23 136:23 137:5 145:14 149:10,16 partial 38:13 40:2 participate 15:9 75:7 participating 94:9 95:21 participation 75:19 particular 20:2 26:17 27:9 106:21,22 107:7 107:14 125:6,15 140:15 142:25 150:16 161:8 particularly 27:12 parties 5:8 8:13,14 11:21 32:12 45:3,13 45:17 66:19 72:16 73:3,7,13 74:17 75:18 92:19,20 93:15 93:24 102:19 parts 152:13 party 32:2 93:3,4,15 pass 22:25 pattern 104:13 pay 147:16,17 paying 119:22 PCAT 23:23 50:5,10 62:9 65:3 70:14 PCATs 51:21,22 87:9 peak 103:24,25 104:1,2 107:16,19 115:20 116:1 pending 20:5 59:13 people 93:7,21 144:3 percent 69:20 111:5 125:19,21 128:21,24 132:21 140:25 perfectly 10:20 perform 76:19 156:11 performance 55:13 80:18 performed 141:23 performs 135:14 period 78:19 116:20 117:2,4 permanent 160:12 person 135:23 136:6 142:3 153:16 personnel 68:14,20 69:6,8 perspective 101:15 119:23 pertains 79:2 PETITION 1:4 phase 75:13	Phil 6:4 Philip 4:19 98:20 Phoenix 1:10,22 4:4,18 phone 83:25 phoned 83:1 phrase 17:17 18:13 21:18 42:24 47:14 53:16 56:21 68:2 phrased 53:14 phrasing 53:18 pick 63:11 90:16 165:13 PID 95:10 piece 111:25 113:24 119:19 121:10 127:14 137:7 152:13 pieces 75:12 137:8 place 28:9 46:16 70:10 74:13 82:17,21 83:25 84:14 86:24 87:3,5,8 146:9 149:10 placed 61:12 99:20 places 25:11 43:4 66:2 placing 74:7 plan 67:25 planning 10:22 118:5 118:15,15,25 119:4,8 119:14 120:7 plant 4:9 101:7,10,14 101:19 102:6,18 103:12 105:9,13,19 107:12,25 108:2,11 108:17,19 111:20,22 112:23 113:6 115:20 115:24 116:10 117:11,12,16,17 118:5,8,19,20,25 119:4,8,14,24 120:7 123:13 please 12:16 25:20 34:16 99:9 100:6 118:6 121:25 122:23 plus 105:21,22 110:18 point 6:14 8:7,11 11:9 11:17 17:23 18:2 44:14 45:6 53:13 63:22 68:12 78:9 101:13,25 103:6 115:1 118:11 120:15 120:16 pointed 116:11 137:12 152:2 pointing 40:7,20 points 156:7
---	---	--	--	--	--

<p><b>policy</b> 123:1 <b>portion</b> 9:7 107:18 110:5,7,9 <b>portions</b> 100:12 <b>position</b> 8:7 25:12 32:17 33:1 41:9 42:12 81:22 85:14 91:2 94:24 124:13 148:8,11,12 162:1,5 163:25 164:8,12,13 <b>positioned</b> 9:1 <b>possibility</b> 80:17 <b>possible</b> 60:22 66:18 67:20 69:4,15 70:10 84:7,10 93:20,21 110:15 113:24 146:18 <b>Possibly</b> 36:5 <b>post</b> 156:1 <b>posted</b> 147:23 <b>potential</b> 16:1 61:17 62:2 68:3,11 69:9 88:19 <b>potentially</b> 62:4 <b>power</b> 99:17 100:12 101:7,8,9,10,14,16 101:19 102:6,18,18 102:20,21,22,25 103:12,17 104:16,24 105:9,13,19,22 107:12,19,22,24 108:2,9,9,11,17,18 108:23 109:1,2,3,5 109:10,12,16 110:21 111:7,20,22 112:1,17 112:23 113:4,5,5,6,8 113:12,12,14,15,25 114:2,3,4,14 115:3 115:20,24 116:9,10 117:6,11,12,16,17,18 118:5,7,11,18,19,20 118:25 119:4,8,14,24 120:3,7 123:13,15 154:22 163:7 <b>prearbitration</b> 9:13 <b>prefiled</b> 2:18,19,21,22 2:24 3:3,4,6,7,9,10 3:12,13,15,16,18 8:14,20 9:1 122:13 <b>prejudiced</b> 8:19 <b>preliminarily</b> 6:22 <b>premarked</b> 12:6 34:18 <b>premises</b> 136:18 <b>premium</b> 55:2,4</p>	<p><b>preorder</b> 42:25 <b>preparation</b> 123:14 147:16,17 148:3 150:20,22 151:2,16 151:17,24 152:6,25 154:1,3,11 155:3,9 155:19,23 156:13 162:23,24 <b>prepare</b> 46:24 50:2 153:20,21 156:12 <b>prepared</b> 1:24 13:23 14:17 15:3,13 19:3 63:19 99:25 156:11 <b>preparing</b> 46:21 156:14 <b>present</b> 6:5,8 105:20 106:2 <b>presented</b> 7:22 124:17 142:1 <b>presumably</b> 26:9 36:2 88:12 <b>presume</b> 34:11 88:4 129:9 134:6 142:22 <b>presumes</b> 9:8 32:14 <b>presuming</b> 66:11 142:2 <b>presumption</b> 34:10 <b>pretty</b> 165:18 <b>prevent</b> 67:21 71:18 81:1 <b>prevented</b> 131:10 <b>preview</b> 10:9 <b>previous</b> 117:14 <b>previously</b> 164:10 <b>price</b> 152:5,17 155:12 <b>Primarily</b> 101:5 <b>primary</b> 116:8 <b>print</b> 90:17 <b>printed</b> 167:9 <b>prior</b> 82:9 83:16 <b>priority</b> 84:5 <b>private</b> 133:10,10,12 133:16,20,24 135:3 159:1,6 <b>pro</b> 98:22 <b>probabilities</b> 134:21 <b>probability</b> 80:17 125:14 128:19,20 132:21 136:4 140:12 <b>probably</b> 8:7 12:9,17 36:15 77:18 94:18,21 110:20 134:7 145:12 154:15,19 155:1 157:11 158:23 <b>problem</b> 9:5,22 73:10</p>	<p>76:10,10 88:17 91:6 165:9 <b>procedural</b> 94:6,7,22 <b>procedurally</b> 93:22 <b>procedure</b> 61:9 <b>procedures</b> 16:7 19:7 22:9,15,20 24:3,11 43:14 46:3,19 47:3 47:10,24 49:16,17 50:12,19,23 51:20 52:2 53:17 62:9,14 65:4 80:12 <b>proceed</b> 8:23 9:11 34:9 35:6 85:19 95:15 <b>proceeding</b> 8:5 13:6,7 13:24 28:10 98:23 100:9,11 123:9,11,19 137:14 160:16 <b>proceedings</b> 1:2,14 16:13 146:25 167:10 <b>process</b> 13:8 15:21 16:14 17:15 18:11,19 18:22 19:22,23 24:11 26:1 27:4,21 28:22 29:19 30:18 31:8,13 32:21,22 33:15,25 34:5,7,13 35:23 36:25 46:2,6,6,8,14 46:14,21,23 47:5,9 47:14,20,23 49:22 50:1,2,5,6,7,11,11 51:1,10,10 52:1,9 53:4,8,12,16 61:24 62:5 64:1,10,24 70:16,18 71:19 72:5 72:21 76:16,24 77:2 77:19 78:13 79:2,24 80:1,4,16 82:20 84:19,23 86:15 87:5 88:15,21,22,24 89:2 89:6,7 91:8,13,16 93:20 95:6 126:9 133:12 134:19 137:19,21 138:5,8,10 138:16 149:16 153:21 154:24 155:15 <b>processed</b> 125:22 129:8 129:10 133:11,21,21 136:3 <b>processes</b> 15:20,23 16:4 17:3 18:9 19:8 19:12 22:20 23:10 24:7,11 43:14 46:19</p>	<p>47:3 79:14 81:5 84:17,22 86:20 87:3 87:8 135:2 140:6 143:13 146:17 <b>processing</b> 38:23 42:8 42:24 49:18 125:21 126:8 132:10 134:1 136:1 148:16 149:21 149:23 152:18 156:14 <b>product</b> 23:23 27:9,16 74:23 146:16 156:18 156:19,19 <b>production</b> 74:3,5,16 74:25 75:13 <b>products</b> 33:8,16 34:1 38:24 74:7 75:4 123:16 124:20 <b>profile</b> 107:1 <b>program</b> 161:9 <b>project</b> 148:14 149:7 149:19 <b>promise</b> 137:3 <b>prompt</b> 27:13 <b>pronounce</b> 12:5 <b>proposal</b> 18:17,21 20:21 21:6 23:21 29:10 30:1,4,23 53:5 62:6 63:24 64:5,19 70:15 76:11 84:3,12 153:7 155:2,25 <b>proposals</b> 13:4 15:19 15:22 16:2,11 28:18 28:21 156:7 <b>proposed</b> 3:20 16:9 17:3,25 19:8,13 20:16 21:4 22:12 24:2 27:1 29:9 34:25 36:9 39:18 42:5,19 47:1,8 51:14 52:10 54:11 62:22 65:17,22 71:17,19 72:11 74:15 75:2 78:12,21,22 88:22 124:7 126:5 150:1 <b>proposes</b> 29:13,15 54:10 <b>proposing</b> 22:6 52:6 91:15 <b>proprietary</b> 131:1 <b>prospect</b> 95:4 <b>prospectively</b> 95:5 <b>protection</b> 26:2 <b>proven</b> 16:13</p>	<p><b>provide</b> 15:12,22 26:1 27:13 47:15 51:1 54:9,14 55:17 57:8 57:11,12,22,23,24,25 58:13 59:11 60:17 61:15 68:23 69:12 70:16 71:24 72:8,10 88:24 101:2,16 108:8 113:7 122:24 123:3 127:16 131:14 145:10 146:7,17 147:4,9 157:20 162:15 <b>provided</b> 25:25 38:25 55:9 59:7 69:13,16 69:17 70:19 71:24 73:9 76:15,17,18 85:8 <b>provider</b> 54:4 <b>provides</b> 54:1 55:15 56:20,22,24 57:16 58:14,19,22 72:15 74:16 75:22 80:8,22 81:5 113:1,3 <b>providing</b> 54:25 80:13 89:7 133:16 159:2 <b>provision</b> 24:2 27:16 30:14 62:22 71:21 78:17 80:15 84:13 108:11 140:6 151:13 <b>provisioned</b> 84:6 <b>provisioning</b> 26:24 42:25 80:14,19 84:4 89:9 125:6 126:10 138:17 145:11,14 146:18 149:10 <b>provisions</b> 62:6,12 113:5 <b>proxy</b> 106:13,17 <b>PSON</b> 20:19,23 21:7,11 21:22 79:7 <b>PSONs</b> 20:8,15 <b>public</b> 2:20 3:5 12:22 14:4 31:18 39:20 41:7,25 95:18 97:1 123:1,7 <b>pulled</b> 133:18 135:5 <b>purchase</b> 147:25 <b>purpose</b> 33:25 68:4 71:4,6 139:1 149:12 149:17 <b>purposes</b> 22:24 107:24 108:1 <b>pursuant</b> 1:5 30:18</p>
---	--	--	--	---



<p>put 5:16 7:11 8:6,7,18 8:21,21 10:11 21:8 21:16 46:15 61:19 76:14 94:10,13 96:6 100:4 101:20 106:16 109:4,6 119:23 123:5 133:7 134:10 136:23 142:8 152:20 153:3 153:20 putting 53:12 79:12 114:23 p.m 83:16 92:8,8 157:6 157:6 166:7</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <p><b>QPF</b> 123:14 148:20 149:3 150:16 <b>quality</b> 58:13 <b>quantify</b> 69:14 111:1 <b>Quarter</b> 92:6 <b>question</b> 29:21 42:17 45:11 46:12 67:12 82:8 90:21 96:8 105:6,12,14 109:7,15 109:18,21 112:20,22 115:19 116:14 126:4 135:23 138:22 149:2 153:6 154:7,18 159:11 164:7 <b>questioning</b> 130:5 <b>questions</b> 5:24 14:16 25:16 78:11 81:11 84:3 85:20 87:10 89:12 91:18 96:4 100:2,3 117:22 118:4 137:22 158:13,18 162:19,21 163:12 <b>quick</b> 7:13 <b>quickly</b> 6:12 54:2 55:9 69:4 84:9 91:8 108:17,19 <b>quite</b> 11:22 50:23 56:21 80:25 142:8 <b>quotation</b> 40:24 <b>quote</b> 38:7,10,13,13,18 38:21 39:3,5,15,23 40:3 123:14 147:16 147:17 148:3 149:14 149:18,22 150:20,22 151:2,16,16,24 152:5 152:6,17,25 153:21 154:1,3,11 155:3,9 155:19,22 156:2,10 156:12,13,14 162:22</p>	<p>162:23 <b>quoted</b> 148:4 <b>quotes</b> 25:13 <b>Qwest</b> 1:5 3:21 4:13,14 4:16 5:5,18,20 6:24 8:20 10:6 12:23,24 12:25 13:16 14:2,5,8 14:10,20 15:8,22,25 16:3,11,12 18:2,18 19:18,20 21:3,15 22:23 23:15 24:14 26:2,10 27:1 28:10 28:22,24 29:1,11 31:2 32:3 33:8,15,19 33:22 35:2,6,8,11,14 36:8,23 37:4 39:7 43:12,13,16 44:2,11 45:4,4 46:2,6,11,15 46:20,24 47:3,10,23 48:10 49:17,21 50:2 50:4,12 51:1,11 52:1 52:14,25 53:17 54:1 54:8,10,13,15 55:13 55:15 56:12,22 58:19 59:10 60:3,10,10,13 60:13,16 61:17 63:3 63:5,7,7,8,11,13,13 63:14,15 64:6,6,20 64:20,22 65:18,18,19 65:20 66:1,2,4,4,5,16 67:5,14,22 68:6,7,9 68:17,21,23 69:1,1,3 69:5,16,19 70:1,4,6,8 71:7,18,24 72:1,8,25 74:7,14,25 76:23,24 77:1,4,5,11 79:14,19 80:7,12,20 81:2,6 82:2 83:15,18 86:14 86:17,22 87:4,11,13 87:14 88:2,6,9,11,14 88:15 89:6,19 90:20 91:2,12 92:12 94:4 97:11,12,13 98:22,24 99:2,14,18 102:24 104:14 105:9,12,18 105:23 106:3 111:3 111:19,24 112:1,13 112:18,23 113:3,5 115:19 116:7,13,21 118:5,14 119:13,16 120:6,10,14,18 121:3 121:9,9,14,17 122:2 122:3,5,16 123:1,15 129:10 131:16,21</p>	<p>135:19 138:7,18 142:15,19,23,25 143:6 144:22 145:16 145:24 147:3,8,15,23 148:2,7,8,9,14 155:11,15,18 156:1,1 156:11 157:20 159:21,21 166:2 <b>Qwest's</b> 15:19,19 16:4 18:1 23:21,23 25:12 32:17 37:1,20 44:16 47:5 48:6 49:3 50:18 62:6,8,11 64:10,24 69:11 70:16 74:9 84:5,16 85:13 86:19 88:22,24 89:2 95:6 118:9 123:11 124:13 146:16 147:24 148:11 162:1,5 <b>Qwest-1</b> 12:21,22 14:24 15:1 <b>Qwest-10</b> 97:19 <b>Qwest-11</b> 97:19 <b>Qwest-12</b> 100:24 <b>Qwest-13</b> 100:24 <b>Qwest-14</b> 122:21 <b>Qwest-15</b> 122:21 <b>Qwest-16</b> 122:21 <b>Qwest-2</b> 15:1 <b>Qwest-3</b> 15:1 <b>Qwest-4</b> 15:2 <b>Qwest-5</b> 96:23 97:6,8 <b>Qwest-6</b> 96:24 97:8 <b>Qwest-7</b> 96:25 97:8 <b>Qwest-8</b> 97:1,9 <b>Qwest-9</b> 97:17,19 <b>Q-1</b> 2:18 <b>Q-10</b> 3:9 <b>Q-11</b> 3:10 <b>Q-12</b> 3:12 <b>Q-13</b> 3:13 <b>Q-14</b> 3:15 <b>Q-15</b> 3:16 <b>Q-16</b> 3:18 <b>Q-2</b> 2:19 <b>Q-3</b> 2:21 <b>Q-4</b> 2:22 <b>Q-5</b> 2:24 96:22 <b>Q-6</b> 3:3 <b>Q-7</b> 3:4 <b>Q-8</b> 3:6 <b>Q-9</b> 3:7</p> <hr/> <p style="text-align: center;"><b>R</b></p>	<p><b>raised</b> 78:20 79:7 101:6 <b>raises</b> 9:12 160:21 <b>ramrod</b> 81:6 <b>ramrodded</b> 81:3 <b>random</b> 115:25 116:25 118:24 <b>randomly</b> 116:25 <b>range</b> 140:18 <b>RAR-6</b> 83:5,6 85:3 89:13 90:14 <b>rate</b> 7:22 54:10 102:2 123:13 124:14,14,24 125:2 126:5,16 127:18 129:25 130:5 131:15,22 134:21,24 136:24 137:19,20 142:11,15,20,21 143:8,8,9,11 144:4,5 144:20 145:1,9,19,21 145:24 150:18 151:6 152:3 155:18 158:21 158:24 159:25 160:1 160:5,6,11,12,13,15 160:19,20,22,22,24 161:1,1,2,11 162:2,8 162:9 163:25 164:10 <b>rates</b> 8:2 54:9,14 59:7 59:11 94:10 123:11 123:14,18 124:7,18 131:4,4,9,17,19 137:13,18 142:23 143:14,17,18 144:8 145:11,12 146:7 147:9 157:17,21 159:16,22 <b>reacting</b> 11:2 <b>read</b> 39:14 47:23 50:25 82:8,10 136:12 <b>reading</b> 110:9 150:19 <b>ready</b> 16:16 64:8 66:7 68:22 72:14 76:20 81:25 82:5 84:17,21 91:11 157:9 <b>real</b> 85:2 90:10 <b>reality</b> 111:8 <b>really</b> 18:4 19:3 29:13 45:23 73:14 88:14 89:10 107:10 109:1 113:14 116:24 130:8 154:18 161:5 <b>reason</b> 36:24 43:20 54:13 94:12 142:24 147:8 153:9 <b>reasonable</b> 19:21 70:25</p>	<p>80:23 106:13 151:23 <b>reasons</b> 55:11 119:17 159:25 160:3 <b>rebuttal</b> 2:19,21 3:3,4 3:9,12,16 12:22,23 12:24 14:4,7 31:16 31:23 41:23,24 45:7 45:8 54:18,22 83:5 83:11 96:24,25 97:12 100:8,15 105:2,8 112:19 115:18 122:9 123:18 136:14 142:13 146:10 161:18,21,22 <b>recall</b> 17:23,25 18:14 18:20,22 19:2 20:1 20:13,19 22:12,15 23:5 37:6,17 41:8 43:4 59:9 86:7 <b>receive</b> 7:6 61:2 69:10 129:20,21 <b>received</b> 68:17 73:8 78:22 <b>receives</b> 68:6 69:5 71:15 132:11 <b>receiving</b> 126:7 129:16 <b>recertification</b> 74:17 74:20,22 75:3,7,10 75:11,12,15,19,23 <b>recess</b> 59:21 92:8 157:6 <b>recessed</b> 166:7 <b>recognize</b> 5:25 49:2 127:2,8,9 <b>recollection</b> 86:4,6 <b>recommendation</b> 95:10 157:24 158:4 <b>recommendations</b> 93:5 93:9,10 94:1,3,17 95:9,16,17 <b>recommended</b> 40:13 <b>record</b> 5:2 8:6,8 10:11 39:20 59:24 82:10,19 92:9 93:10 94:23 96:7,21 99:10 131:12 131:24 136:24 137:4 157:7 165:16 <b>recordkeeping</b> 73:19 <b>records</b> 132:15 138:19 <b>recourse</b> 87:20,22 <b>recover</b> 148:10 <b>recovering</b> 117:15 <b>Recross-Examination</b> 2:6,10,14 86:1 121:1 163:17</p>
---	--	---	--	---



<p><b>rectifiers</b> 101:11 108:19 <b>redirect</b> 2:5,6,9,13 77:25 78:3 90:12 118:1 161:15 <b>redone</b> 155:22 <b>reduce</b> 128:23 <b>reduces</b> 15:25 <b>reduction</b> 128:21 140:25 <b>redundant</b> 111:6 <b>refer</b> 17:13 29:23 41:12 41:12 43:3,8 49:12 62:7 104:1 105:2 132:4 <b>reference</b> 23:23 133:20 <b>referred</b> 20:8 61:5 103:23,25 113:4 <b>referring</b> 28:5 46:14 47:6,8 51:10,13 56:10 92:23,24 109:1 126:13 <b>reflect</b> 44:22 61:23 <b>reflected</b> 26:25 <b>reflecting</b> 38:5 40:10 <b>reflects</b> 40:4,25 41:2 128:20 <b>refuse</b> 131:17 <b>refused</b> 131:8 <b>regard</b> 126:2 <b>regarding</b> 13:8 18:1 19:8 23:7 37:20 75:18 79:19 81:12 87:10 163:21 <b>regardless</b> 126:11 155:14 <b>region</b> 79:16 140:9 <b>regular</b> 58:24 <b>regularly</b> 33:15 <b>Reichert</b> 4:19 98:21 <b>reinitializing</b> 138:11 <b>reinitializing</b> 126:8 <b>reject</b> 79:7 <b>rejected</b> 43:21 <b>rejection</b> 21:24 22:8,10 22:13,16 <b>related</b> 13:24 17:22 54:6 73:15 89:11 136:19 141:3 156:25 <b>relates</b> 51:16 150:16 151:19 <b>relating</b> 22:13 23:10 28:19 38:24 41:21 43:14 44:2 50:19</p>	<p>54:5 127:23 144:15 144:15 <b>relationship</b> 162:22 <b>relative</b> 28:9 <b>release</b> 74:24 <b>releases</b> 75:23 <b>releaving</b> 130:6 <b>relies</b> 71:12 76:12 <b>rely</b> 25:10 71:10 73:16 89:2,7 141:13 <b>remain</b> 11:22 <b>remember</b> 56:9 82:23 126:17 129:14 138:3 158:21 159:10,11 <b>remembered</b> 4:1 66:12 <b>remind</b> 43:24 <b>RENÉE</b> 2:3 13:15 <b>Renée</b> 2:18,20,21,23 5:22 10:9 15:8 <b>repair</b> 43:1 51:21 <b>report</b> 25:8,10,12,17 25:20 26:15 36:19,20 40:3,18,20 79:4 86:18 <b>reporter</b> 1:24 4:22 13:13,17 82:10 98:12 99:3 121:18 165:23 167:7,19 <b>REPORTER'S</b> 1:14 <b>Reporting</b> 1:20,21 <b>reports</b> 23:5,8,10,12,18 23:22 24:4,15 79:8,8 <b>represent</b> 128:4 <b>represented</b> 133:5 <b>representing</b> 5:11,20 98:21 <b>represents</b> 155:23 <b>request</b> 6:13 53:8,11 61:8 132:12,13,24 <b>requested</b> 36:17 82:11 113:6 138:15 <b>requesting</b> 138:5 <b>requests</b> 18:18 147:18 <b>require</b> 18:10,18 21:22 32:3,11 42:8 58:13 75:23 136:10 <b>required</b> 48:4,5 54:8 54:14 57:8,11,22 59:7,10 74:16 75:1 147:4,8 152:4 <b>requirement</b> 46:10 47:15 73:11 86:24 <b>requirements</b> 80:16 104:23 112:2</p>	<p><b>requires</b> 46:2 47:10,23 50:12 52:1 53:16 70:13,14,15 76:17 89:6 <b>requiring</b> 30:19 32:1 51:6 71:21 146:17 <b>relevant</b> 125:12 <b>residential</b> 104:14 <b>resolution</b> 9:5 19:11 <b>resolve</b> 21:16 24:14 69:3 95:3 <b>resolved</b> 11:21 28:11 44:25 <b>resolving</b> 45:22 <b>resource</b> 32:2,12 116:11 <b>respect</b> 8:2 18:25 19:19 20:15 23:21 29:10 42:12 61:20 63:1 84:5 94:1 123:11,15 124:19 137:17 157:17 <b>respond</b> 37:1 <b>responding</b> 40:5 53:10 <b>response</b> 47:4 51:23 53:20 <b>responsibility</b> 123:3,6 135:20 <b>responsible</b> 92:23 <b>restarts</b> 113:25 114:1 <b>result</b> 40:6 46:16,18 61:13 73:14 86:15 116:7 128:17 132:16 <b>resulting</b> 13:6 162:8 <b>results</b> 13:5 <b>retail</b> 16:11 55:20 56:3 56:6 57:25 133:15 <b>returned</b> 147:23 156:1 <b>reusable</b> 149:8 <b>review</b> 20:3 <b>revisions</b> 100:14 <b>right</b> 5:22 6:21 8:23 9:1 10:4,16 11:25 15:6 18:3 19:6,9 20:20,23 21:1 22:3,8 23:10,19 23:24 25:2 26:8,12 26:22 27:9,20 28:16 28:24 29:2,3,12 30:15,16,21,21,23 32:25 33:6,13,14,17 33:20 35:3,16 36:4 36:11 37:21,24 38:5 38:8,11,14,19,25 39:15,21,24 40:10</p>	<p>41:1,17,21 42:9 43:9 43:16,18,19 44:7 47:12,18 49:10,25 50:17 52:15,17 53:24 53:25 54:3,6,11,16 56:7,20 57:2 58:4,17 59:15 60:5,11,25 61:5,12,16 62:8,13 62:23 63:25 64:2,3,8 67:2,12 69:18 71:20 74:8,21 75:5,10 76:3 77:24 81:20 86:20 87:1 90:17 91:22 96:1,7 97:4,25 103:1 103:19 104:18,21,25 106:4 108:3 110:25 111:21 112:21 114:20 121:4,13 123:21 124:8 126:14 126:23 127:13 128:19,25 129:3 130:24 140:21 141:3 142:24 143:3,14 144:21 146:9,25 148:5,10 149:14,18 151:9,20 153:9,11,12 156:4 161:13 163:22 164:19 165:1,13,14 166:5 <b>Road</b> 4:17 <b>Robert</b> 3:8,9,11 <b>Rodda</b> 2:5,13 4:6 5:1,6 5:15,25 6:17,20 7:1,8 7:18 8:12,23 9:4,10 9:25 10:4,6,22,25 11:9,23 12:4,9,16,21 13:11 14:22,24 16:18 25:18 34:17,20 43:24 44:4 48:21 49:8,10 54:20 56:2,7 59:17 59:20,23 76:2,5,9 77:24 82:8,12 85:21 85:23 90:8,16 91:19 91:21 92:2,5,7,9,25 93:3,11,14 94:15,25 95:14 96:8,15,19 97:4,6,15,17,25 98:4 98:6,11,19 100:20,22 102:10 117:21 120:22 121:13 122:19 123:21 126:24 130:7,18,23 131:6,25 146:2,5 150:4,7 151:8 153:5</p>	<p>153:12 157:1,4,7 158:9,12,17 161:12 161:23 163:13 164:16,18,25 165:3 165:10,21 166:1 <b>root</b> 37:14 42:8 43:14 86:23 <b>Roselli</b> 2:8,9 4:19 6:4 92:21 93:2 98:17,20 98:20 99:9 100:18 101:1 117:23 118:3 120:21 122:16 <b>rounds</b> 131:24 <b>rule</b> 25:1 131:12 <b>rules</b> 111:3,4 <b>ruling</b> 6:25 7:3,11 <b>run</b> 114:16,24 116:11 <b>runs</b> 114:15</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>S</b> 11:20 <b>satisfied</b> 44:24 <b>saved</b> 158:9 <b>saw</b> 40:21 <b>saying</b> 44:10 51:17 56:25 72:25 73:3,22 75:6 115:23 117:9 127:23,25 128:22 131:13 145:6 160:10 <b>says</b> 30:13 39:5 42:10 63:2,11 72:3,18,23 82:25 105:18 115:19 128:7 130:12 132:20 136:15 139:20 150:18 151:16 164:14 <b>schedule</b> 9:16,21 67:25 <b>scope</b> 38:23 39:11 40:14 42:6 <b>second</b> 5:22 10:10 16:6 38:18 65:11 66:2 83:21 101:13 107:23 114:17 129:2 <b>secret</b> 8:15 <b>section</b> 6:7 15:15,16 29:24 30:10 64:2,15 64:16 65:15,17 75:9 150:3 <b>see</b> 7:16 8:5 9:11 11:14 26:4 28:12 30:4,6,20 30:21 32:5 37:2,3 46:4 47:11 49:19 55:2 58:6,9 64:22 89:17 91:1 92:5</p>
---	--	---	---	---

99:21 105:7,18,24 112:22,25 113:9 118:19 127:17,19 132:22 135:9 137:5 137:15 143:10 146:20 166:5 seek 23:2 160:15 seeking 16:3 seeks 16:6 seen 37:10 143:4 161:7 send 63:4,6,12 66:6 70:1 90:20,22 sending 129:18 sends 66:4 senior 99:16 sense 40:4 44:21 52:4 94:22 139:17 165:5 sent 7:9 63:8,14 65:19 66:3,21 70:4,12 91:13 sentence 31:24 38:19 52:1,4 53:3,7 105:9 105:18 sentences 52:12 separate 43:17 75:9 101:8,9 126:21 130:1 145:3,8,19 151:5 separately 64:16 sequence 65:10 series 65:8,25 66:1 69:23 serve 15:10 73:20,22 116:9 serves 104:12,14 106:13,17 service 1:20 15:15 20:4 20:6 27:9,13,20 28:11 32:5 33:11 48:2 50:5,10 51:21 54:2,15 55:1,2,8,9,12 55:15,17 56:18,20,22 56:24 57:2,8,11,12 57:15,16,24 60:17 61:15,18 63:8,14,16 65:19,21 66:2,18 67:9,10 70:10 72:1 77:13,23 80:22 81:13 81:15,18,23,24 82:3 84:5,9,13 85:1,7,12 85:17 91:3,8 125:8 132:3,7,8,20,24 135:7,13,18,20,21 136:16 137:23 138:1 138:23 140:15	services 38:25 57:22,23 58:13 74:7 80:13,19 122:2 128:5 133:10 140:6 159:2 set 17:3,5,11 18:9,14 20:22 21:13 22:7,19 23:9,11 24:6 28:15 49:17 51:19 55:1 62:21 65:8 71:2 72:16 78:13 79:3,11 79:17 86:14 94:6,21 102:2 111:1,2,2 124:14,18 135:1 sets 19:11 settle 19:21 78:24 95:5 settled 20:2,25 21:3,19 21:20 22:17 23:13,15 24:10 43:6 86:5,10 86:12,16 settlement 22:19,24 43:4,8 44:7,9,10,12 44:19,22,23 45:2,12 45:17 52:13 53:2 92:16 93:24 94:1,3 settling 45:5 set-in-stone 61:21 seven 117:19 share 111:7 shared 116:11 sheet 98:7 shelf 106:10,11,16 shelves 103:20 106:11 121:8 Shepherd 4:19 98:21 Shifting 59:14 shipped 165:16 shoots 66:15 short 115:4 shorten 28:22 29:11,17 29:18 shortened 29:5,6 30:2 30:17 35:9 shorter 36:13 55:1 56:13 57:25 shot 164:19 shows 112:10 side 133:15,16 135:3 sign 35:19 signed 35:5 36:2 significantly 104:20 similar 103:11 128:10 130:11,17 similarly 141:10 153:18	simply 72:23 119:16 133:18,25 134:10 135:4 156:7 161:10 simultaneously 111:12 115:13 single 121:10 134:18 141:25 143:24 145:9 145:10 155:16 156:17 sit 122:14 site 147:18,22,22 148:3 148:4 149:10,23 152:11 153:14 154:1 154:3,9,9 155:4,17 156:1,2 162:23,24 163:1,1,6 sits 7:21 situation 10:13 44:25 76:15 81:4 situations 55:19 79:24 84:6 87:3 sixth 10:14 65:11 six-month 117:2,4 size 107:24 108:1 109:2 109:10,12,15,16,19 111:5,14,18 113:12 113:14,15 128:3 sized 113:21 117:13 sizing 101:18 111:3,20 skill 167:11 skip 64:15 skipping 53:7 slighted 166:1 slightly 117:3 slow 84:3,19 slowed 85:4 small 110:5,7 smallest 77:10 90:17 snapshot 116:3,18 117:6 snapshots 103:4 sole 73:24 somebody 139:6 140:4 156:17 someplace 135:5 somewhat 106:8 soon 142:16,19 sorry 6:20 7:6,19 13:11 43:24 54:20 71:18 87:14 89:17 107:25 112:6 130:13 145:13 146:2,10 147:16 151:4,10,14 sort 7:21 9:4 10:9 77:9	79:9 102:7 129:8 130:11 137:9 143:13 sounded 151:5 sounds 33:14 53:25 South 4:11,15 space 148:17 149:13,18 149:20,25 152:5,16 153:15 154:16 spare 113:7 118:20 speak 13:17 95:1 99:3 111:7 114:16 121:18 speaking 29:25 46:20 117:14,15 special 18:25 specific 32:3 48:1 71:2 77:21 103:20 123:10 153:10 162:5 specifically 39:19 75:10 100:6,7 117:15 151:19 159:11 specifics 163:8 speculate 71:3 speed 84:12 spinning 103:4 split 129:20 spoke 97:22 spot 79:17 square 9:10 ss 167:1 staff 59:6,10 92:17,17 93:3,15,23,25 94:8 95:16 99:16 Staff's 95:20 stand 39:3 40:2 98:25 standard 32:20 55:2,10 55:13,14,17,19,21 standardization 80:11 standardize 77:19 standing 68:14,20 69:6 69:8 Starkey 26:8 38:4 40:9 40:12,20 101:6,22 102:4 103:25 116:10 165:6 Starkey's 25:3,5,15 40:5 start 16:23 59:25 63:9 78:5,7 92:10 114:1 164:23 started 5:1 6:23 83:15 97:22 129:16 159:7 starting 96:22 starts 53:3 105:6 start-up 114:5	state 52:19 55:23 79:15 79:15 82:24 86:20,20 87:6 99:9 112:2 126:18 128:15,16 129:12,23 130:5 137:6 140:24 153:10 167:1,8 statement 47:22 48:7 states 11:2 13:4 58:11 81:14,20 86:25 110:25 140:8 159:16 step 20:16 36:6 70:1 94:7 140:11 steps 66:12 69:25 125:23 126:1,2 127:3 133:22,23,25 135:1 149:15,17 153:19,20 Stewart 6:9 10:15 164:22 165:7,14 Stewart's 6:15 stipulation 76:14 stone 17:3,5,11 18:9,14 19:12 20:22 21:13 22:7,19 23:9 24:7 28:15 51:19 78:13 79:3,11 86:15 stop 165:4 stopped 115:4 stopping 88:7 story 36:3 straight 147:21 streamlining 33:25 Street 1:22 4:3,11,15 4:20 strong 74:12 struggling 51:25 studied 132:5 studies 8:4 15:12 123:5 123:7 127:12 131:1,3 131:7,9,17,18,22 137:15 study 124:17,18 125:3 125:5,20 126:13 127:4,5,14,25 128:3 128:11 129:15 130:11,11,16,19,20 132:6 133:6,9 134:3 134:4,6,7,15,18 135:5 136:6,13,15 139:10,13,24 140:8 142:1,7 143:7 153:19 162:5,8,15 subject 11:1,11 135:18 140:4
--	--	--	--	---

<p><b>subjects</b> 15:10 157:8 <b>submit</b> 132:13 <b>submitted</b> 125:25 128:12 138:4 <b>subparts</b> 26:21 37:16 53:23 103:10 156:23 <b>subsequent</b> 72:13 76:19 <b>substantive</b> 24:1 62:12 <b>sufficient</b> 60:17 88:10 105:19 113:7 <b>suggested</b> 137:17 <b>Suite</b> 1:21 4:15,20 <b>summaries</b> 10:23 <b>summary</b> 15:4 16:25 101:3 103:14 122:24 136:15 <b>sums</b> 102:7 <b>superior</b> 54:15 55:5,8 55:12,18 56:19 57:2 57:8,11,15,19 58:1 58:13 81:13,15,18 <b>supp</b> 84:18 90:1 <b>supplement</b> 8:20 61:13 84:22 131:12,20 <b>supplemental</b> 61:12 85:4,8 90:3,4 <b>support</b> 15:17 99:17 <b>supports</b> 25:12 162:5 <b>supposed</b> 60:8 70:1,6,8 71:9 166:4 <b>sure</b> 6:12 18:21 36:5 42:18 56:21 57:1 59:19 69:24 90:21 93:16 101:5,16,19 107:21 112:22 116:14 117:17 134:6 138:12 146:13 152:25 165:25 166:3 <b>surprise</b> 18:16 <b>surprised</b> 165:12 <b>surrebuttal</b> 2:22 3:6,10 3:13,18 12:24 14:10 24:17 27:24 38:1 40:17 44:5 45:24,25 51:9 58:2,8 65:5 83:4 97:1,13 100:9,15 122:11 127:1 133:6 146:8,11 148:18,23 161:21 <b>swear</b> 13:11 <b>sworn</b> 13:17 99:3 121:18 <b>synonymous</b> 55:4</p>	<p><b>system</b> 66:13 70:12 71:6 138:2 <b>systems</b> 15:17 16:14 21:24 74:21 138:12 160:17,20 161:10</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>table</b> 96:20 <b>tag</b> 18:1 78:8 <b>tagging</b> 17:22 18:5,19 19:1,8 79:2 86:3 <b>take</b> 5:8 16:6 20:16 27:16 33:7 59:20 81:22 83:8 84:14 91:23 103:6 110:9 112:7 113:13 115:2 116:25 118:18 135:13 136:3 140:13 140:14,23 141:21,24 142:4 149:6,9 150:14 157:4 <b>taken</b> 59:21 92:8 157:6 163:6 <b>takes</b> 27:8 73:13 76:11 82:17,21 108:20 118:11 140:16,20 153:20 <b>talk</b> 16:25 17:21 20:4 24:25 26:20,22 31:10 37:13 39:2 44:6 46:13 53:21 57:4 64:16 65:15 74:2 103:15 116:17 119:11 123:16 124:5 125:11 147:12 156:20 <b>talked</b> 31:12 46:8 51:5 57:1 88:20 102:17 142:7 144:16 164:22 <b>talking</b> 16:23 24:25 25:4 30:15 34:7 46:10,23 47:2,20 48:8 50:25 51:4,8 52:8,9,10,14 53:4,5 57:20 69:24 73:17 86:3 106:1,3,7,18 108:25 117:11 130:19 132:9 138:2 148:21 158:18 159:5 <b>talks</b> 83:15 136:18,18 136:20 <b>Tangentially</b> 92:21 <b>tariffed</b> 54:10 <b>task</b> 125:15 126:7</p>	<p>140:19 153:22 <b>tasks</b> 125:16 126:11 130:15 135:13,17,25 136:1,3,3,5 137:23 138:22,24 139:3 141:15 153:25 154:2 154:5 156:11 <b>team</b> 15:9 <b>tech</b> 99:16 <b>Technically</b> 99:17 <b>technician</b> 71:8 76:12 83:10 <b>technicians</b> 66:16,17 68:21 69:1,3 70:9 71:13 73:17,25 82:25 89:3,8,10 <b>technician's</b> 83:3 <b>Telecom</b> 1:4 4:8 5:4 159:3 <b>telecommunications</b> 1:6 58:12 113:17 <b>tell</b> 28:1 45:16 120:14 137:2 140:1 148:21 151:22 <b>telling</b> 67:23 144:6 <b>TELRIC</b> 54:14 <b>template</b> 133:14,19 134:3,10,12,17 135:4 159:5 <b>temporary</b> 115:4 <b>tens</b> 121:7 <b>Teresa</b> 2:11 3:15,17,18 121:14,16 122:1,25 <b>term</b> 44:13 45:4 <b>terminations</b> 136:19 <b>terminology</b> 60:3 103:15 147:21 <b>terms</b> 9:19 26:3 27:13 45:12 53:2 80:1 111:18 117:15 133:4 139:12 141:22 145:10 153:4 154:20 <b>Terry</b> 5:21 10:14 <b>testified</b> 13:18 18:4 59:2 82:14 99:4 121:19 145:2 155:9 157:13 <b>testifying</b> 123:6 156:6 160:4,12,14 <b>testimony</b> 2:18,19,21 2:22,24 3:3,4,6,7,9 3:10,12,13,15,16,18 6:6,8,15 7:14,22 8:3 8:4,14,18,21 9:17</p>	<p>10:11 12:3,7,25 13:24 14:5,8,14,18 15:14 16:5 17:6,14 17:19 18:7,7,14 19:4 20:11,15 22:2,5 23:7 23:19 24:6 25:3,5,11 25:15 26:22 28:4 31:16 38:1,7 40:5,16 41:23 43:3 44:6 45:7 48:3,8 51:5,9,17 53:6 55:22 57:5 58:2,8 62:16 63:19,22 81:16 83:5,6 88:24 93:13 93:17 96:6,10,13,24 96:24 97:2,2,10 98:17 99:22,25 100:4 100:8,9,11,13,15 101:3,5,7 104:12 105:3,24 109:23,25 122:7,9,11,14,24 123:8,12 124:24 126:20,22 127:1 131:24 133:6 136:14 137:2 142:13 143:5,6 149:13 158:22 159:20 160:25 161:18 162:4,7,12 163:20 164:2,14 165:17 <b>testing</b> 74:6,23,25 75:7 75:10,13,14,16,19 <b>TGMR</b> 135:9 <b>thank</b> 12:17 16:19 44:4 91:19 98:20 102:8,11 121:13 123:22 146:5 159:11 164:20 166:5 <b>Thanks</b> 91:20 95:14 <b>themes</b> 11:15 <b>theoretically</b> 90:20 110:15 <b>theory</b> 111:11 <b>thereabouts</b> 98:9 <b>thick</b> 134:15 <b>thing</b> 5:7 71:12 127:15 143:14 145:10 152:24 155:22 <b>things</b> 7:24 15:18 31:15 35:2 46:18 85:4,19 85:19 104:11 114:6 123:12 125:1,4 129:5 129:13 136:17 139:1 141:21 144:14,16,17 151:24 154:21 <b>think</b> 7:23 8:19,23 9:22</p>	<p>11:13,20 12:10 17:13 18:13 29:3 41:25 42:17 43:19 44:13 45:19 46:12 48:18 51:3,4 57:21 70:25 71:11 72:18 75:11 81:20 82:14 88:12,20 92:12 94:5,7 98:9 101:1 102:7 104:11 129:14 133:5 134:7 136:12 141:24 150:1 152:2 154:14,19,24 155:12 157:1,10 158:9,23 160:3 163:9 165:5,8,9 <b>third</b> 1:22 10:13 16:9 44:16 65:11 66:3 83:24 <b>Thomas</b> 4:17 <b>thought</b> 7:9 94:12 95:6 96:6 116:22 <b>thousand</b> 115:10 145:12 <b>thousands</b> 121:7 <b>three</b> 11:10,10 38:22 40:1 43:17 61:11 84:19,24 117:3 118:7 131:24 141:20 143:2 143:10 <b>three-month</b> 117:2 <b>throw</b> 95:23 <b>time</b> 5:2 9:23 14:13,17 27:16 32:2,12 35:11 35:14 36:8,8,16 48:19 55:1 59:17 63:18,20 66:17 70:24 71:2,3,14,19 72:5,17 72:21 78:19 84:13 91:2,24 97:3 98:16 103:5 110:13 116:4 116:18,25,25 117:7 119:19 120:15,16 125:14,19,22 126:7 128:21,23 129:19 130:5 133:6,8,13,25 134:8 136:6,22 139:8 139:20,21,24 140:7 140:12 141:1,21 143:24 148:4 152:9 153:19 155:16 156:17 157:2,3 158:10 165:8,10 <b>timeclock</b> 9:14 <b>timely</b> 91:9</p>
---	---	--	---	---

times 29:2,4 35:8  
102:25 103:5 114:22  
115:10,25 125:24  
126:11 134:11,20  
135:24 136:2 139:12  
141:14  
**TIRKS** 135:8 138:19  
**title** 99:16  
**today** 6:12,16 8:8 9:22  
14:17 15:4 20:1  
29:19 76:16 97:22  
100:2,15 122:14  
**told** 51:12 67:5,14  
88:21 161:5  
**tomorrow** 6:16 164:23  
165:7,14 166:6  
**tooth** 144:3,15  
**top** 151:6  
**topic** 7:20 18:15 59:24  
76:3  
**topics** 73:15  
**Top** 2:4,5,6,12,13  
4:14 5:19,19 6:2,19  
7:3,5,20 9:3,9 10:1,2  
10:8,18,24 12:6,12  
12:18,22 13:23 14:20  
15:3 16:16 34:14  
48:20 49:9 78:1,5  
82:14 85:20 87:10  
90:9,10,14,19 91:18  
91:25 94:20 96:3,16  
96:23 97:10,21 98:2  
98:16 102:8 121:14  
121:24 122:23  
123:20 130:4 131:8  
153:11 161:12,13,17  
161:22,24,25 163:12  
164:17,21 165:2  
**total** 105:20  
**touch** 70:9  
**track** 140:17  
**training** 15:25 80:12  
**transcript** 1:14 167:10  
**transport** 124:15,25  
136:20 141:7 142:16  
145:7 146:4,22 147:1  
147:9 159:8  
**transports** 147:3  
**treat** 64:21  
**treated** 16:10 66:10  
**tremendous** 129:17  
152:9  
**tried** 145:8  
**tries** 66:6 72:25 81:6

**triggering** 65:16,21  
**trouble** 23:18,22 24:4  
24:15 79:8 143:7  
**TRRO** 146:24  
**true** 16:4 19:17 36:15  
66:13,22 85:9 94:25  
96:16 129:22 133:4  
145:23 159:24 167:9  
**trunk** 132:21,22  
**truth** 13:17,18 99:3,4  
121:18,19  
**try** 6:15 11:7,16 68:9  
72:23 73:4 82:3  
85:18 116:15  
**trying** 18:25 40:19  
47:13 69:3,14 139:17  
**TSC** 135:9  
**turn** 24:17 38:16 98:16  
161:17  
**turns** 116:19  
**tweaked** 6:10  
**twice** 110:4,6,6,17,19  
**two** 6:3 11:10 28:18  
43:20 52:12 55:11  
63:2,4 93:18 101:8,9  
114:9,12 127:10  
128:4,10 129:5 130:1  
132:5,9 137:3 165:16  
165:18  
**type** 8:4 75:13,15  
138:10  
**types** 63:2,5 66:24 67:1  
74:24 75:4 124:20  
126:3 136:21 140:9  
145:4 159:18  
**typically** 114:9 138:9  
**T-01051B-06-0572** 1:5  
5:3  
**T-03406A-06-0572** 1:5  
5:3

**U**

**U** 11:20  
**UDIT** 141:7 145:25  
146:3  
**Uh-huh** 39:4 52:16,22  
78:10 135:10  
**ultimate** 9:5,20,20  
84:13  
**ultimately** 21:8 43:6  
87:20  
**unacceptable** 23:9  
**unapproved** 131:19  
137:17

**unbundled** 124:15  
141:7,12 142:16  
146:3,22,22 147:1,1  
147:4,9  
**undercompensated**  
116:7 117:2  
**underestimate** 106:13  
**undermine** 16:12  
**underneath** 49:21  
**understand** 17:1 28:16  
32:7 43:11 47:13  
55:7 63:23 65:16  
68:11 69:24 86:22  
87:12,22 88:23 92:15  
107:5 115:23 117:9  
125:4 130:10,18  
137:16 139:15 155:2  
155:5 156:5 158:22  
159:15  
**understanding** 9:25  
14:1 30:22 56:15  
57:19 80:4 92:18  
94:8 102:18 130:17  
130:25 155:8,8  
**understood** 45:16 51:8  
56:7  
**undertake** 148:7  
**undertaken** 46:19  
**undertook** 47:3  
**undo** 88:2  
**undone** 88:17  
**UNE** 133:24 134:1  
**UNEs** 58:5,10 133:21  
134:11 135:6 136:9,9  
158:24,25 159:8  
**unfairly** 80:21  
**uniform** 80:8 86:20  
**unifying** 11:15  
**unilateral** 26:3 80:21  
**United** 58:11  
**unnecessary** 31:7  
**unreasonable** 35:3  
**unwisely** 88:12  
**update** 138:18  
**updated** 90:20 138:13  
**updates** 143:25 144:1  
**updating** 74:20 132:14  
**usage** 101:8,10,14,21  
101:23 102:3,18,20  
102:21,25 103:2  
104:4,13 107:1 108:8  
115:20 116:1,2 117:5  
117:6,15 118:23  
120:2

**use** 17:17 18:13 29:16  
30:24 32:3,13 33:24  
45:3 71:25 85:18  
101:17 108:9 110:21  
111:3 116:20 133:9  
133:19 134:9 135:6  
**user** 136:18  
**uses** 33:15 74:7,13  
110:20  
**usually** 111:17  
**Utah** 30:8  
**Utilities** 41:7 58:17  
**utility** 123:7  
**U.S.C** 1:5

**V**

**vague** 39:6  
**validate** 135:8,8  
**valuable** 15:24  
**value** 28:11  
**variety** 15:9,10 123:12  
**various** 123:6 130:15  
136:10 145:3 160:9  
161:4  
**vary** 79:14 104:8  
**vehicle** 16:13  
**verification** 149:8  
**verify** 149:13,18 152:5  
152:16 153:14  
**version** 14:4,7 41:25  
96:25,25 97:1  
**versus** 28:11 129:9  
132:22 163:1  
**vice** 98:22  
**view** 11:10 19:22 40:2  
62:11 80:23 94:20  
95:2,20  
**violation** 35:7  
**virtual** 152:21  
**virtue** 79:3,12  
**voicemail** 83:22  
**voltage** 113:24,24  
114:4,16  
**voltages** 103:22 113:17  
**volts** 115:1  
**VOLUME** 1:16  
**vote** 157:25 158:2  
**voted** 157:24 158:3

**W**

**waiting** 27:20  
**waive** 12:1,2  
**waived** 9:15 155:3  
**want** 10:16 11:25 17:21

26:20 37:13 39:2  
42:18 48:15 64:13  
65:2,24 66:20 71:2  
87:7 93:18,19,20  
94:9 103:15 105:2  
108:8 109:5,10,11,16  
117:16 119:11 124:5  
130:8,14 131:20  
143:24 147:12  
152:20 155:22 165:3  
**wanted** 6:22 13:9 25:16  
63:22 88:6 95:16  
101:24 126:20  
165:25  
**wants** 32:3,13 102:4  
152:19 153:3,3  
154:16 156:18  
**warning** 60:21  
**Washington** 4:3 30:9  
127:4,6 128:15,16,22  
129:7,19,22 130:1,12  
134:3 140:25 143:19  
**wasn't** 8:15 40:19  
158:21 160:14  
**way** 9:1,5 18:19 21:18  
29:13 33:4 41:12  
44:14,23 53:15 55:24  
56:21 57:14 66:23  
68:2 84:12 107:13,25  
109:19 112:5 128:24  
142:1,2 151:4 161:10  
**ways** 45:11  
**website** 62:8 147:24  
156:2  
**week** 13:2 98:8 117:19  
**weigh** 28:9  
**well-documented**  
131:11,20  
**went** 21:6 40:12,22  
41:3 79:6 91:5,21  
137:19 143:7 160:25  
**weren't** 79:25 131:2,3  
160:12  
**West** 4:3 11:20 99:12  
**we'll** 7:14 9:12 41:11  
53:22 64:16 165:13  
**we're** 6:12 8:7 9:10  
10:2,19 12:4 30:6,15  
44:13 50:24 51:4,18  
52:14 55:16 57:24  
58:7 67:7 68:1,5  
75:11 76:18 95:8,22  
103:9 110:5 111:25  
120:1 128:23 130:19

131:22 132:9 139:17 143:22 156:9 160:21 160:24 162:9 165:7,8 <b>we've</b> 9:15,18,21 10:9 13:1 32:21 48:7 69:12 88:20 92:1 106:6 119:6 128:4 144:9 152:16 160:18 160:23 <b>wholesale</b> 15:8 38:24 39:19 40:14 41:4 42:8,24 49:18 55:21 56:4,6,11,13 133:15 <b>wide</b> 79:16 <b>William</b> 2:24 3:3,5,6 96:23 <b>willing</b> 21:16 86:23 87:4 131:3 <b>win</b> 12:9 <b>withstanding</b> 30:13 <b>witness</b> 10:10 12:3,10 13:12,16 15:8 18:6 54:24 56:4 76:4 82:7 82:13 91:20,24 99:2 101:2,6 121:17 146:6 151:10 158:11 164:21 165:1,6,17,18 165:22 167:14 <b>witnesses</b> 2:2 5:13,14 5:21 10:21,22 <b>wonder</b> 34:15 <b>wondering</b> 93:14 <b>word</b> 112:8 150:14 <b>wording</b> 109:11 <b>words</b> 40:1 56:9 79:11 129:10 133:14 134:17 <b>work</b> 15:8 73:17 74:13 122:1 123:1 125:13 128:21 141:13 142:8 152:4,10,15 154:11 162:25 163:5,10 <b>working</b> 6:3 31:8 83:15 83:19 115:5 139:5 <b>works</b> 9:6 85:2 91:8 123:3 135:19 140:4 141:8 <b>world</b> 77:8 85:2 134:1 <b>worried</b> 165:11 <b>worse</b> 6:17 <b>worst</b> 104:17 <b>worth</b> 95:25 <b>worthwhile</b> 79:20 <b>wouldn't</b> 18:16 45:2	68:2 79:8 81:8 95:18 106:24 107:17 141:10,19 146:24 153:14 154:12 160:7 160:13 <b>wound</b> 78:16,25 79:3 <b>written</b> 37:10 42:14,22 <b>wrong</b> 9:8 92:18 153:16 <hr/> <b>Y</b> <hr/> <b>yeah</b> 6:19 7:5 8:12 10:2 29:25 30:8 57:20 92:5,25 96:23 109:18 114:19 127:18 159:10 165:24 <b>year</b> 102:25 103:5,19 103:22 107:4,17 115:11 118:12 <b>years</b> 106:17 143:2,10 143:16,20 144:2 <b>yesterday</b> 7:7 <hr/> <b>Z</b> <hr/> <b>zero</b> 115:1 <hr/> <b>0</b> <hr/> <b>0194</b> 126:16 <hr/> <b>1</b> <hr/> <b>1</b> 1:16 12:20 13:3 14:2 14:20 15:15 30:4 34:19,22,24 38:2 48:19 62:18 97:23 101:23,25 102:5 103:15,17,20 104:21 106:6,9,9,14,14,16 107:9,11 108:7 111:24 112:2,8,10,13 113:21 115:14,16 118:16 119:2 143:2 146:9,15 <b>1-1</b> 26:21 <b>1.7.2</b> 29:24 <b>1.7.2.1</b> 30:10 31:4 <b>1:30</b> 91:23 <b>1:50</b> 92:8 <b>10</b> 24:23 54:18,22 59:20 97:12,14,17 105:15 <b>10:00</b> 107:8,14 <b>10:17</b> 4:4 <b>100</b> 3:12,13 69:19 106:17 111:2,8 120:2	120:4 <b>102</b> 2:9 <b>11</b> 38:11 40:16 42:3 89:14 97:13,14,17 <b>11:25</b> 59:21 <b>11:35</b> 59:22 <b>118</b> 2:9 <b>12</b> 15:16 24:19,22,23 54:19,23 99:20 100:7 100:8,19,22 <b>12th</b> 89:16 98:9 142:12 <b>12-64</b> 37:16 <b>12-67</b> 53:23 81:10 156:23 <b>12-70</b> 20:13 <b>12-71</b> 59:15 60:1 62:7 <b>12-72</b> 59:15 <b>12-73</b> 59:15 <b>12-75</b> 17:22 86:8,8 <b>12-87</b> 74:5 <b>12.2.7.2.4.4</b> 64:3 <b>12.2.7.2.4.4.1</b> 63:2 65:15 <b>12.2.7.2.4.4.2</b> 64:17 <b>12.6</b> 140:23,24 <b>12:24</b> 92:8 <b>1200</b> 4:3 <b>121</b> 2:10,12 <b>122</b> 3:15,15,16,16,18 3:18 <b>124</b> 2:12 <b>125</b> 111:5 <b>13</b> 2:4 3:23 99:20 100:7 100:9,19,22 115:18 122:5 <b>14</b> 2:18,18,19,19,21,21 2:22,22 42:3 105:14 122:5,6,7,16,19 140:7 <b>14th</b> 89:19 90:2 <b>14-state</b> 140:9 <b>147</b> 120:3 <b>15</b> 27:25,25 45:7,10 92:3 122:5,6,9,16,19 125:21 148:18,24 157:5 <b>151</b> 150:6 <b>1515</b> 4:20 <b>158</b> 2:13 <b>16</b> 2:4 27:25 28:1 52:13 122:6,11,17,19 <b>16th</b> 4:17 <b>1600</b> 4:20 <b>161</b> 2:13	<b>163</b> 2:14 151:9,11 <b>167</b> 1:16 <b>17</b> 45:7,10 89:15 105:5 105:8,8 <b>17th</b> 90:2 <b>18</b> 45:24,25 46:1 51:9 <b>19</b> 1:11 58:4,8 148:18 148:23 161:18,24 162:4 <b>19th</b> 4:4 <b>1996</b> 1:6 158:25 159:3 <hr/> <b>2</b> <hr/> <b>2</b> 12:23 14:5,20,24 28:1 31:21 48:17,18,25 49:2,7,8,10,13 97:23 101:23 103:15 104:2 104:16,20,25 110:3 110:18 111:19 113:20,22,22 115:6,7 115:14,16,16,17 <b>2:00</b> 92:6 <b>20</b> 4:17 38:1,10 40:17 46:1 51:9 58:2,3,7,8 146:8,11 148:19,25 <b>200</b> 4:15 <b>2000</b> 133:8 <b>2001</b> 129:15 133:8 143:18 <b>2002</b> 142:13,17 <b>2005</b> 89:14,15 143:2 <b>2007</b> 1:11 4:5 162:13 167:14 <b>203</b> 1:21 <b>208</b> 38:14,16,19 40:3 41:1 <b>21</b> 46:1 51:9 105:5 <b>22</b> 25:20,22,25 36:20 <b>2200</b> 4:15 <b>23</b> 28:1 <b>24</b> 117:19 <b>250</b> 111:9 <b>252</b> 1:5 <b>2627</b> 1:22 <b>271</b> 16:13 29:1 31:3 <b>28</b> 65:5 <b>29th</b> 167:14 <hr/> <b>3</b> <hr/> <b>3</b> 12:24 14:8,20,24 31:21 49:13,15 50:25 112:19,22 <b>3:21</b> 157:6 <b>3:43</b> 157:6	<b>3:55</b> 166:7 <b>30</b> 128:21,24 140:25 <b>34</b> 3:20 <b>35</b> 31:16,23 139:22,25 140:1,11,13 <b>37</b> 41:23 42:1,2 45:7,8 <b>38.5</b> 141:3 <b>39</b> 29:4,12 31:1 35:8 <hr/> <b>4</b> <hr/> <b>4</b> 12:25 14:11,21,24 24:21 80:25 128:19 146:9 <b>4-5</b> 124:6 161:19 <b>4:00</b> 165:4 <b>40</b> 29:2 31:1 <b>47</b> 1:5 120:2 <b>48</b> 3:20,21 <b>49</b> 3:21 54:18,22 <hr/> <b>5</b> <hr/> <b>5:00</b> 83:16 <b>500</b> 4:10 <b>50489</b> 1:24 167:8,20 <b>50658</b> 4:23 <b>55402</b> 4:11,15 <hr/> <b>6</b> <hr/> <b>6</b> 31:17,24 38:10 40:16 97:6 <b>60</b> 102:22 <b>616</b> 3:22 41:12,17 43:4 43:25 44:7,22 46:8 46:16 48:11 49:4 51:24 52:8,15,21 53:1,4,20 <hr/> <b>7</b> <hr/> <b>7</b> 97:6 128:20,25 <b>700</b> 99:12 <b>72</b> 60:1 62:7 <b>73</b> 60:1 62:7,16,19,21 <b>75</b> 132:21 <b>76</b> 2:5 69:20 <b>78</b> 2:5 <hr/> <b>8</b> <hr/> <b>8</b> 24:22,23 97:6 <b>8th</b> 4:11 <b>8-1</b> 103:10 <b>8-20</b> 147:13 162:21 <b>8-20(a)</b> 147:13 162:21 <b>8.3.1.3</b> 150:3,11,19 152:1 <b>8.3.11</b>
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151:8				
8.3.11.2.1(a) 151:11				
80 4:11				
80202 4:20				
85 125:19				
85004-1126 1:22				
85012 4:18				
86 2:6				
<hr/>				
9				
9 6:7 31:17 97:12,14				
105:3,8,14				
9th 89:19 162:12,16				
9:00 166:6				
90 2:6				
96 2:24 3:3,4				
97 2:24 3:3,4,6,6,7,7,9				
3:9,10,10				
98 3:23,24,24				
99 2:8 3:12,13 11:20				