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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of the Petition of)
5 FRONTIER COMMUNICATIONS NORTHWEST INC.,) Docket UT-121994
6 To be Regulated as a Competitive) Pages 45-144
7 Telecommunications Company Pursuant to)
8 RCW 80.36.320)

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9

SETTLEMENT HEARING, VOLUME III

10

Pages 45-144

11

ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

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2:20 P.M.

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MAY 29, 2013

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Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest, Room 206
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A P P E A R A N C E S

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WILLIAM H. WEINMAN

6 DOUGLAS DENNEY

JING LIU

7 JING ROTH

TREVOR ROYCROFT (via telephone)

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SETTLEMENTS

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S-1

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Settlement of CLEC Issues

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S-2

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Joint Narrative of Frontier and CLECs
Supporting Settlement Agreement

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S-3

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Settlement Agreement between Frontier
and DoD/FEA

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S-4

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Joint Narrative of Frontier and DoD/FEA
Supporting Settlement Agreement

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S-5

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Settlement Agreement between Frontier,
Staff, and Public Counsel

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Joint Narrative Supporting Settlement
Agreement between Frontier, Staff, and
Public Counsel

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S-7

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Appendix A to Settlement Agreement
between Frontier, Staff, and Public
Counsel

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S-8

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Appendix B to Settlement Agreement
between Frontier, Staff, and Public
Counsel

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S-9

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Amendment 1 to Settlement of CLEC Issues
(formerly JP-45)

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OLYMPIA, WASHINGTON, MAY 29, 2013

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2:20 P.M.

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P R O C E E D I N G S

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JUDGE KOPTA: Let's be on the record in Docket

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UT-121994 encaptioned: In the Matter of Frontier Communications

9

Northwest, Inc.'s Petition to be Regulated as a Competitive

10

Telecommunications Company Pursuant to RCW 80.26.320 [verbatim].

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Today is Wednesday, May 29th. We are here just

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before 2:30 in the afternoon for the hearing on the settlement

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agreements between all of the parties that have been presented

14

for Commission review and evaluation.

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I'm Gregory J. Kopta, the administrative law judge

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who is presiding in this proceeding. I will be joined shortly

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by the Commissioners, but at this point, we are taking care of

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some administrative matters, specifically admission into the

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record of the exhibits. And having had a discussion with

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counsel prior to going on the record, my understanding is that I

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have circulated a draft exhibit list that counsel will review

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and provide with any corrections.

23

But at this point, at least the numbers of the

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exhibits, including all prefiled testimony and exhibits, the

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settlement agreements, the joint narratives, and any appendices

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1 or amendments are correct, and that counsel is willing to
2 stipulate to the admission of all of these exhibits into the
3 evidentiary record.

4 So at this point, I will ask whether anyone has any
5 corrections to any of the exhibits that have been identified on
6 the exhibit list.

7 MS. CAMERON-RULKOWSKI: Yes, Your Honor. This is
8 Jennifer Cameron-Rulkowski, counsel for Staff, and I do have a
9 couple of corrections to Exhibit S-6. This is the joint
10 narrative supporting settlement agreement between Frontier,
11 Staff, and Public Counsel, and the first correction is on page
12 6. This is Paragraph 16. In the middle of the paragraph the
13 sentence starting -- I'll wait a second -- starting (as read):
14 "For basic stand-alone small business service," and then the
15 next line says "\$4 below." That should read "\$5 below."

16 And the second and final correction is on page 8,
17 Paragraph 20. This is the last sentence that starts (as read):
18 "Given the protections that the CLECs have negotiated" -- and
19 down to the next line -- "those services offered," and then it
20 should say "without" instead of "with."

21 JUDGE KOPTA: All right. Are those the only
22 corrections to any of the exhibits on the exhibit list?

23 MS. CAMERON-RULKOWSKI: That's all from Staff, Your
24 Honor.

25 JUDGE KOPTA: You may have noticed that I have not

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1 yet asked for appearances. I thought I would do that when the
2 Commissioners are here so that they will know who's sitting
3 around the table and we don't have to do it twice.

4 All right, then, I will admit the following exhibits
5 into the record:

6 For Frontier's witness Jack D. Phillips, Exhibits
7 JP-1T through JP-44T.

8 (Exhibit Nos. JP-1T through JP-44T were admitted into
9 the record.)

10 JUDGE KOPTA: For Frontier witness Billy Jack Gregg,
11 Exhibits BJG-1T and BJT-2T.

12 (Exhibit Nos. BJG-1T and BJT-2T were admitted into
13 the record.)

14 JUDGE KOPTA: For Frontier witness Kathleen Q.
15 Abernathy, Exhibit KA-1T.

16 (Exhibit No. KA-1T was admitted into the record.)

17 JUDGE KOPTA: For Commission Staff witness Jing Liu,
18 Exhibits JL-1CT through JL-24.

19 (Exhibit Nos. JL-1CT through JL-24 were admitted into
20 the record.)

21 JUDGE KOPTA: For Staff exhibit Jing Y. Roth,
22 Exhibits JYR-1T through JYR-7HC.

23 (Exhibit Nos. JYR-1T through JYR-7HC were admitted
24 into the record.)

25 JUDGE KOPTA: For Staff witness William H. Weinman,

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1 Exhibits WHW-1T through WHW-3T.

2 (Exhibit Nos. WHW-1T through WHW-3T were admitted
3 into the record.)

4 JUDGE KOPTA: For Public Counsel witness Trevor R.
5 Roycroft, Ph.D., Exhibits TRR-1HCT through TRR-3.

6 (Exhibit Nos. TRR-1HCT through TRR-3 were admitted
7 into the record.)

8 JUDGE KOPTA: For Public Counsel witness Stefanie A.
9 Johnson, Exhibit SAJ-1T.

10 (Exhibit No. SAJ-1T was admitted into the record.)

11 JUDGE KOPTA: For the Department of Defense and other
12 Federal Executive Agencies witness, August H. Ankum, Ph.D.,
13 Exhibits AHA-1HCT through AHA-6T.

14 (Exhibit Nos. AHA-1HCT through AHA-6T were admitted
15 into the record.)

16 JUDGE KOPTA: For Integra witness Douglas Denney,
17 Exhibits DD-1T and DD-2.

18 (Exhibit Nos. DD-1T and DD-2 were admitted
19 into the record.)

20 JUDGE KOPTA: For Cbeyond, Charter, Level 3, and tw
21 telecom witness, Don J. Wood, Exhibits DJW-1T and DJW-T.

22 (Exhibit Nos. DJW-1T and DJW-T were admitted
23 into the record.)

24 JUDGE KOPTA: Also the settlement agreements and
25 associated documents, Exhibits S-1, which the settlement of CLEC

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1 issues; S-2, the joint narrative in support of that settlement;
2 S-3, the settlement agreement between Frontier and DoD/FEA; S-4,
3 which is the joint narrative in support of that agreement; S-5,
4 which is the settlement agreement between Frontier, Staff, and
5 Public Counsel; S-6, which is the joint narrative supporting
6 that settlement agreement; S-7, Appendix A to that settlement
7 agreement; S-8, Appendix B to that settlement agreement; and
8 S-9, which is amendment to the CLEC agreement.

9 (Exhibit Nos. S-1 through S-9 were admitted
10 into the record.)

11 I believe that is all of the testimony and exhibits.

12 Is any other counsel aware of any other documents
13 that should be part of the record?

14 Hearing none, I understand that counsel may wish to
15 make a statement about the prefiled testimony being admitted
16 into the record, and I will give you that opportunity now.

17 MR. GALLOWAY: Your Honor, this is Alan Galloway,
18 counsel today for Cbeyond, Charter, tw telecom, and Level 3. I
19 just want to clarify that by stipulating to admission into the
20 record, we are not endorsing or conceding the veracity of any
21 facts or statements of law in any of those exhibits. Thank you.

22 JUDGE KOPTA: All right. Any other counsel?

23 Mr. Melnikoff?

24 MR. MELNIKOFF: Yes, Your Honor. We would make the
25 same caveat, that we are not conceding to the legal or factual

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1 assertions in any other parties' prefiled testimony or exhibits.

2 JUDGE KOPTA: All right. I believe that --

3 MR. GILLIAM: Your Honor, the same for -- sorry. Ted
4 Gilliam with Integra Telecom. The same for Integra.

5 JUDGE KOPTA: All right. I believe that takes care
6 of the preliminary issues.

7 Counsel, if you would call your witnesses in support
8 of the settlement agreements to the chairs to my left so that
9 they can be available for the Commissioners' questions.

10 And while they are doing that, I waited until the
11 Commissioners joined me on the Bench, which they now have done,
12 and let's take appearances of counsel beginning with the
13 Company.

14 MR. O'CONNELL: Thank you, Your Honor. Tim O'Connell
15 with the Stoel Rives law firm on behalf of Frontier Northwest.

16 MR. SAVILLE: Good afternoon. I am Kevin Saville,
17 vice president, associate general counsel for Frontier
18 Communications, appearing on behalf of Frontier.

19 MR. MELNIKOFF: Good afternoon. I'm Stephen
20 Melnikoff. I'm counsel for the Department of Defense and all
21 other Federal Executive Agencies.

22 MR. GALLOWAY: Good afternoon, Commissioners. I'm
23 Alan Galloway of Davis Wright Tremaine, here on behalf of
24 Cbeyond, Charter, tw telecom, and Level 3 Communications.

25 MR. GILLIAM: Good afternoon. I'm Ted Gilliam,

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1 associate general counsel, for Integra Telecom.

2 MS. GAFKEN: Good afternoon. Lisa Gafken, Assistant
3 Attorney General, for Public Counsel.

4 MS. CAMERON-RULKOWSKI: And appearing on behalf of
5 Commission Staff, Jennifer Cameron-Rulkowski, Assistant Attorney
6 General.

7 JUDGE KOPTA: Thank you. Are there any counsel on
8 the bridge who would like to make an appearance?

9 Hearing none, let's identify the witnesses beginning
10 with the settlement panel to my left.

11 MR. PHILLIPS: Good afternoon. My name is Jack
12 Phillips, representing Frontier Communications.

13 DR. ANKUM: I'm August H. Ankum on behalf of the
14 Department of Defense and the Federal Executive Agencies.

15 MS. JOHNSON: My name is Stefanie Johnson on behalf
16 of Public Counsel.

17 MR. WEINMAN: I'm William H. Weinman. I'm here
18 appearing for Staff.

19 MR. DENNEY: I'm Douglas Denney from Integra Telecom.

20 JUDGE KOPTA: And by e-mail I had asked the parties
21 to make available the other witnesses who had filed prefiled
22 testimony, and I would like to identify them now beginning with
23 those witnesses who are in the room. If they would come up to
24 microphone where Mr. Denney is seated, I would appreciate
25 identifying yourselves for purposes of the record.

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1 MS. LIU: This is Jing Liu, Commission Staff.

2 MS. ROTH: Jing Roth, Commission Staff.

3 JUDGE KOPTA: And on the bridge line, do we have
4 other witnesses?

5 DR. ROYCROFT: Trevor Roycroft on behalf of Public
6 Counsel.

7 JUDGE KOPTA: Okay. Mr. Roycroft, you'll need to get
8 closer to your phone. We can barely hear you.

9 DR. ROYCROFT: Okay. Is that better?

10 JUDGE KOPTA: A little bit, but you might -- if we
11 have questions, then, you know, we'll let you know if we need to
12 be louder.

13 Any other witnesses?

14 MR. GREGG: Billy Jack Gregg for Frontier.

15 JUDGE KOPTA: Thank you.

16 MR. WOOD: Don J. Wood on behalf of Cbeyond, Charter
17 Fiberlink, Level 3, and tw telecom.

18 JUDGE KOPTA: Any others?

19 MS. ABERNATHY: Kathleen Abernathy on behalf of
20 Frontier.

21 JUDGE KOPTA: And any others?

22 All right. Would all of the witnesses please stand
23 and raise your right hand?

24

25 JACK D. PHILLIPS, AUGUST H. ANKUM, STEFANIE A. JOHNSON, WILLIAM

0065

1 H. WEINMAN, DOUGLAS DENNEY, JING LIU, JING ROTH, TREVOR ROYCROFT
2 (via telephone), BILLY JACK GREGG (via telephone), DON J. WOOD
3 (via telephone), and KATHLEEN ABERNATHY (via telephone),
4 witnesses herein, having been first duly sworn on oath, were
5 examined and testified as follows:

6

7 MULTIPLE SPEAKERS: I do.

8 MULTIPLE SPEAKERS: Yes.

9 JUDGE KOPTA: You may be seated.

10 All right. I believe that concludes the
11 preliminaries.

12 As I explained to counsel before, opening statements
13 or any summary of your testimony is not necessary. We have read
14 the testimony and exhibits, and I believe the Commissioners are
15 prepared to ask questions.

16 So at this point, I will turn to them and ask who
17 would like to go first with their questions?

18 CHAIRMAN DANNER: Who would like to go first?

19 COMMISSIONER GOLTZ: Judge Kopta, you've got to
20 decide that.

21 JUDGE KOPTA: I need to pick one?

22 CHAIRMAN DANNER: Rock-paper-scissors?

23 COMMISSIONER GOLTZ: It shows unnecessary waffling on
24 our part to try to make that decision.

25 JUDGE KOPTA: It's my job to be decisive.

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1 COMMISSIONER GOLTZ: And I'll address this first to
2 the panel, but it may be that ultimately this is a question for
3 Counsel. But in looking at the statute, RCW 80.36.320, which
4 tells us when the Commission shall classify a telecommunications
5 company as a competitive telecommunications company, it says we
6 shall do so if they're subject to effective competition, and
7 that means two things: It means the Company's customers have
8 reasonably available alternatives, and the Company does not have
9 a significant captive customer base.

10 And I gathered from the testimony from Public Counsel
11 and Commission Staff that they must believe that the Company has
12 a significant captive customer base, so my question is to them
13 and then to the Company, what is that base? I'm trying to
14 figure out what it is. And if we can't figure out what it is
15 exactly, what is it in some general terms? Do we know how many
16 customers have alternatives?

17 And maybe to start over again, so how do you define a
18 captive customer? Am I correct in assuming that means a
19 customer with no reasonably available alternatives?

20 MR. WEINMAN: Yes, Bill Weinman speaking.

21 For us, with Staff, when we look at actually 320, it
22 would have us find that --

23 COMMISSIONER GOLTZ: And you're referring to RCW
24 80.36.320?

25 MR. WEINMAN: Yes.

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1 COMMISSIONER GOLTZ: Okay.

2 MR. WEINMAN: I'm sorry. -- that the Company would
3 have -- meet that criteria for all of their services.

4 And for us, while we've identified certain areas that
5 we believe are competitive, there still remains some tariff
6 issues with the Company, such as switched access that they are
7 leaving in their access tariff and our conclusions with
8 one-party residential service and small business companies that
9 they do not have reasonable alternatives.

10 COMMISSIONER GOLTZ: So what you're saying is, is
11 that there are -- are you saying there's -- for small business
12 services and for residential customers there are no reasonable
13 alternatives, or are you saying they are part of the captive
14 customer base or are you saying both?

15 MR. WEINMAN: I guess what I'm saying is, is that for
16 those particular services, that we could not confirm with the
17 data that we had that they are free to have alternative
18 providers, and also, too, we don't know that in terms of
19 granularity, whether they have -- there are captive customers of
20 the company.

21 COMMISSIONER GOLTZ: So you're basically saying that
22 the Company didn't demonstrate to you to your satisfaction that
23 they -- that there are residential customers and small business
24 customers? Focus, putting special access aside for a second,
25 that those customers -- that among those customers is not a

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1 significant captive customer base? Did I get too many negatives
2 in there?

3 MR. WEINMAN: Right towards -- you lost me at the
4 end.

5 COMMISSIONER GOLTZ: Well, what I'm saying is -- I
6 mean, is it Commission Staff's position that there is a
7 significant captive customer base for residential and small
8 business companies' customers, or is it your position that you
9 haven't -- it hasn't been demonstrated otherwise to you?

10 MR. WEINMAN: The latter; that we haven't been --

11 COMMISSIONER GOLTZ: What about for Public Counsel?
12 Is that the same?

13 MS. JOHNSON: First of all, I'm going to have you
14 repeat the question.

15 COMMISSIONER GOLTZ: Well, I'm just looking at the
16 statute.

17 MS. JOHNSON: Right.

18 COMMISSIONER GOLTZ: And the statute just basically
19 says that we shall classify a company as competitive if its
20 services are subject to effective competition, and there's a
21 two-prong test for that. One is effective competition, means
22 that the Company's customers have reasonably available
23 alternatives; and the second is that the Company does not have a
24 significant captive customer base.

25 And I really am trying to find out sort of the

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1 analysis primarily on whether there's a significant captive
2 customer base in Frontier's service territory on the
3 residential -- for residential customers or small business
4 customers, and I'm having a little bit of trouble finding
5 where -- frankly, where they don't -- I'm finding -- having
6 trouble finding one.

7 MS. JOHNSON: So...

8 COMMISSIONER GOLTZ: I'm having trouble finding a
9 significant captive customer base, so help me find that.

10 MS. JOHNSON: Specifically, Trevor Roycroft -- I love
11 that the first question I get I'm going to defer to
12 Dr. Roycroft, but he specifically addressed captive customers,
13 and so it probably would be better suited for me to hand this
14 off to him.

15 COMMISSIONER GOLTZ: So, Judge Kopta, do you have in
16 mind that we go back and forth to the other witnesses besides
17 the settlement panel, or should we just do the settlement panel
18 and then go to the others?

19 JUDGE KOPTA: I think you are free to question any of
20 the witnesses.

21 COMMISSIONER GOLTZ: Okay. So before we go to
22 Dr. Roycroft, why don't we go to the Company.

23 And it's your position that there is no significant
24 captive customer base, correct?

25 MR. PHILLIPS: That was our position going into this,

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1 and the two issues...

2 MALE SPEAKER: Your mic.

3 MR. PHILLIPS: Really the issue of effective
4 competition and no captive customer base are not real clearly
5 defined in the statute, and I think Bill mentioned the level of
6 granularity. That, I think, seemed to be the focus or the
7 difference of the opinion -- or differences of the parties to
8 this case was how granular. Do we look at that analysis if we
9 find, for example in Stevens Pass, that a customer has the --
10 has ability to purchase service, wireline service from Frontier,
11 and there's a wireless ETC designated for that area, but, for
12 example, it's a small business that has a fax machine that needs
13 a landline phone, is that customer captive?

14 And it really, I think, focused on how granular are
15 we going to make that; that analysis as to whether or not...

16 COMMISSIONER GOLTZ: Right, I understand. But I'm
17 guessing that the number of customers that need a fax machine is
18 not significant.

19 MR. PHILLIPS: Agree.

20 COMMISSIONER GOLTZ: So even if they're captive, it's
21 not a significant captive customer base?

22 MR. PHILLIPS: I would agree.

23 COMMISSIONER GOLTZ: Yeah. As a matter of fact, I
24 even looked at Dr. Roycroft's resume, and he doesn't list a fax
25 number on that, so...

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1 So I guess, though, that -- I know you're constrained
2 to support the settlement, but did you make any attempt in your
3 testimony to actually quantify -- I'm assuming there's at least
4 one captive customer out there, and there's some that have no
5 alternatives.

6 Did you make any effort to sort of quantify the
7 volume of, quote, captive customers, unquote?

8 MR. PHILLIPS: Well, we were actually trying to prove
9 the other, the reverse of that --

10 COMMISSIONER GOLTZ: Well, I understand.

11 MR. PHILLIPS: -- but, yeah. I mean, I refer to my
12 testimony to a patchwork of competition, and we agreed that, for
13 example, about 96 percent of our customer base had -- only about
14 96 percent of the customer base are on exchanges that might have
15 a cable voice provider, but there may be another provider, such
16 as an ETC designated wireless carrier or VoIP or some other, and
17 it was very difficult for us to, I guess, identify a particular
18 captive group either in terms of geographic area or market
19 segment type of customer.

20 MS. ABERNATHY: This is Kathleen Abernathy.

21 Could I add one small point to that?

22 COMMISSIONER GOLTZ: Sure.

23 MS. ABERNATHY: Our point would be that there
24 aren't -- there's not a significant number of customers that are
25 captive, because we've got competition from another wired

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1 provider in the vast majority, over 90 percent of our centers,
2 and then we've got wireless alternatives.

3 So we would argue, no, there's not a significant
4 number that are captive at all, particularly in this state, as
5 compared to many of our other states.

6 COMMISSIONER GOLTZ: Okay. So I'll go back to
7 Mr. Phillips, then.

8 So if that were to be true, by agreeing to this
9 settlement, have you given up that much? In other words, you've
10 agreed to have a rate band for residential customers and small
11 business customers, correct?

12 MR. PHILLIPS: That's correct.

13 COMMISSIONER GOLTZ: With limitations on how much you
14 could increase your rates and limitations on how much you could
15 decrease your rates?

16 MR. PHILLIPS: That's right.

17 COMMISSIONER GOLTZ: And so is that -- and if we had
18 just approved this petition, you wouldn't have had those
19 constraints?

20 MR. PHILLIPS: That's right.

21 COMMISSIONER GOLTZ: And so I guess I'm wondering
22 what you think you're giving up for your company by agreeing to
23 those constraints? In other words, if your petition had been
24 granted, would you have envisioned you might be raising your
25 local rates more? I mean, is this a...

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1 MR. PHILLIPS: Well...

2 COMMISSIONER GOLTZ: Is this a big deal to you? I
3 mean, you conceded a lot by agreeing to the settlement.

4 MR. PHILLIPS: Conceptually, philosophically, we
5 would have loved to have gotten a 320 destination. The
6 reality -- and being very pragmatic, we're in a situation where
7 we are in a very competitive market, so giving us unlimited
8 ability to raise rates doesn't really mean a lot to us. We've
9 got a number of other states whereby the legislature has granted
10 us the ability to -- basically totally deregulated residential
11 and small business service, and that doesn't mean you can go out
12 and do it.

13 So I think to answer your question, we really -- and
14 I guess I'm looking at this over the next 2 1/2 years. This is
15 basically -- most of these conditions are for a 2 1/2-year
16 period. The conditions that are in the settlements are
17 conditions that we can live with for the next 2 1/2 years.

18 COMMISSIONER GOLTZ: But you said conditions you "can
19 live with."

20 Is that like live with gladly or live with
21 grudgingly?

22 MR. PHILLIPS: No. I think that given the
23 limitations because of the market, I can't foresee that we
24 would -- would do rate increases beyond that, nor -- you know,
25 we had rate reductions below the bands that have been

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1 established. What it does do is provides us some flexibility.
2 One of the things we're trying to do is we've got 27 states in
3 which we operate. We're trying to move toward -- more towards
4 national pricing, which is what we do with our services like our
5 high-speed Internet. We have a 19.99 offering nationwide.

6 So what we're trying to do is move those products to
7 a more uniform price level across the 27 states, and this is a
8 good step to help us get there.

9 COMMISSIONER GOLTZ: Okay. So --

10 MS. ABERNATHY: And this is Kathleen Abernathy.
11 Could I just add one other small point?

12 COMMISSIONER GOLTZ: Sure.

13 MS. ABERNATHY: Our perspective is that we are
14 subject to effective competition; that there's very few
15 customers that remain captive that we're pricing in a way that
16 is always in response to competition and that we don't
17 separately price for a very small exchange versus all the
18 others, because it's not -- it makes no sense from a pure
19 business perspective.

20 And so while we agreed to this settlement because it
21 was a way to resolve many of the disputes that were pending, we
22 don't really -- you know, fundamentally, we think we met the
23 showing, but we settled because were we going to dramatically
24 increase rates? No. Does this still add costs that we would
25 prefer that didn't exist? Yes, it does. Do we think that the

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1 market is competitive in that the analysis of how consumers take
2 products and services is somewhat flawed? We do, because we
3 just think customers look at these services differently.

4 But we are totally behind the settlement, and we will
5 live with the settlement because it is a decent compromise, and
6 we want to move forward and invest in and provide service to the
7 citizens of Washington.

8 COMMISSIONER GOLTZ: Okay. So, now, Mr. Roycroft,
9 you said on page 19 of your testimony -- I think it's your
10 opening, yeah, testimony -- that there's 42,000 households that
11 do not -- are not in a cable provider's footprint.

12 So is that -- if I'm trying to figure out what the
13 captive customer base is that you're articulating, is that the
14 ceiling? Is it something less than that?

15 DR. ROYCROFT: Well, that's based on a wire center
16 analysis that does not cover the issue of where cable's
17 footprint and Frontier's footprint may overlap within a wire
18 center. So it was associated -- that number is associated with
19 wire centers where it was -- there was no evidence of a cable
20 provider operating in the entire wire center, so the number
21 could be above that. I was not able to quantify that, nor was
22 Frontier able to produce any information that indicated a better
23 number.

24 COMMISSIONER GOLTZ: So you're saying that -- the way
25 I read this, I read a cable voice provider's footprint as

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1 meaning that within the footprint, the cable provider offered
2 service.

3 You're saying that's not -- that's a correct
4 assumption?

5 DR. ROYCROFT: The 42,000 number is based on wire
6 centers where there is not evidence of cable being offered, as
7 opposed to wire centers where there, you know, is cable being
8 offered, but there may be portions of that wire center that are
9 not served by cable.

10 Cable company service territories don't necessarily
11 line up with telephone company wire center areas. And for the
12 most part in urban areas there will be complete overlaps, but in
13 suburban or rural areas, areas there may not be complete
14 overlap. So there may be some households in a wire center that,
15 you know, has a cable presence who are simply just not passed by
16 a cable company.

17 COMMISSIONER GOLTZ: So did you do any analysis? You
18 did kind of separate reviews of potential competition with
19 Frontier by cable and by other possible forms of competition.

20 Did you kind of ever assemble them all and figure out
21 what the -- what would be a captive customer base?

22 DR. ROYCROFT: I did not do an overlap, you know,
23 from the standpoint that some of these -- you know, it really
24 gets down to customers' choices and limitations on some of the
25 specific alternatives.

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1 For example, you know, over-the-top VoIP may be
2 available to a customer, and they're just simply not interested
3 in that technology. So I was not able to create a more
4 comprehensive perspective on, you know, what choices might be
5 available to all customers.

6 COMMISSIONER GOLTZ: But does the fact that -- and I
7 know Commission Staff looked at this, too. They were concerned
8 about the customer that -- I think the word was they only wanted
9 a plain old unlimited calling plan.

10 But the fact that other technologies may not offer
11 the same -- exact same thing that Frontier offers, basic voice
12 service, as a matter of economics, though, that really doesn't
13 make a difference, does it? I mean, as long as there's
14 reasonable alternatives so they know that if they raise their
15 prices, they would lose some customers to these other
16 alternatives, isn't that enough price pressure to mitigate
17 whatever market power they might have?

18 DR. ROYCROFT: Well, it would depend on the
19 differential between the alternatives and, you know, the -- if
20 the customer -- you know, that the customer's next best
21 alternative is 10 or \$15 above the bare bones offering that
22 Frontier is selling and that the customer is currently
23 consuming, then, you know, Frontier has some significant upward
24 pricing flexibility that would not, you know, be consistent with
25 what you would expect in a competitive market.

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1 COMMISSIONER GOLTZ: So you would say that -- I mean,
2 that they've lost all of these landline customers over the past
3 decade without exercising their market power to raise prices...

4 I mean, if they did raise prices, wouldn't they just
5 lose more?

6 DR. ROYCROFT: Well, they would in some cases
7 potentially; however, you know, what the evidence showed is that
8 there's a high degree of variation, you know, on a geographic
9 basis with regard to what they've lost in terms of access lines.
10 You know, they have some wire centers where they still had
11 market shares of above 90 percent. You know, that was not the
12 typical case, but there was -- you know, it was not a uniform
13 picture when it came to what they -- what they lost in terms of
14 market share on a geographic basis.

15 So certainly in urban areas, they have lost
16 substantial numbers of lines, but in some of the more rural and
17 less populated areas, they still are maintaining high market
18 shares. That, to me, indicates that there are differences in
19 the level of competitive pressure that Frontier is facing. And
20 from the standpoint of, you know, considering a companywide
21 competitive classification, you know, that doesn't reflect the
22 underlying market economics and would, you know, place those
23 customers at risk where there is, you know, strong evidence that
24 there's not effective competition.

25 COMMISSIONER GOLTZ: So what would the evidence have

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1 to look like before you would agree that there is -- that
2 statutory criteria are met; that there are reasonably available
3 alternatives and that there's no significant captive customer
4 base?

5 DR. ROYCROFT: Well, the -- you know, the statutory
6 definition of what a significant captive customer base is, you
7 know, not -- that's a legal determination. You know, I
8 identify -- my testimony is that there are likely some captive
9 customers. You know, whether those -- whether that meets the
10 statutory definition of "significant," you know, I --

11 COMMISSIONER GOLTZ: Well, "likely some" is different
12 than "significant," I think. I mean, if your position is
13 that -- if your testimony is that there are likely some captive
14 customers, that seems to be a lot different than a, quote,
15 significant captive customer base.

16 DR. ROYCROFT: I would agree with that, and I don't
17 believe that my testimony states that, you know, Frontier has a
18 significant captive customer base in light of the statutory
19 criteria. I indicate that it's likely that they still have some
20 captive customers, so the -- the other issue with regard to
21 alternatives, you know, there are different -- what the evidence
22 shows is that there has been a -- you know, there's strong
23 evidence that consumers like the alternative that's offered by
24 cable, especially one specific cable company that operates in a
25 fairly large portion of Frontier's service area. That

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1 alternative for wireline is, you know, certainly a viable
2 alternative for many consumers, but not all consumers have that
3 alternative available to them.

4 So it's not a black-and-white situation in my
5 perspective, but there's variation with regard to the
6 alternatives that are available to consumers. And that affects
7 their ability to choose and it grants Frontier, you know, the
8 ability to discriminate and, therefore, you know, exercise
9 market power in a way that might be detrimental to the
10 consumers. The settlement addresses that issue by retaining,
11 you know, geographic averaging of prices.

12 COMMISSIONER GOLTZ: Okay. So I'm moving on to sort
13 of a slightly different topic in the -- I ask Mr. Weinman where
14 we have a rate band over on Paragraph 19 and Paragraph 20 for
15 residential and small business service.

16 What's the --

17 DR. ROYCROFT: I'm sorry. Is this question directed
18 to me?

19 MS. CAMERON-RULKOWSKI: Your Honor, are you
20 referring...

21 COMMISSIONER GOLTZ: The settlement agreement.

22 MS. CAMERON-RULKOWSKI: Commissioner -- yes, thank
23 you. That's what I wanted to know.

24 COMMISSIONER GOLTZ: The settlement agreement, yes.
25 So I readdress this to Mr. Weinman: So what's the

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1 rationale for a band of \$2 above and \$4 below? I mean, how do
2 you come to those numbers?

3 MR. WEINMAN: Well, in terms of the residential rate,
4 this was pretty much suggested by Public Counsel in terms of the
5 upper limit of the band and when we had the discussions of the
6 amounts going below, generally, those came from -- from
7 Frontier.

8 And one of the reasons for the amount going below is
9 still to give the Company flexibility, but by the same token, we
10 recognized that their current rate is an adoption of a Verizon
11 rate. And so if they are going to move the rate down in all
12 three of these bands, then they would need to produce a TSLRIC
13 study that shows that they weren't pricing at service below
14 cost.

15 COMMISSIONER GOLTZ: Well, why would you need both a
16 downward limit on the band and TSLRIC study if they wanted to
17 reduce it \$5, and their TSLRIC study showed that it was above
18 cost, still above cost? Wouldn't that be good enough?

19 MR. WEINMAN: I guess from a mathematical point of
20 view, but the band does limit them. And they could change the
21 band and request a change of the band, but this was negotiated
22 between the Company and Staff and Public Counsel, and those
23 seemed like reasonable bands.

24 COMMISSIONER GOLTZ: Is there -- I don't recall. And
25 maybe it's in there, but I don't recall anything in the

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1 testimony that expressed a concern that Frontier would -- in
2 light of regulatory flexibility, would reduce its rates.

3 MR. WEINMAN: Well, I would tend to agree with that,
4 but to --

5 COMMISSIONER GOLTZ: And so is this reduction in -- I
6 mean, so what's this about? I mean, does anyone really care?

7 MR. WEINMAN: I don't know that we care so much on
8 residential and business, but Frontier did express an interest
9 in being able to reduce their special access band.

10 COMMISSIONER GOLTZ: Okay. I understand.

11 MR. WEINMAN: And so the banding amounts were kind of
12 negotiated and -- with upper limits and lower limits off of the
13 current rate.

14 COMMISSIONER GOLTZ: But is there any concern -- do
15 you have any concern about the lower limit? I mean...

16 MR. WEINMAN: Me, personally?

17 COMMISSIONER GOLTZ: Yeah, yeah.

18 MR. WEINMAN: No.

19 COMMISSIONER GOLTZ: Or Staff.

20 MR. WEINMAN: No.

21 COMMISSIONER GOLTZ: Okay. Does Public Counsel have
22 concern about the lower limit?

23 MS. JOHNSON: No. I would echo Mr. Weinman that it
24 was -- you know, basically, we went to look at a banded rate,
25 and we started negotiating. And so --

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1 COMMISSIONER GOLTZ: And it had to be a lower limit
2 if it was a banded rate, right?

3 MS. JOHNSON: Yeah. So it's a piece of negotiation,
4 and we ended up being comfortable with what we...

5 COMMISSIONER GOLTZ: Okay. Is there any real concern
6 that -- well, what's the concern that drives you to a TSLRIC
7 study if they want to lower it by a dollar? What's that
8 designed to protect against?

9 MR. WEINMAN: Well, when we negotiated this, we
10 negotiated the rates under 80.36.330. And, specifically, in
11 that part of the RCW, it states that the Company can't price
12 their rates below cost.

13 COMMISSIONER GOLTZ: Right.

14 MR. WEINMAN: And so...

15 COMMISSIONER GOLTZ: But that's -- but we don't
16 require -- maybe we do.

17 Do we require a TSLRIC study, I mean, no matter --
18 anytime they reduce their rates for any company?

19 MR. WEINMAN: Well, what we really do require the
20 TSLRIC study for is because we really don't know what Frontier's
21 costs are. The merger order had them adopt the existing rates,
22 and so it's a question of -- and meeting the criteria of
23 RCW 80.36.330 --

24 COMMISSIONER GOLTZ: But that --

25 MR. WEINMAN: -- that they have to do something to

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1 show that if a downward movement in the rates are not below
2 their TSLRIC cost.

3 COMMISSIONER GOLTZ: And the concern is if they
4 priced below cost, they would drive out competition --

5 MR. WEINMAN: Somewhat.

6 COMMISSIONER GOLTZ: -- that's nonexistent?

7 MR. WEINMAN: Yes.

8 COMMISSIONER GOLTZ: Okay. They'd drive out the
9 competition that you're saying doesn't exist?

10 I mean, doesn't it seem consistent with the theory?
11 I mean, you say there's not enough competition, but we have to
12 protect against them driving out competition?

13 MR. WEINMAN: Well, I think we recognize that we
14 don't have -- I'm not saying that we don't have enough
15 competition. We're really saying that we can't validate it with
16 the data that we've looked at. And that in moving from 320 to
17 330 in the RCW, that there is a requirement that they don't
18 price their services below cost.

19 COMMISSIONER GOLTZ: Moving over to Paragraph 15 of
20 the settlement agreement where the concern is on bundling, and I
21 guess that's the same question there.

22 What's the concern there if they bundle services?

23 MS. JOHNSON: I can take this.

24 COMMISSIONER GOLTZ: Sure.

25 MS. JOHNSON: Specifically, we drew this from the

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1 AFOR, the Qwest, now CenturyLink AFOR, and so one of the
2 concerns we had, if I recall correctly at the time we had
3 negotiated that, was that will a number of -- many customers
4 only take one service or feature along with their stand-alone
5 residential. And the second part was that because customers
6 are -- the advertising is directed largely toward bundles, and
7 so customers aren't necessarily aware that there's these
8 a la carte features. And so we wanted to make sure that
9 customers were protected from unfair marketing practices that
10 would have put them into a bundle that costs more than what it
11 would have actually cost if they went to the menu and picked out
12 all the parts on their own.

13 So that's the component about bundles. Just really
14 to -- if all of this is going to be out of the tariff, that
15 there's still some protection.

16 COMMISSIONER GOLTZ: And, Mr. Phillips, the Company
17 has no problem with that?

18 MR. PHILLIPS: We're okay with that condition, yes.

19 COMMISSIONER GOLTZ: Okay. On Paragraph 26 -- this
20 is a minor question -- it states that there's a commitment in
21 the very last line on Paragraph 26, which is carrying over to
22 page 8. It talks about a commitment that could expire December
23 31, 2016, which is inconsistent with the overall expiration date
24 of the agreement, isn't it, Mr. Phillips?

25 MR. PHILLIPS: It is inconsistent. Our preference, I

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1 guess in negotiation, would have been to have them consistent.
2 But some of the other parties wanted a different date, and that
3 was not an issue to us, so we agreed.

4 COMMISSIONER GOLTZ: Although, I guess, actually, now
5 that I think about it, the agreement is not an expiration -- the
6 agreement goes on. It's just that it can't be -- you would
7 have -- the Company would have to come to the Commission and
8 seek a modification of it that couldn't take effect before
9 December 31, 2015?

10 MR. PHILLIPS: That's correct, yeah.

11 COMMISSIONER GOLTZ: Okay. So let me ask about
12 Paragraph 28. And here you have -- that refers to the
13 provisions of waiver of regulatory requirements in that or
14 contained in Appendix B --

15 MR. WEINMAN: Yeah.

16 COMMISSIONER GOLTZ: -- right?

17 But then Paragraph 28 says but if there's a conflict
18 between those and that which is in the acquisition order, the
19 acquisition order controls.

20 So why did you have Appendix B in the first place?
21 Why didn't you just say whatever it is in the acquisition order?

22 MR. WEINMAN: Well, Appendix B has quite a few
23 waivers that are not in the acquisition order, but since the
24 acquisition order came first -- I'm sorry -- the merger order
25 came first, the commitment by the Company was is that there was

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1 nothing in that order that they anticipated to change. And so
2 because it came first in line, that that conflict language is
3 in.

4 COMMISSIONER GOLTZ: So you're saying that -- the way
5 I read this was if there's a waiver in Appendix B that is not
6 contained in the merger order, the merger order would control,
7 and it's not waived?

8 MR. WEINMAN: No. I'm sorry. The way it's worded is
9 if there is something in the waivers being considered here and
10 there was an item in the merger order that had the conflict,
11 then the merger order would prevail. That's not necessarily
12 true that there are any conflicts, but that's the way the
13 agreement was written.

14 COMMISSIONER GOLTZ: So if there's a waiver in
15 Appendix B and if the merger order is silent on it, Appendix B
16 prevails?

17 MR. WEINMAN: Yes.

18 COMMISSIONER GOLTZ: Okay. So let me ask just a
19 couple more questions.

20 On Exhibit B in the waivers on transfers of property,
21 where you're talking about a partial waiver -- so it's about
22 two-thirds of the way down on page -- on Appendix B.

23 So transfers of property, you grant the waiver for
24 sales of exchanges --

25 MR. WEINMAN: Would grant --

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1 COMMISSIONER GOLTZ: -- except for sales or exchanges
2 to a nonaffiliated third party?

3 MR. WEINMAN: Sale of individual exchanges or a
4 merger of a nonaffiliated third party.

5 COMMISSIONER GOLTZ: Okay. So explain the rationale
6 for that.

7 MR. WEINMAN: Well, I think as the Company's witness
8 Mr. Gregg indicated that -- at least at the federal and state
9 level that once it's an ILEC, it's always an ILEC, and so all of
10 these federal issues with the transformation order really sets
11 caps and reductions on access lines.

12 And here, the sale of the exchange kind of breaks it
13 out. And we really don't know what would happen to it under
14 that consideration, and so that's the reason we've put it in at
15 the exchange level.

16 And after that, if it's going to be sold to another
17 nonaffiliated interest, we'd certainly at least like to have a
18 look to see if they're financially viable.

19 COMMISSIONER GOLTZ: I see.

20 MR. WEINMAN: So those are the two conditions on
21 transfers of property that we believe are still appropriate.

22 COMMISSIONER GOLTZ: Okay. And then I have a process
23 question, and maybe this needs to be Counsel. But let's say we
24 approve the settlement with some modifications, and maybe to the
25 duration of the agreement, maybe to the rate, something with the

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1 rate band making it broader, narrower, or whatever. But let's
2 say hypothetically that they're, in general, considered to be
3 sort of pro company conditions.

4 What's the process that we go through, then? How
5 does that work?

6 MR. WEINMAN: I don't know.

7 MS. CAMERON-RULKOWSKI: Commissioner, according to
8 the terms of the agreement, if there are changes or additions to
9 the agreement, then each party has the option of withdrawing,
10 which, in theory, would then put us back in the proceeding
11 prefiling of the agreement, I believe.

12 COMMISSIONER GOLTZ: Okay. And then all bets are
13 off? It's back to litigation if one party drops out?

14 MS. CAMERON-RULKOWSKI: Yes, it is. It raises a
15 question in my mind about what we would do about the statutory
16 deadline, but that's a...

17 COMMISSIONER GOLTZ: You'd have a busy June.

18 MS. CAMERON-RULKOWSKI: That's another issue.

19 JUDGE KOPTA: Busy July.

20 COMMISSIONER GOLTZ: Okay. That's all I have right
21 now. And maybe questions from some others will trigger some
22 more. Thanks. Thank you very much.

23 COMMISSIONER JONES: Thank you. For those on the
24 bridge line, this is Commissioner Jones. I'm going to follow up
25 on a few of Commissioner Goltz's questions, but I'm going to go

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1 starting with intrastate access, a few questions on that.

2 Let me see. On this one, I think I'll direct it to
3 Mr. Denney, Mr. Weinman, and the Company.

4 So explain to me how this works. Generally, with the
5 Tenth Circuit litigation, effectively what we're doing is
6 freezing intrastate access rates at the rates as of December
7 2011 when -- per the FCC order; is that correct, Mr. Denney?

8 MR. DENNEY: So I think the only time that the
9 December 29, 2011 order would come in -- rates would come into
10 play is if the Tenth Circuit overturned the FCC's Intercarrier
11 Compensation Order, and in that case, the rates would default
12 back to where they were prior to the FCC's order, because since
13 that time, the rates have been adjusted last July, you know,
14 down halfway --

15 COMMISSIONER JONES: Right.

16 MR. DENNEY: -- to the interstate rates and then
17 again coming up this July.

18 COMMISSIONER JONES: So there will be another tariff
19 filing by the Company in July of this year, correct?

20 MR. PHILLIPS: To be effective July.

21 COMMISSIONER JONES: To come down to mirrored rates?

22 MR. PHILLIPS: That's right.

23 COMMISSIONER JONES: To bring the intra down to
24 interstate rates, correct?

25 MR. PHILLIPS: That's right.

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1 COMMISSIONER JONES: Okay. So that's going to
2 proceed forward, right?

3 MR. WEINMAN: Mm-hm.

4 COMMISSIONER JONES: Okay. How long do you expect
5 the Tenth Circuit litigation to take to resolve itself? Any
6 lawyers, smart lawyers in the...

7 MR. GREGG: Oral argument is scheduled for this fall,
8 so more than likely a decision will come out sometime before the
9 middle of 2014.

10 COMMISSIONER JONES: The middle of two -- that was
11 Mr. Gregg?

12 MR. GREGG: Yes, I'm sorry.

13 COMMISSIONER JONES: Okay. So the middle of 2014?

14 MR. GREGG: Sometime --

15 COMMISSIONER JONES: Do other attorneys agree with
16 that assessment?

17 I'm hearing things. NARUC is involved in the
18 litigation, and I'm looking at that from a NARUC perspective.
19 I'm hearing three to four years -- does that ring a bell with
20 anybody? -- it could go on?

21 MR. WEINMAN: No. I think in the settlement itself
22 it really says that it's -- it lasts until all avenues of
23 litigation have been decided, so...

24 COMMISSIONER JONES: Right. So it could go to the
25 Supreme Court, correct?

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1 MR. WEINMAN: That's my understanding.

2 COMMISSIONER JONES: Okay. So basically all avenues
3 of litigation have to be resolved before any rate intrastate
4 access, switched access rate could be changed per the CLEC
5 settlement agreement, per the DoD/FEA agreement, per the -- I
6 mean, we have three agreements here that impinge upon access
7 rates, right?

8 MR. DENNEY: Well, and that's not -- not just to be
9 changed, but to be increased back, because there's a path we're
10 on, according to the FCC, for terminating rates.

11 COMMISSIONER JONES: Sure. Terminating rates go to
12 bill and keep in 2018, right?

13 MR. DENNEY: Right, and we will follow that path, the
14 CLECs and the -- you know, and the Companies will all be
15 following that path for terminating rates unless that's stayed
16 by the Court. So we'll all be in a similar...

17 COMMISSIONER JONES: Okay.

18 MR. DENNEY: But with originating rates, the
19 Commission still has -- still has jurisdiction over.

20 COMMISSIONER JONES: Yeah. The FCC transformation
21 order does not touch anything to do with --

22 MR. DENNEY: Right.

23 COMMISSIONER JONES: -- origination rates?

24 MR. DENNEY: Other than cap them, correct.

25 COMMISSIONER JONES: Right.

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1 So for the Company --

2 MR. WEINMAN: Commissioner Jones?

3 COMMISSIONER JONES: Yes?

4 MR. WEINMAN: I would like to point out that the
5 Company agreed to leave their intrastate switched access and
6 special access in as a tariffed item at this point in time. So
7 while the CLECs have certainly covered their basis in their
8 agreement --

9 COMMISSIONER JONES: Right.

10 MR. WEINMAN: -- we still do have a tariff in place
11 for that -- that portion of the access rates.

12 COMMISSIONER JONES: So that will remain tariffed,
13 and we do have the remaining 50 percent reduction --

14 MR. WEINMAN: Yes.

15 COMMISSIONER JONES: -- coming due in July of 2013 --

16 MR. WEINMAN: Yep.

17 COMMISSIONER JONES: -- that will remain tariffed,
18 correct?

19 MR. WEINMAN: Yes.

20 COMMISSIONER JONES: And the FCC hasn't asked us to
21 review that tariff and file any comments with them, correct?

22 MR. WEINMAN: Correct.

23 COMMISSIONER JONES: Okay. So there's a question for
24 the Company.

25 If the Tenth Circuit reverses the order and the

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1 Supreme Court upholds it, what's the procedure by which
2 Frontier -- the way I read the settlement agreement, there's no
3 agreement to do anything other than file with the Commission a
4 proposal, correct?

5 MR. PHILLIPS: That's right. And the thought there
6 is that the Commission is going to retain -- if the Commission
7 retains jurisdiction over switched access, then it retains
8 access over switched access.

9 COMMISSIONER JONES: Right.

10 MR. PHILLIPS: I think there's some difficulty in
11 trying to craft some language that would address that, but that
12 was certainly the intent --

13 COMMISSIONER JONES: Okay.

14 MR. PHILLIPS: -- was that...

15 COMMISSIONER JONES: Okay.

16 MR. PHILLIPS: Yes.

17 COMMISSIONER JONES: Okay. Special access. A couple
18 questions on that. This is for Mr. Weinman.

19 How did you come up with a number, or how was that --
20 this 10 percent below Frontier's existing tariffed rates, what's
21 the basis of that number?

22 MR. WEINMAN: Again, a negotiation with the Company
23 and...

24 COMMISSIONER JONES: Is there any evidence in the
25 record by any witness on 10 percent or 5 percent or 15 percent

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1 what's reasonable?

2 MR. WEINMAN: No.

3 COMMISSIONER JONES: Okay.

4 MR. WEINMAN: But by the same token, if they're going
5 down, they really -- they still need to do something with the
6 TSLRIC to show that they're not pricing that special access
7 below cost.

8 COMMISSIONER JONES: For the Company, can you give me
9 a ballpark? Is this really a big issue for intrastate special
10 access services, or is it primarily an interstate special access
11 services issue?

12 MR. PHILLIPS: Let me clarify. You're talking about
13 the lower band?

14 COMMISSIONER JONES: Yes.

15 MR. PHILLIPS: The lower band really is not an issue
16 to us, no.

17 COMMISSIONER JONES: It's not?

18 MR. PHILLIPS: No.

19 COMMISSIONER JONES: Okay. And then the maximum rate
20 is going to be capped at your interstate rate, correct?

21 MR. PHILLIPS: That's right.

22 COMMISSIONER JONES: And is your interstate rate for
23 special access services generally higher or lower than
24 intrastate now?

25 MR. PHILLIPS: It's not entirely consistent, but on a

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1 composite basis, the interstate is higher than intrastate.

2 COMMISSIONER JONES: Okay. Is higher.

3 I'm going to return to some of the questions on local
4 exchange service, because like Commissioner Goltz, I'm having a
5 problem with -- a challenge understanding this banded rate
6 issue.

7 So according to the WAC currently, doesn't a company
8 have the right to file a banded rate proposal with the
9 Commission and we have 10 days to act on it?

10 MR. WEINMAN: Yes, I believe that's true.

11 COMMISSIONER JONES: So how does this advance the
12 ball toward more pricing flexibility for the Company, for,
13 quote, deregulation?

14 MR. WEINMAN: Well, at the time, we were talking with
15 the Company, and they indicated they needed some flexibility.
16 Then we started talking about going to some sort of an AFOR
17 arrangement, but the realities are by going to an AFOR, they
18 would have had to file something else to come before the
19 Commission.

20 And so banded rates were discussed as a way to
21 encompass that flexibility into this docket and give the Company
22 the flexibility that -- to do something with their rates. And
23 by the same token, I guess, give us some comfort that there is a
24 limit on how much the rates could move, and it seemed to be the
25 easiest issue and the best issue at the time to resolve the

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1 issues of the various parties in this settlement.

2 COMMISSIONER JONES: And what's the evidentiary basis
3 for \$2? I think you answered Commissioner Goltz that there's no
4 evidentiary basis in the record for \$2 for residential or \$3 for
5 business?

6 MR. WEINMAN: That's correct.

7 COMMISSIONER JONES: It was a negotiation?

8 MR. WEINMAN: It was a negotiation.

9 COMMISSIONER JONES: Does this make sense to come up
10 with these sorts of numbers? I'm talking as an economist now.
11 If you regard parts of a market as being competitive, why are we
12 coming up with negotiated caps, if you will, for residential or
13 business service in a competitive market? That doesn't make
14 sense to me.

15 MR. WEINMAN: I don't know that we agreed that both
16 the small business and the one-party residential customers are
17 competitive. We know they are competitive in some areas, but we
18 don't know in terms of the overall impact whether or not there
19 needs to be a different level of granularity in terms of looking
20 at these rates.

21 COMMISSIONER JONES: Well, I'm going to get to that
22 in a minute, Mr. Weinman, the granularity by wire center.

23 But let me ask the Company, or, Ms. Abernathy, if you
24 want to chime in on this, I'm speaking from an economist
25 standpoint now.

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1 Does it make sense to put kind of arbitrary caps on
2 price increases or even decreases or -- or any sort of price
3 movement if you regard the -- the relevant market as being
4 effectively competitive? Does that make sense?

5 MS. ABERNATHY: No, because the caps would be
6 meaningless. Your pricing could be driven by what's going on
7 from a competitive perspective and what the market will bear.

8 Having said that, the terms that were negotiated were
9 negotiated in order to try and avoid some protracted misuse
10 of...

11 COMMISSIONER JONES: So, Ms. Abernathy, you're asking
12 us to accept this as a negotiated package and recognize the fine
13 art of negotiation in spite of defying the laws of economics, if
14 you will?

15 MS. ABERNATHY: Exactly.

16 COMMISSIONER JONES: Okay. Because how many of these
17 services do you sell on a stand-alone basis right now,
18 Ms. Abernathy, either voice, broadband or video or DSL?

19 MS. ABERNATHY: You know what? I don't have the
20 exact number we would sell stand-alone. For the most part --
21 and you know this just from reading all the materials -- that
22 everyone and most customers are moving towards bundled prices
23 because it's always a better price for the customer. There's
24 always a discount with the bundle, and most of the -- all the
25 competitors want to sell packages, so I don't -- the better

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1 value is always in the bundle, never in the stand-alone pricing.

2 COMMISSIONER JONES: You operate in 26 other states?

3 MR. PHILLIPS: That's correct.

4 MS. ABERNATHY: That's correct.

5 COMMISSIONER JONES: Are you submitting TSLRIC cost
6 studies in any other state to justify that you aren't pricing
7 below cost or...

8 MR. PHILLIPS: No.

9 MS. ABERNATHY: I don't think so.

10 Jack?

11 MR. PHILLIPS: No. In terms of -- no. We haven't
12 filed any for quite a while. Illinois did, but that statute has
13 been eliminated. I think Minnesota may have a limit, but it's
14 only -- it's upon objection by perhaps a competitor. But
15 generally, no, they are no TSLRIC studies filed.

16 COMMISSIONER JONES: Okay. I'm going to focus in on
17 the small business market a little bit, not residential.

18 The small business market, I read in Mr. Phillips'
19 testimony and parts of Mr. Roycroft's and others, but I'm having
20 a problem or a challenge coming to grips with how we base our
21 decision on -- and that is a relevant market in my view, that
22 the relevant market would be a small business market per the
23 statute.

24 And so the question then becomes rates, terms, and
25 conditions, functionally equivalent services, so then I go to,

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1 Well, what data do you use to base this decision on, on whether
2 or not effective competition and captive customers exist.

3 And I think Mr. Phillips' testimony indicated that we
4 have kind of a one-sided data set here. We have a lot of
5 data -- and it's highly confidential, and I can't speak to it
6 now -- primarily porting out data of customers moving, correct?

7 MR. PHILLIPS: That's correct.

8 COMMISSIONER JONES: But if you want to get the data
9 on customer ads, on how many moved to which company, there's no
10 data. And there's no data that we have at the Commission, and
11 whether it's a Comcast or an Integra or any other company that
12 competes with Frontier, we don't have the data in this record
13 per wire center for small business, do we?

14 MR. PHILLIPS: Not for small business. I think we
15 have information that port out information by wire center, which
16 I believe was responded to in data requests. We have
17 identified --

18 COMMISSIONER JONES: Right.

19 MR. PHILLIPS: -- how many port outs by wire center.
20 We have also identified, I believe by carrier, but we don't
21 necessarily know whether that was a large or small business, or
22 whether it's a residential customer. We know that that
23 telephone number ported, for example, to Integra, but we don't
24 necessarily know whether -- we don't have it in the record, the
25 ability to identify whether it's classified as a small or large

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1 business.

2 COMMISSIONER JONES: So really when you want to do an
3 effective competition analysis, you really don't know what type
4 of customer is being migrated, if you will, and what sort of
5 competition exists in that particular city or exchange, right,
6 if you don't have -- if all you have is port out data from the
7 FCC porting out data?

8 MR. PHILLIPS: It's port out from -- or, actually,
9 internally, yeah.

10 COMMISSIONER JONES: Excuse me.

11 MR. PHILLIPS: Yeah; internally, yeah.

12 COMMISSIONER JONES: From your company?

13 MR. PHILLIPS: That's right.

14 COMMISSIONER JONES: So can you help me at all
15 assuage some of my concerns that this effective competition
16 analysis is robust and comprehensive?

17 MR. PHILLIPS: Well, we have identified by wire
18 center business and residential access line losses. We have
19 identified the number of customers --

20 COMMISSIONER JONES: Yes.

21 MR. PHILLIPS: -- that have been lost in terms of
22 business and residential.

23 Your question is whether we have segmented the
24 business between small and large?

25 COMMISSIONER JONES: Right, and I get that. You've

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1 lost from 2000 to 2012, 56 percent of your access lines for
2 businesses, right?

3 MR. PHILLIPS: Fifty -- right. Yes.

4 COMMISSIONER JONES: Fifty percent plus?

5 MR. PHILLIPS: Yes.

6 COMMISSIONER JONES: I would regard that as
7 significant, but that is -- that's kind of a top-down analysis,
8 correct?

9 MR. PHILLIPS: It is.

10 COMMISSIONER JONES: You're going from a conclusion
11 from an outcome and trying to figure out what the factors are
12 that --

13 MR. PHILLIPS: Right.

14 COMMISSIONER JONES: -- led up to that?

15 MR. PHILLIPS: Right. And porting information is
16 somewhat limited in itself because many customers -- the numbers
17 are never ported. It may be a business that expanded. It may
18 be a new business, so, you know, initially took service from
19 another competitor. So there are limitations on these of
20 porting to identify the level of competition that exists whether
21 it may have been with another carrier and then switched to
22 another without having our service.

23 COMMISSIONER JONES: Mr. Weinman, can you help me at
24 all with this analysis? Just for small business, not for
25 residential.

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1 MR. WEINMAN: Mr. Jones, I can't, but Ms. Roth can.
2 She did the business analysis for us.

3 COMMISSIONER JONES: Okay.

4 MR. WEINMAN: Accountants don't do well with economic
5 concepts.

6 COMMISSIONER JONES: Okay. Ms. Roth, would you come
7 up? We might as well hit this one squarely right now.

8 Ms. Roth, hello.

9 MS. ROTH: Hi.

10 COMMISSIONER JONES: Just give me an overview first
11 of your small business customers and your small business
12 customer analysis and how you came to the conclusion that there
13 is effective competition in the 102 wire centers across the
14 State.

15 MS. ROTH: We start this case. I get assigned to
16 look at the business exchange service Frontier provided. And in
17 the initial docket, Frontier did not provide any data, so Staff
18 had issued a couple of data requests that in my highly
19 confidential exhibit...

20 COMMISSIONER JONES: It's JYR-6HC, correct?

21 MS. ROTH: Oh, that's correct.

22 COMMISSIONER JONES: Yeah. No, I have it in front of
23 me.

24 MS. ROTH: I wasn't prepared to talk. So we asked
25 Frontier twice to list their small business customers in each of

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1 the wire centers that serve -- only subscribe to one to three
2 lines, and their answer is that they list the customer by each
3 wire centers, and their answer is Frontier is the only provider
4 to offer stand-alone, voice-grade, business exchange lines. So
5 it's confidential. Their customer numbers is at the bottom of
6 that exhibit.

7 COMMISSIONER JONES: Right. And I see those, and I
8 cannot talk about those right now.

9 But my question to you is you issued two questions,
10 and one included -- this is not confidential -- including -- so
11 you asked the same question, but in the second question you said
12 including those served by competitive providers, as well as
13 those served by Frontier. And then Frontier appears to have
14 sent you the same data, highly confidential data by wire center,
15 right?

16 MS. ROTH: Right, and identify Frontier as the only
17 provider in those wire centers again.

18 COMMISSIONER JONES: Well, I would like to hear from
19 Frontier on that, because I think in your rebuttal testimony,
20 you strongly objected to her analysis, right?

21 MR. PHILLIPS: Well, we came back with some
22 information --

23 COMMISSIONER JONES: Yeah.

24 MR. PHILLIPS: -- that identified ads and other
25 information that was available from Commission -- or from

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1 competitor websites that showed that, in my opinion, the
2 competition for small business is pretty robust.

3 COMMISSIONER JONES: Right. Well, as you and I were
4 just talking, Mr. Phillips, that even you don't have information
5 to, let's say, a Comcast or an Integra. You don't know if
6 Integra is buying a special access service and selling it to
7 X retailer, or you don't know if they're bundling it with a UNE
8 and selling it wholesale. You don't know what Comcast is doing,
9 so even you don't know what they're doing in at that particular
10 wire center, right?

11 MR. PHILLIPS: That's right. And, you know, it's
12 pretty easy to get your arms around residential market share,
13 because we know how many households are out there. It's very
14 difficult to get your arms around the business, both large and
15 small, the total scope of the market, because we don't know what
16 the other piece is.

17 COMMISSIONER JONES: So, Ms. Roth, do you agree that
18 at least from some of these competitors, like a Comcast or an
19 Integra or Level 3, that information is available as to what
20 rates, terms, and conditions they're offering service to small
21 business customers in the State of Washington?

22 MS. ROTH: Well, my highly confidential exhibit, 7C,
23 is I have asked DRs for the five CLECs who participated as the
24 Intervenor in this case.

25 COMMISSIONER JONES: Right.

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1 MS. ROTH: None of them offer -- the reason is very
2 important. It's a stand-alone, month-to-month, voice-grade
3 business service to small business customers. That will be
4 Frontier charged \$30 a month. None of them offer that. That is
5 done -- the only five CLECs I asked for.

6 Comcast may have -- offer business that may be
7 bundles, but they're not a stand-alone business line. And to be
8 honest, we were in the settlement. I did not, you know --

9 COMMISSIONER JONES: Right.

10 MS. ROTH: -- give a great deal of attention to
11 Mr. Phillips' rebuttal testimony.

12 COMMISSIONER JONES: No, I understand that.

13 So you based your analysis just -- I'm talking more
14 on methodology of your analysis as an economist, so you were
15 looking more at the stand-alone services?

16 MS. ROTH: That's correct.

17 COMMISSIONER JONES: So you were trying to compare
18 Frontier's stand-alone business service at thirty-three sixty?

19 MS. ROTH: Mm-hm.

20 COMMISSIONER JONES: Now, is that with a SLC in or
21 not? That's not?

22 MS. ROTH: No. This is just the tariffed rate.

23 COMMISSIONER JONES: So the SLC is subscriber --
24 subscriber line charge, SLC, S-L-C, subscriber line charge.

25 With the SLC, it's \$40, right?

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1 MS. ROTH: Well, I don't know.

2 COMMISSIONER JONES: You don't know?

3 MS. ROTH: That could be right.

4 COMMISSIONER JONES: Okay.

5 MS. ROTH: I just know their tariff rate is \$33 plus
6 change.

7 COMMISSIONER JONES: So your point is when you're
8 looking at an offering by Integra or Comcast or any other
9 business competitor, you're comparing it to a bundle, and you
10 don't have a good analysis to do on a stand-alone basis?

11 MS. ROTH: I don't compare to a bundle. I don't have
12 any comparisons to stand-alone basis. Nobody offered
13 stand-alone, voice-grade, business month-to-month rate. Nobody.

14 COMMISSIONER JONES: So what were you comparing it to
15 to get to the analysis that there's effective competition -- or
16 there's not effective competition?

17 MS. ROTH: There's not effective competition because
18 there is no providers in the market who are providing that
19 service.

20 COMMISSIONER JONES: What service? What's the
21 relevant service?

22 MS. ROTH: A stand-alone business service.

23 COMMISSIONER JONES: But if Comcast or Integra is
24 offering voice, data, and other services in a bundle, isn't that
25 a functionally equivalent service?

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1 MS. ROTH: In my opinion, it is not.

2 COMMISSIONER JONES: Why not?

3 MS. ROTH: Because the statute defined the
4 equivalent -- functional equivalent service is also at
5 competitive rates and terms and conditions --

6 COMMISSIONER JONES: Right.

7 MS. ROTH: -- and reasonable rates.

8 So I put that all together and didn't think that
9 bundles of the data service and voice would be -- you know, it's
10 not in the relevant market that the business service is
11 offering, so I don't think that's functionally equivalent of
12 voice-grade services.

13 COMMISSIONER JONES: Okay. And that's how you came
14 to your conclusion?

15 MS. ROTH: Well, I may add that I -- in my analysis,
16 I looked at the past Commission orders --

17 COMMISSIONER JONES: Yes.

18 MS. ROTH: -- in a Qwest competitive classification
19 case. That is under 80.36.330. Of course, we've been talking
20 about 320, and the Commission identified the relevant market by
21 a group of customers --

22 COMMISSIONER JONES: Right.

23 MS. ROTH: -- in small, medium, and large, and they
24 identified, you know, by product.

25 So there is a product market. There is a geographic

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1 market. There is a different class of customers. I take all
2 that into consideration to do my analysis that the company does
3 not face effective competition in that particular product market
4 for small business customer group.

5 COMMISSIONER JONES: So, essentially, you were
6 doing -- and I recall that Qwest order. I think I had just
7 become a Commissioner. It was one of my first cases. I see
8 Ms. Andrel, formerly of Qwest, is in the audience, but that was
9 a petition for -- not under 310, but 330, correct?

10 MS. ROTH: That is correct.

11 COMMISSIONER JONES: But what you're telling me now
12 is that you -- even though Frontier petitioned under 310 as a
13 company, you essentially, looking at small biz and res, did a
14 330 analysis, essentially a bottoms-up analysis of particular
15 services, right?

16 MS. ROTH: Frontier asked under 80.36.320 for a
17 competitive classified company.

18 COMMISSIONER JONES: Right.

19 MS. ROTH: My assignment to this case is to look at a
20 group of business services that are being offered to large and
21 business customers. I have to analyze that based on 80.36.330,
22 because that's the -- for particular services, not for the
23 Company.

24 COMMISSIONER JONES: And I've looked at your
25 testimony and -- on competitive offerings in the market, and I

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1 think Ms. Liu also had a lot of information on wireless, cable,
2 VoIP, what these companies were offering both to residential and
3 small business customers, right?

4 MS. ROTH: Well, I did not do the VoIP and wireless
5 and cable.

6 COMMISSIONER JONES: That was Ms. Liu?

7 MS. ROTH: That's Ms. Liu, yes.

8 COMMISSIONER JONES: Okay. Thank you. Okay. Thank
9 you. Those are all the questions I have for you.

10 MS. ROTH: Thanks.

11 CHAIRMAN DANNER: No other questions?

12 COMMISSIONER JONES: No.

13 CHAIRMAN DANNER: Thank you. I want to -- is my --
14 oh, there we go.

15 I know we've sliced this many different ways
16 geographically by service and so forth, but I look at this --
17 you know, it keeps coming back to me that the Company says
18 they've had a 62 percent reduction in the number of access lines
19 since 2001; that in Frontier states that the loss of access
20 lines has been ubiquitous across its exchanges; and that in all
21 but one of its exchanges, it's experienced line losses since
22 2009.

23 We know that more than 50 percent of its business
24 lines have gone down. Looking at Mr. Roycroft's testimony, he
25 says that there are about thirty-seven -- more than 37,000

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1 households in Frontier's service territory are located in wire
2 centers where Frontier has a market share of 50 percent or more,
3 but 37,000 households out of what was originally almost 900,000
4 suggests that that's not a large part.

5 So even if you concede that there are areas within
6 the service territory where you don't have effective
7 competition, I'm just wondering if there's a different way to
8 put together a settlement agreement such as when the Company has
9 agreed to COLR obligations and the Company has agreed to
10 averaging of pricing, wouldn't that -- given that they have
11 areas where competition is pretty intense, wouldn't that act as
12 a safeguard in areas that are less competitive so that you would
13 achieve the same result and protect those consumers by just --
14 instead of looking at it wire center by wire center, you look at
15 it as Frontier's service territory?

16 And the fact is that they can't raise prices in
17 Tonasket any more than they can in downtown Everett, so aren't
18 there different ways of doing this? I guess I would throw that
19 out to any of the panelists, and I would like to hear from all
20 of them.

21 MS. JOHNSON: I can start.

22 MR. WEINMAN: Do you want to go first?

23 MR. DENNEY: Well, I'm not sure it's fair for Integra
24 to comment on how the Staff and Public Counsel and, you know,
25 Frontier should have formed their -- the settlement agreement

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1 that they entered into, so I don't think I -- I don't think I
2 really have anything relevant to comment in that regard if
3 that's...

4 CHAIRMAN DANNER: Okay. So when I said "all" --

5 MR. DENNEY: Right.

6 CHAIRMAN DANNER: -- I didn't mean you.

7 MR. DENNEY: Well, Bill handed -- I assumed so, but
8 Bill handed me the mic, so...

9 CHAIRMAN DANNER: Okay. So my question is not, you
10 know, about the settlement that currently exists, it's about the
11 hypothetical settlement that might have been.

12 Wouldn't something along the lines of what I said
13 provide the same kind of protections?

14 MR. WEINMAN: I think that the realities are, at
15 least from my perspective, is that because the Company did
16 request some flexibility in certain tariffed areas in -- in
17 negotiating the settlement, is that we did try to negotiate
18 something that would allow them the flexibility that they need
19 to go forth and change their rates.

20 And I think that the fact that the Company wanted
21 upper limits really tells me in a very limited sense that they
22 think they have some room to raise their rates, and that
23 competition, if it's really competitive, would tend to drive
24 those rates down.

25 So we tried to structure something that really has

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1 something for everybody and maybe nothing for everybody, too, in
2 certain areas.

3 CHAIRMAN DANNER: But that's my point. If they can't
4 raise their rates too far in Everett, and then if they have
5 averaging, they can't raise their rates too far in Tonasket,
6 okay, they have still have flexibility, but their flexibility is
7 constrained by the market?

8 MR. WEINMAN: Well...

9 CHAIRMAN DANNER: That's a question.

10 MR. WEINMAN: I understand what you're saying, but by
11 the same token, I think that we have done a good job of creating
12 a settlement, an all-company settlement, that really gives the
13 Company the flexibility they need in the short term to change
14 their rates.

15 And, ultimately, they're going to be coming back
16 and -- and we can better address some of these issues in the
17 interim and -- and be prepared for it, because I really see this
18 as a platform that's been set up -- or a foundation, if you
19 will, that will lead to further change after this period is
20 over.

21 And the fact that the Company is happy with the
22 flexibility they have, I think, kind of addresses that issue.

23 CHAIRMAN DANNER: Thank you.

24 How did you come to the period for the stay-out? How
25 did you arrive at that time period?

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1 MR. WEINMAN: I'm going brain dead, but, I mean, we
2 kind of structured the increases over a two-year period, and so
3 really it's kind of anticipated that after that, something would
4 happen.

5 And the Company also looked at it from the standpoint
6 of going to December 31st of 2015. It would be possible to file
7 an AFOR or something in, say, March 5th of 2015, and get the
8 clock rolling to negotiate a new deal that would be effective in
9 the next -- in 2016.

10 CHAIRMAN DANNER: Okay.

11 MR. WEINMAN: So that's -- it's kind of a combination
12 of two different things, as far as I'm concerned.

13 CHAIRMAN DANNER: All right.

14 MS. JOHNSON: I would like to respond to the previous
15 question. Sorry.

16 CHAIRMAN DANNER: Great.

17 MS. JOHNSON: Which now I'm trying to remember
18 exactly what it was, but it was about whether just deaveraging,
19 allowing the competitive classification under 320, I'm assuming,
20 and that, you know --

21 CHAIRMAN DANNER: Well, I think what I -- yeah. What
22 I was saying is if you accept that you have a COLR obligation
23 and average rates -- averaging rates, then, you know, what else
24 do you need? Isn't that enough?

25 MS. JOHNSON: Well, I think that particularly for

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1 stand-alone residential, that rate at \$18 -- or I can't remember
2 off the top of my head right now.

3 COMMISSIONER JONES: Sixteen-ninety.

4 CHAIRMAN DANNER: Sixteen-ninety.

5 MS. JOHNSON: Sixteen -- maybe I'm imagining what
6 it's going to be very soon, so I don't think that there is
7 specifically competition for that on an equivalent basis. There
8 isn't -- I think where there's a lot of competition is in areas
9 of bundles, and so if you're going to get -- you're going to get
10 cable, you're going to get a phone, you're going to get a number
11 of services, that's one thing. But, you know, to get a cell
12 phone plan is \$50, which is not sixteen thirty-three.

13 So I think that if they were -- even if prices were
14 deaveraged for that single service across the State, that there
15 is room for the prices to increase on that one single component.

16 CHAIRMAN DANNER: But wouldn't they be capped? I
17 mean, you know, my own experience might be relevant here. It's
18 just my experience, but I've got a cell phone. In fact, I've
19 got two cell phones, and I've got a landline. And I'm very
20 happy with my landline, but I realize it's redundant to my cell
21 phone, and I think that through sheer inertia, I am keeping my
22 landline.

23 If I were to get a notice from my landline provider
24 that the price was going up, it might wake me up and say, You
25 know what? I really don't need that, and so I've got to believe

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1 I'm not alone in this. You know, I talk to parents that have
2 kids my daughter's age, and they're all talking about, Well, we
3 have a landline until my daughter gets a cell phone, which isn't
4 yet. I mean, it does seem to me there are other pressures, you
5 know?

6 MS. JOHNSON: Well, I guess that I want to be aware
7 of the fact that there are -- there's a portion of the
8 population that doesn't have two cell phones, and they don't
9 have access to the other opportunities. And I want to be able
10 to -- you know, if they get the notice that their bill is going
11 up two or four dollars, then they're not going to dump the
12 Company. Their bill is going to go up two to four dollars.

13 CHAIRMAN DANNER: Right. But if we're talking
14 about -- I think, you know, the numbers so far out of 350,000
15 access lines, we have 42,000 who are captive customers.
16 Everybody else has got some wiggle room.

17 I mean, doesn't the market provide a cap? It may not
18 mean that prices won't go up some, but they're certainly not
19 going to go up much.

20 MS. JOHNSON: I think that, you know, fundamentally
21 our issue was that there was -- there was not competition for
22 all services in all areas.

23 And, you know, for Public Counsel, it's very
24 important that we're -- we're looking out for the interest of
25 everyone. I think that we were able to come to a negotiation

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1 with the Company from the starting point that they filed under
2 330, RCW, they filed under -- 320 -- sorry -- and, you know,
3 there's a record in this case of going back months where we were
4 asking for something else; you know, can we do this under 330?
5 Is there a way to do an AFOR? Is there something different if
6 you're looking for flexibility, but we just can't -- you know,
7 we can't agree with you fundamentally on this position.

8 So I think where we are now is, you know, the case
9 was wrapping up, and we were able to find a position of
10 compromise. And it might not be neatly packaged, but I think
11 that based on, you know, where we started, I'm incredibly
12 pleased with what we walked away with.

13 I think the Company was able to get the flexibility
14 that they needed, and, you know, we feel that there are
15 protections in place.

16 It could have looked a number of different ways. It
17 could have been an AFOR. It could have been a lot of different
18 things, but it is what we have.

19 MS. ABERNATHY: This is Kathleen Abernathy.

20 If I could just add one comment on behalf of
21 Frontier?

22 CHAIRMAN DANNER: Sure.

23 MS. ABERNATHY: So when we filed this, just to put it
24 in context of what we were thinking at the time, is just that we
25 looked at what customers were purchasing and what they wanted.

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1 And our customer logs tells us that, you know, the numbers are
2 dwindling, as far as customers who want stand-alone residential
3 phone lines, although we still want to serve those customers
4 because they're good customers.

5 So the question for us was whether or not in a
6 deregulated environment, we would drive down some of our
7 regulatory costs and at the same time continue to provide good
8 service to customers and try and keep all the customers we have.

9 So I think the challenge that we have when we were --
10 when we filed this was that there was still this perception of
11 how customers purchase service. And what we have learned is
12 that they don't really -- you know, with our growing customer
13 losses, they don't really look for a phone line anymore. They
14 look for a way to communicate, and sometimes it's through data.
15 Sometimes it's through talking. Most of the time they want
16 mobility, and that's what the vast majority of our customers are
17 looking for.

18 And at the same time, of course, we have COLR
19 obligations, we have Lifeline and Link that's in the USF, and
20 all of the ETC obligations to go along with this. So our
21 thought was this can be deregulated, it will cause no harm to
22 consumers, and it will allow us to compete more effectively.
23 That's how we went into this, and that's why we filed the way we
24 did. The settlement is where we were able to eventually reach
25 some consensus with the other parties, but we firmly believed

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1 when we filed, that this market is competitive; that the numbers
2 demonstrate that it's competitive; and that we have every
3 incentive to keep every last customer that we can, because
4 that's how we make our money, and that's how we provide service
5 across our footprint. But we moved towards settlement as a
6 result of many of the concerns that the other parties raised.

7 CHAIRMAN DANNER: Okay. And so you were aware when
8 you filed this that you did have pockets where people didn't
9 have opportunities for alternative services?

10 MS. ABERNATHY: We were, but the reason -- first of
11 all, it's a very small percentage; and, secondly, we cannot
12 price per pocket anyway. You know, that's not -- it's way too
13 costly. It's way too complicated.

14 When we priced our services, we priced them -- we're
15 going to nationwide pricing for lots of services. And apart
16 from that, we price them across broad footprints, because when
17 you call in and order service and you've got someone pulling up,
18 you know, a hundred different pricing plans, it's just -- it
19 doesn't work.

20 And so the pockets were never going to be impacted by
21 the fact that they didn't have competition, because what drives
22 our pricing is that 90 percent of our footprint is where we have
23 competition.

24 CHAIRMAN DANNER: So, again, getting back to my
25 original question to the panel -- and I'm not asking you to

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1 criticize the settlement you have before us, but only to indulge
2 me here.

3 If you had come forward with a settlement that
4 basically says as long as you have COLR obligations and average
5 prices throughout your service territory, wouldn't you be
6 achieving the same result with a little more simplicity?

7 MS. ABERNATHY: From my perspective, yes. That, I
8 think was discussed, but it was not -- it was not embraced.

9 CHAIRMAN DANNER: Thank you.

10 And I think my other questions have been covered, so
11 I will turn it back to you, Judge Kopta.

12 COMMISSIONER GOLTZ: Judge Kopta, may I follow up
13 with one question?

14 JUDGE KOPTA: Certainly.

15 COMMISSIONER GOLTZ: So following up in what Chairman
16 Danner mentioned, let's take a slightly different hypothetical.
17 And maybe this is beating a dead horse here, but if the Company
18 was just serving Everett -- no rural areas, just Everett --
19 would either Staff or Public Counsel have any objection to a
20 competitive classification of that company that just served
21 Everett and nothing more, knowing what you know about the
22 markets in relatively urban areas?

23 MR. WEINMAN: I think as we were doing our analysis,
24 it was painfully obvious that there is quite a bit of
25 competitive competition in the Everett and Kirkland areas.

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1 And so if you look at the amount of competitive
2 competition that faces them in terms of looking at both resold,
3 UNE Loops, and -- that the CLECs are taking from them, even
4 disregarding the fact that we know that there is CLEC facilities
5 in those areas also, my answer would be probably no.

6 COMMISSIONER GOLTZ: "No" what?

7 MR. WEINMAN: We would think that it is a
8 competitive --

9 COMMISSIONER GOLTZ: Right.

10 MR. WEINMAN: -- a healthy competitive market. But
11 when you start getting over onto the east side of the State,
12 then you get into some of these smaller exchanges. And the way
13 the Company's -- certainly with their UNE Loop rates that range
14 from in an -- in an Everett area, I think about 13, 14 per line.
15 You get over into Eastern Washington, and that number goes up to
16 as high as \$260 for a UNE Loop. And they're very -- because
17 they've been deaveraged. And so you get into these sparsely
18 covered areas, and it's not as conducive to competition as it
19 certainly is in the Everett --

20 COMMISSIONER GOLTZ: Right.

21 MR. WEINMAN: -- Kirkland area.

22 COMMISSIONER GOLTZ: Let's focus on Everett.

23 So, Ms. Johnson, if you want to defer to
24 Mr. Roycroft -- I mean, I asked Mr. Roycroft earlier if he
25 thinks -- about a hypothetical, what would it take to approve a

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1 petition for competitive classifications, and now I'm imposing a
2 hypothetical the Company is just serving Everett, nothing more.

3 And is that -- and they filed the same petition.

4 Is there any problem with saying, Yes. You're a
5 competitive company because you got cable, you got wireless, you
6 got, you know, CLECs, you got VoIP, you got everything else?

7 MS. JOHNSON: Well, I think that probably Trevor
8 is -- sorry -- Dr. Roycroft has done more work on this. I mean,
9 I don't know. I'm uncomfortable with the hypothetical just in
10 terms of the fact that I don't know specifically. I mean, I'm
11 sure that --

12 COMMISSIONER GOLTZ: You can defer to Dr. Roycroft.
13 I'm fine with that.

14 MS. JOHNSON: Okay.

15 Dr. Roycroft?

16 DR. ROYCROFT: Yes. If we were just hypothetically
17 talking about Everett, you know, Everett clearly comes much
18 closer to satisfying the statutory provisions with regard to
19 effective competition than does Frontier's statewide service
20 territory, so...

21 COMMISSIONER GOLTZ: What do you mean "comes much
22 closer"? I mean, I guess I -- hypothetical that it's at the
23 Columbia Tower in Seattle, and that's all there is. That's all
24 the Company serves. They're competitive, right? I mean,
25 there's got to be a hypothetical out there that does not just

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1 come close. It is.

2 DR. ROYCROFT: Well -- I mean, I'm approaching this
3 as an economist, you know, and the statutory definition of
4 effective competition is what it is.

5 When I look at the marketplace, what I see is a
6 market where there is a superior technology available to what
7 Frontier is offering -- that is the cable offering -- and that
8 is really changing the market dynamics in a way that perhaps
9 wasn't envisioned back in the, you know, Telecom Act of 1996
10 prospectus on what competition would be like.

11 So now we have a market where there's a technology
12 leader who has the ability to essentially raise prices in ways
13 that, you know, do not -- are not constrained by Frontier's
14 competition. You know, Frontier isn't bringing a technological
15 equivalent to the marketplace.

16 So, you know, the statutory criteria is one thing.
17 It's another thing to say, Okay. Well, here we have a duopoly
18 market with an unbalanced technology. What's going to happen to
19 prices in that marketplace?

20 And what we see from cable companies around the
21 country is consistent price increases. That indicates that
22 they're not being constrained by telephone companies.

23 So from that economic perspective, you know, I see
24 competition that isn't as effective as I would like it to be.
25 But as an economist, the statutory definition of effective

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1 competition is another thing, and that would be appear to be
2 satisfied in a high-density area like Everett.

3 COMMISSIONER GOLTZ: Yeah. And, again, I just go
4 back to Chairman Danner's question.

5 If there's effective competition in Everett and you
6 have the requirement of no geographic deaveraging, then don't
7 you -- then whatever price constraints there are in Everett and
8 Kirkland, don't those take place when you move a few miles
9 outside of town?

10 DR. ROYCROFT: They certainly would. You know, if
11 effective competition as it exists, you know, is the belt, the
12 price cap would appear to be the suspenders. And that's the
13 best characterization that I could see for what the settlement
14 agreement has done here, is added an insurance policy with
15 regard to upward pricing movement.

16 COMMISSIONER GOLTZ: Right. So what you have here is
17 the banded rate on the upside is an insurance policy. I guess
18 if we're just talking about Everett, there's still the issue of
19 the downside band. I don't know how realistic of a concern that
20 is, and then maybe I can ask the Company if there's in other
21 states where you have something analogous to competitive
22 classification.

23 Have you been lowering rates in those areas?

24 MR. PHILLIPS: In states where we've had pricing
25 flexibility as a result of statute, we did have one example in

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1 Iowa. We had a municipal market that -- it was a municipal
2 competitor. We did go in and we did deaverage the rates in that
3 exchange, reduced the rates in that exchange, and it ended up
4 being -- as Kathleen Abernathy said, it becomes a real
5 disruption to our business in terms of the call center in terms
6 of marketing and establishing -- trying to move towards average
7 pricing or standardized pricing across the Company.

8 We have done it, but that was when the law changed, I
9 think in 2005, and we have done very little of that since.

10 COMMISSIONER GOLTZ: Yeah. So just to make sure we
11 get to the point, the provision in Paragraph 17, the second
12 sentence there of the settlement agreement, where it says that
13 "Frontier will continue to apply a statewide rate with no wire
14 center deaveraging; and this commitment extends to calling
15 features," that is -- could just as well find its way into your
16 business plan?

17 MR. PHILLIPS: It does fit into our business plan,
18 because we've had Indiana and Michigan, you know, California,
19 and many other states, there's no restriction on deaveraging of
20 rates, and we haven't done it for business reasons.

21 COMMISSIONER GOLTZ: All right. Okay. Thank you. I
22 have nothing further.

23 JUDGE KOPTA: I have a couple of questions myself.
24 And this may be more a legal question, but I'll ask Mr. Weinman.
25 In Paragraph 21 of the settlement agreement which addresses

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1 wholesale services, I noticed you don't say in that provision
2 that you're agreeing to competitively classify those services.

3 Was that an intentional omission?

4 MS. CAMERON-RULKOWSKI: Your Honor, I'd be happy to
5 weigh in here if that would be helpful.

6 JUDGE KOPTA: Whoever can answer the question. I'm
7 just comparing it with Paragraph 13, which says "LOCAL EXCHANGE
8 SERVICES," and then it says that the parties agree to
9 competitive classification for certain services except those,
10 but then when you're talking about wholesale services, there's
11 no parallel.

12 Is there a reason for that difference?

13 MS. CAMERON-RULKOWSKI: Yes, there is. The reason
14 was Order 04, and certainly -- so my understanding of Order 04
15 is that those services -- that we could call the "Telecom Act
16 services" -- were excluded from an analysis of effective
17 competition, and that's why they are not part of the other
18 language.

19 JUDGE KOPTA: Well, the fact that they may be
20 excluded from the analysis doesn't mean that the Company isn't
21 still providing those services.

22 Is it your position that the Commission does not have
23 authority to competitively classify wholesale services provided
24 under these tariffs?

25 MS. CAMERON-RULKOWSKI: My understanding is following

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1 Order 04 in this docket, and my understanding of Order 04 is
2 that the -- is a federal law controls these particular services,
3 and that these particular services are, therefore, not subject
4 to the effective competition analysis.

5 Does that answer your question?

6 JUDGE KOPTA: More or less.

7 Do you know why that these services are tariffed?

8 MS. CAMERON-RULKOWSKI: That is due to -- that is a
9 historical matter. And I would be more comfortable having Staff
10 speak to that, but my understanding -- I was not here at the
11 time, but my understanding is that these services found their
12 ways into tariff simply as a way to treat them.

13 And I'd be happy to provide more information on that,
14 if you would like that in the record.

15 MR. WEINMAN: Maybe...

16 JUDGE KOPTA: I actually lived through that, so I --
17 Ms. Andrel, I'm looking at her in the audience. Sadly, we know
18 very well.

19 MR. WEINMAN: Maybe I can take a crack at this.

20 JUDGE KOPTA: Yeah. Mr. Weinman, did you want to
21 weigh in?

22 MR. WEINMAN: Sure. In terms of -- ultimately, there
23 were six groups of tariffed services sitting in here. One was
24 the intrastate access and special access. Special access had a
25 retail customer, which kind of -- Order 04 kind of gave us, or

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1 at least gave me, Don't worry about the wholesale piece. You
2 need to worry about the retail customers, because they're the
3 ones that make the choice.

4 And so that one the Company allowed -- agreed to
5 leave it in as a tariffed category until we get resolution from
6 the transformation order.

7 If we look at the other item that was in there, it
8 was UN U-23 [verbatim], which was advanced data and services,
9 and that classification also sold some services to retail
10 customers. And in this one, we allowed it to go to price
11 catalog with the understanding that the existing customers would
12 be frozen in at their current rates.

13 So the advance services ultimately do go to price
14 catalog under our settlement agreement. I don't know if that --
15 did it help or hurt?

16 JUDGE KOPTA: I appreciate the clarification.

17 Without going too much more into this, I'll just ask
18 Mr. Denney if this provision or these provisions of this
19 settlement agreement are consistent with the settlement
20 agreement that you have with Frontier.

21 MR. DENNEY: I think the Staff conditions are
22 largely -- I mean, are largely consistent with the -- you know,
23 with the conditions that we have in the CLEC agreement.

24 You know, we talked a lot about price floor things.
25 I mean, that was something that the CLECs were somewhat

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1 concerned with, and we tried to capture that in making sure that
2 rates were just and reasonable and that any party didn't have an
3 undue kind of benefit from rates. So we were concerned kind of
4 with the price floor aspect.

5 With terms of the tariffing, the only one that --
6 where there's some crossover, but I think they can be
7 consistent, is with the special -- the switched access services
8 because we had allowed in our agreement these things to be
9 detariffed but still be, you know, kind of prices set on them
10 and be, you know, under Commission -- you know, kind of a
11 mechanism for Commission review and especially -- and a
12 mechanism for what would happen if the FCC's order was
13 overturned. The Staff keeps these as tariffed, you know, until
14 the FCC rules. Our view is if the FCC -- I mean, not the FCC,
15 but the Circuit Court. If the Circuit Court rules prior to the
16 date expiration on our -- you know, on our term and our
17 agreement, then we would expect at that time they could be
18 detariffed, and our agreement would still kind of apply up to
19 that point.

20 We did allow -- there were provisions on switched
21 special access services which are -- they're nuance, but they're
22 consistent that Staff keep special access service under tariff.
23 Our agreement in a sense creates two sets of special access; you
24 know, nonswitched services, and so there's a wholesale component
25 of that which would be set under kind of the price, the price

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1 catalog and under the provisions of our agreement. That's not
2 inconsistent. We anticipated there being a retail version of
3 those prices that are offered which could be different than the
4 wholesale prices, so I think those things are consistent as
5 well.

6 JUDGE KOPTA: So you have no concerns with any of the
7 overlap between the two settlement agreements as far as your own
8 settlement agreement is concerned?

9 MR. DENNEY: No. And I think the biggest concern
10 really was with the paragraph that we amended our agreement with
11 to make sure that, you know, the approval of the Staff agreement
12 didn't cause our agreement to become null and void as a result
13 of that, because we do think the protections and the things that
14 we lay out in our agreement are reasonable. They should help
15 minimize disputes in the future, if any dispute should arise, by
16 creating clear directions that all the parties agree on and
17 mechanisms for resolving those types of disputes.

18 JUDGE KOPTA: Mr. Weinman, do you agree that the
19 agreements are consistent?

20 MR. WEINMAN: Well, I tend to agree with what
21 Mr. Denney said, because the CLEC Intervenor settlement was an
22 integral part of us not having to write a bunch of other
23 language in order to get those assurances in and make it work
24 for us.

25 JUDGE KOPTA: Okay.

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1 MR. DENNEY: Judge Kopta?

2 JUDGE KOPTA: Yes?

3 MR. DENNEY: Mr. Wood is on the phone, and if -- I
4 mean, who represents -- I represent Integra, and he represents
5 the rest of the CLECs.

6 So I just wanted -- if he had something to add or
7 something different to say, I would just hope that he'd have
8 that opportunity to speak up and do so.

9 JUDGE KOPTA: Fair enough. Mr. Wood, I wouldn't want
10 you to have spent the afternoon without having something to do.

11 Do you have any different view than Mr. Denney of the
12 questions we've been discussing?

13 MR. WOODS: No. They are consistent in that there is
14 no conflict between the two agreements. There are conditions
15 that would continue in terms of limitations on price increases
16 or changes in terms and conditions that would apply to both the
17 ICA-type wholesale services and the non-ICA, or the access
18 services that would continue in the CLEC agreement that may or
19 may not continue in the Staff/Public Counsel agreement.

20 JUDGE KOPTA: All right. Thank you.

21 And -- oh, go ahead, Mr. Chairman.

22 Did you have a follow-up?

23 CHAIRMAN DANNER: Yeah. No, I don't have a
24 follow-up. I just thought you were done with your questioning.

25 JUDGE KOPTA: No. I just have a couple more

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1 questions, and sort of --

2 CHAIRMAN DANNER: You should proceed.

3 JUDGE KOPTA: -- giving Dr. Ankum an opportunity to
4 say something since he came all the way out here.

5 I would ask you the same type of question in terms of
6 the interrelationship between the Staff, Public Counsel,
7 Frontier settlement agreement and the agreement between Frontier
8 and the Department of Defense and all other Executive Agencies.

9 Do you see any inconsistencies or conflicts between
10 those two agreements?

11 DR. ANKUM: No, I don't. They're compatible. The
12 settlement that DoD/FEA has achieved with Frontier is compatible
13 with the other settlement agreements. It's independent,
14 however, but I don't see any inconsistencies.

15 JUDGE KOPTA: Okay. And just one final line of
16 questions following up on the earlier questions from the
17 Commission on the 2 1/2-year time period for the agreement.

18 Mr. Phillips, has Frontier done any projection of
19 line loss anticipated over that time period?

20 MR. PHILLIPS: I think the short answer is no. I
21 mean, clearly we're trying to establish -- you know, I mean,
22 this will give us some pricing flexibility maybe a little bit in
23 terms of being able to offer some new bundles to help retain
24 customers, but I don't think we have any specific forecast that
25 are terribly reliable in terms of what we expect.

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1 Clearly, we've been trying to reduce the line loss,
2 and it's continued since we acquired the property. I think
3 we're starting to perhaps appoint -- maybe slow that down to
4 some extent, but I don't think we have any real projections over
5 the next 2 1/2 years.

6 JUDGE KOPTA: Do you know how many lines you have
7 lost in the last 2 1/2 years?

8 MR. PHILLIPS: I don't. I can tell you in terms of
9 percentage that it's been -- in 2012, we lost 10 percent of our
10 access lines. I think it's been in a range of about 9 to 12
11 percent a year.

12 JUDGE KOPTA: Okay. Thank you. Those are all of my
13 questions.

14 Are there any other follow-up questions from the
15 Commissioners?

16 CHAIRMAN DANNER: No follow-up. I have a new
17 question.

18 JUDGE KOPTA: All right.

19 CHAIRMAN DANNER: I'm looking at Paragraph 28 of the
20 settlement where it talks about if there's a conflict between
21 the provisions for waiver of regulatory requirements in this
22 agreement and that in the acquisition order from Frontier's
23 acquisition of Verizon, "the Acquisition Order controls."

24 And I'm wondering why that is -- well, first of all,
25 have you reviewed both? I mean, have you identified any

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1 conflicts? Has anyone done that review?

2 And, second, why would it be that the acquisition
3 order governs as opposed to the settlement?

4 MR. WEINMAN: Well, I'll give it the first crack. I
5 don't believe there are any conflicts in the acquisition order
6 versus the waivers that are here. I mean, obviously, we -- if
7 we were waiving all of the tariff requirements, there might be
8 some at that point, but those stay in effect as long as they
9 have the tariffs in effect.

10 And so the Company responded that they would still
11 meet all the commitments out of the acquisition order, so it
12 kind of put it up first in line. And this one kind of follows
13 to make sure that if some conflict should become known that we
14 haven't identified, at least there is a hierarchy of which one
15 controls.

16 CHAIRMAN DANNER: But -- okay. But have you given --
17 have you given a review of the acquisition order? I mean,
18 are --

19 MR. WEINMAN: I don't think there is any conflicts.

20 CHAIRMAN DANNER: Okay. And you have reviewed the
21 acquisition order?

22 MR. WEINMAN: Yes.

23 CHAIRMAN DANNER: Okay. So...

24 MR. WEINMAN: But at the time there was a discussion
25 that went that said, Okay. If there happens to be some

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1 conflict, which one would prevail, and I think amongst the
2 parties, they said the merger order would prevail.

3 So at least it gives a clear guide to -- if someone
4 digs something up in the future that really conflicts, and I
5 don't know what that might be, because there's not that many
6 references to RCWs in that merger order.

7 CHAIRMAN DANNER: Okay.

8 MR. WEINMAN: Some of it is customer service kind of
9 issues, and -- but I think those are still in and live and
10 they're doing well.

11 CHAIRMAN DANNER: Okay.

12 MR. WEINMAN: That's probably the wrong term, but --
13 I mean, it's still -- it's still there with the existing tariff
14 structure.

15 MR. PHILLIPS: I think perhaps part of that was just
16 to clarify that this was not preempting any of the existing --
17 to the extent any of the transaction commitments extend beyond
18 the effective date of this order being implemented, it wasn't
19 going to preempt any of the -- or nullify any of the existing
20 transaction commitments.

21 CHAIRMAN DANNER: Okay.

22 MR. PHILLIPS: And I don't think there's a conflict.
23 It's just that this would not preempt them or negate -- you
24 know, it wouldn't override an existing -- a condition that
25 extends beyond, you know, into, say, the end of year.

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1 CHAIRMAN DANNER: Okay. Thank you.

2 COMMISSIONER JONES: Judge Kopta, just on the
3 waivers, if I could?

4 JUDGE KOPTA: Certainly.

5 COMMISSIONER JONES: If you'll permit me to ask one
6 final question both of Mr. Weinman and the Company.

7 Mr. Weinman, you list in WHW-2, all the regulatory
8 requirements in the waiver of the list of requirements that are
9 no longer going to be followed for this company, right?

10 MR. WEINMAN: Yes.

11 COMMISSIONER JONES: Have you done an estimate of
12 Staff resources and time and the amount of time and resources
13 that are going to be saved and, likewise, for the Company by
14 eliminating -- I think in one reference, I read in the testimony
15 there were seven, 800 pages of filings or requirements that were
16 due.

17 So have you made any ballpark estimate, Mr. Weinman?

18 MR. WEINMAN: Well, I can certainly go down through
19 at a fairly high level, we saved absolutely no time with
20 budgets.

21 COMMISSIONER JONES: Okay.

22 MR. WEINMAN: The budget --

23 COMMISSIONER JONES: Because you don't do that
24 anyway?

25 MR. WEINMAN: -- is very minimal.

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1 COMMISSIONER JONES: Okay.

2 MR. WEINMAN: The requirement for budget reporting
3 from this Company is -- I don't know that I've ever seen one.

4 Affiliated interest. We do get affiliated interest
5 filings, but the amount of time that we spend on affiliates is,
6 I would say, minimal.

7 And probably one of the biggest issues with
8 affiliates is the rule that the cost be lower of market or -- or
9 cost based in terms of affiliate transactions.

10 Basically, what I have seen throughout these years
11 with these kinds of affiliates, their systems are so complex,
12 you can't find a market rate to compare it to, so cost fairly,
13 well, drives that.

14 Securities. My opinion is that most of the
15 securities, in terms of issuance of equity and debt happens at
16 the parent level and really doesn't drive down into the
17 operating company, so it's really not a large concern for
18 myself.

19 The other ones. Certainly, the effect of emergencies
20 and excess earnings, investigational accidents, approval of
21 lease, expenditures for political or legislative activities from
22 transferring cash, in terms of transferring cash, the easiest
23 way to look at that issue, if you're looking at
24 parent-subsidiary relationship, is looking at the intercompany
25 receivables which was a requirement in the merger order.

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1 COMMISSIONER JONES: So that's in the merger order,
2 right?

3 MR. WEINMAN: Yes.

4 COMMISSIONER JONES: Okay. So that would still
5 prevail?

6 MR. WEINMAN: In Appendix B, the next two, the
7 miscellaneous ones, I actually changed the designation for the
8 streamlined telecommunications Class B company and WECA to not
9 applicable of the four we had under this grant, but they really
10 don't pertain to this Company --

11 COMMISSIONER JONES: Right.

12 MR. WEINMAN: -- because of the size.

13 If you look at the access charge and universal
14 service reporting, that was a mechanism where the Companies
15 reported their access minutes to us. And in looking down the
16 road, thinking that we would be submitting something to the
17 legislature for a State USF fund, that thing has dried up --

18 COMMISSIONER JONES: Right.

19 MR. WEINMAN: -- and so it's really not necessary.

20 Transfers of property we've talked about. In the
21 tariffings down below, Staff recommends denied just because
22 there still -- there still will be some tariffs in effect when
23 this contemplated going to be a fully competitive company.

24 COMMISSIONER JONES: Mr. Phillips -- or maybe this is
25 a question for Mr. Gipson.

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1 Have you estimated how much time and resources you're
2 going to save as a result of these waivers?

3 MR. PHILLIPS: Well, it's a little difficult to
4 estimate, but I think the one area that is particularly
5 helpful -- and I believe it's on transfer of property.

6 For example, we recently sold the Everett --

7 COMMISSIONER JONES: Right.

8 MR. PHILLIPS: -- the building we're in in Everett,
9 and certainly that was, you know, a process that involved a lot
10 of legal time. And -- so it's maybe a little bit lumpy, but
11 certainly that one is going to provide us with some benefit to
12 the extent we do real estate transactions or something like
13 that.

14 There is an ongoing reduction in some of the -- the
15 reporting requirements here. I know the accident. It's
16 duplicative. You know, it may not be significant, but these
17 things cumulatively add up; you know, that we're able to
18 redirect some of those resources from, you know, generating
19 bureaucratic reports and to -- you know, driving them back into
20 our call centers or providing text or something like that. So
21 it does permit us to redirect our resources to, you know,
22 serving customers and providing service.

23 COMMISSIONER JONES: Okay. Thank you.

24 COMMISSIONER GOLTZ: Judge Kopta, I apologize for
25 thinking of one more thing.

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1 If we approve the settlement, will Frontier be a
2 competitively classified telecommunications company, will it
3 have selective service -- of its services being competitively
4 classified, and if so, which ones, or none of the above?

5 And I'll tell you why I asked this, because I don't
6 want it to be -- because being a gotcha question.

7 RCW 80.36.360 subjects competitively classified
8 telecommunications companies to the Consumer Protection Act,
9 whereas otherwise, they're exempted. It also subjects
10 transactions of a company whose services are competitively
11 classified to the Consumer Protection Act for those transactions
12 involving those services.

13 So the question is whether as a result of this you're
14 a competitively classified telecommunications company as an --
15 implications as to our Consumer Protection Staff or those of the
16 Attorney General's Office?

17 MS. JOHNSON: I would say that there was considerable
18 conversation about this specific item, and that the agreement is
19 crafted so that it does not state that -- it does not state that
20 the Company is competitively classified; rather, its services
21 are classified -- competitively classified under Section 330
22 rather than 320.

23 COMMISSIONER GOLTZ: And those services would be
24 which services? Not all services are competitively classified,
25 or would you say they're all?

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1 MS. JOHNSON: No. It's not all services. It's the
2 services that have been redlined, I think, and --

3 COMMISSIONER GOLTZ: So the basic residential service
4 is not competitively classified?

5 MS. JOHNSON: It is not.

6 COMMISSIONER GOLTZ: So the Consumer Protection Act
7 would not apply to a company advertising for those services?

8 MS. JOHNSON: I'm not familiar with how the Consumer
9 Protection Act works on these things, so...

10 COMMISSIONER GOLTZ: Any other comments to that?

11 Mr. O'Connell, it looks like you wanted to comment?

12 MR. O'CONNELL: Commissioner, I believe that it would
13 be inconsistent to have the service be regulated by this
14 Commission, which is the effect of maintaining it in tariff and
15 have the service subject to an action under the Consumer
16 Protection Act.

17 COMMISSIONER GOLTZ: Right.

18 MR. O'CONNELL: So to the degree that the outcome of
19 the settlement results in the basic R1 service being continued
20 to be offered by tariff, no, I don't believe it would be
21 applicable for the Consumer Protection Act.

22 COMMISSIONER GOLTZ: So that would also be true with
23 the --

24 MR. O'CONNELL: For the small business.

25 COMMISSIONER GOLTZ: -- small business, but

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1 everything else, or maybe not special access?

2 MR. SAVILLE: Special access, no.

3 MR. O'CONNELL: Special access, yeah.

4 JUDGE KOPTA: Well, at this point, I recognize that
5 Appendix A to the settlement agreement is rather lengthy and is
6 a redline of all of the tariffs.

7 Have you prepared just a simple list of all of the
8 services that the Company provides that would be competitively
9 classified as a result of the settlement agreement if it were
10 approved?

11 MR. O'CONNELL: I don't know that we have.

12 JUDGE KOPTA: Well, with the indulgence of the
13 Commissioners, I would like to make that a Bench request; that
14 the Company provide a list of all services it provides; that if
15 the settlement agreement is -- settlement agreements are
16 approved, would be competitively classified.

17 MR. SAVILLE: Your Honor, we can certainly do that.
18 The way that the settlement was crafted was everything would be
19 designated as competitively classified except for, you know,
20 these services that were excluded, which were the -- you know,
21 the basic residential, the basic business, one to three lines,
22 and the special access services and certain features that were
23 tied to those services.

24 So we can certainly generate a list of everything
25 that has been moved to a competitive classification, but that's

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1 not the way that the settlement was structured.

2 JUDGE KOPTA: I understand.

3 CHAIRMAN DANNER: I would rather have the smaller
4 list, actually.

5 MR. O'CONNELL: Yeah. I can't blame you. It's a
6 cumbersome binder.

7 JUDGE KOPTA: And that's why I asked whether it's --
8 you know, whether the 800 pages is what it takes, or whether
9 it's, you know, a simple list of services that the Company
10 provides.

11 And I'm not talking necessarily about features and
12 functionalities, but simply services; you know, private line,
13 whatever else that you have, that I think it would be helpful
14 for us to know which services the Company will be competitively
15 classified to offer.

16 MR. SAVILLE: We can certainly do that.

17 JUDGE KOPTA: All right. Thank you.

18 Anything further from the Commissioners?

19 Anything further from the parties?

20 All right. Well, thank you very much. We are off
21 the record and adjourned.

22 (Proceeding concluded at 4:21 p.m.)

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C E R T I F I C A T E

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4 STATE OF WASHINGTON)

) ss

5 COUNTY OF KING)

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7 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
8 and Notary Public in and for the State of Washington, do hereby
9 certify that the foregoing transcript is true and accurate to
10 the best of my knowledge, skill and ability.

11 IN WITNESS WHEREOF, I have hereunto set my hand and seal
12 this 10th day of June, 2013.

13

14

15

SHELBY KAY K. FUKUSHIMA, CCR

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17 My commission expires:

June 29, 2013

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