

1891

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 In re Application of U S WEST,))
4 INC., and QWEST COMMUNICATIONS))
5 INTERNATIONAL, INC.) Docket No. UT-991358
6))
7 For an Order Disclaiming) Volume XX
8 Jurisdiction, or in the) Pages 1891 to 2112
9 Alternative, Approving the US)
10 WEST, INC. - QWEST)
11 COMMUNICATIONS INTERNATIONAL,)
12 INC., Merger.)
13 _____)
14

15 A hearing in the above matter was held on
16 June 7, 2004, at 9:00 a.m., at 1300 South Evergreen Park
17 Drive Southwest, Room 206, Olympia, Washington, before
18 Administrative Law Judge C. ROBERT WALLIS.

19 The parties were present as follows:

20 QWEST CORPORATION, by LISA ANDERL and ADAM
21 SHERR, Attorneys at Law, 1600 Seventh Avenue, Suite
22 3206, Seattle, Washington 98191, Telephone (206)
23 345-1574, Fax (206) 343-4040, E-Mail
24 lisa.anderl@qwest.com.

25 THE PUBLIC, by SIMON FFITCH, Assistant
26 Attorney General, 900 Fourth Avenue, Suite 2000,
27 Seattle, Washington, 98164-1012, Telephone (206)
28 389-2055, Fax (206) 389-2058, E-Mail simonf@atg.wa.gov.

29 THE COMMISSION, by CHRIS SWANSON, Assistant
30 Attorney General, 1400 South Evergreen Park Drive
31 Southwest, Post Office Box 40128, Olympia, Washington,
32 98504, Telephone (360) 664-1220, Fax (360) 586-5522,
33 E-Mail cswanson@wutc.wa.gov.

34 Joan E. Kinn, CCR, RPR
35 Court Reporter.

1892

1 CITIZENS' UTILITY ALLIANCE OF WASHINGTON, by JOHN
O'ROURKE, 212 West Second Avenue, Suite 100, Spokane,
2 Washington 99201, Telephone (509) 744-3370, Fax (509)
744-3374, E-Mail o'rourke@snapwa.org.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1893

1

2

3

INDEX OF EXAMINATION

4

5

WITNESS:

PAGE:

6

7

DAVID TEITZEL, MARK REYNOLDS,

8

AND DENNIS PAPPAS

9

Direct Examination by Ms. Anderl

1904

10

Cross-Examination by Mr. Swanson

1908

11

Cross-Examination by Mr. Ffitch

1931

12

Cross-Examination by Mr. O'Rourke

1991

13

Examination by Judge Wallis

1995

14

Redirect Examination by Ms. Anderl

1997

15

Recross-Examination by Mr. Ffitch

2005

16

17

GLENN BLACKMON AND MARY KIMBALL

18

Direct Examination by Mr. Swanson

2012

19

Direct Examination by Mr. Ffitch

2014

20

Cross-Examination by Ms. Anderl

2016

21

Examination by Judge Wallis

2065

22

Redirect Examination by Mr. Swanson

2072

23

Redirect Examination by Mr. Ffitch

2077

24

25

1894

1 ROBERT PREGULMAN

2 Direct Examination by Mr. Ffitch 2079

3 Cross-Examination by Ms. Anderl 2081

4

5 STEVEN MARQUARDT

6 Direct Examination by Mr. Ffitch 2087

7 Cross-Examination by Ms. Anderl 2091

8

9 AMY HAGINS (via bridge line)

10 Direct Examination by Mr. O'Rourke 2095

11 Cross-Examination by Ms. Anderl 2100

12

13 DALE MILLER (via bridge line)

14 Direct Examination by Mr. O'Rourke 2102

15 Cross-Examination by Ms. Anderl 2106

16

17

18

19

20

21

22

23

24

25

1895

1 -----

2 INDEX OF EXHIBITS

3 -----

4 EXHIBIT: MARKED: ADMITTED:

5 DAVID TEITZEL, MARK REYNOLDS,

6 AND DENNIS PAPPAS

7	1	1900	1908
8	2	1901	1908
9	3	1901	1908
10	4	1901	1908
11	5	1901	1908
12	6	1901	1908
13	7	1901	1908
14	8	1901	1908
15	9	1901	1908
16	10	1901	1908
17	11	1901	1908
18	12	1901	1908
19	13	1901	1908
20	14C	1901	1908
21	15C	1902	1908
22	16C	1902	1908
23	17	1902	1908
24	18C	1902	1908
25	19	1902	1908

1896

1	20	1902	1908
2	21	1902	1908
3	22	1902	1908
4	23	1902	1908
5	24C	1902	1908
6	25	1903	1908
7	26	1903	1908
8	27	1903	1908
9	28	1903	1908
10	29C	1903	1908
11	30C	1903	1908
12	31C	1903	1908
13	32	1903	1908
14	33	1903	1908
15	34	1903	1908
16	35	2004	
17		GLENN BLACKMON	
18	39	2009	2013
19	40	2009	2013
20	41	2009	2013
21	42	2010	2013
22	43	2010	2041
23	44	2010	2013
24	45	2010	2013
25	46	2010	2013

1897

1	47	2010	2013
2	48	2010	2013
3	49	2010	2013
4	50	2010	2013
5	51	2010	2013
6	52	2010	2013
7		MARY KIMBALL	
8	56C	2011	2016
9	57	2011	2016
10	58	2011	2016
11	59	2011	2016
12	60	2011	2016
13	61	2011	2016
14	62	2011	2016
15	63	2011	2016
16	64	2011	2016
17	65	2011	2016
18		ROBERT PREGULMAN	
19	67	2079	2080
20		STEVEN MARQUARDT	
21	69	2087	2088
22		AMY HAGINS	
23	73	2095	2095
24		DALE MILLER	
25	71	2101	2101

1898

1 DEREK DEXHEIMER

2 68 2109 2109

3

4 Record Requisitions

5 1 1973 2008

6 2 1978

7 3 1985

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 JUDGE WALLIS: The hearing will please come
3 to order. This matter is a hearing before the
4 Washington Utilities and Transportation Commission in
5 the matter of Docket Number UT-991358. This hearing is
6 being held at Olympia, Washington on the 7th day of June
7 in the year 2004 before Administrative Law Judge C.
8 Robert Wallis. All parties have received due and proper
9 notice of this proceeding.

10 I have been advised by counsel for Covad that
11 Covad will not be participating in this hearing today,
12 and their absence is excused.

13 We have before the hearing began engaged in
14 some colloquy regarding the exhibit list, and the
15 exhibits subject to correction are to be stipulated into
16 the record.

17 With that, let us have the appearances of
18 counsel. I believe your appearances are all of record,
19 so if you would merely indicate your name, the name of
20 any co-counsel working with you, and the client for whom
21 you are appearing, we'll go through the list, and then
22 we will beginning the proceeding, beginning with the
23 company.

24 MS. ANDERL: Thank you, Your Honor, Lisa
25 Anderl and Adam Sherr, in-house attorneys representing

1900

1 Qwest Corporation.

2 MR. SWANSON: Chris Swanson for Commission
3 Staff.

4 MR. FFITCH: Simon ffitch, Assistant Attorney
5 General for Public Counsel.

6 MR. O'ROURKE: John O'Rourke, Director of the
7 Citizens Utility Alliance of Washington.

8 JUDGE WALLIS: Very well, thank you all very
9 much.

10 Let's begin with the presentation of the
11 company, Ms. Anderl.

12 MS. ANDERL: Yes, Your Honor, Qwest calls its
13 three witnesses, Mark Reynolds, David Teitzel, and
14 Dennis Pappas, to appear and testify in a panel format.

15 JUDGE WALLIS: Very well, will the witnesses
16 please stand and raise your right hand.

17 (Witnesses Mark Reynolds, David Teitzel, and
18 Dennis Pappas were sworn.)

19 MS. ANDERL: Thank you, Your Honor.

20

21 (The following exhibits were identified in
22 conjunction with the testimony of MARK
23 REYNOLDS, DAVID TEITZEL, and DENNIS PAPPAS.)

24 1 Teitzel, Reynolds, Pappas - Petition to
25 Terminate or Modify The Service Quality

1901

1 Performance Program

2 2 Teitzel, Reynolds, Pappas - Qwest's Reply

3 Comments in Support of its Petition

4 3 Teitzel - Washington Local Telecommunications

5 Competitive Environment (DLT-1)

6 4 Supp. Response, Data Req. No. 145

7 5 Reynolds - Washington Retail Service Quality

8 Requirements (Matrix) (MSR-3)

9 6 Reynolds - Business Office Access (MSR-4)

10 7 Reynolds - Out of Service Repaired Within 48

11 Hours/2 Business Days (MSR-5)

12 8 Reynolds - Business Office Access - % Calls

13 Answered Within 30 Seconds (MSR-6)

14 9 Reynolds - Complaint Response Within 2 Days -

15 # Violations Per Month (MSR-7)

16 10 Staff Supplemental Response to Data Request

17 No. 144 (Exhibit 8)

18 11 Pappas - Installation and Repair Volumes and

19 Dispatches (Exhibit DP-9)

20 12 Pappas - Qwest's Response to Statements of

21 Dale Miller (Exhibit DP-10)

22 13 Reynolds - Qwest Response to WUTC Data Request

23 No. 09-154 (Staff)

24 14C Reynolds - Qwest Response to WUTC Data Request

25 No. 09-156 (Confidential Attachment) (Staff)

1902

1 15C Reynolds - Qwest Response to WUTC Data Request
2 No. 09-159 (Confidential Attachment) (Staff)
3 16C Reynolds - Qwest Response to WUTC Data Request
4 No. 10-162 (Confidential Attachment) (Staff)
5 17 Reynolds - WUTC Response to Qwest Data Request
6 No. 138 (Staff)
7 18C Reynolds - Qwest Washington Answer Time
8 Performance Reports for December 2001,
9 December 2002, and December 2003, as filed
10 with the WUTC in this docket. (PC)
11 19 Reynolds - Qwest Resp., Pub. Counsel DR 11-123
12 (PC)
13 20 Reynolds - Qwest Response, Staff DR 09-157
14 (PC)
15 21 Reynolds - Qwest Resp., Pub. Counsel DR 11-121
16 (PC)
17 22 Reynolds - Excerpts from Qwest Website
18 (www.qwest.com) (PC)
19 23 Reynolds - Qwest tariff WN U-40 Exchange and
20 Network Services, Section 2.2.2.B Customer
21 Service Guarantee Programs (PC)
22 24C Reynolds - Qwest Customer Remedy Reports for
23 December 2001, December 2002, and December
24 2003, as filed with the WUTC in this docket.
25 (PC)

1903

1 25 Reynolds - Qwest Response to Public Counsel DR
2 09-116 (PC)
3 26 Reynolds - Qwest Response to Public Counsel DR
4 09-117 (PC)
5 27 Reynolds - Qwest's 2001 Petition to Mitigate
6 Penalty Amount and Modify the SQPP (PC)
7 28 Reynolds - American Customer Satisfaction
8 Index - Overview, Methodology,
9 Telecommunications Scores through Q1 2003 (PC)
10 29C Pappas - Qwest Response to Public Counsel DR
11 12-126 Supplement (PC)
12 30C Pappas - Qwest Response to Public Counsel DR
13 13-129 (PC)
14 31C Pappas - Illustrative Exhibit combining data
15 provided in Qwest Responses to PC DR 12-126S1
16 and PC DR 13-129 (PC)
17 32 Pappas - Qwest Response to Public Counsel DR
18 13-130 (PC)
19 33 Pappas - Qwest Response to Public Counsel DR
20 12-128 Supplement (PC)
21 34 Reynolds - First quarter scores, service
22 quality
23
24
25

1904

1 Whereupon,

2 DAVID TEITZEL, MARK REYNOLDS, AND

3 DENNIS PAPPAS,

4 having been first duly sworn, were called as witnesses

5 herein and were examined and testified as follows:

6

7 DIRECT EXAMINATION

8 BY MS. ANDERL:

9 Q. Mr. Reynolds, would you please state your
10 name and your business address for the record.

11 A. (Mr. Reynolds) Yes, my name is Mark Reynolds.

12 Q. Is your microphone on?

13 A. (Mr. Reynolds) Thank you.

14 My name is Mark Reynolds, and by business
15 address is 1600 Seventh Avenue, Seattle, Washington, zip
16 code 98191.

17 Q. And, Mr. Reynolds, you are one of the
18 witnesses supporting Qwest's petition and Qwest's reply
19 comments in this matter?

20 A. (Mr. Reynolds) That's correct.

21 Q. Do you have any changes or corrections to
22 make to your portion of those reply comments?

23 A. (Mr. Reynolds) Yes, I do, I have a correction
24 to Exhibit MSR-4, which I believe is Exhibit Number 6,
25 and the correction that I have is in the second sentence

1905

1 of the second paragraph, and I will read the sentence as
2 it currently reads and then read it as I corrected it.

3 MR. FFITCH: Your Honor, may I ask again what
4 page in the paragraph, I apologize.

5 A. (Mr. Reynolds) It is on the first page of
6 Exhibit 6, and it's the second paragraph and the second
7 sentence. It's the sentence that starts, according to
8 the FCC's 2003 ARMIS report.

9 Q. Okay, if you would wait just a minute
10 Mr. Reynolds until everyone gets there.

11 JUDGE WALLIS: For the benefit of the
12 reporter, that's all caps A-R-M-I-S.

13 MR. FFITCH: Thank you, yes, I have that.

14 A. (Mr. Reynolds) The sentence currently reads:

15 According to the FCC's 2003 ARMIS
16 report, only 1.8% of Qwest's customers
17 in Washington were dissatisfied with
18 their business office experience.

19 And I would like to correct the sentence to
20 read:

21 According to the FCC's 2003 ARMIS
22 report, only 2.6%.

23 So that's one correction.

24 Of Qwest's customers in Washington.

25 And then I would like to insert the

1906

1 words:

2 As surveyed were dissatisfied with their
3 business office experience.

4 So the sentence as corrected would read:

5 According to the FCC's 2003 ARMIS
6 report, only 2.6% of Qwest's customers
7 in Washington, as surveyed, were
8 dissatisfied with their business office
9 experience.

10 BY MS. ANDERL:

11 Q. And does that complete the changes or
12 corrections that you need to make?

13 A. (Mr. Reynolds) Yes, it does.

14 Q. Thank you, Mr. Reynolds.

15 Mr. Teitzel, would you please state your name
16 and business address for the record.

17 A. (Mr. Teitzel) Yes, my name is David Teitzel,
18 my last name is spelled T-E-I-T-Z-E-L, my business
19 address is 1600 Seventh Avenue in Seattle, Washington,
20 zip code 98191.

21 Q. And, Mr. Teitzel, are you also supporting
22 certain portions of Qwest's petition and reply comments?

23 A. (Mr. Teitzel) I am.

24 Q. And do you have any changes or corrections to
25 make to your portion of those comments?

1907

1 A. (Mr. Teitzel) I have one very minor
2 correction on my Exhibit DLT-1, and I apologize, I don't
3 have the proper numbering of that exhibit.

4 Q. That's Exhibit Number 3.

5 A. (Mr. Teitzel) Exhibit Number 3 at page 11,
6 the 11th line I've got a minor typographical error I
7 would like to correct for the record. It's a line that
8 starts with, telecommunications service providers like
9 Packet8 endeavor to lower the call routing cost.
10 Endeavor should be spelled E-N-D-E-A-V-O-R.

11 And beyond that, I have no further
12 corrections.

13 Q. Okay, thank you.

14 Mr. Pappas, would you please state your name
15 and business address for the record.

16 A. (Mr. Pappas) Certainly. It's Dennis Pappas,
17 P-A-P-P-A-S, my business address is 700 Mineral Avenue,
18 Littleton, Colorado 80120.

19 Q. And are you also supporting portions of
20 Qwest's petition and reply comments in this matter?

21 A. (Mr. Pappas) I am.

22 Q. Do you have any changes or corrections to
23 make to your sections?

24 A. (Mr. Pappas) No, I do not.

25 MS. ANDERL: All right, Your Honor, with that

1908

1 and the understanding that the exhibits will be
2 admitted, we would tender the panel for
3 cross-examination.

4 JUDGE WALLIS: Very well, we will receive the
5 exhibits by stipulation of the parties, the two exhibits
6 as corrected and note as well as Exhibits 1 through 12
7 the parties are stipulating also to the receipt of
8 Exhibits 13 through 34 in conjunction with the
9 examination of these witnesses. I will ask the reporter
10 to identify those exhibits specifically in the record.

11 You have no further direct examination?

12 MS. ANDERL: No, Your Honor, we tender the
13 panel for cross-examination.

14 JUDGE WALLIS: Mr. Swanson.

15 MR. SWANSON: It's traditional for Staff to
16 go first; is that correct?

17 JUDGE WALLIS: We have arranged that order in
18 this proceeding.

19 MR. SWANSON: Okay, thank you, Your Honor.

20 JUDGE WALLIS: But it is also tradition.

21 MR. SWANSON: Okay, thank you very much.

22

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

24 BY MR. SWANSON:

25 Q. Mr. Reynolds, in Paragraph 1 of the petition,

1909

1 it's not clear exactly, because I don't believe that
2 Ms. Anderl has indicated which portions of the petition
3 necessarily are adopted, but at the very least the
4 company is proposing that the alternative determination
5 is to correct certain flaws in the existing payment
6 structure; is that correct?

7 A. (Mr. Reynolds) That is correct, yes.

8 Q. Okay. And this term seems to indicate that
9 something is not working with the structure; is that
10 right, as it is right now?

11 A. (Mr. Reynolds) Yes.

12 Q. Okay. Would you say that if the correction,
13 if the program was corrected as you propose that we
14 would see better performance by Qwest in terms of
15 service quality?

16 A. (Mr. Reynolds) I think that you will provide
17 better incentives for Qwest to perform, and thus I think
18 that that could drive better performance. Just to
19 clarify the way that matrix currently exist, the ones
20 that we have the most problem with are matrix that are
21 extremely difficult to make because they are 100%
22 standards. Qwest performance must be perfect in order
23 to meet them. And Qwest believes that if it had a sort
24 of a sliding scale type matrix that it would stand a
25 much better chance to meet the matrix at the high end,

1910

1 and thus that could provide incentive for better
2 performance. If it has no chance to meet a metric, it
3 has very little incentive to perform.

4 Q. So your answer then is that -- let me ask the
5 question again.

6 So your answer is, do you believe -- let me
7 ask the question.

8 Do you believe that the proposal will create
9 better service quality in terms of the performance
10 measures we're talking about here for Qwest in the
11 future if it's accepted?

12 A. (Mr. Reynolds) I believe that it stands a
13 chance of creating better service quality, because the
14 matrix as currently designed do not create the incentive
15 for Qwest to perform at its highest levels.

16 Q. In Paragraph 3 of the reply, you talk about
17 the fact that there must be a situation under which the
18 program should be terminated, in a sense an order for
19 the termination provision of the agreement to have
20 meaning; is that correct, or is that a good summary of
21 your argument?

22 A. (Mr. Reynolds) Yes, I believe -- we do
23 believe that there was intent behind the provision, and
24 we believe that the petition that we filed satisfies
25 that intent.

1911

1 Q. Did you -- you did have a copy of Exhibit 17,
2 the response of Staff relating to the circumstances that
3 would justify termination when you put together this
4 reply; is that correct?

5 A. (Mr. Reynolds) Yes, yes, we did.

6 Q. Okay. And is it possible that the parties
7 had different interpretations of what circumstances must
8 exist in order for termination to occur?

9 A. (Mr. Reynolds) That appears to be obvious by
10 the company's reply comments and also Staff's statement.

11 Q. So you don't contend that the only
12 circumstances that were contemplated were the situation
13 that you say we have today in terms of Qwest performance
14 with regard to these measures, that's not the only
15 situation to justify termination, is it?

16 A. (Mr. Reynolds) Well, no, in fact that isn't
17 Qwest's only justification. Qwest lays out its
18 justification based on a changed competitive environment
19 and the fact that, you know, these matrix already have
20 duplicative standards in the Customer Service Guarantee
21 Program and also in the existing Commission rules, and
22 that's the basis for our petition. And so we believe
23 that, you know, that forms the basis for our petition.
24 And so it just isn't that we would want to correct the
25 matrix, and I might correct you that first and foremost

1912

1 we're petitioning to terminate the plan, and then in the
2 alternative we are petitioning to modify the matrix.

3 Q. Okay. But Staff's reasons as set out in
4 Exhibit 17, those reasons certainly fall within the
5 agreement in terms -- in the sense that they could be
6 conceivable reasons why the agreement would be
7 terminated or reasons for termination of the agreement
8 as contemplated by the parties, correct?

9 A. (Mr. Reynolds) I guess I would like some
10 clarification as, you know, maybe you could point me to
11 exactly the reasons that you're talking about in your --
12 in the pleading.

13 Q. Well, in Exhibit 17 I believe that Qwest asks
14 for the circumstances that would have to exist in order
15 for Staff to recommend termination of the Service
16 Quality Performance Program, and Staff lays out a number
17 of reasons for that. My question just goes to whether
18 or not based on the terms of the agreement those reasons
19 could be reasons for termination or reasons that parties
20 contemplated for termination?

21 MS. ANDERL: And let me just interject here
22 and make sure that the witness has that exhibit.

23 MR. REYNOLDS: I'm sorry, I do not, maybe
24 that's part of the confusion.

25 MS. ANDERL: Let me provide you a copy.

1913

1 MR. REYNOLDS: I do have it here now, thank
2 you. I was referring to Staff's pleading as Exhibit 17
3 instead of the response. It is the response to
4 Discovery Request 138, is it not?

5 MR. SWANSON: That's correct.

6 MR. REYNOLDS: Okay, I apologize, maybe if
7 you could ask your question one more time I will do it
8 with this in mind, and I apologize for the confusion.

9 MR. SWANSON: Okay.

10 BY MR. SWANSON:

11 Q. I believe that the data request asks for a
12 description of the circumstances that would have to
13 exist in order for Staff to recommend termination of the
14 Service Quality Performance Program, and I guess my
15 question just is, the four reasons set out here, do they
16 fit within the terms of the agreement in terms of
17 termination for reasons why or conceivable reasons why
18 the parties might think that termination should occur?

19 A. (Mr. Reynolds) I believe that they are
20 additional reasons, yes. You know, I think that Qwest
21 also offered some valid reasons in its petition, so, you
22 know, I won't disagree that these are additional reasons
23 that you could potentially terminate the plan under.

24 Q. Okay. So you would concede that Staff has
25 provided some circumstances or reasons under which the

1914

1 Service Quality Performance Program should be
2 terminated.

3 A. (Mr. Reynolds) Yes, I would concede that.

4 Q. Okay, in Paragraph 7 I believe of your reply.

5 JUDGE WALLIS: Exhibit 2.

6 MR. SWANSON: That's correct, thank you, Your
7 Honor.

8 BY MR. SWANSON:

9 Q. You discuss using the grant of exemption from
10 rules as a standard that should be applied; is that
11 correct?

12 MS. ANDERL: And, Your Honor, I guess to the
13 extent that we have identified this as a paragraph that
14 Mr. Reynolds is responsible for he can answer these
15 questions to the extent he can. This particular
16 paragraph has quite a bit of legal analysis and argument
17 in it, and by the nature of the pleading I think that
18 was expected and appropriate. So I won't at this point
19 interpose an objection that it calls for a legal
20 conclusion, but I would just alert the participants that
21 that may be coming.

22 JUDGE WALLIS: Thank you. His answer will be
23 understood as that of a non-attorney, and counsel, of
24 course, is the voice of the law as far as the company is
25 concerned.

1915

1 MR. SWANSON: Okay.

2 A. (Mr. Reynolds) And I --

3 MR. SWANSON:

4 Q. As a -- oh, I'm sorry, go ahead.

5 A. (Mr. Reynolds) You go ahead.

6 Q. Well, as a non-attorney, do you consider --
7 do you consider a settlement agreement freely entered
8 into by parties to be the same as a rule issued by an
9 agency having general applicability?

10 A. (Mr. Reynolds) That I don't know.

11 Q. Well, as an individual in business, when you
12 enter into a contract, do you consider that to be the
13 same as a rule issued or a statute issued by the
14 government?

15 A. (Mr. Reynolds) I think I would consider them
16 both binding, but I would consider them different. And
17 so if the purpose of your question goes to the binding
18 nature of the two on the company's actions, I would
19 consider them both binding.

20 Q. Do you consider them -- do you consider a
21 rule or statute voluntary in the same sense that you
22 would consider entering into a settlement agreement?

23 A. (Mr. Reynolds) No.

24 Q. And I take it from your answer that a
25 settlement agreement would be a choice that the parties

1916

1 could either choose to enter into or not enter into?

2 A. (Mr. Reynolds) I would agree with that.

3 Q. In Paragraph 34 of Exhibit 2, you state that:

4 The Commission need only find that the

5 Qwest proposal is an improvement over

6 what currently exists in order to adopt

7 it.

8 Is that correct?

9 A. (Mr. Reynolds) That's what it states, yes.

10 Q. Okay. Do you believe that the company has

11 any obligation to identify all the problems with the

12 mechanism and issue a petition or proposal that they be

13 fixed?

14 A. (Mr. Reynolds) I guess I don't understand the

15 nature of your question.

16 Q. Well, it appears that in this paragraph you

17 indicate that your proposal is an improvement over what

18 currently exists, and does that mean that -- well, let

19 me ask you this, let me back up.

20 Have you identified all possible problems

21 with the performance mechanism in putting together this

22 petition?

23 A. (Mr. Reynolds) No.

24 Q. Okay. And do you feel that the company has

25 an obligation to present all possible problems with this

1917

1 particular -- this particular mechanism as you see it?

2 A. (Mr. Reynolds) No, I do not. You know, once
3 again I will go back to state that the primary intent of
4 our petition as allowed in the settlement agreement was
5 to terminate the SQPP. In the alternative, Qwest
6 offered a lesser alternative to total termination, or
7 you could even suggest that, you know, maybe it's
8 termination plus an alternative if you want to think
9 about it that way. But we offered something in lieu of
10 eliminating the SQPP all together that we felt was very
11 reasonable and that corrected some of the most glaring
12 flaws that we saw in the existing program. We certainly
13 could have corrected other flaws as well, we chose not
14 to do so.

15 Q. So it's your contention though by this
16 statement that seems to say that the Commission need
17 only find that the Qwest proposal is an improvement over
18 what currently exists that in a sense or hypothetically
19 if Qwest were to simply identify one issue within the
20 Service Quality Performance Program that Qwest saw as a
21 problem and proposed fixing of that issue that that
22 would be sufficient for a change in the Service Quality
23 Performance Program measure; is that correct, or for
24 termination as the case may be?

25 A. (Mr. Reynolds) You know, I can't, and I

1918

1 apologize, I can't answer from a legal perspective, and
2 I think that your question has a legal basis to it.
3 And, you know, I don't understand what the criteria is
4 and what differentiates our ability to point out the
5 flaws the way that we did in our petition. You know,
6 all I can do is harken back to what our original
7 petition said, and that is, you know, we in the first
8 instance petitioned to terminate, and in the second
9 instance if the Commission does not allow termination,
10 then quite probably they would allow us to correct what
11 we see to be some glaring flaws in the program.

12 Q. Okay. Well, back to what we were discussing
13 before, you indicated that this Service Quality
14 Performance Program or I believe it's on the record as
15 Service Quality Program was an agreement of all the
16 parties, correct?

17 A. (Mr. Reynolds) Yes.

18 Q. Okay. So hypothetically Qwest could choose
19 to -- well, let me back up.

20 If it's a settlement agreement of all the
21 parties, hypothetically or at least we might be able to
22 read into that fact that the parties exchanged some give
23 and take in coming together with this, in putting this
24 agreement together; isn't that right?

25 A. (Mr. Reynolds) I think that that's a fair

1919

1 assessment.

2 Q. Okay. And so that some parties might give on
3 one term and then let go their position on another term
4 in order to come to a settlement?

5 A. (Mr. Reynolds) Yes, I think that's typically
6 what takes place in settlement negotiations.

7 Q. Okay. Hypothetically then it sounds as if
8 Qwest could just choose one term that it found not to be
9 to its benefit and perhaps that it gave up in settlement
10 negotiations and propose that that be changed. Wouldn't
11 that fit within the standard that you're stating in here
12 that the Qwest proposal is simply an improvement over
13 what already exists, at least for that particular
14 measure that you're proposing a change for?

15 A. (Mr. Reynolds) I suppose that hypothetically
16 that could happen. That is not what we are doing here.
17 We are exercising a provision in the settlement
18 agreement that allows us to petition to terminate the
19 plan. We did that, and as an alternative we offered to
20 the Commission some modified matrix that we believe with
21 their adoption, you know, that it would make the plan
22 much more effective in its initial intent.

23 Q. Do you believe the Commission could modify
24 the program by putting in stricter standards or
25 penalties?

1920

1 MS. ANDERL: Objection, Your Honor, calls for
2 a legal conclusion.

3 JUDGE WALLIS: Mr. Swanson.

4 MR. SWANSON: I will withdraw the question,
5 thank you.

6 BY MR. SWANSON:

7 Q. Again at Paragraph 34, Exhibit Number 2, the
8 basis of the proposed change, Qwest indicates that the
9 basis of the proposed change need not be compelling and
10 again indicates that the Commission need only find the
11 Qwest proposal is an improvement over what currently
12 exists in order to adopt it; is that correct?

13 A. (Mr. Reynolds) That's what's stated, yes.

14 Q. Okay. Does Qwest believe that this standard
15 is also one that should apply to any change proposed by
16 Staff or Public Counsel?

17 MS. ANDERL: Objection, Your Honor, again
18 calls for a legal conclusion.

19 JUDGE WALLIS: Mr. Swanson.

20 MR. SWANSON: I'm asking just for the
21 witness's understanding as a non-attorney on this issue.

22 MS. ANDERL: Well, Your Honor, I don't think
23 that there is such a thing. This is a specific question
24 as to whether a particular legal standard ought to apply
25 to another party's proposal, and his answer will by

1921

1 necessity encompass a legal conclusion. And to the
2 extent that it does, it's inappropriate. And to the
3 extent that they're asking for his opinion as a lay
4 person, it's irrelevant.

5 MR. SWANSON: I don't believe that compelling
6 is a legal standard. I believe as it's used here it's
7 simply used for argument or to support the position of
8 the party. I don't believe compelling is anywhere in
9 the settlement agreement to this.

10 JUDGE WALLIS: We often dance around this
11 issue as to whether a lay witness may respond to a legal
12 question when testifying on the stand and generally come
13 down in support of the witness being able to respond to
14 questions that are relevant relating to the testimony or
15 exhibits that are being supported. Here I believe that
16 is the case and that while the company's legal position
17 is to be presented by its attorneys, obviously the
18 witnesses do have a responsibility for the program and
19 for the proposed changes, and their views I believe are
20 relevant as well, so the witness may respond.

21 Does the witness have the question in mind?

22 MR. REYNOLDS: Yes, I do.

23 A. (Mr. Reynolds) And I guess, and I don't mean
24 to sound flip in this, but to the extent that Public
25 Counsel or Staff petitioned to terminate the plan, I

1922

1 think the company would join in that, and we would be
2 done, you know.

3 Essentially what the Commission -- what the
4 company has done here is exercise a provision in the
5 settlement agreement that allows us to petition to
6 terminate, and in the alternative we offered some
7 modifications to the plan that we believed if those were
8 made we would continue to live with the plan through the
9 duration of the plan for the next two years.

10 If your question is specific to the fact, can
11 the other parties petition the Commission for a change
12 in a particular metric, just based on my lay knowledge I
13 would say that they probably could, and the Commission
14 would have to assess what those changes were and deal
15 with them in the course of business.

16 BY MR. SWANSON:

17 Q. Would Staff need to make a compelling case or
18 just show that what's in existence right now is not as
19 good as what's being proposed?

20 MS. ANDERL: Same objection, Your Honor.

21 JUDGE WALLIS: Same ruling.

22 A. (Mr. Reynolds) That I don't know. I don't
23 understand what the standards would be for evaluation by
24 the Commission in that case.

25 BY MR. SWANSON:

1923

1 Q. Okay. At Paragraph 12 of Exhibit Number 2,
2 Qwest says that:

3 If the program is to continue, it should
4 pay only those credits based on the same
5 standards the Commission uses to
6 evaluate the rest of the industry.

7 MS. ANDERL: Excuse me, may I get the
8 paragraph reference again?

9 MR. SWANSON: I believe it's Paragraph 12.

10 MS. ANDERL: Paragraph 12 just is a paragraph
11 that's assigned to Mr. Teitzel discussing competitive
12 alternatives.

13 JUDGE WALLIS: Let's be off the record,
14 please.

15 (Discussion off the record.)

16 JUDGE WALLIS: Counsel indicates that the
17 question is directed to Paragraph 12 of Exhibit 1; is
18 that correct?

19 MR. SWANSON: That's correct.

20 BY MR. SWANSON:

21 Q. At Paragraph 12 of the petition Qwest states
22 that:

23 If the program is to continue, it should
24 only pay those credits based on the same
25 standards the Commission uses to

1924

1 evaluate the rest of the industry.

2 For the call center standard, Qwest says:

3 The standard that it faces should

4 reflect the minimum acceptable

5 performance base line expected of other

6 providers.

7 At Paragraph 13, Qwest says:

8 This would harmonize the standards.

9 Now with this background in mind, if Qwest
10 believes that industry standards should apply, it is not
11 proposing to use the standard that applies to all other
12 companies for the out of service repair metric, the rule
13 requires that all out of service repairs be completed
14 within 48 hours, but Qwest is proposing that it avoid
15 payment if its performance is no worse than 99.5%.

16 MR. SWANSON: My apologies, could I go off
17 the record for a moment, Judge?

18 JUDGE WALLIS: Yes.

19 MR. SWANSON: I apologize.

20 (Discussion off the record.)

21 BY MR. SWANSON:

22 Q. My question is, why isn't Qwest preparing or
23 proposing the same standard for the out of service
24 measure?

25 A. (Mr. Reynolds) The modification that we

1925

1 suggest, the sliding scale modification, has to do with
2 the payment structure that goes along with the SQPP. No
3 other companies are facing the same payment structure
4 associated with \$83,333 per month for every month that
5 we miss the 100% standard. Other companies have an
6 obligation to the rule; however, they don't have the
7 payment structure associated with the SQPP. We're
8 asking for the same standard to apply with a modified
9 payment structure, the sliding scale payment structure,
10 for that structure that is inherent in the Service
11 Quality Performance Program.

12 Q. Thank you.

13 My next question is for Mr. Pappas, do I have
14 it correct?

15 A. (Mr. Pappas) It's Pappas.

16 Q. I apologize. I believe you're responsible
17 for Footnote 10 of Exhibit Number 2; is that correct?

18 A. (Mr. Pappas) That is correct.

19 Q. And are you aware that the settlement
20 agreement in this case provided exclusions for force
21 majeure?

22 A. (Mr. Pappas) I am aware of that, yes.

23 Q. And would you agree with the definition of --
24 or -- the definition of force majeure or at least agree
25 that this is a rough approximation of the definition,

1 than an effect or event that can not be reasonably
2 anticipated or controlled could be termed force majeure?

3 A. (Mr. Pappas) I would agree with that.

4 Q. Okay. And in Footnote 10 you list a couple
5 of examples such as a technician not being able to enter
6 a customer's yard or -- and encountering a locked gate,
7 or perhaps repairs may be complex; is it possible that
8 those types of issues could fall under that exclusion?

9 A. (Mr. Pappas) In actually being a technician
10 and doing that work for several years, I don't think
11 they do fall under that exclusion. I think it's up to
12 that end user to have access given, and that if we don't
13 get it, we assume that we will gain it at another time,
14 and I don't think those fall into force majeure.

15 Q. Well, hypothetically say if --

16 A. (Mr. Pappas) And let's, let me interrupt
17 that, let's not work hypotheticals, let's work real,
18 real trouble issues. So in this case we're trying to
19 get access to a network interface device in a customer's
20 back yard.

21 Q. Okay, but since I'm the attorney, I'm going
22 to be asking the hypothetical.

23 Hypothetically say if a highway was out and
24 you couldn't reach an outage, do you think that that
25 could fall under force majeure?

1927

1 A. (Mr. Pappas) It's certainly beyond our
2 control.

3 Q. But the locked gate and not being able to get
4 access, that's not the same type of thing in your
5 opinion; is that correct?

6 A. (Mr. Pappas) I would say that's beyond our
7 control also; however, I don't view that as as bad as a
8 highway being out.

9 Q. Okay, thank you. Do you know how many of the
10 misses last year were due to not being able to complete
11 the repair within two days?

12 A. (Mr. Pappas) For all of 2003?

13 Q. That's correct.

14 A. (Mr. Pappas) No, I can dig and find that
15 number.

16 Q. Can you give an estimation, or are you -- is
17 it too difficult to do that?

18 A. (Mr. Pappas) I would like to have the number
19 without taking a guess at it.

20 Q. Okay.

21 Mr. Teitzel, is that right?

22 A. (Mr. Teitzel) Yes, it is, thank you.

23 Q. Okay, thank you. And your contention seems
24 to be that the competitive landscape has changed in
25 Washington; is that correct?

1928

1 A. (Mr. Teitzel) That is correct.

2 Q. Okay. Has Qwest asked that residential
3 services be classified as competitive in front of the
4 Commission?

5 A. (Mr. Teitzel) Qwest has not asked for
6 residential pricing flexibility in this state. Qwest
7 has asked for that flexibility in other states. As you
8 may be aware, Qwest has requested and been granted
9 pricing flexibility for its business services in
10 Washington. I would tell you that I strongly suspect
11 that Qwest will be in front of the commissions very soon
12 with a request of that nature for residence service.

13 Q. But they're not currently in front of the
14 Commission?

15 A. (Mr. Teitzel) That is correct.

16 Q. And so perhaps the service quality measures
17 could be positive until that date occurs, until that
18 time occurs; isn't that correct?

19 A. (Mr. Teitzel) Well, I think I heard
20 Mr. Reynolds testify a moment ago that the measures must
21 be of a sort that would promote excellent service and
22 give Qwest an incentive to provide excellent service.
23 If a measure required 100% performance in all instances
24 and Qwest can not realistically meet that in all
25 instances, that's not an incentive in my mind.

1929

1 Q. Would it or would it not be more protective
2 of service quality for either there to be a finding that
3 the residential services are competitive or for the
4 measure to remain in place?

5 A. (Mr. Teitzel) In my opinion there is
6 competition in the residential marketplace. In fact, I
7 believe I supplied evidence to the Commission in my
8 Exhibit 4, DLT-1 to that effect. There certainly is,
9 customers do have choices, and those choices are growing
10 by the day. The competitive market in Washington is
11 really a -- it's a changing paradigm. I believe
12 everyone in this room would agree that competition today
13 is not as it was in 2000 when this agreement was struck.
14 I don't believe that voice over Internet telephony as an
15 example was really contemplated as a mainstream
16 offering, but I believe that service is available today
17 on a very broad basis. So I think the factors have
18 changed, and I think now is the change to revise -- now
19 is the time to revise the service quality parameters.

20 Q. Is it not true that even if -- even if that
21 were the case, assuming hypothetically that the
22 landscape had changed and there was competition going
23 on, that service quality could still be affected,
24 because a number of the competitors still rely on Qwest
25 for wholesale or other provision of services?

1930

1 A. (Mr. Teitzel) I would agree with you that
2 some competitors do rely on Qwest for either resale or
3 unbundled services, others do not.

4 Q. But at least for those competitors that rely
5 on those, if Qwest was not able to maintain a high
6 service quality, service quality of the customers would
7 be affected to that degree?

8 A. (Mr. Teitzel) Well, it depends on the type of
9 service you're talking about. I believe some of the
10 measures in the SQPP plan that we're talking about here
11 today govern things like business office access and
12 speed of answer, those sorts of things. Certainly those
13 are within the competitor's control, not Qwest. To the
14 extent that we're talking about a network measure, speed
15 of dial tone when the customer picks up the receiver as
16 an example, that would certainly be within Qwest's
17 control if the competitor was purchasing Qwest network
18 elements.

19 MR. SWANSON: Okay, that's all Commission
20 Staff has.

21 JUDGE WALLIS: Public Counsel.

22 MR. FFITCH: Thank you, Your Honor.

23

24

25

1931

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

2 BY MR. FFITCH:

3 Q. Good morning, Mr. Reynolds, my first
4 questions will be for you.

5 A. (Mr. Reynolds) Good morning.

6 Q. I would like to follow up on the questioning
7 that we have had about the company's modification
8 proposal. In this docket as part of the broader
9 modification proposal, Qwest has a proposal to modify
10 the out of service measure, correct?

11 A. (Mr. Reynolds) That is correct.

12 Q. And as I understand that proposal, Qwest
13 would not face any customer credits for the out of
14 service measure if the company completed at least 99.5%
15 of out of service repairs in two working days. Is that
16 a correct understanding?

17 A. (Mr. Reynolds) Actually our proposal is 99.5%
18 in 48 hours, because as part of our proposal, we also
19 propose that we use the existing rules as the standards.

20 Q. All right, thank you.

21 Now in 2001 Qwest had a petition to modify
22 the Service Quality Performance Program, correct?

23 A. (Mr. Reynolds) That is correct.

24 Q. And that petition also sought to modify the
25 out of service standard; is that correct?

1932

1 A. (Mr. Reynolds) Yes.

2 Q. And the result of that proposal had it been
3 granted would have been that Qwest would not incur any
4 customer credits under the Service Quality Performance
5 Program for performance at or above 99.5%, correct?

6 A. (Mr. Reynolds) I believe that's correct, yes.

7 Q. And that petition was denied by the
8 Commission, correct?

9 A. (Mr. Reynolds) That is correct.

10 Q. I would like you to turn to MSR-4, which is
11 Exhibit 2. Excuse me, I stand corrected, it's Exhibit
12 6, page 2 of the exhibit. And in the middle paragraph
13 under the heading factors to consider, you state the
14 following in the middle of the paragraph:

15 Call duration has gotten longer over
16 time as the number of services offered
17 has increased and more complex
18 technology has been introduced.

19 Correct?

20 A. (Mr. Reynolds) Yes.

21 Q. And then if you can turn to page 3 of the
22 same exhibit, the second full paragraph on that page,
23 you discuss the demanding nature of call center work,
24 and I'm referring to the first sentence of the second
25 full paragraph, and you state:

1933

1 Call center work is demanding, and the
2 complexity of services makes training a
3 major issue.

4 Correct?

5 A. (Mr. Reynolds) Yes.

6 Q. And could you just read the last sentence of
7 that paragraph also, please.

8 A. (Mr. Reynolds)

9 The training for these jobs takes many
10 weeks, and it is many months before new
11 employees are up to speed.

12 Q. Now I'm going to ask you to turn to a Staff
13 cross-examination exhibit, sorry to make you do that,
14 but to avoid duplication we decided to just have one set
15 in the record, and that's Staff Cross Exhibit 14C, I
16 believe, a response to Data Request Number 156, and I'm
17 asking you specifically to turn to confidential
18 Attachment A.

19 MR. FFITCH: I will ask, Your Honor, I will
20 ask Qwest if the title of this attachment is
21 confidential.

22 MS. ANDERL: No.

23 MR. FFITCH: Thank you, Your Honor.

24 BY MR. FFITCH:

25 Q. Page 2, the cover of the attachment

1934

1 identifies this as the Qwest Consumer Work Force
2 Management and Staffing; is that correct?

3 A. (Mr. Reynolds) That's on the cover sheet?

4 Q. Cover sheet.

5 A. (Mr. Reynolds) Yes.

6 Q. Then if we turn to page 4 of the exhibit, and
7 I'm going to be sensitive to the confidentiality here,
8 I'm going to direct you to the second bullet point on
9 that page.

10 MS. ANDERL: This does not have page numbers;
11 is that right?

12 MR. FFITCH: There are page numbers that have
13 been provided by -- handwritten by -- on my copy by
14 Staff I believe, I assume by Staff.

15 MR. REYNOLDS: Mr. ffitch, maybe I can
16 clarify, you're counting the actual just the cover sheet
17 for the discovery as page 1 I take it, so it's actually
18 the third page of the presentation?

19 MR. FFITCH: That's correct.

20 MR. REYNOLDS: Yes.

21 BY MR. FFITCH:

22 Q. Third page of the presentation, fourth page
23 of the exhibit, there are two bullet points on that
24 page, are there not?

25 A. (Mr. Reynolds) Yes.

1935

1 Q. And I'm referring you to the second bullet
2 point on that page, and that discusses a change in the
3 training program for new sales and customer care
4 representatives, does it not?

5 A. (Mr. Reynolds) Yes, it does.

6 Q. Thank you. Now can I get you to go back to
7 Exhibit 6, which is MSR-4 again, please, and go to page
8 4. We're going to be talking a little bit here about
9 the 80/30 standard, could you just explain for the Bench
10 and for all of us what 80/30 is shorthand for?

11 A. (Mr. Reynolds) 80/30 is a standard that
12 requires that 80% of calls to the business office be
13 answered in 30 seconds. And to be even more clear, this
14 is the duration of time that's actually being measured
15 is after the customer has received the initial menu that
16 companies typically have as a front end to their access
17 system, after a customer makes its choice as to what it
18 wants to talk about, whether the customer would want to
19 talk about sales or care, then there's a duration of
20 time before a live service representative is allowed or
21 actually seizes the line and speaks to the customer.
22 And it's that duration of time that this metric is
23 intended to measure. And once again it's 80% of the
24 calls must fall within or from 0 to 30 seconds for
25 Qwest, I'm sorry, for Qwest to make the measurement, to

1936

1 meet the measurement in a month.

2 Q. Thank you. And with regard to the menu
3 selection aspect of this, that's the last menu selection
4 choice that the customer makes which then triggers the
5 beginning of the 30 seconds; is that correct?

6 A. (Mr. Reynolds) That is correct.

7 Q. So for those of us who sometimes get lost in
8 circular menu land, the clock is not yet ticking; is
9 that correct?

10 A. (Mr. Reynolds) Not for this matrix, no.

11 Q. Let's look at the first full paragraph on
12 page 4 then under the heading, and there you state:

13 Achieving an 80/30 result on Monday
14 morning is nearly impossible without
15 serious overstaffing.

16 Correct?

17 A. (Mr. Reynolds) Yes.

18 Q. And then state that:

19 Once Monday results are missed, the
20 nature of measurement makes it nearly
21 impossible to achieve the monthly
22 standard.

23 Correct?

24 A. (Mr. Reynolds) That's correct.

25 Q. Now could you please turn to our cross

1937

1 Exhibit 18C, which is the answer time reports. And
2 again, these are confidential, so I'm going to attempt
3 to avoid eliciting confidential material for this
4 transcript. And can you please turn to page 1 of that
5 exhibit, and page 1 is the December 2001 answer time
6 report showing Qwest performance during 2001, correct?

7 A. (Mr. Reynolds) Yes.

8 Q. And on the right-hand side of that exhibit,
9 there is a place for comments, correct?

10 A. (Mr. Reynolds) Yes.

11 Q. Those are known as exceptions?

12 A. (Mr. Reynolds) That's correct.

13 Q. Could you please indicate whether the
14 comments section on this page of the exhibit makes any
15 reference to the quote, Monday morning phenomenon?

16 A. (Mr. Reynolds) I don't think that it makes a
17 direct reference. It does talk about uneven call
18 volumes and that call volumes shift and can be high in
19 one particular month. I don't think it gets down to a
20 weekly basis, but it does talk about the problem with
21 matching force to a particular call volume.

22 Q. Thank you. And could you turn to page 2 of
23 the exhibit, please.

24 A. (Mr. Reynolds) Yes.

25 Q. And this is the answer time performance for

1938

1 2002, is it not?

2 A. (Mr. Reynolds) That is correct.

3 Q. And can you verify that during 2002 as shown
4 on this report --

5 MR. FFITCH: I guess I'm going to just pause
6 for a moment and make sure I'm not stepping across the
7 confidentiality line. I'm going to inquire of the
8 witness how many months Qwest met the standard in that
9 year. I don't believe that's confidential.

10 MS. ANDERL: That's fine.

11 MR. FFITCH: Thank you, Your Honor.

12 BY MR. FFITCH:

13 Q. Is it correct that Qwest met the 80% standard
14 for nine months of the year in 2002?

15 A. (Mr. Reynolds) Yes, that appears to be the
16 case.

17 Q. So wouldn't it be fair to say that for those
18 nine months the Monday effect did not prevent Qwest from
19 meeting the Service Quality Performance Program
20 standard?

21 A. (Mr. Reynolds) That is correct with reference
22 to this particular document.

23 Q. And does the column label exceptions on this
24 page for 2002 mention anything about the Monday effect?

25 A. (Mr. Reynolds) No, it does not, but I don't

1939

1 think that that's necessarily determinative. You know,
2 it might be that, you know, my office actually puts
3 together the comments in that column, and it's whether
4 we get any information directly back from the business
5 office. So to the extent that we didn't get any
6 information, it doesn't go into the column.

7 Q. All right. But you would ordinarily expect
8 the business office to notify you of any significant
9 factors that were impacting either on a one time basis
10 or routinely impacting the ability to meet the service
11 quality requirements, would you not?

12 A. (Mr. Reynolds) Yes, it appears that just
13 looking at 2001 and 2003 that we had what we call our
14 business office alert notices that come out from the
15 business office that provides us with a great deal of
16 insight into what types of issues that business office
17 is facing. It doesn't -- it doesn't provide us with
18 everything. They're usually one page documents that
19 provide a general overview, and the purpose of that
20 column is to give parties just a general assessment of
21 some reasons why Qwest may have missed the metric. I
22 honestly, to tell you the truth Mr. ffitch, I don't know
23 what happened in 2002 that we didn't fill in those
24 columns, the blanks for those columns.

25 Q. And actually the column is blank for 2002, is

1940

1 it not?

2 A. (Mr. Reynolds) That is correct.

3 Q. So perhaps something else was going on?

4 A. (Mr. Reynolds) Yeah.

5 Q. Perhaps not?

6 A. (Mr. Reynolds) Could be.

7 Q. Let's turn to the next page for 2003. There

8 the exceptions column has been completed, has it not?

9 A. (Mr. Reynolds) Yes.

10 Q. And for 2003 Qwest failed to meet the

11 standard, the 80/30 standard, for nine months in 2003;

12 is that correct? And I will give you a chance to check

13 the exhibit, check my accounting.

14 A. (Mr. Reynolds) Yes, that appears to be

15 correct.

16 Q. Would you accept subject to check that the

17 comments included in the exceptions column for this

18 report don't contain any mention of the so-called Monday

19 morning phenomenon for any month in 2003?

20 A. (Mr. Reynolds) Yes, I would accept that, but

21 I would echo my prior comments that, you know, I'm not

22 sure it would. You know, these are general comments

23 about what took place for that particular month. The

24 Monday morning effect is something that we have to live

25 with each and every month. It truly is a call volume

1941

1 anomaly that happens during the week that requires us
2 to, you know, shift work force and many times causes us
3 to miss the matric. Everybody is aware of it, and I
4 don't know that it's something you would necessarily put
5 into a report.

6 Q. Thank you. Let's move on to another topic.
7 I'm going to ask you to go back to that same Staff cross
8 exhibit, Exhibit 14C, this time to confidential
9 Attachment C.

10 A. (Mr. Reynolds) I'm sorry, the Staff exhibit
11 again was 14C?

12 Q. 14C.

13 A. (Mr. Reynolds) Okay.

14 Q. We're into the yellow paper, and it's
15 attachment, confidential Attachment C, and the heading
16 is business office/repair center access. There's a
17 handwritten 9 at the bottom of the bottom right-hand
18 corner; do you have that?

19 A. (Mr. Reynolds) I don't have the handwritten.
20 Evidently the copies that we received didn't have the
21 handwritten.

22 Q. All right.

23 A. (Mr. Reynolds) But I do have -- I am looking
24 at the cover page for confidential Attachment C; is that
25 correct, the first page of that? There's two, it's a

1942

1 two page document?

2 Q. That's correct.

3 A. (Mr. Reynolds) Okay.

4 Q. This page contains four different tables; is
5 that correct?

6 A. (Mr. Reynolds) Yes.

7 Q. And is it the case that in each table in the
8 rows labeled standard where there are two numbers
9 separated by a slash such as 80/30 it means that the
10 first number is the percentage of calls that should be
11 answered, and the second number reflects the time period
12 that those calls should be answered?

13 A. (Mr. Reynolds) I think that that's generally
14 true. I do know that for some of the matrix there are
15 graces that are offered, that is that any payments don't
16 actually kick in until you drop a certain amount below
17 the standard. So if you're trying to equate what would
18 be a payable miss, you might not get it by looking at
19 this particular table.

20 Q. Well, excepting that there may be some
21 variations of that type, the numerical indication
22 itself, however, if I have described it correctly, the
23 first number is the percentage of calls to meet the
24 standard, and the second number is the standard, the
25 time standard?

1943

1 A. (Mr. Reynolds) Yes, and the only correction I
2 would make to that is that there are a few of the
3 standards that aren't the percent and then the time,
4 they're just an average wait time, for example for New
5 Mexico and Utah.

6 Q. And that's shown in each of the tables under
7 the -- in the column for that state as a period of time
8 of seconds, correct?

9 A. (Mr. Reynolds) That is correct.

10 Q. And you've kind of led me to my next
11 question, which is that this table shows standards in a
12 number of U S West states, correct?

13 A. (Mr. Reynolds) In, yes, Qwest states.

14 Q. Sorry, Qwest, how time flies, thank you.

15 Again we're going to flip back to your MSR-4,
16 which is Exhibit 6, and we're going to go to page 1 of
17 that exhibit in the introduction section in the second
18 paragraph, and we're actually going to the very sentence
19 that you corrected this morning, and there you state,
20 and I will have to correct my cross question here, but
21 you state that:

22 According to the FCC's 2003 ARMIS
23 report --

24 For the reporter that's block capitals,
25 A-R-M-I-S.

1944

1 -- only --

2 As corrected.

3 -- 2.6% of Qwest customers in Washington
4 as surveyed were dissatisfied with their
5 business office experience.

6 That's your statement, correct?

7 A. (Mr. Reynolds) Yes.

8 Q. And when you say as surveyed, that means as
9 surveyed by Qwest, correct?

10 A. (Mr. Reynolds) Yes.

11 Q. The FCC does not perform this survey?

12 A. (Mr. Reynolds) That is correct.

13 Q. And in that sentence when you refer to Qwest
14 customers, is that residential, small business, or large
15 business customers? And I may be perhaps in a back
16 doorway here asking for an explanation of the change in
17 the number that you have provided, but let me just ask
18 that question first. When you refer to customers, is it
19 residential, small business, or large business customers
20 in this sentence, or some combination thereof?

21 A. (Mr. Reynolds) As corrected it is a
22 combination of residential and small business. Prior to
23 correction it was residence only.

24 Q. Does this --

25 A. (Mr. Reynolds) And --

1945

1 Q. I'm sorry, go ahead.

2 A. (Mr. Reynolds) And maybe I can provide some
3 more information. Residence obviously was 1.8%, and
4 small business was 4.4%, and given the size of the
5 survey I weighted those together and came up with the
6 2.6%.

7 Q. Thank you. And this does not include large
8 business then?

9 A. (Mr. Reynolds) That is correct.

10 Q. In this statement you indicate that the
11 survey data refers to Qwest Washington customers?

12 A. (Mr. Reynolds) Yes.

13 Q. Does that mean that Qwest provides data to
14 the FCC for each of the 14 states in its service
15 territory?

16 A. (Mr. Reynolds) Yes.

17 Q. Does the FCC ARMIS data also include customer
18 satisfaction on other aspects of service such as repair
19 and installation?

20 A. (Mr. Reynolds) I don't know that.

21 MR. FFITCH: If the FCC ARMIS data were
22 available and did collect information on other aspects
23 of service, Your Honor, I will ask whether, we would
24 ordinarily do this as a record requisition, but I think
25 the FCC ARMIS data on this point are a matter of public

1946

1 record, so I'm going to ask if we can supplement the
2 record and provide the additional FCC ARMIS data on
3 other aspects of service such as repair and
4 installation.

5 JUDGE WALLIS: Ms. Anderl.

6 MS. ANDERL: Well, I don't think that that's
7 really an issue that we have raised and would therefore
8 not be appropriate in terms of Public Counsel putting it
9 in on rebuttal. We raised an issue with regard to
10 business office access and customers' perceptions in
11 connection with that. We're not making a parallel
12 argument with regard to any other matrix, nor is it
13 clear that any other matrix would be out there and line
14 up. So at this point, I don't see the relevance. We
15 are pressed for time here, I think it would be difficult
16 to have Public Counsel gather the data and submit it in
17 a manner timely so that we could respond to it. So at
18 this point without further showing, I think it's
19 inappropriate.

20 JUDGE WALLIS: Mr. ffitch.

21 MR. FFITCH: Your Honor, I am advised that as
22 a matter of fact that the data would have to be provided
23 to us by Qwest because the FCC data that's available to
24 us as a public record is aggregated by a 14 state area,
25 so we would not be able to directly obtain Washington

1947

1 only information. I think, Your Honor, while we view
2 this as relevant, I think in the interests of efficiency
3 of the proceeding we'll not pursue this question.

4 JUDGE WALLIS: Very well, thank you.

5 BY MR. FFITCH:

6 Q. Now, Mr. Reynolds, on to another but related
7 topic, can you turn to the reply comments which are
8 Exhibit 2, Paragraph 6. In Paragraph 6 -- do you have
9 that?

10 A. (Mr. Reynolds) Yes, I do.

11 Q. In Paragraph 6 there, starting at the end of
12 the second line, you state:

13 On an objective basis and in comparison
14 with other companies, Qwest provides
15 excellent service.

16 Is that correct?

17 A. (Mr. Reynolds) Yes.

18 Q. Mr. Reynolds, are you aware of whether any
19 third party entities conduct survey research on customer
20 satisfaction in the telecommunications industry?

21 A. (Mr. Reynolds) Yes, I believe some do.

22 Q. And did you look at any comparative studies
23 of Qwest consumer satisfaction in preparing this
24 statement or in working on this case?

25 A. (Mr. Reynolds) This statement was actually

1948

1 made in conjunction with a matrix that were measured by
2 -- under the SQPP, and so that was the frame of
3 reference.

4 Q. Okay.

5 A. (Mr. Reynolds) That's what our petition was
6 about, so.

7 Q. Will you please turn to --

8 JUDGE WALLIS: Excuse me, Mr. Reynolds, your
9 answer is no then, you did not look at other measures?

10 MR. REYNOLDS: I looked at other measures but
11 not prior to drafting these reply comments. The other
12 measures came into it based on Public Counsel's
13 cross-examination list, of which they I believe
14 introduced one other measure, which I'm sure Mr. ffitch
15 is going to ask me about here in a minute, so to say
16 that I haven't viewed them, I did, but it was after the
17 fact of drafting this reply.

18 JUDGE WALLIS: Thank you, for that
19 clarification.

20 MR. FFITCH: Thank you, Your Honor.

21 BY MR. FFITCH:

22 Q. And I am going to ask you to turn to Exhibit
23 28. This is the exhibit which contains materials from
24 the American Customer Satisfaction Index.

25 A. (Mr. Reynolds) Yes, I have that.

1949

1 Q. And have you had a chance to review that?
2 You indicated a moment ago that you had reviewed this
3 information?

4 A. (Mr. Reynolds) Yes, I did, in preparation for
5 cross-examination today, I reviewed it.

6 Q. And it's accurate, is it not, if we look at
7 page 1 of the exhibit, this index is produced by the
8 University of Michigan Business School in conjunction
9 with some other groups that are stated there; is that
10 right?

11 A. (Mr. Reynolds) Yes.

12 Q. And lower down we see that it is funded in
13 part by corporate subscribers who receive information
14 from the index, correct?

15 A. (Mr. Reynolds) That is correct.

16 Q. And if we go to page 3 of the exhibit, we
17 see, do we not, that Qwest Communications Incorporated
18 is one of the subscribers to the ACSI; is that right?

19 A. (Mr. Reynolds) Yes, that is indicated.

20 Q. And the study methodology is shown on if you
21 flip back to page 2, would you accept that that is a
22 summary of the ACSI study methodology, the use of random
23 telephone sampling, individual customer sampling, et
24 cetera?

25 A. (Mr. Reynolds) Yes.

1950

1 Q. Now I'm going to ask you to turn to page 8 of
2 the exhibit, and near the bottom of the page if you can
3 direct your attention to the telecommunications section
4 first of all, the third paragraph of the
5 telecommunications section. Could you please read the
6 -- this is where it begins Qwest has improved
7 dramatically.

8 A. (Mr. Reynolds) Yes.

9 Q. That probably jumped right out at you I
10 assume.

11 A. (Mr. Reynolds) I didn't think you were going
12 to allow me to read that one.

13 Q. Could you please read the first five
14 sentences of that paragraph.

15 A. (Mr. Reynolds) Sure.

16 Qwest has improved dramatically. Its
17 ACSI is up about 11%. This is a very
18 large increase, but Qwest still has a
19 way to go. It remains at the bottom of
20 the industry with a score of 62.

21 Should I continue to read?

22 Q. You can read one more sentence, that would be
23 fine.

24 A. (Mr. Reynolds) Okay.

25 Amid accounting scandals and many

1951

1 customer service problems, the company's
2 ACSI dropped by 26% in the 1995 to 2002
3 period.

4 Q. Thank you. Now I'm going to ask you to turn
5 to page 12 of the exhibit, and these are the tables of
6 numbers; do you have that?

7 A. (Mr. Reynolds) Yes, I do.

8 Q. And in the top half of the page we see a
9 section entitled local service with a list of telephone
10 companies, and do you find the line for Qwest
11 Communications there?

12 A. (Mr. Reynolds) Yes.

13 Q. And can you indicate what the number provided
14 for the year 1995 is?

15 A. (Mr. Reynolds) Yes, it says 76.

16 Q. That's the index for that year?

17 A. (Mr. Reynolds) Yes, it appears to be.

18 Q. And the year again, the number for 2003?

19 A. (Mr. Reynolds) It states 62.

20 Q. The year 2002?

21 A. (Mr. Reynolds) 56.

22 Q. And the year 2000, excuse me, 2001, I didn't
23 mean to skip that.

24 A. (Mr. Reynolds) 61.

25 Q. And then the year 2000?

1952

1 A. (Mr. Reynolds) 64.

2 Q. Thank you. You can we go to Exhibit 34,
3 please.

4 A. (Mr. Reynolds) That's the new exhibit you
5 introduced this morning?

6 Q. This is the new exhibit. I'm going to ask
7 you to turn to page 2 of that exhibit and again to find
8 near the top of the page the same line item listing for
9 Qwest performance under the index.

10 A. (Mr. Reynolds) Yes, I have it.

11 Q. And would you accept that Exhibit 34 is the
12 same survey as Exhibit 28 but that these are the most
13 recent results updated as of June 3rd, 2004?

14 A. (Mr. Reynolds) Yes, that's correct.

15 Q. And can you just state for the record what
16 the index number for Qwest is for the first quarter of
17 2004?

18 A. (Mr. Reynolds) Yes, it's 64, up 2 points.

19 Q. Thank you. And would you agree that both
20 Exhibit 34 and Exhibit 28 show that Qwest has the lowest
21 index rating of all of the telephone companies shown in
22 that section of the survey?

23 A. (Mr. Reynolds) That appears to be the case,
24 yes.

25 Q. Thank you. I would like to move on to

1953

1 another issue now, and now I'm going to ask you to go to
2 the petition, Paragraph 4. There you state:

3 Many of the performance activities --
4 I'm sorry, do you have that?

5 A. (Mr. Reynolds) You said Paragraph 4?

6 Q. Paragraph 4, page 3, let me check my own
7 reference here, do you find that?

8 A. (Mr. Reynolds) Yes.

9 Q. Many of the performance activities -- I'm
10 sorry, I will start again for the clarity of the
11 transcript.

12 JUDGE WALLIS: Is that Exhibit 1?

13 MR. REYNOLDS: Yes, I'm sorry, I have it.

14 MR. FFITCH: Yes, Your Honor, I apologize, it
15 is Exhibit 1.

16 BY MR. FFITCH:

17 Q. There you state:
18 Many of the performance activities in
19 the SQPP are also addressed by Qwest
20 Customer Service Guarantee Program,
21 delayed service, out of service
22 conditions, no dial tone, and trouble
23 report rate. Qwest does not believe
24 that there is an ongoing need for this
25 type of double coverage regarding

1954

1 service quality payment programs.

2 Is that correct?

3 A. (Mr. Reynolds) Yes.

4 Q. Could you please turn to Public Counsel cross
5 Exhibit Number 23. That's the Qwest tariff for Customer
6 Service Guarantee to help you find it.

7 A. (Mr. Reynolds) Yes, I have it.

8 Q. And would you agree that the tariff discusses
9 the five different component parts of the Customer
10 Service Guarantee program under section B of the tariff.
11 They're actually listed by Arabic numbers 1 through 5,
12 and those include the guaranteed appointment and
13 commitments. If we turn two pages we come to delayed
14 primary basic exchange guarantee, or excuse me, basic
15 exchange alternative. With regard to that second
16 aspect, that's often referred to as the held order
17 guarantee, is it not? Are you familiar with that
18 shorthand label?

19 A. (Mr. Reynolds) Yes.

20 Q. Number 3, two pages over, out of service
21 trouble condition credit, number 4, no dial tone credit,
22 and number 5 on the last page, trouble report rate
23 credit. Those are the five component parts of this
24 Customer Service Guarantee Program, correct?

25 A. (Mr. Reynolds) Yes.

1955

1 Q. Now could you please turn to the next exhibit
2 24C; do you have that?

3 A. (Mr. Reynolds) Yes.

4 Q. Now these are Qwest December customer remedy
5 reports for the years 2001 through 2003, correct?

6 A. (Mr. Reynolds) Yes, as reported in our
7 service quality report.

8 Q. Right.

9 A. (Mr. Reynolds) The only thing I would point
10 out is it does not include all of the Customer Service
11 Guarantee Program.

12 Q. All right, you're getting ahead of me.

13 A. (Mr. Reynolds) I'm sorry.

14 Q. That's fine. So you agree that these are
15 filed as part of the company's monthly service quality
16 reports, and that's correct, right?

17 A. (Mr. Reynolds) Yes.

18 Q. And you have just indicated that these do not
19 include all five of the components of the Customer
20 Service Guarantee Program, correct?

21 A. (Mr. Reynolds) That is correct.

22 Q. So, for example, if we look at the first
23 page, we see that reported on that page is out of
24 service customer bill credits, trouble report bill
25 credits, and dial tone speed bill credits, just those

1956

1 three items, correct?

2 A. (Mr. Reynolds) That is correct.

3 Q. It's true, is it not, that the company does
4 not provide information about the other two components
5 of the Customer Service Guarantee Program, that's the
6 held order program and the missed appointment program,
7 in the monthly service quality reports filed with the
8 Commission?

9 A. (Mr. Reynolds) That is true.

10 Q. And with respect to the Customer Service
11 Guarantee Program in general, does the company report
12 any other information other than what we see on Exhibit
13 24C on a regular basis to the Commission regarding this
14 program?

15 A. (Mr. Reynolds) Not to my knowledge.

16 Q. Is there any reason why Qwest would not be
17 willing to agree to add the missing two components to
18 the monthly reports so that these remedy service quality
19 credit reports would then show all five of the
20 components?

21 MS. ANDERL: Objection, Your Honor, that's
22 outside the scope of this proceeding. The Customer
23 Service Guarantee Program is a tariffed program that
24 Qwest is not seeking any changes to in this proceeding,
25 and we do not think that it's appropriate to explore the

1957

1 extent to which Qwest might be willing to make those
2 changes. It sounds like a negotiation to me.

3 MR. FFITCH: Well, Your Honor, the reason for
4 the question is that Qwest has specifically identified
5 not only this program but each of its components as in
6 effect an adequate substitute or residual program in the
7 event the Commission were to terminate the Service
8 Quality Performance Program. So I'm trying to explore
9 the extent to which the program is or the manner in
10 which the program is currently administered and also the
11 extent to which the Commission would have some ability
12 to monitor the program on a going forward basis.

13 I understand they probably have not had an
14 opportunity to think about this question, but I would
15 like the opportunity to ask the witness whether they
16 would add those two components to the monthly report.

17 JUDGE WALLIS: The objection is overruled,
18 the witness may respond.

19 A. (Mr. Reynolds) Mr. ffitch, I don't know the
20 history behind why we don't provide the other two,
21 tracking for the other two matrix or, yeah, the other
22 two matrix, the commitments and appointments made and
23 also the delayed primary service. I honestly don't know
24 what the history behind that is, and so I can't answer,
25 you know, why the company doesn't provide the

1958

1 information. I do know that as a result of a discovery
2 request I believe in this proceeding we provided at
3 least aggregate information regarding the amount of
4 payments we have made out under each of the -- each of
5 those areas for the past three years, and I believe that
6 that's -- I think it's -- I assume it's confidential,
7 maybe it's not, but it's 118 as supplemented.

8 BY MR. FFITCH:

9 Q. Thank you. That was not information that was
10 previously provided to the Commission though, that was
11 only provided in discovery in this proceeding, correct?

12 A. (Mr. Reynolds) I believe that that is
13 correct, and I don't know whether you would want to call
14 that informal or formal discovery, but it was provided I
15 believe to Public Counsel upon their request.

16 Q. Thank you. Let's talk a little bit more
17 about the out of service component of the program. With
18 respect to the out of service customer guarantee, is the
19 customer credit automatically applied to the customer's
20 account when there's an outage that lasts for more than
21 two working days or seven calendar days?

22 A. (Mr. Reynolds) It is applied when the
23 customer notifies us that they have an out of service
24 condition, which is a no dial tone condition.

25 Q. Let me direct you to Exhibit 26. Is 26,

1959

1 let's see if that's confidential, no, it's not, Exhibit
2 26, this is Qwest's response to Public Counsel Data
3 Request 117, correct?

4 A. (Mr. Reynolds) That is correct.

5 Q. And in this DR generally you were asked to
6 provide a definition of out of service tickets as used
7 by the company in the service quality, excuse me, the
8 Customer Service Guarantee Program, correct?

9 A. (Mr. Reynolds) That is correct.

10 Q. And could you read the last sentence of that
11 response, please.

12 A. (Mr. Reynolds) Yes, it states:

13 Only out of service tickets generated
14 when a customer calls the Qwest repair
15 bureau are included in the out of
16 service report.

17 Q. Now from this sentence and from actually the
18 answer that you volunteered just a moment ago, I'm
19 understanding that only customers who contact Qwest
20 regarding an outage receive a customer service credit,
21 correct? Am I understanding your testimony and this
22 data response correctly?

23 A. (Mr. Reynolds) That is correct, and that is
24 really the only way we can determine if the condition
25 exists, the out of service condition exists, that is

1960

1 that the customer does not have dial tone. We can't
2 determine that really any other way.

3 Q. This response states though, does it not,
4 Mr. Reynolds, that an out of service ticket is also
5 generated when Qwest becomes aware on its own without a
6 customer calling of an out of service condition such as
7 through a major cable cut or internal testing? And I'm
8 referring to the text of the data response.

9 A. (Mr. Reynolds) Yes, I mean it appears that
10 that first sentence intimates that, but I'm not sure
11 that that's correct. My understanding is that a
12 specific out of service condition for a ticket for a
13 specific customer can only be generated upon the
14 customer calling in. Because when a cable is cut, we
15 don't know necessarily what customers are served by that
16 cable, so there's no way to apply a trouble ticket to
17 the customers that we don't -- we're not aware that they
18 are out of service.

19 Q. Well, let's take a look at the second
20 sentence of the second paragraph, and that states, does
21 it not, that:

22 An out of service ticket can also be
23 opened if at any time we become aware of
24 a no dial tone condition, i.e., notice
25 of a major cable cut, through internal

1961

1 testing, et cetera.

2 That's a correct quote of your response,
3 isn't it?

4 A. (Mr. Reynolds) It is, but once again I'm not
5 sure that that's correct. I mean I think that the final
6 sentence governs, and that is that the only time we can
7 open an out of service ticket is when we're sure that a
8 specific customer is out of service per the definition
9 and that we can track it. Because unless we're sure of
10 that, we have nothing to enter in. I believe that we
11 actually track this information by billed telephone
12 number, and I don't know how we would do that with a
13 cable cut not knowing which customers are served by that
14 cable. And that's why it's virtually impossible for us
15 to equate a cable cut to the customers that are served
16 by that cable, because we're not always aware given
17 where the cable cut is of all the downstream customers.

18 Q. So it's your testimony that you're not
19 actually aware which of your customers are served by
20 which of your cables?

21 A. (Mr. Reynolds) I'm aware -- my testimony is
22 that when we get a cable cut that is upstream from let's
23 say three or four distribution areas that we don't
24 necessarily know all the customers that are impacted at
25 that point in time. It would be a monumental task to

1962

1 try to determine which customers were actually affected
2 by the cable cut and which were not. Thus we use the
3 criteria that a customer needs to call in when an out of
4 service condition occurs.

5 There are also some things that aren't as cut
6 and dried as a cable cut where we may be experiencing
7 problems but we don't know how that's affected
8 downstream customers. The only way that we can tell is
9 if a customer actually calls in and expresses that they
10 have an out of service condition.

11 Once again, I apologize for the confusion in
12 this response, and, you know, Qwest would certainly be
13 willing to revise it so that it's accurate with our
14 current practice.

15 Q. Well, before I request a supplemental
16 response, is there anyone on the panel who could address
17 this question before having to go to further written
18 response? Is Mr. Pappas or Mr. Teitzel able to address
19 that?

20 A. (Mr. Reynolds) It looks like Mr. Pappas might
21 have some experience here too.

22 A. (Mr. Pappas) Yeah, this is Dennis Pappas with
23 Qwest.

24 Q. Mr. Pappas, do you agree with Mr. Reynolds
25 that this aspect of the data response is not accurate?

1963

1 A. (Mr. Pappas) I agree both that it's not
2 accurate and it is a monumental task to get that
3 information. I guess my bigger concern, and once again
4 in a past life I did cable splicing and maintenance, is
5 the fact that not every time you have a cut cable that
6 it's a clean cut, it's a partial cut. And so a 600 pair
7 cable hit by a backhoe, you may just grab a group of 25
8 or 50 pair and not cut the whole thing. So to assume
9 that everybody in that count gets a credit, we would
10 certainly overpay in that instance, whereas only those
11 that called in were actually out of service, then we
12 would know that they were indeed out of service, and
13 they would be credited if it took longer than the two
14 days to repair that.

15 Q. Thank you. Is it your testimony that in the
16 case of a complete cable cut that Qwest does not know
17 which of its customers are served by a specific cable in
18 its network?

19 A. (Mr. Pappas) What we do in a complete cut is
20 that we pry or we get information off route sheets that
21 basically says the cable and the count of that cable
22 that's cut, and then we prioritize any customers calling
23 in with a repair ticket. We put them in that cable cut,
24 in that bucket, so that it's they're all contained under
25 that one cable cut, but we don't go out and take a look

1964

1 for every customer in that account expecting to call on
2 each one, no.

3 Q. Well, my question was, can not Qwest or does
4 not Qwest have the information to determine which of its
5 customers is served by a particular cable in its network
6 infrastructure?

7 A. (Mr. Pappas) We can certainly run a report
8 that gives information on a pair by pair basis of a
9 cable that is cut. And on that report it will have, if
10 there is an associated telephone number on it, it will
11 have that information on it.

12 Q. Thank you. Now with respect to internal
13 testing, and I'm not sure whether this is for
14 Mr. Reynolds or Mr. Pappas, but with respect to internal
15 testing, is it fair to say that this is a voluntary
16 shutdown of service by the company for purposes of
17 testing for the company's own purposes? I guess I will
18 go back to Mr. Reynolds first, and he can defer to you,
19 or would you like me to just keep inquiring of
20 Mr. Pappas?

21 A. (Mr. Reynolds) I think for these network
22 related questions that Mr. Pappas is probably the better
23 witness to answer.

24 Q. Thank you.

25 All right, Mr. Pappas, do you have that

1965

1 question then in mind?

2 A. (Mr. Pappas) Go ahead again, please.

3 Q. Well, first of all, this is kind of a
4 threshold question, do I assume correctly that internal
5 testing is not an involuntary outage, it's something
6 that the company decides to do, to shut down or to run
7 tests on a line which then causes an out of service
8 condition for the customers using that line; is that
9 correct?

10 MS. ANDERL: Mr. ffitch, just for
11 clarification, are you referring there to the use of
12 that phrase internal testing as it's used in the data
13 request response?

14 MR. FFITCH: That is correct.

15 A. (Mr. Pappas) Are you talking internal testing
16 associated with cable outage, or are you just talking
17 normal maintenance that occurs on a nightly basis across
18 the state?

19 BY MR. FFITCH:

20 Q. Well, perhaps, I don't know if you have
21 Exhibit 26 in front of you, I'm just referring -- I
22 guess I'm asking what the reference to internal testing
23 in Exhibit 26 means, and that is in the second paragraph
24 in the middle of the paragraph. It's described as one
25 of the reasons why you would have an out of service

1966

1 condition, an out of service ticket?

2 A. (Mr. Pappas) Sorry, I can't find the internal
3 testing piece on here.

4 Q. Fourth line down at the end in the second
5 paragraph.

6 A. (Mr. Pappas) The internal testing that it
7 references here my belief is testing that would go on in
8 a I guess in the scenario of a fiber cut rather than a
9 normal copper cut like that. I mean you usually got a
10 pretty good idea when you've cut one facility versus the
11 other just because of the size of the outage itself, and
12 we do do a lot of work with an optical distance reader
13 on fiber facilities that I would consider that, you
14 know, this internal testing speaks to here.

15 Q. Would this be a reference to company effort
16 to do some testing to locate where they believe an
17 outage has occurred?

18 A. (Mr. Pappas) More on a fiber environment than
19 a copper environment perhaps, yes.

20 Q. And once the problem has been diagnosed, is
21 it the case that Qwest can then identify the customers
22 who experience an out of service condition from that
23 interruption that's a very -- well, I will just stop
24 there, as with a major cable cut?

25 A. (Mr. Pappas) Qwest can identify the counts

1967

1 that are associated in that outage, in that cut.

2 Q. Thank you.

3 A. (Mr. Pappas) So they --

4 Q. Oh, go ahead, finish your answer.

5 A. (Mr. Pappas) They can tell whether it's the 1
6 cable pairs, 1 to 600 or whatever that is, and that's
7 based on the sheets that the technicians or the
8 information the technicians carry in their vehicles.

9 Q. That would mean you could identify the
10 specific customers; is that correct?

11 A. (Mr. Pappas) Not off that base information
12 that the technicians have but off information that's in
13 the LFACs database, that research could be done to
14 identify those customers.

15 Q. Thank you. Now I'm going back to the tariff,
16 which is in Exhibit 23. I'm back to Mr. Reynolds I
17 believe unless he would like to defer. Do you have
18 that, Mr. Reynolds?

19 A. (Mr. Reynolds) Yes, I do.

20 Q. And can you turn to page 5 of that exhibit,
21 please.

22 JUDGE WALLIS: Excuse me, Mr. ffitch, before
23 we get too deep into this, would this be a good place to
24 break?

25 MR. FFITCH: Your Honor, if I could just ask

1968

1 one question, I'm done with that exhibit, and then we
2 could break.

3 JUDGE WALLIS: Very well, please proceed.

4 BY MR. FFITCH:

5 Q. Would you agree, Mr. Reynolds, that the out
6 of service guarantee tariff does not anywhere indicate
7 in its provisions that a customer needs to call Qwest in
8 order to get the credit?

9 A. (Mr. Reynolds) No, it does not specifically
10 make that distinction. However, in 3a it does say
11 customers who have an out of service condition, no dial
12 tone on their lines, and the way that we determine that
13 is when a customer calls in with that concern.

14 MR. FFITCH: Thank you, that's all I have on
15 that exhibit, Your Honor, and a break would be fine at
16 this time.

17 JUDGE WALLIS: Very well, let's take our
18 morning recess for 15 minutes at this time. We'll
19 resume at 11:00 by the clock on the wall.

20 (Recess taken.)

21 JUDGE WALLIS: Mr. Ffitch.

22 MR. FFITCH: Thank you, Your Honor.

23 BY MR. FFITCH:

24 Q. Mr. Reynolds, I just have a couple more
25 questions about the out of service guarantee, and I'm

1969

1 going to ask you to turn to Exhibit 25. This is the
2 response to Public Counsel Data Request Number 116. Do
3 you have that?

4 A. (Mr. Reynolds) Yes.

5 Q. And in this request we asked Qwest to provide
6 actual customer records for out of service reports in
7 2002, correct?

8 A. (Mr. Reynolds) Yes.

9 Q. And will you look at the third bullet point
10 there, can I just ask you to read that.

11 A. (Mr. Reynolds) Yes, it states:

12 One customer was paid the credit even
13 when they had requested an appointment
14 more than seven days out. The
15 programming in MOOSA had not been
16 updated to recognize this condition and
17 disqualified a ticket from credit
18 application. As a result, the report
19 shows 17 7-calendar day credits paid.

20 Q. And could you tell us what MOOSA stands for?

21 A. (Mr. Reynolds) Unfortunately I can't.

22 Q. Is there anyone on the Qwest panel who can
23 tell us what MOOSA stands for?

24 A. (Mr. Pappas) This is Dennis Pappas with
25 Qwest. I'm not sure on the M but the OOSA is out of

1970

1 service adjustments.

2 MR. FFITCH: Thank you.

3 Perhaps we could during the course of the
4 hearing, perhaps over lunch, we could get a full
5 statement of that so that our record is clear.

6 JUDGE WALLIS: Ms. Anderl, would that be
7 possible?

8 MS. ANDERL: We'll do what we can, Your
9 Honor.

10 JUDGE WALLIS: Thank you.

11 BY MR. FFITCH:

12 Q. So I take it that in some cases it's fair to
13 say the customer has to schedule an appointment with
14 Qwest in order to get an out of service condition
15 repaired; is that an accurate perception?

16 A. (Mr. Reynolds) I don't know that that's
17 necessarily the case, Mr. ffitich. I believe this is
18 referring to a very specific condition for one customer.
19 I do think if we detect out of service conditions on a
20 mass basis, I think we endeavor to fix them whether
21 customers call in or not, and thus the prior
22 conversation we had. But in this particular case, this
23 evidently had to do with a single customer who had an
24 out of service condition, requested a specific time for
25 us to meet with them to be able to correct it, and it

1971

1 happened to be beyond the date when the seven day credit
2 would apply, we applied the credit anyway, and that's
3 really all it's saying.

4 Q. Well, correct me if I'm wrong, but I would
5 assume that on occasion one of these customers who calls
6 in to report an out of service condition would have to
7 make an appointment with Qwest. Is this the only
8 instance where a customer has ever had to make an
9 appointment for a repair of an out of service condition?

10 A. (Mr. Reynolds) Oh, no, I don't think that's
11 what I was saying. I think that generally we would make
12 appointments to fix, you know, to the extent that it
13 required a customer facility access, we would obviously
14 set up an appointment to fix their service, and this
15 involves that situation.

16 Q. Okay, thank you, perhaps my question wasn't
17 real clear before, but that clarifies it, thank you.

18 And so do I understand correctly though from
19 this response in Exhibit 25 that if the appointment is
20 scheduled beyond the two day or the seven day window,
21 the customer does not get a credit under the Customer
22 Service Guarantee?

23 A. (Mr. Reynolds) It certainly intimates that,
24 that this was an exception rather than a rule. To the
25 extent that, you know, a customer actually requests a

1972

1 time that puts us in jeopardy of payment, we would not
2 include that in the report.

3 Q. And when the customer --

4 A. (Mr. Reynolds) Because the -- excuse me.

5 Q. Go ahead.

6 A. (Mr. Reynolds) In this case they probably
7 would have been included in for the two day credit to
8 the extent they were in that time frame, but not
9 necessarily the seven day credit.

10 Q. If the customer requests a schedule, excuse
11 me, requests an appointment that's out beyond the cutoff
12 period of let's say seven calendar days, is the customer
13 informed at that point that they will not receive a
14 credit because of the timing of their appointment?

15 A. (Mr. Reynolds) I do not know that.

16 Q. Is there someone on the panel that can answer
17 that question?

18 A. (Mr. Reynolds) It doesn't appear so.

19 MS. ANDERL: That may be something we can
20 also find out over lunch in addition to researching the
21 M.

22 MR. FFITCH: Well, Your Honor, I guess
23 because it may not be possible to get an answer over
24 lunch on that, I would like to make a Public Counsel
25 record requisition to get a company statement of the

1973

1 policy on that issue.

2 JUDGE WALLIS: So noted, Record Requisition
3 Number 1.

4 MS. ANDERL: And can you just state it,
5 Mr. ffitch.

6 MR. FFITCH: The question is when a Qwest
7 customer with an out of service condition requests an
8 appointment for repair outside of the Customer Service
9 Guarantee window of two days or seven calendar days, is
10 the customer informed that they will no longer be
11 entitled to the credit as a result of that scheduling
12 decision for the appointment?

13 MS. ANDERL: Entitled to the \$5 credit?

14 MR. FFITCH: Right, whatever credit is
15 applicable under the tariff. I don't have all of the
16 specifics in mind.

17 I'm advised that the credit is more for the
18 seven day period. I believe the \$5 applies to two days.

19 MS. ANDERL: \$5 or other applicable credit.

20 MR. FFITCH: Yes, thank you.

21 MS. ANDERL: We will endeavor to answer that
22 on the record today. If not, we'll provide a written
23 response.

24 MR. FFITCH: Thank you very much.

25 BY MR. FFITCH:

1974

1 Q. Mr. Reynolds, isn't it the case that
2 customers are generally informed about the Customer
3 Service Guarantee Programs in the company's Consumer
4 Bill of Rights?

5 A. (Mr. Reynolds) I believe that that's one way.
6 I don't know that that's generally how they're advised
7 of it. You know, we provide the Consumer Bill of Rights
8 on an annual basis to customers, and certainly that is
9 one way that they could find out about it.

10 Q. The Consumer Bill of Rights is not provided
11 to new customers with their welcome package that they
12 get confirming the service they have ordered though, is
13 it?

14 A. (Mr. Reynolds) I don't believe that it is,
15 but I believe a reference may be provided in the welcome
16 letter as to where they can seek more information.

17 Q. A specific reference to the consumer, or
18 excuse me, to the Customer Service Guarantee?

19 A. (Mr. Reynolds) That I'm not sure of, I don't
20 know whether it's specifically to the plan or whether
21 it's for more consumer information.

22 Q. And the Customer Bill of Rights which
23 references the Customer Service Guarantee Programs is
24 made available on the company Web site, correct?

25 A. (Mr. Reynolds) That is correct.

1975

1 Q. Under the heading for legal notices, correct?

2 A. (Mr. Reynolds) That is correct.

3 MR. FFITCH: May I have a moment, Your Honor?

4 JUDGE WALLIS: Certainly.

5 BY MR. FFITCH:

6 Q. Mr. Pappas, we haven't officially said good
7 morning yet, so good morning, Mr. Pappas. I'm going to
8 ask you to turn to Exhibit 11, which is your testimony
9 at DP-9.

10 A. (Mr. Pappas) I'm there.

11 Q. And on page 1 there is a table regarding
12 order provisioning and, excuse me, orders provisioned
13 and dispatched and repairs and repair dispatches,
14 correct?

15 A. (Mr. Pappas) That's correct.

16 Q. And if you turn to page 2 of your Exhibit 11,
17 the first sentence on page 2 indicates that:

18 Even customers of a competitive local
19 exchange company typically require a
20 Qwest technician to be dispatched if the
21 line is experiencing trouble.

22 Is that correct?

23 A. (Mr. Pappas) For those CLECs that use an
24 unbundled loop, that's correct.

25 Q. And does the table on page 1 of this exhibit

1976

1 that we just looked at a minute ago, does that reflect
2 Qwest retail orders and repairs only, or does it include
3 both retail and wholesale orders and repairs?

4 A. (Mr. Pappas) On the orders, these are POTS
5 orders only, and that would not include the orders for
6 unbundled loops, but on repair it does.

7 Q. So said another way, for orders it's retail
8 only, and for repairs it's retail and wholesale; is that
9 a fair paraphrase?

10 A. (Mr. Pappas) For on service orders it's POTS
11 only, plain old telephone service, whereas the unbundled
12 loops are handled through the design services flow.

13 Q. When you say POTS only, is that retail POTS
14 provided by Qwest only?

15 A. (Mr. Pappas) I believe that's what it
16 captures here, yes.

17 Q. Now with regard to orders dispatched, does
18 that ever require a Qwest technician?

19 A. (Mr. Pappas) Well, orders dispatched always
20 require a Qwest technician.

21 Q. I'm sorry, for CLEC orders?

22 MS. ANDERL: I guess at this point I would
23 object and state that the question is vague and ask for
24 clarification. The witness has stated that with regard
25 to the table on page 1 the orders lines deal only with

1977

1 Qwest retail POTS service, and yet I understood the
2 question to be addressing CLEC orders, so there's
3 confusion at least in my mind.

4 JUDGE WALLIS: Mr. ffitch, can you clarify?

5 MR. FFITCH: Can I have a moment, Your Honor?

6 JUDGE WALLIS: Certainly.

7 BY MR. FFITCH:

8 Q. Maybe this will help, Mr. Pappas, I'm
9 referring to a statement that you have on -- that we
10 just actually looked at a moment ago on page 2 of your
11 testimony where you indicate that CLEC customers may
12 require a Qwest technician to be dispatched if the line
13 is experiencing trouble, and that's on page 2 of your
14 testimony. My question is whether in the instance of
15 order provisioning, does it ever occur that a Qwest
16 technician needs to be dispatched, order provisioning by
17 CLEC's?

18 A. (Mr. Pappas) In the scenario where we're
19 provisioning orders for a CLEC and a dispatch is
20 required, yes, it will be a Qwest technician that goes
21 out there to identify the loop and tag it for the CLEC.

22 MR. FFITCH: Okay, given that answer, Your
23 Honor, we would like to make a records requisition for
24 the wholesale data in connection with the orders
25 dispatched and provisioning.

1978

1 MS. ANDERL: And, Your Honor, I do not
2 understand the record requisition if I may have counsel
3 restate it.

4 MR. FFITCH: We would be happy to do that,
5 Your Honor. What I might do is perhaps if we could just
6 have a -- I can continue with my examination, and we can
7 prepare that, and then I can read that into the record
8 here in a few minutes, if that's acceptable to the
9 Bench.

10 JUDGE WALLIS: Is it fair to say that you're
11 asking for the first two data lines in the table on page
12 1 of Exhibit 11 where the table shows orders provisioned
13 and dispatched, but that's Qwest retail only, you're
14 asking for the equivalent CLEC figures?

15 MR. FFITCH: That's correct, Your Honor, I
16 was going to have our witness actually write it out so
17 that I could restate it precisely, but the sense of your
18 description is accurate, Your Honor.

19 JUDGE WALLIS: Is that sufficient,
20 Ms. Anderl?

21 MS. ANDERL: Yes, we understand that, thank
22 you.

23 JUDGE WALLIS: Thank you.

24 (Records Requisition 2.)

25 BY MR. FFITCH:

1979

1 Q. Could you now turn to Qwest reply comments,
2 which is Exhibit 2, Mr. Pappas, and go to Paragraph 23.
3 Do you have that?

4 A. (Mr. Pappas) I'm there.

5 Q. And at the bottom of the page, you state
6 that:

7 The current network staffing levels in
8 Washington for occupational employees
9 exceeds 2,200, which includes a
10 combination of central office
11 technicians and network technicians.

12 Correct?

13 A. (Mr. Pappas) That's correct.

14 Q. And then there's a Footnote 7 indicating
15 which employees are included in this title. Is that a
16 fair statement?

17 A. (Mr. Pappas) It is, yes.

18 Q. And the employees that refers to in this
19 passage that I have just quoted and in Footnote 7, are
20 all of these employees considered local network
21 employees as that term is used in Exhibit 29C? And I
22 will give you a moment to get over to that exhibit, then
23 we'll take a look at that. I'm referring to the yellow
24 pages which are attached to the data response on Exhibit
25 29; do you have that?

1980

1 A. (Mr. Pappas) I do, yes.

2 Q. And just, for example, looking at the year
3 2001, down the left-hand side we have functional
4 categories of employees; is that accurate?

5 A. (Mr. Pappas) I wanted to make sure I have the
6 correct one here.

7 Q. Okay, this is the Qwest response to Data
8 Request 126, and I am referring to a supplemental
9 response, supplemental response number 1.

10 A. (Mr. Pappas) Is it a two page document, the
11 yellow?

12 Q. The yellow is a two page document, correct.

13 A. (Mr. Pappas) Got it, thank you.

14 Q. And down the left-hand side we have
15 functional categories of employees, correct?

16 A. (Mr. Pappas) That's correct.

17 Q. And one of those is local network, correct?

18 A. (Mr. Pappas) That is correct.

19 Q. So now we get to my question, which is that
20 if you look at your testimony in the reply comments you
21 use the term -- well, let me back up.

22 Are the employees that you refer to there in
23 your reply in the reply testimony considered local
24 network employees as that term is used here on Exhibit
25 29 on the yellow paper?

1981

1 A. (Mr. Pappas) Yes, sir, they are.

2 Q. And do these local network employees conduct
3 both work both related to retail and to wholesale
4 activities?

5 A. (Mr. Pappas) Yes, they do.

6 Q. And that would include dispatches for order
7 provisioning and repair discussed in Exhibit 11?

8 A. (Mr. Pappas) Yes, they are, yes, they do.

9 Q. Let's go back to Exhibit 29C again, and just
10 tell me first it's the case, is it not, that this data
11 request generally asks for numbers of employees
12 terminated in Washington by year and functional area?
13 Isn't that a fair paraphrase of the data request? These
14 questions are down at the bottom of the page there.

15 A. (Mr. Pappas) It is, yes.

16 Q. So if you would please go to page 3 of the
17 exhibit, which is the first yellow page, and that shows
18 terminations and new hires for different functional
19 areas for 2001, correct, in the top part of the exhibit?

20 A. (Mr. Pappas) I don't know that it shows any
21 different functional areas.

22 Q. Well, this -- I want to make sure you have
23 the right exhibit here.

24 A. (Mr. Pappas) I've got it now, thank you.

25 Q. All right, I will just restate the question.

1982

1 This exhibit, this page of the exhibit shows the
2 terminations and new hires for different functional
3 areas for 2001 and 2002 on the bottom of the page,
4 correct?

5 A. (Mr. Pappas) It does, yes.

6 Q. And could you please look at the numbers for
7 local network let's just say for 2001.

8 A. (Mr. Pappas) I've got those.

9 Q. Can you please indicate whether the data on
10 this page reflects an unduplicated count of terminations
11 and new hires? In other words, if I were to subtract or
12 if a person were to subtract the number under new hires
13 that's shown here from the number of terminations, would
14 you get a net, an accurate net change in personnel for
15 that functional category, or is there an overlap?

16 A. (Mr. Pappas) I can't respond to that, I don't
17 know if there is an overlap or not of these.

18 Q. So it's possible that there might be
19 duplication between those two? I see that you're
20 perhaps looking at another witness.

21 Mr. Reynolds, are you able to answer that?

22 A. (Mr. Reynolds) I don't know that I'm able to
23 answer. We provided this information in -- I believe in
24 the description -- I believe that the description that
25 we gave in -- because I think Public Counsel served a

1983

1 follow-up request, did they not, to provide a little bit
2 more information?

3 Q. Well, we do -- there was a supplemental
4 response provided, and that's the exhibit actually that
5 we have provided contains both the -- contains the
6 supplemental response if that's what you're referring
7 to.

8 A. (Mr. Reynolds) No, I was actually referring
9 to the response to Data Request 129 served on us by
10 Public Counsel, and I believe that in that data request
11 we did some more explanation of what the year end counts
12 represented, what was netted out and what was included.
13 But I don't know that that necessarily applies to, you
14 know, now that I look at it applies back to this data
15 request. But it seems to me that that is probably
16 something that we can find out for you, Mr. ffitch. I
17 don't know sitting here right now the answer exactly to
18 your question, so. But my office was responsible for
19 providing these responses, not Mr. Pappas, so.

20 Q. Okay, well, thank you, I appreciate that, and
21 we did hope to be able to clarify that point.

22 MR. FFITCH: And I guess, Your Honor, I would
23 like to translate that offer into a records requisition
24 for I guess a supplemental response or a recasting of
25 this exhibit which would indicate the net reduction in

1984

1 Washington employees by functional areas listed on the
2 yellow paper.

3 MS. ANDERL: Well, Your Honor, I guess I
4 don't understand the question, because the numbers on
5 the page do show the number of terminations and the
6 number of new hires, and it's unclear to me what
7 clarification Mr. Ffitch is seeking.

8 JUDGE WALLIS: I think the witness testified
9 that he was unable to determine whether the net of those
10 two numbers was the net change for the period, and I
11 think that led to Mr. Ffitch's result. It may be that
12 you will check it and find out that that is the case.

13 MR. FFITCH: Perhaps just to assist counsel,
14 Your Honor, I think simply put the question is, did some
15 of the new hires then also leave in that same year, in
16 which case simple mathematical subtraction would not
17 give you an accurate number for the net change in
18 employees in that year. It doesn't appear to have
19 cleared up everybody's question, but I believe
20 Mr. Reynolds --

21 MS. ANDERL: Well, what you're suggesting,
22 Mr. Ffitch, is that the number under terminations,
23 voluntary/involuntary, is not accurate, so we will
24 endeavor to ensure that it's accurate.

25 MR. FFITCH: We can have a conversation off

1985

1 line and hope to clarify it further, but I believe
2 Mr. Reynolds understood, seemed to understand the
3 question, and we could talk a bit further at a break and
4 make sure.

5 JUDGE WALLIS: Very well, we will call that
6 Record Requisition Number 3.

7 BY MR. FFITCH:

8 Q. And now I'm going to ask you to turn to cross
9 Exhibit 31C, Mr. Pappas, and this is Public Counsel's
10 illustrative exhibit.

11 A. (Mr. Pappas) I'm there.

12 Q. And can you accept subject to check that
13 Table B shows the number of Washington based Qwest
14 employees as of 12-31-2000 and 12-31-2003?

15 A. (Mr. Pappas) Subject to check, yes.

16 Q. And that's as provided in Exhibit 30C, which
17 was the response to Data Request 129, and that's
18 actually the response that Mr. Reynolds referenced
19 earlier. Essentially I'm just asking you if these -- if
20 subject to check these are numbers that were provided by
21 the company in response to these data requests that are
22 listed here?

23 A. (Mr. Pappas) And I said subject to check,
24 yes, I would agree.

25 Q. Thank you. Then if we look up to Table A on

1986

1 this page, again can you accept subject to check that
2 columns B and C contain data provided by Qwest in
3 response to Data Request 126 and the supplemental
4 response thereto?

5 A. (Mr. Pappas) Subject to check, yes.

6 Q. Column D in Table A calculates the difference
7 between the employees terminated in column B and the new
8 hires in column C. And subject to checking the
9 mathematics, is that a correct statement of what is
10 represented in column D?

11 A. (Mr. Pappas) subject to check, yes.

12 Q. Now would you agree that if you look at the
13 bottom left-hand, excuse me, bottom right-hand cell in
14 Table A and the bottom right-hand cell in table B,
15 there's a discrepancy between those two numbers,
16 correct?

17 A. (Mr. Pappas) There is, yes.

18 Q. And those two numbers represent a net change,
19 and I'm trying to stay away from quantitative terms here
20 because it's confidential, but a net change in
21 Washington employees for the same time period, correct?

22 A. (Mr. Pappas) It does. I think at this point
23 I will defer to Mr. Reynolds.

24 A. (Mr. Reynolds) Actually, Mr. ffitich, it does
25 not. The bottom table is 2000 to 2003, and the top

1987

1 table is 2001 to 2003, and I believe there's a typo
2 under column G of Table B, it should read 2000 to 2003.

3 Q. It's December 31st of 2000 though, correct?

4 A. (Mr. Reynolds) Yes.

5 Q. But in any event there is a discrepancy,
6 correct?

7 A. (Mr. Reynolds) I don't know if you would call
8 it a discrepancy, because you're not comparing the same
9 time frame. I mean there's a difference definitely
10 between the numbers.

11 MR. FFITCH: Is it possible -- can I have a
12 moment, Your Honor?

13 JUDGE WALLIS: Yes.

14 BY MR. FFITCH:

15 Q. Just a clarification, isn't it the case,
16 Mr. Reynolds, that we're talking about a one day
17 difference because the -- if we look in column E we're
18 referring to December 31st, 2000, so that would give us
19 one day later the number of Washington based employees
20 as of 2001?

21 A. (Mr. Reynolds) I guess I'm a little confused.
22 My understanding is that the basis for the numbers in
23 Table A are the responses we made to discovery, Public
24 Counsel's Discovery Request 126, and if I go back and
25 look at 126, it seems to me that those are end of year

1988

1 numbers. So 2001 would be end of year 2001 or 12-31-01,
2 and so what I'm saying is it won't -- the bottom in B is
3 a four year time span from the end of year 2000 to the
4 end of year 2003, whereas Table A is the end of year
5 2001 to the end of year 2003. So they are different
6 time frames based on my understanding of the data we
7 provided you.

8 Q. Well, I think it's easy to get confused here,
9 but I think that what you're perhaps -- what's perhaps
10 getting you off the track here is that we're -- in both
11 cases we're trying to determine a net change in
12 employees between the beginning of 2001 and the end of
13 2003, and Table A does it one way, by attempting to
14 calculate the net change between terminations and new
15 hires. Table B does it in a second way by taking the
16 beginning date of from 2001, in effect the next day
17 after the 12-31-2000 date all the way to the end of the
18 period, but they're both measuring the same period;
19 isn't that correct?

20 A. (Mr. Reynolds) I have a real hard time
21 accepting that, and maybe it's just me, but.

22 MR. FFITCH: Well, perhaps the way to resolve
23 this, Your Honor, is to say that if he will accept,
24 accepting that there's some confusion here, if he will
25 accept that the intent of this exhibit is to represent

1989

1 the same time periods, we do have a discrepancy.

2 BY MR. FFITCH:

3 Q. It's my understanding that you have indicated
4 you're willing to provide a records requisition with
5 regard to whether there's a duplication between column
6 -- between terminations and new hires statistics
7 provided by the company in columns B and C and that that
8 may resolve the question we have here about the
9 discrepancy between these two numbers, the two totals
10 that are shown. The discrepancy may result from
11 duplication, isn't that fair to say?

12 A. (Mr. Reynolds) You know, Mr. ffitich, I think
13 I understand -- I think I understand your point that you
14 just made, and that is that if on an individual year
15 basis, 2001, 2002, 2003, include the full amount of net
16 transactions as corrected by any corrections we're going
17 to do, you should be able to sum those and then take the
18 starting point of 2001, which is the day after, and net
19 that. That's your point?

20 Q. That's my point.

21 A. (Mr. Reynolds) Okay.

22 Q. And the numbers should be the same in theory,
23 correct?

24 A. (Mr. Reynolds) Yes.

25 Q. But they're not here obviously, and the

1990

1 records requisition we're hoping will indicate if that's
2 a result of some duplication showing up on Table A, and
3 you're indicating yes for the record?

4 A. (Mr. Reynolds) Yes, I understand the request.

5 Q. Thank you.

6 I just have one other question, and that's --
7 this is for Mr. Teitzel. Mr. Teitzel, you had testified
8 in response to questions from the Staff counsel that
9 VoIP is being included by Qwest in its testimony in this
10 case as an area of potential competition for the
11 company; is that correct?

12 A. (Mr. Teitzel) I think I testified it's
13 actually real competition today for many customers, not
14 just potential competition.

15 Q. And it's true, is it not, that Qwest itself
16 is now offering or proposing in the near future to offer
17 VoIP to its own customers?

18 A. (Mr. Teitzel) That is true. In fact, Qwest
19 is conducting a trial right now of VoIP in Minnesota,
20 and we have intentions to roll that out broadly in the
21 fairly near future.

22 MR. FFITCH: Okay, thank you, I don't have
23 any further questions.

24 And thank you, Your Honor, that concludes our
25 questions for the panel. We would like to if necessary

1991

1 offer our cross-examination exhibits, although I
2 understand that the stipulation --

3 JUDGE WALLIS: The exhibits have been
4 received.

5 MR. FFITCH: Thank you.

6 JUDGE WALLIS: Mr. O'Rourke, do you have any
7 questions?

8 MR. O'ROURKE: Yes, Your Honor, just a few.

9 JUDGE WALLIS: Very well.

10 MR. O'ROURKE: I'm going to be referring to
11 Exhibit 12, Mr. Pappas, his response to the statements
12 of Dale Miller.

13

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

15 BY MR. O'ROURKE:

16 Q. Good morning, Mr. Pappas.

17 A. (Mr. Pappas) Good morning.

18 Q. Can you tell me when you first became aware
19 of the issues that are the subject of your exhibit, of
20 the exhibit surrounding the 8 unit complex in Colfax?

21 A. (Mr. Pappas) I first became aware of that
22 probably in early May when I read the statement from
23 Mr. Dale Miller.

24 Q. Then it would be correct to say that you
25 weren't personally involved in any of the events

1992

1 described either in Mr. Miller's statement or in the
2 statement that you have written?

3 A. (Mr. Pappas) No, in conversations with
4 Mr. Don Hartzog from this area who talked to the
5 engineer up there, he relayed this information to me,
6 and we talked at length about what occurred there and
7 the steps that we took to assist this development or
8 this developer in getting service to that location.

9 Q. Okay. Would it be possible that either the
10 builder or the developer of this project contacted Qwest
11 but as the result of some sort of error that their
12 concerns or their wanting to move this project forward
13 wasn't taken up the way it should have been by Qwest?

14 A. (Mr. Pappas) I guess if this is the first
15 time that this had happened, and this has happened to me
16 personally too, I mean this happens a lot where we have
17 developers that contact both wet and dry facilities but
18 forget for some reason to contact communications
19 provider or the cable television provider. Could it
20 happen? Certainly. Has it happened before where they
21 have just forgot to call us and call us at the, you
22 know, the day they're ready to move in? That's happened
23 also.

24 Q. I guess what I'm asking is, is it possible
25 that there could have been a clerical error on Qwest's

1993

1 part in this case?

2 MS. ANDERL: Objection, Your Honor, the
3 witness is being asked to speculate based on no evidence
4 submitted that there was such an error, and I believe
5 that the line of inquiry is really irrelevant.

6 JUDGE WALLIS: Mr. O'Rourke.

7 MR. O'ROURKE: I'm just asking him based on
8 his experience and his position in the company whether
9 it would be possible in this case or in other cases that
10 the developer would have contacted Qwest and the proper
11 order wouldn't have been filled, in this case for phone
12 service to the complex.

13 JUDGE WALLIS: I think the question is
14 permissible, and the witness may respond.

15 A. (Mr. Pappas) We have processes in place today
16 and forms that you fill out, a developer is responsible
17 for filling those out, that when they come to Qwest we
18 fill out, I believe they even sign them, and that begins
19 the task of engineering a job for that specific
20 location, ordering the materials, and having the net
21 techs go out there, putting the -- placing the cable and
22 doing the splicing. There is an established process.
23 If that contact was made, those documents would have
24 been forwarded to the developer to sign initially, they
25 would have had to sign and return to Qwest.

1994

1 BY MR. O'ROURKE:

2 Q. I think the question called for a yes or no.

3 A. (Mr. Pappas) And if the construction, if the
4 developer took that step and sent them to Qwest, yes, we
5 would have those documents, and that would trigger the
6 job.

7 Q. So you're saying it's not possible that there
8 could have been a clerical error on Qwest's part in this
9 case?

10 A. (Mr. Pappas) I would say if -- that would be
11 very slim for a clerical error to occur like that. The
12 engineer, the local engineer would know, and apparently
13 the local engineer drove by the site, stopped by there
14 and asked them how they were going to get phone service.
15 That was the first he had ever been given any indication
16 that there was any activity there at all. So a small
17 chance in any company that a clerical error can occur.
18 In this with the process we have established, I don't
19 see it.

20 MR. O'ROURKE: Thank you, I have no more
21 questions.

22 JUDGE WALLIS: Very well, let's be off the
23 record, please.

24 (Discussion off the record.)

25

1995

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

2 BY JUDGE WALLIS:

3 Q. I have a couple of questions and would like
4 whoever feels responsible for the area to respond to
5 them. The materials that Qwest submitted indicated, if
6 I recall correctly, that it is inappropriate to use
7 Commission complaints as a measure. Can you explain why
8 that is so?

9 A. (Mr. Reynolds) Maybe I could answer this one.
10 We think it's inappropriate in the context of this
11 petition to necessarily rely on complaints, because, you
12 know, complaints are allegations, they aren't proven
13 transgressions, especially in light of what's required
14 under the Service Quality Performance Plan, and we
15 believe that's where the attention should be focused and
16 not necessarily on complaints.

17 Q. I take it that it's Qwest's position that it
18 should be able to terminate or alter measures for which
19 it exceeds the minimum applicable standard; is that
20 correct, if there is a comparable standard such as the
21 new rules or otherwise?

22 A. (Mr. Reynolds) And I guess I didn't
23 understand your question, the question was that we?

24 Q. To terminate the Service Quality Protection
25 Plan or alter the measures for issues for which Qwest

1996

1 exceeds the minimum applicable standard which otherwise
2 exists; is that a fair statement of your position?

3 A. (Mr. Reynolds) I think our position in that
4 respect was that if the Commission -- I mean what we
5 were pointing out is threefold, that the competitive
6 landscape had changed, and that additionally there was
7 already coverage in these service quality areas by other
8 existing Commission programs, whether it's in the rules
9 or whether it's in the Customer Service Guarantee
10 Program.

11 And I believe that one of the attachments, I
12 believe it's MSR-3 and I can't remember the exact
13 exhibit number, but it is a matrix that shows the double
14 coverage nature of these other matrix. I don't think
15 that we tried to make the point that if we were
16 performing well under one of the other requirements that
17 that was a reason. I think the reason was just that
18 there was double coverage, there's no need to have Qwest
19 making, for example in the case of the Customer Service
20 Guarantee Program, direct payments to customers for not
21 meeting the standard that's in the tariff and then also
22 making another payment to them for exactly the same
23 transgression under the Service Quality Performance
24 Plan. So that was our position, and, you know, it goes
25 to this, the double coverage issue.

1997

1 JUDGE WALLIS: Very well, those are all my
2 questions.

3 Ms. Anderl.

4 MS. ANDERL: Thank you, Your Honor.

5

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

7 BY MS. ANDERL:

8 Q. Mr. Pappas, let me clear up one issue with
9 you first, and that is this issue of force majeure. Do
10 you recall Staff counsel, Mr. Swanson, asking you about
11 force majeure?

12 A. (Mr. Pappas) I do.

13 Q. And assuming with me for a moment,
14 Mr. Pappas, that Qwest would consider certain items as
15 force majeure events and exclude them from the count
16 such as a lightning storm, a locked terminal box, or
17 other events such as that, are there still events that
18 would occur that would reasonably prevent Qwest from
19 meeting the 100% out of service repair within two
20 business days?

21 A. (Mr. Pappas) There are, and as I look through
22 the misses that we had in the what I put forth in my
23 Exhibit DP-9 were those where we had sections, bad
24 sections of cable, sections of cable that had gotten
25 wet. And in those scenarios, the time to isolate those

1998

1 and find the damage is extensive. And then if there is
2 a requirement to dig that up and repair and it's near
3 roadways, public right of way, any of that, there's time
4 frames associated with gaining access to permits,
5 getting the work done, that could very well push you
6 outside of those two days, and I don't believe that that
7 would fall into force majeure.

8 There are also instances where a technician
9 may go out and for some reason not have the equipment
10 that he needs at that time due to, you know, activity
11 that he had during the day where he used that or that he
12 just didn't put it in his truck that morning. That
13 certainly happens, we're not perfect in that way. But
14 that wouldn't fall under force majeure anyway. That
15 certainly could delay and push you outside that two day
16 interval.

17 Q. And, Mr. Pappas, do you have a lot of direct
18 experience with regard to repairing out of service
19 conditions?

20 A. (Mr. Pappas) I do, I was a network technician
21 between the years of 1980 and 1994 and probably
22 conducted roughly 8,000 repair tickets that I did myself
23 in all areas of cable, cable maintenance, POTS, and
24 design service work.

25 Q. Thank you, Mr. Pappas.

1999

1 Mr. Reynolds, you were asked by Mr. ffitch
2 some questions about the ACSI survey, the customer
3 satisfaction index; do you recall those questions?

4 A. (Mr. Reynolds) Yes.

5 Q. Can you please take a look at that document,
6 which is Exhibit Number 28, and on page 8 Mr. ffitch had
7 you read some sentences from the third full paragraph
8 under telecommunications; do you have that reference?

9 A. (Mr. Reynolds) Yes.

10 Q. Could you please read the last two sentences
11 in that same paragraph beginning with, what is clear.

12 A. (Mr. Reynolds) Yes, it says:

13 What is clear, however, is that the
14 efforts in improving customer service
15 are having an effect. Specifically it
16 seems better availability of service,
17 hours open, expansion of Internet
18 service is having the desired result.

19 Q. Mr. Reynolds, do you consider customer
20 satisfaction index scores such as this to be a leading
21 indicator of customer service or a lagging indicator of
22 customer service?

23 A. (Mr. Reynolds) You know, I would think it
24 would be somewhat of a lagging indicator, because you've
25 got to improve your service before customers can

2000

1 recognize it. And then I think that there's probably
2 some lag time before the results are reflected.

3 And I think certainly part of what was
4 pointed out when I responded to Mr. ffitch, that is that
5 we are improving, you know, and I believe that I read
6 the sentence that said the improvement between 2001 and
7 2003 was 11%. And if you take the new information that
8 Mr. ffitch introduced, you know, it's 14% in those years
9 as an improvement. And we're one of the few companies
10 in telecommunications that's actually increasing. Many
11 of the companies are actually decreasing in these survey
12 results. So we're quite proud of -- we're quite proud
13 of the results.

14 Q. Do these ACSI scores tell you that Qwest is
15 not providing good service compared to other companies?

16 A. (Mr. Reynolds) No, I think that they're, once
17 again, a customer perception, and, you know, I think
18 that the increase is important. And, you know, I, you
19 know, another question that Mr. ffitch asked me is
20 whether our company looks at such measures as being
21 important to our own planning efforts, and, you know, I
22 would like to -- I would like to read a response by our
23 own chief operating officer with regard to the very, you
24 know, the very metric that Mr. ffitch introduced, and
25 it's from Barry Allan.

2001

1 MR. FFITCH: Your Honor, I'm going to object,
2 I did not ask Mr. Reynolds that specific question about
3 -- that he's just related, and this appears to be a
4 fairly naked attempt to simply add to the direct
5 testimony of this witness by reading someone else's
6 statement that, you know, we haven't seen before. This
7 is beyond the scope of cross, Your Honor.

8 MS. ANDERL: Your Honor, if I might ask
9 another --

10 MR. FFITCH: Beyond the scope of redirect
11 rather.

12 MS. ANDERL: If I might ask another redirect
13 question, I would like to do so.

14 BY MS. ANDERL:

15 Q. Mr. Reynolds, do you know when the Exhibit
16 Number 34 first became available to the public? And I
17 would refer you to the first page of that document.

18 A. (Mr. Reynolds) It appears June 3rd, 2004.

19 Q. That's four days ago; is that right?

20 A. (Mr. Reynolds) That's correct.

21 Q. And that exhibit was provided to us this
22 morning; is that right?

23 A. (Mr. Reynolds) Yes.

24 Q. At the time that the ACSI scores became
25 available to the public on or about June 3rd, 2004, did

2002

1 Qwest have a formal reaction to the issuance of that new
2 report?

3 A. (Mr. Reynolds) Yes, as I was just stating.

4 Q. Can you please state what that is for the
5 record.

6 A. (Mr. Reynolds) Yes, it's a response by our
7 chief operating officer, Barry Allan, and he states:

8 By looking at ACSI and our own market
9 monitor results, we're confident that
10 we'll move up in the JD Power customer
11 satisfaction survey, said Barry Allan,
12 Executive Vice President Operations, but
13 to make our 2005 first place goal, we
14 must reach the point where customers
15 think of Qwest first for service
16 excellence above all other providers.
17 Qwest's overall ranking in the ACSI
18 survey shows just how difficult and time
19 consuming it is to turn around a
20 customer's perception once they have
21 made up their mind about a company,
22 added Barry, but our 8 point increase
23 demonstrates that we have moved well
24 beyond the state we were in more than
25 two years ago. We have changed

2003

1 customers' minds with our determination,
2 hard work, and dramatic service
3 improvements, and we'll continue to
4 change more by continuing on our spirit
5 of service path.

6 Q. What does that, what do the ACSI scores in
7 combination with Mr. Allan's statements tell you about
8 whether a program such as the SQPP is necessary to
9 continue to incent good customer service?

10 A. (Mr. Reynolds) Well, I think what Mr. Allan
11 is saying is that it's more or less a condition of
12 employment at Qwest to be on the customer service
13 bandwagon and that, you know, regardless of whether we
14 have service quality matrix out there that are measuring
15 us, we need to continually improve our customer service
16 and provide the best customer service we can just to
17 exist in this marketplace.

18 Q. Mr. Reynolds, you were asked some questions
19 about Exhibit 24C by Mr. ffitch, and you indicated that
20 Exhibit 24C reports out on three of the five Customer
21 Service Guarantee Plan matrix; is that right?

22 A. (Mr. Reynolds) That is correct.

23 Q. Did Qwest produce a document in this
24 proceeding that showed a reporting of dollars paid for
25 all five of those matrix?

2004

1 A. (Mr. Reynolds) Yes, we did.

2 MS. ANDERL: Your Honor, that document is a
3 response to Public Counsel Data Request Number 118, and
4 we would like to offer that as a redirect exhibit to
5 enable a more complete picture of the payments under
6 that plan to be shown. We can produce it this
7 afternoon.

8 MR. FFITCH: We don't have any objection,
9 Your Honor.

10 JUDGE WALLIS: Very well.

11 MR. FFITCH: Do we have an exhibit number for
12 that?

13 JUDGE WALLIS: Let's call that Exhibit 35.

14 And could counsel describe it again, please.

15 MS. ANDERL: Yes, Your Honor, it is the
16 Public Counsel Data Request Number 118, and it is I
17 believe has a confidential Attachment A in Qwest's
18 response to that data request.

19 MR. FFITCH: And, Your Honor, I believe that
20 there were -- there was at least one corrected revised
21 version of that DR, and we just want to make sure that
22 the exhibit is the corrected revised version.

23 MS. ANDERL: And thanks for that
24 clarification, Mr. ffitch, that was the only one we were
25 going to submit as opposed to having the incorrect one

2005

1 and then show the sequence, we would just as soon offer
2 the corrected one.

3 JUDGE WALLIS: Is that satisfactory,
4 Mr. ffitch?

5 MR. FFITCH: Yes, Your Honor, thank you.

6 JUDGE WALLIS: Very well.

7 MS. ANDERL: Those are all my redirect
8 questions.

9 JUDGE WALLIS: Is there any recross?

10 MR. FFITCH: I have just a couple of --

11 JUDGE WALLIS: Mr. Swanson, do you have any?

12 MR. SWANSON: None for Staff, thank you.

13 JUDGE WALLIS: Mr. ffitch.

14

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

16 BY MR. FFITCH:

17 Q. Mr. Reynolds, you have indicated that you
18 view the ACSI as a lagging indicator of customer
19 satisfaction.

20 A. (Mr. Reynolds) That's my own personal view of
21 any of these types of customer surveys, that is that,
22 you know, the company if it has plans to turn service
23 quality around, it needs to turn service quality around,
24 change customers' perceptions, and I don't think that
25 happens overnight, I think it happens over time.

2006

1 Q. That would apply also to the FCC data that
2 Qwest has cited in this proceeding, would it -- would
3 you also view that as a lagging indicator?

4 A. (Mr. Reynolds) To the extent that that's a
5 survey, yes, it could be.

6 Q. I just have a couple of questions about the
7 ACSI that you have been referring to on redirect. I
8 would like you to go to Exhibit 34 and look at the
9 indices reported for Qwest on page 2 of Exhibit 34. Do
10 you have that?

11 A. (Mr. Reynolds) Yes, I do.

12 Q. You can see that on the far right there is a
13 number negative 16.9%, can you explain what that number
14 is?

15 A. (Mr. Reynolds) That number is the, in this
16 case, the reduction in index between the point when the
17 index was initially first taken I believe in 1995 and
18 the current year. So it would be I believe if you took
19 -- if you took the number for Qwest in the second
20 column, 76, that 64 is a 16.9% reduction.

21 Q. That's since 1995?

22 A. (Mr. Reynolds) That's correct.

23 Q. So Qwest is not at the level that it was in
24 1995 in this survey, correct?

25 A. (Mr. Reynolds) That is correct.

2007

1 Q. And the Qwest index for the year 2000 is 64;
2 is that correct as shown on this chart?

3 A. (Mr. Reynolds) Yes.

4 Q. And in between the year 2000 and the most
5 recent report, Qwest service quality fell below 64 and
6 has just now returned in 2004 to the number 64, correct?

7 A. (Mr. Reynolds) That is correct.

8 MR. FFITCH: Those are all my questions,
9 thank you, Your Honor.

10 JUDGE WALLIS: Is there anything further?

11 MS. ANDERL: There is not, no.

12 MR. O'ROURKE: No, Your Honor.

13 JUDGE WALLIS: Let the record show that there
14 is nothing further.

15 Gentlemen, thank you very much for appearing
16 today, you're excused from the stand at this time.

17 Let's be off the record for a moment.

18 (Luncheon recess taken at 12:00 p.m.)

19

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

21 (1:15 p.m.)

22 JUDGE WALLIS: A couple of housekeeping
23 matters, I understand that the company has an answer to
24 the M in MOOSA; is that correct?

25 MS. ANDERL: Yes, the M stands for

2008

1 mechanized.

2 JUDGE WALLIS: Mechanized, and it refers to
3 the process by which things are tabulated?

4 MS. ANDERL: The entire acronym is M-O-O-S-A,
5 and it stands for mechanized out of service adjustment.

6 JUDGE WALLIS: You have indicated,
7 Ms. Anderl, that you will supply late filed Exhibit
8 Number 35 to the record but not today; is that correct?

9 MS. ANDERL: That's right.

10 JUDGE WALLIS: Very well.

11 Is there anything else that you would like to
12 note on the record?

13 MS. ANDERL: Yes, Your Honor, with regard to
14 Record Requisition Number 1, we're prepared to respond
15 to that now, and the question was when a Qwest customer
16 with an out of service condition requests an appointment
17 for repair outside of the two or seven day window, is
18 the customer informed that they will no longer be
19 entitled to the \$5 or other applicable credit, and the
20 answer is no, Qwest does not have that discussion with
21 the customer when the customer is specifically
22 requesting a repair appointment that is outside of those
23 windows.

24 JUDGE WALLIS: Thank you.

25 Is there anything further?

2009

1 MR. FFITCH: Your Honor, just I think we need
2 before the closure of the record to clarify when the
3 record requisitions will be responded to. I think the
4 rules say ten days, but we have a shorter time period as
5 counsel noted with the upcoming briefing schedule, so I
6 would suggest that if possible if they're able to have
7 them by the same time as the transcript, which I believe
8 was a week from --

9 JUDGE WALLIS: A week from today.

10 MR. FFITCH: -- a week from today.

11 JUDGE WALLIS: Is that acceptable?

12 MS. ANDERL: Yes.

13 JUDGE WALLIS: Very well.

14 Anything further?

15 I see we have some more witnesses lined up,
16 if you would please stand, raise your right hands.

17 (Witnesses Glenn Blackmon and Mary Kimball
18 were sworn.)

19

20 (The following exhibits were identified in
21 conjunction with the testimony of GLENN
22 BLACKMON.)

23 39 Plant addition bar graph (Ex. 2)

24 40 Statement of Commission Staff

25 41 C.V.

2010

1 42 Business Office Answer Time (Ex. 3)
2 43 Reply Testimony of Dr. Vander Weide, Docket
3 No. UT-023003, dated April 20, 2004 Exhibit
4 No. ____ (JHV-4T) (Qwest)
5 44 Staff response to Qwest Data Request No. 138
6 (Qwest)
7 45 Staff response to Qwest Data Request No. 139
8 (Qwest)
9 46 Staff response to Qwest Data Request No. 140
10 (Qwest)
11 47 Staff response to Qwest Data Request No. 142
12 (Qwest)
13 48 Staff response to Qwest Data Request No. 143
14 (Qwest)
15 49 Staff response to Qwest Data Request No. 146
16 (Qwest)
17 50 Staff response to Qwest Data Request No. 151
18 (Qwest)
19 51 Staff response to Qwest Data Request No. 152
20 (Qwest)
21 52 Staff response to Qwest Data Request No. 153
22 (Qwest)
23
24
25

2011

1 (The following exhibits were identified in
2 conjunction with the testimony of MARY
3 KIMBALL.)

4 56C Memorandum (Answer) of Public Counsel
5 (Includes Attachments A through E)

6 57 Response of Public Counsel to Qwest Data
7 Request No. 90 (Qwest)

8 58 Response of Public Counsel to Qwest Data
9 Request No. 91 (Qwest)

10 59 Response of Public Counsel to Qwest Data
11 Request No. 92 (Qwest)

12 60 Response of Public Counsel to Qwest Data
13 Request No. 100 (Qwest)

14 61 Response of Public Counsel to Qwest Data
15 Request No. 101 (Qwest)

16 62 Response of Public Counsel to Qwest Data
17 Request No. 103 (Qwest)

18 63 Response of Public Counsel to Qwest Data
19 Request No. 105 (Qwest)

20 64 Response of Public Counsel to Qwest Data
21 Request No. 107 (Qwest)

22 65 Response of Public Counsel to Qwest Data
23 Request No. 108 (Qwest)

24

25 JUDGE WALLIS: Very well, begin with

2012

1 Mr. Swanson.

2 MR. SWANSON: Thank you, Your Honor.

3

4 Whereupon,

5 GLENN BLACKMON AND MARY KIMBALL,

6 having been first duly sworn, were called as witnesses

7 herein and were examined and testified as follows:

8

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

10 BY MR. SWANSON:

11 Q. Dr. Blackmon, please state your full name for
12 the record and spell the last.

13 A. (Dr. Blackmon) My name is Glenn Blackmon,
14 B-L-A-C-K-M-O-N.

15 Q. And did you pre-file a written statement and
16 exhibits in this proceeding?

17 A. (Dr. Blackmon) Yes.

18 Q. And did you file a revised copy of what's
19 been called Exhibit 42, a confidential Exhibit 42,
20 business office answer time?

21 A. (Dr. Blackmon) Yes.

22 Q. And is that the, the revised exhibit, is that
23 the exhibit you intend to rely on in this proceeding?

24 A. (Dr. Blackmon) Yes, that's correct, it's the
25 one that's dated April 15th, 2004.

2013

1 Q. Are there any other revisions, additions, or
2 corrections to your testimony or exhibits?

3 A. (Dr. Blackmon) No.

4 MR. SWANSON: Thank you.

5 JUDGE WALLIS: In earlier discussions, the
6 parties indicated that there would be no objection to
7 the exhibits that have been pre-filed, consequently we
8 will receive Exhibits 39 through 42 presented by Staff
9 and the cross-examination Exhibits 43 through 52
10 presented by Qwest.

11 MR. SWANSON: Your Honor, I believe Staff did
12 reserve the right to object to the Exhibit 43 reply
13 testimony.

14 JUDGE WALLIS: Oh, yes, thank you for
15 reminding me, that is subject to qualification, so as to
16 the remaining exhibits, they are received.

17 Mr. ffitch.

18 MR. FFITCH: Thank you, Your Honor. Before I
19 examine Ms. Kimball, just a clarification matter.
20 Public Counsel's memorandum, Ms. Kimball's testimony in
21 effect has been marked as Exhibit 56. It does contain
22 or include a number of attachments and exhibits, if you
23 will, or appendices that have not been separately
24 identified on the exhibit list, and I just wanted to
25 draw that to your attention and find out, we're

2014

1 comfortable if the entire filing is simply identified as
2 Exhibit 56, but if necessary we're amenable to having a
3 separate numbering.

4 JUDGE WALLIS: Let's be off the record,
5 please.

6 (Discussion off the record.)

7 JUDGE WALLIS: Let's be back on the record,
8 please, following a brief colloquy. It is observed that
9 Ms. Kimball's statement, Public Counsel's statement
10 which Ms. Kimball is sponsoring, does have Attachments A
11 through E. They were not with the materials that I was
12 working with. Public Counsel has kindly offered a file
13 copy for purposes of the hearing. They will be included
14 within the designation of that exhibit, that is 56C, and
15 no additional exhibit numbering will be required.

16 Thank you, Mr. ffitch.

17 MR. FFITCH: Thank you, Your Honor, and I
18 apologize that we did not spot that sooner in reviewing
19 the exhibit list.

20

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

22 BY MR. FFITCH:

23 Q. Ms. Kimball, would you please give your full
24 name, and spell your last name for the record.

25 A. (Ms. Kimball) Yes, it's Mary Kimball,

2015

1 K-I-M-B-A-L-L.

2 Q. And by whom are you employed?

3 A. (Ms. Kimball) The Attorney General's Office,
4 Public Counsel Section.

5 Q. And in what capacity are you employed there?

6 A. (Ms. Kimball) I'm a policy analyst.

7 Q. And can you briefly summarize your
8 educational qualifications?

9 A. (Ms. Kimball) Yes, I have a Bachelor of Arts
10 Degree from -- in political science from Williams
11 College in Massachusetts and a Master's Degree in public
12 policy from the University of California at Berkeley.

13 Q. And could you please state your experience
14 and qualifications with respect to Qwest service
15 quality?

16 A. (Ms. Kimball) Yes, I'm the lead staff person
17 in Public Counsel working on service quality issues, and
18 in that capacity I have been monitoring Qwest compliance
19 with the U S West Qwest merger settlement agreement.
20 That has included regular meetings with the company and
21 Commission Staff, reviewing the monthly service quality
22 reports, and developing the appropriate reporting
23 formats for those reports.

24 Q. And except for any legal opinions contained
25 therein, did you prepare the document that's been marked

2016

1 and admitted as Exhibit 56, the memorandum of Public
2 Counsel?

3 A. (Ms. Kimball) Yes, I did.

4 Q. And are there any corrections to that
5 document?

6 A. (Ms. Kimball) No.

7 Q. Is that true and correct to the best of your
8 knowledge?

9 A. (Ms. Kimball) Yes.

10 MR. FFITCH: Your Honor, Ms. Kimball is
11 available for cross.

12 JUDGE WALLIS: Very well.

13 As earlier indicated, the exhibits will be
14 received by stipulation, that goes for the statement
15 Ms. Kimball is sponsoring, Exhibit 56C, and the proposed
16 exhibits on cross-examination submitted by the company,
17 which are numbered 57 through 65, which we ask the
18 reported to describe in the record at this point, thank
19 you.

20 Ms. Anderl.

21 MS. ANDERL: Thank you, Your Honor.

22

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

24 BY MS. ANDERL:

25 Q. Good afternoon, Dr. Blackmon.

2017

1 A. (Dr. Blackmon) Good afternoon.

2 Q. Let me begin by directing your attention to
3 two paragraphs in Staff's comments that have been marked
4 as Exhibit 40. One is, I will need you to look at
5 Paragraphs 19 and 31, and let's look at Paragraph 19
6 first.

7 A. (Dr. Blackmon) I'm sorry, 19 and what?

8 Q. 31.

9 A. (Dr. Blackmon) Okay.

10 Q. On the fifth line of Paragraph 19 you state,
11 well, fourth line going on to the fifth line:

12 Customers receive a monetary payment
13 when service is bad and better service
14 as a result of the improved incentives
15 created by the program.

16 And in that phrase your reference is the
17 SQPP; is that right?

18 A. (Dr. Blackmon) Yes.

19 Q. Okay. And in Paragraph 31, the last sentence
20 of that paragraph says:

21 The program simply will not be a burden
22 on the company as long as it provides
23 reasonable service to its customers, and
24 if it provides bad service to customers,
25 the burden will not be an unreasonable

2018

1 burden.

2 Is that your testimony?

3 A. (Dr. Blackmon) Yes.

4 Q. In both of those phrases, in both the phrase
5 and the sentence that I read to you, you talk about bad
6 service. Is it your testimony that any service that
7 fails to meet the bench marks in the SQPP constitutes
8 bad service?

9 A. (Dr. Blackmon) I wasn't trying to define the
10 term bad service. It's just a directional indicator,
11 bad is bad and good is good.

12 Q. Well, you say that customers receive a
13 monetary payment when service is bad in Paragraph 19.
14 Is it your testimony that any level of service that
15 produces a monetary payment under the SQPP is bad
16 service?

17 A. (Dr. Blackmon) I'm sorry, could you say that
18 again?

19 Q. You state that customers receive a monetary
20 payment under the SQPP when service is bad. Is it your
21 testimony that any level of service that produces a
22 monetary payment under the SQPP is necessarily bad
23 service?

24 A. (Dr. Blackmon) No, because I wouldn't have
25 said it that way if that's what I was testifying to.

2019

1 Q. So --

2 A. (Dr. Blackmon) But when service is bad, then
3 you receive a payment.

4 Q. So might customers also be receiving a
5 payment when service is not bad?

6 A. (Dr. Blackmon) That's possible, yes.

7 Q. Let me ask you about a particular metric that
8 Qwest is seeking to eliminate or modify in this
9 proceeding, and that is the metric regarding response to
10 customer complaints within two business days to
11 Commission Staff.

12 A. (Dr. Blackmon) Yes.

13 Q. The new rules that the Commission adopted
14 about a year ago require a response from all companies
15 within two days if the problem is service affecting and
16 within five days if it is not; is that correct?

17 A. (Dr. Blackmon) Generally, yes, that's
18 correct.

19 Q. Okay. And the SQPP does not contain the two
20 day and five day distinction, does it?

21 A. (Dr. Blackmon) No, it doesn't.

22 Q. Okay. So is it your testimony that if Qwest
23 misses the two business day turnaround on a single
24 complaint in a month it has provided bad service?

25 A. (Dr. Blackmon) No.

2020

1 Q. But under those circumstances, Qwest does
2 become liable for a customer credit of \$83,333; is that
3 right?

4 A. (Dr. Blackmon) That's correct, as the
5 settlement got structured, that's the payment.

6 Q. Let me ask you a little bit about the answer
7 time measure. Are you familiar with what I'm
8 referencing when I reference the answer time measure?

9 A. (Dr. Blackmon) If you're referring to what I
10 think you're referring to, yes, I'm familiar with that.

11 Q. Well, that doesn't really get us any further.
12 Business office access?

13 A. (Dr. Blackmon) Yes.

14 Q. And the metric there as it currently stands
15 measures how -- whether Qwest answers at least 80% of
16 the calls within 30 seconds; is that right?

17 A. (Dr. Blackmon) That's the metric that's used
18 in the SQPP.

19 Q. And that's not the metric that's currently in
20 place in the Commission's rules, is it?

21 A. (Dr. Blackmon) No, it's not.

22 Q. Okay. The metric that's in place in the
23 Commission's rules requires companies not to exceed a 60
24 second average wait time; isn't that right?

25 A. (Dr. Blackmon) That's correct.

2021

1 Q. And are you aware of how Verizon is
2 performing under that matric that is in place under the
3 rules?

4 A. (Dr. Blackmon) No, I'm not.

5 Q. Does Verizon report that information to the
6 Commission?

7 A. (Dr. Blackmon) Yes, they do. Well, I think
8 they do. I'm not positive about that.

9 Q. Would you accept subject to your check that
10 the rule requires companies to report their performance
11 under that matric only if requested to do so by the
12 Commission?

13 A. (Dr. Blackmon) I've got that rule, I will
14 just double check it.

15 Q. For the record, I believe that you would be
16 looking at WAC 480-120-439 subsection 10.

17 A. (Dr. Blackmon) That's right, the rule does
18 not require a regular report on that, it's only when
19 requested.

20 Q. To your knowledge, has the Commission or
21 Commission Staff requested a report from any other
22 telecommunications company on that matric?

23 A. (Dr. Blackmon) Yes, for Comcast.

24 Q. Any other company?

25 A. (Dr. Blackmon) Not that I'm aware of.

2022

1 Q. Why not?

2 A. (Dr. Blackmon) I think it has to do with the
3 finite nature of the time that we have to spend on
4 various projects. It just hasn't been a high enough
5 priority. I think the Commission structured this
6 particular reporting requirement so that if there seems
7 to be a problem being reported from external sources,
8 then we would collect that information. But if we're
9 not hearing of any particular problems, we probably have
10 better things to do with our time.

11 And I should note that just because I don't
12 know of any request, I can't -- that doesn't mean that
13 there has been no request.

14 Q. In Paragraph 8 of Exhibit 40, you state that,
15 buyers can not choose based on what they can not see,
16 and you discuss later in the paragraph how dial tone
17 delay intervals may not be something that is a readily
18 apparent measure or indicator of service quality to
19 customers, but customers would certainly want to not
20 experience those delays; is that right?

21 A. (Dr. Blackmon) Is what right, I'm sorry?

22 Q. Is that your testimony as I summarized it?

23 A. (Dr. Blackmon) I guess I prefer to stick with
24 my actual testimony.

25 Q. Did you think that dial tone delay intervals

2023

1 are one of the aspects that you were discussing when you
2 said buyers can not choose based on what they can not
3 see?

4 A. (Dr. Blackmon) It's an example. It will
5 obviously depend on the range of performance, because it
6 -- when dial tone performance gets very bad, as it has
7 at times, then customers do start to notice that.

8 Q. Dr. Blackmon, let me talk with you for a few
9 minutes about Qwest's investment in the network, and for
10 that I direct you to Exhibit 40, Paragraphs 26 through
11 29, and at Paragraph 29 you state that:

12 The sharp decline in investment and the
13 continued financial pressures of the
14 parent company should give the
15 Commission serious concern about Qwest's
16 argument that the SQPP is redundant.
17 Do you see that?

18 A. (Dr. Blackmon) Yes.

19 Q. And is that your testimony?

20 A. (Dr. Blackmon) Yes.

21 Q. Is it your position that the decline in
22 investment standing alone is or is not a cause for
23 concern?

24 A. (Dr. Blackmon) I think it would be unwise for
25 the Commission to observe that decline in investment and

2024

1 not take notice of it. That doesn't mean that we can
2 predict with any certainty that service quality will
3 deteriorate. I think as I say elsewhere we're still
4 somewhat optimistic that Qwest performance will continue
5 as it is or even improve. But a decline in investment,
6 because as this Commission has recognized in the past,
7 investment is a major driver in service quality, any
8 decline in investment should ring a few bells around
9 here about future performance.

10 Q. Dr. Blackmon, take a look, if you would, at
11 Exhibit 43. It's a cross-examination Exhibit 43, the
12 reply testimony of Dr. James H. Vander Weide,
13 V-A-N-D-E-R, new word, W-E-I-D-E.

14 A. (Dr. Blackmon) I have that.

15 Q. And you're a witness in the cost docket; is
16 that right, the new generic cost docket?

17 A. (Dr. Blackmon) Yes.

18 Q. And that is the docket in which this
19 testimony of Dr. Vander Weide was offered?

20 A. (Dr. Blackmon) It's the same docket, yes.

21 Q. Have you read this testimony either in
22 preparation for the hearing today or otherwise?

23 A. (Dr. Blackmon) I read it this morning.

24 Q. Had you read it prior to that?

25 A. (Dr. Blackmon) No.

2025

1 Q. Is there a Staff witness who is responsible
2 for responding to cost of capital issues in the cost
3 docket?

4 A. (Dr. Blackmon) Well, this testimony is
5 responding to a Staff witness, Mr. Spinks.

6 Q. Turn to page 14, if you would, please, of
7 this testimony. There in Table 2, Dr. Vander Weide
8 describes Verizon's reduction or decline in capital
9 expenditures in Washington state from the year 2000 to
10 the year 2003; do you see that?

11 A. (Dr. Blackmon) I see that table.

12 Q. And it's a reduction in capital expenditures
13 from \$214.7 Million in 2000 to \$106.2 Million in 2003?

14 MR. SWANSON: Staff objects at this point. I
15 believe the witness has indicated that he is not the
16 Staff witness assigned to this docket, that he just read
17 this testimony this morning, and that he -- and I
18 believe he will testify that he is not familiar with
19 these figures or their accuracy.

20 JUDGE WALLIS: Ms. Anderl.

21 MS. ANDERL: Well, I'm not, in fact, asking
22 him about them to establish the truth of them, but
23 rather these are foundational questions simply to -- for
24 one or two questions that are really at the heart of my
25 examination, which if I may be allowed to proceed I

2026

1 think the objection will be obviated.

2 JUDGE WALLIS: Very well, subject to a motion
3 to strike.

4 MS. ANDERL: Understood, Your Honor.

5 BY MS. ANDERL:

6 Q. Dr. Blackmon, does Mr. Spinks, the witness
7 who's responsible for these issues in the cost docket
8 for Staff, does he report to you directly or indirectly?

9 A. (Dr. Blackmon) Yes.

10 Q. And since this testimony was filed, has
11 Mr. Spinks come to you and raised any concerns with you
12 that the reduction in capital expenditures that Verizon
13 has announced here are or should be a cause for concern
14 with regard to Verizon's service quality?

15 MR. SWANSON: Staff again renews its
16 objection, I don't believe that a personnel matter with
17 regard to Mr. Spinks and his report on this particular
18 docket, the Verizon docket, has any relevance for our
19 proceeding, and Staff continues to renew its objection
20 on that point.

21 MS. ANDERL: It's not a personnel matter,
22 Your Honor, it's simply a question of whether this
23 testimony filed by Verizon causes any concerns with
24 regard to Verizon's levels of service quality parallel
25 to those concerns that Staff is raising with regard to

2027

1 Qwest's service quality in connection with Qwest's
2 investment levels. And I think that since this is the
3 only Staff witness who is being offered and this witness
4 is sponsoring testimony with regard to Qwest's
5 investment levels, I think it's appropriate.

6 JUDGE WALLIS: I think it's appropriate for
7 you to inquire of that topic, but this witness has said
8 that he has no personal knowledge, and it's difficult
9 for me to bridge the gap between personal knowledge of
10 the witness and secondhand information that he receives
11 either from someone who reports to him or from the
12 document that you provided.

13 MS. ANDERL: Well, my inquiry was merely as
14 to whether Mr. Spinks had raised any concerns with
15 Dr. Blackmon, and if that question is not permitted to
16 be asked, I do have one or two others that may be
17 permissible.

18 JUDGE WALLIS: Very well, I will rule that
19 the question is impermissible.

20 BY MS. ANDERL:

21 Q. Dr. Blackmon, having read this testimony this
22 morning, does Verizon's announced reductions in capital
23 expenditures in Washington give you any cause for
24 concern with regard to Verizon's service quality?

25 MR. SWANSON: Again Staff renews its

2028

1 objection, I do not believe that this witness has
2 personal knowledge of this case or the authenticity of
3 these figures or whether or not indeed if they have any
4 validity whatsoever. Furthermore, Staff has not had the
5 opportunity to cross-examine this witness on these
6 issues.

7 MS. ANDERL: Your Honor.

8 JUDGE WALLIS: Perhaps if it was raised as a
9 hypothetical question.

10 MS. ANDERL: I was going to say, Mr. Vander
11 Weide was cross-examined two weeks ago by Staff on these
12 issues, and I believe that the Commission can take
13 official notice of that fact. I would be happy to
14 rephrase this as a hypothetical.

15 JUDGE WALLIS: Very well. Taking official
16 notice does not go to the truth of the matter asserted
17 when we're looking at testimony in a transcript, so.

18 MS. ANDERL: I understand, Your Honor.

19 JUDGE WALLIS: If you care to rephrase, you
20 may proceed.

21 BY MS. ANDERL:

22 Q. Dr. Blackmon, assuming hypothetically that
23 Verizon were to announce reductions in capital
24 expenditures consistent with table 2 in Exhibit 43,
25 would that fact standing alone cause you any concern

2029

1 about Verizon's level of service quality?

2 A. (Dr. Blackmon) Yes.

3 Q. And hypothetically if that were the case,
4 what action would Staff take in that regard?

5 A. (Dr. Blackmon) The action that Staff has
6 actually taken is to raise the issue of service quality
7 with Verizon. We have seen in their service quality
8 reports over the last year or so a deterioration that
9 does cause us concern. And just as we work with Qwest
10 informally on these issues and the other reporting
11 companies, we have done the same with Verizon.

12 Q. Is there any formal proceeding currently
13 pending with regard to Verizon's service quality?

14 A. (Dr. Blackmon) No.

15 Q. Is Verizon's current level of service quality
16 good or bad in your view?

17 A. (Dr. Blackmon) It has some aspects of each.

18 Q. On Paragraph 42 of Exhibit 40, Paragraph 42,
19 the fourth sentence, you state:

20 The more significant harms with
21 termination therefore are not the \$34
22 Million in lost credits but instead the
23 loss of service quality that would
24 follow.

25 Now I understood your earlier testimony to be

2030

1 that you were cautiously optimistic that Qwest would
2 maintains its current level of service quality, but here
3 you indicate that absent the SQPP credits, or at least
4 you seem to be indicating that absent the SQPP credits,
5 loss of service quality would follow. Do you mean would
6 surely follow or do you mean could follow?

7 A. (Dr. Blackmon) I'm sorry, but when you
8 started that question I thought you said \$34 Million.

9 Q. Did I, did I misspeak, I'm sorry, 42,
10 paragraph 42, \$3.8 Million.

11 A. (Dr. Blackmon) And the question, I'm sorry,
12 was?

13 Q. The question is, and I don't know if you need
14 all the background or not, but I believe that earlier
15 you had said that Staff was cautiously optimistic that
16 Qwest would maintain or improve its current level of
17 service quality; is that right?

18 A. (Dr. Blackmon) That's right.

19 Q. Now you state that the three -- you appear to
20 be stating in Paragraph 42 that absent the SQPP and
21 service quality credits, Qwest would have a loss of
22 service quality. You say the loss of service quality
23 that would follow. And all I'm asking you here is, when
24 you say would follow, do you mean would surely follow or
25 could follow?

2031

1 A. (Dr. Blackmon) I think perhaps one might say
2 or that I might say would likely follow. The statement
3 about our optimism, I mean I'm assuming in looking at
4 the future that this mechanism continues in the future,
5 and so our optimism is based in part on the continuation
6 of the mechanism. I am not prepared to say that if this
7 mechanism is terminated that the company's service
8 quality will deteriorate rapidly or greatly. It's all a
9 matter of risk. I think the risk of that increases if
10 this mechanism is eliminated, and it's a risk that is
11 essentially unnecessary for the Commission to expose
12 customers to.

13 Q. If the SQPP is terminated in this proceeding,
14 the Commission's service quality rules will still apply
15 to Qwest, won't they?

16 A. (Dr. Blackmon) Yes.

17 Q. Is it your testimony that the Commission's
18 service quality rules are inadequate to protect Qwest
19 customers?

20 A. (Dr. Blackmon) I think that if all we have
21 are the Commission's service quality rules that we will
22 do our best to protect customers. We'll certainly have
23 to take a different approach to enforcement of those
24 rules. To some extent we have had an easier job because
25 of the self executing nature of these mechanisms or this

2032

1 mechanism, and that's part of the reason why I can't say
2 with any certainty what would happen to Qwest service
3 quality, that I don't really know how things would go in
4 that new more litigious type environment that we would
5 operate under without this mechanism.

6 Q. In Paragraph 49 of your comments, you state
7 that:

8 Under the modified proposal that Qwest
9 has put forth for the SQPP, Qwest could
10 allow its performance to decline
11 dramatically and still enjoy a decline
12 in SQPP payments.

13 Do you see that? It's the second to last
14 sentence, I'm sorry, last sentence.

15 A. (Dr. Blackmon) I see that.

16 Q. What do you mean by dramatically?

17 A. (Dr. Blackmon) Going from hundreds of
18 thousands of dollars to zero dollars, that's dramatic.

19 Q. Well, I'm talking about the decline in
20 performance that could be allowed to happen
21 dramatically.

22 A. (Dr. Blackmon) I'm sorry, I thought you had
23 pointed to the second to last sentence.

24 Q. The last sentence, Dr. Blackmon. It says:
25 Indeed, Qwest could let its performance

2033

1 decline dramatically and still enjoy a
2 decline in SQPP payments.

3 A. (Dr. Blackmon) I don't have any particular
4 number in mind.

5 Q. Well, what metric did you have in mind where
6 you envisioned a decline, a dramatic decline in
7 performance, with a parallel decline in SQPP payments?

8 A. (Dr. Blackmon) I don't remember specifically,
9 I'm sorry.

10 Q. I need you to turn to cross-examination
11 Exhibit 149, and it is a Staff Response to Data Request
12 Number 146.

13 A. (Dr. Blackmon) Exhibit 49?

14 Q. Yes.

15 A. (Dr. Blackmon) Response 146, I have that.

16 Q. That's what I have, yes.
17 Is it Staff's position that Qwest's failure
18 to satisfy a service quality metric indicates in all
19 cases that the associated penalty was insufficient to
20 provide incentive?

21 A. (Dr. Blackmon) No. I take it you're looking
22 at the last sentence, and it doesn't say that the -- it
23 doesn't say that. It says that there wasn't enough of
24 an incentive to cause the company not to have any
25 misses.

2034

1 Q. Is it also possible that the matric could be
2 unattainable even through the use of reasonable effort?

3 A. (Dr. Blackmon) Is it possible that what
4 matric is?

5 Q. The matric we're discussing in this data
6 request response, the repair within two business days.

7 A. (Dr. Blackmon) I think that's possible, yes.

8 Q. Let me ask you, Dr. Blackmon, some questions
9 about force majeure. Your counsel asked Mr. Pappas
10 about whether certain things would or wouldn't
11 constitute a force majeure event in the company's mind
12 and therefore be excludable from the counting for this
13 same matric. Do you recall that line of questioning?

14 A. (Dr. Blackmon) Yes, I do.

15 MR. SWANSON: Objection, I believe this is
16 beyond the scope of the direct testimony.

17 JUDGE WALLIS: I think it's related to the
18 prior question, which I think was within the scope. I
19 think that broadly viewed that this is within the scope
20 of the statement that Dr. Blackmon is supporting.

21 MS. ANDERL: Thank you, Your Honor, and
22 indeed I would also reference counsel to Paragraph 53 of
23 Staff's comments which speak directly to the force
24 majeure issue.

25 BY MS. ANDERL:

2035

1 Q. Dr. Blackmon, there is a force majeure
2 exclusion in the SQPP for the repair within two working
3 days, isn't there?

4 A. (Dr. Blackmon) Yes, there is.

5 Q. And what is your understanding of what
6 constitutes a force majeure?

7 A. (Dr. Blackmon) I don't have a real clear
8 understanding of that.

9 Q. If you were to accept the definition that I
10 believe your counsel provided to Mr. Pappas, which is an
11 event or circumstance that couldn't be reasonably
12 foreseen or prevented I believe.

13 A. (Dr. Blackmon) Okay.

14 Q. Would you consider that when Qwest went to
15 repair a customer's service that encountering a locked
16 gate would be a force majeure event?

17 A. (Dr. Blackmon) I guess I would like --

18 Q. A locked gate that denied access to enable
19 the repair to be completed, let me complete that.

20 A. (Dr. Blackmon) I would -- I guess I would
21 have to say I'm not sure. I think that it is possible
22 that something like that would qualify. Certainly at
23 the time we drafted the settlement at some general level
24 we had in mind to exclude misses that were outside the
25 control of the company. We also recognized that that

1 can be difficult to figure out sometimes, like for
2 instance the person taking the trouble report and
3 scheduling the appointment asked whether there was a
4 locked gate. If that person did, then that I think
5 increases the argument that that was outside the
6 company's control, the company did everything it could
7 to check out the possibility there would be no access,
8 and yet it found that when the technician got there that
9 there was no access.

10 Q. What about a prolonged period of rain not
11 amounting to a state of emergency that prevents certain
12 repairs from occurring within two business days? And to
13 just refine the example, I will tell you that perhaps
14 there might be occasions within that prolonged period of
15 rain where it is simply too dangerous for a technician
16 to climb a wet telephone pole out of doors to accomplish
17 a particular repair, would that constitute a force
18 majeure event?

19 A. (Dr. Blackmon) I'm not sure, it might. I
20 think it certainly would be close enough that in that
21 circumstance the company should bring that issue to the
22 Commission for resolution. And I, you know, part of the
23 problem for me here is that I don't think the Commission
24 has had much experience interpreting these particular
25 provisions, and I would benefit from if we had more

2037

1 precedent established in this area.

2 Q. Now in Qwest's prior petition for
3 modification and mitigation, you were a witness in that
4 proceeding, weren't you?

5 A. (Dr. Blackmon) Yes, I was.

6 Q. Now the Staff did not support excluding
7 certain repair incidents if the repair was not
8 accomplished within two business days for customer
9 reasons, did it?

10 A. (Dr. Blackmon) I don't recall that
11 specifically. I do recall opposing the company's plan
12 to scrub the data in a one sided fashion. I also recall
13 that we did propose changes to the exceptions, which the
14 company declined to support.

15 Q. But Staff did not agree that customer reasons
16 for a miss was an appropriate exception, did it?

17 A. (Dr. Blackmon) I don't recall that
18 specifically.

19 Q. Do you support that today?

20 A. (Dr. Blackmon) I think it would depend on how
21 it was drafted, how it was set up. There is a lot of
22 potential for misuse of an exception such as that.

23 Q. Dr. Blackmon, turn now to Exhibit Number 44,
24 which is Staff's response to Data Request Number 138.

25 A. (Dr. Blackmon) I have that.

2038

1 Q. In that data request response you defined
2 some of the circumstances which might exist, and their
3 existence would then support a recommendation by Staff
4 to terminate the SQPP; is that right?

5 A. (Dr. Blackmon) Yes, it is.

6 Q. Are each of these factors sufficient on a
7 stand-alone basis, or do some of them have to be present
8 in combination with other factors in your view?

9 A. (Dr. Blackmon) I don't know of any reason why
10 -- under the right set of facts any one of these factors
11 could be sufficient.

12 Q. So you're saying under the right set of
13 circumstances any of these on their own could be
14 sufficient?

15 A. (Dr. Blackmon) I think so. I mean if I just
16 look at the first one, if Qwest were to enter an
17 alternative form of regulation, I don't know that we
18 would need to answer any questions about, you know,
19 whether the existing mechanism is harmful to consumers.
20 If you have a completely different regulatory regime,
21 the SQPP would be a fairly minor element of those things
22 that you leave behind.

23 Q. Now let's look at the first factor. What is
24 it about an AFOR, or alternative form of regulation,
25 that might make Staff recommend termination to the SQPP?

2039

1 A. (Dr. Blackmon) I believe 80-36-135 has
2 specific service quality requirements built into it, so
3 I would presume that any alternative form of regulation
4 would have its own service quality mechanism.

5 Q. Now with regard to the third factor, can you
6 give me an example of the type of demonstration you were
7 contemplating when you listed the third factor in your
8 answer?

9 A. (Dr. Blackmon) I don't think I had any
10 specific idea in mind. Certainly there's none present
11 in this case.

12 Q. Sitting here today, can you think of any type
13 of demonstration that could or would be made that would
14 show that the mechanism was harmful to consumers?

15 A. (Dr. Blackmon) If the company were to devote
16 such a large portion of its capital and work force to
17 complying with these particular standards that other
18 unmeasured parts of the business suffer greatly, I think
19 that would be a circumstance where the result was
20 harmful to customers. In general one of the things you
21 have to watch out for with incentive mechanisms of any
22 type is that the entity who is operating under that
23 mechanism focuses solely on the matrix that are being
24 measured to the exclusion of other parts of, you know,
25 other important parts of their business.

2040

1 Q. Now on the fourth factor you talk about a
2 level of performance that's so far above the levels
3 established in the mechanism that there was no
4 reasonable possibility that any payments would actually
5 occur. With regard to some of the matrix, Dr. Blackmon,
6 specifically the Qwest response to the Commission's
7 consumer complaint organization, would you agree with me
8 that that matrix is a 100% matrix?

9 A. (Dr. Blackmon) Yes.

10 Q. And how could Qwest attain a level of
11 performance far above the level established in that
12 matrix?

13 A. (Dr. Blackmon) I don't see how you could ever
14 use number 4 as a basis to eliminate the complaint
15 response measure.

16 MS. ANDERL: Thank you, Your Honor, I believe
17 that concludes my questions for Dr. Blackmon, but I do,
18 if I could take a moment to consult, I would appreciate
19 that.

20 JUDGE WALLIS: Yes.

21 MS. ANDERL: Thank you, Your Honor, that does
22 conclude my cross-examination for Dr. Blackmon. May I
23 proceed to Ms. Kimball?

24 JUDGE WALLIS: Please proceed.

25 BY MS. ANDERL:

2041

1 Q. Good afternoon, Ms. Kimball.

2 A. (Ms. Kimball) Good afternoon.

3 MS. ANDERL: Oh, Your Honor, I guess before
4 we go there, I would like to offer Exhibit Number 43.

5 JUDGE WALLIS: Mr. Swanson.

6 MR. SWANSON: Staff renews its objection and
7 does not believe that it's relevant. And if it is
8 admitted in terms of I believe the only portion that was
9 admitted was a hypothetical question, and Staff would
10 ask that if the hypothetical question is admitted, just
11 that portion of this exhibit containing I guess the
12 hypothetical reference be admitted.

13 JUDGE WALLIS: Ms. Anderl.

14 MS. ANDERL: Your Honor, we don't really have
15 any objection to that. I thought that it might be
16 important for someone to see the context in which this
17 particular statement, hypothetical statement by Verizon
18 was made, but if it is Your Honor's ruling that only
19 page 14 should be admitted that illuminates the
20 hypothetical, we would not have a problem with that.

21 JUDGE WALLIS: Very well, the exhibit as a
22 whole is not received, but page 14 of the exhibit
23 containing a table at line 3 is received for the purpose
24 of illustration of the terms of the hypothetical
25 question that was asked.

2042

1 MS. ANDERL: Thank you, Your Honor.

2 BY MS. ANDERL:

3 Q. All right, Ms. Kimball, Public Counsel also
4 expressed concerns about Qwest's investment levels in
5 the state of Washington; isn't that right?

6 A. (Ms. Kimball) That's correct.

7 Q. Ms. Kimball, have you ever been employed by a
8 telecommunications utility?

9 A. (Ms. Kimball) No, I have not.

10 Q. By any utility?

11 A. (Ms. Kimball) No, I have not.

12 Q. Have you ever made investment decisions on
13 behalf of a telecommunications company?

14 A. (Ms. Kimball) No, I have not.

15 Q. Have you ever made staffing decisions on
16 behalf of a telecommunications company?

17 A. (Ms. Kimball) No.

18 Q. Do you have any firsthand knowledge as to the
19 level of investment that is necessary to maintain or
20 improve service quality for any particular
21 telecommunications company?

22 A. (Ms. Kimball) Well, I believe in the U S West
23 Qwest settlement agreement the agreement itself contains
24 some provisions about requiring that the company
25 maintain its historic investment levels for a certain

2043

1 period of time. I believe it was three years.

2 Q. And Qwest complied with that requirement, did
3 it not?

4 A. (Ms. Kimball) Well, I believe it is the
5 company's position that it did.

6 Q. Ms. Kimball, let me turn your attention
7 please to Data Request Response Number 91, which is
8 Exhibit 58. Do you have that?

9 A. (Ms. Kimball) Yes, Exhibit 58.

10 Q. Yes.

11 A. (Ms. Kimball) Yes.

12 Q. This question just is kind of along the same
13 lines. From your perspective or from Public Counsel's
14 perspective, I will give you a choice between the
15 following two things, I would like you to tell me which
16 would be preferable or which would be better public
17 policy. The first would be a matrix that are
18 unattainable for a company and impose large service
19 quality credits or payments. The second would be matrix
20 that are reasonably attainable but impose smaller
21 service quality credits and payments and encourage
22 compliance.

23 MR. FFITCH: Your Honor, I'm going to object
24 to this question on the grounds that it's not relevant
25 to this proceeding. We have a specific service quality

2044

1 performance program before us and before the Commission
2 in this case. We are not attempting to and none of the
3 witnesses has testified in this case about designing
4 from scratch a hypothetical performance program.

5 MS. ANDERL: Well, Your Honor, I think that
6 the whole premise of Qwest's petition to terminate and
7 in the alternative modify is premised on the theory that
8 if you do have the right to terminate, you also ought to
9 have the right to propose some sort of a substitute
10 program in case full termination isn't warranted. And
11 under those circumstances, I think it's appropriate for
12 me to explore with Public Counsel's witness what the
13 nature of their opposition is to the modification. And
14 to the extent that Qwest can show that certain service
15 quality matrix are not attainable, we believe that
16 Public Counsel's view on which of those two scenarios
17 that I read is preferable is relevant and ought to color
18 the witness's testimony and Public Counsel's position.

19 JUDGE WALLIS: Mr. ffitch.

20 MR. FFITCH: Your Honor, neither one of those
21 scenarios is before the Commission for adoption. And
22 again in this data request and others Qwest has
23 attempted to engage witnesses in and I think direct the
24 Commission into a wide ranging hypothetical abstract
25 discussion of incentives and potential alternative

2045

1 hypothetical mechanisms which are simply not before the
2 Commission in this case. We don't think that's a good
3 use of the Commission's time or attention in this
4 matter, therefore we don't believe it's -- or is it
5 relevant to the issues before the Commission.

6 JUDGE WALLIS: I think that to the extent the
7 underlying issues are inherent in the company's petition
8 that counsel should be allowed to inquire into them.
9 Whether the hypothetical accurately states the
10 propositions that are represented therein I think is
11 another question. So counsel may proceed.

12 MS. ANDERL: Thank you, Your Honor.

13 BY MS. ANDERL:

14 Q. Ms. Kimball, do you have the question in
15 mind?

16 A. (Ms. Kimball) The question on the data
17 request or the question that you posed earlier to me?

18 Q. The question that I posed.

19 A. (Ms. Kimball) If you could restate it, I
20 would appreciate it.

21 Q. I will try to streamline it a little bit.
22 What I was simply asking was what is your or Public
23 Counsel's view of which would be a better policy, better
24 public policy result, matrix that are unattainable for a
25 company but impose a large service quality credit or

2046

1 matrix that are reasonably attainable and impose a
2 smaller service quality credit and encourage compliance?

3 A. (Ms. Kimball) I guess I probably will have a
4 long winded response to that. My initial reaction is
5 it's hard for me to respond without knowing what type of
6 service is at issue in this hypothetical, and also it's
7 difficult to respond without knowing what sort of dollar
8 amount is meant by a small payment versus a larger
9 payment. So simply put, it's just difficult for me to
10 respond with a policy analysis of that.

11 Q. Well, let's talk about it specifically then.
12 Let's consider the current matric that requires repair
13 for out of service conditions in two working days in the
14 SQPP. Do you have that in mind?

15 A. (Ms. Kimball) Yes.

16 Q. Now you're aware that Qwest is proposing
17 terminating that matric or in the alternative changing
18 it; is that right?

19 A. (Ms. Kimball) Yes.

20 Q. And the change that Qwest would propose would
21 be to operate under the standards set forth in the rule,
22 which is 48 hours rather than two working days; is that
23 right?

24 A. (Ms. Kimball) My understanding is you would
25 call that the standard, but there would be no financial

2047

1 payment or customer credit under that standard unless
2 the company fell below in fact 99.5%.

3 Q. Okay. And for any company that does not
4 operate under the SQPP, the standard is 100%; is that
5 right?

6 A. (Ms. Kimball) My understanding is that the
7 company characterizes it as a 100% standard, I believe
8 it is repairing the no dial tone condition within 48
9 hours subject to various exceptions that are in the rule
10 itself.

11 Q. And those companies, if they fail to meet
12 that standard, companies other than Qwest do not pay any
13 self executing credits; is that right?

14 A. (Ms. Kimball) To the best of my knowledge,
15 correct, there's no self executing penalty.

16 Q. So even if they performed at 97% or 98%, they
17 would pay zero?

18 A. (Ms. Kimball) Unless the Commission took some
19 enforcement action.

20 Q. Right. And so for Qwest, if Qwest -- what
21 Qwest is proposing is the same standard as the other
22 company, which is 100%, and no Service Quality
23 Performance Plan payment unless the service fell below
24 99.5%; is that your understanding?

25 A. (Ms. Kimball) Yes, I believe that is correct.

2048

1 Q. And it's your testimony that the current
2 matric that imposes payments for any failure -- well,
3 let me just ask you this, let me ask it differently.

4 Is it your testimony that the current SQPP
5 matric is superior to Qwest's proposed SQPP matric?

6 A. (Ms. Kimball) My testimony is that the SQPP
7 as it was negotiated by all parties and agreed to by all
8 parties should remain in place and should not be
9 modified.

10 Q. Yes, but I asked you a different question,
11 which is with regard to the particular matric, is the
12 current one in place superior to the one that Qwest is
13 proposing?

14 A. (Ms. Kimball) Yes, I believe it is.

15 Q. And why is that?

16 A. (Ms. Kimball) I believe that Qwest's proposal
17 in fact would weaken the standard and could be
18 detrimental to consumers and also that it is -- it is a
19 unilateral request from the company and therefore
20 inappropriate.

21 Q. If Qwest misses one out of service repair
22 within the two business days on the first of the month,
23 what incentive does Qwest have to continue to meet that
24 matric for the rest of the month?

25 A. (Ms. Kimball) Well, I believe that the

2049

1 company at management and staffing decisions, it may --
2 there may be a reduced incentive to meet that standard
3 for that particular month, but nevertheless the company
4 may be working on strategies that can be deployed in the
5 long term in order to meet the standard in future
6 months.

7 Q. Has Qwest ever met the standard?

8 A. (Ms. Kimball) They have not met the standard.
9 I believe improvements have been made if you look at the
10 data comparing 2002 to 2003. The data is available in
11 Attachment A to Exhibit 56.

12 Q. Assume with me, hypothetically if you feel
13 the need to do so hypothetically, that due to
14 circumstances beyond its control and circumstances that
15 do not constitute exclusions from the 100% standard that
16 Qwest can not ever meet the 100% standard. Do you have
17 that in mind?

18 A. (Ms. Kimball) I do. I guess I feel that it's
19 a hypothetical, and I would like to see the evidence. I
20 don't believe such evidence is before us in this docket.

21 Q. Now assuming that Qwest can not ever make
22 that standard, is it your position that replacing the
23 standard with one that is attainable constitutes a
24 weakening of the standard?

25 MR. FFITCH: I'm going to object, Your Honor,

2050

1 on the ground of relevancy again. I think the question
2 assumes facts in evidence which are not there, that
3 there is some sort of standard that Qwest could not ever
4 meet. That is -- there is no such standard before the
5 Commission in this proceeding. I don't think it's a
6 relevant line of inquiry.

7 MS. ANDERL: Well, Your Honor, there
8 certainly is testimony, in fact, there are facts before
9 the Commission through Qwest's reply comments and
10 Mr. Pappas's testimony that Qwest can not meet this
11 standard.

12 MR. FFITCH: Your Honor, this is phrased as a
13 hypothetical question about some hypothetical standard
14 that the company could never meet.

15 MS. ANDERL: It's not a hypothetical
16 standard, Your Honor. I'm sorry to interrupt
17 Mr. ffitch, but we are still talking about the out of
18 service within two business days, and we are still
19 talking about the 100% standard, and we are talking
20 about Ms. Kimball's testimony that setting the payment
21 threshold at 99.5% constitutes a weakening of the
22 standard, and that is exactly what I was asking her
23 about.

24 JUDGE WALLIS: The objection is overruled,
25 and the witness may respond to the question.

2051

1 A. (Ms. Kimball) Can you repeat the question,
2 please?

3 BY MS. ANDERL:

4 Q. Sure. Do you have the factual background or
5 hypothetical factual background in mind?

6 A. (Ms. Kimball) If you can go back to that.

7 Q. Assume that due to circumstances beyond its
8 control and circumstances that do not constitute
9 exclusions from the 100% repair of out of service
10 conditions within two working days that Qwest can not
11 ever make the 100% standard. Do you have that in mind?

12 A. (Ms. Kimball) I do. I don't agree with that
13 premise in terms of the materials that the company has
14 provided in this case.

15 Q. Okay, well, that I guess is the beauty of the
16 hypothetical, that you don't need to agree with it.
17 Assuming that Qwest can not ever make that 100% standard
18 as I just discussed with you, is it your position that
19 replacing that 100% standard with a payment threshold of
20 99.5% which is attainable by the company constitutes a
21 weakening of the standard?

22 A. (Ms. Kimball) Yes, I think it is a weakening,
23 and I also think it's inappropriate to modify one
24 standard over the objection of other parties.

25 Q. And does it constitute a weakening of the

2052

1 standard even if the new standard drives service quality
2 more effectively than the old one?

3 A. (Ms. Kimball) I don't agree that a new
4 standard would necessarily drive service quality more
5 effectively.

6 Q. If it did, would it still constitute a
7 weakening of the standard?

8 MR. FFITCH: Is this a hypothetical question,
9 Your Honor?

10 MS. ANDERL: Well, Your Honor, we can raise
11 it as a hypothetical, but we have testimony in the
12 record, and I do not believe I should be required to ask
13 it as a hypothetical, that Qwest will have increased
14 incentives for a higher service quality if the new
15 matric replaces the old, and therefore I don't
16 understand counsel's insistence that it be phrased as a
17 hypothetical.

18 JUDGE WALLIS: So are you asking basically
19 whether the witness agrees with that statement, and if
20 not why?

21 MS. ANDERL: I'm asking the witness is the
22 99.5% payment threshold a weakening of the standard even
23 if imposing that new standard would drive service
24 quality more effectively than the old one.

25 MR. FFITCH: Well, Your Honor, the question

2053

1 does appear very clearly to ask the witness to agree
2 with the company's testimony as a premise of answering
3 the question.

4 JUDGE WALLIS: The question as phrased I
5 think is objectionable. If counsel rephrases it merely
6 to ask whether this witness agrees with the testimony of
7 the prior witnesses on that topic as counsel has
8 described that testimony, then I think it would be
9 permissible.

10 BY MS. ANDERL:

11 Q. Ms. Kimball, I understand that you do not
12 agree that the new service quality standard that Qwest
13 is proposing would be more effective than the old one;
14 is that right?

15 A. (Ms. Kimball) Yes, that's correct.

16 Q. If Qwest, if hypothetically Qwest were able
17 to show that the new service quality standard drove
18 service quality more effectively than the old standard,
19 would it still be your testimony that the change in the
20 standard would constitute a weakening of the standard?

21 A. (Ms. Kimball) Could you restate the question
22 again please, I'm sorry.

23 MS. ANDERL: I'm sorry, Joan, may I have it
24 read back this time.

25 (Record read as requested.)

1 A. (Ms. Kimball) My response to that is, as I
2 mentioned earlier, that I find it troubling to focus on
3 one measure in a document that is -- was negotiated and
4 agreed upon by all parties and found by the Commission
5 to be in the public interest to isolate one measure and
6 discuss modification of that over objections of other
7 parties.

8 MS. ANDERL: Your Honor, I would move to
9 strike that answer as nonresponsive, and I would reask
10 the question.

11 MR. FFITCH: Your Honor, I think the witness
12 was answering the question to the best of her ability.
13 If counsel wants to ask the next question and continue
14 the line of questioning, that's another matter, and try
15 to get at what she's looking for with a rephrased
16 question.

17 JUDGE WALLIS: Yes, I think that question and
18 answer were within the range of acceptable responses to
19 the question, and if counsel wants to pursue it, you
20 may.

21 BY MS. ANDERL:

22 Q. Ms. Kimball, if we were to -- so is it your
23 testimony that you do not have an opinion as to whether
24 the scenario I described would constitute a weakening of
25 that particular service quality standard?

2055

1 A. (Ms. Kimball) And you speaking specifically
2 of the out of service standard?

3 Q. Yes.

4 A. (Ms. Kimball) Modifying it to effectively a
5 99.5% standard?

6 Q. Yes.

7 A. (Ms. Kimball) And your follow-up question to
8 me just now was do I have no opinion?

9 Q. Is it your testimony that you have no opinion
10 as to whether or not modifying that one particular
11 matric under the circumstances I just described would
12 constitute a weakening of the standard?

13 A. (Ms. Kimball) Yes, I believe modifying the
14 SQPP along the lines of Qwest's proposal does represent
15 a weakening of the standard.

16 Q. And that would be even if the new proposal
17 provided a greater incentive to Qwest to provide high
18 quality service?

19 A. (Ms. Kimball) I guess that's the point in the
20 hypothetical where we -- our opinions diverge. I don't
21 agree that we have evidence in this record demonstrating
22 that Qwest's proposal is -- would provide an improved
23 incentive.

24 Q. Well, hypothetically, if it did, would your
25 answer be the same?

2056

1 A. (Ms. Kimball) I would have to see that
2 evidence and determine whether it was better, and if so,
3 whether it was the best or some other proposal would be
4 superior.

5 Q. Well, Ms. Kimball, that's the nature of a
6 hypothetical is that you're asked to accept certain
7 things without seeing the evidence, and I will ask you
8 again. If indeed the new metric proposed by Qwest did a
9 better job of incenting Qwest to provide good service
10 quality, would you consider it to be a weakening of the
11 standard?

12 A. (Ms. Kimball) Yes, it could be a weakening of
13 the standard.

14 Q. Even if it did a better job in incenting
15 Qwest to provide good service?

16 A. (Ms. Kimball) Yes.

17 Q. What exactly do you mean by weakening of the
18 standard?

19 A. (Ms. Kimball) I believe 99.5% is lower than
20 all.

21 Q. So it's just mathematical in your mind when
22 you say weakening of the standard, just that 99.5 is
23 less than 100?

24 A. (Ms. Kimball) That's a significant part of
25 it, yes.

2057

1 Q. Now earlier you testified that Qwest's
2 service quality had improved specifically on the out of
3 service metric; is that right?

4 A. (Ms. Kimball) Yes, for many months in 2003,
5 particularly if you exclude the month of November which
6 is the focus of Mr. Pappas's testimony in his Exhibit
7 DP-9, if you look at the company's performance from 2002
8 to 2003 excluding that month, there were several months
9 that were for example below 100, whereas in 2002 I
10 believe the company was above 100 every month of the
11 year.

12 Q. And when you say 100, you mean just the
13 number of tickets that weren't repaired in two days?

14 A. (Ms. Kimball) Yes, two working days as
15 reported by the company.

16 Q. Now did Qwest's improved service in 2003
17 result in any, on that metric, result in any reduced
18 payments for 2003?

19 A. (Ms. Kimball) No.

20 Q. Ms. Kimball, take a look, please, at Exhibit
21 Number 101, I'm sorry, Public Counsel Data Request
22 Response Number 101, it's Exhibit Number 61.

23 A. (Ms. Kimball) Yes.

24 Q. Was Public Counsel involved in drafting the
25 alert that is referenced in that data request response?

2058

1 A. (Ms. Kimball) No, we were not.

2 Q. Was Public Counsel involved in reviewing it
3 prior to the time it was sent out?

4 A. (Ms. Kimball) No, we were not.

5 Q. Ms. Kimball, I'm interested in talking with
6 you a little bit more about standards and what
7 constitutes the weakening of a particular standard or
8 not, I would like you to think about the following, and
9 that is there is a particular standard in place that
10 requires a person to run a mile in five minutes. Do you
11 have that in mind?

12 A. (Ms. Kimball) Yes.

13 Q. There's another standard in place that
14 requires a person to walk or run at least five miles in
15 a day. Do you have that standard in mind?

16 A. (Ms. Kimball) Yes.

17 Q. Okay. Can you envision that a person might
18 be able to meet one standard but not meet the other
19 standard?

20 MR. FFITCH: Your Honor, objection, I'm
21 beginning to sound like a broken record, but again, I
22 think there's no purpose served by these sort of college
23 bull session hypotheticals that have nothing to do with
24 any proposal that's before the Commission in this
25 docket.

2059

1 JUDGE WALLIS: Ms. Anderl, is this
2 preliminary?

3 MS. ANDERL: Yes, it is, Your Honor, I'm
4 trying to find an easier way to think about some of the
5 matrix that we're talking about here, and sometimes real
6 world examples are better than the Qwest business office
7 examples.

8 JUDGE WALLIS: I understand counsel's
9 sensitivity, but I think we should allow opposing
10 counsel some latitude in inquiring, so for now the
11 objection is overruled.

12 MS. ANDERL: Thank you, Your Honor.

13 BY MS. ANDERL:

14 Q. I believe that the question pending was,
15 Ms. Kimball, could you imagine that a person could meet
16 one of the standards but not the other?

17 A. (Ms. Kimball) Yes.

18 Q. And the requirement that a person run a mile
19 in five minutes, that could generally be considered to
20 be a standard that values speed; wouldn't you agree?

21 A. (Ms. Kimball) Yes.

22 Q. And the requirement that a person be able to
23 walk or run five miles in a day is a standard that
24 values distance more highly than speed; isn't that also
25 true?

2060

1 A. (Ms. Kimball) Yes, among other qualities
2 perhaps.

3 Q. And if a person had one requirement imposed
4 on her and was unable to meet that requirement and asked
5 that the person be able to live under the other
6 requirement, would the change in the standards that
7 apply to that person necessarily be considered a
8 weakening of the standard?

9 A. (Ms. Kimball) In your particular scenario,
10 not necessarily, no. It could be considered a weakening
11 if you're going from the speed say to the distance it
12 could be considered as weakening in terms of the speed
13 component or a weakening of the distance component.

14 Q. So it really depends on what is important to
15 measure as to whether it's considered a weakening of the
16 standard; isn't that right?

17 A. (Ms. Kimball) Yes, what different factors are
18 considered.

19 Q. Now turning to Qwest's business office access
20 performance; do you have that in mind?

21 A. (Ms. Kimball) Yes.

22 Q. And do you have the current standard of 80%
23 of the calls in 30 minutes in mind?

24 A. (Ms. Kimball) I believe it's 30 seconds.

25 Q. 30 minutes, I think we could make that. 30

2061

1 seconds, do you have that in mind?

2 A. (Ms. Kimball) Yes, I do.

3 Q. For the 20%, let's assume that in a month
4 Qwest just makes the standard and it answers 20% of all
5 of its calls in 30 seconds; do you have that in mind?

6 A. (Ms. Kimball) Do you mean 80% within?

7 Q. I'm sorry, yes, thank you for that
8 clarification. It's obviously getting time for me to
9 end my cross, but luckily these are my last questions.

10 Let's say that Qwest has answered exactly 80%
11 of the calls to the business office in 30 seconds. Now
12 what does that measure tell you about what happened to
13 the 20% of the calls that didn't get answered in 30
14 seconds?

15 A. (Ms. Kimball) Those calls did not meet the
16 standard.

17 Q. What does it tell you about how long it took
18 to answer those calls?

19 A. (Ms. Kimball) Just the specific information
20 you gave me doesn't. I believe there is some data in
21 the record that gets at the interplay between the 80/30
22 standard, 80 slash 30 standard, and the average wait
23 time standard that can allow you to make some
24 conclusions about, you know, the patterns you're seeing.

25 Q. But the 80/30 standard doesn't on a stand

2062

1 alone basis give you any information about the 20% of
2 the calls that didn't get answered in 30 seconds, does
3 it?

4 A. (Ms. Kimball) It would --

5 Q. Other than that they didn't get answered in
6 30 seconds?

7 A. (Ms. Kimball) That is true, although it would
8 depend on how the data is reported to the Commission or
9 whatever entity is monitoring performance.

10 Q. And with regard to Qwest's ability to meet
11 the 80/30 matric, as long as it meets the 80/30, it
12 doesn't matter for that matric how long those other 20%
13 of the calls wait on hold, does it?

14 A. (Ms. Kimball) That may be the case. I
15 confess that I am not deeply familiar with the software
16 programs that do the call routing and whatnot. I am
17 assuming that they are designed to minimize that wait
18 time. So I don't know if those systems are such that,
19 you know, if you know you're not going to meet the
20 standard you let those people sit on -- 20% sit on hold
21 for even longer or -- my understanding is that they're
22 designed to minimize that wait time.

23 Q. Ms. Kimball, one other area, can you turn to
24 page 6 of Public Counsel's comments, which has been
25 marked as Exhibit 56C.

2063

1 A. (Ms. Kimball) Yes.

2 Q. It says that:

3 The purpose of the SQPP is to place
4 enough dollars at risk in potential
5 financial penalties or customer credits
6 to function as an effective incentive
7 for the company to make the necessary
8 investments in order to meet service
9 quality performance standards.

10 Do you see that?

11 A. (Ms. Kimball) Yes, I do.

12 Q. With regard back again to the out of service
13 matric, out of service repair within two working days, I
14 believe you earlier agreed with me that Qwest has paid
15 the full penalty amount under that matric, which is \$1
16 Million for each of 2001, 2002, and 2003; is that
17 correct?

18 A. (Ms. Kimball) Yes, that's correct.

19 Q. So has that particular matric been an
20 effective incentive?

21 A. (Ms. Kimball) I believe there is certainly
22 room for improvement in terms of the company's
23 performance. It appears based on the company's
24 performance that the company has not met the standard.

25 Q. So has that particular matric been an

2064

1 effective incentive?

2 A. (Ms. Kimball) Based on the company's
3 performance, the company has not been able to meet the
4 standard, but I do not believe that necessarily means
5 that the standard itself is not effective.

6 Q. Has it been?

7 Has it been effective?

8 MR. FFITCH: Your Honor, can we get a
9 clarification from counsel as to what she means by
10 effective, in what sense?

11 Q. Has the standard been effective using the
12 word effective in the same way that it is used at page 6
13 of Public Counsel's Exhibit 56, page 6, line 15 on my
14 copy?

15 A. (Ms. Kimball) I would like to believe that as
16 a result of the standard the company -- it has been
17 effective in terms of the company making efforts to
18 endeavor to improve to meet that standard.

19 Q. But the company has not ever been able to
20 meet it, has it?

21 A. (Ms. Kimball) That's correct.

22 Q. And even if the company were able to attain a
23 level of 99.999% performance, the company would still
24 not meet the standard; is that right?

25 A. (Ms. Kimball) Yes, with -- there are various

2065

1 exclusions in the standard.

2 Q. Now talking about that same standard, to the
3 extent that Qwest is proposing changing the standard
4 from two working days as it currently stands in the SQPP
5 to 48 hours as it currently stands in the Commission's
6 rule, do you consider that to be a strengthening or a
7 weakening of the standard?

8 A. (Ms. Kimball) I believe the 48 hour window is
9 a bit tighter than the two working days.

10 Q. So it strengthens the standard?

11 A. (Ms. Kimball) It tightens it, yes,
12 strengthens.

13 MS. ANDERL: That's all that I have, Your
14 Honor, thank you very much.

15 JUDGE WALLIS: Very well, do other counsel
16 have questions of other parties' witnesses not in the
17 nature of redirect or in the nature of friendly cross?

18 MR. O'ROURKE: No questions.

19 MR. SWANSON: None for Staff.

20 JUDGE WALLIS: Very well, I have a couple of
21 questions.

22

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

24 BY JUDGE WALLIS:

25 Q. First for Dr. Blackmon, I want to ask what

2066

1 you believe the purpose was of the SQPP, and to direct
2 your answer the context is set off by the next question,
3 which will be how do we know when that purpose is
4 achieved?

5 A. (Dr. Blackmon) I think the SQPP had different
6 purposes for different parties. I think for Qwest the
7 purpose was to get the merger approved but also to
8 demonstrate its commitment to the proposition that that
9 merger was in the public interest. For the Commission
10 and for the customers of that company, I think the
11 purpose of it was to allay some of the concerns about a
12 new untested company with somewhat of a cowboy culture
13 might come in and undermine the, you know, the Bell
14 tradition and things like that. We needed to see a
15 commitment that the new owners would take service
16 quality seriously, and indeed we wanted to see a
17 commitment that exceeded what the at that time existing
18 owners had demonstrated.

19 In terms of how we know when it succeeded, I
20 mean there are too many factors that go into the service
21 performance of a telephone company to ever be able to
22 identify with precision that a particular thing like
23 this incentive mechanism has made a difference. I mean
24 by the way the question is phrased, it sounds like maybe
25 we could at some point call it good and say we don't

1 need that anymore and be done with it, and I don't
2 really think that that's the case. I mean I think that
3 in general utility regulators have seen that performance
4 mechanisms are a superior way of regulating the service
5 aspects of telecom companies or for that matter
6 utilities more generally, and so I think it's an
7 important part of the set of tools that regulators have
8 available to them, and I would expect it to exist in
9 some form as long as we are regulating utilities.

10 Q. You indicated at page 9, Paragraph 15, that
11 Qwest is asking the Commission to take away a consumer
12 protection program without a compensating benefit, to
13 rephrase very roughly the essence of that paragraph. My
14 question is why is a compensating benefit needed?

15 A. (Dr. Blackmon) In order to make the proposal
16 in the public interest, it's needed. Otherwise you're
17 harming the consumers to the benefit of the company, and
18 that loss of consumer benefit if it's not compensated in
19 some way means that the mechanism is not -- the proposed
20 change is not in the public interest.

21 Q. Do I take it from the statement and your
22 testimony that you think it's inappropriate to put Qwest
23 in parity with other carriers in terms of elimination of
24 this program and making them subject to existing rules
25 and their own service guarantees?

2068

1 A. (Dr. Blackmon) Yes.

2 Q. Could you tell me why that's so?

3 A. (Dr. Blackmon) Qwest in our state is a unique
4 entity. It's the regional Bell operating company. Its
5 network serves as the backbone for the
6 telecommunications networks that are used in this state.
7 The company has many requirements and opportunities that
8 are unique to it because of its legacy monopoly role.
9 And so the parity argument I think just doesn't take one
10 very far when looking at the appropriate way to regulate
11 Qwest. All other things being equal, yes, they should
12 be regulated in the same way, but all other things are
13 not equal. As I said in my testimony, I suspect that
14 one of these days we will reach that point, but we
15 aren't there now.

16 Q. Can you identify any modifications that could
17 be made to the SQPP that would not cause concern about
18 service quality but could result in a reduced burden to
19 the company?

20 A. (Dr. Blackmon) Yes, as I mentioned that
21 Paragraph 49 of our statement, two years ago we proposed
22 a change in the mechanism, one that we thought was
23 balanced that would have been an improvement and would
24 have made the mechanism more effective in terms of
25 driving performance by the company. It was rejected at

2069

1 that time, not, at least the way I read the order, not
2 on the substantive grounds, but because the Commission
3 felt at that time that it should not consider even
4 balanced proposals if they didn't have support of all
5 the parties to the original agreement.

6 Qwest has in their reply comments made the
7 argument that that shouldn't be the standard applied in
8 this proceeding here, because the opportunity for
9 termination is now put before the Commission. And if
10 the Commission were to agree with that as the
11 appropriate standard in this case, then Staff would
12 encourage the Commission to consider not just Qwest's
13 proposal for modification, but all the proposals that
14 have been received for modification, including the one
15 that we made in 2002.

16 Q. Ms. Kimball, going back to the first question
17 that I asked Dr. Blackmon, in your view, and you did
18 address this earlier in response to Ms. Anderl's
19 question about page 6, lines 14 through 17, what do you
20 think the purpose was of the SQPP, and following up on
21 that, how do we know when that purpose is achieved?

22 A. (Ms. Kimball) To add to what Dr. Blackmon
23 said, I believe that the SQPP was an important component
24 of the settlement agreement that was designed to help
25 ensure that consumers were not harmed by the merger of

2070

1 these two companies, so I would bring that to the
2 Commission's attention. And in terms of the
3 circumstances that could exist, it's difficult to
4 anticipate that or speculate as to what those
5 circumstances might be, but it's certainly the position
6 of Public Counsel that we're not there today.

7 Q. At page 7 of Public Counsel's statement,
8 lines 19 to 22, there is a quotation from Theresa
9 Jensen's testimony in the merger settlement hearing that
10 the SQPP would provide incentive for Qwest to improve or
11 maintain service levels. Why is that incentive still
12 needed in areas that meet the pertinent standards of new
13 rules?

14 A. (Ms. Kimball) I think an important
15 distinction is as we I believe discussed in our comments
16 is that the SQPP is a self executing program, rather
17 than the rules which would require some enforcement
18 action on the part of the Commission in order to
19 sanction the company for inadequate service quality. So
20 I think that is an important distinction coupled with
21 Dr. Blackmon's comments that Qwest is a unique company
22 in this state.

23 Q. In your answers to Ms. Anderl's questions and
24 also in the statement at page 15, lines 19 through 22,
25 you have stated Public Counsel's opinion that the

2071

1 settlement agreement should not be modified at the
2 request of one party alone. How do you square that view
3 with language in the order that authorizes Qwest to
4 request termination after 2003?

5 A. (Ms. Kimball) We view the termination issue
6 and the modification issue as two separate issues. And
7 so we certainly agree that Qwest has the right to
8 petition to terminate the SQPP if they believe they can
9 make such a showing that the program should be
10 terminated early. But we do not believe that the
11 settlement -- believe that the settlement contemplated
12 unilateral proposals for modification of the SQPP at any
13 time.

14 Q. Do you have any modifications in mind that
15 could be made to the SQPP that would not cause great
16 concerns about service quality but could result in a
17 reduced burden to the company?

18 A. (Ms. Kimball) We haven't prepared an
19 alternative recommendation to the Commission at this
20 point. I believe we did indicate in our comments that
21 if the Commission believes it is appropriate to modify
22 the SQPP, we would wish an opportunity to make such a
23 alternative recommendation. We would have some opinions
24 about aspects that could be tightened that may or may
25 not result in a lower burden for the company.

2072

1 JUDGE WALLIS: Very well, I have no further
2 questions. Would parties like to undertake redirect at
3 this point or have a break now?

4 MR. FFITCH: I don't have an opinion, Your
5 Honor. I am easy either way, Your Honor, as far as --

6 JUDGE WALLIS: Mr. Swanson.

7 MR. SWANSON: I'm fine either way as well.

8 JUDGE WALLIS: Let's be off the record for a
9 moment.

10 (Discussion off the record.)

11 JUDGE WALLIS: We'll continue through
12 redirect and begin with Mr. Swanson.

13 MR. SWANSON: Thank you, Your Honor.

14

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

16 BY MR. SWANSON:

17 Q. First question is just a point of
18 clarification. You indicated in the beginning of your
19 questioning by Ms. Anderl that the term I believe bad
20 was in your statement as you discussed was a directional
21 indicator. What exactly does that mean? You were
22 referring to it as a directional indicator.

23 A. (Dr. Blackmon) I just meant that good and bad
24 are terms -- that good is good and bad is bad, that
25 there was no specific level at which good becomes bad

2073

1 and that bad service is something that customers don't
2 deserve or want but that there's no specific definition
3 for when the service becomes bad.

4 Q. Okay. Please explain whether you think the
5 SQPP should be examined as a whole or based on isolated
6 measures for purposes of modification or termination.

7 A. (Dr. Blackmon) well, as I understand it, the
8 -- if there is a window for modification, it exists
9 because of the termination alternative. As I understand
10 Qwest's argument is that since they have the right to
11 ask for termination, it's fair game to ask for
12 modification. Given that that's the window, I think
13 that any modification needs to be looked at with the
14 whole mechanism in mind and not individual pieces of it
15 since the proposition, the alternative proposition, is
16 that the entire thing be terminated.

17 Q. And a number of times the term balanced
18 proposal was referred to. What did you mean by that, or
19 when that's discussed in testimony what is meant by that
20 by you?

21 A. (Dr. Blackmon) That's a term that was used
22 both by the parties and by the Commission in 2002 when
23 it considered Qwest's last petition in this matter. As
24 I understand it, it meant and means a proposal that
25 benefits both the company and the customers, that

1 doesn't harm one side to the gain of the other side.

2 Q. And Ms. Anderl asked you about Exhibit Number
3 44, which I believe was DR 138. And in your response
4 you say something to the effect that, well, let me quote
5 you.

6 It's impossible to conceive of all
7 possible circumstances in which Staff
8 would recommend termination of the
9 program.

10 Could you explain what that means and how
11 that relates to your response?

12 MS. ANDERL: Well, Your Honor, I would
13 object, that's outside the scope of my cross.

14 MR. SWANSON: I believe Ms. Anderl
15 specifically was referring to some of the, well, I guess
16 the 1, 2, 3, 4 in this exhibit as factors, and Staff is
17 merely trying to clarify the intent of this response as
18 it could be misconstrued as limiting as Ms. Anderl posed
19 it.

20 JUDGE WALLIS: The objection is overruled,
21 and the witness may respond.

22 A. (Dr. Blackmon) What I responded to the
23 question, the request was that we fully describe the
24 circumstances, and I wanted to make clear and I hope
25 that we can make clear that we have offered up four

2075

1 circumstances or factors where Staff could support
2 termination of the mechanism, but we certainly have not
3 tried to come up with every circumstance out there, and
4 there could be others beyond these four.

5 BY MR. SWANSON:

6 Q. And is it your understanding that Verizon
7 currently has a rate case filed in front of the
8 Commission?

9 A. (Dr. Blackmon) Yes.

10 Q. And do you know whether or not service
11 quality could come up in that particular case as an
12 issue with regard to Verizon?

13 A. (Dr. Blackmon) It could, yes.

14 Q. And how might that come up?

15 A. (Dr. Blackmon) The company, well, the last
16 time we had a rate case was with U S West, and during
17 the course of that case the Commission found that it
18 needed to go beyond the financial results of the company
19 and look at its operations to see whether it was
20 providing satisfactory service. So it could be that in
21 this case, in the Verizon case, that the Commission
22 would decide that it needs to look at the performance of
23 the company in areas other than its finances.

24 The company's tariffs are under review in
25 that case, or at least they will be ultimately, and the

2076

1 service quality mechanisms can be embedded in the tariff
2 in the same way that some of the Qwest mechanisms are
3 today, not the SQPP, but some of the others are. And so
4 it wouldn't surprise me if intervenors or Staff in that
5 case proposed revisions to the tariff that would
6 introduce service quality mechanisms for Verizon.

7 Q. With regard to Exhibits 50 and 51, could you
8 explain why Staff does not have a list of specific
9 network projects that should have been done in the past
10 or should be done in the future?

11 MS. ANDERL: Objection, Your Honor, we did
12 not ask about those exhibits.

13 MR. SWANSON: Your Honor, I believe that
14 these exhibits were offered in a sense in lieu of cross
15 and do provide an answer, and I believe it is
16 appropriate for Commission Staff to clarify not just the
17 limited answer that was identified in this data request
18 but provide some additional background in order to
19 adequately respond to this question.

20 JUDGE WALLIS: Ms. Anderl, do you agree?

21 MS. ANDERL: No, I do not, Your Honor.

22 JUDGE WALLIS: Very well, then I will sustain
23 the objection.

24 MR. SWANSON: Okay, that's all I have.

25 JUDGE WALLIS: Mr. ffitich.

2077

1 MR. FFITCH: Thank you, Your Honor, just one
2 or two questions.

3

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

5 BY MR. FFITCH:

6 Q. Ms. Kimball, you were asked by Ms. Anderl a
7 while ago about whether Qwest had met the investment
8 requirements of the service quality agreement, and you
9 indicated that -- I think your answer was that it was
10 their position that they have met that requirement. Can
11 you state what Public Counsel's position is with regard
12 to whether Qwest has met the investment requirement of
13 the service quality agreement.

14 A. (Ms. Kimball) Yes, I believe the settlement
15 agreement and the order, the Commission's Ninth
16 Supplemental Order adopting and approving the
17 settlement, discuss a per access line figure that is
18 presented in Public Counsel's attachment, confidential
19 Attachment B to its memorandum. The per access line
20 figure is a public figure that prior to the merger the
21 company's investment was I believe \$133 on a per access
22 line basis. And confidential Attachment B shows that in
23 some years following the merger, I'm sensitive here
24 about revealing confidential information, but I will try
25 to speak generally just that my understanding is that

2078

1 the company's position is that on a cumulative basis, if
2 you look at the investment over the three year period
3 and then divide that figure by the number of access
4 lines, they have met the requirement. But it's Public
5 Counsel's position that if you look at it on a year by
6 year basis, they have not met it each year.

7 MR. FFITCH: Thank you, I don't have any more
8 questions on redirect, Your Honor.

9 JUDGE WALLIS: Mr. O'Rourke wouldn't have
10 any, so, Ms. Anderl, it's back to you.

11 MS. ANDERL: Nothing, Your Honor.

12 JUDGE WALLIS: Very well, Ms. Kimball,
13 Dr. Blackmon, thank you very much for your testimony
14 today, you are excused from the stand at this time.

15 Let's be off the record for a scheduling
16 discussion.

17 (Recess taken.)

18 JUDGE WALLIS: Mr. ffitch, you're calling a
19 witness to the stand at this time; is that correct?

20 MR. FFITCH: Correct, Your Honor, thank you.
21 Public Counsel would like to call its first public
22 witness, Robert Pregulman.

23 JUDGE WALLIS: Mr. Pregulman, would you stand
24 and raise your right hand, please.

25

2079

1 (Exhibit 67 - Statement - was identified in
2 conjunction with the testimony of ROBERT
3 PREGULMAN.)

4

5 Whereupon,

6

 ROBERT PREGULMAN,

7 having been first duly sworn, was called as a witness

8 herein and was examined and testified as follows:

9

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

11 BY MR. FFITCH:

12 Q. Good afternoon, Mr. Pregulman.

13 A. Good afternoon.

14 Q. Would you please state your full name and
15 spell your last name for the record.

16 A. Robert Pregulman, last name is spelled
17 P-R-E-G-U-L-M-A-N.

18 Q. And are you here on your own behalf or on
19 behalf of an organization?

20 A. I'm here on behalf of the Washington Public
21 Interest Research Group or WASHPIRG.

22 Q. And what is your capacity with WASHPIRG?

23 A. I'm the executive director.

24 Q. And did you prepare and submit a written
25 statement regarding this case to the Commission?

2080

1 A. Yes, I did.

2 MR. FFITCH: And, Your Honor, that statement
3 has been marked and admitted as Exhibit 67.

4 BY MR. FFITCH:

5 Q. Do you have any changes or corrections to
6 that written statement?

7 A. No, I don't.

8 JUDGE WALLIS: The document will be received
9 through stipulation of the parties.

10 MR. FFITCH: Thank you, Your Honor.

11 BY MR. FFITCH:

12 Q. Mr. Pregulman, you may go ahead and make your
13 oral statement regarding this case to the presiding
14 officer.

15 A. Thank you. I've just got a very brief
16 statement, Your Honor. The reason we are here is
17 because we represent about 20,000 members here in
18 Washington. We work on consumer protection and
19 environmental protection issues. Obviously this is a
20 consumer issue that we have been following closely for
21 quite some time and have been concerned about the level
22 of service that Qwest has been providing its customers.
23 We looked -- we took part in the privacy hearing that
24 Qwest was involved with last year. I believe it was
25 last year, it might have been the year before, I'm

2081

1 sorry. And when this issue came up, we again were very
2 concerned.

3 Our feeling is that if historically before
4 the merger had happened that Qwest had had even an
5 average level of consumer service that there's a good
6 chance this agreement most likely would not have been
7 put into effect. It's been put into effect because of
8 the number of reasons that people have already mentioned
9 here today, and as we said in our statement, we strongly
10 support that the SQPP stays in place.

11 MR. FFITCH: Thank you, Mr. Pregulman.

12 The witness is available for cross, Your
13 Honor.

14 JUDGE WALLIS: Ms. Anderl.

15 MS. ANDERL: Thank you.

16

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

18 BY MS. ANDERL:

19 Q. Good afternoon, Mr. Pregulman.

20 A. Good afternoon.

21 Q. My name is Lisa Anderl, I'm an in-house
22 attorney representing Qwest, and I have just a few
23 questions for you this afternoon. Take a look, please,
24 if you would at the E-mail alert that Public Counsel
25 provided in response to Qwest's Data Request Number 101

2082

1 that's marked for the record as Exhibit 61. Do you have
2 that?

3 A. Yes.

4 Q. Now who drafted that E-mail alert?

5 A. I did.

6 Q. What research did you do to ensure that the
7 facts that you included in the E-mail alert are
8 accurate?

9 A. It was a combination of talking to folks that
10 were directly involved in the case and research through
11 public documents.

12 Q. And so who did you talk to who was directly
13 involved in the case?

14 A. I talked to Public Counsel.

15 Q. Now take a look at the alert. Halfway down
16 the first page under background you cite that in 1998 U
17 S West Qwest received or customers lodged 3,748
18 complaints; is that right?

19 A. Yes.

20 Q. Do you think that the 1998 service quality is
21 relevant to a petition that's filed in 2004?

22 A. I think, yes, I do.

23 Q. And why is that?

24 A. I think that it speaks to a pattern, a
25 consistent pattern, and the problems that were in --

2083

1 that were happening in 1998 were also happening in later
2 years at varying levels. And I think through public
3 records of complaints that have been filed with the
4 Utilities and Transportation Commission that Qwest has
5 had a fairly consistent -- there have been a consistent
6 number of complaints against Qwest over the course of
7 the last few years.

8 Q. Did you check to see what level of complaints
9 existed for the year 2003?

10 A. I did check, I can't tell you off the top of
11 my head what it is. I do know it is less than the
12 amount that was listed in the E-mail.

13 Q. Would you accept subject to your ability to
14 check that in Staff's comments that there were 894
15 complaints in 2003?

16 A. Sure.

17 Q. Why didn't you use the 2003 number in your
18 E-mail alert?

19 A. Because part of the things that -- one of the
20 things that we mentioned in our E-mail alert was the
21 fact that under the service agreement the number of
22 complaints against Qwest had actually gone down and that
23 the service had improved, and that's what we thought was
24 relevant.

25 Q. Where did you indicate that complaints had

2084

1 gone down and service had improved?

2 A. Just give me one second, please.

3 Well, apparently I misspoke.

4 Q. So you didn't indicate anywhere in that alert
5 that the number of complaints had gone down and that
6 service had improved?

7 A. It doesn't look like it.

8 Q. Now you also state under the background
9 section that 3,748 complaints is more than 30 complaints
10 for every day of the year.

11 A. Mm-hm.

12 Q. It's actually more like 12 complaints for
13 every day of the year, isn't it?

14 A. I believe in going back to when I wrote this,
15 I believe I was talking about weekdays. I don't know if
16 that -- if you can do the calculation, I can't do it off
17 the top of my head. But as I recall, that's what I was
18 looking at.

19 Q. Well, if you look at weekdays, there's about
20 250 weekdays in a year; isn't that right?

21 A. I think so.

22 Q. And 20 complaints a day would be 5,000
23 complaints a year; isn't that right?

24 A. I suppose so.

25 Q. And so we're not even anywhere close to that,

2085

1 are we?

2 A. I guess not.

3 MS. ANDERL: I don't have any other questions
4 for -- oh, I do.

5 BY MS. ANDERL:

6 Q. One other question, Mr. Pregulman, look at
7 the E-mail alert, and in that alert there's a link for
8 an http address.

9 A. Mm-hm.

10 Q. The second two pages of this exhibit, the one
11 that says WASHPIRG Consumer Program at the top and then
12 the follow-on page, is that the screen, a printout of
13 the screen that you get to when you click on the
14 WASHPIRG link that's in the alert?

15 A. Yes, I believe that's true.

16 MS. ANDERL: All right, that's all, thank
17 you.

18 JUDGE WALLIS: Mr. ffitch, do you have any
19 follow up?

20 MR. FFITCH: I don't have any other
21 questions, Your Honor.

22 JUDGE WALLIS: Very well, Mr. Pregulman,
23 thank you for appearing today, you're excused from the
24 stand.

25 MR. FFITCH: Your Honor, may we call our next

2086

1 witness?

2 JUDGE WALLIS: Please do.

3 MR. FFITCH: Public Counsel calls Steve
4 Marquardt.

5 MS. ANDERL: And, Mr. ffitch, I am going to
6 ask Mr. Marquardt about the document that's marked as
7 Exhibit Number 64.

8 MR. FFITCH: What is that document
9 specifically?

10 MS. ANDERL: It is Public Counsel's data
11 request response to Qwest Request Number 107.

12 MR. FFITCH: Was that identified as a cross
13 exhibit?

14 MS. ANDERL: Yes, for Ms. Kimball, and it was
15 admitted, but I didn't have any questions for her about
16 it. I do have one question or two for Mr. Marquardt
17 about it.

18 MR. FFITCH: Okay.

19 MS. ANDERL: Assuming that you represent that
20 the answer still applies even though you have
21 substituted a different witness.

22 MR. FFITCH: Well, let's provide him with a
23 copy of that. I'm not sure that he has one.

24 MR. MARQUARDT: I have a copy of it.

25 MR. FFITCH: The response to Exhibit 107?

2087

1 MR. MARQUARDT: Yes, I do.

2 MR. FFITCH: Oh, excuse me, Data Request 107?

3 MR. MARQUARDT: Yes, I do.

4 MR. FFITCH: All right.

5 JUDGE WALLIS: Very well, I'm going to ask
6 the witness to raise your right hand, please.

7

8 (Exhibit 69 - Statement - was identified in
9 conjunction with the testimony of STEVEN
10 MARQUARDT.)

11

12 Whereupon,

13 STEVEN MARQUARDT,

14 having been first duly sworn, was called as a witness

15 herein and was examined and testified as follows:

16

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

18 BY MR. FFITCH:

19 Q. Good afternoon, Mr. Marquardt.

20 A. Afternoon, Mr. ffitch.

21 Q. Please state your full name and spell your
22 last name for the record.

23 A. Steve Marquardt, M-A-R-Q-U-A-R-D-T.

24 Q. And are you here on your own behalf or that
25 of an organization?

2088

1 A. The President of Service Employees
2 International Union Local 6, Sergio Salinas, asked me to
3 come here and speak on behalf of him and of the union.

4 Q. What is your capacity with that organization?

5 A. I'm in charge of research and communications
6 for the union for our local.

7 Q. And did SEIU Local 6 prepare a statement for
8 Public Counsel to submit on behalf of President Sergio
9 Salinas in this proceeding?

10 A. We did.

11 MR. FFITCH: And, Your Honor, that statement
12 has been marked as Exhibit 69 and admitted in this
13 proceeding?

14 JUDGE WALLIS: The exhibit is received by
15 stipulation.

16 MR. FFITCH: Thank you, Your Honor.

17 BY MR. FFITCH:

18 Q. Mr. Marquardt, are you authorized today to
19 appear in the case and adopt the statement of
20 Mr. Salinas that's marked as Exhibit 69?

21 A. Yes, I am.

22 Q. And do you have any changes or corrections to
23 that statement?

24 A. No, I don't.

25 MR. FFITCH: Your Honor, we would tender the

2089

1 witness for cross-examination.

2 JUDGE WALLIS: Ms. Anderl.

3 MR. FFITCH: I'm sorry, Your Honor, I'm
4 getting ahead of myself, I'm in the expert witness mode
5 here.

6 BY MR. FFITCH:

7 Q. Mr. Marquardt, do you have a statement that
8 you would like to make today on the issue before the
9 Commission?

10 A. Yes, I do, thank you. First of all, I want
11 to clarify who we are. Service Employees International
12 Union Local 6 is a union of 2,400 low wage workers,
13 mostly janitors, some increasingly security officers.
14 Included in our membership ironically enough are workers
15 who clean the buildings in Qwest buildings in Seattle,
16 and we're reaching out to some of the workers who
17 provide security there. Our best paid janitors and
18 security officers earn just over \$20,000 a year. They
19 move frequently, and they order now phone service when
20 they do move often. Most of our members are immigrants
21 with very limited English language skills. Service
22 problems have a disproportionate effect on low wage
23 workers and poor people, and that's why I'm here today.
24 Our members depend on their telephones in some cases for
25 dispatch to work, in other cases to coordinate rides

2090

1 with co-workers or deal with family emergencies. Many
2 have more than one job, and they need to balance those
3 using the telephone. When their telephones don't work
4 or they have to wait for repair, they may lose a day's
5 wage, \$85 to \$100 that they simply can not afford. In
6 some cases they can be disciplined or even fired.

7 Though we haven't kept a log, and I think
8 this will get at the question you're going to ask, we
9 haven't kept a log of telephone service related problems
10 and grievances, we know that our members have expressed
11 a high degree of frustration with telephone service
12 problems, and some have had trouble on the job because
13 of them. We're concerned that if Qwest loses its
14 incentive to address quality problems we'll have to deal
15 with many more such problems in the future.

16 And the last point I want to emphasize is
17 that neither of the panaceas that competition or the
18 Customer Service Guarantee Program that Qwest offers in
19 place of the SQPP are satisfactory to our members. On
20 competition, even if competitive residential service
21 were available to our members, which we don't always
22 believe to be the case, their language difficulties and
23 time constraints prevent them from being the sort of
24 agile consumers in the market, in the quality service
25 marketplace that Qwest presupposes. And on the customer

2091

1 service guarantee program, the low levels of these
2 credits do not compensate workers who lose a day's wages
3 when they lose phone service or have to wait for repairs
4 or can't get their complaints resolved. They want
5 reliable service, not a \$5 credit.

6 So we urge the Washington Utilities and
7 Transportation Commission to maintain the SQPP. We're
8 very aware of Qwest corporate troubles, its declining
9 revenues, its restatement of income, its extensive legal
10 problems, and it seems clear to us that if it gets early
11 termination, its interest in investing in quality
12 service will vanish very rapidly. So please hear the
13 voice of our members who believe that when they pay for
14 reliable phone service because they need it, that's what
15 they should get. Thank you.

16 MR. FFITCH: Now, Your Honor, we tender the
17 witness for cross-examination.

18 JUDGE WALLIS: Now, Ms. Anderl.

19 MS. ANDERL: Thank you.

20

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

22 BY MS. ANDERL:

23 Q. Mr. Marquardt, in your statement you say that
24 customers should not be subsidizing Qwest's service
25 failings; is that correct?

2092

1 A. That is what the statement said, yeah.

2 Q. And are you adopting that statement as your
3 testimony then?

4 A. In the sense that by paying for -- paying
5 full freight for telephone service, they're assuming
6 that they're going to get quality service. And so when
7 they're not getting that, then they're subsidizing poor
8 service.

9 Q. And that leads me to Exhibit Number 64, which
10 is the Data Request Number 107 to Public Counsel where
11 Qwest asked Public Counsel what does Mr. Salinas mean by
12 subsidizing service failings, and there the answer was
13 given that customers should not have to pay full price
14 for substandard service; is that correct?

15 A. That's correct.

16 Q. And would you agree that if a customer
17 receives substandard service, that customer should be
18 compensated for that service failing?

19 A. They should be compensated to the extent of
20 their loss.

21 Q. What about customers who receive good or
22 acceptable service, should they be compensated if they
23 have received service that meets the standards?

24 A. You know, I don't really have an opinion on
25 that. What I have an opinion on is the question of

2093

1 whether our members should receive quality service.

2 MS. ANDERL: That's all I have, Your Honor.

3 JUDGE WALLIS: Mr. ffitch.

4 MR. FFITCH: I don't have any redirect, Your
5 Honor.

6 JUDGE WALLIS: Are there any other questions
7 for the witness?

8 MR. FFITCH: Thank you very much,
9 Mr. Marquardt.

10 JUDGE WALLIS: Mr. Marquardt, thank you for
11 appearing today, for coming to join us and sharing your
12 statement with us, you're excused from the stand at this
13 time.

14 MR. MARQUARDT: Thank you very much.

15 MR. FFITCH: And thank you, Your Honor, we
16 appreciate the accommodation of CUA counsel for letting
17 our witnesses go first.

18 JUDGE WALLIS: Very well, now, Mr. O'Rourke.

19 MR. O'ROURKE: Ms. Hagins, are you on the
20 line?

21 MS. HAGINS: Yes, I am.

22 MR. O'ROURKE: Okay, thank you.

23 Your Honor, I wanted to present my witnesses
24 a bit differently than Mr. ffitch. I didn't ask them to
25 prepare a supplementary statement. I was going to ask

2094

1 them -- draw out their stories through questioning if
2 that would be permitted. I would ask a little bit of
3 leeway here. This is public comment, I think the
4 Commission has a lot of experience incorporating public
5 comment into their decision making, and I think this
6 would be the most effective way for me to get the
7 witnesses to testify effectively if I could ask them
8 instead of having them read a statement, which I did not
9 have them prepare, but I told them to expect some
10 questions from me. I guess it was my civil legal
11 background, trial background, where I thought that that
12 would be the procedure we would follow today.

13 JUDGE WALLIS: Ms. Anderl.

14 MS. ANDERL: Well, Your Honor is well aware
15 of my views on this whole matter from our conference on
16 Thursday in which other counsel also participated. I
17 would say that I would simply believe that any such
18 direct questioning should not be lengthy given the very
19 brief nature of the statements that the witnesses had
20 previously submitted.

21 JUDGE WALLIS: Yes, and we had indicated that
22 new questioning would be appropriate for the context of
23 the statements that have been presented, so to that
24 extent, counsel may proceed.

25

2095

1 (Exhibit 73 - Responses of the Citizens
2 Utility Alliance of Washington to Qwest Data
3 Requests 3, 4, and 5 (Qwest) was identified
4 and admitted in conjunction with the
5 testimony of AMY HAGINS.)

6

7 Whereupon,

8

 AMY HAGINS,

9 was called as a witness herein and was examined and
10 testified as follows:

11

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

13 BY MR. O'ROURKE:

14 Q. Ms. Hagins, could you state your name and
15 spell your last name, please.

16 A. Yes, my name is Amy Hagins H-A --

17 JUDGE WALLIS: Ms. Hagins, we're having
18 difficulty hearing you, and what we would like you to do
19 is draw the microphone portion of your telephone
20 instrument close to your mouth and speak up. We are
21 putting you through the public address system in the
22 hearing room, and as I indicated, your comments were
23 very difficult to hear, and I'm not sure that the court
24 reporter even heard how you spell your name, so perhaps
25 counsel could start over.

2096

1 BY MR. O'ROURKE:

2 Q. Ms. Hagins, could you please state your name
3 and spell your last name.

4 A. My name is Amy Hagins, H-A-G-I-N-S.

5 JUDGE WALLIS: We're still having difficulty
6 Ms. Hagins.

7 MS. HAGINS: Okay, hold on a sec, let me get
8 my other --

9 Can you hear me?

10 JUDGE WALLIS: I think that might even be
11 worse than the first one.

12 MS. HAGINS: Well --

13 MR. O'ROURKE: The court reporter indicated
14 to me that she could hear.

15 (Discussion off the record.)

16 JUDGE WALLIS: Ms. Hagins, please speak
17 slowly, speak at an elevated volume, kind of holler out
18 to us, and that will help us all here.

19 MS. HAGINS: Okay.

20 BY MR. O'ROURKE:

21 Q. Ms. Hagins, could you tell me where you work?

22 A. I work for Spokane County Supportive Living
23 Program.

24 Q. And you are calling on your own behalf today;
25 is that true?

2097

1 A. Yes, I am.

2 Q. And could you tell me what your duty -- what
3 the duties of your employment are?

4 A. Yes, I am a social worker, and I provide
5 services to chronically mentally ill adults, including
6 life skills training and some counseling.

7 Q. And do you also help them make the transition
8 to independent living?

9 A. Yes, I do, I help consumers move from state
10 hospitals to independent living.

11 Q. And as part of that, do you help your clients
12 obtain utility services?

13 A. Yes, that's a big part of what we do, we help
14 them find housing and set up the services they need.

15 Q. What are some of the --

16 A. -- housing.

17 JUDGE WALLIS: Ms. Hagins, we didn't hear
18 your full statement.

19 A. We help people find housing, and I help
20 people set up the services that they need in independent
21 housing.

22 Q. What type of utilities do you help your
23 clients obtain?

24 A. I help them sign up for power and phone.

25 Q. And do you help them sign up for other

2098

1 services?

2 A. Occasionally if they request it I help them
3 with getting cable TV services.

4 Q. And why have you decided to testify today?

5 A. My clients face barriers when they are
6 applying for phone service, and I run into poor customer
7 service when I'm assisting them in establishing phone
8 service with Qwest.

9 Q. About how many clients have you helped
10 establish phone service?

11 A. Since I started working in November of 2002,
12 I have helped approximately 300 clients.

13 Q. Can you explain some of the problems you have
14 encountered with Qwest when you are helping your clients
15 establish phone service?

16 A. One of the problems I regularly have is long
17 hold times. Sometimes in one sign up call we have two
18 to three different hold times that add up to 45 minutes,
19 sometimes longer. Sometimes the reps don't know about
20 the WCAP program that I'm requesting for my clients as
21 well.

22 Q. And on all the times you're put on hold, does
23 the service representative explain to you why you're on
24 hold?

25 A. Not always, no.

2099

1 Q. More than half the time do they not or do
2 they?

3 A. I would say more than half the time they
4 don't.

5 Q. And as you said, these hold times are over 15
6 minutes?

7 A. Yes.

8 Q. One more question, do you think that Qwest's
9 petition to terminate the Service Quality Protection
10 Program should be granted?

11 A. No, I don't.

12 Q. Could you tell me why?

13 A. Well, I believe things need to be kept in
14 place to protect the clients I work with in helping them
15 to get good customer service and to hold Qwest
16 accountable.

17 Q. Okay. Oh, I'm sorry, one more question.

18 A. Okay.

19 Q. How did you determine the number of helping
20 300 people to get phone service?

21 A. My supervisor and I went through my client
22 list from when I started working here in November of
23 2002.

24 Q. Okay. And have you reviewed the written
25 statement I prepared?

2100

1 A. Yes, I have.

2 Q. And is it accurate, would you like to make
3 any changes?

4 A. No, it's accurate.

5 MR. O'ROURKE: Okay, thank you, I will tender
6 this witness for cross.

7 JUDGE WALLIS: Ms. Anderl.

8 MS. ANDERL: Thank you.

9

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

11 BY MS. ANDERL:

12 Q. Good afternoon, Ms. Hagins, my name is Lisa
13 Anderl, and I'm an attorney representing Qwest in this
14 matter, I have just a few questions for you.

15 A. Okay.

16 Q. I believe that Qwest asked for the identity
17 of the one client whose problems you described in your
18 written statement, and is it correct that the response
19 was that that information could not be provided due to
20 client health care privacy concerns?

21 A. Yes, that's correct.

22 Q. And if we were to ask for an identification
23 of any 1 of the other 300 clients you had helped, would
24 your answer be the same as to those clients?

25 A. Yes, it would.

2101

1 MS. ANDERL: That's all, Your Honor.

2 JUDGE WALLIS: Very well, is there anything
3 further of the witness?

4 It appears that there is not, Ms. Hagins,
5 thank you for appearing today, and you are excused from
6 the stand.

7 MS. HAGINS: Thank you very much.

8 JUDGE WALLIS: Figuratively of course.

9 MR. O'ROURKE: Mr. Miller.

10 MR. MILLER: Yes, I am here.

11 MR. O'ROURKE: You probably just heard what
12 transpired, so if you could put the receiver as close to
13 your mouth as you can we would appreciate it.

14 Could you please state your name and spell
15 your last name.

16 JUDGE WALLIS: Let's ask that the witness be
17 sworn.

18 Mr. Miller, would you raise your right hand,
19 please.

20 (Witness DALE MILLER was sworn.)

21

22 (Exhibit 71 - Statement - was identified and
23 admitted in conjunction with the testimony of
24 DALE MILLER.)

25

2102

1 JUDGE WALLIS: Please proceed.

2

3 Whereupon,

4

DALE MILLER,

5 having been first duly sworn, was called as a witness

6 herein and was examined and testified as follows:

7

8 DIRECT EXAMINATION

9 BY MR. O'ROURKE:

10 Q. Mr. Miller, could you please state your name
11 and spell your last name.

12 A. My name is Dale Miller, and my last name is
13 M-I-L-L-E-R.

14 Q. And could you tell me where you work.

15 A. I work for the Community Action Center for
16 Whitman County.

17 Q. And are you appearing today as an individual?

18 A. As an individual from my position at the
19 Community Action Center, yes.

20 Q. And what are your duties at the Community
21 Action Center?

22 A. I manage the housing programs at the
23 Community Action Center.

24 Q. And why have you decided to testify today?

25 A. Because of the difficulty we had in getting

2103

1 phone service for an eight unit building that we
2 developed for the developmentally disabled in Colfax,
3 Washington.

4 Q. Could you tell me what it was about the way
5 Qwest dealt with that project that was an issue to you?

6 A. I don't know where the problem actually
7 started, but for some reason there was some
8 miscommunication between the contractor who was
9 responsible for arranging for service and Qwest. And
10 when I found out about it, the Qwest engineer wanted us
11 to tear back up the parking lot and put in a trench and
12 conduits even though we have three buildings on the site
13 and there is overhead service to the north building and
14 a power pole, phone pole on the south building or about
15 20 feet from the south building, they refused to connect
16 the buildings through overhead power and/or overhead
17 connections and insisted that we come up with some sort
18 of plan to underground the service to the buildings.

19 It took a lot of work with the phone company.
20 We couldn't get answers, we couldn't get approval of
21 plans. The contractor kept working on it, and finally
22 we got a plan that puts in -- an installation that puts
23 a switch box right in front of the front door in the
24 front yard that's a four foot by four foot plywood
25 panel. And I don't know why that ended up there, but by

2104

1 the time that happened, it was just so frustrating
2 trying to get phone service that we accepted it.

3 There is no options in Colfax for other phone
4 companies. We would have easily gone to somebody else
5 if we could have.

6 Q. Could you tell me some of the things, some of
7 the problems you had trying to coordinate the work with
8 Qwest after it was determined that there was not a
9 meeting of the minds as far as using the utility pole?

10 A. Basically we apparently and the Qwest
11 engineer who decided that the contractor had not
12 properly confirmed where the service would come from
13 simply came down, told us what it was going to be, the
14 way he would provide service, which was to in the middle
15 of December tear up the parking lot and put the trench
16 in. And we said that couldn't be done, especially that
17 time of year, and we wanted an option of at least a
18 temporary service. He refused, and we just asked the
19 contractor to keep working with him to see if they could
20 find something that was other than tearing up the
21 parking lot.

22 They did end up accepting conduit being
23 installed on the outside of the building, although they
24 did not like the solution. And why it took them until
25 April to hook it up, I'm not sure.

1 One of the problems that did happen was that
2 the installers would come, a couple times this happened,
3 the installers would come, they would not like what they
4 saw the electrical subcontractors had done. One time
5 one of the care providers for a resident was talking to
6 the installer and says, well, I can't finish it because
7 the electrician hasn't done what he's supposed to do.
8 So immediately the care provider called me, and I got on
9 the phone with the installer, and I said, okay, if I get
10 the electrician there, can I call you back and have it
11 connected immediately, and he would not give me his
12 phone number. He said the policy was never to give out
13 the phone numbers for the direct service people. So I
14 just had to go back through the process of talking to
15 the engineer, having the engineer call the service
16 people, and so on.

17 Q. How long of a delay did that cause?

18 A. Oh, I think that one was a couple weeks'
19 delay.

20 Q. Did you get a chance to review the written
21 statement that I prepared on your behalf and submitted
22 to the Commission?

23 A. Yes.

24 Q. Would you like to make any additions or make
25 any changes to it?

2106

1 A. In the statement that I gave, I didn't -- and
2 my understanding had been that one of the reasons they
3 refused to install an overhead was that I was told that
4 one of the poles belonged to Avista and they would have
5 to pay a lease payment. That may have been incorrect,
6 but they could have installed overhead without using
7 that pole anyway, so the rest of the statement stands.

8 Q. Do you think Qwest's petition to terminate
9 the service quality protection program should be
10 granted?

11 A. I didn't actually know that there was a
12 program in place, and I didn't know who to call to try
13 to get better service than what we had. So I certainly
14 wouldn't want to see it decrease in quality, and if the
15 Quality Service Protection Program provides some
16 incentive for them, I would certainly like to see it
17 stay in place.

18 MR. O'ROURKE: Thank you, I will release the
19 witness for cross.

20 MS. ANDERL: Thank you.

21

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

23 BY MS. ANDERL:

24 Q. Good afternoon, Mr. Miller, my name is Lisa
25 Anderl, and I'm an attorney representing Qwest. I have

2107

1 a few questions for you this afternoon. You were not
2 the person who was responsible -- Mr. Miller, are you
3 still there?

4 A. Yes.

5 Q. Okay. Were you the person who was
6 responsible on behalf of the general contractor for
7 contacting Qwest to set up the new service?

8 A. No, I'm the representative of the owner. The
9 general contractor was Gino Construction out of Post
10 Falls, Idaho. Their logs show that they had contacted
11 Qwest, but they did not confirm it in writing, so as far
12 as who created the problem originally, I don't know.

13 Q. Now with regard to the service quality plan
14 that's at issue in this case, do you know if that plan
15 contains any incentives or matrix that would address the
16 concerns that you raised in your statement?

17 A. I guess as I understand the agreement is that
18 you're supposed to process orders within five business
19 days, and I -- at least we certainly did not get service
20 within five business days even once we agreed on doing
21 it the way Qwest wanted it. So I would assume that
22 that's some pressure for them to try to respond more
23 rapidly.

24 Q. Do you have a recollection of what the date
25 was when you actually formally applied for service?

2108

1 A. It was, well, the residents moved in the 1st
2 of December, so it was either the week before or the
3 week after the 1st of December.

4 Q. And did you make those applications for
5 service yourself, or did the residents do it?

6 A. The residents and care providers, and we
7 worked with the company that provides the care
8 providers, and so the call was made by a company called
9 Cares, and then that's when the engineer got back to me
10 and the building owner.

11 MS. ANDERL: That's all that I have.

12 JUDGE WALLIS: Is there anything further of
13 the witness?

14 MR. O'ROURKE: No.

15 JUDGE WALLIS: It appears that there is
16 nothing further, Mr. Miller, thank you for being with us
17 today, we appreciate your making yourself available to
18 testify in this proceeding, you are excused now from our
19 virtual stand, and we will continue with the remaining
20 process aspects of this proceeding.

21 MR. MILLER: Thank you.

22 JUDGE WALLIS: Is there any other evidence to
23 come before the Commission at this time?

24 MR. FFITCH: Your Honor, I just wanted to
25 confirm that the public statement of our third witness,

2109

1 Mr. Dexheimer, was also part of the record, and I
2 believe I know the answer to that from the stipulation
3 of all the exhibits into the record, but his particular
4 statement was submitted and marked as Exhibit --

5 JUDGE WALLIS: 68.

6 MR. FFITCH: -- 68. Since Mr. Dexheimer
7 wasn't able to attend, we still wanted to make sure his
8 statement was in the record.

9 MS. ANDERL: I understood that that was
10 admitted, Your Honor.

11 JUDGE WALLIS: Yes.

12 (Exhibit 68, Statement of DEREK DEXHEIMER,
13 was identified and admitted.)

14 JUDGE WALLIS: Do the parties have any other
15 procedural matters to discuss at this time?

16 MS. ANDERL: Yes, Your Honor, I apologize, I
17 don't have all of the procedural orders in front of me,
18 I don't know if there is a blanket allowance for parties
19 to file electronically with hard copies provided the
20 next day, but I would ask for leave to do that with the
21 brief.

22 JUDGE WALLIS: Let's be off the record for
23 some process discussions.

24 (Discussion off the record.)

25 JUDGE WALLIS: In a brief process discussion

2110

1 off record it was determined that the parties may file
2 their concluding statements of position and authority by
3 electronic means no later than 2:00 p.m. on Friday the
4 18th of June, and hard copies may be filed on the
5 following Monday. The reason for the early deadline is
6 so that the documents may be copied and distributed to
7 the commissioners as well as advisory Staff to prepare
8 for the oral argument.

9 The statement of position and authorities was
10 interpreted by parties to mean brief, and that was not
11 what we initially intended when we brought that up but
12 something that might be called brief lite, but the
13 parties have discussed it and agree that it is
14 appropriate to submit a brief, and they are willing to
15 do so and will do so by agreement. Does that fairly
16 state the discussions?

17 MS. ANDERL: Yes.

18 MR. SWANSON: Yes.

19 JUDGE WALLIS: Very well.

20 Public Counsel advised that Exhibit 80 was
21 being sent and will be distributed tomorrow for filing
22 and service overnight carrier. Is that correct,
23 Mr. ffitch?

24 MR. FFITCH: Yes, Your Honor, and my
25 understanding is, perhaps I should just clarify or

2111

1 confirm for the record, that will be admitted along with
2 the stipulation applicable to the others?

3 JUDGE WALLIS: Yes, that's correct.

4 The last item that I have is to acknowledge
5 that at the time previously established for pre-hearing
6 conference parties who were involved in a question about
7 the number of public witnesses who might appear did have
8 a conference that was noticed to all parties, and it
9 arose from a concern of Ms. Anderl that the presentation
10 of four witnesses could exceed the number allowed in the
11 pre-hearing order. Is that correct, Ms. Anderl?

12 MS. ANDERL: Yes.

13 JUDGE WALLIS: After hearing presentations by
14 Mr. ffitch supported by Mr. O'Rourke and Ms. Anderl, we
15 ruled that there was not a limitation on the total
16 number of witnesses but on the number of witnesses per
17 party and that the order was inartfully drafted that
18 expressed that thought. So consequently the objection
19 that Ms. Anderl posed to the presentation of the number
20 of witnesses was overruled.

21 Is there anything else that parties wish to
22 state for the record?

23 MR. FFITCH: Your Honor, I have just for
24 completeness and in fairness to Qwest perhaps that the
25 discussion regarding public witnesses encompassed a

2112

1 second issue, which was whether or not they would be
2 permitted to testify at all in a direct fashion at this
3 hearing today, and Qwest asked that they not be allowed
4 any additional testimony, and we opposed that, and the
5 Bench ruled. And I just wanted that also to be
6 reflected on the record.

7 JUDGE WALLIS: Yes, that is correct, we did
8 indicate that we would allow brief contextual
9 questioning, and Ms. Anderl also objected to the
10 appearance at all of public witnesses for whom Qwest had
11 no questions. We did indicate in response to that that
12 it was our view that members of the public should be
13 allowed to appear to make comments in person, that other
14 parties and the Bench might have questions for the
15 witnesses, and consequently their appearance was
16 permitted.

17 Now have we encapsulated all of the events
18 appropriately?

19 Very well, thank you very much, thank you all
20 for appearing, we're looking forward to seeing your
21 briefs and to hearing the oral argument.

22 (Hearing adjourned at 4:20 p.m.)

23

24

25