

00243

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3

4 In the Matter of the) Docket No. UT-003022
5 Investigation Into US WEST) Volume IV
6 Communications, Inc.'s) Pages 243-503
7 Compliance with Section 271 of)
8 the Telecommunications Act of)
9 1996.)

10 In the Matter of US WEST) Docket No. UT-003040
11 Communications, Inc.'s)
12 Statement of Generally)
13 Available Terms Pursuant to)
14 Section 252(f) of the)
15 Telecommunications Act of 1996.)
16)

11

12 A workshop in the above matter was
13 held on June 22, 2000, at 9:10 a.m., at 1300
14 Evergreen Park Drive Southwest, Olympia, Washington,
15 before Administrative Law Judge C. ROBERT WALLIS.

16 The parties were present as
17 follows:

18 AT&T, by Rebecca DeCook, Attorney
19 at Law, 1875 Lawrence Street, Suite 1575, Denver,
20 Colorado, 80202.

21 US WEST COMMUNICATIONS, INC., by
22 Kara M. Sacilotto, Attorney at Law, Perkins Coie, 607
23 14th Street, N.W., Washington, D.C., 20005, Steven R.
24 Beck, Attorney at Law, 1801 California Street, Suite
25 5100, Denver, Colorado, 80202, and Lisa A. Anderl,
26 Attorney at Law, 1600 Seventh Avenue, Room 3206,
27 Seattle, Washington, 98191.

28 WORLDCOM, by Ann E. Hopfenbeck and
29 Thomas F. Dixon, Attorneys at Law, 707 17th Street,
30 Suite 3900, Denver, Colorado, 80202.

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1 NEXTLINK, ELI, ATG, NEW EDGE
2 NETWORKS, NORTH POINT, McLEOD USA, FOCAL, ALTS, JATO,
3 and GLOBAL CROSSING, by Gregory J. Kopta, Attorney at
4 Law, Davis, Wright, Tremaine, LLP, 2600 Century
5 Square, 1501 Fourth Avenue, Seattle, Washington,
6 98101.

7 COVAD, METRONET, MGC, and ICG, by
8 Brooks E. Harlow, Miller Nash, 4400 Two Union Square,
9 601 Union Street, Seattle, Washington, 98101.

10 TRACER, RHYTHMS LINKS, INC.,
11 TELIGENT, and BROADBAND OFFICE COMMUNICATIONS, INC.,
12 by Arthur A. Butler, Attorney at Law, Ater Wynne, 601
13 Union Street, Suite 5450, Seattle, Washington 98101.

14 SPRINT, by Eric S. Heath, Attorney
15 at Law, 330 S. Valley View Boulevard, Las Vegas,
16 Nevada, 89107.

17 PUBLIC COUNSEL, by Simon ffitch,
18 Assistant Attorney General, 900 Fourth Avenue, Suite
19 2000, Seattle, Washington, 98164.

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24 Barbara L. Nelson, CSR
25 Court Reporter

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1 JUDGE WALLIS: Let's be back on the record,
2 please. This is the June 22, 2000 workshop in the
3 matter of Commission Dockets UT-003022 and 003040.
4 This morning, we are going to take up with Checklist
5 Item Three. Can we have the parties identify
6 witnesses who will be testifying on that? For US
7 West.

8 MS. SACILOTTO: For US West, Tom Freeberg,
9 and perhaps Mr. Owens will chime in as appropriate.

10 JUDGE WALLIS: Did we swear Mr. Freeberg
11 yesterday?

12 MS. SACILOTTO: No, I do not believe so.
13 Mr. Owens was, though.

14 JUDGE WALLIS: For AT&T.

15 MS. DeCOOK: Your Honor, Richard Thayer and
16 perhaps Kenneth Wilson on AT&T's behalf.

17 JUDGE WALLIS: And Mr. Wilson was sworn?

18 MS. DeCOOK: He was previously sworn, yes.

19 JUDGE WALLIS: For WorldCom.

20 MR. DIXON: Your Honor, I believe
21 WorldCom's issues are resolved, but in the event
22 there's any factual testimony provided, it would be
23 by Tom Priday, who has been sworn. I would note,
24 however, Mark Argenbright is here for Checklist Item
25 13 and will need to be sworn at some point today.

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1 JUDGE WALLIS: Okay. And for other
2 parties.

3 MR. KOPTA: For Nextlink, Kaylene Anderson
4 and Greg Nilges.

5 JUDGE WALLIS: Anderson, and what was the
6 other person?

7 MR. NILGES: Greg Nilges.

8 JUDGE WALLIS: All right. Can we have
9 those individuals named as witnesses for this session
10 who have not previously been sworn, please stand,
11 raise your right hands.

12 Whereupon,

13 MARK ARGENBRIGHT, KAYLENE ANDERSON, GREG NILGES,
14 RICHARD THAYER and TOM FREEBERG,
15 having been first duly sworn, were called as
16 witnesses herein and testified as follows:

17 JUDGE WALLIS: Very well. Our protocol is
18 to begin with presentation by US West's witness.

19 MS. SACILOTTO: Your Honor, Tom Freeberg
20 will address Checklist Item Three.

21 MR. FREEBERG: Good morning. I'm Tom
22 Freeberg. I filed direct and rebuttal testimony
23 representing US West on Checklist Item Three.

24 US West currently provides space to other
25 Washington carriers on over 100,000 poles and

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1 approximately 350,000 feet of conduit or duct. Since
2 1996, eight CLECs have accessed almost 4,000 multiple
3 dwelling units here in Washington. Our legal
4 obligations here call for procompetitive access via
5 timely, good faith responses to requests for space.

6 Our documented processes for filling
7 requests for pole, duct and right-of-way space has
8 three steps. The first step is an inquiry or a
9 records review. The interval is 10 days on what is a
10 standard order. A standard order typically involves
11 100 or fewer poles, 30 or fewer manholes.

12 The second step in the process is a field
13 verification. The interval on field verification is
14 about 35 days and involves a visit to the field to
15 verify that records are, in fact, accurate.

16 The third step in the process is make
17 ready, if any. And that, as we talk through this
18 checklist item today, we may also call the order
19 portion of the process. The process is arranged so
20 that it can be stopped between the first, second or
21 third steps. Cancellation kinds of provisions don't
22 apply until we are midway into the third step.

23 Some carriers may choose to review records
24 in advance of these three steps. This is documented
25 in the SGAT at 10.8.2.4, and it conforms to FCC

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1 99-266, which is the reconsideration order. And I'll
2 read briefly from it, at paragraph 107. It talks
3 about we expect a utility to make its maps, plats and
4 other relevant data available for inspection and
5 copying by the requesting party subject to reasonable
6 conditions to protect proprietary information.

7 Many carriers process requests without this
8 optional pre-order step. When they do that, they
9 effectively designate an A and a Z location, two
10 endpoints along a span, and the inquiry proceeds from
11 there.

12 Our pole duct and right-of-way access
13 obligations are contained in Section 10.8 of the SGAT
14 and in Exhibit D to the SGAT, D, as in dog. Prices
15 are contained in Exhibit A to the SGAT. I think this
16 workshop presents a good opportunity to verify that
17 the parties concur with the terms of Section 10.8
18 that were crafted in recent Colorado and Arizona
19 workshops. I plan to highlight those language
20 changes, the revisions that were intended to respond
21 to intervenors' testimony in this Washington case.

22 I won't discuss Exhibit D, since I believe
23 that agreement has been reached between the parties
24 on that document.

25 Checklist Item Three has been approved by

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1 the Nebraska Public Utility Commission, and as we
2 discussed yesterday, I don't expect that reciprocity
3 with respect to pole, duct and right-of-way access is
4 an issue here in Washington, either.

5 So my plan is to focus on six issues raised
6 by AT&T in their testimony and three raised by
7 Nextlink in their testimony. Before I go through
8 them one at a time, I'd like to just briefly outline
9 what those are.

10 The first of the six AT&T items involves
11 access to records and it involves a situation where
12 the request might be an extensive one. A second one
13 had to do with construction of facilities if state
14 and local ordinances call for it. The third one had
15 to do with US West accepting liability subsequent to
16 contract inspections. The fourth one had to do with
17 the clarification of cause with regard to termination
18 of access, termination for cause. The fifth point
19 had to do with US West's reliance on internal
20 practices and procedures with regard to inspections.
21 And the sixth had to do with US West providing
22 explicit detail on its right-of-way contracts with
23 private property owners.

24 Nextlink's three issues, briefly, I believe
25 first had to do with rates for pole, duct and

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1 right-of-way access and their being just and
2 reasonable. The second Nextlink point had to do with
3 US West processes making field verification
4 potentially an optional step in the process, an
5 optional, rather than a required step in the process.
6 I believe US West is prepared to craft new SGAT
7 language that might allow a CLEC to perform its own
8 field verification, and we can talk about that. I'll
9 come back to that. Finally, Nextlink wants to ensure
10 that CLECs' occupancy rates are not altered
11 mid-contract term without Commission approval. And
12 we'll address that, too.

13 But before we go to the Nextlink points,
14 I'd like to go back to the AT&T points one at a time,
15 and I'd like to refer you to the SGAT that has been
16 handed out and briefly cover language revisions that
17 hopefully respond to each of AT&T's points, and maybe
18 even a point or two beyond the six.

19 If you'd go to 10.8.1 and 2, yesterday we
20 discussed revisions which would remove language that
21 called for reciprocity. That I considered not a
22 point, since we worked through it yesterday.

23 In 10.8.2, however, US West agrees to
24 strike the word "underground" and to add a sentence
25 that, at the close of 10.8.1.2, which volunteers that

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1 duct and conduit may follow streets, bridges, public
2 or private rights-of-way, or maybe within some
3 portion of a multi-unit building.

4 If you'd go to 10.8.2.4, this is the clause
5 on the pre-order information, if you will, and access
6 to plats and maps and so forth. US West, in that
7 case, agreed to AT&T's proposal that extensive
8 requests not take longer than 60 days, and so that
9 language was added.

10 I believe AT&T was concerned that an
11 extensive request might be simply open-ended, from an
12 interval point of view, and so US West agreed 60 days
13 was a reasonable interval, as an absolute maximum.
14 US West also attempted to propose a definition of
15 what might constitute an extensive request, and you
16 can read the language there. It volunteers that an
17 extensive request would involve gathering of plats
18 for multiple locations, it might involve the spanning
19 of multiple wire centers in a single request or
20 consist of ten or more intrawire center requests
21 submitted simultaneously.

22 If you'd go to Section 10.8.2.8, this is a
23 section which AT&T pointed out in their testimony as
24 being associated perhaps with the securing of
25 right-of-way permissions. US West added a reference

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1 to Section 10.8.4 where US West expects to draft more
2 explicit language about what a right-of-way request
3 might constitute.

4 I think, however, here, US West needs for
5 AT&T to really point out very specifically where
6 within an order or the act our obligations might be
7 explicitly laid out.

8 At 10.8.2.14, there was concern, I think,
9 expressed by AT&T that violations during inspections
10 constitute only explicit sorts of code and standards.
11 10.8.2.20 contains the complete list of those codes
12 and standards, and so you'll see that language, this
13 agreement, replaced with a reference to Section
14 10.8.2.20.

15 At 10.8.2.16, the question of liability
16 following an inspection comes up. US West agrees
17 with AT&T's point that in fact the words "impose any
18 liability of any kind upon US West nor" should be
19 struck, and I believe that responds to AT&T's advice
20 there.

21 At 10.8.2.18, the question of cause, the
22 definition of cause and termination for cause is
23 addressed. US West agreed to strike the words "but
24 not be limited to," and added the words "material" in
25 front of the word violation, and "applicable" in

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1 front of the word law.

2 At 10.8.2.20, which was mentioned
3 previously, US West agreed to strike language which
4 referred to US West's maintenance practices and
5 procedures, agreed that that was an external and
6 changeable document and shouldn't be referred to here
7 in the SGAT. There was some language in a previous
8 workshop about the clause in the 10.8.2.20, where
9 that clause calls for the handling of a difference in
10 specifications when, in fact, two specifications
11 might apply to a situation, that US West would
12 propose applying them more stringent.

13 We had some discussion in a previous
14 workshop, talked about adding a clause behind the
15 word -- behind the phrase that says "that has the
16 force of law." US West is concerned that there could
17 be very important codes, for example, which might not
18 carry the force of law, and so did not add the phrase
19 "force of law" to 10.8.2.20.

20 Finally, at 10.8.4, some language has been
21 clarified there to outline the fact that there are
22 two steps in the process that come before the
23 placement of an order. At 10.8.4.1.3, there is a
24 reference to the inquiry review associated with
25 right-of-way being under development. And so in

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1 fact, if that is the case, I believe that's a matter
2 we'll defer to our July 6th workshop, and again,
3 would accept input from other carriers about what
4 kind of language might be appropriate there.

5 And I think those are really the highlights
6 of language changes to Section 10.8, and I believe
7 responsive to AT&T's testimony.

8 If we could turn, then, to Nextlink's
9 testimony, Nextlink was concerned that rates be just
10 and reasonable. In fact, a discovery question,
11 question number eight, was proposed by Nextlink. US
12 West responded to discovery question number eight.
13 It is Exhibit 166, I believe, in this proceeding.

14 In that discovery question, it's been shown
15 that attachment and occupancy rates are the result of
16 application of federal formula. There is some
17 information within the discovery about inquiry and
18 verification rates being the product of labor rates
19 applied to average time required to perform a set of
20 functions listed.

21 At 10.8.2.22, US West, in its SGAT,
22 proposes penalties associated with unauthorized
23 occupancy or attachment. And in association with
24 that, Nextlink points out that the \$200 per pole
25 unauthorized attachment or occupancy penalty is 68

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1 times the occupancy rate, and believe that to be
2 unreasonable.

3 As an example of the reasonability of that
4 charge, some data was offered in my testimony about
5 the Oregon Public Utility Commission's Pole
6 Attachment Task Force. That task force agreed that
7 these penalties needed to be high enough to deter
8 licensees who knowingly made unauthorized
9 attachments, needed to have progressive discipline
10 for nonresponsiveness, needed to be fair and balanced
11 and reasonable.

12 In the state of Oregon, they proposed
13 penalties that ranged from \$500 per pole for contract
14 violations to \$250 per pole for violation of permit,
15 \$200 per pole for violation of other duties, talked
16 about a failure to remedy within 60 days resulting in
17 a one and a half times the original sanction, failure
18 to remedy in 90 days, two times the original
19 sanction. That being the case, I believe US West's
20 \$200 sanction in Washington is reasonable.

21 Finally, let's see. I guess Nextlink's
22 second point, Nextlink proposed that field
23 verification within the US West process, I think what
24 they're proposing, that it could be optional, and I
25 think we can find some common ground there. I'm

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1 hopeful about that. I think language could be added
2 to the SGAT which would propose that a CLEC perform
3 its own field verification that would allow a CLEC to
4 do it on its own schedule, perhaps at its own cost,
5 with the proviso only that US West be allowed to have
6 a contract inspector accompany the CLEC as it
7 performs the verification and, of course, that US
8 West sees the output of the verification for any make
9 ready that might be necessary.

10 Nextlink's third point had to do with what
11 they proposed as Section 4.2 of Exhibit D. In fact,
12 I believe that Nextlink was referring to Section 4.2
13 of Attachment Three to Exhibit D. And if I'm right
14 about that, Attachment Three applies only to parties
15 who do not have an interconnection agreement. And in
16 that case, I'm expecting this would not apply to
17 Nextlink, and hopefully it resolves that concern.

18 With that resolution, I think that
19 concludes my comments of these matters.

20 JUDGE WALLIS: AT&T.

21 MS. DeCOOK: Thank you, Your Honor. As a
22 preliminary matter, as you can probably sense from
23 Mr. Freeberg's presentation, this is kind of a work
24 in progress that we're doing here --

25 JUDGE WALLIS: We understand that.

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1 MS. DeCOOK: -- on the SGAT language. And
2 US West provided us their revised language on Monday,
3 and we have, in Colorado, some action items, and we
4 have action items that are due on this issue in
5 Colorado today. So we have been reviewing their
6 proposed changes and preparing our action items for
7 Colorado, and we've reduced that to writing. And we
8 can hand out right now to the parties our proposed
9 revisions. I understand we may not be able to get
10 reaction from US West on the spot, but certainly I
11 think it will aid a freer discussion of the issue.

12 And Mr. Thayer will be summarizing our
13 comments that are in this document. So I'm not sure
14 what our next exhibit number is, but if you want to
15 mark this --

16 JUDGE WALLIS: Let's be off the record,
17 please.

18 (Discussion off the record.)

19 JUDGE WALLIS: Let's be back on the record,
20 please. During the brief recess, we assigned Exhibit
21 Number 221 to the memorandum of June 22, '00,
22 purporting to be from Rick Thayer. And in addition,
23 we've asked all of the witnesses, as they present
24 their summary, to identify the prefiled evidence to
25 which they referred, if in fact there is any.

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1 Mr. Freeberg, what exhibits were you
2 referencing in your comments earlier?

3 MR. FREEBERG: My direct testimony is
4 Exhibit 151-T, my rebuttal testimony is Exhibit
5 157-T, and there was reference to Exhibit 166, which
6 was the Nextlink Data Request Number Eight.

7 JUDGE WALLIS: Thank you.

8 MS. DeCOOK: Thank you, Your Honor. Just
9 for purposes of the record, Mr. Thayer will be
10 addressing a portion of Exhibit 201-T, which appears
11 from pages nine through 19 of that exhibit, and also
12 he will be addressing the newly-marked Exhibit 221.
13 And with that, I turn the floor over to Mr. Thayer.

14 MR. THAYER: I appreciate that the material
15 has just been given to US West and would not expect a
16 reaction until they've had some time to analyze it,
17 but what I would like to do is just lead them through
18 what I have proposed and the basis for the proposal.

19 In Item One, the phraseology currently used
20 by US West has "ownership and control" for the
21 Sections 10.8.1.1 and 10.8.1.2. I believe the FCC on
22 this matter said "ownership or control," so that the
23 word "and" should be struck and "or" should be
24 replaced.

25 Additionally, I suggested that the term

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1 "either directly or indirectly" be added to those
2 statements, since it has been our experience that
3 arguments have been made that while there is no
4 direct control, substantial indirect control, in
5 fact, is wielded by US West over property owners.
6 And we would like the clarification that if US West
7 does have indirect control, that we would be able to
8 get the same or similar rights that they have with
9 the MDU owners.

10 The recent experience, for example, is US
11 West has what is termed an option three with building
12 owners in Washington, which allows them, I believe,
13 the ownership of the inside wire within 12 inches of
14 the phone jack in the building.

15 When requested to access that, we have been
16 denied such access based upon that they, quote,
17 unquote, do not believe that they own or directly
18 control it. By having indirect control in this SGAT,
19 I think we would clarify that, in those
20 circumstances, US West would be obligated to provide
21 us access.

22 As to Two, I have to apologize. This was
23 done somewhat in a void by me. It does not reflect,
24 I think, the thinking of AT&T, much more than we are
25 concerned as to why a request would take 60 days for

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1 intrawire centers. Ken, do you want to address that?

2 MR. WILSON: Ken Wilson, AT&T.

3 MS. DeCOOK: You need to speak up, Ken.

4 MR. WILSON: Ken Wilson, AT&T. On

5 10.8.2.4, we had a discussion in Colorado as to what
6 constituted extensive in this paragraph, and the
7 discussion was centered around -- first we proposed
8 that if a request spanned multiple calling areas or
9 multiple rate centers, that that would definitely be
10 extensive. But in the example of a major
11 metropolitan area, and in this case, we could talk
12 about Seattle, where there are many wire centers in
13 the same local calling area, what would constitute
14 extensive.

15 And it was -- you can see by the language
16 that Mr. Freeberg proposed that US West is still --
17 is proposing that extensive be multiple wire centers,
18 meaning more than one. We would like to counter that
19 that be more than one. I believe what Mr. Thayer put
20 was in one case, two, and in another case, ten. I
21 think those should be the same number, and I would
22 propose five and five. In other words, more than
23 five wire centers or consists of five or more
24 separate wire centers requested simultaneously. So
25 we would like to counter with a five and five in Mr.

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1 Thayer's language, rather than the two and ten. I
2 think those should be consistent numbers.

3 It still would be the case that we would
4 agree extensive would be -- the extensive definition
5 would be retained if they have to go to more than one
6 place to get the plats or maps. So if the request
7 was for five wire centers, but it was in two, the
8 plats and maps were in two locations, that would
9 still trigger the extensive definition.

10 MR. THAYER: Going on, Item Three reflects
11 AT&T's acceptance with US West's proposal for Section
12 10.8.2.18.

13 For Section 10.8.2.22, I've reflected
14 language which I believe should satisfy all parties.
15 It is not a penalty section, as US West has currently
16 phrased it, to deal with unauthorized occupation, if
17 you will, of poles and ducts, but rather it is a
18 process whereby such violation could be cured, and if
19 not cured, then rectified by US West through self
20 help. It also allows the CLECs to go to dispute
21 resolution, thereby denying US West any sort of
22 arbitrary ability just to put somebody in the
23 default.

24 For Number Five, this is a topic brought up
25 in Colorado. US West has reflected they are working

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1 on some language for their Section 10.8.4.1.3. I've
2 taken an initial shot at it here. What this does is
3 provides the CLECs the ability to get copies of
4 right-of-way agreements within 10 business days of
5 the request. It allows US West to redact information
6 within that agreement that is proprietary or a trade
7 secret, which would otherwise violate US West's
8 obligations not to disclose.

9 However, it does not allow redaction of
10 information which could otherwise be demonstrable of
11 discrimination against CLECs.

12 This is an important issue for us, since
13 the only effective way we can, in many instances,
14 access MDU buildings or rights-of-way for MDUs is to
15 be able to see those agreements and assure ourselves
16 that we are being treated in a similar fashion.

17 In Number Six, I've really gone back to the
18 decision that was rendered in the arbitration between
19 US West and AT&T in Washington and reflected language
20 that we believe is very important to retain within
21 the SGAT to make it clear what our rights and all
22 CLECs' rights are to access to poles, ducts, conduits
23 and this whole topic.

24 Specifically, we would like the definition
25 of 47.3 to be included. We have had experiences

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1 whereby the -- again, this goes back to sort of
2 control or ownership -- where the definition of what
3 a duct or conduit in US West's view is very limited,
4 and when we try to access things such as building
5 risers, we are denied that access, even though
6 clearly, under the circumstances, it was within their
7 ownership or control.

8 So we think this will be very helpful to
9 clear up some of the matters that have at least in
10 the past been causing some conflict.

11 The other provisions, again, are just
12 lifted straight out of the Washington interconnection
13 agreement with AT&T and US West. It provides
14 affirmative obligations on the part of US West to not
15 prevent or delay any third party assignments of
16 right-of-ways to AT&T. It has an affirmative
17 obligation to assist us on nondiscriminatory grounds
18 of gaining rights-of-way agreements.

19 These are extremely important provisions
20 because we've had experience whereby agreements with
21 building owners at least apparently would give
22 exclusive rights to US West, and then a footnote in
23 the language says, Except as otherwise required by
24 law. Building owners have become quite concerned,
25 since they do not understand that qualifier, as

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1 except as otherwise required by law. They read their
2 exclusive agreement as a flat prohibition on allowing
3 any CLEC into the building, and we need some
4 clarification that -- or at least from our point of
5 view, that US West cannot, within its agreements with
6 building owners, prevent us from gaining access to
7 those buildings. And that concludes pretty much what
8 I offered.

9 MS. DeCOOK: And one point of
10 clarification. You know, obviously, the language on
11 6.6 is pulled directly from an interconnection
12 agreement that was approved by the Commission. And
13 to roll it over into the SGAT, clearly, you'd want to
14 be changing the AT&T references to CLEC.

15 MR. THAYER: Right, right.

16 MS. DeCOOK: But as Mr. Thayer indicated,
17 this was something that was decided by the Commission
18 here in Washington. We think it's important to be
19 part of an SGAT that's approved on this checklist
20 item.

21 JUDGE WALLIS: Very well. So understood.
22 Did you wish to offer 221?

23 MS. DeCOOK: I would like to. Thank you.

24 JUDGE WALLIS: Is there objection?

25 MS. SACILOTTO: Yes. Our first objection

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1 is obviously we're just seeing this right now, and to
2 be able to respond to this three pages of single
3 space is going to be impossible without either taking
4 a significant break in this workshop or completely
5 deferring it.

6 Second, it's our position that there are
7 issues raised in this document that are brand new.
8 For example, under One, where it has ownership or
9 control either directly or indirectly, there has not
10 been any issue raised that we should be providing
11 them with access to things that we indirectly
12 control.

13 There's been discussions about
14 documentation in primarily multiple-dwelling units
15 where US West does not have access, but AT&T wants to
16 obtain access. They wanted us to turn over their
17 documentation, but changing the definition of what is
18 ownership or control is to us a new issue that was
19 not raised at all in Mr. Wilson's testimony.

20 In addition, the entirety of the text that
21 begins at Number Six is just an entirely new issue
22 that was not raised again in any of the prefiled
23 testimony, and to my knowledge -- and Steve, you
24 know, if I'm saying something wrong, I don't believe
25 that this was something we discussed in Colorado,

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1 either.

2 And the fact that it might be in AT&T's
3 interconnection agreement does not mean that it
4 should be wholesale put into an SGAT, which is -- the
5 AT&T agreement was an arbitrated agreement, it was a
6 partly-negotiated agreement, it was one where, at the
7 end of the process, the parties were bound by the
8 result that the Commission reached.

9 In this SGAT proceeding, nobody in this
10 room is bound by, except for US West, by what's in
11 that SGAT. And so, you know, we would need to take a
12 long, hard look at this kind of language that doesn't
13 -- that no CLEC would be bound to follow, but only
14 us. I think it's a little bit lopsided.

15 It also has provisions in it that are
16 inconsistent with current FCC rulings. I look in
17 particular at the bottom, the last sentence, If US
18 West exercises its eminent domain authority on behalf
19 of AT&T at AT&T's request, then AT&T will reimburse
20 US West.

21 Well, the FCC determined in the
22 reconsideration order that Mr. Freeberg cited earlier
23 that incumbent local exchange carriers and utilities
24 have no obligation to exercise eminent domain on
25 behalf of requesting carriers. That is something

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1 that is not encompassed within our obligations under
2 the federal act.

3 So for all of these reasons and probably
4 some more, we object to this in this particular
5 workshop. I mean, maybe we can work through some of
6 these issues, but we have some problem with being
7 sprung with some new ones.

8 JUDGE WALLIS: Ms. DeCook.

9 MS. DeCOOK: Well, I think this was offered
10 as a compromise to proposed language that has been
11 offered by US West. And under that kind of auspice,
12 I think this is an entirely appropriate document.
13 You know, we could do this verbally. We chose to
14 reduce it to writing so that they would have
15 something to physically look at, as would the other
16 parties. So I don't think there's any foundation
17 argument that Ms. Sacilotto has been made to -- as a
18 sound basis for objecting to the admission of the
19 document.

20 I also think that one of the things that we
21 spoke about at the procedural conference was this is
22 not a proceeding where you can cut off what's
23 occurring. It's a transitional proceeding. Things
24 are happening day-to-day in the marketplace between
25 US West and CLECs. And as a result of that, we're

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1 going to be having experiences which will impact our
2 recommendations.

3 That necessarily means that there could be
4 incidents that occur from the time we file our
5 testimony till we get to the workshop, and even --
6 once we get to the fourth workshop, we may have
7 issues that arise on this particular checklist item.
8 And I don't think the Commission wants to foreclose
9 the record and obtaining information about those
10 experiences if they have some bearing on whether US
11 West is complying with 271.

12 The language that we have recommended in
13 this document is, number one, in response to some
14 proposals US West has made, and second, it's in
15 response to some recent experiences that we've had in
16 Washington and elsewhere that has pressed us to make
17 revisions in order to make it clear what the
18 obligation is.

19 So you know, I think it's unfounded for US
20 West to try to foreclose that information, and so I
21 would suggest that this is entirely relevant and
22 should be allowed into the record.

23 I will agree with Ms. Sacilotto on the
24 eminent domain issue, and that was a proposal that we
25 made and that's one that we can certainly negotiate

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1 amongst the two of us for inclusion or exclusion, and
2 you know, it may well be that what we talk through as
3 two parties is that US West is not willing to agree
4 to that, in spite of the FCC order, and so we'll
5 negotiate it away, but it's not a basis for excluding
6 the document.

7 JUDGE WALLIS: Ms. Sacilotto.

8 MS. SACILOTTO: Yes, I'd like to respond.
9 I have no idea what these recent experiences are.
10 They weren't identified in the testimony, they
11 haven't been identified here, so I'm at a loss to say
12 what recent experience would justify these additions.

13 But further, the language that's proposed,
14 particularly in Number Six, is from AT&T's
15 interconnection agreement, which probably I don't
16 have -- I have it here, but I think it's two or three
17 years old. So that's not new language, that's not
18 something that's just come to the fore; that's
19 something that's been around for a number of years.
20 So I don't understand why we're just hearing about
21 this now, and I maintain my objection on those
22 grounds.

23 This is -- you know, this is not a
24 situation in which we didn't -- we provided them with
25 the information. As soon as they identified their

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1 issues in Colorado, as soon as we started working on
2 language, we gave it to them. And this stuff is new.
3 It's not in response -- most of it is not in response
4 to our proposed changes, certainly the stuff that we
5 are primarily objecting to.

6 JUDGE WALLIS: Mr. Kopta, did you wish to
7 be heard?

8 MR. KOPTA: I do, Your Honor. And this is
9 really as much a procedural point as anything, with
10 this as kind of an illustration. My understanding of
11 this consolidated docket is that we are not only
12 doing a review of US West's compliance with Section
13 271, but also a review of the SGAT for its
14 reasonableness.

15 And we just had the first prehearing
16 conference of the consolidated docket. In fact, US
17 West just filed its SGAT without any opportunity to
18 provide any testimony or comments or anything else.
19 This is really the first opportunity that we've had
20 to address the terms and conditions of the SGAT,
21 which, as I look at Exhibit 221, that's what it is,
22 is proposing language for the SGAT.

23 Now, I realize that there's a great deal of
24 identity between the two issues, but -- not only for
25 this, but on a going forward basis, I think it's

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1 important that we establish the extent to which we
2 have to identify every contract language issue that
3 we might have with the SGAT in prefiled testimony, or
4 whether these sessions are going to also involve the
5 ability of people to negotiate contract language, as
6 well as US West's compliance with the strict
7 scriptures of federal law.

8 MS. SACILOTTO: May I respond?

9 JUDGE WALLIS: Do others wish to be heard?

10 Briefly, Ms. Sacilotto.

11 MS. SACILOTTO: I don't totally disagree
12 with Mr. Kopta. I believe that these sessions can be
13 used to work through language, and to the extent that
14 we negotiate that during the sessions, that's
15 productive. Our objection is to entirely new issues
16 that were not flagged or raised, then showing up and
17 with language. It's compounded to have the new issue
18 raised, but then to have a page and a half of new
19 language associated with a new issue makes it
20 extremely difficult for us to respond, and it starts
21 to impair our rights to really have a fair
22 proceeding.

23 JUDGE WALLIS: Well, I think, in light of
24 the discussion, as Ms. DeCook pointed out when she
25 proffered the document, it is not necessarily

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1 expected that you respond today. There is
2 opportunity for US West to respond. I'm not certain
3 that new issues are necessarily foreclosed, and I'm
4 not positive, after hearing the discussion, that this
5 is, in fact, an entirely new issue or that there are
6 entirely new issues here.

7 Because of the nature of the proceeding and
8 the opportunity in the follow-up session to bring
9 closure to matters, I'm going to receive the
10 document. Mr. Thayer, you've concluded your remarks;
11 is that correct?

12 MR. THAYER: Yes, I have.

13 JUDGE WALLIS: For WorldCom.

14 MR. DIXON: We have nothing further to
15 offer. Thank you.

16 JUDGE WALLIS: For Nextlink.

17 MR. KOPTA: Thank you, Your Honor. A quick
18 legal point first, or maybe a couple of points,
19 actually. US West did provide some cost support for
20 their attachment rates, and so unless either Mr.
21 Nilges or Ms. Anderson has an issue with what, I
22 don't think that Nextlink is contesting the annual
23 pole attachment or conduit occupancy fees.

24 But Nextlink does continue to believe that
25 the field verification and inquiry fees are not

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1 reasonable, and we are sort of plowing new ground
2 here, because the FCC has not addressed this issue,
3 nor has the Commission. And I know that US West, at
4 the beginning of these workshops, has stated that
5 cost and fee issues ought to be included in the cost
6 docket. At the moment, this is not one of the items
7 that is on the agenda for the cost docket, although
8 we're having a prehearing conference tomorrow, and it
9 obviously could be added.

10 So the issue I raise at this point is
11 whether it makes more sense to deal with it in that
12 docket than to deal with it here. I think certainly
13 that we can provide some response to what US West has
14 provided, but I'm not sure that we could develop a
15 rate here unless US West is willing to sit down and
16 negotiate a particular rate, which we would be
17 willing to do, as well. But I raise that at this
18 point, just as much of a procedural issue as a legal
19 one in terms of how best to deal with this and how US
20 West would like to deal with it.

21 MS. SACILOTTO: Can I interrupt you?

22 MR. KOPTA: Please do.

23 MS. SACILOTTO: Sure. I think we've been
24 thinking about this a little bit and this is one of
25 the issues I wanted to raise with Your Honor, is that

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1 when we did our chart, we were sort of under a little
2 bit of time pressure, so we tried to group things in
3 big blocks where we thought they should go.

4 And with respect to some of these poles and
5 rate issues that are plowing new ground, it might be
6 better to not -- we put all of the rates in Exhibit A
7 as being cost docket issues. I think this would be a
8 more appropriate one to put into the SGAT docket for
9 consideration, as opposed to in the Commission's cost
10 docket, because my understanding is that the
11 Commission has not conducted a cost docket on pole
12 issues. It's not, I think, within the contemplation
13 of what's going on right now, and it might be better
14 to strip out that kind of odd bird to put into the
15 SGAT docket, and that was one of the proposed changes
16 to the matrix that we provided to the parties and the
17 Commission that we would recommend, to the extent
18 they need to be reviewed.

19 JUDGE WALLIS: What is the nature of the
20 issue and the process for resolving that issue that
21 the parties contemplate? What I'm asking is is this
22 going to require a rate hearing?

23 MS. SACILOTTO: From our standpoint, I
24 don't know. It's not really my issue. As far as the
25 -- we reached at least a consensus with Nextlink on

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1 one of the rates. The other one about the field
2 verifications is their issue, so I suppose I would
3 put the ball into their court.

4 MR. KOPTA: I'm happy to return serve.

5 MS. SACILOTTO: I'm a terrible tennis
6 player, so be careful.

7 MR. DIXON: Is this going to be an ace or a
8 lob?

9 MR. KOPTA: The concern that we have and
10 why I raise this process issue is because if you will
11 look at Exhibit 166, which is US West's response to
12 Nextlink's data request on this issue, the
13 nonconfidential portion of it addresses -- the
14 supplemental response dated June 15th is in sharp
15 contrast to the confidential portion which actually
16 shows how the rate was developed. There's no such
17 demonstration for the inquiry fee or the verification
18 fee.

19 So it's hard for us to know, based on the
20 information that is available, how these fees were
21 developed using numbers and estimates of time, as one
22 would in developing any particular rate. So
23 certainly Mr. Nilges is prepared to discuss what goes
24 into and the need for any verification of space in
25 conduits or on poles, but I'm not sure, based on what

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1 is in the record today, unless US West provides some
2 information that I'm not aware of, that we could
3 actually develop a rate based on the record that we
4 have currently.

5 So while I am not opposed to attempting to
6 do that in this docket, as opposed to in the cost
7 docket, my concern is that it's going to take more
8 than what we have today to do that.

9 JUDGE WALLIS: Anything further? Mr. Kopta
10 has noted that there is a prehearing conference
11 scheduled for tomorrow in the cost docket, that it is
12 true that we are still, I understand, in the process
13 of identifying exactly what that docket is going to
14 cover.

15 It strikes me that it might be better to
16 approach the pricing issues in a docket that is
17 specifically addressed to studying costs and pricing,
18 because in that docket, we have the consulting
19 backup, we have the Staff with the expertise, the
20 parties are focusing on costing issues and pricing
21 issues, and it just seems to me to be a little bit
22 cleaner to address items such as this in that other
23 docket.

24 Now, I could be convinced otherwise, and
25 perhaps we should say that this observation is

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1 subject to whatever transpires at the prehearing
2 conference tomorrow, but that would be my preference,
3 I think, in dealing with this.

4 MS. SACILOTTO: I guess, preliminarily, we
5 don't necessarily oppose having this put into the
6 cost docket. I think our -- sort of the little bit
7 of the concern is that this is a different kind of
8 issue than what the Commission's usually dealt with
9 in the cost docket. And I know that we're up to
10 something like a 25th Supplemental Order. I don't
11 want to get to poles at the 60th Supplemental Order.

12 JUDGE WALLIS: No, we've started a new
13 docket number.

14 MS. SACILOTTO: Oh, all right.

15 JUDGE WALLIS: We'll start with Order
16 Number One.

17 MS. SACILOTTO: Great.

18 JUDGE WALLIS: So don't worry about that.

19 MS. SACILOTTO: Well, if we can keep it
20 under -- in one digit, I guess we just don't want it
21 to get mired down in that. But what Your Honor
22 proposes is fine. I think we could probably try to
23 work something out in the context of that, to the
24 extent the rates need to be reviewed, subject to what
25 happens at your prehearing conference.

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1 JUDGE WALLIS: Well, my thinking in bumping
2 this to the prehearing conference is that, at that
3 time, we will have the expertise available to that
4 docket to look at this question to see whether there
5 are advantages or disadvantages, and all of the
6 parties can take a look at it. The Commission's
7 experts in that regard are going to be available, so
8 that we will have a broader look at it than just the
9 parties who are here in the room. And ultimately,
10 with the discussions we've had here and the
11 discussions we expect to have in that docket, we can
12 come to an enlightened decision.

13 MR. DIXON: Judge, this is Tom Dixon, with
14 WorldCom. I just have a question. To the extent
15 Exhibit A has a number of rates that are under
16 development, sooner or later, the Commission's got to
17 address them. If they're not addressed in that cost
18 docket, I'm assuming the only other option is to deal
19 with it in this docket, unless we open a new docket
20 with rates that aren't either in this or the cost
21 docket.

22 MS. SACILOTTO: Well, there's the SGAT
23 docket, as well.

24 MR. DIXON: So I'm assuming that
25 determination will be made in the prehearing

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1 conference and you'd either have to pick it up in the
2 follow-up workshop, if it was going to be dealt with
3 in this docket, or identified in the other two.

4 JUDGE WALLIS: Yes. We'll try to do what
5 makes sense.

6 MR. KOPTA: Always a good idea.

7 JUDGE WALLIS: Often.

8 MR. KOPTA: I'll accept your
9 characterization. With that clarification, Nextlink,
10 then, won't address the issue of the level of the
11 inquiry fee or the field verification fee, but there
12 are issues related to the field verification, in
13 particular, that Mr. Nilges will address largely in
14 response to Mr. Freeberg's testimony.

15 But I think those are the only legal issues
16 at this point, although I do have, after we get into
17 the discussion round, some questions in terms of some
18 of the SGAT contract language, so we will save that
19 until that point.

20 JUDGE WALLIS: Very well.

21 MR. KOPTA: But Mr. Nilges is going to
22 address some technical issues, and Ms. Anderson will
23 address a policy issue that Nextlink raised in its
24 testimony.

25 JUDGE WALLIS: Very well. Could the

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1 witness start by stating his name, his occupation,
2 his title, and any exhibits that he will be referring
3 to?

4 MR. NILGES: My name is Greg Nilges. I'm
5 the manager of outside plant and access engineering
6 for Nextlink for the new markets for western United
7 States, and I don't have any exhibits.

8 Our biggest concern, after our discussion
9 there, was the need for verification. Mr. Freeberg
10 talked about it, and the timelines that they fall
11 under right now, you mentioned possibly the CLEC
12 doing the verification because of the records and the
13 time frame and the cost we'll get into later, but the
14 time frame we still feel is very unreasonable
15 compared to your having to find records to verify
16 whether there's space. It can take up to 30, 40, 60
17 days to find out whether there's space available or
18 not, to find out if we pay a certain amount of money,
19 that we've got no space at all. And so that's a big
20 concern of Nextlink's.

21 JUDGE WALLIS: Does that conclude your
22 statement?

23 MR. NILGES: Yeah, and we work a lot with
24 other utilities in the Spokane area, with Avista
25 Utilities, and we do a lot of pole attachments on

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1 their poles, and they are able to do the same
2 verification in a fourth amount of time and cost.
3 And we fail to see why it takes US West so long to do
4 the same thing.

5 MR. FREEBERG: May I respond?

6 MS. SACILOTTO: Yes.

7 JUDGE WALLIS: Mr. Freeberg.

8 MR. FREEBERG: Unless I'm mistaken, that
9 interval for field verification is 35 days, and that
10 that interval's based on some federal suggestions
11 about the time required to perform field
12 verification.

13 Furthermore, in my direct testimony at page
14 18, there is a sample of US West's track record with
15 respect to satisfying that 35-day interval. And in
16 the case of ducts, which I think is the subject on
17 the table, there's a suggestion that, through January
18 of 2000, and I'm reading from my testimony at page
19 18, lines 17 through 19, through January of 2000, 12
20 CLECs initiated 30 inquiries for duct space in
21 Washington. US West reviewed records and responded
22 to 27 of the 30 inquiries in a 10-day period. Four
23 CLECs proceeded to field verification, and US West
24 responded within the 35-day interval each time.

25 MR. NILGES: In response to that, we have a

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1 specific example in Spokane, on River Point
2 Boulevard, where we did a request on February the
3 15th, the process began, and we didn't receive
4 verification until June 30th, at a cost of \$2,600.
5 And this is for new plant that was only three years
6 old, so the records should have easily stated that.
7 And so that 35-day period was obviously overshot.

8 MR. FREEBERG: I'm afraid I'm not able to
9 respond to that particular inquiry. I just don't
10 know. I can talk about the larger picture, and I
11 have done that. I can't respond to that individual
12 situation.

13 JUDGE WALLIS: Very well.

14 MS. SACILOTTO: We can try to investigate.

15 MR. BECK: I think we're going to need more
16 information. I mean, when you say the process began,
17 there's a lot of different ways to begin the process,
18 and usually it's not with a verification, but an
19 inquiry review. Oftentimes, we get that back to you
20 in 10 days, and then we don't hear from you for quite
21 a while, and then you start the 35-day clock.

22 What you said so far isn't necessarily
23 inconsistent with a 35-day turnaround on
24 verification. So we'd need to know more information.

25 JUDGE WALLIS: Perhaps on the break, that

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1 information could be provided and US West could
2 follow up.

3 MS. SACILOTTO: Yes, we would like the
4 opportunity to do so.

5 JUDGE WALLIS: Very well.

6 MR. FREEBERG: Can I ask Mr. Nilges, do you
7 know the job number?

8 MR. NILGES: The US West job number?

9 MR. FREEBERG: Yeah.

10 MR. NILGES: I might be able to make a call
11 on the break and find out what that is.

12 JUDGE WALLIS: Well, it seems like we've
13 started our discussion phase.

14 MR. KOPTA: I'm sure Ms. Anderson would
15 like to say something very quickly before we start
16 our discussion phase.

17 MS. ANDERSON: Yeah. I wanted to bring up
18 just one issue, since a lot of what I was going to
19 talk about is put off for discussion until tomorrow.
20 And that is the \$200 proposed penalty for
21 unauthorized attachment or occupancy.

22 JUDGE WALLIS: Excuse me, Ms. Anderson.
23 Could you tell us who you are and what your --

24 MS. ANDERSON: Oh, sure.

25 JUDGE WALLIS: -- affiliation is, just as

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1 an introduction to your comments today, and whether
2 you'll be referring to any exhibits?

3 MS. ANDERSON: All right. So my name is
4 Ms. Anderson, Kaylene Anderson. I'm with Nextlink
5 Washington. I'm the manager of regulatory external
6 affairs there. I'll be referring to probably Exhibit
7 101, as well as my testimony filed in this docket,
8 which is --

9 MR. KOPTA: 191-T.

10 MS. ANDERSON: -- 191-T.

11 JUDGE WALLIS: Very good. Thank you.

12 MS. ANDERSON: You're welcome. We continue
13 to believe that the \$200 penalty is not a reasonable
14 amount to charge for what could very well be an
15 inadvertent attachment, a mistaken occupancy,
16 possibly on incorrect or bad information offered from
17 US West. The 68 times the monthly recurring pole
18 attachment rate is an amount that we haven't seen any
19 real documentation for or justification for.

20 I realize that Mr. Freeberg has been
21 referring to the Oregon Pole Attachment Task Force
22 decision that came up with this number or looked at
23 this process, and you know, I can say a number of
24 things about that, one being certainly that we
25 weren't part of that discussion. That was in Oregon,

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1 and there are a number of differences that I could
2 note in how that process was developed. And one of
3 the most important ones is that any penalty assessed
4 is predicated on the CLEC knowingly making an
5 incorrect attachment or being in a conduit
6 inappropriately.

7 But even in the event that US West would
8 want to continue to pursue some kind of penalty, we
9 would certainly want to discuss the possibility of
10 there being some sort of countervailing penalty on US
11 West in the event they give us incorrect information
12 that requires us to expend capital, manpower, perhaps
13 somehow unnecessarily imperil our network. So if
14 there's some sort of countervailing penalty in the
15 event that US West makes a mistake, the discussion of
16 penalties would be much more meaningful for us.

17 And with that, that's about all I have to
18 say at this time.

19 JUDGE WALLIS: Mr. Kopta, any questions or
20 --

21 MR. KOPTA: I might ask Mr. Nilges to
22 explain circumstances in which, from a technical
23 perspective, a CLEC may attach to a pole or occupy a
24 conduit for which it doesn't have authority
25 unintentionally.

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1 MR. NILGES: Technically, on a pole line
2 where let's say the power company has the poles and
3 US West has a pole line that intercepts that or goes
4 along the path for the same route for a block or two,
5 the ownership of the poles is often in question on
6 who placed the pole. Oftentimes, both parties are
7 attached, the utility company and US West, so there's
8 a discrepancy of ownership there. And oftentimes, US
9 West will assume ownership just because they're
10 attached to it, and they cannot always show us actual
11 verification that they own the pole. So we will
12 attach to it not knowing who the owner is.

13 MR. KOPTA: Thank you, Your Honor. That's
14 all we have in terms of direct presentation.

15 JUDGE WALLIS: All right. Why don't we
16 take a 10-minute recess now and then we'll come back
17 and be in the discussion phase, or continue, as the
18 case may be.

19 (Recess taken.)

20 JUDGE WALLIS: Let's be back on the record,
21 please. During the recess, our last Friday
22 conference came to my mind, and I recalled that it
23 did address allocation of issues amongst proceedings.
24 And I talked with Ms. Sacilotto, who indicated that
25 US West, in fact, did file the document called for in

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1 the prehearing conference order and agreed to at the
2 conference, but that the submission did not address
3 all of the cost issues that are presented by the SGAT
4 review.

5 So I have asked, following on the
6 anticipation in earlier phases of this docket, that
7 some of the SGAT issues could be addressed in
8 conjunction with the 271 review, which we are now
9 engaged in, some of the remaining issues would be
10 addressed in the pricing docket, and that others
11 would be appropriately addressed independently of
12 either of those dockets.

13 And it's going to be quite important that
14 we know going into tomorrow's prehearing conference
15 what at least US West's view is, so that others can
16 respond to that view and so that decisions can be
17 made as the pricing docket is proceeding apace.

18 MS. SACILOTTO: Could I respond?

19 JUDGE WALLIS: Ms. Sacilotto.

20 MS. SACILOTTO: I've asked Ms. Anderl if
21 it's possible for us to determine from the Exhibit A
22 which issues need to go to the cost docket and which
23 do not. I'm hopeful that we'll be able to do that by
24 tomorrow. I don't know if we can, as of yet, but we
25 are going to make our best effort to do so and to

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1 identify those issues.

2 Some of them simply won't need to go,
3 because they've already been determined in past
4 decisions, and so we're just trying to figure out
5 what needs to and what doesn't, and we will certainly
6 make our best effort to do so by tomorrow. I'm just
7 not quite sure, since time is -- we've been kind of
8 busy.

9 JUDGE WALLIS: Yes, we all have.

10 MS. SACILOTTO: But one other issue that
11 relates to this topic, but a different checklist
12 item, and perhaps we can just clear it away now, is
13 something that should go to the SGAT docket that
14 wasn't clearly marked on our submission, and I'm
15 hoping that we can just stipulate to this.

16 On our matrix, we identified the reciprocal
17 compensation provisions en masse as issues that could
18 be reviewed in the 271 docket. However, there's one
19 provision that relates to symmetrical intraLATA toll
20 charges that the parties have been in dispute about,
21 or at least AT&T and US West. And in other states,
22 in Arizona and Colorado, the parties agreed that
23 since these were toll issues, they were not
24 reciprocal compensation issues, and that they could
25 be reviewed in the SGAT docket.

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1 I did not pull out those individual
2 subparagraphs from the reciprocal compensation
3 provision and put them over in the SGAT chart, but I
4 could give those provisions now on the record, and if
5 there's no -- we could put those into the -- take
6 them out of the 271 column and put them into the SGAT
7 column, as we did in Colorado and Arizona.

8 Those would be Sections -- I just want to
9 make sure there's been no numbering change, but my
10 belief is that it's 7.3.1 and 7.3.6. They got lumped
11 in with 7.3, and those subparagraphs might be better
12 addressed in the SGAT docket, to the extent there's a
13 dispute about it.

14 JUDGE WALLIS: Responses.

15 MS. SACILOTTO: Oh, and 7.2.1.1. Sorry.
16 They all relate to the same issue.

17 JUDGE WALLIS: Responses.

18 MS. DeCOOK: Your Honor, Becky DeCook, for
19 AT&T. I'm going to have to check on that, because
20 I'm not aware of any agreement in Arizona to move it
21 into the SGAT docket, and I know that there were some
22 negotiations going on in Colorado about that, but I'm
23 not aware of the outcome. So I would like to -- that
24 was discussed at the workshop, and I know there were
25 going to be some subsequent discussions, and I'd just

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1 like to check on what happened with that.

2 JUDGE WALLIS: Others wish to comment? All
3 right. Well, let's reserve that. I'm going to ask
4 Ms. DeCook to check on it and to let us know when
5 you're prepared to respond. I'd ask, if at all
6 possible, that be tomorrow.

7 MS. DeCOOK: Your Honor, could I just have
8 the section numbers again?

9 MS. SACILOTTO: Yes.

10 JUDGE WALLIS: Let's be off the record for
11 a moment.

12 (Discussion off the record.)

13 JUDGE WALLIS: Let's formally go back on
14 the record. And Ms. Sacilotto, if you could clarify
15 exactly what it is you're proposing in the discussion
16 we were engaging in immediately before taking a brief
17 time out?

18 MS. SACILOTTO: Yes, US West has filed a
19 proposal of how issues should be divided between the
20 consolidated docket, how they should be dealt with
21 separately in what I'll call the SGAT docket, and
22 what should be going to the cost docket, and we had
23 proposed, based upon our view, that this was agreed
24 to in other states subject to AT&T disputing that, or
25 WorldCom, that the issue relating to symmetrical

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1 intraLATA toll charges, which has been raised in this
2 proceeding and others, be deferred to the SGAT
3 docket. And it would be that specific issue that is
4 mentioned in 7.3.1, 7.3.6, and 7.2.1.1. Those
5 provisions address additional issues beyond the
6 symmetrical intraLATA toll charges.

7 The proposal is to put only the issue of
8 symmetrical intraLATA toll charges to the SGAT
9 docket, not to pull everything else. That would not
10 go. Just the discrete issue of the toll charges and
11 symmetry.

12 JUDGE WALLIS: All right. Thank you very
13 much. Mr. Dixon.

14 MR. DIXON: Yes, just very quickly. I
15 don't recall specifically in Arizona and Colorado the
16 agreement. I'm not saying it didn't occur, but
17 we'll, like AT&T, take a look at it and make sure we
18 have no problem within it.

19 JUDGE WALLIS: Very well. I will ask, if
20 at all possible, if you could respond tomorrow, that
21 would be helpful.

22 MR. DIXON: We'll do so.

23 JUDGE WALLIS: Okay. Let's move into the
24 discussion phase of the Checklist Item Three agenda,
25 and let me ask who would like to begin.

00293

1 MR. KOPTA: I have a couple of clarifying
2 questions that would probably help us get started.

3 JUDGE WALLIS: Mr. Kopta, please proceed.

4 MR. KOPTA: Thank you, Your Honor. Mr.
5 Freeberg, in your presentation, you referenced a
6 proposal by US West to allow CLECs to conduct their
7 own field verification. That's the first that I've
8 heard of this. Is this something that you all are
9 working on in terms of some language to add to the
10 SGAT, or how are you planning to implement that
11 proposal or circulate it among interested parties?

12 MR. FREEBERG: This is, to my knowledge,
13 the first time we've introduced that as part of the
14 SGAT. I think that it has been part of specific
15 interconnection agreements, agreements struck with
16 individual parties. This would be a more
17 far-reaching kind of a thing.

18 I believe that parties requesting pole,
19 duct or right-of-way space have, from the outset,
20 wanted to accompany each other when field
21 verifications were done. And I think my proposal
22 today was that if, in fact, this was something which
23 resolved matters for you, made, for example, the cost
24 issues and the timing issues less critical for you,
25 it was something we were willing to consider

00294

1 drafting.

2 So I guess I thought before I drafted it, I
3 would bring it to you and see if, in fact, it was
4 something that, in fact, did resolve some issues for
5 you.

6 MR. KOPTA: Well, I'll let Mr. Nilges
7 respond, but I would assume that we are interested in
8 that.

9 MR. NILGES: Yes.

10 MR. KOPTA: So I would assume, then, that
11 we can get together outside of this workshop and
12 discuss that possibility.

13 MR. FREEBERG: I think that would be good.
14 Get together offline, review some language, bring it
15 to the next workshop, maybe close it quickly.

16 MS. DeCOOK: Just a point of clarification.
17 I assume you're going to involve all parties?

18 MR. FREEBERG: All parties.

19 MR. KOPTA: But for now, I would like to
20 get an idea of -- we talked earlier kind of about the
21 35 days, which is the standard amount of time that
22 you have included in the SGAT for a field
23 verification. I just wanted to get an explanation
24 from you about why it takes 35 days, from US West's
25 perspective?

00295

1 MR. FREEBERG: I think that what is true is
2 that requests vary, of course. I mean, there are
3 small requests, there are larger requests, and from
4 US West's point of view, there can't be, again, an
5 open-ended interval. And so, in fact, there are
6 attempts made to put a maximum number on the
7 interval. And the 35-day interval, again, as I said,
8 is one that I believe is part of discussion at the
9 federal level, and we effectively accepted that.

10 If field verification involves, for
11 example, duct and going into underground and so
12 forth, what's required is travel time for a
13 technician to do this. Technician arrives at the
14 site, potentially, in the case of underground, has to
15 redirect traffic and so forth. Technician, after
16 having safely secured the situation, has to
17 potentially take the manhole cover off. Frequently
18 the manhole is full of water. The manhole needs to
19 be pumped dry, needs to be ventilated, checked to be
20 sure it's safe to enter the manhole once it's been
21 pumped out. And then, once it's been pumped out and
22 that can be entered, then, in fact, drawings can be
23 made, sketches can be made. Often, they're done in
24 kind of a rough form in the field, brought back to
25 the office, cleaned up and made more tidy, and it is

00296

1 a process which takes several hours per manhole.

2 In the case of inquiries, again, it's a
3 process that takes less time, based, again, upon
4 typical sorts of requests, taking on the inquiry at a
5 a couple of hours, typically, by two or three
6 different job functions to satisfy the request, keep
7 a record of the request.

8 So I think that the work to have completed
9 verifications in 35 days is a reasonable kind of an
10 interval. It is an interval that is, I think,
11 typical for reinforcements in US West's conventional
12 network.

13 MR. KOPTA: And you do this for every
14 manhole along the proposed route?

15 MR. FREEBERG: Yes, in the case of an
16 inquiry here, yes, a field verification, yes.

17 MR. NILGES: Do you not already have
18 records of what's in your manholes? I mean --

19 MR. FREEBERG: Yes, and that's how we
20 process the inquiry. The records review.

21 MR. NILGES: So if I request, let's just
22 say from Point A to Point B, given addresses, you
23 can't go to your records and verify what's in the
24 conduit already? It already takes an additional
25 field visit to --

00297

1 MR. FREEBERG: Well, we do the records
2 review, as you suggest, and we turn that around in 10
3 days.

4 MR. NILGES: Okay. So you're requiring us
5 to wait and pay for you to go out and verify whether
6 your records are correct?

7 MR. FREEBERG: Well, as I proposed before,
8 potentially either of us could do this. But what
9 records can't reflect, and I think I talked about
10 this in my rebuttal testimony, maybe I'll refer to it
11 just for clarity, especially if we're talking about
12 in an underground situation, I'm on page 11 of my
13 rebuttal testimony, I'm on line 20, and offered some
14 examples.

15 I said that in the case of duct and
16 conduit, construction forces do not always follow
17 explicitly the blueprint, that post-construction
18 becomes the record. When construction forces make a
19 deviation, despite an effort to reflect the deviation
20 in the record, the change may inadvertently be missed
21 by records administrators. Emergency cable restoral
22 situations can also create records inaccuracies.
23 Furthermore, records cannot verify the existence of
24 conduit that has been crushed over time. A field
25 visit is necessary to evaluate any of these potential

00298

1 issues with duct and conduit access.

2 MR. NILGES: Well, in response to that,
3 though, in a real world situation, your construction
4 drawings are simply construction drawings. Yes, the
5 construction crews don't always have to follow that
6 because of a deviation, but that's what your as-built
7 records become. So your inspectors, your
8 construction crew are drawing field notes, doing the
9 as-built. Those become your records bible. Those
10 become part of your records, not your preconstruction
11 drawings. And that's a standard practice. So I
12 don't hold a lot of weight in that response there.

13 MR. FREEBERG: I think as-built is also
14 important. No question about that. But especially
15 the question of the conduit being crushed over time
16 is something that simply records can't reflect and
17 potentially would have us mid-job finding all of a
18 sudden that we now need to retrench, we need to back
19 up, because in fact we've now found, mid-job, we've
20 got an impasse. We could have discovered that
21 earlier on and not, you know, had that problem.

22 MR. NILGES: True, but before we would
23 deploy a crew to install the cable, we would proof
24 the conduit, so we wouldn't get to mid-job. We'd
25 proof the conduit first.

00299

1 MR. FREEBERG: When you say proof, do you
2 mean field verify?

3 MR. NILGES: Yeah, we would actually,
4 before we would start, we would blow a line or pull a
5 mandrel through it. So yes, field verify, but --

6 MR. FREEBERG: I think we're agreeing,
7 then, that field verification is important.

8 MR. NILGES: To an extent, yes.

9 MR. FREEBERG: Once again, I'd like to
10 think that differences of point of view here could be
11 worked out if, in fact, you were allowed to do the
12 verification and we simply accompanied you, and hope
13 you could see it that way.

14 MR. KOPTA: I think that we'll certainly
15 explore that. I had a few questions about the SGAT
16 provisions dealing with access to poles, ducts,
17 conduits and rights-of-way, and I'm sorry Mr. Owens
18 isn't here. I don't know whether you'll be able to
19 answer all of these, but we'll do what we can.

20 The first question that I have is US West
21 jointly owns poles with power companies like Avista
22 or Seattle City Light, don't they?

23 MR. FREEBERG: Yes, I believe so.

24 MR. KOPTA: How do these provisions affect
25 jointly-owned poles?

00300

1 MR. FREEBERG: I think, as your witness
2 proposed in the example of a situation where a US
3 West pole route and a power company pole route
4 intercepted one another, that, in fact, US West
5 might, again, where it has the ownership and control
6 to do so, grant third parties opportunity to attach
7 to it.

8 So what I think is true is it could vary,
9 but, in fact, doesn't preclude attachment, I don't
10 believe.

11 MR. KOPTA: Oh, I'm not saying that.

12 MR. BECK: Greg, may I clarify, because I
13 think it is somewhat of a legal question.

14 MR. KOPTA: Oh, yeah, sure.

15 MR. BECK: I think the answer is if there
16 is truly a joint ownership situation, as opposed to a
17 situation where we're mistaken as to who owns and
18 there's only one owner, I think the question is does
19 the joint ownership allow us to give access to a
20 third party or does it prevent us from giving access
21 to a third party or is it silent on that, and what is
22 the legal significance of silence in that situation.

23 And I think the answer is that the SGAT
24 says if we can do it, we are obligated to do it, if
25 we have sufficient ownership or control to do it.

00301

1 MR. KOPTA: And that's one aspect of it.
2 The other is that I know that there are joint pole
3 ownership agreements between US West and a power
4 company, and I'm not sure the extent to which they
5 address this issue, but does the CLEC need to go to
6 both US West and the joint pole owner. And in that
7 circumstance, who does the make ready, do you have to
8 go to both, can you just go to US West and have US
9 West say, Oh, by the way, Avista, we're allowing
10 attachment --

11 MR. BECK: I think that would be a
12 case-by-case joint ownership question. It would come
13 up on each request and verification, where we would
14 have to look at that joint ownership agreement with
15 that power company and US West and see, you know,
16 perhaps that's vested in one of the companies or the
17 other or -- depends on who gets the request.

18 MS. SACILOTTO: Yeah. And Steve, correct
19 me if I'm wrong, but there's, as part of this
20 process, and this is, frankly, one of the issues that
21 the parties have been disputing somewhat, we do the
22 review and we find out what -- we determine what our
23 ownership rights are. And to the extent that we have
24 ownership or control over the facility, we provide
25 access. To the extent that we don't, on a

00302

1 case-by-case basis, because you don't know -- it has
2 to be done that way, because of your requests, then
3 we point you in the direction you need to go to get
4 that information.

5 So you can't answer it globally because,
6 for each individual pole, it might be different.

7 MR. KOPTA: What about rates for
8 jointly-owned poles? Does the rate take into
9 consideration that a CLEC may have to pay a portion
10 of a rate to Avista, just to use them as an example,
11 as opposed to paying for the whole pole rate from US
12 West?

13 MR. BECK: I guess that would depend on the
14 agreement, again. I mean, if we have the sole right
15 to provide you access, I would think that we would
16 get the whole fee and you wouldn't have to pay the
17 power company, but I don't know. I think that would
18 be an agreement-by-agreement basis. And if you had
19 particular issues, you know, we'd be happy to address
20 those. It's kind of hard to do it in the theoretical
21 vacuum.

22 MR. KOPTA: Well, and again, I'm not
23 familiar with all of your joint pole agreements, nor,
24 I'm assuming, are you, but I'm just trying to see if
25 there's a way to avoid the situation in which there's

00303

1 confusion as to which of the joint pole owners to
2 approach and how much you're paying to each joint
3 pole owner and whether you're paying the pole
4 attachment fee to US West and the pole attachment fee
5 to Avista or some --

6 MR. BECK: Yeah, and I think the question
7 would be, you know, if it comes back there's joint
8 ownership, then the question that you need to ask is
9 can I see that agreement, and that will tell you the
10 answers to each of these questions on a case-by-case
11 basis.

12 MR. KOPTA: It's your understanding,
13 anyway, that those agreements would address who gets
14 what share of --

15 MR. BECK: Or there could be silence, and
16 then we'd have to figure out what state law or
17 federal law means in that situation.

18 MR. KOPTA: Okay. One of the issues that
19 Nextlink had raised in its testimony is sort of the
20 interrelationship between the different provisions
21 that you have governing pole attachments in the SGAT.
22 And as I count them, there are three different
23 places. One is in Section 10.8, the other is in
24 Exhibit D, and then there's also an Attachment Three
25 that's for folks that don't have an interconnection

00304

1 agreement, which I agree with you, we're not going to
2 deal with.

3 MR. BECK: Yeah. But just to clarify,
4 Attachment Three is part of Exhibit D.

5 MR. KOPTA: Oh, okay. But to what extent
6 is Exhibit D applicable to a CLEC with an
7 interconnection agreement or who has opted into the
8 SGAT. And I believe I'm probably looking, for your
9 reference, at Section 10.8.2.

10 MR. BECK: The answer is that it is fully
11 applicable to all CLECs, except for Attachment Three.
12 So Exhibit D has kind of the main part of the
13 document, the introductory part, which sometimes is
14 referred to as Exhibit D, okay. And then there's
15 Attachment 1-A, there's Attachment 1-B, and there's
16 Attachment Two and there's Attachment Three.
17 Everything except Attachment Three in Exhibit D would
18 apply to a CLEC opting into the SGAT. CLEC, sorry.

19 MR. KOPTA: I'm a little confused about why
20 it was structured that way, because there seemed to
21 be some duplication between Section 10.8 and Exhibit
22 D. For example, the inquiry process is in both. And
23 then there's -- another example is that there is a
24 dispute resolution provision in Exhibit D, but
25 there's also a dispute resolution not even in 10.8;

00305

1 it's just part of the regular SGAT.

2 MR. BECK: I think I know where you're
3 going with this, Greg, and maybe I can clarify it.
4 First of all, the reason that Exhibit D exists is it
5 is a document that we had well before the SGAT came
6 into existence that was required whenever anybody,
7 CLEC or not, wants to come and attach or have access
8 to poles, ducts, or right-of-way.

9 And what we wanted to do was to keep the
10 process relatively singular and streamlined and
11 efficient so that we didn't have a bunch of different
12 documents coming into this product manager or product
13 group that they might have a little bit more
14 difficulty, require more manpower to process these
15 requests. So Exhibit D was kind of opted into the
16 SGAT, because it was pre-existing, it was a system
17 that was working for us, and so that's why we
18 referenced and incorporated it into the SGAT.

19 However, to the extent there are
20 differences between the two, we -- this came up, I
21 believe in Arizona quite a while back -- we put in
22 10.8.2.24, which clarifies kind of the hierarchy of
23 these documents, what governs in the event of a
24 conflict between documents, and the highest, of
25 course, is federal law and federal regulations, then

00306

1 there's the SGAT terms itself, and then, finally, if,
2 you know, basically, if there's no conflict with
3 Exhibit D and any of these other things, Exhibit D
4 governs.

5 MR. KOPTA: Okay. Well, as I'm looking at
6 that section there, I don't see Exhibit D. I do see
7 attachment --

8 MR. BECK: There's a typo there. It used
9 to be called Attachment I in Arizona. We changed
10 that, and it didn't make it into this SGAT. So it's
11 something we're going to need to change. So to
12 clarify for the record, Section 10.8.2.24, where it
13 refers to Attachment I, that should come out and it
14 should be substituted with Exhibit D.

15 MR. KOPTA: Well, that --

16 MR. BECK: Does that help?

17 MR. KOPTA: That helps tremendously.

18 MR. BECK: Sorry about that. We just
19 figured that out five minutes ago, so --

20 MR. KOPTA: See, these are productive
21 workshops. I'm looking at Section 10.8.4.2, which
22 refers to the field verification proposed for poles,
23 ducts and rights-of-way. And I see that you have
24 revised this about halfway down on this page in this
25 section. US West will provide, as applicable, colon,

00307

1 and then there's a series of things that US West is
2 going to do.

3 And I guess my question, maybe this is more
4 for Mr. Freeberg, is what do you mean by "as
5 applicable," and is this something that you would do
6 if you had it, but won't provide it if you don't, or
7 are there circumstances where it makes sense and
8 circumstances where it doesn't? I mean, what are we
9 trying to accomplish here?

10 MR. FREEBERG: It's a good question that
11 you ask. In the section that precedes this, we've
12 broken it into three pieces, one for innerduct and
13 conduit, one for poles, and a third for right-of-way.
14 In this section, we grouped all three into one
15 section. Arguably, we could have broken this up into
16 three, but the "as applicable" intended to say,
17 depending upon whether the field verification is for
18 poles or ducts or for right-of-way, these things
19 might or might not apply.

20 MR. KOPTA: Okay. So the contemplation is
21 that, for example, if we're asking about conduit,
22 that whatever's applicable to conduit, you would
23 provide?

24 MR. FREEBERG: Yes.

25 MS. SACILOTTO: Exactly.

00308

1 MR. KOPTA: That might be something we may
2 want to clarify, if --

3 MS. SACILOTTO: Well, this was our attempt
4 to clarify.

5 MR. BECK: We could add language after "as
6 applicable," depending on whether the request or the
7 verification request pertains to poles, ducts or
8 right-of-way. I mean, would that help?

9 MR. KOPTA: I think that would help.

10 MR. BECK: Okay.

11 MR. KOPTA: There's sort of a grammatical
12 question that I have, which is after the first
13 semicolon, you've added "and from whom." With that
14 addition between those two semicolons, that doesn't
15 make sense.

16 MR. FREEBERG: I believe the semicolon
17 belongs behind whom.

18 MS. SACILOTTO: Yes.

19 MR. KOPTA: Oh, okay.

20 MR. FREEBERG: Does that read better?

21 MR. KOPTA: Definitely.

22 MS. STRAIN: I'm not sure I got that.

23 MR. KOPTA: Section 10.8.4.2, there you see
24 the addition "and from whom." Move the semicolon
25 from after "required" to after "whom."

00309

1 MR. DIXON: This is the English test part.

2 MR. BECK: Thanks for that.

3 MR. KOPTA: Just to prove that I've read
4 it. Section 10.8.4, I have to confess, I got lost
5 trying to read through all of this. And there are
6 some -- I think, really, it's more of a clarification
7 than anything else, but I just wanted to walk through
8 it with you to see if we could figure out this.

9 MR. BECK: Are you talking about the entire
10 Section 10.8.4 or --

11 MR. KOPTA: There are several different
12 issues in it. I mean, it's a long section,
13 obviously. The first question that I have is in the
14 second -- well, let's start with a conceptual
15 question. My sense from this section is that US West
16 is basically saying when we give you an estimate,
17 it's just that. If it costs us more to do this, then
18 we'll bill you for it; if it is less, then we'll give
19 you the difference. Is that more or less what you're
20 trying to --

21 MR. BECK: Just so the record's clear,
22 you're talking about 10.8.4.4; right?

23 MR. KOPTA: Mm-hmm.

24 MR. BECK: I think previously you just said
25 10.8.4.

00310

1 MR. KOPTA: Oh, okay. Yeah, you're right.

2 MR. BECK: And sorry, Tom, you can go ahead
3 and answer that.

4 MR. FREEBERG: I believe the language in
5 10.8.4.4 is crafted so that the CLEC pays the
6 cost-based rate. And it allows for correction to
7 that if, in fact, the estimate proves to be off the
8 mark.

9 MR. KOPTA: Okay. So I take it, then, even
10 though you say if US West requests, then the CLEC
11 will be responsible for payment, that really that's
12 kind of superfluous, because US West is going to
13 request if it costs more.

14 MR. FREEBERG: I think the language crafted
15 in here allows both parties to go to the other and
16 say, in this case, I think the estimate is off of
17 what it ended up costing. Let's get together and
18 talk about what we really did spend and make the
19 correction. So I think it allows both parties to do
20 that, on request.

21 MR. BECK: Yeah, there's a sentence kind of
22 in the middle -- I agree it's very long, but it
23 starts with, If the actual make ready costs are less
24 than the estimate, an appropriate credit for the
25 difference will be issued upon request. Therefore

00311

1 -- and there's an extra "e" in therefore there, while
2 we're doing the English lesson. But so that, you
3 know, as Tom said, is kind of a reciprocal obligation
4 on our part to give you a credit if the estimate is
5 in error in your favor.

6 MR. KOPTA: Okay. And that's really what I
7 was trying to get at in terms of what's going on.
8 But some of the timing is difficult and seems to be
9 inconsistent in terms of when the request comes in.
10 I mean, there seems to be a window for making the
11 request. And I'm not sure whether we might not
12 better spend time talking about this offline than on
13 the record here, but it just seems like there are
14 times when the make ready wouldn't be done yet and
15 yet there would be a requirement for a refund, and
16 it's just -- it doesn't seem to fit together very
17 well.

18 MR. BECK: If that's okay with everybody
19 else here, you know, we'd be okay to put a
20 placeholder in the record here and talk to you
21 offline on that, or we can do it on the record. But
22 I agree with you. I think it might be more efficient
23 to do it off the record.

24 MR. KOPTA: Okay. Well, if that's
25 acceptable to all the parties, then that would be

00312

1 what I'd propose, because this is sort of like a
2 contract negotiation, and I don't know that there's a
3 real need to put this on the record.

4 MR. DIXON: Tom Dixon, for WorldCom. I
5 just would point out, MCI -- excuse me, then-MCI, now
6 WorldCom -- at that time, it was still MCI. When we
7 did this in Arizona, we actually spent a lot of time,
8 so I'm going to take some credit or discredit for
9 this particular paragraph, because we spent quite a
10 bit of effort putting in dates, talking about how
11 many days, whether they were business days or
12 calendar days.

13 So I'd just note, to the extent you guys do
14 get into some offline discussions on that, we'd like
15 to be involved, since we did have some interest in
16 making sure our cash flow was better than theirs.

17 MS. DeCOOK: Becky DeCook. I would second
18 that, since we were involved in those negotiations,
19 as well.

20 MR. BECK: Argue with them.

21 MR. KOPTA: It's all their fault. The only
22 other thing I have, other than that one sentence that
23 you referenced that we're going to look at, is I'm a
24 little confused toward the end, and it's a sentence
25 that's about two-thirds of the way down that starts,

00313

1 If US West denies the poles, innerduct, ROW request,
2 the 45 days, again, may or will obviously be affected
3 by the other timetable that you've added, because you
4 may not be able to do it in 45 days, based on the
5 table that gives you up to 95 days for a field
6 verification.

7 I understand you're adding the 10 days for
8 the first part, the inquiry, and then 35 days for the
9 standard amount of time, but there may be some
10 deviation from that, obviously. And so unless you
11 guys are willing to say that you'll give us an answer
12 within 45 days regardless --

13 MR. BECK: Yeah, that's a good point. We
14 should probably just cross-reference the schedule in
15 Exhibit D, rather than stating 45 days.

16 MR. KOPTA: And the other -- in that same
17 sentence says, it says that US West will refund the
18 difference between the actual make ready costs
19 incurred and those prepaid by the CLEC, if any, upon
20 request.

21 You're not going to be doing, actually, any
22 make ready before you tell us yea or nay, are you? I
23 mean, my understanding of make ready is that that's
24 getting the pole ready or getting the conduit ready,
25 so we're not going to be at the point where you guys

00314

1 are doing that, and then tell us, Oh, by the way, we
2 can't give you any space.

3 MR. FREEBERG: Yeah, I think it's
4 misplaced. I think it actually belongs elsewhere. I
5 mean, when we revise and review the 45-day interval
6 there, I think that belongs not in this section, but
7 in a previous section, for the reason you just
8 mentioned, Greg.

9 MR. KOPTA: Okay. That's what I thought.
10 Actually, I skipped over something. And this is just
11 a typo, I think. Section 10.8.4.1. In the last line
12 of that section, you've added a completed Attachment
13 1-B from Exhibit D. Do you mean 1-A, since that's, I
14 think, the inquiry, and 1-B is what you give back to
15 us.

16 MR. BECK: Right. Isn't that what it says?
17 We give you Exhibit 1-B, or attachment --

18 MR. KOPTA: It says, The CLEC will include
19 the appropriate inquiry fee with a completed
20 Attachment 1-B from Exhibit D. And my understanding
21 is this is the inquiry, this is the first step, so it
22 would be 1-A, instead of --

23 MR. BECK: You're absolutely right.

24 MR. DIXON: So it should be 1-A?

25 MR. BECK: Mm-hmm.

00315

1 MR. FREEBERG: Yes.

2 MR. KOPTA: In Section 10.8.5, this, again,
3 raises the issue that we discussed in our testimony
4 in terms of some confusion over whether the rate
5 that's in the SGAT is the rate for the length of the
6 contract or whether it's subject to change. And I
7 think, based on what you've said, that it's the rate
8 as long as the agreement is in place, it's not going
9 to change, but this also sort of gave rise to that
10 issue, since it talks about, in the second sentence,
11 fees will be computed in compliance with the
12 applicable, et cetera.

13 I mean, if they're already in the SGAT, is
14 there a need to reference how the fees are going to
15 be --

16 MR. BECK: It could be "have been" instead
17 of "will be." Is that fair?

18 MR. KOPTA: I think that's fair and would
19 give us a little more comfort that we're not going to
20 have to look at new fees halfway through the
21 agreement.

22 MS. HOPFENBECK: What paragraph was that?

23 MR. KOPTA: Paragraph 10.8.5.

24 MR. BECK: Although there are still some
25 ICBs in here, in 10.8 in Exhibit A. So that raises a

00316

1 question as to "will be," as opposed to "have been."
2 Did we replace all of them in 10.8? Do we have that
3 new exhibit? This is it.

4 MS. DeCOOK: I thought you got rid of all
5 the ICBs.

6 MR. BECK: I take that back. There are no
7 ICBs left.

8 MR. KOPTA: I believe the only ICB is make
9 ready, which is going to be based on actual cost, and
10 so --

11 MR. BECK: Right, and that's already
12 addressed in a separate paragraph.

13 MR. KOPTA: Right.

14 MS. DeCOOK: So what would get changed to
15 have been?

16 MS. SACILOTTO: Will be.

17 MS. DeCOOK: I know there's a number of
18 will bes.

19 MS. SACILOTTO: Fees will be.

20 MR. FREEBERG: The first one, in front of
21 the word "computed."

22 MS. DeCOOK: Thank you.

23 MR. KOPTA: I think those are all my nits.

24 MR. BECK: Just to be clear, I think we
25 ought to actually put in some language here that says

00317

1 "with the exception of make ready, the fees have
2 been," and then, in relation to make ready, they will
3 be. So I don't want to go through all of that
4 drafting right now, but that's the thought that I
5 think we need to put in here to be complete.

6 MR. KOPTA: Well, and actually what we --
7 it may be that that sentence is just dedicated to
8 make ready, because the prior sentence already says
9 that we'll pay the fees that are in the attachment,
10 since you added that.

11 MR. BECK: Okay.

12 MR. KOPTA: But I agree.

13 MR. BECK: So we could just say make ready
14 fees will be -- don't change the will be, but put
15 make ready in the beginning of the sentence.

16 MR. KOPTA: Great minds running the same
17 track.

18 MS. SACILOTTO: It's an easier change.

19 MR. BECK: Sure is.

20 MR. KOPTA: Even better.

21 MR. FREEBERG: Did we agree on that?

22 MR. BECK: I think so.

23 MR. DIXON: Just to make it clear, after
24 the reference to Footnote 42, it will now read, Make
25 ready fees will be computed, et cetera.

00318

1 MR. BECK: Mm-hmm.

2 MR. DIXON: Okay.

3 MR. BECK: While we're in discussion mode,
4 may I ask a couple questions of you, Rick?

5 MR. THAYER: You bet.

6 MS. DeCOOK: Can I just ask a question on
7 that before you --

8 MR. BECK: Yes.

9 MS. DeCOOK: I guess that confuses me. Are
10 make ready fees, are there applicable state, local,
11 federal regulations on make ready fees?

12 MR. BECK: I think the idea is if there are
13 applicable local and state. For example, Washington
14 has the ability to regulate that, unlike a lot of
15 states. They have their own pole attachment act.

16 MS. DeCOOK: Okay. Thanks for that
17 clarification.

18 MR. FREEBERG: Can I make a proposal here?

19 MR. BECK: Yes.

20 MR. FREEBERG: In the same section, at
21 10.8.5, where it says such, what if we replaced that
22 with "usage."

23 MR. BECK: Next sentence. So the very next
24 sentence, the word "such" would be deleted and the
25 word "usage" would be added.

00319

1 MS. DeCOOK: Steve, before you go to your
2 questions, can I ask one question of you? I think
3 there's a typo, based upon --

4 MR. BECK: That's impossible.

5 MS. DeCOOK: But it's one of the issues
6 Rick raised, and I'm hoping we can just dispense with
7 it. But in 10.8.1.1 and 2, where it says "where it
8 has ownership and control," but in 10.8.1.3, it has
9 "where it has ownership or control," did you intend
10 to say "or" instead of "and" in those prior sections?

11 MR. BECK: Yeah, that was something I was
12 going to get to here. Changing the "and" to "or" is
13 fine with us.

14 MS. DeCOOK: Okay, good.

15 MR. DIXON: Where is that?

16 MS. STRAIN: Where is it, again?

17 MR. BECK: This is in 10.8.1.1 and
18 10.8.1.2. And in each of those, the same phrase
19 exists at the beginning, "Where it has ownership and
20 control to do so," and AT&T has proposed that we
21 change the "and" to an "or," and we agree with that
22 change, because it's -- and just to note for the
23 record, it's consistent with 10.8.1.3 now with that
24 change.

25 MS. STRAIN: Can I just get a

00320

1 clarification? Wasn't that the language that you
2 said would not be applicable in Washington?

3 MR. DIXON: Yes.

4 MS. SACILOTTO: I think I can clarify. The
5 part that would not be applicable is what immediately
6 follows that phrase, the "each party will." That
7 will need to be revised, but the where -- in 10.8.1.2
8 and 10.8.1.1, the "where it has ownership or control
9 to do so" would remain. And then there's a final
10 sentence in 10.8.1.2 that begins "Duct and conduit
11 may." That would also be retained. That would not
12 be a Washington change.

13 So what we're really talking about is the
14 language in those two provisions that says "each
15 party," and then the language that says the other.

16 MS. STRAIN: Okay. So what it will say now
17 is "Where it has ownership or control to do so, US
18 West will provide the CLEC with --"

19 MS. SACILOTTO: It will essentially go back
20 to what it was in those particular parts.

21 MS. STRAIN: Okay. Thank you.

22 MR. BECK: Was that all you had there,
23 Becky?

24 MS. DeCOOK: Yes, thank you.

25 MR. DIXON: I'm sorry, only because you

00321

1 guys have been doing some of them with 10.8.5,
2 there's a reference to make ready fees, there's a
3 reference to usage fees, and there's a reference to
4 annual fees, and the next lesson says reference to
5 such fees, so I'm trying to figure out which such
6 fees, which of those three, or if that's meant to be
7 all three, two of the three, or just one. So maybe
8 that such needs to be clarified now, since we've now
9 described three different types of fees.

10 MR. BECK: Let me make a proposal here.

11 MR. DIXON: I'm not trying to get you to do
12 it on the fly.

13 MR. BECK: No, I think it's a good point,
14 actually. The sentence that starts with annual fees,
15 that really is referring to annual usage fees. So
16 usage fees can be annual or they could be semiannual,
17 as we discussed in Arizona, per your request, as a
18 matter of fact.

19 And so what we're clarifying here is if you
20 have kind of opted into annual or have simply not
21 made an option or an election, it's annual, and those
22 will be assessed on January 1. So we need to say
23 annual usage fees instead of annual fees there.

24 MR. DIXON: Presumably, the same change
25 with semiannual usage fees?

00322

1 MR. BECK: Exactly.

2 MR. DIXON: Then, when you talk about the
3 such fees in the next sentence, are we still dealing
4 with usage?

5 MR. BECK: I think you could just get rid
6 of "such" and just say "usage." Or are we saying
7 make ready fees, also?

8 MS. SACILOTTO: Why don't we -- can we
9 strike -- or just say fees?

10 MR. BECK: Or fees, yeah.

11 MR. FREEBERG: In the make ready section,
12 at 10.8.4.4, in about the second sentence, maybe the
13 third, we comment on that again, I guess.

14 MS. SACILOTTO: So why don't we just say
15 fees?

16 MR. BECK: That's also fine.

17 MS. DeCOOK: In the last one?

18 MR. BECK: Get rid of the word "such."

19 MS. SACILOTTO: Second to the last section,
20 no "such."

21 MS. DeCOOK: Okay.

22 MR. BECK: Okay. Now, I guess I still have
23 questions for you, Rick. You mentioned, I think, one
24 example -- I'm going off of Exhibit 221, which was
25 your memorandum that you passed out this morning.

00323

1 And on Point One, I think we've talked about your
2 first issue, which was changing "and" to "or," and
3 we've agreed with you on that. But then we have this
4 "either directly or indirectly" proposal from you.
5 And I believe it was Arizona where this came up, and
6 it may not have been your point; it may have been
7 WorldCom's, then-MCI's, but we talked about it a lot
8 in -- I believe it was Arizona. Could have been
9 Colorado, but I'm pretty sure it's Arizona.

10 And what we came up with there was that
11 your issue was taken care of by the phrase, which we
12 don't have quoted here in your memorandum. If you go
13 to 10.8.1.1, it says, "Where it has ownership or
14 control to do so," I think that "to do so" part of
15 the phrase tended to take the concerns out of this
16 directly or indirectly and it just basically leaves
17 you with the impression that if we have a legal
18 ability to provide access to a third party, to a
19 CLEC, then we're obligated, under these clauses, to
20 do so. Whether it's direct or indirect is fine.

21 But what I'm concerned about is that what
22 you're driving at, perhaps, is not an indirect legal
23 right, but some sort of bargaining power that you
24 feel that we have with a property owner and you would
25 like us to exercise that on your behalf. And I don't

00324

1 think that that's encompassed by Section 224.

2 MR. THAYER: My concern mostly has been
3 from some experience that the phraseology within the
4 agreements with the owner is that there's an
5 exclusivity of the arrangement with the owner and
6 there's that phrase, "except as otherwise required by
7 law."

8 My view of indirectly would be that you
9 would verify that that phrase meant that the owner
10 could permit us to come in. So that's the kind of
11 thing I'm looking for, is that when clarification is
12 sought, that you indirectly are able to clarify
13 things, versus -- I have had the experience, not with
14 US West, but another ILEC, that says, We're not going
15 to tell you what that means. And in turn, what
16 happens, the owner goes, Well, geez, I'm at risk, I'm
17 not doing anything. So that's really what my issue
18 was.

19 MR. BECK: Maybe we could take that one
20 offline and talk about that further, and I just --
21 I'm not sure that the language you've proposed here
22 necessarily takes care of that and is very broad and
23 concerning to us. On the other hand, maybe your
24 actual narrow problem might be something we can take
25 care of with different language.

00325

1 MR. THAYER: Okay.

2 MS. DeCOOK: Yeah, I agree.

3 MR. THAYER: That's fine.

4 JUDGE WALLIS: What provision does that
5 relate to?

6 MR. BECK: That relates, Judge, to 10.8.1.1
7 through 10.8.1.3. And the trigger for the whole
8 discussion, Judge, just to make the record clear, is
9 Exhibit 221 from AT&T, in its Point Number One in
10 that exhibit.

11 JUDGE WALLIS: Thank you.

12 MR. BECK: And the rest of the stuff,
13 again, I think that we need to have a little time to
14 look at in Exhibit 221.

15 MR. THAYER: Understood.

16 MR. FREEBERG: Could I ask just one more?
17 Tom Freeberg, US West. Rick, on Number Five --

18 MR. THAYER: Yeah.

19 MR. FREEBERG: Is there a place in an order
20 or an act that we could go to get more guidance on
21 that point?

22 MR. THAYER: I don't understand your
23 question. We are filing in Colorado some greater
24 detail as to why we believe this is appropriate, so
25 if that's the answer to your question --

00326

1 MR. FREEBERG: I just wondered if, in the
2 reconsideration order, the first order, any order, we
3 have more explicit --

4 MR. BECK: Hold on, Tom. I think what he's
5 saying is we have to file supplemental position
6 statements on this very issue in Colorado, so I think
7 Rick's saying take a look at that when it comes in,
8 and we'd be happy to do that.

9 MR. FREEBERG: All right. Thanks.

10 MR. THAYER: You said it better than I did.

11 MR. BECK: Any other issues you wanted
12 clarified while we're --

13 MR. FREEBERG: I don't think so.

14 MR. BECK: -- on the topic?

15 MS. SACILOTTO: Well, I guess I have a
16 question. I know that we provided you with our SGAT
17 changes relatively recently. But is there -- of the
18 things that Tom discussed in his presentation and
19 where we proposed language, are there any that we can
20 change from proposed to consensus at all today?

21 MR. DIXON: Kara, this is --

22 MS. SACILOTTO: I don't know if there are
23 any that are relatively minor.

24 MR. DIXON: Kara, I'm sorry. I've sent
25 this off to Michael Schneider, who is the person who

00327

1 worked this section. I've been having real trouble
2 with the mail, even seeing if he's been able to look
3 at this. So I can't give you consensus today.
4 Nothing in here struck me as being problematic, but
5 he really is our expert on it, so I'll follow up with
6 you.

7 MS. SACILOTTO: Okay.

8 MR. BECK: I guess, well, there are a
9 couple things, actually, I think maybe that we could
10 try and clarify in this, just so we know what to take
11 back on some of these issues.

12 Now, on Number Two in Exhibit 221, you have
13 stated -- and is your current proposal that we should
14 strike number two and put in five?

15 MR. THAYER: Yes.

16 MR. BECK: Okay.

17 MS. DeCOOK: Except for the first number
18 two; right?

19 MR. THAYER: Right, more than two
20 locations.

21 MS. DeCOOK: Is not a revision. We're fine
22 with that. But then the subsequent reference to two
23 wire centers and the reference to ten or more
24 separate wire centers should be revised to reflect
25 five in both cases.

00328

1 MR. BECK: Okay. How do you reconcile that
2 with the discussion we had in Colorado about major
3 exchange areas that have a lot of wire centers in
4 them? I mean, five wire centers is a lot of wire
5 centers to do in 10 days.

6 MR. WILSON: Ken Wilson. One comment
7 there. If I made five separate requests, I could
8 make -- if you added those up, that's only 50 days.
9 It doesn't even reach the 60 days. But,
10 theoretically, I could --

11 MR. BECK: Lot more than 10 days.

12 MR. WILSON: -- put in five requests a day
13 apart and still get them back in 14 days. I think,
14 to save us all some paperwork, there should be some
15 number here greater than one that would be
16 reasonable, and not extensive. It just seems that
17 jumping from 10 days to 60 days is a huge jump for
18 going to two wire centers. So we were trying to kind
19 of find a middle ground.

20 MR. BECK: Well, let me cut to the chase
21 here. We drafted this to track your testimony, and
22 it basically does track your testimony, where you
23 suggested 60 days, not 45 days.

24 MR. THAYER: Well, we can go to the 60
25 days. We're fine with that. That was mine.

00329

1 MR. BECK: Okay. And it said multiple wire
2 centers, which I think we can all agree means more
3 than one. We didn't have any comment from you on
4 that in the comment or testimony period, so we're
5 caught a little bit off guard by this, especially
6 given our discussion in Colorado on this point. But
7 I think we, you know, maybe can talk more about this
8 offline and come up with a figure that's more
9 reasonable than five, but to you seems more
10 reasonable than one, greater than one.

11 MS. DeCOOK: Well, I suggest we take it
12 offline and not -- you know, just a comment. I'm
13 surprised that you say you're taken off guard, since
14 we had this specific discussion about what extensive
15 meant. You raised the issue about multiple wire
16 centers. We said we would provide you some counter
17 language to address that issue, and you've kind of
18 provided that before we provided you the language, so
19 you know, I think we're kind of in the midst of
20 discussions here.

21 We're not saying that necessarily our
22 language is the end all, be all. Maybe there's a
23 middle ground between what you want and what we've
24 proposed here, but I don't want the misimpression
25 created that, you know, this has not been a topic

00330

1 that we've been engaged in discussion on.

2 MR. BECK: Yeah, but I just -- I think
3 you've taken it to different topics. That's all I'm
4 saying. And one other issue. In our proposal, where
5 it says "consists of ten or more separate," we had
6 intrawire center, because we wanted to clarify that
7 you can even put in an extensive -- there can be an
8 extensive request that is all within one wire center
9 if you put in a number of routes, an excessive number
10 of routes within one wire center in your request, and
11 we would like to at least maybe reach closure on that
12 today, that we can go back to this concept of an
13 extensive request within a wire center.

14 MR. WILSON: Well, I don't think that's
15 unreasonable, but why don't we take the whole issue
16 offline. I actually had created language two weeks
17 ago to give to you, but because of the tight time
18 frames and vacation, it somehow didn't get to you.
19 And you provided language before, so we did do some
20 work on this --

21 MR. BECK: Okay.

22 MR. WILSON: -- to try and look at it. I
23 think we're very close.

24 MR. BECK: Okay. Now, getting to the point
25 that Kara was trying to raise on Number Five. Just

00331

1 so everybody here knows, this is a matter of
2 practical impasse in Colorado, where we have a
3 fundamental legal and policy problem with AT&T's
4 proposal and we are filing position papers
5 simultaneously today in Colorado on this point. The
6 point being must US West provide to CLECs at their
7 request the full text of right-of-way agreements or
8 even a slightly redacted portion of that agreement
9 upon their request so that they can use that in
10 negotiations with the private landowner themselves in
11 leveraging the landowner.

12 And I think that the language that has
13 qualified that or that has allowed us to redact some
14 information out of those right-of-way agreements here
15 in your proposal is probably going to prove to be too
16 restrictive, from our perspective, mostly for the
17 protection of property owners.

18 As we pointed out in Colorado, this is an
19 issue that the FCC's currently taking up and has
20 expressed substantial doubt as to whether they can
21 even impose a nondiscrimination requirement as to
22 access to third party right-of-way. And clearly,
23 some of the issues they're talking about are the
24 rights of the landowners, they're talking about
25 whether such a requirement would be taking, they're

00332

1 talking about whether they have the statutory
2 authority or jurisdiction to even go into this area.

3 And you know, another issue they didn't
4 really raise that I think is very important is there
5 are no property owners here in this proceeding, and I
6 think they might be pretty interested in this
7 Commission or AT&T trying to get this Commission to
8 force us to provide these agreements to AT&T and
9 other CLECs when they could be used to the prejudice
10 of private landowners.

11 And for that reason, we really, I don't
12 think, are going to reach agreement on these types of
13 terms, but we'd be happy to discuss further
14 revisions, if you have any.

15 MS. DeCOOK: Well, I guess a point of
16 clarification. Are you saying we might be able to
17 work language offline, or is this an impasse
18 completely?

19 MR. BECK: I think if you allow us to
20 redact more, we might be able to get to a point where
21 we can deal with it.

22 MR. THAYER: But a blank piece of paper --

23 MR. BECK: I think, you know, things that
24 you're legitimately entitled to see are things that
25 restrict us, for example, from giving you access to

00333

1 the right-of-way that we've obtained. On the other
2 hand, I don't think you're entitled to see the price
3 that was negotiated between the two parties at arm's
4 length in order to leverage that price against the
5 landowner.

6 MS. SACILOTTO: It would be bad as a --
7 it's unauthorized, as a matter of law, and it would
8 be bad, as a matter of policy, and it would be deadly
9 as a matter of business.

10 JUDGE WALLIS: I take it that this is
11 considered an impasse item that the parties will be
12 addressing. I would like to ask, though, whether Mr.
13 Butler, on behalf of Tracer or Mr. ffitch, if he's in
14 the room, on behalf of Public Counsel, have any
15 observations on the topic?

16 MR. BUTLER: On the specific issue that's
17 just been discussed, I have not had a chance to talk
18 to any of my landowner -- private landowner clients,
19 which Tracer members all are, by the way, but I do
20 not have any specific advice.

21 JUDGE WALLIS: Very well.

22 MS. DeCOOK: Your Honor, you know, I'm not
23 going to say we're necessarily at impasse yet. I
24 think we have some fundamental disagreement on the
25 scope of the law and what we're seeking under the

00334

1 law, and that we may need some legal briefing on
2 that.

3 You know, we're certainly not trying to
4 impose access obligations on a landowner, which I
5 think is what FCC is investigating at this point.
6 What we're simply trying to get access to is the
7 relationship and certain aspects of the relationship
8 between US West and the landowner that will allow us
9 to gain the same access as US West so that we can
10 properly assure that we are getting nondiscriminatory
11 access to MBUs and other rights-of-way.

12 MS. SACILOTTO: Well --

13 MS. DeCOOK: And I don't think you want us
14 to debate the law. They've had their piece. I
15 simply want to have my piece on the record, and we
16 can file briefs on it. So having said that, I think
17 we still have the door open that we may be able to
18 craft some language, and I don't want to close that
19 if there's still a prospect for that. So you know,
20 let's pursue that, and then we can inform you at the
21 next workshop whether we're at impasse.

22 MR. BECK: I'm okay with that approach,
23 Becky, but if I may just respond. I think there's a
24 little bit of a misimpression here. The FCC is
25 actually considering whether they can impose

00335

1 nondiscrimination, and that is the very thing that
2 the law is unclear about. I think we can all agree
3 on that. Otherwise, there wouldn't be an FMPRM on
4 it.

5 MS. DeCOOK: Well, I mean, the law says --

6 MR. BECK: Hold on a second, Becky, please.
7 No, the law doesn't say that private landowners have
8 a nondiscriminatory requirement on it.

9 MS. DeCOOK: No, you have a
10 nondiscriminatory access obligation, and I think the
11 law is clear on that. We can debate this, and it's
12 being debated at the FCC, but I don't know that we
13 want to spend time in this workshop debating this
14 legal issue.

15 MR. BECK: No, but I think that -- no, it's
16 very important.

17 MS. DeCOOK: I guess you do.

18 MR. BECK: I think you're obfuscating the
19 issue.

20 JUDGE WALLIS: We do want to keep this
21 informal, but at the same time, we want to make sure
22 that we have a record, and to do that, we need to
23 have just one person talking at a time, and we need
24 to have people slowing down to 300 words a minute.

25 MR. BECK: What you're asking for is

00336

1 nondiscriminatory treatment by the landowner, not
2 from us. That is not a part of the statute. What we
3 -- it's very clear, and I think you've agreed, that
4 in substance, our SGAT does provide you
5 nondiscriminatory access to what we can provide you.
6 Now you're asking about, well, in a situation where
7 we can't provide you right-of-way access, what can we
8 do to help you get a better rate or a better term and
9 condition from the landowner. That is where the law
10 is extremely unclear.

11 MS. DeCOOK: That's not entirely clear as
12 to what our objective is here. Part of it is to
13 understand whether you are entering into, with the
14 landowner, exclusive arrangements that foreclose a
15 CLEC from even commencing negotiations with the
16 landowner. That, I think, is improper on US West's
17 part, and that is protected under the act. So that's
18 completely within the domain of this proceeding and
19 of what the FCC has authority to do.

20 MS. SACILOTTO: Well, to violate the rule
21 of one person talking, this is exactly the issue that
22 the FCC is struggling with, and if it would help the
23 record, I have the citation for the further notice of
24 proposed rule-making. It's in my -- it was sort of
25 out. No, that's not mine.

00337

1 JUDGE WALLIS: Let's be off the record just
2 a moment.

3 (Discussion off the record.)

4 JUDGE WALLIS: Let's be back on the record,
5 please. Ms. Sacilotto, did you want to make a
6 concluding statement on this issue?

7 MS. SACILOTTO: Yes. We just wanted to
8 mention that this is -- the issue that we have been
9 discussing, whether or not landowners may have an
10 exclusive agreement with a telecommunications
11 carrier, whether that's permissible or impermissible,
12 and what authority under the act lies in controlling
13 their behavior is before the FCC right now, in a
14 matter called In the Matter of Promotion of
15 Competitive Networks in Local Telecommunications
16 Markets. That's the short title. It's a WT Docket
17 Number 99-217, CC Docket Number 96-98, and they've
18 released a notice of proposed rule-making that
19 addresses some of these issues. That's at 14 FCC
20 Record 12673, and the FCC document number is FCC
21 99-141.

22 The salient discussion, from US West's
23 point of view, begins at roughly paragraph 52 of that
24 notice of proposed rule-making and continues roughly
25 to paragraph 63. Right.

00338

1 JUDGE WALLIS: Thank you.

2 MS. STRAIN: Did you say what date the NPR
3 was issued?

4 MS. SACILOTTO: It was released on July
5 7th, 1999. I can even get a LEXIS cite, if that's
6 useful to anybody. Okay. I didn't think so.

7 JUDGE WALLIS: All right. Mr. Beck, you
8 said you had a couple minor matters?

9 MR. BECK: Yeah, just a couple of
10 clarifications, Judge, and they're really more just
11 kind of seeds to plant for you guys to think about.

12 MR. THAYER: That they bear fruit.

13 MR. BECK: Right, I hope so. Point Six,
14 which is kind of the sections of your interconnection
15 agreements that you've put in Exhibit 221, although
16 it's new to us, a quick review of a lot of these
17 provisions, not all of them, but it shows that a lot
18 of them I don't think actually add anything to the
19 SGAT. In other words, they state concepts that are
20 already in the SGAT with different words. And I
21 would invite you to take a look at that concept and
22 see if maybe you can pare back your request a little
23 bit based on that.

24 And then, of course, there are things that
25 we talked about before that may violate FCC orders,

00339

1 like the last several sentences in the last
2 paragraph.

3 And I think another example of that may be
4 in your first proposed paragraph under Point Six.
5 It's apparently Section 47.2 of your Washington
6 interconnection agreement. The second to last
7 sentence there states that, to the extent US West
8 proves infeasibility, US West shall be required to
9 provide AT&T alternative suitable access which will
10 not impair AT&T's ability to provide its telecom
11 services.

12 I think if you take a look at the FCC's
13 orders on poles, ducts and right-of-way, this
14 statement of our obligations to provide facilities
15 that don't yet exist is a bit extreme, to say the
16 least. And so you may want to take a look at that as
17 far as whether it jibes with the FCC requirements or
18 not. And that's all I really had at this point on
19 Exhibit 221 and this item.

20 MS. DeCOOK: Just one comment, since we're
21 raising issues for US West to consider. One thing
22 you might consider in terms of your eminent domain
23 obligation is your obligations under state law, since
24 the FCC has acknowledged that there is state law
25 authority in this area. So I just put that out there

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1 for your consideration.

2 JUDGE WALLIS: All right. Is there any
3 further discussion on this checklist item?

4 MS. STRAIN: I have a few questions, but I
5 can wait until after lunch, if that's agreeable to
6 the other parties, or if you'd like me to do them
7 now?

8 JUDGE WALLIS: Why don't we try them now
9 and see if we can get closure on this item before we
10 break.

11 MS. STRAIN: Okay. These go to Mr. Thayer.
12 On the first -- and I'm just bringing this up because
13 I had an offline discussion with one of the
14 witnesses. It's probably ex parte, so -- in Item
15 Number Two in your memo, where you have the words
16 "for more than two locations" in the first sentence,
17 is that meant to be two or more locations?

18 MR. THAYER: Yes.

19 MS. STRAIN: Okay, thank you. And another
20 question, on 10.8.3, could you point out where the
21 ownership language is that you have the change to?
22 That's Item Number One in your memo.

23 MR. THAYER: 10.8.3.

24 MS. STRAIN: I didn't see that language.

25 MR. THAYER: No, I guess that's in error.

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1 MS. STRAIN: So do you have what the
2 correct cite is?

3 MR. THAYER: It would be -- I meant to say
4 10.8.1.3.

5 MS. STRAIN: Okay.

6 MR. THAYER: That's the down. But it had
7 "or;" it just didn't have the directly or indirectly.

8 MS. DeCOOK: Okay. Got it.

9 MS. STRAIN: Somebody mentioned that -- I
10 think it was Mr. Freeberg mentioned the 35-day
11 turnaround time is a federally-imposed requirement.
12 Do you have a cite for where that is?

13 MR. FREEBERG: I could look.

14 MS. STRAIN: Or what document I could go
15 look at?

16 MR. FREEBERG: Do you know it offhand?

17 MS. SACILOTTO: Well, I know it's the first
18 local competition order. And in the order on
19 reconsideration, which was -- I have the cite for
20 that. It's an October 1999 decision that dealt with
21 primarily pole issues.

22 MS. STRAIN: Okay.

23 MS. SACILOTTO: If you want the specific
24 paragraphs, we can provide those to you at lunch
25 time.

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1 MS. STRAIN: Okay, thank you. Is it
2 mandatory or is it up to 35 days?

3 MS. SACILOTTO: I think it's 45 days,
4 actually, in the local competition order.

5 MR. BECK: Here's the way it works,
6 actually. The 45 days is the total time frame for
7 both the inquiry and the verification. It's for you
8 to say yes or no to a request that goes from start to
9 finish, basically. So we divided that up into 10
10 days for the records, which we call an inquiry
11 review, and then the 35-day period that applies to
12 the verification, the actual physical verification of
13 whether the route is clear and able to afford access.

14 MS. STRAIN: Okay. But it could take less
15 -- you could do it in less than -- you don't have to
16 wait 35 days?

17 MR. FREEBERG: No.

18 MS. STRAIN: And the federal requirement,
19 that was another question I had, was one of the
20 paragraphs in 10.8.4.4, you all talked about taking
21 out the paragraph that -- the sentence that says, If
22 US West denies the poles, innerduct, right-of-way
23 request, it shall do so in writing within 45 days.
24 And you talked about that not being in the right
25 location. Isn't that the 45-day federal requirement

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1 in 224, so --

2 MR. BECK: You're absolutely right. And
3 that is addressed, rather, in 10.8.4.1, on inquiry
4 reviews, where we referenced the schedule -- I'm
5 sorry, no, in there, we just say 10 days, no matter
6 what the size of the request. So if you go to
7 10.8.4.1.1, which says inquiry review innerduct, if
8 you go down a little over halfway, it says, These
9 materials will be provided within 10 calendar days or
10 within time frames of the applicable federal or state
11 law, rule or regulation, which, in this case, is 10
12 days.

13 MS. STRAIN: I guess my question goes to,
14 in 10.8.4.4, when the parties were saying that the 45
15 days doesn't quite square with the other if you add
16 up all the other days that are in that paragraph, so
17 I just wanted to make sure that --

18 MR. BECK: The problem is that it's totally
19 out of place. That language has to basically come
20 out of 10.8.4.4, because this is about make ready.
21 And the time frames are about when do we refund you
22 make ready refunds or when did you pay us overages,
23 and in actuality, this 45-day time frame applies to
24 the verification and inquiry.

25 And by the way, just for the record, the

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1 cites, at least one of the cites where this first was
2 decided by the FCC was in the first report and order
3 at paragraph 1224. And I'll get you the order on
4 reconsiderations where they reiterate that.

5 MS. STRAIN: I have that.

6 MR. BECK: Oh, you do?

7 MS. STRAIN: Yes. Thank you. Okay. I
8 think Mr. Freeberg mentioned something about field
9 verifications for US West's reinforcements. Do you
10 have data or have you provided that in this
11 proceeding on how long those take versus how long --
12 what the average time frame is for that procedure
13 versus the procedure used when field verifications
14 are done for others?

15 MR. FREEBERG: I've responded that it is a
16 first come-first serve situation, that, in fact, here
17 we're bound by explicitly defined intervals, and so
18 there is an urgency to meet those intervals. I have
19 not provided explicit data on the time required to
20 perform these same tasks for noninterconnection kinds
21 of activities.

22 MS. STRAIN: Okay. You had also talked
23 about collapsed conduit. Is that something that US
24 West does inspections for on a subservient interval
25 basis in the normal course of its operations?

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1 MR. FREEBERG: I think the short answer to
2 that is no.

3 MS. STRAIN: Okay. With respect to your
4 proposal that one of your employees accompany a CLEC
5 verification crew, would that take less time than
6 having a US West crew do the verification on its own?

7 MR. FREEBERG: I think that's a very good
8 question. I think that it's one I've heard argued
9 from both sides. I think each side thinks perhaps it
10 can do it in the most efficient manner, and a
11 question hard to resolve.

12 I think, though, that if, in fact, there is
13 the willingness to let either party lead this, and in
14 this case, have US West appear and accompany on the
15 CLEC's schedule, hopefully we could have made
16 progress against concerns that it was taking too
17 long.

18 MS. STRAIN: I'm trying to figure out if I
19 heard the answer.

20 MR. FREEBERG: Maybe I need your question
21 once more.

22 MS. STRAIN: Okay. I think my question is,
23 given that I assume that field verifications are done
24 by a crew of employees or contractors and you only
25 have so many of them and you have so many

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1 verifications to do and it takes the time it takes,
2 if instead you're using people from that crew and
3 they're going along with somebody else's field
4 verification team, would it take less time? Would
5 you have more people available to do that than you
6 would to do the verifications yourself or --

7 MR. FREEBERG: If, in fact, US West were
8 the accompanying party, I would expect that there
9 would be one individual that would be a contract
10 inspector, that it would be an individual without all
11 the tools and equipment and so forth necessary to get
12 the work done, and so, in fact, I think it would ease
13 pressures on work force and so forth. I think the
14 answer is yes to your question.

15 MS. STRAIN: Okay. With respect to -- this
16 goes back to Mr. Thayer. With respect to your memo
17 on the paragraphs that you've proposed here to be put
18 into the SGAT, and maybe my question goes to you,
19 maybe it goes to US West, but would a CLEC be able to
20 pick and choose those paragraphs from the AT&T-US
21 West interconnection agreement and substitute those
22 for SGAT paragraphs?

23 MS. SACILOTTO: Well, that's a legal
24 question. I think that would depend on -- not having
25 looked at these provisions, I can't -- in detail,

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1 it's hard to say to what extent they might be related
2 to other provisions within the SGAT. We would
3 certainly be amenable to people picking the pole
4 section, you know. If they wanted -- they don't have
5 to take the entire SGAT to get the pole provisions of
6 it. Whether or not they can take these specific
7 provisions from -- oh, now we're talking about the
8 AT&T agreement.

9 MS. STRAIN: I'm talking about the
10 interconnection agreement and whether any CLEC could
11 pick and choose those sections out of the AT&T
12 agreement.

13 MS. SACILOTTO: Yeah, I'd have to see how
14 the AT&T agreement is drafted. I mean, under the
15 rules, they would be able to take the pole section of
16 the AT&T agreement. I don't know to what extent
17 these particular provisions of the AT&T agreement
18 carry with them other provisions that give them
19 context and meaning, if you can understand what I'm
20 saying.

21 So one problem with picking and choosing is
22 if you pick A, there might be a list of things we
23 will do, one, two, three and four, and then the next
24 section says we will not do five, six, seven and
25 eight. If you just take the first part without the

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1 second part, you might lose meaning of those
2 provisions.

3 So without looking at the entire part of
4 the AT&T agreement, it's difficult to say if these
5 particular provisions carry with them other
6 provisions that would give them meaning, but under at
7 least the Commission's interpretive policy and under
8 the FCC rules, an arrangement such as a pole section
9 could be picked out of an interconnection agreement.

10 MS. STRAIN: Does AT&T have any answer to
11 that or anything else to add?

12 MS. DeCOOK: Well, you know, the whole -- I
13 think, philosophically, you can pick from an
14 interconnection agreement and you should be able to
15 pick provisions. The whole issue is going to
16 surround whether you can pick an isolated provision
17 or whether there are related provisions from US
18 West's perspective that have to be picked along with
19 that isolated provision.

20 We anticipate that at some point there will
21 be disputes about that. We haven't raised it here
22 yet. We have been working in Colorado with an SGAT
23 procedure for pick and choose that could easily be
24 transferred to an ICA arrangement, as well. We're
25 exchanging language, and I think probably from

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1 Washington's perspective, this is something we may
2 want to follow up on in the next workshop, in the
3 follow-up session of the workshop.

4 But I think that's the real issue, is, you
5 know, what's related to an isolated provision and can
6 you select the provision without any ancillary
7 provisions or do you have to take other things with
8 it.

9 MS. SACILOTTO: Can I follow up? Yes?
10 Just to add on to that, what's going on in Colorado
11 is a little bit different because the Commission has
12 its own interpretive policy statement on how to
13 implement Section 252(i), and we have put that into
14 the SGAT, at least. That's a Washington issue. I'm
15 sorry if I said Colorado. I meant Washington.
16 Colorado does not have a similar -- I'm sorry. Let
17 me start again. What day is it, what state are we
18 in?

19 The situation is slightly different in
20 Colorado because they do not have an interpretive
21 policy statement that is similar to the one that the
22 Washington Commission has. We have incorporated a
23 reference to that Washington policy, at least into
24 the SGAT, for purposes of determining and putting
25 some meat on the bones of pick and choose. And so at

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1 least in Washington, we believe that with the policy
2 statement, that that issue, as far as the SGAT goes,
3 should be pretty settled.

4 With the AT&T pick and choose provisions,
5 as I don't have that provision right in front of me,
6 but I don't think that this issue is necessarily -- I
7 don't think there's a huge dispute about it. It
8 would be a case-by-case basis. But I also don't
9 think it's necessarily 271-related. It's more of a
10 252(i) issue, to what extent you can pick and choose,
11 for what that's worth.

12 MS. DeCOOK: Just a follow-up comment on
13 that. We recognize that there's an interpretive
14 policy statement in Washington, and certainly our
15 proposal reflects that, as well. What's not
16 encompassed and what's necessary in order to put the
17 meat on the bones is a process that allows for an
18 expedited resolution of this whole issue of context.
19 You know, what is integrally related to the provision
20 that you're trying to pick.

21 And there is nothing in the interpretive
22 policy that deals in any way with picking an SGAT
23 provision, and so that's what we're proposing, is
24 some amendments to Section 1.8 of the SGAT that's
25 been filed in Washington to addressing specifically

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1 the issue of process for picking a provision of the
2 SGAT and how you get the disputes resolved. And that
3 is not in the interpretive policy.

4 MS. SACILOTTO: My understanding is that
5 there is an expedited interconnection review process
6 in Washington that would provide an expedited forum
7 for resolving this kind of dispute.

8 MS. DeCOOK: Not for an SGAT. It's for an
9 ICA, not for an SGAT. It may address your issue in
10 terms of an expedited process, but it doesn't address
11 how do you resolve somebody picking from an SGAT to
12 create their own ICA.

13 MS. SACILOTTO: Well, the original question
14 related to AT&T's interconnection agreement. So the
15 expedited review policy would apply to the original
16 question of whether somebody could opt into the
17 provisions of the AT&T agreement.

18 To the extent that -- sorry. No, I have
19 nothing further. It does relate to that, to whether
20 or not you can choose from the AT&T agreement, which
21 was, I understood, the original question.

22 MS. DeCOOK: Yeah, I don't think we're
23 debating that. I was simply putting you on notice
24 about some discussions that were taking place. We
25 intended to raise it later. Since it's germane to

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1 this discussion in an indirect way, I just want to
2 put you on notice that we are engaged in those
3 negotiations when we bring some language hopefully
4 that's not disputed to the follow-up workshop.

5 MS. HOPFENBECK: The only thing I wanted to
6 add is just that WorldCom joins in those concerns
7 that Ms. DeCook has been raising and do think it's
8 important that we address these issues in this
9 context.

10 MS. STRAIN: Those were all my questions.

11 JUDGE MOSS: Is there anything further?
12 Let's break for lunch now, and why don't we plan on
13 taking a full 90 minutes, because the last 15 minutes
14 of it will be moving time. And we'll reconvene in
15 Room 206, and we'll expect parties to be up there and
16 ready to go at a quarter to two.

17 (Lunch recess taken.)

18 JUDGE WALLIS: Let's be back on the record,
19 please, following our lunch recess. We are going to
20 take up at this point with the wrap-up on Checklist
21 Item Three, and Ms. Sacilotto has graciously
22 consented to lead off with a summary of matters that
23 remain to be attended to. Ms. Sacilotto.

24 MS. SACILOTTO: Okay. I'll try to do this
25 by going through the 10.8, starting from the

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1 beginning and going to the end, and if I skip
2 something, I hope that people will chime in,
3 particularly Mr. Kopta, if I don't catch all the
4 pieces of that.

5 With respect to 10.8.1.1, US West is going
6 to modify that provision and the subsequent
7 provision, 10.8.1.2, in two respects. The first one
8 would be to modify the first sentence, where it says
9 "where it has ownership and control" in both of those
10 provisions, to change it to the phraseology to "where
11 it has ownership or control." And US West will also
12 modify those two provisions to take out the
13 phraseology "each party" and the other term, "the
14 other," and put those the way they were beforehand.

15 I believe that we also, relating to these
16 provisions, have an action item with AT&T to meet
17 offline to work out narrowing language to the
18 language that's proposed on Exhibit 221 at the end of
19 the phrase there, "either directly or indirectly."
20 We are going to try to agree on something a little
21 bit narrower that will hopefully resolve this issue,
22 and we'd like to set up a time now. Really, a time
23 when we could resolve the poles language that Mr.
24 Thayer has proposed and that we have proposed, we
25 would like to simply set a time for going through all

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1 of that.

2 We have follow-up in Colorado and
3 immediately thereafter have follow-up in this state.
4 And to the extent that we can get that done before
5 those workshops, obviously it will lead to closure on
6 this issue.

7 JUDGE WALLIS: Let's be off the record for
8 a moment.

9 (Discussion off the record.)

10 JUDGE WALLIS: Let's be back on the record,
11 please. There's been discussion between US West and
12 AT&T. AT&T will exert its best efforts to work
13 toward a meeting with US West on Monday; is that
14 correct?

15 MS. SACILOTTO: Yes, we're going to try to
16 arrange something for Monday. Okay. The next -- I
17 think I'll lump -- there might be provisions in 10.8
18 that are indicated in the red-lined SGAT that's
19 Exhibit 101 as Colorado workshop proposed language
20 that was not necessarily discussed in detail in this
21 particular workshop, but that we would hope to, in
22 that meeting, change the indication from proposed to
23 consensus. I note that there is language in 8.2.2
24 with some red-line markings.

25 Then, going down to 10.8.2.4, this involves

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1 the extensive requests and what would be required
2 there. And we have a joint takeback item between
3 AT&T and US West to see if we can reach closure
4 between the language US West proposed at 10.8.2.4 and
5 the language in Exhibit 221 that AT&T has suggested
6 for that provision.

7 10.8.2.5, open or closed?

8 MR. BECK: That actually is closed --

9 MS. SACILOTTO: Closed? Excellent.

10 MR. BECK: -- in Colorado.

11 MS. DeCOOK: Closed in Washington.

12 MS. SACILOTTO: Okay, great. Okay. And

13 10.8.2.8 would -- this is where there is a -- one of
14 them was a proposed change to Reference Section
15 10.8.4, but the bigger issue is whether or not we, US
16 West, has to provide its documentation with private
17 property owners in a circumstance in which it does
18 not have ownership or control over the particular
19 right-of-way or pole or riser, whatever, that a CLEC
20 wants access to.

21 I believe that this is an issue that we
22 have reached impasse on, so I don't know if there's
23 any follow up that we can expect on this or if it
24 should simply be put into the process that was
25 discussed in the Commission's -- or in the ALJ's

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1 proposed procedural order.

2 JUDGE WALLIS: I understood AT&T to say
3 that they felt that further discussions might produce
4 further results, but that, in any event, it was
5 expected that there would be work on the issue.

6 MS. SACILOTTO: Oh, that's true. There was
7 some idea that maybe we could negotiate some more
8 redactions.

9 MR. BUTLER: I would like to be involved.

10 MS. SACILOTTO: Oh, and Mr. Butler would
11 like to be involved in that, as well. So do we think
12 that -- is there something that can be done in this
13 regard that we should attempt to roll that into
14 whatever we're going to do on Monday or --

15 MS. DeCOOK: Well, I would say let's give
16 it a shot. I mean, worst case scenario, we're back
17 at the follow-up saying we're at an impasse. So --
18 and I guess, can you participate, Mr. Butler, on
19 Monday?

20 MR. BUTLER: Yeah.

21 MS. SACILOTTO: We'll try to carve it out
22 so you don't have to go through direct connection
23 documentation.

24 MR. DIXON: Presumably, this is all in
25 Denver, where we're meeting?

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1 MS. SACILOTTO: Oh, I don't know that we
2 necessarily all need to show up there. I mean, Mr.
3 Butler might prefer to do that by telephone.

4 MR. BUTLER: Definitely.

5 MS. SACILOTTO: Yeah. I mean, there's
6 going to be a lot of stuff there that he might not
7 care about, so --

8 MR. DIXON: But that was my point. The
9 meeting will be in Denver. We may have call-in lines
10 for Mr. Butler or anyone else who's here in
11 Washington, not based in Denver.

12 MS. SACILOTTO: Sure hope so.

13 MR. DIXON: I just want to know if you're
14 planning on coming back here Monday.

15 MR. BECK: I don't think Kara is.

16 MS. SACILOTTO: Off the record.

17 (Discussion off the record.)

18 MS. SACILOTTO: The next provision that I
19 have, and Greg, if I miss something that you wanted
20 in the middle, please let me know, is 10.8.2.14. And
21 that was an attempt by US West to put some meat
22 around cause, I believe. And I'm wondering if that
23 one can -- that one still has a proposed next to it.
24 Can we close it? Well, can we close it for
25 Washington?

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1 MS. DeCOOK: I'm sorry, what number are you
2 on?

3 MS. SACILOTTO: 10.8.2.14.

4 MS. DeCOOK: It's closed.

5 MR. DIXON: Also, for WorldCom, I thought
6 we could close it for Colorado, as well. That's my
7 sense. Now, whether there's other parties in
8 Colorado, that's a problem, but from WorldCom's
9 perspective, it's good.

10 MS. SACILOTTO: Same question with respect
11 to 10.8.2.16. Can we close that for Washington
12 and/or Colorado?

13 MS. DeCOOK: I think this is WorldCom's.
14 Isn't this yours?

15 MR. DIXON: No, it wasn't ours.

16 MS. DeCOOK: Is this ours? Closed.

17 MS. SACILOTTO: I'm going to do this more
18 often. I think we reached consensus on 10.8.2.18.

19 MR. DIXON: I agree.

20 MS. DeCOOK: Yes.

21 MS. SACILOTTO: 10.8.2.20, we've made
22 changes to this provision. We have left in some of
23 the provisions that still refer to things that may
24 not have the force and effect of law, but that US
25 West believes are very important industry-wide

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1 technical standards that we use to engineer our
2 network. And the phraseology in dispute was whether
3 these would have -- whether the more stringent of
4 these provisions would apply.

5 Is that a dispute item or is that something
6 that we need to put in our takebacks?

7 MS. DeCOOK: I'm not certain, so I would
8 say let's leave it in the takebacks. We can confirm
9 on Monday whether it's still an outstanding issue or
10 not.

11 MS. SACILOTTO: Okay. And I am assuming,
12 unless I hear otherwise, that the additional change
13 in that paragraph, where we delete the text, is
14 closed?

15 MS. DeCOOK: Yes, I believe you're right.

16 MS. SACILOTTO: Okay. That would be
17 whatever's -- I don't know that there's a footnote
18 marker to it, but it would be whatever's right after
19 Footnote Six -- I guess it would be what was marked
20 with Footnote 26.

21 MR. DIXON: Closed from WorldCom's
22 perspective, the stricken language.

23 MS. SACILOTTO: Okay. US West has a
24 takeback item in 10.8.2.24 to change Attachment I to
25 Exhibit D.

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1 MR. DIXON: When that's done, that's
2 probably closed.
3 MR. KOPTA: And just to make clear, on
4 10.8.2.22, that's included in Exhibit 221, as well as
5 an issue that Nextlink raised.
6 MR. BECK: Yes.
7 MS. SACILOTTO: Yes, yes. I think this is
8 perhaps a takeback item for us to discuss on Monday.
9 Yes.
10 MR. BECK: Greg, can you make it on Monday?
11 MR. KOPTA: Yeah, I can call in.
12 MS. SACILOTTO: Okay. 10.8.3.1, I request
13 a closure.
14 MS. DeCOOK: Closure granted.
15 MR. DIXON: Fine by us.
16 MS. SACILOTTO: Same for the next,
17 10.8.3.2.
18 MS. DeCOOK: That's fine, too.
19 MR. DIXON: No problem.
20 MS. SACILOTTO: Same request with respect
21 to 10.8.3.4 and 10.8.3.5.
22 MR. DIXON: Did you say 10.8.3.3? There's
23 also a change there.
24 MS. SACILOTTO: How about three, four, five
25 and six en masse?

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1 MS. DeCOOK: No problem.

2 MR. DIXON: You got it.

3 MS. SACILOTTO: Boy, we're on a roll.

4 MR. BECK: What did you guys have for
5 lunch?

6 MR. DIXON: You don't know it, but you
7 picked up the lunch.

8 MR. BECK: This might be worth it.

9 MS. SACILOTTO: Yeah. This one hasn't been
10 mentioned, but I think it will be obvious that US
11 West has a takeback item on the first four words of
12 10.8.4, so we'll fix that. And the rest of that
13 introductory page or paragraph, can we close that
14 one?

15 MS. DeCOOK: Which one are you on?

16 MS. SACILOTTO: Why don't we go with
17 10.8.4, it's the first -- it's not numbered. It's
18 the first bit of text. Let's lump it together with
19 10.8.4.1, noting that US West will be making a change
20 in what's red-lined there to refer to Attachment 1-A
21 instead of Attachment 1-B. We will change it to an
22 A.

23 And with that typographical correction, can
24 we close all the way up to where it's marked Footnote
25 35?

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1 MS. DeCOOK: Did you say you were striking
2 the "by" after "under control?" Is that a typo?

3 MR. BECK: Yeah.

4 MS. SACILOTTO: Hold on a second. This is
5 -- yeah, there is a typographical error there.
6 Strike from "by" to the end. Or, no.

7 MR. BECK: Just strike "by."

8 MS. DeCOOK: Is it limited to the
9 right-of-way or is it poles, innerduct and
10 right-of-way?

11 MS. SACILOTTO: It should be -- okay. We
12 will strike the word "by" and add the words "poles,
13 innerduct and ROW," right-of-way.

14 MR. DIXON: This is at the top of page 175,
15 second, third line?

16 MS. SACILOTTO: Exactly.

17 MR. DIXON: Okay.

18 MS. SACILOTTO: Second to the last sentence
19 of that.

20 JUDGE WALLIS: What Section?

21 MS. SACILOTTO: 10.8.4.1. With that, may
22 we close all the way to Footnote 35?

23 MS. DeCOOK: I have one other clarifying
24 question. 10.8.4.1 starts with the phrase "Upon
25 request for right-of-way access." Is that supposed

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1 to be upon request for an inquiry review for the
2 various access that's described there? You're not
3 intending to have an order placed and then an inquiry
4 review?

5 MR. BECK: Yeah. And I think what we would
6 say is request is slightly different than the order.
7 I think the idea is, at the very beginning of the
8 process, someone wouldn't come in and place an order,
9 but, rather, they would request access to poles,
10 ducts or right-of-way, and I think that's what we
11 mean when we say, upon request for right-of-way,
12 access, pole attachment or innerduct occupancy, we
13 hand them Exhibit D.

14 MS. DeCOOK: Consulting.

15 MS. STRAIN: Is there another term that you
16 could use other than request for access, which does
17 seem to imply something different than request for
18 inquiry? I found it confusing myself.

19 MR. BECK: Yeah, the only thing that could
20 be an issue, although it really shouldn't be if
21 somebody's opted into this, is we don't want to make
22 it sound like we have magic words. You know, if
23 anyone comes in and says, I'm interested in poles,
24 ducts and right-of-way, they get Exhibit D. It's not
25 like they have to say, I'm making an inquiry review

00364

1 request.

2 MS. SACILOTTO: How about "upon initiating
3 an inquiry for right-of-way access," "upon initiating
4 an inquiry?"

5 MS. STRAIN: To me, that's a little more
6 clear than -- because I had the same problem with it
7 looking like it's two different actions. I mean, you
8 can make an inquiry and then, after that, request
9 access.

10 MR. BECK: Yeah, I would suggest that the
11 inquiry with a small "i", and it would be inquiry
12 regarding right-of-way access, pole attachment, or
13 innerduct occupancy.

14 MS. HOPFENBECK: Would it be upon receipt
15 of an inquiry, since it's US West -- it's upon
16 receipt of an inquiry US West provides.

17 MR. BECK: Yeah.

18 MS. SACILOTTO: Upon receipt of an inquiry
19 --

20 JUDGE WALLIS: Why don't we go off the
21 record for wordsmithing.

22 (Discussion off the record.)

23 JUDGE WALLIS: Let's be back on the record.

24 MS. SACILOTTO: Okay. I'll read back for
25 the record what we've agreed to change to 10.8.4.1,

00365

1 and with these changes, we will mark as -- or
2 consider as closed for Washington up to Footnote 35
3 of Exhibit 101, and in Colorado, with respect to AT&T
4 and WorldCom.

5 10.8.4.1, US West will revise it to say,
6 "Inquiry reviews, upon receipt of an inquiry
7 regarding ROW, access, pole attachment or innerduct
8 occupancy, US West will provide CLEC with Exhibit D.
9 The CLEC will review the documents and provide US
10 West with maps of the desired area indicating the
11 routes and entrance points for proposed attachment,
12 proposed occupancy or proposed CLEC construction on
13 US West-owned or controlled pole, innerduct or ROW.
14 The CLEC will include the appropriate inquiry fee
15 with a completed Attachment 1.A from Exhibit D.
16 Hearing no objection, we close up to Footnote 35.

17 MR. DIXON: That's good.

18 MS. SACILOTTO: US West has a takeback
19 item. We've added some numbering to 10.8.4.1. I'm
20 assuming that that's going to be okay. 10.8.4.1.2,
21 inquiry review, poles, I don't think we discussed
22 taking anything back, so I'd like to know if we can
23 close that?

24 MR. DIXON: On behalf of WorldCom, this is
25 one I need to talk to Michael Schneider to be sure.

00366

1 He hasn't had an opportunity to review this. It's
2 not to say we probably can't close it; I just want to
3 confirm there's no problem.

4 MS. SACILOTTO: Okay. 10.8.4.1.3, US West
5 has a takeback item to provide the text under
6 development.

7 MS. DeCOOK: And also, just for the record,
8 that's on Exhibit 221 as an issue, as well. There's
9 some language that's been proposed there.

10 MS. SACILOTTO: Correct. That would also
11 be related to the issue we discussed earlier in
12 10.2.8.

13 MS. DeCOOK: 10.8.2.8.

14 MS. SACILOTTO: Right, okay. 10.8.4.2, we
15 are going to revise some language here, and we're --
16 in the sentence that starts, "Upon payment of the
17 estimated verification" -- oh, well, one issue that
18 we're going to have a takeback on with Nextlink is
19 whether we can agree upon some language that would
20 permit the CLEC to conduct its own field
21 verification. And we would need to set up a time
22 with Mr. Kopta for that. I don't know if Monday is
23 the time or not. We'll meet with you offline. But
24 that's one of the things that we need to do.

25 MS. DeCOOK: Ms. Sacilotto, I believe

00367

1 that's an area that both AT&T, and I believe
2 WorldCom, also expressed an interest in, so --

3 MS. SACILOTTO: Well, if we can do it on
4 Monday, that would be great.

5 MS. DeCOOK: Will you have proposed
6 language before that time or --

7 MS. SACILOTTO: We will --

8 MR. FREEBERG: Top of my list.

9 MS. SACILOTTO: We will make every effort
10 to do so. In addition to that new language, we
11 propose some amendments to 10.8.4.2 that would -- in
12 the middle of the paragraph, the phrase that starts,
13 "Upon payment of the verification fee, US West will
14 provide, as applicable, depending on" -- this is the
15 text we suggest adding -- "depending on whether the
16 request is for poles, innerduct or right-of-way," to
17 be abbreviated ROW.

18 We would also propose moving the semicolon
19 from after the word "required" in the third to the
20 bottom line to after the word "whom."

21 With those changes, we'd like to at least
22 close the wording of this provision, 10.8.4.2.

23 MR. KOPTA: Maybe we ought to go off the
24 record to talk about this.

25 JUDGE WALLIS: Very well. Let's do so.

00368

1 (Discussion off the record.)

2 JUDGE WALLIS: Let's be back on the record.

3 There is closure on the prior item; is that correct?

4 MS. SACILOTTO: Yes, yes.

5 MR. DIXON: Yes.

6 JUDGE WALLIS: We hear no objection.

7 MS. SACILOTTO: Continuing in that -- well,
8 it's the same provision, but it's the next page of
9 Exhibit 101, page 176, there's changes going through
10 to Footnote 39. I don't propose those as a takeback
11 item. I hope we can close it right now.

12 MR. DIXON: With respect to WorldCom, this
13 last sentence I need to run by Michael, just to be
14 certain, Michael Schneider, the one that deals with
15 the validity of the quote, as well as the charge for
16 field engineer. I don't foresee it would be a
17 problem, but I want to run it by him.

18 MR. BECK: So that that means the changes
19 in 10.8.4.2 through Footnote 38 are closed?

20 MR. DIXON: As far as I'm concerned. It's
21 just the one on 39 that I want to run by him, that
22 one statement. Again, I'm not expecting a problem.
23 And he may have already told me it's okay. I just
24 haven't pulled mail, been able to get mail.

25 MS. SACILOTTO: That will at least be an

00369

1 action item for Tom.

2 MR. DIXON: That's right. One of two so
3 far.

4 MS. SACILOTTO: Great.

5 MS. DeCOOK: I believe we're closed on
6 that.

7 MS. SACILOTTO: Okay, great. We just have
8 one outstanding action item to verify on WorldCom's
9 part, the last sentence of that provision. And now I
10 move to 10.8.4.3. I ask for closure down to Footnote
11 40.

12 MS. DeCOOK: It's all right for AT&T.

13 MR. DIXON: I'm trying to figure out where
14 the strike came from the first line, because I know
15 that Michael Schneider, down in Arizona, had some
16 concerns about annual versus semi-annual, and we went
17 through that before. So again, I'd like to run that
18 first strike in 10.8.4.3 past Michael and get back to
19 you. Again, I'm not foreseeing a problem.

20 MS. SACILOTTO: We'll leave that as your
21 action item.

22 MR. DIXON: That's three.

23 MS. SACILOTTO: I'm marking them.

24 MR. DIXON: It could be I'll have an answer
25 tomorrow. If I do, I'll certainly pass it on.

00370

1 MS. SACILOTTO: That would be great. That
2 would be excellent, because then we can cross them
3 off.

4 MR. DIXON: I hope I have a little better
5 job getting e-mail at the hotel.

6 MS. DeCOOK: I apologize. I think that was
7 an issue we were involved in in Arizona, too, so I'm
8 going to check on that one, as well.

9 MR. BECK: I think what you're going to
10 find, if you're concerned about whether you still
11 have the option for semi-annual, is that it just was
12 moved to other parts, but go ahead.

13 MS. DeCOOK: That's what I wanted to check
14 on, because I thought it might be somewhere else, as
15 well.

16 MR. DIXON: That's what I was thinking.

17 MR. BECK: I think it's 10.8.5.

18 MS. SACILOTTO: Exactly. We'll get to
19 that.

20 JUDGE WALLIS: Mr. Dixon, would you grab a
21 microphone and pull it close to you, so we can hear
22 you as well as we can hear everyone else?

23 MR. DIXON: I'll be happy to. Thank you.

24 MS. SACILOTTO: Okay. Well, I'm still
25 optimistic that we're going to close that Footnote

00371

1 40, but barring that, AT&T and WorldCom have a
2 takeback item to confirm that they're okay with the
3 text on page 176 up to Footnote 40, primarily the
4 strikeouts, everything else being acceptable? Okay.
5 We're all acceptable except for the strikeouts.

6 Moving on to 10.8.4.4, US West has a couple
7 takeback items here. Well, we're going to fix the
8 sentence that says, "If the actual make ready costs
9 are less than the estimate, an appropriate credit for
10 the difference will be issued upon request
11 therefore." We're going to strike the "e" from
12 therefore.

13 MR. DIXON: No objection.

14 MS. SACILOTTO: And then the reference to
15 -- in the sentence that begins, "If US West denies
16 the poles/innerduct --

17 MR. BECK: Do you want me to do this one,
18 Kara?

19 MS. SACILOTTO: Okay.

20 MR. BECK: Okay. What we'll strike is
21 everything from "if" down through lines to
22 "supporting information and." "And" will be the last
23 word stricken. And what we would put in there,
24 before the word "will," would be "upon CLEC request,"
25 and then we will also delete the word "also," after

00372

1 the word "will" and before "refund."

2 And the reason that you don't need the 45
3 days, again, is that it is built into the previous
4 provisions on inquiry review and field verification.

5 MR. DIXON: This is Tom Dixon. Sorry, I'm
6 not following something. It will be, "upon CLEC
7 request, comma --

8 MR. BECK: I'm sorry, US West.

9 MR. DIXON: Thank you. I didn't know who
10 was going to make the refund for certain.

11 MR. BECK: CLEC will --

12 MR. DIXON: Yeah. Again, this is new, in
13 terms of Michael Schneider having had this just
14 occur. I'll run it by him. I foresee no problem.

15 MS. DeCOOK: Steve, could you just read
16 that again?

17 MR. BECK: Yeah. Would you like the whole
18 thing or would you like me just to tell you what it
19 ought to say when you're done editing it?

20 MS. SACILOTTO: I think the latter, Steve.

21 MR. BECK: Okay. The final product will
22 say, "Upon CLEC request, US West will refund the
23 difference," yada, yada, yada. You want me to spell
24 that?

25 MR. KOPTA: No, but I have a problem with

00373

1 one of the yadas. We discussed earlier about
2 including make ready, and I thought we agreed that
3 there were not going to be any make ready expenses
4 that were incurred to be refunded.

5 MS. SACILOTTO: I think that that concern
6 might be addressed when we get to the next provision.

7 MR. BECK: Actually, I think your
8 confusion, Greg, comes from the fact that we had this
9 45-day language in here, so it sounded like what we
10 were talking about is you're at the verification
11 stage, and you were like, how can I have make ready
12 costs at that point, when in reality, when you take
13 that language out that we've taken out, it's clear
14 that we're actually not at that stage, we're beyond
15 that stage, and we're addressing make ready costs,
16 what you pay, what we give back, et cetera.

17 MR. KOPTA: Yadas are okay.

18 MR. DIXON: And just to clarify one of the
19 yadas, the reason we're striking the 45 is you
20 believe that's already covered in a different
21 section, where we get into the 1035 business.

22 MR. BECK: Yeah, and I can actually show
23 you that, if you'd like.

24 MR. DIXON: We'll do it offline. That's
25 good. I just want to be able to tell Michael.

00374

1 MR. KOPTA: There was one additional issue
2 on this, which was the various days and time periods
3 for requesting records and when all of this was
4 supposed to happen. We wanted to work on that
5 offline in terms of how that worked. It may be that
6 it's fine, what you've sort of charted out. I just
7 haven't been able to do that. As I pointed out
8 earlier, this may be WorldCom's contribution. At
9 some point, we can discuss it with them.

10 MR. BECK: So this is a take-away for Greg.

11 MS. SACILOTTO: Yeah, I would request that
12 you, I guess, attempt to do the math, and if there is
13 an issue, then we can discuss it on Monday, but if
14 the numbers work out, let's -- maybe by taking out
15 the 45 days, that it will take one less number out
16 and it will all work out.

17 MR. KOPTA: I will review this and we'll
18 discuss it on Monday. If I still have an issue, I'll
19 let you know then.

20 MR. DIXON: That's also an issue that, to
21 the extent it's changed, then WorldCom and AT&T, I
22 know, want to be involved in that discussion.

23 MS. SACILOTTO: I don't know -- I can't
24 remember, Tom, did you need to have confirmation on
25 whether the language that Mr. Beck proposed is going

00375

1 to be okay?

2 MR. DIXON: Yeah, I just want to run it by
3 Mr. Schneider. That's Number Four.

4 MS. SACILOTTO: I'm not going to read
5 through 10.8.5, because I believe that we -- unless I
6 need to, for clarity of the record. My notes on here
7 say that we reached consensus on this, and we spent a
8 fair amount of time on that this morning.

9 MR. DIXON: I agree.

10 MS. SACILOTTO: So I'm going to change 42
11 to closed.

12 MS. DeCOOK: I would only say that to the
13 extent that we need to check on 10.8.4.3, and Steve's
14 representation is that that was deleted, but it's
15 picked up in 10.5. I think we just need to check
16 that and make sure that we're comfortable with how
17 that was changed and make sure it's consistent with
18 what happened in Arizona.

19 MR. BECK: But that's not a new change,
20 actually. That's always been in the Washington SGAT.
21 So if you have problems with it in 10.8.5, you
22 probably would have brought them.

23 MS. DeCOOK: But we've made a lot of
24 changes to it, so --

25 MR. BECK: But we didn't change any of the

00376

1 annual, semiannual stuff.

2 MS. DeCOOK: Well, yes, you did. You
3 defined what fees those were. So you know, I think
4 just for consistency's standpoint, we have to do a
5 check. I'm not saying that you're wrong,
6 necessarily, but I just need to do a check with what
7 we did in Arizona.

8 MR. BECK: Okay.

9 MS. SACILOTTO: Maybe so that Monday goes a
10 little faster, maybe some of these -- what we'll --
11 our word from Colorado, nits and gnats, to the extent
12 we can get the nits and gnats that aren't terribly
13 controversial like this settled tonight, I'd really
14 like to do that.

15 MS. DeCOOK: I'm actually looking at the
16 Arizona red-line right now.

17 MR. DIXON: I may have a little trouble
18 tonight, because I believe my witness is on the East
19 Coast time, like you normally are.

20 MR. BECK: I hate to say this, because this
21 is probably just going to screw up everything and
22 nobody's going to agree with it, but we do need to
23 take an "e" out of the word therefore on the last
24 line of 10.8.5.

25 MS. SACILOTTO: With that highly

00377

1 controversial change, I have reached the end of 10.8.
2 I do know that there is a takeback for us to discuss
3 on Monday. The extent to which AT&T's language on
4 page 221 is already encompassed by what's in the
5 SGAT, duplicative or appropriate, as may be, and to
6 the extent to which AT&T is willing to revise some of
7 that language to reflect changes in federal law since
8 the time it had its interconnection agreement, and so
9 that will be a takeback item for the Monday
10 discussion.

11 MR. DIXON: And just for the record,
12 obviously, if there are changes made to the document
13 because of AT&T's proposed language, I'll be running
14 that back by Michael, as well, so while I have no
15 general problem with what's stated, I'll need to
16 clear it.

17 MS. SACILOTTO: I would suggest, in the
18 interim, before Monday, you might want to compare
19 this proposed language with whatever's in MCI's
20 agreement in Washington. In many states, they use
21 identical language, and so -- there's going to be
22 modifications to that language, no question, but at
23 least you can familiarize yourself with what AT&T
24 proposed.

25 MR. DIXON: It is my belief that, with the

00378

1 exception of changing the name, the agreements in
2 this area are the same.

3 MS. SACILOTTO: Yeah.

4 MS. DeCOOK: And just for the record, on
5 the federal law issue on Number Six in Exhibit 221, I
6 think US West has a takeback, or at least a suggested
7 takeback, to consider state law implications.

8 MR. DIXON: Right. And you'll have an
9 answer to us by tonight.

10 MR. BECK: I could probably answer you
11 right now.

12 MR. DIXON: Don't be hasty.

13 JUDGE WALLIS: We are kind of in a wrap-up
14 mode here, and what I would like to do is encourage
15 us to focus on stating the extent of agreements or
16 disagreements, and perhaps parties can schedule some
17 time this evening to work out details. We would
18 certainly encourage that. Or perhaps parties may
19 wish to start early tomorrow morning for that
20 purpose. Mr. ffitch.

21 MR. FFITCH: Your Honor, it's my
22 understanding that while I was out of the room
23 earlier today, there were some questions directed to
24 Public Counsel, and I will attempt to get an answer
25 to the Bench by tomorrow morning, with your

00379

1 permission. I believe that I could determine the
2 specific questions either from Staff or Mr. Butler, I
3 believe, had mentioned one of the matters to me.

4 JUDGE WALLIS: We merely inquired as to
5 whether Mr. Butler or Public Counsel wished to
6 comment on a pending issue.

7 MR. FFITCH: I will examine our position on
8 that and make a statement in the morning, Your Honor.

9 MR. FFITCH: Thank you. Also, just at this
10 point, I'll indicate my understanding is we'll be
11 continuing on tomorrow with reciprocal compensation.
12 I expect to depart here in a little bit.

13 MR. FFITCH: Very well.

14 MR. FFITCH: Attend to other business.

15 MS. SACILOTTO: We have just one
16 outstanding issue that is not related to the task
17 we've just been going through, but during the session
18 this morning, we had an opportunity to do a little
19 bit of investigation on the issue raised by Mr.
20 Nilges, and we've done a little bit of investigation
21 on that and would like Mr. Freeberg to report. I see
22 that Mr. Nilges isn't here, but we do have some
23 clarifications that we would like to present in the
24 interests of a full and complete record.

25 JUDGE WALLIS: Mr. Kopta, are you amenable

00380

1 to this?

2 MR. KOPTA: That's fine. I'm hoping that
3 we can resolve this through our own negotiations in
4 terms of additional language, and certainly US West
5 should have the opportunity to raise this, and should
6 we still have a disputed issue, I'm assuming we can
7 take that up on the follow-up workshop.

8 JUDGE WALLIS: Very well. Mr. Freeberg.

9 MR. FREEBERG: Tom Freeberg, US West. I am
10 looking at a log of jobs, in particular, innerduct
11 occupancy inquiries, and I'm believing that I found
12 the one which Mr. Nilges discussed this morning, and
13 it is a Nextlink request in Spokane. I show it as
14 having been received by US West on February 15th,
15 which is the date that I think Mr. Nilges mentioned,
16 and I show us as having responded back to Nextlink by
17 February 25th, 10 days subsequent to our having
18 received the request.

19 I then show that next in the sequence of
20 events was our having been notified that you wanted
21 field verification done, and that we got that request
22 on March 19th. So roughly three weeks passed between
23 your notification of the completion of the inquiry
24 until your proposal that we go out and do field
25 verification.

00381

1 Field verification completion I show as
2 having been received there by Nextlink on May 7th,
3 which I believe, again, would be within the 35-day
4 interval. Now, that conflicts with what I think I
5 heard this morning from Mr. Nilges, which he said was
6 June 30th, I believe. So there is a mismatch there,
7 but again, the dollar amount comes very close to the
8 dollar amount that he mentioned. I believe I'm
9 looking at the same request.

10 MS. SACILOTTO: Your Honor, we would like
11 to introduce this document into the record as an
12 exhibit and assign it a number. However, I believe
13 that we should do a little redacting of it on
14 Nextlink's behalf to just block out -- and any other
15 CLEC that might be mentioned on this report, just to
16 focus on the one line of this document that is
17 relevant to today's inquiry.

18 MR. KOPTA: We wouldn't have any problem
19 with that, as long as, again, there's the
20 opportunity, should it arise, that we would need to
21 provide any explanation from Nextlink's perspective
22 as to why that is or isn't accurate.

23 JUDGE WALLIS: Very well. Let's call that
24 Exhibit 167, and how would you like to title it?

25 MS. SACILOTTO: Nextlink River Point

00382

1 Boulevard request. And we will provide a redacted
2 version as soon as possible, maybe --

3 JUDGE WALLIS: Very well.

4 MS. SACILOTTO: -- as soon as tomorrow.

5 JUDGE WALLIS: We will, at this point,
6 merely hold that number in reserve, and we will
7 officially receive and admit the exhibit when it is
8 received.

9 Are we ready to move on to Item 13? All
10 right. Mr. Stahly, I'm going to ask you to rise and
11 raise your right hand.

12 Whereupon,

13 DAVID STAHLY,
14 having been first duly sworn, was called as a witness
15 herein and testified as follows:

16 JUDGE WALLIS: The witnesses pertaining to
17 this discussion have been sworn. Let's begin again
18 with US West's presentation.

19 MS. SACILOTTO: Your Honor, Tom Freeberg,
20 on behalf of US West. I suspect that Mr. Freeberg
21 will be doing a bit of drawing at the easel, so I
22 hope that's acceptable, and we'll try to speak as
23 loudly as we can from over there.

24 MR. FREEBERG: Thank you. Tom Freeberg,
25 from US West.

00383

1 MS. DeCOOK: Are you starting recip. comp?
2 Can I ask a question? Does it make sense to deal
3 with ISP separately from non-ISP reciprocal comp
4 issues?

5 MS. SACILOTTO: I would recommend that we
6 do it at the end, that -- I think that --

7 MS. DeCOOK: Do what at the end?

8 MS. SACILOTTO: The ISP part of it and
9 start into -- go over some of the more -- you know,
10 our goal is to get out of here as soon as possible,
11 so let's plow the heavy ground first. And some of
12 this is fairly -- a little bit more technical.

13 MS. DeCOOK: Right. So is it your notion
14 that we're going to do the non-ISP issues, have Tom's
15 presentation, and then go through other parties'
16 presentation, and then come back to the ISP issues?

17 MS. SACILOTTO: I think that sounds like a
18 good plan.

19 MS. DeCOOK: Great. I do, too.

20 MS. SACILOTTO: I would also say that, you
21 know, I think it won't be a linear presentation on
22 reciprocal comp in the sense that it was for some of
23 the other checklist items that we've been going
24 through, because there hasn't been -- there's more
25 disputed issues. So I would hope that we can -- when

00384

1 Mr. Wilson makes his presentation or any of the other
2 people, that we can stop where we have clarification
3 questions and whatnot as we go through it.

4 MS. DeCOOK: I think that's fine. I don't
5 have any problem with that. I think the other --
6 just sort of as a preliminary matter, and I'm
7 guessing that US West will agree with this, at least
8 at a certain level, is there's some relationship
9 between interconnection and reciprocal comp, and you
10 can't really avoid talking about interconnection when
11 you're dealing with reciprocal comp. And I realize
12 that we're not at the interconnection checklist, but
13 there is some need for a discussion of
14 interconnection conceptually.

15 MS. SACILOTTO: I guess we will agree to
16 that to a point. To the extent we get into issues
17 that are more appropriately addressed in the -- we're
18 going to have a whole workshop on interconnection. I
19 would hope that we can do it in that workshop and
20 focus on the areas that are really related to
21 reciprocal comp, transport and termination. So I
22 guess if something -- if we think that something is
23 straying beyond those bounds, we might want to
24 request that it be taken up in a different workshop.

25 MS. DeCOOK: Well, I'm counting on Ms.

00385

1 Sacilotto, if she hears something that strains the
2 bounds, I'm sure she'll let us know. But I do recall
3 Mr. Freeberg's presentation in Colorado related in
4 large part to interconnection, so I just want to make
5 sure that we all understand the bounds before we
6 start.

7 MS. SACILOTTO: I will chime in where
8 appropriate.

9 MR. FREEBERG: Thanks.

10 JUDGE WALLIS: Mr. Freeberg.

11 MR. FREEBERG: Tom Freeberg, US West. I
12 filed direct testimony and rebuttal testimony for US
13 West related to Checklist Item 13, reciprocal
14 compensation. The exhibits related to my remarks
15 will be 151-T, my direct testimony, 157-T, my
16 rebuttal testimony, and then Exhibits 158 through
17 165, and these are the drawings we've mentioned
18 several times previously. I'll be attempting to
19 really just reproduce these, not creating new
20 material, but instead building these, believing that
21 that will help us have a better discourse on
22 reciprocal compensation, some of the more granular
23 issues that we'll wrestle with, I'm sure.

24 The FCC, in its first report and order, at
25 paragraph 1034, said, Reciprocal compensation is

00386

1 intended for a situation where two carriers
2 collaborate to complete a local call.

3 I've also heard people suggest reciprocal
4 compensation is the monetary ramification of
5 establishing and maintaining interconnection. So
6 there is this relationship that, Rebecca, you
7 mentioned, and so with your patience, we'll take you
8 through what I think will help frame a better
9 discussion on the granular aspects soon.

10 I'm beginning with what we're calling
11 Exhibit 158. I've drawn what is the beginning of
12 that diagram. This is the basics of interconnection.
13 It begins with the parties each establishing a
14 switch, establishing some loops off of those
15 switches, this would be our loop, and telephones at
16 the ends of those loops. And in order to accomplish
17 interconnection, we need to build a tie between those
18 two offices.

19 When we do this, I think it's important to
20 say that when we build the tie between the two
21 offices, it may be a short distance, it may be within
22 the same building, it may be a long distance, it may
23 involve opening up streets and placing conduit and
24 cable and so on and so forth. It may be less onerous
25 than that.

00387

1 But beyond building the path itself, what
2 needs to happen is each carrier needs to establish
3 ports on their switch on either end. So these
4 interconnection trunks have connections at either
5 end, and both parties do their own work at either end
6 of this trunk group.

7 The other thing that's important here, I
8 think, is that each of these switches needs to
9 establish new rules for the routing of calls when, in
10 fact, we are getting this interconnection done. So
11 there are several steps in the process here. I said
12 here in Washington there are 109,000, roughly, DSO
13 level trunks, or were on March 1st.

14 If you're following my testimony very
15 carefully, you may notice that on page three, at line
16 five, and on page 13, line 15 of my rebuttal
17 testimony, there's a figure of 117,000. That was
18 incorrect. The more accurate number, as of March
19 1st, was 109,240.

20 The thought here, too, is that we've shown
21 one line between the two offices. In fact, there are
22 some options here. Most of the trunking that exists
23 is two-way trunking. Either switch at either end of
24 the trunk group may seize the next available trunk,
25 and so traffic can flow in either direction over the

00388

1 same number of trunks.

2 And I think two went on to say that 99
3 percent of all the trunking -- interconnection
4 trunking in Washington is, in fact, two-way. It
5 doesn't have to be that way. There is another
6 opportunity for each carrier to build one-way trunk
7 groups and enough to carry traffic that they
8 originate.

9 The thinking around reciprocal compensation
10 is that the originating carrier pays and that the
11 terminating carrier will be billing the originating
12 carrier.

13 Since most of the trunking is two-way,
14 there needs to be mechanisms to balance or result in
15 some cost sharing when, in fact, there's two-way
16 trunking and the traffic is flowing back and forth in
17 a way that is not necessarily balanced. And so there
18 are mechanisms with two-way trunking which emulate
19 one-way trunking, I think, if it would be accurate to
20 say.

21 US West, too, in establishment of all this,
22 I'm going to say takes a subordinate role. It is
23 much, much more common for the CLEC to order trunks
24 from US West than vice versa. And so US West is
25 typically in the position of filling the orders for

00389

1 these trunks.

2 A unique thing about an interconnection
3 trunk group is that there is a different carrier at
4 either end of the trunk group. So when we talk about
5 interconnection trunk groups, we're talking about
6 trunk groups with a different carrier's switch at
7 either end.

8 The last comment I wanted to make here is
9 that I think that interconnection clearly is some
10 transport and some switching. It is probably more
11 bundled than unbundled. And again, we often use
12 interchangeably, I think, the words interconnection
13 and the word trunking.

14 This would be Exhibit 159. And this
15 diagram thinks about interconnection from US West's
16 point of view. So in this case, we're thinking about
17 calls which originate on a CLEC network and that
18 terminate on US West's network. The service that US
19 West refers to often to handle that kind of a call is
20 local interconnection service. We think of it as
21 strictly a terminating service. And so many of the
22 reciprocal compensation matters are really elements
23 of that service.

24 So some of the elements of that service are
25 the following kinds of things. Beginning at the --

00390

1 assuming that the interconnection's established where
2 US West provided this facility between the two
3 switches, there would be a piece which extends from
4 the CLEC end office to what is referred to as the US
5 West serving wiring center. That serving wire center
6 is the US West central office building nearest the
7 CLEC's switch location.

8 In Exhibit A, you'd see that the price on
9 an entrance facility is a fixed price per month and
10 per channel. At the DS1 level, this is about \$77 a
11 month per DS1. The serving wire center is a place
12 where the traffic is not switched. To be clear,
13 there's no switching happening at the serving wire
14 center; it's simply a path through that building, if
15 you will.

16 Next, moving from left to right, is direct
17 trunk transport. And direct trunk transport is,
18 again, within Exhibit A, a fixed price per month, per
19 channel again, and a fixed price per mile. And I
20 believe at the DS1 level, again, this is about \$33 a
21 month at DS1. And it is, depending upon the
22 distance, about 51 cents to about \$2.70, again,
23 depending on whether we're in the zero to eight-mile
24 range or the over 50-mile range.

25 An important point I think I want you to

00391

1 understand is that none of this is per minute. So in
2 an arrangement like this, the more traffic you can
3 move across this facility, the lower becomes your
4 per-minute cost.

5 Important to know, I think, too, that about
6 90 percent of all the traffic I said -- well, I said
7 earlier, as we were thinking about calls moving in
8 this direction, that driving what I had to say here
9 about local interconnection service. In fact, what's
10 true is about 90 percent of all the calls move in the
11 other direction. They move, that is, from the US
12 West network or behind the US West network towards
13 the CLEC network.

14 MS. SACILOTTO: And why is that?

15 MR. FREEBERG: It's due, I think, primarily
16 to a CLEC's focus on carriers who -- excuse me, on
17 retail customers who terminate a great deal more
18 traffic than they originate. End user customers like
19 voice messaging companies, Internet service
20 providers, telemarketing companies, that sort of
21 thing. Much more incoming traffic than outgoing.

22 Missed an element here, and in fact, this
23 is missing on your exhibit, as well. What also
24 belongs on here is call termination. Certainly,
25 there is call termination, and it is a per-minute

00392

1 charge for the switching at the US West end office.
2 And the rate, I think, is about .12 cents per minute,
3 something like that.

4 And let's see. I think it's clear that
5 much of the way that this has been designed is based
6 on a switched access model. It looks, in many ways,
7 like switched access. It may be important to point
8 out that it's possible -- I said before that the
9 per-minute rate is going to vary based upon how much
10 traffic can be moved across this. If it were a
11 single DS1, that might be in the range of 100,000,
12 maybe a couple hundred thousand minutes per month.
13 That would be a possible volume on a single DS1.

14 There are alternatives here. This option,
15 of course, is one where US West provides the link
16 between the two switches. There are options, and
17 they include, of course, collocation, where in fact
18 the CLEC might provide this link, and so I'm not
19 characterizing that on this exhibit. I'm not really
20 reflecting here, either, a midpoint meet, where in
21 fact we might define some point at the midpoint here
22 between the two carriers, and could certainly both
23 build to that point.

24 We will talk at some length, too, I think
25 about a fourth possibility, where these two switches

00393

1 are in different local calling areas. And when that
2 happens and US West provides the link between the two
3 switches, we provide something we call interlocal
4 calling area facilities, and I'm sure we'll do some
5 talking about that.

6 Next, and I'll give myself a few loops and
7 telephones out on both edges of this network. That
8 may be enough for now. The next subject is Exhibit
9 160. It is intended to speak to alternate routing.
10 Alternate routing is identified in the SGAT as an
11 option for the purchaser of LIS service or for the
12 CLEC who wants to arrange interconnection. It's
13 addressed at 7.2.2.1.2.2, also at 7.2.8.5, and at
14 7.2.2.2.9.8.

15 The option here is to build an arrangement
16 just a little bit different than the one we showed on
17 the last diagram and to arrange multiple means for a
18 call to make its way across the interconnected
19 network.

20 If we think of the CLEC end office and US
21 West End Office Number One as exchanging a call, we
22 can establish a situation where both switches at
23 either end of a two-way trunk group here attempt
24 first to put their calls onto this primary high-use
25 trunk group. Well, that trunk group is designed so

00394

1 that, in fact, it does block. It intentionally
2 blocks when the traffic is very heavy. We often
3 don't use the word block, but instead the word
4 overflow, and that's because when a call blocks or
5 overflows, it overflows to a second path.

6 The second path would take the call via the
7 tandem. In this case, I put US West in question
8 marks, because, in fact, we might not be the only
9 carrier or the carrier using the tandem in this case,
10 but in this case, let's assume that we are.

11 So a call which, in fact, did not -- could
12 not fit onto the primary high-use group followed a
13 second route, often called the alternate final route,
14 and it turns out here in Washington, of those 109,000
15 or so trunks, about 68 percent of the trunks are of
16 the direct type, and about 32 percent are of the
17 tandem-routed type.

18 MS. SACILOTTO: Tom?

19 MR. FREEBERG: Yes.

20 MS. SACILOTTO: Did those percentages have
21 any relation to the minutes that flow across those
22 facilities?

23 MR. FREEBERG: Yes, they do. Since the
24 primary high-use trunks are allowed to block, in
25 fact, designed to block, a single trunk carries more

00395

1 minutes in a month than a trunk in an alternate final
2 trunk group. In an alternate final trunk group, we
3 do not want to block, except in very designable
4 cases, one percent, for example, or two percent, but
5 not more than that.

6 And so, in the end, if, in fact, we looked
7 at the number of minutes which flow via the direct
8 route versus via the tandem route, once again, we
9 approach very closely that 90 percent number. That
10 is about 10 percent of the calls flow via this tandem
11 minutes. Pardon me, I shouldn't say calls, but
12 minutes flow via the tandem.

13 We're now, here in Washington, I think in
14 my testimony, the most recent one, exchanging almost
15 a billion minutes a month at this point in time. I
16 think we're at 830 million or something like that
17 lately, so the thought is that of the almost a
18 billion local interconnection minutes that are
19 flowing back and forth, and this is, by the way,
20 adding traffic going in both directions, if we were
21 concerned with how many, in fact, go via the tandem,
22 we said before that roughly -- if we're concerned
23 about, from the CLEC's perspective and the charges
24 that it faces from US West, because in fact US West
25 is terminating their call, we said only about 10

00396

1 percent of the traffic goes from the CLEC side of
2 this network to the US West side.

3 And then if, on top of that, we think about
4 the fact that most of the traffic flows on direct
5 trunk groups, then there is another 10 percent
6 applied. It ends up being one billion times .1 times
7 .1, in terms of the number of minutes that are faced
8 with tandem switching charges from US West.

9 In fact, on a call-by-call basis, if a call
10 flows via the tandem, it does face a tandem switching
11 charge. It is a cents-per-minute charge. I think in
12 Exhibit A, it is about .00141 cents per minute. And
13 then there is a tandem transport charge applied on
14 the distance between the tandem and the US West end
15 office. It's, again, a cents-per-minute charge. It
16 is, again, from Exhibit A, .00026 plus .00001 times
17 the mileage. So it does have a distance sensitivity
18 to it, but it is a multiplier times a very small
19 number.

20 Let's see what else I might have wanted to
21 mention here.

22 MR. WILSON: Question.

23 MR. FREEBERG: Yes, Ken.

24 MR. WILSON: On your Diagram 160, which you
25 have drawn most of here, you show an entrance

00397

1 facility and direct trunk transport to the tandem.
2 My question is, if there's a serving wiring center
3 between the tandem and your end office, is that still
4 all counted as tandem transport, and there's not two
5 pieces, as there would be getting to the tandem, or
6 could be getting to the tandem?

7 MR. FREEBERG: Good question. If I
8 understand it right, you're asking is there a serving
9 wire center here and potentially an entrance
10 facility? Pardon me, I should say -- I'm pointing.
11 Between the US West tandem and the US West end
12 office?

13 MR. WILSON: That was my question, yes.

14 MR. FREEBERG: No, there is not. That
15 tandem transport distance is from the tandem to the
16 end office. No entrance facility at the far end.

17 MR. WILSON: Okay. And it would just be
18 the mileage whether or not there was an intervening
19 wire center?

20 MR. FREEBERG: That's true.

21 MR. WILSON: Okay.

22 MR. FREEBERG: There's some mention within
23 my testimony about calls being switched twice, and
24 that's used in discussion about calls that flow via
25 the tandem. Well, you can clearly see here that if a

00398

1 call flows from the CLEC end office via the tandem to
2 the US West end office, it's actually switched three
3 times. However, when we talk about switching twice,
4 we're talking about -- we're excluding wherever the
5 call started. We're switching it once at the tandem
6 and once at the end office. Again, calls face those
7 charges only if, in fact, the call flows via the
8 tandem.

9 And I guess one last point here is that
10 there is a non-US West ILEC end office shown at the
11 bottom of this diagram, simply to be a reminder that,
12 in fact, calls may flow from a CLEC or from an ILEC
13 across US West's network. And we'll talk about call
14 transiting in a chart coming up.

15 Building on the story we started on, the
16 last line we're going to, what would be Exhibit 161,
17 and I've begun to put it together here. Once again,
18 we have some of the familiar arrangements that we
19 talked about on the last slide. We have alternate
20 routing situations on our interconnection trunks
21 between the CLEC end office and various US West end
22 offices in the same local calling area, but what
23 we've introduced here is the fact the tandems in US
24 West's network sometimes carry local traffic from end
25 offices outside of their local calling area, outside

00399

1 of the local calling area where they exist.

2 That introduces an interesting new wrinkle.

3 We'll talk more about it, I'm sure, as we go on

4 today. But in fact, here, to be clear, there is

5 alternate routing between US West end offices and

6 their tandem. That is, there is a primary high-use

7 route between End Office One and End Office Two,

8 perhaps, with a secondary route carrying calls

9 between those two offices via the tandem.

10 The same thing might be true on two end

11 offices which are in a different local calling area.

12 That is, having a first choice route on a trunk group

13 directly between them and having a second choice or

14 alternate route, which goes via the local tandem,

15 however, some distance away.

16 In Washington, I believe there are about

17 six local tandems, I think four in this LATA and a

18 couple in the Spokane LATA, if I'm not mistaken. And

19 to be clear, these two end offices, that is, US West

20 End Office Number Three and US West End Office Number

21 Four, might or might not have an alternate route via

22 their local tandem. That is, I don't mean to say

23 that, in fact, this always exists. In fact, there is

24 a trade-off.

25 As the traffic between End Office Three and

00400

1 End Office Four builds, there is a chance to simply
2 make this Trunk Group Number One that I've shown here
3 larger and design it as a direct final trunk group
4 and avoid hauling the traffic potentially a long
5 distance back to the tandem.

6 It is a trade-off, again, between what is
7 the cost to haul a little bit of traffic back to the
8 tandem versus design the direct trunk group between
9 Three and Four as a direct final trunk group. A
10 little less efficient, but you avoid the cost of
11 having to haul that traffic all the way back to a
12 tandem, which may be some distance away.

13 There is, in the retail world, if I can
14 jump to that for a minute and not think so much about
15 our sort of wholesale world, which truly is the
16 subject of the day, but there is a service sold on
17 the retail side of US West called a market expansion
18 line. It is also sometimes talked about as foreign
19 exchange.

20 And the way that that works is that --
21 let's say a party who is, let's say, a US West retail
22 customer within the local calling area, circled in
23 blue here, that they, in fact, can be given a
24 telephone number which is potentially familiar to
25 people in US West End Office Four. And --

00401

1 MS. SACILOTTO: What is potentially
2 familiar?

3 MR. FREEBERG: It is a seven-digit
4 telephone number which a US West retail customer in
5 End Office Number Four would consider to be a local
6 call, seven-digit call. And so when this customer
7 back in the large metropolitan area, let's say,
8 circled here in blue wants to expand its market and
9 begin to be recognized in a remote locale as a local
10 party, they again can have their telephone here in
11 the metropolitan area receiving calls from End Office
12 Number Four. And the people making the calls at US
13 West's End Office Number Four, in fact, are sending a
14 call over a longer distance, not really a local call,
15 though to them it seems as though it's a local call.

16 MS. SACILOTTO: Can I just put an example
17 around that? So let's use something near to our
18 hearts, say the Krispy Kreme wants to go to a new
19 market area, or they want to expand or serve a
20 different area, the Krispy Kreme in Seattle could
21 give itself a telephone number someplace else. Is
22 that -- can we use the Krispy Kreme and try to --

23 MR. FREEBERG: I think so. We can't get
24 Krispy Kreme donuts here in Olympia, but we wish that
25 we could.

00402

1 MS. SACILOTTO: Right. We can put Krispy
2 Kreme someplace. There's a talk of Krispy Kreme.

3 MR. FREEBERG: And let's say that Krispy
4 Kreme has a really nifty way of getting nice, warm
5 donuts out. And what they would like to do is
6 receive all their calls in downtown Seattle.

7 MS. SACILOTTO: As if they were local
8 calls, or at least for the end user's purposes?

9 MR. FREEBERG: Yeah, so when an Olympia
10 party like us calls the Olympia telephone number for
11 Krispy Kreme, they're actually talking to someone in
12 Seattle, not to someone here in Olympia, and yet it
13 seems to them as though -- it would seem to us as
14 though we were talking to a local person, not
15 realizing our call has been hauled to Seattle. And
16 the Seattle person could answer the call and return
17 our order and -- never knowing the call was hauled as
18 far as it was.

19 MS. SACILOTTO: Does the way the call
20 appears to the Krispy Kreme caller have any
21 connection to what happens between the carriers
22 behind the telephone numbers, if you understand my
23 question?

24 MR. FREEBERG: Well, I'll give it a try.

25 MS. SACILOTTO: I mean, the fact that I

00403

1 might dial a local number, does that have any
2 relationship to whether or not that call would be
3 treated as a local call by carriers?

4 MR. FREEBERG: What's true in this case, I
5 think, is that, from US West's perspective, US West
6 sells this market expansion line to the Krispy Kreme
7 customer, that Krispy Kreme customer is actually the
8 receiver of the calls. They were going to pay for a
9 private line arrangement, effectively, between two
10 local calling areas, and that private line between
11 the two local calling areas does resemble interlocal
12 calling area facilities that we'll be talking about
13 in a few minutes.

14 MS. SACILOTTO: And just to clarify, why is
15 it subject to that charge? What is the factor that
16 makes it subject to the private line charge?

17 MR. FREEBERG: It's subject to the private
18 line charge because, in the end, a call that passes
19 between the two retail end users is not local,
20 because, in fact, the parties are in two separate
21 local calling areas.

22 Interesting, though, if you were to look at
23 a call record for a call like that, it would appear
24 as though the two were very close together. Again,
25 seven-digit telephone numbers that look very similar

00404

1 to one another, hard to know that they weren't close
2 to each other.

3 MR. WILSON: Question, Tom.

4 MR. FREEBERG: Yes.

5 MR. WILSON: So essentially, in that
6 situation, US West is proposing to treat the CLECs
7 like retail customers?

8 MR. FREEBERG: No, not necessarily. No, I
9 think it's simply intended to reflect there are some
10 analogous kinds of situations, but, Ken, I think it
11 would be stretching it too far to say it as you just
12 proposed.

13 MR. WILSON: Well, if you're proposing to
14 charge the CLECs for private line charges to get
15 between -- to get a local call, just because it goes
16 back to a CLEC's switch which may be a ways away, I
17 understand your proposal is to charge the CLECs
18 private line rates, which is the retail -- the same
19 that you would charge an end user to get a private
20 line.

21 MR. FREEBERG: To that extent, I agree with
22 you, Ken. That's true. Interlocal calling
23 facilities involve a private line charge that's
24 similar, yes.

25 MS. SACILOTTO: Well, I guess the

00405

1 clarification that I would add, Ken, is that to the
2 extent the call is transported within the local
3 calling area, that would be a direct trunk transport
4 price that would be priced at TELRIC, wouldn't it,
5 Tom? Am I correct with that?

6 MR. FREEBERG: Can you ask me that question
7 once more?

8 MS. SACILOTTO: Is there a component of
9 that transport that occurs within the local calling
10 area that is not at a private line rate, or am I
11 misunderstanding?

12 MR. FREEBERG: Yes, that's true. Thank
13 you. I think I understand what you're saying. In
14 the interlocal calling area facility situation, which
15 is our next exhibit here, and we'll talk about it in
16 a minute, there is the component of the call that is
17 carried within the local calling area, at the far end
18 of the call is priced at TELRIC, and that is
19 different from the retail market expansion line
20 situation. Yes, Rebecca.

21 MS. DeCOOK: Tom, in the FX situation you
22 just described, as I understand it, the call that you
23 described originated in one local calling area and
24 terminated in another; is that correct?

25 MR. FREEBERG: Yes, that's true.

00406

1 MS. DeCOOK: In the interlocal calling area
2 that you've been discussing, does the call both
3 originate and terminate in the same local calling
4 area?

5 MR. FREEBERG: Maybe, and maybe not. Can
6 we --

7 MS. DeCOOK: And do you have a different
8 compensation proposal, depending upon whether it
9 terminates in the same local calling area versus
10 whether it doesn't?

11 MR. FREEBERG: The compensation proposal
12 when US West picks up a call in one local calling
13 area and drops it off in another local calling area
14 is interLCA facilities.

15 MS. SACILOTTO: Tom, it might help if you
16 drew or marked on here to clarify that point where US
17 West picks up the call and where US West drops the
18 call.

19 MR. FREEBERG: I actually maybe want to use
20 maybe one of Ken's, or else I want to draw -- can I
21 draw a new one that is not a --

22 MS. SACILOTTO: It's Ken's diagram.

23 MR. FREEBERG: Maybe I can do it with this
24 one. Sure. I believe that Ken has a chart, as seen
25 before, where in fact he would see a situation where

00407

1 the CLEC end office has an interconnection trunk
2 group, interLCA facilities, which connects the CLEC
3 end office with US West's End Office Number Four,
4 each of them being in different local calling areas.

5 JUDGE WALLIS: You've drawn an orange line;
6 is that correct?

7 MR. FREEBERG: I have. And Ken,
8 furthermore, would explain that in addition to these
9 two short loops that look relatively short on this
10 diagram, the CLEC end office may have long loops,
11 which extend all the way out to an end user not far
12 from End Office Number Four. And if, in fact, and
13 I'm going to put an A and a B on here, the US West
14 retail customer at End Office Number Four -- I've put
15 a little "a" on that telephone -- places a call to
16 the CLEC retail customer, who I've put a little "b"
17 on that telephone, if that happens, in fact, we could
18 have a call where the two end users were in the same
19 local calling area, and yet the call was completed
20 over an arrangement that involved a short loop on US
21 West's part out in End Office Number Four, switching
22 at End Office Number Four, carrying that call over an
23 interconnection trunk group, interLCA facilities,
24 facing this private line charge, and then, the CLEC
25 receives that call, switches the call out onto its

00408

1 long loop and hauls the call back out into the
2 vicinity of End Office Number Four.

3 MS. SACILOTTO: So where did US West pick
4 up and drop off that call?

5 MR. FREEBERG: In this case, US West picked
6 up the call out at End Office Number Four on the
7 short loop and it dropped the call off at the CLEC
8 switch in the other local calling area.

9 Now, there is some -- if I can just finish.
10 What I know for sure is where I pick the call up, End
11 Office Number Four, and where I dropped the call off,
12 at the CLEC end office in a different local calling
13 area.

14 MS. SACILOTTO: Why don't we call that just
15 like one, so that we can have two different local
16 calling areas.

17 MR. FREEBERG: This is Local Calling Area
18 One?

19 MS. SACILOTTO: Yeah, and we'll call the
20 one -- I think we've been calling it Four, so why
21 don't we just call it Four.

22 MR. FREEBERG: Okay. This is Local Calling
23 Area Four. I know that I picked the call up in Local
24 Calling Area Four and I know that I dropped the call
25 off in Local Calling Area One.

00409

1 What I can't know with certainty is that,
2 in fact, this call was completed over an especially
3 long loop. It may have been. I just, as a wholesale
4 carrier, I can't know that. All I have is a record
5 of a call with two very similar telephone numbers.
6 Looks like a local call. On the other hand, clearly,
7 I know I picked it up in Local Calling Area Four and
8 I dropped it off in Local Calling Area One.

9 Now, if there were a switch in this circuit
10 that was owned by the CLEC and it was out near the
11 endpoint for the CLEC's Retail Customer B, then I'd
12 have some confidence, because, in fact, I could know
13 that this switch is, in the Local Exchange Routing
14 Guide, potentially filed in the NECA tariff. I could
15 know that, in fact, this call was carried through a
16 switch out in Local Calling Area Four. But without
17 that, I can't know that.

18 If, in fact, it's simply a loop, I have no
19 way of knowing where the call, in fact, really did
20 end up. It could look like a market expansion line,
21 right? There could be a short loop here. This
22 person could have a telephone number here, which -- I
23 shouldn't say here.

24 There could be a short loop from the CLEC
25 end office, which is given a telephone number which

00410

1 is familiar or local to End Office Number Four.
2 That's possible. And it would allow the party in End
3 Office Number Four to call Krispy Kreme, have the
4 call terminated at some different local calling area.
5 It's possible. Hard to know. Make sense?

6 MS. SACILOTTO: Yes, I think so.

7 MS. DeCOOK: First, as I understand your
8 depiction, the call from the US West end office
9 originates in Local Calling Area Four and terminates
10 in Local Calling Area Four; correct?

11 MR. FREEBERG: Not necessarily.

12 MS. DeCOOK: In your example, isn't that
13 true?

14 MR. FREEBERG: Well, in the example where,
15 in fact, yes, there's a very long loop from the CLEC
16 switch, yes, that would be true.

17 MS. DeCOOK: Okay. What is US West's
18 proposal as to what the CLEC can charge US West if
19 Customer B is calling US West Customer A? The same
20 interLCA facility charge?

21 MR. FREEBERG: Again, there is a dependency
22 here. Assuming there is no switch here, there's no
23 switch in Local Calling Area Four, then, in fact,
24 we'd have an interLCA facility. There would be -- to
25 Kara's earlier point, there would be an entrance

00411

1 facility and a direct trunk transport, a TELRIC-based
2 element back in Local Calling Area Four. And
3 potentially, you know, it would be -- the meet point
4 here, we've shown as back at the CLEC end office.

5 So let's see. And the thought we were
6 coming -- the call is a call flowing from A to B or
7 from B to A?

8 MS. DeCOOK: From B to A.

9 MR. FREEBERG: From B to A.

10 MS. DeCOOK: I'm not trying to hide what my
11 question is. I guess I'm testing whether you agree
12 with the FCC's requirement that there be symmetrical
13 rates. If US West charges us a certain rate
14 structure for reciprocal comp, is it US West's
15 position that the CLEC can charge you that same rate
16 structure?

17 MR. FREEBERG: Yeah, it is a reciprocal
18 situation. However, it is for the carriage of calls
19 in a local calling area. So if the call flowed from
20 B to A, the local calling area piece of the call
21 would be back in Local Calling Area Four, and that
22 would be the charge, I believe, that would be
23 appropriate here.

24 MS. DeCOOK: So when the call goes from A
25 to B, then, is US West going to pay the same charges

00412

1 that we would pay you in the call that goes from B to
2 A?

3 MR. FREEBERG: What's happening here,
4 again, is that I don't know that B is, in fact, out
5 in Local Calling Area Four. I know that, in the case
6 of a call that goes from B to A, I know that I
7 received the call in Local Calling Area One, and I
8 terminated the call in Local Calling Area Four, and
9 that there is a reciprocal compensation
10 responsibility back in Local Calling Area Four for
11 which US West would, you know, be assessing a charge,
12 and then the interLCA facilities are non-local,
13 non-reciprocal compensation.

14 MR. WILSON: Tom, isn't it true that US
15 West sells FX lines to retail customers?

16 MR. FREEBERG: Yes.

17 MR. WILSON: How would the CLEC know if, in
18 fact, your Customer A call was starting in LCA Four?
19 It could be an FX line from LCA One, couldn't it?

20 MR. FREEBERG: It could. I think, again,
21 there is no way for you to know if, in fact, there is
22 an arrangement like this, nor for us, if I'm
23 understanding you right.

24 MR. WILSON: Yes, so that condition cancels
25 itself out. In fact, US West has far more FX lines

00413

1 than a CLEC. So the question still is, yes or no,
2 can the CLEC charge US West this interLCA charge when
3 a call from a customer, a US West customer in LCA
4 Four goes to a CLEC customer in LCA Four? No FX
5 lines on either party. Can we charge you the same
6 charge?

7 MR. FREEBERG: We're going to talk in a few
8 minutes about a situation where the host and remote
9 are in different local calling areas. And there,
10 I'll agree that we will face the same charges that
11 you do. That is, we would expect to be billed the
12 way that we bill you. If you picked up the call in
13 one local calling area and dropped it off in another,
14 we would expect to face similar charges.

15 MS. STRAIN: Just to clarify, you've drawn
16 two orange lines there, one from the US West End
17 Office Four to the CLEC end office, and the other
18 orange line goes from the CLEC end office to CLEC
19 Customer B. Does the CLEC own the line from the CLEC
20 end office to CLEC Customer B?

21 MR. FREEBERG: Yes.

22 MS. STRAIN: Is that their facility?

23 MR. FREEBERG: Yes.

24 MS. STRAIN: Thank you.

25 MR. WILSON: Well, to clarify, it could be

00414

1 an owned facility, it could be unbundled element
2 that's purchased from US West, it could be many
3 things, actually. And the CLEC is paying for that.

4 MR. KOPTA: And just one other thing, just
5 because I'm a little confused here. On that last
6 drawing, it's my understanding that when you're
7 talking about an FX or MEL kind of situation, that
8 you wouldn't know whether you had crossed the local
9 calling area boundary, but the vast majority of
10 cases, there are individual NXXes assigned for each
11 calling area.

12 So in terms of routing, US West would know
13 whether a CLEC's telephone number or a customer's
14 telephone number is in a local calling area from the
15 local exchange routing guide, wouldn't they?

16 MR. FREEBERG: No, I don't believe so. The
17 point I was trying to make is that I can't tell by
18 the telephone number whether or not this telephone is
19 at the end of a long loop or at the end of a short
20 loop. Does that make sense? I couldn't tell by the
21 local exchange routing guide.

22 MR. KOPTA: But you could tell which local
23 calling area the customer is in?

24 MR. FREEBERG: I think, to Ken's point, you
25 can't know on our part, we can't know on your part.

00415

1 All you can know, as a wholesale carrier, is where
2 you picked up the call and where you dropped it off.

3 MR. KOPTA: Well, but assuming -- doesn't
4 the local exchange routing guide tell you where the
5 prefix of that number is supposed to be in terms of
6 the local calling area? That doesn't mean that,
7 somehow or another, there might be a foreign exchange
8 line that crosses local boundaries, but that's the
9 exception, rather than the rule, isn't it?

10 MR. FREEBERG: I'm not sure. I would say,
11 generally, yes, but in a wholesale situation, again,
12 I think what's true is I can't tell by the telephone
13 number at the end of a loop where, in fact, that call
14 -- I can't tell the end points of that call,
15 geographically speaking.

16 MR. KOPTA: And also, just to vary your
17 diagram just a little bit before you change it, it
18 may be that the CLEC has collocation in End Office
19 Number Four and backhauls the traffic to its switch
20 in Local Calling Area Number One, and then, as part
21 of its network, terminates that call in Local Calling
22 Area Four. That's also a possibility, isn't it?

23 MR. FREEBERG: Yes. Yes, Ann.

24 MS. HOPFENBECK: I just had one question
25 for clarification. It's a little different scenario

00416

1 than what you've been talking about. And the
2 question is that if US West is -- if the two
3 customers being served are customers that are being
4 served out of US West End Offices Three and Four,
5 one's a CLEC customer, one's a US West customer, and
6 the CLEC is direct trunked between -- or actually, I
7 guess -- excuse me.

8 Let's assume there is a CLEC end office in
9 Local Calling Area Four.

10 MR. FREEBERG: Okay.

11 MS. HOPFENBECK: And -- or a CLEC switch,
12 and US West and the CLEC are direct trunked between
13 that CLEC switch and the US West end office, and
14 there's a call being placed from the US West customer
15 to the CLEC -- excuse me, from the CLEC customer to
16 the US West customer, and that is routed through the
17 tandem. Alternate routing that's being used in the
18 tandem is in Local Calling Area One. Do any
19 interlocal calling area facility charges apply in
20 that scenario?

21 MR. FREEBERG: I think the answer would be
22 yes. This -- excuse me, the trunk group, which is
23 the overflow route which goes from the CLEC end
24 office in Local Calling Area Four to the US West
25 tandem in a different local calling area would be

00417

1 subject to the interLCA situation, I do believe.

2 JUDGE WALLIS: Let's be off the record for
3 just a minute.

4 (Discussion off the record.)

5 JUDGE WALLIS: Let's be back on the record,
6 please. Mr. Freeberg.

7 MR. FREEBERG: Thank you. Picking up where
8 we left off, I'm going to skip -- I'm not even going
9 to draw this next chart. You have it as Exhibit 162.
10 I think we've talked about it at some length. I
11 don't know that it needs a great deal more
12 discussion.

13 It introduces only this concept of a
14 virtual point of interface. If we were to have
15 placed it on the last diagram that we have, we might
16 have placed it at the edge of Local Calling Area
17 Four, again, at the juncture between the DTT and the
18 interLCA facilities.

19 What's happening with interLCA facilities
20 is it's allowing a CLEC who would like to have just
21 one switch in a LATA to establish a virtual presence,
22 a virtual point of interface in other local calling
23 areas without building another switch there.

24 Exhibit 163 talks about transiting. I
25 think that I've reproduced that diagram as you would

00418

1 have it as Exhibit 163. If we think about calls
2 flowing from the CLEC Number One End Office towards
3 the CLEC Number Two End Office, the thought is that
4 US West is relaying this call.

5 A question might be asked, what kinds of
6 charges would be faced by CLEC Number One who
7 originated this call. Well, there would be the
8 entrance facility and the DTT, which we talked about
9 before. They would face a tandem switching charge
10 and tandem transport charge, which has a default rate
11 in Exhibit A of 15 miles. That 15 miles gets
12 multiplied by that one-thousandth of a cent rate that
13 we talked about before.

14 The CLEC Two End Office certainly could be
15 an ILEC, it could be a wireless carrier. Enough said
16 there, I think.

17 MR. ARGENBRIGHT: Excuse me, can I ask a
18 question?

19 MR. FREEBERG: Yeah.

20 MR. ARGENBRIGHT: Mark Argenbright,
21 WorldCom. On the tandem transport piece, those
22 actual trunks between the tandem and CLEC Number Two
23 End Office, are those interconnection trunks between
24 CLEC Two and --

25 MR. FREEBERG: Yes, they would be.

00419

1 However, as I say, it could be a wireless carrier,
2 could be an incumbent local carrier, not necessarily
3 a CLEC at the FRN.

4 MR. ARGENBRIGHT: But there is some --
5 regardless of carrier type, there is some
6 compensation that US West is already receiving for
7 those trunks, some compensation arrangement from CLEC
8 Two or whoever that carrier is? The point I'm trying
9 to get to is it doesn't -- that seems like double
10 recovery on the transiting. I think we've made this
11 point before.

12 The tandem switching -- direct trunk
13 transport tandem switching seems appropriate in the
14 transiting environment, but the tandem transport --

15 MR. FREEBERG: Would you agree that there
16 could be a meet point in here, effectively, a serving
17 wire center, and that the meet point between this
18 wireless carrier and an incumbent LEC or CLEC might
19 be some point in between the tandem and the end
20 office, the CLEC Two End Office?

21 MR. ARGENBRIGHT: Yeah, I'd agree you could
22 have different network arrangements there. I'm just
23 saying that that transport piece, in whatever
24 arrangement is there, is taken care of with the
25 arrangement between the carriers between which that

00420

1 facility flows.

2 MR. FREEBERG: Ken, do you have a question
3 there?

4 MR. WILSON: Well, in fact, if the call is
5 going from CLEC Two to CLEC -- well, let's look at it
6 the other way. You could be actually receiving some
7 reciprocal compensation from CLEC Two, could you not?

8 MR. FREEBERG: In this case, CLEC Two is
9 going to receive the call, right. They are going to
10 terminate the call, and they are going to be
11 attempting to collect from CLEC One, who originated
12 the call, right.

13 MR. WILSON: Well, the question, back to
14 Mr. Argenbright's question, is there are arrangements
15 -- I mean, if that CLEC Two -- quite likely, that
16 tandem trunk, the TT, is a LIS trunk, which CLEC Two
17 would be paying US West for already. I mean,
18 wouldn't it be the case that it would be --

19 MR. FREEBERG: Again, I think there's a mix
20 of possible types of carriers at that far end, and
21 I'm believing that what we've attempted here is to
22 try to reflect a good average of all the possible
23 situations, not -- knowing that these switches are
24 not all, again, NECA filed and so forth. So it's not
25 clear to me that in all situations, we've -- this

00421

1 carrier has, for example, built the facility back to
2 US West's tandem, for example, though I admit that
3 that's possible. Right.

4 MR. WILSON: Well, if that is a CLEC,
5 wouldn't it be the case that either that TT trunk is
6 a LIS trunk, for which CLEC Two is paying you for, or
7 the CLEC Two built that trunk, in which case US West
8 is not paying anything for that trunking, and yet
9 you're proposing to collect transport charges from
10 CLEC One for transiting for that piece. That just
11 doesn't seem right.

12 MR. FREEBERG: Well, I suggest this
13 probably was one of the granular issues that I think
14 that we're going to get into, along with interLCA
15 facilities, so can we kind of hold this thought and
16 come back to it? This is one of those we need to
17 revisit.

18 The second to the last exhibit has to do
19 with host-remotes. Two situations shown here. In
20 the first case, the thought is that we've established
21 interconnection between a CLEC end office and the US
22 West host office. And we show a US West remote tied
23 to the US West via an umbilical. Thinking, again,
24 about local interconnection service, the thought
25 would be a call which flows from the CLEC towards the

00422

1 US West remote, what kinds of charges might it face.
2 We have the entrance facilities and the direct trunk
3 transport again. There is a tandem transport charge
4 that's applied to the distance between the host and
5 the remote.

6 There is no tandem switching charge here,
7 and the thinking behind that is that effectively the
8 call is being switched on the trunk side at the host
9 and on the line side of the switch at the remote.
10 This is a somewhat controversial matter, I'll admit.

11 This way of handling the charges for this
12 call, again, is akin to what is in the Washington
13 access service tariff at Section 6.7.10. Some
14 discussion about whether or not this umbilical is, in
15 fact, more characteristic of a loop than an
16 interoffice facility. This facility, though, I'm
17 quite confident, was not part of the loop
18 rate-setting equation. I'm also confident that, in
19 fact, switching is happening at the remote, that even
20 in the event the umbilical is severed between the
21 host and the remote, that calls could take place
22 between retail end users who are receiving dial tone
23 from the remote, so, in fact, there is switching
24 happening there. It's clear in my mind that that's
25 the case. Question, Ken?

00423

1 MR. WILSON: Well, so the structure that
2 you're proposing was essentially lifted from the
3 access?

4 MR. FREEBERG: Yes. And once again, to
5 your point, it is a situation, I think, where we
6 stand to face reciprocal charges from you. That is,
7 to the extent that you had a host or remote
8 situation, you would charge as much as we charge you.

9 MR. WILSON: If we could only collocate a
10 remote switching module, which we can't.

11 MR. FREEBERG: With a remote switching
12 module, sometimes a small device can be put in a hut,
13 can be put in a vault, can be put in all kinds of
14 different spaces. So I believe the collocation isn't
15 the killing blow for you. Question?

16 MR. HYDOCK: A couple of questions
17 clarifying the relative roles. Michael Hydock, AT&T.
18 A couple questions, Tom, about the host and remote
19 functionalities. The loops hanging off the remote,
20 where would they be getting their dial tone from, the
21 remote or the host?

22 MR. FREEBERG: The remote.

23 MR. HYDOCK: Okay. And where would they
24 get their class functionalities? Caller ID, call
25 waiting, where would that come from?

00424

1 MR. FREEBERG: I think it could depend on
2 the manufacturer of the host and the remote.

3 MR. HYDOCK: So it's unclear?

4 MR. FREEBERG: I think it's unclear.

5 MR. HYDOCK: Okay. And as a customer of US
6 West hanging off the remote, do I pay anything
7 different in terms of my monthly rate because I have
8 this additional transport, or am I paying the same
9 monthly rate as a local customer under the US West
10 host?

11 MR. FREEBERG: Well, I'm not sure that I
12 follow your question. Certainly, if the host switch,
13 which, by the way, may have its own loops, but a
14 customer who is served by the host, getting dial tone
15 from the host, getting local service from the host,
16 would pay a similar rate, monthly rate, as a customer
17 who is served from the remote. The chances are that
18 the host and the remote are in different exchanges.
19 There is some possibility that the host and the
20 remote are, in fact, in different local calling
21 areas. That does happen. I don't know that I
22 answered your question, Michael, though.

23 MR. HYDOCK: I guess I'm trying to
24 understand how US West treats its retail customers,
25 whether they're being served off the host or off the

00425

1 remote. And if you are a 1FR off the remote, whether
2 there is additional charges assessed to that retail
3 user?

4 MR. FREEBERG: I think the answer would be
5 no, there are not.

6 MR. HYDOCK: Thanks.

7 MR. FREEBERG: The second situation is one
8 where, in fact, a CLEC end office is establishing
9 interconnection via a US West tandem, that a US West
10 host is connected to the tandem, and that a US West
11 remote is connected to the host. If a call flowed
12 from the CLEC to a US West retail customer at the US
13 West remote, there would be entrance facility and DTT
14 charges.

15 There would be a tandem switching charge
16 here, because, in fact, the tandem handled the call.
17 Tandem transport applied to the distance from the
18 tandem to the remote, call termination at the remote.
19 I think that's enough said.

20 My last slide. This is all about
21 reciprocal compensation, which, of course, is all
22 about dollars. And so what we have here is a picture
23 of the 14 states of US West in 1999, and a comparison
24 of what US West paid to CLECs for reciprocal
25 compensation during 1999, and what US West billed to

00426

1 CLECs. The characterization here is 85 million
2 compared to seven million, and I believe this was in
3 my testimony, direct testimony.

4 In Washington, over a different period of
5 time, this being a Washington-specific number, and
6 happens to go from September of '99 through March of
7 this year, the comparison is 18 million paid by US
8 West to CLECs, less than a million billed to CLECs.
9 Not a perfect comparison. However, repeatedly, as we
10 look at this ratio, it is effectively a ten-to-one
11 relationship, or maybe more so than that. A truly
12 imbalance of payments. No question -- no surprise, I
13 think, to anyone.

14 These dollars, of course, as I said on
15 Exhibit 165, my final exhibit, don't include either
16 carrier's construction costs, that is, what they've
17 paid to equipment manufacturers and contractors and
18 so forth.

19 But I think here, as I conclude what I have
20 to say, the important point, I think, is most of the
21 suggestions about amendments to Section 7 of the
22 SGAT, most of the proposed changes to the way that we
23 had our reciprocal compensation would make this
24 already lopsided situation even more so, to the point
25 of 20-to-one, 30-to-one, 50-to-one, whatever it might

00427

1 be.

2 MR. WILSON: Question on this one.

3 MR. FREEBERG: Yes.

4 MR. WILSON: On the left side, you have
5 what US West paid to CLECs. What did CLECs bill US
6 West for reciprocal compensation during those
7 periods?

8 MR. FREEBERG: I don't have that number,
9 nor do I have what CLECs paid. And that would be
10 another comparison we could make, but I haven't shown
11 that.

12 MR. WILSON: Is it safe to say that CLECs
13 billed considerably more than is on the left side?

14 MR. FREEBERG: I think that's probably
15 true, yes. Can I go to Ann here?

16 MS. HOPFENBECK: Tom, I wanted to ask you
17 if there are -- do you know how many carriers in
18 Washington are, because of the way their
19 interconnection agreements are written, are not
20 paying reciprocal compensation or charging reciprocal
21 compensation, but rather operating under a bill and
22 keep scenario in Washington?

23 MR. FREEBERG: There certainly are several.
24 I don't have the number at my fingertips. Do you,
25 Kara, remember --

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1 MS. SACILOTTO: I don't know how many. I
2 know there are -- I can think of three off the top of
3 my head, MCI, TCG and AT&T.

4 MR. FREEBERG: I think Rainier, I think
5 Teligent.

6 MS. SACILOTTO: Right, and a number of
7 carriers might have opted into those agreements, so I
8 couldn't give you a, you know, total number, but --

9 MS. HOPFENBECK: So it would be true that
10 -- I mean, the numbers that you're presenting here
11 for reciprocal compensation, we can't really look at
12 them as being numbers that would be reflective of
13 what the circumstance would be and the balance would
14 be in the event that we're just operating under a
15 reciprocal compensation environment 100 percent.

16 MS. SACILOTTO: Well, bill and keep is a
17 kind of reciprocal compensation. It's in the act as
18 a kind of reciprocal compensation. It's just not
19 money flowing back and forth. It's compensation,
20 more or less, in kind.

21 MS. HOPFENBECK: But I mean, this diagram
22 that you've put out here, what significance do you
23 think -- I mean, are you suggesting that the
24 significance of this document -- essentially, this
25 document is significant in the sense that it shows

00429

1 something about sort of the balance of traffic
2 between carriers?

3 MR. FREEBERG: Yeah, I think it is
4 significant in that way, to your point. It should
5 be, again, no surprise that the dollars would look
6 like this, considering the traffic that we talked
7 about before. The two go hand-in-hand. And I think
8 the case that US West attempts to make here is
9 satisfaction of Checklist Item 13, having a legal
10 obligation to pay reciprocal compensation, and then
11 following that up with, in fact, payments themselves.

12 So in fact, this is a bit my point in
13 displaying this information, assisting in the fact US
14 West has paid and that, in fact, it has a continuing
15 legal obligation to do so. And I think the
16 indication here is, too, that looking backwards in
17 time, payments certainly have been made on
18 Internet-bound traffic, no question about it.

19 MR. WILSON: Do you happen to have the
20 amount of money that US West has not paid because US
21 West feels it's Internet service provider traffic in
22 these columns?

23 MR. FREEBERG: No, I don't. Certainly,
24 that's a number that varies from carrier-to-carrier.
25 And disputes can run, I think, a wide range. I think

00430

1 disputes -- I made myself a little list, that
2 disputes could be based in when to bill, when to
3 begin billing, when was a contract, for example,
4 adopted or amended or initiated. There could be
5 disputes over the total number of minutes handled in
6 an interconnection arrangement, there could be
7 disputes over what portion of those minutes were
8 local versus nonlocal, there could be disputes over
9 no originating calling party number associated with
10 an individual call, no terminating NPA, what
11 elements, in fact, are appropriate per call, what
12 price for each element, and then, not to mention our
13 favorite subject of Internet bound traffic, so lots
14 of things. And that's not a complete list, either,
15 of the things which could be the basis of differences
16 of opinion on payments.

17 MR. WILSON: Have you seen the numbers in
18 -- for all the CLECs, ballpark numbers for the 14
19 states and/or Washington for Internet service traffic
20 that has not been paid? Have you seen those numbers?

21 MS. SACILOTTO: Ken, in Washington, we,
22 under our interconnection agreements that don't have
23 bill and keep, have been paying for Internet-bound
24 traffic. So unless you have some specific that
25 you're referencing, in Washington, it's a different

00431

1 situation than it has been in other states. We have
2 been paying under our interconnection agreements.

3 MR. FREEBERG: To answer your question,
4 Ken, no, I haven't seen those numbers.

5 MR. WILSON: Okay. Another factor which I
6 think you would agree would affect the numbers is the
7 amount of traffic that's being carried over LIS
8 trunks, which US West provides, versus the amount of
9 traffic that's being carried over CLEC-provided
10 trunks. Do you happen to know the percentage of
11 minutes in Washington carried over LIS trunks versus
12 CLEC-provided trunks?

13 MR. FREEBERG: The mechanisms, I would say,
14 that are related to reciprocal compensation are
15 related to two-way trunking, and so the owner of the
16 trunk isn't really a relevant matter. The mechanism
17 results in a situation where the originating carrier
18 ends up paying the bill. And if US West originates
19 90 percent of the minutes, it faces that level of
20 charges for the facility regardless of whether US
21 West provided it or did not.

22 MR. WILSON: Oh, no, that's not true at
23 all. If CLECs provided 100 percent of all the
24 trunking, hundred percent, then the numbers would
25 change dramatically, because all of the transport

00432

1 would be owed to CLECs. CLECs would owe nothing for
2 the transport between the switches, or they
3 shouldn't.

4 MR. FREEBERG: Wouldn't you agree that if
5 it's a two-way trunking situation and the CLEC built
6 the trunks, that, in fact, we could face charges from
7 you for that?

8 MR. WILSON: That's exactly what I'm
9 saying, is that these numbers may be somewhat
10 reflective of who owns the actual trunking between
11 the switches, that the CLECs may be actually
12 providing a larger proportion of the trunking for the
13 minutes than US West, because they have put in
14 collocation and put in their own trunks, and
15 therefore, US West is paying the CLECs for that
16 transport.

17 MR. FREEBERG: Once again, I think lots of
18 contract differences, lots of different kinds of
19 things for which US West has billed and not billed,
20 but again, lots of mechanisms to divide the cost for
21 the party who -- going back to the very first slide,
22 the party who built the trunks. Kara, do you have a
23 question?

24 MS. SACILOTTO: Yeah, I guess I don't
25 understand. I'm back to where we started. And

00433

1 maybe, Ken, this is a dumb lawyer question, maybe
2 it's a smart lawyer question, but if the trunk is
3 two-way -- I would understand your point, perhaps, I
4 think, if the trunk was a one-way facility, but I
5 don't understand when it's a two-way facility. To
6 me, there's a difference between -- I thought we were
7 talking about the traffic flowing over the trunk, and
8 so I don't understand why there would be a difference
9 depending on who provided the trunk.

10 MR. HYDOCK: Michael Hydock, AT&T. I think
11 there's a two-part answer here. One is you have a
12 recip. comp charge, basically the termination at the
13 end office or at the tandem, and that would be
14 reflected in some of those funds. Likewise, you
15 would have trunk payments that are being made by both
16 carriers. So what's rolled into this number is
17 something that reflects a facility investment that
18 could be owned by US West, owned by the CLEC, and the
19 actual termination of minutes traversing the end
20 office switch.

21 MR. WILSON: And that second part was my
22 point, that if the CLEC was providing all the two-way
23 trunks, then US West would be paying a significantly
24 greater amount for trunking than if US West was
25 providing all of the trunks, and that would affect

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1 these dollars quite significantly.

2 MR. OWENS: Ken, are you -- this is Jeff
3 Owens, with US West. Are you suggesting that the
4 reason for the imbalance is that CLECs have provided
5 the majority of the trunking facilities between our
6 respective networks?

7 MR. WILSON: I'm suggesting that that
8 factor is reflected in these numbers, and I was
9 trying to see if Tom knew the percentages. I know
10 that in Washington, CLECs have made tremendous
11 investments in trunking that are providing a lot of
12 -- a large percentage of the transport for this
13 interconnection, especially between -- to the big
14 offices where most of the actual minutes flow. US
15 West is providing a lot of the trunking to some of
16 the more remote offices, but not much of the traffic
17 actually flows there. So these numbers may indeed be
18 impacted toward the CLEC because of the investment
19 the CLECs have made in actual facilities.

20 MR. OWENS: I would agree that to the
21 extent the CLECs have provided a greater portion of
22 transport, that would increase the amount of payments
23 US West would owe CLECs, but I've not seen any
24 evidence that that imbalance that you're seeing up
25 there is in any significant way due to a greater

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1 proportion of transport provided by CLECs than US
2 West. Tom, maybe you've seen something --

3 MR. FREEBERG: No, I haven't. I'm agreeing
4 with you. But I must admit, I've never dug into it.
5 That concludes my remarks, if there are no other
6 questions.

7 MS. DeCOOK: Your Honor, Becky DeCook, for
8 AT&T. One of our people spoke, but they have not
9 been sworn, so I just --

10 JUDGE WALLIS: I think it was just to ask a
11 question.

12 MS. DeCOOK: He actually made a couple of
13 statements, factual statements on the record. And
14 I'm not sure I can keep him down in the future, so
15 maybe we ought to swear him, just for future's sake.

16 JUDGE WALLIS: Very well. Let's do that.
17 Whereupon,

18 MICHAEL HYDOCK,
19 having been first duly sworn, was called as a witness
20 herein and testified as follows:

21 MS. DeCOOK: Thank you.

22 JUDGE WALLIS: Thank you. Could the
23 witness state and spell his name in full for the
24 court reporter, please?

25 MR. HYDOCK: Sure, Michael Hydock,

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1 H-y-d-o-c-k, AT&T.

2 JUDGE WALLIS: Okay. I'm going to suggest
3 that we break now and come back at 6:00. The doors
4 will be locked. The doors to the building will be
5 locked. We will do our best to be back here a
6 little bit before 6:00 to assist people to get back
7 in, and we'll also ask Staff to take turns watching
8 the door for a couple minutes after 6:00, so that we
9 can get people in efficiently at that time.

10 (Recess taken.)

11 JUDGE WALLIS: Let's be back on the record,
12 please, following a dinner recess. And before we
13 proceed any farther, I'd like to ask Mr. Dittmore if
14 he would care to share a bench request that the
15 Commission will be making for the parties.

16 MR. GRIFFITH: Actually, it's Mr. Griffith.

17 MR. KOPTA: It's late.

18 JUDGE WALLIS: It's Dave, anyway. I
19 apologize for that.

20 MR. GRIFFITH: This is Dave Griffith, from
21 Commission Staff. Just before we broke for our
22 dinner recess, there was a discussion about the
23 revenues that were being generated from the trunks
24 that the CLECs have purchased from US West. And as
25 part of this bench request, I'd like to see the

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1 revenues associated with those trunks, and I think
2 the number's somewhere around 100,000 trunks, for the
3 same months that were used in the table for the
4 reciprocal compensation bills.

5 And also, we just want to just see those
6 numbers for Washington State.

7 JUDGE WALLIS: That's the actual --

8 MR. GRIFFITH: That would be -- there's a
9 diagram on page 25 of Mr. Freeberg's direct
10 testimony, and it would be the two items on there
11 that are labeled US West transport and entrance
12 facility.

13 MR. BECK: Why don't you restate it, so
14 that we're all clear.

15 MR. GRIFFITH: I think there's also a
16 discussion as to whether -- what we received, I
17 think, were just billed dollar figures. I think we'd
18 also like to see the actual revenues associated with
19 the reciprocal compensation.

20 MR. WILSON: Ken Wilson. You might also
21 want to see the minutes flowing each way, or the
22 minutes on LIS trunks and the minutes on
23 CLEC-provided trunks.

24 MR. GRIFFITH: Okay. I'll add that, too.
25 That sounds good.

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1 JUDGE WALLIS: Everyone understand what
2 we're asking for now?

3 MR. FREEBERG: Tom Freeberg, US West. I
4 think I'd like to ask a clarifying question, and if I
5 can, I'll use the last chart that I used, just to be
6 sure I understand the question.

7 JUDGE WALLIS: We will call that Bench
8 Request Number 23.

9 MR. FREEBERG: What US West billed CLECs
10 would be revenue to us; right? Pardon me. So I want
11 to be clear that I understand. Is the question what
12 US West billed to CLECs would be revenue to US West
13 for the LIS service it provided; right?

14 MR. GRIFFITH: That would be right.

15 MS. SACILOTTO: Do you want how much we've
16 actually collected?

17 MR. GRIFFITH: Yes.

18 MR. FREEBERG: Ah, thank you. And just one
19 more. Collected and billed, thank you.

20 JUDGE WALLIS: And the same for the first
21 column.

22 MR. FREEBERG: And the same for the first
23 column.

24 JUDGE WALLIS: What you were billed and
25 what you paid.

00439

1 MR. FREEBERG: In that particular diagram
2 that you pointed out, I just want to be sure that I
3 get this right, I think did not have call termination
4 on it. Are you wanting -- you didn't ask for that to
5 be broken out separately. In other words, the
6 diagram you pointed me to was a direct trunk
7 transport diagram, I think.

8 MR. GRIFFITH: Yes, and I think in your
9 discussion you also talked about call termination,
10 which is not on that diagram, but would also be
11 helpful to have.

12 MR. FREEBERG: I should include it. Thank
13 you.

14 JUDGE WALLIS: All right. Now, are we
15 ready to proceed? Is there anything else
16 preliminary? Very well. I believe it's Mr. Wilson's
17 turn next.

18 MS. DeCOOK: Yes, Your Honor. Kenneth
19 Wilson will make a presentation on AT&T's behalf.

20 JUDGE WALLIS: Thank you.

21 MR. WILSON: Before I begin, my direct
22 testimony is Exhibit 201-T and the ensuing diagrams
23 are 202 through 213 that I'll be using.

24 MS. DeCOOK: I do have a few extra copies
25 of the diagram. I doubt I have one for everyone.

00440

1 They were provided, so if anybody needs a copy, I'd
2 be happy to provide one.

3 MR. HARLOW: I'll take one.

4 MR. WILSON: Okay. I would like to discuss
5 reciprocal compensation. Mr. Freeberg has shown some
6 network diagrams. I don't have any issue, really,
7 with the diagrams he has presented. In fact, some of
8 the diagrams I will show depict the same things.

9 What I do have issues with are many of the
10 charges that Mr. Freeberg was discussing and showing
11 on the board, because, by and large, those charges,
12 as US West presents them, are not reciprocal.
13 They're unilateral charges that US West is either
14 proposing and has not yet started charging CLECs, or
15 they have unilaterally been charging CLECs for them
16 for some time.

17 So I would like to go through a bit of
18 network architecture to show what we need to think
19 about when we look at reciprocal compensation, and
20 then to look at a several alternatives and issues
21 that need to be decided and discussed with respect to
22 reciprocal compensation.

23 And these, here is an interesting one,
24 because what the FCC really has mandated is
25 symmetrical reciprocal compensation, whereby each

00441

1 party should be fairly compensated for the
2 termination of traffic by the other. And it's our
3 belief that this mandate from the FCC is to make
4 those charges symmetrical and equitable, as I said.

5 And it's further my contention, and I'll
6 show you through these diagrams, that what US West
7 has done is to add on charges on their side that will
8 inevitably cost the CLEC a lot of money that it
9 should not be paying.

10 And the diagram that Mr. Freeberg depicted
11 last, which shows the revenue or the billing going
12 the other way, is largely due to a situation of call
13 flows that, over time, will go away. What I'm more
14 interested in, when the calls are 50/50, in other
15 words, balanced, what happens. Because, over time,
16 you can show statistically that when the CLECs grow
17 in size, eventually calls will be much more balanced,
18 that the situation where the calls are imbalanced
19 will, over time, go away. It's a short-term
20 phenomena.

21 So we need to look at what happens in the
22 long term, when calls are pretty much balanced, and
23 that's what I want to look at.

24 I want to start with a little bit of
25 network architecture. Mr. Freeberg showed some of

00442

1 this. I'm going to show it kind of holistically, the
2 difference between the ILEC, in this case, US West
3 network architecture, and the next picture will be
4 that of the CLEC.

5 The US West network has evolved over many,
6 many years into a two-level hierarchy of switches.
7 They have a tandem switch, which I'm showing in the
8 middle, and they have many end office switches on the
9 periphery of that tandem switch, all of which cover
10 the LATA area.

11 MS. SACILOTTO: Ken, can I just ask a
12 question? Is that a local or a toll tandem that you
13 have depicted there?

14 MR. WILSON: Well, many regions only have
15 -- only call it a tandem, but for the sake of this
16 discussion, let's call it a local tandem, for the
17 sake of this discussion. We're talking in reciprocal
18 compensation about local phone calls, not toll calls,
19 so we will assume that this tandem and these
20 switches, for the purposes of this discussion, are
21 handling local calls, not toll calls.

22 So the end user is connected to end offices
23 in the US West architecture, and there are many of
24 these end offices, due largely to the fact that as US
25 West was evolving its network, the cost for putting

00443

1 in long loops was very high, so that it was much more
2 economical for US West to put many switches all over
3 the region.

4 The advent of SONET rings and loop
5 extension technology is relatively recent, pretty
6 much in the last 15 to 20 years. US West's switching
7 infrastructure is actually much older than that. So
8 this is the reason that you find US West with many,
9 many switches.

10 If we started over today, that wouldn't
11 necessarily be the case. And in fact, if we move to
12 a typical CLEC architecture, in this case, AT&T, we
13 see a very different picture. Here, instead of many
14 switches, we have a single switch that is serving
15 customers throughout the LATA, as US West does, but
16 with a single switch. It does that by several new --
17 relatively new technologies. One would be SONET
18 rings, where you put fiber in a ring in a large metro
19 area, across the state, or in many other places, and
20 you put hubs and hook telephones up to the ring.

21 Another architecture, which AT&T is using,
22 is a hybrid fiber co-ax architecture, where we use
23 cable television infrastructure, upgrade it, enable
24 it to handle telephone calls. So that is another
25 type of infrastructure that the CLEC can utilize.

00444

1 And then the CLEC can, through collocation
2 and through loop extension technology and SONET rings
3 from the collocation to the AT&T switch, can take
4 loops that are currently terminated on US West's
5 switches and take them back to the AT&T switch.

6 So in this architecture, the CLEC, AT&T in
7 this case, is spending less money on switches, but
8 much more money in loop infrastructure. SONET rings
9 are not cheap to put in. There's both the fiber that
10 has to be put in the ground, there's also hub
11 architecture, there are hubs at each building, and et
12 cetera. The hybrid fiber co-ax infrastructure, AT&T
13 paid a few dollars for that and is spending a few
14 more dollars in upgrading that. So that's also a
15 relatively expensive new technology to get the calls
16 to a single switch.

17 When AT&T's switch is nearing capacity, as
18 it has, actually, in the TCG switch in Washington,
19 AT&T is putting in another switch, but in this case,
20 it's not that far from the original switch. And in
21 some states, the second switch is actually in the
22 same building. It's still more efficient for AT&T to
23 use this new loop technology to bring the calls back
24 to centralized locations.

25 There may be a time when it becomes

00445

1 economical to put switches further away, but the
2 economics today dictate longer loops, rather than
3 more switches.

4 Now we need to start looking at -- yes,
5 question?

6 MR. FREEBERG: Do you expect that US West,
7 too, uses SONET architecture and, in fact, builds
8 loops, in some cases, in a similar way?

9 MR. WILSON: Yes, indeed, US West uses some
10 of that technology, primarily for new builds. It
11 has, as I said, become economical. The percentage of
12 traffic that US West handles on such long loops is
13 much smaller. And the loops are, by necessity, much
14 shorter. In other words, a SONET ring that US West
15 might build would typically be much smaller in size
16 than a SONET ring that AT&T would build, covering
17 less geography, let's say, per ring.

18 And then, other extension technologies, US
19 West does use those, but since the switches are
20 there, the many switches, the loops still tend to be
21 much shorter.

22 So now the problem is how do we equitably
23 connect up these two very different networks and
24 charge each other reciprocally for terminating
25 traffic? Because, on the one hand, we have a

00446

1 network, the US West network, with many switches and
2 short loops, and on the other hand, we have a CLEC
3 network with one or few switches and very long loops.

4 And it seems to me that the most equitable
5 way to start looking at that problem is first to look
6 at the top of the networks. In the US West case, the
7 top of their network is the tandem switch. The top
8 of the AT&T network is the only switch. So whereas
9 US West has one or two or three or a very few tandems
10 that cover a LATA, AT&T will have one switch or a few
11 switches that cover the same area.

12 So the question is should we force
13 interconnection or start counting how we interconnect
14 from the top of the network or deep down into the
15 network? If we go deep into the US West network, we
16 get to end offices or remote offices. Mr. Freeberg
17 talked about the fact that US West has many of the
18 rural areas served by remote switches, which are
19 really switching modules that are connected back
20 through umbilicals to a host switch. So this diagram
21 isn't showing the full depth, but US West has this
22 second layer of end office switches.

23 So the question is where do we connect,
24 where do we interconnect. Do we go to the top of the
25 network, where we have some equality in total

00447

1 coverage, or is one side forced to go deep down into
2 the network or the other, because there really is no
3 way to interconnect down in the depths of the AT&T
4 network. That's getting down into the SONET rings,
5 and it's really -- there's no switching mechanism
6 that would allow interconnection down here.

7 Now, let's look for a minute at what the US
8 West proposal for reciprocal compensation is. What
9 US West has set up through the SGAT and through the
10 way it's actually been billing CLECs is to require
11 the CLECs, essentially, to go deep into the US West
12 network to interconnect at the end offices.

13 This has implications both from a trunking
14 standpoint and for the payment standpoint. And we
15 could separate those two things, and we will discuss
16 -- I'll discuss a little bit about what that means,
17 because we could have the trunking going to the same
18 places as it does today and settle up the cost of
19 that trunking at a reciprocity kind of level. So
20 we'll talk about that a little bit.

21 But today, essentially, we're -- the US
22 West proposal is for the AT&T switch at the top of
23 its network to be interconnected deep into the US
24 West network, both from a trunking level and from a
25 price level, because if you look at the SGAT, the

00448

1 SGAT proposes to share the cost of these trunks all
2 the way to the end offices, and we'll show that it's
3 actually worse than that, that US West adds on
4 additional costs. And you heard a little bit of that
5 in the questions to Mr. Freeberg.

6 Any questions on this diagram?

7 MR. KOPTA: Mr. Wilson, I'm looking at the
8 interconnection between the AT&T switch center and an
9 end office, and it seems as if you have drawn or
10 depicted a meet point configuration in which AT&T
11 bills to a meet point and US West bills to a meet
12 point. Is that what you're depicting here? What is
13 it that you're depicting where part of the facility
14 is the AT&T-provided facility and part is the
15 ILEC-provided facility?

16 MR. WILSON: Okay. I'm showing on this
17 diagram -- and remember, I started this presentation
18 by assuming that the traffic is balanced. Today,
19 it's not, we know, but as I said, I believe that's a
20 short-term phenomena. So I'm assuming a 50/50
21 traffic balance.

22 If that were so, according to the US West
23 SGAT, then the CLEC would be required to provide half
24 the distance of a two-way trunk, let's say, and US
25 West would provide half -- the rest of the distance.

00449

1 This is actually complicated, as we will see in a few
2 minutes, if the distance between this end office and
3 this AT&T switch is greater than, I believe, 30
4 miles, or is greater than a certain distance that's
5 built into the SGAT. We'll get to that in a bit.

6 It's also complicated by the fact that,
7 geographically, this switch may be farther away from
8 the AT&T switch than this end office. And as we
9 heard Mr. Freeberg say, then you would get two
10 charges there from US West. You would get an
11 entrance facility and direct trunk transport, which
12 are two charges. So I'll get into that a little more
13 in a minute.

14 MS. SACILOTTO: Sorry. I just had a
15 question. I'm a little confused by the different
16 black boxes -- yeah, they're black -- black boxes on
17 there. Are you suggesting that US West requires a
18 CLEC to interconnect at each end office?

19 MR. WILSON: Essentially, that's true,
20 because of the way that your charging goes. It may
21 not be physically connected in all of those cases,
22 but logically it is connected, because we pay to all
23 of those places. In the best case, we share the cost
24 evenly with balanced traffic; in the worst case, as
25 I'll show, there are many more charges added on to

00450

1 the CLEC by US West to get to that end office.

2 MS. SACILOTTO: Yes, but then you're
3 assuming the balanced traffic?

4 MR. WILSON: I'm assuming balanced traffic
5 here.

6 MS. SACILOTTO: So today, though, we are
7 paying 90 percent of that?

8 MR. WILSON: That's because 90 percent of
9 the calls are originating from US West customers who
10 want to call CLEC customers; that's true. And we're
11 handling all of those calls.

12 MS. SACILOTTO: And in the triangle that's
13 the tandem switch, I think you'll agree that we do
14 allow a single physical point of interconnection, and
15 I don't know if this is supposed to be a LATA or one
16 local calling area or whatever, but at least
17 physically what you're depicting here is not where
18 the physical points of interconnection are; is that
19 correct?

20 MR. WILSON: I said not necessarily. This,
21 you could think of as a logical connection. We have
22 to get calls to all of your end offices, because you
23 can't predict where a customer on the AT&T network
24 will call. They could call any customer in your
25 network. So we have to get that call to your

00451

1 network. And so logically, I have connection to
2 every one of your end offices. I must.

3 MS. SACILOTTO: Yeah, I'm talking
4 physically, though.

5 MR. WILSON: Physically, there could be
6 several different configurations. We'll look at a
7 few in a minute. That's true, if you pay for them.

8 MS. SACILOTTO: Okay.

9 MS. STRAIN: I have a quick question. Your
10 diagram shows that the tandem is not connected to any
11 of the end offices. That's not accurate in terms of
12 physical connection, is it?

13 MR. WILSON: Just couldn't show all the
14 lines on one drawing; you're right. There would be
15 paths to each of the end offices generally from a
16 tandem. There may be some that don't have a tandem
17 connection, but that's pretty rare. So yes. I just
18 didn't want to make the diagram so confusing.

19 Okay. Now, let's start peeling this back
20 and see what it means in terms of the charges that US
21 West is levying for the trunking in this case.

22 Here I've shown a CLEC office on the left
23 and a US West office on the right. And in this case,
24 the CLEC is collocated in the US West office to get
25 an unbundled loop from the US West office to the CLEC

00452

1 office. So in order to get the CLEC customer to the
2 CLEC switch, the CLEC needs a digital loop carrier
3 box, it needs a hub for the fiber, and then it has to
4 take the fiber to its office and do the reverse, take
5 the hub -- have a hub at your office, de-multiplex
6 it, and a digital loop carrier, et cetera.

7 So I have a very long loop. In this case
8 I'm saying, for the sake of argument, it's 40 miles
9 between the CLEC office and the US West office. If
10 it's 40 miles between those switches, then I would
11 need to get an interconnection trunk from my office
12 to the US West office. And for the moment, we'll
13 ignore the fact of a tandem switch, because
14 initially, a CLEC would start with tandem trunking
15 and the associated charges that are involved with
16 that.

17 But here we'll say we have a direct trunk.
18 And what I was just trying to do is to look at, in
19 the US West proposal, what does the CLEC pay for and
20 what does US West pay for, just in terms of taking
21 the traffic the distance that it needs to go.

22 So in this case, the CLEC would take the
23 traffic, take the call 40 miles from the customer to
24 its switch. The interconnection trunk, if the
25 traffic is balanced, would be split 20/20. Twenty

00453

1 miles, the CLEC would pay for, 20 miles US West would
2 pay for. So in effect, the CLEC pays for 60 miles
3 and US West pays for 20 miles. And to me, that
4 doesn't look like an equitable deal.

5 And as I said a minute ago, this could
6 actually get worse, because you could have the
7 situation that Mr. Freeberg showed, where this US
8 West end office is behind another serving wire center
9 geographically. So the trunk, even though it's shown
10 going directly, there could be another US West office
11 in between, and then I would actually get two charges
12 from US West, an entrance facility to the first
13 switch and a direct trunk transport onto the next
14 switch.

15 So this ratio -- this is actually the best
16 case. It may get worse. Yes, Tom.

17 MR. FREEBERG: Ken, we're talking about
18 reciprocal compensation. And so if a call flowed as
19 you just discussed, you'd face the LIS charges from
20 US West for US West's completing that call; right?

21 MR. WILSON: Well, if -- in this case that
22 I'm showing, the CLEC is actually providing the
23 interconnection trunk. So the balance of payments
24 are a little more complicated than that, but
25 whichever one of us provides the trunk, we would be

00454

1 sharing the cost 50/50 if the traffic was balanced.

2 MR. FREEBERG: But I guess I'd like you to
3 talk about if a call started at the upper telephone
4 and went to the lower one, in which case the CLEC
5 would face LIS charges from US West; right?

6 MR. WILSON: The CLEC would be --

7 MR. FREEBERG: Because US West would be
8 terminating that call. In that situation, what would
9 we bill, and then the reverse. If the US West
10 customer originated the call to the CLEC, what would
11 be the bill?

12 MR. WILSON: Okay. If the traffic is
13 balanced, you have several charges here for --
14 depending on which way the call goes. If the call
15 originates from the CLEC customer, then the CLEC
16 would be paying US West. There are two components to
17 that payment right now. One component would be the
18 termination charge. The second component would be
19 the trunking charge.

20 So if a call is originating at the CLEC
21 telephone customer, the customer -- the telephone of
22 the CLEC customer, the CLEC would be paying US West a
23 termination charge to get the call to the US West end
24 user, and there would be charges associated with half
25 of the trunking between the two switches, since I'm

00455

1 saying the traffic is balanced 50/50.

2 MR. FREEBERG: So the CLEC would be
3 responsible for 20 miles, would they not? I mean,
4 the LIS charges would be based on US West having
5 transported that call 20 miles, and then having
6 terminated it.

7 MR. WILSON: Yes, yes.

8 MR. FREEBERG: Thanks.

9 MR. WILSON: Any other questions on this
10 diagram? Mr. Owens.

11 MR. OWENS: This is Jeff Owens, with US
12 West. Let's talk just for a moment about how the
13 call might have been routed before the customer
14 transferred to the CLEC.

15 MR. WILSON: Yes.

16 MR. OWENS: The call would go from one
17 customer to the other customer in your diagram all
18 within the US West switch.

19 MR. WILSON: That's true.

20 MR. OWENS: There would be no transport
21 involved whatsoever.

22 MR. WILSON: That's true.

23 MR. OWENS: Now that this new arrangement
24 has been put in place, there's new costs there
25 established, the transport of the call from the US

00456

1 West office to the CLEC office and back.

2 MR. WILSON: That's true.

3 MR. OWENS: In this case, we've added, as
4 you said, about 80 miles of transport that didn't
5 exist before.

6 MR. WILSON: That's quite true.

7 MR. OWENS: To the extent we modify this
8 compensation scheme and increase still further US
9 West's costs to pay CLECs for transport, doesn't that
10 increase the cost to the ratepayers in this state for
11 that service?

12 MR. WILSON: Not necessarily. The costs
13 that -- well, the cost or the price? Two different
14 questions. And without getting into a rate case, I
15 think you would have to look at cost versus price.
16 The new technologies that the CLECs bring in, in this
17 example, it might be higher overall. The hope of
18 competition is that, overall, it will lower costs and
19 lower prices over time.

20 I don't want to get into a discussion of
21 the legal side of the FCC orders that require
22 reciprocal compensation and want to incent local
23 competition, what you have to get into if you want to
24 pursue your argument, I believe.

25 MR. OWENS: My only point, Ken, is that to

00457

1 the extent we establish a new compensation scheme
2 that you're proposing, and to the extent that
3 substantially raises the imbalance in costs where US
4 West, in this state, is currently paying about 18
5 million and receiving less than one million, under
6 your proposal, you're attempting to increase that
7 disparity still further.

8 My point is that those costs are going to
9 have to be recovered at some point in time, and there
10 will be impacts.

11 MR. WILSON: Well, but the CLECs have no
12 way to recover costs from ratepayers, as US West
13 does. We have to be competitive and offer
14 competitive services. I had said at the start of
15 this that the current imbalance in traffic is a
16 short-term phenomena, and you can't measure the
17 equity of reciprocal compensation by a short-term
18 phenomena. We need to look at what happens when
19 traffic is balanced.

20 And the issue of the ratepayers paying
21 more, I think you will see that, with CLECs coming in
22 and offering competition, the prices go down. They
23 don't go up; they go down.

24 MS. SACILOTTO: Ken, I have an additional
25 question, and maybe I just missed it. When Tom had

00458

1 you do the call from the upper telephone to the lower
2 telephone, did you trace the call from the lower
3 telephone to the upper telephone?

4 MR. WILSON: Well, I said that it operates
5 in both directions. And if the CLEC customer is
6 originating the call, then the CLEC would be paying
7 US West termination and transport, in US West's
8 scheme, if the --

9 MS. SACILOTTO: Right, based on the 20
10 that's written there.

11 MR. WILSON: Based on -- the transport part
12 would be the 20, the blue 20.

13 MS. SACILOTTO: And when the US West
14 customer calls the AT&T customer, then US West would
15 be paying transport to AT&T based upon 60.

16 MR. WILSON: No, no. The current scheme
17 does not compensate the CLEC for this 40 miles.
18 That's the point of this diagram. The CLEC is not
19 compensated in US West's scheme at all for the 40
20 miles of the long loop. That's the point of this
21 diagram.

22 MR. FREEBERG: I agree with you, Ken. I
23 think you're right, unless there were a switch
24 located, let's say, across the street from the US
25 West office shown in red, right. If there were,

00459

1 let's say, a remote switch there, then Kara's point
2 might apply. But I agree with you, if there isn't,
3 if it's the way that it's drawn right now, I agree
4 with what you said.

5 MR. WILSON: Yes, that's true. And we have
6 to remember back to two pictures before, where I
7 stated that with new transmission technologies, it's
8 more economical for the CLEC to have
9 centrally-located switches than to have dozens or
10 hundreds of switches all over the state. So that's
11 why the 40 miles is here. It's more efficient and
12 more economical for the CLEC, but in the current US
13 West scheme of reciprocal compensation, there's no
14 compensation for that distance. Any other questions
15 on this chart?

16 Now, let me look at what I termed in
17 Colorado as hidden costs. When the CLEC has a
18 collocation, as we just looked at in the microcosm on
19 the previous chart, I want to break that down a
20 little bit into the elements that go into a
21 collocation in order to handle an interconnection
22 trunk. When we bring our fiber into the office, we
23 go through Manhole Zero, MH0, we then have a building
24 entrance, we then go through a fiber distribution
25 panel, and then into our hub MUX. And in this

00460

1 diagram, the hub MUX is the first piece of equipment
2 that really is in the CLEC collocation. That's CLEC
3 equipment, let's say, for the sake of argument.

4 Now, there is an alternative that US West
5 has more recently added, called express entrance,
6 which will bypass some of these elements, but the
7 costs add up to about the same thing, as if you had
8 gone through all the elements. Funny how that works.

9 Out of the hub MUX, I then go through a DSX
10 panel, either one or multiple, and then I go into a
11 three-to-one MUX, I go through another DSX panel, and
12 then I go into the US West switch.

13 My point here is there are charges for each
14 of these elements. There are charges for the wires
15 between the elements. And I spent some time last
16 night actually adding these up, and for a DS1
17 circuit, if I don't count the costs for the
18 collocation itself, in other words, the space, the
19 power, the ground, the air conditioning, et cetera,
20 et cetera, if I don't count that; I just count the
21 entrance, the terminations, the connecting wires, the
22 MUX, it adds up to about \$30 a month per DS1. That's
23 about what it adds up to in Washington with the
24 current proposed prices.

25 On top of that, there's a tremendous cost

00461

1 for the collocation. I looked at two examples, I
2 believe the Elliott -- the US West Elliott switch and
3 one of the other switches. One of them, the total
4 initial cost to AT&T was \$250,000. On the other one,
5 it was about \$160,000. That's a one-time cost. And
6 then there were monthly costs associated with the
7 power, et cetera, et cetera, et cetera. In the
8 larger location, that was about \$7,000 a month, and
9 in the smaller one, about 3,000 a month.

10 So if half of my collocation is being used
11 for interconnection trunking, I'm bearing the burden
12 of that cost every month and the initial price that
13 has to go into my business plan in order to carry the
14 traffic that's going across there.

15 And my other point here is that this is all
16 cost to the CLEC. Now, what you might ask, is the
17 CLEC paying US West for the same elements, because I
18 get back to my central office. The picture looks
19 exactly the same. I have to take this through
20 exactly the same elements. What do I charge US West?
21 This much. Nothing.

22 Now, it turns out AT&T, actually, some time
23 ago, started trying to send US West bills for
24 collocation, and they've just refused to pay them.
25 They ignored them. So currently, this hidden cost of

00462

1 all the elements in the collocation that US West is
2 charging the CLECs is going unreconciled or no --
3 there's no reciprocity. And I think this is an issue
4 that should be looked at seriously, because it's
5 making the interconnection trunks that the CLECs are
6 providing very expensive, and in fact, so expensive
7 that CLECs such as AT&T are trying to look at other
8 solutions. Maybe it's cheaper to go back to LIS
9 trunks, to rent the capacity from US West for the
10 entire span.

11 The reason that the CLECs went to providing
12 their own facilities is that the LIS trunks were so
13 expensive. I think what they're finding now is if
14 you add in collocation and all those costs, that it
15 may not be -- it may be more expensive to actually
16 use your own facilities.

17 On top of that, as Tom said, the minutes
18 are getting bigger and bigger and the CLECs are
19 finding that they're running out of room to provide
20 unbundled loops through these collocation facilities.
21 And the only way I can get unbundled loops is through
22 my collocation unless I go to the new EEL, which has
23 only been available recently, and we'll discuss that
24 in another session.

25 So for many reasons, CLECs are reevaluating

00463

1 how much is this costing and I'll show you in a
2 moment the potential solution, which may not be as
3 efficient trunking-wise, but given the price
4 structure that we face, may be the only solution.
5 Any questions on this one?

6 MR. OWENS: Ken, before we move on, you
7 made the statement that CLECs are reevaluating this.
8 What evidence do you have for CLECs, other than AT&T,
9 that they are, in fact, not ordering collocation?

10 MR. WILSON: Well, I didn't say not
11 ordering collocation. I said they're reevaluating
12 using collocation for interconnection trunks.

13 MR. OWENS: And what evidence do you have
14 of that?

15 MR. WILSON: That others are using it?

16 MR. OWENS: That others are reevaluating
17 the use of collocation for interconnection?

18 MR. WILSON: Well, I suggest maybe we take
19 a poll after I'm done.

20 MR. OWENS: That's fine. I guess what I
21 would like to do is also put in evidence the amount
22 of collocation orders that we're processing on a
23 weekly basis, which exceeds, in our region, over 100
24 a week.

25 MR. WILSON: Well, I did not mean to imply

00464

1 that collocation isn't a very necessary element in
2 the CLEC infrastructure. The main use, I think
3 you'll see going forward for collocation, is to get
4 access to the loops. I mean, that is the asset that
5 is very, very expensive and difficult for the CLEC to
6 reproduce, and that's why -- or will be the driver
7 for all these collocations.

8 MS. SACILOTTO: Ken, if you believe these
9 are costs of transport and termination of traffic,
10 did you -- can you tell me where you included these,
11 if at all, in your cost study on this in the
12 Commission's cost docket?

13 MR. WILSON: Which one?

14 MS. SACILOTTO: The transport and
15 termination rates. Yeah, did you propose a cost
16 study that included these costs, and in what part of
17 it did you?

18 MR. WILSON: In the original one, in the
19 current one, which one?

20 MR. OWENS: Either one.

21 MS. SACILOTTO: Yeah.

22 MR. WILSON: I think they're re-looking at
23 all of these. This is fairly new thinking along
24 these lines. I don't know that -- you see the
25 problem with the cost docket is --

00465

1 MS. SACILOTTO: I just want to know if
2 you've ever done it, if it's ever been presented to
3 the Commission in either what you would call the
4 first cost docket or the one that's currently
5 ongoing? Has it ever been presented to the
6 Commission in those rate proceedings, these elements
7 that you claim are part of transport and termination?

8 MR. WILSON: Not yet. I had a meeting with
9 cost people a week ago, and they are looking at this.
10 The problem I was going to point to is that the cost
11 docket is generally populated by economists, and they
12 look at getting the elements correct.

13 The problem is people don't look at how
14 many elements do you need, where do you put them
15 together, and who's charging whom for those elements?
16 So I'm not convinced that the cost docket will even
17 address these issues as it's currently structured.
18 It tends to address how much does the multiplexer
19 cost, how much does the little cable cost, et cetera,
20 et cetera. It doesn't look at how you put them
21 together and when you put them together and when you
22 charge who for the set of them.

23 MS. SACILOTTO: I understand. I guess my
24 question is, if you were -- if you were to put that
25 in your cost study, where do all those elements fall?

00466

1 I mean, reciprocal compensation deals with what we
2 call transport and what we call termination. What
3 are you calling those things?

4 MS. DeCOOK: Which things?

5 MS. SACILOTTO: The so-called hidden costs.

6 MR. WILSON: Well, they are part of
7 transport and termination, no doubt. US West -- we
8 made the initial proposals to use the end office
9 switching cost as the termination cost. I think if
10 CLECs reevaluate that, they would want to look at
11 switching and a lot of transport costs that they
12 incur that US West does not incur. Now, as I'll
13 show, there's a different way to do all this that
14 would avoid some of that, but if you want to get all
15 the costs on the table and use all the costs to
16 fairly and equitably divide up the reciprocity, then
17 you have to look at all the costs.

18 MR. FREEBERG: So Ken, just to check, to be
19 sure, collocation on a CLEC's part is optional;
20 right?

21 MR. WILSON: Yes.

22 MR. FREEBERG: And it's also very
23 expensive; right?

24 MR. WILSON: Yes.

25 MR. FREEBERG: But there is also a lot of

00467

1 it; right?

2 MR. WILSON: Yes.

3 MR. FREEBERG: And if you had your way,
4 there would be more of it; true?

5 MR. WILSON: I'm not doing the business
6 plans. As I said, collocation, the main reason for
7 collocation, I think you'll see going forward, is to
8 get access to the loops. That's the piece that we
9 can't easily reproduce.

10 I would like to say, however, that each
11 time the CLEC purchases a LIS trunk from US West, US
12 West has collocation in the CLEC office, and we're
13 not charging you anything for it. If we have tried
14 to charge you something for it, you haven't paid
15 anything. Because you put the same equipment in our
16 office that we put in your office for
17 interconnection. When we order LIS trunks, you have
18 to have fiber, and you put a hub in our office,
19 generally, and we don't charge you anything.

20 MS. SACILOTTO: Maybe this is an obvious
21 question, but isn't this a trade-off, Ken, these
22 so-called hidden costs? It's a trade-off between
23 incurring those so-called hidden costs and the cost
24 of simply building your own facility. I mean, you
25 can build your own or you can collocate and pay the

00468

1 collocation fee. And that's -- isn't that just the
2 trade-off that you have to make on what works better
3 for you?

4 MR. WILSON: No, no, it's not. I have to
5 -- I need a collocation -- I need this collocation.
6 Somebody has to collocate equipment to interconnect
7 the two switches. Without interconnecting the
8 switches, the CLECs don't have a business. I don't
9 think we need to go into that. But whether I provide
10 the facilities between our two switches or you
11 provide the facilities between the two switches, this
12 type of arrangement is unavoidable. It has to be
13 there because we have to get a DS1 from this switch
14 to the switch on the other side, so one of us has to
15 collocate.

16 And all I'm saying is we have done a lot of
17 collocation, as you said, we're paying a lot for it,
18 and it's not figured in the US West reciprocal
19 compensation methodology at all.

20 MR. FREEBERG: Well, Ken, when we collocate
21 in your space, do we get unbundled loops from you?

22 MR. WILSON: Not yet. I'm sure you'll ask,
23 eventually, for them.

24 MR. FREEBERG: You just mentioned that's a
25 major driver for collocation; right?

00469

1 MR. WILSON: Yes. And the reason that it
2 hasn't been an issue for US West, collocating in its
3 equipment, from the access days, where the long
4 distance carrier pays, pays, pays, pays, pays,
5 because that was the deal, US West put its fiber
6 hubs, et cetera, et cetera, in the long distance
7 carrier's offices, and there was no thought of
8 collocation costs, because there was nothing on the
9 other end. You just put them in and we paid access
10 charges.

11 And what's happened is that whole
12 methodology and mentality has flowed into the world
13 of interconnection, and I think that's inappropriate.
14 I think this is a new world where we have two
15 carriers that are supposed to be equals and we're
16 supposed to share the costs equitably.

17 Now, let me look at a particularly onerous
18 situation. I showed you before a situation where the
19 CLEC pays for 60 miles and US West pays for 20. If I
20 go back to something Mr. Freeberg talked about, where
21 US West has a remote office off of the host office,
22 US West is charging 20 miles, let's say. Let's say
23 the host office or the remote office is 20 miles from
24 the host office. US West has this tandem transport
25 charge to get from the host to the remote, so the

00470

1 CLEC has to pay when it terminates traffic to US West
2 for that 20 miles. But let's look -- and then,
3 again, let's assume it's 40 miles between the US West
4 host office and the CLEC switch.

5 And there, again, if the traffic is
6 balanced, AT&T would pay for 20 miles and US West
7 would pay for 20 miles of the interconnection piece.
8 But there's no reciprocity in US West's model for the
9 20 miles that the CLEC has to pay from the remote to
10 the host, and then we have to look at the loop.

11 If AT&T wants to pick up an unbundled loop
12 in this remote office, it has to get that loop the 20
13 miles over the host and then the 40 miles onto its
14 switch. So if I add the distances up, the CLEC is
15 paying for transport for 100 miles, and US West is
16 paying for 20 miles. That doesn't seem equitable.

17 So I'm just looking here at the transport
18 costs, again. I'm not even addressing the cost of
19 the -- now two collocations, because I have to have
20 collocation at the remote office and then I have to
21 have collocation at the host office. So double the
22 collocation cost. Any questions?

23 This problem is exacerbated, as well,
24 because the only way that the CLEC could hope to
25 charge US West for that remote switch cost would be

00471

1 to put a remote switching unit out in the field. And
2 as we know, US West has consistently refused to allow
3 the CLEC to put a remote switching module out in the
4 field, and furthermore, if I could put one out there,
5 US West does not permit me to interconnect my remote
6 switching unit with their remote switching unit. If
7 I could do that, it would eliminate hauling the
8 traffic back these long distances that we've been
9 talking about.

10 So not only is there an unfair reciprocity
11 issue, there's no -- I'm prevented from trying to
12 equalize that situation by putting a remote switching
13 unit out in the field.

14 MR. FREEBERG: I asked the question before.
15 Could you go back to the last one? Maybe I could
16 make my point better from your last line. If you
17 located a switch right beneath where it says 20
18 miles, the upper -- where it says loop, 20 miles, do
19 you see that? If you located a switch out there and
20 a call originated at the US West, with a US West
21 retail customer --

22 MR. WILSON: Yes.

23 MR. FREEBERG: -- would not the CLEC have
24 carried the call 20 plus 40 plus 20, and would not US
25 West face being charged for 20 plus 40 plus 20, 80

00472

1 miles, versus a call flowing in the other direction,
2 where US West would have carried it 20 plus 20, and
3 the CLEC would face only a 40-mile charge?

4 MR. WILSON: Well, I don't quite understand
5 your example. Let me try what I think --

6 MR. FREEBERG: It's necessary that you have
7 a switch near the US West remote office.

8 MR. WILSON: If I had a switch near the US
9 West remote office, that would avoid some of the
10 transport. It would not avoid the collocation
11 issues. And furthermore, since US West won't allow
12 me to interconnect to the remote office, if I had put
13 a remote office or a host office out here by US West
14 remote, I would actually have to backhaul to the US
15 West host and then go back with my interconnection to
16 the remote.

17 So it doesn't solve completely my problems
18 in interconnection, and I still have all of the
19 charges for the collocations. Actually, two of them,
20 because I have to get out to this remote.
21 Furthermore, if I'm not allowed to put my switch in
22 the US West building, I then have to build -- not
23 only collocate to get my loops, but build trunking
24 and let the whole infrastructure out close -- as
25 close as I can get to the US West switch, because the

00473

1 primary reason to put a switch out there would be to
2 pick up the US West loops.

3 So it's both not as economical as the
4 transport, and I have all these hidden costs that
5 really make it very unattractive for a CLEC to put
6 offices out near remotes, much less out near end
7 office hosts that are away from the Metro area. So I
8 don't think it solves many of my problems.

9 MS. DeCOOK: Ken, I have a clarifying
10 question.

11 JUDGE WALLIS: Could you speak up, please?

12 MS. DeCOOK: Sure. I'll use the mic. If
13 you assumed the FCC's symmetrical compensation scheme
14 that they have in their rules, and we pay -- the CLEC
15 pays \$100 for this, the call from the CLEC customer
16 to the US West customer in this case, what would US
17 West have to pay us for transporting the call in the
18 reverse direction?

19 MR. WILSON: They should be paying the
20 same.

21 MS. DeCOOK: Is that reflected, though, in
22 the SGAT provisions?

23 MR. WILSON: Not at all, not at all. The
24 charges, as Mr. Freeberg I think pretty accurately
25 laid them out, are unilateral. US West is the only

00474

1 one that has remotes out here, so they are the only
2 one that can charge the 20 miles. And currently,
3 CLECs aren't getting compensated for the equipment in
4 their office, which is the same equipment. So it's
5 unilateral. There's no reciprocity when the call
6 goes the other way.

7 We get -- in other words, I'm showing what
8 the CLEC would pay where the CLEC originates. If you
9 turn it around, US West pays 20. That's all. Pays
10 for 20 miles, much less the collocation cost.

11 Now, let me show you -- I mentioned the
12 companies were re-looking -- AT&T is re-looking at
13 these inequities. And if we can't solve it by
14 equitable prices and equitable -- really equitable
15 reciprocal compensation that would be levied equally
16 on the two companies to get the calls the same
17 distances, one solution that AT&T is looking at is
18 putting in one-way trunks.

19 The SGAT theoretically allows one-way
20 trunks to be used. It would require a lot of
21 retrunking, because currently, as Mr. Freeberg
22 pointed out, the vast majority of trunks are two-way.
23 It's slightly more efficient. That two-way trunk
24 means that calls originated from one party and calls
25 originated from the other party flow on the same

00475

1 trunks. So US West customers are generating 90
2 percent of all the traffic, the CLEC customers are
3 generating 10 percent of the traffic the other way.
4 Those calls are all handled on the same two-way
5 trunks.

6 So if the CLEC spent all this money to put
7 in interconnection trunks, not only are they getting
8 hit for all the collocation charges, 90 percent of
9 the traffic is from US West to the CLEC. So our
10 trunks and our collocation are being filled up by
11 people calling -- US West customers calling CLEC
12 customers. One way to get out of this vicious cycle
13 would be to go to all one-way trunks.

14 In other words, if we look at the top of
15 both networks, we could say that -- let's just
16 require tandem trunks from the CLEC office to the US
17 West office to handle calls from CLEC customers to US
18 West customers, and then require US West to put in
19 one-way trunks the other way. It would turn out that
20 right now, today, that US West would put in 90
21 percent of the trunks and the CLEC would put in 10
22 percent. Over time, that will change and it would be
23 even, but the way it is today, the vast majority of
24 the trunks would be required of US West.

25 So that is -- at the tandem level, we can

00476

1 take this down a step. When there are multiple
2 tandems and multiple CLEC switches, we still use the
3 top of the network kind of interconnection and
4 interconnect the CLEC switches with the US West
5 tandem switches. Now, tandem level trunks are
6 efficient only when the traffic is not that heavy.
7 When you have lots of traffic, you do need direct
8 trunks, but the question is, who puts them in.

9 In the scheme that is suggested here, where
10 we go from the top of each network, we would go to
11 the next diagram, which would show direct trunks
12 being put in. And here we would -- I mean, for
13 example, the tandem doesn't need to switch all the
14 traffic. The tandem location could be used to route
15 the trunks to the US West end offices. Generally,
16 the US West tandem office is fairly centrally
17 located. All the traffic could be run through that
18 wire center onto the CLEC switch.

19 So you wouldn't have to change the amount
20 of traffic going through the tandem, but you would
21 run all the traffic through that office, and it would
22 be then trunked on out. In essence, this is no
23 different from Mr. Freeberg, where he said you'd have
24 an entrance facility and direct trunk transport.

25 The difference here is it's my contention

00477

1 that the direct trunk transport should be US West's
2 lookout, not the CLECs' lookout. US West is adding
3 these charges on to shift the burden of getting the
4 call deep into their network. The CLEC has to pay,
5 pay, pay to get the calls deep into the US West
6 network, and that isn't equitable. Any questions on
7 the one-way trunking?

8 So we really have two schemes that we could
9 look at. And I think the CLECs probably need the
10 option to go either way, to choose to put in one-way
11 trunks and have US West put in one-way trunks to
12 carry their traffic or to stay with two-way trunks
13 and to make the cost equitable, to make sure that the
14 hidden costs come out, that neither side pays the
15 hidden costs or both sides pay. And furthermore,
16 that a lot of these extra charges -- and let me draw
17 one diagram. A lot of these extra charges that US
18 West is proposing in their SGAT are not allowed.

19 Let me just digress, make one drawing. I
20 just want to summarize what I heard Mr. Freeberg
21 mention in his presentation on the costs that US West
22 has embedded into the SGAT that the CLEC would be
23 paying. And I'll show -- let me put them on, and
24 then I'll go through them and I'll show you which
25 ones are reciprocal and which ones aren't.

00478

1 First I have, let's say, a CLEC switch.
2 Then I have -- we'll get into the -- I think we need
3 to get into this a little more. If the CLEC switch
4 is not in the same local calling area as the US West
5 switch, US West actually -- if the distance is
6 greater than, I believe, 30 miles, there's actually a
7 private line charge to get the rest of the way past
8 the 30 miles that the CLEC must pay.

9 When I get in within that 30-mile boundary,
10 I then have direct trunk transport. When I get
11 closer to the first US West switch, I have an
12 entrance facility. I may have a tandem switch.
13 Let's include the worst case. I've got a tandem
14 switching charge, I then have tandem transport, and
15 furthermore, if I then have a host-remote situation,
16 I will have the host switch, and then I have this
17 tandem transport again to get to the remote switch,
18 RS.

19 Now, that's the worst case, but in many
20 cases, you have many of those elements. And from
21 what I read in the SGAT, the only place where we get
22 reciprocity is in the direct trunk transport, or in
23 these pieces here, if it's under a certain distance.
24 Actually, if you really look at it, it's probably
25 only the direct trunk transport part that is

00479

1 reciprocal, and then the switching on both sides.

2 So there's reciprocity in the termination
3 charge in US West's model, which the switching on
4 both ends, and there's some reciprocity in this
5 little piece that we'll call the direct trunk
6 transport. The private line piece is not reciprocal.
7 One of these is not reciprocal, whether you want to
8 look at it as the entrance facility or the direct
9 trunk transport. The tandem is not reciprocal, the
10 tandem transport is not reciprocal, and the second
11 tandem transport is not reciprocal.

12 And this doesn't even look at the
13 collocation, and it also doesn't look at the long
14 loops that the CLEC has.

15 MS. DeCOOK: Ken, just to clarify, when you
16 say it's not reciprocal, what you're saying is
17 there's no comparable charge in the SGAT that the
18 CLEC can charge US West when that particular charge
19 would apply?

20 MR. WILSON: Not for any of the common
21 infrastructures that we currently have available to
22 us. I mean, you have to start saying if the CLEC put
23 an end office way out somewhere and if they're -- and
24 if and if and if. But for the common, the vast,
25 vast, probably the total majority of configurations

00480

1 today, those costs are not reciprocal, which means
2 that the SGAT does not allow the CLEC to charge them
3 the same costs.

4 MS. DeCOOK: And could you just explain the
5 private line charge that you're talking about?
6 That's --

7 MR. WILSON: Yes.

8 MS. DeCOOK: Thank you.

9 MR. WILSON: I think Mr. Freeberg hit on it
10 briefly, but we didn't really go into it in any
11 detail. In fact, he mentioned we'd save that
12 granularity for later. Maybe this is later. Here's
13 the situation, and I'll try to -- I'll reproduce a
14 little bit of what Mr. Freeberg drew.

15 If we have Local Calling Area One, and then
16 we have a separate Local Calling Area Two, say the
17 CLEC has a switch in Local Calling Area One, but the
18 CLEC has customers in Local Calling Area Two. And by
19 one of the means we looked at, the CLEC must get its
20 loop to its switch. So the CLEC transports its loop
21 to its switch from Local Calling Area One to Local
22 Calling Area Two.

23 US West has, let's say, has a switch in
24 Local Calling Area Two and they have customers in
25 that local calling area. The US West proposal and

00481

1 SGAT says that if the CLEC switch is more than 30
2 miles from the US West switch, then the CLEC starts
3 paying private line when they use US West facilities.

4 So if I need to lease facilities from US
5 West to get from my office to their office, then I
6 have to start paying private line rates to US West to
7 get beyond the 30-mile mark.

8 MS. DeCOOK: Just a question. That charge,
9 the private line charge, applies when the CLEC is
10 originating a call in Local Calling Area Two and
11 terminating the call to a US West customer in Local
12 Calling Area Two?

13 MR. WILSON: Actually, the private line
14 charge is a charge for the trunking, and we'd have to
15 ask Mr. Freeberg whether or not -- if the -- in other
16 words, if the CLEC leases facilities from the CLEC
17 office to the US West office, and part of that is
18 private line, am I just paying for the private line
19 rate on the shared part? I don't think so.

20 The way the SGAT seems to read, I actually
21 pay the private line cost for this part of the trunk,
22 and the only -- the only part that they consider
23 reciprocal or they share would be in this first 30
24 miles. So that's my understanding, is that actually
25 the CLEC pays for the private line trunking for 90

00482

1 percent of the calls that are US West calls.

2 MR. FREEBERG: And Ken, just to be clear,
3 you're right. In other words, reciprocal
4 compensation applies to the local call. And there's
5 no sharing on the private line. To the extent I have
6 misled anybody, that's the story. And where is the
7 justice in that? It is that the CLEC avoids placing
8 a switch in Local Calling Area Two. It's a choice.
9 It's an option.

10 MS. DeCOOK: I have one more question. The
11 call that is completed from the CLEC customer to the
12 US West customer in Local Calling Area Two, is that a
13 local call?

14 MR. WILSON: Absolutely. These could be
15 neighbors. These could be houses next door. This is
16 a local call. There's nothing long distance about
17 it. There's no long distance toll charge on this.
18 This is a local call.

19 MR. FREEBERG: How can I be sure of that,
20 Ken?

21 MR. WILSON: The occurrence of FX trunks is
22 very, very low. I can't be sure that the US West one
23 is not an FX trunk back there, either, but I will say
24 this. If it is an FX trunk, then that distance that
25 someone is paying to make it appear to be in the

00483

1 other calling area is paid for by a different means
2 and doesn't need to be calculated in this at all.
3 The CLEC would have the burden of transporting that
4 call from one place to the other, just as US West
5 would. So I think this is a red herring.

6 MR. BECK: Ken, in that, quote, unquote,
7 local call, how often will that call get passed
8 through the tandem switch, US West's tandem?

9 MR. WILSON: Well, it depends. We heard
10 Mr. Freeberg, I believe, say that the private line
11 costs -- I believe that question was asked of him.
12 The private line cost would be assessed even if there
13 was a tandem involved and the distance was the same.

14 We also heard Mr. Freeberg say that -- I don't
15 remember the exact number, but around 75 percent are
16 direct and 25 percent are through tandems, so --

17 MR. BECK: But there's no direct trunk
18 there, is there? It's all got to go through the
19 tandem in Local Calling Area One, every call between
20 those two customers.

21 MR. WILSON: Well, my example is if we want
22 to avoid the tandem cost, which US West does not want
23 the CLECs to assess, and therefore, we would try to
24 go to direct trunks, and if we go to the direct
25 trunks, then we pay the private line. I'm not so

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1 sure we wouldn't pay private line costs when a tandem
2 is involved, either. If the tandem is in Local
3 Calling Area One, I'm not so sure that US West
4 doesn't charge some private line -- well, there's a
5 charge for this mileage, but my example is to -- when
6 a direct trunk is put in. So I mean, if you want to
7 change the example a little bit, I mean, you have
8 other charges.

9 MR. OWENS: Ken, let me ask a question.
10 The issue I think we're dealing with at this point in
11 time is the extent to which the cost recovery of that
12 circuit that leaves the local calling area should be
13 done at TELRIC rates or private line rates or whether
14 we're even entitled to recover that cost from the
15 CLEC or not.

16 And in the example you've drawn, I think
17 you've got 30 miles there. Let me ask you a
18 question. Do you see any limit on how far US West
19 should be required to construct that facility from
20 our local calling area to a CLEC switch that's
21 distantly located?

22 MR. WILSON: Well, the facilities generally
23 exist. That is, usually, no construction. But we
24 have maintained that, within a LATA, that these
25 issues should be reciprocal. We have not claimed

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1 that this should go statewide across LATA boundaries,
2 but we have maintained that, within a LATA, that
3 local calls are local calls. There is no toll charge
4 for what I'm depicting here. This is a local call
5 between neighbors.

6 MR. OWENS: Okay. So you're suggesting --
7 I'll come back to whether those -- you made the
8 statement that the facilities exist. I'll come back
9 to that in a moment. I don't believe they do.

10 But your current position is that we should
11 be required to construct anywhere within the LATA.
12 At some point in time in this state, the LATA
13 boundary's going to go away. Do you believe then, at
14 that point in time, that we should be able to be
15 required to construct anywhere within the state?

16 MR. WILSON: I think that should be a
17 question for the discussion on removing the LATA
18 boundaries. I can't stand here tonight and say one
19 way or the other. I think that discussion should be
20 had when that issue is brought up.

21 MR. OWENS: And at some point in time, we
22 may have more than one state where we have interLATA
23 relief. Do you believe we should be required to
24 construct those facilities across state boundaries?
25 In other words, is there any limit on your

00486

1 interpretation of the act and in your interpretation
2 of the federal rules enacting the act in US West's
3 requirement to construct facilities to a distantly
4 located CLEC switch?

5 MS. DeCOOK: Are you asking him to give you
6 a legal interpretation?

7 MR. OWENS: Well, perhaps I should ask you
8 for a legal interpretation.

9 MS. DeCOOK: Haven't looked at that issue.

10 MR. WILSON: I mean, I believe I'm
11 technically saying that on a LATA basis, we should
12 look at the top of the networks, and it's not right
13 to force the CLECs to build down and down deep into
14 the US West network, and then, on top of that, to pay
15 all of these additional charges that US West has
16 pretty much unilaterally assessed to the CLECs.

17 MR. OWENS: My only point, Ken, is I think
18 where we're going to end up on this issue, and I
19 agree, it's going to be probably a legal question,
20 what we're really doing is interpreting, I think,
21 what the obligations are for the interconnection for
22 the exchange of local traffic.

23 And I think we'll end up having to have the
24 lawyers determine what those obligations are, and I
25 think one of the key issues will be to what extent is

00487

1 the transport of traffic outside of a local calling
2 area by an RBOC or an incumbent LEC required as part
3 of local interconnection. But we can't settle that
4 now.

5 I'd like to return to your statement you
6 made just a moment ago, where you indicated that the
7 facilities that we have drawn up here, that private
8 line, already exists. In fact, in the case we're
9 talking about now, we're talking about, in the
10 initial case, calls that are being routed from one
11 customer to another customer, those calls generally
12 stay within the local calling area, do they not?

13 MR. WILSON: Let me answer several of your
14 questions at once. I'll answer them in reverse
15 order. Maybe I should have said that the facilities
16 should exist. Because what we're talking about here
17 is a route from a US West office generally to major
18 metropolitan area. And it's true that US West has
19 some capacity problems, and I was here some months
20 ago testifying to that fact, but that's a major route
21 that US West should have facilities on. So that's
22 one point.

23 As to the fact that, yes, maybe yesterday
24 this call was being -- this particular call was being
25 handled at a very local level by a single switch, the

00488

1 initial issue in competition isn't to gain
2 efficiency; it's to gain a competition. And
3 competition over time, and it already has, to some
4 extent, in some cases, brought prices down. I'm not
5 going to get myself in trouble on that, because I
6 don't claim to be an economist on this issue.

7 But let me answer your previous question.
8 Should US West be able to charge for transporting its
9 share of the distance, I think yes. I think the goal
10 of the equity statements in the FCC orders were to
11 make it such that when traffic is balanced, which has
12 been my assumption, each side should pay the same
13 amount of costs.

14 And what we have here in the SGAT is a
15 situation where US West has added costs on and on and
16 on to the CLEC such that when traffic is balanced,
17 the payments will be very disproportionate on the
18 CLECs. And I don't believe that was the intent of
19 the FCC orders or the act, and I don't believe that's
20 what the state of Washington should allow.

21 MR. OWENS: Well, let's go back to that
22 contention of yours. Could you flip to the chart
23 where you showed the charges that you believe are not
24 reciprocal?

25 MR. WILSON: Yes.

00489

1 MR. OWENS: One charge you show that is not
2 reciprocal is the entrance facility. Are you
3 suggesting that entrance facility charge is not
4 reciprocal?

5 MR. WILSON: Well, since I have two arrows
6 drawn there, it's a little unclear in the SGAT
7 whether it's the entrance facility that's reciprocal
8 or the direct trunk transport or both. It's not very
9 clear. If you read the SGAT, when you have both of
10 those charges in a particular call, I don't -- at
11 least to my reading, it wasn't quite clear. Now, if
12 you tell us that it is and how to read it, then we
13 can count both of those as reciprocal. It doesn't
14 mean that the tandem and tandem transport and tandem
15 transport --

16 MR. OWENS: We'll get to those in a moment.
17 Why don't we turn to paragraph 7.3.1.1.3.1 of the
18 SGAT. 7.3.1.1.3.1. It reads, The provider of a LIS
19 two-way entrance facility will initially share the
20 cost of a LIS two-way entrance facility by assuming
21 an initial relative use factor of 50 percent for a
22 minimum of one quarter. And then the paragraph goes
23 on to describe how that will be adjusted on a going
24 forward basis when the actual traffic balance is
25 understood.

00490

1 But do you dispute that this paragraph
2 would allow AT&T, if it provided the entrance
3 facility, to charge US West for an entrance facility?

4 MR. WILSON: No, I don't. And further,
5 then you'll probably go to 7.3.2, which talks about
6 direct trunk transport. The question that I have is,
7 and maybe you can clear this up for us, if we have
8 both direct trunk transport under your definition and
9 entrance facilities under your definition, does the
10 CLEC, if the CLEC is providing the trunk, do we get
11 to reciprocally charge you for both if both are used?

12 MR. OWENS: Yes. There's no language, to
13 my knowledge, that would allow US West to charge DTT
14 and an EF to a CLEC, but only charge one -- or only
15 allow the CLEC to charge one to US West. This
16 language is completely reciprocal. The language
17 doesn't even use the word US West and CLEC.

18 MR. FREEBERG: The provider.

19 MR. OWENS: It uses the provider.

20 MR. WILSON: That's very good. You've
21 cleared that up for me.

22 MR. OWENS: Let me just clarify, just very
23 quickly, I just wanted to point out that the
24 paragraph that describes the sharing of the DTT
25 facility is 7.3.2.2, subparagraph A.

00491

1 MR. WILSON: Thank you. Okay. So you've
2 cleared that up, and when I presented this, I said I
3 wasn't sure. You've cleared that up. That's great.
4 So those are reciprocal. What I'm not showing here,
5 but I will now, is that the CLEC has to get that call
6 back on a long loop, which isn't counted at all.

7 MR. OWENS: Correct. Does US West charge
8 the CLEC for the cost of its loops in this
9 arrangement?

10 MR. WILSON: Well, the US West loops would
11 be the loops off of the end office. In this scenario
12 that I was showing, if AT&T is taking an unbundled
13 loop, and those are neighbors, we would both have the
14 same length of loop there, so that negates each
15 other.

16 So -- and in fact, no, in your scheme of
17 reciprocal compensation, the loop from your end
18 office to the end user's not counted. It's only the
19 local switching cost that is counted in your version
20 of reciprocal comp. So it's kind of a moot point for
21 both parties.

22 MR. OWENS: Of course, we would argue that
23 it should be a moot point for your loop regardless of
24 the length. But that's another dispute we will have.

25 Now, with regard to the tandem charge and

00492

1 the tandem transport charge, you show that that is
2 not reciprocal; correct?

3 MR. WILSON: As we've shown today, the
4 CLECs have single switches. So the CLECs, under US
5 West's definition of tandem switches, do not get to
6 charge US West for tandem transport. And US West has
7 been fighting that very vigorously.

8 MR. OWENS: In the event a CLEC has two
9 switches.

10 MR. WILSON: Well, then we -- I mean, we're
11 just getting back to a --

12 MR. OWENS: I'm just asking a question. If
13 a CLEC had two switches and US West used both of
14 those switches to deliver traffic to the CLEC, would
15 the SGAT permit the CLEC to charge US West the tandem
16 charge and the tandem transmission charge?

17 MR. WILSON: For that hypothetical
18 situation, which doesn't exist in a billion minutes
19 of current traffic, yes.

20 MR. OWENS: Okay. Thank you.

21 MR. WILSON: Tom.

22 MR. DIXON: The question that Mr. Owens
23 just asked you regarding installing a second switch,
24 does that make economic sense and is that the
25 least-efficient and most forward-looking approach to

00493

1 constructing a network at this time, in your opinion?

2 MR. WILSON: Well, I have to answer that in
3 two parts. I may have a switch that is exhausting in
4 -- let's go back to my diagram which shows Local
5 Calling Area One and Local Calling Area Two, which I
6 drew a few minutes ago. If the CLEC switch is
7 running out of capacity, which some of the AT&T ones
8 are, we may choose to build a second switch. In the
9 majority of cases, a second switch is going to be
10 very near the first switch. It may be in the same
11 building. Why? Because, as I said at the start,
12 loop technology is now much different and more
13 economical than it was when US West put its switches
14 in and built its network.

15 Should the CLEC be penalized for that? I
16 don't think so.

17 MR. DIXON: Just to clarify, I guess I --
18 it was noted I misstated the question the way I read
19 it. What I was asking, was that the most efficient
20 way and the least-cost way to construct the network
21 at this time. I think you answered the question the
22 way I intended it, even though I didn't use the right
23 words initially.

24 MR. WILSON: Certainly. Yes.

25 MR. KOPTA: Let me ask you, and maybe this

00494

1 is something better to ask US West, but if the CLEC,
2 in your diagram there, is collocated in US West to
3 the central office --

4 MR. WILSON: Yes.

5 MR. KOPTA: Actually, the CLEC is the one
6 that provides the connection between US West Two and
7 the CLEC switch.

8 MR. WILSON: Yes.

9 MR. KOPTA: Under the SGAT, is it your
10 understanding that US West would pay the CLEC for
11 half of that pole facility or is there a private line
12 element to it?

13 MR. WILSON: Well, the way I read the SGAT,
14 and here, again, we need to ask them. If the CLEC is
15 providing the total transport between US West's
16 switch in Local Calling Area Two and the CLEC switch
17 in Local Calling Area One, the only part that US West
18 would allow to be reciprocal would be to that 30-mile
19 boundary. That's the way I read it. I could be
20 corrected by US West, but that's the way I read it.

21 MR. FREEBERG: That's accurate.

22 MS. DeCOOK: I believe it's a 20-mile
23 boundary, isn't it?

24 MR. FREEBERG: No, I believe it has
25 everything to do with the local calling area and has

00495

1 little to do with the mileage.

2 MR. WILSON: Tom, I believe there is a
3 mileage that's either 20 or 30, and I was doing it by
4 memory, from the local calling area boundary. There
5 is a -- US West arbitrarily picked a number.

6 MR. DIXON: You might look at paragraph --

7 MS. DeCOOK: I think it's 20, and I just
8 don't want the record to be unclear about that.

9 MR. DIXON: This is Tom Dixon. I assume
10 you're looking at paragraph 7.1.2.4 and the
11 subsections under it, where there's consistent
12 reference to a 20-mile distance, as opposed to 30,
13 just to make sure we're on the same section.

14 MR. FREEBERG: I just didn't want to
15 misunderstand that there is something that says once
16 we've carried a call 20 miles, we assume now private
17 line rates apply. That's not the case. InterLCA
18 facilities apply when the calls are being carried
19 between one local calling area and another. Once
20 that's done, if that's in place as it's drawn there
21 on your chart, Ken, the mileages within Local Calling
22 Area Two in your diagram are the 20-mile assumptions
23 and so forth that are talked about, I think, at that
24 point in the SGAT that you were just referring to,
25 Tom.

00496

1 MR. DIXON: Tom Dixon. I guess I'm
2 confused, because I've been reading this. I'm
3 looking at, and maybe would direct your attention to
4 paragraph 7.1.2.4.4, which deals with the LIS
5 intercalling local calling area facility. It
6 discusses a 20-mile distance and then talks about
7 private line rates applying thereafter. And it
8 doesn't seem to actually be tied to the calling area
9 boundary, but rather to a specific distance. Maybe
10 I'm misunderstanding the SGAT.

11 MR. OWENS: I think we can clarify this.
12 What we're referring to in 7.1.2.4.4 is the instance
13 where the point of interconnection is outside the
14 local calling area. And in that case, we're limiting
15 the transport we'll provide to 20 miles. If we had a
16 super-large local calling area that was a hundred
17 miles wide and the point of interconnection were
18 inside that large local calling area, then direct
19 trunk transport could indeed go beyond 20 miles.
20 This provision wouldn't apply.

21 MR. WILSON: Yes. Okay. Let's be clear on
22 my diagram, then. Where I had 30 miles, it's 20
23 miles. I had actually been -- I forgot that what the
24 SGAT says is when the CLEC switch is in a separate
25 calling area, which I have actually depicted here, so

00497

1 that is correct on the diagram, and the CLEC switch
2 is more than 20 miles from the US West wire center,
3 not from the local calling area boundary, but from
4 the wire center, then the private line rate kicks in.

5 MR. OWENS: I think that's accurate, with
6 one exception. The trigger isn't the location of
7 your switch; it's the location of the point of
8 interface, which may be different, and often is.

9 MR. WILSON: It could be different if there
10 happens to be a meet point that I control in between,
11 and that means that I am providing some of the
12 transport to that meet point, but then US West, in
13 the SGAT, is not paying for any of that transport
14 either, so I don't know that that makes a difference.

15 So in other words, what Mr. Owens has said,
16 if I have a meet point, that the 20 miles could be to
17 the meet point, but then, not only is the distance
18 beyond the 20 miles private line to the meet point
19 for US West, but the remainder of the trunking to my
20 switch is my lookout and there's no reciprocity on
21 that, either, so I'm not sure that -- I think that
22 works out to the same, that I'm paying for everything
23 beyond 20 miles either as private line or I'm footing
24 the bill for my own construction, either way.

25 MR. FREEBERG: I just want to mention, kind

00498

1 of to your question, Tom Dixon, from before, it's
2 been my experience since I started doing engineering
3 for this company, and I think it is still true, that
4 the number of switches that any carrier has is a
5 function of its loop cost. If its loop costs are
6 high, it tends to have more switches. If its loop
7 costs are low, it tends to have fewer switches, which
8 is consistent, I think, with what you said, Ken.

9 On the other hand, if you want to drive
10 yourself, as you say, deep into the network, out to
11 remote areas, in fact, I think it's going to drive
12 more switches. And I think the driver for more
13 switches is not going to be the first switch ran out
14 of gas or it didn't have any more capacity. The
15 second switch goes in to lower the loop cost, not for
16 other reasons. And I think that's still true, even
17 with all the new technologies for loop.

18 MR. WILSON: Well, there are a lot of
19 factors for a CLEC that US West has not faced. US
20 West doesn't pay for collocation to access the loops
21 if the loops come to it. That's where they've always
22 been. As I said at the beginning, loop technology
23 has changed a lot since the US West architecture went
24 in, and the decisions that one would make now are
25 different than one would have made 20 years ago or 30

00499

1 years ago.

2 So definitely there are issues that one
3 looks at to place a new switch. What I'm saying is
4 that the CLEC shouldn't be penalized for making a
5 good economic decision, and that's indeed what the
6 SGAT is doing, is penalizing the CLEC.

7 And I have a question, actually, for Mr.
8 Freeberg. The call from Local Calling Area Two to
9 Local Calling Area One, what kind of call is that?
10 It's not long distance. What is that call? Because
11 in the US West strategy, they want to charge me as if
12 it's not a local call. What kind of call is that, a
13 call between neighbors in Local Calling Area Two.

14 MR. FREEBERG: Ken, here's my concern. I
15 don't know if it's valid. Maybe I'm just creating
16 this out of thin air. But let's just say your Local
17 Calling Area One there is in the Four Corners area of
18 Colorado, okay, in the Durango, Cortez kind of an
19 area. That's Local Calling Area One. And I'm a new
20 CLEC and I've chosen to focus on the Internet service
21 provider business there. Fairly rural,
22 out-of-the-way place, good labor rates there,
23 however, and so forth, so I think I'll locate there.

24 Local Calling Area Two might be Phoenix,
25 might be Salt Lake, might be Denver, might be

00500

1 Albuquerque, all right. And I might choose, back in
2 Local Calling Area One, to set up some modems on the
3 front end of my server, give a few of them some Salt
4 Lake numbers, give a few of them some Denver numbers,
5 give a few of them some Phoenix numbers, give a few
6 of them some Albuquerque numbers, and then have US
7 West haul me traffic from Local Calling Area Two in
8 Denver and Albuquerque and elsewhere and have me
9 terminate them on my server out there in the Four
10 Corners area.

11 Seems to me that could happen. Maybe that
12 will never happen. I mean, I know we'd never do
13 that, but it's a concern. And I don't know that that
14 long loop actually extends all the way back to those
15 places. I can't know that. As a wholesale carrier,
16 I know where I picked the call up, in Denver. I know
17 where I dropped it off, in the Four Corners area.
18 That's all I know.

19 MR. WILSON: Well, you bring up some --
20 what I would call wild scenarios. I guess what you
21 mean is very long FX lines to make a business look
22 like it's in the local area. Is that your example?

23 MR. FREEBERG: Well, you proposed that they
24 should not be FX, right, they should not be private
25 lines. They should be TELRIC; right?

00501

1 MR. WILSON: No, no, let's not confuse this
2 issue. Whether or not a company is selling foreign
3 exchange lines, FX lines to customers, I think, is
4 besides this whole point. Either company can do
5 that, US West or a CLEC. If you are doing that, you
6 are installing or leasing facilities between Point A
7 and your switch. You're paying -- you're bearing the
8 burden of the cost to take that traffic from Point A
9 to Point B, and you're charging a customer for it.

10 Either company can do that, and I still
11 suggest US West has far more of that, and far more
12 percentage-wise than CLECs. That doesn't tend to be
13 a business CLECs are in, in my experience. I could
14 be wrong, but I don't think that changes this
15 scenario at all.

16 And I get back to the fact that we are
17 proposing LATA -- this within a LATA; not outside of
18 a LATA, not outside of a state. If US West thinks
19 that someone is trying to arbitrage reciprocal comp
20 with FX lines, I think that's a totally different
21 issue.

22 MR. OWENS: Well, let's set aside the
23 arbitrage question. Let's go back to Tom's example.
24 Let's assume that that provider in Four Corners was
25 doing what Tom outlined. They're providing loops

00502

1 here in Seattle or Olympia, and their switch is in
2 Four Corners. All the LATA boundaries are gone, it's
3 two years from now, and the CLEC says I want to
4 interconnect with US West in Four Corners.

5 Is US West obligated to build that
6 interconnection facility of some 1,500 miles at
7 TELRIC rates and to share the cost of that with the
8 CLEC and not recover its cost?

9 MR. WILSON: As I said before, I think
10 that's an issue that needs to be dealt with when one
11 is considering changing LATA boundaries.

12 MR. OWENS: I'm asking what your proposal
13 is, Ken. You're proposing --

14 MR. WILSON: My proposal is within current
15 LATA boundaries. That's it.

16 MR. OWENS: And on what basis do you
17 restrict it to the LATA boundary?

18 MR. WILSON: I think everything we
19 arbitrated, everything I've read, looks at LATA as an
20 area of demarcation that has been set up
21 historically, and that we all look at. We still -- I
22 mean, we're not suggesting to avoid any toll rates,
23 we're not suggesting to avoid any access charges;
24 what we're talking about is local calls, unarguably
25 local calls, from one neighbor to another, not some

00503

1 wild FX situation that, maybe if you want to diagram
2 it out and show how someone could afford to provide
3 the loops out from Four Corners to Washington and
4 have a switch in Washington and would actually
5 economically do that, I think this is a hypothetical
6 that doesn't need to be addressed, and it's
7 definitely a red herring.

8 JUDGE WALLIS: Let's be off the record for
9 a minute.

10 (Discussion off the record.)

11 (Proceedings adjourned at 7:56 p.m.)

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