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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the)	Docket No. UT-003022
Investigation Into US WEST)	Volume V
Communications, Inc.'s)	Pages 504-651
Compliance with Section 271 of)	
the Telecommunications Act of)	
1996.)	
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In the Matter of US WEST)	Docket No. UT-003040
Communications, Inc.'s)	
Statement of Generally)	
Available Terms Pursuant to)	
Section 252(f) of the)	
Telecommunications Act of 1996.))	
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A workshop in the above matter was held on June 23, 2000, at 8:07 a.m., at 1300 Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge C. ROBERT WALLIS.

The parties were present as follows:

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

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

WORLDCOM, by Ann E. Hopfenbeck and Thomas F. Dixon, Attorneys at Law, 707 17th Street, 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.

20
21
22
23

24 Barbara L. Nelson, CSR
25 Court Reporter

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INDEX OF EXHIBITS

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4 EXHIBIT:

MARKED:

ADMITTED:

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8 Exhibit 215

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1 JUDGE WALLIS: Let's be on the record,
2 please, for our June 23, Year 2000 session in the
3 matter of Dockets UT-003022 and 003040. We are
4 taking up this morning with discussion on the item
5 that was presented yesterday.

6 MS. SACILOTTO: Thank you, Your Honor.
7 Maybe we can do one housekeeping matter before we
8 start into a substantive discussion. One of the
9 issues that was raised by AT&T, and perhaps also
10 WorldCom, was provisions of the SGAT that dealt with
11 symmetrical access for intraLATA toll, and we had
12 proposed putting that into the SGAT docket yesterday.
13 And I spoke with Ms. DeCook last night, and AT&T is
14 amenable to that. I don't know what Tom thinks.

15 MR. DIXON: WorldCom has no problem taking
16 that approach, as well.

17 MS. SACILOTTO: So if anybody else has no
18 objection, that's what we would propose. So that
19 would dispense with the discussion of that issue
20 today.

21 JUDGE WALLIS: So the procedure would be
22 that it would not be part of 271 --

23 MS. SACILOTTO: Right.

24 JUDGE WALLIS: -- but it would be part of
25 the SGAT review and would be undertaken on a schedule

00508

1 that is yet to be determined on that review; is that
2 correct?

3 MS. SACILOTTO: Correct, yeah. Our
4 thinking is that, because it's a toll issue, it
5 doesn't involve compensation for local traffic. That
6 being said, there's an additional legal issue that
7 has been raised by the intervenors, the idea of
8 commingling special access circuits and ratcheting
9 rates.

10 It's our view that this is primarily a
11 legal issue, and we would recommend taking that up
12 towards the end, after we've had our factual
13 discussion.

14 JUDGE WALLIS: Comments.

15 MS. DeCOOK: I agree there's a legal
16 component to that, but I think there's a factual
17 component to it, as well. I don't have any objection
18 to taking it up closer to the end, but I think it's
19 one of the issues that MCI and AT&T raised on
20 reciprocal comp.

21 MS. SACILOTTO: That's fine. Why don't we
22 just do it right before ISP. That said, perhaps the
23 first issue we should take up is one that we were
24 dealing with yesterday, which would be the interlocal
25 calling area. Oh, as a preliminary matter, we have

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1 an additional witness that we also need to have sworn
2 in and brought to the table.

3 MR. REYNOLDS: That would be me.

4 JUDGE WALLIS: Mr. Reynolds, raise your
5 right hand.

6 Whereupon,

7 MARK REYNOLDS,
8 having been first duly sworn, was called as a witness
9 herein and testified as follows:

10 JUDGE WALLIS: Mr. Dixon.

11 MR. DIXON: Judge, I just wanted to report
12 back. I did attempt to contact Michael Schneider
13 with respect to the modified language in Section
14 10.8, and we have not been able to hook up. He's not
15 in his office, and I'm hoping I'll get an answer back
16 by Monday or Tuesday, at the latest. I have sent him
17 language, but do not have an answer at this time.

18 JUDGE WALLIS: Thank you, Mr. Dixon.

19 MS. SACILOTTO: Okay. I propose we get
20 started with one of the topics we were talking about
21 yesterday, which would be interlocal calling areas.

22 MS. DeCOOK: Well, I understood, Your
23 Honor, that there were still a few short
24 presentations.

25 MS. SACILOTTO: Oh, I'm sorry. There are

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1 some presentations. I don't mean to go over those.
2 Why don't we start with anybody else's presentations.

3 MR. DIXON: Thank you. I believe that Mr.
4 Argenbright is prepared to make a presentation on
5 behalf of WorldCom. He has been previously sworn.

6 JUDGE WALLIS: Yes.

7 MR. ARGENBRIGHT: Good morning. I'll keep
8 this fairly short, as I know we've got people with
9 flights and we covered a lot of ground yesterday. I
10 would like to focus mainly on the issue of reciprocal
11 compensation, of course, and -- oh, I'm sorry, Mark
12 Argenbright, WorldCom. My direct testimony is
13 Exhibit 181. And I am senior staff specialist for
14 WorldCom in the state regulatory policy group, and in
15 that capacity, deal with some of the issues that
16 we're discussing in this SGAT proceeding, one of
17 those being recip. comp.

18 And toward that, recip. comp, you know,
19 it's fairly clear, recip. comp exists because traffic
20 is out of balance. Recip. comp is not merely about
21 dollars, as Mr. Freeberg indicated yesterday. The
22 payments, reciprocal compensation payments compensate
23 the terminating carrier for the use of its network in
24 completing the local calls generated by the customers
25 of the originating carrier. A service is being

00511

1 provided.

2 And to the extent Mr. Freeberg's chart from
3 yesterday -- actually, it's still up, showing the
4 imbalance of recip. comp payments, to the extent that
5 is intended to show some unfair arrangement between
6 the CLEC and the ILEC, it's misleading.

7 What it shows is that today US West
8 utilizes CLEC networks for termination of its
9 customers' calls more extensively than CLECs use US
10 West's network. And as Mr. Woods (sic) indicated in
11 his presentation, this may certainly change over
12 time.

13 In establishing the recip. comp structure,
14 the FCC recognized two critical facts. First, CLEC
15 networks will look different from ILEC networks. And
16 second, symmetrical treatment of recip. comp is key
17 to competition. And I think we'd all agree that the
18 presentations by Mr. Freeberg and Mr. Woods (sic)
19 adequately proved that the FCC was right on the first
20 point. US West has a hub and spoke network
21 architecture and CLECs rely on far fewer switches in
22 combination with extensive transport networks in
23 creating their local presence.

24 As Mr. Woods (sic) explained, the advances
25 in technology have made transport a more efficient,

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1 cost-effective means of creating and extending a
2 network. This is not a bad development. It
3 leverages the latest technologies and efficiencies,
4 and these are results that are consistent with both
5 business and regulatory goals.

6 While recognizing the differences in the
7 network architecture, the FCC also reached an
8 important conclusion that compensation between the
9 two carriers for use of their different networks must
10 be symmetrical in order for these benefits to be
11 realized.

12 And the FCC summarized this in their First
13 Report and Order fairly clearly, as symmetric
14 compensation gives the competing carriers correct
15 incentives to minimize its own cost of termination,
16 because its termination revenues do not vary directly
17 with changes to its own costs.

18 And as I explained in my testimony, if US
19 West is allowed to pay a CLEC a lower rate for
20 switching and transport than it can charge the CLEC,
21 then US West has no incentive to reduce its costs.

22 If, on the other hand, US West must pay the
23 CLEC the same amount it collects, based on symmetry,
24 there's a natural deterrent to any desire by the ILEC
25 to inflate rates either through inefficiency or

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1 simple price gouging.

2 And as also discussed in my testimony, when
3 traffic originates on US West's network and it's
4 delivered to the CLEC network for termination, US
5 West is avoiding the use of its own network assets
6 and operations and maintenance costs for that
7 switching and transport.

8 Accordingly, US West should be neutral as
9 to who terminates traffic, and this must assume that
10 the cost US West avoids for switching and transport
11 is equal to the prices set by the Commission. If US
12 West is successful in creating the proposed have and
13 have not rate structure, US West will be able to
14 realize a significant gain by being able to pay CLECs
15 a lower amount than the cost US West actually avoids.

16 And based on the impact of that dynamic on
17 competition, I would propose that the Commission
18 ensure that the SGAT be modified to preserve the
19 concept of symmetry, consistent with the FCC rules
20 and as language proposed in the various comments
21 provided. Thank you.

22 JUDGE WALLIS: Mr. Dixon.

23 MR. DIXON: Judge, Tom Dixon. I just have
24 a quick clarifying question for Mr. Argenbright. You
25 made reference to a Mr. Woods, I believe. I assume

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1 you're referring to Mr. Ken Wilson, who made a
2 presentation for AT&T?

3 MR. ARGENBRIGHT: That is correct. I'm on
4 East Coast time. I'll use that for an excuse.
5 Sorry, Ken.

6 MR. DIXON: Thank you. Nothing further.

7 JUDGE WALLIS: Did Nextlink have a brief
8 presentation?

9 MR. KOPTA: Yes, Your Honor, although I
10 think Nextlink's issues are -- or presentation, I
11 should say, are specific to a couple of issues, as
12 opposed to sort of overarching comments, which have
13 seemed to be the order of the day or the order of the
14 afternoon and evening yesterday.

15 I do want to make a couple of legal
16 observations. We've been discussing not only
17 compensation for transport and termination of traffic
18 once it hits either the CLEC or the ILEC switch, but
19 also compensation for the facilities that
20 interconnect the two networks. To the extent that
21 this is considered to be reciprocal compensation, as
22 opposed to compensation for interconnection, then
23 that seems to be what is on the order of the day, in
24 terms of discussion of this particular checklist
25 item.

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1 Without attempting to define that further,
2 I don't know that other parties have interpreted that
3 checklist item as being as broad as that, as opposed
4 to dealing specifically with interconnection. So I
5 would simply observe that other parties' silence on
6 the issue of compensation for interconnection trunks,
7 as well as other elements of the facilities needed to
8 interconnect the networks should not be seen as
9 agreement that there is compliance by US West with
10 that particular obligation, whether it's deemed
11 reciprocal compensation or whether it's deemed
12 interconnection.

13 Nextlink is prepared to discuss that,
14 because they are here today and had issues with
15 respect to transport and termination once it hits the
16 switch, but other carriers may not have so
17 interpreted that checklist item, and therefore, we'd
18 reserve the right to raise that issue at the next
19 workshop, which is devoted to interconnection.

20 JUDGE WALLIS: Do others wish to comment?

21 MS. DeCOOK: Your Honor, I think this goes
22 back to the whole question of the relationship
23 between interconnection and reciprocal comp, and you
24 can't just look at reciprocal comp in a vacuum.
25 There is the overall cost structure that's imposed

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1 when one interconnects for termination of traffic and
2 the exchange of traffic, and I think that was sort of
3 the purpose of Mr. Freeberg's presentation, as was
4 Mr. Wilson's presentation, to sort of lay out the
5 entire structure.

6 So you know, I don't have any objection to
7 other parties reserving discussion of that issue to
8 the interconnection checklist item, but I think, from
9 a decision standpoint, there has to be some
10 recognition that there is a relationship, and we may
11 need to address that in the process discussion later
12 on.

13 MS. SACILOTTO: I guess it's US West's view
14 that if these issues are interconnection-related,
15 they should be brought up at the interconnection
16 workshop. I guess it's our view that a lot of these
17 costing issues that have been raised were raised by
18 Mr. Wilson, not by us.

19 JUDGE WALLIS: Thank you. Mr. Kopta.

20 MR. KOPTA: Thank you, Your Honor. I would
21 also observe, as a legal matter, that the Commission
22 has yet to establish a per-minute-of-use charge for
23 reciprocal compensation for the transport and
24 termination of traffic.

25 In the cost docket, the Commission

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1 indicated its preference for a flat rated form of
2 compensation, and has yet to establish any particular
3 rate for a minute-of-use form of compensation. So I
4 don't know whether, in the new cost docket, which is
5 something we will discuss this afternoon, that will
6 be an agenda item, or whether the Commission is even
7 willing to establish a minute-of-use compensation, as
8 opposed to a flat rated compensation, so we are
9 somewhat at a disadvantage when it comes to this
10 particular checklist item, in terms of how to deal
11 with the costing issue. And that's not even getting
12 into the cost of the interconnection facilities,
13 which the Commission has not even addressed.

14 So I'm not sure where that leaves us, at
15 least with the quantification of the rate. Certainly
16 there are rate elements and the Commission has, for
17 example, established a rate for unbundled switching
18 and transport, which are two of the elements of
19 reciprocal compensation. So it may be that there is
20 some ability to cobble together a rate, if that was
21 the Commission's intention that it be so.

22 There may be some disputes in terms of what
23 are the various elements of reciprocal compensation,
24 as well as interconnection, which seems to be part of
25 the discussion that we had yesterday evening. I

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1 would simply make that observation, that this is one
2 area that's a little gray.

3 The final legal obligation or legal issue
4 --

5 JUDGE WALLIS: Why don't we interrupt there
6 and see if any others wish to make a comment.

7 MS. SACILOTTO: I think we'll have some
8 comments on that point as we continue. I think your
9 views are accurate, that some of the issues here
10 appropriately should be raised in the cost docket, to
11 the extent somebody thinks that the Commission needs
12 to overhaul its rate structure.

13 JUDGE WALLIS: Ms. DeCook.

14 MS. DeCOOK: I agree with that at a certain
15 level, but I think that part of the driver for
16 costing are some fundamental decisions that have to
17 be made on principles of interconnection and where
18 you interconnect, whether it's the top of the network
19 or deep in the network and the ramifications of that
20 policy decision.

21 So I would guess my response to that is yes
22 and no. Some of it can be dealt with in the cost
23 case, some of it needs to be dealt with here.

24 MR. REYNOLDS: This is Mark Reynolds. I
25 think a lot of those decisions have been made by the

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1 FCC. Interconnectors are able to interconnect
2 virtually anywhere in our network. And when this
3 Commission took a look at those issues, over a three
4 and a half year period, they looked at all the
5 elements. In fact, AT&T and MCI participated fully
6 for three and a half years in the cost docket, and
7 many of the elements that were discussed yesterday by
8 Mr. Wilson and this morning by Mr. Argenbright are
9 elements that the Commission looked at.

10 And US West believes that its SGAT reflects
11 those three and a half years of input by parties, and
12 many of the results and many of the results of the
13 orders reflect AT&T's models and AT&T's input. And
14 US West is somewhat surprised that we get to 271 time
15 and it seems to me that the program changes and that
16 we need to look at new and different ways to
17 interconnect, rather than those initially required
18 under the First Report and Order and other orders by
19 the FCC.

20 MS. DeCOOK: Your Honor, just to respond to
21 that, I would have to respectfully disagree with Mr.
22 Reynolds, since we've been debating the issue of the
23 point of interconnection and how many points of
24 interconnection there must be since the arbitration,
25 we've done it on appeal, we've won it on appeal, and

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1 yet the SGAT still reflects that we have to
2 interconnect in every single local calling area.

3 So you know, I don't agree with him on that
4 point, and I don't agree that there is clarity in the
5 SGAT on whether there is symmetrical reciprocal
6 compensation, which we discussed at length yesterday.
7 So I think those are some very obvious missing
8 components of the SGAT, and that's why we're raising
9 these issues.

10 MS. SACILOTTO: Not to launch into the
11 legal discussion now, but I'm going to launch into
12 the legal discussion now. I mean --

13 JUDGE WALLIS: Well, I'm not sure what we
14 gain by doing that. Do we have enough of a context
15 now to understand that this is a legal issue and that
16 the parties wish to address it, or is there something
17 more that we must have as part of that context to
18 understand the discussions that ensue?

19 MS. SACILOTTO: I think a little bit of
20 both would be useful. I mean, I'd be happy to clear
21 away the legal argument first or last, however it is
22 in the Judge's preference. It just seemed that since
23 it started, I wanted to respond, but if you want to
24 -- I'm amenable to either way. But I do think
25 there's a little bit more fleshing out of the issue

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1 before we take it off to dispute resolution on
2 briefs.

3 JUDGE WALLIS: By fleshing out, do you mean
4 further discussion of the facts and the
5 interrelationships of the principles, or do you mean
6 further discussion of the legal dispute that the
7 parties have?

8 MS. SACILOTTO: I think both, frankly. A
9 little bit more fleshing out of the facts, and then a
10 bit of legal discussion.

11 JUDGE WALLIS: Mr. Dixon.

12 MR. DIXON: Well, thank you, Judge. I was
13 going to go to that very point, of just how much do
14 we deal with the legal issues in this proceeding when
15 we're going to brief all that at a subsequent point
16 in time. I sense, from our prehearing conference we
17 held about a week ago, you wanted to identify the
18 legal issues, briefly address the concepts behind the
19 legal issues, and then the idea was that we'd get
20 into some detail.

21 So I would suggest that, to the extent we
22 want to develop a factual record, that's great. To
23 the extent we want to identify that we have a legal
24 issue and our basis, generally, for that legal issue
25 is sufficient, and we shouldn't be in here debating

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1 between the lawyers orally what we're going to do in
2 writing subsequently.

3 JUDGE WALLIS: I'm reasonably satisfied
4 that we have enough of a context to proceed, unless
5 you believe that there's some element missing from
6 that context.

7 MS. SACILOTTO: Can we go off the record
8 for just a minute?

9 (Discussion off the record.)

10 JUDGE WALLIS: Let's be back on the record.
11 Ms. Sacilotto, have you presented a sufficient
12 statement of US West's position, that we can
13 understand the facts that are in the process of being
14 discussed?

15 MS. SACILOTTO: Yes, Your Honor. I think
16 we would just like to circle back to a couple of the
17 issues that we discussed yesterday in the overview
18 presentations and wind them up factually for purposes
19 of the record.

20 With that, I think one of the issues that
21 we discussed was interlocal calling area, and I guess
22 I'd like to turn this over to Mr. Freeberg to just
23 start the discussion.

24 JUDGE WALLIS: I do believe that we
25 interrupted Mr. Kopta to allow a response to his

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1 second point just as he was about to launch into his
2 third. So Mr. Kopta, why don't you finish that
3 launch, and then we can see what further marine
4 analogies we can come up with.

5 MR. KOPTA: Thank you, Captain. The only
6 other legal issue that we would raise, and again, in
7 the context of flagging it for briefing, is the
8 treatment of the CLEC switch for purposes of
9 reciprocal compensation, whether it will be treated
10 as an end office switch, as the SGAT provides, or a
11 tandem switch, as the Commission has required in
12 arbitrations.

13 Ms. Anderson is going to address that
14 issue, at least the policy ramifications of that
15 issue, as she has in her prefiled direct testimony,
16 as well as another reciprocal compensation issue, and
17 I will allow her to make that statement at this
18 point.

19 MS. ANDERSON: All right. My name's
20 Kaylene Anderson, and I'm a regulatory manager for
21 Nextlink Washington. I filed testimony in this
22 proceeding, which has been marked as Exhibit 191-T,
23 and I just have a few general comments, I think,
24 compared to some of the detail we've been going into
25 over the last 12 hours or so.

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1 As my testimony reflects, Nextlink's
2 biggest concern with SGAT's treatment of reciprocal
3 compensation is that it ignores this Commission's
4 resolution of several reciprocal compensation issues,
5 both from a factual and a legal standpoint, and
6 requires parties that would opt into the SGAT to
7 accept the continuously rejected position.

8 Specifically, I know I'm not supposed to
9 say ISP, but I'll just be really fast. The
10 Commission has repeatedly ruled in arbitrations and a
11 petition for enforcement and in the costing and
12 pricing proceeding that reciprocal compensation must
13 be paid for traffic bound for ISPs. The SGAT
14 specifically precludes reciprocal compensation for
15 such traffic.

16 To the point Mr. Kopta just raised, the
17 Commission has also ruled that, consistent with FCC
18 Rule 711(a)(3), the CLEC switch should be treated as
19 a tandem for reciprocal compensation purposes, as
20 long as the geographical area served by that CLEC
21 tandem is roughly similar to that area served by US
22 West's tandem.

23 The proposed SGAT, however, treats the
24 CLEC's switch as an end office for reciprocal
25 compensation purposes. And I guess the upshot of

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1 this is that we believe that the Commission should
2 consider US West's recalcitrance on this issue to be
3 an important signal of whether US West intends to
4 comply with the checklist items and whether local
5 markets can be considered irreversibly open to
6 competition if they continue to litigate settled
7 issues of fact and law and insist on, you know, the
8 Commission and other parties spending their time and
9 resources looking at these issues again.

10 I just want to say something specifically
11 about Nextlink's situation with reciprocal
12 compensation at this time. We had chosen to opt into
13 the MFS interconnection agreement provision dealing
14 with reciprocal compensation and had to file a
15 petition for enforcement of our interconnection
16 agreement, which we did in February, roughly, of
17 1999, and it was one of the first cases that the
18 Commission considered on its expedited docket.

19 And the Commission did enter an order in
20 September of last year in Nextlink's favor, and
21 requiring that US West pay Nextlink reciprocal
22 compensation for traffic bound for ISPs at a certain
23 rate.

24 I'm sorry to report, and I was going to
25 come up with my own diagram of a sad face, that

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1 despite our best hopes that were reflected in my
2 testimony, that US West has still not paid the
3 Seattle affiliate of Nextlink for reciprocal
4 compensation, despite the fact that the Commission
5 has approved the amendment to the interconnection
6 agreement that would require them to do so.

7 They're continuing to dispute the fact that
8 they need to pay us for the traffic, and we haven't
9 seen the dispute in writing yet, so we don't know
10 what it is, but it's just kind of another example of
11 not wanting to do what the Commission has ruled that
12 they must. And I think that's all I have to say
13 right now.

14 MR. KOPTA: One follow-up question. With
15 respect to compensation for interconnection
16 facilities that was discussed, is US West paying
17 Nextlink any compensation for its proportional share
18 of the use of interconnection facilities between the
19 companies?

20 MS. ANDERSON: No, they're not, despite our
21 best efforts and several conversations to try to come
22 up with a more equitable arrangement.

23 MR. KOPTA: That concludes our
24 presentation.

25 JUDGE WALLIS: Do I recall correctly that

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1 Sprint has no presentation?

2 MR. HEATH: That's correct.

3 JUDGE WALLIS: Very well. So we're ready
4 to proceed to discussion?

5 MS. SACILOTTO: I think it would be -- it's
6 not necessarily on the list of global disputed
7 issues, but I think I'd like to clear away first, I
8 think we have a few questions for Ms. Anderson
9 regarding the statements she made in her opening
10 presentation, and I'll turn it over to Mr. Freeberg.

11 MR. FREEBERG: Tom Freeberg, US West.
12 Starting in the order of Kaylene's most recent point,
13 my research on payments to Nextlink for reciprocal
14 comp I need to be careful with, because it's
15 obviously a very sensitive kind of a matter. My
16 research says that, in fact, the contracted option
17 happened much on a timeline that, Kaylene, you
18 mentioned, and that following that adoption, you
19 billed us in October for September use that US West
20 paid in November, paid in December, has made payments
21 for traffic.

22 Certainly in the Spokane area, I show
23 payments this month and each month for several months
24 prior, and I show payments in the range of 73 to 93
25 percent of the billed amount each month. The Spokane

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1 business was, I believe, the focus of Nextlink's
2 business. That was where the preponderance of
3 traffic was. They expanded into the Seattle area.
4 As they expanded into the Seattle area, I think there
5 were differences of opinion about end office versus
6 tandem treatment of the switch, which led to some
7 dispute, but that payments, in fact, have been made
8 here for Seattle traffic, and I show them having been
9 made this month and the prior month.

10 So there seems to be some conflict between
11 what I show and what Nextlink sees.

12 JUDGE WALLIS: May I suggest that the two
13 of you consult on a break, and that perhaps you can
14 check with your respective offices to verify
15 information and then get back to the --

16 MS. ANDERSON: Sure, sure. And just to
17 clarify, US West has paid our Spokane affiliate for
18 reciprocal compensation for as long as that's been
19 appropriate. So that's a correct statement.

20 JUDGE WALLIS: So could you clarify for me,
21 then, where the dispute does lie?

22 MS. ANDERSON: Well, we have two markets in
23 the state of Washington, the Spokane market that has
24 its own switch and a whole entirely different LATA,
25 and the Seattle market, which has its own switch.

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1 And we measure the traffic separately in those two
2 markets. The Spokane market has been in operation
3 for more than three years, is more mature, and as Mr.
4 Freeberg pointed out, had more traffic than the
5 Seattle market did.

6 According to our records, because Seattle
7 is a newer market, we weren't even eligible, under
8 the terms of our interconnection agreement, to
9 receive reciprocal compensation payments until the
10 month of December 1999. And it's not clear to me why
11 we haven't been receiving the payments for the
12 Seattle traffic in light of the Commission's
13 decision, but it's an ongoing dispute between the two
14 companies.

15 And as a specific matter, I would be really
16 interested to learn that the Seattle market has
17 received payment, because the latest information,
18 from late yesterday afternoon, is that we hadn't. So
19 we can talk about that.

20 JUDGE WALLIS: If you would, and then get
21 back to us, that would be helpful.

22 MS. ANDERSON: Sure.

23 MS. SACILOTTO: I guess we should start
24 turning to the disputed issues. And the first
25 disputed issue that I propose we take up would be the

00530

1 interLCA calling. And with that, I will turn it over
2 to Mr. Freeberg to start the discussion on that
3 disputed issue.

4 MR. DIXON: Judge.

5 JUDGE WALLIS: Mr. Dixon.

6 MR. DIXON: I just have one question. Will
7 we deal with the definitions of end offices and
8 tandem switch as a disputed issue? Is that your
9 intent?

10 MS. SACILOTTO: I assume there's still a
11 dispute.

12 MR. DIXON: Well, and the reason I'm
13 raising that -- and I don't mean to suggest anything
14 improper. Don't take this wrong. But in Arizona, we
15 did reach a different agreement on a definition for
16 an end office that is not reflected in the Washington
17 SGAT. And also, even with respect to the tandem
18 switch, we were basically one word apart from having
19 a definition for that.

20 And our testimony from Mr. Argenbright
21 actually addresses the definitions we reached in
22 Arizona, as opposed to what we have in the SGAT in
23 Washington, so I want to kind of clarify where we're
24 at on those definitions.

25 MS. SACILOTTO: I think I can clarify for

00531

1 you. That language and that discussion is included
2 in Mr. Freeberg's testimony at page 15, I believe --
3 oh, 18 of his testimony, and it reflects the language
4 that we agreed to. I think that it might be that
5 that language was --

6 MR. FREEBERG: I think, Kara, that there
7 are a couple of points here. One is the definition
8 of a tandem and one is definition of end office, and
9 we need to talk about both.

10 MS. SACILOTTO: The actual language is in
11 Tom's testimony, the language that was discussed on
12 the actual definitions. I think that the intent is
13 to --

14 MR. FREEBERG: What's in my testimony is
15 the definition of a tandem. What's in Mr.
16 Argenbright's testimony is a definition of end
17 office.

18 MR. DIXON: Right. Judge, what I have, I
19 actually have the Arizona revised SGAT on that point,
20 and that's why I wanted to seek some clarification,
21 because it could move us along in the process. We'll
22 take it offline on a break, maybe, if that's better,
23 because when I looked at Mr. Freeberg's testimony in
24 the tandem, it, again, is different from what we had
25 in Arizona.

00532

1 MR. FREEBERG: I think we both agreed that
2 SGAT needs some changes, much as we made when we
3 talked about Checklist Item Three.

4 MR. DIXON: Thank you.

5 MR. FREEBERG: If we're ready, I'll speak
6 just a little bit on the subject of point of
7 interface per LATA versus point of interface per
8 local calling area. I think we talked at length
9 yesterday about the subject, and so I'll try not to
10 regurgitate anything we've already covered. The
11 SGAT, at Section 7.1.2, offers four options to
12 accomplish interconnection.

13 Those options include entrance facilities,
14 collocation, meet point arrangements, and interLCA
15 facilities. There also is a section within the SGAT
16 called bona fide requests, which is Section 17. So
17 we believe that, in fact, we've allowed for
18 interconnection at any point.

19 We think the true dispute here is not
20 whether US West allows a point of interface per LATA,
21 but whether US West can charge tariffed retail rates
22 for the transport of calls between local calling
23 areas. That's why we see this as a cost issue or
24 reciprocal compensation issue and not an
25 interconnection issue.

00533

1 Intervenors suggest that US West should be
2 required to build one-way trunks to any place that
3 the CLEC might choose to locate within the LATA,
4 potentially hundreds of miles away.

5 US West, if we carried calls that
6 originated and terminated within a local calling
7 area, the likelihood is excellent that the call would
8 be carried a very short distance.

9 We talked yesterday that, in fact, in some
10 cases, calls within local calling areas are handled
11 on an overflow trunk group to a tandem, which is some
12 distance away. I tried to make the point yesterday
13 that while that exists, very few calls are handled
14 that way.

15 If we modified this part of the SGAT as
16 intervenors propose, all interconnection calls would
17 be handled via the tandem far away. And that, in our
18 mind, defies the kind of logic that Mr. Argenbright
19 just mentioned, where he said he's convinced that US
20 West is paying a lower amount than the cost that it's
21 avoiding to terminate the traffic.

22 In my mind, while there were no facts and
23 no quantification behind that statement, to me, truly
24 here this situation is indicative of a case that US
25 West might certainly spend more to terminate that

00534

1 kind of traffic, again, if the intervenors' changes
2 to the SGAT were allowed here.

3 We believe this traffic doesn't meet the
4 251(c)(2) definition of telephone exchange and
5 exchange access traffic. We think that the
6 Washington Commission has historically managed the
7 use of flat rated local calling areas, these EAS
8 boundaries.

9 In the first order, at paragraph 1034, the
10 Commission says, We conclude that 251(b)(5),
11 reciprocal compensation obligations, should apply
12 only to traffic that originates and terminates within
13 a local calling area. They did not say LATA.

14 They went on, in paragraph 1035, to say, We
15 expect the states to decide whether Section
16 251(b)(5), reciprocal compensation provisions, apply
17 to the exchange of traffic between incumbent LECs
18 that serve adjacent service areas.

19 I think that, again, on just a couple of
20 points very quickly from yesterday. To me, what we
21 want to do here is build an efficient arrangement.
22 It's a two-way street, we have two-way trunks.
23 Neither of us wants calls to block, neither of us
24 wants arrangements to be inefficient. When they are,
25 we both suffer. When they are efficient, we both

00535

1 benefit. And truly, we can't ignore each other's
2 architectures in either way. And so I think with
3 that, that's probably the extent of what I might want
4 to be mentioning.

5 MR. BECK: Before we move on, Tom, I think
6 it might be helpful to do some graphic representation
7 of some of your issues here, some of your
8 explanations. Could you go up and take a look, flip
9 down to your interLCA chart there, which I believe
10 has been marked as Exhibit 162 for the record.

11 Again, that's your local calling area. You
12 didn't do the interLCA, did you?

13 MR. FREEBERG: I didn't, but I could.

14 MR. BECK: Okay. I think it might be
15 helpful to explain your point about the way AT&T
16 would like us to amend the SGAT, that 100 percent of
17 the traffic would go to the tandem, local traffic, as
18 opposed to the way it is carried on our network.

19 MR. FREEBERG: Maybe I can use Ken's chart
20 here, because it truly is the interLCA arrangement, I
21 think. If I understand, Steve, your suggestion, we
22 have a US West office in LCA Two. There might have
23 -- let's suggest there is another US West end office.
24 Well, there doesn't even need to be. Pardon me.
25 Let's leave that out.

00536

1 But let's propose that at one time, both of
2 these retail customers out in LCA Two were served by
3 US West's Number Two office out here in LCA Two prior
4 to interconnection, if you will. A call between
5 those two customers would certainly have originated
6 and terminated within US West End Office Number Two,
7 and that would be a fact.

8 I guess I do need the second office,
9 because let's suggest there is a US West Office
10 Number Nine, all right, out in this LCA Two. And
11 let's suggest that it, in fact, served this second
12 customer. A call between these two customers might
13 have followed a path where if the first customer
14 served by US West Office Number Two was intending to
15 complete a call to the second end user in the same
16 area, it would be carried on a direct trunk group to
17 US West Office Number Nine and terminated on this
18 loop. That would be the path for the great
19 percentage of the calls.

20 Overflow, though, could have been arranged
21 so that if this were the primary high use route,
22 there could be a route that went back to a tandem,
23 US West's tandem in Local Calling Area One. And
24 maybe I should just use another color.

25 The call from the first party served by US

00537

1 West Office Number Two might have been carried back
2 to the tandem on an overflow basis, the tandem might
3 have sent that call back down to US West Office
4 Number Nine.

5 And I think the point is, if I understood
6 it right, is if US West might carry a call like that,
7 why not carry a call as proposed here, from US West's
8 Office Number Two back to the CLEC switch in Local
9 Calling Area One, and then back on out. Isn't that
10 similar.

11 The problem is, in an interconnection
12 basis, all calls from Two to Nine would flow back to
13 the other local calling area, not simply the
14 overflow.

15 MR. BECK: And how much is the overflow?

16 MR. FREEBERG: The overflow typically is a
17 small amount, 10 percent or less of the minutes
18 during the month.

19 MR. BECK: So just to summarize, on our
20 network, only 10 percent would leave the local
21 calling area if it was a local call from one US West
22 customer to another. However, under the AT&T plan,
23 if those two customers -- one's a US West customer
24 and the other is a CLEC customer -- it would always
25 go to Local Calling Area One and then back 100

00538

1 percent of the time.

2 MR. FREEBERG: That's true. Let me just
3 qualify that the overflow percentage varies by
4 office, so it isn't true, I think, to say that 10 is
5 the definite number and it varies by office.

6 MR. BECK: But that's an average?

7 MR. FREEBERG: It is a low percentage in
8 that range, yes.

9 JUDGE WALLIS: We've had quite a bit of
10 discussion about that diagram. How about if we mark
11 it as Exhibit 214 for identification. What would be
12 a nice catchy phrase to use to identify it?

13 MS. DeCOOK: InterLCA.

14 JUDGE WALLIS: InterLCA.

15 MS. DeCOOK: Your Honor, while you're
16 discussing exhibits, there's also an exhibit that Mr.
17 Freeberg worked off of yesterday where he added some
18 additional information to the one that was actually
19 submitted as an exhibit, and we might want to figure
20 out how to get that one into the record, as well.

21 JUDGE WALLIS: Which one is that?

22 MS. DeCOOK: Your Honor, I think it's the
23 one that's right -- the next one up. No, back.

24 JUDGE WALLIS: The orange line diagram?

25 MS. DeCOOK: Exactly.

00539

1 JUDGE WALLIS: And what kind of catchy
2 phrase can we use for that one?

3 MR. DIXON: Judge, maybe the first one
4 could be AT&T LCA, and the second one could be US
5 West LCA.

6 MR. BECK: Well, except that the --

7 JUDGE WALLIS: Let's be off the record.

8 (Discussion off the record.)

9 JUDGE WALLIS: Let's be back on the record,
10 please. We have identified three diagrams as matters
11 that should be included in the record. We've marked
12 as Exhibit 168 a diagram that may be designated
13 tandem routing diagram. And I'm going to ask if the
14 witness or a proxy for the witness could put numbers
15 on these.

16 The tandem routing diagram is 168, the
17 interLCA diagram is 214, and the reciprocal
18 compensation cost elements diagram is 215.

19 During our off-record discussion, there was
20 concern voiced about the last of those three diagrams
21 on the basis that costing should be deferred to
22 another proceeding, and we observed that while the
23 determination of costs may properly be reserved to
24 another proceeding, the implication of decisions in
25 this proceeding and other matters of context are

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1 important for the Commission to know.

2 And this diagram, I believe, does not get
3 into the technical cost development area, but is more
4 informational and contextual and would be helpful in
5 this proceeding.

6 Does anyone wish to make any other comments
7 about these documents? Those three diagrams are
8 received in evidence.

9 We've also made some logistical
10 arrangements. The parties are willing to work
11 through at least part of the lunch hour, and we're
12 making arrangements to have a menu brought in for
13 food orders, and we also will be taking a break about
14 10:00 a.m.

15 Okay. Are we ready to get back to our
16 discussions? Let's proceed, then.

17 MR. BECK: Judge, I just had a couple more
18 clarifying questions for Mr. Freeberg. Tom, Becky
19 made an interesting assertion that -- and I think Ken
20 basically made the same assertion, that US West's
21 SGAT requires that interconnection occur only deep
22 into the network of US West and not at the top of the
23 network. Could you explain whether that's entirely
24 correct or not? I think that relates to this port
25 per LATA, port per LCA issue, as well. You can use

00541

1 the diagrams, if you need to.

2 MR. FREEBERG: Can you try the question on
3 me one more time?

4 MR. BECK: Do you agree with Becky that we
5 require that the interconnection with us by AT&T be
6 deep into the network and that we don't allow
7 interconnection at the top of the networks, as Ken
8 has phrased it?

9 MR. FREEBERG: Could someone remind me
10 which exhibit this is?

11 MS. SACILOTTO: I think it might be 160,
12 subject to check.

13 MR. BECK: It is 160.

14 MR. FREEBERG: Great. It could be there is
15 some need for clarification here. I'm looking at
16 Exhibit 160, and if you would ignore for a moment the
17 fact that there might be an alternate routing
18 arrangement, I realize this chart is designated
19 alternate routing, but in fact, it doesn't
20 necessarily need to be that.

21 Interconnection can be accomplished by a
22 CLEC connecting at the top of US West's network and
23 its tandem. The interconnection trunk group between
24 the two switches would be a direct final trunk group.
25 It could be that there are, in fact, no direct trunk

00542

1 groups to any end office. That's allowed in the
2 SGAT, been provided to a number of carriers. It's
3 typically a startup kind of a mode for most carriers.
4 As was mentioned yesterday, for a new
5 carrier, especially, very hard to understand where
6 any customer on either network, especially on the
7 CLEC network, might be calling, if you will. And so
8 in fact, all calls can flow via the local tandem, and
9 certainly there is a top of network, a top of network
10 interconnection that's allowed in the SGAT.

11 MR. BECK: And if you flip to 214 on the
12 other pad, Tom, similarly, on 214, wouldn't it be the
13 case that we would allow a point of interconnection
14 at the US West tandem in that drawing in order for
15 there to be traffic exchanged between a CLEC customer
16 in LCA Two and a US West customer in LCA Two?

17 MR. FREEBERG: Yes. To be clear, LCA Two
18 might have its own tandem, in which case
19 interconnection could be accomplished at a tandem in
20 LCA Two that served the end offices in LCA Two. It's
21 also possible that LCA Two is served by a tandem in a
22 different local calling area, in which case I need to
23 think through that one. Yeah. I think --

24 MR. BECK: I think, just to cut to the
25 chase here, if a CLEC has a switch in LCA One, can it

00543

1 hand off all its traffic involving LCA Two in LCA
2 One, and not establish a physical point of
3 interconnection in LCA Two to do that?

4 MR. FREEBERG: The SGAT calls for the
5 carrier to establish either a physical presence in
6 LCA Two or a virtual point of interconnection in LCA
7 Two to exchange traffic in LCA Two, I do believe.

8 MR. BECK: That would be pursuant to the
9 interLCA product?

10 MR. FREEBERG: Right.

11 MR. BECK: And just one last question. I
12 think it pertains to 160 here, actually. That might
13 help you describe this. That's the one that you have
14 up there already. You might want to write that on
15 there.

16 MR. FREEBERG: I'll do that.

17 MR. BECK: Mr. Hydock, of AT&T, yesterday
18 asked you if we charge our end user customers for
19 tandem switching, and I'm not sure the record was
20 entirely clear on whether the answer is yes, no, or
21 indirectly on that. Could you explain what we charge
22 our retail end users on calls that go through the
23 tandem switch?

24 MS. DeCOOK: I'm just going to ask for a
25 clarification from Mr. Beck. I thought we were

00544

1 talking about host-remote when Mr. Hydock asked the
2 question about the transport between the host and the
3 remote. I don't recall any questions regarding
4 tandem switching.

5 MR. BECK: Well, if that's the case, I'm
6 clarifying something that doesn't need to be
7 clarified, but I still think it might be interesting.
8 I thought that was the import of the question, was
9 that you were trying to say that we don't charge our
10 own customers for tandem switching.

11 MS. DeCOOK: The record, I think, will
12 reflect Mr. Hydock's question went to this charge,
13 and that the discussion related to whether the
14 customers, retail customers, were charged transport
15 for the umbilical cord between the remote and the
16 host. But with that clarification, if you want to
17 ask your question.

18 MR. BECK: Yeah, I think the answer's the
19 same, but --

20 MR. FREEBERG: This is Exhibit 164, it's
21 the host-remote exhibit. If I understand the
22 question, the charges faced by the retail customers
23 are independent of the charges that, as wholesale
24 carriers, we assess one another, and I think my
25 answer is the same as yesterday. Certainly, these

00545

1 end user customers do not face some sort of extra
2 charge when a call is placed in a host-remote
3 situation.

4 If the host and the remote were in
5 different local calling areas and an end user at the
6 remote called an end user served by a loop at the
7 host and the remote and the host were in different
8 local calling areas, in fact, a call like that would
9 face a toll charge. It would be a one plus call.
10 But I'm not sure that was the question. I just want
11 to clarify it.

12 JUDGE WALLIS: Let's be off the record for
13 just a minute.

14 (Discussion off the record.)

15 JUDGE WALLIS: Back on the record, please.
16 There's one wrap-up to the earlier discussion. We
17 have identified notations on Exhibit 159, which could
18 be significant to the record. We've designated the
19 diagram that started off as a representation of 159
20 as 159-S, for supplemental. It is the diagram, and
21 we are receiving that in evidence. Mr. Beck has a
22 wrap-up item.

23 MR. BECK: Thank you, Judge. Tom, I just
24 wanted to clear up this last issue before the break.
25 In a case on Exhibit 164 where a call may go from a

00546

1 US West customer, the lower US West customer to the
2 top US West customer, the call goes over the
3 umbilical; correct?

4 MR. FREEBERG: No.

5 MR. BECK: No? Okay. Is there a case
6 where a US West call, a local call, goes over the
7 umbilical?

8 JUDGE WALLIS: You're referring to Exhibit
9 164.

10 MR. FREEBERG: I can think of two cases
11 where a call might involve the umbilical, a call
12 which involved customers getting dial tone from the
13 remote. One would be the situation I mentioned when
14 I last was talking about Exhibit 164, and that is a
15 case where a line served by the remote calls a line
16 served by the host. Umbilical is involved. No
17 question about it.

18 Another case would be a situation where a
19 customer served by the remote makes a call to another
20 US West central office which is interconnected with
21 the host. In that case, the umbilical would
22 certainly be involved.

23 Certainly, if a CLEC's customer called a US
24 West customer at the remote, the umbilical would be
25 involved.

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1 If, as I understood the first question, two
2 customers who were lines on the remote called one
3 another, the umbilical is not involved.

4 MR. BECK: Okay, Tom. Now --

5 MR. FREEBERG: Doesn't carry the call.

6 MR. BECK: In those situations where there
7 are local calls that are carried by the umbilical, is
8 the cost of the umbilical factored into the local
9 retail rates?

10 MR. FREEBERG: I think local retail rates
11 are a factor of all of the underlying costs of the
12 network.

13 MR. BECK: So that would be a yes?

14 MR. FREEBERG: I think so, yes.

15 MR. BECK: Okay. And is there a double
16 recovery of the umbilical cost when you charge tandem
17 transmission for terminating a call from a CLEC
18 customer to a US West remote customer?

19 MR. FREEBERG: No.

20 MR. BECK: Thanks. That's all I needed to
21 clarify.

22 MR. WILSON: Perhaps just a question on
23 this, if I could. So if the customer that is served
24 on the remote calls a customer -- a US West customer
25 served on the remote calls a customer, a US West

00548

1 customer served by the host, and they're in the same
2 local calling area, there's no additional charge; is
3 that true?

4 MR. FREEBERG: That's true.

5 MR. WILSON: And if a customer served by
6 the remote calls another customer -- US West customer
7 served on another switch that's still in the same
8 local calling area, there's no additional charge.

9 MR. FREEBERG: That's true.

10 MR. WILSON: However, if a US West customer
11 served on the remote calls a CLEC customer served on
12 the CLEC switch, is there a charge for the CLEC for
13 the umbilical?

14 MR. FREEBERG: Good question. So if this
15 customer calls this, is there a charge for the
16 umbilical?

17 MR. WILSON: Yes.

18 MR. FREEBERG: No, because AT&T -- the
19 CLEC, pardon me, terminated the call. So CLEC
20 charges US West for entrance facilities and direct
21 trunk transport and call termination.

22 MR. WILSON: But the CLEC would not charge
23 US West for the distance to the remote from the host.

24 MR. FREEBERG: Certainly, the CLEC wouldn't
25 charge until it met the interconnection facility

00549

1 itself. The CLEC would charge US West in that case
2 entrance facilities and direct trunk transport.

3 MR. WILSON: Okay. Now, if the CLEC
4 customer is calling the customer served by the US
5 West remote, does US West charge the CLEC for the
6 distance from the host to the remote?

7 MR. FREEBERG: Ask me that once more, Ken.
8 Sorry.

9 MR. WILSON: If a CLEC customer served on
10 the CLEC switch calls a US West customer served by
11 the remote, is there a charge to AT&T or the CLEC for
12 the distance from the host to the remote?

13 MR. FREEBERG: Yes, if the CLEC customer
14 called a customer at the remote, that call would
15 involve the entrance facilities, the direct trunk
16 transport, it would involve tandem transport for the
17 distance between the host and the remote, would not
18 involve tandem switching, and would involve a call
19 termination charge.

20 MR. WILSON: Thank you.

21 MR. FREEBERG: Can I make one more point?
22 Here's my one final point. If this host were not
23 AT&T's, but, in fact, were a CLEC's --

24 MR. BECK: US West, was a US West.

25 MR. FREEBERG: If this is a CLEC's host and

00550

1 a CLEC's remote, the SGAT is arranged such that
2 charges would be entirely symmetrical and reciprocal.

3 MR. WILSON: Is there any circumstance in
4 Washington today where that is the case?

5 MR. BECK: I don't know.

6 JUDGE WALLIS: Mr. Dittemore.

7 MR. DITTEMORE: Yeah, I just wanted to ask
8 one clarifying question, because the term local
9 calling area has been bandied about. The terms I'm
10 familiar with that sound similar are wire center or
11 exchange or rate center. Is one of those three
12 exactly the same as a local calling area, or would
13 you like to -- and it may be perfectly clear in the
14 SGAT, I'm not sure. But I'm hoping we clarify and
15 put this to rest on the record. Thank you.

16 MR. BECK: I think you want to know, just
17 so we get the question right, how do you determine
18 what's a local calling area. Is it a wire center, is
19 it a CO, an end office?

20 MR. DITTEMORE: A wire center or exchange
21 or a rate center.

22 MR. FREEBERG: I think -- I'm going to
23 venture a guess here, the local calling area, the way
24 we phrased it, is most akin to exchange. It is the
25 boundary on a map within which two callers understand

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1 that they can call one another dialing seven digits
2 without any toll or per-minute charges.

3 MR. DITTEMORE: That could be a rate center
4 if there's an extended area of calling?

5 MR. FREEBERG: I'd say yes, that's true.

6 MR. DITTEMORE: Then there would be
7 interexchange calling and some of this -- okay. It
8 gets complicated, but thank you for that
9 clarification.

10 MS. DeCOOK: Mr. Freeberg, I have a
11 question for you. In 7.1.2 of the SGAT -- are you
12 with me?

13 MR. FREEBERG: I am.

14 MS. DeCOOK: In the second sentence, it
15 says, CLEC shall establish a point of interconnection
16 in each US West local calling area where it does
17 business.

18 How does that square with the discussion
19 that you had with your lawyer this morning regarding
20 the point of interconnection?

21 MR. BECK: The on the record discussion;
22 not the privileged one.

23 MR. FREEBERG: I think I know what you're
24 talking about.

25 MS. DeCOOK: Or any off-the-record

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1 discussion you may have had.

2 MR. FREEBERG: I think I know what you're
3 talking about. We were talking about the top of
4 network connection; right? And Steve was asking, I
5 think, could a CLEC in Local Calling Area One
6 establish interconnection to a tandem in Local
7 Calling Area One, and with that, exchange traffic --
8 I hesitate to write on this, because we're going to
9 have to number it again; right?

10 MS. DeCOOK: No, it's already numbered.

11 MR. FREEBERG: Is it? Okay. All right.
12 So we can do that. Maybe I don't need to. Oh, I
13 guess I should. Could interconnection be established
14 at the tops of the network in Local Calling Area one
15 such that potentially there could be loops and
16 telephones in Local Calling Area One which could call
17 telephones in Local Calling Area Two over the
18 interconnection trunk group established at the
19 tandems and over common trunk groups to the end
20 offices in Local Calling Area Two.

21 And I tried to answer that question as no,
22 that isn't allowed. To your point, Becky, that
23 particular language that was in the SGAT proposes
24 that if the CLEC in Local Calling Area One begins to
25 decide that it would like to handle traffic in Local

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1 Calling Area Two, it needs to arrange interlocal
2 calling area facilities, in which case it will have
3 established for itself a virtual POI in Local Calling
4 Area Two, and reciprocal compensation will apply to
5 the traffic handled within Local Calling Area Two
6 back and forth to the virtual POI.

7 MR. BECK: Can you explain the difference
8 between a virtual POI and a physical POI, which, in
9 this case, would not be required in LCA Two?

10 MR. FREEBERG: Physical POI, generally
11 speaking, is the CLEC's construction of a switch that
12 is owned and operated and could be touched and felt
13 and so forth. A virtual POI is a point along a link
14 which establishes a demarcation for purposes of
15 rates.

16 MR. OWENS: Tom, on the diagram, and you
17 can help us out by indicating where on that private
18 line facility, where is the physical POI?

19 MR. FREEBERG: Oh, the physical POI, in
20 this case, is at the CLEC switch in Local Calling
21 Area One. Do you agree with me?

22 MR. OWENS: That was the right answer.

23 MS. DeCOOK: That is what your SGAT says.
24 And I guess what that says to me is that the CLEC
25 will have to have a POI in Local Calling Area One, as

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1 well as a POI in Local Calling Area Two.

2 MR. FREEBERG: Right, and it may build its
3 own, in which case it would be a physical POI, or it
4 may establish a virtual POI, but one or the other.

5 MR. OWENS: Well, Tom, let me ask you this.
6 If, in fact, the CLEC has established the physical
7 POI in Local Calling Area One, and that private line
8 facility is provided by US West to carry the traffic
9 from Local Calling Area One to Local Calling Area
10 Two, in effect, hasn't the CLEC established and US
11 West established that all of the traffic is being
12 exchanged for the CLEC in Local Calling Area One?

13 MR. FREEBERG: Yes.

14 MS. DeCOOK: And when that occurs, Tom,
15 that's when the interLATA, interLCA provisions of the
16 SGAT apply and private line rates would be assessed?

17 MR. FREEBERG: Yes, that's true.

18 MR. BECK: Where is the justice in that,
19 Tom?

20 MS. DeCOOK: There is none.

21 JUDGE WALLIS: Let the witness respond.

22 MR. FREEBERG: To make one point more
23 clear, I hesitate to say this over again, but as
24 wholesale carriers, I know where I picked up the
25 call. I know where I dropped off the call. In the

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1 case of the retail end user in Local Calling Area Two
2 placing a call to a CLEC customer who has a telephone
3 number in Local Calling Area Two, I know that I
4 picked up the call at the US West Two end office. I
5 know I dropped off the call at the CLEC physical POI
6 in Local Calling Area One. I don't know what
7 happened after that. I just don't know.

8 And if you think I care, I mean, whether I
9 care or not doesn't really matter. The truth is, I
10 just -- I don't know whether that went on over a long
11 loop, a short loop. I just don't know what happened.
12 And as a wholesale carrier, I don't care. I know I
13 carried the call between two local calling areas, and
14 that's all I can know for sure. And I might not care
15 beyond that.

16 MR. BECK: Well, let me -- I think that's a
17 fair point, but aren't there other aspects of this
18 that make this a fair arrangement? For example,
19 doesn't this arrangement allow the CLEC to save the
20 cost of a switch in Local Calling Area Two?

21 MR. FREEBERG: It most certainly does. I
22 think that's the whole intent of that part of the
23 SGAT, is to allow for a CLEC to have options when it
24 comes to handling of traffic for Local Calling Area
25 Two.

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1 MR. BECK: And the private line rate is
2 also somewhat legitimated, isn't it, by the fact that
3 100 percent of the local traffic that flows between
4 US West and CLEC customers in Local Calling Area Two,
5 the allegedly local traffic, actually has to go all
6 the way to LCA One and back.

7 MR. FREEBERG: Right. This was Mr.
8 Argenbright's point, I think, where he said -- and I
9 should check my notes, but he said potentially US
10 West is paying less in reciprocal compensation than
11 it would have spent on its own terminating these
12 calls. And to me, this is the most clear form of a
13 concern that we'd have the call which might have been
14 handled within Local Calling Area Two and only very
15 occasionally brought back to Local Calling Area One
16 is always brought back to Local Calling Area One.

17 MR. BECK: Thanks, Tom.

18 MR. ARGENBRIGHT: Mark Argenbright. If I
19 could just ask a question. I guess what you're
20 saying, then, is when the cost that US West incurs in
21 taking the CLEC out of the picture, incurs in
22 terminating traffic from, you know, in this example,
23 on Exhibit 214, the two lower customers, that cost
24 that US West incurs when they are the only carrier is
25 equal to the private line rate that you are wanting

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1 to levy on a CLEC completing that same call?

2 MR. FREEBERG: I think that if US West
3 chooses to handle increasing traffic between the US
4 West Two office and the US West Nine office and,
5 therefore, the direct trunk group between those two
6 offices is becoming full, then US West has a decision
7 to make. It is at a crossroads. It could enlarge
8 the trunk group between US West Two and US West Nine,
9 or it has a second choice, which is to haul that call
10 back to the tandem in Local Calling Area One. And it
11 makes that decision as a trade-off, which will I do.

12 And in a similar manner, I think a CLEC has
13 a choice to handle all the traffic out in Local
14 Calling Area Two or extend itself out, you know,
15 between local calling areas. So there is a parallel
16 between the two. But the distinct difference, I
17 think, is that, again, a very small amount of traffic
18 might be carried back to the tandem in the US West
19 kind of all retail situation, if you will, and in the
20 interconnection arrangement where, in fact, all
21 traffic gets carried back.

22 MR. ARGENBRIGHT: So for a CLEC, then, to
23 essentially get a cost structure similar to US West,
24 as a competitor, this proposal really means we have
25 to have a switch in each local calling area.

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1 MR. FREEBERG: No, it doesn't mean that.
2 Means that you could establish a virtual POI in each
3 local calling area or establish your own switch. You
4 have a choice.

5 MR. ARGENBRIGHT: But the establishment of
6 the virtual POI puts us into a retail private line
7 environment, and so what we're doing -- a CLEC is
8 faced with paying the retail rates for private line
9 and establishing a switch in that second Local
10 Calling Area Two, as opposed to US West's analysis of
11 their true cost of hauling that traffic to the tandem
12 in the other local calling area, as opposed to
13 augmenting trunk groups in the second local calling
14 area.

15 MR. OWENS: This is Jeff Owens, with US
16 West. The CLEC has another alternative. If the CLEC
17 believes that the price, the private line rate for
18 that facility is too high, it can have a cost-based
19 rate. It can build its own facilities.

20 MR. ARGENBRIGHT: One other follow-up
21 question. In terms of looking at the tandems, do you
22 have any idea number of local calling areas just
23 generally served by a single tandem?

24 MR. FREEBERG: I'm afraid I don't. No.

25 MS. SACILOTTO: Tom, could that vary by

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1 local calling area?

2 MR. FREEBERG: Every tandem would be
3 different.

4 MR. ARGENBRIGHT: But it's certainly more
5 -- it's safe to say that it's more than two local
6 calling areas, generally?

7 MR. FREEBERG: Your question is is it
8 common for a local tandem to serve more than two
9 local calling areas?

10 MR. ARGENBRIGHT: Yes.

11 MR. FREEBERG: I'd say yes.

12 MR. DIXON: Thank you, Judge. Tom Dixon, I
13 just have a question for Tom Freeberg, if I could.
14 When Mr. Owens asked you if -- referring to Diagram
15 214, or Exhibit 214, if traffic was exchanged at the
16 physical point of interface, I believe you answered
17 yes. Am I correct?

18 MR. FREEBERG: Yes, that's -- traffic is
19 switched there.

20 MR. DIXON: You've described what you now
21 call a virtual point of interface. And the question
22 I have is is traffic exchanged at the virtual point
23 of interface, as well? Is that your position?

24 MR. FREEBERG: I think that certainly, yes,
25 it would be.

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1 MR. DIXON: And when Ms. DeCook questioned
2 you about paragraph 7.1.2, requiring -- the second
3 sentence that requires CLECs to have a point of
4 interconnection in each US West local calling area,
5 what you mean is it's either got to be physical or
6 virtual, not a physical point of interconnection in
7 each one, but virtual, as you defined it.

8 MR. FREEBERG: Right. Could be either.

9 MR. DIXON: Thank you.

10 MR. WILSON: This is Ken Wilson, with AT&T.
11 If we're done with the questions for Mr. Freeberg,
12 I'd like to respond briefly to a number of the points
13 he made. First, in his written testimony, and I
14 believe I heard correctly earlier, Mr. Freeberg
15 seemed to be implying that AT&T was advocating that
16 the CLECs avoid toll charges for calls that are out
17 of a local calling area. That's absolutely untrue.

18 All of the examples that I gave last night
19 and all of our advocacy is that local calls should
20 not incur additional charges that US West is levying
21 on us, which should be reciprocally exchanged. We
22 are not advocating that the CLEC avoid toll charges
23 for calls that are out of local calling areas.

24 The next point, Mr. Freeberg seemed to
25 state that AT&T is advocating less efficient trunking

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1 going to one-way trunks. I believe I stated that
2 going to all one-way trunks provided by each party
3 would be kind of a last-ditch measure that we did not
4 want to go to, but we might be forced to go to if we
5 cannot get the proper reciprocity built into the SGAT
6 and actually paid for by US West. So we actually
7 don't want to go that way, but we might have to,
8 because we can't get reciprocity in any other manner.

9 Next point, Mr. Freeberg seemed to state
10 that AT&T's position was that a hundred percent of
11 the traffic go to the local tandem. I clearly did
12 not say that. The local tandem could be a point
13 where all traffic is delivered. That statement
14 doesn't mean that all traffic is switched by the
15 local tandem. It simply means that all traffic could
16 pass through that office. Some of it would be
17 directed to end office switches without being
18 switched by the local tandem. I clearly said that it
19 would not be efficient, and having quite a lot of
20 information and experience with US West tandems, they
21 simply couldn't handle all of the CLEC traffic, and I
22 would not promote that it -- they try to do that.

23 As far as the transport of the traffic
24 outside between local calling areas, I think if you
25 take in total what US West is proposing, and we heard

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1 some -- a lot of discussion a few minutes ago on the
2 fact that the private line rate US West thinks is
3 fair, but I think Mr. Argenbright's question was
4 right to the point.

5 Charging private line rates to CLECs for
6 transport out of a local calling area is nothing more
7 than a penalty that US West is trying to impose on
8 the CLECs. And the other suggestions that US West is
9 making, build your own switch, build your own routes,
10 I mean, we've heard that before. That was US West's
11 argument long ago to not unbundle their network. The
12 argument is the old go build it yourself, which is
13 not the intent of the act or FCC orders.

14 The sum of all of these charges that US
15 West is levying would have no other effect than to
16 prevent CLECs from expanding competition out of metro
17 areas.

18 US West keeps forgetting when they say, Oh,
19 we're going to have to transport these calls between
20 local calling areas with no compensation, that if US
21 West has its way, the CLEC will be transporting the
22 calls twice between those locations, rather than the
23 CLEC transporting it once and US West transporting it
24 once. All the CLECs want is a fair shake.

25 I think it was telling, also, when we went

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1 through the diagram, that when US West itself
2 transports calls out of one local calling area to a
3 tandem in another local calling area, that there is
4 no charge to their customers, so why should there be
5 charges to CLECs? Another argument that Mr. Freeberg
6 made is that when a customer in another local calling
7 area moves to a CLEC and now the call has to go to
8 another local calling area, that that's inefficient,
9 from a network point of view.

10 And while I can't disagree that the call,
11 for competition's sake, is now getting transported a
12 longer distance, Mr. Freeberg's argument seems to be
13 that we should have no competition, because it's less
14 efficient. I would like to point out that, even with
15 the inefficiencies that Mr. Freeberg is pointing out,
16 CLECs are starting to move into the market and
17 charging lower prices. That's the reason the
18 customers come to the CLECs.

19 So I don't agree that overall some
20 inefficiencies that are going to be unavoidable will
21 overall increase cost to the consumers of this state.
22 I don't believe that will happen. I believe
23 competition will come in and will find ways to lower
24 prices, even though the CLECs are facing much higher
25 costs than US West.

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1 I think that the provision in the SGAT,
2 7.1.2, which Ms. DeCook asked Mr. Freeberg about,
3 should be removed, that the provision that requires
4 the CLEC to have either a point of presence or hand
5 off traffic in each local calling area, that is
6 contrary to the intent of various rulings.

7 I won't get into the legalities, but I
8 think that is one of the provisions that needs to be
9 removed, not only as an issue for interconnection,
10 but as an issue for reciprocal compensation, because
11 it directly impacts reciprocal compensation.

12 I think, just to summarize, there are --
13 it's not necessarily the case that all of the cost
14 elements that I discussed last evening need to be
15 looked at anew, though some of them are being looked
16 at anew in the cost case. I think my point was that
17 all of these elements are elements that US West is
18 charging the CLEC without any reciprocity.

19 I think some simple additions to language
20 in the reciprocal compensation section of the SGAT
21 could encompass the problems that I pointed out
22 yesterday, additions such as something like all
23 changes -- all charges for transport termination and
24 collocation are reciprocal, regardless of the actual
25 infrastructure used by either party.

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1 And secondly, that each party will deliver
2 traffic to the top of the other party's network for
3 the purpose of reciprocal compensation. Simple -- a
4 few simple additions to the SGAT of that nature could
5 encompass the issues of inequality that I pointed out
6 in a more global way, rather than going into some
7 sections and adding specific elements on a reciprocal
8 nature. So I think we will look at providing some
9 model language that could encompass such changes.

10 MS. DeCOOK: Ken, a couple clarifying
11 questions. You started out your discussion by
12 responding to a claim made by Mr. Freeberg regarding
13 AT&T refusing to pay or advocating a position which
14 would result in us not paying toll charges.

15 If you assume that, looking at Exhibit 214,
16 that the two local calling areas depicted, the
17 traffic between the two local calling areas depicted
18 in Local Calling Area One and Two would be a toll
19 call such that if a customer is calling another
20 customer -- a customer in Local Calling Area Number
21 Two is calling another customer in Local Calling Area
22 One, what charge is it your position that AT&T or any
23 other CLEC should be assessed for that call?

24 MR. WILSON: If the CLEC customer in Local
25 Calling Area One is calling a US West customer in

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1 Local Calling Area Two, then there would be intraLATA
2 -- the appropriate intraLATA charges. My examples
3 were all involving a CLEC customer in Local Calling
4 Area Two calling a US West customer in Local Calling
5 Area Two, and that that is a local call no matter
6 where within the LATA the call has to be transported
7 to the CLEC's switch.

8 MS. DeCOOK: Well, one other question. You
9 made some reference to a position that's being
10 advocated by US West that would result in a CLEC
11 transporting calls twice. Could you expand on that,
12 explain what you mean by that?

13 MR. WILSON: Well, the US West position, I
14 think as Mr. Freeberg has clarified several times, is
15 that the CLEC, if we look at the Diagram 214, the
16 CLEC should bear the cost of the vast majority of the
17 transport between the CLEC switch and the US West
18 switch, and that US West doesn't want to pay for
19 that.

20 I think what Mr. Freeberg continuously
21 fails to indicate is that the CLEC is already
22 transporting that call via a long loop from Local
23 Calling Area Two to Local Calling Area One. So the
24 CLEC is bearing that cost in any case. To have the
25 CLEC then pay for the bulk of the transport between

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1 the two switches is not at all a reciprocal
2 situation.

3 MR. REYNOLDS: This is Mark Reynolds, US
4 West. Mr. Wilson, are you aware of any time, either
5 in a cost docket or in arbitrations, where AT&T has
6 promoted the idea of recovery of collocation costs
7 for transport and termination?

8 MS. DeCOOK: Your Honor, I think we already
9 tread this ground yesterday. I don't know that we
10 really need to readdress the whole issue of when this
11 was addressed, and Mr. Wilson responded to that
12 question yesterday.

13 MS. SACILOTTO: Well, I think it is
14 relevant for today's discussion, because we haven't
15 been presented with any cost model or cost study or
16 any cost information at all in this particular docket
17 for this new theory of so-called reciprocal
18 compensation. And it's been sort of thrown up there
19 without anything behind it.

20 JUDGE WALLIS: Well, and that gets down to
21 the discussion that we had a little bit earlier.
22 Where do we draw the line between the cost docket and
23 the docket involving the principles setting out the
24 arrangements that are costed. And it is kind of a
25 two-way street. I don't want us to get into a

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1 discussion of models in this docket that would be
2 repetitive of a discussion in another docket.

3 On the other hand, it is helpful to have
4 enough of a context about the operation of cost
5 models or general principles to understand the
6 issues. I think that the question, to the extent
7 that it is historical, is of much less relevance, and
8 perhaps looking at it in more general terms might be
9 helpful. I think there's a Staff question that may
10 kind of point in that direction.

11 MS. STRAIN: Well, we were just looking at
12 the concept of TELRIC cost principles, and the
13 assumption has been that they assume the most
14 efficient technology and equipment, et cetera. And
15 how does that incorporate into this docket, where we
16 have the two different CLECs configuring their
17 networks one way and US West configuring another, and
18 then how does that play out?

19 MR. REYNOLDS: I guess that was part of my
20 concern. It seems to me that we're more or less
21 trying to hit a moving target here. In the context
22 of the cost docket, we explored network architectures
23 and supposedly costed out, in accordance with the FCC
24 guidelines, a forward-looking least-cost network.
25 And AT&T brought forward models and took three and a

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1 half years of consideration of the costs in the
2 elements, and at no time did AT&T bring this forward
3 until it's time for US West to go in for Section 271
4 compliance. I don't think that that's necessarily
5 fair. So that's my point.

6 MS. DeCOOK: Well, and let's be clear on
7 this. The cost model -- as I understand it, the cost
8 proceedings that Mr. Reynolds is referring to is
9 modeling unbundled network elements, and we're
10 looking at US West's network for figuring out what to
11 assess CLECs for leasing of unbundled network
12 elements.

13 As I understand it, the Commission has
14 never taken head on the issue of reciprocal comp.
15 That's still an issue that's under consideration.
16 I'm sure Mr. Kopta can address that in better detail
17 than I can.

18 I think we have two principles here that
19 we're trying to get resolved. One is where is the
20 point of interconnection, and that drives, then, how
21 reciprocal comp is assessed. The other issue, the
22 principle that we're discussing here, is the issue of
23 symmetry, which the FCC has said, in the reciprocal
24 comp environment, you take the costs of the incumbent
25 LEC and use those as the proxy for the charges that

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1 the CLEC then assesses US West or the incumbent for
2 reciprocal comp.

3 And one of the principal issues that Mr.
4 Wilson has addressed is the fact that US West's SGAT
5 is largely a one-way street when it comes to a large
6 number of costs that we're being assessed for
7 interconnection reciprocal comp. So that is the
8 essence, and I don't think that issue has ever come
9 up in the context of a proceeding in Washington, so I
10 think that is what's going to be discussed later on
11 today and one of the issues that's going to come up
12 on an ongoing basis.

13 And just as a practical matter, I think
14 it's already been established in the record that many
15 of the carriers that are in this room are not, under
16 their interconnection, dealing with reciprocal comp
17 rates; they are dealing with a bill and keep
18 environment. So I think that has played a role, as
19 well.

20 MR. REYNOLDS: This is Mark Reynolds again.
21 To me, that's a little bit of revisionist history.
22 AT&T presented a case on how transport and
23 termination would occur right along with their
24 Hatfield model, and those issues were fully explored
25 by the parties. These concepts that Mr. Wilson has

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1 brought up in the last two days are new concepts to
2 this Commission and to all the parties that sit here.

3 JUDGE WALLIS: Are you arguing that the
4 result of prior costing proceedings are such that any
5 party is precluded from proposing different
6 relationships that might lead to different cost
7 applications?

8 MR. REYNOLDS: No, I'm not. I'm
9 suggesting, on a prospective basis, that AT&T
10 probably has full right to bring issues like that up.
11 I think the timing right now is suspect, given that
12 we had three and a half years to evaluate this.

13 JUDGE WALLIS: Well, my preference would be
14 to look at principles, rather than motives, and to
15 conduct the proceeding in a way that lets the
16 Commission have the best possible record on which to
17 make the best possible decisions. So I'd like to
18 just set aside the issue of what's been done in prior
19 cost proceedings and look at questions on a
20 forward-going basis.

21 MS. SACILOTTO: Well, I guess our point
22 would be, on a forward going basis, there's no there
23 there. I mean, a lot has been presented on what
24 should be, in Mr. Wilson's view, included in these
25 charges, but we've seen nothing to support that.

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1 There's been no cost, no studies, no justification,
2 no -- nothing behind just a couple diagrams. And I
3 don't think we can talk theory without talking the
4 practical ramifications of what his theories would
5 propose. And so --

6 JUDGE WALLIS: Well, and that issue does
7 take us to the question that we have not yet fully
8 resolved, and that is how do the various proceedings
9 interface and what is the interrelationship between
10 the costing proceedings and the proceedings in the
11 SGAT and the proceedings in the 271.

12 So I would rather, again, not cast
13 aspersions or look to failures to produce evidence in
14 this docket that may, in fact, properly belong in
15 another docket, but rather get back to the question
16 of principle and what makes sense, and then we can
17 look at the process by which we will bring all of
18 this together and allow the Commission to make an
19 enlightened decision. Mr. Dixon.

20 MR. DIXON: Thank you, Your Honor. I just
21 have a procedural question. It's my understanding
22 that two cost dockets, UT-960369 and UT-003013 deal
23 with the costs of US West and GTE. I'm trying to
24 figure out, is it someone's position that AT&T or MCI
25 are supposed to bring costing into those dockets,

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1 which are basically identifying what I thought were
2 US West and GTE costs?

3 MS. ANDERL: Your Honor, may I speak to
4 that?

5 JUDGE WALLIS: Ms. Anderl.

6 MS. ANDERL: This is Lisa Anderl, for US
7 West. I think that in the old generic docket, there
8 were three docket numbers, two of which were specific
9 to US West and GTE, one was generic. And I think
10 that any new entrant who claimed that they had higher
11 transport and termination costs than the proxies
12 established by the FCC, which are the incumbents,
13 could have brought those forward in those dockets. I
14 don't think anybody was precluded from doing so.

15 And I think that as to 003013, we can
16 certainly talk about that this afternoon if any new
17 entrant wants to propose those in their direct
18 testimony that's due in July. I don't think we're
19 going to try to stop them.

20 MR. DIXON: And that's the point. I was
21 just trying to figure out where it belongs and if it
22 should be in these two, should we choose to take the
23 position that we want to introduce what has been
24 requested, that is, the underlying data that support
25 perhaps the theories that are being discussed.

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1 JUDGE WALLIS: We have not determined
2 exactly what's going where, and we're looking forward
3 to receiving a detailed suggestion from US West that
4 all parties can look at and discuss that will help us
5 all reach what we expect to be a very enlightened and
6 reasonable decision.

7 MR. WILSON: Your Honor, if I might. I
8 think, to some extent, we may be talking past each
9 other a little bit. As Ms. DeCook indicated, there
10 is language which would lead us to use the US West
11 proxy charge -- or proxy cost for the CLECs.

12 What I suggested last night was not
13 necessarily that the costs had been done incorrectly
14 or that they -- something new was needed in the cost
15 docket, though parties may decide that's the case.
16 What I was advocating was the use of cost elements
17 which already exist in a reciprocal manner. I wasn't
18 necessarily -- in fact, I don't believe I showed any
19 costs that Washington has not developed costs for
20 already or won't be included in the cost docket.
21 What I was advocating was a reciprocal application of
22 those costs.

23 So the answer to Paula's question, I
24 believe, is I have no knowledge one way or the other
25 as to whether the cost, the TELRIC costs have been

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1 done appropriately. I assume they will be. What I'm
2 advocating is the use of those in a reciprocal
3 manner.

4 To respond to one issue that Mr. Reynolds
5 brought up, AT&T actually had no knowledge until very
6 recently that US West has actually been charging AT&T
7 for some of these costs. Of course, we knew about
8 the collocation costs. Introducing those as a hidden
9 cost may be new, but AT&T only discovered recently
10 the private line rates for some of these facilities,
11 the cost that US West is charging for the distance
12 from the host to the remote.

13 None of those issues were arbitrated, there
14 is no language in our interconnection agreement, so
15 we have seen those only with the SGATs, and only
16 found out recently that they have actually been
17 assessing those charges to CLECs.

18 JUDGE WALLIS: Very well. I'd like to
19 conclude this discussion at this point, and we'll
20 take a recess that I expect to last about 15 minutes.

21 (Recess taken.)

22 JUDGE WALLIS: Let's be back on the record,
23 please. During the recess, parties have had some
24 discussion. The question came up regarding
25 definitions which were the subject of discussion in

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1 Arizona, and the Arizona language was not completely
2 included in the materials. The parties have agreed
3 that they will deal with that issue offline, and if
4 it remains an issue, reserve it for the follow-up
5 session, and if it is concluded, we'll announce the
6 successful conclusion at that session. The same
7 applies to some discussions regarding language as to
8 reciprocal compensation.

9 I believe we're prepared to resume our
10 discussions. And I think we had come to closure on
11 the question of the interrelationship -- at least
12 closure for now on the question of interrelationship
13 among the various proceedings, each taking a piece of
14 the issues that face us globally, and we're ready to
15 move on to another topic. Is that correct?

16 MS. SACILOTTO: I think that, at least from
17 our perspective, with just noting the brief legal
18 arguments on this issue of interLCA calling, that
19 perhaps we can go on to the next topic after that.

20 JUDGE WALLIS: Very well.

21 MR. ARGENBRIGHT: Your Honor, Mark
22 Argenbright, WorldCom. If I might, I wanted to --
23 just at the break, Staff had posed a question
24 concerning networks and application of rates, and I
25 just wanted to follow up with a quick comment.

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1 The question is on point, that being what
2 happens, the issue of how does a CLEC's network
3 compare to that of the ILEC, and how does that play
4 out. The only way that the competitive environment
5 can be maintained and allow this disparity in
6 networks is for the application of the rates,
7 whatever they be arrived at, through whatever
8 proceeding, that those rates be applied in a
9 symmetrical fashion. Without that, we get into the
10 problems that I mentioned in my discussion this
11 morning.

12 JUDGE WALLIS: Ms. Sacilotto, were you
13 asking for the opportunity to make a very brief
14 concluding comment?

15 MS. SACILOTTO: Yes, with the opportunity
16 to follow it up in more detail in writing.

17 JUDGE WALLIS: Yes.

18 MS. SACILOTTO: It's US West's position
19 that the SGAT provides several options for where a
20 carrier decides to interconnect with our network, all
21 of them lawful.

22 The real dispute between the parties is a
23 pricing one, and we believe that the court decisions
24 that have addressed this issue support our position
25 that, while a carrier can establish a single point of

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1 interconnection in a LATA, a state Commission can
2 require more. And in the event that a CLEC decides
3 that it wants to locate a single point of
4 interconnection, there are pricing implications, and
5 those pricing implications are recognized in the
6 FCC's first local competition order, in its advanced
7 services order on remand, at paragraph 23, and courts
8 in Arizona and in Oregon have recognized that when a
9 competitor requests a more expensive form of
10 interconnection, that they must pay for it. And
11 that's simply the point that we are making here.

12 I think it's also worthy to note that we
13 are not the only incumbent local exchange carrier
14 that supports this position. SBC, in Texas, has
15 interconnection agreements that are far more
16 restrictive than the SGAT. They require a physical
17 point of interconnection in each local calling area.
18 However, the Texas Commission and the Department of
19 Justice have endorsed that application, and SBC's
20 position is analogous to ours. If you request a
21 single point of interconnection in a LATA, then there
22 are pricing implications that must be addressed by
23 that. And that is simply our position.

24 There's also been a lot of discussion today
25 about how a call looks to the end users. That is not

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1 relevant for reciprocal compensation purposes. It is
2 how the carriers handle the call, what happens on the
3 network. And that's the point that seems to have
4 been lost.

5 MR. HEATH: Your Honor, if I might make a
6 comment on behalf of Sprint, and that is I believe,
7 as everybody here knows, Sprint has local telephone
8 companies, local operations throughout the nation,
9 and Sprint's policy has been to support the single
10 point of interconnection in a LATA. And we don't
11 have any situations here in the state of Washington,
12 but in our operations in Nevada and Florida, that's
13 all we've required of CLECs.

14 JUDGE WALLIS: Thank you very much. Okay.
15 Let's move on.

16 MS. SACILOTTO: All righty, then. In no
17 particular order, why don't we go to host-remote
18 switching.

19 MR. FREEBERG: Tom Freeberg, for US West,
20 and we've talked about this subject at some length.
21 I believe that intervenors, in their testimony, have
22 put attention on that part of the SGAT, which is at
23 7.3.4.2.3, and I'll read that.

24 It says, When CLEC terminates traffic to a
25 US West remote office, tandem transmission rates will

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1 be applied for the mileage between the US West host
2 office and the US West remote office.

3 The SGAT states that carriers should be
4 compensated at TELRIC rates for the transport of
5 calls between a host and the remote in the same local
6 calling area. AT&T has suggested that this distance
7 between a host and a remote is effectively a loop,
8 and as a loop, it should not be considered in the
9 reciprocal compensation mechanism effectively free.

10 I expect that AT&T agrees that remote
11 switches can connect calls if only intraoffice when
12 the umbilical is severed. Clearly, loop electronics
13 cannot do this. For trunking purposes, each US West
14 remote has its own identity in the LERG and in NECA
15 Tariff Four. Loop electronics do not.

16 US West proposes that there be no tandem
17 switching charge at a host. Instead, proposes that
18 only call termination be charged in association with
19 the tandem transport. The thinking there is that
20 when the traffic is carried between the host and the
21 remote, it is switched on the trunk side at the host
22 and on the line side at the remote, effectively
23 constituting only one switching charge.

24 This is an arrangement that is analogous
25 with the switched access tariff handling of similar

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1 toll calls. Again, that is a switched access tariff
2 here in Washington, at 6.7.10.

3 Finally, I guess I'd just say that it's US
4 West's proposal that this be reciprocal and,
5 furthermore, that it makes sense that carriers be
6 compensated for the transport that they provide.

7 MS. DeCOOK: Are you done?

8 MR. FREEBERG: I'm done.

9 JUDGE WALLIS: Ms. DeCook.

10 MS. DeCOOK: Your Honor, I think we've
11 addressed this issue fairly fully in the record
12 through our prior presentations and discussions, and
13 I think the inequity of the proposal in the SGAT was
14 exemplified by the questions that Mr. Wilson posed to
15 Mr. Freeberg this morning.

16 And to harken on a statement made by US
17 West in connection with some issues raised by AT&T,
18 this is not an access world; this is a local call
19 environment. And to overlay an access environment on
20 local calls seems to me to be highly inappropriate.
21 And with that, we don't have any further comment on
22 this issue.

23 JUDGE WALLIS: Others?

24 MR. ARGENBRIGHT: WorldCom is not going to
25 dispute this language any further.

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1 JUDGE WALLIS: So does that mean that
2 there's impasse?

3 MS. DeCOOK: Yes.

4 MR. FREEBERG: Can I just check? There's
5 impasse between AT&T and US West, but not between US
6 West and WorldCom?

7 MR. ARGENBRIGHT: That is correct.

8 MR. FREEBERG: Thank you.

9 JUDGE WALLIS: What is the SGAT provision?

10 MR. FREEBERG: 7.3.4.2.2.

11 MR. KOPTA: Three.

12 MR. FREEBERG: Oh, pardon me, I got that
13 last digit wrong. The last digit should be a three.

14 JUDGE WALLIS: Thank you. Very well.
15 Shall we move on?

16 MS. SACILOTTO: Okay. The next issue I
17 would propose we address is the dispute regarding the
18 tandem definition, whether or not a CLEC switch
19 should be entitled to tandem treatment.

20 MR. FREEBERG: Tom Freeberg, US West. As I
21 have read the intervenors' testimony in this case,
22 they request a definition of a tandem in the SGAT,
23 which would require only that the switch serve an
24 area comparable to that served by US West's tandem
25 switch.

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1 Intervenors, I think, specifically advocate
2 that a CLEC should charge both the tandem switching
3 rate and the end office switching rate, even though
4 the CLEC only switched the call once. Furthermore,
5 and I'm not sure that it's a unanimous opinion on the
6 parts of intervenors, but that those kinds of charges
7 should apply on all calls. This approach, if it
8 applied to all calls exchanged, I think would, again,
9 further tip this imbalance in payments that we've
10 talked about before.

11 Through our discussions in the last couple
12 of days, I think it was demonstrated that, in an
13 interconnection world, as this roughly one billion
14 minutes have flowed back and forth in the last month
15 between the US West network and other networks, that
16 in fact very few of those minutes went via the US
17 West tandem. So to apply this rate to all calls just
18 seems clearly to be the wrong approach.

19 US West attempted to offer at my testimony
20 -- this would be my rebuttal testimony, I believe, at
21 page 18, a revised definition of a tandem switch at
22 Section 4.11.2. And in association with that, some
23 wording at the SGAT Section 7.3.4.2.1, which would
24 acknowledge a CLEC's potentially switching a call
25 twice and using a tandem. US West there proposes to

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1 clarify that a CLEC may have a tandem and deserve to
2 be paid for tandem switching and tandem transmission
3 in addition to call termination, so long as the call
4 was switched twice.

5 The section also clarifies that if a
6 carrier switched a call once at a switch that met the
7 tandem definition, then only the tandem switching
8 charges should apply. This will allow the parties to
9 charge one another for the services that they provide
10 to one another, and would allow US West to avoid the
11 tandem as CLECs are allowed to avoid the tandem
12 through the alternate routing opportunities that the
13 SGAT provides.

14 As discussed in the tutorial, when US West
15 transits a call, it charges only for tandem switching
16 and tandem transmission; not for call termination.
17 This makes sense because the end office is not part
18 of the call path.

19 Under current SGAT terms, CLECs can
20 exercise the option to avoid US West's tandem. Most
21 of the time, CLECs exercise this option. CLECs who
22 use the tandem do so at their benefit, the benefit of
23 alternate routing and overflow. US West should not
24 be required to pay for tandem switching and tandem
25 transfer when a call is not switched twice.

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1 Certainly, this should not be the case on all calls.
2 Concession on this point would mean that the ratio of
3 payments, again, would tip further.

4 MS. SACILOTTO: I have one clarifying
5 question relating to some of those last comments,
6 Tom. You said that CLECs can avoid the tandem
7 switching charge. Did I catch that?

8 MR. FREEBERG: When a call follows a direct
9 routing path, yes, they avoid that charge.

10 MS. SACILOTTO: Can US West avoid the
11 tandem switching charge that the CLECs propose
12 imposing?

13 MR. FREEBERG: Again, I don't know that
14 CLECs have made their position clear on that point.

15 MS. SACILOTTO: I guess under AT&T's
16 proposal?

17 MR. FREEBERG: I believe it's a proposal
18 that US West would pay both charges on all calls.

19 MS. SACILOTTO: So we can't avoid it; is
20 that correct?

21 MR. FREEBERG: Can't avoid it would be my
22 understanding.

23 MS. SACILOTTO: We've lost Tom. I would
24 like clarification on where WorldCom stands on this
25 issue.

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1 MR. DIXON: I'm sorry, I was trying to get
2 the stuff to send out to you guys. Can you repeat
3 the issue real quickly?

4 MS. SACILOTTO: As I understand it, we're
5 talking the tandem versus end office, and as the
6 positions have unfolded, AT&T believes that the CLEC
7 switch should be treated as a tandem for all calls.
8 And in Colorado, there was some discussion about this
9 issue, and I wondered where WorldCom was coming out
10 on this issue, if they were willing to -- I think Tom
11 can describe how it -- I don't want to misstate it
12 technically. I mean, I think I understand in my
13 head.

14 MR. FREEBERG: In Colorado, Mr. Dixon, Mr.
15 Argenbright, Mr. Henry, I think, made suggestions
16 that, in fact, US West might not face a tandem
17 switching charge on all calls. That was my
18 understanding. And if I could make one more
19 clarifying point. All of our advice here is about
20 the SGAT, where the SGAT is the focus of all of our
21 discussion.

22 In US West's satisfaction of Checklist Item
23 13, I think there should be no mistake that, in fact,
24 US West has paid, you know, at least some carriers
25 for both switching charges, even though that carrier

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1 switched the call once. So not to be mistaken and to
2 be focusing on the past and on what has happened,
3 based on certain contracts, in fact, do allow for
4 that and, in fact, US West has paid.

5 MR. DIXON: Thank you. I apologize. As I
6 said, I was trying to send the e-mails out to
7 everybody on our language from the earlier
8 discussion.

9 In Colorado, Mickey Henry, Michael Henry,
10 actually, indicated that while WorldCom wanted its
11 switch to be defined as a tandem, using the
12 definitions of what constitutes a tandem under the
13 FCC rule, that is, a switch that serves a comparable
14 area, et cetera, that he indicated that where the
15 actual traffic was transported by a direct trunk,
16 that under those circumstances, MCI would not receive
17 tandem switched rates, but would rather receive end
18 office rates when, in fact, the traffic was sent on
19 an alternate route and was transported through a
20 tandem, that is, a US West tandem and then on. In
21 that circumstance, we would recover tandem rates in
22 those circumstances.

23 So that was the position that was taken in
24 Colorado, and I believe Mr. Argenbright will be
25 prepared to deal with it, how it relates -- the

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1 Colorado may be somewhat different than the
2 Washington position because of Washington Commission
3 Rules.

4 MR. ARGENBRIGHT: Again, the test as to
5 whether or not the CLEC switch is to be treated as a
6 tandem is pursuant to -- our position is the FCC rule
7 is clear, it's comparable geographic area. I believe
8 in Washington we have -- the Commission has found
9 that at least our affiliate MFS, formerly MFS
10 Network, is worthy of tandem treatment and is to be
11 paid accordingly, which I think I would agree US West
12 has paid accordingly. And I think our position is
13 that that's the correct situation for Washington.

14 MR. FREEBERG: So may I ask a question? So
15 you would agree, then, that US West owes you for
16 tandem switching and call termination on all calls?

17 MR. ARGENBRIGHT: Yes.

18 MR. FREEBERG: And on calls that flow from
19 you towards us, do you face tandem switching and call
20 termination charges on all calls?

21 MR. ARGENBRIGHT: To the extent they
22 utilize your tandem, I presume you're billing us that
23 way.

24 MR. FREEBERG: But not otherwise?

25 MR. ARGENBRIGHT: I would presume that, of

00589

1 the direct trunked route, if I remember your diagram
2 correctly in talking about balance of traffic, if 90
3 percent of the traffic coming to the CLECs is being
4 routed via the direct trunks, leaving the 10 percent
5 of traffic heading into the US West network,
6 originating on our network going to US West, would be
7 competing for that direct trunked facility,
8 essentially facing an onslaught of traffic coming to
9 the CLEC network.

10 I'm not sure of the percentage of traffic
11 that actually does come from the CLEC network to the
12 US West network. So I would agree there is, I
13 presume -- my understanding is your billing is
14 different for those two types of calls. I also would
15 suspect that the amount of direct trunked traffic
16 that is originating on our network to the US West
17 network is really substantial.

18 MR. FREEBERG: So while you don't know the
19 percentage, you would expect more is direct than is
20 tandem routed?

21 MR. ARGENBRIGHT: No, I would say more is
22 tandem routed due to the inability of -- I mean,
23 those direct trunks are -- you had indicated they're
24 engineered to block, and with the vast amount of
25 traffic that is originating on the US West network,

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1 what I am suspect about is the ability of the rather
2 lower percentage of traffic originating on the CLEC
3 network to compete for that direct trunk facility and
4 be able to actually be routed that way, as opposed to
5 being routed via the tandem.

6 And I recognize I'm not giving you any hard
7 evidence of that, but certainly the concept can be
8 considered.

9 MR. FREEBERG: My expectation is if it is
10 two-way trunking, a switch at either end contends for
11 the next available trunk without any preferentiality
12 when it comes to directionality, if I understood your
13 point.

14 MR. ARGENBRIGHT: No, I would agree. Both
15 have -- both switches have access to that trunk. The
16 point I'm trying to make is that with all of the
17 traffic coming down that highway, so to speak, from
18 US West to the CLEC, the ability of the CLEC's
19 traffic to have an opportunity at the lanes on that
20 highway is minimal due to the amount of traffic
21 heading in the one direction, regardless of the fact
22 it's a two-way trunk.

23 MR. FREEBERG: I'm confident that the
24 enormous majority of your traffic does not flow via
25 the tandem measured on a minute-of-use basis.

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1 MS. SACILOTTO: I just have one question.
2 You have mentioned -- I want to clarify your position
3 for Washington. Is your position that the Commission
4 need not look at the functions that the switch
5 performs, that only the geography that it serves is
6 relevant?

7 MR. ARGENBRIGHT: Yes.

8 MS. SACILOTTO: Are you aware of how courts
9 in Washington have addressed this issue?

10 MR. DIXON: This is Tom Dixon. If you have
11 the U.S. Court of Appeals 9th Circuit Opinion, I'm
12 looking at it.

13 MS. SACILOTTO: Yes, that, and in addition,
14 I'd like to steer you toward the Washington District
15 Court's decision in US West versus the Washington
16 Utilities Commission. This is a case involving AT&T
17 Wireless. The case number is 97-5686. And in
18 addressing this issue, the court talked about the
19 language in the FCC rules and stated, This language
20 supports two legal interpretations. One, the rate
21 for a wireless switch should be determined by whether
22 it functions like a tandem switch and geography
23 should be considered, or, where a wireless switch
24 serves -- or two, where a wireless switch serves a
25 comparable area as that of a tandem switch, the rate

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1 should be that of a tandem switch.

2 The first entails a detailed functional
3 comparison of two technological systems. The second
4 entails the automatic application of the tandem rate
5 to any system that meets the geographic test. The
6 court finds that the first interpretation is more
7 consistent with the act, and 47 CFR 51.711(a)(1),
8 which read together provide that rates of transport
9 and termination of traffic should be symmetrical when
10 the same kind of service is rendered and the
11 additional costs involved in call termination are
12 relevant.

13 And I think, Tom, going to the MFS
14 decision, that you're going to find it's not
15 inconsistent. And I'm going to reach and get it.

16 MR. DIXON: Well, wait, let me see if we
17 can save it, because we're kind of getting into this
18 legal debate, and I can probably read from the MFS
19 decision. My suggestion would be we've given our
20 position and, I think, probably state it on the
21 briefs. I'm certainly willing to argue these cases
22 now, but I think, in the interest of time, we're not
23 going to move today, let's put it in the briefs and
24 move on or discuss it offline.

25 JUDGE WALLIS: Let's put it in the briefs

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1 and move on, to the extent it's not resolved.

2 MR. KOPTA: And we would just note that we
3 agree with that position in terms of the FCC rule
4 being clear, and we are counsel for AT&T Wireless in
5 this particular case and can add a little clarity to
6 that, as well, on the brief.

7 JUDGE WALLIS: Is that case subject to
8 appeal?

9 MR. KOPTA: It has, in fact, been briefed
10 before the 9th Circuit, as Ms. Rendahl and I are
11 fully aware. It has not yet been argued, but it has
12 been appealed.

13 JUDGE WALLIS: A question from Staff?

14 MS. DeCOOK: It will be argued shortly.

15 MR. HARLOW: Your Honor, I'd like to note
16 that ICG concurs with the position of Nextlink, or
17 WorldCom, and AT&T, as well.

18 JUDGE WALLIS: Very well. Let's hear from
19 Staff.

20 MR. DITTEMORE: Thank you very much, Judge.
21 Dave Dittemore, Commission Staff. Really, covering
22 the last two points, I think you said in the last
23 point that the CLECs always had the option of
24 avoiding the tandem charge by direct trunking. Going
25 back to a previous point on the remote-host, are you

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1 saying the CLECs could terminate trunks on the remote
2 and terminate traffic direct to the remote? Is it
3 really true that they could avoid that tandem charge?

4 MS. SACILOTTO: I don't think I should
5 answer that.

6 MR. DIXON: Go ahead. Raise your hand.

7 MR. FREEBERG: Dave, I'm sorry, I was
8 distracted. Could you ask me that once again?

9 MR. DITTEMORE: I'll take a second attempt
10 and hope it won't be any longer. On the previous
11 point, you made the point that CLECs could always
12 avoid the tandem charge by implementing direct
13 trunkings to the end offices in your network. And it
14 just brought me back to the host-remote situation
15 where you claim a tandem charge.

16 Are you saying that the CLECs could
17 terminate trunking direct to the remote and avoid
18 that tandem charge in the host switch?

19 MR. FREEBERG: That's a very good question.
20 And as you understand, there is no tandem switching
21 charge in a host-remote situation; right?

22 MR. DITTEMORE: You say there is no?

23 MR. FREEBERG: There is no tandem switching
24 charge in a host-remote.

25 MR. DITTEMORE: Tandem transport.

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1 MR. FREEBERG: There is tandem transport,
2 yes, and that is unavoidable by a CLEC as a CLEC
3 passes a call from the host to a remote, and it is
4 for the reason we mentioned, which is that US West's
5 SGAT does not allow for interconnection at the
6 remote.

7 There is Section 17 of the US West SGAT,
8 which allows for a bona fide request, and that could,
9 in fact, be constituted by a bona fide request.
10 Generally speaking, again, the trunking done from a
11 host-remote cluster is done via the host. That's
12 where the trunk modules exist. While logically the
13 trunk groups extend out to the remotes, physically
14 they end at the host.

15 MR. DITTEMORE: Thank you.

16 MS. SACILOTTO: Tom, for those of us who
17 are not as technically savvy as you all, would your
18 last answer also have encompassed why it was so, why
19 it is that the arrangement is the way it is?

20 MR. FREEBERG: Can you try that question
21 once more?

22 MS. SACILOTTO: Yeah, you launched into a
23 discussion of line modules and switch modules, and I
24 wanted to know why it was that the traffic terminates
25 where it does and why the transport charge applies.

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1 MR. FREEBERG: Again, a host-remote cluster
2 from a switching architecture point of view is
3 typically the moving of a line module out to a remote
4 site, and the connection between the remote site and
5 the host is often fiber-optics, though not
6 necessarily. Typically, the trunk modules themselves
7 are at the host and not at the remote.

8 So in fact, what I do believe, again, if we
9 step away from the SGAT for a moment and we talk more
10 about interconnection agreements and situations that
11 have, you know, happened here, in fact, there have
12 been situations where US West is attempting to allow
13 interconnection at the remote, though, again, in the
14 SGAT, that would call for a bona fide request.

15 MR. DIXON: Thank you. Mr. Freeberg, we
16 talked about this a little bit in Colorado and that
17 was the concept, whether a CLEC could avoid the
18 tandem by direct trunking. And I raised the issue
19 with you there, and I'll raise it again here only
20 because it's not part of the record.

21 With the 90/10 division of traffic that you
22 discussed earlier in your exhibits, that is, 90
23 percent of the traffic from US West terminating on a
24 CLEC network and 10 percent terminating in the other
25 direction, I believe that's what we're talking about,

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1 is it not true that that allocation of traffic was
2 going to determine how much the respective parties
3 pay for those direct trunks?

4 And with that allocation, for example, US
5 West's costs would be 90 percent of the trunk cost
6 and the CLEC's would be 10, assuming your 90/10 ratio
7 is accurate; am I correct?

8 MR. FREEBERG: It would be true that if 90
9 percent of the traffic flows from the US West network
10 towards the CLEC network, that US West would face 90
11 percent of the reciprocal compensation charges.

12 MR. DIXON: But, I mean, actually
13 constructing the facility, would not the construction
14 costs also be allocated 90 percent to US West and 10
15 percent to the CLEC?

16 MR. FREEBERG: Right. Assuming, again,
17 two-way trunking and all the mechanisms laid out in
18 the SGAT, that whichever party built it, whichever
19 party built, faced the construction charges would be
20 made whole through the proration mechanism.

21 MR. DIXON: And the point we raised in
22 Colorado, and I believe you agreed with me, and
23 unless I'm hearing something different, was that it's
24 not wholly within the control, then, of the CLEC
25 whether all traffic is direct trunked, and therefore,

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1 wholly in control of the CLEC whether or not all
2 traffic avoids the tandem. US West has an input on
3 that and an expense associated with it.

4 MR. FREEBERG: As I said in the tutorial,
5 it is rare for US West to place an order on the CLEC.
6 It is much, much, much more common for the CLEC to
7 come to US West and propose the arrangement, place
8 the order. So in fact, I do think the CLEC is in the
9 driver's seat, has exercised their options, and when
10 we look at the traffic that's flowed, a minimum
11 amount, 10 percent approximately, happening via the
12 US West tandem as we speak.

13 MR. DIXON: Thank you.

14 JUDGE WALLIS: Mr. Wilson.

15 MR. WILSON: A couple of quick comments.
16 AT&T is proposing that the payments be reciprocal and
17 symmetrical, and there are several ways to get to
18 that, and I think we've heard several of them. Maybe
19 I can summarize.

20 One way to get to symmetry would be to
21 establish single points of interface in a LATA, that
22 traffic is exchanged at the top of each party's
23 network, and that the cost be fully reciprocal so
24 that we have to look at all of the costs, as I
25 suggested and as I showed last night.

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1 A second way to do it would be for US West
2 to keep all the charges it's built into its SGAT that
3 we have gone over and for the CLECs to charge the
4 tandem transmission rate for its switch, and then to
5 charge a termination rate for -- as the other part of
6 the transport and long loops, et cetera, that the
7 CLECs have involved in the calls, so this would be
8 using existing charging mechanisms that are
9 available; i.e., the termination charge, which US
10 West has identified as being -- happening to be the
11 same as the unbundled local switching charge, and
12 then the tandem transmission, or the tandem switching
13 charge.

14 And I think that's why, for instance,
15 WorldCom does not oppose the host-remote charges of
16 US West. MCI is simply using the tandem and
17 termination charges to try to match those charges
18 with some equivalency on its side, so to try and get
19 its symmetry through a termination charge and a
20 tandem transmission charge and leave the US West
21 charges alone.

22 And then the third method that I talked
23 about last night was to go to complete one-way
24 trunking, which would also provide for symmetry, but
25 would have other issues involved with that, so there

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1 really are at least three ways to get at symmetry,
2 and I think we're hearing different sides promote
3 different pieces of those, and it may be that what we
4 need is to allow CLECs to choose between which method
5 works best for them.

6 JUDGE WALLIS: Ms. Strain.

7 MS. STRAIN: Thank you. I had a question
8 regarding a couple of the provisions here in the
9 SGAT. The provisions that deal with, for example,
10 7.3.2, 7.3.2.3, and there's others that deal with the
11 rates that will be charged when one party purchases a
12 service from the other party or delivers their
13 traffic over the other party's facilities, and the
14 rates in the SGAT are all referred to Exhibit A,
15 which are US West's rates.

16 And given that, you know, this may go to
17 what Mr. Wilson was just talking about, but why
18 wouldn't US West pay the CLEC the CLEC's rates for
19 its facilities when it's transporting its traffic
20 over the CLEC facility, rather than paying its own
21 rate, given the difference in how the networks are
22 configured and worked out?

23 MR. OWENS: That's part of what was
24 discussed earlier today. If CLECs want to propose a
25 different rate, they're permitted, under the FCC's

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1 rules, to come forth with a cost study to demonstrate
2 that their costs are different than our costs, in
3 which case you might have a different Exhibit A for a
4 CLEC than US West.

5 For the past four years, we've been engaged
6 in negotiations with CLECs. And in those
7 negotiations and the cost studies, the presumption
8 has been that the CLECs will use our rates, that one
9 rate will apply, both to US West and to the CLEC, but
10 there are provisions for CLECs to propose different
11 rates, in which case they need to have their own cost
12 studies.

13 MS. SACILOTTO: Right. The FCC orders
14 presumes that it will be based on our rates, unless
15 they bring forward a study presenting their rates, so
16 --

17 MS. DeCOOK: I think we've discussed this
18 earlier in some of the argument. And that is that
19 the FCC presumes that the rates will be symmetrical
20 and that the proxy that is to be used by CLECs is the
21 rate established by the incumbent LEC, unless they
22 choose to come forward and have their own cost case
23 and go through that exercise to demonstrate that
24 their costs are different and higher.

25 MS. STRAIN: Has any CLEC done that?

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1 MS. DeCOOK: Not that I'm aware of.

2 MS. SACILOTTO: Anything stopping you?

3 MS. DeCOOK: I don't see why we need to.

4 Our argument is here that we should be permitted to
5 charge the same rates that you're charging. We're
6 not coming forward and saying that our rates are
7 higher, necessarily. We're just saying, give us the
8 symmetry that the FCC rules permit us to charge US
9 West.

10 MS. SACILOTTO: But that's based on our
11 network.

12 MS. DeCOOK: Exactly. And that's what the
13 FCC provides.

14 MS. STRAIN: I had one other question,
15 which is quick. Is the private line rate in the
16 local tariff or is it a wholesale rate, the private
17 line rate that's referred to in the SGAT?

18 MR. OWENS: My understanding is it's from
19 the exchange tariff. Well, from the state private
20 line tariff. I'm not sure what that's called.

21 MS. STRAIN: Is that a retail rate?

22 MR. OWENS: Yes.

23 JUDGE WALLIS: Okay. My sense is that
24 we're ready to move on.

25 MS. SACILOTTO: I have one minute of legal

00603

1 argument.

2 JUDGE WALLIS: Does this repeat anything
3 that you've said so far?

4 MS. SACILOTTO: I don't think so. I'll try
5 not to. I certainly won't make references to cases
6 or things like that.

7 Just to wrap up the definition, the tandem
8 definition, it's simply US West's position that under
9 the act, a party should be compensated for what it
10 does, not for something it does not do. We believe
11 it's consistent with the act, the cases, and the
12 FCC's order, and we'll present our argument further
13 in briefing.

14 JUDGE WALLIS: Very well. Let's move on.

15 MS. SACILOTTO: Hmm.

16 JUDGE WALLIS: Unless that concludes
17 matters?

18 MS. SACILOTTO: Oh, should we be so lucky.
19 Well, we have -- on my list, I think the next issue
20 would be the concept of the commingling and
21 ratcheting of special access circuits.

22 MR. FREEBERG: This is Tom Freeberg, US
23 West. This subject is addressed in US West's SGAT,
24 at Section 7.3.1.1.2. And at this point -- and I
25 should probably ensure that I'm reading from the

00604

1 SGAT. The SGAT here says, If CLEC chooses to use an
2 existing facility purchased as private line transport
3 service from the state or FCC access tariffs, the
4 rates from those tariffs will apply. This is in the
5 entrance facilities section of the SGAT.

6 The intention here is to allow the
7 interconnecting party to put local traffic onto an
8 entrance facility that may be in existence and be
9 partially filled, and that they might put local
10 traffic onto that same entrance facility.

11 Not to be mistaken, I believe that
12 intervenors are not asking for the mixing of traffic
13 on one trunk group, local and toll calls handled in
14 an interweaving fashion, but instead allowed to take,
15 for example, a single DS3 that is in existence and
16 that is handling one plus feature group-type traffic
17 and to designate several DS1s, for example, within
18 that DS3 as handling local traffic.

19 And that being the case, I believe
20 intervenors propose some means of prorating the DS3
21 cost among the local and the feature group traffic,
22 and in effect, ratcheting things down to show, again,
23 some mix of the traffic. Again, US West allows that,
24 but the SGAT does not allow for the rates to be
25 ratcheted down as proposed.

00605

1 The rationale behind US West's proposal in
2 the SGAT is found most recently in the FCC decision.
3 I think 00183 was released June 2nd of this year,
4 supplemental order clarification, and I'm going to
5 paragraph 28. At paragraph 28, it proposes that the
6 FCC further rejects the suggestion that they
7 eliminate the prohibition on commingling. That is,
8 combining loops or loop transport combinations with
9 tariffed special access services in the local usage
10 options discussed.

11 MR. WILSON: Comment, Your Honor.

12 JUDGE WALLIS: Mr. Wilson.

13 MR. WILSON: I believe Mr. Freeberg and US
14 West are misapplying the FCC rules. What is being
15 prohibited and is actually still under discussion is
16 the arbitrage or potential arbitrage that one could
17 do to try and use local trunks to avoid access
18 charges.

19 That's not at all what CLECs wanted to do
20 in the case we're discussing here. What the CLECs
21 merely want to do is to efficiently use network
22 facilities that are being leased from US West. For
23 instance, if I have purchased a T-3 facility from US
24 West under the private line rate and I have, say, 20
25 -- or say 10 trunks that are being used for private

00606

1 line, why can't I use the remaining 14 T-1 trunks for
2 interconnection and the flow of local traffic. And
3 if I do so, why shouldn't those be at the rate that
4 is appropriate for interconnection trunks.

5 If I can't do that, what US West -- what US
6 West is saying, that I can physically do it, but they
7 will charge me for all of the trunks at the private
8 line rate. This really disincentivizes efficiency. What
9 it will do is cause the CLECs to order additional
10 DS3s to handle their local interconnection traffic,
11 so there is no reason -- it's my understanding the
12 only real reason US West wants to do this is they
13 don't feel they can bill it properly. I don't think
14 that a billing issue should involve the ability of a
15 CLEC to efficiently use network infrastructure,
16 rather than ordering additional facilities when
17 they're not needed.

18 MS. SACILOTTO: I think in response, the
19 last point is the subject of an outstanding discovery
20 request. I would object to Mr. Wilson characterizing
21 our response until we actually provide it. I also
22 would say that the reason that US West opposes this
23 provision is amply described in the FCC's
24 supplemental order, the clarification order Mr.
25 Freeberg mentioned.

00607

1 The prohibition is there on commingling,
2 and the concern that the FCC had is that they were
3 not persuaded that removing this prohibition would
4 not lead to the use of these facilities to bypass
5 special access services. The FCC, while it is
6 looking at this issue, wants to maintain the status
7 quo so as not to disrupt access charges or universal
8 service. This is a prohibition that was put in place
9 after the UNE remand order and supplemental order and
10 then further imposed again in the clarification
11 order.

12 So with that, we conclude our remarks on
13 this topic.

14 JUDGE WALLIS: Mr. Argenbright.

15 MR. ARGENBRIGHT: Mark Argenbright, with
16 WorldCom. Just to follow up, and I'll be kind to
17 myself. My testimony on this issue was less than
18 clear and verged into the area of combining and
19 commingling with regard to the use of loops for local
20 service.

21 And WorldCom would concede that the FCC's
22 interim prohibition would be applicable to that
23 circumstance, but we're in agreement with AT&T that
24 to the extent the requested ratcheting and use of
25 facilities is involving interconnection trunks, as

00608

1 opposed to combinations of loops, that carriers
2 should be allowed to do that for the efficiency.

3 MS. SACILOTTO: Are you proposing that that
4 ratcheting be at TELRIC rates?

5 MR. ARGENBRIGHT: Yes.

6 MS. SACILOTTO: Wouldn't that have the same
7 effect of disrupting the access and the universal
8 service that the FCC's trying to preserve in the
9 interim?

10 MR. ARGENBRIGHT: Well, my understanding is
11 the preservation that the FCC is trying to reach is
12 with regard to those special access circuits that
13 really are loops at this point reaching customers.
14 They don't want a wholesale conversion of that type
15 of circuit.

16 What we're talking about is a facility that
17 exists that will be converted not from serving an end
18 user customer, but converted to the -- the part that
19 still serves an end user customer will remain at the
20 special access rates, presuming we segregated DS3s,
21 as Mr. Wilson said. For that portion of the DS3 that
22 is actually interconnection trunks, used for
23 interconnection, should be at TELRIC.

24 MR. FREEBERG: So let's talk of one
25 hypothetical situation. I'm talking about an

00609

1 entrance facility, and let's say that the entrance
2 facility has existed for a long time, it's been
3 carrying all one plus calls. It is, in fact, a DS3
4 that has only ten working DS1s in it. Would you
5 agree, then, that you might think of this as each DS1
6 has to carry one-tenth of the cost of the DS3? Would
7 that be fair?

8 MR. ARGENBRIGHT: Yeah, you could allocate
9 the price of the DS3 on a per channel basis per T-1.

10 MR. FREEBERG: So the feature group cost
11 would involve some cost of the DS1 level and then the
12 full amount of the DS3. Now, we add ten DS1s to this
13 DS3, because it had that vacant capacity. Now we can
14 allocate the DS3 costs across 20 DS1s, can we not?

15 MR. ARGENBRIGHT: Yeah, you could. You can
16 do it that way.

17 MR. FREEBERG: And in effect, haven't we
18 reduced the feature group costs per DS1?

19 MR. ARGENBRIGHT: I'm sorry, you're losing
20 me.

21 MR. FREEBERG: The DS3 costs need to be
22 borne by the DS1s within it; correct?

23 MR. ARGENBRIGHT: The cost of the DS3, if
24 I'm buying a DS3, I'm paying for a DS3 regardless of
25 --

00610

1 MR. FREEBERG: I guess what I don't know is
2 the details of the ratcheting. I don't know that
3 they've been proposed in anyone's testimony, I don't
4 know that anyone has said, for example, that in this
5 hypothetical kind of situation, the DS3 costs
6 wouldn't change, all right, that the DS3 costs would
7 remain as they were before the local traffic was
8 added. I have an idea that's not the proposal, but
9 the truth is I don't know, because I haven't seen it
10 proposed in any detail.

11 MR. WILSON: Let me take a stab at
12 clarifying this. In the first place, as Mr.
13 Argenbright said, we're not proposing commingling
14 traffic here, so that prohibition, we don't intend to
15 violate with the change that we're proposing here.
16 What we are simply proposing is that we pay the
17 proper interconnection rates for the portion of the
18 DS3 that's being used for interconnection and the
19 proper private line or special access rates for the
20 portion of the DS3 that is being used for those
21 services, rather than paying a rate which is too high
22 for the interconnection trunks, which is what US West
23 is proposing.

24 As far as the details on how that is
25 apportioned, I think that needs to be worked out. If

00611

1 you -- I mean, if you're saying that the effect of
2 using part of the DS3 for local trunks will
3 effectively lower the price per DS1 for the special
4 access, that might, in fact, happen, but it's no
5 different than if ten more DS1s were used for special
6 access. Then the price per DS1 of special access is
7 also lowered. That's what efficiencies do for you
8 and that's why you want to be efficient.

9 But it doesn't change the rate that we're
10 paying overall. We're not trying to arbitrage the
11 special access tariffs or the private line tariffs.
12 We are merely trying to get efficiency, which I
13 believe Mr. Freeberg would agree is important in the
14 use of facilities.

15 Why add another entire DS3 for
16 interconnection when we have plenty of spare capacity
17 on the DS3 that we have. We simply don't want to pay
18 an inappropriate cost for using part of the spare
19 capacity.

20 MR. FREEBERG: That having been said, if a
21 ratcheting proposal could be devised where the DS3
22 cost and the feature group costs that exist don't
23 change, I think we might be able to work out some
24 ratcheting arrangement we could live with. On the
25 other hand, I don't think that's an arrangement, Ken,

00612

1 that lines up with what you want.

2 And if that's the case, that, in fact, you
3 wouldn't agree to that, then I think what you're
4 proposing is exactly what the FCC is trying to avoid.
5 I think paragraph 28 applies in spades. It is
6 affecting access reform, and that's not to be
7 affected.

8 JUDGE WALLIS: Would you excuse me just a
9 second? I was going to ask Mr. Freeberg if you could
10 explain in a little bit more detail exactly what you
11 mean by ratcheting?

12 MR. FREEBERG: I'll attempt this. An
13 entrance facility is in the SGAT. The piece of the
14 network which extended from, in many of our drawings,
15 the CLEC switch to the US West serving wire center.
16 As we said before, that serving wiring center does
17 not perform a switching function, but in fact is the
18 first place in the US West network that connects with
19 the CLEC network.

20 Those facilities have been arranged to
21 carry one plus calls, feature group toll traffic, and
22 most typically, those are large pipes carrying lots
23 of calls there, at least DS3 in size, in very typical
24 cases.

25 Parties who are both interexchange carrier

00613

1 and CLEC proposed to put some local traffic on
2 several channels of the DS3 and some toll traffic on
3 other channels of the DS3. I believe that today
4 there could be a situation where a DS3 is not filled,
5 it is half-filled, and so half of the channels have
6 to carry the full cost of the DS3. Choice has been
7 made to put in the DS3, because buying half of the
8 channels separately was more expensive than buying a
9 partially-filled DS3.

10 So the DS3's in place, it is only half
11 utilized, and there is some cost for each DS1 within
12 the DS3, as well as some cost tied to the DS3 itself,
13 that, in effect, the full cost of the DS3 would need
14 to be allocated among the number of working DS1s as a
15 carrier thinks about its costs.

16 The proposal for ratcheting I think says
17 would US West please allow local traffic to be
18 carried on the spare channels in this entrance
19 facility, and to that, US West says yes, that's okay,
20 that can happen.

21 But until the FCC makes its decision in FCC
22 00183, which I think is not too far in the future,
23 the proposal is that if that mixing is done, where
24 the DS3 has ten channels carrying seven-digit locally
25 dialed calls and ten channels carrying the one plus

00614

1 calls, our proposal is that we not come up with some
2 means of deciding what the DS3 costs, what the DS1
3 costs would be based on some proration of how much of
4 the entrance facility is used for toll versus for
5 local. We simply wait for the FCC decision on the
6 question.

7 JUDGE WALLIS: You've addressed the issue
8 of seven versus ten-digit dialing a couple of times.
9 Does it make any difference that, in some areas, ten
10 digits are required for local calls?

11 MR. FREEBERG: Thank you for asking that
12 clarifying question. As we all know, it's common for
13 retail customers in US West's territory to dial
14 ten-digit calls as local, and in fact, in the past, I
15 should have been more clear perhaps to propose that
16 that is the case. So I did not mean to exclude a
17 ten-digit dialed local call.

18 JUDGE WALLIS: Thank you. Mr. Wilson.

19 MR. WILSON: I agreed with virtually
20 everything Mr. Freeberg said, except that, as an
21 engineer, the way I read the FCC prohibition at the
22 moment, it would be a prohibition against mixing
23 local and toll traffic on the trunks that I'm already
24 using in that private line as toll trunks.

25 In other words, the prohibition is to not

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1 allow, for this moment, the CLECs to get what are
2 legitimately toll trunks under the TELRIC rates, that
3 that would be a confusion of the two sides of the
4 equation, access and local, and at this moment, we
5 are not proposing that in this ratcheting issue. We
6 are merely wanting to use the larger group, the
7 binder group efficiently and pay the appropriate
8 price for the T-1 circuits.

9 And the T-1 circuits are actually what the
10 switches use. So there is no commingling of local
11 and toll traffic as far as the switch is concerned.
12 It's quite clear, and there is no technical reason
13 that this cannot be done and that the traffic will
14 stay uncommingled.

15 So Mr. Freeberg's description was quite
16 accurate. After you have -- after you get past, say,
17 six or eight individual T-1s, it pays you or it's
18 economical to get a full DS3, even though you don't
19 fill it. So when we go to ten DS1s, we would get a
20 DS3, we simply want to use the rest of it as carrying
21 local traffic and pay the appropriate rate for those
22 trunks.

23 MR. OWENS: This is Jeff Owens. Let me see
24 if I can add further clarity, see if I understand
25 your proposal. Basically, what we have are two

00616

1 different rates for a DS3. We have the switched
2 access rate, which is high, and a TELRIC rate, which
3 is low. And what Mr. Wilson is proposing is that a
4 single DS3 could be used for both purposes. He is
5 not only proposing that, to the extent they're
6 carrying both types of traffic, that the rate be
7 lowered to be an average of the switched access rate
8 and the TELRIC rate, but undoubtedly the next piece
9 of the puzzle will be to the extent US West is
10 originating traffic on that DS3 to AT&T, he would
11 expect that we would waive those charges, that we
12 would bear a share of the cost of the DS3.

13 So if we have a DS3 that just
14 hypothetically is a thousand dollars per month, and
15 let's just hypothetically assume that the TELRIC rate
16 for the DS3 is \$500, we would -- AT&T would no longer
17 be paying \$1,000 for that DS3. If it was being used
18 50/50 for local and long distance traffic, the new
19 rate that they would be paying us would not be an
20 average of \$1,000 and \$500, which would be 750, they
21 would instead be paying \$500 for one-half of the
22 switched access rate and, given the traffic balance
23 that we have now, virtually nothing for the other
24 half of the DS3 that's being used for local service.

25 Because of that, the revenue US West would

00617

1 receive for switched access for that DS3 would go
2 from \$1,000 down to about 500, a little over \$500.
3 And our point is that that's the kind of impact on
4 switched access and special access that the FCC, in
5 its decision, found was premature, and the Commission
6 is investigating and will have a decision -- I think
7 they've basically put a hold on further commingling
8 for a one-year moratorium, I believe, with the
9 expectation they'll have a decision out in a year.

10 That's my understanding of your proposal,
11 and if I've captured it incorrectly, I'm sure you'll
12 correct me.

13 JUDGE WALLIS: May I ask, a year from when?

14 MS. SACILOTTO: The order was issued on --
15 was released on June 2nd, and if, during the break we
16 could, you know, find a paragraph or something that
17 puts some time on it.

18 JUDGE WALLIS: Thank you.

19 MR. WILSON: I would just like to reiterate
20 that we are not suggesting that the appropriate
21 prices not be used. No commingling will occur of
22 local traffic and toll traffic under this proposal.
23 You don't need an average price. There are 28
24 channels on a DS3. You can exactly allocate the
25 appropriate cost to each of the channels. That's not

00618

1 a problem, as it would be in commingling, where you
2 might have a mix of traffic on one and you would need
3 to establish traffic patterns and averages.

4 So these are segmentable blocks of
5 transport. We merely want the fair rate. And if Mr.
6 Owens is suggesting that US West should not pay its
7 fair share of reciprocal compensation, that would be
8 interesting.

9 As I said earlier, the partially-full DS3
10 might, over time, be filled up with special access,
11 and then the rate per DS1 for special access goes
12 down, as well. I mean, this does not affect their
13 overall compensation for access. I think that's a
14 red herring. And in any case, US West is fully
15 compensated for these circuits. TELRIC is a rate
16 which fully compensates them.

17 The compensation for access is done in a
18 different manner, but US West is obviously, if the
19 full DS3 were used for local interconnection, they
20 would be fully compensated.

21 MR. OWENS: Ken, could I ask, just to make
22 sure we're on the same wavelength, I gave an example
23 of 50/50, half the DS3s being used for local, half as
24 being used for switched access. So 14 channels for
25 each. In that one example, assuming that that is the

00619

1 use of that DS3, and given the rates that I assumed
2 for switched access and TELRIC, did I do the
3 calculations properly? Is that your proposal, is my
4 question?

5 MR. WILSON: Well, yes, I believe it is. I
6 was merely reacting to the term average, because it's
7 only in that specific situation is it half and half.
8 It's not actually an average, but it's 50/50. So
9 your example is, I would say, without looking at the
10 details closely, seem to be in the right direction.

11 MR. OWENS: I would agree that, as I
12 understand your proposal, that if it were not shared
13 50/50, that the amount of ratcheting would vary,
14 depending on the actual use. That's your proposal?

15 MR. WILSON: Yes.

16 MS. STRAIN: I just want to make sure I
17 understand something Mr. Owens said. You said that
18 because of the traffic flow under the scenario that
19 you posed, AT&T would pay, or a CLEC would pay almost
20 nothing for the portion of the DS3 that was used for
21 the local?

22 MR. OWENS: Right, to the extent US West is
23 originating traffic to the CLEC over that facility,
24 US West would be responsible for that cost under the
25 terms of the SGAT. And so the CLEC would not be --

00620

1 US West would not be charging the CLEC for that
2 facility and the CLEC would not be paying for it.

3 MS. STRAIN: If a CLEC were to leave the 14
4 channels idle on the DS3 that it purchased for
5 access, that was using for access, and then it went
6 ahead and purchased another DS3 to use for its local
7 traffic from you, what would US West pay? Would US
8 West, because it originates most of the traffic, pay
9 for most of the cost of that DS3?

10 MR. OWENS: Yes, but we would retain all of
11 the revenue for the switched access DS3.

12 MR. DIXON: Just a quick follow-up question
13 of the one that was just raised by Paula. When you
14 talk about the termination of the traffic from US
15 West to the CLEC, that's the 90/10 issue I was
16 discussing with Tom Freeberg earlier, as far as you
17 would pick up the lion's share of the cost and that
18 would be the example of the direct trunk we talked
19 about; is that correct?

20 MR. OWENS: Yes.

21 MR. WILSON: The only further point I'd
22 like to make is the scenario where Mr. Owens is
23 referring to where US West pays 90 percent is due to
24 the current traffic imbalance, which over time will
25 go away, and I expect to see much more like 50/50.

00621

1 MR. OWENS: My response to that is we are
2 now four years after the act and the traffic remains
3 at a 90/10 split, so --

4 MR. FREEBERG: And the trend is in the
5 other direction, not towards balance.

6 MR. WILSON: I think that's a testimony to
7 the lack of, yet, the CLECs being able to compete
8 fairly in the whole state.

9 JUDGE WALLIS: Well, I'm not sure we can
10 resolve some of these more global issues right at the
11 moment. Have we reached the point in the discussion
12 of commingling and ratcheting where anything further
13 would be perseveration?

14 MR. BECK: Judge, I just want the record to
15 be clear. What exactly does Mr. Wilson base his
16 prediction on?

17 MS. DeCOOK: I think we've gone far enough
18 on that.

19 MR. BECK: I didn't ask Becky.

20 MS. DeCOOK: Your Honor.

21 MR. BECK: I think the record needs to be
22 clear on whether this is just one man's opinion or
23 whether there's actual facts or studies or anything
24 behind it.

25 MR. WILSON: I think there will be plenty

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1 of discussion on that issue in other workshops.

2 JUDGE WALLIS: We'll reserve that.

3 MR. BECK: Well --

4 JUDGE WALLIS: Ms. DeCook, did you have
5 anything further?

6 MR. BECK: We're trying to get on the
7 record for this workshop, though, so are we clear
8 that basically we have no evidence, other than one
9 man's opinion, on that trend?

10 MS. DeCOOK: We'll match our prediction
11 with yours, that's unsupported as well. Your Honor,
12 I think there is a legal dispute here, and I think --
13 the only thing I want to say on that is I think it's
14 been discussed, and obviously we have disagreement
15 about the scope of the FCC orders that have been
16 identified in the record that address the commingling
17 issue. And you know, I don't think there's any
18 reason to belabor that issue. We'll address what we
19 believe is the appropriate scope, and I'm sure US
20 West will in legal briefs.

21 JUDGE WALLIS: Very well. Let's be off the
22 record for a moment.

23 (Discussion off the record.)

24 (Lunch recess taken.)

25 JUDGE WALLIS: All right. Let's be back on

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1 the record, please, following a lunch recess. We've
2 engaged in some discussions about remaining matters.
3 There are some relatively minor matters that parties
4 have grouped together. There has been some
5 discussion about process on the ISP issue and we've
6 asked the parties not to spend time presenting the
7 legal arguments that will be presented in writing.
8 And we recognize that there are matters relating to
9 Nextlink in response to Nextlink issues.

10 Let's begin with the relatively minor
11 matters, which have been characterized as nits and
12 gnats.

13 MS. SACILOTTO: Okay. Sure. I'll try --
14 unfortunately, I don't have SGAT provisions next to
15 each of these. Maybe Tom -- yeah, Tom might chime
16 in. I'll start with the one that we have resolved,
17 and I do have the SGAT provision for that one. I
18 conferred with WorldCom during the break and they are
19 okay with SGAT provision 7.3.4.2.4.

20 JUDGE WALLIS: What's the topic?

21 MS. SACILOTTO: It has to do with number
22 portability database default queries.

23 JUDGE WALLIS: Thank you.

24 MS. SACILOTTO: And then the parties are
25 exchanging language on several other provisions. A

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1 number of them appear in seven -- well, 7.3.2.3 --
2 yeah, 7.3.1.1.3.1, 7.3.1.2.1, 7.3.2.2, 7.3.2.3. Did
3 I misspeak?

4 MR. ARGENBRIGHT: I'm not sure about
5 7.3.2.2.

6 MS. SACILOTTO: I think that's a typo in
7 the testimony.

8 MR. DIXON: One two too many. That's what
9 I'm checking.

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

12 (Discussion off the record.)

13 JUDGE WALLIS: Let's be back on the record.
14 The listing was stated correctly; is that right?

15 MR. DIXON: Yes.

16 MS. SACILOTTO: 7.3.4.1.3 and 7.3.3.1.
17 Those generally relate to a principle of cost
18 sharing.

19 The next one would be -- the next one
20 relates to 7.3.4.2.2 and 7.3.4.2.3.

21 MS. RENDAHL: Repeat that last number.

22 MS. SACILOTTO: 7.3.4.2.3. Then the next
23 provision is 7.3.7.1, and I believe the final
24 provision that falls into this category is 7.3.8.

25 MR. DIXON: Nicely done.

00625

1 MS. SACILOTTO: Those fall into the
2 category of the nits and the gnats. WorldCom has
3 proposed some language. We are taking it back.

4 MS. DeCOOK: Just for purposes of the
5 record, we have not seen the WorldCom language and
6 we'll reserve our right to weigh in on these
7 particular proposed changes at some point.

8 JUDGE WALLIS: So understood.

9 MR. DIXON: Judge, just for the record, we
10 have electronically sent the language to the entire
11 Washington 271 mailing list, as far as we know.

12 JUDGE WALLIS: Thank you. The last
13 grouping, is it possible to characterize generally
14 the topic, or will the subrogate suffice?

15 MS. SACILOTTO: 7.3.8, I have in my notes
16 as no CPN calls, and the 7.3.7.1, I would call maybe
17 variable component of transit pricing.

18 MR. ARGENBRIGHT: Maybe -- that isn't, as I
19 said earlier, I didn't state that very correctly. I
20 think that's misleading, and that's my fault.
21 Perhaps recovery of tandem transmission costs in
22 transit traffic, something to that effect.

23 MS. SACILOTTO: Fine by me.

24 JUDGE WALLIS: All right. Does that
25 conclude the discussion of the minor matters?

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1 MR. DIXON: It does for WorldCom. Thank
2 you.

3 MS. SACILOTTO: I believe so, yes, Your
4 Honor.

5 JUDGE WALLIS: All right. Let's move on to
6 the ISP issue. Ms. Sacilotto has indicated that she
7 has one question of a factual nature to ask of Mr.
8 Freeberg; is that correct?

9 MS. SACILOTTO: Yes. Mr. Freeberg, in the
10 discussion yesterday and today regarding traffic that
11 flows from the US West side of the network to the
12 CLEC side of the network, is it your belief that
13 CLECs terminate traffic that's bound for Internet
14 service providers?

15 MR. FREEBERG: No, it's not. If I said
16 that earlier, I was mistaken. I think that the
17 nature of that traffic is that it continues beyond
18 the CLEC network in many cases.

19 JUDGE WALLIS: Very well, then. With that,
20 we understand that there is a legal dispute amongst
21 the parties, and that that will be briefed. Is that
22 accurate?

23 MR. DIXON: It's accurate from WorldCom's
24 perspective, Your Honor.

25 JUDGE WALLIS: Very well. Do we have time

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1 now, in the inclination of the parties, to begin the
2 response to Nextlink issues?

3 MS. SACILOTTO: I'm sorry.

4 JUDGE WALLIS: Off the record for a minute,
5 please.

6 (Discussion off the record.)

7 MS. SACILOTTO: Yes, we do. Mr. Freeberg
8 consulted with Nextlink during the break and has some
9 intelligence to share with us.

10 MR. FREEBERG: Not a lot, but a little.

11 JUDGE WALLIS: Any little bit will help.

12 MR. FREEBERG: Kaylene this morning
13 clarified, I think, that the Spokane payments have
14 been made on a consistent basis, but that the real
15 issue was about their traffic in the Seattle area.
16 And I think that where we're at now at this point is
17 that we agree on the amount to be paid, that our
18 records reflect that a payment cleared the bank on
19 June 15th. It was admittedly a partial payment, but
20 it was, in fact, for the Seattle traffic, that a
21 second payment was made June 20th, and that a third
22 payment is to be made on June 27th.

23 Now, in discussion, and Kaylene can
24 straighten me out, but she shows no record of having
25 received any of those at this point, so we're not a

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1 great deal further along than we were when we
2 discussed this earlier today, but I think that is --
3 from our standpoint, we're on the verge of having
4 gotten close to full payment here.

5 MS. ANDERSON: Kaylene Anderson, for
6 Nextlink. I would disagree in that at least we have
7 an agreement. People in this room have an agreement
8 as to the appropriate amount to be paid and the time
9 that it should or should have been paid, and that's
10 certainly important. My understanding is that there
11 was some misunderstandings with the access group at
12 US West about the appropriate amount to be paid, and
13 that's why the payments will be delayed slightly.
14 But we're happy with the discussions with Lisa Anderl
15 and Mark and Mr. Freeberg about how things will be
16 working on a going forward basis.

17 As for that \$54,000 missing payment, I
18 don't know who cashed the check, but it was no one in
19 our office. We'll work that out.

20 JUDGE WALLIS: Are there any further
21 Nextlink issues? All right. Let's be off the
22 record.

23 MR. KOPTA: Just a moment, Your Honor. I
24 just wanted to clarify that this was for the usage
25 dispute over -- the dispute over usage traffic that

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1 we were talking about earlier, not as far as
2 interconnection facilities, which we're happy dealing
3 with that when it comes up in interconnection.

4 JUDGE WALLIS: I think we're all agreed on
5 that. Yes, it appears so.

6 MR. FREEBERG: Yes.

7 JUDGE WALLIS: Okay. Well, we have a
8 flying leap at wrapping by 1:00, I think, except for
9 one matter to be raised by Staff, but let's look --
10 do you want to do that right this minute?

11 MS. STRAIN: It's very quick. With respect
12 to the list of action items that we're going to have,
13 I noticed that the Colorado list numbered their items
14 by checklist item and then numbers below that. I
15 wanted to just have the parties think about how we
16 could do ours so that we don't get them mixed up with
17 the Colorado numbering system.

18 So if anyone has any ideas how we can --
19 I'd like to maintain a log similar to the one
20 Colorado's maintaining, but I don't want it to look
21 so much alike that people start getting confused. So
22 please think about it and maybe talk to me during the
23 break.

24 JUDGE WALLIS: The remaining process issue
25 that I have has to do with the post-session briefing

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1 and the form of order, and what parties want to do
2 with the order that is entered. I believe, if I'm
3 correct, that the prehearing conference order set out
4 a briefing time frame. Is my recollection correct?

5 MR. KOPTA: I remember we discussed that at
6 the prehearing conference in terms of one week after
7 the workshop is when the legal brief is due for each
8 workshop session.

9 MR. DIXON: Judge, I believe that was with
10 some caveats, because I think you also advised that
11 if that made sense. In other words, the issue could
12 be briefed and that took care of it, but that you
13 would also consider having a longer period of time
14 for issues that may be bigger than just the single
15 workshop and that would require maybe a little more
16 effort to put those together.

17 JUDGE WALLIS: Let's go off the record for
18 a moment.

19 (Discussion off the record.)

20 (Recess taken.)

21 JUDGE WALLIS: Let's be back on the record,
22 please. We recessed to convene a prehearing
23 conference in a different docket, which included many
24 of the participants in this docket. During that
25 recess, the parties and my colleague were able to

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1 discuss scheduling and come to some conclusions on
2 scheduling that we refined in the moments before we
3 have decided to come back on record.

4 And I'm going to state those scheduling
5 decisions for the record now that reflect the
6 agreement of the parties and our schedule and the
7 Commissioners' schedule.

8 There are two legal issues which are not
9 related to takeback items and which may now be
10 briefed. Those relate to Checklist Item 10. That is
11 ICNAM, or ICNAM, and Checklist Item 13, relating to
12 ISP traffic. The parties are going to brief those
13 and present their briefs on those issues no later
14 than July 6th, and parties may deliver their filing
15 to the follow-up workshop that is going to be held in
16 Seattle on that date, or you can file directly with
17 the Commission.

18 The takeback session, the follow-up
19 workshop, will be July 6th in Seattle. Information
20 on the location is posted in the room on one of the
21 easels. Because of scheduling conflicts, the
22 briefing on legal arguments or other impasse items
23 that require briefing will be on July 17th of the
24 year 2000. The Staff report and order on all of the
25 issues in this workshop will be due on August 7.

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1 Parties will respond with comments on the
2 draft within one week after its service or, that is,
3 on August 14th. And Staff expects to have a revised
4 report served no later than August 21st.

5 The opportunity for parties to present oral
6 argument to Commissioners is expected to be scheduled
7 on September 7th or later during that same week.
8 Because of the schedule, parties who wish to do so
9 may file comments on the final Staff report if those
10 comments are received no later than August 28th.

11 I believe that concludes the statement of
12 the schedule for this workshop series. Anyone have
13 an addition or a correction? I hear nothing, so
14 let's proceed.

15 AT&T earlier asked the opportunity to
16 address potential rearrangement of checklist items
17 for workshops. The parties prefer to do that orally
18 at this time, rather than in writing. And therefore,
19 let me hand the floor to AT&T for its suggestion, and
20 then others may respond. Ms. DeCook.

21 MS. DeCOOK: Thank you, Your Honor. We
22 have several suggestions for what I would call some
23 minor movements of issues from the scheduled
24 workshops that are reflected in the Washington
25 schedule. And let me just tick through what those

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1 are.

2 The first request for movement of an issue
3 affects the next workshop, which is to move local
4 number portability to the next workshop that involves
5 the loop. And the reason for that request is
6 primarily because, like reciprocal comp and
7 interconnection, they are very much related issues.

8 One of the principal issues for both local
9 number portability and loops is the ability of a
10 customer to port their number when they are obtaining
11 a loop, and that has been a significant issue in
12 virtually all of the 271 cases that have been
13 presented at the FCC, and in fact, one of the bases
14 for the rejection of the number portability checklist
15 item in the BellSouth second decision is the failure
16 of BellSouth to port the number in a loop hot cut, or
17 loop cut-over.

18 So it's a very interrelated issue and, as I
19 understand it, US West is in agreement in Arizona to
20 move that issue. It's already in the same checklist
21 item, checklist workshop, I should say, in Colorado,
22 and that -- I think Tom Dixon can speak to this
23 better, but my understanding is that that arrangement
24 was negotiated with US West in Colorado and agreed
25 to. So that would be my first proposed change.

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1 I have two others. One relates to the
2 discussion on Section 272 issues, and I believe
3 that's scheduled for the next workshop, as well. And
4 the reason why I think it would be more appropriate
5 to put that one off until a later date is because, as
6 you know, the Qwest merger is still in progress. And
7 I think, you know, we don't know what the outcome of
8 the merger is going to be and what kind of conditions
9 are going to be imposed, but those conditions, I
10 think, could have some bearing on US West's
11 obligations under Section 272.

12 So I think it's incumbent upon us to wait
13 until the Qwest merger is resolved and the conditions
14 are put in place, and then address it once, rather
15 than dealing with it now and then once again after
16 the merger is complete.

17 The final suggestion I have relates to
18 public interest in Track A, and I kind of lump those
19 together, because a lot of the issues surrounding
20 public interest relate to the state of competition
21 and the impact on competition, and I think with the
22 desire to obtain an accurate and current record, it
23 probably makes the most sense to address public
24 interest close to the end of the process, so you
25 don't have a stale record, so you don't have to

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1 address it now, and then address it again at a later
2 date. So those would be my proposed changes to the
3 workshop schedule as it exists today.

4 As I understand it, there is a proposed
5 fourth workshop, and it doesn't have any issues
6 within it yet, and it may make sense to move these --
7 the 272 issue and the public interest/track A issue
8 to the fourth workshop.

9 And then, just a note. There have been
10 discussions and schedules assigned for what I will
11 call emerging services issues. And those are not
12 addressed in the schedule, and I don't know if anyone
13 -- there's been any discussion on where those might
14 fall, but it strikes me that those are areas that we
15 probably would like some indication about where they
16 fall in the schedule.

17 And just to highlight what those components
18 of emerging services are, xDSL would be one, packet
19 switching, dark fiber, line sharing. And some of the
20 other commissions have set aside a workshop for these
21 issues on their own, so a stand-alone workshop. And
22 I don't believe they're addressed in any of the
23 scheduled workshops scheduled in Washington.

24 So I don't have a specific recommendation
25 on those, but I would note for your purposes that

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1 those are issues that at some point will need to be
2 addressed.

3 JUDGE WALLIS: Very well. I would like to
4 comment on only one of your points, and that is the
5 purpose of the fourth workshop. When the
6 Commissioners considered the calendar in this matter,
7 they felt quite strongly that the fourth workshop
8 would be available for items that were not adequately
9 addressed earlier, that continued to be impasse
10 items, and that the fourth workshop would be held
11 only if necessary.

12 So we are endeavoring to schedule and to
13 complete the discussions and the resolution of other
14 items -- of all items so that a fourth workshop will
15 not be necessary, but if one is, then the time
16 schedule is afforded for it.

17 I'd like to hear from persons now who
18 support the proposal, if any there be.

19 MR. KOPTA: Thank you, Your Honor. This is
20 Greg Kopta. And we support the proposal that AT&T
21 has made. And let me sort of start in reverse with
22 your observation, and that's certainly my
23 understanding of what the Commission had set up when
24 it first did the schedule. But another thing, in
25 addition to the emerging services, what's not

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1 specifically referenced is any review of the outcome
2 of the ROC collaborative.

3 And as we discussed earlier in these
4 workshops, performance, which is a major aspect of US
5 West's compliance with Section 271, is essentially,
6 or certainly in our view, going to be put off until
7 after that is completed. And the estimates that I've
8 heard for completion of that process, depending on
9 the outcome of the military-style testing, is not
10 likely to come about until sometime in the first
11 quarter of next year.

12 So I think it's inevitable that there will
13 be a fourth workshop, if nothing else than to address
14 that issue, and certainly public interest and Track
15 A, Track B issues are those that dovetail quite well
16 with performance under the obligations that US West
17 has under the act.

18 The other issue that we feel most strongly
19 about is moving the number portability to the same
20 workshop as the loops. Certainly, from the
21 perspective of my clients, the primary, if not sole
22 issue, depending, of course, on what US West files
23 with respect to number portability, is the
24 coordinating cutting over of number portability with
25 the loop.

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1 And I think I would echo Ms. DeCook's
2 comments in terms of experience we had here of
3 spending a great deal of time on interconnection
4 issues that we are inevitably going to be revisiting
5 in the next workshop. I think that it's a much more
6 efficient use of time to consider those issues
7 together, rather than bringing in loop issues in the
8 next workshop, so that we can deal with number
9 portability, and then dealing with loop issues again
10 when it comes to focusing on that particular element.

11 JUDGE WALLIS: Are there others who support
12 the recommendation?

13 MR. DIXON: Yes, Your Honor. I won't
14 belabor by repeating what's been said. We support
15 what they said. The only thing I think I could add
16 that hasn't been spoken, which was alluded to by Ms.
17 DeCook, is I did participate in the Colorado
18 workshops, and I should point out there was a series
19 of workshops to determine what procedures we would
20 follow before we ever got into substance, and then
21 there was subsequently a procedural order issued.

22 And the order of workshops, as well as the
23 form and subject matter of the workshops in Colorado
24 was reached by consensus, and I would say without any
25 objection from any party. And so I don't even

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1 recall, frankly, there being much of a discussion.
2 We simply set these as a logical collection of
3 subject matter issues that should be addressed at a
4 given time.

5 The only thing that was given to us with
6 some direction was the Staff of the Commission made
7 it abundantly clear they wanted to have emerging
8 services and advanced services held as a separate
9 workshop in Colorado and not lump it into one of the
10 other groups.

11 So I would state that, at that time, I
12 certainly heard no protest from US West on the
13 subject matter or the form of the workshop from Mr.
14 Steese, who I acknowledge is not here, and I'm not
15 trying to suggest anything by that, but I don't
16 believe either Mr. Beck or Ms. Garlotto (phonetic),
17 and I don't recall whether Mr. Owens was at the
18 workshops or not, frankly.

19 But I can state that I heard certainly no
20 objection to that arrangement. I do have the
21 procedural order with me from Colorado, which I have
22 it electronically. I'm willing to certainly share it
23 with anybody who wishes to look at it to confirm both
24 what it says and the nature of the workshops.

25 The only issue that was subsequently

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1 determined to be handled differently was ISP, and
2 that was because of some unique Colorado rulings, but
3 has no relevance to this.

4 MR. HEATH: Thank you. Sprint has no
5 objection and would support the rescheduling of the
6 three issues identified by AT&T.

7 MR. BUTLER: We would join.

8 JUDGE WALLIS: Mr. Butler. Mr. Ffitch, do
9 you have a view?

10 MR. FFITCH: Yes, Your Honor. We support
11 the proposal. And in particular, with respect to the
12 public interest issues, the concern that we would
13 have or I think the reason why it makes sense is that
14 we'd be concerned that this, I guess, group of issues
15 that could be labeled public interest not get
16 short-changed or overlooked in the proceeding.

17 And as I look at the schedule and the focus
18 on the checklist issues, I'm concerned that other
19 parts of Section 271 are not going to get adequate
20 attention, either by the parties or by the
21 Commission, because of the way the process is set up.

22 The term public interest, I think, is
23 perhaps unduly narrow in the sense that it refers to
24 one of the additional nonchecklist items. It's a
25 very important one, but in addition to that, you also

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1 have the state of local competition issues that are
2 outlined in both Appendix A and Appendix B, and the
3 Track A issues, which are outlined in 271(c)(1)(A)
4 and in Roman numeral III of Appendices A and B.

5 And those issues, I think, are significant
6 enough that they need to -- we need to be sure that
7 we have the time to address them. Pushing these into
8 the fourth workshop would allow for that, and the
9 other benefit is that you are closer to the time when
10 the Commission would have to make its recommendation.
11 You'd have a more accurate and sort of timely read on
12 those issues moving forward into the end phase of the
13 proceeding. So I think that these are good reasons
14 to consider this reorganization.

15 MR. DIXON: Judge, just one other thing.
16 While I was flipping through my e-mails, I was able
17 to find where the parties actually came to this
18 agreement and when we were first notified in
19 Colorado. And just so it's a sense of where it dates
20 in with the Washington activity, Colorado made a
21 determination, through its Staff, that the workshops
22 would address the subject matters on April 12th,
23 2000, and there was never any challenge to what the
24 Staff proposed from that point forward on the subject
25 matters of the workshops. And I have that memo,

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1 also, with me electronically.

2 JUDGE WALLIS: Does US West wish to
3 respond?

4 MR. OWENS: Yes. This is Jeff Owens. Let
5 me start with the request to postpone or delay number
6 portability. We do object to that request and oppose
7 it. Let me respond to a couple of the points that
8 have been made.

9 First of all, with regard to the BellSouth
10 order, I think if that order is checked, the major
11 issue that was raised with regard to number
12 portability at that time was interim number
13 portability, that we are now a predominantly
14 long-term number portability situation. We basically
15 provide virtually no interim number portability at
16 this time because we have made the conversion to the
17 more sophisticated form of local number portability.

18 Secondly, we've had discussion about what
19 was agreed to in Colorado. What hasn't been
20 discussed is, indeed, US West did agree to the
21 Colorado schedule, but part and parcel of our
22 agreement was the Commission proposed a very
23 aggressive schedule, and part of that schedule would
24 have completed five workshops by the end of this year
25 in about the same time, starting their first workshop

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1 just last week. So US West was willing to consider a
2 different alignment of checklist items.

3 This Commission won't get to its fourth
4 workshop until July of next year. So agreeing to
5 postpone number portability in Colorado is a quite
6 different situation than postponing it here in
7 Washington, given the schedule that we have.

8 Finally, and most importantly, I think, the
9 parties here would imply that the only issue that
10 they want to raise with regard to number portability
11 is hot cuts. And if they're willing to stipulate
12 that that is the only number portability issue that
13 has to be raised, we might be willing to consider
14 that.

15 But before we get into that, I would point
16 out that US West has currently ported nearly 900,000
17 numbers. We've only provided about 75,000 loops. So
18 there is a substantial amount of number portability
19 that is taking place without any loop involvement
20 whatsoever.

21 Moreover, a number of the unbundled loops
22 that we have provided are to DLECs who don't port
23 numbers. They don't have telephone numbers
24 associated with the loops that they use. So there is
25 a substantial amount of number portability that's

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1 going on in this state and across the region that is
2 not associated in any way with the cut-over of a
3 loop, of a US West loop.

4 Mr. Wilson raised an issue, another issue
5 that came up in Nebraska that is also independent of
6 loops. You may recall Mr. Wilson talking about a
7 problem that we did have last year whereby after we
8 ported a telephone number to a CLEC, we had a problem
9 with our number assignment system, and we would
10 reassign the same number to a US West retail
11 customer. So the same number was assigned both to a
12 CLEC customer and then to a new US West customer.
13 And we agreed to defer that issue from the issue of
14 number administration to the number portability
15 checklist item.

16 We think we have fixed that problem, but
17 that problem, again, is independent of anything to do
18 with loops. So we think there are issues that need
19 to be discussed with number portability that are
20 independent of loop issues, and we'd like to get
21 those aired and resolved as soon as possible, in
22 accordance with the current schedule that the
23 Commission's proposed.

24 One final point. This very same request
25 was made to the five-state workshop process this

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1 morning, and it's my understanding it was rejected.
2 They're proceeding with number portability in the
3 same -- in their initial workshop the first week of
4 October, along with -- well, the same -- basically,
5 the same set of checklist items that this Commission
6 laid out in its initial schedule.

7 MR. KOPTA: Just a moment. I don't mean to
8 interrupt. I just wanted to put that in context,
9 that, as part of the multi-state collaborative, this
10 is still in the process of state staff commissions
11 working on trying to come up with a system. Each
12 individual state is then going to determine whether
13 they're going to participate and whether this is
14 something that's acceptable to them.

15 So it's still in the process of being
16 developed, and I don't disagree that the state staffs
17 that are working together to come up with a consensus
18 proposal may have decided just to stick with this,
19 but it's still subject to modification in the states
20 who are participating in the multi-state process.

21 MS. SACILOTTO: I would like to follow up
22 with just a few corrections. I've had discussions
23 with Mr. Steese about this, and he has convinced me
24 that he did not agree to move these checklist items
25 in Arizona, so I would just wish to correct the

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1 record there.

2 But why do we care about how these things
3 are moved and if they're moved. It's a practical
4 matter. To the extent that we can keep checklist
5 items more or less being considered in a consistent
6 manner, it makes it much easier for us, as a party,
7 for our witnesses, for attorneys, to deal with them
8 from state to state. If you start moving them all
9 over into different places, it becomes much more
10 disjointed, much more difficult from an
11 administrative standpoint.

12 Colorado is not the norm. Colorado is the
13 outlier. It has five workshops, and so it has not
14 grouped its workshops in a manner similar to this
15 Commission, which has three workshops, with an
16 optional fourth. So issues could be spread out more
17 easily in that format.

18 Oregon has proposed proceeding on a
19 schedule similar to the one that this Commission has
20 already established and similar to the one that
21 Arizona had established.

22 Also, if we look at what this proposal does
23 to Workshop Two and what it does to Workshop Three,
24 it's really pretty astounding. Workshop Two will
25 only have two issues, Checklist Item One and

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1 Checklist Item 14. Workshop Three will have some of
2 the very technical issues, some of the perhaps more
3 contentious issues, some of the very meaty issues.
4 It will have Checklist Items Two, Four, Five, Six,
5 11, and 272. So we've completely imbalanced the
6 workload among the workshops, from a workshop that
7 would cover essentially four issues, which Workshop
8 Two now does, and which almost Workshop Three does,
9 to really making Workshop Three almost impossible to
10 complete within the five days that are set aside
11 there.

12 As far as changing 272, it's my impression
13 that the merger is proceeding apace and should be
14 concluded well before the Workshop Two time frame,
15 and that Workshop Three is the appropriate place
16 where these emerging services issues should come up.
17 They are UNE issues. They all sound like they are
18 related to the UNE remand order, hence, they are
19 UNES. We will take them up there.

20 With respect to the public interest and
21 Track A, we are fine with presenting that in Workshop
22 Three. We would like to preserve Workshop Four for
23 what it is, an optional workshop that is not
24 mandatory. Under these proposed changes, it is
25 making it mandatory, and we will not have the

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1 opportunity to use that workshop for the -- I want to
2 say cleanup that it is intended for.

3 And so for these reasons, we oppose this
4 change. It's going to make the workshops much less
5 efficient, much more difficult to complete on time.

6 JUDGE WALLIS: Do you have a comment on the
7 timing of the ROC collaborative performance issues?

8 MR. OWENS: I'm not sure about the
9 performance issues. I can tell you what I know about
10 the schedule today. We did begin on Monday the audit
11 of the performance measures by Liberty Consulting.
12 How long that audit will take is a guess, but I would
13 think we're into a two or three-month period there.

14 The third party test cannot begin until
15 that audit has been completed, so potentially we
16 could begin the test orders in the October time
17 frame, maybe November. I would think that the test
18 would probably be completed, we would hope, in the
19 first quarter.

20 But I guess your question was with regard
21 to performance measures. We would certainly have and
22 be reporting audited performance measures to this
23 Commission in the September time frame, we would
24 hope, and every month thereafter.

25 JUDGE WALLIS: When do you expect that

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1 those issues, including the ROC results, would be
2 ripe for consideration in the workshop?

3 MR. OWENS: As soon as the test is
4 completed. It is a military-style test, and we have
5 to keep retesting and retesting until we satisfy the
6 test. But again, we would hope that would be in the
7 first quarter, towards the end of the first quarter.

8 Let me add one other thing, maybe in the
9 spirit of compromise. I do not wish to dismiss the
10 notion that there are issues with hot cuts, where
11 number portability and the cut over a loop need to be
12 considered together. And we certainly would not
13 object to, when we're in Checklist Item 11 and we've
14 discussed all of number portability, but we have
15 issues with regard to hot cuts, that that issue
16 appropriately be discussed in the unbundled loop
17 workshop.

18 And if the Commission were to release an
19 order coming out of Checklist Item 11, number
20 portability, saying that US West satisfies the
21 checklist item but reserves judgment on the question
22 of hot cuts until the loop workshop is completed, we
23 would not object to that.

24 Our objection to the postponement is not
25 some kind of ruse to avoid full airing of hot cut

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1 concerns.

2 MS. DeCOOK: Your Honor, may I just respond
3 to that briefly?

4 JUDGE WALLIS: Very briefly.

5 MS. DeCOOK: I don't have an objection to
6 that so long as it's clear that we don't have to put
7 on a duplicative case in Checklist Number 11 and in
8 the loop checklist item. I'm willing to defer
9 consideration of compliance with local number
10 portability on the loop hot cut issue to the loop,
11 but I think that means that whatever recommendation
12 comes out of Checklist Item Number 11 would have to
13 be a conditional approval subject to demonstration of
14 compliance with respect to loop hot cuts and number
15 portability in conjunction with that.

16 And my concern is a very practical one,
17 because we're dealing with staffing issues, too. And
18 I don't want to have to go to the number portability
19 checklist item workshop and also go to the loop
20 workshop when I'm dealing with the loop issue. I
21 don't want to have to do it twice.

22 MR. KOPTA: That would certainly be
23 acceptable from our position, as well.

24 JUDGE WALLIS: Very well.

25 MR. DIXON: Also acceptable for WorldCom.

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1 JUDGE WALLIS: Thank you. Is there
2 anything further to come before the Commission?

3 MS. SACILOTTO: No. I think that that was
4 consistent with what Mr. Owens said.

5 JUDGE WALLIS: Okay. Very well. We'll
6 take this request under advisement. I do want to
7 state the tentative scheduling of the prehearing
8 conference for Workshop Number Two. We'd looked at
9 the calendar and believe that the morning of August
10 29 is available for that.

11 We will follow up with a formal notice of
12 hearing and, in the notice of hearing, we will offer
13 the opportunity for interventions in advance of that
14 time for participation in the preparations for that
15 workshop on a timely manner.

16 Is there anything else to come before the
17 Commission? It appears that there's not. Thank you
18 all for your tenacity. We certainly have enjoyed the
19 past three days.

20 MR. FFITCH: Your Honor, what time will the
21 festivities begin on July 6th?

22 JUDGE WALLIS: I think 9:30. Thank you
23 very much. This session is concluded.

24 (Proceedings adjourned at 4:00 p.m.)
25