

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter: The	)	Docket No. 04-049-145
Petition of Qwest	)	
Corporation for	)	TRANSCRIPT OF
Arbitration of an	)	PROCEEDINGS
Interconnection	)	
Agreement with Union	)	
Telephone Company	)	
d/b/a Union Cellular	)	
under Section 252 of	)	
the Federal	)	
Telecommunications Act	)	
	)	

November 6, 2007 \* 9:30 a.m.

Location: Public Service Commission  
160 East 300 South, Hearing Room  
Salt Lake City, Utah

Steve Goodwill  
Administrative Law Judge

## A P P E A R A N C E S

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Union 1SR (Hinman)	16	17
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1 P R O C E E D I N G S

2

3 THE COURT: Let's go ahead and on the  
4 record. This is a Public Service Commission hearing  
5 in the Matter of the Petition of Qwest Corporation  
6 for Arbitration of an Interconnection Agreement with  
7 Union Telephone Company d/b/a Union Cellular under  
8 the Section 252 of the Federal Telecommunications  
9 Act, Public Service Commission Docket 04-049-145.

10 I'm Steve Goodwill, the Administrative Law Judge for  
11 the Commission, and I've been assigned by the  
12 Commission to hear this matter. Notice of this  
13 hearing was issued by the Commission on the 11th of  
14 September, 2007. At this time we'll take appearances  
15 and we'll start with -- let's go ahead and start with  
16 Union.

17 MR. MECHAM: Your Honor, Steve Mecham  
18 representing Union Telephone Company. And with me  
19 today is Bruce Asay, whom you've met before who is an  
20 attorney in good standing from Wyoming here  
21 representing Union Telephone as well.

22 THE COURT: All right. Thank you.

23 For Qwest?

24 MR. MONSON: Gregory Monson appearing for  
25 Qwest. And also with me is Tom Dethlefs, there's an

26

1 "H" in it and it's silent, D-E-T-H-L-E-F-S, and he is  
2 an in-house attorney with Qwest from Denver.

3 THE COURT: Thank you. For the Division?

4 MS. SCHMID: Patricia Schmid with the  
5 Attorney General's Office representing the Division.

6 THE COURT: Okay. We had some brief  
7 discussion prior to going on the record just  
8 concerning how we would proceed this morning, and  
9 it's my understanding that we will essentially look  
10 first to Union to provide its testimony and witnesses  
11 and then to Qwest, and then we'll finally turn to the  
12 Division.

13 I just wanted to remind everybody that  
14 information claimed as confidential has been prefiled  
15 in this matter and will likely be filed as evidence  
16 in this docket. A Protective Order is in place  
17 governing this information. If necessary, we can  
18 close this hearing to discuss confidential  
19 information in detail. My preference would be that  
20 we not do so and I will ask the attorneys'  
21 assistance, and to the extent possible, referring to  
22 confidential information without actually citing that  
23 information so that everybody can understand where  
24 we're at, but so that we can keep the hearing open  
25 for all parties. If, of course, that's not possible

26

1 in order for you to put your best evidence forward on  
2 the record we can certainly close the hearing. And  
3 again, I'll just ask the attorneys to sort of be the  
4 watchdogs through this and let me know if we're  
5 getting close to anything that your clients believe  
6 is confidential and should be treated as such.

7 With that I'll go ahead and turn to Union,  
8 Mr. Asay.

9 MR. ASAY: Your Honor, we can easily do  
10 that with respect to what we're going to do. I had  
11 suggested before that perhaps we put the two Qwest  
12 witnesses on, Winestein and Cederberg first, and then  
13 I can put Mr. Hinman on. But honestly, it's very  
14 easy to put Mr. Hinman on first if that's what you  
15 would like.

16 THE COURT: No, that's fine. I did that  
17 incorrectly. We'll go ahead and start with the Qwest  
18 witnesses.

19 MR. DETHLEFS: Thank you, Your Honor. We  
20 would call first Ms. Ann Marie Cederberg.

21 THE COURT: Ms. Cederberg, if you will  
22 stand and raise your right hand I'll swear you in.

23 ANN MARIE CEDERBERG,

24 called as a witness, was examined and

25 testified as follows:

26

1 THE COURT: Thank you. Please be seated.

2 Mr. Dethlefs?

3

4 DIRECT EXAMINATION

5 BY MR. DETHLEFS:

6 Q. Ms. Cederberg, will you please state your  
7 full name and business address for the record.

8 A. Ann Marie Cederberg. Last name is  
9 C-E-D-E-R-B-E-R-G. My business office is 700 West  
10 Mineral Avenue, Littleton, Colorado, 80120.

11 Q. And Ms. Cederberg, have you prepared  
12 testimony for today?

13 A. Yes, I have.

14 Q. And is that testimony your Direct  
15 Testimony dated October 4, 2005, your Rebuttal  
16 Testimony dated October 24, 2005, and your  
17 Surrebuttal Testimony dated November 7, 2005?

18 A. Yes, it is.

19 Q. And those have certain exhibits numbers,  
20 AMC-1 through AMC-7 attached to your Direct  
21 Testimony, and Exhibit AMC-8 to your Rebuttal  
22 Testimony?

23 A. Yes.

24 Q. Do you have any corrections that you would  
25 like to make to any of this testimony?

26

1           A.     Yes, I do. In my Direct Testimony on page  
2     10. On line 171 it should say "wireless" and not  
3     "wire line call."

4           THE COURT:   Wireless local calling area?

5           THE WITNESS:   On line 171 where it says,  
6     "used to determine whether a wire line," that should  
7     say "wireless."

8           THE COURT:   That's 172 on my copy.

9           THE WITNESS:   Okay, I'm sorry.

10          THE COURT:   I'm sorry, go ahead.

11          Q.     (BY MR. DETHLEFS) And then on page 22 of  
12     your Direct Testimony, in my copy it's line 437.

13          A.     So it could be my 438 for you where it  
14     starts, "An ILEC can only transport traffic."

15          Q.     That is correct. Now, on that particular  
16     statement, have the lateral restrictions for Qwest  
17     Corporation been lifted?

18          A.     Yes, they have.

19          Q.     Does Qwest have facilities that allow it  
20     to carry, Qwest Corporation have facilities that  
21     would allow it to carry traffic across lateral  
22     boundaries?

23          A.     Not at this time we do not.

24          Q.     Is that the clarification you would like  
25     to make?

26

1           A.     That's the clarification I would like to  
2     make on that part, yes.

3           Q.     Do you have any other corrections to  
4     either your Direct Testimony, your Rebuttal Testimony  
5     or your Surrebuttal Testimony?

6           A.     No, I do not.

7           Q.     If I were to ask you the questions  
8     contained in each of those pieces of testimony, would  
9     your answers as corrected be the same today?

10          A.     Yes, they would.

11                  MR. DETHLEFS:   We would offer Ms.  
12     Cederberg's testimony into evidence.

13                  MR. ASAY:   No objection.

14                  MS. SCHMID:   No objection.

15                  THE COURT:   Okay.  They are admitted.

16                  MR. DETHLEFS:   And offer her for  
17     cross-examination with the understanding that Counsel  
18     for Union has stipulated to waive cross-examination.

19                  THE COURT:   I know we discussed that prior  
20     to going on the record, Mr. Asay, but do you have any  
21     cross-examination for this witness?

22                  MR. ASAY:   No.  We have waived it and  
23     Counsel is correct.

24                  THE COURT:   For the Division?

25                  MS. SCHMID:   No cross-examination.

26

1 THE COURT: Okay. Thank you, Ms.  
2 Cederberg.

3 MS. CEDERBERG: Thank you.

4 MR. DETHLEFS: Qwest would call as its  
5 second witness Mr. Robert Weinstein.

6 THE COURT: Mr. Winestein, if you will  
7 please stand and raise your right hand I'll go ahead  
8 and swear you in.

9  
10 ROBERT WEINSTEIN,  
11 called as a witness, was examined and  
12 testified as follows:

13  
14 THE COURT: Thank you. Please be seated.

15  
16 DIRECT EXAMINATION

17 BY MR. DETHLEFS:

18 Q. Mr. Weinstein, will you state your full  
19 name and business address for the record.

20 A. Robert Weinstein, W-E-I-N-S-T-E-I-N. My  
21 work address is 1801 California, Denver, Colorado,  
22 80202.

23 Q. Mr. Weinstein, have you prepared testimony  
24 for today?

25 A. Yes.

26

1 Q. And does that encompass or include Direct  
2 Testimony dated October 4, 2005, Rebuttal Testimony  
3 dated 10/24/2005, and Surrebuttal Testimony dated  
4 November 7, 2005?

5 A. Yes.

6 Q. There are no attachments or exhibits to  
7 either of those pieces of testimony, are there?

8 A. I agree.

9 Q. Do you have any corrections you would like  
10 to make to any of your pieces of testimony?

11 A. Yes. In my Direct Testimony on page 17,  
12 line 326, it says "paragraph 6.2.8.14" and it should  
13 be "6.3.8.14." And I've made that same mistake five  
14 more times. The next one would be on page 18, line  
15 350, the same correction; line 351, the same  
16 correction. Page 19, line 372 where it says, "the  
17 section of the contract 6.2.8," it should say  
18 "6.3.8." And then also on that line it says  
19 "paragraph 8.2.8.14" and it should say "6.8.3.14."  
20 And finally on page 23, line 445, again it should say  
21 "Section 6.3.8.14."

22 Q. Mr. Winestein, in my copy of what has been  
23 marked as your Rebuttal Testimony there appears to be  
24 an Exhibit 2R.1?

25 A. I do recall that would be the Dispute  
26

1 Resolution section of the Interconnection Agreement  
2 being arbitrated. I don't have it on the copy I  
3 brought up here, but I do recall having that now.

4 MR. DETHLEFS: Your Honor, we would ask  
5 that we -- we would need to add that to the list of  
6 exhibits that were prepared to hand out. I believe  
7 that's in the original that was filed with the  
8 Commission and served on the departments.

9 THE COURT: Yes, I have it in my copy.  
10 I'll assume the parties have it if they don't state  
11 otherwise. I'm not as concerned about adding it to  
12 the list as making sure -- as long as the Court  
13 Reporter has it in the copy that has been provided to  
14 her.

15 MR. DETHLEFS: We'll check that at the  
16 break. So the statement that I made earlier that  
17 there were no exhibits, we would correct that.

18 THE COURT: Right.

19 Q. (BY MR. DETHLEFS) Mr. Weinstein, are  
20 there any other corrections other than that to either  
21 your Rebuttal or your Surrebuttal Testimony?

22 A. No.

23 Q. And if I were to ask you the questions as  
24 are contained in your testimony as corrected, would  
25 your answers be the same as corrected?

26

1           A.     Yes.

2                   MR. DETHLEFS:  We would offer Mr.  
3  Weinstein's Direct, Rebuttal and Surrebuttal  
4  Testimony into evidence and offer him for  
5  cross-examination.

6                   THE COURT:  Any objection?

7                   MR. ASAY:  No objection.

8                   MS. SCHMID:  No objection.

9                   THE COURT:  We'll go ahead and admit it.

10                  MR. ASAY:  We would waive cross.

11                  THE COURT:  Ms. Schmid, any cross?

12                  MS. SCHMID:  No cross.

13                  THE COURT:  Okay.  Thank you, Mr.

14  Weinstein.

15                   Any other witnesses at this time, Mr.  
16  Dethlefs?

17                   MR. DETHLEFS:  Your Honor, the only  
18  remaining witness that Qwest has is Mr. Peter  
19  Copeland, who we agreed would be testifying after  
20  Union's case is presented.

21                   THE COURT:  Okay.  Mr. Asay?

22                   MR. ASAY:  Yes.  Your Honor, with respect  
23  to Union's presentation, we would like to start by  
24  spreading on the record the testimony of Mr. Alan  
25  Hinman, and I have one question with respect to that.

26

1 I would spread on the record his Direct Testimony of  
2 October 4th as well as the attachment which we have  
3 marked as 1.1.

4 For point of clarification with respect to  
5 his Surrebuttal Testimony of November 7, 2005, which  
6 we would also spread on the record, would you like me  
7 to identify that as 1S or Exhibit 2? What is your  
8 preference?

9 THE COURT: 1 SR or Union 1SR.

10 MR. ASAY: Thank you. And with that,  
11 then, we would offer that testimony and that exhibit  
12 into the record as 1, the Exhibit 1SR.

13 THE COURT: The Surrebuttal is 1SR,  
14 correct?

15 MR. ASAY: Correct.

16 THE COURT: Okay. And we have the  
17 exhibit to Union 1 as Union 1.1?

18 MR. ASAY: That's correct.

19 THE COURT: Okay. They are so marked.  
20 Any objection to their admission?

21 MR. DETHLEFS: No, your Honor. We  
22 stipulated that Union did not need to bring Mr.  
23 Hinman in. We did ask, however, that we would have  
24 the opportunity to ask any questions that we had  
25 based on his testimony of other Union witnesses. So

26

1 subject to that qualification, we have no objection.

2 THE COURT: Ms. Schmid?

3 MS. SCHMID: No objection.

4 THE COURT: All right. They are admitted.

5 Mr. Asay?

6 MR. ASAY: We would then present or  
7 proceed with our testimony on the asymmetrical rate.  
8 We will do that, Judge Goodwill, by calling Jason  
9 Hendricks to the witness stand.

10 THE COURT: Mr. Hendricks, if you would  
11 please stand and raise your right hand, I will go  
12 ahead and swear you in. Do you solemnly swear the  
13 testimony you're about to provide will be the truth,  
14 the whole truth and nothing but the truth, so help  
15 you God?

16

17 JASON HENDRICKS,  
18 called as a witness, was examined and  
19 testified as follows:

20

21 THE COURT: Thank you. Please be seated.

22 Mr. Asay, is your mic on? I just wanted  
23 to double-check, or maybe move it a little closer.  
24 Is the green light on?

25 MR. ASAY: It is on now.

26

1 THE COURT: Great. Thank you.

2

3

EXAMINATION

4

BY MR. ASAY:

5

Q. Mr. Hendricks, would you identify yourself

6

for the record?

7

A. Jason P. Hendricks, H-E-N-D-R-I-C-K-S.

8

Q. And by whom are you employed?

9

A. GVNW Consulting.

10

Q. And what is your address?

11

A. 2270 LaMontana Way, Colorado Springs,

12

Colorado, 80918.

13

Q. And for whom are you presenting yourself

14

today?

15

A. Union Telephone Company.

16

Q. Okay. And what is the purpose of your

17

testimony?

18

A. The purpose of my testimony is to present

19

Union's position on asymmetric compensation rates.

20

Q. And to accomplish that, have you presented

21

prefiled testimony to the Commission thus far?

22

A. I did.

23

Q. And that testimony, which we'll identify

24

beginning with Exhibit 2, would that include the

25

Direct Testimony of October 4, 2005?

26

1 A. Yes.

2 Q. With an exhibit that's attached to that?

3 A. Yes.

4 Q. Which would be 2.1?

5 A. Yes.

6 Q. Which is previously marked as 11 and  
7 incorporated. And did you also present testimony on  
8 November 7, '05 which was Surrebuttal Testimony,  
9 which would be 2SR? And attachments to that, that  
10 would be 1.2 and 1.3 and 1.4, 1.5 and 1.6, which  
11 incorporated the Exhibits 11.1, 11.2 to 12, 13 and  
12 14?

13 A. Yes.

14 Q. And did you also prepare Supplemental  
15 Surrebuttal Testimony which I would mark, with the  
16 approval of the Administrative Law Judge as SR and  
17 2SSR with the accompanying attachments which are  
18 previously marked as 15, 16 and 17, and I would mark  
19 them now as -- oh, excuse me. Your exhibits would be  
20 2.1 and so forth. We had picked them up, as I  
21 understand it, Mr. Goodwill, with the witness itself.

22 So if I didn't correct that before,  
23 Jason's would be 2.1 and then continuing after that  
24 would be 2.2 through 2.6, which would bring us to the  
25 Supplemental Surrebuttal and the attachments to that,

26

1 which would be 2.7, 2.8, 2.9.

2 And then finally, you presented Post  
3 Surrebuttal which I'll mark, with the approval of the  
4 Administrative Law Judge, that was presented on  
5 October 26 as 2PSR with the attachments to that,  
6 which would be 2.10 and 2.11.

7 Subject to maybe later review, but does  
8 that sound correct with respect to the testimony and  
9 attachments that you provided in this proceeding thus  
10 far?

11 A. Yes, that's correct.

12 Q. And were those testimonies and exhibits  
13 prepared by you or under your direction?

14 A. Yes.

15 Q. And are they true and correct, to the best  
16 of your knowledge as you testified today?

17 A. Yes.

18 Q. Do you have any corrections or changes  
19 that you need to make to the testimony and exhibits  
20 at this time?

21 A. No.

22 MR. ASAY: With that I would offer Mr.  
23 Hendricks or offer his testimony and exhibits into  
24 the record.

25 THE COURT: Just a note on the marking

26

1 real quick, just to make sure we understand. We've  
2 got Union-2.0, the Direct Testimony of Mr. Hendricks,  
3 with one exhibit which we'll mark as 2.1. Then we  
4 move to the Surrebuttal, which is Union-2SR. So I  
5 believe we've got six exhibits there, so we will mark  
6 those as 2SR.1 through 2SR.6. Supplemental  
7 Surrebuttal is Union-2SSR, two exhibits?

8 MR. ASAY: I believe there's three.

9 THE COURT: Three exhibits. So we'll go  
10 2SSR.1 through 2SSR.3 for those. And then  
11 Union-2PSR, Post Surrebuttal Testimony, and that has  
12 two exhibits?

13 MR. ASAY: That's correct.

14 THE COURT: So those would be 2PSR.1,  
15 2PSR.2, just for clarification. I think that's  
16 easier. With that, is there any objection to their  
17 admission as so marked?

18 MR. MONSON: No objection.

19 MS. SCHMID: No objection.

20 THE COURT: Okay. They are admitted.

21 Q. (BY MR. ASAY) Mr. Hendricks, with that do  
22 you have a summary that you would like to offer at  
23 this time?

24 A. Yes. I'll go chronologically by my  
25 testimony. In my Direct Testimony I cited to the FCC

26

1 asymmetric compensation and TELRIC rules pursuant to  
2 which Union is filing its cost study. And while some  
3 of the methodology contained in the original study  
4 has changed -- is the same, I should say, it was  
5 ultimately replaced by a study that was filed on  
6 August 11, 2006.

7           In my Surrebuttal Testimony, I responded  
8 to Mr. Copeland's Rebuttal Testimony. And within  
9 that testimony I provided evidence that the Union  
10 switch and cell sites are traffic-sensitive. And as  
11 part of that I cited to a case, a Sprint case, in  
12 which the FCC clarified that the basis upon which  
13 wireless carriers are entitled to receive asymmetric  
14 compensation is they need to show that their costs  
15 vary to some degree with the traffic carried on the  
16 network.

17           So we provided evidence to that effect in  
18 November of 2005. So that evidence has been on  
19 record for two years that Union's cell sites and  
20 switch are traffic-sensitive. That, using Mr.  
21 Copeland's terminology, could be described as a  
22 qualitative evidence. He came later and said that  
23 there should be some quantitative evidence, which we  
24 also provided, and I'll touch on that a little bit  
25 later. But there has been evidence on the record for  
26

1 over two years that the network is traffic-sensitive.

2 My Supplemental Surrebuttal, which was  
3 filed August 11, 2006 contains the current version of  
4 the cost study as proposed by Union. That cost study  
5 was changed from the original one primarily to use  
6 actual costs that Union has incurred to implement its  
7 PSM network. Those were recent costs that Union  
8 incurred, actual costs, and that was the primary  
9 purpose. We also updated the model to do other  
10 things as well. We've included all of Qwest's  
11 proposed inputs on things like depreciation, the cost  
12 of capital, tax rates that resulted from their TELRIC  
13 case, whatever docket number that was, the name of it  
14 escapes me right now, but Qwest proposed that.

15 And although we disagreed with using their  
16 inputs and I have previously provided testimony  
17 explaining why our proposed inputs were better and  
18 more appropriate, in order to limit the number of  
19 issues in this case we did agree to use their  
20 proposed inputs, with one exception, the  
21 traffic-sensitive factors. We maintain our position  
22 that Union's network is 100 percent  
23 traffic-sensitive, we've provided evidence to support  
24 that. We do have a traffic-sensitive factor input  
25 within there that if the Commission believed that

26

1 it's some other number than the 100 percent number we  
2 proposed, that fact can be changed in the study and  
3 the cost would be correspondingly reduced because of  
4 that change.

5 But that testimony also responded to Mr.  
6 Copeland's July 21, 2006 testimony, and I explained  
7 that the common costs included within the study, the  
8 methodology is consistent with HAI. I explained  
9 there was no double counting of expenses with the  
10 Union study and I explained that the switch is not  
11 underutilized and is in fact on the verge of exhaust  
12 in response to Mr. Copeland' statements that the  
13 switch is underutilized and, therefore, because of  
14 that is not traffic-sensitive or cost sensitive.

15 I also filed testimony on October 26,  
16 2007. The primary purpose of that testimony was to  
17 respond to the testimony of staff witness Anderson  
18 and Qwest witness Mr. Copeland. Within that  
19 testimony I explained that Union's cost study is not  
20 based on embedded costs, as the FCC has defined that  
21 term within its first report and order. They are  
22 actual costs, but they are recent costs that were  
23 incurred in an efficient manner in a competitive  
24 industry and I don't believe those should be  
25 considered embedded costs. And I explained why, that

26

1 the way we've done it is consistent with the FCC  
2 TELRIC methodology.

3 I also explained that the inclusion of  
4 support assets is consistent with the HAI methodology  
5 that's preferred by staff and I explained it's always  
6 consistent with the FCC methodology in response to  
7 staff's statement that they prefer the HAI  
8 methodologies, but yet they don't include support  
9 staff consistent with HAI. I also explained why the  
10 Union's unit calculation resulted in discounted  
11 revenue streams matching discounted cost streams  
12 which leads to the exact recovery of costs, whereas,  
13 Mr. Anderson's approach leads to an under recovery of  
14 costs. I explained that any costs associated with  
15 the retail offerings for both staff and Qwest say  
16 that those should be eliminated from the study, I  
17 explained that they're very minimal and why they  
18 shouldn't be reduced, but if they are the model can  
19 handle it.

20 The same thing with structure sharing.  
21 Union does receive some revenue from other carriers.  
22 If the Commission finds that that revenue should be  
23 accounted for within the model, it can be. I propose  
24 that it be done in a manner consistent with how HAI  
25 does it and how it was approved for Qwest, but it can  
26

1 be done if the Commission finds that appropriate.

2 And some, Union's position is that its  
3 network is traffic-sensitive, the costs included are  
4 appropriate. We've provided both qualitative and  
5 quantitative evidence to support that, but that  
6 Union's model can handle any changes that the  
7 Commission finds appropriate so that we don't  
8 recommend -- if the Commission finds that certain  
9 things aren't supported, despite what we've said, the  
10 model can be accommodated for that. There's no  
11 reason to reject the model in its entirety, just we  
12 request that if the Commission finds changes need to  
13 be made that we be given the opportunity to file a  
14 revised study that incorporates those changes.

15 Q. And does that complete your summary?

16 A. It does.

17 MR. ASAY: With that I would offer the  
18 witness for cross-examination.

19 THE COURT: Mr. Monson, are you handling  
20 that?

21 MR. MONSON: I am.

22

23 CROSS-EXAMINATION

24 BY MR. MONSON:

25 Q. Good morning, Mr. Hendricks. My name is

26

1 Greg Monson, I'm an attorney for Qwest.

2 In your Direct Testimony, if you'll flip  
3 to that, lines 44 to 49, please.

4 A. Okay.

5 Q. I'm starting with the sentence on line 44  
6 that starts "FCC pricing rules." You say there that  
7 "FCC pricing rules for Interconnection Agreements  
8 dictate that rates for transport and termination of  
9 telecommunications traffic must be symmetrical,  
10 except that a State Commission may establish  
11 asymmetric rates if the carrier other than the ILEC  
12 proves that its costs are higher than the ILEC's  
13 costs"; is that correct?

14 A. That's correct.

15 Q. And you cite CFR Section 51.711 in support  
16 of that; is that right?

17 A. Yes.

18 Q. So you agree that Union has to prove to  
19 the Commission that its costs are higher than Qwest's  
20 costs to get asymmetric rates?

21 A. That's correct.

22 Q. And you acknowledge that the cost  
23 methodology to be used by a wireless carrier in  
24 supporting asymmetric rates is TELRIC; is that right?

25 A. Yes, sir.

26

1 Q. And you refer to some TELRIC principles a  
2 little later on lines 52 to 53; is that correct?

3 A. Yes.

4 Q. Okay. And then starting on line 55 you  
5 say, "Among TELRIC components are requirements that  
6 costs must be developed assuming the most efficient  
7 technology currently available and the lowest cost  
8 network configuration given the existing location of  
9 wire centers. In addition, the costs must be  
10 developed assuming forward-looking cost of capital,  
11 cost of capital and depreciation rates, and a  
12 reasonable allocation of common costs."

13 Did I read that correctly?

14 A. Yes.

15 Q. And in support of those principles you  
16 cite Sections 51.505 and 51.511 of Title 47 of the  
17 Code of Federal Regulations; is that right?

18 A. Yes.

19 Q. So I assume those principles appear in  
20 those sections?

21 A. Yes.

22 Q. And you also agree that these are the same  
23 principles that are applied to ILECs like Qwest when  
24 TELRIC rates are established for them; is that right?

25 A. Yes.

26

1           Q.     In your Direct Testimony you didn't  
2 discuss the additional guidance that was provided by  
3 the FCC in 2001 and 2003 on what elements of a  
4 wireless network may be considered in a TELRIC study  
5 to establish asymmetric rates?

6           MR. ASAY:   Object to the form of the  
7 question.  Can that be restated?

8           THE COURT:  I'm not sure.  What's your  
9 objection to the form of the question?

10          MR. ASAY:  My objection is it's unclear.  
11 I would ask that it be restated.

12          THE COURT:  Restate it, please.

13          MR. MONSON:  I would be happy to do that.

14          Q.     (BY MR. MONSON)  In your Direct Testimony,  
15 although you discussed the TELRIC principles, you  
16 didn't discuss the FCC's later guidance about what  
17 elements of a wireless network could be considered in  
18 a TELRIC study to establish asymmetric rates; is that  
19 correct?

20          A.     I'm not sure what later guidelines you're  
21 referring to.  Can you be more clear?

22          Q.     Okay.  I'm talking about, for example, the  
23 2003 Order that you've attached to your -- I think  
24 it's an exhibit to your -- to one of your pieces of  
25 testimony?  I think your --

26

1           A.     The Sprint proceeding?

2           Q.     -- Surrebuttal Testimony, Exhibit -- well,  
3     you've got it marked as Exhibit 12, but I think it's  
4     now marked as -- anyway, it's not the Sprint  
5     proceeding, it's the Order issued by the FCC on  
6     September 3rd of 2003.

7           THE COURT:   2SR.2 would be the second  
8     exhibit to your Surrebuttal Testimony.

9           MR. MONSON:   Thank you, Judge.

10          THE WITNESS:   Actually, I would refer to  
11     that as the Sprint proceeding.

12          Q.     (BY MR. MONSON) All right. That's what  
13     you were calling it, the Sprint proceeding. But you  
14     didn't talk about that in your Direct Testimony, that  
15     was all I was trying to get to?

16          A.     That's correct.

17          Q.     And there was also an FCC Notice of  
18     Proposed Rulemaking, I think in 2001, that referred  
19     to what elements a wireless carrier could include in  
20     a TELRIC study for asymmetric rates. Are you  
21     familiar with that?

22          A.     Is that the one that started the first  
23     Sprint proceeding?

24          Q.     I don't call them the Sprint proceedings  
25     so I'm a little confused and I don't have a number.

26

1 So if you know about it, that's fine. If you don't  
2 that's okay too. I'm just --

3 A. And did I refer to it in other portions of  
4 my testimony, my Surrebuttal?

5 Q. I don't think so. I don't think you did  
6 refer to it.

7 A. I can't recall exactly.

8 Q. Okay. You attached a study to your Direct  
9 Testimony. And did you attach the whole study or  
10 just the summary page? I couldn't tell. Do you have  
11 the whole thing there?

12 A. There's the whole study.

13 Q. Okay. And it was marked as Exhibit 11, is  
14 that right, originally?

15 A. That's correct.

16 Q. Okay. And was that because it was the  
17 same Exhibit 11 that was filed in the Colorado  
18 proceeding? Is that why it was marked Exhibit 11?

19 A. I believe that's probably the case, yeah.

20 Q. And it was identical to the one filed in  
21 Colorado, wasn't it?

22 A. I think it was, yes.

23 Q. And your testimony in Utah was filed about  
24 a month to five weeks after your testimony in  
25 Colorado, if you remember?

26

1           A.     Yeah, it's been a while.

2           Q.     Okay.  I mean, would you accept that  
3 subject to check?  Does that sound about right?

4           A.     That sounds about right.

5           Q.     And I think in the Colorado proceeding you  
6 testified that your cost study wasn't just limited to  
7 Colorado situs elements or parts of the network, but  
8 it was the whole wireless network for Union; do you  
9 recall that?

10          A.     Yes, that's correct.

11          Q.     And so since your cost study in Utah you  
12 initially filed was the same it would be the same in  
13 Utah; is that right?

14          A.     Yes, that's correct.

15          Q.     And at that time you were assuming an  
16 increase of 3 percent per year in maintenance costs;  
17 is that right?

18          A.     Yes.

19          Q.     And then the common costs included in your  
20 study were 10 percent of expected costs of  
21 maintenance, power and depreciation; is that right?

22          A.     That's correct.

23          Q.     So the increase in maintenance costs or  
24 these other costs would also result in an increase in  
25 common costs; is that right?

26

1           A.     Right.  And just to clarify again, we did  
2     file a revised study in 2006.

3           Q.     And in your Surrebuttal Testimony you  
4     filed in this proceeding you acknowledge that the  
5     Commission's Order approving TELRIC rates for Qwest  
6     in Utah, that the Commission used a negative  
7     4 percent net productivity inflation factor; is that  
8     right?

9           A.     Yes.  Can you point me to that?

10          Q.     Yes.  It's line 75 of your Surrebuttal, I  
11     believe.

12          A.     That's correct.

13          Q.     Okay.  And staying in your Surrebuttal for  
14     a minute, if you'll go to line 85 you state,  
15     "Union's estimated costs for the life of the study do  
16     not include additional equipment purchase  
17     assumptions"; is that correct?

18          A.     That's correct.

19          Q.     And the life of the study at that point in  
20     time was 10 years; is that right?

21          A.     Right.

22          Q.     Okay.  Now going back to your Direct, as I  
23     understand it, you used Union's actual wireless  
24     minutes of use for the first half of 2004 and  
25     annualized them and then increased them to account

26

1 for additional demand expected with projected cell  
2 site additions; is that right? Do you want me to  
3 give you the reference?

4 A. I found it.

5 Q. Okay.

6 A. That's correct.

7 Q. And you increased the annual use by  
8 applying a 3 percent per year growth factor; is that  
9 right?

10 A. Yes.

11 Q. Okay. And so even with this increased  
12 usage per customer, you're saying you did not assume  
13 additional equipment purchase assumptions; is that  
14 correct?

15 A. The assumption made at the time, which I  
16 later corrected, was that the plant would -- all the  
17 plant would be purchased in the first year, and that  
18 was rejected and increased in use over the life of it  
19 to match up with that. But rather than doing it like  
20 we did in the later study of matching the minutes  
21 used with the cost in year 1, we did up the costs in  
22 year 1 in minutes of use growing in later years.

23 Q. Okay. But in your real study you had  
24 sufficient equipment to cover the growth in usage  
25 throughout the whole ten-year period; is that

26

1 correct?

2 A. That's correct.

3 Q. Okay. Is the proposed rate confidential?

4 I know that -- I mean, it's in the cost study, but --

5 A. No, it's not. We haven't marked it that  
6 way.

7 Q. All right. So at that time your testimony  
8 was that the asymmetric rate you were proposing was  
9 3.8144 cents per minute for terminating transporting  
10 local traffic; is that correct?

11 A. Actually, according to Exhibit 11 it's  
12 3.6626 or .036626.

13 Q. Okay. Sorry, I got that off the wrong  
14 page somewhere. So it's 3.6626 cents per minute,  
15 right?

16 A. That's correct.

17 Q. Now, you said in that Direct Testimony  
18 that you were recommending that the Commission adopt  
19 that if it chose not to adopt Union's access rate  
20 proposed in the testimony of Mr. Woody; is that  
21 right?

22 A. Yes.

23 Q. What was the access rate proposal  
24 contained in the testimony of Mr. Woody? I couldn't  
25 find it.

26

1           A.     I believe -- I think that it was Union's  
2     general recommendation at the time that Union should  
3     be allowed to charge its terminating access rates,  
4     but that position changed in subsequent testimony  
5     whenever an FCC ruling came out prohibiting the  
6     charging of access rates for wireless.  But I can't  
7     tell you specifically where it was within Mr. Woody's  
8     testimony, but I understood that to be the position.

9           Q.     Okay.  Do you know what the rate was, by  
10    chance?

11          A.     I don't know that.

12          Q.     Okay.  Thank you.

13                   And then you filed some corrected studies,  
14    and I just want to check and make sure I've got the  
15    dates right.  You filed one on April 28, 2006; is  
16    that right?

17          A.     I'm not sure.  I don't know if that was  
18    submitted in the record or not.

19          Q.     Oh, I see.  Okay.  You provided one to  
20    Qwest; is that right?

21          A.     I think that I have the date as May 1st,  
22    but I believe -- of 2006 you said?

23          Q.     Right.

24          A.     Yes.  Somewhere around that time there was  
25    a change in the study that was provided to Qwest.

26

1 Whether it made it into the record, I'm not sure.

2 Q. And you also provided a new study or a  
3 corrected study on May 30 of 2006; is that right?

4 A. If you'll give me a moment, please.

5 Q. Sure.

6 A. I don't recall there being two at that  
7 time. I'm not sure.

8 Q. Okay. And then when you filed your  
9 Supplemental Surrebuttal Testimony on August 11 you  
10 provided a new study then; is that right?

11 A. That's correct.

12 Q. And then you provided some corrections to  
13 that study on August 12th, the next day; is that  
14 right?

15 A. No. The study that was attached to my  
16 testimony on August 11 is the correct testimony -- I  
17 mean is the correct printout of the exhibit. I mean,  
18 that's the corrected study. I believe that the  
19 unelectronic version that was sent to Qwest, there  
20 was one sent on August 14th because the one that was  
21 sent to them on August 11th was basically the wrong  
22 one. But the one that was attached to my testimony,  
23 the one that's the printed copy that's in the record  
24 is the correct study. So there weren't two studies  
25 there, there was one.

26

1 Q. There was just one study filed?

2 A. Right.

3 Q. Okay. Thank you.

4 Now, in your Surrebuttal Testimony you  
5 discussed traffic sensitivity, right?

6 A. That's correct.

7 Q. And you acknowledge at least the 2003  
8 Order, I can't remember if you acknowledged the 2001  
9 Notice of Proposed Rulemaking, but you at least  
10 discuss the 2003?

11 A. Yeah. I still don't know what you mean by  
12 the 2001 Notice of Proposed Rulemaking. If you can  
13 clarify what that case is, it would help me  
14 understand what you're referring to.

15 Q. Okay. I'll try to do that. I don't have  
16 it with me right now, but we'll try to do that.

17 You quoted from the 2003 Order, is that  
18 right, in your testimony?

19 A. That's correct.

20 Q. And you quoted, this is on lines 206 to  
21 208, you said, "A determination of compensable  
22 wireless network components should be based on  
23 whether the particular wireless network components  
24 are cost sensitive to increasing call traffic"; is  
25 that right?

26

1           A.     That's correct.

2           Q.     And that's a quote from the document you  
3 attached to your testimony as an exhibit, right?

4           A.     Yes.

5           Q.     Okay.  And that was originally marked as  
6 Exhibit 12.  Did you file that as Exhibit 12 in  
7 Colorado also, do you know?

8           A.     It was filed in Colorado.  I can't recall  
9 what the exhibit number was.

10          Q.     Okay.  So this quote that you quoted from  
11 the FCC's Order, it makes it clear that in  
12 determining whether the CMRS carrier is entitled to  
13 asymmetric compensation, you need to identify a  
14 particular component, compensable components by  
15 determining whether the component is cost sensitive  
16 to increasing call traffic; is that right?

17          A.     Yes.  And I would also note the following  
18 bullet point where it says the costs vary to some  
19 degree with the level of traffic.

20          Q.     Okay.

21          A.     2001, there was a Notice of Proposed  
22 Rulemaking discussed on page 10.

23          Q.     Okay.  And that's what I've been talking  
24 about.  I'm sorry I didn't have the reference for  
25 you.

26

1 A. Okay.

2 Q. Your study assumed that all components of  
3 the wireless network were cost sensitive to  
4 increasing call traffic; is that right?

5 A. No. We didn't include spectrum in the  
6 study. Sprint in their proceeding included spectrum,  
7 we didn't include it, but the other items listed on  
8 page 11, cell sites, backhaul links, base station  
9 controllers, mobile switching centers were  
10 traffic-sensitive.

11 Q. Everything but spectrum?

12 A. In this study, yes.

13 Q. And that's everything in the network  
14 except spectrum, right?

15 A. It doesn't include handsets.

16 Q. Okay. And the handsets are, just for us  
17 amateurs, those are the phones that people carry  
18 around with them, the cell phones, right?

19 A. That's correct.

20 Q. So you consider them part of Union's  
21 network?

22 A. Well, they're provided by Union as part of  
23 the provisioning service. Unlike a typical land line  
24 phone which you can buy at the store off the shelf  
25 and plug into your wall, you can't do that with a

26

1 cell phone to the same extent. Those are more  
2 comparable to a loop kind of analysis, which is why  
3 they weren't included.

4 Q. So do Union's customers not buy their own  
5 cell phones?

6 A. You know, I don't know to the extent on  
7 how those are provisioned. But are they more of a  
8 network compared to a land line phone? I would say  
9 yes.

10 Q. Do you know if Union considers those cell  
11 phones to be its property as opposed to the property  
12 of its customers?

13 A. If that's your position on whether it's  
14 part of Union's network, whether it's Union's  
15 property or not, then to that extent, yes, it's the  
16 end user's property.

17 Q. And so you couldn't include something in a  
18 cost study for Union that wasn't Union's property,  
19 could you?

20 A. Well, to the extent that those were  
21 subsidized. I mean, if they're providing a handset  
22 below cost, Union is providing those handsets to  
23 customers at a cost where the handset is \$400, but  
24 they're providing them for free as part of a service  
25 subject to a two-year term commitment, potentially

26

1 you could. But it's a moot issue because we didn't  
2 include it.

3 Q. And if Union did that it would be doing  
4 that to promote sales of its service; isn't that  
5 correct?

6 A. Well, there's numerous reasons why you  
7 would want to do it, and that could be one of them.

8 Q. You didn't provide any quantitative  
9 analysis of the capacity or utilization of the  
10 components of the network that you included in your  
11 study in your Surrebuttal Testimony; is that right?  
12 I think you said that in your summary.

13 A. Yeah, that's correct.

14 Q. Okay. Now would you look at lines 322 to  
15 324. And there you state that the capacity of BTSS,  
16 which are base -- is it base transceiver stations?  
17 Is that the correct usage for BTSS, do you know?

18 A. Page 13 defines it as base transceiver  
19 system.

20 Q. Sometimes I've seen it as transceivers and  
21 sometimes transreceivers, and I don't know what the  
22 difference is. Anyway, we'll just call them BTSS for  
23 now.

24 You say that "The capacity of BTSS can be  
25 expanded by adding electronic equipment to the BTS

26

1 that permits additional radio carriers," and then in  
2 parentheses, "(frequencies that were previously  
3 unused) to be brought into service"; is that right?

4 A. That's correct.

5 Q. And then you also state that there's a  
6 second method of expanding capacity, and that's cell  
7 splitting; is that right? That's on line 327.

8 A. Yes.

9 Q. Now, in the Colorado hearing you were  
10 asked whether it's less expensive to increase the  
11 capacity of a BTS with a radio carrier addition than  
12 with the addition of a cell site or cell splitting.  
13 Do you remember that?

14 A. Somewhat.

15 Q. Okay. And let me represent to you that  
16 you stated you didn't know. Does that seem correct?

17 A. Yes.

18 Q. If you want to look at the transcript I  
19 can let you look at it, but I don't know if it  
20 matters if it seems right to you.

21 A. No, that seems right subject to check.

22 Q. Okay. And you also said that you hadn't  
23 discussed the differences in cost between the two  
24 alternatives in your testimony?

25 A. That's correct. I mean, any questions  
26

1 along those lines are probably better directed to Mr.  
2 Jacobsen who has experience with those kind of  
3 decisions on a day-to-day basis.

4 Q. And you haven't provided testimony in this  
5 case either about the difference in cost between  
6 those two alternatives; is that correct?

7 A. That's correct.

8 Q. And then the Colorado hearing went forward  
9 in December of 2005; is that right?

10 A. Yes.

11 Q. And in that proceeding you proposed an  
12 asymmetric -- I'm sorry, you proposed an asymmetric  
13 rate of 2.6484 cents per minute; do you recall that?

14 A. That number seems low.

15 Q. It seems low? Okay. Let me represent to  
16 you that was the number in your late-filed exhibit.  
17 I can give you a copy if you want.

18 A. Actually, if I recall correctly, I believe  
19 that that was a number that if we included Qwest's  
20 proposed changes to the inputs. It was a "what if"  
21 study, if I recall correctly. It was a "what if"  
22 study. If we took our study and the only changes we  
23 made to it were to include Qwest's proposed inputs,  
24 cost of capital, depreciation, those things, that  
25 would be what the rate is. And I believe that I

26

1 discussed that somewhere.

2 Q. So it's your testimony then today that --

3 MR. ASAY: Excuse me, I believe the  
4 witness is still answering.

5 Q. (BY MR. MONSON) Okay. I'm sorry.

6 A. Page 7 of my testimony, line 130.

7 THE COURT: Which testimony?

8 Q. (BY MR. MONSON) And should we look at  
9 which testimony?

10 A. The Rebuttal, the November 7th one. Is  
11 that the rate that you have written down?

12 Q. Yes.

13 A. That's a "what if" scenario, that's not  
14 what we proposed in Colorado.

15 Q. Okay. So that late-filed exhibit in  
16 Colorado wasn't your recommended rate, it was just a  
17 "what if"?

18 A. That's correct.

19 Q. Okay. Because I wanted to ask you about  
20 the difference between that rate and the rate you're  
21 recommending in Utah, but now that I understand it's  
22 a "what if" I don't need to ask you that.

23 Up to this point in time your testimony in  
24 Utah and your testimony in Colorado is the same; is  
25 that right?

26

1           A.     Give or take.  I mean, in the Utah case  
2     there were specific inputs relative to Utah that  
3     Qwest was proposing because it was state specific as  
4     compared to Colorado where they proposed Colorado  
5     specific results, and there were probably some other  
6     variations within the testimony to make it state  
7     specific.  But the general position, the general  
8     study, to my knowledge, were the same.

9           Q.     Will you look at the exhibit attached to  
10    your Surrebuttal Testimony as 2SR.2 which you had  
11    marked at the top as 11.2; do you see that?

12          A.     Yeah.  The 11.2, that's the "what if"  
13    case.

14          Q.     Pardon?

15          A.     That's the "what if" one.

16          Q.     Right.  And that's the same study that you  
17    filed as a late-filed exhibit in Colorado with the  
18    2.6484 number; is that right?

19          A.     Yeah.  Again, subject to check, I believe,  
20    I mean, I recall that we did a similar kind of filing  
21    in Colorado.  The rate was probably the same.  
22    Actually, you know what, probably the rate might have  
23    been -- can you tell me again that the rate that you  
24    have there for Colorado is exactly the same as 11.2?

25          Q.     It is.

26

1 A. Okay.

2 Q. If it's helpful I can give you the  
3 Colorado study. It's confidential, obviously, but  
4 would you like to see it?

5 A. Sure.

6 MR. MONSON: May I approach the witness?

7 THE COURT: Certainly.

8 MR. MONSON: Since this is a confidential  
9 exhibit I didn't make ten copies of it, I only made a  
10 few.

11 I don't know if you want one, your Honor.

12 THE COURT: That's fine. Thanks.

13 MR. MONSON: Do you need one?

14 MR. ASAY: Thanks.

15 Q. (BY MR. MONSON) Now that you've had a  
16 chance to look at that, can you see that it's the  
17 same? This exhibit, which was filed as a late-filed  
18 exhibit in Colorado, is the same as your Exhibit 11.2  
19 filed in this case?

20 A. Yes, I agree.

21 Q. Okay. And in fact, it even has 17 years;  
22 is that right, the one you filed in this case?

23 A. That's correct.

24 Q. And that was because the rate, the  
25 depreciation rate that the Commission had approved

26

1 for Qwest in Colorado for some elements of its  
2 network was 17 years, right?

3 A. Yeah, that's correct.

4 Q. Okay. Now let's turn to your Post  
5 Surrebuttal Testimony.

6 A. Can I do one more check on that? Yeah, it  
7 appears that the filing in this case was done  
8 consistent with Colorado based on an understanding at  
9 the time that Mr. Copeland was proposing the same  
10 kind of adjustments to the study that he did in  
11 Colorado. So with respect to the 17 years for  
12 depreciation, in fact in Utah it was 14.5, which I  
13 talk about in the later testimony.

14 Q. Right. And so the Exhibit 11.2 that you  
15 filed in this case included the Colorado Qwest  
16 recommended amounts, not the Utah amounts; is that  
17 right?

18 A. That's correct.

19 Q. Okay. Now, in your Post Surrebuttal  
20 Testimony, starting on line 62 you discuss the  
21 application of HAI 5.2a to the study in this case; is  
22 that right?

23 A. I'm responding to Mr. Anderson's statement  
24 that it's the staff's position or that the principle  
25 used must be the same as those in HAI 5.2a.

26

1 Q. Okay. And you refer to towers, buildings,  
2 power equipment, cables and fiber conduit as support  
3 assets; is that right?

4 A. Yes.

5 Q. Are you familiar with Part 32 of Title 47  
6 of the Code of Federal Regulations?

7 A. Yes.

8 Q. And that's the Uniform System of Accounts,  
9 right?

10 A. That's correct.

11 Q. And are you aware that Part 32 identifies  
12 support assets?

13 A. I'm not sure if it defines it in the same  
14 way that I've defined it here.

15 MR. MONSON: Okay. May I approach the  
16 witness?

17 THE COURT: Certainly.

18 Q. (BY MR. MONSON) There's two different  
19 excerpts if you would like to take a look at those.  
20 Referring you to the sheet that's page number 381; do  
21 you have that?

22 A. Yes.

23 Q. And do you see that the Count 32, Section  
24 32.2110 is entitled "Land and Support Assets"?

25 A. Yes.

26

1           Q.     And then under that there's a listing of  
2     some sub accounts, the first one is Land, the next  
3     one is Motor Vehicles, the next one is Aircraft, the  
4     next one is Tools and Other Equipment. Do you see  
5     that?

6           A.     I do.

7           Q.     And so those would be under the Uniform  
8     System of Accounts, those would be the things defined  
9     as support assets; is that right?

10          A.     That's how it's defined in the Uniform  
11     System of Accounts.

12          Q.     Thank you.

13                     And then would you look at the other page  
14     I gave you, the first page of which is 387. Do you  
15     have that?

16          A.     Yes.

17          Q.     And can you see on that the heading for  
18     Section 32.2410, Cable and Wire Facilities? Do you  
19     see that?

20          A.     I do.

21          Q.     And then under there's sub accounts for  
22     poles, aerial cable, underground cable, buried cable,  
23     submarine and deep sea cable, intrabuilding network  
24     cable, area wire and conduit systems; do you see  
25     that?

26

1           A.     I do.

2           Q.     So under the Uniform System of Accounts,  
3 poles and wires and conduits and things like that are  
4 not support assets, are they?

5           A.     I would have to -- I mean, there's pages  
6 missing between 383 and 387, but I would note that on  
7 the top of page 387, this is talking about  
8 accumulated depreciation, whereas, the other ones  
9 were referring to accounts. But with that  
10 clarification, I will -- I would agree that under the  
11 Land Support Assets on page 381, as that is defined,  
12 these things listed as depreciation aren't included  
13 under that.

14          Q.     Okay. And I'll represent to you that this  
15 is a complete copy of Section 32.2110 and all of its  
16 subparts and then 32.2410 and all of its subparts.  
17 So would you accept that subject to check?

18                 MR. ASAY: You know, Judge Goodwill, I  
19 guess I would object to the offer. If Counsel has  
20 the complete copy that he would like to provide  
21 again, but I also object to the immateriality of the  
22 document with regard to the support features we're  
23 trying to explain here.

24                 THE COURT: I'll go ahead and allow Qwest  
25 to ask its questions of these documents to the

26

1 witnesses as it wants to at this point.

2 MR. MONSON: Your Honor, I didn't know if  
3 I needed to offer these into evidence because they're  
4 part of the Code of Federal Regulation and,  
5 obviously, the Commission can take notice of them if  
6 it wants to.

7 THE COURT: Right. What I had intended to  
8 do, and we might as well just do it now, is mark the  
9 first two-page document you passed out that begins  
10 with page 381 as indicated at the bottom of the first  
11 page as Qwest Cross Exhibit 1 and the second two-page  
12 document that begins with page 387 as Cross Exhibit 2  
13 and we will take administrative notice of these as a  
14 part of the FCC regulations. And to the extent that  
15 either party wants to discuss the intervening pages  
16 or anything else, we can certainly do that at a later  
17 time or when the party feels it's appropriate, and  
18 we'll mark them as such for now.

19 THE WITNESS: I mean, I -- I'm sorry, go  
20 ahead.

21 Q. (BY MR. MONSON) In TELRIC studies, cable  
22 and wire accounts are evaluated individually; is that  
23 right? I mean, the assets in those accounts are  
24 evaluated individually to determine if they're cost  
25 sensitive, traffic-sensitive? Do you know that? Do  
26

1 you know whether or not that's correct?

2 A. I'm sorry, can you repeat that question?

3 Q. Yeah. Cable and wire accounts, which are  
4 the ones in 2410, are directly assigned, they're  
5 considered individually, the assets in those accounts  
6 are considered individually to determine whether or  
7 not they're traffic-sensitive; isn't that right?

8 A. Yeah. My understanding of how the studies  
9 are done, and I explained it in my Post Supplemental  
10 Testimony -- or my Post Surrebuttal Testimony is they  
11 do look at the primary assets in isolation or they  
12 look at the switch or the fiber and determine if  
13 those are traffic-sensitive and then whatever is  
14 supporting of those gets assigned the same  
15 traffic-sensitive rate.

16 Q. Okay. Thank you.

17 Now, in your Post Surrebuttal Testimony at  
18 lines 92 and 93 you state that Union's cost study  
19 should not be held to a higher standard than Qwest's;  
20 is that right?

21 A. That's correct.

22 Q. And you're referring, when you talk about  
23 Qwest's cost study, you're talking to cost studies  
24 that were adopted by the Commission in setting  
25 Qwest's reciprocal compensation rate?

26

1           A.     Right.

2           Q.     And you recognize that those weren't  
3 necessarily Qwest's cost studies?

4           A.     Well, the Commission approved some  
5 methodology that was consistent with TELRIC. I  
6 understand that Qwest proposed its own model, other  
7 parties proposed another model and the result was a  
8 blended approach. So I'm not saying here that -- I'm  
9 not comparing it to Qwest's proposed study, I'm  
10 comparing it to the results of that proceeding which  
11 was some type of blended TELRIC approach.

12          Q.     Okay. And you agree that Union's cost  
13 study should be held to the same standard as Qwest's;  
14 is that right?

15          A.     I'm not -- well, not necessarily. I agree  
16 that it should be held to the standards of TELRIC,  
17 the TELRIC rules, and for the most part I would  
18 expect the Commission to look at similar kinds of  
19 issues. But the basis of the comparison is the  
20 TELRIC rules. I think that's what we proposed and  
21 that's what the study does.

22          Q.     Okay. So you're not saying it should be a  
23 lower standard, is what I'm getting at? You're not  
24 saying that Union's cost study should be held to a  
25 lower standard than the cost study approved by the  
26

1 Commission for Qwest?

2 A. No. Whatever was approved by Qwest is  
3 presumably consistent with TELRIC. Again, our study  
4 should also meet proposed -- or our study also should  
5 meet those same TELRIC principles.

6 Q. Okay. Thank you.

7 And you're aware that in Qwest's  
8 proceeding that the Commission required the  
9 assumption of a 90 percent fill factor for the  
10 switch; is that right?

11 A. Yes, that's my understanding.

12 Q. Okay. Now, I do have the Order if you  
13 would like to look at it. Would it be helpful?

14 A. No. I mean, I recall, I recall reading  
15 that.

16 Q. Okay. Now, flip back just for a moment to  
17 line 347 of your Surrebuttal Testimony if you could.  
18 The question there is, "Are you saying that cell  
19 sites are more equivalent to ILEC switches than they  
20 are to ILEC loops?" And your answer is "Yes"; is  
21 that right?

22 A. Yes.

23 Q. And then at line 162 of your Surrebuttal  
24 Testimony, let's go to that -- I'm sorry, I got you  
25 in the wrong testimony. It's in your Post  
26

1 Surrebuttal Testimony, I think. Let me just check.

2 Yeah, line 162 of your Post Surrebuttal Testimony.

3 You state that "Union operates in a  
4 competitive wireless industry and so the costs that  
5 Union incurs are the costs of an efficient  
6 facilities-based entrant"; is that right?

7 A. Yes.

8 Q. So it's your position that Union can use  
9 its actual costs in its cost study and that such  
10 costs comply with TELRIC principles?

11 A. They can use the current costs because  
12 it's an efficient technology and that technology was  
13 recently deployed, it's been deployed in the last  
14 couple of years. So because it's current for an  
15 efficient forward-looking technology, yes, they can  
16 be used to comply with TELRIC rules.

17 Q. And your cost study does use Union's  
18 actual costs where they're available; is that right?

19 A. That's correct.

20 Q. You updated the minutes of use that were  
21 used in your original study based on actual minutes  
22 of use in 2005; is that right?

23 A. Can you point me to that? I know it's in  
24 my Supplemental Surrebuttal, but if you have a cite  
25 that would be helpful.

26

1 Q. Maybe the easiest way to see it is to look  
2 at your study which is part of your Supplemental  
3 Surrebuttal. And you don't have the date on there.  
4 Sorry. I don't have a reference for you right now.  
5 Maybe I can get it during the break.

6 A. I acknowledge that those were updated  
7 based on some later actual minutes. The date is what  
8 I'm not sure of.

9 Q. Okay. So you're not sure if those are  
10 2005 or what it was?

11 A. Right.

12 Q. Okay. But they were updated based on some  
13 actual minutes?

14 A. Right.

15 Q. All right. And you also said you updated  
16 the GSM cell site costs from projections to costs  
17 actually incurred; is that right?

18 A. Yes.

19 Q. When did the company, when did Union start  
20 installing GSM cell sites?

21 A. I believe it was 2004.

22 Q. Okay. When did it acquire the GSM switch?

23 A. That was late 2003.

24 Q. Okay. So the costs you're using would be  
25 the installation of GSM cell sites. Would you  
26

1 accept, subject to check, that some of them were  
2 installed in 2003?

3 A. Is there --

4 Q. I can't give you a reference, but if you  
5 want I'll get one for you during the break.

6 A. The GSM switch wasn't even put in until  
7 late 2003. So it was my understanding it was 2004.  
8 But if it was 2003, I'm not sure where that  
9 information was provided that will say that. But I  
10 mean, is that the general time frame? The general  
11 time frame, I believe, what we used in the study was  
12 2004, 2005 for the GSM sites. Then in my Post  
13 Surrebuttal I talk about some additional sites that  
14 were put in in 2005 and 2006.

15 Q. Does your study include any costs for cell  
16 sites that were not actual costs incurred for GSM  
17 cell sites?

18 A. I don't believe the current study does,  
19 no. I believe those were all actual for the ones  
20 that were put in place and I projected out for all of  
21 them.

22 Q. Okay. And how did you project them?

23 A. Just a simple ratio was projected.  
24 They've had 325 in place, which they're projected to  
25 have by 2008, August of 2008. So whatever they had,  
26

1 I believe it was 68 at the time of the study. So the  
2 ratio of 68 to 325 will give you total GSM cell site  
3 costs.

4 Q. So you take the average costs for the 68  
5 and then multiply that by the balance of the 325?

6 A. Exactly.

7 Q. Okay. And your study still uses the GSM  
8 switch cost that was incurred in 2003; is that right?

9 A. That's correct.

10 Q. Now, Mr. Copeland testified in this  
11 proceeding that Union is currently using 26 percent  
12 of the capacity of its BTSs. Do you recall that?

13 A. You're talking cell sites now to BTSs?

14 Q. Yes. I think BTSs and cell sites, I  
15 think, are --

16 A. Yeah, right. I recall that he proposed  
17 something that was what he considered to be a low  
18 utilization, but I don't recall the exact number.

19 Q. And in your Post Surrebuttal Testimony you  
20 respond to that and said you believe that Union's  
21 network was efficient because it locates cell sites  
22 to provide coverage in rural areas; is that right?

23 A. In my Post Surrebuttal?

24 Q. Uh-huh (affirmative). And I'm not quoting  
25 there, so if you want to correct it, please feel free

26

1 to do so.

2 A. Well, I would prefer if you could point me  
3 to the general area where I talked about that.

4 Q. Let me come back to that when I've had a  
5 chance to find it. Is it your testimony that Union's  
6 network is efficient and forward looking?

7 A. Yes.

8 Q. And assuming for me, with me for a minute  
9 that it's only using 26 percent of the capacity of  
10 its cell sites, what is the basis for that belief?

11 A. It's comparable to Qwest serving rural  
12 areas with a switch that has a capacity of 10,000  
13 lines, but it's in a wire center that only has 200  
14 customers. It's the nature of serving a rural area  
15 that even if you use the minimum size technology, you  
16 still might end up with underutilization just simply  
17 because of the rural nature of the service.

18 It's like 12 fiber cables is the minimum  
19 fiber cable that you can get, and Qwest and other  
20 carriers who serve rural areas may only utilize two  
21 or four fibers. As long as you're putting in the  
22 minimum technology to serve that rural area you can  
23 still be efficient, but have what would be defined as  
24 low utilization or a low fill factor.

25 Q. Are you aware that Union receives Federal  
26

1 USF support for its wireless business?

2 A. I'm not aware of that. If Union receives  
3 it for -- if they're an ETC, as a wireless carrier  
4 receiving Federal support, I'm not aware of it.

5 Q. Okay. Would you look at Exhibit 16 to  
6 your Supplemental Surrebuttal Testimony, and that's  
7 not the correct number, but that's the way it's  
8 numbered on the exhibit. Do you have it?

9 A. I do.

10 Q. And this is a listing of minutes, used  
11 minutes and so forth, and then it also includes total  
12 call-related revenue in the next to the last column.  
13 Is that right?

14 A. That's correct.

15 Q. And this is for GSM usage January 1, 2005  
16 to December 31, 2005?

17 A. That's correct.

18 Q. So if we look at the number at the bottom  
19 of the second to the last column we can see the  
20 amount of revenue that Union received during 2005,  
21 call-related revenue from its customers for GSM  
22 usage; is that right?

23 A. Yes.

24 Q. Okay. And so I won't say the number on  
25 the record, but I just wanted to clarify that.

26

1                   Does Union also receive substantial  
2 revenue from roaming customers?

3           A.     I believe so. The word "substantial" I'm  
4 not sure is accurate, but I believe they receive  
5 revenue from roaming.

6           Q.     Could you turn to what you marked as  
7 Exhibit 15 attached to your Supplemental Surrebuttal  
8 Testimony?

9           A.     Okay.

10          Q.     Do you have that?

11          A.     Yeah.

12          Q.     Can you look at page 3? That has on it  
13 the minutes of use that were used in your study,  
14 right?

15          A.     Yes.

16          Q.     And it has, it includes Union to Union  
17 minutes of use, Union to Other, Other to Union and  
18 Roamer Minutes?

19          A.     That's correct.

20          Q.     And would you agree with me that the  
21 percentage of minutes of use that are on a roamer is  
22 about 45 percent of the total?

23          A.     That looks about right.

24          Q.     Okay. Do you happen to know what percent  
25 of Union's revenues come from roaming? I think I

26

1 maybe already asked you that.

2 A. I don't know.

3 Q. I'm not trying to -- okay. You also  
4 discuss in your Post Surrebuttal Testimony the  
5 Colorado Commission decision; is that right?

6 A. That's correct.

7 Q. And that decision was issued October 1st  
8 of 2007, mailed or something? I'm not sure how they  
9 do it over there, but is that right? Do you have it?

10 A. Yes.

11 Q. And now refer to lines 613 to 616 of your  
12 Post Surrebuttal Testimony. There you state that  
13 there's a difference in the record in this proceeding  
14 versus the Colorado proceeding and you believe that  
15 should cause the Commission to reach a different  
16 conclusion than Colorado; is that right?

17 A. Yes.

18 Q. And you list seven differences there in  
19 your testimony there; is that right?

20 A. Yes.

21 Q. Let's go through those.

22 And, your Honor, I don't know if everyone  
23 has a copy of the Colorado decision, but I have  
24 copies if anyone needs one.

25 THE COURT: Why don't you give them to

26

1 anyone who doesn't. I know I have a copy here.

2 MR. MONSON: Do you need one? May I  
3 approach the witness?

4 THE COURT: Certainly.

5 Mr. Monson, why don't you give one to the  
6 court reporter and we'll mark it as Qwest Cross 3 for  
7 identification.

8 MR. MONSON: All right.

9 Q. (BY MR. MONSON) The first one you list is  
10 that you've included actual GSM cell sites costs in  
11 Utah where you only included projected GSM cell site  
12 costs in Colorado; is that right?

13 A. Yes.

14 Q. Okay. Can you show me in the Colorado  
15 decision where the Colorado Commission stated that it  
16 was rejecting your cost study because you had used  
17 projected rather than actual GSM cell site costs?

18 A. Well, the problem with the Colorado  
19 decision is their findings, as I state on page 26 of  
20 my testimony, are only three paragraphs long. So  
21 it's difficult to interpret exactly all of their  
22 concerns. On page 27 of my testimony I talk about my  
23 inference on what some of their concerns are.

24 So they didn't specifically identify  
25 anything more than what's listed on page 26, but they

26

1 generally referred in a couple of other spots, they  
2 used the word "insufficient information" a few times.  
3 So to my knowledge, including actual costs instead of  
4 projected makes this proceeding much more accurate as  
5 far as the costs that Union has to incur.

6 And also during the hearing there was a  
7 number of questions of me in Colorado about the  
8 projected costs and why they were the same for site  
9 after site. And whether that had an influence on the  
10 Administrative Law Judge, I'm not sure. But to our  
11 understanding, including actual costs instead of  
12 projected makes this study more accurate.

13 Q. But you can't point to anything in the  
14 decision that says the Commission rejected your study  
15 because you didn't include actual costs, can you?

16 A. No.

17 Q. Thank you.

18 Now, you have included actual costs in  
19 your Utah study, right?

20 A. That's correct.

21 Q. And the impact of that change was to  
22 increase the cost, the asymmetric rate that you're  
23 proposing; is that right?

24 A. I'm not sure in isolation what the impact  
25 of that change itself did because we did a number of

26

1 changes, including increasing the assumed cell sites  
2 of the 325, was a much smaller number in Colorado.  
3 So I'm not sure on a cell site by cell site basis, I  
4 can't recall what the impact was.

5 Q. If we were to look at your -- at the  
6 Exhibit 28 from Colorado that I handed out and then  
7 look at your Exhibit 15 in Utah, could you identify  
8 for me on there where the cell site, the difference  
9 in cell site costs would show up?

10 THE COURT: Mr. Monson, the Exhibit 28  
11 you're referring to is the cost study from Colorado?

12 MR. MONSON: Yes.

13 THE WITNESS: Page 29 of Exhibit 28 from  
14 Colorado has the average cost per cell site at the  
15 bottom. Union --

16 Q. (BY MR. MONSON) Can you find the same  
17 number or the number that was used in the cost study  
18 in Utah on Exhibit 15?

19 A. Yeah. There's not a page number,  
20 unfortunately.

21 Q. Does it look the same or does it look  
22 different?

23 A. No, it's different. It's page 10.

24 Q. Page 10. Which column are we looking at?

25 A. If you look at the very bottom where it  
26

1 says "Average costs per site."

2 Q. So if I'm looking at this correctly, the  
3 average cost per site in Colorado is about -- well,  
4 the average cost per site in Utah is about more than  
5 150 percent higher than the average site in Colorado;  
6 is that right?

7 A. I don't think that percentage is right,  
8 but I can acknowledge that it's higher. But I don't  
9 think your percentage was right.

10 Q. Okay. But, I mean, if you took the Utah  
11 amount and the Utah study and divided it by the  
12 Colorado amount you would get more than 1.5, is what  
13 I guess I'm saying. That's what I'm trying to show.

14 A. Oh, okay. That's correct.

15 Q. Okay. All right. And so that would  
16 increase the asymmetric rate in Utah by having a  
17 higher cost, wouldn't it?

18 A. That change in isolation, all else being  
19 equal, yes.

20 Q. Now, the second change you referred to in  
21 your Post Surrebuttal Testimony between the Colorado  
22 study and the Utah study is the inclusion of the user  
23 adjustable traffic-sensitive factor in the Utah  
24 study; is that right?

25 A. That's correct.

26

1           Q.     Can you show me in the Colorado decision  
2     where the Commission said that it rejected your study  
3     because you didn't have a user adjustable traffic  
4     sensitivity factor in the Colorado study?

5           A.     I would point to page 56, paragraph 174 of  
6     the Commission decision, Part B, where it talks about  
7     the traffic-sensitive factor. To my knowledge, the  
8     Commission rejected the study in Colorado because --  
9     well, it's hard to infer exactly what he said, but  
10    they talk in here about the traffic sensitivity of  
11    the switch that we've assumed without analysis that  
12    the entire network is traffic-sensitive.

13                    So it seemed to me they thought it's so  
14    embedded within the model, this traffic sensitivity  
15    assumption of 100 percent was so embedded within the  
16    model, that there was no choice but to just simply  
17    reject the entire model. So our approach was to make  
18    it clear through a user adjustable input that if the  
19    Commission in Utah wanted to come up with a different  
20    assumption, all it would have to do is change one  
21    input.

22           Q.     So you read the Colorado Commission's  
23    language as it assumes without analysis that Union  
24    Cellular's entire wireless network is  
25    traffic-sensitive. That means that they wanted you

26

1 to have a user adjustable input in the model, and  
2 that's why they rejected it because it doesn't have  
3 that input?

4 A. No. To me, that they rejected it because  
5 they had felt that that assumption was so embedded  
6 within the study that you couldn't change it even if  
7 you wanted to. So by having a specific input, I want  
8 to make clear that that's not the case. So we could  
9 have done it in Colorado. All you had to do was put  
10 in a different finding on the traffic sensitivity and  
11 come up with a different conclusion, there was no  
12 reason to reject the entire study.

13 So by having that here and making it  
14 explicit to the Commission, we believe addresses some  
15 of the concerns in Colorado.

16 Q. Is your user adjustable input in Utah on a  
17 component-by-component basis?

18 A. Well, there's one for switches and there's  
19 one for cell sites.

20 Q. So there's two adjustments that could be  
21 made?

22 A. That's correct.

23 Q. Okay.

24 A. Which is -- you know, which in Qwest's  
25 case there's one. In the HAI model -- let me

26

1 clarify. In the HAI model which was used in the  
2 development of Qwest's rates there's one usage  
3 sensitive factor which is just for the switch.

4 Q. Okay. The Colorado Commission mentioned  
5 that it rejected Union's cost study because it  
6 assumes that the entire wireless network is  
7 traffic-sensitive. Aren't you assuming here that  
8 your entire network is traffic-sensitive?

9 A. Yes. But we put in a lot of evidence and  
10 Qwest and staff put in evidence too that you can come  
11 up with a different assumption. It doesn't have to  
12 be zero or 100 percent, it could be something in  
13 between. So by having it explicitly an input we  
14 wanted to make it clear to the Commission that that's  
15 a conclusion they could come up with.

16 Q. When you -- I'm sorry, go ahead.

17 A. In a TELRIC proceeding in HAI, you don't  
18 simply reject an entire study because a person's  
19 proposed input is rejected. There's thousands of  
20 inputs -- not thousands, there's a lot of inputs  
21 within HAI and those are individual points of dispute  
22 within a case. This threw out an individual point of  
23 dispute. It doesn't mean that the entire study has  
24 to be rejected if you find a different conclusion.

25 Q. And the third change you list between the  
26

1 Colorado study and the Utah study is that in Utah you  
2 have used a projected MOU factor?

3 A. Yes.

4 Q. For year 1, that drives the investment  
5 decision in year 1 rather than the 3 percent growth  
6 factor that was used in Colorado; is that right?

7 A. That's correct.

8 Q. The Colorado Commission did have a  
9 question about where the 3 percent factor came from,  
10 didn't they?

11 A. Yes.

12 Q. And they wanted to know whether it was  
13 based on expected increases in voice traffic, data  
14 traffic, usage by Union customers only, usage by  
15 Union customers and roaming customers, or usage by  
16 Qwest customers; is that right?

17 A. That's correct.

18 Q. In Utah, instead of that 3 percent factor  
19 in your revised study, you've projected a growth in  
20 MOU of 50 percent over the 14.5-year term of the  
21 study; is that right?

22 A. Yes.

23 Q. And what would that be compared to in the  
24 Colorado, if you had used that same? Would you have  
25 used a 50 percent factor in Colorado if you had

26

1 applied the same analysis?

2 A. Well, I can't answer that exactly. The  
3 assumption on what we did here in Utah was that if  
4 you were looking at the demand, the demand is  
5 expected to be 150 percent. You match up the costs  
6 of the cell site with it and you do it in year 1. In  
7 comparison to a similar assumption in Colorado, by  
8 having it in year 1, even though Union probably won't  
9 have all of the demand in year 1, what we've done is  
10 understated the costs in Utah compared to Colorado,  
11 that change in isolation.

12 Q. In Utah in this case, have you explained  
13 the basis for the 50 percent projection were  
14 attributed to customer type, as the Colorado  
15 Commission raised?

16 A. I believe so, yes.

17 Q. Can you tell us where you did that?

18 A. That was the -- what you just referred me  
19 to not too long ago, which would be page 3 of Exhibit  
20 15 to my Supplemental Surrebuttal.

21 Q. Okay. That shows, I believe, the --  
22 whatever year it is, and I don't think we have  
23 established yet what year it is, but that showed the  
24 actual minutes of use by customer type; is that  
25 right?

26

1 A. Right.

2 Q. But does it show how the 50 percent  
3 projection was arrived at based on changes in use  
4 among those individual customer types?

5 A. Can you refer me to the portion of the  
6 Colorado decision that I believe the question is  
7 based?

8 Q. Yes. I didn't write it down, but I can  
9 find it.

10 Your Honor, are we going to be taking a  
11 break soon?

12 THE COURT: I would be happy to take one  
13 now if you would like so you can find what you want.

14 MR. MONSON: Okay. Thank you.

15 THE COURT: Why don't we take a 10-minute  
16 break.

17 (Recess taken.)

18 THE COURT: Let's go back on the record.  
19 Mr. Monson?

20 Q. (BY MR. MONSON) When we broke you had a  
21 question about where in the Colorado Commission Order  
22 they talk about the MOUs, and let me refer you to  
23 paragraph 152 on page 48, and including Footnote 65.  
24 So you can review that if you want.

25 A. Okay.

26

1           Q.     And you can see there that they talk  
2     about, particularly in Footnote 65 they talk about  
3     the fact that they didn't know whether the increase  
4     was based on increased usage by which type of  
5     customer, including Qwest customers, right?

6           A.     That's correct.

7           Q.     And on your Exhibit 15, the page we were  
8     looking at, I think it was page 3, you have Union to  
9     Union, Union to Other, Other to Union and Roamer.  
10    You don't have a separate category for Qwest to  
11    Union. That would be included, I suppose, in Other  
12    to Union; is that right?

13          A.     I need a bigger desk. Yeah, that would be  
14    Other to Union.

15          Q.     Okay. And do you know if, say I'm a Qwest  
16    customer in Salt Lake City and I call a Union  
17    customer in Cheyenne, would that call be -- a  
18    wireless customer. Would that call be included in  
19    Other to Union here?

20          A.     I believe so.

21          Q.     And would the same thing apply to a Union  
22    customer in Casper or in Gillette or in other cities  
23    in Wyoming?

24          A.     Yeah. This is supposed to represent all  
25    the minutes of use that Union receives on a

26

1 terminating side. So that, to my knowledge, includes  
2 everything, including the scenarios you're talking  
3 about.

4 Q. Okay. So in paragraph 152 the Colorado  
5 Commission explained a concern it had about the MOUs  
6 and why you were projecting they were going to grow  
7 and how you were going to attribute that to various  
8 types of calls, but it didn't say that that was why  
9 it was rejecting your study, did it?

10 MR. ASAY: Object, Judge Goodwill, to the  
11 form of the question in that it misstates the Order,  
12 the Order speaks for itself, and ask the inquiring  
13 attorney to restate it.

14 MR. MONSON: Do you want me to rephrase?

15 THE COURT: Go ahead and rephrase your  
16 question.

17 Q. (BY MR. MONSON) Okay. Can you show me  
18 where the Colorado Commission said in its decision  
19 that it was rejecting your study because you hadn't  
20 provided projections -- you hadn't stated the basis  
21 for your projections based on customer type?

22 A. Yes. To me, that's where I get into my  
23 inference on what they mean by Part C on page 56  
24 where they talk about "Neither the study or Union  
25 provides critical detail and analysis required by the

26

1 law." And when I read that I thought, what exactly  
2 are they referring to? So that's when I went back  
3 through and I identified things when they talked  
4 about questions, open issues they had, and this to me  
5 is one of them. And I believe that the way that we  
6 did the minutes of use methodology here in Utah  
7 addresses most of these points.

8 Q. Did you explain in Utah how you had  
9 arrived at your 50 percent projection?

10 A. Well, I do in my Post Surrebuttal, I talk  
11 about how it's an estimate of demand and we used that  
12 to match up with the cost, but it is an estimate.  
13 And because we're using all minutes of use within the  
14 denominator, it doesn't really matter whether it's  
15 attributable to one source or another, we're matching  
16 total cost to total demand, not total demand to  
17 increase.

18 Q. And you haven't included any analysis of  
19 whether that increase is attributable to roamers or  
20 to Qwest or to Union's calls within its own system?

21 A. No. And as long as we keep that matching  
22 the same it shouldn't matter. Now, if we were trying  
23 to define a system just for Qwest traffic, you know,  
24 if Union were to simply build a cost study to account  
25 for traffic just from Qwest and we included minutes

26

1 of use just from Qwest, my position on that is that  
2 you would end up with the same rate as you would if  
3 you used the totals, the totals that would be used  
4 because the ratios would be the same. You would end  
5 up with the same cost. So as long as we did it the  
6 way that we did, it shouldn't matter.

7 Q. Okay. The fourth change you list between  
8 the Colorado study and the Utah study, and this is  
9 back in your Post Surrebuttal Testimony at line 630,  
10 is that you've used inputs for annual productivity  
11 offset, cost of equity, cost of debt, debt ratio, tax  
12 rate and depreciation lives that match those that the  
13 Commission used in determining Qwest's reciprocal  
14 compensation rate; is that right?

15 A. Yes.

16 Q. Now, I understand that you said that  
17 Exhibit 28 was not offered as Union's position in  
18 Colorado, but Exhibit 28 includes all those same  
19 assumptions; is that right?

20 A. Yeah. That was the "what if" analysis  
21 that included what Qwest proposed in Colorado for  
22 each of those inputs. And in Colorado we didn't  
23 include those in our proposed study, in Union's  
24 proposed study. In Utah we have.

25 Q. Okay. But you filed that in Colorado?

26

1           A.     That's correct.

2           Q.     And it was before the Commission when they  
3     made their decision; is that right?

4           A.     Yes.

5           Q.     Can you show me in the Commission's  
6     decision where it said it rejected your cost study  
7     because you didn't include those things in your  
8     recommendation?

9           A.     With the same caveat that I applied on the  
10    other ones, again, yeah, if you infer what the  
11    Commission means by their statement about  
12    insufficient evidence or cost analysis required with  
13    the law, critical detailed analysis required by the  
14    law. They mention the depreciation lives on page 45  
15    of the Order and they say that "We find that the  
16    record contains insufficient information upon which  
17    we can determine whether a 10-year depreciation life  
18    for a GSM switch is reasonable."

19                    So, again, we were proposing 10 years in  
20    Colorado, Qwest was proposing 17. And to me, I'm not  
21    sure if the Commission, I'm not sure if that's just  
22    one of the reasons why they rejected it, they claimed  
23    there was insufficient evidence. So here in Utah we  
24    just simply agreed to use what Qwest was proposing,  
25    which is 14.5.

26

1           Q.     And you agreed to do that before the  
2 Colorado Commission issued its decision?

3           A.     Yes. We agreed to do that in Utah before  
4 the Colorado decision came out.

5           Q.     The fifth change you list is the use of  
6 different expense assumptions to costs based on  
7 actual wireless expenses incurred by Union; is that  
8 right?

9           A.     Yes.

10          Q.     Can you show me in the Colorado decision  
11 where the Commission said it was rejecting your study  
12 based on the assumptions you used in that study?

13          A.     With the same caveat about this falls,  
14 again, under the critical detail and analysis  
15 required by the law, what they might have meant by  
16 that. They talk about insufficient data on cost  
17 allocation pursuant to 47 CFR, Parts 32, 36, and 64,  
18 they talk about that on page 50. So the way that we  
19 did it in Colorado was different.

20                   We changed the methodology here and we  
21 have specific sub accounts that we use for the  
22 expense allocation which I think tie exactly to how  
23 Union books the costs. So the way that we did it is  
24 more verifiable and more supportable perhaps than in  
25 Colorado.

26

1           Q.     With regard to this change, can you point  
2     me in your study in Colorado -- I'm sorry, your  
3     hypothetical study in Colorado and your study in Utah  
4     to where that number would be found, the difference  
5     in the expenses?

6           A.     On page 33 of the Colorado Exhibit 28, I  
7     have the radio system expenses listed.  Specifically  
8     the Colorado Commission's main concern is that we  
9     were somehow including regulated Union telephone  
10    costs within a cost study for the wireless operation  
11    which we weren't, and we're not in this proceeding  
12    either.  But page 28 -- I'm sorry, page 33 of Exhibit  
13    28 shows how we came up with the radio system  
14    expenses.  And you can see that those were based on  
15    booked values for Union, but perhaps the Commission  
16    felt it wasn't clearly delineated on whether it  
17    included regulated or not.  And then we also did the  
18    growth and the maintenance expenses, that would be on  
19    page 2.

20          Q.     So you're referring there to the inputs?

21          A.     Yes.  And then as far as in this  
22    proceeding, and can you look at Exhibit 15 for me?  
23    Yours doesn't have the page numbers and all the pages  
24    either, does it?

25          Q.     It doesn't.  It has 1 and 2 and then it  
26

1 doesn't have ones after that.

2 A. Okay. Starting I believe on about page 11  
3 of Union Exhibit 15 to my Supplemental Surrebuttal,  
4 it shows how those accounts -- or how the expenses  
5 were arrived at. It takes it down to a per cell site  
6 and then grows it based on the projected cell sites.  
7 But within there, anything with a sub account that  
8 starts with 3 or 8, which is the only thing that  
9 we've included in the model, was specifically Union's  
10 wireless expenses. And that's how I've explained in  
11 my testimony that it's clear that we haven't included  
12 anything other than the wireless operation here.

13 Q. Okay. If we look at the summary page,  
14 page 1 of both studies, you have a category there of  
15 Expenses, right?

16 A. That's correct.

17 Q. And it looks like in the Colorado study  
18 there's five subparts under that and in the Utah  
19 study there's four subparts; is that right?

20 A. That's correct.

21 Q. But would you agree with me that the  
22 amount, the total expenses let's just say for year 1,  
23 or we could look at the total for the whole study, I  
24 guess, either one, the total expenses in the Utah  
25 study are nearly three times more than in the

26

1 Colorado study; is that right?

2 A. Yeah, they are higher. Keeping in mind  
3 that there are more cell sites projected in this  
4 study than there were in the Colorado one.

5 Q. And so the effect of that would be, all  
6 other things being equal, would be to increase the  
7 asymmetric rate that Union is proposing in Utah; is  
8 that right?

9 A. Yeah. Individually, in isolation, if the  
10 expenses went up then the costs would go up. Again,  
11 there are more sites here in Utah, in the Utah study  
12 than the Colorado. So the impact wouldn't be as  
13 great as you just graded on a per cite basis.

14 Q. There's also more minutes of use, right,  
15 in Utah than in Colorado?

16 A. That's correct. Which means that the  
17 divisor, the dividing number kind of equalizes  
18 things.

19 Q. The sixth change you list in your Post  
20 Surrebuttal Testimony is that you used a different  
21 tax calculation consistent with that proposed by Mr.  
22 Copeland in Utah. You didn't use that in Colorado;  
23 is that right?

24 A. That's correct.

25 Q. And I'm sure you know what I'm going to  
26

1 ask you next. Can you show me in the Colorado  
2 decision where the Commission said that it was  
3 rejecting your study because it didn't use the tax  
4 calculations proposed by Mr. Copeland in Colorado?

5 A. Yeah, I don't know of an exact spot where  
6 that issue came up. The point on this one is the --  
7 you know, the question again is why should this  
8 Commission reach a different decision than the  
9 Colorado one, and simply this point here is related  
10 to the fact that we're agreeing to what Qwest  
11 proposed.

12 Q. And your late-filed exhibit in Colorado  
13 did include the same adjustment as you've made in  
14 Utah; is that right?

15 A. Yeah, I believe it did. I think it did.  
16 Without looking at these formulas I can't tell for  
17 sure, but I think that it did.

18 Q. And then the seventh change you list is  
19 that -- is different, but actual MOU calculations is  
20 broken down by type of MOU category; is that right?

21 A. Yes.

22 Q. Have we already talked about that?

23 A. It's the same -- it's the same basic  
24 principle about the minutes of use and the  
25 Commission's question about which minutes of use they

26

1 were. So it's the same basic issue that we talked  
2 about before.

3 Q. Okay. You already brought up paragraph  
4 174 of the Colorado decision. Could you please read  
5 that into the record?

6 MR. ASAY: I guess I would object to the  
7 question. It's been admitted as an exhibit. The  
8 witness has already put it in his testimony. I think  
9 it's duplicative and a waste of time.

10 THE COURT: We had marked it as Qwest  
11 Cross 3. We hadn't admitted it, but we do intend to  
12 take administrative notice of it. I will go ahead  
13 and let the witness read it, though.

14 THE WITNESS: "We find that Union  
15 Cellular's cost study is deficient in at least three  
16 areas: (a) it does not distinguish between voice and  
17 data services; (b) it seems, without analysis, that  
18 Union Cellular's entire wireless network is  
19 traffic-sensitive (that is, costs sensitive to  
20 increasing call traffic); and (c) neither the cost  
21 study nor Union Cellular provides critical detail and  
22 analysis required by law."

23 Q. (BY MR. MONSON) And as you were reading  
24 that, would you agree with me it says at the end of  
25 line 1, "in at least the following"?

26

1           A.     Yes.

2           Q.     I think you read it slightly differently  
3     than that. Your cost listed in Utah doesn't list any  
4     difference between cost and data services, does it?

5           A.     No, it does not because of the reasons  
6     stated by Mr. Jacobsen and myself that very small  
7     subset of the network is designed for voice  
8     primarily. That is just a small portion of it.

9           Q.     And the Colorado Commission said that they  
10    rejected your study because it assumes 100 percent of  
11    the wireless network is sensitive to increasing call  
12    traffic. Your study in Utah assumes the same thing,  
13    right?

14          A.     Again, with an input assumption, yes.

15          Q.     You also referred in your testimony to the  
16    fact that Union had filed a Petition for Rehearing,  
17    Reargument and Reconsideration in Colorado; is that  
18    right?

19          A.     That's correct.

20          Q.     I've handed you a document during the  
21    break. Is this the petition you're referring to?

22          A.     Yes, it is.

23                   MR. MONSON: Could we mark this as Qwest  
24    Cross 4, your Honor?

25                   THE COURT: Yes.

26

1                   MR. MONSON: That's all my questions. I  
2                   guess I want to offer Qwest Cross 1 through 4 or ask  
3                   you to take notice of them, anyway.

4                   THE COURT: We will take notice of Qwest  
5                   Cross 1, 2, and 3. Any objection to Qwest Cross 4?

6                   MR. ASAY: No objection.

7                   MS. SCHMID: No objection.

8                   THE COURT: Okay. We'll go ahead and take  
9                   notice of that one as well.

10                  MR. MONSON: Thank you.

11                  THE COURT: I'm sorry, Mr. Monson, did you  
12                  say that was all of your questions?

13                  MR. MONSON: Yes, that's all.

14                  THE COURT: Ms. Schmid?

15                  MS. SCHMID: Thank you.

16

17                                   CROSS-EXAMINATION

18                  BY MS. SCHMID:

19                  Q.       I have a few handfuls of questions, but  
20                  not nearly as many as Mr. Monson. Good morning, Mr.  
21                  Hendricks.

22                  A.       Good morning.

23                  Q.       Did the switch cost you used in your model  
24                  come from an existing cellular switch installed at  
25                  Mountain View, Wyoming?

26

1           A.     Yes.

2           Q.     Did the cell site costs you used in the  
3 model come from existing construction and equipment  
4 installation costs that are on the books of Union  
5 Cellular's accounts?

6           A.     I hate to do it, but can you repeat that?

7           Q.     That's okay. Did the cell site costs you  
8 used in the model come from existing construction and  
9 equipment installation costs that are on the books of  
10 Union Cellular's accounts?

11          A.     Yeah, that's correct. Those were recent  
12 costs that were for an efficient network that were  
13 recently completed.

14          Q.     Did you base the future costs for cell  
15 site expenditures on the same existing construction  
16 and equipment costs that are on the books of Union  
17 Cellular's accounts?

18          A.     Yes, I did. Despite of what I point out  
19 in my Post Surrebuttal, that the costs have actually  
20 increased in the last couple of years.

21          Q.     Were the expense costs you used based on  
22 the existing expense for cell site and switch  
23 maintenance that are on the books of Union Cellular's  
24 accounts?

25          A.     Yeah. They were based on those costs, but

26

1 the ratio and the way that they're utilized in the  
2 model is just simply that, it's a ratio. We looked  
3 at current expenses and then applied that kind of a  
4 ratio to the investment.

5 Q. Did you exclude equipment costs that  
6 provide other retail offerings, such as data  
7 services, from your switch costs?

8 A. No. We found those costs to be very  
9 minimal. Mr. Jacobsen references that the costs are  
10 minimal and the revenue is only about 1 percent of  
11 total revenue. So looking at that, we didn't  
12 specifically remove each of those because if we did  
13 the impact would be small.

14 Q. With regard to current demand, did you  
15 project the cell site costs out to 2008 from 2004?

16 A. The way that the -- I talk in my Post  
17 Surrebuttal that 325 is what it's expected to be in  
18 place by August of 2008. At the time that we did the  
19 study we did a reasonable projection for foreseeable  
20 demand, and that's the number we came up with.

21 Q. And when was the study done again?

22 A. The revised study that included the 325  
23 was performed in 2006.

24 Q. Okay. So it's based on numbers from 2006  
25 and then you project from 2006 to 2008?

26

1           A.     That's correct.

2           Q.     Did you include the effect of sharing cell  
3 site space and equipment space in the calculation of  
4 cell site cost in your model?

5           A.     No.  Again, for the same reasons that we  
6 didn't with data, it's very minimal.  And I wasn't  
7 sure whether the methodology that was used for Qwest  
8 included those same kind of costs as proposed by  
9 Qwest and by staff.  But the summation of those  
10 revenues is found in Exhibit 18 of my testimony.  And  
11 again, the impact of that, of making that change and  
12 including those revenues is very minimal.

13          Q.     So you didn't include them?

14          A.     I did not.

15          Q.     Was your transport rate calculation based  
16 on the interoffice facility costs, tandem and local  
17 switching costs, and signaling and network data costs  
18 that would be incurred in a hypothetical transport  
19 network?

20          A.     No.  It was a simplified approach because  
21 the expected costs were so minimal it didn't justify  
22 going into that kind of analysis.  But again, I talk  
23 about that in my Post Surrebuttal, the methodology  
24 used.

25          Q.     Switching to traffic-sensitive issues, are  
26

1 stand-alone cell towers non-traffic-sensitive?

2 A. You mean a tower that has absolutely  
3 nothing on it?

4 Q. Just one moment while I confer with my  
5 witness. I'm not terribly telephone fluent. Just by  
6 themselves.

7 A. Yeah. And --

8 MR. ASAY: Object. I know the witness  
9 believes he has an answer. I'm just a little  
10 concerned and would ask for this to be restated.  
11 It's confusing and I want to make sure the record is  
12 clear with respect to not only the question but the  
13 response. And so I object on the basis of confusing.

14 MS. SCHMID: I can restate the question in  
15 just one second.

16 THE COURT: Please do.

17 Q. (BY MS. SCHMID) Do you believe that cell  
18 towers are non-traffic-sensitive on their own if we  
19 just look at them in isolation?

20 MR. ASAY: Again, I object because it's  
21 unclear to me what we're talking about when you say  
22 on their own or in isolation. I just want to be  
23 clear that we know what we're addressing with respect  
24 to that. So I would object to that.

25 Q. (BY MS. SCHMID) Okay. Let's try it again

26

1 and see if I can make it more clear so we can get an  
2 answer. Do you believe that cell towers are  
3 non-traffic-sensitive?

4 A. The towers themselves, the definition of  
5 traffic-sensitive is contained in my testimony and I  
6 believe in Mr. Copeland's testimony. And actually,  
7 just so that we're clear, let me find that real  
8 quick. Okay. It's on page 9 of my Surrebuttal  
9 Testimony. It comes from the FCC's First Report and  
10 Order. And it's basically that the costs do not vary  
11 in proportion to the number of calls terminated over  
12 those facilities. So a tower, you can put presumably  
13 a number of radios on it and all kinds of traffic on  
14 it. So in isolation, the tower itself, the cost of  
15 the tower does not vary in proportion, but it's to me  
16 a support asset.

17 Q. So it's non-traffic-sensitive?

18 A. Well --

19 MR. ASAY: Objection.

20 THE WITNESS: -- to be clear, we've  
21 included it. I'm sorry, go ahead.

22 MR. ASAY: I just wanted the witness to be  
23 able to respond and answer this question.

24 THE COURT: Sure. Go ahead.

25 THE WITNESS: The tower is considered  
26

1 traffic-sensitive within our study because it is a  
2 support asset for a traffic-sensitive facility,  
3 similar to a switch building, switch power and so  
4 forth. Well, switch building, land, being  
5 non-traffic-sensitive is included in the switch cost.  
6 If it's a support structure for something that is  
7 traffic-sensitive then the facility is included in  
8 the traffic-sensitive rate. So by itself, if you  
9 just had a tower out there, no. But if the tower is  
10 used to hold radios which are traffic sensitive, then  
11 yes, it is.

12 Q. (BY MS. SCHMID) Okay. Are stand-alone  
13 cell site land and buildings non-traffic-sensitive?

14 A. For the exact same reasons I just  
15 mentioned, they are not on their own just sitting  
16 there, land is not -- land, and what was the other  
17 thing you mentioned? I'm sorry.

18 Q. Cell site land and buildings.

19 A. Yeah, land and buildings. If they  
20 are used to house something that is considered  
21 traffic--sensitive then they become  
22 traffic-sensitive.

23 Q. Are stand-alone cell site power supply and  
24 emergency engines non-traffic-sensitive?

25 A. Well, again, for the same reasons, that  
26

1 the power investment and so forth that was used for  
2 something that is traffic-sensitive makes it  
3 traffic-sensitive. My hesitation on that is whether  
4 or not power costs themselves, expenses, whether you  
5 have higher power expenses with more traffic. You  
6 know, if you run more stuff through does your power  
7 expense go up? That I don't know. That's probably a  
8 question better addressed to Mr. Jacobsen. But it's  
9 included for the same reasons as land, buildings,  
10 et cetera, it's a support asset for something that is  
11 traffic-sensitive.

12 Q. Many things are affected by minutes of  
13 use, but does land increase as the minutes of use  
14 increases?

15 A. No. It's the same thing, though, we're  
16 trying to get something that's comparable to what was  
17 done for Qwest. Qwest was allowed to use those in  
18 the rates because they support a switch and we're  
19 doing the same thing here. So you can't look at land  
20 like that in the TELRIC study, it's what is the land  
21 used for. And if it's used for traffic-sensitive  
22 purposes you include the cost.

23 Q. Turning to your Post Surrebuttal Testimony  
24 that you filed around October 26 of this year, do you  
25 refer to cell site towers, land and building and

26

1 power as non-traffic-sensitive support assets?

2 A. Do you have a page number for me?

3 Q. Just one moment. While we're checking on  
4 that maybe we can come back to it and I can just -- I  
5 have two final questions ideally. Do you multiply  
6 minutes of use by present value factors in your cost  
7 model calculations?

8 A. Yes.

9 Q. I'm sorry?

10 A. Yes.

11 Q. Has Union Cellular's cost model to  
12 develop, transport and termination costs been adopted  
13 by other Commissions?

14 A. No. But this present value methodology  
15 that I've used, I've used in other states with  
16 respect to L&P costs -- L&P costs is local number and  
17 portability -- where we use similar kinds of  
18 methodology to support our estimates that the L&P  
19 costs would be so substantial that a carrier should  
20 receive a waiver from the L&P requirements.

21 So we did this kind of calculation, me,  
22 did this kind of calculation in other states. So  
23 with respect to your minutes of use question, that  
24 has been approved in other states. The Union cost  
25 study itself has not been approved in other states.

26

1 It's only ever been ruled upon by one other state,  
2 and that's Colorado, and we talked about that  
3 earlier.

4 Q. And Colorado rejected it?

5 A. Yes. Of course, we've changed the study  
6 since then.

7 Q. Coming back to the question I was asking  
8 before concerning your Post Surrebuttal Testimony  
9 filed October 26, 2007, the question was, "Did you  
10 refer to cell site towers, land and building and  
11 power as non-traffic-sensitive support assets?" And  
12 the line references are lines 118 through 121,  
13 approximately, of your Post Surrebuttal Testimony on  
14 that date.

15 So the question again is, do you refer to  
16 cell site towers, land and building and power as  
17 non-traffic-sensitive support assets?

18 A. Yeah. The tower one isn't in there, but I  
19 refer to it I believe in another portion of my  
20 testimony as falling under that same category.

21 MS. SCHMID: Thank you very much. Those  
22 are all my questions.

23 THE COURT: Mr. Asay, Redirect?

24 MR. ASAY: Yes.

25 /

26

1 REDIRECT EXAMINATION

2 BY MR. ASAY:

3 Q. Mr. Hendricks, just starting where we left  
4 off to make sure we address that with respect to your  
5 Post Surrebuttal Testimony as referenced by Ms.  
6 Schmid, particularly with respect to the reference to  
7 lines 119 and 120 and that area, what is your point  
8 with respect to the non-traffic-sensitive nature of  
9 these assets or traffic-sensitive? How do they  
10 relate and what are you trying to put across with  
11 respect to that?

12 A. Two things. Well, at least two things.  
13 We have put forward a study that I believe, at least  
14 on this specific issue and on all of the issues, is  
15 consistent with TELRIC principles and the principles  
16 in HAI. And what I'm trying to do here is respond to  
17 what staff has said. Staff witness Mr. Anderson,  
18 first states that the cost study should be consistent  
19 with HAI principles. But within HAI they allow these  
20 kind of things, land, buildings, poles, manholes,  
21 these things that the costs do not vary in proportion  
22 to the traffic. They allow those kind of things to  
23 be included in the permanent rate.

24 So what I'm trying to do here is, one,  
25 make sure our approach is consistent with TELRIC;

26

1 two, it's consistent with HAI; and three, that it's  
2 consistent with the development -- because of those  
3 things it's consistent with the development of  
4 Qwest's reciprocal compensation rates, and we should  
5 not be held to a higher standard than Qwest. If  
6 they're allowed to include those kinds of things, we  
7 should too.

8 Q. At the outset of Mr. Monson's questioning  
9 there was a reference to what you identified as the  
10 Sprint proceeding and the Order that came out of  
11 that. Where in that particular Order -- or in what  
12 part of that Order do you rely upon to establish what  
13 you consider to be the FCC's standard in addressing  
14 traffic versus non-traffic sensitive costs?

15 A. I cite to that on page 10 and 11 of my  
16 Surrebuttal Testimony of November 7 of 2005 and the  
17 particular provision within there. The FCC cite is,  
18 "If a CMRS carrier can demonstrate that the costs  
19 associated with spectrum, cell sites, backhaul links,  
20 base station controllers and mobile switching centers  
21 vary, to some degree, with the level of traffic that  
22 is carried on the wireless network, a CMRS carrier  
23 can submit a cost study to justify its claim to  
24 asymmetric reciprocal compensation that includes  
25 additional traffic sensitive costs associated with  
26

1 those network elements."

2 So between that and the general -- and  
3 other provisions within the Order and the general  
4 TELRIC rules, we've made that demonstration through  
5 my testimony, through Mr. Hinman's testimony, through  
6 Mr. Jacobsen's testimony, that the costs do vary with  
7 level of traffic. And I don't know about in response  
8 to what we were just talking about, but the support  
9 assets for those assets are appropriately included.

10 Q. Now, in making that statement and in  
11 providing your testimony here today there's been much  
12 reference to the Colorado Order, for instance. Have  
13 you had occasion to develop other cost studies in the  
14 past, particularly TELRIC cost studies?

15 A. I have.

16 Q. And have they been approved by the  
17 Commission?

18 A. Yes.

19 Q. And is your approach here that you take  
20 consistent with what you've had approved elsewhere?

21 A. Yeah. They're following the same general  
22 TELRIC principles, yes, they have been.

23 MR. ASAY: May I approach the witness?

24 THE COURT: Yes.

25 Q. (BY MR. ASAY) I believe there were some  
26

1 questions that Mr. Monson asked you with respect to a  
2 fill factor and I think there was a reference to a 90  
3 percent fill factor in the Qwest proceeding. Do you  
4 remember that line of questioning?

5 A. I do.

6 Q. I would represent to you that I have  
7 presented to you the Order of the Utah Commission in  
8 that case. Would you verify that that's, in fact,  
9 what you're reading from?

10 A. It is.

11 Q. Can you read the provision that relates to  
12 the 90 percent fill factor?

13 A. Yes. "We also note that Qwest has to  
14 serve the current demand, and in some isolated areas  
15 of its Utah territory, such high levels of fill  
16 simply are not attainable. We direct the Commission  
17 to adopt a 90 percent switching fill factor level."

18 Q. Is a 90 percent fill factor, according to  
19 your opinion with respect to that Order, appropriate  
20 for the rural areas?

21 A. Well, when I read the entire paragraph,  
22 what the Commission is saying here is that there are  
23 currently, in the sentence previous to the one that I  
24 just read, actually I read two sentences, the  
25 sentence previous to the first sentence I just read,

26

1 it talks about how Qwest currently operates some  
2 switches in Utah at fill levels approaching 98  
3 percent. So Qwest, the way I understand their  
4 service territory, has large urban areas that have a  
5 98 percent fill and then they have sparse rural  
6 areas. But the majority of their lines, the largest  
7 proportion, is in the urban areas.

8 So the way I understand what the  
9 Commission did here is that they took some kind of  
10 weighted average. So you have 98 percent for the  
11 large majority of the population compared to some  
12 smaller utilization for a smaller portion of the  
13 population. A weighted average on that would be  
14 where they came up with the 90 percent.

15 For Union, Union doesn't have those large  
16 kind of metropolitan areas in total, in the same  
17 proportion that Qwest does. So whenever Union serves  
18 a very rural area with low fill factors, it doesn't  
19 have anything to offset those to the extent that  
20 Qwest does. So the answer to your question is no, I  
21 don't think the 90 percent would be reasonable given  
22 the types of geography and demographics that Union  
23 serves.

24 Q. How, then, if you look at the modeling  
25 that you're attempting to accomplish, an efficient  
26

1 network, if you will, who do you recover from for  
2 providing the services in the rural areas?

3 A. Are the costs recovered from customers in  
4 the rural area?

5 Q. Yes. How?

6 A. Well, through provision of monthly retail  
7 rates, any roaming rates that you receive, and then  
8 in this case from other entities who terminate  
9 traffic on Union's network.

10 Q. And with respect to roaming rates, do  
11 roaming customers contact Qwest customers?

12 A. No. I'm sorry, can you repeat the  
13 question?

14 Q. Yes. Do roaming customers, those who are  
15 roaming, contact Qwest customers?

16 A. Do you mean when a customer is roaming, do  
17 they end up calling Qwest as part of the roaming?

18 Q. Yes.

19 A. With that clarification, the answer is  
20 yes.

21 THE COURT: Let me just break in a minute.  
22 Mr. Hendricks, I just want to be clear for the  
23 record. A moment ago at Mr. Asay's request you read  
24 from an Order. Would you just go ahead, and I don't  
25 know if you've got the entire copy there, but just

26

1 cite by Docket Number or Date Issued, so forth, what  
2 you read from?

3 THE WITNESS: Sure. It's Docket Number  
4 01-049-85. It's a Report and Order issued May 5,  
5 2003.

6 THE COURT: That's by the Utah Commission,  
7 correct?

8 THE WITNESS: That is correct.

9 THE COURT: Thank you.

10 Sorry, Mr. Asay. Go ahead.

11 MR. ASAY: Mr. Goodwill, do we need to  
12 enter that into the record?

13 THE COURT: I can certainly mark it. You  
14 know, it's the Commission's own order, we can take  
15 administrative notice of it. It's a matter of public  
16 record. We can go ahead and mark it. We just need  
17 to make sure we have a copy for the court reporter.

18 MR. ASAY: And I'm perfectly happy with  
19 the status of the record.

20 THE COURT: That's fine. We can leave it  
21 that way.

22 MR. ASAY: And I believe that's all I  
23 have, Judge Goodwill. Thank you.

24 THE COURT: Mr. Monson, any recross?

25 MR. MONSON: Just one question based on  
26

1 the interpretation of this Order.

2 RE-CROSS-EXAMINATION

3 BY MR. MONSON:

4 Q. Mr. Hendricks, were you an expert witness  
5 in this proceeding?

6 A. No.

7 Q. And so your assumptions about what the  
8 Commission did with regard to a weighted average is  
9 simply based on reading the language on this page; is  
10 that correct?

11 A. That's correct.

12 Q. And you don't know for a fact whether or  
13 not Qwest was attaining a 90 percent fill factor on  
14 a weighted average of its switches in Utah, do you?

15 A. Well, it says that "The 90 percent fill  
16 level balances the competing facts that much higher  
17 fill levels in some switches are possible...but due  
18 to the location and dispersion of customers, lower  
19 fill levels will be required in some switches."

20 So whether they actually did a specific  
21 calculation and came up with 90 percent, I don't  
22 know. But reading this language, it appears that  
23 they did that kind of analysis. They've looked at  
24 here's higher, here's lower, we're going to come up  
25 with 90 percent, we think that's a balance.

26

1           Q.     Do you know whether or not Qwest achieves  
2     that level of fill factor on its switches in Utah?

3           A.     I don't know.

4           MR. MONSON:   Thank you.

5           THE COURT:   Ms. Schmid?

6           MS. SCHMID:   No, no recross.

7           THE COURT:   Anything further of this  
8     witness?

9           MR. ASAY:     Judge Goodwill, I do not have  
10    anything further.

11          THE COURT:   Okay.   Thank you, Mr.  
12    Hendricks.   Do we want to move on to the next  
13    witness?   I know we just took a break a short while  
14    ago, or we could take our lunch break now, whatever  
15    makes most sense.

16                       (Off the record.)

17          THE COURT:   Back on the record.   We had a  
18    brief discussion off the record about scheduling and  
19    the next witness.   We'll go ahead and take our lunch  
20    break now and return at 1:30.

21                       (Noon recess from 12:12 to 1:34 p.m.)

22                               --ooOoo--

23          THE COURT:   All right.   Let's go back on  
24    the record.   Before we broke, Mr. Asay, I believe you  
25    were about to call your next witness.

26

1                   MR. ASAY: I would call Mr. James Woody to  
2 the witness stand.

3                   THE COURT: Mr. Woody, please stand and  
4 raise your right hand. Do you solemnly swear the  
5 testimony you're about to provide will be the truth,  
6 the whole truth and nothing but the truth, so help  
7 you God?

8                   MR. WOODY: I do.

9                   THE COURT: Thanks. Please be seated.

10

11                                 JAMES HOWARD WOODY,  
12 called as a witness, was examined and  
13 testified as follows:

14

15                   THE COURT: Mr. Asay?

16                   MR. ASAY: Thanks.

17

18                                 DIRECT EXAMINATION

19 BY MR. ASAY:

20                   Q.     Would you state your name for the record?

21                   A.     James Howard Woody.

22                   Q.     And, Mr. Woody, by whom are you employed?

23                   A.     Union Telephone Company.

24                   Q.     What is your position with Union Telephone  
25 Company?

26

1           A.     I'm a member of the management team. I  
2     guess that's probably the primary position I serve.  
3     I also serve as Treasurer, a number of odds and ends.

4           Q.     And why are you testifying here today?

5           A.     To explain Union's basic position with  
6     respect to asymmetrical rates.

7           Q.     And as part of that position, are you  
8     sponsoring certain testimony and exhibits, including  
9     testimony, Direct Testimony that was presented on  
10    October 4, '05, and I have marked as Union testimony  
11    3.0, which would have four attachments to it which  
12    have been marked as 3.1, 3.2, 3.3, 3.4, which line up  
13    with initially Exhibits 1 through 4 for Union  
14    Telephone.

15                    In addition, have you presented testimony  
16    which would be Rebuttal Testimony marked as 2R --

17           A.     3R.

18           Q.     Oh, 3R and attachments, which would be  
19    attachments 3R.1 through 3R.5 which correspond to  
20    Exhibits 5A through 5E as originally filed; and  
21    finally certain Post Surrebuttal Testimony which has  
22    been marked as PSR which would be 3PSR.

23                    Does that incorporate the testimony and  
24    exhibits that you have provided?

25           A.     Yes, it does.

26

1 Q. And were these testimony and exhibits  
2 prepared by you or under your direction and are they  
3 true and correct, to the best of your knowledge and  
4 belief?

5 A. Yes, they are.

6 Q. Do you have any supplements or corrections  
7 that need to be made to the testimony?

8 A. No, I do not.

9 MR. ASAY: With that, Mr. Goodwill, I  
10 would offer those testimonies and exhibits into the  
11 record.

12 THE COURT: Any objection to their  
13 admission?

14 MR. DETHLEFS: No objection, your Honor.

15 MS. SCHMID: No objection.

16 THE COURT: All right. We'll admit them  
17 as marked.

18 Q. (BY MR. ASAY) Do you have a short summary  
19 you would like to offer?

20 MS. SCHMID: Pardon me. Could Mr. Woody  
21 check that his microphone is on?

22 THE WITNESS: I think the light is on. Is  
23 that better?

24 MS. SCHMID: That's better. Thank you.

25 THE WITNESS: Yes, I do.

26

1                   Union Telephone Company is a small rural  
2 carrier that provides both land line and wireless  
3 services in the rural areas of Wyoming, Utah, and in  
4 Colorado. We have approximately 7,000 land line  
5 customers and roughly ten times that -- roughly  
6 40,000 wireless customers.

7                   Because we serve the rural areas of  
8 Wyoming, we have much higher costs than an urban  
9 carrier like Qwest and, therefore, a need for an  
10 asymmetrical rate, a rate that is more reflective of  
11 the costs that we incur when a carrier such as Qwest  
12 dumps traffic on our system and causes additional  
13 costs for us.

14                   One of the issues that was brought up in  
15 the Rebuttal Testimony was the issue of access.  
16 Union initially sought access charges as a means of  
17 compensation for this interconnected traffic.  
18 However, with the T-Mobile decision that occurred, I  
19 believe it was in February of 2005, the FCC stated  
20 basically that wireless companies could not use  
21 access tariffs as a means of collecting the necessary  
22 rates for their traffic.

23                   There is, however, an exception, and that  
24 deals with the issue of interMTA traffic, where  
25 basically the FCC has set up areas that they have  
26

1 classified as metropolitan transport areas. They're  
2 rather large areas, but in our case some of the  
3 boundaries run right through the middle of our  
4 territory because, again, as a rural carrier they put  
5 the lines out in the rural areas to separate the  
6 pieces. So we serve partly the Denver MTA, the Salt  
7 Lake MTA, the Billings MTA, and I think there's  
8 probably another MTA in there.

9           And the traffic that flows between those  
10 areas, for instance, a call, say, from Rock Springs,  
11 Wyoming, to Dutch John, Utah would be an interMTA  
12 call because Dutch John is in the Salt Lake MTA and  
13 Rock Springs is in the Denver MTA. And the FCC has  
14 said that access charges is the appropriate thing to  
15 charge between those areas.

16           And in that respect, Union respectfully  
17 requests to be able to charge Qwest when they send  
18 traffic to us that's in the interMTA nature, the  
19 ability to charge them an access charge as opposed to  
20 the interconnection charge.

21           In addition to that, in the Post  
22 Surrebuttal Testimony, basically I disagree with the  
23 conclusion that our wireless network is not 100  
24 percent traffic-sensitive. Basically it is  
25 traffic-sensitive in that additional call volumes

26

1 cause every element within our network to be added to  
2 or changed from the antennas at the cell site clear  
3 back to the cards within the switch. As traffic  
4 expands on the network and you have to add more  
5 radios to a cell site, you also have to add more  
6 antennas because, guess what? You can only hook so  
7 many radios to an antenna before you end up with  
8 losses that are unacceptable in the transmission.

9 At the same time that drives size and  
10 number of towers because, guess what? You can only  
11 put so many antennas on a tower before you have to  
12 build another tower alongside or build a larger  
13 tower. And that goes clear through to the buildings,  
14 which you can only put so many radios within a  
15 building, you can only put so many buildings on the  
16 land. So basically the whole network is traffic  
17 sensitive.

18 I think that concludes my summary.

19 MR. ASAY: Thank you.

20 We make the witness available for  
21 cross-examination.

22 THE COURT: Mr. Dethlefs?

23

24 CROSS-EXAMINATION

25 BY MR. DETHLEFS:

26

1 Q. Good afternoon, Mr. Woody.

2 A. Good afternoon.

3 Q. I would like to start kind of where you  
4 left off and talk about what you referred to as  
5 metropolitan transport areas.

6 Your Honor, may I approach the witness?  
7 I have an exhibit that would be very helpful for this  
8 discussion.

9 THE COURT: Sure.

10 MR. DETHLEFS: I might as well at this  
11 time, if I may hand out two more exhibits relating to  
12 this, it would also be helpful.

13 THE COURT: All right.

14 MR. DETHLEFS: Your Honor, so we have the  
15 record clear, can we mark the document that has the  
16 51 major trading areas as Qwest's Cross Exhibit 5?

17 THE COURT: All right.

18 MR. DETHLEFS: And then the two GSM home  
19 coverage maps, I'll represent I took from Union's  
20 website. The first one has actually the website on  
21 it, and the second one is actually the blowup of the  
22 picture that's in the smaller space on the first. So  
23 if we could mark the document that has the website  
24 reference on it Qwest Cross Exhibit 6 and then the  
25 blowup of the map within that as Qwest Cross

26

1 Exhibit 7.

2 THE COURT: All right. We'll mark them as  
3 such.

4 Q. (BY MR. DETHLEFS) Mr. Woody, let's talk  
5 for a minute about the Major Trading Area map. First  
6 of all, does the name "Major Trading Area" sound  
7 correct to you? I believe you said metropolitan  
8 transport area.

9 A. I think the basic area has been defined as  
10 both, as a major trading area, which represents what  
11 Rand McNally calls it in terms of how they build the  
12 maps. In terms of the transport, in terms of whether  
13 it's local or not, it's been referred to as a  
14 metropolitan transit area. So I think both are  
15 correct and for discussion here I'll accept MTA as  
16 a --

17 Q. If it's all right, we'll refer to as MTA  
18 so we don't have to worry about what it's called.  
19 Have you seen what we've marked as Cross Exhibit 5  
20 before?

21 A. You're referring to the MTA map?

22 Q. The MTA map, yes.

23 A. Yes.

24 Q. And on this map it's correct, isn't it,  
25 that the MTA boundaries are marked in blue?

26

1 A. That's correct.

2 Q. And the state boundaries are marked in  
3 red, right?

4 A. That's also correct.

5 Q. And just looking at this map and the  
6 boundaries, it's true, isn't it, that Salt Lake City  
7 is in MTA 36?

8 A. That is correct.

9 Q. And most of Wyoming and Colorado are in  
10 MTA 22?

11 A. That's also correct.

12 Q. Now, Union Cellular service, it offers it  
13 in the states of Colorado, Wyoming and Utah. And  
14 does it also offer it in Idaho?

15 A. Yes, we have some service in Idaho.

16 Q. And it's true, isn't it, that the bulk of  
17 Union Cellular's customers are located in Wyoming;  
18 isn't that true?

19 A. That's also true.

20 Q. Could you give me a breakdown of, say, how  
21 many customers, how many wireless subscribers you  
22 have in Wyoming versus Colorado versus Utah today?

23 A. I really can't off the top of my head.

24 Q. Would it be fair to say that the number of  
25 subscribers that are based out of Wyoming is

26

1 two-thirds of the number?

2 A. I'm not sure it's that high, although it's  
3 relatively close. I just off of the top of my head  
4 can't really tell you what the number is.

5 Q. All right. Let's look at what we've  
6 marked as Cross Exhibit Number 6. This is, in fact,  
7 a coverage map that Union has on its website; isn't  
8 that true?

9 A. That's right.

10 Q. And I'll represent that the only  
11 difference between Cross-Examination Exhibit 6 and  
12 Cross-Examination Number 7 is that I printed up  
13 Cross-Examination Number 7 without the website  
14 reference so that the map was a little bit larger.  
15 But it also looks right to you, doesn't it?

16 A. It does. Although the age of it is such  
17 that there's a lot of green and yellow area that  
18 actually exists that doesn't show on this map.

19 Q. Okay. So do you recall when this map was  
20 first put on the website?

21 A. I don't. I don't know what the age of  
22 this map is.

23 Q. Is it within the last five years?

24 A. Yeah, at least.

25 Q. Because you didn't start offering GSM  
26

1       until within the last five years; isn't that correct?

2             A.       That's correct.

3             Q.       And there's, in the bottom right-hand  
4       corner, there's it looks like a date reference and  
5       you can see it on Cross-Examination Exhibit Number 7,  
6       9/6. Does that sound like a correct date for the  
7       map?

8             A.       It's entirely possible that's the date of  
9       the map, although it could be a date of something  
10       else. I just don't know the age of the map.

11            Q.       Now, based on this map, am I correct that  
12       Union offers cellular service in Cheyenne, Wyoming?

13            A.       That is correct.

14            Q.       And in Casper, Wyoming?

15            A.       That's also correct.

16            Q.       And in Gillette, Wyoming?

17            A.       Yes.

18            Q.       And in Laramie, Wyoming?

19            A.       Yes.

20            Q.       And in Steamboat Springs, Colorado?

21            A.       Yes.

22            Q.       How about Douglas, Wyoming?

23            A.       We do there as well.

24            Q.       Are those the largest cities within  
25       Union's cellular coverage area or are there other  
26

1 areas that are equivalent size or bigger?

2 A. Those probably represent most of the  
3 larger towns. I wouldn't really characterize any of  
4 them as cities. You know, Steamboat Springs is not a  
5 real big place. It's maybe a couple of thousand  
6 regular residents and Casper is only about 50,000. I  
7 believe that's about the largest of the group.

8 Q. Okay. Now, if we look at Qwest Cross  
9 Exhibit 5, the MTA map, I want to go through a few  
10 hypotheticals. Let's say a Qwest customer in Salt  
11 Lake City called a Union Cellular customer located in  
12 Cheyenne.

13 A. Uh-huh (affirmative).

14 Q. That would be an interMTA?

15 A. That's correct.

16 Q. I-N-T-E-R?

17 A. Inter.

18 Q. And the same would be true of a call from  
19 a Qwest customer in Salt Lake City to a Union  
20 Cellular subscriber in Casper, Wyoming, correct?

21 A. That's also an interMTA call.

22 Q. And the same would be true for a call  
23 from a Qwest customer in Salt Lake City to either a  
24 Gillette customer of Union Cellular, a Douglas  
25 customer of Union Cellular, a Laramie, Wyoming

26

1 customer of Union Cellular, or a Steamboat Springs  
2 customer of Union Cellular, correct?

3 A. Yes. If it originates in the Salt Lake  
4 MTA and terminates in Denver, it would be an interMTA  
5 call.

6 Q. And then looking at the intraMTA calls,  
7 let's take an example of a call from a Qwest customer  
8 in Salt Lake City to a Union Cellular customer in  
9 Vernal, Utah.

10 A. That would be an intra.

11 Q. IntraMTA. Now, it's your understanding,  
12 isn't it, that under the FCC's rules that intraMTA  
13 calls are the calls that are subject to reciprocal  
14 compensation, correct?

15 A. That's correct.

16 Q. And so interMTA calls are not calls that  
17 are subject to reciprocal compensation?

18 A. No, they're subject to access.

19 Q. And so in this proceeding when we're  
20 talking about creating an asymmetric rate, we're  
21 talking about creating an asymmetric rate for  
22 reciprocal compensation, correct?

23 A. We're talking about both. Both issues  
24 were brought up in this case.

25 Q. Well, in terms of the rate that you're  
26

1 asking the Commission to set --

2 A. In terms of the study that Mr. Hendricks  
3 did, that generates the asymmetrical rate for the  
4 intraMTA calls.

5 Q. That was my question. Thank you.

6 Now, one of the service -- now, there are  
7 a group of services that Union Cellular offers with  
8 its GSM switch that are data services, correct?

9 A. Yes, there are.

10 Q. So, for example, you have Text (SMS) and  
11 Multimedia (MMS) Messaging, correct?

12 A. Yes, that's correct.

13 MR. DETHLEFS: Your Honor, may I approach  
14 the witness again? I have another --

15 THE COURT: Yes.

16 MR. DETHLEFS: Your Honor, if we could  
17 mark this page I've just handed out as Qwest Cross  
18 Exhibit Number 7, or excuse me, number 8?

19 THE COURT: We'll mark it as 8.

20 Q. (BY MR. DETHLEFS) Okay. Mr. Woody, I  
21 took this from the Union website. Does this look  
22 familiar?

23 A. Yes, it does.

24 Q. And this is, in fact, from Union  
25 Cellular's website?

26

1 A. It appears to be.

2 Q. And the services down along the left-hand  
3 side of the page, Text (SMS) Multimedia (MMS)  
4 Messaging, Mobile Web, bundles of those services and  
5 Downloadable Services, those are all services that  
6 Union Cellular offers using its GSM switch, correct?

7 A. That's correct.

8 Q. And these services, whether they're  
9 actually ordered by Union Cellular customers are, in  
10 fact, available to all Union Cellular customers,  
11 correct?

12 A. Yeah, they're available.

13 Q. And the prices on this sheet, are those  
14 the current prices for those services?

15 A. I believe so, but I'd have to check to be  
16 certain.

17 Q. Would you accept subject to check that  
18 they are the prices?

19 A. Yes.

20 Q. Now, I believe Mr. Jacobsen testified, and  
21 Mr. Hendricks as well, that Union today currently  
22 only gets a small percentage of its revenue from data  
23 services; is that correct?

24 A. That is correct.

25 Q. Now, one of the reasons for going to GSM

26

1 was to have a greater data capability, right?

2 A. Well, that and also the spectral density  
3 of the radios allows more calls than under the older  
4 technology, such as TDMA.

5 Q. Now, would it be fair to say that these  
6 data services are not highly subscribed?

7 A. At this point, no.

8 Q. A very small percentage of use?

9 A. A very small percentage.

10 Q. And that's the reason why the revenues are  
11 low is because very few customers actually subscribe  
12 to them?

13 A. Yes, that's true.

14 Q. Now, I believe you've testified in a  
15 number of places in your testimony, including your  
16 summaries today, that Union offers, Union Cellular  
17 offers services primarily in rural areas, correct?

18 A. That is correct.

19 Q. And it's true, isn't it, that Union  
20 Cellular receives Universal Service revenues from the  
21 Universal Service Fund; isn't that correct?

22 A. That's true.

23 Q. And in fact, it's currently running at  
24 about 8 or \$9 million a year?

25 A. That would be close. But again, I would  
26

1 have to check to know what the exact number is.

2 Q. Now, I believe, are you the person who  
3 submits reports to the Universal Service Fund  
4 Administrator?

5 A. No, I am not.

6 Q. Is it done by somebody under your  
7 supervision?

8 A. Yes.

9 Q. Let me show you -- if I may approach the  
10 witness again, your Honor.

11 THE COURT: Yes.

12 MR. DETHLEFS: Your Honor, this is a page  
13 that we have taken from the USAC website. USAC I  
14 believe stands for, just a second, USAC, Universal  
15 Service Administrator Company. And if we could mark  
16 this as Qwest Cross Exhibit Number 9.

17 THE COURT: We'll mark it as such.

18 Q. (BY MR DETHLEFS) Mr. Woody, have you ever  
19 accessed the Universal Service Administrator's  
20 website to check to see how much --

21 A. No. I usually just look at paper reports.

22 Q. That they submit to you?

23 A. Yes.

24 Q. Now, if you look at the bottom right-hand  
25 corner there's three references for Union Telephone

26

1 Cellular?

2 A. Uh-huh (affirmative).

3 Q. In the far right-hand column it says,  
4 "Total High Cost Quarterly" and it's got about  
5 \$440,000 for the first Union Cellular line, the  
6 second Union Cellular line has \$1.781 million, and  
7 then finally at the bottom it's got \$3,700. Do you  
8 see those references?

9 A. I do.

10 Q. Does that refresh your recollection as to  
11 about how much revenue Union is currently receiving  
12 from the Universal Service Fund?

13 A. Yes, it did.

14 Q. And 8 or \$9 million is an accurate number  
15 on an annual basis?

16 A. It would be in that range.

17 Q. About how much revenue does Union Cellular  
18 receive in roaming charges?

19 A. Oh, roughly a million dollars a month.

20 Q. Did I hear that right, a million dollars a  
21 month?

22 A. Uh-huh (affirmative).

23 Q. If you could turn to your Direct  
24 Testimony, I would like to go through a few of the  
25 statements that you make in your testimony. There's  
26

1 a number of statements that seem to me to pertain to  
2 Wyoming, and that's why I'm asking you about them. I  
3 was just trying to get some clarification.

4 On I believe it's -- do you have -- give  
5 me a second to find the reference. Yes, it's on page  
6 6 of your testimony, you discuss Union purchasing the  
7 assets of Pyxis Communications. Do you see that?

8 A. Pyxis Communications.

9 Q. Now, Pyxis had operations in Wyoming,  
10 correct?

11 A. That's correct.

12 Q. And so Pyxis, your testimony about Pyxis  
13 doesn't relate to Utah, it relates to Wyoming,  
14 correct?

15 A. It relates to Utah in that when in  
16 approximately the same time that we acquired the  
17 licenses from Pyxis, we also acquired some licenses  
18 here in Utah from AWS, most particularly in the  
19 Roosevelt/Duchesne areas. And the same thing  
20 occurred here in Utah that occurred in Wyoming and in  
21 Colorado, Qwest blocked the traffic to the NXXs  
22 assigned to Union. So it does relate.

23 Q. It does relate to Union. Pyxis has had  
24 operations in Utah?

25 A. No. Pyxis had -- was operations in  
26

1 Wyoming, the licenses we acquired in the eastern part  
2 of the state of Wyoming.

3 Q. At some point in your testimony, and I'm  
4 not going to try to track down the reference, there's  
5 a reference to Kemmerer Hill. Do you recall that  
6 reference?

7 A. I don't recall, but there is a Kemmerer  
8 Hill.

9 Q. And that's located in Wyoming as well,  
10 correct?

11 A. That is correct.

12 Q. Now, if you could turn for a moment to  
13 your Post Surrebuttal Testimony.

14 A. Sure.

15 Q. On the first page at the very bottom, the  
16 last sentence that starts on the page, you say,  
17 "Union has expended a great amount of expense and  
18 time in building a rural network for its service  
19 areas in Utah, Wyoming and Colorado."

20 And then a few lines below that you say,  
21 "I believe that Union's efforts in extending  
22 facilities to rural areas in Utah are consistent with  
23 the policy of this state."

24 Is the policy of this state that you're  
25 referring to encouraging the deployment of  
26

1 telecommunications in underserved areas?

2 A. I believe it's the policy to provide  
3 ubiquitous services throughout this state, and that  
4 includes the rural areas we serve.

5 Q. But Union's focus has been on the rural  
6 areas, correct?

7 A. That is correct.

8 Q. And one of the characteristics of the  
9 rural areas is that there were not a lot of other  
10 providers who were offering service, correct?

11 A. That's correct.

12 Q. So the stated competition is lower than,  
13 for example, in a larger municipality or a city like  
14 Salt Lake City, correct?

15 A. It usually is. Although, in every market  
16 that we serve there's at least one other carrier, and  
17 most markets there's three and four carriers.

18 Q. And is this true of the most rural parts  
19 of Union Cellular's coverage area?

20 A. Yes.

21 Q. Is the policy that you're referring to,  
22 the policy of the state, as you say, the same policy  
23 under line Universal Service?

24 A. I'm not following what you're asking.

25 Q. Well, there's a reason why --

26

1                   It's true, isn't it, that there is a  
2                   reason why Universal Service Fund has been created  
3                   and why payments are made to carriers like Union  
4                   Cellular who serve in rural areas, correct?

5                   A.       That's correct.

6                   Q.       And is that the policy that you're  
7                   referring to when you refer to the policy of this  
8                   State on line 26?

9                   A.       The Universal Service Fund is a Federal  
10                  fund that we draw from as a wireless company. So,  
11                  therefore, it's not -- it's not a policy of this  
12                  State.

13                  Q.       Well, I guess what I'm getting at, are you  
14                  referring to something different than a State version  
15                  of the Federal Government's Universal Service goals?

16                  A.       I think the goals are similar.

17                  Q.       Now, I would like to ask you a few  
18                  questions that were really in the testimony of Mr.  
19                  Hinman to see if you can help me understand them.

20                  A.       Sure.

21                  Q.       One of the statements that's made in Mr.  
22                  Hinman's testimony, I'll just read to you, it's in  
23                  the Surrebuttal Testimony on page 7. It says, "The  
24                  GSM switch, on the other hand, will change much more  
25                  rapidly as technology changes and as customers demand

26

1 more features and capabilities."

2 Is that a statement you share? Do you  
3 agree with that?

4 A. I think so.

5 Q. Is it true that Union offers a service  
6 called General Packet Radio Service?

7 A. Yes. We offer GPRS.

8 Q. And GPRS is based on Internet protocol,  
9 correct?

10 A. It will handle Internet protocol. It's  
11 not really based on the Internet protocol.

12 Q. And GPRS supports applications like  
13 Internet browsing and multimedia message services and  
14 things like that?

15 A. Yes, it does.

16 Q. And one of the advantages of GSM is that  
17 Union will be able to provide more complex and  
18 technologically advanced data services; is that  
19 correct?

20 A. And that's also correct.

21 Q. And that's related to General Packet Radio  
22 Service?

23 A. Yes.

24 Q. And Union also has a service or product  
25 called Edge; is that true?

26

1 A. That's true.

2 Q. Could you tell me what Edge is?

3 A. It's kind of like GPRS on steroids. It  
4 allows up to, I think, 400 kilobytes of data rates.

5 Q. So it allows a higher data rate than GPRS?

6 A. Right.

7 Q. And to have Edge you have to have software  
8 upgrades?

9 A. That's true, sir.

10 Q. And were those done in the GSM switch?

11 A. Yes.

12 Q. And Edge, it's true, is it not, allows  
13 delivery of advanced mobile services like downloading  
14 video and music clips?

15 A. You can download about anything with it,  
16 yes.

17 Q. Does Edge also require upgrades to what we  
18 were calling BTSs?

19 A. Not to my knowledge.

20 Q. Not to your knowledge?

21 MR. DETHLEFS: Your Honor, I believe those  
22 are all the questions I have at this time.

23 I believe I would like to offer into  
24 evidence what we've marked as Qwest Cross Exhibits 5  
25 through 9.

26

1 THE COURT: Any objection to their  
2 admission?

3 MR. ASAY: No.

4 MS. SCHMID: No objection.

5 THE COURT: We'll go ahead and admit them.  
6 Ms. Schmid?

7 MS. SCHMID: No questions for this  
8 witness.

9 THE COURT: Mr. Asay, any Redirect?

10 MR. ASAY: Three, your Honor. If I could  
11 approach?

12 THE COURT: Certainly.

13

14 REDIRECT EXAMINATION

15 BY MR. ASAY:

16 Q. Mr. Woody, I'm going to hand you a  
17 complete set of your testimony that's been received  
18 and one of the exhibits that has been received is  
19 Exhibit 3.3, which I believe is a copy of the  
20 agreement. This proceeding that we're here for is in  
21 the end an arbitration of an Interconnection  
22 Agreement; is that correct?

23 A. That's correct.

24 Q. And there was some questioning by Mr.  
25 Dethlefs with respect to I believe inter and intraMTA

26

1 calls. Do you remember that questioning?

2 A. Yes, I do.

3 Q. Directing your attention to what I believe  
4 is page 46 of Exhibit 3.3 --

5 MR. DETHLEFS: Your Honor, I don't have a  
6 copy of what the witness is being shown. Does Mr.  
7 Asay have a copy I can look at or --

8 MR. ASAY: If I can meander over.

9 THE COURT: Sure.

10 Q. (BY MR. ASAY) Do you see my reference to  
11 the exhibit, page 46, and particularly Section 6.3.9?

12 A. Yes, I see that.

13 Q. And what does that relate to?

14 A. It relates to interMTA factors or interMTA  
15 traffic.

16 Q. So as part of this proceeding, is there  
17 provisions that are requested by the parties as that  
18 relates to compensation on an interMTA basis?

19 A. Yes, there are.

20 Q. Then just with respect to the exhibit that  
21 you have, how is Qwest requesting that they're being  
22 compensated? How are they requesting compensation  
23 for interMTA costs?

24 A. They're requesting that we pay them access  
25 charges for any interMTA calls that would originate

26

1 in Union's area and terminate to Qwest's customer.

2 Q. And what is Union's request with respect  
3 to the same calls?

4 A. We request the reciprocal of it, to be  
5 compensated at an access charge rate for traffic  
6 originated from a Qwest customer, terminated on a  
7 Union Cellular customer as a different MTA.

8 Q. There was also questions with respect to  
9 roaming, and I believe you referenced an amount as it  
10 related to roaming. Just out of curiosity, is that a  
11 confidential number or is that non-confidential or  
12 was it so general that it doesn't matter?

13 A. It's general enough that it probably  
14 doesn't matter. The actual amounts are confidential  
15 and, you know, basically I don't see how they relate  
16 to interconnection.

17 Q. Well, let me ask this with respect to  
18 that. As you look at roaming traffic, is it possible  
19 that you're going to have roaming traffic that  
20 connects to a Qwest customer?

21 A. Certainly. When a customer of another  
22 carrier roams on our network or uses our network,  
23 they both place and receive calls just as our local  
24 customers would. So they'll make interMTA calls,  
25 they'll make intraMTA calls, they'll terminate and

26

1 receive calls from Qwest customers.

2 Q. And finally with respect to the line of  
3 questions related to the data services. Did your  
4 testimony in any way contradict your position that  
5 data services are essentially a small fraction of the  
6 total services provided by Union?

7 A. No. It doesn't change my testimony in the  
8 least about the fact that data is a very small piece  
9 of our network. And you have to remember that when  
10 the network is designed, it's designed for voice,  
11 it's not designed for data. And the way the network  
12 works, when it handles a data call or a data  
13 transmission is it takes a voice channel and uses it  
14 and allocates that for data. If a voice call comes,  
15 it takes the channel back away from the data and  
16 allocates it to voice. And so voice has priority  
17 over data. All that happens in terms of data is the  
18 data rate gets slower because there's no channel  
19 available for the call.

20 But the sizing of the network and the  
21 number of channels in the network are sized for  
22 voice, not for data. So you can't just say, oh,  
23 well, you've got an arbitrary amount that you take  
24 out for data. We built the network for voice and it  
25 wouldn't be any smaller or cost any less if we didn't  
26

1 have data.

2 Q. Mr. Woody, does that conclude your  
3 testimony?

4 A. Yes, it does.

5 MR. ASAY: Your Honor, I have no more  
6 questions for this witness.

7 THE COURT: Mr. Dethlefs?

8 MR. DETHLEFS: I do have one follow-up  
9 question.

10 RE-CROSS-EXAMINATION

11 BY MR. DETHLEFS:

12 Q. Mr. Woody, we were talking, both myself  
13 and Mr. Asay asked you some questions about interMTA  
14 calls. So let me give you a hypothetical situation  
15 with an MTA, interMTA call.

16 Let's say the call originates by Qwest in  
17 Salt Lake City. Qwest hands the call off to an  
18 interexchange carrier. The interexchange carrier  
19 delivers the call to Union Cellular, who in turn  
20 delivers the call to a Union Cellular subscriber who  
21 is located in Gillette.

22 In that circumstance the carrier who would  
23 pay access charges to Union Cellular would be the  
24 interexchange carrier, correct?

25 A. That is correct.

26

1 Q. It would not be Qwest Corporation, would  
2 it?

3 A. No, not in that situation. However, you  
4 would have situations where a Qwest customer was  
5 making what they thought was a local call, but it  
6 crossed an MTA boundary and so, therefore, would be  
7 interMTA and there would be no interexchange carrier  
8 involved in it. So you can't just say, well, they're  
9 all going to go to the IXCs because they're not.

10 MR. DETHLEFS: That's all I have, your  
11 Honor.

12 THE COURT: Ms. Schmid?

13 MS. SCHMID: Nothing further.

14 THE COURT: Anything further, Mr. Asay?

15 MR. ASAY: Nothing further. Thank you.

16 THE COURT: Thank you.

17 MR. Mecham?

18 MR. MECHAM: Your Honor, Union would call  
19 Mr. Jacobsen.

20 THE COURT: If you would please stand and  
21 raise your right hand I will go ahead and swear you  
22 in. Do you solemnly swear the testimony you are  
23 about to provide will be the truth, the whole truth,  
24 and nothing but the truth, so help you God?

25 MR. JACOBSEN: I do.

26

1 THE COURT: Thank you. You may be seated.

2 MR. Mecham?

3 MR. MECHAM: Thank you, your Honor.

4

5 HENRY D JACOBSEN,

6 called as a witness was examined and

7 testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. MECHAM:

11 Q. Mr. Jacobsen, could you state your name  
12 and business address for the record, please?

13 A. My name is Henry D Jacobsen. That's  
14 J-A-C-O-B-S-E-N. My address is 1496 Mountain View  
15 Drive, Lyman, Wyoming, 82937.

16 Q. Thank you.

17 And for whom are you appearing today?

18 A. I'm appearing on behalf of Union.

19 Q. And did you prepare and have filed  
20 Rebuttal Testimony on March 15, 2007 consisting of  
21 nine pages with one confidential exhibit attached?

22 A. Yes.

23 Q. And did you also have filed Post  
24 Surrebuttal Testimony on October 26, 2007 consisting  
25 of 24 pages with two exhibits attached?

26

1           A.     Yes.

2           MR. MECHAM:   Your Honor, I think to be  
3     consistent we would mark Mr. Jacobsen's Rebuttal  
4     Testimony as Union 4R with a confidential exhibit  
5     marked as Union 4R.1, and Mr. Jacobsen's Post  
6     Surrebuttal Testimony would be marked as Union 4PSR  
7     with the two exhibits being 4PSR.1 and .2.

8           Q.     (BY MR. MECHAM)   Do you have any  
9     corrections that you would like to make to any of  
10    that testimony?

11          A.     Yes.   I would like to make two small  
12    changes to my testimony.

13          Q.     Which piece?

14          A.     This would be on the testimony dated March  
15    15, 2007.   On the footnote on page 4 where it says  
16    "TDMA" or Time Division Multiple Access, is a first  
17    generation," that should be "second generation, 2G."

18                 And then it says, "It's world-wide  
19    successor is GSM, which is," and please add the word  
20    "also," "considered to be a second-generation  
21    deployment of digital wireless."

22          Q.     Anything further?

23          A.     Yes.   On page 5, line 89 in the same  
24    testimony, I would like to add a word which was  
25    inadvertently deleted.   It says, "it is a shared,"

26

1 and would you please add the word "access resource  
2 and therefore traffic sensitive." Those are the only  
3 corrections.

4 Q. And nothing on your other piece of  
5 testimony?

6 A. No.

7 Q. And if I were to ask you the same  
8 questions that are posed in those two pieces of  
9 testimony, would your answers under oath today be the  
10 same?

11 A. Yes, they would.

12 Q. Thank you.

13 Your Honor, we would move the admission of  
14 Union 4R with 4R.1 attached and Union 4PSR with  
15 4PSR.1 and 4PSR.21 attached into evidence.

16 THE COURT: Any objection to their  
17 admission?

18 MR. MONSON: No objection.

19 MS. SCHMID: No objection.

20 THE COURT: All right. We'll admit them.

21 Q. (BY MR. MECHAM) Do you have a summary of  
22 your two filings?

23 A. Yes, I do. Let me just preface this by  
24 saying that I have been fortunate in my career to see  
25 the evolution of telephone services from copper  
26

1 cables and mechanical switching all the way through  
2 the latest technologies involving fiberoptics  
3 wireless communications, packet switching and all of  
4 the technologies in between, and I have been involved  
5 in the actual construction, engineering, design,  
6 planning, acquisition, operation, administration of  
7 these networks for more than 35 years.

8           And I feel like I have a good historical  
9 appreciation for technology as it has changed over  
10 the years. And I would say that the most radical  
11 change that's occurred in my many years has been  
12 what's occurring today in mobile services.

13           It may not be apparent to everyone that as  
14 of June 2005, which was several years ago, the number  
15 of wireless handsets or lines exceeded the number of  
16 land lines. And today the dominant method of  
17 communications both in minutes and in lines in the  
18 American telecommunication industry is wireless. And  
19 it is a radical departure in technology from anything  
20 that's in land line technology.

21           I have a diagram, your Honor, that I would  
22 like to show. It's actually an attachment in my  
23 second testimony. May I put that on the easel?

24           THE COURT: Sure.

25           MR. JACOBSEN: With your permission, I  
26

1 would discuss technology just very, very briefly as  
2 an introduction to my summary.

3 THE COURT: Okay.

4 MR. JACOBSEN: The land line services are  
5 basically composed of a dedicated cable that goes  
6 from a telephone switch to a customer -- or to a  
7 customer premise or a home. And this is referred to  
8 as a loop facility because when you lift a telephone  
9 set the electrical current flows in a loop from the  
10 switch to the home and back. It's referred to as  
11 loop facilities and they're fairly simple to  
12 construct.

13 You place cable or in some cases a carrier  
14 facility in the ground with a service drop to the  
15 home. And once it's installed in the ground it  
16 requires very little maintenance and is what we call  
17 non-traffic-sensitive, since as a dedicated circuit  
18 to the home, it doesn't matter to anyone else whether  
19 you provide one call, ten calls, a thousand or many  
20 more calls per month on that facility since it's not  
21 shared. I mean, your use of that circuit does not  
22 affect anyone else in the telephone network.

23 And of course the telephone switch is a  
24 shared resource because it receives all calls and  
25 connects them. And on the outbound side, if the call  
26

1 is transferred to another switch, that is a shared  
2 resource because calls are aggregated on a shared  
3 facility between switches, but at least from the home  
4 to the switch is a dedicated facility and has been  
5 consistently and logically found to be non-traffic-  
6 sensitive.

7 Now, the corresponding piece, if I might  
8 stand and go to the board?

9 THE COURT: Sure. If you'll just make  
10 sure and speak up so that the court reporter can hear  
11 as well.

12 MR. JACOBSEN: The corresponding piece in  
13 a wireless network that would represent the same  
14 access of maybe a mile or two of copper wire is  
15 represented by this entire network up here. The  
16 access portion in a radio network is a shared  
17 resource because there are only a fixed number of  
18 radio channels available in the spectrum allocations  
19 or licenses that have been purchased or leased by  
20 Union Telephone, Union Wireless.

21 And if a customer is out here in some  
22 remote location making a phone call, basically  
23 turning on his cell set to make a call, that call  
24 moves on a wireless basis to antennas, through what's  
25 called a base transceiver station, which is diagramed  
26

1 here, and it goes through things like duplexers,  
2 power amplifiers, and radios, and then is  
3 consolidated on a microwave link and carried many,  
4 many miles, sometimes hundreds of miles back to a  
5 base station controller through a transporter, which  
6 is basically a decompression device, into a GSM  
7 switch.

8           Once it reaches the GSM switch it is  
9 handled much like any other telephone call. And if  
10 it goes to the outside world again it goes through  
11 shared facilities called trunks between switches.

12           Now, I was asked to -- I respond and my  
13 testimony is in response to testimony filed by Peter  
14 Copeland in which he had represented that the  
15 wireless infrastructure out here was non-traffic  
16 sensitive. Now, I have been involved in traffic  
17 engineering for many years, including some years of  
18 research, and in fact wrote many of the traffic  
19 practices and procedures used throughout the old Bell  
20 system and did actual doctoral level research in the  
21 area of congestion theory, and this struck me as very  
22 strange since by a classical argument everything on  
23 the wireless side is a shared resource.

24           There's a limited number of channels.  
25 Customers vie or contend for those channels. If the  
26

1 channels are not available the only recourse is only  
2 to block traffic or add more channels, and that is  
3 the essence of a traffic sensitive network.

4 I was somewhat baffled by that and so was  
5 asked to respond. And the logic of this  
6 notwithstanding, it's my understanding that Qwest's  
7 position on this was that in the absence of  
8 quantitative, meaning numerical data to confirm the  
9 obvious, Union had failed to meet a burden of proof  
10 that it was traffic sensitive.

11 Well, it is true that Union had not  
12 implemented prior to the beginning of this year an  
13 effective data collection system that would gather  
14 hourly statistics off the radio network. And when  
15 the data request previously was posed by Qwest that  
16 Union produce what's called utilization and  
17 performance data and capacity data, Union was really  
18 not in a position to respond because the only system  
19 that was available for collecting data really did not  
20 aggregate traffic on an hour-by-hour basis, but on a  
21 total day/total week basis, which is really not  
22 germane to capacity, which is basically on a peak  
23 hour basis. We didn't have the traditional capacity  
24 measurements.

25 But quite independent of this proceeding,

26

1 in the essence or interest of managing the network  
2 more appropriately for greatest service  
3 considerations and quality of service, Union did  
4 place into service at the first of the year a system  
5 that would collect the statistics particular to this  
6 proceeding. And so as soon as that system had gone  
7 through test and acceptance, we promptly made  
8 available to Qwest the data that would not only  
9 qualitatively, but quantitatively, without question,  
10 qualitatively and quantitatively define a network in  
11 terms of traffic sensitivity.

12           It showed, for example, that in about 20  
13 percent of our working sectors we were undersized  
14 with respect to radio channels and that our  
15 subscribers were being denied service for that  
16 reason. And steps were immediately taken to add  
17 radios in some cases and add cell sites in others to  
18 remedy the fact that we had more traffic than the  
19 network could carry. And so I would argue in summary  
20 that the cost of carrying traffic in a wireless  
21 network is extremely more complex and it's traffic  
22 sensitive.

23           From a viewpoint of history, I look at the  
24 wireless infrastructure as probably the most  
25 complicated arrangement of switching and control and

26

1 handoff that I have seen throughout my many years of  
2 career in this industry. Certainly more complex than  
3 a pair of copper wires going to a home, your Honor.

4           The reaction to my Rebuttal Testimony and  
5 the submission of traffic data was somewhat  
6 interesting. First Qwest argued that we could not  
7 enter that data into record. That, of course, was  
8 overturned and the data was entered. And then there  
9 came a very subtle change. I think in conceding the  
10 fact that it was traffic sensitive, the issue arose  
11 then, which I think is a very separate issue, was it  
12 cost sensitive. I agree to traffic sensitive, but is  
13 it cost sensitive, with the argument that many of the  
14 cell sites, or at least the sectors in the cell  
15 sites, have more capacity in them than they would  
16 normally see in, for example, land lines. And,  
17 therefore, since -- let me just back up one moment.

18           When you say something is traffic  
19 sensitive, it simply means that if you have more  
20 traffic you need more facility. And that is  
21 generally equivalent to saying it's cost sensitive  
22 because more facilities is more cost unless the  
23 facilities are free. That would be the only  
24 condition that cost and traffic sensitivity would  
25 mean the same.

26

1                   And so they changed the argument from  
2           traffic sensitive to cost sensitive by arguing that  
3           there was idle capacity in the network, which  
4           basically meant that the additional traffic would  
5           have no additional cost for being carried. But if we  
6           take a step back and understand some of the  
7           differences between the two networks, I think that  
8           argument somewhat falls apart.

9                   Number one, the traffic in a cell network  
10          is mobile. We might have a cell site that appears to  
11          be idle today, but next week there might be a rodeo  
12          or a special sales event or some other kind of event  
13          which suddenly brings many people to that area and  
14          suddenly a cell site that would appear to be  
15          underutilized is overflowing with traffic by the very  
16          nature that the customer base is mobile, which is not  
17          the case in land line, which is a fixed telephone set  
18          in someone's home.

19                  Number two, the traffic data that was  
20          provided by Union was for March, I believe March or  
21          April, which is far outside the busy season. Being a  
22          mobile service there is tremendous change in  
23          month-to-month traffic depending on the number of  
24          customers who are transiting or are using their  
25          mobile phones.

26

1           For example, we talked briefly about  
2 roamers. In roaming traffic, a customer from one of  
3 our roaming partners who enters the Union network is  
4 treated as though it is a Union customer. Its  
5 telephone number is registered in what we call the  
6 Visitor Location Register and is treated as if it is  
7 one of our own. And in fact the roaming partner maps  
8 would show coverage, reflect Union's coverage as if  
9 it were their own coverage.

10           And so during the summer months, which  
11 were not part of the Data Requests of Qwest, during  
12 the summer months traffic might be 40, 50, 60, 70  
13 percent higher depending on the circumstances and  
14 locations in the network. And so in trying to draw  
15 conclusions about utilization in the network it's  
16 somewhat erroneous to take a small snapshot at one  
17 time and draw broad conclusions about how efficient  
18 the network is.

19           I would also point out that the nature of  
20 rural communications in the cellular business is as  
21 follows: We have a cell site that is in a remote  
22 area. Typically Union, I think in a wise move, uses  
23 mountains for the bottom 90 percent of their towers.  
24 And since the signal is line of sight, it travels in  
25 straight lines, the towers are usually in a difficult  
26

1 location to access. It is true that when we go into  
2 a cell site, a minimal configuration would be one  
3 radio with eight channels. And that might be greater  
4 than the immediate demand for that period or it might  
5 not depending on the profile of the area, but in the  
6 interest of having what we call electronic diversity,  
7 we as a general engineering rule, as a practice, a  
8 good engineering practice of continuing service we  
9 tend to put in two radios so that if one radio goes  
10 down, which happens from time to time, traffic is not  
11 denied to those who would want it in that area.

12 And so the minimal design from an  
13 engineering standpoint, what I would call good  
14 engineering practice to provide continuous service is  
15 to provide a minimum of two radios.

16 Now, Qwest would argue that that is  
17 overengineering, that it is a waste of money and,  
18 therefore, the network is not cost effectively  
19 designed. We would argue, but that's what you do to  
20 provide reliable communications and it is a minimal  
21 design for a forward-looking network.

22 Another issue that was raised by, and  
23 especially by Mr. Anderson in his discussion, was  
24 that the modernization of networks, especially the  
25 wireless network, is not something that's traffic

26

1 sensitive. We have heard some testimony regarding  
2 the effect of new technology on the ability to  
3 utilize spectrum. Spectrum means the radio channels  
4 and frequencies that Union has been able to acquire  
5 in order to operate the network. This is a fixed  
6 amount of radio channels.

7           Much of the technology from analog to  
8 first and second-generation digital radios, and I  
9 agree that it's more data friendly, but most of that  
10 has been designed around the ability of your wireless  
11 providers to use limited spectrum more efficiently.  
12 On the drawing boards we have what we call 2.5G,  
13 which is universal mobile telephone service which  
14 moves cell phone traffic into a completely new  
15 technology of packet switching, which will in the  
16 next 12 months require Union to retire its GSM switch  
17 or to augment it with a new switch, new technology.  
18 And on the drawing boards already and in some limited  
19 deployment overseas there is yet a third generation  
20 called LTE, which is a long-term environment, which  
21 again changes the technology to use spectrum more  
22 efficiently. And in fact, in many instances the only  
23 way that we can continue to meet the demands of  
24 traffic in the industry as a whole is by introducing  
25 new technology which uses spectrum more efficiently.

26

1           That isn't to say that there aren't other  
2 benefits and other services, but the important  
3 element of new technology is the ability to use  
4 spectrum more efficiently.

5           Now, in my Rebuttal Testimony I have  
6 discussed some of the -- some of the issues raised by  
7 Copeland and by witness Anderson in their attempt to  
8 redesign the Union network to be more cost-effective.  
9 Neither Copeland nor Anderson, respectfully, have had  
10 any experience in designing wireless networks and  
11 their approach in doing so in their testimony is  
12 deeply flawed from a technical standpoint, and I  
13 believe I have covered those flaws in my testimony.

14           In summary, my conclusion would be simply  
15 this. It is patently clear that a wireless  
16 infrastructure network is extremely more complex, is  
17 extremely more costly than simple cable in the ground  
18 and then to a wire center. Traffic is mobile and  
19 it's very hard to define what is proper utilization  
20 in the network.

21           Clearly many of the sites and sectors in  
22 the Union wireless network overflow significantly  
23 showing that the facilities are traffic sensitive.  
24 All sites potentially could be traffic sensitive  
25 depending on the migration of traffic. And on the

26

1 basis of additional cost and being traffic sensitive,  
2 it is my opinion that Union has well met its burden  
3 of proof in establishing the basis for asymmetric  
4 compensation.

5 Q. (BY MR. MECHAM) Does that conclude your  
6 summary?

7 A. It does.

8 MR. MECHAM: Mr. Jacobsen is available for  
9 cross-examination.

10 THE COURT: Just quickly, Mr. Jacobsen,  
11 just for clarity's sake, the diagram on the easel to  
12 which you referred earlier in your testimony you had  
13 mentioned was also contained in your testimony. I  
14 just wanted to make sure we're referring, then, to  
15 what's in your Post Surrebuttal Testimony, 4PSR.  
16 It's Exhibit 19 and I believe it's been admitted as  
17 4PSC.1; is that correct?

18 MR. JACOBSEN: That is correct. I might  
19 add, if I may, that there is a second attachment  
20 there which talks about frequency reuse. I meant to  
21 mention, if I may, the fact that much has been said  
22 about the traffic sensitivity of cell sites. As  
23 traffic grows, since there is no more radio channels  
24 to be added, it's important or essential to reuse the  
25 existing channels. And you can't have them on

26

1 adjacent cell sites because you would be  
2 self-interfering, much like you would have two radio  
3 stations in the same town, you wouldn't be able to  
4 discriminate one from the other.

5           And so as traffic becomes more dense, it  
6 is necessary to shrink the footprint of existing cell  
7 sites to accommodate the reuse of frequencies. And  
8 to a certain extent, by down-tilting the antennas,  
9 reducing power and shrinking the footprint there can  
10 actually be a diseconomy of scale in that as traffic  
11 grows some cell sites must surrender frequencies or  
12 reduce the coverage to accommodate additional cell  
13 sites and those sites can actually reduce the call  
14 carrying capacity as we add more cell sites. And  
15 that is a fact within the cellular industry itself.

16           THE COURT: Is that all, Mr. Mecham?

17           MR. MECHAM: He's available for cross.

18           THE COURT: Cross-examination from Qwest?

19           MR. MONSON: Thank you, your Honor.

20

21                           CROSS-EXAMINATION

22           BY MR. MONSON:

23           Q. Let me start with something that we had  
24 asked Mr. Woody that I don't think he knew the answer  
25 to. We were asking him about Edge service, E-D-G-E.

26

1 Are you familiar with that?

2 A. Yes.

3 Q. And he said that required an upgrade to  
4 the switch, but he didn't know if it required an  
5 upgrade to the BTS. Does it require an upgrade to  
6 the BTS, do you know?

7 A. It's primarily a DSC issue where you have  
8 a gateway function there which takes the data off of  
9 the Intel and takes it to the network. But it  
10 involves a switch upgrade as well.

11 Q. And where is the TRX in the network?

12 A. TRX, sir?

13 Q. Yes. TRX capability, are you familiar  
14 with that term?

15 A. No.

16 MR. MECHAM: Is it in his testimony  
17 response?

18 MR. MONSON: No.

19 Q. (BY MR. MONSON) I'm reading out of Nortel  
20 BTS 800, S8003, 8000, I'm sorry, S80003, S Indoor and  
21 S8000 outdoor engineering rules.

22 A. Let me be quick. In the BTS, in order to  
23 be data compatible, there is a software feature that  
24 is added to the BTS to enable data services. I wish  
25 to right my testimony, I was wrong.

26

1 Q. Thank you.

2 A. It's a minor expense. It's a software  
3 only patch.

4 Q. Let me ask you some background. Have you  
5 read, have you reviewed the cost study that's been  
6 filed by Union in this proceeding?

7 A. Not deeply. My involvement has been  
8 limited to the technical issues of traffic  
9 sensitivity.

10 Q. So are you familiar with the assumptions  
11 made in the cost study and the model?

12 A. Not deeply. I, of course, listened to the  
13 proceeding today.

14 Q. Okay. And also, you have reviewed Union's  
15 responses to Qwest's Data Requests since you became  
16 involved in the case?

17 A. Well, certainly, since I prepared them,  
18 yes.

19 Q. So you prepared some of the answers?

20 A. Yes.

21 Q. Okay.

22 A. Since my initial testimony, yes.

23 Q. Okay. Please turn to line 85 of your Post  
24 Surrebuttal Testimony.

25 A. Yes.

26

1           Q.     In this paragraph you're taking issue with  
2     Mr. Copeland's statement that Union did not provide  
3     traffic data to Qwest; is that right?

4           A.     I represent in my testimony, as it states,  
5     that Mr. Copeland represented that we had  
6     purposefully withheld critical data involving  
7     capacity and utilization of cell sites.

8           Q.     Okay. And you note in this paragraph that  
9     utilization and usage are different; is that right?

10          A.     Absolutely.

11          Q.     Does utilization refer to usage during the  
12     peak hour?

13          A.     Utilization is the percent of available  
14     capacity that is used on what would be a peak hour.

15          Q.     Okay. And you also discussed that subject  
16     in your Direct Testimony; is that right?

17          A.     Yes.

18          Q.     In your Direct Testimony, turn to that for  
19     a minute. Turn to line 50, please. Have you got  
20     that?

21          A.     Yes.

22          Q.     Okay. And you say there, "Union has had  
23     the means of obtaining traffic data from its TDMA and  
24     GSM networks from their inception through the Nortel  
25     OMCR operations, measurements and cell radio system":

26

1 is that right?

2 A. Yes, usage data.

3 Q. Okay. And you say that "Traffic  
4 measurements have been collected by Union only as a  
5 daily or weekly total rather than peak hour  
6 statistics"?

7 A. Correct.

8 Q. And you say that "System augments have  
9 been carried out on the basis of aggregate statistics  
10 rather than on busiest or peak hour demand"?

11 A. Yes.

12 Q. And so, therefore, on that basis you  
13 believe that Union's response to Data Request 4-009  
14 was correct; is that right?

15 A. Yes.

16 Q. And you then go on to say that "Union has  
17 looked at traffic-related performance on the basis of  
18 total, daily or weekly call volumes and call  
19 blocking"; is that right?

20 A. Yes.

21 Q. "Call blocking occurs when a Union  
22 customer attempts to place a call and is unable to do  
23 so because no capacity is available to carry the  
24 call"; is that right?

25 A. Yes.

26

1           Q.     So if Union was looking at traffic-related  
2 performance on the basis of call blocking, it needed  
3 to know that call blocking was occurring?

4           A.     Correct.

5           Q.     How did Union know if a customer  
6 experienced call blocking before the new traffic  
7 monitoring system was available?

8           A.     The OMCR system collected total daily and  
9 total weekly statistics. It might, for example, say  
10 that 5 percent of the total calls during the week  
11 failed to find an idle channel and were blocked,  
12 okay?

13                     Now, it's not known whether that occurred  
14 in one busy hour or whether it was distributed over  
15 many, many hours. And so that has a very different  
16 meaning from utilization because utilization is  
17 designed around a peak hour grade of service.

18                     So Union could recognize in some coarse  
19 way, some general way that a cell site needed to be  
20 augmented and could react by providing additional  
21 facilities. But to know exactly what the grade of  
22 service was or percent utilization was occurring was  
23 an unknown. And that was one of the weaknesses of  
24 relying on the OMCR system because we could not  
25 develop or measure a service level agreement, grade

26

1 of service particular to the site.

2 Q. So it's your position that call blocking  
3 is not a type of data related to utilization?

4 A. It's not reflecting utilization against  
5 a defined grade of service which is specific in a  
6 traditional sense to a peak hour performance.

7 Q. So Union did have call blocking data, but  
8 didn't provide -- well, I don't know if you were  
9 there at the time. I should clarify. Were you  
10 involved in the initial response to that?

11 A. No, I was not.

12 Q. Okay. And you've talked about this new  
13 monitoring system?

14 A. Yes.

15 Q. That allows the peak hour data, right?

16 A. Uh-huh (affirmative).

17 Q. And you talk about what information is  
18 included in that report; is that right?

19 A. Yes.

20 Q. And you say that it included all  
21 components of the wireless infrastructure?

22 A. All of the components that are  
23 traditionally measurable and administered in the  
24 course of network administration. Now, there are  
25 some components of the wireless network which are not

26

1 measured by the system.

2           Let me draw a parallel for you. In your  
3 land line network, if you have a Nortel land line  
4 switch, there is an operational measurement system  
5 which all traffic engineers and systems engineers  
6 utilize. It's called the OM system. It collects  
7 about 22 different measurements on each trunk group  
8 in the switch. It imports it every half hour, 30  
9 minutes or 60 minutes, depending on how you set the  
10 parameters, and this data is collected and used by  
11 the switch engineers to administer the switch in  
12 putting up enough circuits from here to there. There  
13 are things that that OM system does not measure and  
14 does not normally report, okay?

15           For example, engineers and operating  
16 people do have access through special instructions to  
17 things like memory and CP utilization, but they're  
18 not generally reported as routine statistics on the  
19 OM system. Now, if your question is do we collect  
20 normal administration statistics on the radio system?  
21 The answer is yes, we do. In fact, on the mobile  
22 radio system there are about 200 statistics instead  
23 of 22, which makes some of the analysis very  
24 difficult because it measures so many things in so  
25 many ways. But again, there are some things,  
26

1 particularly about processors and memory, that are  
2 not part of the OMCR.

3 Q. Okay. But do I understand correctly that  
4 there would be measurements available on  
5 approximately 200 components of the network?

6 A. No. The components such as the wireless  
7 channels, for example, instead of having 22  
8 measurements might have 50 or 60 measurements of  
9 different types. Why? Because there are timing  
10 issues, there are handoff issues, there are power  
11 issues that are very important to know, but are  
12 totally unrelated to anything in the land line  
13 network. Therefore, the OMCR system is much more  
14 robust to gather the statistics of a radio network  
15 than on a land line network.

16 Q. Okay. You said in your Post Rebuttal  
17 Testimony that the components that were included in  
18 the report were radio channels, aggregated BSC, BTS  
19 transport, as well as all trunking components; do you  
20 recall that?

21 A. Yes.

22 Q. What does aggregated BSC/BTS transport  
23 mean?

24 A. May I go to the board?

25 THE COURT: Sure.

26

1                   MR. JACOBSEN: This is the base station  
2 controller. All of the radio channels, for example,  
3 let's take the radio channels here, as they -- as a  
4 call is originated, a channel is seized, a channel is  
5 taken, made busy, and the channel is brought back to  
6 the BSC, okay? If the call is between cell  
7 subscribers behind this BSC, the BSC will switch the  
8 call and it will not be carried back to the switch,  
9 which is great, right?

10                   However, all of the calls here then that  
11 are leaving this part of the network are  
12 consolidated, condensed, and brought over to these  
13 facilities. And again, this is traffic sensitive.  
14 We have to make sure that we have enough facilities  
15 for all the calls behind here that are coming out of  
16 that BSC territory. And this is consolidated much  
17 like a telephone trunk would be between two switches  
18 because at a low level this is a switch for  
19 connecting calls behind it. And this is the  
20 consolidated transport to which I refer.

21                   Q.       (BY MR. MONSON) So you did participate in  
22 providing the response to Qwest Data Request 6-001?

23                   A.       I'm not sure the exact reference to that  
24 one, but if it is the one in which we provided  
25 traffic data, usage data, then the answer is yes.

26

1 Q. Do you have a copy of that?

2 A. I do not.

3 MR. MONSON: Can I approach the witness?

4 Your Honor, I only have one copy of this. I didn't  
5 make extra copies of this, I apologize.

6 THE COURT: That's okay. You can approach  
7 the witness and if we need to make copies we can.

8 Q. (BY MR. MONSON) Do you recognize that?

9 A. Yes, I do.

10 Q. And is it true that in Qwest's request it  
11 asked for any reports you could get on any aspects of  
12 the network from the new system, right?

13 A. That is correct.

14 Q. And it didn't limit it to any particular  
15 time period; is that correct?

16 A. Yes.

17 Q. And in Union's response Union objected  
18 because it said it was overbroad and so forth, right?

19 A. I believe we provided data.

20 Q. And then you did provide a report?

21 A. Yes.

22 Q. And the report was just for the one-week  
23 period, March 3 to March 8?

24 A. Yes.

25 Q. Of 2007?

26

1 A. Yes.

2 Q. And on the back, this is the continuation  
3 of the answer, Union said, "However, we do provide  
4 the four reports for Qwest's review, busy hour and  
5 daily traffic summaries of the wireless and wire line  
6 network of Union"; is that right?

7 A. That's correct.

8 Q. Okay.

9 MR. MONSON: May I approach the witness  
10 again?

11 THE COURT: Yes.

12 Q. (BY MR. MONSON) Is this the portion of  
13 the response, the report you referred to dealing with  
14 trunking?

15 A. It is a summary of all of the trunks, what  
16 we would consider a trunk group in a very liberal  
17 sense, that appear on the Union wire line network for  
18 both the GSM switch and for the DMS tandem and the  
19 DMS local switch.

20 Q. Okay. So this shows some statistics on  
21 trunks that are into and out of the GSM switch; is  
22 that right?

23 A. And?

24 Q. And the tandem.

25 A. And the tandem and the local land line

26

1 switch.

2 Q. Right. In looking at this report, can  
3 Qwest get any data about usage of BSC/BTS transport?

4 A. Yes.

5 Q. From this report?

6 A. I believe so.

7 Q. Does this cover the transport between the  
8 BSC and the BTS?

9 A. No. That would come off the -- this  
10 particular report here -- now, here's what you're  
11 asking, let me make sure I understand that. You're  
12 asking between here, between here and the switch, or  
13 between here --

14 Q. Between the BTS and the BSC.

15 A. You were also given statistics, in fact a  
16 different sheet, a different tab, which included all  
17 of the traffic from the BTS by sector, right? The  
18 answer is yes.

19 Q. We had traffic from each cell site --

20 A. Each sector of a cell site.

21 Q. But not the route that traffic followed so  
22 we didn't know where it went.

23 A. What you received was a traffic summary of  
24 each sector to the BSC. So, for example, if there's  
25 three sectors in a BTS in a cell site, you found

26

1 three lines of data which explicitly identified the  
2 amount of usage, in fact, very identical statistics  
3 of these, from the BTS back to the BSC. The traffic  
4 from the BSC to the GSM switch is on this report and  
5 the traffic from the GSM switch to the other switches  
6 is also on this report. You received a complete  
7 traffic profile from the BTS all the way to the  
8 public network.

9 Q. For a one-week period in March?

10 A. For a one-week period in March.

11 THE COURT: Let me just clarify real  
12 quickly. Mr. Jacobsen has just referred to this  
13 report. That is the confidential document that Mr.  
14 Monson just handed out a few moments ago. Can we go  
15 ahead and mark that as Qwest Cross Exhibit 10?

16 MR. MONSON: Sure.

17 THE COURT: I'm sorry, Mr. Monson. Go  
18 ahead.

19 MR. MONSON: I appreciate that, your  
20 Honor.

21 Q. (BY MR. MONSON) And in your summary today  
22 and in your testimony you say that Qwest's analysis  
23 is incorrect because it relied on the one week of  
24 data instead of some data during some busier period;  
25 is that right?

26

1           A.     That's true.  The busy period, of course,  
2     was many months subsequent to this, probably in June,  
3     July, August, is the typical busy period for the cell  
4     networks.

5           Q.     And could Union have provided that data to  
6     Qwest?

7           A.     Upon request, yes.

8           Q.     You also mentioned in your summary about  
9     some cell sites not being busy much of the time, but  
10    then being busy during something like I think you  
11    said Frontier Days or something, or rodeo; is that  
12    right?

13          A.     Well, isn't that logical when a large  
14    group of people carrying cell phones aggregate to a  
15    special event, they make phone calls and so traffic  
16    at that location peaks.

17          Q.     Is that kind of like Mother's Day?

18          A.     Not exactly because Mother's Day is more  
19    of a network-wide phenomenon in which the traffic  
20    level of all locations rise, right?  Mother's Day  
21    across the industry, across the country, wherever it  
22    might be, raises the traffic everywhere.  We're  
23    talking about an event that peaks local traffic, not  
24    all traffic across the network.  It's very different  
25    from an engineering standpoint.

26

1           Q.     Does the traffic engineer design the  
2     capacity of the cell site by the peak day for the  
3     whole year, by some unique event like a rodeo or some  
4     special holiday in that neighborhood?

5           A.     No.  It doesn't design it, but it's  
6     recognized as a design consideration.  Nobody designs  
7     a network for one day of the month or one day of the  
8     year.  That would be kind of crazy.  But the fact  
9     that we have additional capacity in a place like  
10    Laramie is not a great concern for us because we know  
11    that there are occasions, football games, whatever it  
12    might be, where that system capacity will be well  
13    utilized.

14          Q.     Can you turn to line 121 of your Post  
15    Surrebuttal Testimony, please.  In this question  
16    you're addressing accounting for the idle capacity in  
17    Union's network, Union's wireless network, right?

18          A.     Yes.

19          Q.     And this is where you talk about the fact  
20    that the facilities are not easily accessible and  
21    that access to them, particularly in the winter, can  
22    take many hours?

23          A.     Excuse me.  Let me get to the right  
24    testimony here.

25          Q.     Okay.

26

1 A. Yes.

2 Q. So you conclude on that basis that an  
3 efficiently operated network requires electronic  
4 redundancy in the radio systems?

5 A. That is correct.

6 Q. And you say that results in a minimal cell  
7 site design with two radios, 16 channels per sector;  
8 is that right?

9 A. Typically, yes.

10 Q. And later in your testimony, this would be  
11 at lines 212, 215, if you want to refer to it. Do  
12 you have it?

13 A. Yes.

14 Q. You say, "The traffic demand of existing  
15 customers requesting service in that area is traffic  
16 engineered with the context of minimal radio  
17 provisioning, one radio, 8 channels per sector with  
18 electronic diversity. Second radio, 8 channels per  
19 sector."

20 So that's your view of the minimal  
21 engineering requirement?

22 A. For effective and reliable operation, yes.

23 Q. Okay. So if Union places a cell site, you  
24 believe it should install it with two radios and 16  
25 channels per sector for reliability purposes?

26

1           A.     That is correct.  And that is the general  
2 practice within the company.

3           Q.     And this would be the case whether there's  
4 1 or 100 customers who want coverage in that area?

5           A.     Yes.  If the decision were made to provide  
6 service in that area.  And it would be the same  
7 situation if Qwest had a home in an area which is a  
8 potential subdivision or whatever, you wouldn't take  
9 one pair of cable out to that home.  You would  
10 probably take 25 or 50 or 100, 150 pair of cable to  
11 that area because that's what the smallest cable is  
12 that you install.  And we used the very same  
13 approach.

14          Q.     You understand that when the Commission  
15 does TELRIC cost studies for Qwest or for any other  
16 company that it determines, based on information that  
17 it receives, what's the appropriate level that it  
18 will allow in the cost for that installation; is that  
19 right?

20          A.     That is correct.  However, the appropriate  
21 cost could very well be different for wireless than  
22 it is for wire line.

23          Q.     Turn to the Network Administration Report  
24 which you filed with your Rebuttal Testimony, please.  
25 Have you got it?

26

1           A.     Yes.

2           Q.     Okay.  This shows on it the number of  
3           sectors and working channels for a large number of  
4           cell sites, correct?

5           A.     For all the sectors in the wireless  
6           network as of that date.

7           Q.     And you said there should be two radios,  
8           16 channels.  It's true that one of those channels is  
9           a control channel; is that right?

10          A.     Yes.

11          Q.     And one of those channels is devoted to  
12          data services?

13          A.     Potentially.

14          Q.     So maybe we would expect on this report to  
15          see 14 channels for each sector; is that right?

16          A.     On the earlier, on the very early cell  
17          sites constructed by Union, you know, some years ago,  
18          four years ago, Union went in to these cell sites  
19          with one radio per sector.  And we still have some  
20          legacy network sites that have one radio.  It was  
21          soon apparent that this was a bad practice because  
22          when there was electronic failure of a radio, and  
23          these are harsh environments that are on  
24          mountaintops.  Winters in Wyoming aren't exactly  
25          pleasant.  When there was a radio failure and it took

26

1 hours and hours to get there by snowcat or some cases  
2 by snowshoes, the traffic was completely out of  
3 service.

4           And so there are some residual sites that  
5 still have one radio per cell site. In addition,  
6 there are some cell sites, which cover very large  
7 areas of terrain, in which case they use extended  
8 timing and they actually combine two channels for one  
9 in order to take care of timing considerations over  
10 longer distances. And there might only be six or  
11 seven channels, but two radios because of the way  
12 that they configure the radios for timing  
13 considerations.

14           Now, those are things that a radio  
15 engineer would understand but others might not.

16           Q.     But you would agree -- and I think what  
17 you're explaining here is why there are several cell  
18 site sectors on this report that don't have the  
19 number of channels you set out there?

20           A.     Or it might be two radios or it might be  
21 an issue that they're still in the process of  
22 resolving. They're legacy sites.

23           Q.     Okay. Now if you could turn to line 132  
24 of your Post Surrebuttal. Have you got that?

25           A.     Yes.

26

1 Q. And in that question and answer you're  
2 discussing differences for traffic sensitivity  
3 between a wireless network and a land line network;  
4 is that right?

5 A. Yes.

6 Q. Are you familiar with the FCC regulations  
7 on TELRIC studies?

8 A. Somewhat and in the context of this  
9 proceeding.

10 Q. Are you familiar with the FCC's orders  
11 relating to traffic sensitivity on a wireless  
12 network?

13 A. I have seen the definitions of the FCC.

14 Q. And are you aware that the FCC said with  
15 respect to wireless networks, that determination of  
16 compensable wireless network components should be  
17 based on whether the particular wireless network  
18 components are cost sensitive to increasing call  
19 traffic"? Are you familiar with that statement?

20 A. Yes.

21 Q. And that's what we've been talking about  
22 in this proceeding is traffic sensitivity, right?

23 A. No. We've been talking about cost  
24 sensitivity.

25 Q. Okay. Whatever we call it, the FCC's  
26

1 standard is cost sensitive to increasing call  
2 traffic. Do you agree with that?

3 A. In a broad sense, yes.

4 Q. Okay. And you say in this portion of your  
5 testimony that "The traffic sensitivity on a wireless  
6 network depends on the availability of idle radio  
7 channels and the presence and strength of that  
8 channel"; is that right?

9 A. That's correct.

10 Q. And you say, "The customers lose service  
11 when they pass out of coverage or when they enter  
12 facilities that block the channel"?

13 A. That's correct.

14 Q. You called that second thing the Wal-Mart  
15 phenomenon, right?

16 A. Phenomenon, right. A good metal building.

17 Q. Right. A building that blocks the signal?

18 A. Right.

19 Q. The customers you're referring to are  
20 Union's customers?

21 A. Existing customers.

22 Q. And then on line 146 you say that "With  
23 each improvement in coverage, more call attempts of  
24 existing customers are served"; is that right?

25 A. That is correct.

26

1 Q. And again, the customers you're referring  
2 to are Union's customers?

3 A. That is correct.

4 Q. Now turn to line 309 of your Post  
5 Surrebuttal, please. This is where you're addressing  
6 a dispute between you and Mr. Copeland about  
7 integrated digital loop carrier systems; is that  
8 right?

9 A. That is correct.

10 Q. And the testimony that you were responding  
11 to is found in Mr. Copeland's Post Surrebuttal reply  
12 testimony starting on line 132; is that right?

13 A. Correct.

14 Q. And he does refer on that line to  
15 integrated digital loop carrier systems; is that  
16 right?

17 A. As being traffic engineered.

18 Q. And you say in your testimony here that  
19 "Integrated digital loop carriers are not traditional  
20 loop technology as it provides line concentration  
21 normally provided within the switch itself"; is that  
22 right?

23 A. That is correct.

24 Q. Have you reviewed the TELRIC study that  
25 was approved by the Commission for use in Utah's --

26

1 in Qwest's last cost docket?

2 A. No.

3 MR. MONSON: May I approach the witness?

4 THE COURT: Certainly.

5 MR. MONSON: Could we have this one marked  
6 as Qwest Cross whatever?

7 THE COURT: 11? We'll mark it as Qwest  
8 Cross 11.

9 MR. MONSON: Thank you.

10 Q. (BY MR. MONSON) Mr. Jacobsen, I'm going  
11 to represent to you that this is a excerpt from the  
12 cost study, the HAI 5.25 study that was used in  
13 setting Qwest's rate, Qwest's interconnection and  
14 unbundled network element rates in its last cost  
15 docket in Utah.

16 MR. MECHAM: When was that, Mr. Monson?

17 MR. MONSON: Pardon?

18 MR. MECHAM: When was that?

19 MR. MONSON: It was in 2003, I believe.  
20 The Order came out in -- the Order was the Order we  
21 referred to earlier, the May 5, 2003 order.

22 Q. (BY MR. MONSON) We have added one number  
23 to this page. It's the number in the lower  
24 right-hand corner and the description of that number.  
25 But would you agree, subject to your checking this

26

1 exhibit, that 46.2 percent of Qwest's lines use  
2 integrated digital loop carrier technology for  
3 purposes of the questioning?

4 A. I have no way of checking that. But if  
5 you want to enter that as fact, I guess I'm not in a  
6 position to contend it.

7 Q. You're not in a position to --

8 A. To contend or to argue.

9 MR. MECHAM: Well, and he's also said he  
10 wasn't familiar with this.

11 MR. MONSON: Well, he's made the statement  
12 that this type of technology is not traditionally  
13 used in the network.

14 MR. JACOBSEN: I believe you've  
15 misrepresented my testimony. I said that the kinds  
16 of technology that actually concentrate traffic  
17 outside the switch, which is typically referred to  
18 the general reference 303 technology, is not used in  
19 loop technology. Digital carriers like Slick  
20 systems, described as a new carrier or digital new  
21 carrier, as you call it here, is widely used in the  
22 network to avoid having to build cable facilities all  
23 the way back to the Central Office.

24 In today's technology, your Honor, if you  
25 have a new subdivision going in, you would typically  
26

1 have to bring wire all the way from the homes all the  
2 way back to the switch. This might parallel some  
3 existing cable. So what they do is they put in  
4 electronics between the switch and where those cables  
5 join and then multiplex would combine electronically  
6 the signals coming from the home to the switch to  
7 avoid construction costs.

8           So if anything, this argument simply  
9 suggests that when it is able to lower its cost of  
10 loop facilities, which we're unable to do in a  
11 corresponding way with the wireless network.

12           Q.     (BY MR. MONSON) And those are shared  
13 facilities, right, those integrated digital loop  
14 carriers?

15           A.     No. No, they're not. They are multiplex  
16 facility, not shared, because each channel on the DLC  
17 is still dedicated back to the home.

18           Q.     So are you saying there's as many channels  
19 on a DLC as there are customers connected to that  
20 DLC?

21           A.     If this is DLC technology and not another  
22 technology, that is true.

23           Q.     Now, please look at line 327 of your Post  
24 Surrebuttal Testimony. There you're discussing the  
25 issue raised by Mr. Copeland about the traffic  
26

1 sensitivity of the GSM switch; is that right?

2 A. Yes.

3 Q. I think in your -- let's see, it's either  
4 in your testimony or Mr. Copeland's testimony,  
5 there's a reference to Union's data response to Data  
6 Request 6-005. Is that the one I just showed you?  
7 That was 6-001. Do you recall, was that in your  
8 testimony?

9 A. I don't recall.

10 Q. Do you have Mr. Copeland's testimony?

11 A. I do not have it here.

12 Q. Well, let me go to something else and  
13 we'll come back to that.

14 On line 339 of your Post Surrebuttal  
15 Testimony you take issue with Mr. Copeland's response  
16 to a statement made in your testimony about doubling  
17 usage; is that right?

18 A. Uh-huh (affirmative).

19 Q. And you conclude this discussion by  
20 saying, "I made no statement of whether this doubling  
21 of requirements would or would not exceed the  
22 installed capacity of the network."

23 Do you recall that?

24 A. Yes.

25 Q. The statement Mr. Copeland was responding  
26

1 to is found on lines 94 to 96 of your Direct  
2 Testimony; is that right?

3 A. Yes, I believe that's correct. Let me  
4 check the line numbers.

5 Q. Okay.

6 A. Yes, that's right.

7 Q. And in those lines you said, "If they,"  
8 and "they" I assume was cellular customers; is that  
9 right?

10 A. Uh-huh (affirmative).

11 Q. "Collectively double their amount of  
12 individual usage, twice as many end-to-end facilities  
13 are required"; is that right?

14 A. Yes, correct.

15 Q. And the end-to-end facilities you're  
16 referring to were named in your testimony just ahead  
17 of this, right?

18 A. Radio channels all the way back to the  
19 telephone switch.

20 Q. Okay. So they include antennas, coaxial  
21 cable, radios, duplexers, combiners, splitters,  
22 amplifiers, radio transceivers, controllers,  
23 compressing equipment and long backhaul facilities,  
24 right?

25 A. Correct.

26

1           Q.     Okay.  But based on your statement in your  
2     Post Surrebuttal Testimony that we referred to at the  
3     start of this, I take it that it's not still your  
4     testimony that if Union customers doubled their  
5     individual usage that twice as many end-to-end  
6     facilities would necessarily be required?

7           A.     Well, this is perhaps an issue of  
8     interpreting what the question was asking.  Clearly,  
9     if we double the number of calls in a network we're  
10    going to have to double the number of circuits to  
11    carry them.  I mean, that's fairly simple math.

12                   Now, if the question was would we have to  
13    build twice as many facilities, that's a different  
14    question than the one I answered.  But within the  
15    small margin of error where you have some improved  
16    efficiency to scale, it's just law of the large  
17    numbers and statistics, about twice as many circuits  
18    would be required if you double the number of calls.  
19    I looked at that as a simple question with a simple  
20    answer.

21           Q.     Okay.  Let's go back to the question I was  
22    asking you about before that.  And let me give you a  
23    copy or I'm going to let you look at a copy of Mr.  
24    Copeland's testimony.  It's in his Post Surrebuttal  
25    Reply Testimony on page 9.

26

1 Can I give this to the witness?

2 THE COURT: Certainly.

3 MR. MECHAM: Which piece of Mr. Copeland's  
4 testimony?

5 MR. MONSON: It's Post Rebuttal Reply  
6 Testimony.

7 MR. ASAY: What date?

8 MR. MONSON: September 28th, 2007.

9 Q. (BY MR. MONSON) Can you see on that page  
10 9, starting with line 151, Qwest provides a copy of  
11 its Data Request and Union response?

12 A. Yes.

13 Q. Okay. And in Union's response, did you  
14 help prepare this response?

15 A. Yes.

16 Q. You said that, after objecting you said,  
17 "With regard to 1 through 3, which are the processor  
18 and common control busy hour call attempts, the  
19 switching matrix, busy hour minutes of use and memory  
20 capacity of customers, that they are, although in  
21 principle these elements of the switch are traffic  
22 sensitive, their traffic capability is sized for the  
23 life and maximum capacity of the switch; is that  
24 correct?

25 A. That's correct.

26

1           Q.     And then with regard to number 4, which  
2     was the busy hour minutes for use of various ports or  
3     spigots, you said, "The attached telephone network  
4     reports includes traffic information for all such  
5     switch trunk ports"; is that right?

6           A.     That's correct.

7           Q.     Okay.  Are you aware that the Commission's  
8     Order in Qwest's cost docket says that if the switch  
9     is able to accommodate projected growth in traffic it  
10    is not traffic sensitive?  Would you like to look at  
11    the Order?

12          A.     No, no, but I want to respond along the  
13    way.  There is a difference between size for the life  
14    of the switch and size for the life of the network.  
15    What I made clear in my testimony was that Nortel, in  
16    recognizing the pure difficulty of changing the  
17    internal plumbing, electrical plumbing of the switch,  
18    realizes that it's virtually impractical to go in and  
19    change a processor or change the internal fabric of  
20    the switch, right?

21                   And so they make available a series of  
22    switch sizes, and I listed those in my testimony, and  
23    it is common in the industry that for a company who  
24    is a growing network will buy a certain size switch  
25    and as the network grows and the switch becomes

26

1 traffic constrained, then it's a simple matter of  
2 adding a second switch, which is sometimes done. Or  
3 if we want to keep it a one switch environment we  
4 simply do our forklift, operate it and put a new  
5 switch in. And I made the clear statement that the  
6 switch is traffic sensitive, but on a grosser level  
7 because of the sheer difficulty of changing some of  
8 those components.

9           And in fact, Union bought the smallest  
10 possible version of Nortel, which is the SNSE  
11 processor and it is right now having to either expand  
12 or replace that switch because traffic has grown to  
13 the point where the switch can no longer carry much  
14 additional growth. That's a simple statement.

15           Q.     Okay. Now turn to lines 367 to 369 of  
16 your Post Surrebuttal Testimony, please.

17           A.     Okay.

18           Q.     And here you're talking about the issue  
19 about whether or not costs should be allocated to  
20 data services; is that right?

21           A.     That's correct.

22           Q.     And you say that "Data services currently  
23 account for less than 1 percent of Union's monthly  
24 wireless revenue"; is that right?

25           A.     That is correct.

26

1 Q. Are you familiar with the revenues of  
2 Union from its various wireless services?

3 A. I was given the statistic by the people in  
4 the IT Department who had aggregated all of the data  
5 services revenue for the GSM network.

6 Q. So would that indicate that you're not  
7 familiar with the other revenues?

8 A. I'm not sure what you mean by "the  
9 revenues."

10 Q. The revenues from the other wireless --  
11 from wireless services.

12 A. Could you be more explicit?

13 Q. Well, I wanted to know if you were  
14 familiar with the revenues received by Union for the  
15 wireless services it offers?

16 A. Are you talking about voice products and  
17 voice services?

18 Q. Whatever wireless services it offers.

19 A. I don't have access to the dollar values,  
20 but the people who provided the statistic do.

21 Q. Okay. So would this indicate to you that  
22 if data services account for less than 1 percent of  
23 Union's monthly wireless revenue that many people are  
24 not subscribing to those services?

25 A. I do not know that.

26

1 Q. Okay. But they are available on the  
2 network to anyone who wishes to purchase them; is  
3 that right?

4 A. That is correct.

5 Q. So Union has incurred the cost necessary  
6 to provide those services?

7 A. Yes. But understand that those costs are  
8 pretty minimal. The daily capability in a GSM  
9 network is a software feature, not a hardware  
10 feature. And software features are always much  
11 simpler and less expensive to implement than  
12 hardware.

13 Q. They cost money, though, don't they?

14 A. A small amount, yes.

15 Q. And as we talked about earlier, in  
16 response to Data Request 6-007 you said that at least  
17 one channel is dedicated to data and sometimes more  
18 than one; is that right?

19 A. Typically one channel.

20 Q. Okay. And data offerings are a retail  
21 offering by Union; is that right?

22 A. Yes.

23 Q. Are you familiar with the 46 CFR 51.507?

24 A. No, I am not.

25 Q. At lines 378 to 379 of your Post  
26

1 Surrebuttal Testimony you're talking about offered  
2 load data; is that right?

3 A. Yes.

4 Q. And you say that Mr. Copeland made an  
5 error in his utilization calculations by basing them  
6 on carried load rather than offered load; is that  
7 right?

8 A. Correct.

9 Q. And you say, you said earlier, that Union  
10 had provided a complete response to Qwest regarding  
11 all aspects of the network. And we talked about that  
12 earlier, right?

13 A. Uh-huh (affirmative).

14 Q. Did Union provide offered load data to  
15 Qwest?

16 A. Offered load data cannot be given if the  
17 traffic has been lost. But what is typically done,  
18 having done this for 35 years, is that you adjust  
19 carried load by the percent blocking and increase  
20 that traffic to what is called the offered load as a  
21 basis for all analysis, which he failed to do.

22 Q. If a call is blocked that means it wasn't  
23 completed?

24 A. He was never able to access the network.

25 Q. Right. And so, therefore, we have no idea  
26

1       how long that call would have lasted had it been  
2       completed, do we?

3             A.       In the laws of large numbers that's moot  
4       statistically.

5             Q.       Okay.  So when you're talking about  
6       offered load data you're talking about projecting how  
7       much would be available in an ideal situation; is  
8       that right?

9             A.       Well, if you're going to analyze the  
10       network on the basis of traffic and you're carrying  
11       100 minutes and you have 20 percent blocking, meaning  
12       20 percent of your traffic has been lost, it is a  
13       reasonable assumption to make that there's 120  
14       minutes that are there and 20 percent is being lost,  
15       which would be approximately 100 minutes.  That is  
16       always the design criteria when you do network  
17       analysis.  You start with what the real traffic  
18       actually was, which he failed to do.

19            Q.       Isn't the real traffic the carried load?

20            A.       Absolutely not.  The real traffic is what  
21       was offered to the network.  It's true that the  
22       measured traffic, which is real traffic is carried,  
23       but that may not be all the traffic that would be  
24       carried if the network were redesigned properly.

25            Q.       Okay.  Now, turn to line 393 of your Post

26

1 Surrebuttal Testimony, please.

2 A. Yes.

3 Q. There you state that "Mr. Copeland's  
4 conclusion that there's a trend of decreasing minutes  
5 of use per BTS is totally unfounded on a year-to-year  
6 true busy season growth," right?

7 A. That's correct.

8 Q. And you're referring to the analysis  
9 that's on page 16 of Mr. Copeland's Post Surrebuttal  
10 Reply testimony, right?

11 A. Yes.

12 Q. And that study is based on total annual  
13 minutes of use per year, right?

14 A. Not exactly.

15 Q. Aren't those numbers on that table total  
16 minutes of use per year for the years listed?

17 A. No, they're not. I would defer to Mr.  
18 Hendricks on these numbers since he was the one who  
19 provided the previous numbers on these, but my  
20 understanding is that these were based on numbers  
21 based in 2004 and simply projected forward. I am  
22 fairly sure that the 2005 and 2007 numbers are not  
23 actual total year-end numbers.

24 Q. Are these the numbers that were out of  
25 Union's cost study, do you know?

26

1           A.     You would have to ask Mr. Hendricks that  
2 question.

3           Q.     But in any event, these weren't based on  
4 any busy season numbers?

5           A.     They were not.

6           Q.     They were based on annual numbers,  
7 wherever they came from?

8           A.     Well, if the numbers are flawed then the  
9 analysis is flawed. What I think the weakness of  
10 this is that he has taken two or three data points  
11 out of context and drawn a straight line. The fact  
12 of the matter is, and this is throughout the  
13 industry, and in fact it's been shown by studies by  
14 both the Yankee group and TeLethea, which is a  
15 monitoring group for a wireless network, that traffic  
16 has been compounding about 40 percent per year across  
17 the country. I find it incongruous and inconsistent  
18 with the industry trends to say that traffic for BTS  
19 is decreasing when traffic is radically increasing,  
20 especially among the 18 to 24-year-olds which  
21 currently create about four times as much traffic per  
22 cell line as they do per land line. This is not  
23 logical in relation to what's happening in the  
24 industry.

25          Q.     So if this data came from Union, you're  
26

1 saying you don't think it's creditable data?

2 A. I do not know the basis for the traffic.  
3 It was an extrapolation based on certain assumptions  
4 made by Mr. Hendricks and it was for him to describe  
5 what these numbers were.

6 Q. You also described the 18 to 24 age group.  
7 Isn't it true that those people are principally  
8 communicating now through text messaging?

9 A. I don't know that. In any case, text  
10 messaging is an extremely low utilization factor in  
11 the network.

12 Q. It's a data service, though?

13 A. It's a data service, but it does not  
14 travel over voice facilities.

15 Q. Okay. Now please look at lines 432 to 433  
16 of your Post Surrebuttal Testimony. You can see  
17 we're almost done. There you state that "Mr.  
18 Copeland clearly does not understand how to interpret  
19 TELRIC study results"; is that right?

20 A. Well, certainly not in the interpretation  
21 of the R squared regression statistic.

22 Q. Okay. We'll get to that in a minute. Did  
23 you read Mr. Copeland's background and qualifications  
24 in preparing your response to his testimony?

25 A. Yes, I did.

26

1 Q. So you're aware that he's been doing cost  
2 studies for many years?

3 A. Yes. And I've been a mathematician for  
4 more.

5 Q. And are you aware that Mr. Copeland has  
6 been cited favorably by the Federal Communications  
7 Commission in Orders with regard to cost study  
8 information that he's provided in that context?

9 A. This might be true, but he's a bad  
10 mathematician.

11 Q. Okay. Does this all go to the R squared?

12 A. It typically does. I find it inconsistent  
13 for him to quote a statistic that's completely wrong,  
14 to misinterpret it, and by misinterpreting it to  
15 represent that Union has failed to meet a burden of  
16 proof.

17 Q. Okay. And so now let's talk about the  
18 R squared regression statistic. He said in his  
19 testimony that an R squared value of 0.06 indicated a  
20 low correlation between working channels and BTS  
21 costs; is that right?

22 A. That's what he said.

23 Q. And you said that doesn't represent the  
24 relationship between material costs and working voice  
25 channels and there's no absolute standard for a good  
26

1 R squared value?

2 A. Straight out of the textbooks.

3 Q. Okay. I have a textbook that I would like  
4 to show you somewhere here in my pile of stuff. And  
5 I have copies out of it for everybody else since I  
6 was too cheap to buy 10 copies.

7 May I approach?

8 THE COURT: Yes.

9 Q. (BY MR. MONSON) Could you turn to page --  
10 well, first of all, could we mark this as Qwest  
11 Cross --

12 THE COURT: Qwest Cross 12.

13 MR. MONSON: Qwest Cross 12.

14 Q. (BY MR. MONSON) Could you turn to page 74  
15 of the book, Mr. Jacobsen?

16 A. Yes, I have it here.

17 Q. Could you read the paragraph, the first  
18 full paragraph under the table? Not the footnote but  
19 the paragraph.

20 A. Beginning with "The value of R squared"?

21 Q. Yes.

22 A. "The value of R squared for our estimated  
23 consumption function is .99, which is indicative of  
24 an extremely strong association between C and Yd. It  
25 means that the estimated regression equation accounts

26

1 for 99 percent of the variation of C3 and only 1  
2 percent remains unexplained. This confirms the  
3 tentative conclusion we drew earlier by simply  
4 looking at the scatter category described and  
5 regression line in Figure 2.14."

6 Q. Okay. Do you agree with that statement?

7 A. In a certain context, yes.

8 Q. Okay. Thank you. That's all my  
9 questions.

10 Where did I start?

11 THE COURT: Ten, 11 and 12.

12 MR. MONSON: I would like to offer Qwest  
13 10, 11 and 12, Qwest Cross 10, 11 and 12.

14 THE COURT: Any objection to their  
15 admission?

16 MS. SCHMID: No objection.

17 MR. MECHAM: I would like a little more  
18 explanation on Qwest Cross-Examination 11. This  
19 comes out of the 2000 case, and was this a submission  
20 by Qwest?

21 MR. MONSON: No. This is the cost study  
22 run as a result of that case to set the rates.

23 MR. MECHAM: So this bottom line number in  
24 the bottom right-hand is the actual number of lines  
25 served by DLC in Qwest's network, or is this a  
26

1 modeled number?

2 MR. MONSON: It's a modeled number.

3 MR. MECHAM: I won't object.

4 THE COURT: We'll go ahead and admit it or  
5 admit all three. That was all your questioning, Mr.  
6 Monson?

7 MR. MONSON: Yes, it was. Thank you.

8 THE COURT: Let's go off the record just a  
9 minute.

10 (Off the record.)

11 THE COURT: We'll go back on the record  
12 and we'll turn to Ms. Schmid.

13 CROSS-EXAMINATION

14 BY MS. SCHMID:

15 Q. Good afternoon.

16 Earlier this afternoon you discussed the  
17 second exhibit to your Post Surrebuttal Testimony  
18 that you filed on October 26, 2007. The title of  
19 this exhibit is called "Impact of Increasing Traffic  
20 on Cell Size and Frequencies." Do you remember this?

21 A. Yes.

22 Q. Has Union Cellular actually used the cell  
23 site splitting technology and practice that you've  
24 described here anywhere on Union's network?

25 A. Absolutely. This is called a seven color  
26

1 approach, and unfortunately it's not in color so you  
2 miss the impact on this, but it allows for the  
3 frequency reuse for at least two sectors in between  
4 any duplicated center and in places like Rock  
5 Springs, Cheyenne and Laramie is exactly what we have  
6 done to reuse frequencies within the city. And as we  
7 do so and add cell sites we actually have to restrict  
8 or downsize the footprint of existing cells.

9 MS. SCHMID: Thank you.

10 THE COURT: All right. Let's go ahead and  
11 take a 10-minute break and come back with any  
12 redirect.

13 (Recess taken.)

14 THE COURT: All right. Let's go back on  
15 the record. I know before we broke I indicated that  
16 we would be turning to you, Mr. Asay, for any  
17 redirect, but I did forget I had one question of Mr.  
18 Copeland first. Or excuse me, Mr. Jacobsen. If you  
19 could, sir, turn to page 19 of your Post Surrebuttal  
20 and starting on line 374, this concerns the  
21 discussion you had earlier concerning the proffered  
22 load and the carried load capacities.

23 MR. JACOBSEN: 394?

24 THE COURT: 374, page 19.

25 MR> JACOBSEN: Yes.

26

1           THE COURT: I just wanted to, it may be a  
2 fairly minor point, but I just wanted to clarify. I  
3 believe there was some discussion about 100 percent  
4 versus an upscaling to 120 percent to adequately  
5 capture the offered load capacity for calls that were  
6 not able to be carried?

7           MR. JACOBSEN: Yes.

8           THE COURT: How does that work and how  
9 does that fit into your analysis? If,  
10 hypothetically, I'm driving down the road in Union  
11 territory and I attempt to make a call, the network  
12 can't handle it. Presumably I would try again and  
13 try again until the call did go through. And so when  
14 it did go through that would be measured under the  
15 carried load capacity figure as a call that was  
16 connected, if you will, whereas, your upscaling would  
17 capture each of my attempts to make that call. Is  
18 that the proper way to look at it?

19           MR. JACOBSEN: Well, this is a -- happened  
20 to be the area of my dissertation. It's called  
21 congestion theory and it is appropriate to adjust  
22 statistics for what we call reattempt or retry  
23 traffic. However, that analysis is very complicated  
24 and there's never been an established method for  
25 doing that.

26

1                   It is, therefore, because there is no I  
2                   guess industry accepted way of adjusting that, it is  
3                   typical to assume that you simply divide by the  
4                   percent blocking to upscale the carried load to true  
5                   offered. Now, it is true that there are sometimes  
6                   second and third attempts, but not every call is  
7                   tried a subsequent time. Typically the percentage of  
8                   retry is in the 60 to 70 percent range on blocked.  
9                   Do I try again? Yes or no.

10                   And so it very quickly diminishes down and  
11                   has fairly minor impacts on the total traffic. So I  
12                   think as a conservative estimate of carried load it's  
13                   just been a practice for many, many years to divide  
14                   by the percent blocking to estimate carried --  
15                   offered load.

16                   THE COURT: Okay. With that, Mr. Asay?  
17                   Or I'm sorry, Mr. Mecham.

18                   MR. MECHAM: And we have no redirect.

19                   THE COURT: I guess just because I asked  
20                   that question I'll just turn real quick to Qwest or  
21                   the Division. Do you have any questioning based on  
22                   my questions?

23                   MR. MONSON: No.

24                   MS. SCHMID: Nothing from the Division.

25                   THE COURT: Thanks, Mr. Jacobsen.

26

1 Anything further from Union at this time?

2 MR. ASAY: That is essentially our  
3 presentation in regard to particularly the  
4 asymmetrical data.

5 THE COURT: We'll go ahead and turn to  
6 Qwest.

7 MR. MONSON: We would call Peter Copeland.

8 MR. COPELAND: Is it okay if I have my  
9 laptop here?

10 THE COURT: Sure. As soon as you secure  
11 all that stuff, if you'll raise your right hand, I'll  
12 swear you in. Take your time.

13 Do you solemnly swear that the testimony  
14 you're about to provide will be the truth, the whole  
15 truth and nothing but the truth, so help you God?

16 MR. COPELAND: I do.

17

18 PETER COPELAND,  
19 called as a witness was examined and  
20 testified as follows:

21

22 THE COURT: Thank you. Please be seated.

23 Mr. Monson?

24 DIRECT EXAMINATION

25 BY MR. MONSON:

26

1 Q. Mr. Copeland, could you state your full  
2 name for the record?

3 A. My name is Peter E. Copeland,  
4 C-O-P-E-L-A-N-D.

5 Q. What's your position, what's your  
6 employment?

7 A. I'm employed by Qwest in the Public Policy  
8 Department as Director of Cost and Economic Analysis.

9 Q. And what's your business address?

10 A. My business address is 1801 California  
11 Street, 47th Floor, Denver, Colorado, 80202.

12 Q. Did you prepare four pieces of testimony  
13 that have been filed in this proceeding?

14 A. Yes, I did.

15 Q. Revised Rebuttal Testimony dated July 21,  
16 2006; is that right?

17 A. Yes.

18 Q. Surrebuttal Testimony dated March 5 of  
19 2007, that's the confidential and non-confidential  
20 version with two exhibits; is that right?

21 A. Yes.

22 Q. And Post Surrebuttal Reply Testimony dated  
23 September 28th of 2007, and that's also confidential  
24 testimony with five attached exhibits?

25 A. Yes.

26

1 Q. And Surrebuttal Testimony to Division  
2 testimony dated October 26, 2007?

3 A. Yes.

4 Q. Do you have any corrections to any of this  
5 testimony?

6 A. Yes. I have two corrections. Those both  
7 occur in my Revised Rebuttal Testimony of July 21st.  
8 The first --

9 MR. ASAY: Hang on for a second.

10 Thank you, Mr. Copeland.

11 MR. COPELAND: Okay. The first correction  
12 is on page 23, line 3. And my correction is to  
13 strike "In Decision No. C02-636" and then capitalize  
14 the "i" in "In" and then to add after Docket No.  
15 01-049-85, add "issued May 5, 2003."

16 My second correction is in the same  
17 testimony at page 26, line 14. And on that line I  
18 would like to strike "towers, comma."

19 Q. Do you have any other corrections?

20 A. No, I don't.

21 Q. So if I were to ask you the questions set  
22 forth in your testimony today, would your answers as  
23 corrected be the same?

24 A. Yes.

25 MR. MONSON: Your Honor, we would offer  
26

1 Qwest 3RR, Qwest 3SR, Qwest 3SR.1, Qwest 3SR.2,  
2 Qwest 3PSR, Qwest 3PSR.1, Qwest 3PSR.2, Qwest 3PSR.3,  
3 Qwest 3PSR.4, Qwest 3PSR.5 and Qwest 3SR-D.

4 THE COURT: Any objection to their  
5 admission?

6 Okay. We'll go ahead and admit them.

7 MR. MONSON: Okay.

8 Q. (BY MR. MONSON) Mr. Copeland, have you  
9 prepared a summary, and consistent with what other  
10 witnesses have been doing also, some comments on  
11 other statements that have been made during the  
12 course of this hearing?

13 A. Yes, I have.

14 Q. Okay. Would you provide that, please?

15 A. Yes. And before I start, if you don't  
16 mind I would like to sign in on my computer so it  
17 will be ready if I need it, or should I do that at a  
18 later time, your Honor?

19 THE COURT: You can do that now. Just be  
20 sure and let anyone know if you're referring to your  
21 computer at all.

22 MR. COPELAND: Okay.

23 MR. MONSON: Your Honor, can we go off the  
24 record for a moment?

25 THE COURT: Sure.

26

1 (Off the record.)

2 THE COURT: Let's go back on the record.

3 Mr. Copeland, you were going to offer your summary?

4 MR. COPELAND: Yes. The reason we're here  
5 today is to determine what network components that a  
6 cellular carrier can include in calculations of an  
7 asymmetric local interconnection transport  
8 determination cost. And I think first that the first  
9 place to start in looking at this is the Federal Code  
10 of Regulations where the FCC set up rules  
11 specifically for these interconnection rates at  
12 51.709a.

13 "In state proceedings, a state commission  
14 shall establish rates for the transport determination  
15 of telecommunications traffic that are structured  
16 consistently with the manner that carriers incur  
17 those costs and consistently with the principles in  
18 51.507 and 51.501 which are part of the TELRIC  
19 rules."

20 So what does this mean? I think my  
21 interpretation of this is that the -- how the  
22 carriers incur these costs are the key. If a  
23 subscriber causes a service, the service causes a  
24 cost, then that cost cannot be part of an  
25 interconnection rate. I think that's a key to many

26

1 of the issues here.

2                   And the FCC released an Order on September  
3 3rd, 2003 which specifically addresses the CMRS  
4 issues on the type of cost study and the type of  
5 analysis that needs to be done. There has been  
6 quoted today a cost-based approach, one that looks at  
7 whether the particular wireless network components  
8 are cost sensitive in seeking call traffic should be  
9 used to identify compensable wireless network  
10 components.

11                   So, I mean, we're talking here about how  
12 do you determine whether a network component is cost  
13 sensitive to increasing call traffic? Well, you need  
14 to see how that component is used in the network.  
15 You need to know the capacity of that component is  
16 and what the utilization of that component is. Is  
17 the component designed and is it provisioned such  
18 that it has sufficient capacity for the component  
19 planning horizon?

20                   That's a standard that this Commission  
21 uses in determining the TELRIC switching rate for  
22 Qwest. Will the component need to be augmented  
23 during its life? So there are various things you  
24 need to look at. It takes work to create a factual  
25 record. We tried to get relevant data through

26

1 discovery to determine if Union's wireless network  
2 components were cost sensitive to increasing call  
3 traffic. Most of the time we were told that our  
4 questions weren't relevant to the issues at hand. We  
5 disagree. At one point they finally provided some  
6 limited data.

7           So what's on the record now? I think one  
8 of the confusions that we're hearing from Mr.  
9 Hendricks and Mr. Jacobsen are the confusion of  
10 traffic engineering conscious with the determination  
11 of a proper interconnection rate based on these  
12 TELRIC rules, mixing up what TELRIC says is efficient  
13 cost causative versus how they've actually designed  
14 their network. And those aren't the same thing, as  
15 Qwest has found out in many unbundled network element  
16 proceedings.

17           So let me give you some examples of where  
18 these things differ. In Utah, the UNE switching  
19 decision decided that the unbundled switching element  
20 was completely non-traffic sensitive. So that means  
21 that there is no increasing costs with increasing  
22 traffic. Qwest still uses traffic engineering to  
23 engineer the trunk side of the switch. They also use  
24 it for the integrated digital loop carrier on the  
25 subscriber side, and the Order found that sensitive  
26

1 equipment, as purchased, is designed to accommodate  
2 the expected levels of usage, that there is no  
3 increasing cost for the usage charges to recover.

4           So it's pretty clear that depending on how  
5 it's provisioned, you cannot necessarily charge that  
6 as a local interconnection cost as being cost  
7 sensitive to increasing call traffic.

8           Integrated digital loop carrier. I think  
9 Qwest has a rate of service of .01. But like the  
10 rest of the loop, it is declared to be non-traffic  
11 sensitive for purposes of recovery of these costs for  
12 interconnection. We get to charge it on a  
13 non-traffic sensitive basis. However, because there  
14 are fewer time slots between the integrated digital  
15 loop carrier system terminal in the field and the  
16 number of subscribers, the number of lines that  
17 subtend that, the number of homes and the number of  
18 lines, that if everyone went off hook at the same  
19 time there would be blocking, and it's designed to  
20 have only 1 percent blocking.

21           But again, that's a traffic engineered  
22 system that's thought to be MTS for these purposes.  
23 There is other examples in Minnesota. They also  
24 declared both the UNE switch to be completely MTS and  
25 also carried that decision over into local switch

26

1 interconnection rates. Those are also zero because  
2 they found those costs to be non-traffic sensitive.

3 So these principles of traffic  
4 engineering, you need them to run your network, but  
5 they don't necessarily mean for purposes of what you  
6 can charge another carrier for interconnecting, that  
7 that's the holding piece of logic. The FCC has other  
8 rules that would supersede those.

9 So once a wireless network component meets  
10 these criteria where you found it to have increasing  
11 cost when there's increasing call traffic, then what  
12 comes next? Well, then you need to go to creating a  
13 TELRIC study of that element. And those items are  
14 laid out in the FCC rules at 51.505.

15 And in summary, those are forward-looking  
16 costs over the long run, which is the total quantity  
17 of facilities and functions directly attributable to  
18 the element, that's an important point, use of the  
19 most efficient network technology currently  
20 available, and the lowest cost network configuration,  
21 including utilization levels, and you can't include  
22 embedded costs, retail costs or opportunity costs.  
23 You have to create a written factual record that's  
24 sufficient for purposes of review for people to  
25 determine that these components are, in fact, cost

26

1 sensitive to increasing call traffic and that they  
2 are based on a forward-looking efficient network and  
3 that you are using the most efficient technology  
4 currently available.

5           So once a study is placed, meets or  
6 doesn't meet these things, and let's say for instance  
7 it doesn't meet these things, what do you do? What  
8 do you do with that study? Do you adjust it like Mr.  
9 Hendricks says? Well, the local Competition Order at  
10 paragraph 1089 says, "In the absence of such cost  
11 study justifying the departure from symmetric  
12 compensation, reciprocal compensation traffic shall  
13 be based on the ILEC carrier's cost study."

14           So essentially there is a burden of proof  
15 on Union. If they don't meet it, they use the Qwest  
16 existing rates. So the burden is on them to show  
17 that they actually have higher costs and that they  
18 are cost sensitive to increasing call traffic for  
19 each of the components in the wireless network.

20           Now, I want to go on to a couple of other  
21 issues. Mr. Hendricks and Mr. Jacobsen said I  
22 created a proposed TELRIC study in my proposed  
23 Surrebuttal Reply Testimony. I did not. I created  
24 an alternative study, not a TELRIC study. I was  
25 trying to show a hypothetical example to demonstrate  
26

1 that an asymmetric rate is not necessary for Union to  
2 recover its own costs, that its costs are similar to  
3 those already that are recovered in that rate.

4 I had only limited data. I had the seven  
5 days that was provided, even though we asked for an  
6 indeterminate length of data, Union chose just to  
7 provide that. In most cases if they have more recent  
8 pertinent data, it's my understanding in the state  
9 dockets I've been in, that that Data Request gets  
10 updated. It was not updated and I have no other  
11 data. The data I received didn't meet TELRIC  
12 standards because it included, among other things,  
13 embedded costs and costs of retail services and data  
14 services.

15 And as Mr. Jacobsen pointed out, if you're  
16 using flawed data, you end up with a flawed analysis.  
17 So I was just trying to show a hypothetical if you  
18 made some assumptions about how an efficient network  
19 could be built to handle the usage that has been put  
20 forth in the Union model, how many radios would you  
21 need and what would they cost per minute based on the  
22 costs that they provide and the usage data they  
23 provided me.

24 Now I would like to move to fill factors.  
25 The FCC calls for the lowest cost and most efficient  
26

1 technology currently available. And the Utah  
2 Commission Order in May 5, 2003 had an Order stating  
3 that switching should use a 90 percent utilization  
4 factor. That's not happened in this study. And Mr.  
5 Hendricks has compared their BTS sites to switching.  
6 So if they're to look at what would meet efficient  
7 TELRIC standards, it would have to be at the 90  
8 percent utilization if the analogy to switching is to  
9 hold.

10           Sharing of certain network elements.  
11 Cable and wire facilities contain poles and trenches  
12 and conduit and they can support all the services on  
13 the cables that are running that. In the cost study  
14 that was developed for loop and transport, those  
15 elements were -- included special access services, so  
16 as to allocate costs of the trench, costs of the  
17 poles away to other Qwest services that we've  
18 provided on a retail basis.

19           Additionally, there was what was called  
20 the sharing percentage, which actually varied for  
21 each type of plant, whether it's aerial, underground  
22 or buried by density group, but the data that was  
23 used, that was ordered in the Utah cost docket showed  
24 that at least 50 percent -- or up to 50 percent,  
25 excuse me, was allocated to other carriers and away

26

1 from Qwest's costs.

2           So if you had a trench that cost \$10 a  
3 foot and it was in a middle density group, it was  
4 assumed that there would be at least one other  
5 carrier in there 50 percent of the time, and 50  
6 percent of that \$10 disappeared and wasn't included  
7 in the trenching costs.

8           That also happened in the sections of  
9 interoffice transport that made up the local  
10 termination rate or local transport rate for  
11 interconnection where we included special access  
12 services and data service. So they had all services  
13 that would be riding interoffice to size, all those  
14 cables and all the terminals that do the multiplexing  
15 to the most efficient level. So you might have pipes  
16 that are carrying OC48 worth of traffic, where your  
17 local traffic might be a tiny portion of that, but  
18 when you bring it down to a per minute basis it  
19 reflects all of those efficiencies and you look at,  
20 because we included special access services, they  
21 took their portion of those costs as well and took  
22 them away from the local interconnection rates. So  
23 the most efficient network created these lower  
24 interconnection rates.

25           Now, structure is equally applicable to  
26

1 the towers that exist for the cell sites. And it's  
2 my take that those towers are not traffic sensitive  
3 because you don't have to increase those with  
4 increasing call traffic, but those towers can also be  
5 shared with other carriers providing long haul  
6 microwave and other services. So 100 percent of  
7 those costs should never be in the study. They  
8 should be consistent with the way poles and  
9 right-of-way -- or poles, ducts and the conduit are  
10 considered, and trenching.

11 Now I want to move on to the issue of  
12 mobility because I think mobility needs to be  
13 discussed in terms of cost causation under 51.709A  
14 and we have to look at how these costs are incurred.  
15 You know, the basic question is why do people  
16 subscribe to the Union wireless. And they get  
17 wireless service so they can have mobility, be able  
18 to call from their house on their way to work, from  
19 their office or from where they might be going and  
20 doing recreation. And so Union created a service at  
21 some point and built out their cell network. That  
22 cost was incurred because they had a business plan to  
23 serve subscribers and provide mobility. Those plans,  
24 that network wasn't built so Qwest could terminate a  
25 call to someone's cousin calling from Salt Lake to,  
26

1 say, Vernal, Utah.

2 So essentially they put that out there to  
3 get and incurred the cost to have a cellular network  
4 and provide a service to subscribers. So when did  
5 Union incur these costs to build the coverage? You  
6 know, when they built their network originally. So  
7 the network costs of creating the coverage started  
8 when Union first decided to serve its subscribers.  
9 It didn't start when a Qwest customer in Utah made  
10 the first intraMTA call to a Union cell phone  
11 customer.

12 Now, Union claims that 100 percent of the  
13 network costs are cost sensitive to increasing call  
14 traffic. Well, if that's true, then if the number of  
15 calls decreased their costs would decrease. If the  
16 number of subscribers dropped to a single subscriber,  
17 Union would still have the cost of having all those  
18 cell sites that they've sold the coverage to this  
19 single subscriber with the expectation that he could  
20 go anywhere within that calling area and make a call.  
21 Those costs don't go away. They're not traffic  
22 sensitive. There are basic minimum costs to provide  
23 that network and you have to put those out and  
24 they're not traffic sensitive. They aren't -- those  
25 costs do not increase with increasing call traffic.

26

1                   And continuing, if for redundancy purposes  
2     you need to put in additional radio capacity, I don't  
3     see how that capacity is related to increasing costs  
4     from increasing call traffic. They seem to be  
5     totally unrelated.

6                   And that concludes my wrap-up and I'm  
7     complete.

8                   MR. MONSON: Okay. Mr. Copeland is  
9     available for cross.

10                  THE COURT: Mr. Asay, who will be handling  
11     that for --

12                  MR. ASAY: I will be doing that.

13                  THE COURT: Okay. Go ahead.

14                  MR. ASAY: Thank you, your Honor.

15

16                                   CROSS-EXAMINATION

17     BY MR. ASAY:

18                  Q.     Mr. Copeland, you were here during the  
19     examination of Mr. Jacobsen?

20                  A.     Yes, I was.

21                  Q.     And there was a reference read into the  
22     record from a selected book that I assume that you're  
23     aware of?

24                  A.     Yes.

25                  Q.     I also have a book for you that I'm going  
26

1 to ask you if you're aware of and if you've studied  
2 it as part of your analysis of the R squared  
3 phenomenon. This is from Basic Econometrics, 2nd  
4 Edition, McGraw-Hill publisher 1988, page 186. And  
5 it says, "In concluding this section a warning is in  
6 order: Sometimes researchers play the game of  
7 maximizing R squared, that is, choosing the model  
8 that gives the highest R squared. But this may be  
9 dangerous, for in regression analysis our objective  
10 is not to obtain a high R squared per se, but rather  
11 to obtain dependable estimates of the true population  
12 regression coefficients and draw statistical  
13 inferences about them. In empirical analysis, it is  
14 not unusual to obtain a very high R squared, but find  
15 that some of the regression coefficients are either  
16 statistically insignificant or have signs which are  
17 contrary to a priori expectations. Therefore, the  
18 researcher should be more concerned about the logical  
19 or theoretical development of the explanatory  
20 variances, to be presented variables and their  
21 statistical significance. If in this process we  
22 obtain a high R squared, well and good. On the other  
23 hand, if R squared is low it does not mean that the  
24 model is necessarily bad."

25 Are you familiar with that quote?

26

1           A.     Not that specific quote.  But I mean, the  
2     general concept follows in all statistical classes.  
3     That's why we provided the scattergram that showed  
4     the relationship between working channels and the BTS  
5     cost.

6           Q.     And what is the danger, Mr. Copeland, in  
7     simply grabbing particular excerpts from books when  
8     you're trying to make an analysis and provide useful  
9     information to the Administrative Law Judge and, in  
10    turn, the Commission?

11          A.     Well, I thought my analysis was very  
12    useful.  We were given working channels.  We  
13    developed the working channels and thought that it  
14    was a useful model to look at working channels versus  
15    the BTS cost, and we found by examining that that it  
16    wasn't a good model because the change in working  
17    channels could only explain 6 percent of the  
18    variation in the BTS cost.  So we said, "Well, that's  
19    not a very good model."  We don't know why, but it's  
20    showing that there's not much sensitivity to the cost  
21    of BTS from the working channel numbers that you  
22    provided.

23          Q.     Thank you, Mr. Copeland.  I appreciate  
24    that explanation, but it was only remotely associated  
25    with my question.

26

1                   MR. MONSON: I object to that comment and  
2 suggest it be stricken.

3                   THE COURT: Mr. Asay, why don't you just  
4 rephrase your question and we'll see if the witness  
5 can answer it.

6                   Q.     (BY MR. ASAY) The question is, is it  
7 appropriate in giving direction to the Commission to  
8 draft or draw certain snippets from documents and  
9 take them essentially out of context?

10                  A.     Well, I think that's --

11                  Q.     That's really just a yes or no answer.

12                  A.     I don't think that's a yes or no answer,  
13 if you don't mind.

14                  THE COURT: Go ahead and answer.

15                  MR. COPELAND: Thank you. That was  
16 directly relevant to the issue because I was just  
17 saying that the R squared provides the percent change  
18 in the dependent variable that is based on the  
19 independent variable. That's all it said. And it  
20 only explains 6 percent of that change; 94 percent is  
21 not explained by that variable. It means there's got  
22 to be other variables out there that explain. I  
23 think that's appropriate and I think that's what the  
24 quote said that we provided so it was in context.

25                  MR. ASAY: Judge Goodwill, in all due  
26

1 respect, it's not responsive to my question. It  
2 doesn't go where I want to go with my examination and  
3 I would move that it be stricken and that the witness  
4 be instructed to answer my very specific question.

5 THE COURT: Ask your question again and  
6 we'll see if it can elicit a yes or no.

7 Q. (BY MR. ASAY) Mr. Goodwill -- excuse me.

8 THE COURT: I'll answer yes or no if you  
9 want me to.

10 (Laughter.)

11 MR. ASAY: Forgive me. And I wish that  
12 was the only time I'm going to make that mistake, but  
13 I'm afraid I'll do it again. I apologize in advance.

14 THE COURT: No problem. Go ahead.

15 Q. (BY MR. ASAY) Mr. Copeland, is it  
16 appropriate to take snippets of information from a  
17 book, take them out of context and give them to the  
18 Commission to explain a point of view?

19 MR. MONSON: I'm going to object on the  
20 third time this question has been asked because it  
21 mischaracterizes Mr. Copeland's testimony.

22 MR. ASAY: Judge Goodwill --

23 THE COURT: I think it's certainly fair to  
24 provide a yes or no answer to that question, but I  
25 will give Mr. Copeland to then continue his answer in

26

1 saying whether or not he feels that was what was done  
2 in this case.

3 MR. COPELAND: If the snippet is  
4 inappropriate then it's not appropriate to add.  
5 However, the quote that was provided by Mr. Monson  
6 was precisely the interpretation that I provided of  
7 the R squared. And I think that was a factual quote  
8 and it was pertinent.

9 Q. (BY MR. ASAY) Perhaps you misperceive  
10 what my question is going to elicit because what I'm  
11 really concerned about is to get your understanding  
12 of what appropriate authority is for relaying, if you  
13 will, to a decision-making body, such as the  
14 Commission and Administrative Law Judge.

15 As we bring information to the  
16 Administrative Law Judge, what are appropriate  
17 documents and authority that we should provide?

18 A. That sort of sounds like a legal question.

19 Q. Well, for instance, and I'll take that as  
20 your answer, you provided appropriately references to  
21 the FCC, the opinions and Orders of this Commission.  
22 Are those appropriate authority?

23 A. Yes.

24 Q. What else?

25 A. Well, there would be findings in other  
26

1 regulatory cases and work done in other TELRIC  
2 proceedings and what's been allowed, what hasn't been  
3 allowed, that type of information.

4 Q. And should it be the type of  
5 information that has sufficient authority that other  
6 decision-making bodies can rely on it?

7 A. What do you mean by "authority"?

8 Q. Well, for instance, should it be equal in  
9 authority? In other words, the FCC on top, state  
10 commissions, should it be of that nature?

11 MR. MONSON: Your Honor, I think this is  
12 not only repetitive, but I think it's misinterpreting  
13 his own witness's answer. His witness agreed with  
14 the quote I read out of the book. He said it was  
15 correct and then he gave a little explanation. I'm  
16 not sure why we're going down this road.

17 MR. ASAY: Judge Goodwill, in fact Counsel  
18 does very much misinterpret why we're engaged in this  
19 line of questioning. It has not only some relevance  
20 to the R squared issue, but it has other relevance  
21 with respect to what authority this Commission should  
22 rely on in making its decision. And all I want to  
23 know is what this witness's position is with respect  
24 to authority.

25 THE COURT: Your question is just in  
26

1 general terms what authority?

2 MR. ASAY: Yes.

3 MR. MONSON: I think it's been asked and  
4 answered.

5 THE COURT: Do you have anything to add,  
6 Mr. Copeland, to what you've already said?

7 MR. COPELAND: No, I don't.

8 Q. (BY MR. ASAY) Okay. And just so I am  
9 clear, because I don't want to misquote you or  
10 misunderstand you, when you're talking about  
11 authority upon which this Commission can rely, you're  
12 talking about decisions of Federal agencies and  
13 decisions of State and Regulatory Bodies, essentially  
14 those that deal with regulated entities, particularly  
15 telecommunications?

16 A. Yes. And specifically with extra emphasis  
17 on what Utah has ordered in the past to keep it  
18 consistent with those rulings.

19 Q. This is your opportunity. Anything else?

20 A. Well, I mean, I don't know. It depends on  
21 what you want to ask. I'm having trouble  
22 understanding several things you asked so keep asking  
23 and we'll see.

24 Q. Okay. So to the best of your knowledge,  
25 when we're talking about authority that the

26

1 Commission can rely on, we're talking about  
2 essentially opinions of regulatory bodies? It might  
3 be this authority or it might be equal authority from  
4 other jurisdictions, including the FCC, correct?

5 MR. MONSON: Your Honor, Mr. Copeland gave  
6 a list of these about five minutes ago which included  
7 other things. And I don't know what Mr. Asay is  
8 trying to do, but he's leaving some things out and I  
9 guess he's trying to get Mr. Copeland to forget he  
10 earlier said them. I mean, he's already answered  
11 this question.

12 MR. ASAY: And, Judge, to the extent he's  
13 answered it, I'm satisfied with the answer. I just  
14 don't want to misquote this witness later.

15 THE COURT: I think he's answered and said  
16 he had nothing else to add. We can move on.

17 MR. ASAY: Thank you very much.

18 Q. (BY MR. ASAY) Mr. Copeland, you  
19 introduced your testimony and your exhibits. Did I  
20 understand correctly that you did not include and  
21 introduce your October 24, 2005 testimony?

22 A. That's correct.

23 Q. That you in fact have essentially replaced  
24 that with later testimony?

25 A. Yes.

26

1 Q. Was there anything in that initial  
2 testimony that was replaced that was in any way  
3 changed by Qwest over time?

4 A. Well, obviously because it was filed at a  
5 later time, I decided when there was a completely new  
6 study filed by Union that it didn't make sense to use  
7 my previous testimony and it would take too much work  
8 to change that. So I went and completely  
9 restructured it and redid it.

10 Q. And really what I'm asking is whether  
11 there were any particular issues that were contained  
12 in the initial testimony of which Qwest changed its  
13 opinion or its recorded position in regard to?

14 A. I don't recall.

15 Q. One docket that I believe was continually  
16 referenced by you was the Docket Number 01-049-85.  
17 Do you remember that particular docket?

18 A. Is that the Utah docket?

19 Q. Yes, the Utah docket.

20 A. 01-049-85?

21 Q. Yes.

22 A. Yes.

23 Q. Are you familiar with that docket?

24 A. Yes, I am.

25 Q. Was that the docket in which the Utah  
26

1 Commission established reciprocal compensation rates  
2 for Qwest?

3 A. They did. In a later order they stated  
4 that the UNE switching rates that they established in  
5 that was not to apply to reciprocal compensation.  
6 But that was in an order that was a year or two  
7 later.

8 Q. Okay. I'm just trying to understand,  
9 because this specific docket you've talked about,  
10 01-049-85, was that a UNE docket?

11 A. That was a docket that covered UNEs and it  
12 was Qwest's opinion at the time that it also covered  
13 the elements of reciprocal compensation.

14 Q. Well, I guess that's what I need to know.  
15 You, as part of your reciprocal compensation rates,  
16 actually charge us a rate other than zero, correct?

17 A. That's correct. And I think when I have  
18 cited this Order I've stated that in a later Order  
19 the Commission determined that it would continue  
20 using the previously established reciprocal  
21 compensation rate for local switching.

22 Q. Okay. Because there's just been a lot of  
23 reference to this Order and I just need to know. The  
24 reciprocal compensation rate that we use, that's  
25 Union and Qwest , that is not the rate that came out

26

1 of this docket, and that's this 01-049-85 docket?

2 A. That's correct.

3 Q. Do you recall the docket number that was  
4 used to establish the reciprocal compensation rates  
5 that are presently used by Qwest in charging Union?

6 A. Well, the -- I would have to look up the  
7 Order, if you don't mind. I think there was an Order  
8 that was clarified on March 2004 in Docket 01-049-85  
9 and that's where they said, "The Commission did not  
10 intend the Report and Order," meaning the previous  
11 one we were talking about, "or subsequent Orders in  
12 this docket for rates filed for end office call  
13 termination to be modified from the rates set forth  
14 in Qwest's SGAT."

15 Q. So was it the SGAT proceedings that  
16 established the reciprocal compensation rate that we  
17 presently use?

18 A. There was a 1999 cost docket that  
19 established the local switching rates and those were  
20 used for reciprocal compensation. This docket was  
21 held and at the time of the docket it was assumed  
22 that if they found a local switching rate, if the  
23 Commission found a local switching rate to be  
24 non-traffic sensitive it would apply also to local  
25 interconnection because it's the same cost, the same

26

1 switch. And later, in approximately nine months  
2 later or ten months later the Commission said that we  
3 want to -- we did not want to change local  
4 interconnection rates. So it was a 1999 order that  
5 in fact set those, but the 01-049-85 is the latest  
6 cost docket that has been held in this state.

7 Q. But the present reciprocal compensation  
8 rates include an element of switching costs in them,  
9 correct?

10 A. I said yes to that before and I say yes  
11 again.

12 Q. Did Qwest's reciprocal compensation  
13 proposal include integrated DLC costs?

14 A. No, it didn't.

15 Q. Did the Commission, as part of its Order,  
16 specifically determine that these costs should not be  
17 part of the reciprocal compensation rate?

18 A. I don't believe that there was an explicit  
19 determination of that. Qwest did not file for that.

20 Q. You referenced a Minnesota Order, correct,  
21 in your testimony?

22 A. Yes. Not an Order, but I said the  
23 Minnesota Commission has determined that switching is  
24 non-traffic sensitive, including reciprocal  
25 compensation.

26

1 Q. And I assume, as in Utah, what they were  
2 addressing was UNE switches, essentially, correct?

3 A. Well, in Minnesota they addressed both  
4 UNE switching and reciprocal compensation. So the  
5 local switching portion of reciprocal compensation is  
6 zero in Minnesota.

7 Q. But in Minnesota, as in Utah, is there  
8 still a per minute rate for switching in the  
9 reciprocal compensation rate?

10 A. No. I said the rate is zero per minute.

11 Q. So the reciprocal compensation rate does  
12 not have any element of switching?

13 A. In Minnesota it has no element of local  
14 switching.

15 Q. In contrast to what it is in Utah which  
16 has an element, correct?

17 A. Yes.

18 Q. In your testimony, and specifically  
19 referencing the July 21, 2006, Revised Rebuttal  
20 Testimony at page 4.

21 A. Yes.

22 Q. Lines 14 and 15 you address an increase of  
23 24 percent in the asymmetric compensation rate from  
24 one study to another. But it is true, is it not,  
25 that Mr. Hendricks in his testimony explained that

26

1 that increase was a form of a late change?

2 A. Yes, Mr. Hendricks did explain that.

3 However, he didn't seem to have any qualms about  
4 wondering why the rates went up that much and not  
5 examining his logic prior to filing.

6 Q. But he provided an explanation as to why  
7 the change was made, did he not?

8 A. Yes, later.

9 Q. In addition, on the next page, page 5, you  
10 represent to the Commission that with respect to  
11 Union's rate plans, and I'm looking at I believe line  
12 17, the per minute charge is slightly over 1 cent per  
13 minute?

14 A. Yes.

15 Q. Would you acknowledge that as referenced  
16 by Mr. Hendricks that that's a gross overstatement  
17 and that the more typical charge is much higher from  
18 what you have represented in this testimony to the  
19 Commission?

20 A. My example was showing if a subscriber to  
21 Union used all of the minutes available to him, the  
22 rate would be .01. Of course, not all subscribers  
23 are able to do that, but the rate of such is offered.  
24 That was my point.

25 Q. And so, really, as a practical matter,

26

1       what you've provided to the Commission is a  
2       hypothetical possibility rather than the actual  
3       amounts as provided by Mr. Hendricks?

4             A.     Yes, I'll accept that.

5             Q.     Mr. Copeland, are you aware that other  
6       rural ILECs in the State of Utah have higher recip  
7       rates than does the one that Qwest is offering?

8             A.     I'm not aware of what the other ILECs  
9       might charge for reciprocal compensation.

10            Q.     On page 10 of the same testimony, line 24,  
11       you state, and of course you're under oath when you  
12       do it, you've indicated that "Union Cellular has  
13       provided no evidence of the traffic sensitive nature  
14       of its costs." Is that still your testimony?

15            A.     Yes.

16            Q.     That with all the proceedings that we've  
17       held, which goes on for three years, September of  
18       2004, all the testimony that's been provided, the  
19       studies that have been provided, the responses to you  
20       that have been provided, and it's your testimony as  
21       you sit before the Commission today that Union has  
22       provided no testimony?

23            A.     They have not shown that they have costs  
24       that will increase due to increasing call traffic in  
25       the network that's been presented in their study.

26

1           Q.     So it would be a fair representation that  
2     you're not persuaded by the evidence that's been  
3     provided?

4           A.     Well, I certainly haven't been persuaded  
5     and I don't think many other people have either, but  
6     that remains to be seen.  But based on what was  
7     provided, I don't -- and the investment that was  
8     provided, I don't see any proof that that network is  
9     cost sensitive to increasing call traffic.

10          Q.     And I appreciate that opinion and of  
11     course you've stated it.  But isn't that a different  
12     analysis than stating that they, Union, has presented  
13     no evidence?

14          A.     Well, at the point that this was stated  
15     there was no evidence.  There was nothing on the  
16     record other than the study.  But I still concur that  
17     given what I have seen of the study, the investment  
18     in the study, that it can't be shown that those  
19     investments increased due to increasing call traffic  
20     in the planning horizon.

21          Q.     Now, Mr. Hendricks had provided testimony  
22     in November of the year before of the traffic  
23     sensitive nature of the equipment.  Did you in July  
24     omit or fail to remember that?

25          A.     Mr. Hendricks discussed that the limiting  
26

1 factor on the BTS was the processor and he didn't  
2 explain how the processor needed to be supplemented.  
3 Therefore, I didn't think that was an adequate  
4 explanation for traffic sensitivity.

5 Q. Well, would you acknowledge that that was  
6 evidence?

7 A. I don't think it was valuable evidence.  
8 It might be evidence that Mr. Hendricks said it, but  
9 I don't think it actually provided anything, any  
10 information that would help this Commission see that  
11 the costs are in fact increasing with increasing call  
12 traffic.

13 Q. Very well.

14 Judge, could I approach the easel for a  
15 moment?

16 THE COURT: Sure.

17 Q. (BY MR. ASAY) Mr. Copeland, in many  
18 respects, although we argue about little things and  
19 lots of little things, would you agree with me that  
20 in many respects the majority of Union's case, or a  
21 great part of it, relates to whether essentially the  
22 system is traffic sensitive? Would you agree with  
23 that?

24 A. It relates to whether your costs increase  
25 with increasing call traffic by component.

26

1           Q.     So are you ignoring the testimony that has  
2     been provided as part of this proceeding that when a  
3     cell tower, for instance, is near exhaust, we either  
4     have to build a new cell tower or we have to take  
5     other measures to address the level of increasing  
6     traffic?

7           A.     Well, I think you're confusing the proof  
8     of traffic sensitivity for an asymmetric rate with  
9     what hypothetically might happen in your network.  
10    The network you provided had a great deal of capacity  
11    and it had such capacity that I calculated the  
12    utilization to be at 26 percent, and that if you  
13    increase the call volumes it would not increase the  
14    cost for those network components.  So because you  
15    provided a network based on your CPRs, which are your  
16    continuing property records or your customer property  
17    records, and that had a certain amount of capacity,  
18    it didn't look to me, at the latest data I have from  
19    you, that you are going to actually need additional  
20    -- or incur additional costs based on that.

21          Q.     All right.  Now, there's been testimony  
22    that there are BTS towers and the radios and  
23    equipment associated with it that are near exhaust.  
24    In fact, Mr. Jacobsen, among others, has testified to  
25    that fact.  Do you remember that testimony?

26

1           A.     Yes, I do.

2           Q.     Now, to the extent that there are certain  
3 towers or certain equipment that are near exhaust so  
4 that new equipment needs to be provided, are you of  
5 an opinion that that doesn't show that this equipment  
6 is traffic sensitive?

7           A.     That data is not incorporated into the  
8 study that would show what portion of the components  
9 are traffic sensitive. So it is not brought forward  
10 into the study in a manner that allows you to arrive  
11 at what could be traffic sensitive. It's just not  
12 put together.

13          Q.     So all the testimony from Mr. Jacobsen and  
14 the other witnesses who have testified to the system  
15 and the fact that certain components of the system  
16 are going to be exhausted and need to be changed and  
17 are traffic sensitive, you reject that testimony  
18 because it's not incorporated in the cost study?

19          A.     Well, that's correct. Because the cost  
20 study is the proof.

21          Q.     Outside of the cost study, would you  
22 acknowledge that that presentation and that testimony  
23 shows in fact that there are elements of the system  
24 that are in fact subject to traffic increases and  
25 decreases?

26

1           A.     On a hypothetical basis, but without  
2     seeing the data I would -- I think I've been told  
3     that the data I was given while on the one hand was  
4     complete and then on the other hand I was told it was  
5     incomplete because it didn't include the busy season.  
6     So I don't have complete data on which to make that  
7     assessment.

8           Q.     And just so I'm clear, your assessment  
9     also ignores all of the testimony that's under oath?  
10    That is not included and can't be incorporated into  
11    an analysis by the Commission or the Administrative  
12    Law Judge; is that your testimony?

13          A.     No. My testimony is that Union needs to  
14    provide in a component-by-component analysis and how  
15    each component's cost increased as call traffic  
16    increases. Now, I see this presentation by Mr.  
17    Jacobsen where he said, "We're going to need to  
18    replace this, we're going to need to replace this."  
19    What I haven't seen is showing me that for each of  
20    the BTSSs, including the ones that have a very low  
21    utilization, what's going to change in the study and  
22    what needs to be incremented and what doesn't and  
23    what's -- so I have gotten incomplete information and  
24    a study that doesn't present the picture that you  
25    guys are describing.

26

1           Q.     But isn't it true, Mr. Copeland, that in  
2     fact Union has changed what it has attempted to  
3     provide Qwest over time in showing different studies  
4     and different information?

5           A.     Changed does not make it a TELRIC  
6     compliant study that shows that the costs increase,  
7     each component increases with increasing traffic.  
8     And what has been provided is a move from a  
9     forecasted GSM cell site cost to an embedded cost  
10    version using the CPRs, and what has changed is the  
11    demand quantities, what has changed is the expenses  
12    to a book basis.

13                    So I don't see significant changes in the  
14    methodology that would allow you to decide component  
15    by component within the model how things are cost  
16    sensitive to increasing call traffic.

17           Q.     Mr. Copeland, are you aware of another  
18    jurisdiction that has allowed an asymmetrical rate?

19           A.     No, I am not.

20           Q.     Do you know if Verizon in Wisconsin and  
21    Michigan was allowed an asymmetrical rate?

22           A.     I don't know. I have done research to try  
23    to find if there are any that exist and I have not  
24    found any in my research. But that doesn't mean they  
25    might not exist.

26

1           Q.     Could you understand Union's position that  
2     no matter how it changes its study, the inputs and  
3     what it provides to Qwest, that Qwest will never  
4     accept an asymmetrical rate for any study that's  
5     associated with it?

6           MR. MONSON: I object. I think the  
7     question asks the witness to speculate about Union's  
8     position. I don't think he has any basis to answer  
9     that question.

10          THE COURT: Can you rephrase, Mr. Asay?

11          MR. ASAY: Yes.

12          Q.     (BY MR. ASAY) Mr. Copeland, it's true, is  
13     it not, that no matter how many times Union changes  
14     its study and its presentation that Qwest will simply  
15     always take the position that we failed to carry our  
16     burden of proof and you will never accept a  
17     presentation relating to an asymmetrical rate?

18          A.     Well, I think that's an untrue statement.  
19     I think we have laid out in our testimony what you  
20     need to include. We've laid it out in our Data  
21     Requests what you need to include and our Data  
22     Requests were deemed to be irrelevant and my  
23     testimony was deemed to be flawed. Therefore, I  
24     mean, I have stated what you need to supply, but I  
25     haven't seen a change in your studies.

26

1           Q.     Okay. Well, in fact, Mr. Hendricks  
2 testified that in many respects he changed the inputs  
3 to correspond with what Qwest had requested, correct?  
4 He testified to that point, did he not?

5           A.     He, Mr. Hendricks changed the cost of  
6 money, he changed it to depreciation lives. He  
7 changed the composite tax rate calculation. But for  
8 the significant areas of the study to prove traffic  
9 sensitivity, he has done nothing in the model to do  
10 that. And he concludes your entire network as if  
11 it's traffic sensitive, and that's just flawed.

12          Q.     If, in fact, the Commission finds that the  
13 testimony of the Union witnesses is correct and in  
14 fact the cell sites and the switch are in fact  
15 traffic sensitive, would the resulting reciprocal  
16 compensation rate be close to what Union has  
17 requested?

18          A.     Well, I could only answer that if the  
19 Commission accepted all the initial inputs and the  
20 model as it existed. If that's the case then the  
21 Commission would be accepting the proposed rate that  
22 Union is suggesting.

23          Q.     Well, you, for instance, have taken issue  
24 with Union's claim that if its argument is correct  
25 and that it has explained that parts of its system

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1 are in fact traffic sensitive, that a finding could  
2 be made that parts of it are traffic sensitive such  
3 that it could provide a reciprocal compensation rate  
4 to the Commission that would reflect that, correct?

5 MR. MONSON: Can I ask a clarifying  
6 question? Are you asking him to assume that the  
7 Commission would alter the study that was provided by  
8 Union or are you just asking him to assume that all  
9 the assumptions made in the study are correct?

10 MR. ASAY: Well, I object to Counsel  
11 trying to help the witness. I believe that my  
12 question was very clear with what I was attempting to  
13 ask and so I believe it was appropriate and would ask  
14 the witness to testify and answer the question that  
15 was asked.

16 THE COURT: Why don't you ask your  
17 question again.

18 MR. ASAY: Thank you.

19 Q. (BY MR. ASAY) Mr. Copeland, with respect  
20 to the testimony that was provided specifically by  
21 Mr. Hendricks, if in fact the Commission finds that  
22 certain elements of Union's network are traffic  
23 sensitive, why do you object to a finding that would  
24 allow the Commission to at least parse part of the  
25 network out for a finding of reciprocal compensation?

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1 Why do you object to that?

2 A. I don't object to that. I object to the  
3 use of a single factor for all the plant that's not  
4 the switch as traffic sensitivity because the FCC  
5 states that the determination needs to be made on a  
6 component-by-component basis. And I don't think that  
7 there's a possible method with that aggregate  
8 percentage to determine a component-by-component  
9 analysis of what would be included on a traffic  
10 sensitive basis.

11 THE COURT: Let me just interject because  
12 I have a quick question. Mr. Copeland, do you mean,  
13 then, that if the Commission were to do as Mr. Asay  
14 suggests, it doesn't have the information before it  
15 to complete that analysis?

16 MR. COPELAND: Yes, that's correct.

17 THE COURT: Sorry, Mr. Asay, go ahead.

18 MR. ASAY: Thank you. And thank you for  
19 that question.

20 Q. (BY MR. ASAY) Did the Qwest model that it  
21 proposed in its reciprocal compensation case include  
22 a component-by-component analysis of traffic  
23 sensitivity?

24 A. No. That component-by-component analysis  
25 is actually laid out in the Order directed at the

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1 cellular carriers, the wireless carriers. The  
2 Commission, the FCC had previously stated that the  
3 loop was non-traffic sensitive and could not be  
4 included, that the line portion of the switch was  
5 non-traffic sensitive and could not be incorporated  
6 into the local interconnection rate, and that left  
7 the traffic sensitive portion of the switch to be  
8 included for the local and end office rate. The  
9 tandem transmission rate and direct trunking rates  
10 are, of course, ones permitted and the others on a  
11 flat-rated basis.

12 Q. The answer to my question at the outset  
13 was no, correct?

14 A. Could you restate the question?

15 Q. I'll let the record reflect what your  
16 answer was. I was just asking you if you remembered  
17 your answer.

18 A. My answer to which?

19 Q. The last question.

20 A. Well, didn't I just tell you that the FCC  
21 had indicated that at that time that land line  
22 companies have the loop as non-traffic sensitive, the  
23 line ports are non-traffic sensitive, and the  
24 remainder of the switch is traffic sensitive that can  
25 be recovered on a permitted basis. The cellular

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1 carrier order that really defined their burden and  
2 was in -- the Order came out in December 2003, and  
3 that said each component must be examined and see if  
4 it's cost sensitive to increasing call traffic.  
5 That's a different analysis than existed in 1999 for  
6 land line switches.

7 Q. Thank you.

8 And, Mr. Copeland, my question really  
9 related to the Qwest model, the model that Qwest  
10 proposed.

11 A. In 1999?

12 Q. Yes.

13 A. I don't recall.

14 Q. Because I have another question with  
15 respect to that and maybe you won't recall again. In  
16 the '99 model proposed by Qwest, Qwest proposed to  
17 recover switching costs, correct?

18 A. Yes.

19 Q. And part of the costs that Qwest proposed  
20 to recover were for switching costs even in rural  
21 areas, such as remote switches in, I don't know, some  
22 remote Qwest village someplace, correct?

23 A. Okay.

24 Q. Is that correct?

25 A. Well, what we proposed was a single  
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1 average rate and I think what we ended up was a  
2 D average switching rate.

3 Q. I understand that. But the proposal for  
4 the rate included host switches in small rural areas,  
5 correct?

6 A. What do you mean by whole switches?

7 Q. Host switches. My pronunciation is not so  
8 good.

9 A. I'm sorry, host switches. Host switches,  
10 and what about -- I mean, I don't understand the  
11 context versus because you haven't talked about  
12 remote switches.

13 Q. Okay.

14 A. I just don't understand the context of the  
15 question.

16 Q. I used the wrong word. Remote switches,  
17 and that gets even with my language. A remote switch  
18 in a rural area, are you with me?

19 A. Okay. I have the remote switch. Now go  
20 on to the rest of the question.

21 Q. Okay. Part of the Qwest model was to  
22 recover costs for that remote switch, correct?

23 A. Yes.

24 Q. And that was even though the remote switch  
25 would not be fully utilized, correct?

26

1           A.     Well, I'm not sure what you mean by "fully  
2 utilized." The Commission's Orders have generally  
3 adjusted our utilizations upward in both urban and  
4 rural switches.

5           Q.     You know, Mr. Copeland, I appreciate that,  
6 but that's not my question. My question is, when  
7 Qwest applied for the reciprocal compensation rate  
8 and it requested compensation for remote switches, it  
9 requested that compensation even though the remote  
10 switch would not have been fully utilized, correct?

11          A.     I would like one definition. What do you  
12 mean by "fully utilized"?

13          Q.     Well, I'm going to start with 100 percent  
14 and we'll go from there.

15          A.     Okay. I'm sure the switch wasn't at 100  
16 percent.

17          Q.     It might have been 50 percent.

18          A.     I don't know at the time what our remote  
19 switches' capabilities were or how many citizens or  
20 lines might be served off of that. So I can't tell,  
21 give you a definitive answer as far as the  
22 utilization. It would be less than 100 percent,  
23 definitely.

24          Q.     Mr. Copeland, I appreciate that. All I'm  
25 trying to indicate and elicit a response from you is  
26

1       that you requested reciprocal compensation for remote  
2       switches that were less than 100 percent utilized?

3           A.     Yes, I would agree that that was part of  
4       the total state switch cost included remotes as well  
5       as host switches.

6           Q.     And in fact this Commission has recognized  
7       that serving in rural areas is different than serving  
8       in urban areas with respect to fill factors, correct?

9           A.     Not that I'm aware of.

10          Q.     All right.

11           THE COURT:  Let me break in real quick.  
12       Let's go off the record just a second.

13           Off the record.

14           (Recess taken.)

15           THE COURT:  Back on the record.  Off the  
16       record we just had a brief discussion about ending  
17       for the evening and we decided to do so now.  So  
18       we'll see you all tomorrow morning at 9:30.

19           (The taking of the deposition was  
20       concluded at 5:06 p.m.).

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STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE)

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 243, contain a full, true and right transcription of my stenotype notes so taken.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 26th day of November, 2007.

\_\_\_\_\_  
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