

1           BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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3       In the Matter: The           )   Docket No. 04-049-145

      Petition of Qwest            )

4       Corporation for             )   TRANSCRIPT OF

5       Arbitration of an          )   PROCEEDINGS

6       Interconnection            )

7       Agreement with Union       )

8       Telephone Company          )

9       d/b/a Union Cellular       )

10      under Section 252 of        )

11      the Federal                 )

12      Telecommunications Act     )

13                                    )

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17                           November 7, 2007 \* 9:30 a.m.

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19                   Location: Public Service Commission

20                           160 East 300 South, Hearing Room

21                                   Salt Lake City, Utah

22

23

24                                   Steve Goodwill

25                                   Administrative Law Judge

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

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3 THE COURT: All right. Let's go back on  
4 the record in Docket 04-049-145. We ended  
5 yesterday's session with Mr. Copeland on the stand  
6 being cross-examined by Mr. Asay. And we'll go ahead  
7 and resume that now. Mr. Copeland, you're under  
8 oath. Mr. Asay?

9 MR. ASAY: Thank you, Judge Goodwill.

10

11 PETER B. COPELAND,  
12 recalled as a witness, was examined and testified  
13 further as follows:

14

15 CROSS-EXAMINATION (Resumed)

16 BY MR. ASAY:

17 Q. Mr. Copeland, even though it's early, I  
18 got your name right, we're off to a great beginning.  
19 You know, I would like to continue in part where we  
20 left off, and particularly in regard to your  
21 testimony which would be your Revised Rebuttal  
22 Testimony of July 21, 2006, page 10, where you again  
23 reference the no evidence of traffic sensitivity.

24 As I went back last night and reviewed the  
25 testimony of Al Hinman that he gave a November of

26

1 '05, six months prior in his Surrebuttal Testimony,  
2 in which he talked about BTSs, essentially cell  
3 sites, and the fact that they perform a switching  
4 function and in his opinion were very traffic  
5 sensitive.

6 Now, in providing your testimony that you  
7 did in July of '06, did you recall the testimony of  
8 Mr. Hinman or did you just not feel in your opinion  
9 that that qualified as evidence?

10 A. I did review the testimony of Mr. Hinman.  
11 Again, it gets to the qualitative versus quantitative  
12 data proving that components are cost sensitive to  
13 increasing call traffic. So, therefore, I didn't  
14 feel that he had provided any quantitative evidence  
15 to show this. He also talked about making changes  
16 because of subscriber demands for services. So I  
17 think some of the changes he was talking, at least  
18 some, maybe all of the changes he was talking about  
19 could be costs incurred due to subscribers.

20 Q. Well, it's true that Mr. Hinman is an  
21 engineer, correct?

22 A. Yes.

23 Q. And your background is as an urban  
24 planner, as I understand it?

25 A. Well, my background is working for  
26

1 Mountain Bell, Bellcorp, US West and Qwest for 26  
2 years in doing costs and regulated costs, and I had  
3 six years working for the City of Denver prior to  
4 that. But I would say most of my background is in  
5 cost.

6 Q. You have a degree in urban planning?

7 A. Urban studies.

8 Q. Urban studies. And you're not an  
9 engineer, correct?

10 A. That's correct.

11 Q. And Mr. Hinman in his testimony, and I  
12 only reference it because it was prior to your July  
13 2006 testimony, he indicated with respect to base  
14 station transceivers, he called them BTSSs, that if  
15 there's an increase of traffic they may need to, that  
16 is, Union, may need to add antennas, cards,  
17 processors, channels, hardware, and all of this if,  
18 in fact, there's an increase in traffic? He did  
19 testify to that?

20 A. Yes, he did.

21 Q. And you would recognize that as an  
22 engineer you have nothing that would bring into  
23 question his engineering opinion with respect to the  
24 need to add those items of equipment in the case of  
25 increasing traffic?

26

1           A.     My evaluation is based on looking at  
2     whether it's a TELRIC study showing increasing costs  
3     due to increasing call traffic.  So, therefore, I'm  
4     looking at this from --

5           Q.     Mr. Copeland --

6           A.     I know -- excuse me.

7           Q.     I know, it's rude for me to interrupt, and  
8     I apologize for that.  Judge Goodwill, the only  
9     concern I have at this stage is this:  Mr. Copeland  
10    has had a wonderful opportunity yesterday to wage  
11    eloquent with my questions, and I appreciate that.  I  
12    have some fairly limited questioning this morning.  
13    The witness, I have no problem with him expanding a  
14    little bit, but within the constraints of my  
15    question, I think it would be appropriate that he  
16    limits it there first, that he answers with a yes or  
17    no if the question requires it or lends itself to  
18    that.  If there's some small explanation relating to  
19    the question, I think that's appropriate.  But to  
20    simply expound on unrelated issues I think is  
21    inappropriate.  And for purposes of the second day of  
22    the hearing and to, you know, move along with some  
23    degree of I guess morbidity, if you will, I do think  
24    I would ask that we restrain the witness this  
25    morning.

26

1                   THE COURT: Why don't you just go ahead  
2 and ask your question again and we'll see where we  
3 can go with it.

4                   MR. ASAY: Okay. Thank you.

5                   Q.     (BY MR. ASAY) And we did go through the  
6 issues with respect to the modifications that have to  
7 be made in the system if there is increasing traffic,  
8 according to the witness, Mr. Hinman, correct?

9                   A.     Yes, you did.

10                  Q.     And my question is that you do not have  
11 anything with respect to an engineering aspect that  
12 would counter Mr. Hinman's opinion as to what is  
13 required, correct?

14                  A.     Well, I would not have an engineering  
15 opinion, that's correct.

16                  Q.     Mr. Copeland, following on that, at least  
17 in a limited fashion, I have this question for you  
18 and, that is, you're familiar with the model that  
19 Qwest provided as part of its proposal in the  
20 reciprocal compensation case, correct?

21                  A.     Are you discussing the 1999 case?

22                  Q.     I get confused between the UNE case and  
23 the recip case, and I'm talking about specifically  
24 the reciprocal compensation case. I believe that's  
25 94-999-01.

26

1           A.     I think that case included UNEs as well  
2     and it was just an earlier case. I was not a  
3     director of the cross group at that time, and I only  
4     have high level knowledge of what was in the models  
5     at that time. They've changed since that point when  
6     I joined the group, but I do have some high level  
7     knowledge of how the studies were done.

8           Q.     Well, with that qualification let me ask  
9     you this then. Are you familiar with the components  
10    of what is involved or included in Qwest's present  
11    reciprocal compensation rate that you're asking us to  
12    pay?

13          A.     Well, the components that are in that  
14    rate? The order is where most of my knowledge of  
15    that rate comes from, and it was a combination of an  
16    HAI model that was adjusted by the staff by making  
17    their staff adjusted inputs. They also adjusted  
18    Qwest's ICM model. I'm not sure which adjustments  
19    they made to each of those models because the  
20    switching modules were very different. Qwest's -- in  
21    HAI there's a single traffic sensitive input, in  
22    Qwest there's no traffic sensitive input. But each  
23    component is analyzed in particular and then you can  
24    come up with an aggregate portion that's traffic  
25    sensitive after you do the analysis.

26

1                   So I'm not exactly sure what that came out  
2 to be. But because it was a blend of two models that  
3 were very different, and I'm not aware or we don't  
4 have a copy of any compliance filing in our records  
5 because it was staff driven, I'm not sure how those  
6 components combined into the reciprocal comp rate.

7           Q.     Let me ask you this: Do you have a copy  
8 of the actual ICM model that was used in that  
9 proceeding?

10          A.     I don't, no. I mean, there might be one  
11 on our network LAN back in Denver, but I do not have  
12 it with me.

13          Q.     Do you have a copy of the HAI model that  
14 was provided in that proceeding?

15          A.     No, I don't.

16          Q.     Judge Goodwill, would it be possible, and  
17 I would make a request that the Commission take  
18 official or judicial or administrative notice of  
19 those two models and that we incorporate them into  
20 this proceeding, and that is, the ICM and the HAI  
21 model that was used in the reciprocal compensation  
22 case.

23                   THE COURT: Well, I quite honestly don't  
24 know what is on file in the Commission's official  
25 records at this point that we would be able to take  
26

1 notice of. I'm also not certain as to the relevancy  
2 of those at this time. But I'm happy to, at the end  
3 of the day, I'm happy to look at whatever is out  
4 there that will bear on what the Commission's  
5 decision should be in this matter. I just don't know  
6 what's there to be able to say "Yes, we'll take  
7 notice of those." If the parties have copies of  
8 those and want to provide them as part of this  
9 proceeding we can certainly do that or at the break  
10 if you need to check Commission records and see if we  
11 copies of those and bring them forth and show me how  
12 they should be used in this proceeding, we can  
13 certainly go through that.

14 MR. COPELAND: Your Honor, those models  
15 were based on a Windows 98 environment and I don't  
16 even think they will run under the current PC  
17 operating systems. So they will have limited ability  
18 to see what's in the model and to run them.

19 THE COURT: I had assumed we were  
20 discussing paper copies of whatever might be as far  
21 as inputs and outputs to the model. There again, I  
22 don't know what exists at this point with regards to  
23 those.

24 MR. ASAY: And, Judge Goodwill, nor do I.  
25 I know that -- I believe they're archived. All I'm

26

1 asking is that for purposes of the paper copies,  
2 particularly since the question has arisen and has  
3 been raised by both parties with respect to the  
4 adequacy of Union's modeling in this case, obviously  
5 if these are the proposals that the Commission has  
6 looked at in the past it would seem appropriate to be  
7 able to compare them. So I do think there is some  
8 relevancy there. Again, we will inquire and address  
9 that following the break.

10 THE COURT: Okay.

11 Q. (BY MR. ASAY) To the extent that you  
12 recall, and particularly in addressing Qwest's  
13 present reciprocal compensation rate, do you know if  
14 these facilities are included in the rate; the  
15 buildings?

16 A. There is building in the switching rate,  
17 yes.

18 Q. Poles?

19 A. Not in the switching rate.

20 Q. And we're talking about the reciprocal  
21 compensation rate?

22 A. Are you talking -- well, are you talking  
23 about the local end office rate, the tandem  
24 transmission rate or the direct trunk transport rate?

25 Q. The poles would be part of the transport  
26

1 rate. And when I talk about the reciprocal  
2 compensation rate, I'm talking about the rate that we  
3 have to pay. We have a rate that you charge us  
4 pursuant to the Interconnection Agreement and I'm  
5 asking for your understanding as to whether these  
6 facilities, I've asked buildings and poles, are they  
7 a part of that rate?

8 A. Okay. I was just trying to be specific if  
9 we were focusing on the end office total switching  
10 termination. But if we're including transport, the  
11 transport rates will have interoffice facilities. To  
12 the extent there are any aerial ones, it would  
13 include poles, but interoffice is very limited  
14 aerial. So there would be underground facility  
15 structure.

16 Q. Conduit?

17 A. Conduit and trench and buried facilities.

18 Q. Just to back up just so we're clear,  
19 conduit is included?

20 A. Conduit is included as a direct cost  
21 because that's in the cable and wire accounts.

22 Q. And manholes?

23 A. Manholes are part of conduit systems and  
24 they are a cable and wire account, and that's  
25 included.

26

1 Q. And land?

2 A. Land would only be included as an  
3 allocation -- well, it would be included to some  
4 extent for the transport because of the COE terminals  
5 on each end and also the land is allocated as a  
6 support asset to the switch as well.

7 Q. Thank you, Mr. Copeland. I think that's  
8 exactly what I wanted to find out at the end. You  
9 just cut my questions by about half.

10 A. I'm glad to help.

11 Q. Thank you.

12 Because I think you would agree that these  
13 facilities are not traffic sensitive, but in fact  
14 they would be included because they're support  
15 facilities.

16 A. No, no. They're not necessarily support  
17 facilities except for building and land. Conduit,  
18 manholes, poles, trenching, those are cable and wire  
19 accounts that aren't -- they are direct costs for  
20 those services, they are not an allocation.

21 Q. But as to the facilities that I've talked  
22 about, buildings, poles, conduit, manholes, land,  
23 none of those facilities or properties, if you will,  
24 would vary with the increase or decrease of traffic,  
25 correct?

26

1           A.     Yes.  But you have to make the distinction  
2     that the cable and wire facilities are direct inputs  
3     in costs of those elements versus the land and  
4     building, which are support assets which are  
5     allocated.

6           Q.     And subject to that allocation, a part or  
7     in whole, but some part of these are all included in  
8     the existing reciprocal compensation rate?

9           A.     Yes.  And in the multiple rates, yes.  
10    There's no poles or conduit or manhole systems in the  
11    local end office switching costs because those aren't  
12    direct costs of that.  They are included in the  
13    transport.

14          Q.     Does Qwest actually perform, or did it  
15    perform as part of its analysis of these facilities,  
16    a component-by-component analysis?

17          A.     Well, in 1999 the 2003 Order had not come  
18    out and the FCC rules are quite specific for what can  
19    be included in the ILECs cost and the items that are  
20    traffic sensitive.  And they consider that the  
21    transport that goes, even though it's a dedicated  
22    transport, that's included, that's not traffic  
23    sensitive, that's billable interconnection rate  
24    because that is an interconnecting facility.

25          Q.     Okay.  But my question was, did Qwest  
26

1 perform in its analysis a component-by-component  
2 analysis of these facilities?

3 A. In the switch it looked at sub components  
4 of the switch for traffic sensitivity to determine  
5 which pieces of the switch were more properly  
6 assigned to the line port versus what would be part  
7 of the switching matrix and processor. So with  
8 respect to the switch they did. And with respect to  
9 tandem transmission, they looked at the aspects of  
10 the tandem trunk ports that were traffic sensitive  
11 and the switch matrix that was traffic sensitive,  
12 from that standpoint.

13 Other facilities where a company orders a  
14 direct trunk transport and it's just a straight trunk  
15 and it only goes between two points, it's not  
16 switched, again, that's an interconnection service  
17 that is not charged on a per minute basis.

18 Q. And given that testimony, that's very  
19 similar to the analysis that was provided by Mr.  
20 Hendricks in this case, correct?

21 A. No, I don't think so.

22 Q. Mr. Copeland, do you have any of Union's  
23 testimony in front of you?

24 A. I have it behind me.

25 Q. Would you mind very quickly, or I can show  
26

1       you --

2           A.     I can grab it.

3           Q.     I need to turn your attention for just a  
4       moment to Henry Jacobsen's testimony of March 15th, I  
5       think that's his Rebuttal Testimony, R1, and  
6       specifically the Exhibit that goes with that that was  
7       marked 16, but I believe it's been identified as  
8       R1.1.

9           A.     Yes, I have it.

10          Q.     And this is a Network Administration  
11       Report, correct?

12          A.     That's the title at the top, yes.

13          Q.     Okay.  On the first page about 10 lines up  
14       from the bottom is a cell 001 on Hickey Mountain.

15          A.     Yes.

16          Q.     Do you see that?

17          A.     Yes, I do.

18          Q.     And under the column 7 Day Peak Blocking  
19       it has the number of 5 percent.

20          A.     Yes, I see that.

21          Q.     And it's my understanding that these  
22       results were provided to you essentially in the  
23       springtime period, correct?

24          A.     Well, this was attached to Mr. Jacobsen's  
25       testimony.  So whatever the date that testimony came

26

1 in would be the date I received this. So it was  
2 March something.

3 Q. So if his testimony is March 15 then it  
4 stands to reason it was done right before that,  
5 correct?

6 A. Well, it stands to reason I received it  
7 after he filed it.

8 Q. In any event, if, as testified to by Mr.  
9 Jacobsen, wireless traffic went up by 20 percent or  
10 some figure for the summer, would that increase or  
11 decrease the percentage of blocking at this site,  
12 Hickey Mountain?

13 A. Would that 20 percent be spread equally  
14 over all the cell sites?

15 Q. Let's say it's 20 percent more traffic  
16 that's hitting Hickey Mountain.

17 A. And it's hitting all three sectors?

18 Q. It's hitting the whole of the site.

19 A. Then this blocking, depending on if it's  
20 20 percent more traffic that doesn't occur in the  
21 busy hour, then it wouldn't necessarily increase this  
22 blocking.

23 Q. It would increase the blocking?

24 A. No. I said if it does not hit in the busy  
25 hour, then it wouldn't necessarily increase this  
26

1 blocking factor. Because this is the busy hour

2 blocking factor.

3 Q. Well, let's assume that it increases  
4 during the busy hour, is it going to increase the  
5 blocking?

6 A. Yes, then it would increase the blocking.

7 Q. And to address that -- and of course, as  
8 testified to by Mr. Jacobsen, 5 percent was kind of  
9 the standard that Union likes to use with respect to  
10 blocking, correct?

11 A. Yes. That's their grade sort of standard,  
12 Mr. Jacobsen says.

13 Q. So even though if you look at the Exhibit  
14 that's in front of you and all of those particular  
15 cell sites, if you will, above Hickey Mountain or  
16 above that standard in the sense that the blocking  
17 falls outside of Union's standard, assuming that  
18 there's increased blockage at Hickey Mountain, they  
19 would have to take some action to address that  
20 increased traffic, correct?

21 A. Yes, I would assume they would.

22 Q. And both Mr. Hinman and Mr. Woody and Mr.  
23 Jacobsen all testified to some of the work that they  
24 would have to accomplish. In fact, I think Mr.  
25 Jacobsen testified that they would have to in certain

26

1 respects and in certain occasions change the whole  
2 network from the cell site to the switch to address  
3 increasing traffic, correct?

4 MR. MONSON: Could we have reference to  
5 where he's talking about Mr. Jacobsen testifying to  
6 that?

7 THE COURT: Mr. Asay, can you provide  
8 that?

9 MR. ASAY: I can if it's necessary. I was  
10 actually testing the witness's memory. I assumed he  
11 remembered that testimony.

12 THE WITNESS: I don't remember written  
13 testimony as to that.

14 Q. (BY MR. ASAY) Do you remember Mr.  
15 Jacobsen standing in front of the diagram and  
16 testifying to that?

17 A. Yes. He showed hypothetically if  
18 something happened you might need additional  
19 facilities going back. But I don't think that was  
20 provided with any specific site in mind, any  
21 particular numbers in mind, et cetera.

22 Q. And just so -- and maybe I misunderstand  
23 what you're saying. Was it your understanding of Mr.  
24 Jacobsen's testimony, as an engineer designing the  
25 system for Union, that they would want to address the

26

1 system if at any time it fell outside of the 5  
2 percent parameter that they had established? Was  
3 that your understanding or not?

4 A. Well, I think that's my understanding.  
5 This report would show that they don't necessarily do  
6 that. But that does not mean that every facility  
7 going back through the BTS, through the backhaul, to  
8 the BSC, to the switch, would need to be  
9 supplemented. Generally there's sufficient channels  
10 on the T-1 carrier going back to handle 8 radios per  
11 sector. And so I don't know if the backhaul would  
12 need to be supplemented even if you increased your  
13 radios to 8 per sector.

14 Q. Because you seem to have -- and I  
15 appreciate your knowledge of the system. If, in  
16 fact, there is blocking, what appears to be a problem  
17 with blocking, in other words, they're exceeding the  
18 5 percent standard so something has to be done to  
19 address that which is caused by increasing traffic,  
20 what changes have to be made to Union's system to  
21 address that problem?

22 A. Well, there's a number of things. I would  
23 think primarily, as Mr. Jacobsen said, you would  
24 increase the radios. However, Union has not provided  
25 a cost for what it would cost to increase a radio and  
26

1 if they have increasing call traffic. So there's no  
2 way in the study to determine what the impact of  
3 these blocking amounts are because Union hasn't  
4 provided the cost per radio and so you don't know  
5 what costs for the radio or if Mr. Jacobsen thinks  
6 there's other items that need to be added that can be  
7 considered in that increment to determining these  
8 cell sites that might be adjusted versus ones that  
9 have overcapacity to turn out -- to find out what the  
10 overall traffic sensitivity of this. There hasn't  
11 been any evidence put on the record for that.

12 Q. Mr. Copeland, it's your testimony that  
13 there's no evidence that's been provided as part of  
14 the study that's been sponsored by the witnesses that  
15 would indicate what the costs are for the BTSs and  
16 its component parts?

17 A. Well, definitely not the component parts  
18 that would need to be supplemented. There is -- the  
19 embedded costs have been provided, which you refer to  
20 as actual costs, but they're the costs on your books  
21 for configurations which you can't determine from the  
22 CPRs as to the number of radios that are at the site.  
23 You can't determine if there is equipment, say, data  
24 equipment like an EDRX, which is a driver/receiver  
25 frame processor or an EPA, which is an Edge power

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1 amplifier that might be there. You can't tell from  
2 what's in that CPR and so you don't know what's data,  
3 you don't know what a single radio costs in that  
4 configuration. So you don't know what the additional  
5 traffic will cause in cost. It's too aggregate an  
6 amount and you can't determine which pieces of the  
7 \$8000 or \$12000 need to be supplemented to handle  
8 that traffic.

9 Q. But you certainly know from the  
10 presentation that's been given what a cell site or a  
11 BTS costs, do you not? Strike that.

12 Let me ask, is there any question in your  
13 mind as to what a BTS costs Union?

14 A. Well, there's an embedded cost that  
15 includes what it costs Union to put in designs from  
16 2003 to -- I'm not sure what the last date, maybe  
17 2005 or 2006 from the CPRs. And so we have those  
18 costs for individual sites. We don't know exactly  
19 what equipment is in there, how many radios, and we  
20 also aren't aware how much of it is data equipment.  
21 Mr. Jacobsen says he's changed his -- the design of  
22 some of these.

23 So the embedded costs include old designs  
24 that Union is no longer using so they wouldn't need  
25 forward-looking design techniques. So it's, again, a

26

1 TELRIC study requires you to have the most current  
2 design. It requires you to have which components are  
3 increasing in cost as traffic increases, and we don't  
4 have any information on which components need to be  
5 supplemented.

6 Q. Mr. Copeland, I appreciate that, and I  
7 appreciate your opinion with respect to that. Have  
8 you, and that is Qwest, has Qwest provided any  
9 testimony to show a more efficient system than what  
10 Union has provided in this case? Have you provided  
11 an engineer that has provided that testimony in this  
12 proceeding?

13 A. We haven't provided an engineer. We have  
14 looked at --

15 Q. No. The question is --

16 A. -- the way they configured their radios.

17 Q. No. Mr. Copeland, the question is, have  
18 you provided through an engineer someone qualified to  
19 provide that testimony, that type of a design?

20 A. Well, I don't think this case is about  
21 designing Union's system. I think this case is about  
22 proving that any components of your network are cost  
23 sensitive to increasing call traffic. And we  
24 wouldn't presume to design your system for you.

25 Q. Mr. Copeland, in your July 21, '06

26

1 testimony at page 26.

2 A. Yes, sir.

3 Q. You testify at lines 3 of that page that  
4 "In an efficiently operated company, common costs do  
5 not grow in proportion to company operations,"  
6 correct?

7 A. Yes, I said that.

8 Q. But in point of fact, common costs grew in  
9 Union's modeling because BTS sites had increased from  
10 a little over 200 to 325 and because of the increase  
11 in the BTSs there was a corresponding increase in  
12 common cost, correct?

13 A. Mathematically that's why that occurred.

14 Q. Thank you.

15 A. I don't think that's how things actually  
16 occur in a corporation. If common costs increased  
17 with direct proportion to operation --

18 Q. Thank you.

19 A. -- they wouldn't be common costs.

20 Q. Now, turning to your Exhibit 3SR1, it's a  
21 confidential document, but for purposes of what I  
22 need I don't believe we need to address anything  
23 that's confidential.

24 A. Okay.

25 Q. On the first page, page 1, you've  
26

1 highlighted a number of items that are identified on  
2 the left as data components. Do you see that?

3 A. It's on the right on mine. On the right  
4 side?

5 Q. It's on the left on mine.

6 A. Interesting.

7 THE COURT: The column Data Components is  
8 on the left-hand side of the page.

9 THE WITNESS: Oh, I see that, yes. I was  
10 looking at the explanation. Sorry.

11 MR. ASAY: Thank you, Judge.

12 Q. (BY MR. ASAY) Do you know whether these  
13 particular items, and that's all of the highlighted  
14 components under Data, if they relate to telemetry  
15 components?

16 A. No. I know that they are data components.  
17 I know the PCUSN itself is a Nortel pack control unit  
18 support node that's used for DPU and Edge services  
19 exclusively, and it looked to me that these were  
20 data. And we looked up these Sysco items, they were  
21 all data services. But no, because Union hasn't  
22 given me any information on what is their data, this  
23 was my best cut at what would constitute data or  
24 services that came from subscribers or was directed  
25 to subscribers of a single item.

26

1 Q. In fact, you made an assumption that these  
2 were data seems even though they may in fact be  
3 telemetry associated with the voice system, correct?

4 A. I mean, your witnesses had plenty of  
5 opportunity to tell us whether they were related to  
6 data and so far we haven't heard anything when we  
7 asked, "Because your data costs are minimal, what  
8 would it take for your witnesses to tell us what  
9 those were and what the costs of those components  
10 were?"

11 Q. Mr. Copeland, I appreciate your opinion.  
12 But the fact is you've represented to the  
13 Administrative Law Judge and this Commission that  
14 these are data components, correct?

15 A. To the best of my knowledge, this was my  
16 decision that these were data components or they  
17 could be a single unit that wasn't to be supplemented  
18 over the life of the switch and, therefore, it wasn't  
19 traffic sensitive.

20 Q. And Union, as part of its study, has  
21 provided these as part of the voice system, correct?

22 A. I have no idea if these have anything to  
23 do with the voice system. This was just an embedded  
24 cost data on the switch project cost with no  
25 breakout. There's definitely SMS cost switches, GPRS

26

1 cost switches in here. So it's not all exclusively  
2 voice. Like I said, the PCUSN is definitely a data  
3 item. So I don't -- I did my best cut at the data  
4 given what I had. I think the burden is upon Union  
5 to really identify all the items that are data in  
6 those retail services.

7 Q. I appreciate your opinion. But to the  
8 extent that these are components of the system that  
9 relate to telemetry for measuring essentially voice  
10 signal on the system, as testified to by Mr.  
11 Jacobsen, your inclusion or identification of these  
12 as data is incorrect?

13 A. No, no.

14 MR. MONSON: Your Honor -- hold on a  
15 second, Mr. Copeland. I object to the question. I  
16 believe that Mr. Asay is offering testimony that  
17 hasn't been presented in this proceeding and then  
18 asking Mr. Copeland to admit that he's wrong based on  
19 the testimony Mr. Asay is offering.

20 THE COURT: Mr. Asay, can you point to  
21 where Mr. Jacobsen, either in hearing or prefiled  
22 testimony, has indicated that the nature of these  
23 components are data or telemetry?

24 THE WITNESS: Mr. Jacobsen, in his  
25 testimony, identified a number of components that

26

1 look like data are in fact telemetry. I'm simply  
2 asking whether in fact the witness knows if these are  
3 or are not within those components. He either knows  
4 or he doesn't.

5 THE COURT: Okay, that's a fair question.  
6 Go question and ask it and we'll see what he says.

7 Q. (BY MR. ASAY) Did you hear that question?

8 A. I don't know for a fact.

9 Q. Thank you. That's all I need.

10 A. It was my best guess.

11 Q. And that's all I have. Thank you.

12 THE COURT: Ms. Schmid?

13 MS. SCHMID: Nothing for this witness.

14 THE COURT: And I apologize, I forget for  
15 Qwest, Mr. Monson, are you on redirect?

16 MR. MONSON: Yes.

17 THE COURT: Any redirect?

18 MR. MONSON: Yes. We have a few areas  
19 that we want to try to clarify.

20

21 REDIRECT EXAMINATION

22 BY MR. MONSON:

23 Q. Mr. Asay asked you about the Order of May  
24 5, 2003 in Docket Number 01-039-85. Do you remember  
25 those questions?

26

1           A.     Yes, I do.

2           Q.     And today he asked you about the prior  
3 proceeding, 94-999-04, I think. In his questions  
4 about the Order of May 5, 2003, you said, as I recall  
5 your testimony, that the Order appeared at the time  
6 to address reciprocal compensation. What was the  
7 basis for that statement?

8           A.     Well, the basis for that statement was on  
9 page 16 of the Order underneath -- in the first  
10 paragraph under Switching Costs, and it's the last  
11 sentence in that paragraph. It reads, "Certainly,  
12 the experience the industry has gone through with  
13 reciprocal compensation illustrates the utility and  
14 danger of devising artificial pricing structures."

15                   So based on that, Qwest assumed that the  
16 Commission intended for this local switching in UNE  
17 rate also to apply to the local switching end office  
18 rate and in this Order they found the rate to be 100  
19 -- or the costs to be 100 percent non-traffic  
20 sensitive so in a sense charged 100 percent to the  
21 line port with no per minute rate.

22                   Then in Qwest's compliance filing, which  
23 happened in January of 2004, Qwest at that point  
24 filed a flat rate for local switching UNE and then  
25 for the end office termination rate for reciprocal

26

1 comp purposes for local interconnection it filed a  
2 zero rate for the per minute section there. The next  
3 month AT&T and X/O filed a petition with the  
4 Commission to then change to say that that Order, the  
5 04-049-85 Order, did not apply to the end office  
6 termination rate for reciprocal comp purposes. And  
7 then the Commission then issued an order in, I guess  
8 was it March of '04, which then clarified that the  
9 Commission did not intend by the Report and Order --  
10 or subsequent orders for the rates for end office  
11 call termination to be modified from the rates that  
12 were already set forth in the SGAT. And that was a  
13 March 4, 2004 Order.

14 So I think Qwest was under the impression,  
15 based on the wording of the initial Order which did  
16 discuss reciprocal compensation in the switching cost  
17 determination, that they meant that to apply to the  
18 local end office termination rate.

19 Q. Thank you.

20 Your Honor, there's been a lot of  
21 discussion about that Order and I know it's something  
22 that the Commission can take notice of. But I have  
23 copies of it. Would it be helpful for people to have  
24 it?

25 THE COURT: It would. Why don't you pass

26

1       that out now.

2                   MR. MONSON:  I guess just for ease of  
3       reference we ought to mark this.  And although it's  
4       not a Cross Exhibit, I guess maybe it's easier to  
5       call it 1.

6                   THE COURT:  We can just call it Hearing  
7       Exhibit 1.

8                   MR. MONSON:  Okay.

9                   Q.       (BY MR. MONSON)  So just so the record is  
10      clear, Mr. Copeland, what's been marked as Hearing  
11      Exhibit Number 1, is that the Order you were  
12      referring to, the May 5, 2003 Order?

13                  A.       Yes.

14                  Q.       Mr. Asay asked you questions about various  
15      network components of the wireless network and  
16      whether they were cost sensitive and asked you this  
17      morning about how Qwest treated these items in its  
18      cost studies.

19                         How should the towers be analyzed under  
20      the FCC's rules?

21                  A.       Well --

22                         MR. ASAY:  Object to the question.  It's  
23      not, although he referenced my name, this is far  
24      afield from what my question was.  My question was  
25      specifically whether those were included in Qwest's

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1 study full stop. I didn't ask about the FCC  
2 considerations, only about Qwest. It's outside of my  
3 Cross.

4 MR. MONSON: May I respond?

5 THE COURT: Sure.

6 MR. MONSON: I'm not just talking about  
7 the question he asked this morning, I'm also talking  
8 about questions he brought up yesterday where he got  
9 up and was pointing at various things on the drawing.

10 THE COURT: Yeah, I think it's fairly  
11 included in the examination from yesterday as well.  
12 I'll go ahead and allow it.

13 MR. COPELAND: Well, the tower is a direct  
14 cost of the service and it is not a support  
15 structure, as such. You have to have it to install  
16 and provide services in an area that's designed for a  
17 coverage area. So once that pole is in place for  
18 that coverage area it is not traffic sensitive to  
19 increasing call traffic and should be excluded from  
20 any reciprocal or asymmetric rate because it's not  
21 cost sensitive to increasing call traffic.

22 Q. Mr. Asay also asked you a number of  
23 questions related to the issue of whether with the  
24 information that Union has provided you still take  
25 the position that they haven't provided evidence in  
26

1 support of their study.

2 Let me ask you in connection with that,  
3 can you provide us examples of after all the  
4 evidence, in addition to the ones you have already  
5 talked about, of how, after all the information that  
6 Union has provided, that it hasn't demonstrated that  
7 its study complies with TELRIC requirements?

8 MR. ASAY: Object. Mr. Administrative Law  
9 Judge, the fact is that's not responsive to my Cross.  
10 It's just an opportunity to get the witness to  
11 testify on Direct again. It's simply not responsive,  
12 it's open-ended, calls for a narrative and it's  
13 improper.

14 THE COURT: I'll allow it.

15 THE WITNESS: Well, there's specific costs  
16 that Union says they'll have to incur for increasing  
17 call traffic. They say they'll need to supplement  
18 the radios. They indicated they might need to  
19 supplement the backhaul, but they haven't provided  
20 individual element costs for those so they can be  
21 calculated as far as what those increasing costs  
22 would be. Nor have they provided what would be  
23 efficiently provided in the network. So without  
24 having that incremental radio cost you can't look at  
25 an efficiently designed set of sites with the right  
26

1 efficiency and usage and calculate those additional  
2 costs due to increasing call traffic.

3 Other things that are missing include they  
4 haven't specified which elements in the BTS or in the  
5 switch are related to data services that they provide  
6 to retail customers. As I mentioned earlier, their  
7 specific driver/receiver training cards that are used  
8 for Edge services as well as power amplifiers. So  
9 there's specific components used to provide those,  
10 but there's no way to tell if those costs are in  
11 their network or not from the data that's been  
12 provided.

13 MR. MONSON: In connection with questions  
14 from Mr. Asay there was some discussion about  
15 discovery issues as well, and there has been earlier  
16 in this proceeding as well, your Honor. I wonder if  
17 it would be appropriate to provide to the Commission  
18 the Data Request that Qwest asked after Mr.  
19 Jacobsen's testimony was filed and then for Mr.  
20 Copeland to explain what he was trying to say in  
21 response to Mr. Asay's questions about that discovery  
22 process?

23 THE COURT: Mr. Asay?

24 MR. ASAY: Judge Goodwill, that would be  
25 entirely inappropriate. It is beyond my Cross. If  
26

1 they had wanted to do it they should have done it on  
2 Direct. They've had four opportunities, actually  
3 five opportunities in different questions and they  
4 could have addressed it. The Commission is well  
5 aware, the Administrative Law Judge is well aware  
6 that if there's a problem with the discovery or if  
7 they have a concern with respect to our response they  
8 can come before this Commission and they can address  
9 it in appropriate order. To come in at this stage is  
10 entirely inappropriate and goes contrary to their  
11 responsibility to bring it to the attention of the  
12 Administrative Law Judge before this proceeding. And  
13 to bring it in on essentially Redirect at this stage  
14 is simply a waste of time and it's not relevant and  
15 it's unfair to Union with respect to our right to  
16 address it.

17 THE COURT: What we're talking about, Mr.  
18 Monson, are we talking about Qwest's responses to  
19 Union discovery requests?

20 MR. MONSON: No, no. What we're talking  
21 about, and this has come up two or three times, and  
22 it did come up during the Cross-Examination of Mr.  
23 Copeland, we're talking about the Data Request that  
24 Qwest sent to Union following Mr. Jacobsen's  
25 testimony and the data provided in response to that,

26

1 those Data Requests and when it was provided and how  
2 it relates to Mr. Copeland's feeling that he hasn't  
3 had adequate information on which to determine his  
4 TELRIC compliance study or there isn't adequate  
5 information to determine whether it's a TELRIC  
6 compliant study.

7 THE COURT: Well, it seems to me that Mr.  
8 Copeland's testimony that he doesn't have adequate  
9 testimony can stand on its own. It will be up to  
10 Union to rebut that if they want. And so given the  
11 objection, I won't receive that at this time.

12 MR. MONSON: Okay.

13 Q. (BY MR. MONSON) Let's see. Just one more  
14 question. This morning you were questioned about  
15 your engineering expertise and so forth, Mr.  
16 Copeland. Is it common when doing TELRIC studies to  
17 consult with engineers?

18 A. Yes. It's almost mandatory. The way we  
19 conduct a study is we talk to the engineers to get  
20 the most current design so that we can meet that  
21 forward-looking technology requirement. We talk to  
22 the engineers, get the design, get the cost of the  
23 components, and then we design the network that would  
24 essentially meet the utilizations that we think are  
25 appropriate for a forward-looking cost study and

26

1 develop a TELRIC based on that single design. We  
2 don't go to our CPRs and look at the embedded costs  
3 of recent installations. We look at what are we  
4 going to put in now if we were to put in this  
5 element. So we have to talk to the engineers every  
6 time we do a study.

7 Q. And so in connection with your efforts to  
8 determine if the Union study complied with TELRIC  
9 requirements, did you consult with engineers?

10 A. Yes, I did. I discussed it with an  
11 in-house engineer, Thomas Schwengler, who had been  
12 with Qwest Wireless as an engineer. I also talked  
13 Kalyan Basu, who is a former Nortel employee and what  
14 has recently -- was recently an instructor at  
15 University of Texas at Arlington in computer science  
16 and mobile wireless engineering, and we had  
17 discussions with him concerning what would be  
18 appropriate for building a wireless network and how  
19 the S8000s, in particular, worked and how they're  
20 configured.

21 MR. MONSON: That's all I have.

22 THE COURT: Mr. Asay?

23 MR. ASAY: Yes, if I could. Just in  
24 responding to this last question, can we just have a  
25 moment?

26

1                   THE COURT:  Sure.  Do you want to take a  
2 break or just do you need a couple of seconds?

3                   MR. ASAY:  I need a couple of seconds, a  
4 30-second break.  I don't mean to inconvenience the  
5 proceeding.

6                   THE COURT:  Sure, go ahead.

7                   (Off the record.)

8

9                   FURTHER RECROSS-EXAMINATION

10  BY MR. ASAY:

11                 Q.     Mr. Copeland, you just indicated that you  
12 consulted with an engineer in reviewing what you're  
13 accomplishing in preparing your testimony this  
14 proceeding, correct?

15                 A.     Yes.

16                 Q.     And I guess it's self-evident that Qwest  
17 didn't sponsor an engineer as a witness in this  
18 proceeding, correct?

19                 A.     That's correct.

20                 Q.     Now, going to your consultation with the  
21 engineer as you prepare a TELRIC study, as I  
22 understand your testimony, as you consult with that  
23 engineer, you do that as you're creating -- can I  
24 approach?

25                 THE COURT:  Sure.

26

1           Q.       (BY MR. ASAY) Going to the Exhibit again,  
2           I assume that if you were going to design a system  
3           and you were using an engineer to assist you, that  
4           you would go to the engineer so that you could find  
5           the cost of the tower and all of the component parts,  
6           correct?

7           A.       Well, I would go -- I don't go to the  
8           engineer for the costs of the item, I go to the  
9           engineer for the design of the system.

10          Q.       Okay. But in your testimony you indicated  
11         that you were consulting with outside sources so that  
12         you could find a cost for the components, correct?

13          A.       No, that's not correct.

14          Q.       So how did you get a cost for a component?

15          A.       Well, you mean how would Union get a cost?

16          Q.       No, no. If you're designing a system, I'm  
17         sure you indicated in your testimony, and the record  
18         will reflect, you indicated that in design of the  
19         system you consulted an engineer, correct?

20          A.       That's correct.

21          Q.       And that is to essentially --

22          A.       Well, excuse me. I didn't design it, I  
23         asked the engineer to show us their design, okay?  
24         Just with that clarification.

25          Q.       And maybe I misunderstood your answers

26

1 because I thought you consulted with other parties,  
2 and I thought you said engineer, in finding the  
3 component parts, if you will, and the costs for those  
4 parts.

5 A. No. I said when we're doing a TELRIC  
6 study we go to the engineer to get their current  
7 design parameters for the system, what components are  
8 included, then we go to the contracts. I didn't say  
9 that, but then we go to the contracts with the  
10 vendors to get the costs and we use the current  
11 contracts with that vendor cost.

12 Q. Correct. And so you have the current  
13 costs you get from the vendors and from purchases, so  
14 you have the current cost, and then you build from  
15 there, correct?

16 A. Yes, with that current design.

17 Q. Thank you.

18 One last item and just a point of  
19 clarification. When you addressed towers, I thought  
20 you said with respect to the FCC, there was some  
21 reference to the fact that they weren't included  
22 because they were direct costs? Did I misunderstand  
23 or did I not hear you correctly.

24 A. I said towers are a direct cost and they  
25 don't vary with increasing call traffic.

26

1 Q. Right. And was that somehow related to  
2 the idea that they weren't to be included or  
3 something? Maybe I missed the point.

4 A. The point is no, towers should not be  
5 included as an item that's a component that is cost  
6 sensitive to increasing call traffic.

7 Q. And did it somehow relate to the fact that  
8 they were a direct cost?

9 A. Yes, that is a direct cost.

10 Q. Okay. And that was the confusion because  
11 previously you had testified that conduit was a  
12 direct cost and that was part and parcel of your  
13 reciprocal compensation rate, correct?

14 A. Well, conduit is in the transport systems,  
15 correct.

16 Q. Thank you. That's all I have.

17 THE COURT: Any redirect, Mr. Monson?

18 MR. MONSON: No.

19 THE COURT: Ms. Schmid, anything?

20 MS. SCHMID: Nothing.

21 THE COURT: Thank you, Mr. Copeland.

22 Anything further from Qwest?

23 MR. MONSON: No. That's all we have.

24 THE COURT: We've got Hearing Exhibit 1  
25 marked for identification, it's an Order of the

26

1 Commission. Just to close the loop on that, I'll go  
2 ahead and indicate that I intend to take  
3 administrative notice of that absent any objections  
4 from any parties.

5 Okay. We'll go ahead and do that.

6 I guess we'll turn -- oh, are you just  
7 powering off?

8 MR. COPELAND: Yes. Sorry.

9 THE COURT: Why don't we take five minutes  
10 and then we'll come on back and turn to the Division.

11 (Recess taken.)

12 THE COURT: Let's go back on the record.  
13 And, Ms. Schmid, I believe we were turning to you.

14 MS. SCHMID: Thank you. Good morning.  
15 The Division calls Mr. Paul M. Anderson as its  
16 witness. Could Mr. Anderson please be sworn?

17 THE COURT: Mr. Anderson, would you please  
18 stand and raise your right hand?

19 Do you solemnly swear the testimony you're  
20 about to provide will be the truth, the whole truth  
21 and nothing but the truth, so help you God?

22 MR. ANDERSON: I do.

23 PAUL M. ANDERSON,  
24 called as a witness, was examined and  
25 testified as follows:  
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## 1 DIRECT EXAMINATION

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BY MS. SCHMID:

Q. Mr. Anderson, by whom are you employed and in what capacity?

A. I'm employed by the Division of Public Utilities as a Utility Analyst, Utility Consultant, excuse me, Technical Consultant.

Q. And your business address, please?

A. 160 East 300 South, Salt Lake City, Utah, 84108.

Q. Have you been involved in this case on behalf of the Division?

A. Yes, I have.

Q. Have you prepared what has been premarked for identification as DPU Exhibit Number 1.0, your Prefiled Rebuttal Testimony filed October 12 of this year, which has attached to it DPU Exhibit Number 1.1, your qualifications, DPU Exhibit 1.2, an Exhibit entitled "Union's Cellular Network"; DPU Exhibit 1.3 entitled "Typical Base Transceiver Station," and DPU Exhibit Number 1.4, DPU's Revised Cost Model, the confidential version?

A. Yes.

Q. Do you have any changes or corrections to that prefiled testimony?

1           A.     No.

2           Q.     If we were to ask you the same questions  
3 today as were asked in that prefiled testimony, would  
4 your answers be the same?

5           A.     Yes.

6           Q.     Thank you.

7                     Mr. Anderson, have you prepared a summary  
8 which has been premarked as DPU Exhibit 2.01, with  
9 attached Exhibit Number DPU 2.1, "Revenue Comparison  
10 of Union Cellular's Existing and Proposed Transport  
11 and Termination Rates"?

12          A.     Yes, I have.

13          Q.     And I would just note for the record that  
14 this summary, along with the Exhibit, was provided to  
15 the parties yesterday morning.

16                    Mr. Anderson, would you like to provide us  
17 with that summary? And like other witnesses have, if  
18 you have any comments on the preceding testimony you  
19 could give them at this time.

20          A.     Okay. First I'll go ahead and read you my  
21 summary.

22                    After extensive review and analysis, the  
23 DPU recommends that the Commission reject Union  
24 Cellular's proposed cost model and its request for  
25 asymmetric transport termination rates. Union

26

1 Cellular is asking the Utah Public Service Commission  
2 to approve the adoption of termination rates that  
3 would result in a ten-fold increase in  
4 interconnection revenue from Qwest. And there's an  
5 attached Exhibit 2.1.

6           The Key Issues. The DPU's analysis in  
7 this testimony focuses on three disputed issues. The  
8 first one is total element long run incremental  
9 costs, or TELRIC. Does the cost study model meet the  
10 FCC criteria contained in CFR Title 47, Section  
11 51.701B which states: "A state commission may  
12 establish asymmetrical rates for transport and  
13 termination of local telecommunications traffic only  
14 if the carrier other than the incumbent LEC, or the  
15 smaller of the two incumbent LECs, proves to the  
16 State Commission on the basis of a cost study using a  
17 forward-looking economic cost-based pricing  
18 methodology described in Sections 51.505 and 51.511,  
19 that the forward-looking costs for a network  
20 efficiently configured and operated by the carrier,  
21 other than the incumbent LEC or the smaller of the  
22 two incumbent LECs exceed the costs incurred by the  
23 incumbent LEC or the larger incumbent LEC, and  
24 consequently that such -- such that a higher rate is  
25 justified.

26

1                   The second one is traffic sensitivity.

2           Does the cost study model meet, does it meet the  
3           FCC's additional traffic sensitive cost standard in  
4           Order 18 FCC RCD 18-441, September 3 of 2003?

5                   And thirdly the cost model.  Are Union  
6           Cellular's cost study financial calculations as  
7           presented valid and are they correctly modeled to  
8           represent the forward-looking and state-of-the-art  
9           cellular network?

10                   During its investigation, the DPU  
11           determined that in the development of the cost model  
12           Union Cellular has used historical cost to estimate  
13           pricing for the GSM switch, base station controller  
14           and cell site construction.  TELRIC models must use  
15           FCC TELRIC pricing principles.  The model must be  
16           transparent so that it can be analyzed by Commission  
17           staff and all costs must be verifiable.

18                   Union Cellular's model does not reflect  
19           current forward-looking costs as required TELRIC  
20           principles and has used present and future demand to  
21           determine network cost rather than using current  
22           demand with the percentage growth as determined  
23           through the use of a fill factor as required in  
24           TELRIC pricing.  Additionally, Union Cellular did not  
25           account for structure and facilities sharing with  
26

1 other companies in its pricing.

2           Furthermore, Union Cellular has not shown  
3 that the switch and transport costs contained in its  
4 proposed cost model do not include the equipment that  
5 is also specifically used for the provision of other  
6 tariff and retail offerings that are unrelated to  
7 interconnection. It appears that Union Cellular has  
8 modeled its transport microwave costs based on what  
9 seems to be the retail prices of equivalent T-1s as  
10 opposed to using local or tandem switch cost data,  
11 signaling data or network data.

12           The DPU believes that Union Cellular  
13 inappropriately included costing for equipment and  
14 facilities that are clearly non-traffic sensitive.  
15 Specifically Union Cellular included costs for towers  
16 and tandems, buildings and power equipment, and  
17 processor components and a DMS switch, base station  
18 controller and database registers that are definitely  
19 not traffic sensitive.

20           And finally, it appears that Union  
21 Cellular inappropriately applied present worth  
22 factors to minutes of use in both its termination and  
23 transport calculations and erroneously applies the  
24 same depreciation rate of all categories of plant,  
25 buildings and land.

26

1           The DPU does not see a compelling public  
2 interest or company reason for the Commission to  
3 approve asymmetric transport and termination charges  
4 based on Union Cellular's present cost model. There  
5 are flaws that need to be corrected in the model  
6 before it can be considered to represent a TELRIC  
7 cost model using only traffic sensitive costs. The  
8 DPU believes that some traffic sensitive costs exist  
9 as shown in Table 1 of my Rebuttal Testimony, but  
10 cannot separate those costs into traffic sensitive  
11 percentages to determine their significance for  
12 calculating termination and transport rates that are  
13 much different than the rates already in effect.

14           And once again, Union Cellular must move  
15 away from using embedded costs to model switching and  
16 cell site costs and incorporate these costs, those  
17 costs that are consistent with the least cost, most  
18 efficient forward-looking cellular network.

19           In summary, DPU believes Union Cellular  
20 failed to provide a TELRIC compliant model.  
21 Furthermore, it failed to provide convincing evidence  
22 in support of its position and it failed to provide  
23 adequate documentation. Therefore, the DPU  
24 recommends the Commission reject Union Cellular's  
25 cost model and its requests for asymmetric  
26

1 compensation.

2 Just another thing that I wanted to  
3 mention is that I wasn't involved in the earlier  
4 determination of rates. I'm aware of the rules that  
5 the FCC has and I've applied them to this testimony.

6 Q. Thank you.

7 The Division would like to request that  
8 DPU Exhibit Number 1.0, DPU Exhibit Number 1.1,  
9 Number 1.2, 1.3, 1.4, and DPU Exhibit Number 2.0 and  
10 2.1, as previously identified, be admitted.

11 THE COURT: Any objections?

12 MR. MECHAM: Yes, your Honor, I have an  
13 objection. Mr. Anderson's testimony relies heavily  
14 on an article from a Korean publication, the author  
15 of which is Moon-Soo Kim. There really is no  
16 foundation for that article and it is hearsay. So  
17 while I recognize that hearsay is not a reason in and  
18 of itself to preclude evidence from going into the  
19 record, it does prevent the Commission from basing a  
20 finding on it. And so that's my objection.

21 MS. SCHMID: May I respond?

22 THE COURT: Sure.

23 MS. SCHMID: I am somewhat puzzled by my  
24 friend Mr. Mecham's objection. It is common practice  
25 for experts to use articles in their preparing their  
26

1 testimony and to cite to them. In this case, for  
2 example, Mr. Mecham's client has brought in  
3 quotations from economic textbooks. Furthermore, Mr.  
4 Anderson's testimony does not rely solely upon the  
5 cited article, it relies upon Mr. Anderson's  
6 extensive background in the telecommunications field,  
7 particularly his experience and his knowledge of  
8 TELRIC.

9           And lastly, if there is any question as to  
10 weight, the testimony should be admitted and the  
11 Commission can determine the appropriate weight.

12           MR. MECHAM: Your Honor, I would also, if  
13 you would allow me, I'm quite certain that this  
14 article was translated into English and I have no way  
15 of knowing if it's -- I presume that it's -- well, I  
16 would hope that this is a publication that would  
17 check its translation, but I have no way of knowing  
18 that. And frankly, I'm not familiar with the  
19 publication. So from about page 15 or 16 on, Mr.  
20 Anderson's testimony strongly reflects this article.

21           MS. SCHMID: And again, I would just like  
22 to renew my response to the objection and note that  
23 Mr. Anderson has experience in this area, has looked  
24 at TELRIC models, the FCC requirements, and is not  
25 basing his testimony solely on that. And any

26

1 publication the Commission can certainly look at as  
2 to weight. We'll note that a citation was provided  
3 so if the Commission chooses to it can easily find  
4 that article.

5 THE COURT: Mr. Mecham, your objection is  
6 noted. I guess with respect to that I would simply  
7 say that if you have any arguments to make regarding  
8 the weight that the Commission should give to Mr.  
9 Anderson's testimony based on his citation of this  
10 article, you'll certainly be free to make that in  
11 your post hearing brief. Is there any other  
12 objection to admission of DPU Exhibit 1 or 2 or their  
13 attachments?

14 MR. MONSON: No objection.

15 THE COURT: Okay. We'll go ahead and  
16 admit them.

17 MS. SCHMID: Thank you.

18 Mr. Anderson is now available for  
19 Cross-Examination.

20 THE COURT: Mr. Mecham?

21 MR. MECHAM: Thank you, your Honor.

22

23 CROSS-EXAMINATION

24 BY MR. MECHAM:

25 Q. Good morning, Mr. Anderson.

26

1           A.     Good morning, Mr. Mecham.

2           Q.     Let me start with your summary. Does your  
3 summary represent any difference, do you take a  
4 different position in your summary than you do in  
5 your testimony or do you intend it to reflect your  
6 testimony, the position you took there?

7           A.     I intend it to reflect my testimony.

8           Q.     Okay, thank you.

9                     Now, in your list of qualifications you  
10 didn't indicate how long you had been here at the  
11 Division. How long have you been here at the  
12 Division, Mr. Anderson?

13          A.     A little over two years.

14          Q.     How often do you, as a staff member of the  
15 Division, deal with wireless issues in the wireless  
16 industry?

17          A.     We review price lists, interconnection  
18 agreements. They come in daily or weekly.

19          Q.     The interconnection agreements?

20          A.     Uh-huh (affirmative).

21          Q.     What does a wireless carrier file by year  
22 by way of price lists?

23          A.     Let me qualify that. I'm probably  
24 thinking of ILECs that file price lists. You're  
25 right, wireless doesn't file price lists. But we

26

1 look at their interconnection agreements, the first  
2 part.

3 Q. Okay. Thank you.

4 Insofar as the cost studies are concerned,  
5 is this your first attempt to decipher the HAI model  
6 or the most current version?

7 A. No. I've been in training to work with  
8 this model for the last two years. I've gone through  
9 it based on the inputs and what would the outputs  
10 result from it.

11 Q. And how many proceedings have there been  
12 dealing with the HAI model since you've arrived?

13 A. This is the first one.

14 Q. Okay. In your testimony, and I believe  
15 it's on page 8, lines 118 through 122, and also on  
16 page 21, you have recommended to the Commission that  
17 the cost of towers, buildings, power equipment,  
18 cables, fiber conduit, be excluded from Union's cost  
19 study in order to conform with TELRIC. Did I  
20 represent that correctly?

21 A. Would you repeat the components you're  
22 talking about?

23 Q. Yes. I believe I took this right out of  
24 your testimony, that the Commission exclude the costs  
25 of towers, buildings, power equipment, cables, fiber

26

1 conduit, I believe that's -- I think that represents  
2 everything.

3 A. Yes, that's correct.

4 Q. Are you aware that the HAI model includes  
5 some of those costs, the costs of land, buildings,  
6 power investment to develop per minute switching  
7 rates?

8 A. I'm aware of previous HAI versions where  
9 it is a component, what you call  
10 non-traffic-sensitive support assets. I couldn't  
11 find any evidence in the ones that I'm working with  
12 now based on the model that the Commission has  
13 approved that changes the rate at all when you  
14 eliminate the wire center and the land costs. But in  
15 the ones previous to that there is, when I checked it  
16 out, it -- there was a component and it lowered the  
17 rate by about 3 percent when I took them out. When I  
18 took them out of the study, it lowered the rate by  
19 about 3 percent.

20 Q. So the rate was 3 percent lower than it  
21 otherwise would have been when those contract central  
22 costs weren't included?

23 A. Yes. In that particular version of HAI.

24 Q. Do you know if Qwest's ICM model included  
25 non-traffic-sensitive costs in what ultimately was

26

1 approved?

2 A. I'm not familiar with the ICM model,  
3 Qwest's ICM model.

4 Q. Wasn't it a blend of the HAI and the  
5 ICM that the Commission used in order to determine  
6 the --

7 A. That was my understanding. But that was  
8 before I came here.

9 Q. So would it stand to reason that within  
10 the rates currently charged by Qwest there are  
11 non-traffic-sensitive costs that are being recovered  
12 in those rates because of their support of them?

13 MS. SCHMID: Objection. I believe that  
14 the witness has already stated that he is not  
15 familiar with that.

16 Q. (BY MR. MECHAM) Well he's familiar with  
17 the HAI. So to the degree that he's familiar with  
18 the HAI, I guess at least you can testify on that,  
19 can't you?

20 A. On the HAI, yes. So ask me the question  
21 again.

22 Q. Let me ask you this. Do you know if the  
23 rates charged by Qwest, reciprocal compensation rates  
24 charged by Qwest include these non-traffic-sensitive  
25 costs today?

26

1           A.     I don't know of a certainty.

2           Q.     I assume you had an opportunity to read  
3     Mr. Hendricks' testimony in response to yours, his  
4     Post Surrebuttal Testimony?

5           A.     Yes.

6           Q.     On page 4 -- do you have Mr. Hendricks'  
7     testimony? On page 4, line 72, for instance,  
8     actually it begins line 71, "For example, HAI 5.2a  
9     includes land, buildings, and power investment in the  
10    development of per-minute switching rates for  
11    reciprocal compensation."

12                     Do you dispute that or is that an accurate  
13    statement?

14          A.     On the HAI 5.2a model, I couldn't find any  
15    proof that it did.

16          Q.     Did you find any proof that it didn't?

17          A.     No. I took out the land and building  
18    costs and it didn't change the interconnection rates.

19          Q.     So there was no change whatsoever when you  
20    took those costs out?

21          A.     Correct.

22          Q.     How did that work? If you take costs out  
23    there should have been some sort of effect, should  
24    there not have been?

25          A.     That's what you would expect. But when I

26

1 took those costs out, there was no effect on the  
2 rates.

3 Q. Did that make sense to you?

4 A. Yes. Because it's a revised model of  
5 what -- the HAI that I had seen previous. It was the  
6 model the Commission ordered. So there's a  
7 possibility it could have been changed.

8 Q. Do you still have Mr. Hendricks' testimony  
9 before you?

10 A. Yes.

11 Q. And then on page 5, Mr. Hendricks  
12 testifies that the FCC, referring to the synthesis  
13 model, "incorporates HAI switching and expense  
14 modules and calculates the investment related to wire  
15 center buildings and land in the switching module."

16 And then continues, "So, US West is  
17 mistaken that 50 percent of the building and land  
18 investment is eliminated, because this investment is  
19 added back in calculating switching costs."

20 Are you familiar with the order where the  
21 FCC stated that?

22 A. Well, I've read his testimony and it's not  
23 showing me whether they're looking at UNE costs or  
24 interconnection costs. I know it's definitely in UNE  
25 costs because there is a component of building space

26

1 and land in UNE cost.

2 Q. Let me go to your testimony for just a  
3 moment on page 11 where you indicate that Union uses  
4 embedded costs for its GSM switch. What does  
5 embedded cost mean?

6 A. It means costs that are already in the  
7 network, that are on the book of accounts of the  
8 company.

9 Q. So if Union had bought the GSM switch a  
10 month ago, would that be an embedded cost if it were  
11 included in the model today?

12 A. It would be an embedded cost by definition  
13 because they own it. What we're looking at is a  
14 hypothetical cost, something that -- a price that  
15 they would come up with through appropriate bidding.  
16 And it would be close, it would be very close to a  
17 theoretical cost, yes.

18 Q. If it were purchased within the last  
19 month?

20 A. Yes.

21 Q. So if it is already in the network and  
22 accounted for on their books it's an embedded cost,  
23 end of story?

24 A. That's the definition. That's what the  
25 rules say.

26

1 Q. Which rules?

2 A. TELRIC rules.

3 Q. Where?

4 A. In the FCC --

5 Q. Do you have a specific order?

6 A. Hold on. Let's see, 47 CFR 51.711 plus,  
7 where is it -- plus there's two others it refers to  
8 on developing, I think it's 51.511 and 509.

9 Q. So is it your testimony if Union were to  
10 go out to today and bid, those bids would be a  
11 forward-looking cost that they could include in a  
12 cost model?

13 A. Yes.

14 Q. With respect to the -- did you hear the  
15 testimony yesterday indicating that the GSM switch  
16 they have is close to exhaust?

17 A. Yes.

18 Q. So if they went in today and bid, they  
19 would bid a larger switch, most likely, in order to  
20 account for greater capacity, and it would be a  
21 higher cost in the model, would it not?

22 A. It could be, yeah. Or it could be less,  
23 too.

24 Q. Do you know that?

25 A. No. That's why they would need to get a  
26

1 bid.

2 Q. Do you know if the prices of the switches  
3 have changed substantially since this hearing began  
4 in 2004?

5 A. I don't know personally, but they could  
6 have and that's why we would need a new bid to find  
7 out, to find that out.

8 Q. Let me ask you about the number of cell  
9 sites. As I understand it, you removed about 100  
10 cell sites out of the cost model because they didn't  
11 address current demand? Is that reflective of your  
12 testimony?

13 A. Well, the TELRIC rules say that you must  
14 use current demand plus administrative fill factor to  
15 account for administration and some growth. So they  
16 were looking at out to 2008 and I cut it back to what  
17 the current was for what they had in place at the  
18 time when I looked at it.

19 Q. So it's only what exists currently; is  
20 that the way you characterize it? There's nothing to  
21 account for growth?

22 A. Well, it's the current demand with a  
23 little bit of growth. The fill factor should take  
24 care of that.

25 Q. Could I have you turn to Mr. Hendricks'

26

1 testimony, page 8, please?

2 MS. SCHMID: Pardon me, your Honor. If I  
3 may, could you tell me which part of Mr. --

4 MR. MECHAM: I'm sorry, it's the Post  
5 Surrebuttal Testimony.

6 MS. SCHMID: Thank you.

7 MR. MECHAM: The part that responds to Mr.  
8 Anderson's testimony.

9 MS. SCHMID: Thank you.

10 THE WITNESS: Post Surrebuttal Testimony  
11 of Jason Hendricks.

12 Q. (BY MR. MECHAM) Yes.

13 A. Page 26?

14 Q. Yes. Do you have that?

15 A. Uh-huh (affirmative).

16 Q. On line -- well, beginning line 165 Mr.  
17 Hendricks says, "Union's cost study is completely  
18 compliant with the FCC's TELRIC pricing methodology  
19 because it uses the costs Union would incur today if  
20 it built a...network that could provide all of the  
21 services its current network provides, to meet  
22 reasonably foreseeable demand, using the least-cost,  
23 most efficient technology currently available."

24 Reasonable foreseeable demand, how do you  
25 characterize that?

26

1           A.     I characterize it as the demand -- well,  
2     the capacity you put in that would cover the current  
3     demand plus a little bit for administration and  
4     growth according to a fill factor that you would  
5     choose.

6           Q.     So if Union were placing -- well, if there  
7     were 17 sites under construction today, that's not  
8     meeting reasonably foreseeable demand, by your  
9     definition?

10          A.     Yeah, it could be. That's part of that  
11     fill factor.

12          Q.     But essentially you've eliminated those 17  
13     under construction, have you not, by what you've  
14     done? You've taken them back to what they have right  
15     now without any account for what's under construction  
16     today or what may be there before summer of 2008?

17          A.     Well, I only did that as a "what if"  
18     scenario. I didn't propose anything for them. I  
19     just made it as a scenario, just to get a feel for  
20     how the model works, what it would do.

21          Q.     Okay. Let me talk about your traffic  
22     sensitivity portion if I could. I don't believe that  
23     the Moon-Soo Kim article is part of the record. It's  
24     not filed in your testimony so perhaps I'll  
25     distribute it, if that's okay, Judge Goodwill.

26

1 THE COURT: Sure.

2 Q. (BY MR. MECHAM) Mr. Anderson, who is  
3 Moon-Soo Kim?

4 A. He's the person that wrote this article.  
5 He is a professor at one of the Korean universities.

6 Q. Do you know anything about him? Does he  
7 have --

8 A. We're not friends.

9 Q. Is he a noted expert in  
10 telecommunications?

11 A. I was looking -- I was searching for  
12 someone that had looked at traffic sensitivity in  
13 cellular systems. I couldn't find anything except  
14 this. So I looked at it as possibly a way to take a  
15 look at traffic sensitivity different than the way  
16 maybe other people do.

17 Q. I mean, did you just find this on the  
18 Internet?

19 A. Yeah. I did an Internet search.

20 Q. And this is the only thing that came up?

21 A. (Indicating affirmatively.) I looked at  
22 his references, but I couldn't pull any of them.  
23 They wouldn't come up.

24 Q. Do you know if his method has been adopted  
25 in Korea?

26

1 A. No.

2 Q. Do you know if it's been adopted anywhere?

3 A. No.

4 Q. No state, no other country?

5 A. Not that I know of.

6 Q. At the very beginning on page 777, about

7 midway down of that bolded paragraph, doesn't he

8 refer to this as a pilot study that he's proposing?

9 A. That's correct.

10 Q. And do you know, what is the vintage of

11 this article?

12 A. 2006.

13 Q. Well, it appears it was published in 2006,

14 but in the first paragraph of the introduction it

15 says, "There is," this is three lines down, "there is

16 a high prospect that by 2003 the number of mobile

17 phone subscribers will exceed that of the fixed-line

18 subscribers and the volume of mobile phone traffic

19 will surpass fixed-phone traffic."

20 That would indicate to me that that

21 article was written sometime before its 2006

22 publication. Is that what it indicates to you?

23 A. Well, down in the footnote it says it was

24 revised August 31, 2006. Right down at the bottom.

25 Q. Okay. But that doesn't take into account

26

1 for me this overcoming of the wireless industry in  
2 2003, that is overcoming the wire line industry by  
3 wireless in 2003. It appears to me this could have  
4 been written in 2002 or 2001. It could be an old  
5 paper, could it not?

6 A. It could be, but it indicated it was  
7 revised. It was revised in August of 2006.

8 Q. Might that just be for editing or even  
9 translation?

10 MS. SCHMID: Objection. I believe the  
11 witness has already answered the question.

12 MR. MECHAM: Well, not the translation  
13 part.

14 THE COURT: You can go ahead and answer,  
15 Mr. Anderson.

16 THE WITNESS: Repeat the question.

17 Q. (BY MR. MECHAM) Might this have been  
18 changed for editing or for publication or even for  
19 translation?

20 A. I suppose anything could have changed.

21 Q. Did you look at the limitations at the end  
22 of the article? This is on page 782. Does he not  
23 recognize in that last paragraph before the  
24 acknowledgments in the conclusion statement that  
25 there are limitations and additional study required?

26

1                   For instance, he says, "There is possible  
2 difficulty," this is the first limitation, "in  
3 applying interconnection," let's see, "in applying  
4 the proposed approach to the practical field of the  
5 interconnection market because the CDMA system in  
6 this study may not be the same as the mobile  
7 operator's facilities"?

8           A.     Yeah, he says that.

9           Q.     Could Union's facilities be different than  
10 what he was looking at in Korea?

11          A.     Possibly. But it's the same -- what I was  
12 looking for is cellular in general, what is traffic  
13 sensitivity in cellular. I don't think it makes that  
14 much difference what kind of system it is.

15          Q.     Does it matter that we're talking about a  
16 GSM switch? Would that change anything?

17          A.     No.

18          Q.     Do you know if there's a difference  
19 between the GSM switch and CDMA?

20          A.     Yeah.

21          Q.     What is it?

22          A.     I couldn't tell you right now, but I've  
23 read that there are differences.

24                   MR. MECHAM: Okay. Judge Goodwill, I  
25 would offer this as Union Cross-Examination

26

1 Exhibit 1.

2 THE COURT: We'll mark it as such. Any  
3 objection to its admission?

4 MS. SCHMID: No objection.

5 MR. MONSON: No objection.

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

7 MR. MECHAM: Can I have just a moment,  
8 Judge Goodwill?

9 THE COURT: Sure. Let's go off the  
10 record.

11 (Off the record.)

12 MR. MECHAM: Judge Goodwill, I'm not sure  
13 of the best way to approach this, but we actually  
14 have the HAI 5.2a model here and can show that when  
15 you do take the land and building costs out that the  
16 rates indeed do change. I don't know if -- what your  
17 preference would be. If you would prefer that we  
18 have Mr. Anderson run it while there or if we would  
19 bring Mr. Hendricks back and perhaps have him do it  
20 to show -- and allow him to be crossed on it.

21 MS. SCHMID: And if I may make an  
22 objection to this, I believe that I just recently  
23 heard Union making an objection to bringing something  
24 in, and it seems that this certainly would be an  
25 inappropriate -- it was just a Data Request that you

26

1 objected to bring in. And I believe this is highly  
2 inappropriate to bring in a model at this point. If  
3 a model was supposed to be brought in, it could have  
4 been done in the prefiled testimony, it could have  
5 been done at many other times other than at this  
6 point late in the hearing.

7 MR. MECHAM: Judge Goodwill, the HAI model  
8 has been testified to in Mr. Hendricks' testimony, it  
9 has been testified to --

10 MS. SCHMID: So Mr. Hendricks could have  
11 brought it -- sorry.

12 MR. MECHAM: Well, he did indicate in his  
13 testimony that these costs are included, they're  
14 non-traffic-Sensiv costs, and it just seems to me if  
15 we're going to talk about what's included and what  
16 isn't in these rates, it's already in prefiled  
17 testimony. There has been prefiled testimony on it.  
18 Mr. Anderson testifies to it and he indicates, he  
19 indicated today that by removing it he sees no  
20 difference.

21 THE COURT: Let's do this. Let's continue  
22 with any other cross-examination that you have in  
23 other areas. We'll conclude some additional  
24 questioning of this witness. We can take a break.  
25 The Division and Union and witnesses can discuss this  
26

1 issue, perhaps look at the model, everybody, if you  
2 feel it's appropriate, and we'll come back with Mr.  
3 Anderson on the stand. If there needs to be  
4 additional questioning of him or if he wants to  
5 provide additional testimony, we can deal with those  
6 things at that time.

7 MS. SCHMID: If I might, though, I have  
8 more parts to my objection. The model that Union  
9 wants to introduce as model 5.0, which is not 5.2a,  
10 plus HAI is not applicable, it's not able to do the  
11 wireless so it is irrelevant.

12 MR. MECHAM: Actually, Ms. Schmid is  
13 wrong, it's not 5.0, it's 5.2a.

14 MS. SCHMID: Then I apologize.

15 MR. MECHAM: And 5.2a is the basis for the  
16 rates that are currently -- well, that the Commission  
17 used in order to establish Qwest rates, and they want  
18 us to use Qwest rates, I think it's highly relevant.

19 MS. SCHMID: In that case I apologize for  
20 my misunderstanding of the numbering. But my  
21 objection as to the timing of this introduction and  
22 the appropriateness stands.

23 MR. MONSON: Your Honor, can I make a  
24 comment also?

25 THE COURT: Sure.

26

1                   MR. MONSON: First of all, just to say  
2                   it's the MAI 5.2a doesn't end the question because  
3                   the Commission made adjustments to that model in  
4                   compliance found in Utah. So I guess we would have  
5                   to address that. But secondly, Mr. Mecham just said  
6                   that Qwest's reciprocal compensation rates were based  
7                   on HAI 5.2a, and I think that we've established  
8                   through questions of a number of witnesses in this  
9                   hearing that that's not correct.

10                   THE COURT: Understood. It seems to me  
11                   that what we're getting at here is Mr. Anderson's  
12                   testimony that he had used the model and put in -- or  
13                   I guess had removed those elements and it didn't  
14                   change the rates that was outputted from the model  
15                   that caused some consternation for Mr. Mecham. We've  
16                   got the model here. I think it makes sense to, on a  
17                   break, Mr. Anderson can, with counsel present and  
18                   approving, talk to you and your witness, look at the  
19                   model, see if that affects the testimony that he  
20                   provided and we'll go from there when we come back  
21                   from the break.

22                   But before breaking, why don't we just go  
23                   ahead and continue with any additional questioning we  
24                   have.

25                   MR. MECHAM: I think we can go to a break

26

1 now, if that makes sense.

2 THE COURT: Let me just turn to the other  
3 parties and we'll see.

4 Does Qwest have any cross-examination of  
5 this witness?

6 MR. MONSON: Just a couple of questions.  
7 Do you want me to do it now?

8 THE COURT: Yes, sorry. Union is done.

9 MR. MONSON: All right. Sorry, I didn't  
10 understand that. I missed that point. Sorry.

11

12

CROSS-EXAMINATION

13 BY MR. MONSON:

14 Q. Mr. Anderson, you stated just now and I  
15 think in your testimony too, that you did a "what if"  
16 analysis to test what might happen if certain things  
17 were deemed to be traffic-sensitive and so forth; is  
18 that right?

19 A. That's correct.

20 Q. And in making your assumptions, were you  
21 looking for information about what might be  
22 traffic-sensitive and what might not be?

23 A. You mean in my overall testimony?

24 Q. Yeah.

25 A. Yes.

26

1 MR. MONSON: May I approach the witness?

2 THE COURT: Yes.

3 MR. MONSON: Your Honor, I haven't been  
4 keeping track of numbers. Is this Qwest Cross 13?

5 THE COURT: Yes, it is.

6 MR. MECHAM: Judge Goodwill, this is  
7 exactly what Mr. Asay objected to before and now Mr.  
8 Monson is trying to get it in through Mr. Anderson  
9 and I object.

10 MR. MONSON: How about if I ask a  
11 question?

12 MR. MECHAM: Before you asked your  
13 question, I wanted to save you that.

14 MR. MONSON: Can I ask a question?

15 THE COURT: Go ahead.

16 MR. MONSON: Thank you.

17 Q. (BY MR. MONSON) Mr. Anderson, in  
18 considering what information might be helpful in  
19 determining what was traffic-sensitive and what  
20 wasn't, did you have occasion to look at and review  
21 what's been marked as Qwest Cross 13?

22 A. Yes.

23 Q. And --

24 MR. MECHAM: My objection stands.

25 MR. MONSON: Well, he already answered.

26

1                   MR. MECHAM: Well, I'm waiting for the  
2 next one.

3                   Q.       (BY MR. MONSON) Okay. And were you  
4 anticipating the information that Union might provide  
5 in response to this Data Request?

6                   A.       Yes.

7                   Q.       And are you aware that that information,  
8 the response to the Data Request was provided on or  
9 about July 3rd of 2007?

10                  A.       Yes.

11                  Q.       And are you aware that that response  
12 included information from one week of data in March  
13 of 2007?

14                  MR. MECHAM: And I object again. The  
15 objection stands for each question, Judge Goodwill,  
16 so it will prevent me from interrupting each time.

17                  THE COURT: Why don't you state your  
18 objection, again, Mr. Mecham, so we're clear as to  
19 what is it is regarding, either this line of  
20 questioning or Qwest Cross 13.

21                  MR. MECHAM: Well, I'm not sure -- I mean,  
22 I just think it's clever on Mr. Monson's part to take  
23 a piece of testimony that you withheld from the  
24 record and now to get it in this way. It is -- this  
25 is a matter that was before you when Mr. Copeland was  
26

1 on the stand. Mr. Anderson, he may have been looking  
2 at all of the discovery, I don't know, but I don't  
3 see that it's relevant to what he's doing at this  
4 point. I think it's a backdoor way to do what he  
5 otherwise tried to do and couldn't before.

6 And with respect to the request that the  
7 Division made, we also respond to the Division to the  
8 degree that was possible in other Data Requests.

9 THE COURT: All I see to this point on  
10 Cross Exhibit 13 is the Data Request itself and not  
11 any responses from Union. I don't see any reason to  
12 not allow questioning on it this at this point. Go  
13 ahead, Mr. Monson.

14 MR. MONSON: Thank you, your Honor.

15 That was all my questions. I would offer  
16 Qwest Cross 13.

17 MR. MECHAM: As long as you understand  
18 that --

19 THE COURT: No, I would like you to --  
20 again, restate your objection as to why this should  
21 not be admitted.

22 MR. MECHAM: Well, it's getting  
23 repetitive, but the fact of the matter is is that Mr.  
24 Monson wanted to introduce this before.

25 THE COURT: Because it was outside the  
26

1 scope, I believe was the reason for the objection at  
2 that time.

3 MR. MECHAM: Correct. These were Data  
4 Requests that were made -- perhaps Mr. Anderson  
5 relied on them, I don't know, because I don't know  
6 what his studies were for. But it just seems all too  
7 clever to get this in through Mr. Anderson when he  
8 couldn't get it in before through Mr. Copeland as a  
9 Direct Testimony, piece of Direct Testimony, and I  
10 object on that ground. I just don't think it's  
11 relevant to Mr. Anderson and I think that evidence  
12 that was excluded in one instance shouldn't be  
13 allowed from the backdoor in another instance.

14 MS. SCHMID: And if I may respond also?

15 THE COURT: Sure.

16 MS. SCHMID: The Division has no objection  
17 to the admission of this exhibit and notes that Mr.  
18 Anderson testified that he looked at this and  
19 anticipated their responses in preparing his  
20 testimony.

21 THE COURT: Do you have anything to add,  
22 Mr. Monson?

23 MR. MONSON: Yes. Only that I think what  
24 Mr. Mecham said is correct, that we could have  
25 offered this through the Direct Testimony of Mr.

26

1 Copeland. After some discussion about this and this  
2 history, I realized that the record was somewhat  
3 unclear. So I tried to offer it through Mr. Copeland  
4 on redirect, as you noted, and you ruled that it was  
5 outside the scope of the cross-examination. So we  
6 accept that ruling, but Mr. Anderson has already  
7 testified that he reviewed these questions, that he  
8 thought these would provide helpful information in  
9 making determinations about what was  
10 traffic-sensitive and what wasn't, and that he was  
11 studying that issue, and he looked forward to the  
12 responses and then he's commented briefly on when the  
13 responses were received and what they contained. I  
14 think it's entirely appropriate. And I frankly don't  
15 know why it's harmful to have on the record a  
16 discovery request.

17 THE COURT: It's your objection. Anything  
18 further on that?

19 MR. MECHAM: No. I think I've exhausted  
20 it.

21 THE COURT: We'll go ahead and admit it as  
22 Qwest Cross 13.

23 Anything further, Mr. Monson?

24 MR. MONSON: No, that's all.

25 THE COURT: I have a quick question of  
26

1 you, Mr. Anderson, before we turn back to Ms. Schmid.

2 Just to clarify my understanding of DPU  
3 Exhibit 1.4 to your Rebuttal Testimony of October 12,  
4 2007. It's my understanding from reading your  
5 testimony that this is your revision of the Union  
6 cost study based on certain assumptions you made in  
7 your analysis in this proceeding?

8 MR. ANDERSON: Yes.

9 THE COURT: But the Division does not  
10 intend this as an alternative?

11 MR. ANDERSON: Correct.

12 THE COURT: And that is because you were  
13 unable to make certain other assumptions and input  
14 those into the cost study that you felt would be  
15 necessary in producing the cost study? Is that --

16 MR. ANDERSON: Well, I couldn't determine  
17 from what the -- the data that I had what part of  
18 that data was like radios, what part was power, what  
19 part was antennas, et cetera. So I couldn't break it  
20 down as to what percentage that I felt was  
21 traffic-sensitive because I had no investment costs.

22 THE COURT: Mr. Copeland yesterday, I  
23 believe, testified that it's his opinion that on the  
24 basis of the record that the Commission has before  
25 it, that the Commission were interested in adopting

26

1 an asymmetric compensation rate, but felt that  
2 Union's cost study didn't fully provide or adequately  
3 provide the rate to be used, that the Commission  
4 didn't have the information necessary before it to  
5 revise that cost study and come up with its own rate.  
6 What's your opinion on that?

7 MR. ANDERSON: Well, I agree with that.  
8 You know, if we couldn't come up with it, I don't  
9 think the Commission could come up with it with the  
10 same data. Like it needs to be broken down by  
11 components so that -- and it needs to be, what I  
12 mentioned earlier, it needs to be transparent so that  
13 anybody can look at it and come up with a  
14 conclusions. I don't think it was broken down enough  
15 in the components to do that.

16 THE COURT: And finally, I apologize, I'm  
17 just not remembering it at present exactly what you  
18 testified to. Is the Division's concern at this  
19 point that asymmetric rates shouldn't be adopted, or  
20 that -- I'm not sure if you've been silent on that  
21 issue and it's simply your disagreement with the cost  
22 study that would be used to approve those rates.

23 MR. ANDERSON: Well, it's all three  
24 things.

25 THE COURT: Because of the traffic  
26

1 sensitivity issue?

2 MR. ANDERSON: Because of the traffic  
3 sensitivity. The biggest thing is TELRIC, it's not  
4 TELRIC, and the model has some flaws.

5 THE COURT: Okay. Thanks.

6 Ms. Schmid, any redirect?

7 MS. SCHMID: I do. I don't know if it  
8 would be more appropriate to do redirect now or after  
9 we have the model discussion.

10 THE COURT: We can go ahead and take the  
11 break and then we can come back and just see where  
12 that leads. Let's go off the record for a second. .

13 (Off the record.)

14 THE COURT: Let's go back on the record.  
15 During a brief discussion off the record we were  
16 discussing how long it might be that the parties  
17 might want to review the HAI model that Union has  
18 available here. We decided we would take a 15-minute  
19 break. Mr. Mecham asked that he be allowed to ask  
20 Mr. Anderson another question before we take the  
21 break. So go ahead, Mr. Mecham.

22 Q. (BY MR. MECHAM) Mr. Anderson, in  
23 determining what was traffic-sensitive and what was  
24 non-traffic-sensitive and then you eliminated  
25 everything you deemed to be non-traffic-sensitive,

26

1 correct? And you did make an adjustment in your  
2 modeling that affected the ultimate rate pay, did you  
3 not?

4 A. In the "what if" scenario?

5 Q. In what you're proposing to the -- well,  
6 you're proposing rejection. But as you removed the  
7 non-traffic-sensitive things that you deemed  
8 non-traffic-sensitive, land, buildings, so on, what  
9 impact -- did that adjust your proposal in the rate  
10 or at least --

11 A. All it did was show me what it did to the  
12 rate. Obviously --

13 Q. So you made no adjustment?

14 A. No. I couldn't because I couldn't  
15 determine what percentage, you know, was traffic  
16 sensitive from the costs because they were all put  
17 together. All the radio costs were included with  
18 power, what else, antennas, radios.

19 Q. But when you eliminated all of those  
20 non-traffic-sensitive costs that you deemed to be  
21 non-traffic-sensitive, the support assets for  
22 traffic-sensitive facilities, did that not have an  
23 impact on what you did in this case?

24 A. Well, it had an impact on showing me what  
25 it did to the rates, yeah. I mean, it lowered the

26

1 rates, obviously.

2 Q. So it made an adjustment --

3 A. But I'm not proposing that adjustment.

4 Q. Well, you're proposing rejection.

5 A. Right.

6 Q. I understand that.

7 A. And all that was was a "what if" if we did  
8 this percentage. You know, the percentage was just  
9 an estimate just from what my background is. But I  
10 couldn't get the exact percentage because it wasn't  
11 broken down. So I can't recommend, you know,  
12 anything, I can just say this is what I did, this is  
13 what it appeared to be.

14 MR. MECHAM: That's it for now.

15 THE COURT: All right. We'll go ahead and  
16 take 15 minutes.

17 (Recess taken.)

18 THE COURT: Let's go back on the record.  
19 We just had a brief discussion before going back on  
20 the record concerning what the parties had seen and  
21 talked about while they were off the record regarding  
22 the HAI model in question. I won't go into that any  
23 further, but if the parties -- if Counsel feel they  
24 need to discuss anything more on the record we can  
25 certainly do that, but Mr. Mecham had indicated that

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1 he did have at least one question he wanted to ask  
2 Mr. Anderson at this point. So go ahead, Mr. Mecham.

3 MR. MECHAM: Thank you, your Honor.

4 Q. (BY MR. MECHAM) Mr. Anderson, when you  
5 indicated that you ran the -- I thought it was the  
6 HAI model -- and you took land, buildings, and other  
7 items that you felt were non-traffic-sensitive out  
8 and there was no effect, what model was that?

9 A. That was the Windows 98 version of the  
10 HAI 5.2a.

11 Q. The Windows 98 version. Do you know if  
12 that version of HAI 5.2a was modified or adjusted in  
13 any way to reflect Orders in Utah from the  
14 Commission?

15 A. My understanding is that that is the case,  
16 that it was a Commission approved -- Utah Commission  
17 approved model.

18 MR. MECHAM: I would like to request that  
19 we be able to get a copy of that, your Honor, so we  
20 can run it.

21 MS. SCHMID: Objection. I believe that  
22 Union had that opportunity before. It's  
23 inappropriate at this point. And also, this is not  
24 the discovery phase, this is the trial phase of a  
25 case that's been going on for many, many years. The

26

1 models also contain certain proprietary data that  
2 would be inappropriate to share with Union. Just as  
3 if the data had generated from Union they would not  
4 want to share it. Qwest may have some things to say  
5 on this.

6 MR. MONSON: The only thing they with to  
7 add to that, your Honor, is that Mr. Anderson filed  
8 his testimony on October 12. The parties had agreed  
9 that they would file Rebuttal Testimony to that on  
10 October 26. The parties all knew that was a two-week  
11 period and that's a relatively short period, but the  
12 parties agreed on it because Union particularly  
13 wanted to get this case to hearing.

14 And so it seems to me that what Union is  
15 now doing is saying, there was something that was  
16 said in that testimony that we didn't agree with, we  
17 somehow didn't cover it in our Rebuttal Testimony and  
18 now we want to kind of recess the hearing and start  
19 over on this issue. And it seems to me it's too late  
20 to do that.

21 MR. MECHAM: Judge Goodwill, I may have  
22 missed it, but I don't believe until today Mr.  
23 Anderson testified that he ran the model taking out  
24 land and building and other MTS costs and determined  
25 that there was no impact. That's not in his  
26

1 testimony. We can't rebut something that isn't in  
2 the prefiled testimony. He just did it live.

3 THE COURT: I understand that. I think  
4 because that seems to be the rather narrow issue  
5 we're discussing, which is, he took out costs that he  
6 believed that were non-traffic-sensitive and they did  
7 not change the cost that was spit out of the model,  
8 the charge that was spit out of the model. It sounds  
9 to me like Union has a different understanding of  
10 what would have happened, what should have happened  
11 when those costs were taken out of the model.

12 I'm happy, if that is Union's  
13 understanding, to in some form or fashion get that on  
14 the record as evidence. And that simply can be, with  
15 the understanding that Mr. Anderson has indicated,  
16 that this is -- the model he used has been changed  
17 somewhat to reflect Division practices and procedures  
18 and its his understanding of the Commission Orders.  
19 That can simply stand on the record as his testimony  
20 says one thing and Union says something else if that  
21 is indeed the case. I don't know that we need to --  
22 I don't see the purpose of making that model  
23 available right now to Union simply to confirm that  
24 that's -- you know, to confirm his testimony.

25 MR. MECHAM: Well, your Honor, I mean, Mr.

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1 Anderson also testified this is his first run through  
2 HAI. And I'm sure he had help from the Division, but  
3 the fact that it's his first time through it would be  
4 very helpful to understand if he ran it  
5 appropriately, to put it bluntly.

6 MR. MONSON: Your Honor, could I add one  
7 more thing?

8 THE COURT: Sure.

9 MR. MONSON: I think that there's another  
10 aspect to this. And I'm not objecting to what you  
11 proposed, but I think we're on a sideshow here. This  
12 isn't the model that Union has proposed to set up its  
13 compensation rates in this proceeding, I mean  
14 asymmetric compensation. This is a different model.  
15 And Mr. Anderson was simply using it to illustrate a  
16 point. I think we're making this sideshow into a big  
17 deal, and it's just a sideshow.

18 MS. SCHMID: Because it is Union that has  
19 the burden of proof and persuasion.

20 THE COURT: Well, I think what I've said  
21 makes sense to me. I don't see any need to make the  
22 model available right now so that it can -- for  
23 whatever purposes. I think we've got Mr. Anderson's  
24 testimony. And as I said, Mr. Mecham, I am open to  
25 permitting Union in some form or fashion to testify

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1 regarding that since it seems to be a question, but  
2 it is a very limited issue and would be very limited  
3 testimony. So I guess to the extent I need to I'm  
4 denying your question for the model at this point.

5 MR. MECHAM: But you would allow Mr.  
6 Hendricks to come back?

7 THE COURT: For the very limited purpose  
8 to discussing his experience with whatever model he  
9 is using and the effects of removing certain items  
10 from the model. All right?

11 MR. MECHAM: We'll go that way.

12 THE COURT: I think we were going to turn  
13 to you, Ms. Schmid, for redirect.

14

15 REDIRECT EXAMINATION

16 BY MS. SCHMID:

17 Q. Earlier today you were asked some  
18 questions about Mr. Hendricks' testimony which  
19 involved a synthesis model. Do you remember that?

20 A. Yes.

21 Q. Isn't it true that the synthesis model is  
22 a Universal Service model and is not a TELRIC model?

23 A. It's my understanding that's true.

24 Q. Thank you.

25 Also today it was discussed, the Korean  
26

1 study that you referenced in your testimony was  
2 discussed. Is it true that the Division did an  
3 analysis of Union's model prior to reviewing the  
4 cited Korean study?

5 A. Yes. I took a look at it based on my  
6 experience and analyzed it accordingly. I only used  
7 the paper as a reference of what other people had  
8 done on it and I looked at the criteria they used as  
9 a possible criteria that I could use too.

10 Q. So it's true that you did a traffic  
11 sensitivity analysis prior to using the paper cited,  
12 the Korean paper cited?

13 A. Yes.

14 MS. SCHMID: Those are all my questions.  
15 Thank you.

16 THE COURT: Recross, Mr. Mecham?

17

18 RECCROSS-EXAMINATION

19 BY MR. MECHAM:

20 Q. Mr. Anderson, from page 17 on with respect  
21 to traffic sensitivity, did you do anything other  
22 than what was in Mr. Kim's article?

23 A. Did I do anything --

24 Q. Doesn't your analysis from 17 on basically  
25 track exactly what Mr. Kim suggests on determining

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1 traffic sensitivity?

2 A. Well, in there I described different types  
3 of criteria and a lot of it came from what -- the  
4 criteria they used in their study, but not all of it.  
5 Based on my own experience, I analyzed it.

6 Q. Well, as I looked at it, it looked to me  
7 like you tracked it exactly. Is there any place  
8 specifically you can show me where you varied from  
9 Mr. Kim's analysis?

10 A. No.

11 MS. SCHMID: Objection. I believe that he  
12 already testified that he based his analysis on his  
13 experience.

14 MR. ANDERSON: I can give you a very good  
15 example. Cellular radio, they recommended that it's  
16 not traffic-sensitive, but with my analysis I could  
17 tell that there were components in cellular radio  
18 that are traffic-sensitive.

19 Q. (BY MR. MECHAM) Is that the only  
20 variance?

21 A. And -- let me look. Yeah, pretty much.

22 MR. MECHAM: Okay. Thank you.

23 THE COURT: Mr. Monson, any questions?

24 MR. MONSON: No. No thank you, your

25 Honor.

26

1                   THE COURT: Mr. Anderson, just because  
2                   it's an issue, let me just go back over that and kind  
3                   of rehash your testimony. Quite honestly, I'm not  
4                   sure I fully remember your testimony.

5                   With regard to your use of your copy of  
6                   the HAI model and the questioning that Mr. Mecham had  
7                   with you before, what elements did you remove? And  
8                   again, we're talking about the discussion of when you  
9                   then testified that it had no effect on the alternate  
10                  price, cost.

11                  MR. ANDERSON: I removed the wire center  
12                  and land assets and looked at the results. It didn't  
13                  change the result, it didn't change the rate.

14                  THE COURT: And why did you remove those?

15                  MR. ANDERSON: Just to test the theory  
16                  that the non-traffic-sensitive support assets had a  
17                  big part in the rates, in the transfer and  
18                  termination rates. And I tested it on the model we  
19                  have and it didn't have any effect.

20                  THE COURT: So you were viewing those  
21                  assets as non-traffic-sensitive support and you just  
22                  wanted to see if it had any impact?

23                  MR. ANDERSON: Well, they are  
24                  non-traffic-sensitive and I took them out to see if  
25                  they changed the rate. It didn't in my model, the

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1 copy I had.

2 THE COURT: Before I allow Mr. Anderson to  
3 leave the witness stand, are there any other  
4 questions based on my questions?

5 Okay. Thank you, Mr. Anderson.

6 Does the Division have anything further?

7 MS. SCHMID: No.

8 THE COURT: Mr. Mecham, I take it you did  
9 want to recall Mr. Hendricks.

10 MR. ASAY: Judge Goodwill, with your  
11 indulgence, I will call Mr. Hendricks back to the  
12 witness stand and ask him a very limited number of  
13 questions.

14 THE COURT: Okay. Mr. Hendricks, I will  
15 remind you you remain under oath.

16 Please be seated.

17

18 JASON P. HENDRICKS,  
19 recalled as a witness, was examined and  
20 testified further as follows?

21

22 FURTHER REDIRECT EXAMINATION

23 BY MR. ASAY:

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

25 A. Sure. Jason Hendricks.

26

1 Q. And are you the same Jason Hendricks who  
2 has testified previously in this proceeding?

3 A. Yes, I am.

4 Q. And you understand that you're still under  
5 oath?

6 A. I do.

7 Q. You have been here during the pendency of  
8 the hearing and have heard the interexchange between  
9 Counsel and the Administrative Law Judge with respect  
10 to the running of the HAI model, and particularly as  
11 it relates to certain traffic-sensitive costs; is  
12 that correct?

13 A. Yes.

14 Q. Okay. With respect to the running of  
15 those certain costs, can you tell us what you have  
16 done, what model you used, and what the results were?

17 A. Yes. I have a few different versions of  
18 HAI, it's been modified over the years. I have an  
19 HAI 5.0a and a HAI 5.25a. The model logic between  
20 the two is just very similar, almost completely the  
21 same. But I have done the tests on both and  
22 specifically the issue at hand is HAI 5.2a. And I  
23 have run it in the same manner that Mr. Anderson  
24 describes. I've taken the wire center costs out of  
25 the investment tab and the land costs out. I have

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1 also done the same thing for other  
2 non-traffic-sensitive costs such as manholes, poles,  
3 conduit, things that go into the permanent rate for  
4 switching a transport, and there is an impact on the  
5 rate.

6           And the way that it works is there's  
7 numerous tabs, it's an Excel spreadsheet. And if you  
8 look at the cost detail tab before you make any  
9 changes it will have a rate for switching, it will  
10 have a rate for common transport. If you then go  
11 back to the investment tab, which is basically where  
12 the inputs from a separately run model come into it  
13 the Excel sheet, it has each of those investment  
14 numbers I just mentioned, the land, the wire center,  
15 the manholes, poles, conduit.

16           If you simply zero those out, so acting as  
17 if there's no investment for those numbers, and  
18 here's the important part with the Excel with the  
19 HAI, you have to hit F9. F9 causes the calculations  
20 to go through. If you hit something to delete those  
21 out and go back to the cost detail tab then there  
22 won't be any changes in rate. But if you hit the F9  
23 button, that causes there to be a recalculation of  
24 any changes you make in the numbers. So by doing  
25 that there is the recalculation, and in fact the  
26

1 rates do decrease.

2 Q. In your opinion, is there any way possible  
3 you could take those items from the study without  
4 having a corresponding effect on the result?

5 A. I don't know exactly the version of the  
6 model that was run by staff. I would like to have a  
7 copy of it, but from what I understand that's not  
8 possible. But my understanding of the proceeding is  
9 that there weren't any changes in the model logic to  
10 things like that. So I find it hard to believe that  
11 those kind of changes in investment would not have an  
12 impact on the rates. From my understanding of HAI,  
13 like I said, I've run numerous versions of it for  
14 numerous years, and I find it hard to believe that  
15 there weren't any changes in the rates.

16 MR. ASAY: Thank you. There's all the  
17 questions I have.

18 THE COURT: Anything from Qwest of this  
19 witness?

20 MR. MONSON: No.

21 THE COURT: Ms. Schmid?

22 MS. SCHMID: No questions.

23 THE COURT: Okay. Thanks, Mr. Hendricks.

24 Okay. I believe that brings us to the  
25 conclusion of all evidence. Does anyone have

26

1 anything else at this point?

2 MR. ASAY: Judge Goodwill, obviously  
3 you've addressed the issue with respect to the model  
4 that was addressed. We still have outstanding my  
5 request to get those two paper copies of the models,  
6 HAI and also the Qwest model from the hearing and at  
7 least take administrative notice of that so we do it.  
8 And I do believe that's important. I did request or  
9 ask about recovering those. I guess I have to go to  
10 archives to pull those. I would like the opportunity  
11 to pull those and to share those with Counsel and  
12 make sure that the record reflects the fact that we  
13 have those.

14 I think it's important because much has  
15 been made of those issues and the fact that they are  
16 the basis for the present reciprocal compensation  
17 rate and I believe it would be important to have  
18 those brought in as exhibits. And I'll be glad to  
19 share them with Counsel. I don't have them yet and I  
20 need to obtain them.

21 THE COURT: Go ahead, Mr. Monson.

22 MR. MONSON: Your Honor, we would object  
23 to that, and there's a couple of reasons. First of  
24 all, some aspects of those models are proprietary and  
25 were used in the context, in some cases, pursuant to  
26

1 protective orders in those cases. Secondly, and I  
2 think more importantly, we think that it's  
3 irrelevant.

4 I think the only relevance of those  
5 documents or those models would have been to test the  
6 statements made by witnesses about what the model  
7 does or doesn't do. I don't think that they are  
8 appropriate -- I don't think it's appropriate for  
9 Union to have those models introduced in evidence  
10 absent questions from witnesses and then I presume  
11 provide its interpretation of runs or what they  
12 provide or usage of them in its brief. I think that  
13 that would be introducing evidence without a proper  
14 foundation. So we would object.

15 MS. SCHMID: The Division agrees with the  
16 reasons for the objections stated by Qwest, and  
17 further emphasizes that what is at issue here, at  
18 least in part, is does the cost study model from  
19 Union meet the FCC criteria contained at Section 47  
20 CFR Section 51.711. And it clearing states there  
21 that to allow an asymmetrical rate, the carrier must  
22 put forward the evidence. Also, that -- and we agree  
23 that the models would be irrelevant at this point as  
24 stated by Qwest. Thank you.

25 THE COURT: Okay. It seems to me that  
26

1     what's being asked for, although I'm not familiar  
2     with the proceedings in that docket, what's being  
3     asked for is at this point a matter of public record,  
4     to the best of my knowledge, although it might be  
5     sealed. It may have been sealed as confidential in  
6     the preceding docket.

7             It seems to me Union is certainly within  
8     its rights to go to archives or wherever, to seek  
9     access to those documents, to review them to  
10    determine if it has any bearing on this case and to  
11    bring those forward. Whether or not the Commission  
12    would agree is a totally different issue.

13            I would note only that we have -- at this  
14    point in the schedule we have post hearing briefs due  
15    December 7th. There's no reason to change that  
16    schedule. I think it's just premature for me to try  
17    to rule one way or another whether or not the  
18    Commission would take judicial notice of those  
19    documents and whether or not they might be relevant  
20    to the Commission's determination in this  
21    proceedings.

22            So to the extent that they exist and you  
23    want to go look at them, Counsel, I would say, feel  
24    free to do so. If that raises an issue that we need  
25    to address at some later date, you're free to file

26

1       that and we can consider it at that time.

2                   MR. ASAY:  Very well.

3                   MS. SCHMID:  Is there a date by which that  
4       information will be -- must be provided to the  
5       Commission and to the parties?

6                   THE COURT:  No.  I would say we'll leave  
7       that up to what happens.  Obviously, if something is  
8       filed and a party feels that it is late-filed or  
9       somehow impacts the schedule, that's appropriate  
10      argument to make at that time and we can deal with it  
11      at that time.

12                   MS. SCHMID:  Thank you.

13                   MR. ASAY:  Thank you.

14                   THE COURT:  Anything else we need to take  
15      up before we adjourn?

16                   Okay.  Thank you very much.

17                   (The taking of the deposition was  
18      concluded at 12:24 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 244 through 343, contain a full, true and correct 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.

\_\_\_\_\_  
LANETTE SHINDURLING, RPR, CRR  
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